

Box 19. Identified gaps in the implementation of Electronic Catch Documentation and Traceability systems by the ASEAN Member States (Cont'd)

Thailand (Cont'd)

- Insufficient technical capacity and interest of fishers on the technology (as suggested by the following findings during the pilot testing of the Hi-Chat application and e-logbook technology), e.g. the use of e-logbook technology, for some older captains who are resistant to change and end up designating the filling of the e-logbook to a crewmember, although most boat captains use the Hi-Chat application, so that the problem is more on users' interest rather than technical capability
- Companies are wary of authorities getting data for the eCDT, implying the need for bridging over through incentives, demonstrating the benefits, and so on
- Need improvements in terms of the number of KDEs collected by the e-logbook system, as additional data points are necessary for the system to be compatible with the CDT system in use by the Department of Fisheries of Thailand, and with other international standards—including USAID Oceans' recommended point of production KDEs
- Needs value proposition analysis based on the evaluation of efficiencies and benefits
- Unclear cost-sharing structure

Viet Nam

- Fisheries sector is characterized by small-scale fishing (71 % small vessels)
- Low awareness of fishers on IT
- Limited application of IT for the CDT
- Country's catch documentation system is mainly paper-based up to the point of the processors
- Low awareness of the need for CDT on the part of fishers and limited application of IT for CDT

a marketing tool, by providing customers with unique information about the products they are buying and their origin. This also implies the need for the AMSs to consider the development and improvement of their traceability systems that could complement those of the importing countries not only in commercial/large-scale fisheries but also by exploring appropriate approaches for the small-scale fisheries in coastal and inland waters through the use of new technologies that support traceability processes and systems. This would enhance the intra- and inter- regional trading of fish and fishery products.

During the 2019 Workshop on the Technical Guidance on the Design and Implementation of Electronic Catch Documentation and Traceability Systems in Southeast Asia, gaps were identified by the AMSs (Box 19), which could be summarized into: inadequate capacity building not only of the human resources but also institutional, especially in IT as the traceability systems require sufficient knowledge in IT to be able to use the applications; limited mainstreaming of the concepts of eCDTs in national policies, laws, and regulations; laws and regulations do not generally address the concerns on the need to promote traceability of fish and fishery products at national level; weak cooperation and collaboration among agencies concerned with traceability as well as with the private sector, among others. Efforts should therefore be exerted to plug these gaps in order that the benefits of traceability with respect to the sustainable management of the fishery resources could be realized.

More specifically at the regional level, AMSs should harmonize the catch documentation scheme importer's requirements (paper-based and electronic), including IT Catch. Furthermore, the AMSs should move toward ensuring compatibility and linking of data in the future for the traceability processes and systems. This would necessitate the development of new projects or additional activities for the existing relevant projects being implemented in the Southeast Asian region.

6.1.1.4 Port State Measure (PSM) Implementation

As a legally binding international instrument to prevent, deter, and eliminate IUU fishing by preventing foreign vessels engaged in IUU fishing from using ports and landing their catches, the 2009 FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA) was approved by the FAO Conference on Fisheries at its 36th Session, 22 November 2009 and open for signature from 22 November 2009 until 21 November 2010, by all States and regional economic integration organizations. During that period, 23 States and the European Union (EU) signed such PSMA, which was then subsequently entered into force on 5 June 2016. As of 8 March 2021, there were 69 Parties to the PSMA, including the European Union as one Party representing its 27 Member States. Nine new Parties have deposited their instruments of accession to the PSMA since the Second Meeting of the Parties held in Santiago, Chile on 3–6 June 2019.

From a global perspective, the proportion of coastal States where the PSMA is in force is 56 % and the proportion of the total States where the PSMA is in force is 48 %. Coastal and landlocked States represent 81 % and 19 % of the total States, respectively. From the regional perspective, the proportion of PSMA enforcement in the coastal States is lowest in the Near East (29 %) and Southwest Pacific (38 %); medium in Latin America and the Caribbean (52 %), Asia (58 %), and Africa (58 %); and highest in Europe (73 %) and North America (100 %). Meanwhile, the proportion of PSMA enforcement in the total States is lowest in the Near East (24 %), Southwest Pacific (38 %), and Africa (39 %); medium in Asia (46 %) and Latin America and the Caribbean (48 %); and highest in Europe (69 %) and North America (100 %).

Currently, six (6) ASEAN Member States (AMSs) are Parties to the PSMA, namely Cambodia, Indonesia,

Myanmar, Philippines, Thailand, and Viet Nam. The AMSs recognize that the implementation of PSM requires inter-agency collaboration as well as regional and international cooperation. Considering therefore its role as the technical arm of the ASEAN, SEAFDEC collaborated with FAO and other relevant organizations as well as with its Member Countries for jointly organizing a number of regional capacity development programs and activities related to PSM since 2015. Specifically, such collaboration has provided the regional forum where the SEAFDEC Member Countries could discuss the key issues for information exchange at regional and international levels as well as identify the needs of the AMSs for capacity building to effectively implement their respective port State measures (PSM) programs.

Since then, the AMSs have been making progress in implementing their PSM programs, and their efforts had been strengthened when the ASEAN-SEAFDEC Resolution and Plan of Action on Sustainable Fisheries for Food Security for the ASEAN Region Towards 2030 (RES&POA-2030) was adopted in 2020 by the ASEAN-SEAFDEC Member Countries after this had been endorsed through the ASEAN and SEAFDEC mechanisms. The RES&POA-2030 encompasses various key plans of action that include the task of SEAFDEC to support the AMSs in improving the capacity of relevant national authorities to effectively implement the requirements of port State measures and flag State responsibilities.

The progress of the AMSs in implementing their respective PSM measures and flag State responsibilities were reported during the “Teleworkshop on Development and Improvement of Regional Fishing Vessels Record (RFVR) for Combating IUU fishing in Southeast Asia,” which was organized by SEAFDEC/TD in September 2021. During the Teleworkshop, updates related to the activities of the AMSs in combating IUU fishing as well as on port control and PSM implementation were reported, the summary of which is shown in **Box 20**.

Legal aspect

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). To date, six AMSs are Parties to the FAO/PSMA, while some countries are undergoing the necessary domestic processes to access/ratify/accept the PSMA in the future. Legally, the duties of Parties to the PSMA should conform and have strong linkage between the national laws, regulations and practices, and the provisions of PSMA, such as: 1) review and collect the national legislations and procedures in relation with the implementation of the PSM, as well as flag, coastal and market State responsibilities and duties; 2) designate legal power to Denial the Use of port AFTER ENTRY in national legislations; 3) 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; and 4) amend relevant penalties in national legislation for violating the provisions of port State measures.

Nevertheless, the possible legal framework for PSMA implementation by non-Party to the PSMA could include: 1) implementation of PSM although without any legal obligation to comply with the provisions of the PSMA; 2) provision of essential information about the PSMA focusing on the role, responsibilities and obligations of the port States; 3) awareness raising among nationals about the benefits of implementing the PSMA; 4) promotion of the ways to strengthen coordination and collaboration among various agencies concerned at national, regional and global levels; 5) review of stakeholders’ perspectives on port State measures and good governance issues; 6) participation in related national and regional action plans and recommendations in general, legal and policy, institutional and capacity development and operations terms; and 7) review and redrafting of specific laws or regulations dealing with the application of port State measures.

Box 20. Status of implementation of port control and PSM activities by the AMSs

<p>Cambodia</p> <ul style="list-style-type: none"> • Party to the PSMA as of the end of 2019 • Establishment and/or revision of several legal documents and national action plans such as the marine fisheries policy, the NPOA-IUU and national plan of control and inspection for marine fisheries (NPCI-MF) • Development of fisheries management plans for freshwater and marine fisheries to control and monitor the fisheries activities • Development of the national strategy and action plan for PSMA implementation that includes the procedures of selecting the designated ports in the coastal areas
<p>Indonesia</p> <ul style="list-style-type: none"> • Party to the PSMA, and strengthened the implementation of the PSM • Establishment of four (4) designated ports for PSM inspection • Institution of reforms in the national policy and law for marine and fisheries sector including administrative sanction and investigation of Indonesian fishing vessels operating in the high seas and other States’ jurisdiction

Box 20. Status of implementation of port control and PSM activities by the AMSs (Cont'd)
Malaysia

- Establishment of the Standard Operation Procedure (SOP) to handle foreign fishing vessels suspected to be engaged with IUU fishing
- Amendment of Fisheries Act 1985 that includes newly amended law on imposing penalties to offenders to be six-time heavier than that of the previous provisions, and creation of special task force to address illegal fishing activities by foreign vessels (Cabinet Order 24th April 2019)

Myanmar

- Enforcement of regulation to disallow foreign fishing vessels from landing in Myanmar ports without prior permission or license.
- Establishment of regulation for all carrier vessels to report transshipment data to the Department of Fisheries of Myanmar
- Recording of landed data by the Department of Fisheries starting 2012, from the nine (9) landing sites in Yangon
- Conduct of the Workshop on Formulation of a National Strategy and Action Plan for Compliance with the Port State Measure Agreement in Myanmar (23-27 October 2017) with technical assistance from FAO
- Continued implementation of PSMA that includes information sharing of IUU fishing vessels with neighboring countries and regional fisheries management organizations
- Application to become part of participating countries of the RPOA-IUU which the RPOA -IUU Secretariat agreed to start in 2021
- Full cooperation and participation in the efforts of the ASEAN Working Group on Fisheries and SEAFDEC on the implementation activities to combat IUU fishing and promote sustainable fisheries development
- Signing of the Memorandum of Understanding (MOU) with Thailand to improve fisheries cooperation especially with respect to PSMA implementation, sharing of information on regulations for export/import of marine fisheries products not obtained from IUU fishing activities, and aquaculture development

Philippines

- Accession to the PSMA on 26 April 2018 after the Philippine Senate gave its concurrence on 5 March 2018.
- Adoption of Fisheries Administrative Order on PSMA or the implementing rules of the PSMA by the National Fisheries and Aquatic Resources Management Council (NFARMC) on 27 September 2021
- Establishment of an inter-agency Memorandum of Agreement (MOA) on a One-Stop Action Center (OSAC) for the effective implementation of the PSMA
- Amendment and updating the fisheries law through the enactment of Republic Act No. 10654 that includes updates relevant to increased deterrent fines and penalties for offenders, port State measures, observer's program coverage, vessel monitoring system requirements, catch documentation scheme, among others
- Development and adoption of the National Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated fishing through the issuance of Executive Order No. 154 in 2013

Singapore

- Approval by the Minister of Sustainability and the Environment of the policy on PSM but pending legislative amendments but is targeted for completion in 2022
- Establishment of the requirements for vessel information/document in line with Annex A of the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, which are provided in advance to vessels requesting entry to Singapore port
- Making the country's gazetted laws accessible to the public to allow efficient information exchange, and allowing where necessary, the engagement of relevant stakeholders in the implementation of the regulations and procedures
- Establishment of Standard Operating Procedures (SOPs) in line with the port State measures (e.g. IUU fishing vessels seeking entry into port and IUUF vessels in Singapore)

Thailand

- Designation of 25 ports for PSM (19 international ports and 6 neighboring ports)
- Accession to the PSMA on 10 May 2016
- Implementation of significant enforcement activities
- Development of the requirements prior to port entry
- Implementation of activities relevant to PSM (e.g. Traceability System, MCS, Processing Statement Validation)
- Issuance of Decree laws and regulations to support PSM implementation
- Development of NPOA-IUU in support of PSM implementation
- Development of the "Processing Statement and PSM Linked System" (PPS)
- Updating of the inspection manual based on information indicated in the National Plan of Control and Inspection (NPCI)

Viet Nam

- Publication of the list of designated fishing ports for offshore fishing vessels entering designated ports (vessels of 15 m in length and over)
- Issuance of the list of designated fishing ports for foreign flagged fishing vessels to port in/enter
- Establishment of the procedures for controlling port in/port out in accordance with the PSMA
- Strengthening of mechanisms for exchange, dialogue and international cooperation on combating IUU fishing though:
 - o Development a national action plan on the implementation of the PSMA and UNFSA
 - o Conduct of high-level delegations' dialogue with the European Commission (EC) for exchange on techniques and implementation of the results and recommendations
 - o Signing of a hotline to exchange information on combating IUU fishing with other countries
 - o Signing of a Memorandum of Understanding to combat IUU fishing with a number of countries, e.g. Australia
 - o Active participation in regional initiatives and multilateral forums to exchange information and experiences on combating IUU fishing

Regional Capacity Building on PSM Implementation and Way Forward

To support the implementation of PSM in Southeast Asia, many international organizations such as FAO, RFMO, NOAA, SEAFDEC and so on, had organized capacity building programs on PSM implementation for the AMSs at regional and national level. On the part of SEAFDEC, its Japanese Thrust Fund supported project also organized capacity building activities for the AMSs through regional training courses and workshops. For example, the Regional Training on Port State Measures Implementation in Southeast Asia organized in February 2018 in Bangkok, Thailand in collaboration with FAO and NOAA focused on the: 1) preparation of national legal aspects, policies and institutional implementation of PSM, 2) PSMA inspection of vessels, and 3) lessons learned on PSM implementation in Thailand. The training had created a better understanding of the implementation of Port State Measures in the AMSs, enhanced the knowledge of the stakeholders on Port State Measures and relevant activities as tool to combat IUU Fishing, the situation and preparation on PSM implementation in the region, the way to practical improvement of Port State Measures, and the regional cooperation necessary to support the implementation of PSM in the region.

In July 2019 and October 2021, the Regional Training on Port State Measures (PSM) implementation for Inspectors in Southeast Asia” was organized in collaboration with partners such as the Department of Fisheries (DOF) Thailand, Australian Fisheries Management Authority (AFMA), FAO, NOAA, and the United States Agency for International Development (USAID), which focused on updating the current situation on inspection activities for port control and PSM in the AMSs through sharing of information on implementation on PSM inspection with partners. The training also provided the participants an opportunity to observe PSM inspection at port activities for tuna carrier vessels. This led to their better understanding of the implementation of PSM, and enhanced knowledge, skills and experience in inspection to support PSM and port control implementation.

Moreover, the Teleworkshop on Development and Improvement of Regional Tools for Combating IUU Fishing in Southeast Asia organized by SEAFDEC in August 2020 in cooperation with the AMSs, came up with the updated status, actions and needs for PSM implementation in Southeast Asia (except for Lao PDR that has no fishing port) (**Table 71**). Specifically, the priority needs to implement PSM in the AMSs could include: 1) capacity building to support the implementation of PSM, and 2) sharing and exchange of information in support of the PSM implementation.

6.1.1.5 MCS Systems and Regional Cooperation for Combating IUU Fishing

Monitoring, Control and Surveillance (MCS) is an important mechanism for effective fisheries management. As described by FAO (1981), the definition of M, C and S comprises: **Monitoring** - the continuous requirement for the measurement of fishing effort characteristics and resource yields; **Control** - the regulatory conditions under which the exploitation of the resource may be conducted; and **Surveillance** - the degree and types of observations required to maintain compliance with the regulatory controls imposed on fishing activities. Several key international fisheries-related instruments highlight the need for effective implementation of MCS activities to combat IUU fishing, such as the 1982 UN Convention on the Law of the Sea; the 1993 FAO Compliance Agreement; the 1995 UN Fish Stocks Agreement; the 1995 FAO Code of Conduct, and the International Plans of Action elaborated under the Code of Conduct; and the 2009 FAO Agreement on Port State Measures, as well as regional policy frameworks of the RFMOs, and also as to serve as means of enhancing efforts for the conservation and management of the fishery resources.

For countries in the Southeast Asian region, various government agencies such as fisheries, natural resources and environment, navy, marine police, coast guard, and customs among others, are involved in the implementation of their respective national laws in preventing illegal fishing activities under their national jurisdictions. Nonetheless, interagency cooperation is important to attain successful and effective implementation of national MCS operations. Countries in the region have therefore established their respective national inter-agency integration and cooperation units. Such as for example, the following:

- Cambodia: National Committee for Maritime Security (NCMS)
- Indonesia: Special Task Force 115
- Malaysia: JBOM Committee (maritime task force Malaysia)
- Myanmar: One Stop Service
- Thailand: Thai–Maritime Enforcement Coordination Committee (Thai-MECC)
- Viet Nam: Working Group 689

The implementation of MCS is necessary not only at the national level, but also at the regional and international levels. The establishment of a regional MCS network in Southeast Asia is important to strengthen the capabilities of the countries for combating IUU fishing and destructive fishing activities that impact on the sustainability of the region’s fishery resources (Yleña and Velasco, 2012).