

Indian Ocean Tuna Commission
Third Meeting of the Working Party on the Implementation of Conservation and Management Measures
Nairobi, Kenya | 12-14 February 2020

Concept Note

Cooperation Programme between the Indian Ocean Memorandum of Understanding on Port State Control and the Indian Ocean Tuna Commission

Background

The Third Session of the Joint FAO/IMO Ad Hoc Working Group on Illegal, Unreported and Unregulated (IUU) Fishing and Related Matters (JWG3) was held in November 2015. Amongst various issues of mutual interest to the FAO, the IMO, and their Members, the meeting considered ways to enhance cooperation in undertaking vessel inspections under regional fisheries management organizations (RFMOs) and port State control (PSC) regimes that implement requirements under IMO agreements.

The link between safety at sea, forced labour and IUU fishing was recognized. In this context, the 2007 ILO Work in Fishing Convention, 2007 (No. 188) (C188), the 2009 FAO Port State Measures Agreement (PSMA) and the 2012 IMO Cape Town Agreement (CTA) were considered. These international instruments all include provisions related to port inspections, and their consistent application would ensure that ports represent an effective front in combatting IUU fishing, whilst contributing to improved safety and health in the fisheries sector and labour conditions on board fishing vessels.

Understanding that there is a common area of interest in port inspections between PSC regimes and RFMOs, and that fishing vessels fall under the purview of both, the JWG3 recommended that the FAO, in cooperation with the IMO and ILO, and if appropriate, PSC regimes, and RFMOs, encourage the coordinated implementation of the PSMA, with other types of inspections which might be carried out.

The FAO, ILO and IMO submitted a proposal to the IOMoU's 22nd Committee Meeting, in August 2019, for the IOMoU to consider a cooperation programme with the IOTC. The Committee gave the IOMoU Secretariat its approval to embark on such a cooperation programme, subject to concurrence by the IOTC.

The Fourth Session of the Joint FAO/ILO/IMO Ad Hoc Working Group on IUU Fishing and Related Matters (JWG4), was held in Torremolinos, Spain, in October 2019 and discussed the need for cooperation, coordination and information sharing related to inspections under FAO/ILO/IMO instruments regarding fishing vessels, fishing vessel personnel and fishing operations. The JWG4 welcomes the IOMoU's initiative to explore a collaborative programme with the IOTC, pending consideration by the Members. It also recommended further exchange between the Secretariats of the IOMoU and the IOTC for mutual awareness and the consideration of training material, as appropriate.

Rationale

The PSMA is implemented by Parties at a national level. However, the IOTC, like other RFMOs, has adopted a Conservation and Management Measure (CMM) that is aligned with the PSMA (IOTC Resolution 10/11 on PSMR, superseded by Resolution 16/11), requiring compliance by the Members irrespective of whether they are Parties to the PSMA or otherwise, and thus improving the standard of port inspections on fishing and fishing-related vessels at a regional level. However, as port State measures have been developed with a focus on fisheries management, they do not account for safety, labour or pollution prevention-related issues, meaning that these factors still need to be inspected.

Within the merchant sector, nine regional PSC regimes exist that inspect foreign-flagged ships in port against relevant international conventions covering vessel safety, operations, working and living conditions, crew training and pollution prevention, including the C188¹ and CTA. The port States authorities take action against ships that are not in compliance. PSC regimes cover multiple 'relevant instruments' that apply to fishing vessels and their crews, and therefore require awareness of fishing vessels and other vessels involved in fishing-related activities when coordinating and regulating inspections, but such vessels are currently excluded from the regimes.

This situation presents a risk of inconsistent or incompatible work, potentially causing a cost and resource burden to the port State. Therefore, a holistic and effective approach to implementation of the individual PSC/PSM inspections outlined in the relevant instruments is necessary, putting emphasis on the cooperation and coordination, at national and regional level, between relevant administrations, including but not limited to maritime, labour and fisheries administrations, RFMOs and PSC regimes.

Proposal

In line with the recommendation from its last Committee Meeting, the IOMoU would like to propose that the IOTC consider joining a cooperation programme between the two organizations, who would be invited to work together with the Secretariats of the FAO, ILO, IMO.

This programme would focus on:

- raising awareness of inspectors under the different regimes of each other's work to improve the coordination and efficiency of the implementation of the instruments in question;
- analysing the IOTC's PSMs CMM and the IOMoU's procedures to identify commonalities and/or potential obstacles in their consistent application by national port administrations; and
- developing proposal(s) for information exchange on fishing vessels and their inspections, between the IOMoU and the IOTC.

In refraining from ruling out the possibility to enlarge the scope of the proposed coordination, the programme could also consider, inter alia:

¹ The ILO has also adopted *Guidelines for port State control officers carrying out inspections under the Work in Fishing Convention, 2007 (No. 188)* (see: https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/normativeinstrument/wcms_177245.pdf).

- the analysis of the legal framework applicable to fishing vessels, as defined in various instruments and agreements, with the aim of identifying elements for coordination of inspections in the overall context of avoiding multiple inspections and targeting non-compliant vessels, while taking into account the different objectives of inspection regimes;
- the definition of clear grounds and procedures within the IOMoU scheme to trigger inspections by the fisheries administrations of IOTC Members and vice versa, and to promote coordination thereof; and
- the identification of capacity-building needs and training criteria for the IOTC, individually or in partnership with IOMoU, as appropriate, in line with the IOTC PSMs CMM, as well the C188, the CTA ahead of its expected entry into force, and the relevant IMO conventions covered by the IOMoU.

Should the IOTC's WPICMM agree in principle, IOTC and IOMoU Secretariats would work together to develop draft Terms of Reference, and identify necessary and available funding, for the cooperation programme, for presentation at the IOTC's Annual Session.

Subject to positive results from this phase, as well as continued interest and capacity of the two organizations, this body of work could evolve into a pilot project on PSC-PSM collaboration based on the findings of the initial cooperation programme.
