**Working paper on the alignment of the NEAFC Scheme of Control and Enforcement with the FAO PSMA**

*Possible outline of an alternative Chapter V of the Scheme*

**CHAPTER V – Port State Control of foreign fishing vessels**

**Article 20 – Scope**

The provisions in this Chapter apply to use of ports of Contracting Parties by fishing vessels with catch on board of [fisheries] resources [subject to recommendations established under the Convention] that have been caught in the Convention Area by foreign fishing vessels and that have not been previously landed or transhipped at a port.

**Article 2120A – Application of the FAO Agreement on Port State Measures**

1. [Port State Control of foreign fishing vessels shall be governed *mutatis mutandis* by the provisions relating to the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (hereafter referred to as the FAO PSMA)\(^1\).]

   [The provisions in this chapter shall be read in conformity with the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (hereafter referred to as the FAO PSMA), without prejudice to stricter provisions adopted by NEAFC.]

2. Contracting Parties shall cooperate in the effective implementation of the FAO PSMA and in the exchange of [relevant] information [relevant to the implementation of the Scheme].

3. A Contracting Party that is not a Party to the FAO PSMA shall adopt and implement measures consistent with the provisions of the FAO PSMA, and transmit to the Commission an annual statement of the actions it has taken in this respect.

   [4. The relevant parts of the FAO PSMA shall apply whether or not Contracting Parties are also Party to the FAO PSMA.]

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\(^1\) [The full implementation of the FAO PSMA could be clearly highlighted by simply keeping those provisions of the Scheme that go beyond the ‘minimum standard’ set by the FAO PSMA. This is the legal drafting technique used in the *NEAFC Recommendation establishing procedures for the settlement of disputes*. Obviously CPs would concurrently implement their own port State measures as required by FAO]
[Article 22-20B – Measures supplementing certain provisions of the FAO Agreement on Port State Measures]

[Measures supplementing certain provisions of the FAO PSMA are laid down in Article 23 through Article XY.]

[Article 23-20C – Article … to be further developed]

[Issues to be covered in Articles 23 through XY:

1. For the purpose of providing the information required pursuant to Article 8 of the FAO PSMA prior to entry into port, the Port State Control forms in Annex XV shall be used.

(the PSC1/PSC2 forms as revised by the AHWGPSC and the new PSC4 form developed by the AHWGPSC)

2. The minimum level of inspection referred to in Article 12 (2) of the FAO PSMA is set at 5% of landings or transhipments in its ports during each calendar year.

3. For the purpose of producing the written report with the results of each inspection, referred to in Article 14 of the FAO PSMA, the Port State Inspection form in Annex XVI shall be used.

the PSC3 form as revised by the AHWGPSC]