



## **Conservation Measure 21/11 on port State control**

### **Article 1 - Use of terms**

For the purpose of this regulation:

“fishing related activities” means any operation in support of, or in preparation for fishing, including the landing, packaging, processing, transshipping or transporting of fishery resources that have not been previously landed at a port, as well as the provisioning of personnel, fuel, gear and other supplies at sea;

“illegal, unreported and unregulated fishing” or “IUU fishing” refer to the activities set out in paragraph 3 of the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, hereinafter referred to as IUU fishing;

“port” includes offshore terminals and other installations for landing, transshipping, packaging, processing, refueling or resupplying; and

“vessel” means any vessel, ship of another type or boat used for, equipped to be used for, or intended to be used for, fishing or fishing related activities.

### **Article 2 – Scope**

Each Contracting Party shall, in accordance with duties under article 15 of the SEAFO Convention maintain an effective system of port State control for all foreign vessels that have been engaged in fishing or fishing related activities in the SEAFO Convention Area, except container vessels that are not carrying fishery resources or, if carrying fishery resources, only fishery resources that have been previously landed, provided that there are no clear grounds for suspecting that such a vessel has engaged in fishing related activities in support of IUU fishing.

### **Article 3 – Designation of ports**

1. Each Contracting Party shall designate, publicize and notify the Executive Secretary about the ports to which foreign vessels may request entry.

2. Each Contracting Party shall, to the greatest extent possible, ensure that designated ports have sufficient capacity to conduct inspections and take other measures in accordance with obligations set out by SEAFO.

3. The Executive Secretary shall establish a register of all ports designated by Contracting Parties. The register shall include accompanying information, such as associated conditions of entry and the period of notice required, and shall be published, and updated as required, on the SEAFO website.

#### **Article 4 – Advance request for port entry**

Each Contracting Party shall, before granting entry to a foreign vessel to its port, as a minimum standard, require the information set out in Annex I to be provided at least 3 working days before the estimated time of arrival. A Contracting Party may provide for another notification period, taking into account, *inter alia*, the distance between the fishing grounds and its ports. In such a case the Contracting Party concerned shall without delay inform the Executive Secretary, who shall put this information on the SEAFO website. Any other subsequent changes to the requirements shall be notified to the Executive Secretary at least 30 days before the changes becomes effective.

#### **Article 5 – Port entry; authorisation or denial**

1. After receiving the information required pursuant to Article 4, as well as such other information as it may require to determine whether the vessel requesting entry into its port has engaged in IUU fishing or fishing related activities in support of such fishing, each Contracting Party shall decide whether to authorise or deny the entry of the vessel into its port and shall communicate this decision to the master of the vessel or to the vessel's representative.

2. In the case of authorization of entry, the master of the vessel or the vessel's representative shall be required to present the authorisation for entry to the competent authorities of the Contracting Party upon the vessel's arrival at port.

3. In the case of denial of entry, the Contracting Party shall communicate its decision taken pursuant to paragraph 1 of this Article to the flag State of the vessel and to the Executive Secretary, who shall put this information on the SEAFO website.

4. Without prejudice to paragraph 1 of this Article, when a Contracting Party has sufficient proof that a vessel seeking entry into its port has engaged in IUU fishing or fishing related activities in support of such fishing, in particular the inclusion of a vessel on a list of vessels having engaged in such fishing or fishing related activities adopted by SEAFO or another relevant regional fisheries management organisation, the Contracting Party shall deny that vessel entry into its ports.

5. Notwithstanding paragraphs 3 and 4 of this Article, a Contracting Party may allow entry into its ports of a vessel referred to in those paragraphs exclusively for the purpose of inspecting it and taking other appropriate actions in conformity with international law which are at least as effective as denial of port entry in preventing, deterring and eliminating IUU fishing and fishing related activities in support of such fishing.

6. Where a vessel referred to in paragraph 4 or 5 of this Article is in port for any reason, a Contracting Party shall deny such vessel the use of its ports for landing, transshipping, packaging, and processing of fishery resources and for other port services including, *inter alia*, refueling and resupplying, maintenance and dry-docking. Paragraphs 2 and 3 of Article 6 apply *mutatis mutandis* in such cases.

**Article 6 – Use of ports**

1. Where a vessel has entered one of its ports, a Contracting Party shall deny that vessel the use of the port for landing, transshipping, packaging and processing of fishery resources that have not been previously landed and for other port services, including, *inter alia*, refueling and resupplying, maintenance and dry-docking, if:

- (a) the Contracting Party finds that the vessel does not have a valid and applicable authorization to engage in fishing or fishing related activities required by its flag State;
- (b) the flag State does not confirm within a reasonable period of time, on the request of the port State, that the fishery resources on board was taken in accordance with applicable requirements of SEAFO; or
- (c) the Contracting Party has reasonable grounds to believe that the vessel was otherwise engaged in IUU fishing or fishing related activities in support of such fishing, including in support of a vessel referred to in paragraph 4 of Article 5, unless the vessel can establish:
  - (i) that it was acting in a manner consistent with relevant conservation and management measures; or
  - (ii) in the case of provision of personnel, fuel, gear and other supplies at sea, that the vessel that was provisioned was not, at the time of provisioning, a vessel referred to in paragraph 4 of Article 5.

2. Notwithstanding paragraph 1 of this Article, a Contracting Party shall not deny a vessel referred to in that paragraph the use of port services:

- (a) essential to the safety or health of the crew or the safety of the vessel, provided these needs are duly proven, or
- (b) where appropriate, for the scrapping of the vessel.

3. Where a Contracting Party has denied the use of its port in accordance with this Article, it shall promptly notify the flag State and the Executive Secretary, who shall put this information on the SEAFO website.

**Article 7 – Inspections**

1. Each Contracting Party shall ensure that inspections of vessels are carried out by authorised inspectors trained and familiar with the Convention and relevant conservation and management measures adopted by the Commission. Inspector training programs shall take into account the elements set out in Annex II, and Contracting Parties shall seek to cooperate in this regards.

2. Prior to an inspection, the inspector shall present to the master of the vessel an appropriate identity document.

3. Each Contracting Party shall ensure that inspections of vessels in their ports are carried out at least in accordance with the procedures set out in Annex III.

4. The port State may invite inspectors of other Contracting Parties to accompany their own inspectors and observe the inspection of landings or transshipment operations of fisheries resources

caught by foreign vessels.

5. Each Contracting Party shall ensure that their inspectors make all possible efforts to avoid unduly delaying a fishing vessel and that the vessel suffers the minimum interference and inconvenience, and that degradation of the quality of the fish resources is avoided.

6. Each Contracting Party shall include at least the information set out in Annex IV in the written report of the results of each inspection, which shall be forwarded to the flag State of the fishing vessel and to the Executive Secretary.

#### **Article 8 - Role of flag State**

1. Each Contracting Party shall require the vessels entitled to fly its flag to cooperate with the port State in inspections carried out pursuant to this regulation.

2. When a Contracting Party has clear grounds to believe that a vessel entitled to fly its flag has engaged in IUU fishing or fishing related activities in support of such fishing and is seeking entry to or is in the port of another Contracting Party, it shall, as appropriate, request that Contracting Party to inspect the vessel or to take other adequate measures.

3. Where, following port State inspection, a flag State receives an inspection report indicating that there are clear grounds to believe that a vessel entitled to fly its flag has engaged in IUU fishing or fishing related activities in support of such fishing, it shall immediately and fully investigate the matter and shall, upon sufficient evidence, take enforcement action without delay in accordance with its laws and regulations.

4. Each Contracting Party shall, in its capacity as a flag State, report to the Executive Secretary on actions it has taken in respect of vessels entitled to fly its flag that, as a result of port State measures taken pursuant to this regulation, have been determined to have engaged in IUU fishing or fishing related activities in support of such fishing.

#### **Article 9 - Application**

1. This Conservation Measure shall be applied to Contracting Party's ports within the coastal states, which have areas of national jurisdiction adjacent to the Convention Area.

2. Each Contracting Party which does not have areas of national jurisdiction adjacent to the Convention Area shall endeavour to apply this Conservation Measure.

#### **Article 10 – Repeal**

Conservation Measure 09/07 shall be repealed when this measure enters into force.

**ANNEX I**

**Information to be provided in advance by foreign vessels requesting port entry**

<b>1. Intended port of call</b>															
<b>2. Port State</b>															
<b>3. Estimated date and time of arrival</b>															
<b>4. Purpose(s)</b>															
<b>5. Port and date of last port call</b>															
<b>6. Name of the vessel</b>															
<b>7. Flag State</b>															
<b>8. Type of vessel</b>															
<b>9. International Radio Call Sign</b>															
<b>10. Vessel contact information</b>															
<b>11. Vessel owner(s)</b>															
<b>12. Certificate of registry ID</b>															
<b>13. IMO ship ID, if available</b>															
<b>14. External ID, if available</b>															
<b>15. SEAFO ID, if applicable</b>															
<b>16. VMS</b>		No		Yes: National		Yes: SEAFO		Type:							
<b>17. Vessel dimensions</b>			Length		Beam		Draft								
<b>18. Vessel master name and nationality</b>															
<b>19. Relevant fishing authorization(s)</b>															
<i>Identifier</i>		<i>Issued by</i>		<i>Validity</i>		<i>Fishing area(s)</i>		<i>Species</i>		<i>Gear</i>					
<b>20. Relevant transshipment authorization(s)</b>															
<i>Identifier</i>		<i>Issued by</i>		<i>Validity</i>											

<i>Identifier</i>		<i>Issued by</i>		<i>Validity</i>				
<b>21. Transshipment authorizations concerning donor vessels</b>								
<i>Date</i>	<i>Location</i>	<i>Name</i>	<i>Flag State</i>	<i>ID no.</i>	<i>Species</i>	<i>Product form</i>	<i>Catch area</i>	<i>Quantity</i>
<b>22. Total catch onboard</b>						<b>23. Catch to be offloaded</b>		
<i>Species</i>	<i>Product form</i>	<i>Catch area</i>	<i>Quantity, Conversion factor and Live weight</i>			<i>Quantity</i>		

## ANNEX II

### Guidelines for the training of inspectors

Elements of a training program for port State inspectors should include at least the following areas:

1. Ethics;
2. Health, safety and security issues;
3. Applicable national laws and regulations, areas of competence and conservation and management measures of SEAFO, and applicable international law;
4. Collection, evaluation and preservation of evidence;
5. General inspection procedures such as report writing and interview techniques;
6. Analysis of information, such as logbooks, electronic documentation and vessel history (name, ownership and flag State), required for the validation of information given by the master of the fishing vessel;
7. Fishing vessel boarding and inspection, including hold inspections and calculation of vessel hold volumes;
8. Verification and validation of information related to landings, transshipments, processing and fishery resources remaining onboard, including utilizing conversion factors for the various species and products;
9. Identification of fish species, and the measurement of length and other biological parameters;
10. Identification of vessels and gear, and techniques for the inspection and measurement of gear;
11. Equipment and operation of VMS and other electronic tracking systems; and
12. Actions to be taken following an inspection.

**ANNEX III****Port State inspection procedures**

Inspectors shall:

- a) verify that the vessel identification documentation onboard and information relating to the owner of the vessel is true, complete and correct, including through appropriate contacts with the flag State or international records of vessels if necessary;
- b) verify that the vessel's flag and markings (e.g. name, external registration number, International Maritime Organization (IMO) ship identification number, international radio call sign and other markings, main dimensions) are consistent with information contained in the documentation;
- c) verify that the authorizations for fishing and fishing related activities are true, complete, correct and consistent with the information provided in accordance with Annex I;
- d) review all other relevant documentation and records held onboard, including, to the extent possible, those in electronic format and vessel monitoring system (VMS) data from the flag State or SEAFO. Relevant documentation may include logbooks, catch, transshipment and trade documents, crew lists, stowage plans and drawings, descriptions of holds, and documents required pursuant to the Convention on International Trade in Endangered Species of Wild Fauna and Flora;
- e) examine all relevant areas, fishing gear onboard, including any gear stowed out of sight as well as related devices, and to the extent possible, verify that they are in conformity with the conditions of the authorizations. The fishing gear shall, to the extent possible, also be checked to ensure that features such as the mesh and twine size, devices and attachments, dimensions and configuration of nets, pots, dredges, hook sizes and numbers are in conformity with applicable regulations and that the markings correspond to those authorized for the vessel;
- f) determine whether the fishery resources on board was harvested in accordance with the applicable authorizations;
- g) examine the fishery resources, including by sampling, to determine its quantity and composition. In doing so, inspectors may open containers where the fishery resources have been pre-packed and move the catch or containers to ascertain the integrity of holds. Such examination may include inspections of product type and determination of nominal weight;
- h) evaluate whether there is clear evidence for believing that a vessel has engaged in IUU fishing or fishing related activities in support of such fishing;
- i) provide the master of the vessel with the report containing the result of the inspection, including possible measures that could be taken, to be signed by the inspector and the master. The master's signature on the report shall serve only as acknowledgment of the receipt of a copy of the report. The master shall be given the opportunity to add any comments or objection to the report, and, as appropriate, to contact the relevant authorities of the flag State in particular where the master has serious difficulties in understanding the content of the report. A copy of the report shall be provided to the master; and
- j) arrange, where necessary and possible, for translation of relevant documentation.



## ANNEX IV

## Report of the results of the inspection

1. Inspection report no				2. Port State							
3. Inspecting authority											
4. Name of principal inspector				ID							
5. Port of inspection											
6. Commencement of inspection		YYYY		MM		DD		HH			
7. Completion of inspection		YYYY		MM		DD		HH			
8. Advanced notification received		Yes				No					
9. Purpose(s)		LAN	TRX	PRO		OTH (specify)					
10. Port and State and date of last port call						YYYY		MM		DD	
11. Vessel name											
12. Flag State											
13. Type of vessel											
14. International Radio Call Sign											
15. Certificate of registry ID											
16. IMO ship ID, if available											
17. External ID , if available											
18. Port of registry											
19. Vessel owner(s)											
20. Vessel beneficial owner(s), if known and different from vessel owner											
21. Vessel operator(s), if different from vessel owner											
22. Vessel master name and nationality											
23. Fishing master name and nationality											

<b>24. Vessel agent</b>						
<b>25. VMS</b>	<i>No</i>	<i>Yes: National</i>	<i>Yes: SEAFO</i>	Type:		
<b>26. Status in SEAFO areas where fishing or fishing related activities have been undertaken, including any IUU vessel listing</b>						
<i>Vessel identifier</i>	<i>SEAFO</i>	<i>Flag State status</i>	<i>Vessel on authorized vessel list</i>	<i>Vessel on IUU vessel list</i>		
<b>27. Relevant fishing authorization(s)</b>						
<i>Identifier</i>	<i>Issued by</i>	<i>Validity</i>	<i>Fishing area(s)</i>	<i>Species</i>	<i>Gear</i>	
<b>28. Relevant transshipment authorization(s)</b>						
<i>Identifier</i>		<i>Issued by</i>		<i>Validity</i>		
<i>Identifier</i>		<i>Issued by</i>		<i>Validity</i>		
<b>29. Transshipment information concerning donor vessels</b>						
<i>Name</i>	<i>Flag State</i>	<i>ID no.</i>	<i>Species</i>	<i>Product form</i>	<i>Catch area(s)</i>	<i>Quantity</i>
<b>30. Evaluation of offloaded catch (quantity)</b>						
<i>Species</i>	<i>Product form</i>	<i>Catch area(s)</i>	<i>Quantity declared</i>	<i>Quantity offloaded</i>	<i>Difference between quantity declared and quantity determined, if any</i>	
<b>31. Catch retained onboard (quantity)</b>						
<i>Species</i>	<i>Product form</i>	<i>Catch area(s)</i>	<i>Quantity declared</i>	<i>Quantity retained</i>	<i>Difference between quantity declared and quantity determined, if any</i>	

<b>32. Examination of logbook(s) and other documentation</b>			<i>Yes</i>	<i>No</i>	<i>Comments</i>
<b>33. Compliance with applicable catch documentation scheme(s)</b>			<i>Yes</i>	<i>No</i>	<i>Comments</i>
<b>34. Compliance with applicable trade information scheme(s)</b>			<i>Yes</i>	<i>No</i>	<i>Comments</i>
<b>35. Type of gear used</b>					
<b>36. Gear examined in accordance with paragraph e) of Annex III</b>		<i>Yes</i>	<i>No</i>	<i>Comments</i>	
<b>37. Findings by inspector(s)</b>					
<b>38. Apparent infringement(s) noted including reference to relevant legal instrument(s)</b>					
<b>39. Comments by the master</b>					
<b>40. Action taken</b>					
<b>41. Master's signature</b>					
<b>42. Inspector's signature</b>					