

Developing Market Measures to Control IUU Fishing in Southeast Asia

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The 2001 FAO International Plan of Action (IPOA) to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (FAO, 2001; FAO, 2002) provides the following composite definition of illegal, unreported and unregulated (IUU) fishing. **Illegal fishing** takes place when fishing is conducted by vessels of countries that are parties to a regional fisheries management organization (RFMO) but operate in violation of its rules or operate in a country's waters without permission. **Unreported fishing** comes about when catch is not reported or misreported to national relevant authorities or RFMOs. **Unregulated fishing** happens when fishing is conducted by vessels without nationality or flying the flag of States not parties of relevant fisheries organizations that consider themselves not bound by their rules. In essence, fishing that can be described as illegal, unreported and unregulated (IUU) is now commonly understood to refer to fishing activities that are inconsistent with or in contravention of the management or conservation measures in force for a particular fishery (Agnew and Barnes, 2004).

The ASEAN-SEAFDEC Member Countries have recognized the need to foster cooperation among the countries as well as with international and regional organizations in order to combat IUU fishing in the Southeast Asian region, as clearly stipulated in the ASEAN-SEAFDEC Resolution and Plan of Action on Sustainable Fisheries for Food Security for the ASEAN Region Towards 2020 (SEAFDEC, 2011). In an effort to respond to such mandate, SEAFDEC has been implementing various activities that aim to control IUU fishing in the region, one of which is the activity on **Preventing Export of IUU Fishing Products from the Southeast Asian Region**. With financial support from the Japanese Trust Fund (JTF), this activity which is being carried out by the SEAFDEC Marine Fishery Resources Development and Management Department (SEAFDEC/MFRDMD) is aimed at collecting and sharing information on the export of fisheries products from the region, and developing the regional guidelines that would set one's sight on preventing IUU fishing and its products from being traded. The said guidelines would take into consideration the relevant international trade-related measures that prohibit the marketing of fish and fisheries products derived through unsustainable means and from unsustainable sources.

It is noteworthy to mention that the effort of SEAFDEC to combat IUU fishing in the Southeast Asian region is being championed by the Government of Japan through the JTF Program on "Strengthening SEAFDEC Network for Sustainable Fisheries and IUU Fishing-related Countermeasures", as well as by the Government of Sweden through the SEAFDEC collaborative project with the Swedish International Development Cooperation Agency (Sida) which aims to promote the management of fishing capacity and effort to combat IUU fishing in the region (Awwaluddin *et al.*, 2011). While also working closely with the Indonesian-based Regional Plan of Action (RPOA) to Promote Responsible Fishing including Combating IUU Fishing (Poernomo *et al.*, 2011), SEAFDEC also encourages and assists the Southeast Asian countries in the development of their respective National Plans of Action on Combating IUU Fishing (NPOA-IUU). However, it should also be noted that in the course of implementing the various projects and activities on the promotion of measures to combat IUU fishing, SEAFDEC/MFRDMD in particular and SEAFDEC in general, is being confronted with concerns brought about the unclear definition of IUU fishing.

International organizations such as the FAO which reviewed the requirements of developing countries in combating IUU fishing recognized that lack of effective fisheries management and regulation in developing countries have made it difficult for these countries to implement measures to curb IUU fishing (Tokrisna, 2000). In addition, these organizations also recognized that IUU fishing should be clearly defined and concretely identifiable. As a matter of fact, the shapeless and structure-less term "IUU Fishing" should be made very precise and clearly elaborated on so that an international consensus to adopt the FAO IPOA to combat IUU fishing could be obtained. If left with unclear definition, IUU fishing which could not be controlled as problems could arise in the implementation of countermeasures in many countries, leading to discontentment and unwillingness to take on steps to combat IUU fishing. This means that there should be some forms of clear agreement concerning the range of fishing activities that are being targeted and classified as IUU fishing. Furthermore, the absence of concrete and clear definition of "IUU fishing" could also insinuate that this form of fishing is not in accordance with international consensus on the practices targeted

by trade-related measures (Chaves, 2000). In order that these issues and concerns would be addressed, the need to craft a definition of IUU fishing which would have the greatest possible precision, should be considered a priority by relevant agencies and organizations including the concerned RFMOs.

Based on FAO fishery statistics, international trading of fish and fisheries products has increased dramatically during the past decades since practically almost all countries trade significant portions of their fisheries production in the international market. However, from the volume of fish and fisheries products being internationally traded, the quantity obtained from IUU fishing could not be established. This situation has prompted the FAO to promote the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU) which includes provisions to restrict international trading of fish and fisheries products harvested through IUU fishing (FAO, 2001; FAO, 2002).

Nevertheless, despite increasing efforts worldwide, the magnitude of IUU fishing activities is still difficult to assess maybe because of the fact that by nature IUU fishing does not yield official statistics. However, all signs point towards the fact that IUU fishing is a global and widespread activity in almost all areas of the seas involving to some extent, fishing companies and fishers from many countries. FAO opined that in some important fisheries, IUU fishing accounts for up to 30% of total catches, and also evoked that in some instances IUU catches could be as high as three times the permitted catch level (Doulman, 2000). Results of some research studies carried out by major RFMOs and relevant NGOs have indicated that many commercially-important aquatic species such as tunas and swordfish are known to be targets of IUU fishers (OECD, 2003; Upton and Vangelis, 2003).

Market-related Measures Against Trading of Fish and Fisheries products Obtained from IUU Fishing

While the IPOA-IUU calls for the countries to develop internationally-agreed market-related measures to prevent, deter and eliminate IUU fishing in accordance with the principles prescribed by the World Trade Organization (WTO), “market-related measures” are not explicitly defined in the IPOA-IUU. However, it is generally understood that “market-related measures” stipulated in the IPOA-IUU encompass several types of controls on trading of fish and fisheries products derived from IUU fishing. IPOA-IUU also provides examples of such measures which include catch certification and trade documentation

requirements, as well as import and export restrictions and prohibitions. Generally, however, trade measure under the WTO is a border control system that allows a State or territory to regulate, restrict or prohibit trade. Examples of trade measures include landing actions, certifications, labelling or size requirements, among others. In some high seas controls, monitoring system and boarding requirements, while not technically trade measures, are related schemes and thus can trigger the imposition of border controls. With nearly 40% of the world’s fishery production traded internationally, it follows that trade measures could have certain impacts on IUU fishing activities through import controls and regulations.

Experience has indicated that trade- or market-related measures can be effective tools for promoting fisheries management while circumvention of agreed conservation goals and agreements could be prevented. More importantly, the WTO, which provides certain flexibility to use several trade measures for conservation purposes, imposes regulations with adequate safeguards against possible abuse. With a superabundance of trade measures, it is necessary to determine what type of mechanism would be most fair and transparent to curb IUU fishing, which could be the least likely to engender possible controversies. However, it is recognized that monitoring, control and surveillance (MCS) with some forms of certifications could comprise the essential features in the enforcement of conservation goals and verification of compliance with respect to measures for combating IUU fishing.

Trade-Related Measures for Combating IUU Fishing in the Perspective of Developing Countries

The relevant Articles in the General Agreement on Tariffs and Trade (GATT) 1994 that comprise the WTO-consistent Trade-related Measures to address IUU Fishing in the perspective of developing countries (**Box 1**), include **Article III** on National Treatment on Internal Taxation and Regulation (*Paragraph 4*); **Article VIII** on Fees and Formalities connected with Importation and Exportation (*Paragraph 1*); **Article X** on Publication and Administration of Trade Regulations; **Article XI** on General Elimination of Quantitative Restrictions; **Article XIII** on Non-discriminatory Administration of Quantitative Restrictions; and **Article XX** on General Exemptions. These Articles provide flexibility to use trade measures for the conservation of fisheries resources subject to certain safeguards against abuse, although it should be noted that trade measures designed to conserve resources outside of national borders are still being discussed.

Moreover, relevant Agreements should also be considered to ensure that the WTO-consistent Trade-related Measures

Box 1. Relevant Articles in GATT 1994 with respect to trade measures to combat IUU fishing

Article III National Treatment on Internal Taxation and Regulation (Para 4) requires that there should not be any differentiation between domestic and imported products. Any trade measure applied to products for import shall be equally applied to domestic products because trade-measure actions to curb IUU fishing should not only be implemented at the importing point. Developing countries may face difficulties in exercising the control market stage of the industry chain, as these countries would take some time in developing the control system. Therefore, the limited capacity of many developing countries taking into account their respective domestic fishery regulations at all stages from post-harvest to trans-shipment, landing, processing and export, may not allow an equal treatment.

Article VIII Fees and Formalities connected with Importation and Exportation (Para 1(c)) states that “*The contracting parties also recognize the need for minimizing the incidence and complexity of import and export formalities and for decreasing and simplifying import and export documentation requirements*”. And Article VIII also states “*...the production of certificates of origin should only be required to the extent that is strictly indispensable*”.

Article X Publication and Administration of Trade Regulations requires that “*...no measure imposing restriction on imports shall be enforced before such measure has been officially published...Each country shall administer a uniform, impartial and reasonable manner on all its laws, regulations, decisions and rulings*”. The main problem in developing countries lies in the uniform manner of implementing the trade regulations in importing IUU fishing commodities, because the existing infrastructure may impede the fulfilment of such requirement on uniformity.

Article XI General Elimination of Quantitative Restrictions does not allow import and export restrictions other than duties, taxes or other charges.

Article XIII Non-discriminatory Administration of Quantitative Restrictions prohibits discriminatory quantitative restriction. Based on Articles XI and XIII, banning the import of fish and fish products from IUU fishing may not be authorized unless there is a proof that such imports have detrimental impact on fishery resource conservation and management. Once there is a proof that the catches come from IUU fishing, the general exemption in Article XX (g) is applicable. Certificate of origin may be required, but for many developing countries, the inadequacy of effective fishery regulations makes it difficult for these countries to pursue the issuance of such certificate.

Article XX General Exceptions of GATT 1994 states that “*Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures: ... (g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption;...*”

Article XX allows the adoption of IPOA to take measures in combating IUU fishing for the sake of conservation on exhaustible fishery resources. Nevertheless, measures to be undertaken must be made effective for imported fish and fish products as well as those bound for domestic markets. In this case, insufficient and ineffective fishery regulations in developing countries might pose a hindrance to effectively combat IUU fishing (Tokrisna, 2000).

Note: Resource tax on fishing is an internal tax collected by coastal states to reflect the social cost of fishing, consistent with the WTO regulations. With higher fishing cost, fishing effort could be expected to become lower as the net margin could decrease. Nevertheless, without effective MCS some IUU fishing activities could succeed in avoiding the payment of resource taxes. Nonetheless, record of catches from the point of harvest, trans-shipment, landing, processing, and export must be compiled and made available for the adoption of measures in combating IUU fishing.

to address IUU Fishing in the perspective of developing countries are not disguised as trade barriers. These include: Agreement on Technical Barrier to Trade; Agreement on Pre-shipment Inspection; Agreement on Rules of Origin; Agreement on Import Licensing Procedures; and Agreement on Subsidies and Countervailing Measures (**Box 2**). These Agreements could also address the constraints encountered by developing countries in conforming to international technical regulations and standards in combating IUU fishing.

Development of Market Measures to Combat IUU Fishing in Southeast Asia: SEAFDEC Initiative

SEAFDEC through the Training Department (TD) and Marine Fishery Resources Development and Management Department (MFRDMD), has initiated a project on the promotion of fishing license, boats registration and port State measures to combat IUU fishing in the Southeast Asian region with funding support from the Japanese Trust Fund. The three main activities that encompass the project

are: 1) promotion of fishing license, boats registration and port state measures; 2) promotion of Monitoring, Control and Surveillance (MCS) in Southeast Asia; and 3) preventing export of IUU fishing products. While the first two activities are carried out by TD, the last activity is under the responsibility of MFRDMD.

In October 2011, SEAFDEC convened the first Regional Core Experts Meeting on Fishing License, Boats Registration and Information Gathering on Export of Fisheries Products in Southeast Asia in Bangkok, Thailand, to review the status of fishing license, boats registration as well as trading of fisheries products in Southeast Asia; discuss the contents and information required for the regional guidelines on fishing license and boats registration in Southeast Asia; discuss the contents and information required for the regional guidelines to prevent IUU fishing and the trading of its products in Southeast Asia and beyond; and develop the way forward and project activities for future implementation, and identify responsible officials to be involved in drafting the regional guidelines. Specifically during the exchange of information and experiences on the

Box 2. Relevant Agreements that address the concerns faced by developing countries

Agreement on Technical Barrier to Trade

Article 11 Technical Assistance to Other Members. Calls for developing countries to prepare action plans to curb IUU fishing, with technical assistance to be granted as and when necessary.

Article 12 Special and Differential Treatment of Developing Country requires the contracting countries to provide differential and more favorable treatment to developing countries taking into account the special development, financial and trade needs. Actions to curb IUU fishing should not create unnecessary obstacles for developing countries to export their fish and fish products while collaboration should be enhanced including assistance in terms of capacity building to enable developing countries to adjust their fishery regulations. International body and international system should concentrate their efforts in combating IUU fishing, taking into account the special problems of developing countries. Therefore, trade-related international actions towards combating IUU fishing could not take into effect until the capability of developing countries in adjusting their fishery regulations is improved to at least “satisfactory” level.

Agreement on Pre-shipment Inspection: allows pre-shipment inspection of goods in exporting countries, and applies for the inspection of catch from IUU fishing. Such pre-shipment inspection should be non-discriminatory and transparent, and useful for recording and reporting the catch flow, while exporting country can issue Clean Report of Findings to certify that the export is free from IUU fishing. Such pre-shipment inspection would be beneficial for developing countries which could also practice HACCP and adoption of the competent authority scheme. The IPOA-IUU includes the need for cooperation among developing countries and assistance from international organizations like FAO, to build up the capability of developing countries in conducting pre-shipment inspection.

Agreement on Rules of Origin: defines the rules of origins as “those laws, regulations and administrative determinations of general application applied by any member to determine the country of origin of goods provided such rules of origin are not related to contractual or autonomous trade regimes leading to the granting of tariff preferences going beyond the application of paragraph 1 of Article I of GATT 1994”. The rules address the use of non-preferential commercial policy instruments including most-favoured nation (MFN) treatment, anti-dumping and countervailing duties, safeguard measures, marking origin, and discriminatory quantitative restrictions or tariff quota. Rules of Origin could also be applied in the adoption of the scheme of certificate of origin for curbing IUU fishing. Thus, IPOA-IUU should focus towards harmonizing the rules in order that the application would be fair with clear objective of combating IUU fishing. In order that the rules are not disguised as trade barriers, the certificate of origin should not be restrictive and not creating distorting or disruptive effects on international trade, provided that developing countries are capable of administering such scheme. Nevertheless, ineffective internal fishery regulation could pose some problems in such administration. The rules of origin are applied equally for imports, exports and domestic products so that with the presence of political will for better fishery conservation and management, this scheme could be useful in curbing IUU fishing not only in the national jurisdictions of the developing countries but also to greater jurisdictions of regional fisheries bodies (RFBs) and the high seas. The problem could be more complicated for the multi-species, multi-gear fishery in developing countries, so that harmonization of scheme of certificate of origin is necessary. However, insufficient capability of developing countries can bring about trade distortion and adverse impact on international trade. WTO established a Technical Committee on Rules of Origin to consult on matters relating the application of the rules of origin under the Custom Co-operation Council, and to consider the IPOA-IUU work plan on the scheme of certificate of origin. Moreover, a control market stage of the industry chain for fish and fish products could be developed in conjunction with the certificate of origin scheme. The WTO Technical Committee has been working on products basis, where products are classified into three groups: wholly obtained and minimal operations or process, substantial transformation - change in tariff classification, and substantial transformation - supplementary criteria.

Agreement on Import Licensing Procedures: in case of import ban and/or differential treatment on fish and fish products from IUU fishing, import licensing may be employed. Paragraph 4 of Article 1 in this Agreement specifies that rules and all concerning information on procedures for submission of applications, the administrative body (not more than 3) and lists of products subject to licensing requirement must be published at least 21 days prior to the effectivity date. The import licensing procedures shall be neutral, fair and equitable, although the main problem of developing countries is on the competency of license issuing body with respect to curbing IUU fishing. Nevertheless, without an acceptable internal fishery regulation, this trade measure may not be applicable for developing countries although it could be applied by developed countries. Import licensing or any similar scheme can be disguised trade barrier if it is adopted under the IPOA-IUU.

Agreement on Subsidies and Countervailing Measures: Subsidies in curbing IUU fishing are exempted based on the definition in Article 1 of this Agreement and Article XX (g) of GATT 1994. Capacity building to strengthen the capability of developing countries in fishery management is a key for the successful control of IUU fishing. Technical and financial assistance on building such capacity is a requirement while such subsidy should be made consistent. Nonetheless, positive subsidy aimed at reducing excessive capacity in fishing sector could be allowed, as this will lead to fishery resource rehabilitation, and conservation of exhaustible fishery resources. The usual subsidy in fishing sector which has been decreasing such as “negative subsidy” should not be allowed. Developing countries rarely use such subsidy knowing that in the long run it will lead to depletion in fishery resources and higher fishing cost. If abolished, fishing effort may be decreased. Therefore, together with the positive subsidy in relocating the effort in the fishing sector, fish trade can be increased due to lower supply in that country while demand for fish is still strong.

export of fish and fisheries products from the Southeast Asian countries, substantial volume of fish and fisheries products were reported to have been exported from the countries. The data as to what portion had been obtained from IUU fishing could not be established. In this regard, the 2011 Regional Core Experts Meeting came up with recommendations on this aspect (**Box 3**).

In an effort to continue addressing the issues related to export of fish and fisheries products, and the corresponding

processes and procedures, MFRDMD developed a set of questionnaires to gather the relevant information from the Southeast Asian countries. Information collection visits were also conducted in Indonesia, Malaysia, Myanmar, Philippines, and Vietnam. Meanwhile, information from Brunei Darussalam, Cambodia, Lao PDR, Singapore, and Thailand were obtained through the questionnaires.

Subsequently, the Regional Core Expert Meeting on Preventing Export of IUU Fishing Products was organized

Box 3. Relevant recommendations during the 2011 Regional Core Expert Meeting on Fishing License, Boats Registration and Information Gathering on Export of Fisheries Products

1. Collaborate with customs department to improve data collection
2. Establish formal agreements with relevant transboundary countries to ensure that there is no double reporting of data and that data are properly recorded and reconciled with countries where catch had been derived
3. Upgrade licensing and registration documents as these could be accurate sources of data and information
4. Intensify human capacity building
5. Conduct R&D on value-adding to promote the trading of value-added products
6. Consider the development of measures to combat and deter IUU fishing in inland waters, taking into consideration the measures used in marine capture fisheries

by MFRDMD in November 2012 in Malaysia with the objectives of: a) reviewing the issues, processes and procedures in the export of fish and fisheries products from Southeast Asia; b) identifying and harmonizing the essential information needed for the development of the regional guidelines to prevent the export of IUU fish and fisheries products; c) formulating the draft regional guidelines to prevent export of IUU fish and fisheries products; and d) discussing the way forward and project activities for future implementation. The output of the said meeting is an outline of the draft regional guidelines for preventing the landing, export and import of the IUU fish and fisheries products (**Box 4**).

Box 4. Draft Regional Guidelines for Preventing Landing, Export and Import of IUU Fish and Fisheries Products

1.1 Introduction

Irresponsible fishing activity directly undermines efforts to manage fisheries properly and impedes progress toward the goal of sustainable fisheries. The term “illegal, unreported and unregulated fishing” - or IUU fishing has emerged to describe a wide range of such activity. As discussed more fully herein, the FAO Committee on Fisheries decided in 1999 to elaborate an International Plan of Action to Prevent, Deter and Eliminate IUU fishing (IPOA-IUU). Over the course of the following two years, a significant effort unfolded, which culminated in the adoption of the IPOA-IUU in 2001.

IUU fishing should be clearly defined and identifiable. Any trade-related measure to be employed in curbing IUU fishing has to be equally treated, for import as well as domestic products. Lack of effective fishery regulation in developing countries can impede the equal treatment.

- Duty of the flag state, Port State Measures
- Function of Competent Authority (CA); list of CA as an appendix
- Status of import and export between Member Countries to EU in reference to EC Regulations

1.2 Background and Rationale

With nearly 40% of the world’s fishery production traded internationally, it follows that trade measures may have impact on IUU fishing through the regulation of trade. Experience indicates that catch certification and landing surveillance for fishery trade can be an effective tool for fisheries management officials trying to prevent circumvention of agreed conservation goals. The Regional Guidelines on Preventing Trading of IUU Fishing Products is envisaged to be used as basis by governments for formulating relevant policies and provide enabling environment to countries in the region to enable them to perceive clear direction and understanding of the promotion and implementation of catch certification and landing surveillance for fishery trade to prevent trade of IUU fishing products.

1.3 Preparation For Regional Guidelines To Preventing Landing, Export and Import of IUU Fish and Fisheries Products

- Questionnaires on Export of Fisheries Products (quantity & value) from Member Countries
 - Core Experts Meeting (CEM) 2011 in Bangkok; Outcome from the CEM 2011
- Questionnaires on Issues, Processes and Procedures
 - Country visits to gather information
 - CEM 2012 in Kuala Lumpur
 - Activities conducted by Member Countries to collect information e.g.; Brunei Darussalam: Consult with related agencies (Marine Department) regarding information gathering for vessels registration
- Subject to Council Director’s approval for new project 2013-2017 (Combating IUU fishing in the SEA Region through Application of Catch Certification for International Trade in Fish and Fishery Products)

2.0 General Principle

2.1 Nature and scope

The scope of the guidelines is on landing, export and import of IUU fish and fisheries products from capture fisheries (freshwater & marine) for large/commercial and small-scale fisheries.

- Fish and fisheries products from capture fisheries (freshwater & marine)
- This guideline is for the region:
 - Trading within the country in the region; and trading among the countries in the region
 - International trade outside the region by Member Countries
- Large/commercial and small-scale fisheries (refer to “Regional Guideline for Responsible Fisheries Management in Southeast Asia”)

2.2 Objectives of the regional guidelines

- Prevent landing, export and import of IUU fish and fisheries products
- Introducing catch certification measures and landing monitoring and surveillance

2.3 The regional guidelines show effective measures and procedures to prevent landing, export and import of IUU fish and fisheries products.

Box 4. Draft Regional Guidelines for Preventing Landing, Export and Import of IUU Fish and Fisheries Products (Cont'd)

3.0 Definition of the Terminology

- IUU fishing
 - IPOA-IUU definition
- IUU fish and fisheries products
 - Catch and derivatives from IUU fishing
- Domestic/National vessels
 - All registered/licensed fishing vessels
 - All registered/licensed carrier vessels
- Foreign vessels
 - All foreign registered/licensed fishing vessels (including factory vessel) operating in national water
 - All foreign registered/licensed fishing vessels fishing in high seas/other national waters and landing at national landing sites
 - All foreign registered/licensed carrier vessels landing at national landing sites
 - All vessel flying foreign flags operating in other national waters/high seas and land at national landing sites
- Monitoring and surveillance at landing sites
 - Information on landing amount and catch composition
 - Refer to the Guideline for Responsible Fisheries in Southeast Asia: Fisheries Management
- Large/commercial and small-scale fisheries
- Definition of Certification of Non-IUU Fish and Fisheries Products
- Definition of Catch Documentation Scheme (CDS)
- Definition of Statistical Document Scheme (SDS)
- Definition of fish (refer to EC Regulations)
- Definition of fish products (refer to EC Regulations)
- Fish and fisheries products (fish, shrimp, squids, bivalves, seaweeds, corals)
 - "Fish" means all species of living aquatic resources, whether processed or not (FAO definition)
- Positive and black list of vessels

4.0 Regional Guidelines

4.1 Certification of Non-IUU fish and fish products

- Catch documentation scheme (CDS) to comply with RFMOs (IOTC, ICCAT etc.) requirement
 - Statistical document scheme (SDS)
- Statistical document scheme (SDS) - refer to Port State Measures
- Trading license (Malaysia/Thailand)- for domestic trading
- EC Catch Certification
- RCDS (for intra regional trade)

4.2 Monitoring and surveillance at the landing sites

- Domestic/national vessels (100% monitor and validate at least 5% of total ECC, CDS)
- Foreign vessels (based on International Common Understanding: fishing vessels should be 24 meters in length and over, for cargo and carrier vessels usually more than 500 gross tonnage) (FAO Port State Measures, CDS-RFMOs)

4.3 Positive and black lists of vessels

- RFMO list (black list and positive list for tuna vessels)
- EU list (black list) (to include all vessels)

4.4 Strengthening existing law and regulations in Member Countries for preventing landing, export and import of IUU fish and fisheries products

- Implementation of CDS and SDS measures include for EC Regulation 1005/2008
 - domestic/national vessels, and foreign vessels
- Implement monitoring and surveillance at landing sites include FAO Port State Measures
 - domestic/national vessels, and foreign vessels
- Implementation of NPOA-IUU Fishing

4.5 Collaboration among SEAFDEC Member Countries

- establish networking within & among the countries
- strengthen cooperation among the countries as well as relevant regional (RPOA, ASEAN) / international organizations (FAO, EU)
- developments of regional information, education & communication programs/initiatives to compile & disseminate information

5.0 Follow-up actions to promote the implementation of the regional guidelines

- (Refer to "Regional Guideline for Responsible Fisheries Management in Southeast Asia pg. 53)
- Role of Member Countries; role of regional bodies (SEAFDEC, ASEAN)

6.0 Review of the Guidelines

Conclusion and Way Forward

IUU fishing should be clearly defined and made identifiable. Any trade-related measure to be employed in curbing IUU fishing should be equally treated, *i.e.* for import as well as for domestic products. Since certification of fish and fisheries products from non-IUU fishing is difficult to

promote in some developing countries due to lack of MCS programs, but the absence of this certification cannot also be considered proof of IUU fishing.

While the development of regional guidelines to prevent landings, export and import of IUU fishing products can be the first step towards creating a catch certification

scheme for non-IUU fishing products, creating a mandatory certification requirement to eliminate IUU fishing would be a bold step. Under this scheme, all imports would be considered legal if the flag State could certify that the fish has been harvested in accordance with their own fisheries management regime/requirements or from an area governed by an RFMO or other regional bodies, or in the high seas that comply with international standards. Trade measures in support of national and international conservation goals should be transparent and administered in a fair and non-discriminatory manner, with the underlying conservation goals which must be based on best available scientific evidence.

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