



## **REGIONAL COOPERATION FOR SUPPORTING THE IMPLEMENTATION OF THE PORT STATE MEASURES IN ASEAN REGION**

*SEAFDEC Secretariat in Collaboration with TD*

### **I. INTRODUCTION AND RATIONAL**

The importance of port State measures (PSM) are included in the International Plan of Action to prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU) adopted by the FAO Committee on Fisheries (COFI) in 2001. FAO has identified PSM as an effective means of combatting Illegal, Unreported and Unregulated Fishing including identifying the need to build capacity and for human resources development to implement port State measures. Later, the FAO Conference adopted resolution 12/2009 approving the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, as a legally binding instrument in 2009. The Objective of the PSM is to “prevent illegally caught fish from entering international markets through ports”. To do so, port State needs to take the actions on restriction of entry into port, use of port, access to port services, in addition the inspection and other enforcement activities are also mentioned in the PSM.

Taking into account the importance of seafood trade from Southeast Asia of around the world and to avoid any negative impact international or intra-regional trade, the implementation of port State measures are therefore needed together with other regional management measures developed under the ASEAN-SEAFDEC Collaborative Framework such as ASEAN Catch Documentations Scheme, Regional Fishing Vessels Record (RFVR), ASEAN Guidelines to Prevent the Entry of Fish and Fishery Products from IUU Fishing into the Supply Chain, etc.

Implementation of PSM requires not only appropriate country laws and regulations that are consistent with international law and qualified inspectors capable of examining all relevant areas of the vessel, the fish on board, the nets and any other gear, equipment, and any document or record on board. In addition, it also requires the international, regional and inter-agency cooperation on exchange of information. However, due to the high volumes of seafood trade in ASEAN region, there are human resource, institutional and infrastructure constraints for effective implementation of port State controls for all foreign fishing vessels SEAFDEC therefore proposes to establish the Regional Cooperation to support the effective implementation of the port State measures. In addition to the standard approach, harmonized approaches for all foreign-flagged vessels of the AMSs in which the port State measures need to be harmonized and agreed by all AMS and aligned with the international and regional agreement/measures, as well as link to the existing management tools such as ACDS, the Guideline on Preventing IUU products, and the Regional Fishing Vessels Record.

Under the ASEAN-SEAFDEC Strategic Partnership Program, SEAFDEC convened the Expert Meeting on Regional Cooperation for Supporting the Implementation of Port State Measures in Southeast Asian Region was conducted from 2-4 February 2016. The preliminary assessment on the current status, constraints/problems on the implementation of the PSM, and the recommendation for development of the regional cooperation were discussed and finalized as follows:

### **II. NATIONAL INITIATIVES, CURRENT STATUS ON IMPLEMENTATION OF PORT STATE MEASURES**

- a) CAMBODIA
  - Laws and regulations support PSM implementation

- In the process to develop NPOA-IUU which will also include PSM
  - PSM has not really applied since no foreign vessels unloading in the country
  - No designated port for PSM
- b) INDONESIA
- Signed the PSMA and preparing to ratify the FAO PSMA
  - Following the IOTC resolution on PSM to prevent, deter and eliminate IUU fishing
  - 5 designated ports for PSM implementation
  - At present, no foreign or joint venture fishing vessels operating in the EEZ
  - Requirement of foreign fishing vessels information prior to entering into port
  - Implement the EC-Catch Certification, the CCSBT CDS, and IOTC resolution on CDS for big-eye tuna statistic
  - Decree laws and regulations to support PSM implementation
  - NPOA-IUU linked to the implementation of PSM
  - Conduct some capacity buildings on PSM and relevant activities for staff concern
- c) MALAYSIA
- Only one designated of port in Penang under IOTC requirement
  - Domestic law supports the implementation of PSM
  - Foreign fishing vessel is required to get written approval prior to land fish
  - Continuous capacity building on PSM for officials from relevant agencies
  - NPOA-IUU developed in 2013
- d) MYANAMAR
- Signed for accession the FAO PSMA in 2010
  - Decree for laws and regulations to support PSM implementation
  - Local and foreign fishing vessel has to be inspected in check points before entering landing site
  - Designated five port for foreign fishing vessel which operate in Myanmar EEZ
  - Implement check point as one stop service to inspects the fishing vessel when they go to fishing ground and come back to the port
  - Implementation of catch certification scheme for EU regulation
  - Preparing NPOA-IUU linked to the PSMA
- e) PHILIPPINES
- One designated port for foreign vessel in Davao and is planning to designate on more port in General Santos
  - Fishing vessel must submit prior notification information to the one-stop action center
  - Enacted law and regulation to support PSM implementation
  - Foreign fishing vessel is required to submit catch documentation in support to PSM implementation
  - Develop the NPOA-IUU in 2013 which include PSM
  - Sign the instrument of accession to the 2009 FAO PSMA in 2016 and is currently in the process of ratification
  - Conducted capacity building training for PSM implementation for local inspectors
- f) SINGAPORE
- 3 ports for the import, export and transshipment of fish: Jurong Fisheries Port, Jurong Port and Senoko Fisheries Port
  - Advanced notification of arrival for foreign fishing vessel
  - Compliance with CCAMLR's Catch Documentation
  - Collaboration with ICCAT issuance of re-export certificates for Big-eye Tuna and Swordfish

g) THAILAND

- 46-ports have designated for PSM and on-going for revision
- Implemented pilot project on PSM at Phuket in 2012-2014
- Preparing for accession to the 2009 FAO PSMA
- Significant enforcement activities
- Requirement prior to port entry
- Relevant activities to PSM (Traceability system, MCS)
- Decree law and regulation to support PSM implementation
- Development of NPOA-IUU with support PSM implementation
- Developing “Processing Statement and PSM Linked System” (PPS)
- Updated inspection manual base on information provided by MoU and NPCI

h) VIET NAM

- No designated port for foreign fishing vessels
- Requirement information prior to port entry
- Law, decree and regulation to support PSM implementation
- Development of NPOA-IUU with support PSM implementation

### III. SUMMARY OF CONSTRAINTS/PROBLEMS ON PSM IMPLEMENTATION

**Table 1:** Summary of the constraints/problems on PSM implementation by ASEAN Member States.

Constraints/Problems	CM	ID	MY	MM	PH	SG	TH	VN	Challenges
<u>Operational</u>									
• Lack of standard operating procedure (SOP) in implementing PSM with any scale of vessel	X	X			X		X	X	1. Renew and reorganize fishing port operational procedure to support PSM 2. Development of harmonized SOP on vessel inspection at port for guidance of all AMS 3. Identify needs and capacity building for staff concern on relevant PSM implementation 4. Difficulties in verification of vessel documentation and inspection
• For port managed under different agency; insufficient inter-agency cooperation for port PSM implementation	X	X		X				X	
<u>Legal</u>									
• Challenge with regards to implementation of laws and regulations	X	X	X				X	X	1. Inconsistent law interpretation
• Challenge in interpretation of PSMA	X	X			X	X	X	X	
<u>Human resource</u>									
• Limit of capacity of implementing facilities and officer concern	X	X		X		X	X	X	<none>
<u>Infrastructure</u>									
• Insufficient infrastructure and lack of budget for infrastructure to support PSM	X	X		X			X		<none>
<u>Information</u>									
• Lack of fish landing data system and management,	X		X*						1. Encourage “traders“ to cooperate with AMS through information and

Constraints/Problems	CM	ID	MY	MM	PH	SG	TH	VN	Challenges
such as the IUU vessel list from RFMOs is not updated									education campaigns 2. Sharing of information such as catch, fishing vessel, fishing gear through sharing of experience in PSM implement among AMS 3. Information sharing on rules and regulations for inter-agency collaboration and implementation • Create “rapid alert system” for ASEAN (through Mobile Application if available) • Establishment of the ACDS
• Lack of regional network, MCS and information sharing in concern agencies among country	X	X	X**	X	X		X	X	
• Lack of awareness about PSM among the stakeholder	X	X							
• Limited traceability of some imports						X			
• Control of ports fall under different port authorities			X						
<u>Measures related to PSM implementation</u>									<none>
• Lack of vessels registration and fishing license system management	X								

Note: \* Malaysia’s experience shows that RFMO’s IUU vessel list may not be up-to-date  
 \*\* Malaysia sees information sharing with regards to PSM implementation e.g. inspection report as a challenge rather than an issue for the region

#### IV. DEVELOPMENT OF THE REGIONAL COOPERATION ON PSM

Based on the discussion, there are other three challenges needed to be considered for future actions as follows:

- ❖ Regional cooperation on PSM and related issues among AMS
- ❖ Strengthening bilateral/ multilateral arrangement on all IUU activities through PSM implementation and MCS network
- ❖ Identification of a model port for demonstration of PSM best practices within the ASEAN region

In this connection, the recommendations for Regional Cooperation to support the implementation of the port State measures are summarized in Table 2:

**Table 2:** Recommendations for Regional Cooperation to support the implementation of the port State measures

Refers to the PSMA		Recommendations of Regional Cooperation on PSM implementation
PART	Article No.	
Entry Into Port	Article 7: Designated port	<ul style="list-style-type: none"> <li>❖ Encourage AMS to identify designated ports for foreign fishing vessel and encourage not to allow foreign fishing vessel to unload fish and fishery products in non-designated ports.</li> <li>❖ The list of designed ports should include information of the name of the port, address of location, contact person and his/her designation as well as official website in English version.</li> <li>❖ SEAFDEC shall publicize the information of AMS’ s designated ports.</li> </ul>

Refers to the PSMA		Recommendations of Regional Cooperation on PSM implementation
PART	Article No.	
	Article 8: Advance request for port entry	<ul style="list-style-type: none"> <li>❖ AMS shall require, as a minimum standard, the information requested in <b>Annex A</b><sup>1</sup> or relevant document to be adopted by AMS<sup>2</sup> to be provided before granting entry to a vessel to its port.</li> <li>❖ To support the implementation by port State, database module of the list of vessels shall be expansion developed based on the existing Regional Fishing Vessels Record (RFVR).</li> </ul>
	Article 9: Port entry, authorization or denial	<ul style="list-style-type: none"> <li>❖ Information exchange on the country laws and regulations shall be shared among the AMS taking into accounts that some AMSs (e.g. Malaysia and Indonesia) do not allow its fishing vessel excluding carriers to unload catch at other country ports.</li> <li>❖ To encourage AMS to require foreign fishing vessels and carriers to submit pre-arrival information (such as approval to land catch, origin of catch or certificate of catch) so that port State can decide whether to authorize or deny the entry of this vessel into their port. Decision to deny shall be communicated to the flag state</li> <li>❖ To provide the awareness building to relevant stakeholders (e.g. fishing boat owner, importer, port authority, etc.) at national level to enhance the better understanding the country laws and regulations, and other procedure on Inspections.</li> </ul>
Inspections and Follow-Up Action	Article 12: Levels and priorities for inspection	<ul style="list-style-type: none"> <li>❖ Adopt the Standard Operating Procedures (SOP) on the risk assessment and inspection of vessels through the harmonization/consultation workshop.</li> <li>❖ AMS may consider minimum levels for inspection of vessels through, as appropriate, agreement among all AMSs.</li> <li>❖ To support inspection of the vessels, the historical data/information of vessel are required in the database module of vessels.</li> </ul>
	Article 15: Transmittal of inspection results	<ul style="list-style-type: none"> <li>❖ AMS shall transmit the results of each inspection to the flag State of the inspected vessel</li> <li>❖ AMS shall submit SEAFDEC the total number of inspection annually.</li> <li>❖ When AMS flagged vessel has been denied entry, denied the use of port or denied the landing of fish, the port State needs to share the summary report of inspection to SEAFDEC.</li> </ul>
	Article 16: Electronic exchange of information	<ul style="list-style-type: none"> <li>❖ To facilitate implementation of this Regional Cooperation, each AMS, where possible, establish a communication mechanism that allows for direct electronic exchange of information, with due regard to appropriate confidentiality requirements. In addition, AMS should cooperate to establish an information-sharing mechanism by SEAFDEC to facilitate the exchange of information with existing database for this cooperation.</li> </ul>
	Article 17: Training of inspectors	<ul style="list-style-type: none"> <li>❖ Request FAO, RFMOs, ASEAN, SEAFDEC and relevant agencies on training of trainer for port inspections</li> </ul>

<sup>1</sup> Refers to ANNEX 1 of the 2009 Agreement of the port State measures

<sup>2</sup> SEAFDEC to provide a simplified document for small fishing vessel for adoption by AMS

Refers to the PSMA		Recommendations of Regional Cooperation on PSM implementation
PART	Article No.	
		including legal and operational aspects with an emphasis on practical hands-on component ❖ Develop a network/team among AMSs on training of trainer for port inspections ❖ Consider an existing training module developed by RPOA-IUU in collaboration with the Australian Maritime on port inspections to support the TOT programs.
	Article 18: Port State actions following inspection	❖ Publicize and awareness building on standard inspection procedure

## V. WAY FORWARD

Adopted in 2009 by the U.N. Food and Agriculture Organization, the treaty requires parties to exert greater port controls on foreign-flagged vessels, and as a result to keep illegal, unreported, and unregulated, or IUU, fish out of the supply chains in the world's markets by removing the incentive for dishonest fishing operators to continue their illegal activities. In other words, Implementation of the port State measures are in fact needed by all ASEAN Member States that allow foreign-flagged vessels to entry into port. The concerned stakeholders such as fishing boat operators, boat owners, exporter, importers, and etc. are needed to understand the situation while support the port authorities to effectively implementation the PSM, taking into consideration that port States enforcing the treaty will refuse port entry or access to port services, including landing and transshipment of fish, to foreign-flagged vessels known to have engaged in IUU fishing.

For further support the development of regional cooperation in the implementation of PSM in the ASEAN Region, SEAFDEC will continue work in close collaboration with its Member countries under the supervision from the Council Directors. In connection to this, Table 3 shows the work plan for development of the Regional Cooperation through the harmonization, sharing of information to support the effective implementation at region level, testing of the system, and process on adoption of the system from 2016 till April 2018.

**Table 3.** Work plan for development of the Regional Cooperation on PSM

ACTIVITY	SCHEDULE
❖ Experts Meeting on establishment of the vessels database system to support the PSM implementation	DEC. 2016
❖ Technical workshop on SOP on vessel inspections	FEB. 2017
❖ Development of the database system	JAN – OCT 2017
❖ Testing the system through pilot site demo	AUG 2017 – FEB 2018
❖ Adoption of the system	APR 2018

## VI. REQUIRED CONSIDERATION BY THE COUNCIL

The 48<sup>th</sup> Meeting of the Council of SEAFDEC is requested to take note and endorsement the proposed Regional Cooperation for Supporting the Implementation of Port State Measures in ASEAN Region. The Council is also invited to advise and comments for effective implementation of the PSMA in the ASEAN region to enhance the capability of ASEAN Member States in combating IUU fishing through the PSM.