



FISHERIES MONITORING, CONTROL AND SURVEILLANCE LEGISLATION MODEL

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1. Framework and basis for Fisheries Monitoring, Control and Surveillance (MCS) Legislation model

The main role of MCS is to provide monitoring, control, surveillance and enforcement of the fisheries conservation and management measures that are adopted by:

- (a) the country and are applicable to national waters and to its nationals (citizens and flag vessels) in areas beyond national jurisdiction;
- (b) any regional fisheries management organization (RFMO) to which the country is party or cooperating non-party and are applicable to activities relating to the species and area of competence of the RFMO.

The powers and authorities of MCS officers are governed by national legislation, which should incorporate regional and international laws and standards concerning MCS-related powers and responsibilities. MCS-related legislation is distinguished from provisions relating to fisheries conservation and management with which MCS must ensure compliance.

The ability to carry out effective MCS also depends on a number of related laws which inform and support MCS activities. They are elaborated in ANNEX 2, which shows a framework and basis for Model MCS legislation. It describes for each MCS or MCS-related provision to be included in the national legislation, its title, objective and the applicable requirement in international or regional instruments.

The issue of catch documentation schemes (CDS) and trade certification was raised at the Workshop. The legislation provides a basis for implementing the underlying principles of such schemes. The purpose of the schemes is to help determine throughout the supply chain whether fish originate from catches taken consistent with applicable national, regional and international conservation and management measures, established in accordance with relevant international obligations.

The FAO Voluntary Guidelines for CDS¹ suggest that when establishing such schemes, due consideration should be given to applicable MCS requirements. For example, any catch

¹ <https://www.fao.org/documents/card/en/c/a6abc11e-414a-491b-888a-7819dabdac1d/>

certification system must establish whether the vessel was fishing legally during harvesting and landing, and whether the MCS system/legislation provides security that the vessel was complying with the licence conditions.

The relevant fisheries MCS requirements are included in the framework below, but the systems should ensure integrated cooperation with other agencies such as those responsible for trade and sanitary/phytosanitary requirements. The Workshop noted that Ecofish is working with the European Fisheries Control Agency (EFCA) on catch certification and traceability, and that a training programme will be developed.

The following is a summary of the framework elaborated in ANNEX 1.

I. PRELIMINARY

Use of terms, application of the legislation, including areas beyond national jurisdiction.

II. MCS-RELATED MANAGEMENT MEASURES

Mechanism for implementation of RFMO measures, prohibitions for IUU listed vessels and vessels without nationality.

III. GENERAL REQUIREMENTS FOR FISHING AND OTHER ACTIVITIES

Compliance with Act, licenses/authorisations, international conservation and management measures (ICMMs), reporting, gear stowage, requirements for nationals in areas beyond national jurisdiction (ABNJ).

IV. REQUIREMENTS FOR FISHERIES ACCESS

Fisheries access agreements, terms and conditions, report entry to, exit from and regularly while in national waters.

V. INFORMATION

Information system establishment, information may be required, inspected, information to be true, complete and correct and destruction etc of documents prohibited Information sharing bilaterally, regionally, internationally.

V. LICENSES, AUTHORISATIONS, OTHER PERMISSIONS AND REGISTRATION

Requirements to hold licenses, etc, terms and conditions, conditions for landings and transshipments, pre-licensing inspection, standards for grant or renewal of licences, etc., grounds for denial or non-renewal.

VI. MONITORING CONTROL AND SURVEILLANCE**Division 1 – Authorised fisheries officers, inspectors, observers**

Exercise of powers and functions by officers, etc. authority and general powers of officers, powers of entry and search, to investigate activities in ABNJ, to take, detain, remove and secure information and evidence, to detain persons, vessels, gear, etc., arrest, order a vessel to port, give direction, seize vessels, aircraft and items, hot pursuit, responsibilities of observers, duty of operators, and crew members to assist observers, observers and field inspectors under an RFMO observer scheme.

Division 2 - Protection and obstruction of authorised persons

Definition of authorised person (which includes observers and authorised officers), protection of authorised persons from liability, obstruction of, failure to comply with authorised persons.

Division 3 - Inspection procedures

Pre-licensing/ authorisation and unloading inspection procedures, sea inspection procedures.

Division 4 - Vessel Monitoring System and Automatic Identification System

Monitoring Systems - technical requirements, Vessel Monitoring System (VMS) – requirements of operators, Automatic identification system (AIS).

Division 5 - Port State Measures

Application and implementation, designation of ports, prerequisites for entry or use of port, denial of entry into port and use of port, force majeure or distress, denial of use of port after entry, conduct of inspections of vessels in port, denial of use of port after inspection, requirements for [country] registered vessels.

Division 6 – Miscellaneous

Presumptions of IUU fishing in contravention of international conservation and management measures, actions in relation to vessels on an RFMO IUU Vessels List.

These elements of MCS and MCS-related legislation are indicative minimum standards and, as noted above, are based on international and regional obligations and standards and best practices.

There may be additional related elements that countries wish to implement. For example, some aspects which are not included are jurisdiction and evidence because they are substantially addressed in other national legislation and are applied as a consequence of MCS activities.

Requirements for appointment of agents by vessel operators could also be considered, but some countries require this in different legislation. Their functions relate to the legal process (they act as conduits) rather than to specific fishing or related activities.

However, depending on the adequacy of their other existing laws, it could be useful for countries to consider the inclusion in fisheries legislation of related areas such as jurisdiction, evidence, agents and other.

2. Model MCS Legislation

Based on the framework explained in section 3.1 above and elaborated in ANNEX 1, a template of model MCS and MCS-related legislation has been developed. It appears in ANNEX 2.

Where the gap assessment, described in section 4, shows that a country does not meet the recommended standards for any given provision, the Model legislation serves as a first consideration for amending or replacing existing legislation. Countries may wish to incorporate it as written or to further adjust it as needed. Beyond this, each country must decide its priorities, situation and preferences.

ANNEX 1 - FRAMEWORK AND BASIS FOR MODEL MCS LEGISLATION

ARRANGEMENT OF SECTIONS

I. PRELIMINARY

- 1 Use of terms
- 2 Application of the legislation

II. MCS-RELATED MANAGEMENT MEASURES

- 3 Mechanism for implementation of RFMO measures
- 4 Prohibitions in relation to vessels on a list of illegal, unreported and unregulated vessels maintained by a regional fisheries management organization
- 5 Prohibitions in relation to vessels without nationality

III. GENERAL REQUIREMENTS FOR FISHING AND OTHER ACTIVITIES

- 6 Compliance with Act, licence, authorisation or other permission, international conservation and management measures, other
- 7 Reporting requirements
- 8 Gear stowage
- 9 Requirements for citizens and [country] registered vessels in areas beyond national jurisdiction

IV. REQUIREMENTS FOR FISHERIES ACCESS

- 10 Fisheries access
- 11 Fisheries access – terms and conditions
- 12 Requirements for all foreign vessels to report entry to, exit from and regularly while in [country] waters
- 13 Establishment of information system
- 14 Information may be required, inspected
- 15 Information to be true, complete and correct and destruction etc of documents prohibited
- 16 Information sharing bilaterally, regionally, internationally

V. LICENSES, AUTHORISATIONS,² OTHER PERMISSIONS AND REGISTRATION

- 17 Licences, authorisations, other permissions, registration required
[This model section will vary based on the type of licenses that are issued by the country]
- 18 Terms and conditions of licences, authorisations, other permissions, registrations
- 19 Conditions for landing and transshipment
- 20 Pre-licensing and pre-registration inspection and other requirements
- 21 Standards for grant or renewal of licences, authorisations, registrations or other permissions
- 22 Grounds for denial or non-renewal of licences, authorisations, registrations

VI. MONITORING CONTROL AND SURVEILLANCE**Division 1 – Authorised fisheries officers, inspectors, observers**

- 23 Exercise of powers and functions by authorised fisheries officers, inspectors and observers
- 24 Authority and general powers of authorised fisheries officers
- 25 Power of entry and search
- 26 Power to investigate or request investigations of persons for activities beyond areas under national jurisdiction
- 27 Power to take, detain, remove and secure information, evidence
- 28 Power to detain persons, vessels, gear, etc.
- 29 Power of arrest
- 30 Power to order a vessel to port
- 31 Power to give direction
- 32 Seizure of vessels, aircraft and items
- 33 Hot pursuit
- 34 Responsibilities of observers
- 35 Duty of operators, and crew members to assist observers
- 36 Observers and field inspectors under an RFMO observer scheme

Division 2 - Protection and obstruction of authorised persons

- 37 Definition of authorised person
- 38 Protection of authorised persons from liability
- 39 Obstruction of, failure to comply with authorised persons

² "Authorizations" is a term used in international fisheries instruments denotes to permission to fish in areas beyond national jurisdiction. This report adopts that meaning but recognizes that countries may also use the term to describe permission for other fishing activities.

Division 3 - Inspection procedures

- 40 Pre-licensing / authorisation and unloading inspection procedures
- 41 Sea inspection procedures

Division 4 - Vessel Monitoring System and Automatic Identification System

- 42 Monitoring Systems - technical requirements
- 43 Vessel monitoring system – requirements of operators
- 44 Automatic identification system

Division 5 - Port State Measures

- 45 Port State Measures - application and implementation
- 46 Designation of ports
- 47 Prerequisites for entry or use of port
- 48 Denial of entry into port and use of port
- 49 Force majeure or distress
- 50 Denial of use of port after entry
- 51 Conduct of inspections of vessels in port
- 52 Denial of use of port after inspection
- 53 Requirements for [country] registered vessels

Division 6 – Miscellaneous

- 54 Presumptions of IUU fishing in contravention of international conservation and management measures
- 55 Actions in relation to vessels on an IUU Vessels List of a regional fisheries management organization

	National legislation Framework	Objective	Applicable international, regional requirements
I. PRELIMINARY			
1	Use of terms	<p>Terms should be defined consistently with their use in international and regional instruments, including:</p> <ul style="list-style-type: none"> (a) fishing (b) fishing related activities, or “related activities” (c) fishing vessel (d) International conservation and management measures (e) vessel monitoring system (f) vessel without nationality 	UNFSA,³ PSMA,⁴ IOTC,⁵ MTC Guidelines.⁶
2	Application of the legislation	<p>Legislation should be clear that it applies to national areas and areas beyond national jurisdiction (ABNJ) consistent with international law/regional obligations. This will allow MCS operations to take place in ABNJ.</p>	<p>UNCLOS high seas requirements</p> <p>Straddling stocks, highly migratory species, duties of flag State, right of hot pursuit, and high seas fishing.⁷</p> <p>UNFSA high seas requirements</p> <p>Application mainly to high seas, including general principles,</p> <p>duties of the flag State, compliance and enforcement by the flag State, international, regional and subregional cooperation in enforcement, basic procedures for boarding</p>

3 Art 1.

4 Art 1.

5 Terms may be defined in Resolutions.

6 Para 3.

7 Art 63 Stocks occurring within the exclusive economic zones of two or more coastal States or both within the exclusive economic zone and in an area beyond and adjacent to it; Art 64 Highly migratory species; Art 94 Duties of the Flag State; Art. 111 Right of Hot Pursuit; Art 116 Right for nationals to fish on the high seas; Art 117 Duty of States to adopt measures for the conservation of the living resources of the high seas; Art 118 Cooperation of States in the conservation and management of the living resources; Art 119 Conservation of the living resources of the high seas.

	National legislation Framework	Objective	Applicable international, regional requirements
			<p>and inspection and measures to be taken by a port State.⁸</p> <p>PSMA high seas requirements</p> <p>Measures may apply if there was IUU fishing or related activities in the area of competence of a relevant RFMO, including high seas.</p> <p>IOTC high seas requirements</p> <p>Apply to the defined IOTC Area of Competence (Art II) and includes high seas and areas under national jurisdiction.</p> <p>SIOFA high seas requirements</p> <p>Apply to the defined Area of Application (Art 1), and excludes areas under national jurisdiction.</p> <p>MTC Guidelines</p> <p>Apply to national jurisdiction except the Regional Observer Program may apply to vessels authorised to fish on high seas under IOTC.⁹</p>

⁸ Art 3 Scope (high seas); Art 5 (I) General principles - implement and enforce conservation and management measures through effective monitoring, control and surveillance; Art 18 Duties of the flag State; Art 19 Compliance and enforcement by the flag State; Art 20 International cooperation in enforcement; Art 21 Subregional and regional cooperation in enforcement; Art 22 Basic procedures for boarding and inspection pursuant to Article 21; Art 23 Measures taken by a port State.

⁹ Para 12.3.

	National legislation Framework	Objective	Applicable international, regional requirements
II. MCS-RELATED MANAGEMENT MEASURES			
3	Mechanism for implementation of RFMO measures	This facilitates and clarifies the timely implementation of ICMMs. It may be adapted to procedures in each country for implementation by regulations, Gazetting or other.	There is a general duty in international law to implement legally binding regional and international obligations. More specifically, see UNFSA ¹⁰ and IOTC . ¹¹
4	Prohibitions in relation to vessels on an RFMO IUU Vessels List	Prohibits, in relation to vessels on an IUU Vessel List ("listed vessels"), operators of [country] registered vessels from assisting, participating in transshipment or joint operations with a listed vessel or carrying out fish processing operations with listed vessels.	IOTC . ¹²
5	Prohibitions in relation to vessels without nationality	Implements IOTC Resolution 16/05. Vessels without nationality are prohibited from landing, transshipping and use of port in [country] and transshipping with [country] registered vessels in an area of competence of a relevant RFMO.	UNCLOS , ¹³ IOTC . ¹⁴
III. GENERAL REQUIREMENTS FOR FISHING AND OTHER ACTIVITIES			
6	Compliance with Act, licence, authorisation or other permission, international conservation and management measures	Requires licensee or holder of authorisations and other permissions to comply with the terms of the licenses and this Act, national legislation, an applicable access agreement and ICMM. This permits cancellation of the licence, etc where there has been breach of any condition.	Best Practices to ensure compliance with licences, ICMMs.
7	Reporting requirements	This describes various reporting requirements (true, complete and correct, on time, required form and format, etc) and addresses difficult	Best Practices .

10 More generally, the UNFSA provides "Where there is a subregionally, regionally or globally agreed system of monitoring, control and surveillance in effect, States shall ensure that the measures they impose on vessels flying their flag are compatible with that system." Art. 18(4).

11 Resolution 07/01 to promote compliance by nationals of CPCs with IOTC conservation and management measures.

12 Resolution 18/03 on establishing a list of vessels presumed to have carried illegal, unreported and unregulated fishing in the area of competence of a relevant RFMO, para 21.

13 Art 110.

14 Resolution 16/05 on Vessels without nationality.

	National legislation Framework	Objective	Applicable international, regional requirements
		<p>situations encountered in the region, for example:</p> <ul style="list-style-type: none"> (i) provides for legal action where there is improper catch reporting on quotas; (ii) fishers send receipts from companies that bought the fish, with no other information or form, instead of proper catch documentation; (iii) estimated catch, such as the proportion of yellowfin and landing declarations, must be done using a standard of proof required by the [Authority]. 	
8	Gear stowage	All vessels (licensed and unlicensed) must stow gear when the vessel is in any area where it is not licensed or authorised to fish or undertake related activities. Applies to national waters and nationally registered vessels in areas beyond national jurisdiction.	Best Practices and MTC Guidelines.¹⁵
9	Requirements for citizens and (flag) vessels in areas beyond national jurisdiction	This allows compliance with international law and IOTC ICMMs. Nationally registered vessels and citizens must comply with access agreements and laws of other countries and must not undermine international conservation and management measures.	UNFSA,¹⁶ IOTC (throughout several Resolutions).
IV. ACCESS			
10	Fisheries access – terms and conditions	This can include requirements for certain non-negotiable criteria are met for fisheries access agreements: there is compliance with National regional and international obligations; there has been no IUU fishing in the previous five years, there would be no adverse impact to the resource or marine ecosystem and there are clear benefits for National. There can be no	UNCLOS¹⁷ IOTC,¹⁸ MTC Guidelines.¹⁹

15 Para 15.1. Encourages a requirement for all foreign fishing vessel that do not maintain a license to fish to keep all fishing gear securely stowed when transiting through the waters under the jurisdiction of SWIOFC States.

16 Art 18(1).

17 Art 62.

18 Resolution 14/05 Concerning a record of licensed foreign vessels fishing for IOTC species in the IOTC area of competence and access agreement information.

19 The Guidelines, as a whole, constitute minimum terms and conditions for fisheries access by foreign vessels.

	National legislation Framework	Objective	Applicable international, regional requirements
		<p>agreement or licences issued if these criteria are not met.</p> <p>Non-negotiable conditions for permitting fisheries access, e.g. vessel must hold authorisation from flag State, not be on IUU vessel list, assurance of minimum benefits to National. Vessels are required to be on an authorised vessel list of a relevant RFMO and, to cater to the regional initiative for minimum terms and conditions for fisheries access, under a regional fisheries management agreement.</p>	
11	Requirements for all foreign vessels to report entry into exit from and regularly when in [country] waters	<p>In accordance with best practices, <i>all</i> foreign vessels are required to have VMS and AIS operational and report <i>directly</i> to the [Authority] (not via their flag country or other).</p> <p>This is more stringent than the MTC Guidelines but consistent with UNCLOS rights and duties of a coastal State because the reporting is for purposes of fisheries conservation, management and MCS and does not empower the [Authority] to hinder entry or exit.</p>	MTC Guidelines. ²⁰
V. INFORMATION			
12	Establishment of an information system	<p>Information required to be given and maintained in an information system is provided and relevant for MCS use.</p> <p>Confidentiality standards are set but allow transparency, consistent with Fisheries Transparency Initiative (FiTI) standards.</p>	Best Practices, UNCLOS,²¹ UNFSA²², PSMA²³ IOTC.²⁴

20 Paras 15.2 and 15.3 provide: 15.2 SWIOFC States should require any foreign fishing vessel transiting through waters under their jurisdiction to communicate the purpose, date, time, geographical position, and quantity and type of fish on board upon entry to and departure from the waters under their jurisdiction. A vessel that does not provide this report should be subject to inspections at the next port of call. 15.3 SWIOFC States should require the transiting foreign fishing vessel to maintain valid satellite and coastal AIS transmission at maximum strength while transiting in waters under jurisdiction of a SWIOFC State.

21 Art 62(4)(e).

22 Art 18, 19, 20

23 Art 6.

24 Resolution 12/02 Data confidentiality policy and procedures

	National legislation Framework	Objective	Applicable international, regional requirements
13	Information may be required, inspected	This is a general provision requiring persons carrying out activities under the Act to keep and maintain such information as may be required by the [Authority] under the Act, other national legislation or an ICMM.	Best Practices
14	Information to be true, complete and correct and destruction etc of documents prohibited	This section requires all information given under this Act (defined as including all subsidiary legislation) to be true, complete and correct and will prohibit alteration, destruction etc of documents, information, data, statistics, labels and required markings on vessels or gear and use of forged or falsified documents. It applies to any information, etc without regard to whether it is submitted to the [Authority], any person, court, body, other government authority, RFMO etc.	Best Practices
15	Information sharing bilaterally, regionally, internationally	This section is important for sharing of MCS information. It empowers the [Authority] to prepare and submit information under bilateral, regional and international agreements and ICMMs. It recognizes the exchange of information should be a basic process (mindful of confidentiality requirements).	Best Practices.
VI. LICENSES			
16	Licenses, authorisations, etc required.	The legislation should specify clearly and in one section the licenses, authorisations, permissions etc that are required. This will assist general understanding and MCS efforts to monitor and control fishing and related activities.	Best Practices.
17	License terms and conditions	Licensing terms and conditions for fishing, supply and transport vessels should be required, among others. In this provision:	UNCLOS,³⁴ UNFSA,³⁵ MTC Guidelines.³⁶

34 Art 62(4)(a).

35 Art 18(b)(2) Flag States must license or authorize vessels for high seas fishing.

36 Para 6.

	National legislation Framework	Objective	Applicable international, regional requirements
		<p>(1) generally provides the licence, etc must be subject to the terms and conditions in the Act, as may be prescribed and to such other terms and conditions as may be specified by the [Authority] or provided in ICMMs. Amendment, entry into force and validity are addressed.</p> <p><i>Regulations should include vessel and gear marking (UNFSA,²⁵ IOTC,²⁶ MTC Guidelines.²⁷) and requirements for foreign vessels to carry on board only authorised gear (MTC Guidelines.²⁸)</i></p> <p>(2) requires the operator of a vessel to keep a copy of the licence etc onboard the vessel.</p> <p>(3) requires the holder of any licence, etc for activities that are not associated with vessels to display it in the registered business office.</p> <p>(4) requires National registered vessels to carry required documents at all times and while in the waters of other States comply with its legislation, or an RFMO area of competence comply with ICMMs.</p> <p>(5) requires operators to maintain log books and make reports as required under the Act (which is defined to include regulations) or by the CEO in writing or an ICMM.</p> <p><i>Regulations should require specific reporting requirements to include position, catch reports at designated times, after a fishing trip and requirements for forms and logbooks</i></p>	

²⁵ Art 18(3)(d), flag State duty to set requirements for vessel and gear marking.

²⁶ Resolution 19/04 Concerning the IOTC Record of Vessels authorised to operate in the IOTC Area of Competence, para 18.

²⁷ Para 14.

²⁸ Para 17.

	National legislation Framework	Objective	Applicable international, regional requirements
		<i>(UNCLOS,²⁹ UNFSA,³⁰ PSMA,³¹ IOTC,³² MTC Guidelines.³³)</i>	
18	Conditions for landings and transshipment	<p>Specific conditions for landing and transshipment, including:</p> <p>(1) requires a notification period.</p> <p>(2) requires activities at designated ports, and refers to pre-inspection and observers.</p> <p>(3) requires the licensee to pay all costs of an authorised fisheries officer or other person designated by the CEO where there is transshipment outside a port in [country].</p> <p>4) prohibits shark carcasses and fins from being transhipped separately.</p> <p>(5) requires Declarations of Transshipments as may be prescribed or required by an ICMM.</p> <p>(6) incorporates Regulation 24A and is expanded as instructed during consultations to include offloading fish into containers.</p> <p>(7) requires compliance with laws relating to the protection of the marine environment.</p>	UNFSA,³⁷ PSMA,³⁸ IOTC,³⁹ MTC Guidelines.⁴⁰

29 Art 62(4)(e).

30 Art 18(e), duty of flag State to establish requirements for recording and timely reporting of vessel position, catch of target and non-target species, fishing effort and other.

31 Art 8, Advance request for port entry.

32 Resolution 15/01 on the recording of catch and effort data by fishing vessels in the IOTC Area of Competence.

33 Para 11.

37 Art. 18 flag State must regulate transshipment on the high seas. Art 23, transshipment may be prohibited where the catch has been taken in a way that undermines the effectiveness of RFMO measures on the high seas.

38 Use of port for transshipping and landing to be denied where there is a reasonable belief that the catch was taken during IUU fishing activities.

39 Resolution 19/06 on establishing a programme for transshipment by large-scale fishing vessels.

40 Paras 20 and 21.

	National legislation Framework	Objective	Applicable international, regional requirements
		(8) permits the [Authority] to require compliance with any applicable ICMM.	
19	Pre-licensing registration, inspection and other requirements	To establish compliance, a foreign vessel must be inspected before a license is issued.	MTC Guidelines. ⁴¹
20	Standards for grant or renewal of licenses, authorisations, registration or other permission	No licence would be issued where there is a record/evidence/history of IUU fishing, vessels is on an IUU Vessel List, connected to IUU fishing or fishing related criminal activities, etc. Conditions must be consistent with national, regional and international law. Vessels must be on an RFMO authorised vessel list where relevant.	IOTC, ⁴² MTC Guidelines. ⁴³
21	Grounds for denial or non-renewal of licenses of licences, authorisations, registrations	A wide range of criteria for denial or non-renewal of licences, etc, including that the standards for grant of license, there has been non-compliance with an existing or previous licence with no submission to due process or satisfaction of judgment or determination Foreign vessel must hold Authorisation to Fish (ATF) issued by flag State.	MTC Guidelines. ⁴⁴
VII. MONITORING, CONTROL AND SURVEILLANCE			
Division 1 – Authorised fisheries officers, observers			
22	Exercise of powers and functions by	When authorised officers, observers are beyond areas of national jurisdiction the provisions of the Act are applicable as if the	UNCLOS, ⁴⁵ UNFSA, ⁴⁶ IOTC. ⁴⁷

41 Para 4 for fishing vessels, 6.1(a).

42 Among others: Resolution 18/03 on establishing a list of vessels presumed to have carried illegal, unreported and unregulated fishing in the area of competence of a relevant RFMO. Resolution 19/04 Concerning the IOTC Record of Vessels Authorized to Operate in the IOTC Area of Competence, Resolution 10/08 concerning a record of active vessels fishing for tunas and swordfish in the IOTC.

43 Para 6.1 (b),(d) and (e) and Para 6.3(e). various IOTC Resolutions may be implemented as license conditions.

44 Para 6.1(c).

45 Art 62(4)(k).

46 Art 21 provides boarding and inspection on the high seas through subregional or regional arrangements and includes paragraph (17) which permits high seas boarding and inspection of vessels suspected to be without nationality.

47 Resolution 16/05 on vessels without nationality defines high seas MCS actions.

	National legislation Framework	Objective	Applicable international, regional requirements
	authorised officers and observers	<p>duties were performed in areas under national jurisdiction.</p> <p>They must carry and produce identification on request.</p>	
23	Authority and general powers of authorised officers	<p>General powers of authorised officers are described, including doing such things and giving such directives that are reasonably necessary for exercising their functions, etc. under the Act.</p> <p>Reasonable force may be used and assistance may be required.</p>	Best Practices.
24	Power of entry and search	<p>The power of entry and search is given for all purposes and activities falling within the Act, consistent with general powers of MCS to ensure compliance, responsibilities for traceability etc.</p> <p>It is not limited to cases where contravention of the Act is suspected.</p> <p>It provides for the power of entry and search without a warrant, including in relation to national registered vessels beyond national jurisdiction and other vessels to which ICMMs apply as well as vessels without nationality on the high seas (the latter is consistent with international law).</p> <p>It also applies to premises or places reasonably suspected to be used for activities falling within the scope of the Act, except for dwelling houses, where evidence of non-compliance may be found.</p>	Best Practices.

	National legislation Framework	Objective	Applicable international, regional requirements
		<p>Persons may be stopped, records, containers, fish etc may be examined, land may be passed across and landing and transshipment operations may be monitored.</p> <p>The authorised officer may require persons to give information and exercise a range of other powers for entry and search.</p> <p>The authorised officer must have a warrant to enter a dwelling house.</p>	
25	Power to investigate or request investigations of persons for activities beyond areas under national jurisdiction	<p>Authorised Officers have the power to investigate or to request an investigation by another State.</p> <p>This would allow relevant companies, agents and persons can be investigated for activities in areas beyond national jurisdiction and prosecutions can take place.</p>	UNCLOS,⁴⁸ UNFSA.⁴⁹
26	Power to take, detain, remove and secure information, evidence	Allows the authorised fisheries officer to take, detain, remove and secure information and evidence and vessels.	Best Practices.
27	Power to detain persons, vessels, gear, etc	Power of detention for persons, vessels, gear etc. A Notice of Detention must be given to the operator of a vessel or vehicle and copied to relevant government authorities	Best Practices.
28	Power of arrest	This gives an authorised fisheries officer the power to order a person to cease and desist where he/she believes that a person is reasonably committing an offence, and to supply name, date of birth etc. and to arrest.	Best Practices.

48 Art 94.

49 Art 19(1).

	National legislation Framework	Objective	Applicable international, regional requirements
29	Power to order a vessel to port	The power to order a vessel to port for inspection for compliance purposes	Best Practices.
30	Power to give direction	This power may be exercised without having boarded the vessel.	Best Practices.
31	Seizure of vessels, aircraft and items	The items which may be seized are elaborated and include vessels, fish, other articles and anything that may provide evidence of contravention of the Act or an ICMM, as well as passports/seamens' record books and anything that has been forfeited or unlawfully removed from custody under the Act.	Best Practices.
32	Hot pursuit	The basic requirements of Article 111 of UNCLOS are implemented.	UNCLOS⁵⁰
33	Responsibilities of observers	Responsibilities of observers in terms of tasks and other activities, including to implement international conservation and management measures. Observers may be deployed as directed by the CEO, including in accordance with ICMMs and on or in relation to vessels, landings etc.	UNCLOS,⁵¹ UNFSA,⁵² IOTC.⁵³
34	Duty of operators, and crew members to assist observers	It requires operators and crew to assist observers for stated activities, including boarding, receiving messages, taking photographs, gathering information and disembarking. It applies at all times the observer is on board and within and beyond areas under national jurisdiction, to accommodate IOTC ICMMs.	Best Practices.
35	Observers and field inspectors under an RFMO observer scheme	Regional observer requirements to implement regional observer programme	UNFSA,⁵⁴ IOTC,⁵⁵ MTC Guidelines.⁵⁶

50 Art 111.

51 Art 62(4)(g).

52 Art 18(3)(f).

53 Resolutions 11/04 and 16/04 on the Regional Observer Programme.

54 Art 18(3)(g).

55 Resolution 11/04, Regional observer scheme.

56 Para 12.

	National legislation Framework	Objective	Applicable international, regional requirements
Division 2 - Protection and obstruction of authorised persons			
36	Definition of authorised person	Defines “authorised person” as including authorised fisheries officer and observer, including observers under an RFMO observer programme.	Best Practices.
37	Protection of authorised persons from liability	Protects authorised persons and others acting under the authority of the Authority from liability for anything done or omitted to be done in good faith in the performance of duties. ⁵⁷ It recognizes that some personnel may not be staff members of the Authority e.g. where observers may be hired on occasional contracts. It also addresses situations where a vessel is being brought to port, and exempts persons assisting an authorised fisheries officer from liability.	Best Practices.
38	Obstruction of, failure to comply with authorised persons	Creates offences for various forms of obstruction of, or non-compliance with, authorised persons, including for example not allowing access to a place, not giving information, assaulting, kidnapping, impersonating or bribing an authorised person.	UNFSA.⁵⁸
Division 3 - Inspection procedures			
39	Pre-licensing / authorisation and unloading inspection procedures	This is a general duty to perform inspections, carry out procedures and apply standards that may be required under this Act, an ICMM, a relevant RFMO or international agreement for Pre-licensing / authorisation and unloading. The procedures, etc may be adopted by Regulation or required by the [Authority]. <i>Regulations should set out details for procedures.</i>	Best Practices.
40	Sea inspection procedures	Similar to the previous section. <i>Regulations should set out details for procedures.</i>	Best Practices.

⁵⁷ The powers of authorised officers are described in section 23 and following.

⁵⁸ Art 21(3).

	National legislation Framework	Objective	Applicable international, regional requirements
Division 4 - Vessel Monitoring System and Automatic Identification System			
41	Vessel Monitoring System - technical requirements	Implements IOTC Resolution 15/03 and empowers the Authority to approve the technology for VMS and provides that technical requirements, including installation, may be prescribed or required.	IOTC,⁵⁹ MTC Guidelines.⁶⁰
42	Vessel monitoring system – requirements of operators	Implements requirements of IOTC Resolution 15/03 and contains many requirements including: installation and ensure full operation at all times, registration, ensure tamper-resistant, transmission of information directly to FMC at least once every hour. A vessel must come to port within 24 hours, which could allow minimum time to continue fishing, and where the power supply to the VMS except that under subsection (4) special arrangements may be made for the continuation of fishing. In accordance with IOTC Resolution 15/03 the device may be switched off while the vessel is in port for more than a week under certain conditions.	IOTC.⁶¹
43	Automatic identification system	This permits the Authority to require (including as a licence, etc condition) that vessels maintain an AIS on board in accordance with specifications in the International Convention for the Safety of Life at Sea, and that it continually reports to the Fisheries Monitoring Center.	MTC Guidelines.⁶²
Division 5 – Port State Measures			
44	Designation of ports	Requires the Minister to ensure that ports to be used to foreign vessels are designated and publicized.	PSMA,⁶³ IOTC.⁶⁴

⁵⁹ Resolution 15/03 on the Vessel Monitoring System (VMS) Programme.

⁶⁰ Para 13.

⁶¹ Resolution 15/03 on the Vessel Monitoring System (VMS) Programme.

⁶² Para 13.

⁶³ Art 7.

⁶⁴ Resolution 16/11 para 5.

	National legislation Framework	Objective	Applicable international, regional requirements
45	Prerequisites for entry or use of port	Implements paragraph 6 and 7 of IOTC Resolution 16/11, requiring an advance request for entry into port, an authorisation to enter and presentation of the authorisation.	PSMA,⁶⁵ IOTC.⁶⁶
46	Denial of entry into port and use of port	<p>Requires denial of entry into port where there is sufficient proof of IUU fishing or related activities and especially where it is on an IUU vessel list, and if there is a contravention of the Act.</p> <p>Entry into port may be allowed only for purposes of inspection in such circumstances, but use of port is prohibited.</p> <p>The CEO must communicate the decision to allow or deny entry to the vessel and as appropriate to the Ports Authority, which is obligated to implement the decision.</p> <p>The decision to deny entry or use of port must also be communicated to the flag State and others.</p>	PSMA,⁶⁷ IOTC.⁶⁸
47	Force majeure or distress	Allows entry into port for reasons of force majeure, but with limitations consistent with UNCLOS and international law.	PSMA,⁶⁹ IOTC.⁷⁰
48	Denial of use of port after entry	<p>Requires denial of port after entry on several grounds, without the need for inspection.</p> <p>Withdrawal of denial of use of port is provided in subsection (3), where there is sufficient proof that the grounds on which use was denied were inadequate or erroneous or that such grounds no longer apply.</p>	PSMA,⁷¹ IOTC.⁷²

65 Art 8.

66 Resolution 16/11 paras 6, 7.

67 Art 9.

68 Resolution 16/11, para 7.

69 Art 10.

70 Resolution 16/11, para 8.

71 Art 11.

72 Resolution 16/11, para 9.

	National legislation Framework	Objective	Applicable international, regional requirements
49	Conduct of inspections of vessels in port	<p>It provides for levels and prioritization of inspection, and requires fishery inspectors and authorised officers to carry out inspections in conformity with the <i>procedures and report template to be included in Regulations and Schedule</i>, and submit them to the Authority.</p> <p>The operator of the vessel must give authorised officers all necessary assistance, information and documents.</p>	PSMA,⁷³ IOTC.⁷⁴
50	Denial of use of port after inspection	Requires denial of use of port where there are clear grounds for believing that the vessel has engaged in IUU fishing or related activities.	PSMA,⁷⁵ IOTC.⁷⁶
51	Requirements for [country] registered vessels	<p>National vessels, in areas beyond national jurisdiction, are to cooperate with port inspections of other States, and not to use any ports that are not compliant with port State measures.</p> <p>The Authority must request authorities in foreign ports to inspect and take other measures where there are clear grounds to believe that a national vessel has engaged in IUU fishing or related activities, and the vessel is seeking entry into or is in their port.</p> <p>Where there is evidence of IUU fishing or related activities, the Authority must investigate and take enforcement action without delay.</p>	PSMA,⁷⁷ IOTC.⁷⁸

73 Arts 12, 13.

74 Resolution 16/11, para 11.

75 Art 18.

76 Resolution 16/11, para 15.

77 Art 20.

78 Resolution 16/11, para 17.

Division 6 – Miscellaneous			
52	Presumptions of IUU fishing in contravention of international conservation and management measures	<p>The IOTC list of activities that describe where a vessel is presumed to have engaged in IUU fishing or related activities is incorporated in subsection (1) and the operator is prohibited from engaging in any of these activities.</p> <p>The Authority must provide information and evidence to the IOTC Secretariat of activities of any vessel that is presumed to involve IUU fishing.</p> <p>Subsections (2) and (3) apply the presumption to any vessels in national waters and national vessels in areas beyond national jurisdiction.</p> <p>Where it is presumed that any vessel in national waters has been involved in IUU fishing or related activities in any place in the IOTC Area of Competence, it may be prosecuted in the country.</p>	IOTC.⁷⁹
53	Actions in relation to vessels on an IUU Vessels List of a relevant regional fisheries management organization	National vessels are prohibited from providing assistance, engaging in fish processing operations or participating in transshipment or joint fishing operations with any vessel on an IUU Vessel List.	IOTC.⁸⁰

⁷⁹ IOTC Resolution 18/03, Establishing a list of vessels presumed to have carried out illegal, unreported and unregulated fishing in the IOTC area of competence (IUU Vessels List).

⁸⁰ IOTC Resolution 18/03, Establishing a list of vessels presumed to have carried out illegal, unreported and unregulated fishing in the IOTC area of competence (IUU Vessels List).

ANNEX 2 - MODEL MCS LEGISLATION

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Division 6 – Miscellaneous

- 54 Presumptions of IUU fishing in contravention of international conservation and management measures
- 55 Actions in relation to vessels on an IUU Vessels List of a regional fisheries management organization

I. PRELIMINARY**1. Interpretation**

"fishing" means:

- (a) searching for, attracting, locating, taking or harvesting of fish;
- (b) the attempted searching for, attracting, locating, taking or harvesting of fish;
- (c) engaging in any activity which can reasonably be expected to result in the locating, taking or harvesting of fish;
- (d) placing, searching for or recovering any fish aggregating device or associated electronic equipment including radio beacons;
- (e) any operation at sea in support of or in preparation for any activity in relation to a vessel described in paragraphs (a) to (d); or
- (f) any use of an aircraft which is related to any activity described in paragraphs (a) to (d), except for flights in emergencies involving the health or safety of a crew member or the safety of the vessel;

"fishing vessel" means any vessel used for, intended to be used for, equipped to be used for or of a type that is normally used for fishing or related activities;

international conservation and management measure means any legally binding measure to conserve or manage one or more species of fish that are adopted and applied by any global or regional fisheries management organization, or by any international agreement applicable to [country];

"related activities", in relation to fishing, or "fishing related activities" includes any operation in support of, or in preparation for, fishing, including the landing, packaging, processing, transshipping or transporting of fish that have not been previously landed at a port, as well as the provisioning of personnel, fuel, gear and other supplies at sea;

"vessel" means any boat, ship, hovercraft or other watergoing craft, and refers to vessels used or intended to be used for fishing or related activities;

"vessel monitoring system" or "VMS" means a satellite-based reporting system to monitor the position and activities of vessels that are engaged in activities under the scope of this Act.

"vessel without nationality" means a vessel used for fishing or related activities that is not entitled to fly the flag of any State or sails under the flag of two or more States, using them according to convenience.

2. Application

- (1) This Act shall, unless the contrary intention appears, apply to:
 - (a) all areas and persons over which [country] exercises sovereignty, jurisdiction or sovereign rights;
 - (b) all fish, fishing and related activities, utilisation of fish and genetic material derived from fish and any other activity or matter falling within the scope of this Act or any applicable international conservation and management measure;
 - (c) all persons, vessels, vehicles, aircraft, fish processing facilities, export or import facilities or other craft or place engaged in or otherwise connected with any activity falling within the scope of this Act or any applicable international conservation and management measure;
 - (d) all persons and all vessels in and in relation to areas beyond national jurisdiction:
 - (i) following hot pursuit initiated in waters under [country] jurisdiction and conducted in accordance with international law; or
 - (ii) as required pursuant to this Act or any applicable international conservation and management measure, or permitted by international law or any international agreement; and
 - (e) all [country] registered vessels and all persons on them, associated with them or dealing with or having any relevant relationship to them, in and in relation to any areas beyond national jurisdiction in so far as this is not in conflict with the jurisdiction of another State.

- (2) A vessel is deemed not to be a [country] registered vessel if it is registered in a country other than [country] instead of or in addition to being registered in [country], unless it is a chartered vessel operating under a parallel registration system in accordance with a relevant charter agreement and the applicable laws and standards of the relevant countries and international agreements.
- (3) This Act has extraterritorial application according to its provisions and tenor.

II. MCS-RELATED MANAGEMENT MEASURES

3. Implementation of international conservation and management measures

- (1) The requirements of any applicable international conservation and management measure in respect of:
 - (a) any owner, operator and/or master of any Seychelles vessel that holds a valid licence or authorisation issued by the [Authority] and is entered on the Record of Authorised Vessels of a relevant regional fisheries management organisation and authorised to fish for the species and in the area of competence under the mandate of such organisation;
 - (b) any owner, operator and/or master of any other vessel that falls within the scope of this Act and the applicable international conservation and management measure; and/or
 - (c) any [country] citizen,

shall have full legal effect under this Act upon such public notice of the applicable international conservation and management measure requirements as may be approved by the Minister, and, subject to subsection (2) the obligation to comply shall apply mutatis mutandis to each of the owner, operator and/or master of the vessel or Seychelles citizen.

- (2) Notwithstanding subsection (1), where it is not possible for a vessel to fulfil the requirements for compliance for technical reasons upon entry into force, the [Authority] may notify an extension for a reasonable period of time to allow the arrangements to be made.
- (3) The CEO[Authority] shall notify all holders of licences and authorisations of the relevant obligations of each applicable international conservation and management measure upon its date of public notice.
- (4) Any person who contravenes any international conservation and management measure implemented pursuant to this section or as may be provided in this Act commits an offence and shall be liable on conviction to a fine provided in the Second Schedule and any other penalty provided under this Act.

4. Prohibitions in relation to vessels on a list of illegal, unreported and unregulated vessels maintained by a regional fisheries management organization

- (1) For the purposes of this section, “listed vessel” means a vessel that is included on a list of illegal, unreported and unregulated vessels maintained by an RFMO,
- (2) No person shall, being the operator of a [country] registered vessel, including any fishing vessel, support vessel, refuelling (supply) vessel, mothership or cargo vessel:
 - (a) provide, cause to be provided or arrange assistance to a listed vessel in any way except for the purpose of rendering assistance where such vessel, or any person on that vessel, is in danger or distress;
 - (b) engage in fish processing operations with a listed vessel;
 - (c) participate, cause participation in or arrange for participation in transshipment or joint fishing operations with a listed vessel; or
 - (d) charter or be associated in any way with the chartering of a listed vessel.
- (3) No person shall control, arrange, cause to be controlled or arranged or participate in the import, landing or transshipment of any species from the listed vessel over which the relevant RFMO has competence.
- (4) No person shall:
 - (a) sell a listed vessel or otherwise change legal or beneficial ownership and/or purchase another vessel with the apparent aim of continuing to maintain control of the listed vessel and/or the new vessel and continuing illegal, unreported or unregulated operations for fishing or related activities; or
 - (b) operate a listed vessel which has been sold or where the legal or beneficial ownership has been changed as described in paragraph (a).
- (5) A listed vessel shall not be:
 - (a) approved for or granted registration under the Merchant Shipping Act, 1992 (No. 13 of 1992) except if the vessel has changed owner and the new owner has provided sufficient information demonstrating the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel, or having taken into account and documented all relevant facts, it is determined that granting the vessel its flag will not result in IUU fishing; or

- (b) authorised to enter any port in [country] except in case of force majeure or where the vessel, or any person on that vessel, is in danger or distress, unless it is allowed entry into port for the exclusive purpose of inspection and effective enforcement action.
- (6) Notwithstanding any provision in this section, where fish or fish products that have been associated with a listed vessel has become the property of Government through forfeiture, Court Order or other judicial process, they may be sold, processed, exported or otherwise dealt with in the same manner as other government property and shall not be considered as a product of illegal, unreported or unregulated fishing or related activities, and any purchaser for valuable consideration shall derive good and unencumbered title in respect of such fish or fish products.
- (7) Any person who contravenes any requirement of subsection (2), (3) or (4) commits an offence and is liable on conviction to [a fine, term of imprisonment, penalty etc.]

5. Prohibitions in relation to vessels without nationality

- (1) For the purposes of this Act, a “vessel without nationality” is a vessel used for fishing or related activities that is not entitled to fly the flag of any State or sails under the flag of two or more States, using them according to convenience.
- (2) Where any vessel without nationality engages in fishing or related activities in the area of competence of a relevant regional fisheries management organisation, and such organization has adopted an applicable international conservation and management measure that considers fishing or related activities by such vessel to be illegal, unreported and unregulated, such vessel:
 - (a) shall be prohibited from landing or transshipping fish or fish products within areas under the jurisdiction of [country], or in areas beyond national jurisdiction involving a [country] registered vessel;
 - (b) shall be denied access to, and use of any port within [country];
 - (c) notwithstanding subsection (b), may be allowed access where it is essential to the safety or health of the crew or safety of the vessel and shall be allowed exclusively for that purpose and not for any other activity or use of port.
- (3) Any operator, person on board or other person acting in association with or support of a vessel without nationality who lands, tranships or uses a port in contravention of subsection (2)(a) or (b) commits an offence and upon conviction shall be liable to [a fine, term of imprisonment, penalty etc.]

III. GENERAL REQUIREMENTS FOR FISHING AND OTHER ACTIVITIES

6. Compliance with Act, licence, authorisation or other permission, international conservation and management measures, other

- (1) The holder of a licence, authorisation or other permission issued under this Act shall:
- (a) comply with the terms and conditions of the licence, authorisation or other permission;
 - (b) comply with this Act, all other legislation of [country], any applicable international agreement, including an agreement for fisheries access, and any applicable international conservation and management measure;
 - (c) not engage in any activity under the scope of this Act, except in accordance with such licence, authorisation or other permission as may be required.

Any person who contravenes subsection (1), (a) (b) or (c) commits an offence and, unless the same offence is otherwise provided in this Act, is liable on conviction to [a fine, term of imprisonment, penalty etc.].

7. Reporting requirements

- (1) Where any person, including the operator of any vessel, is required to make any report pursuant to this Act or an international conservation and management measure, such reports shall be:
- (a) true, correct and complete in every respect;
 - (b) prepared by the person or vessel licensed or authorised under this Act or an accredited agent;
 - (c) submitted in the required form and format;
 - (d) submitted at the required time or times;
 - (e) submitted to the designated person or body;
 - (f) certified, verified or otherwise validated as may be required.
- (2) No person shall falsify, forge, tamper with or submit any report that is false, inaccurate, misleading or incomplete in any way.
- (3) No person shall provide sales receipts as documentation in lieu of the catch documentation required pursuant to this Act.

- (4) Where estimates for any aspect of the catch may be made pursuant to this Act, no person shall submit an estimate unless:
 - (a) an estimation process officially recognized by the [Authority] is used; and
 - (b) any standard of proof that may be required by the [Authority] is satisfied.
- (5) Any person that contravenes the provisions or subsection (1)(a), (b), (c), (d), (e) or (f), (2), (3) or (4) commits an offence and upon conviction shall be liable to [a fine, term of imprisonment, penalty etc.].

8. Gear stowage

- (1) The operator of a:
 - (a) vessel in [country] waters in any place or at any time where it is not licensed or authorised for fishing or related activities; or
 - (b) [country] registered vessel in areas beyond national jurisdiction where it has not been authorised for fishing or related activities pursuant to this Act,

shall ensure that all gear on board is at all times stowed or secured in such a manner that it is not readily available for fishing.
- (2) The operator of a vessel that contravenes the provisions or subsection (1)(a) or (b) commits an offence and upon conviction shall be liable to [a fine, term of imprisonment, penalty etc.]..

9. Requirements for citizens and [country] registered vessels in areas beyond national jurisdiction

- (1) No person shall use a [country] registered vessel:
 - (a) in areas under the national jurisdiction of other States except in accordance with the laws of that State; or
 - (b) to engage in any activity on the high seas or in areas of national jurisdiction of other States that:
 - (i) does not comply with an applicable access agreement; or
 - (ii) undermines the effectiveness of applicable international conservation and management measures.

- (2) All [country] citizens and the operators of [country] registered vessels in areas beyond national jurisdiction shall comply with:
 - (a) applicable international conservation and management measures; and
 - (b) the laws of other States, when in areas under the jurisdiction of such States.
- (3) Where any [country] registered vessel is used in contravention of any requirement of subsection (1) or (2), the operator of such vessel commits an offence, and is liable on conviction to [a fine, term of imprisonment, penalty etc.].
- (4) Where any [country] citizen contravenes subsection (2) he or she commits an offence and is liable on conviction to [a fine, term of imprisonment, penalty etc.].

IV. REQUIREMENTS FOR FISHERIES ACCESS

10. Fisheries access – terms and conditions

In addition to any other terms or conditions for fisheries access that may be prescribed or required, each agreement entered into by the Minister shall require that:

- (a) the other party to the agreement and the operator of all vessels subject to the agreement must comply with this Act and all other applicable legislation of [country];
- (b) the operator of any vessel subject to the agreement must hold, in respect of their vessel, a valid and applicable licence or authorisation from the State in which the vessel is registered to carry out fishing or related activities in areas beyond national jurisdiction including in [country] waters;
- (c) all vessels subject to the agreement must have good standing on an authorised vessel list of an applicable regional fisheries management organization or a register maintained under any applicable fisheries management agreement, and the agreement will automatically terminate should the vessel's good standing on any such register be withdrawn;
- (d) no vessel subject to the agreement is on a list of illegal, unreported or unregulated vessels maintained by a regional fisheries management organization, and the agreement and license issued thereunder will automatically terminate should any vessel be included on any such list;
- (e) the other party to the agreement and all operators of vessels subject to the agreement must take all necessary measures required to ensure compliance with the agreement and this Act;

- (f) any vessel or operator that does not comply fully with the agreement, this Act or any applicable international conservation and management measure shall be denied renewal or issuance of any licence, authorisation or other permission under the access agreement for a period of up to ten years;
- (g) in the case of an agreement entered into with a corporation, association or other body acting on behalf of its members or other persons, that the corporation, association or other body is liable for the undischarged liabilities of its members or other persons arising out of any operations under the agreement and the agreement itself, including fees;
- (h) fees, levies and other charges be fully paid at the required time, and the agreement will automatically terminate on non-payment or late payment;
- (i) the other party to the agreement shall ensure minimum specified benefits to [country] citizens including training and employing such level of qualified citizens as crew members and such other benefits as may be specified by the Minister; and
- (j) in the case of an agreement with a term of more than one year, the agreement is subject to an annual review and termination or suspension in accordance with section 44.

11. Requirements for all foreign vessels to report entry to, exit from and regularly while in [country] waters

- (1) The operator of every foreign vessel, [country] vessel, joint venture vessel and national vessel shall, upon entry into and exit from [country] waters report directly to the [Authority] through electronic means its position by latitude and longitude, purpose for entry, the time of entry and exit, speed, heading and species on board by weight and such other information, as close as possible to real time, in accordance with such requirements as may be determined by the [Authority] or the Minister by public notice or otherwise under this Act or required by a relevant regional fisheries management organisation, and shall:
 - (a) make such reports using a Vessel Monitoring System and Automatic Information System required by a relevant regional fisheries management organisation, or where this is not possible by email;
 - (b) where the vessel falls within requirements by the International Maritime Organization to continuously operate an Automatic Information System, ensure that such operation is effected at maximum strength;
 - (c) report continuously at least every six hours at all times while in [country] waters directly to the [Authority] in accordance with such requirements;

- (d) where the vessel does not hold a valid and applicable license for fishing or related activities in [country] waters proceed expeditiously and continuously through [country] waters; and
 - (e) where the vessel holds a valid and applicable license for fishing in [country] waters, prior to departing from [country] waters report the last fishing area and weight by species of fish caught in [country] waters.
- (2) Notwithstanding subsection (1), the operator shall ensure that the transit report upon first entry is effected manually.
 - (3) The operator of every foreign vessel shall ensure that the vessel does not engage in fishing in [country] territorial sea or other area that may be prohibited under this Act or the laws of [country].
 - (4) Where any operator does not comply with subsection (1), (2) or (3) he/she commits an offence and shall be liable on conviction to [a fine, term of imprisonment, penalty etc.].

V. INFORMATION

12. Establishment of information system

- (1) There shall be established and maintained an information system in the [Authority] with the objectives of meeting national, regional and international requirements relating to information and data and supporting the objectives and principles of this Act.
- (2) The information system shall be available on the website of the [Authority] and subject to designated confidentiality requirements that are determined by the [Authority], taking into account best international practices for transparency and accountability.
- (3) The information system shall include such information that supports implementation of this Act and international conservation and management measures, including such information as the [Authority] may require in relation to fisheries management, fishing and related activities, monitoring, control and surveillance, legal and administrative matters, statistical and economic aspects and other information consistent with the objective and principles of this Act.
- (4) The [Authority] shall ensure that, as appropriate, information is released from the database and communicated to other national agencies, States and regional and international organizations in a timely manner to ensure the discharge of national, regional and international obligations of [country], including as a flag State and as a member of any relevant regional fisheries management organization.

- (5) A person may, upon payment of such fee as may be prescribed, access any non-confidential information from the register.

13. Information may be required, inspected

- (1) Each person carrying out activities within the scope of this Act shall keep and maintain such records and information and supply them to the [Authority] in such form and manner as the [Authority] may require or as may be required pursuant to this Act, other [country] legislation or any applicable conservation and management measure or international agreement.
- (2) The [Authority] shall ensure the collection and analysis of statistical data and other information in relation to activities and persons within the scope of this Act and the provision of data and information to a relevant regional fisheries management organization as may be required by an applicable international conservation and management measure.
- (3) The [Authority] may, for the purposes of verifying accounts, records, documents and other information required to be kept, furnished or communicated under subsection (1) direct:
 - (a) the audit or inspection of any accounts, records, documents, data and other information or place where such information may be kept;
 - (b) the audit or inspection of any vessel, processing plant or other facility to which this Act applies; and
 - (c) that any person provide further information regarding any accounts, records, documents, data and other information kept, furnished or communicated under this Act in accordance with such time limits as may be specified or prescribed.
- (4) Any person who:
 - (a) fails to keep, furnish or communicate any accounts, records, documents, data and other information as required under subsection (1); or
 - (b) does not facilitate, assist or comply with the requirements for an audit or inspection undertaken under subsection (3),
 commits an offence and upon conviction shall be liable to [a fine, term of imprisonment, penalty etc.].

14. Information to be true, complete and correct and destruction etc of documents prohibited

- (1) All persons shall keep records and provide information, data and statistics as required pursuant to this Act and such records, information, data and statistics shall at all times be true, complete and correct and shall not be false, misleading or inaccurate.
- (2) No person shall alter, destroy, erase or obliterate any:
 - (a) declaration, certificate, or other documents, information, data or statistics made or required to be made or issued under this Act;
 - (b) label subject to this Act; or
 - (c) required markings on vessels or gear.
- (3) No person shall submit to the [Authority] or any person, court, body or government authority in [country] or other relevant State or relevant regional fisheries management organisation, international organisation or other body or person any information or documents that are fraudulent or, in the case of written information or documents, forged.
- (4) The requirements of this section shall apply to any records, information, data and statistics required under the scope of this Act without regard to whether they are submitted to the [Authority], or any other court, body, or government authority in [country], other relevant State or relevant regional fisheries management organization, international organisation or other body or person.
- (5) Any person who does not comply with any requirement in subsection (1), (2) or (3) commits an offence and upon conviction shall be liable to [a fine, term of imprisonment, penalty etc.].

15. Information sharing bilaterally, regionally, internationally

- (1) The [Authority] may prepare and share information that falls within the scope of this Act, including fisheries statistics and vessel information, to the Food and Agriculture Organization of the United Nations, and any international organization or any regional organization to which [country] is a party or pursuant to an international agreement, as may be required by such organization or international agreement, taking into account any confidentiality requirements, and shall do so where required by international agreement or a regional fisheries management organization.
- (2) Where the information is required, it shall be shared within any time frame that may be required or promptly upon the demand or request for information.

VI. LICENSES, AUTHORISATIONS, OTHER PERMISSIONS AND REGISTRATION**16. Licences, authorisations, other permissions, registration required**

[This model section will vary based on the type of licenses that are issued by the country]

- (1) No person shall engage in any of the following activities without a valid and applicable licence, authorisation or permit issued in accordance with this Act:
 - (a) use of a vessel for fishing or related activities in [country] waters;
 - (b) use of a [country] registered vessel for fishing or related activities in areas beyond [country] waters, including on the high seas and in waters under the jurisdiction of another State;
 - (c) have on board, deploy, maintain or retrieve any fish aggregating device in [country] waters or, being a [country] registered vessel, in areas beyond national jurisdiction in the area of competence of a relevant regional fisheries management organization;
 - (d) use of aircraft, including drones, for the purpose of fishing;
 - (e) use of such equipment or gear as may be prescribed;
 - (f) test fishing for purposes of researching species, techniques or gear;
 - (g) aquaculture;
 - (h) marine scientific research;
 - (i) marine bioprospecting;
 - (j) landing;
 - (k) transshipment;
 - (l) such other activity or requirement as may be prescribed.
- (2) Registration by the [Authority] shall be required for:
 - (a) the use of any Mobile Transceiver Unit by a licensed vessel in [country] waters or a [country] registered vessel in areas beyond national jurisdiction; and
 - (b) any agent accredited under this Act.

- (3) Any operator who does not comply with any requirement in subsection (1) or (2) commits an offence and upon conviction shall be liable to [a fine, term of imprisonment, penalty etc.].

17. Terms and conditions of licences, authorisations, other permissions, registrations

- (1) A licence, authorisation, registration or other permission granted under this Act:
- (a) shall be subject to the terms and conditions provided in this Act or as may be prescribed, and to such other terms and conditions as may be specified in writing by the [Authority] or provided in applicable international conservation and management measures;
 - (b) may, upon reasonable notice determined by the [Authority], be subject to any varied, amended or additional terms and conditions consistent with the objective and principles of this Act as may be:
 - (i) prescribed;
 - (ii) specified in writing by the [Authority] where it is expedient for the management of a fishery; or
 - (iii) specified in writing by the [Authority] or Minister in accordance with the principles in this Act or with any applicable conservation and management measure;
 - (c) enters into force on the date specified in it; and
 - (d) remains in force until the date on which it expires in accordance with the period approved by the [Authority] for the class of licence to which it belongs, unless sooner suspended, cancelled or revoked in accordance with this Act.
- (2) The operator of any vessel holding a licence, authorisation, registration or other permission issued under this Act shall ensure that the original or a certified scanned electronic version or certified copy of it is on board the vessel at all times during the period of validity, except where the vessel was at sea when such document was issued and has not entered port since issuance in which case an electronic copy shall suffice, and the master shall, upon request, produce it to an authorised fisheries officer or other person authorised under this Act.
- (3) The holder of a license or authorisation for any activity licensed in accordance with this Act other than activities concerning vessels shall display the license or authorisation or a certified copy thereof in the registered business office, and upon request produce it to a authorised fisheries officer or other person authorised under this Act to inspect it.

- (4) The operator of a [country] registered vessel shall:
- (a) carry on board at all times such documents issued and certified by the [Authority] as may be prescribed or required by the [Authority] or an international conservation and management measure, and upon request produce them to an authorised fisheries officer or other person authorised under this Act, other applicable legislation or who is carrying out duties pursuant to a relevant regional fisheries management organisation;
 - (b) while in areas under the national jurisdiction of any other State comply with all legislation of that State; and
 - (c) while in an area of competence of a relevant regional fisheries management organization, comply with all applicable conservation and management measures.
- (5) The operator of a vessel holding a licence, authorisation or other permission for fishing or related activities shall, as a condition of licence or authorisation maintain log books and make such reports relating to fishing or related activities at such times, containing such information and in such format as may be prescribed or required by the [Authority] in writing or required by an applicable international conservation and management measure.
- (6) The holder of any licence, authorisation, registration or other permission shall report to the [Authority]:
- (a) the sale or transfer of any vessel company or item that is subject to or operating under the licence, authorisation, registration or other permission, upon such sale or transfer;
 - (b) any other change of information that was provided in the application form, registration form or other process or requirement to obtain the licence, authorisation, registration or other permission, within fourteen days of such sale, transfer or change.
- (7) The holder of any licence, authorisation, registration or other permission shall report to the [Authority] any change of information from that submitted in the application form shall be reported within a maximum of 14 days or the licence, authorisation, registration or other permission shall be deemed to have expired on the 15th day.
- (8) All licences, authorisations and registrations granted under this Act are not transferable, and no person shall:
- (a) transfer, or attempt to transfer such licence, authorisation or registration to another person or vessel; or

- (b) use or attempt to use a transferred licence or authorisation as authority for fishing or related activities.
- (9) Any person who contravenes any terms and conditions required under subsection (1)(a) or (b), subsection (2), (3), (4) (a) (b) or (c), (5), (6)(a) or (b), (7) or (8)(a) or (b) commits an offence and upon conviction shall be liable to [a fine, term of imprisonment, penalty etc.].

18. Conditions for landing and transshipment

- (1) The operator of any foreign, joint venture or [country] vessel or such other vessel required to do so by a licence condition shall transmit electronically a prior request to the [Authority] or such addressee as he or she may designate to land or tranship any or all of the fish or fish products on board at such time in advance of landings or transshipment and including such information and format as may be required by the [Authority] or prescribed.
- (2) The operator of each vessel shall carry out landing and transshipment at any port designated by the [Authority] by public notice, and shall comply with such procedures as may be required by the [Authority], including pre-inspection and the placement of any fishery inspector or observer on board prior to and during landing or transshipment, to:
 - (a) obtain and verify data, including on the quantity and species landed or transhipped; and
 - (b) determine when landing or transshipment has been completed, and such other procedures as may be prescribed or any applicable international conservation and management measure.
- (3) The licensee of the vessel shall pay in full all costs of transport, accommodation and subsistence relating to the performance of the duties of an authorised fisheries officer or other person designated by the [Authority] to conduct supervision of a transshipment of fishery resources outside a port in [country] shall be borne by the licensee of the vessel.
- (4) Fresh shark fins shall not be transhipped without the carcass and vice versa, and where sharks are landed frozen, up to the first point of landing vessels shall not have on board shark fins that total more than 5% of the weight of sharks on board.
- (5) The operator of any vessel that lands or imports tuna and tuna-like species and sharks, either unprocessed or after having been processed on board and which are transhipped, shall submit at such time as may be required by the [Authority] such Declaration of Transshipment that may be prescribed or required by an international conservation and management measure until the first sale has taken place.

- (6) The vessel operator shall not land, tranship or offload fish into a container that has been caught or otherwise subject to activity in contravention of an international conservation and management measure.
- (7) During transshipment the operator of each vessel shall comply with all applicable laws relating to protection of the marine environment.
- (8) Landings and transshipments shall be subject to such further conditions as may be prescribed or otherwise required by the [Authority] and shall comply with any applicable international conservation and management measure.
- (9) Any person who contravenes any requirement in subsections (1), (2), (3), (4), (5), (6), or requirement made under subsection (8) commits an offence and upon conviction shall be liable for a fine provided in the Second Schedule or a term of imprisonment not exceeding five years or both, and any other penalty that may be provided under this Act.

19. Pre-licensing and pre-registration inspection and other requirements

- (1) The operator of a vessel in respect of which an application has been made for a licence, authorisation or other permission in accordance this Act or a vessel registration in accordance with [country] law shall, prior to being issued any registration, licence, authorisation or other permission:
 - (a) avail the vessel intended to be used for fishing or related activities for inspection, survey or other requirement either at [country] port or any other port nominated by the applicant and approved by the [Authority] in [country] or where there is an exceptional need to inspect a vessel going into or in a dry dock or to another port for repair; and
 - (b) fulfil pre-licensing and pre-registration criteria as may be prescribed or required by the [Authority].
- (2) Subject to paragraph (a) of subsection (1) the operator shall provide not less than forty-eight hours advance notice of the vessel's estimated time of arrival, weight by fish species catch onboard and port of call to the [Authority].
- (3) Where the applicant has nominated a port other than [country] port, the applicant shall bear all costs for inspection of the vessel in the nominated port, including full costs of salary, travel, inspection and any other costs that may be approved by the [Authority].
- (4) An authorised fisheries officer shall undertake and verify the pre-licensing or pre-registration inspection of any vessel in accordance with this Act and such criteria as may be approved by the [Authority], and in addition the [Authority] may designate a survey inspector to undertake such inspections.

- (5) The [Authority] shall review all relevant documentation required for the consideration and issuance of a registration, licence, authorisation or other permission.
- (6) The operator of the vessel subject to the requirements in this section shall:
 - (a) allow and assist any authorised fisheries officer and survey inspector to board and inspect the vessel and otherwise exercise his or her powers and responsibilities under this Act; and
 - (b) provide to the [Authority] all documentation and information required for consideration and issuance of a registration, licence, authorisation or other permission.

Any operator who does not comply with any requirement in subsection (1), (2), (3) or (6)(a) or (b) commits an offence and upon conviction shall be liable to [a fine, term of imprisonment, penalty etc.].

20. Standards for grant or renewal of licences, authorisations, registrations or other permissions

- (1) The [Authority] shall, within a reasonable time and taking into account the recommendations of the review of the applications and associated documents, grant or deny an application for any licence, authorisation, registration or other permission made under this Act, and issuance shall be denied where the review has so recommended.
- (2) In granting or renewing licences, authorisations, other permissions or registrations under this Act, the [Authority] shall take into account the extent to which any relevant State, operator, owner, charterer of the vessel or other relevant person or company, or the vessel, as appropriate, has:
 - (a) complied with this Act, other relevant laws of [country], applicable licensing terms and conditions and any applicable access agreement;
 - (b) complied with any applicable requirements concerning the appointment of agents and the agent(s) has complied with this Act and other relevant laws of [country];
 - (c) complied with requirements for seaworthiness and safety;
 - (d) provided all required data and information and vessel attributes promptly and accurately, including any applicable vessel monitoring system requirements;
 - (e) complied with all applicable international conservation and management measures and such other regional and international standards as may be applicable;

- (f) been included in the record of authorised vessels of any relevant RFMO;
 - (g) not been, or is not associated with a vessel that is on a list of any relevant RFMO designating vessels that have engaged in illegal, unreported or unregulated fishing or related activities;
 - (h) is fit for the purpose for which the application has been made; and
 - (i) the ability to comply with this Act.
- (3) In this section, “vessel attributes” includes the type, construction, capacity, machinery and other attributes of a vessel, and specifications and other information in relation to its gear, equipment, aircraft and instrumentation.

21. Grounds for denial or non-renewal of licences, authorisations, registrations

- (1) Issuance or renewal of any licence, authorisation, registration or other permission under this Act shall be denied where the [Authority] determines that:
- (a) the standards set out in section 20 (2) are not been met at all or any times;
 - (b) the exploitation of the fisheries is unsustainable;
 - (c) the operator of the vessel has not complied with or fulfilled pre-licensing requirements in accordance with section 19;
 - (d) the operator of the vessel has been convicted of an offence involving dishonesty or fraud;
 - (e) notwithstanding any other provision in this Act, the operator of the vessel or the vessel is subject to an access agreement and has not fully complied with the agreement, this Act or any applicable international conservation and management measure;
 - (f) there is sufficient evidence that the operator or any person associated with the vessel has engaged in any IUU fishing or related activity or any other relevant illegal activity and has not satisfied any relevant judgement or determination or been involved in an organized criminal group or transnational crime;
 - (g) the operator of a vessel has committed an offence in [country] waters, or the vessel has been used for such an offence and any consequent process has not been concluded;
 - (h) the operator of the vessel is associated with a vessel that is on a list maintained by a relevant regional fisheries management organization of vessels that have engaged in illegal, unreported or unregulated fishing;

- (i) a foreign vessel does not hold a valid and applicable authorisation issued by its flag State for fishing or related activities in areas beyond national jurisdiction;
- (j) the vessel is registered under a flag that is reasonably considered to be a “flag of non-compliance” because of the failure of the flag State to exercise effective flag State responsibility based, *inter alia*, on criteria set out in paragraph 2 of the FAO Voluntary Guidelines for Flag State Performance;
- (k) the vessel is not fit for the purpose for which application has been made;
- (l) port State measures have been taken against the vessel under an applicable conservation and management measure, there is reasonable evidence that the vessel had engaged in illegal, unreported and unregulated fishing and the operator or vessel has not submitted to such legal or other process as may be demanded by a relevant port State, coastal State or flag State in relation to such evidence;
- (m) any or all of the applicant, owner or operator has not:
 - (i) complied with the terms of an existing or previous licence or any other requirement under this Act;
 - (ii) complied with any law of [country]; and
 - (iii) submitted to due process under this Act in respect of the non-compliance or fully satisfied any applicable judgment or determination.
- (2) If the information in an application for a licence, authorisation, registration or renewal thereof is found to be false, misleading or inaccurate in any material sense, the [Authority] may decline to grant or renew the licence, authorisation or registration.
- (3) A licence, authorisation, registration or other permission shall not be granted or renewed unless all applicable fees, charges or levies required pursuant to this Act may be required have been paid.
- (4) A licence, authorisation, registration or other permission shall not be granted or renewed in relation to any foreign vessel previously licensed for fishing or related activities by a foreign State if that vessel undermined the effectiveness of applicable international conservation and management measures and:
 - (a) the foreign State suspended the previous licence, and the suspension has not expired; or
 - (b) the foreign State, within the last three years preceding the application for a licence under this Act, withdrew the previous licence.

- (5) The restriction in subsection (4) does not apply if:
 - (a) the ownership of the vessel has changed since the vessel undermined the effectiveness of applicable international conservation and management measures; and
 - (b) the new owner has provided evidence to the [Authority] that, in his or her opinion, demonstrates that the previous owner has no further legal, beneficial or financial interest in the vessel.
- (6) The [Authority] shall notify in writing the applicant of its refusal to grant or renew a licence, authorisation, registration or other permission and the reasons for the refusal.

VII. MONITORING CONTROL AND SURVEILLANCE

Division 1 – Authorised fisheries officers, inspectors, observers

22. Exercise of powers and functions by authorised fisheries officers, inspectors and observers

- (1) Authorised fisheries officers and observers shall exercise monitoring, control, surveillance and compliance functions in accordance with this Act in areas to which this Act applies.
- (2) Where authorised fisheries officers, inspectors and observers exercise their functions in areas beyond national jurisdiction, the provisions of this Act are applicable as if the duties were performed in areas under national jurisdiction.
- (3) Each authorised fisheries officer and observer shall, in the course of discharging his or her duties, carry identification issued by the [Authority] in such form as may be prescribed or approved by the [Authority] and shall produce it on request for purposes of identification, and the production of identification shall, unless the contrary is proved, be sufficient authority for the exercise of powers and functions under this Act.

23. Authority and general powers of authorised fisheries officers

- (1) An authorised fisheries officer may do such acts and things and give such directives as are reasonably necessary for the purposes of performing or exercising his or her functions, powers and duties under this Act.
- (2) An authorised fisheries officer may use such force as is reasonably necessary to exercise his or her powers and duties under this Act.
- (3) An authorised fisheries officer may require any persons to assist him or her:

- (a) to bring a vessel to a place in [country] in accordance with this Act; or
- (b) in circumstances where the need for assistance in enforcing this Act is immediate and urgent,

and that person is deemed to have the authority and powers of an authorised fisheries officer for the purposes for which, and time during which, he or she is required to act, except for the power of arrest.

- (4) Subsection (3) shall apply where a person or persons are duly appointed by another State with powers and authority similar to those of an authorised fisheries officer under this Act, and in addition the Minister may, in consultation with authorities of such other State, declare such person or persons to have the authority and powers of an authorised fisheries officer under this Act for a specified purpose, area or time except for the power of arrest.

24. **Power of entry and search**

- (1) The application of this section extends to all activities falling within the scope of this Act and areas to which this Act applies.
- (2) An authorised fisheries officer may, for purposes and activities falling within the scope of this Act, without a warrant:
 - (a) stop, board, stay on board, enter and search any vessel, vehicle or aircraft, including:
 - (i) any vessel which he/she has reason to believe has been used, is being used or is intended to be used for fishing or a related activity;
 - (ii) any [country] registered vessel beyond [country] waters;
 - (iii) any vessel without nationality on the high seas; and
 - (iv) any other vessel to which this Act, any international law, international agreement or applicable international conservation and management measure applies,

and such search may include the breaking open of any hold or compartment, container or other receptacle upon a boarded vessel that the authorised fisheries officer has reasonable grounds to believe may contain evidence of an offence under this Act;

- (b) enter, examine and search any premises or place, other than premises used exclusively as a dwelling house, including premises that are part of or attached to a dwelling house which he/she reasonably suspects are used for activities falling within the scope of this Act:

- (i) in or on which he/she has reason to suspect that evidence of an offence against this Act may be found; or
- (ii) that it is necessary or expedient to enter or search to ascertain whether this Act is being or has been complied with;
- (c) stop any person and examine any record, article, container, gear, apparatus, device or fish in the possession of that person;
- (d) pass across any land;
- (e) monitor landing and transshipment operations and take samples, photographs, videos and relevant documentation;
- (f) require a person engaged or apparently engaged in any activity for which a license, authorisation or other permission is required under this Act or an applicable international agreement or international conservation and management measure to:
 - (i) give information about the relevant activity;
 - (ii) state whether he/she holds a license, endorsement or other authorisation under this Act and, if so, to produce the license, endorsement or other authorisation;
 - (iii) state his or her name, date of birth and place of abode;
- (g) make an entry dated and signed by her/him in a vessel's log, and require the master to sign the entry, or to indicate on a chart or other document the position of the vessel at that time and initial such chart or other document accordingly;
- (h) require any person associated or apparently associated with a vessel, vehicle, aircraft, premises, facility, or other place or activity falling within the scope of this Act, to provide such information as may be reasonably required for the enforcement of this Act;
- (i) examine any gear, equipment, record or other document that is found in or on any vessel, vehicle, aircraft, premises, facility or place, that he/she has reason to believe has been used, is being used or is intended to be used for or in relation to any activity requiring a license or authorisation under this Act;
- (j) examine and/or test or cause to be examined and/or tested any electronic equipment required to be on board any vessel or used for the any purpose that falls within the scope of this Act,

and may examine and search any document, record, article, gear, equipment, apparatus, device, container, fish and contents of any kind found therein or thereon.

- (3) An authorised fisheries officer may, in respect of premises used exclusively as a dwelling house, only conduct searches and seizures in accordance with this Act and with a warrant issued by any court of competent jurisdiction, and the provisions of this section shall apply mutatis mutandis.

25. Power to investigate or request investigations of persons for activities beyond areas under national jurisdiction

An authorised fisheries officer may:

- (a) investigate any person where there are reasonable grounds for believing that such person, natural or legal, is associated directly or indirectly with any vessel or activity that may not be complying with this Act in areas beyond national jurisdiction;
- (b) request another State to carry out investigations of any vessel or person, natural or legal, where there are reasonable grounds to believe that such vessel or person has been involved in illegal, unreported or unregulated fishing in violation of this Act, any international conservation and management measures or international agreement.

26. Power to take, detain, remove and secure information, evidence

- (1) An authorised fisheries officer may, for purposes and activities falling within the scope of this Act:
 - (a) inspect, take, detain and secure samples, documents, logbooks including electronic logbooks or other information, or copies thereof, from any vessel, premises, facilities or other place, other than premises used exclusively as a dwelling house, but including premises that are part of or attached to a dwelling house used for activities falling within the scope of this Act;
 - (b) make or take copies of any record, and for this purpose may take possession of and remove any records from the place where they are kept, for such period of time as is reasonable in the circumstances;
 - (c) if necessary, require a person to reproduce, or assist the authorised fisheries officer to produce in a useable form, information recorded or stored in a document; and
 - (d) require any person associated or apparently associated with a vessel, premises, facilities or other place or activity falling within the scope of this Act to provide such information as may be reasonably required for the monitoring or enforcement of this Act.

- (2) Where an authorised fisheries officer is questioning a person for the purposes of subsection (1)(d), he or she may:
 - (a) require the person being questioned to provide answers including any explanation or information concerning any vessel or any place or thing or fishing method, gear, apparatus, record, document, article, device, or thing relating to the taking, sale, purchase, or possession of any fish; and
 - (b) require that person or any other person to produce any permit, authority, approval, permission, licence, certificate or other document issued in respect of any vessel or person.

27. Power to detain persons, vessels, gear, etc.

- (1) An authorised fisheries officer may detain any person, vessel, vehicle, parcel, package, record, document, article, gear, equipment, apparatus, device, container, fish or thing for such period as is reasonably necessary to enable an examination or search under this Act.
- (2) Where a vessel or vehicle is detained, including any of its gear and equipment, a Notice of Detention in such form as may be approved by the [Authority] or prescribed shall be provided to the operator or owner of the vessel or vehicle and a copy of such Notice shall be promptly transmitted to any relevant government [Authority] of [country].
- (3) Where a foreign vessel is detained, the [Authority] shall ensure that the flag State is notified.

28. Power of arrest

- (1) An authorised fisheries officer who has legal authority to make arrests, may, if he or she believes on reasonable grounds that a person is committing or has committed an offence against this Act:
 - (a) order that person to immediately cease and desist;
 - (b) request that person to supply to the authorised fisheries officer their name, date of birth, residential address and occupation and request such verification of those details as it is reasonable in the circumstances; and
 - (c) arrest that person without warrant.
- (2) Where a person associated with a foreign vessel is arrested, the [Authority] shall ensure that the flag State is notified.

29. Power to order a vessel to port

- (1) An authorised fisheries officer may order a vessel to port for inspection concerning compliance with this Act, any international conservation and management measure or an international agreement.

The operator of any vessel that does not immediately comply with the order to port or submit to any inspection procedures in port commits an offence and upon conviction shall be liable to [a fine, term of imprisonment, penalty etc.].

30. Power to give direction

- (1) An authorised fisheries officer who reasonably believes that a vessel, including its gear or equipment, is being or has been used in contravention of this Act, an applicable licence, authorisation or other permission, an international conservation and management measure or any agreement entered into under this Act:

- (a) may take the vessel as soon as reasonably practicable to the nearest available port in [country] for purposes related to inspection or such port or place that will facilitate inspection, having due regard for the safety of the vessel and crew;
 - (b) may remain in control of the vessel at such port for such period as is reasonably necessary to enable the authorised fisheries officer to exercise any other powers under this Act, until the vessel is permitted to depart from the port.
- (2) The vessel shall be permitted to depart within seventy two hours after arrival in port where, after full inspection of the vessel and all relevant evidence, the [Authority], in consultation with the Attorney General and relevant government officials and regional fisheries management organization, determines there are no reasonable grounds to suspect a contravention described in subsection (1).

31. Seizure of vessels, aircraft and items

- (1) For the purposes of this section, a vessel's equipment, gear, furniture, appurtenances, stores, and cargo are deemed to form part of the vessel.
- (2) An authorised fisheries officer may seize:
- (a) any vessel or other conveyance, gear, implement, appliance, material, container, goods, equipment or thing which the authorised fisheries officer believes on reasonable grounds is being, has been or is intended to be used in the commission of an offence against this Act;
 - (b) any fish or fish product (and any other fish with which such fish are intermixed) that the authorised fisheries officer believes on reasonable grounds are being or have been taken, killed, transported, bought or sold or have been found in the possession of any person in contravention of this Act;

- (c) any item, article, record or thing that the authorised fisheries officer believes on reasonable grounds may provide evidence of an offence against this Act or contravention of an applicable international conservation and management measure;
- (d) any passport and seaman's record book:
 - (i) of the master and crew of a vessel directed to return to and remain in port pursuant to this Act until the vessel is permitted to depart;
 - (ii) of any person arrested, until that person is brought before a court; or
 - (iii) pursuant to any order of the Court; and
- (e) any other item which the authorised fisheries officer has reasonable grounds to believe:
 - (i) has been or is being used to commit an offence against this Act;
 - (ii) has been forfeited under this Act; or
 - (iii) has been unlawfully removed from custody under this Act.
- (3) An authorised fisheries officer shall deliver anything seized under subsection (2) into the custody of the [Authority] for safekeeping under such procedures as may be prescribed.
- (4) A written notice of the seizure shall be given to the person from whom any article or thing was seized or to any other person whom the authorised fisheries officer believes is the owner or person otherwise entitled to possession of the article or thing seized, and the grounds for such seizure shall be stated in the notice.
- (5) The [Authority] shall, upon seizure of a foreign vessel, ensure that the flag State is promptly notified of any action taken and penalties imposed.

32. Hot pursuit

- (1) An authorised fisheries officer who suspects on reasonable grounds that a foreign vessel has contravened this Act, an applicable international conservation and management measure or international agreement, may undertake hot pursuit of a foreign vessel in accordance with conditions recognized under international law, including:
 - (a) the authorised fisheries officer is satisfied that the foreign vessel or one of its associated boats is within [country] waters, based upon evidence from, *inter alia*;
 - (i) vessel monitoring system;

- (ii) geographical positioning system;
- (iii) aerial photography;
- (iv) satellite systems; or
- (v) any other accepted international communication system;
- (b) the pursuit may only be commenced after a visual or auditory signal to stop has been given at a distance which enables it to be seen or heard by persons aboard the foreign vessel;
- (c) it is not necessary that, at the time when the foreign vessel receives the order to stop, the vessel giving the order should likewise be within [country] waters;
- (d) the pursuit must be continuous and not interrupted;
- (e) the right of hot pursuit ceases as soon as the ship pursued enters the territorial sea of its own State or of a third State; and
- (f) the right of hot pursuit may be exercise by vessels or aircraft clearly marked and identifiable as being on government service and authorised to that effect.
- (2) Any authorised fisheries officer exercising powers described in subsection (1) shall inform the [Authority], who shall, through the ministry responsible for foreign affairs, inform the flag State.
- (3) An authorised fisheries officer may, following hot pursuit outside [country] waters in areas beyond national jurisdiction in accordance with subsection (1) and international law, stop board and search outside [country] waters any vessel which he or she has reasonable grounds to believe has been used in the commission of an offence under this Act, exercise any powers conferred by this Act and bring such vessel and all persons and things on board back into [country] waters.

The operator any vessel who does not comply with the order to stop given under subsection (1)(b) or with any powers exercised by a fisheries inspector or authorised fisheries officer pursuant to subsection (3) commits an offence and upon conviction shall be liable to [a fine, term of imprisonment, penalty etc.].

33. Responsibilities of observers

- (1) The responsibilities of observers shall include observing collecting, recording and reporting the following information:
 - (a) observe and record the harvesting, handling and processing of fish and fish products and related operations;

- (b) collect and record scientific, biological and other information related to activities within the scope of this Act;
 - (c) the species, quantity, size, age and condition of fish taken, including as bycatch and whether the species is threatened or endangered;
 - (d) the methods by which, the areas in which, and the depths at which, fish are taken;
 - (e) the effects of fishing methods on fish and the environment, including where applicable cases of entanglement in nets;
 - (f) all aspects of the operation of any vessel, including activities relating to bribery, corruption or illegal activities;
 - (g) processing, transportation, transshipment, storage or disposal of any fish or fish products;
 - (h) take samples or photographs of fish harvested or anything on board a vessel;
 - (i) monitor the implementation of conservation and management measures taken pursuant to this Act, applicable international conservation and management measures and international agreements; and
 - (j) such other information as may be required under the scope of this Act.
- (2) The responsibilities of observers shall include performing:
- (a) such other activities to implement applicable international conservation and management measures as may be assigned by the [Authority];
 - (b) such activities that may assist the [Authority] to obtain, analyse or verify information for fisheries scientific, conservation, management and compliance purposes, and as may be assigned by the [Authority].
- (3) Observers may be deployed, as may be directed by the [Authority] in accordance with this Act, any international agreement or applicable international conservation and management measure, on or in relation to any vessel used for fishing, transshipment, transportation or landing of fish or in relation to any other activity within the scope of this Act, within and beyond areas under the national jurisdiction of [country].

34. Duty of operators, and crew members to assist observers

- (1) The operator and each crew member of any vessel on which an observer is placed shall, at all times within and beyond areas under the national jurisdiction of [country], allow and assist the observer, in the performance of his or her duties, to:

- (a) board such vessel at [country] port or any other port that the [Authority] may designate outside [country];
- (b) provide the observer with appropriate working space, access to all spaces and communication equipment;
- (c) receive and transmit messages and communicate with the shore and other vessels by means of the vessel's communications equipment;
- (d) ensure that accommodation, meals and treatment of the observer is at the same standard as officers on board the vessel;
- (e) take photographs of the fishing operations, including fish, gear, equipment, documents, charts and records, and remove from the vessel such photographs or film as the observer may have taken or used on board the vessel;
- (f) gather such other information relating to fisheries as may be required for purposes of carrying out the objectives of this Act or any applicable conservation and management measure; and
- (g) disembark at such time and place as the [Authority] may require, provided that such disembarkation is in accordance with the safe operation of the vessel.

An operator or a crew member of any vessel on which an observer is placed in accordance with this Act commits an offence if he or she contravenes any part of subsection (1), and each part shall be considered as a separate offence, and upon conviction shall be liable to [a fine, term of imprisonment, penalty etc.].

35. Observers and field inspectors under an RFMO observer scheme

- (1) This Act applies to activities under the observer scheme of a relevant regional fisheries management organization and the collection of verified catch data and other scientific data related to the fisheries for tuna and tuna-like species in the Area of competence of such regional fisheries management organization.
- (2) For purposes of this section, "observer" refers to a person whose duties are on board vessels and "field inspector" refers to a person who collects information on land during the unloading of vessels.
- (3) An observer assigned to a vessel shall monitor the catches at unloading to identify the composition of bigeye tuna catches. An observer shall, *inter alia*:
 - (a) record and report fishing activities, verify positions of the vessel;
 - (b) observe and estimate catches as far as possible with a view to identifying catch composition and monitoring discards, bycatches and size frequency;

- (c) record the gear type, mesh size and attachments employed by the master;
 - (d) collect information to enable the cross-checking of entries made to the logbooks (species composition and quantities, live and processed weight and location, where available); and
 - (e) carry out such other scientific work as requested by the Scientific Committee of the relevant regional fisheries management organization.
- (4) Field inspectors shall monitor catches at the landing place with a view to estimating catch-at-size by type of boat, gear and species, or carry out such scientific work as requested by the Scientific Committee of a relevant regional fisheries management organization.
- (5) The confidentiality rules, policy and procedures for fine-scale data set out in any applicable international conservation and management measure shall be applicable and have the force of law in [country].

Division 2 - Protection and obstruction of authorised persons

36. Definition of authorised person

For the purposes of this Division, “authorised person” includes authorised officers and observers appointed in accordance with this Act or under an observer programme of a relevant regional fisheries management organization.

37. Protection of authorised persons from liability

- (1) The [Authority], authorised persons, officers, employees and persons acting under the authority of the [Authority], including persons with delegated authority and any person assisting an authorised fisheries officer, who act or omit to act while performing or exercising functions, powers or duties under this Act or another legislative authority are not subject to any action, liability, claim or demand for anything done or omitted to be done in good faith, whether negligently or not, in the performance or exercise, or purported performance or exercise, of such functions, powers, or duties under this Act or other legislative authority.
- (2) Where a vessel is being brought to a place in [country] as directed in accordance with this Act:
- (a) if required to remain in control of the vessel, the master shall be responsible for the safety of the vessel and of each person on board until the vessel arrives at the designated place; and
 - (b) no claim may be made against an authorised person in respect of any death, injury, loss or damage that occurs while the vessel is being brought to such place.

38. Obstruction of, failure to comply with authorised persons

- (1) For the purposes of this Act, “fails” includes any effort which does not result in meeting the specified requirement.
- (2) A person commits an offence who:
 - (a) is the operator or a crew member of a vessel, and fails or refuses to allow or assist an authorised person to:
 - (i) safely board the vessel;
 - (ii) have full access to and use of such facilities, gear and equipment on board as the authorised person may determine is necessary to perform or exercise his or her functions, powers or duties, including the bridge, fish and fish products on board, gear and areas which may be used to hold, process, weigh or store fish;
 - (iii) have full access to the vessel’s records including its logbook, charts and documentation and other information relating to fishing, whether required to be carried and maintained under this Act or otherwise, for purposes of performing or exercising his or her functions, powers or duties under this Act, including records inspection and copying;
 - (iv) have access to navigational and communications equipment;
 - (v) take, measure, store on or remove from the vessel and retain, such reasonable samples or whole specimens of any fish as may be required for scientific purposes; and
 - (vi) safely disembark from the vessel;
 - (b) fails or refuses to allow, obstructs or hinders an audit, inspection, examination or search that is authorised under this Act;
 - (c) fails or refuses to facilitate by all reasonable means an authorised person’s entry into and any inspection of:
 - (i) any premises, facility or export facility, including storage areas and suspected storage areas, facilities or locations;
 - (ii) any fish or fish products, gear, equipment or records;
 - (d) fails or refuses to comply with a lawful instruction or direction given by an authorised person;
 - (e) denies a request made by an authorised person in the course of performing or exercising his or her functions, powers or duties under this Act, including a request for access to records, documents, areas, gear and equipment and a request that equipment be turned on;

- (f) fails or refuses to give the person's birth name, date of birth and place of abode to an authorised person, when lawfully required to do so;
- (g) when lawfully required to give information to an authorised person, gives information which is false, incorrect or misleading in any material respect;
- (h) resists lawful arrest for any act prohibited by this Act;
- (i) interferes with, delays or prevents by any means, the apprehension or arrest of another person by an authorised person, if the authorised person has reasonable grounds to believe that the person has committed an offence under this Act;
- (j) fails or refuses:
 - (i) to allow an authorised person to carry out his or her duties safely; or
 - (ii) to take all reasonable measures to ensure the safety of an authorised person as appropriate in the performance of his or her functions or duties;
- (k) impersonates an authorised fisheries officer or inspector or falsely represents himself or herself to be an authorised fisheries officer or inspector or a person lawfully acting under the [Authority]'s instructions or in aid of an authorised fisheries officer;
- (l) impersonates or falsely represents himself or herself to be the master or an officer, or not to be the master or an officer, of a vessel;
- (m) if requested by an authorised fisheries officer, fails to sail a seized vessel to a place in [country] designated by the authorised fisheries officer and fails to ensure the safety of all those on board;
- (n) bribes or intentionally attempts to bribe an authorised person;
- (o) interferes with an authorised person in the performance of his or her duties;
- (p) in any other way obstructs or hinders an authorised person in the performance or exercise of his or her functions, powers or duties under this Act;
- (q) is in breach of any other duty to an authorised person as required under this Act;
- (r) obstructs, resists, hides, delays, refuses boarding or other access to, intimidates or kidnaps:
 - (i) an authorised person who is carrying out his or her duties or exercising his or her powers under this Act or as a consequence of his or her having done so; or

- (ii) any person lawfully acting under an authorised fisheries officer's instructions or in his or her aid or as a consequence of his or her having done so,

or aids, incites, or encourages another person to do so; or
- (s) assaults, uses abusive or threatening language or insulting gestures or behaves in a threatening or insulting manner towards an authorised person who is performing or exercising his or her functions, powers or duties under this Act or as a consequence of his or her having done so, or towards any person lawfully acting under the authorised person's instructions or in his or her aid, or aids, incites or encourages another person to do so.
- (3) Any person who commits an offence described in::
 - (a) any of subsections (2)(a) to (q), except for subsection (2)(i), and upon conviction shall be liable to [a fine, term of imprisonment, penalty etc.].
 - (b) subsection (2)(i), (r) or (s) and upon conviction shall be liable to [a fine, term of imprisonment, penalty etc.].
- (4) It shall be a defence to any prosecution under subsection (2)(a)(i) if it is proved that compliance with the requirement for safe boarding of the relevant vessel would have placed the safety of the vessel or the lives of its crew in imminent and overwhelming danger for reasons unrelated to such boarding.

Division 3 - Inspection procedures

39. Pre-licensing / authorisation and unloading inspection procedures

An authorised officer shall, for the purposes of pre-licensing or unloading inspection, perform such inspections, carry out such procedures and apply such standards that may be prescribed or required by the [Authority] under this Act, or by an applicable international conservation and management measure, relevant regional fisheries management organization or international agreement.

40. Sea inspection procedures

An authorised officer shall, for the purpose of at-sea inspection, perform such inspections, carry out such procedures and apply such standards that may be prescribed or required by the [Authority] under this Act, or by an applicable international conservation and management measure, relevant regional fisheries management organization or international agreement.

Division 4 - Vessel Monitoring System and Automatic Identification System

41. Monitoring Systems - technical requirements

- (1) The [Authority] shall approve the technology to be used in relation to any monitoring system applicable to vessels which is required pursuant to this Act, which include:
 - (a) vessel monitoring system;
 - (b) electronic monitoring system;
 - (c) electronic reporting system;
 - (d) any other system or technology adopted by the [Authority] for purposes of monitoring, control or surveillance under this Act.
- (2) Technical requirements for mobile transceiver units, including installation, may be prescribed or required by the [Authority].
- (3) Any operator who does not comply with the technology or technical requirements designated by the [Authority], including installation, pursuant to subsection (1) or (2) in respect of any mobile transceiver unit used by the vessel shall, where a licence, authorisation, registration or other permission:
 - (a) has not yet been issued shall be denied such issuance, and
 - (b) has been issued, commits an offence and upon conviction shall be liable to [a fine, term of imprisonment, penalty etc.], and the [Authority] may suspend or cancel the Certificate of Registration and/or licence, authorisation or other permission where it is satisfied on reasonable grounds that the operator failed to comply.

42. Vessel monitoring system – requirements of operators

- (1) The operator of every vessel holding a valid and applicable licence or authorisation pursuant to this Act shall, unless the vessel falls within a category of vessels excepted by the [Authority] and unless otherwise prescribed:
 - (a) install and maintain a mobile transceiver unit in accordance with requirements in this Act or as may be prescribed or required by the [Authority], on board the vessel and ensure it is fully operational at all times;
 - (b) register the mobile transceiver unit in accordance with section 65 of this Act;
 - (c) ensure that the mobile transceiver unit is tamper resistant and of a type and configuration that prevent the input or output of false positions, and not capable of being over-ridden, whether manually, electronically or otherwise, and is:
 - (i) located within a sealed unit; and
 - (ii) protected by official seals (or mechanisms) of a type that will indicate whether the unit has been accessed or tampered with.

- (d) transmit the following information directly to the [Authority] at least once every hour, or such other time as may be prescribed or required under the applicable licence or authorisation:
 - (i) the vessel identification;
 - (ii) the current geographical position of the vessel (longitude, latitude) with a position error which shall be less than 500 metres, at a confidence level of 99% or such other requirements as may be prescribed or required under the applicable licence or authorisation; and
 - (iii) the date and time (expressed in UTC) of the fixing of the said position of the vessel;
- (e) ensure that:
 - (i) VMS reports and messages are not altered in any way;
 - (ii) the antennae connected to the mobile transceiver unit(s) are not obstructed in any way;
 - (iii) the power supply of the satellite monitoring device(s) is not interrupted in any way; and
 - (iv) the mobile transceiver unit(s) are not removed from the vessel.
- (2) In the event of technical failure or non-functioning of the mobile transceiver unit, the operator shall inform the [Authority] immediately and no later than one hour after failure, and:
 - (a) where the vessel has not begun a trip the operator shall not cause the vessel to depart;
 - (b) where the vessel is at sea the operator shall cause the vessel to travel to a port approved by the [Authority] within twenty-four hours and during that period shall report every half hour and shall comply with such other requirements as may be prescribed;
 - (c) shall repair or replace the unit within one month after which the operator shall not be authorised to commence a fishing trip without the unit having been repaired or replaced.
- (3) The operator shall comply, and ensure compliance by all persons associated with the vessel, with any conditions or other requirements that may be prescribed or required by the [Authority] or any applicable international conservation and management measure, including:
 - (a) the type of vessel monitoring system equipment to be used;

- (b) installation procedures;
 - (c) operational requirements;
 - (d) information requirements;
 - (e) confidentiality; and
 - (f) declarations and reports.
- (4) Where the power supply for the vessel monitoring system in the Fisheries Monitoring Center is interrupted, or the mobile transceiver unit fails to operate for any reason and it affects the entire vessel monitoring system including electronic monitoring and electronic reporting systems, the requirements of subsection (2) shall apply except that the [Authority] may allow the vessel to continue fishing under special arrangements that shall include the following:
- (a) reporting by any means of communication every three hours of the information required under subsection (1)(c);
 - (b) estimated time and port of arrival;
 - (c) inspection at port of the vessel and catch by an authorised fisheries officer;
 - (d) the operator shall provide a copy of the vessel's track for verification, provided that such special arrangements may only be made once in respect of each vessel, and the [Authority] shall maintain a record of the frequency of breakdown of Mobile Transceiver Units to ensure that there are no repeated uses or abuses of such arrangements.
- (5) A mobile transceiver unit may be switched off when the vessel is in port for a period of more than one week, subject to prior notification to and approval of the [Authority], provided that the first position report generated following the re-powering (activating) shows that the vessel has not changed position compared to the last report.
- (6) Any operator who does not comply with the requirements of subsections (1)(a), (b), (c) (d) or (e), (2)(a), (b) or (c), (3) (a), (b), (c) (d), (e) or (f) or a special arrangement made under subsection (4) or conditions of switching off the unit under subsection (5) commits an offence and upon conviction shall be liable to [a fine, term of imprisonment, penalty etc.].
- (7) Any person who, without lawful excuse, renders inoperative or otherwise interferes or tampers with a mobile transceiver unit so that it does not operate automatically or accurately or in accordance with any licence conditions or otherwise in accordance with

this Act commits an offence and upon conviction shall be liable to [a fine, term of imprisonment, penalty etc.].

43. Automatic identification system

- (1) The [Authority] may require, including as a condition of licence, authorisation or other permission, that the operator of the vessel maintains an Automatic Identification System on board in accordance with the specifications in Chapter V, Regulation 19 of the International Convention for the Safety of Life at Sea, and that the vessel continually reports to the Fisheries Monitoring Center.
- (2) A person who contravenes subsection (1) commits an offence and upon conviction shall be liable to [a fine, term of imprisonment, penalty etc.].

Division 5 - Port State Measures

44. Designation of ports

The Minister shall ensure:

- (a) the port or ports to which foreign vessels may request entry are designated and publicised; and
- (b) list of each port designated pursuant to paragraph (a) is provided to any international organization and to any relevant regional fisheries management organization pursuant to an applicable conservation and management measure.

45. Prerequisites for entry or use of port

The operator of a foreign vessel shall not enter or use a port in [country] unless:

- (a) where ports have been designated and publicised in accordance with section 110, such port has been so designated and publicised;
- (b) the operator has requested entry into port and provided such information as may be prescribed or required by the [Authority], for licensed vessels at least 24 hours in advance of port entry where the vessel holds a licence or authorisation to fish in [country] waters and 48 hours in advance where it does not, including for purposes of landing or transshipment of any fish or fish product;
- (c) the [Authority] has authorised entry of such vessel into port and communicated such authorisation to the master of the vessel and any agent of the vessel in [country]; and
- (d) upon the vessel's arrival at port, the master of the vessel or the vessel's representative has presented the authorisation for entry into the port to a person authorised to receive it on behalf of the [Authority].

46. Denial of entry into port and use of port

- (1) The [Authority], where there is sufficient proof that a vessel seeking entry into a port of [country] has engaged in IUU fishing or fishing related activities in support of such fishing, in particular where it is an IUU listed vessel:
 - (a) shall cause the vessel not to be authorised to enter port, and shall deny entry to such vessel; or
 - (b) notwithstanding paragraph (a), may allow such vessel to enter a port exclusively for the purpose of inspecting it and taking other appropriate actions in conformity with international law which are at least as effective as denial of port entry in preventing, deterring and eliminating IUU fishing and fishing related activities in support of such fishing; and
 - (c) shall communicate any decision taken pursuant to paragraphs (a) or (b) to:
 - (i) the vessel or its representative; and
 - (ii) as appropriate, to the relevant authority at [country] Ports [Authority], which shall implement the [Authority]'s decision taken under this Act.
- (2) The [Authority] may cause entry into and use of port to be denied to any vessel that he/she has reasonable grounds to believe has violated this Act and shall communicate such decision to persons described in subsection (1)(c).
- (3) Where entry or use of port is denied under subsection (1)(a) or (b) or (2), the [Authority] shall notify the decision to the operator, flag State of the vessel and, as appropriate, to each relevant coastal State, relevant regional fisheries management organization and other international organization.

47. Force majeure or distress

- (1) Nothing in this Act affects the entry of a vessel to port in accordance with the laws of [country] for reasons of *force majeure* or distress, providing:
 - (a) a claim of force majeure or distress shall not apply where:
 - (i) it is contrived, untrue or otherwise intentionally created; or
 - (ii) its objective is to avoid liability,
- and any person who makes an inapplicable claim commits an offence;

- (b) the burden of proof that a claim of force majeure or distress is valid and does not fall within prohibitions in paragraph (a) shall be on the vessel operator;
- (c) an authorised fisheries officer or other officer with authority to inspect may board and inspect the vessel at any time for the purpose of verifying the claim of force majeure or distress; and
- (d) a vessel that claims force majeure or distress shall be subject to the direction of the [Authority].
- (2) The [Authority] may grant a vessel that falls within the scope of this Act entry into port for reasons of *force majeure* or distress, provided that:
 - (a) the vessel may enter port under its claim of force majeure or distress for such period of time necessary to remedy such claim; and
 - (b) the vessel is permitted entry exclusively for the purpose of rendering assistance to persons or vessels in danger or distress.
- (3) The operator of a foreign vessel that is authorised to enter port pursuant to subsection (2) (a) or (b) shall not allow or cause such vessel to engage in the use of port.
- (4) The operator of a vessel in respect of which an inapplicable claim described in subsection (1)(a) was made or who does not comply with the requirements of subsection (3) commits an offence and upon conviction shall be liable to [a fine, term of imprisonment, penalty etc.].

48. Denial of use of port after entry

- (1) Where a vessel that has been authorised to enter port pursuant to section 111 (c) and (d) has entered a port, the [Authority] shall cause the use of port to be denied to such vessel if:
 - (a) the vessel does not have a valid and applicable authorisation or licence to engage in fishing or fishing related activities required by:
 - (i) its flag State; or
 - (ii) a coastal State in respect of areas under its national jurisdiction;
 - (b) there is clear evidence that the fish on board was taken in contravention of applicable requirements of a coastal State in respect of areas under the national jurisdiction of that State;

- (c) the flag State does not confirm within a reasonable period of time, on the request of the [Authority], that the fish on board was taken in accordance with applicable requirements of a relevant regional fisheries management organization; or
- (d) there are reasonable grounds to believe that the vessel was otherwise engaged in IUU fishing or fishing related activities in support of IUU fishing unless the operator or charterer of the vessel can establish:
 - (i) that it was acting in a manner consistent with relevant conservation and management measures, including international conservation and management measures; or
 - (ii) in the case of provision of personnel, fuel, gear and other supplies at sea, that the vessel that was provisioned was not, at the time of provisioning, a vessel that had engaged in IUU fishing.
- (2) Notwithstanding subsection (1), the [Authority] shall:
 - (a) not deny a vessel the use of port services:
 - (i) where such services are essential to the safety and health of the crew or the safety of the vessel, provided these needs are duly proven; or
 - (ii) as appropriate, for the scrapping of the vessel; and
 - (b) where the use of port has been denied, notify the decision to the flag State of the vessel and, as appropriate, to each relevant coastal State, any relevant regional fisheries management organization and other international organization.
- (3) Where the use of port has been denied pursuant to this Act, the [Authority], as appropriate on the advice of Attorney General shall:
 - (a) withdraw such denial in respect of a vessel only if there is sufficient proof that the grounds on which use was denied were inadequate or erroneous or that such grounds no longer apply; and
 - (b) promptly notify the withdrawal to each person that was notified pursuant to this Act.

49. Conduct of inspections of vessels in port

- (1) The [Authority] shall ensure that vessel inspections are conducted as necessary to achieve the objectives of this Act, and at least at a level that may be agreed pursuant to an applicable international conservation and management measure.
- (2) The [Authority] shall prioritize vessel inspections based on:

- (a) vessels that have been denied entry or use of a port in accordance with an applicable conservation and management measure;
 - (b) a request from another State or regional fisheries management organization to inspect a vessel, particularly where the request is supported by evidence of IUU fishing or fishing-related activities in support of IUU fishing by the vessel in question; and
 - (c) whether there are clear grounds for suspecting that a vessel has engaged in IUU fishing or fishing related activities in support of such fishing.
- (3) The [Authority] shall, to the extent possible, ensure inspection of a minimum level of vessels as may be required by any applicable conservation and management measure.
 - (4) During inspections of a vessel in port, authorised fisheries officers shall carry out inspection in conformity with such procedures as may be prescribed or required by the [Authority], and complete a written report of the inspection in such form as may be required or prescribed and submit it to the [Authority].
 - (5) The operator of the vessel shall, in relation to inspection of the vessel, give authorised fisheries officers all necessary assistance and information, and present relevant material and documents as may be required, or certified copies thereof.
 - (6) The [Authority] shall ensure that the results of an inspection under this Act are transmitted to:
 - (a) the flag State of the inspected vessel;
 - (b) as appropriate, parties to a relevant international agreement;
 - (c) relevant coastal State and the State of which the vessel master is a national;
 - (d) any relevant regional fisheries management organization; and
 - (e) other relevant international organizations.
 - (7) An operator who does not comply with, or cause compliance with subsection (5) commits an offence and upon conviction shall be liable to [a fine, term of imprisonment, penalty etc.].

50. Denial of use of port after inspection

- (1) Where, following an inspection, there are clear grounds for believing that a vessel has been used for engaging in IUU fishing or fishing related activities in support of such fishing, the [Authority] shall:

- (a) promptly notify the flag State and, as appropriate, relevant coastal States, RFMOs and other international organizations, and the State of which the vessel's master is a national of the findings; and
 - (b) cause denial of the use of port by the vessel if these actions have not already been taken in respect of the vessel.
- (2) Notwithstanding paragraph 1(b), the [Authority] shall not deny a vessel the use of port services, where such services are essential to the safety and health of the crew or the safety of the vessel, provided these needs are duly proven.

51. Requirements for [country] registered vessels

- (1) The operator of each [country] registered vessel shall:
- (a) not enter a foreign port without requesting entry into such port at least 72 hours in advance and holding valid and applicable authorisations issued by the [Authority] and the competent authority in the relevant port State;
 - (b) cooperate fully with inspections carried out in the ports of other States in accordance with their laws and procedures; and
 - (c) not engage in any use of port, including landing, transshipping, packaging or processing fish or using other port services, in a port State identified by a relevant regional fisheries management organization as not acting in accordance with, or in a manner consistent with, applicable international or regional instruments or international conservation and management measures relating to port State measures.
- (2) Where there are clear grounds to believe that a [country] registered vessel has engaged in IUU fishing or fishing related activities in support of such fishing and is seeking entry to or is in the port of another State, the [Authority] shall, as appropriate request such State to inspect the vessel or take other measures consistent with applicable international or regional instruments.
- (3) Where, following port State inspection in another State, there are clear grounds to believe that a [country] registered vessel has engaged in IUU fishing or fishing related activities in support of such fishing, the [Authority] shall cause the matter to be immediately and fully investigated and, upon sufficient evidence shall cause enforcement action to be taken without delay in accordance with this Act.
- (4) Any operator of a [country] vessel that contravenes subsection (1)(a), (b) or (c) commits an offence and upon conviction shall be liable to [a fine, term of imprisonment, penalty etc.], and the authorisation of the vessel may be cancelled.

Division 6 – Miscellaneous

52. Presumptions of IUU fishing in contravention of international conservation and management measures

- (1) The operator of a vessel is presumed to have engaged in IUU fishing or related activities where such vessel has, in contravention of any international conservation and management measure of a relevant regional fisheries management organization and in relation to its area of competence:
 - (a) engaged in fishing or related activities and was not registered on the relevant Record of Vessels authorised to fish for such species or recorded in the Active List of Vessels;
 - (b) engaged in fishing or related activities when its flag State was without quota, catch limit or effort allocation under an applicable international conservation and management measures unless flagged to a member or cooperating non-member of such organization;
 - (c) failed to record or report its catches in accordance with any applicable conservation and management measure or has made false reports;
 - (d) taken or landed undersized fish;
 - (e) engaged in fishing or related activities during closed fishing periods or in closed areas;
 - (f) used prohibited gear;
 - (g) transhipped fish to, or otherwise participated in joint operations with, supported or re-supplied vessels not included on the Record of Authorised Vessels or on the Record of Vessels Authorised to Received Transshipments At-Sea;
 - (h) engaged in fishing or related activities in [country] waters in contravention of this Act or in areas under the jurisdiction of any other coastal State in contravention of the legislation of that State;
 - (i) engaged in fishing or related activities while being without nationality;
 - (j) engaged in fishing or related activities having intentionally falsified or concealed its markings, identity of registration; or
 - (k) engaged in fishing or related activities in contravention of any other applicable international conservation and management measure,

and the [Authority] shall provide information and evidence to a relevant regional fisheries management organization where any vessel has engaged or is engaging in an activity that is presumed to involve IUU fishing.

- (2) The presumption in subsection (1) shall apply to any vessel in [country] waters and any [country] registered vessel in areas beyond national jurisdiction.
- (3) Notwithstanding subsection (2), and where it is presumed that any vessel in [country] waters has engaged in IUU fishing or related activities in any place beyond [country] waters in the area of competence of the relevant regional fisheries management organization, the operator such vessel shall be deemed to have committed an offence under this Act.

An operator of a vessel that is presumed to have engaged in any IUU fishing or related activity as defined in subsection (1) commits an offence and upon conviction shall be liable to [a fine, term of imprisonment, penalty etc.], and an applicable licence, authorisation, registration or other permission of the vessel may be revoked.

53. Actions in relation to vessels on an IUU Vessels List of a regional fisheries management organization

- (1) The operator of any [country] registered vessel, cargo vessel or other ship shall not, in relation to any vessel that is entered in an IUU Vessels List of a regional fisheries management organization, provide assistance in any way, engage in fish processing operations, or participate in transshipment or joint fishing operations with such vessel, except for rendering assistance where such vessel, or any person on that vessel, is in danger or distress.
- (2) The following shall be prohibited in respect of vessels included in an IUU Vessels List of a regional fisheries management organization, and an operator of such vessel shall not undertake any activity, make any request or seek any permissions in relation to:
 - (a) entry into any [country] port, except in cases of force majeure or where the vessel, or any person on that vessel, is in danger or distress unless entry is permitted for the exclusive purpose of inspection and effective enforcement action;
 - (b) chartering of such vessel;
 - (c) registration of such vessel in [country], except if the vessel has changed owner and the new owner has provided sufficient evidence demonstrating the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel; or having taken into account all relevant facts, the [Authority] determines that granting the vessel its flag will not result in IUU fishing; and

- (d) importing, landing or transshipment of species within the competence of such organization.
- (3) No person shall engage in transactions, including import, landing and transshipments, of species under the mandate of the regional fisheries management organization and caught or carried by a vessel on its IUU Vessels List.
- (4) The [Authority] shall collect and exchange with other members and cooperating non-members of a regional fisheries management organization any appropriate information with the aim of detecting, controlling and preventing false import/export certificates for fish from vessels included in the IUU Vessels List.
- (5) An operator that contravenes the provisions of subsection (1), (2) or (3) commits an offence and upon conviction shall be liable to [a fine, term of imprisonment, penalty etc.], and an applicable licence, authorisation, registration or other permission of the vessel may be cancelled.



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