

Addressing the Legislative Gaps in the Implementation of Port State Measures: Southeast Asian Perspective

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The Port State Measures Agreement (PSMA) adopted by FAO in 2009 is a legally-binding instrument for combating illegal, unreported and unregulated (IUU) fishing in the world. Although only three of the Southeast Asian countries (*i.e.* Indonesia, Myanmar and Thailand) have so far acceded to and/or ratified the PSMA, the other countries have been taking steps and making necessary preparations for ratification, notwithstanding the ongoing efforts of the countries to adopt their respective national port State measures (PSM) as means of controlling IUU fishing in their waters. In order to address some legislative gaps while some of the Southeast Asian countries are still pursuing the possible accession to and/or ratification of the PSMA, still some countries are encountering certain difficulties in implementing the PSMA. With the main objective of overcoming such constraints, this article therefore suggests possible options that could address the issues that arise from the adoption of the PSMA. Such options could include: (1) establishment and/or adjustment of specific national laws that would ensure the involvement of relevant agencies in the implementation of PSM; (2) identification of the ways and means of providing legal assistance to Southeast Asian countries to overcome certain regulatory constraints in the implementation of the PSMA; and (3) development of a model that would address the common concerns in the implementation of the PSM.

Elucidation of Relevant Excerpts from the Port State Measures Agreement

Governance of the world's fisheries and aquaculture is a challenge that involves actors working across different sectors, and requires improved actions and synergies at the global level. In pursuit of sustainable development, wide spectrum of treaties, agreements, and instruments had been formulated and enforced to reconcile the three pillars of development: sustainability of natural resources, social equity, and economic development (Nathiesen, 2017). The international legal framework for ocean governance is made up of a multitude of global, regional and bilateral binding and voluntary instruments, and the key instruments have progressed to address prominent and emerging fisheries challenges having been influenced by the ongoing evolution of global milestones (Nathiesen, 2017). Unfortunately, IUU fishing has increasingly created very complicated problems which could not be solved by using single tools or single *ad hoc* approaches. Therefore, port State measures (PSM) were established

and introduced as effective tool to combat IUU fishing at the global, regional and national levels.

The general intention of the Port State Measures Agreement (PSMA) is for the States to make adjustments in their national legislations to be able to implement the PSM, especially in their national policies, laws and institutional frameworks as well as in Monitoring, Control and Surveillance (MCS), operations, procedures, and other regional mechanisms. In terms of policy, the implementation of the PSMA requires an approach that includes policy decisions, legal review and operational procedures. Consequently, decisions taken in these three areas could affect the institutional arrangement necessary to support its effective implementation. States should therefore move forward in a coherent manner, with policy as the driver and guide, but should first take decisions on broad policy matters that affect how their legislation and institutional arrangements would be structured and what should such arrangements contain. Policies can also provide a strong support to the implementation of actions by prioritizing them with respect to national and sectorial agenda. With inter-agency cooperation within the State, implementation of PSMA could address the concerns related to IUU fishing (Kuemlangan, 2017).

On the legal aspect, implementation of the PSMA assumes that States would make some legal adjustments to warrant conformity and strong linkages between national frameworks and the PSMA contents. This could include the development of national legislations necessary for the effective implementation of the PSM based on their respective national fisheries laws and regulations (Onoora, 2008).

At the institutional level, implementation of the PSMA assumes that the States would develop or improve their institutional capabilities in general (human, financial, technological) and strengthen the cooperation (*e.g.* by developing inter-agency agreements, information sharing mechanisms) among national agencies and other States, *i.e.* port, flag, coastal, and market States. In order that countries can implement the PSMA, some aspects in the PSMA should be clarified as indicated in **Box 1**.

Box 1. Relevant excerpts from the PSMA that need clarifications to enable the countries to implement the PSMA

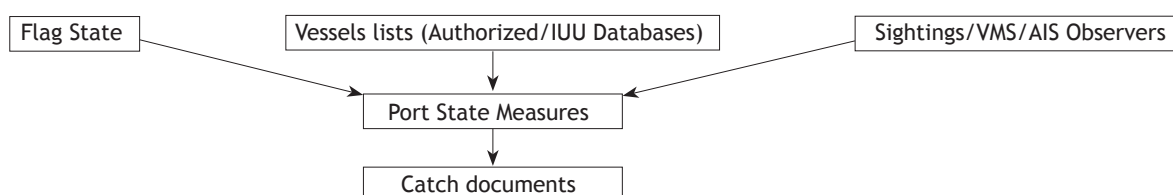
Key Elements of the PSMA

The PSMA was entered into force on 5 June 2016. As of October 2017, there were 51 Parties to the Agreement.

Framework -General

- Elaboration on the information requirements for vessel reporting and inspection reports
- Required reports/information to be transmitted
- Guidelines for inspections and training of inspectors
- Elaboration on the role of Parties as flag States
- Possible assistance for developing States
- Minimum standards for global harmonization of port State measures with strong economic and legal impacts on IUU fishing vessel operators

Linkages: PSM and other key Monitoring, Control and Surveillance (MCS) tools (Swan, 2017)



Example: Roles and Activities of RFMOs in the PSMA

- Tools for assessment of evidence of IUU fishing such as IUU/Authorized Vessel Lists and reporting, and Catch Document Scheme (CDS)
- Communication and notification requirements at all stages (entry, inspection, denial of use)
- Procedures to be developed by RFMOs for identification of “ports of non-compliance”

Example: Impact of PSMA on RFMOs

- Strengthened operations, improved cost-effectiveness
- Strengthened linkages, *i.e.* comprehensive MCS system
- RFMO port State measures are binding on members
- Support for developing State members
- Ratify this agreement and strengthen RFMO measures
- Implementation - Integration in several relevant areas of work in
 - Legislation
 - Procedures
 - Interagency cooperation
 - Capacity Building
 - Strengthen Information and Communication Systems
 - Strengthen flag State measures
- Support ongoing assessment and implementation of port State measures at all levels

Basic Framework for the Implementation of PSMA

The basic framework for implementing PSMA consists of nine (9) major actions:

(1) Definitions (Art. 1 of PSMA)

The relevant concerns in the implementation of the PSMA could include:

- 1) Are some core definitions such as “vessels,” “fishing related activities” consistent with the provisions of PSMA?
- 2) Are all the relevant definitions included in the national legislations?
- 3) Definition should be based on national laws, but should also be understandable among law enforcers.

The abovementioned concerns are some of the main topics to be analyzed and discussed among authorities concerned.

(2) Designated Ports (Art. 7 of PSMA)

Designation of Ports is a key element for the implementation of the PSMA and is the main issue that should be covered by the national laws of each State to achieve the aforementioned provision of the PSMA.

(3) Requirements for Port Entry/use (Art. 8 to 11 of PSMA)

- *Foreign vessels must be obliged to request entry and provide the required information.*
“How far in advance should the information required be provided?” This issue is still differently implemented in each port State because of different national legislations required.
- *Port State must issue written authorization.*
“Is there a requirement in law for the vessel to present the authorization?”
- *Vessel (or agent) must be obliged to present an authorization upon arrival.*
Denial of port entry: according to the PSMA, Denial of Use of Port after Entry is a key element in the implementation of the PSMA (Kuemlangan, 2008). However, the Party should ensure that the legal power to Denial of the Use of Port AFTER ENTRY in the following cases, are in place. It should also be noted that in these cases, no inspection is required.
 - When there are No Authorization by flag State and/or coastal State
 - Where there is CLEAR evidence of violations within the waters of a coastal State
 - When there are NO confirmation from the flag State, when requested
 - When there are Reasonable Grounds to believe that vessel is involved in IUU fishing, unless rebutted by the vessel operator

Box 1. Relevant excerpts from the PSMA that need clarifications to enable the countries to implement the PSMA (Cont'd)

(4) Denial of Port Entry (Art. 9 of PSMA)

Vessels must be denied port entry where there is sufficient proof of IUU fishing, including proof whether it is on an RFMO IUU Fishing Vessel List.

“Is there power in the national legislation to deny entry?”

“How is this determined through “sufficient proof”?”

The PSMA requires the State to have provisions in its law to ensure it has the legal power to deny the use of port after entry, when AFTER INSPECTION there are reasonable grounds to believe that IUU fishing has taken place.

(5) Denial of Port Use after Entry-no inspection required (Art. 11 of PSMA)

This legal action for denying of port use after entry will be enforced with the following cases:

- No authorization by flag State and/or coastal State
- Clear evidence of violations within the waters of a coastal State
- No confirmation from the flag State, if requested
- Reasonable grounds to believe IUU fishing has taken place, unless rebutted by the vessel operator

Denial of use of port after entry-following an inspection (Art. 12) applies when a vessel has already been inspected and there are reasonable grounds to believe that IUU fishing has taken place. However, the question would arise whether or not “there are legal powers in national legislations to act when there is enough evidence as mentioned earlier?” Another question is whether or not “there are adequate penalties in place for violators?”

Note: “in place” means the necessary provisions are available in the national legislations of port State.

(6) Inspection Procedures and Results (Art. 13 and Art. 14 of PSMA)

After completing all the procedures for inspection, the report of inspection results must be provided by the port State concerned. However, some questions may arise:

“Does the entity have a clear process of determining the priority of inspection?”

“Is there a requirement to produce reports of inspection consistent with Annex C: Regarding Report of Results of Inspection based on the PSMA?”

(7) Transmittal of Inspection Results (Art. 15 of PSMA)

The PSMA requires a port State to provide transmittal of inspection results to flag State, coastal States, national State of master RFMOs. Nevertheless the question would be raised whether “It is a requirement under the national law (of port State) to transmit the results of inspections to those relevant States?”

(8) Penalties - To assess the effective implementation of the PSMA, it is important to update the penalties enforced and make the necessary adjustments to ensure adequate penalties for illegal use of ports by foreign vessels and assistance in the use of port by suppliers, among others, where use of port has been denied (Kuemlangan, 2017).

(9) Integration and Coordination - Subject to integration and coordination among authorities from various governmental agencies concerned, the core operational factors/issues could include the following:

- Cross-authorization to officers for fisheries enforcement
- MOUs and other arrangements between and among governmental agencies
- Protocols for information exchange

Implementation of the PSMA to Combat IUU Fishing

(1) Policy

- Setting PSMA as a Minimum Standard
- Integration and development of relevant policies, plans or strategies

(2) Legal

- Conformity and strong linkages between national laws, regulations and practices, and the PSMA

(3) Institutional

- Capacity and cooperation
- Cost-Benefit analysis
- No clear mandate
- Insufficient capacity
- Poor inter-agency cooperation
- Poor information, communication mechanisms
- Financial needs



Global, Regional and National Initiatives in Support of the Implementation of the PSMA

The entry into force of the 2009 FAO Port State Measures Agreement to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA) on 5 June 2016 has activated a set of duties and responsibilities for

States, Parties and other relevant entities. Nonetheless, some constraints had been identified at the global level that include: (i) shortcomings in national policies, laws and by-laws; (ii) inadequate institutional and operational capacities, particularly with regards to Monitoring, Control and Surveillance (MCS); and (iii) insufficient cooperation and coordination nationally, among States as well as at the regional level. In an effort to address such constraints, FAO formulated the global capacity development program “Support to the Implementation of the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing and Complementary Instruments” (FAO, 2016a).

The program aims to contribute to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing and to improve the sustainability of fisheries. Its development outcome is the cohesive implementation at national and regional levels of the provisions of the PSMA as well as complementary international instruments and regional mechanisms to combat IUU fishing.

Efforts of FAO in promoting the implementation of the PSMA in Southeast Asia

FAO provided several technical support and assistance to implement the PSMA, such as the conduct of technical meetings and consultations as well as capacity development. At the request of the FAO Committee on Fisheries (COFI) in 2011, an informal open-ended technical meeting was organized by FAO in November 2011 to review the draft terms of reference (TORs) referred to in paragraph 6 of Article 21 of the Agreement, concerning the requirements of developing States. FAO also initiated a global series of regional workshops to provide essential information about the PSMA focusing on the role, responsibilities and obligations of port States; raise awareness about the benefits of implementing the PSMA; facilitate knowledge building and skills development for managers and inspectors in relation to the PSMA; review stakeholders’ perspectives on port State measures and good governance issues; strengthen and harmonize port State measures at regional level; highlight the importance of developing concerted actions between port States and flag States in implementing port State measures effectively; encourage the enforcement of the implementation of existing Regional Plans of Action to combat IUU fishing and development of new ones; facilitate exchange of national experiences in combating IUU fishing through participation in activities dealing with real world situations; highlight the role of regional fisheries management organizations and arrangements (RFMOs) in the implementation of the PSMA; draw

up related national and regional action plans and recommendations in general, legal and policy, institutional and capacity development and operational terms; and identify the opportunities for regional cooperation to implement port State measures. During the series of meetings, consultations and training, FAO came up with recommendations (FAO, 2012) for the Southeast Asian region to consider during the implementation of port State measures to combat IUU fishing (**Box 2**).

Moreover, FAO’s Technical Cooperation Program and Projects for Assistance and Capacity Building provided technical assistance to some developing countries such as Ghana, Thailand, St. Kitts and Nevis, Bahamas, among others, in relevant aspects, namely: Legislative Review and Drafting; National Plan of Action on IUU Fishing; Action Plan to Address EU IUU Fishing Concerns; Training on Monitoring, Compliance and Surveillance; Boarding and Port Inspection Training; Law Enforcement Training; Training of Magistrates and other judicial officers; and Inter-agency Cooperation.



Initiatives of SEAFDEC in promoting countermeasures to combat IUU fishing in Southeast Asia

The Southeast Asian Fisheries Development Center (SEAFDEC) has also developed measures and tools to combat IUU fishing in the waters of Southeast Asia (Ishii *et al.*, 2017). Based on such initiatives and with technical assistance from SEAFDEC, the ASEAN Member States

Box 2. Recommendations of FAO for the Southeast Asian region to implement port State measures to combat IUU fishing (FAO, 2012)

General Aspects

Southeast Asian Fisheries Bodies should:

- Conduct regional workshops to promote the benefits of port State measures (PSM)
 - Set up a regional network to improve bilateral and multilateral cooperation particularly in information-sharing
- (**Note:** support of existing Regional Fisheries Bodies and Arrangements to establish the network is desired)

Legal and Policy Aspects

Southeast Asian Fisheries Bodies should:

- Conduct regional training programs on the legal interpretation of Port State Measures Agreement (PSMA) for legal experts and high ranking officials
- Develop an advisory document on preliminary actions that support PSM within existing legislations
- Promote sub-regional arrangements for cooperation on PSM and combating IUU fishing
- Seek to harmonize policy and legislation bilaterally and at regional level (possibly through the ASEAN mechanism)
- Seek to include RFMOs in regional policy and IUU fishing related activities
- In preparation for implementation of **PSMA Article 6**, develop a regional MOU between competent fishery organizations for sharing and updating of information on PSM through:
 - Establishment of a regional database of national PSM regulations
 - Development of consolidated information on national procedures for access to ports
 - With support from IOTC, harmonization on PSM among its members

Institutional and Capacity Development (establishment of MOUs)

Southeast Asian Fisheries Bodies should, *as part of the recommendation to establish MOU*:

- Convene regional coordination meetings among relevant Regional Fisheries Bodies (RFBs) to develop an agreement on the establishment of a regional database and information system, including a record of authorized vessels, IUU vessel lists, list of designated ports and port inspection results
- Strengthen the cooperation among existing RFBs, by drawing up formal agreements and other mechanisms, such as coordination meetings, with possible assistance of FAO

Institutional and Capacity Development (regional harmonization of activities)

Southeast Asian Fisheries Bodies should, *as part of the regional harmonization of activities*:

- Convene a regional working group from representatives of each country to establish the Regional Standards of Practices (SOPs) for Port Inspections
 - Strengthen the implementation of the RPOA-IUU, including securing additional technical and financial resources
- (**Note:** In this regard, the RPOA-IUU Secretariat and participating countries are encouraged to secure sufficient funding)

Institutional and Capacity Development (dissemination and sharing of information)

Southeast Asian Fisheries Bodies should, *subject to operations, under a regional MOU referred above*:

- Develop web-based information and tool kits for inspectors
- Establish a scheme for joint and reciprocal inspections



(AMSs) have also initiated actions to address their respective countries' concerns in combating IUU fishing in their waters through the establishment of relevant measures and management tools.

Specifically, in the implementation by SEAFDEC of the JTF-funded project “Promotion of Countermeasures to Reduce IUU Fishing,” the AMSs collaborated with SEAFDEC to establish various management tools and measures, which are meant not only to combat IUU fishing but also to enhance the competitiveness of the ASEAN fish and fishery products (Ishii *et al.*, 2017). Such management tools and measures include the: (1) ASEAN Guidelines for Preventing the Entry of Fish and Fishery Products from IUU Fishing Activities into the Supply Chain; (2) Regional Fishing Vessels Record

Database for Vessels 24 Meters in Length and Over (RFVR Database-24 m); (3) Regional Plan of Action for Management of Fishing Capacity (RPOA-Capacity); (4) Regional Cooperation to Support the Implementation of Port State Measures; (5) ASEAN Catch Documentation Scheme (ACDS) for Marine Capture Fisheries; and (6) Regional Guidelines on Traceability System for ASEAN Aquaculture Products.

The status of the implementation of such instruments by the AMSs is shown in **Box 3**. As for the promotion of PSM in the region, this has been mainly constrained by the unavailability of experts capable of studying the relevant legal frameworks of the AMSs *vis-à-vis* the implementation of the PSMA. Nevertheless, SEAFDEC continued to organize meetings, workshops and capacity

Box 3. Management tools and measures to combat IUU fishing and enhance the competitiveness of ASEAN fish and fishery products developed by the AMSs with assistance from SEAFDEC (Ishii *et al.*, 2017)

ASEAN Guidelines for Preventing the Entry of Fish and Fishery Products from IUU Fishing Activities into the Supply Chain

- Spearheaded by SEAFDEC Marine Fishery Resources Development and Management Department (MFRDMD)
- Aimed at establishing the foundation for the formulation of relevant policies at national level for preventing the entry of IUU fish and fishery products into the supply chain
- MFRDMD assists the AMSs in addressing the issues and concerns that impede the adoption of the Guidelines in their respective countries

Regional Fishing Vessels Record Database for Vessels 24 Meters in Length and Over

- Coordinated by SEAFDEC Training Department (TD)
- Initially focusing on large fishing vessels with length from 24 meters and over, the Regional Fishing Vessels Record (RFVR) would be used as a management tool for combating IUU fishing in the region
- RFVR Database, an online system containing RFVR information, managed by TD
- RFVR Database includes information on fishing vessels identification and other relevant data comprising the basic 28 elements of fishing vessels that could be shared among the AMSs

Regional Plan of Action for Management of Fishing Capacity

- Regional Plan of Action for the Management of Fishing Capacity (RPOA-Capacity) was developed by SEAFDEC as guide for the management of fishing capacity in an ASEAN perspective
- Meant to support the AMSs in the development and implementation of their respective National Plans of Action for the Management of Fishing Capacity
- RPOA-Capacity to be used as guide for AMSs to establish management measures for shared stocks (e.g. longtail tuna and kawakawa in the Gulf of Thailand and Andaman Sea)
- Based on results of evaluation of the extent of implementation of the RPOA-Capacity by the AMSs, gap analysis will be carried out by SEAFDEC

Regional Cooperation to Support the Implementation of Port State Measures in the ASEAN Region

- Coordinated by TD
- Regional cooperation being established to support the implementation of port State measures, and prevent the entry of illegally-caught fish into the international markets through the countries' ports
- Regional approaches developed to support the implementation of PSM by the AMSs
- Lack of expertise at SEAFDEC on PSMA, to enhance the promotion of the implementation of PSMA in the region
- FAO working closely with SEAFDEC in support of the implementation of PSMA by the AMSs

ASEAN Catch Documentation Scheme for Marine Capture Fisheries

- Developed and promoted by SEAFDEC in the region to secure the niche of the ASEAN fish and fishery products in the global market
- Meant to serve as a unified framework in enhancing traceability for effective marine fisheries management
- ASEAN Catch Documentation Scheme (ACDS) is voluntary for all the AMSs
- Implementation of the electronic format of the ACDS (e-ACDS) currently being pilot-tested in the AMSs

Regional Guidelines on Traceability System for ASEAN Aquaculture Products

- Coordinated by SEAFDEC Marine Fisheries Research Department (MFRD) in cooperation with SEAFDEC Aquaculture Department (AQD)
- Aimed at securing the niche of ASEAN fish and fishery products from aquaculture in the global market
- Serves as guide in implementing traceability systems for aquaculture products which had been included as part of the requirements for the trading of these products in the global market
- As Guide for AMSs in formulating national programs and activities that aim to promote traceability of aquaculture products



building activities not only to raise the awareness of stakeholders from the region on the PSM concepts but also to enhance their understanding of the requirements contained in the PSMA (Saraphaivanich, *et al.*, 2017).

National initiatives in promoting the implementation of PSM in Southeast Asia

The study “National Coordination and Implementation of Port State Measures in Selected States in the Southeast Asian Region” by Onoora (2008) which focused on selected States, namely: Indonesia, Philippines, and Thailand, aimed to identify and assess the legal requirements and institutional mechanisms necessary for the implementation of the PSM. Results of the study had indicated some differences regarding the countries’ specific laws and regulations in dealing with measures to combat IUU fishing, particularly with respect to port State measures.

However, there were some common concerns at the national level and challenging issues relating to combating IUU fishing activities in the Southeast Asian region. These include insufficient coordination and collaboration among different agencies concerned, inadequate laws and regulations to directly deal with the IUU fishing problems, inadequate qualified staff, insufficiency in information, and need to establish MCS network in the region and acquisition of appropriate equipment necessary to combat IUU fishing especially through port State measures at the present stage.

Experience of Thailand before acceding to the PSMA

On the part of Thailand, it had undertaken several actions to prevent, deter and eliminate illegal, unreported and unregulated fishing through the implementation of port State measures, while subjecting itself to the preparatory processes and actions before becoming a Party of the PSMA. Such actions were accomplished through the attendance of relevant officers and staff in various international and regional workshops and training programs organized by either FAO or SEAFDEC or the

Indian Ocean Tuna Commission (IOTC) since 2008, as a member country of these organizations. The Department of Fisheries of the Ministry of Agriculture and Cooperatives of Thailand assigned relevant officer/staff to study the major concepts in many international instruments, such as the **Code of Conduct for Responsible Fisheries (CCRF)**, **International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU)**, and the **FAO Model Scheme on Port State Measures to Combat IUU Fishing**, initiated by FAO and implemented among the FAO member States.

The research paper written by Onoora (2008) on “National Coordination and Implementation of Port State Measures in Selected States in the Southeast Asian Region” was used as working document during the FAO/APFIC/SEAFDEC Regional Workshop on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing. During June 2008 to August 2009, a Delegation comprising DOF Officers participated in the “Technical Consultation to Draft a Legally-binding Instrument on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing” at the FAO Head Office in Rome, Italy (Onoora, 2008). After 4 rounds of technical consultations, the 2009 FAO Port State Measures Agreement (PSMA) was drafted as the first and significant legal-binding instrument under the State jurisdiction at ports.

The PSMA was translated into the Thai national language in 2013 with support from FAO and SEAFDEC to provide greater access and clear understanding on the PSMA by the Thai officials and fishers throughout the country. During the preparations for accession, Thailand revised the Structural Chain of Command of the Department of Fisheries (**Box 4**) to facilitate the implementation of the PSMA in the country.

The common needs were also identified, such as capacity building, information sharing, review and redrafting of specific laws or regulations dealing with the application of port State measures, and establishment of regional MCS network in the Southeast Asian region. Nevertheless, to achieve the common goal of using the PSMA as tool to



Box 4. Revisions of the Structural Chain of Command of the Department of Fisheries of Thailand

Setting up of new Division: Fish Quarantine and Inspection Division to include: <ul style="list-style-type: none">• Port State Measures Implementation Group• Fish Quarantine and Inspection Regional Center 2 (Bangkok)• Fish Quarantine and Inspection Regional Center 3 (Songkhla)
Setting up of 22 new PSM ports for port entry of foreign vessel, divided into 16 international ports and 6 neighboring ports
Employed PSM staff in each designated port, approximately 30-50 staff per port, and provided them special training on PSM-related works
Establishment of international networking with both flag States and coastal States within the Southeast Asian region and beyond, for cross-checking traceability system and inspection of fish products from foreign fishing vessels that request access to a fishing port of Thailand
Setting up of a specific committee prior to accession to the PSMA by Thailand, to urgently consider the advantages and disadvantages if Thailand intends to ratify the PSMA, and the Parliament endorsed the intentions of Thailand to become a Party in the PSMA

combat IUU fishing in the region, more time, cooperation, participation, and support of relevant parties such as policy-makers and all stakeholders from the government and private sectors are desperately needed.

Implementation of Port State Measures in Southeast Asia: a simulation exercise

There had been unclear interpretations regarding some terminologies, such as “illegal fishing” and “illegal, unreported and unregulated fishing” or so-called “IUU fishing.” From the legal point of view in applying these terms, the legal consideration is to focus on whether a law or a regulation is available and in place. If the answer is Yes and the actions done by fishers violate specific laws or regulations, then the violated actions are considered to be “illegal fishing.” On the other hand, the meaning of “IUU fishing” as officially defined by the FAO Technical Guidelines for Responsible Fisheries #9 is shown in **Box 5** (FAO, 2002).

A Simulation Exercise to Implement Port State Measures

This simulation exercise is presented as an example only although it is based on the actual action with focus on some legal perspectives and implications. This simulation case involves **State A** acting as the coastal State, **State B** as flag State, **State C** as port State, and **Fishing Vessel FV.1**, as the main actors.

State A has requested **State C** to control and confiscate **FV.1** at port of **State C** claiming that **FV.1** has been involved in IUU Fishing activities in the waters of **State A**

Box 5. Clarification on the terms “illegal,” “unreported,” and “unregulated” as they relate to fishing activity (FAO, 2002)

<p>Illegal fishing refers to fishing activities ---</p> <ol style="list-style-type: none">(1) Conducted by national or foreign vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations;(2) Conducted by vessels flying the flag of States that are parties to a relevant regional fisheries management organization but operate in contravention of the conservation and management measures adopted by that organization and by which the States are bound, or relevant provisions of the applicable international law; or(3) In violation of national laws or international obligations, including those undertaken by cooperating States to a relevant regional fisheries management organizations.
<p>Unreported fishing refers to fishing activities ---</p> <ol style="list-style-type: none">(1) Which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or(2) Undertaken in the area of competence of a relevant regional fisheries management organization which have not been reported or have been misreported, in contravention of the reporting procedures of that organization.
<p>Unregulated fishing refers to fishing activities ---</p> <ol style="list-style-type: none">(1) In the area of application of a relevant regional fisheries management organization that are conducted by vessels without nationality, or by those flying the flag of a State not party to that organization, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organization; or(2) In area or for fish stocks in relation to which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law.

by sending official letter to the government office of **State C** and requesting for legal assistance. In fact, **State A** is Party of the PSMA but **State C** is not, so **State C** does not have any obligation to comply with the provisions of the PSMA. Even if **State C** has not yet been a Party of the PSMA, it can implement PSM if it wishes to do so, although not the PSMA. Thus, **State C** cooperated with **State A** by contacting **State B**, a Party of PSMA, to verify about the nationality of **FV.1** and inquire whether **FV.1** has the nationality of **State B** and allowed to fly the national flag of **State B**. From the communications and good cooperation with **State B**, it was found that **FV.1** has never been registered with **State B**, so **FV.1** does not have **State B** nationality. In this case, **FV.1** is considered as a “stateless vessel.” As a port State, **State C** has the full sovereignty to implement all national laws and regulations over its port such as laws relating to customs, safety of vessels, sanitation, and fisheries laws. Nonetheless, **FV.1** should be allowed to prove its innocence for not having been involved in IUU fishing activities in the waters of **State A**, e.g. documentary proof that the fish products onboard **FV.1** have been legally caught with authorized licenses issued by the authorities of **State A**. At the same



time, the role of **State C** is to cooperate with **State A** in combating IUU fishing in this region even though it has not yet accessioned to be a Party of the PSMA, and for **State A** through enforcement of relevant national legislations, to inspect the fish products onboard the **FV.1**.

As a result, since it was found that **FV.1** has no license to carry and land the fishery products, so **State C** arrested the **FV.1** and confiscated all fish products onboard. Moreover, it was found that **FV.1** did not have enough safety equipment on board, so the marine authorities of **State C** ordered the Captain of the **FV.1** to install the proper equipment and tools needed onboard. After the legal enforcements above, the authorities of **State C** officially reported the results of inspection and all operational treatments accorded the **FV.1** to **State A** as a coastal State, **State B** as relevant State, and the Regional Fisheries Management Organization (RFMO) where **State C** is a member, for them to know about all the actions that had been done on the **FV.1**.

In conclusion, the legal analysis and implications that could be derived from this sample case, depend on: the status of the involved States (flag, coastal, port or market State); legal status to PSMA of relevant States; being a Party or Non-Party; Port State Measures to combat IUU fishing; provisions of PSMA to be complied with by States concerned; diplomatic relationship among all the States concerned; international and regional cooperation and coordination among States concerned; and involvement of RFMOs in the region. This simulation exercise would be useful for Southeast Asian countries in providing practical guidelines for future actions.

Constraints and Issues in the Implementation of Port State Measures

There are many constraints and challenges to the implementation of the PSMA, particularly for developing countries. However, it is implicit in Article 21(4) of the PSMA for Parties to cooperate in establishing funding mechanisms to assist developing States in the implementation of the PSMA.

The mechanisms are to be directed specifically towards: (i) developing national and international port State measures; (ii) developing and enhancing capacity on MCS and training of port managers, inspectors, enforcement and legal personnel at the national and regional levels; and (iii) implementing MCS and compliance activities relevant to port State measures and accessing technologies and equipment (Doulman and Swan, 2012).

One of the outcomes of the global series of FAO Regional Workshops to improve human and technical capacity for countries to strengthen and coordinate their port State measures, is identification of the clear steps that national fisheries administrations could take to develop port State measures. In this context, the working groups, in each of the abovementioned Workshops, identified the constraints to the development of port State measures and proposed the ways to overcome such concerns. The constraints identified were generally consistent throughout the various regions, and related mainly to institutional arrangements, technical requirements, legal considerations, financial needs, human resource development, and regional and international concerns.

Subject to legal considerations, the constraints regarding the implementation of the PSMA range from the national to regional levels. At the regional level, many countries are concerned with ensuring full and effective legal implementation of measures and decisions of RFMOs in

which they participate. These situations may result in the failure of national laws to legally implement international and regional instruments and obligations. An associated problem is when the national law could not be made consistent with the requirements in the PSMA and

Box 6. Challenges arising from developing countries related to implementation of PSMA

- Insufficient integration of legislative requirements into national policies as cited during the FAO regional workshops that constrain all efforts to prioritize legal implementation
- Weak or inadequate legal frameworks
- Outdated fisheries and related laws, exist to a great extent in developing countries
- Need for legal assistance from donor countries or organizations to review and update legislations
- Increased political will in adopting new legislations
- Inadequacy of penalty levels and inconsistency of such levels throughout a region
- Need to address penalty levels at regional level to promote their impact, consistency and effectiveness
- Limited number of bilateral and/or multilateral arrangements between coastal States in many regions
- Lack of harmonized legislation or inconsistency of legislation in the region
- Harmonization of the implementation of the PSMA as a minimum standard

Box 7. Common constraints encountered by Southeast Asian countries that impede the implementation of PSMA

Legal problems

- Subject to implementation of laws and regulations (insufficient legal provisions), the **challenges** of Brunei Darussalam, Cambodia, Indonesia, Malaysia, Singapore, Thailand, and Viet Nam include: inconsistent law interpretations, need to amend and update existing regulations, and need to review and update relevant fisheries acts
- Regarding the interpretation of PSMA, the **challenges** of Brunei Darussalam, Cambodia, Indonesia, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Viet Nam include: interpretation of PSMA by non-fisheries stakeholders not comprehensive, need to establish MOU among concerned government agencies, need assistance from legal officers of FAO for the correct interpretation of the provisions of PSMA for law enforcement officers and managers, and need assistance to ensure correct translation of PSMA into the local languages of concerned countries

Operational problems

- Issues relating to standard operating procedures (SOPs) in implementing PSM with any scale of foreign vessel (*i.e.* lack of, incompleteness of, outdated), the **challenges** of Brunei Darussalam, Cambodia, Indonesia, Myanmar, Philippines, Singapore, and Viet Nam include: need to renew and recognize fishing port operational procedures to support PSM, development and updating of harmonized SOPs on vessel inspection at port for more comprehensive and guidance of all AMSs, identification of the needs and capacity building for staff concerned on relevant aspects of PSM implementation
- For ports managed by different agencies, insufficient inter-agency cooperation for PSM implementation, the **challenges** of Brunei Darussalam, Cambodia, Indonesia, Myanmar, Philippines, and Viet Nam include: sharing of information on vessel entry permit among concerned agencies such as fisheries departments, harbor departments, customs, and others; and need to establish ASEAN Fish Market Federation to promote and implement the ASEAN Catch Documentation Scheme (ACDS)

Human resource problems

- Brunei Darussalam, Cambodia, Indonesia, Myanmar, Philippines, Thailand, and Viet Nam have common constraints on limited capacity of implementing facilities and officers concerned, and need to develop capabilities across all levels, *e.g.* policy makers, port managers, inspectors, and the like, and technical support on how to operate communication equipment as their priority requirements

Infrastructure problems

- Brunei Darussalam, Cambodia, Indonesia, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Viet Nam have common constraints related to insufficient infrastructures for PSM, such as infrastructure for port and for information systems, thus assistance is needed to help in setting up or upgrading electronic databases and systems, *e.g.* electronic catch document scheme, database for catch records, VMS, MCS, GPS/AIS/other communication systems; and understanding the requirements and criteria of appropriate designated ports
- Brunei Darussalam, Cambodia, Indonesia, Malaysia, Myanmar, Philippines, and Viet Nam have common constraints on the insufficiency of budget for infrastructure to support PSM, *i.e.* infrastructure for port and for information systems, thus FAO had been requested to help finance the development and implementation of their port management systems; and budget allocation for setting up and upgrading electronic databases and systems, *e.g.* electronic catch documentation scheme, database to record catch records, VMS and MCS and other communication systems

Information-related problems

- Brunei Darussalam, Cambodia, Indonesia, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Viet Nam have common constraints on non-updated IUU fishing vessels list from RFMOs, thus proposing to FAO to publish a consolidated list of IUU fishing vessels on its website, so that there is no need for countries to check various RFMOs' or international organizations' websites
- Brunei Darussalam, Cambodia, Indonesia, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Viet Nam have common constraints on lack of awareness among the stakeholders and concerned agencies about PSM, thus capacity building and awareness raising activities are necessary, which should target the government agencies and relevant stakeholders
- Cambodia, Indonesia, and Philippines have common constraints on lack of information sharing between agencies where control of ports fall under different port authorities, thus requesting the assistance from FAO to help in proposing the revision of the roles and responsibilities of various agencies related to the implementation of PSM

associated instruments. In addressing these challenges, it would be important to consider the legal checklist against national legislations (**Box 6**), identify the gaps and inconsistencies, and propose appropriate revisions.

Moreover, the constraints encountered by Southeast Asian countries were also identified as shown in **Box 7** (FAO, 2016b), where addressing such constraints are the top priority activities of the concerned countries. Meanwhile, the possible constraints in the implementation of the PSMA at the national level, especially when a State becomes a Party to the PSMA, are summarized in **Box 8**.

Box 8. Possible constraints in the implementation of PSMA at national level

At the national level, the Checklist Document suggests that some initial considerations for the implementation of the PSMA when a State becomes a Party to it. These considerations could include the need to:

- Review and compile national legislations and procedures related to the implementation of PSM, as well as the duties and responsibilities of the flag, coastal and market States
- Identify and collect information related to integration and coordination mechanisms at the national, sub-regional, regional and international levels, while it is important to review if the legislations ensure the integration and coordination of fisheries related port State measures with the broader system of port State controls, including for example, vessel monitoring system (VMS) and observers' programs
- On the role of a Party as a flag State, the PSMA gives some discretion to each Party to decide on the application of the PSMA, but should in general promote better compliance of conservation and management measures
- Identify the requirements for assistance, training and cooperation when a State becomes a Party to the PSMA

Benefits of ratifying and implementing the PSMA

The PSMA was adopted by the FAO Conference in 2009 for the main purpose of preventing, deterring and eliminating IUU fishing through the implementation of port State measures (FAO, 2009). The Parties, in their capacities as port States should apply the PSMA in an effective manner, to foreign vessels seeking entry to ports or while still at ports. The application of the measures set out in the PSMA would, *inter alia*, contribute to harmonized port State measures, enhance regional and international cooperation, and block the flow of IUU-caught fish and fishery products into national and international markets.

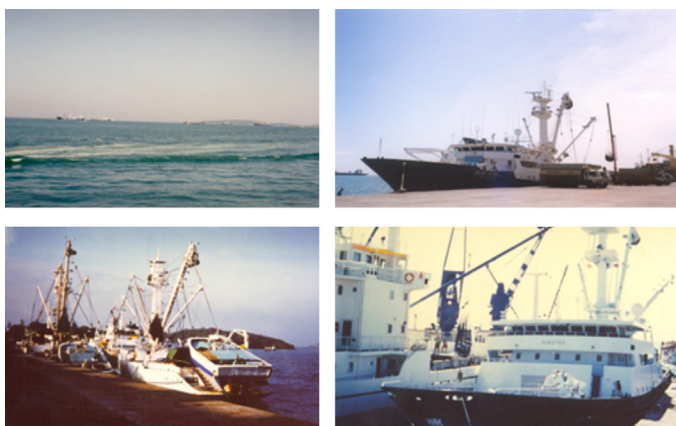
As a legally-binding instrument, the PSMA stipulates minimum standards of port States measures, although the States are free to adopt more stringent measures than those outlined in the PSMA. In order to obtain the full effect of the implementation PSMA at the national

level, the requirements stipulated in the PSMA should be incorporated into national legislations. Even before the PSMA was entered into force, many States including those that do not wish to become Parties had been implementing PSM which are now set out in the PSMA. Nonetheless, FAO continues to encourage the countries to include PSM in their national legislations, and to actively promote the implementation of PSM as tool in combating IUU fishing.

There are positive effects of ratifying and acceding to the PSMA, to the countries and the region, considering that IUU fishing is a major problem in capture fisheries and poses a serious threat to the effective conservation and management of many fish stocks. IUU fishing can at its worst lead to the total collapse of a fishery or at least seriously impair the condition of fish stocks including efforts to rebuild stocks that have been overfished, situations that are likely to lead to loss of economic revenues both directly through fish sales and indirectly through social opportunities such as employment. Enhanced implementation of PSM has an important role in combating IUU fishing because it complements the efforts of flag States in fulfilling their responsibilities under international laws. The PSMA provides the legal right to port States in inspecting and verifying vessels that are not flying their flags but wishing to seek permission to access their ports or are already in their ports. The inspections are meant to make sure that vessels entering into ports have not been engaged in IUU fishing activities.

Moreover, the PSMA provides the rights for flag States to have control over vessels as the PSMA requires the flag States to take certain actions, at the request of the port States or when vessels flying their flags are suspected to have been involved in IUU fishing activities. This responsibility ensures that flag States continue to exercise control over vessels flying their flags in areas beyond their national jurisdictions. The PSMA also requires better and more effective cooperation and information exchange among coastal States, flag States and regional fisheries management organizations and arrangements (RFMOs/RFMAs).

The PSMA also seeks to prevent the occurrence of so-called ports of non-compliance (formerly known as ports of convenience), since countries operating ports of non-compliance do not regulate effectively the fishing operations and related activities that take place in their waters, and do not determine whether IUU-caught fish are landed, transshipped, processed, and sold in their ports. Ratifying of or acceding to the PSMA and robustly implementing its measures will reduce the number of



Tuna transshipment and unloading

ports of non-compliance and the opportunities for vessels to dispose of IUU-caught fish with relative ease.

Moreover, the State being a Party to and implements the PSMA, could promote strengthened fisheries management and governance at all levels. PSM are cost-effective tool in ensuring compliance with national laws as well as regional conservation and management measures adopted by RFMOs. This is because port States do not have to expend time, effort and resources in monitoring, pursuing and inspecting vessels at sea. Port inspections and controls are very much cheaper and safer than the alternative and more conventional air and surface compliance tools.

Box 9. Framework of proposed Model for implementing PSM in Southeast Asia

The key issues for future actions and regional cooperation in effectively implementing port State measures to combat IUU fishing in the Southeast Asian Region include:

1. Strong political will and regional support
2. Harmonization and standardization of policies
3. Development of legal frameworks
4. Promotion of regional and sub-regional MCS networks
5. Capacity building and/or needs assessment
6. Information sharing and activity coordination

Issue 1: Ensuring political will and regional support by:

- Involving the FAO Asia-Pacific Fisheries Commission (APFIC), ASEAN and SEAFDEC in the process of implementing PSM
- Raising public awareness through communication strategies and campaigns

Issue 2: Harmonization and standardization of policies through:

- Development of regional minimum standards for port State measures
- Agreement on appropriate mechanisms, e.g. under APFIC, SEAFDEC, ASEAN, and/or the RPOA IUU
- Elaboration of standard operating procedures
- Designation of ports where port State measures will be implemented

Issue 3: Development of legal frameworks through:

- Cooperation at regional level to develop legal instruments to implement port State measures, based on relevant international instruments
- Establishment of regional legal working groups to address the implementation, strengthening and harmonization of port State measures
- Identification of key legal constraints and needs for the Southeast Asian region
- Establishment of a framework of cooperation and network among countries for sharing of information and knowledge, lessons learned, successful cases, and relevant practices
- Review and/or revision and updating of national legislations to effectively implement port State measures
- Development of bilateral and/or regional mechanisms to implement port State measures in the region
- Availing of expertise from international and regional organizations, to assist in setting up the legal frameworks for implementing port State measures

Issue 4: Promotion of regional and sub-regional MCS networks by:

- Engaging other initiatives in dealing with topics related to oceans and coastal environment, where IUU fishing is also an issue
- Sharing of MCS tools

Issue 5: Capacity building and/or needs assessment through:

- Port inspection and boarding procedures, and transmittal of inspection reports
- Orientation on systematic cooperation and sharing of information
- Treatment of presumed fishing vessels to have engaged in IUU fishing
- Establishment of techniques on how to detect IUU fishing fraudulent documents, mis-declaration of catch, vessel renaming and reflagging

Issue 6: Information sharing and activity coordination through:

- Inter- and intra-government collaboration
- Timely coordination between and among SEAFDEC Member port States
- Cooperation among national authorities
- Promotion of inter-agency cooperation within governments
- Coordination with industry, mindful that this will involve the implementation of port State measures and possible traceability schemes

When used in conjunction with catch documentation schemes (CDS), PSM have the potential to be one of the most cost-effective and efficient means of combating IUU fishing, since implementing it through national legislations will provide incentives to establish coordinated procedures and facilitate intra-agency cooperation. As a compliance and enforcement tool, PSM have positive effect on fisheries conservation and management by contributing to more accurate and comprehensive data collection, enhancing vessel reporting to national administrations and RFMOs, permitting assessments on the extent to which vessels have complied with operational authorizations and licenses to fish, and promoting regional fisheries



Box 10. Possible Model for PSMA Implementation by a PSMA Party

Among the Southeast Asian countries, only Indonesia, Myanmar and Thailand are at present, Parties to the PSMA, while some countries are undergoing the necessary domestic processes to access/ratify/accept the PSMA in the future. Thus, the proposed possible model for Party involves analyzing the obligations set forth in the PSMA and capabilities of Parties to PSMA in the region.

Duties of Party to PSMA

- a. **Policy** - to implement PSMA as a minimum standard of country
 - Enact specific national laws and regulations to support the implementation of port State measures in own county
 - Make legal adjustments at the national level for the implementation of the PSMA
 - Integrate and develop relevant policies, plans or strategies
 - Provide a strong support to the implementation of actions by prioritizing them on the national and sectorial agenda
 - Cooperate and exchange information with relevant RFMOs, including measures adopted by RFMOs in relation to the objective of the PSMA (Swan, 2016)
 - Move forward in a coherent manner
- b. **Legal** - conformity and strong linkages between national laws, regulation and practices and the provision of PSMA
 - Review and collect the national legislation and procedures in relation with the implementation of the PSM, as well as flag, coastal and market state responsibilities and duties
 - Designate legal power to Denial the Use of port AFTER ENTRY in national legislation
 - Ensure that there are specific provisions in the national legislation to support in implementation of PSMA especially for providing legal authority for officials and inspector
 - Amend relevant penalties in national legislation for violating the provisions of port State measures
- c. **Institutional** - strengthen capacity and cooperation
 - Encourage to do cost-benefit analysis
 - Identify clear mandate
 - Strengthen capacity
 - Promote inter-agency cooperation
 - Develop information, communication mechanisms
 - Seek for financial support from regional donors
- d. **Capacity Building** - identify needs for assistance, training and cooperation that are useful when a State becomes a Party to the PSMA

cooperation and harmonization among coastal States and RFMO members.

Through regional cooperation, the port States and other States that are RFMO members are assured of the benefits from the information obtained through the implementation of PSM. Consequently, the PSMA facilitates and strengthens regional cooperation, including harmonization through RFMOs role in implementing the PSMA, of provisions that focus on denial of access

to ports, port inspections, prohibition of landings, and detention and sanction that can prevent the fish caught through IUU fishing activities from reaching the national and international markets. By making it more difficult to market fish through the application of PSM, the economic incentive to engage in IUU fishing is reduced.

It should be noted that many countries have also decided to prohibit trading with countries that do not have PSM in place. The adoption of PSMA that seeks to enhance

Box 11. Possible Model for PSMA implementation by non-Party to the PSMA

Legal Framework: Non-Party country should:

- Consider implementing PSM although without any legal obligation to comply with the provisions of PSMA
- Provide essential information about the PSMA focusing on the role, responsibilities and obligations of the port States
- Raise awareness among nationals about the benefits of implementing the PSMA
- Promote ways to strengthen coordination and collaboration among various agencies concerned at national, regional and global levels
- Review stakeholders' perspectives on port State measures and good governance issues
- Participate in related national and regional action plans and recommendations in general, legal and policy, institutional and capacity development and operations terms
- Review and redraft specific laws or regulations dealing with the application of port State measures

Legal Framework: Regional Fisheries Management Bodies/Arrangements should:

- Highlight the importance of developing concerted actions between port States and flag States in implementing port State measures effectively
- Establish a regional MCS network in the Southeast Asian region
- Encourage the enforcement of the existing Regional Plans of Action to combat IUU fishing and development of new ones
- Facilitate exchange of national experiences in combating IUU fishing through participation in activities dealing with real world situations
- Identify opportunities for regional cooperation to implement PSM
- Conduct regional workshop to promote the benefits of PSM
- Set up a regional network to improve bilateral and multilateral cooperation particularly in information-sharing, and establish the network as desired

Legal and Policy Aspects: Regional Fisheries Management Bodies/Arrangements should:

- Conduct regional training programs on the legal interpretation of PSMA for legal experts, high ranking officials and relevant authorities
- Promote sub-regional arrangements for cooperation on PSM and combating IUU fishing
- Seek to harmonize policies and legislations bilaterally and at regional level (possibly through the ASEAN mechanism)
- Establish a regional database on national PSM regulations
- IOTC, to support harmonization of PSM among its members
- Convene regional coordination meetings among relevant Regional Fisheries Bodies (RFBs) to seek agreement on the establishment of regional database and information system, including a record of authorized vessels, IUU vessel lists, list of designated ports, and port inspection results
- Establish MOU among countries in the region for cooperation in data sharing, transfer of technology and other related actions as part of the regional harmonization activities
- Strengthen the implementation of the RPOA-IUU, including securing additional technical and financial resources as part of the regional harmonization activities
- Convene a regional working group from the representatives of each country to establish regional Standards of Practices (SOPs) for port inspections
- Promote the establishment of regional MOU between competent fishery organizations to share and update information on PSM, in preparation for implementing Article 6 of the PSMA

Legal and Policy Aspects: Non-Party country should:

- Promote the ways of strengthening coordination and collaboration among various agencies concerned at national, regional and global levels
- Develop an advisory document on preliminary actions that support PSM within existing legislations
- Establish MCS network in the region and appropriate tools to combat IUU fishing especially through PSM
- Provide assistance in setting up or upgrading electronic databases and systems, e.g. electronic catch document scheme
- Initiate more training sessions for trainers, as many as possible throughout the country to generate more qualified staff who understand the PSM, and conservation and management measures
- Promote establishment of regional MOU between competent fishery organizations to share and update information on PSM, in preparation for implementing Article 6 of the PSMA
- Develop consolidated information on national procedures for access to ports
- Share experiences and expertise with neighboring countries to address common difficulties

fisheries conservation and management, combat IUU fishing and reduce the volume of IUU-caught product entering national and international markets, reduces the incomes from IUU fishing activities, thus, the incentive to engage in such fishing would be reduced. Used in combination with other tools, PSM is therefore able to reduce the level of IUU fishing globally.

Conclusion and Recommendations

Based on the situation of the Southeast Asian countries, there are variety of means and ways to combat IUU fishing by implementing either the port State measures (PSM) or the 2009 FAO Port State Measures Agreement (PSMA), depending on the legal systems, policies on fisheries management, development of port inspection systems, and cooperation among several agencies and officials concerned with solving problems that arise from IUU fishing. However, the political will of the authorities of each country is very significant as this would lead the nations towards addressing such problems. To achieve the common goals as well as the common areas of interest such as capacity building and information sharing, strengthened cooperation, participation and support of the relevant parties such as policy-makers, stakeholders both from the government sector and private sector, are necessary.

Due to the variety of important factors that could affect the implementation of PSM in the Southeast Asian region, a Model to implement port State measures in this region (**Box 9**) is being proposed to be developed and implemented in real situations. This proposed Model could serve as the first step of the countries concerned to develop and establish some essential actions to cooperate and coordinate with global fisheries organizations, bodies and arrangements in the implementation of PSMA for combating IUU fishing activities in the Southeast Asian waters. The Model could also serve as a step towards enhancing closer cooperation and coordination in the implementation of PSM among the Southeast Asian countries in the near future, whether the countries are Parties (**Box 10**) or non-Parties (**Box 11**) to the PSMA. Nevertheless, this Model is an open-ended instrument which could be used as reference in developing regional guidelines for the implementation of port State measures in Southeast Asia.

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