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The Port State Measures Agreement: From Intention to Implementation

How an international treaty can help curb illegal, unreported and unregulated fishing

Overview

When the Port State Measures Agreement (PSMA) entered into force in 2016, the United Nations hailed it as the beginning of a new era in the fight against illegal, unreported and unregulated (IUU) fishing. Over 25 governments had ratified or otherwise signed on to the treaty, surpassing the threshold needed to bring it into force. That number has more than doubled in the years since. But can a single treaty create a mechanism strong enough to combat widespread disregard for fisheries laws and policies? We believe the answer is yes, but the agreement is only as good as the parties that adhere to and enforce it.

The treaty—formally the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing—is the first legally binding international agreement targeting this illicit activity, which accounts for up to \$23.5 billion worth of seafood each year, or up to 1 in every 5 wild-caught fish.

The PSMA, adopted in 2009 by the United Nations Food and Agriculture Organization (FAO), requires parties to place tighter controls on foreign-flagged vessels seeking to enter and use their ports to land or transship fish. Global participation is critical to the success of the PSMA. As governments sign on to the agreement and show commitment to the fight against IUU fishing, the gaps allowing illegal fishers to slip through will diminish. Consistent international momentum over the past few years has boosted the number of parties to the agreement, making it increasingly difficult for illegitimate catch to make its way to national and international markets and reducing the incentive for dishonest fishing operators to continue their IUU activities. The seafood industry also plays an important role, because seafood buyers can show preference to ports in countries that have ratified the agreement.

Particular attention also must be paid to PSMA implementation to ensure that commitments are followed through with effective action and proper application of the provisions of the agreement. Countries are finding that the agreement is a cost-effective tool for fighting illegal fishing. Sending patrol vessels to track and potentially arrest illegal operators on the open ocean is expensive and dangerous. By comparison, monitoring at port is safer and less costly.

How port State measures help to combat IUU fishing

To get their catch from ship to shelf, fishers involved in IUU operations have traditionally relied on a range of tactics and loopholes in national law and management procedures. They have exploited ports known for lax law enforcement or limited capacity to carry out proper inspection operations. The PSMA is changing that. Parties to the agreement can refuse entry to their ports or access to port services, including landing and transshipping fish, to foreign-flagged vessels known to have engaged in IUU fishing. When entering port, such vessels are subject to immediate inspection, and those results are shared with other relevant States and organizations to facilitate cooperation in enforcement actions. By ratifying or acceding to the agreement, countries are sending a clear message that their ports are no longer open to illegal catch.

Most regional fisheries management organizations (RFMOs) also regulate member nations' port State controls as part of their management measures. This ensures that these governments have minimum standards in place, regardless of whether they are a party to the PSMA.

A collaborative approach by all stakeholders can help ports block illegal fishers from landing their catch and prevent illicitly caught seafood from entering the supply chain.

A port State's role in curbing illegal fishing

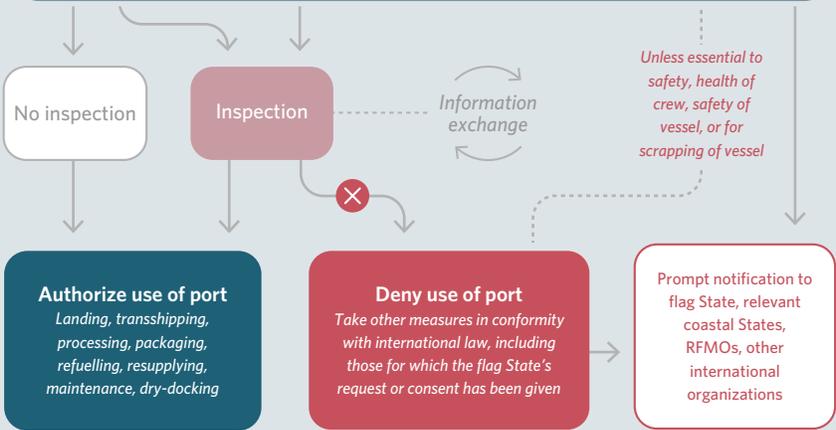
1. The vessel master seeking to enter port must provide the fisheries authority with information, including the identity of the vessel, the catch on board, fishing and transshipment authorizations, and details of any transshipments that have taken place. This needs to be submitted sufficiently in advance for the port State to process this information.
2. Port officials decide whether to authorize or deny the vessel's entry into port, taking into account the vessel's report and all other available information to determine whether it might have been involved in IUU fishing or fishing-related activities in support of IUU fishing. If the vessel is allowed into port, it is then subject to the port State's jurisdiction.
3. If there is sufficient evidence that the vessel has been involved in or supported IUU fishing, the port State can either refuse the vessel entry into port or allow entry exclusively for the purpose of inspecting the vessel and taking other appropriate actions. Any such vessel entering into port must be denied port use for landing, transshipping, packaging and processing of fish and for other port services, including refueling and resupplying, maintenance and dry-docking.
4. If a vessel enters port and there are reasonable grounds to believe that it has been involved in IUU fishing, it must be refused permission to land or transship its catch and to use the port's services.
5. A vessel must be refused permission to land or transship its catch and use the port's services if the port State finds that the vessel does not have a valid authorization from the flag State or the coastal State to engage in fishing or fishing-related activities, the port State receives evidence that fish on board were taken in contravention of coastal State requirements, or the flag State does not confirm within a reasonable period of time that fish on board were caught in accordance with requirements of RFMOs.
6. A vessel must not be denied use of port services if the safety of the crew or the vessel, or the health of the crew, is at risk.
7. The port State may take other measures that go beyond the agreement's minimum requirements, including measures in consultation or cooperation with the flag State and, if appropriate, coastal States and RFMOs.
8. The port State must transmit inspection reports and information on measures taken after inspection to the flag State and, as appropriate, other relevant States, RFMOs, the FAO and other relevant international organizations.

Prior to entry

Foreign vessel requests entry to designated port
Review of information provided by vessel. Other information may be sought, e.g., from RFMO.
▪ Vessel identification ▪ Purpose of visit ▪ Fishing authorizations
▪ Transshipment information ▪ Catch on board



Designated port



⊗ Illegal fishing detected

Source: Matthew Camilleri, Food and Agriculture Organization of the United Nations
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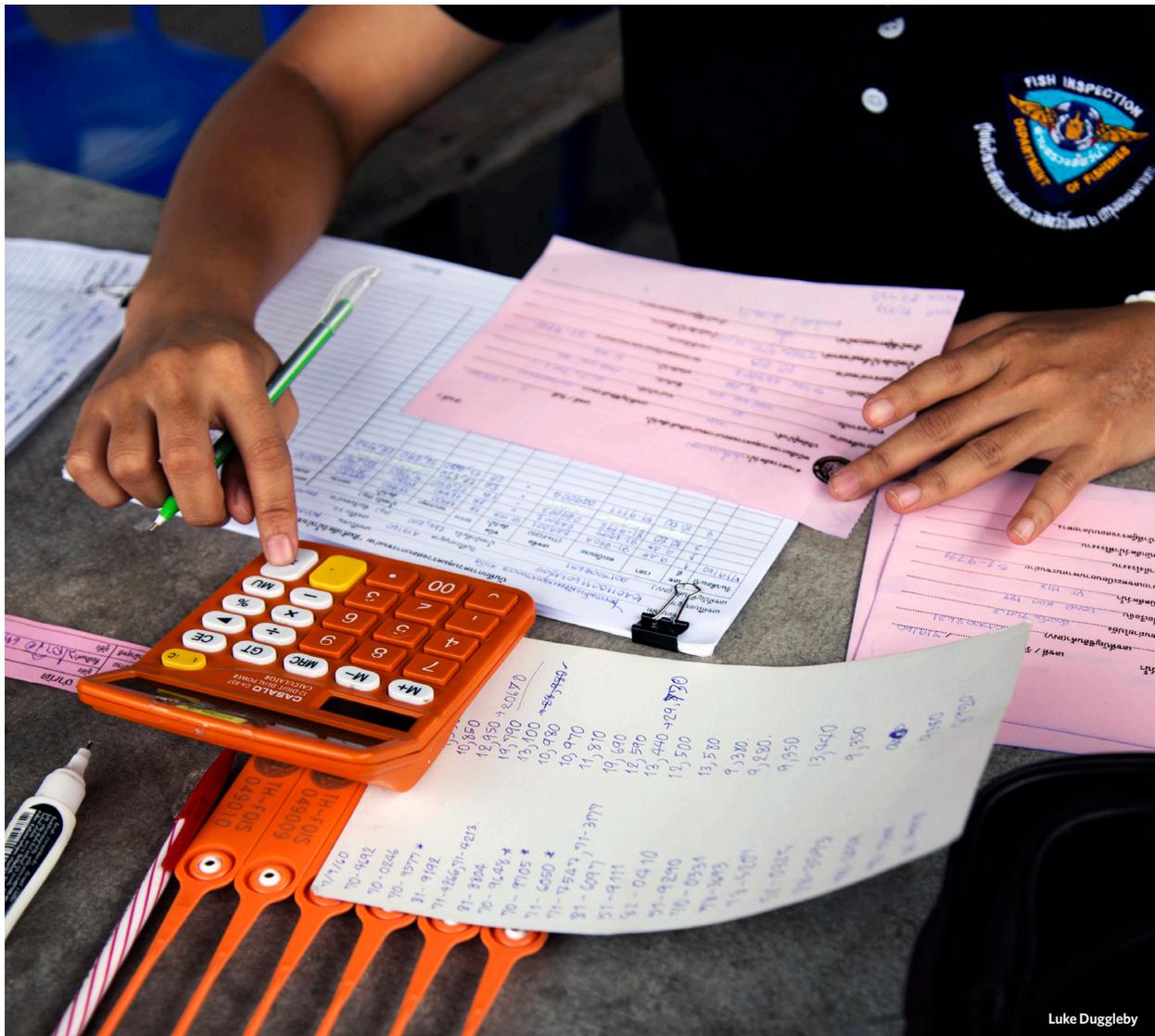


By adhering to the PSMA, port States demonstrate that they take their responsibilities seriously and ensure continued access to important markets where seafood buyers are committed to stopping IUU fishing.

The benefits of becoming a party to the PSMA

Becoming a party to this agreement and implementing effective port State measures involves costs, but there are many direct and indirect advantages as well. Among the benefits are:

- **Boosting fisheries sustainability.** The treaty's main objective is to support sustainable fisheries management. Improving the gathering, verification and exchange of information leads to more accurate assessments of fish stocks and strengthens the monitoring of both national and international waters.
- **Cost-effectiveness.** At-sea patrols and aerial surveillance remain necessary but expensive ways to maintain monitoring, control and surveillance (MCS) of fisheries. Port controls are safer, less costly and demonstrate a more active approach than conventional MCS methods, reducing the time, effort and resources required for this critical task.
- **Inter-agency cooperation.** Implementing the PSMA will require government agencies to coordinate their procedures, which will save time and money. This should result in greater compliance with labour, immigration, health, and sanitary laws. Inter-agency cooperation and information-sharing can also boost transparency, limiting opportunities for corruption.
- **Regional and global collaboration.** The PSMA creates a framework for information-sharing and collaboration. Regional implementation of port State measures facilitates enforcement efforts across jurisdictions and makes it less economical for operators to land their IUU seafood.
- **Capacity building.** The agreement facilitates technical and financial assistance to developing nations that ratify or accede to it. Experts are boosting their capacity to integrate port State measures with national and regional fisheries monitoring, control, and surveillance systems, allowing them to recognize IUU fishing more quickly and take adequate enforcement actions.
- **Market access and investment in the fisheries sector.** By adhering to the PSMA, port States demonstrate that they take their responsibilities seriously and ensure continued access to important markets where seafood buyers are committed to stopping IUU fishing. Building a reputation as a lawful and transparent port State can also boost foreign investment, generating demand from well-intentioned fishers and increased income through port operations and development of associated industries.



Luke Duggleby

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Implementation of the PSMA

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States, intergovernmental organizations and non-governmental organizations are coming together to help parties bridge gaps in their legal, institutional and operational capacity to enforce the agreement. This work includes aligning legislation to the PSMA's requirements, establishing mechanisms for prosecuting IUU offenders, training staff on port inspection standards and instituting policies and technology for exchanging information.

In May 2017, parties met to begin clarifying how to implement the agreement. Representatives plan to meet biennially to continue this work, with technical working groups gathering in the meantime. These efforts include the administration of a fund to help developing countries assess their monitoring, control and surveillance systems, improve interagency cooperation and strengthen their institutional frameworks.

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Application of the PSMA is not limited to parties. To eliminate IUU fishing, all States must track the operations of vessels flying their flags, and coastal States must monitor their waters. And both must verify and exchange information with port States so they can make informed decisions.

While governments ratify and implement the agreement, seafood buyers have a role to play, too. Buyers can institute policies that give preference to ports whose States are party to the PSMA, as they are associated with less risk in the due diligence process. Industry can play an integral role in educating States that have not yet ratified the agreement about its importance by evaluating the controls they have in place to prevent IUU fish from being landed, particularly during port visits.

A collaborative approach by all stakeholders can help ports block IUU fishers from landing their catch and prevent illicitly caught seafood from entering the supply chain, ensuring that ports are no longer a weak point in the global fight against IUU fishing.

For further information, please visit:

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