

National Plan of Action of the Republic of China (Taiwan)¹ to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated (IUU) Fishing

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¹ The official designation of the Republic of China (Taiwan) is "the Republic of China", which is known by the international community as "Taiwan". Sometimes, the designation of "Chinese Taipei" or "Fishing Entity of Taiwan" is used for the participation in international fisheries organizations. For the purpose of this document, and for easy expression, the term "Taiwan" is hereinafter used. It should be noted that such term does not have or intend to have any political perception or implication, and should not be regarded as a precedent for the other relevant documents.

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ACRONYMS AND ABBREVIATIONS

1982 UNCLOS: United Nations Convention on the Law of the Sea of 10 December 1982

1993 Compliance Agreement: 1993 FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas

1995 UNFSA: 1995 United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks

ALC: Automatic location communicator

CCSBT: Commission for the Conservation of Southern Bluefin Tuna

CITES: Convention on International Trade in Endangered Species of Wild Fauna and Flora

COA: Council of Agriculture of Executive Yuan

COFI: Committee on Fisheries of FAO

DNID: Data Network Identification

EEZ: Exclusive Economic Zone

EU: European Union

EU IUU regulations: COUNCIL REGULATION (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999

FA: Fisheries Agency of Council of Agriculture of Executive Yuan

FAO: Food and Agriculture Organization of the United Nations

FAO Code of Conduct: FAO Code of Conduct for Responsible Fisheries

FFA: Pacific Islands Forum Fisheries Agency

FMIS: Fisheries Management Information System of the Fisheries Agency

IATTC: Inter-American Tropical Tuna Commission

ICCAT: International Commission for the Conservation of Atlantic Tunas

IOTC: Indian Ocean Tuna Commission

IPOA-Capacity: International Plan of Action for the Management of Fishing Capacity

IPOA-IUU: International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing

IPOA-Sharks: International Plan of Action for the Conservation and Management of

Sharks

IPOA-Seabirds: International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries

IUU Fishing: Illegal, Unreported and Unregulated Fishing

MCS: Monitoring, control and surveillance

MOU: Memorandum of Understanding

NPAFC: North Pacific Anadromous Fish Commission

NPFC: North Pacific Fisheries Commission

NPOA-Capacity: National Plan of Action for the Management of Fishing Capacity

NPOA-IUU: National Plan of Action to Prevent, Deter and Eliminate IUU Fishing

NPOA-Sharks: National Plan of Action for the Conservation and Management of Sharks

NPOA-Seabirds: National Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries

PNA: Parties to the Nauru Agreement

RFMO: Regional fisheries management organization

SPRFMO: South Pacific Regional Fisheries Management Organization

VMS: Vessel monitoring system

WCPFC: Western and Central Pacific Fisheries Commission

WTO: World Trade Organization

Coast Guard Administration: Coast Guard Administration, Executive Yuan

EXECUTIVE SUMMARY

This document which has been developed in accordance with the IPOA-IUU adopted in 2001 by the FAO outlines Taiwan's NPOA-IUU.

Most of the global fisheries resources have been fully exploited or over-exploited, and RFMOs and the countries concerned are endeavoring to take actions to conserve and manage the marine fisheries resources. However, IUU fishing undermines international, regional, and national efforts to effectively conserve and manage fish stocks. In response to the request of the IPOA-IUU and to show its determination to combat IUU fishing for the purpose of sustainable utilization of marine fisheries resources, Taiwan hereby draws up this document.

The development of Taiwan's NPOA-IUU is in line with the provisions of the IPOA-IUU. Its content covers the responsibilities of all States, as well as measures to be taken by flag States, coastal States, and port States. It also covers international agreed market-related measures, research, measures to be taken by States through RFMOs and the special requirements of developing countries. In some of the chapters, more focuses are given on the legal framework of Taiwan's fisheries management and the MCS measures it has adopted, including the control over its nationals in preventing them from supporting or engaging in IUU fishing activities. It also outlines Taiwan's participation in the work of RFMOs and its cooperation with the international community in the market-related measures to combat IUU fishing. In addition, this document also describes the scientific research conducted by Taiwan in identifying shark and tuna species by means of DNA markings, and the actions taken by Taiwan for rendering assistance to developing countries.

This document reflects the obligations that Taiwan has already agreed to be bound in conserving and managing marine fisheries resources and their sustainable utilization, either under international legal instruments or under regional fisheries management organizations. Therefore, to some extent this document can be seen as a record of actions already taken by Taiwan. Suggestions are made in this document to address the direction of management measures needs to be taken by Taiwan in the future, so as to strengthen its ability to further combat, deter and eliminate IUU fishing. Taiwan's NPOA-IUU will be reviewed and revised in due course, as appropriate, to ensure Taiwan's continued effective efforts to combat, deter and eliminate IUU fishing.

1. INTRODUCTION

1.1. Purpose

This document outlines Taiwan's NPOA-IUU. In 2001, the FAO adopted the IPOA-IUU, calling upon States to develop their NPOA-IUU for the purpose of prevention, determent and elimination of IUU fishing activities. In response to the request of IPOA-IUU and to demonstrate its determination to combat, deter and eliminate IUU fishing in fulfilling the objective of sustainable utilization of marine fisheries resources, Taiwan hereby develops this document.

1.2. FAO IPOA-IUU

The IPOA-IUU was developed within the framework of the FAO Code of Conduct, and it is a voluntary instrument. The objective of the IPOA-IUU is to prevent, deter and eliminate IUU fishing by providing all States with comprehensive, effective and transparent measures for actions, including through appropriate RFMOs which have been established in accordance with international law. The IPOA-IUU calls on all States to develop and implement their NPOAs to further achieve the objectives of the IPOA-IUU and give full effect to its provisions as an integral part of their fisheries management system. The IPOA-IUU incorporates the following principles and strategies:

- (1) Participation and coordination: To be fully effective, the IPOA should be implemented by all States either directly, in cooperation with other States, or indirectly through relevant RFMOs or through FAO and other appropriate international organizations. The full participation of stakeholders in combating IUU fishing, including industry, fishing communities, and nongovernmental organizations, should be encouraged.
- (2) Phased implementation: Measures to prevent, deter and eliminate IUU fishing should be based on phased implementation of NPOAs, and regional and global plan of actions in accordance with the IPOA-IUU.
- (3) Comprehensive and integrated approach: Measures to prevent, deter and eliminate IUU fishing should address factors affecting all capture fisheries. In taking such an approach, States should embrace measures building on the primary responsibility of the flag State and using all available jurisdictions in accordance with international law, including port State measures, coastal State measures, market-related measures and measures to ensure that nationals do not support or engage in IUU fishing. States are encouraged to use all these measures, where

appropriate, and to cooperate in order to ensure that measures are applied in an integrated manner. The action plan should address all economic, social and environmental impacts of IUU fishing.

- (4) Conservation: Measures to prevent, deter and eliminate IUU fishing should be consistent with the conservation and sustainable use of fish stocks and the protection of the environment.
- (5) Transparency: The IPOA-IUU should be implemented in a transparent manner in accordance with Article 6.13 of the Code of Conduct.
- (6) Non-discrimination: The IPOA-IUU should be developed and applied without discrimination in form or in fact against any State or its fishing vessels.

1.3. Definition of IUU Fishing

The definition of IUU fishing in this document as articulated below, is taken from the definition set forth in the IPOA-IUU:

- (1) Illegal fishing refers to fishing activities conducted by nationals or foreign vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations; fishing activities conducted by vessels flying the flag of States that are parties to a relevant RFMO but operate in contravention of the conservation and management measures adopted by that organization and by which the States are bound, or relevant provisions of the applicable international law; or fishing activities in violation of national laws or international obligations, including those undertaken by cooperating States to a relevant RFMO.
- (2) Unreported fishing refers to fishing activities which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or fishing activities undertaken in the area of competence of a relevant RFMO which have not been reported or have been misreported, in contravention of the reporting procedures of that organization.
- (3) Unregulated fishing refers to fishing activities in the area of application of a relevant RFMO that are conducted by vessels without nationality, or by those flying the flag of a State not party to that organization, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organization; or fishing activities in areas or for fish stocks in relation to which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law.

1.4. Why Is IUU Fishing a Problem?

The growing incidents of IUU fishing are of significant concern to Taiwan and other members of the international community. IUU fishing can occur in all marine fisheries, both in waters of national jurisdictions and on the high seas. Although quantification on the extent of IUU fishing is particularly difficult due to its unreported nature, available information from the FAO indicates that, for some important fisheries, IUU fishing accounts for up to 30% of total catches. According to the statistics of the FAO, over 80% of the fisheries species has been fully exploited, depleted or fully exploited. As such, RFMOs and countries concerned have endeavored to take appropriate actions to conserve and manage marine fisheries resources. Nevertheless, IUU fishing undermines such efforts to conserve and manage fish stocks in marine fisheries and leads to both short and long term social and economic loss. It also leads to negative impacts on food security and environmental protection.

Aside from its impact on the sustainability of target species, IUU fishing adversely affects associated and dependent species and their marine ecosystems, undermining international, regional, and national efforts to effectively conserve and manage fish stocks, overcome impacts of fishing, and maintain biodiversity. To avoid detection and to lower operating costs, IUU fishers often ignore safety standards, thus putting their crew, other vessels, and the environment at risk. Crewmembers on IUU fishing vessels are often denied fundamental rights regarding terms and conditions of labor, including those relating to wages, hygiene standards, and working and living conditions. IUU fishing distorts competition and jeopardizes the economic viability of those who fish legitimately. Because of their comparatively low operating costs, IUU fishers outlive legitimate fishers with unjust economic benefits.

IUU fishing is a global and multifaceted problem, which can only be efficiently and effectively tackled with efforts at international, regional and national levels with the involvement of all parties. The IPOA-IUU calls upon all States to develop NPOAs to achieve the objectives of the IPOA-IUU and give its full effect as an integral part of their fisheries management programs and allocate adequate resources to implement measures to combat IUU fishing.

1.5 Taiwan's Fisheries Profile

1.5.1 Profile of Taiwan's Marine Fisheries

Taiwan is located in the western Pacific Ocean surrounded by seas and oceans, with natural endowment suitable for the development of marine fisheries. Through decades of development, Taiwan has become one of the important fishing countries in the world. In 2011, the fisheries production of Taiwan was approximately 1.22 million metric tons with a value of NT\$ 105.9 billion, among which the production of marine fisheries was about 900 thousand metric tons, accounting more than 73% of total fisheries production, and the production of distant water fisheries was about 700 metric thousand tons, accounting 57% of total fisheries production. In terms of the trade of fisheries products, the import volume and value of fisheries products in 2011 were 480 thousand metric tons and US\$1.1 billion, respectively. In the same year, the export volume and value of fisheries products were 610 thousand metric tons and US\$1.8 billion, respectively. It was reported there were about 330 thousand people engaging in the activities of fisheries².

1.5.2 Legislation for the Management of Taiwan's Marine Fisheries

The management rules of Taiwan's marine fisheries include the "Fisheries Act" and the regulations, rules, notices and directions promulgated in accordance with the Fisheries Act. The objectives of the Fisheries Act,³ among others, include the conservation and optimal utilization of aquatic resources, maintenance of orderly fishing operation, improvement of the livelihood of fishermen and sustainable development of fisheries.

According to the provisions of Fisheries Act, the COA is the competent fisheries authority in Taiwan at the national level, and the municipal and county (city) governments are the competent fisheries authorities at the local level. The competent fisheries authorities of each level are governing the fishing activities of the nationals and fishing vessels of Taiwan in their respective levels in accordance with the Fisheries Act and the relevant regulations, rules, notices and directions promulgated thereafter pursuant to the Fisheries Act.

In addition, in accordance with the provisions of the "Ordinance to Govern Investment in the Operation of Foreign fishing vessels"⁴, Taiwan also enacted relevant

² 2011 Taiwan Fisheries Yearbook as shown in the website of the FA (<http://www.fa.gov.tw>).

³ The Fisheries Act was enacted in 1929. To address the need of fisheries development, the Fisheries Act was amended from time to time where required and the last amendment was completed in 2012.

⁴ In 2008, Taiwan promulgated the Ordinance to Govern Investment in the Operation of Foreign

regulations, rules, notices and directions pursuant to the Ordinance to regulate and manage fishing activities of the foreign fishing vessels invested or operated by Taiwan's nationals.

1.6 Impact of IUU Fishing on Taiwan

As outlined in Section 1.4, IUU fishing undermines efforts to conserve and manage fish stocks in marine fisheries and leads to both short and long term social and economic loss. It also has negative impacts on food security and environmental protection. Therefore, as one of the important fisheries countries in the world, Taiwan's failure to deter the IUU fishing activities that may result in incapability of sustainable utilization of resources, its marine fisheries development will suffer severely, thus damaging the viability of the existing fishing vessel owners and the crew, and other peripheral industries, such as fish trade industry, maintenance and repairs, ship supplies, which will have negative impacts on Taiwan's socio-economic development.

1.7 Scope of Taiwan's NPOA-IUU

Taiwan's NPOA-IUU closely follows the structure of the IPOA-IUU. Like the IPOA-IUU, Taiwan's NPOA-IUU addresses general measures that the all States have taken, as well as such measures to be taken as a flag State, coastal State and port State. It also covers market-related measures, researches, measures to be taken by States through RFMOs, and measures to support the special requirements of developing countries.

This document is intended to focus on measures and actions that Taiwan has adopted to prevent, deter and eliminate IUU fishing activities in marine fisheries, to achieve sustainable utilization of marine living resources. In addition, suggestions are made in Chapter 10 for direction of future management measures to be taken to further combat, deter and eliminate IUU fishing activities. As suggested in the IPOA-IUU, Taiwan will be reviewed and revised its NPOA-IUU, as appropriate, to ensure the effectiveness of its efforts in combating IUU fishing, while encouraging the full participation of all stakeholders, including the fishing industry, fishing communities and non-governmental organizations, so as to prevent the opportunities of IUU fishing.

fishing vessels to regulate and manage the fishing activities of foreign fishing vessels invested and operated by Taiwan nationals.

2. ALL STATES' RESPONSIBILITY

2.1 International Instruments

The IPOA-IUU calls upon all States to ratify, accept, or accede to, as appropriate, and to implement, the 1982 UNCLOS, the 1993 FAO Compliance Agreement, the 1995 UN Fish Stocks Agreement, and the Code of Conduct and its related IPOAs, and to become members of, or cooperate to establish new RFMOs where applicable, to prevent, deter and eliminate IUU fishing.

Due to the special international political situation, members of the international community have denied Taiwan from ratifying or acceding to international instruments, notably the 1982 UNCLOS, the 1993 Compliance Agreement, and the 1995 UNFSA. However, as a responsible fishing country and for the purposes of sustainable utilization of marine resources, in 1998 and 2008 respectively, Taiwan had promulgated the “Law on Exclusive Economic Zone and the Continental Shelf of the Republic of China⁵” and the “Ordinance to Govern Investment in the Operation of Foreign fishing vessels” in accordance with the spirit of above international instruments. In addition, the competent fisheries authorities further promulgated appropriate regulations, rules and directions pursuant to the relevant provisions of the Fisheries Act⁶ to implement the conservation and management measures for sustainable utilization of fisheries resources in line with the above international instruments. The competent fisheries authorities have also taken initiatives to actively participate in the work of relevant RFMOs, including cooperating with RFMOs and complying with the management measures adopted by RFMOs.

With regard to the implementation of relevant IPOAs developed by FAO pursuant to the Code of Conduct, to conserve the resources of sharks and to reduce incidental catch of seabirds in longline fisheries, in 2006 Taiwan promulgated its NPOA-Sharks and NPOA-Seabirds in accordance with the frameworks of the respective IPOAs. The NPOA-Sharks is in the course of revision, taking into account the experiences and progress of mitigation measures for sharks.

Taiwan has not yet drafted its NPOA-Capacity as called upon by the IPOA-Capacity. Nevertheless, despite such a delay, to prevent over-exploitation of fisheries resources, from 1989 Taiwan has implemented a comprehensive limited entry system to control

⁵ In 2008, Taiwan promulgated the Law on the Exclusive Economic Zone and the Continental Shelf of the Republic of China. Please visit the website of Laws and Regulations Database of the Republic of China for the Law for the details of the Law.

⁶ Article 44 and Article 54, paragraph 5 of the Fisheries Act.

and manage the total number of fishing vessels and their tonnage. Beginning from 1991, Taiwan also implemented the policy of vessel buyback program. As of 2012, 3,271 fishing vessels had been bought back. Among which, between 2005 and 2008, 215 large scale tuna longline vessels were bought back, thus reducing more than 30% of fishing capacity of large scale tuna longline vessels and reaching the objective required by IPOA-Capacity.

Taiwan has actively participated in the work of relevant RFMOs in its contribution to the long-term conservation and sustainable utilization of the global fisheries resources. Presently, Taiwan is the member of WCPFC, IATTC, and SPRFMO and the Extended Commission of CCSBT. In addition, Taiwan is also the cooperating non-party of ICCAT, and it has been invited to attend the annual meetings of NPAFC as an observer. In the foreseeable future, when NPFC⁷ is established, Taiwan will become its member.

Although Taiwan is not able to participate, as a member or an observer, in the work of IOTC which is a RFMO established under the FAO Constitution, as an important tuna fishing country in the Indian Ocean, Taiwan has been cooperating with IOTC in an appropriate extent on a voluntary basis. However, the fundamental issue of the lack of legal linkage between Taiwan and IOTC, remains a problem to be resolved in the future.

For years, Taiwan has not only been actively participating in the work of relevant RFMOs but has also been complying with the conservation and management measures adopted by them, so as to fulfill the objectives of prevention, deterrence and elimination of IUU fishing.

2.2 National Legislation

2.2.1 Legislation

The IPOA-IUU calls upon that national legislation should address, in an effective manner, all aspects of IUU fishing, and should address, inter alia, evidentiary standards and admissibility including, as appropriate, the use of electronic evidence and new technologies.

As outlined in Section 1.5.2, Taiwan has taken conservation and management

⁷ Upon entry into force of the Convention on the Conservation and Management of High Seas Fisheries Resources in the North Pacific Ocean, Taiwan will become a member of NPFC after depositing the required instrument to the depository.

measures to regulate and manage fishing activities conducted by its nationals and fishing vessels in accordance with the Fisheries Act and its relevant regulations to ensure rational utilization of aquatic resources, maintain orderly fishing operation, and improve the livelihood of fishermen.

To address the call of the IPOA-IUU, as well as the conservation and management measures adopted by relevant RFMOs, Taiwan has implemented measures to combat IUU fishing to ensure sustainable utilization of marine fisheries resources, as required by the Fisheries Act, the Ordinance and relevant regulations, rules, notices and directions. The relevant fisheries laws and regulations of Taiwan to prevent, deter and eliminate IUU fishing are listed in the Appendix.

The legal system of Taiwan belongs to the civil law system, and the provisions regarding evidentiary standard and admissibility have been enacted in the Code of Civil Procedure, the Code of Criminal Procedure, the Code of Administrative Procedure and Administrative Penalty Act.

To collect the evidence on violations against the fisheries laws and regulations, the conditions of evidentiary standards and admissibility have also been enacted. In accordance with the Fisheries Act, the competent fisheries authorities may dispatch inspectors to fishing vessels and other relevant places to conduct inspection. In case that any fisheries crime is found, the fishing vessel, its catch, or other objects that may serve as evidence on the offense committed may be provisionally seized or sealed⁸.

2.2.2 State Control over Nationals

The IPOA-IUU calls on States, to the greatest extent possible, to take measures or cooperate to ensure that their nationals do not support or engage in IUU fishing, and to cooperate to identify those nationals who are the operators or beneficial owners of IUU fishing vessels.

To ensure Taiwan's nationals do not support or engage in IUU fishing activities, Taiwan has taken the following precautions:

1. Taiwan has taken management measures pursuant to the Fisheries Act and its relevant regulations to ensure its nationals and vessels do not support or engage in IUU fishing. In case that Taiwan's nationals or Taiwan's vessels have engaged in IUU fishing activities, they will be punished in accordance with the Fisheries Act and its relevant regulations, and the punishment may include imprisonment, fine,

⁸ Article 49 of the Fisheries Act.

suspension or revocation of the fishing license of the vessel owners, and the professional certificates of the officers of the vessels.

2. With regard to Taiwan's nationals operating foreign fishing vessels, to ensure foreign fishing vessels operated by Taiwan's nationals do not support or engage in IUU fishing activities, the Ordinance as stipulated in Section 1.5.2 and other regulations⁹ pursuant to the Ordinance were promulgated to prevent Taiwan's nationals from operating foreign IUU vessels or operating foreign fishing vessels in support of or engaging in IUU fishing, or prohibit operation by Taiwan's nationals of foreign fishing vessels from registering in the countries under sanction by relevant RFMOs. The flag of the foreign fishing vessel operated by Taiwan's nationals should belong to a member or cooperating non-member of the relevant RFMOs. When Taiwan's nationals violate the above Ordinance and its relevant regulations, they will be subject to punishment in accordance with the Ordinance and its relevant regulations, and the penalty may include criminal penalty, fine and revocation of the approval for the operation of foreign fishing vessels.
3. Taiwan's nationals are prohibited from using foreign fishing vessels to engage in driftnet fishing on the high seas. In the review of the existing legislation, amendment of the regulations is envisaged to prohibit Taiwan's nationals from working on foreign IUU vessels or working on foreign fishing vessels to support or engage in IUU fishing activities.

2.2.3 Vessels without Nationality

The IPOA-IUU calls upon States to take measures consistent with international law in relation to vessels without nationality on the high seas that are involved in IUU fishing.

According to relevant provisions of the 1982 UNCLOS, Taiwan's armed enforcement ships have the right to exercise boarding and inspection of vessels that are without nationality on the high seas, as well as the right of hot pursuit if they are found in Taiwan's EEZ.

Taiwan also complies with the relevant conservation and management measures on vessels without nationality on the high seas adopted by RFMOs. , Taiwan may take

⁹ In 2009 and 2010 Taiwan promulgated "Regulations on the Approval of Investment in the Operation of Foreign Flag Fishing Vessels", "Regulations on the Investment in the Operation of Foreign Flag Fishing Vessels by Taiwan Nationals" and "Regulations on the Reporting of Fishing Operations of Foreign Flag Fishing Vessels Invested by a Taiwan National" in accordance with Articles 4, 5 and 6 of the Ordinance to Govern Investment in the Operation of Foreign Flag Fishing Vessels".

necessary measures to prevent fishing activities to be conducted by stateless vessels on the high seas which undermine the effectiveness of the conservation and management measures adopted by WCPFC, including prohibiting fishing vessels from involving with fishing activities with stateless vessels; prohibiting stateless vessels from entering Taiwan's port for landing; implementation of catch documentation scheme on specific species to control the import of fish caught by stateless vessels; in case that any stateless vessel is sighted by a Taiwan's patrol vessel catching species covered by WCPFC in its convention area, Taiwan will report to the WCPFC Secretariat. In addition, Taiwan has also been providing sighting information on driftnet fishing occurred on the high seas of the North Pacific Ocean to the members of NPAFC so as to facilitate their enforcement vessels to take necessary actions to protect the anadromous fish stocks in the North Pacific Ocean.

2.2.4 Sanctions

The IPOA-IUU call upon that States should ensure that sanctions for IUU fishing by vessels and, to the greatest extent possible, nationals under its jurisdiction are of sufficient severity to effectively prevent, deter and eliminate IUU fishing and to deprive offenders of the benefits accruing from such fishing. This may include the adoption of a civil sanction regime based on an administrative penalty scheme. States should ensure the consistent and transparent application of sanctions.

According to the Fisheries Act, the Ordinance and other relevant regulations, when owners, captains and other officers of Taiwan's fishing vessels violate the Act, the Ordinance and other relevant regulations, they will be subject to punishment, which may include fine, suspension and revocation of the fishing licenses of the vessel owners, and the professional certificates of the captains in question. The case may also be forwarded to the judicial authority for investigation and prosecution, and if convicted, they are liable to imprisonment for a term of up to five years, in addition to detention, and/or fine.

In addition, according to the provision of the Ordinance¹⁰, any Taiwan's national who engages in the operation of a foreign vessel fishing and violates the regulations and measures stipulated by the COA based on the measures adopted by RFMOs, including the management measures on authorization to fish, fishing areas, fishing periods, position reporting, fishing gears, fishing methods or catch quota, has committed an offense and if convicted, and he/she is liable to imprisonment for a term of not

¹⁰ Articles 2 and 4 of the Regulations on the Approval of Investment in the Operation of Foreign fishing vessels.

exceeding three years, and may be liable to an additional fine of not exceeding ten million New Taiwan Dollars.

In addition to the promulgation and publication of the laws and regulations on the gazette by due procedure, the FA has made the Fisheries Act, the Ordinance and other relevant regulations available on its website. Apart from promoting the transparency of administrative penalty scheme, it serves as admonition to boat owners.

2.2.5 Non-cooperating States

The IPOA-IUU calls upon that all possible steps should be taken, consistent with international law, to prevent, deter, and eliminate the activities of non-cooperating States to a relevant RFMO that engage in IUU fishing.

To prevent, deter, and eliminate the activities of non-cooperating States to a relevant RFMO that engage in IUU fishing, the FA has adopted the following measures:

1. To prohibit any fishing vessel flying the flag of a State which do not cooperate with RFMOs from entering into the ports of Taiwan:

In 2002 the COA promulgated regulations pursuant to the Fishing Port Act and the Implementation Rules of Fishing Port Act to prohibit any fishing vessel which has been listed on IUU Vessel list of RFMOs, or a vessel flying the flag of a State identified by RFMOs as non-cooperating, from entering into the ports of Taiwan. To further combat IUU fishing, in 2005 the COA amended the regulations and expanded the scope of applicable vessels, to prohibit vessels not on the record of authorized vessels of RFMOs from entering into the ports of Taiwan¹¹. In 2006 the COA promulgated regulations prohibiting any foreign vessel which has been identified as carrying fish caught by a vessel in contravention of the measures of the relevant RFMOs, entering into the ports of Taiwan, and prohibiting the landing, transshipping and storing of the catch in the ports of Taiwan.

2. To prohibit Taiwan's shipyards from building a fishing vessel flying the flag of non-cooperating State:

To prevent foreign fishing vessels built in Taiwan from engaging in IUU fishing, in 2007 the relevant regulations were amended to prohibit any Taiwan's shipyard from

¹¹ Article 3 of the Regulations for Reviewing the Permission for Foreign Fishing Vessels Entering into or Departing from National Fishing Ports.

building a vessel flying the flag of a State under sanction by RFMOs, or a State in violation of applicable international agreements, or a State not a member or cooperating non-member of RFMOs¹².

3. To prohibit the import of fisheries products from fishing vessels flying the flag of a State not cooperating with relevant RFMOs:

To prevent such fisheries products as swordfish, bigeye tuna, southern bluefin tuna and bluefin tuna from foreign fishing vessels which have conducted IUU fishing activities entering into the ports of Taiwan through transshipment vessels or other means of transportation, Taiwan has taken measures requiring the fish so imported be harvested by vessels complying with the management measures of tuna RFMOs, and flag States of the vessels exporting their catches to Taiwan should not be those under sanction by relevant RFMOs.

2.2.6 Economic Incentives

The IPOA-IUU calls upon that States should avoid conferring economic support, including subsidies, to companies, vessels, or persons that are involved in IUU fishing.

The government of Taiwan has never provided any economic support to fishery companies, vessels, or persons involving in IUU fishing.

2.2.7 Monitoring, Control and Surveillance

The IPOA-IUU calls upon States to undertake comprehensive and effective monitoring, control, and surveillance (MCS) of fishing from its commencement, through the point of landing, to final destination.

According to the management framework outlined in Section 1.5.2, the following measures have been taken for monitoring, control and surveillance of fishing activities exercised by Taiwan's distant water fishing vessels: Taiwan's fishing vessels which intend to operate on the high seas or in the EEZs of foreign countries may only be permitted to do so upon receipt of the approval from the FA, and may only use the fishing method and in the area so designated.

During the period of operation, the such vessels are required to comply with following measures: 1.installation of VMS equipments for reporting their positions; 2.accepting

¹² Article 8 of the Regulations on Permission for the Export of Fishing Vessels.

observers on board to carry out observation; 3. accepting boarding and inspection at sea; 4. conducting transshipment after approval of the FA; 5. entering into designated foreign or domestic ports for inspection; 6. filling in logbooks and regularly reporting the quantity of catch to the FA; 7. submitting their logbooks and invoices of sales to the FA within required timeframe; 8. implementing conservation measures on sharks, and mitigating incidental catch of seabirds and sea turtles; and 9. implementing statistical document scheme or catch document scheme adopted by RFMOs.

Within the framework established under the Ordinance as outlined in Section 1.5.2, it is a requirement that foreign fishing vessels invested or operated by Taiwan's nationals may only leave port for operation after the respective flag States have submitted the required vessel information to the relevant RFMOs for inclusion to their records of authorized fishing vessels, and such vessels shall engage in fishing operation in compliance with the conditions of fishing area, fishing season, fishing gears and fishing method, fishing quotas, VMS reporting and observer program as required by their flag of States¹³. Taiwan's nationals who invest or operate foreign fishing vessels are also required to submit reports of their fishing activities to the FA periodically.

2.2.7.1 Schemes for Access to Waters and Resources

The IPOA-IUU calls upon all States to develop and implement schemes for access to waters and resources, including authorization schemes for vessels.

The schemes for fishing vessels access to waters and resources were long developed and implemented by Taiwan government. According to Article 6 of the Fisheries Act, any person who wishes to operate fishing activities by a fishing vessel shall obtain an approval and a fishing license issued by the competent authorities prior to the operation.

Any Taiwan fishing vessel which has obtained a fishing license intends to operate on the high seas or in the EEZs of foreign countries, are required to apply for approval from the FA, and as appropriate, the relevant coastal States, before operation.

2.2.7.2 Registers

The IPOA-IUU encourages the maintenance of records of all vessels and their current owners and operators authorized to undertake fishing subject to their

¹³ Articles 4, 5 and 6 of the Regulations on the Investment in the Operation of Foreign Flag Fishing Vessels by Taiwan Nationals.

jurisdiction.

According to Article 6 of the Fisheries Act, fishing vessels may only engage in authorized fisheries after their fishing licenses have been issued by the competent authorities. In case of any change of the information on the fishing license, an application together with required documents is to be made within one month after the change¹⁴. In case of the change of the ownership, the name or fishery type of the vessel, the application for re-issuance of the license is required.

To facilitate fisheries management, Taiwan has established FMIS, which contains complete record of the information of Taiwan's vessels, including any historical change of such information. In line with the requirement of recording authorized vessels by the relevant RFMOs, Taiwan also maintains the information on vessels authorized to fish in the waters within the competence of such RFMOs, and such information will be updated and informed to the respective RFMO whenever there is any change.

2.2.7.3 VMS

The IPOA-IUU encourages the use of a vessel monitoring system (VMS), in accordance with relevant national, regional or international standards, including the requirement for vessels under their jurisdiction to carry VMS on board.

Taiwan has established a vessel monitoring center for receiving and polling of position reports sent from automatic location communicator (ALC) onboard¹⁵. All vessels operating on the high seas or in the EEZs of foreign countries, as well as specific fishing vessels, such as recreational fishery and live fish carrier vessels, operating in the waters of Taiwan, are required to install at least one set of ALC on board, for reporting their positions at the interval required by the FA and the respective tuna RFMOs to the vessel monitoring center.

To avoid non-receipt of position reports by the monitoring center due to malfunction of ALC on board, starting from 2005 tuna longline vessels and purse seine vessels over 100 GRT are required to carry a spare set of ALCs on board¹⁶, and tuna longline

¹⁴ Article 7 of the Regulations for the Issuing of Building Permit and Fishing License to Fishing Vessels.

¹⁵ Up to 2011, the vessels monitoring center of Taiwan can receive the position reports from the ALC of Argo, Inmarsat C and Iridium.

¹⁶ Article 4 of the Regulations for Fishing Vessels over 100 Gross Registered Tonnage Catching Tuna and Tuna-like Species in the Three Major Oceans.

vessels under 100 GRT are encouraged to do the same¹⁷. In addition, longline vessels targeting for bigeye tuna in the Atlantic Ocean and squid jigging vessels are required to report their catches via VMS.

In addition to the requirements set forth by the FA, Taiwan's fishing vessels operating on the high seas or in the EEZs of foreign countries have to comply with the requirements of VMS established by the respective coastal countries and RFMOs. For those Taiwan's tuna longline purse seine vessels that are licensed to operate in the waters of FFA member countries, they not only have to comply with the requirements of VMS established by FFA but also have to observe the conservation and management measures on VMS adopted by WCPFC.

2.2.7.4 Observer Program

The IPOA-IUU encourages the implementation of observer programmes in accordance with relevant national, regional or international standards, including the requirement for vessels under their jurisdiction to carry observers onboard.

Taiwan launched an observer program in 2002 for deploying observers on tuna longline vessels operating on the high seas, for collection of fisheries data¹⁸. In addition, Taiwan's fishing vessels with specific gear operating in the waters of Taiwan were also required to carry observers.

In addition, while vessels operate in the waters of coastal States with whom they have access fishing agreement, they have to carry on board observers dispatched by the coastal States, at the required coverage. Taiwan's tuna purse seine vessels operating in the waters of member countries of PNA have to carry observers from member countries of PNA at all time during operation, which means 100% observer coverage. Taiwan's observer program was recognized as parts of regional observer programs of WCPFC in 2011.

Due to the difficulty of recruiting observers, , as well as insufficient space to accommodate an extra person on board, deployment of observers on small-scale tuna longline vessels is not easy. Therefore, to address such difficulties, in 2011 the FA commissioned experts to explore the feasibility of electronic monitoring system¹⁹.

¹⁷ Article 2 of the Directions on Measures Guiding Longline Fishing Vessels over 20 Gross Registered Tonnage but under 100 Gross Registered Tonnage to Install a Spare Set of Vessel Monitoring System Equipment on Board.

¹⁸ See footnote 16.

¹⁹ In 2011, the FA commissioned professors of National Cheng Kung University to study and develop electronic monitoring devices, and such devices was scheduled to be placed onboard in 2012 for testing.

2.2.7.5 MCS Training and Education

The IPOA-IUU calls upon States to provide training and education to all persons involved in MCS operations.

Every year the FA requires its employees involving in the work of MCS operations to attend training courses to update the information of MCS operations. Such training courses are held on a regular basis for VMS operating staff and observers to update their information of MCS, and for new employees involving in the operation of VMS. The course contains knowledge on the operation of polling and monitoring of vessel position, reporting frequency, etc. The FA also holds training courses for new observers, covering survival at sea, duty at sea, identification of marine species, and operation of ALC. In addition, in cooperation with the Coast Guard Administration, the FA has arranged training courses to educate the staff members involving in boarding and inspection at sea on the procedures of boarding and inspection adopted by WCPFC.

2.2.7.6 Planning, Funding, and Undertaking MCS Operations

The IPOA-IUU calls upon States to plan, fund and undertake MCS operations in a manner that will maximize their ability to prevent, deter and eliminate IUU fishing.

From 2006 to 2011, Taiwan had implemented the “Distant Water Fisheries Restructure Program” with a total budget of about New Taiwan Dollars 3,500 million, under which a special fund was allocated for the enhancement of MCS measures, including enhancement of the record of authorized vessels, at-sea transshipment program, VMS program, observer program, boarding and inspection, port inspection program, and catch statistical document or catch documentation scheme. In 2012 and 2013, the program continued under the “Distant Water Fisheries Sustainability Program”.

2.2.7.7 Industry Knowledge and Cooperation

The IPOA-IUU encourages all States to promote industry knowledge and understanding of the need for, and their cooperative participation in, MCS activities to prevent, deter, and eliminate IUU fishing.

To promote better understanding by the industry and knowledge of the impact of IUU fishing, from time to time the FA invited vessel owners and operators from industry, including Taiwan Deep Sea Tuna Longliners Boat-Owners and Exporters Association,

Taiwan Deep Sea Tuna Purse Seiners Boat-Owners and Exporters Association, Taiwan Squid Fishery Association, Taiwan Tuna Longline Association and the relevant local fishermen's associations to participate in the seminars and workshops on MCS measures, for the purpose of obtaining their support on measures to deter and eliminate IUU fishing activities. In addition, through different medias, such as industry meetings, press release, and websites, the FA delivered messages to vessel owners, captains, and crew about the consequence of having vessels being included in the IUU Vessels List of RFMOs.

Notably, in August 2010 the FA and the Western Pacific Regional Fishery Management Council of the USA co-hosted the Fifth International Fishers Forum on marine spatial planning and by-catch mitigation in Taipei. Apart from calling upon marine spatial planning to conserve marine resources, the Forum was seen as helpful for people in the fishing industry to further understand the importance of MCS measures to prevent, deter and eliminate IUU fishing activities²⁰.

Taiwan will continue its efforts to educate people who engage in distant water fisheries to better understand the impact of IUU fishing, with the hope of their continual support in efforts to prevent, deter and eliminate IUU fishing activities.

2.2.7.8 Knowledge and Understanding of MCS Issues within the Judicial System

The IPOA-IUU encourages the promotion and understanding of MCS issues within national judicial systems.

As outlined in Section 2.2.1, the evidentiary standard and its admissibility has been addressed in the relevant provisions of the Code of Civil Procedure, the Code of Criminal Procedure, the Code of Administrative Procedure and the Administrative Penalty Act. In practice, penalties imposed by the court on the owners, captains and officers who have violated the Fisheries Act and regulations promulgated pursuant to the Fisheries Act, will be based on the evidences provided by the inspectors enforcing the applicable MCS measures. For example, in 2006 the district court in Ilan county sentenced the captain of a vessel to five months imprisonment, along with the confiscation of the fishing gears and catches of the vessel, in accordance with the evidence provided by the inspectors of Coast Guard Administration who during his boarding and inspection of the vessel, discovered that the vessel was carrying out fishing in the waters of Guishan Island by using prohibited fishing gear.

²⁰ The IFF5 adopted the Taipei Declaration, supporting 12 actions. Please visit the website of IFF for Taipei Declaration.

Presently, the courts in Taiwan can accept not only the evidentiary reports on violations provided by the national enforcement officers but also the reports made by foreign enforcement officers, for making adjudication to alleged Taiwan's nationals. For example, in 2004, the district court in Kaohsiung sentenced one Taiwanese crew on a foreign flag vessel to five months imprisonment, pursuant to the Fisheries Act and relevant provisions of the relating regulations²¹. The adjudication was based on the evidence provided by enforcement personnel of the US Coast Guard who alleged that the Taiwanese crew onboard the foreign fishing vessel had engaged in driftnet fishing on the high seas (about 800 miles northwest of the Midway Islands).

In addition, the FA has annually exchanged the information with the Coast Guard Administration on the development of international fisheries management in order that the enforcement personnel can have better understanding on the procedures of boarding and inspection on the high seas as well as the conservation and management measures adopted by relevant RFMOs.

2.2.7.9 MCS Data

The IPOA-IUU calls upon States to establish and maintain systems for the acquisition, storage and dissemination of MCS data, taking into account applicable confidentiality requirements.

A system for the acquisition, storage and dissemination of MCS data has been established and maintained by the government of Taiwan, taking into account the applicable requirement of confidentiality, and government employees handling matters relating to MCS measures that disclose MCS information in violation of the domestic rules of confidentiality (e.g. Personal Information Protection Act; the Freedom of Government Information Law) will be subject to punishment. The mechanism for the acquisition, storage and dissemination of MCS data is described as following:

1. Data of fishing vessel records:

According to the Enforcement Rules of the Fisheries Act²², the owner of a fishing vessel has to fill in an application together with required documents for submission to the competent authority for issuance of a fishing license. Such information as name of

²¹ Point 7 and Point 8 of the Regulations on the Management of Driftnet Fisheries.

²² Articles 28 and 30 of the Enforcement Rules of the Fisheries Act.

the owner, vessel name, registration number, fisheries type, vessel length and tonnage, and other information, has to be recorded when issuing the fishing license. The FA has established the FMIS with required information on records, including the information on fishing licenses issued by the local authorities, and the information on fishing licenses issued to Taiwan's fishing vessels for access to the EEZs of those coastal countries with licensing arrangement. Fisheries administrative personnel may have access to the system in accordance with their authorized level.

2. Data of port entrance/departure of fishing vessels:

Taiwan's fishing vessels are required to provide prior notice before entering into or leaving from domestic ports, and the inspection personnel of the Coast Guard Administration stationed in the ports will record vessels entry and departure. The Coast Guard Administration has linked such information with database such as FMIS of the FA to effectively control the information on vessels entry and departure.

3. Data of catch:

Fishing vessels are required to report their catches regularly in accordance with relevant regulations. For tuna longline vessels, tuna purse seine vessels and squid jigging vessels, they are required to daily fill in their logbooks for submission to the FA for perusal within required timeframe upon their port entry. Logbooks received by the FA will be delivered to the center of fisheries research for compilation, debugging, analysis and storage in database. Scholars and researchers who intend to access these data for research purpose will need prior approval from the FA.

To control the use of quota on specific species and to ensure quota is not overused, the FA also requires fishing fleet with quota allocation to report regularly (weekly or monthly) their catches to the fishing association they belonged for submission to the FA in electronic format within required timeframe. The FA will enter such information to the FMIS after review.

4. The VMS data:

As outlined in Section 2.2.7.3, Taiwan's fishing vessels are required to report their positions to the vessel monitoring center of the FA. Data received by the monitoring center will be stored in its database after decoding. Only at the approval of the FA, other governmental agencies and/or organizations may access the VMS data of any vessel. The vessel owners are also allowed to access VMS data through specific

internet protocol with users' password.

5. The observer data:

After the observers complete their observation work and return to Taiwan, observers are required to submit the records of fishing activities observed onboard, photos, sampling and other data obtained onboard, as well as the debriefing report, in accordance with the required procedure to be stored in the database of the FA task force for observer. Scholars or researchers who intend to access the data for research purpose will require prior approval from the FA

6. The boarding and inspection data:

When the inspectors of the FA or the Coast Guard Administration conduct boarding and inspection of fishing vessels at sea, they will transmit the preliminary inspection report first, and submit the formal inspection report after returned to a port in Taiwan, accompanying with the record of inspection and other information. In the event that any infringement case is found, the FA will have it recorded and immediately impose penalty against the fishing vessel and captain pursuant to relevant fisheries laws and regulations, based on the abovementioned report and relevant evidence.

7. Catch transshipment data:

In case that any fishing vessel intends to conduct at-sea or in-port transshipment, the vessel owner is required to obtain prior approval from the FA, and the vessel can only commence transshipment after the approval is granted. After the completion of transshipment, the vessel owner is required to submit the transshipment declaration to the FA. Transshipment information, including date of port entry and departure, fishing period, intended and confirmed date for transshipment, intended and confirmed transshipment species and transshipped weight, is also incorporated into the FMIS. Such information will be used as criteria to review the application for catch document and certificate.

8. Catch landing data:

When fishing vessels return to domestic ports and land their catches, the FA will send inspectors randomly to monitor the landing of the fish. The fish markets at unloading ports maintain information on landing and sale of catches. In case that vessels land

their catches in foreign ports, the owners are required to submit copies of invoices on sale of catches to the FA after custom clearance. Such information is also incorporated in the FMIS.

2.2.7.10 Implementation of Boarding and Inspection Regimes

The IPOA-IUU calls upon all States to ensure effective implementation of national, and where appropriate, internationally agreed boarding and inspection regimes consistent with international law.

According to the provisions of the relevant regulations²³, the FA and the Coast Guard Administration may jointly or individually conduct boarding and inspection within the EEZ of Taiwan for the conservation of fisheries resource. In 2012, more than 1,000 surveillance trips were conducted within the EEZ of Taiwan.

To ensure compliance of Taiwan's fishing vessels with domestic regulations and that of the relevant RFMOs, the FA and the Coast Guard Administration also cooperate to dispatch patrol vessels to the Atlantic and the Pacific Oceans to board and inspect Taiwan's vessels operating in these oceans. Reportedly, four patrol trips were conducted on the high seas of the Pacific Ocean in 2012.

In addition, with the consent of the respective coastal States, the FA also sends officers to perform inspection of Taiwan's fishing vessels in their ports, to ensure the compliance of Taiwan's fishing vessels with the Fisheries Act and the relevant regulations promulgated pursuant to the Act.

With respect to the measure of high seas boarding and inspection adopted by RFMOs, the existing procedures of boarding and inspection in force also applies to Taiwan. As of the end of 2012, under the WCPFC boarding and inspection procedures, Taiwan has enjoyed the right of reciprocity in high seas boarding inspection with New Zealand, Cook Island, the United States, Japan, France, and Australia.

2.3 Cooperation among States

The IPOA-IUU calls upon States to coordinate their activities and cooperate directly, and as appropriate through relevant RFMOs, in preventing, deterring and eliminating IUU fishing, as follows:

2.3.1 Exchange of Data and Information

²³ Article 54 of the Fisheries Act and Article 4 of the Coast Guard Act.

The IPOA-IUU encourages States to exchange data or information, preferably in standardized format, from records of vessels authorized by them to fish, in a manner consistent with any confidentiality requirements, and to cooperate in the effective acquisition, management and verification of all relevant data and information from fishing.

Ensuring sustainability of fisheries resources is an important objective in Taiwan's fisheries policy. In doing so, there is a need to have close cooperation with other States and RFMOs. Every year the FA submits information on Taiwan's fishing vessels authorized to fish in the waters of the respective RFMOs, catch information by species and other relevant information to RFMOs within the required timeframe.

In addition, Taiwan also cooperates with the USA under fisheries memorandum of understanding²⁴ and with Japan under fisheries action program,²⁵ in exchanging fishing data and information on IUU fishing activities.

2.3.2 Investigation of IUU Fishing Activities

The IPOA-IUU calls on States to collect and maintain data and information on IUU fishing and to enable their respective MCS practitioners or enforcement personnel to cooperate in the investigation of IUU fishing.

To effectively combat IUU fishing activities, international cooperation in the investigation of IUU fishing is imperative, especially when the investigation involves Taiwan's nationals or Taiwan's fishing vessels. In the past, cooperation was made between Taiwan and other States in the investigation of vessels allegedly involved in IUU fishing.

To enhance cooperation with other States in the investigation of IUU fishing, Taiwan also collects and maintains the information and data of IUU fishing involving foreign vessels, in the course of at-sea inspection conducted by its enforcement vessels. Such information was reported to the respective flag States.

²⁴ In 2002, Taiwan and the USA signed the Memorandum of Understanding Concerning Cooperation in Fisheries and Aquaculture. According to this MOU, Taiwan agreed to observe Code of Conduct for Responsible Fisheries, together with related IPOAs, and the USA agreed to provide assistance to Taiwan for participation in the work of RFMOs.

²⁵ In 2006, Taiwan and Japan reached agreement on an Action Plan for exchanging views on the management issues to be discussed in the RFMOs, and exchanging information on IUU fishing activities. Both sides agreed to hold bilateral meeting annually to review the implementation of the Action Plan.

2.3.3 Transfer of Expertise and Technology

The IPOA-IUU encourages States to cooperate in transferring expertise and technology.

Cooperation in the transfer of expertise and technology relating to the work MCS is a vital element to combat IUU fishing activities. As such, much attention has been paid by Taiwan in its cooperation with other countries in the transfer of expertise and technology on MCS. In 2006, Taiwan assisted the Saint Vincent and the Grenadines to establish catch data collection mechanism and VMS control measures. In 2007, Taiwan exchanged professional knowledge and technology on observer training, VMS, high seas boarding and inspection, and other MCS measures. Since 2010, Taiwan also has provided assistance to Kiribati, Tuvalu, Marshall Islands, Palau, Nauru, and Solomon Islands for the training of observers²⁶.

2.3.4 Compatibility of Policies and Measures

The IPOA-IUU encourages States to make policies and measures compatible.

It is without doubt that the MCS measures taken by Taiwan to ensure the compliance of its distant water fishing fleet are compatible with MCS measures adopted by relevant RFMOs, especially for tuna longline and purse seine fisheries. Taiwan has yearly incorporated the MCS measures adopted by tuna RFMOs into its domestic regulations and rules pursuant to the relevant provisions of Fisheries Act²⁷.

2.3.5 Rapid Responses to IUU Fishing

The IPOA-IUU calls upon States to develop cooperative mechanisms that allow rapid responses to IUU fishing.

In the event that any Taiwan's national or fishing vessel is found involving in IUU fishing in foreign waters or on the high seas, Taiwan will conduct investigation as soon as possible and cooperate with the relevant authorities to obtain substantial evidence or information. Once any Taiwan's fishing vessel or national is proven to have engaged in IUU fishing activities, Taiwan will impose administrative penalty pursuant to relevant fisheries laws and regulations, and will forward the case to the judicial authority for investigation and prosecution, if a crime is found to have committed. Taiwan will also inform the investigation result and the action taken to the

²⁶ In 2010 and 2012, the FA held observer training workshops in Kaohsiung. In 2012, 22 persons from Kiribati, Tuvalu, Marshall Islands, Palau, Nauru and Solomon Islands attended the observer training course.

²⁷ See footnote 6.

State concerned as well as the respective RFMO.

2.3.6 Cooperation in MCS

The IPOA-IUU encourages States to cooperate in MCS, including through international agreements.

Taiwan has bilateral arrangements with the USA and Japan²⁸, to reinforce cooperation on MCS measures to prevent IUU fishing by Taiwan's nationals and fishing vessels.

In addition, Taiwan also complies with the MCS measures adopted by the relevant RFMOs, and cooperates with States concerned under the framework of such RFMOs.

2.3.7 Provision of Information to Regional Fisheries Management Organizations

The IPOA-IUU calls upon flag States to submit information to the FAO, other States, and relevant international and regional organizations, consistent with Article VI of the 1993 Compliance Agreement.

As outlined in Section 2.3.1, Taiwan has been providing relevant information on Taiwan's vessels authorized to fish in the area of competence of the respective RFMOs, in accordance with their requirements.

2.3.8 MCS Contact Points

The IPOA-IUU calls upon States to nominate and publicize formal contact points to facilitate cooperation and exchange of information.

Taiwan has informed the WCPFC, IATTC, CCSBT, ICCAT, SPRFMO and NPAFC, contact points of Taiwan, and have them updated in case of change. Information of contact points will be provided in other RFMO, such as NPFC, when established.

2.4 Publicity

The IPOA-IUU calls on States to publicize widely, including through cooperation with other States, full details of IUU fishing and actions taken to eliminate it, in a manner consistent with any confidentiality requirements.

In the event that any Taiwan's fishing vessel or national involves in fishing activities in contravention to internationally adopted measures, Taiwan will inform the investigation result and action taken to the States concerned, and where appropriate,

²⁸ See footnotes 24 and 25.

to the relevant RFMOs.

As outlined in Section 2.2.7.7, through the various publicity activities to the industry, the FA also explains various IUU fishing cases and their penalties, to fishing vessel owners reminding them to pay attention to the prevention of IUU fishing activities and refrain from engaging in such activities, and the severity of the penalty they may be liable to. In addition, the statistical data of fishing vessels infringement and enforcement has also been posted on the website of the FA.

2.5 Technical Capacity and Resources

The IPOA-IUU calls upon that States should endeavor to make available the technical capacity and resources which are needed to implement the IPOA. This should include, where appropriate, the establishment of special funds at the national, regional or global level. In this respect, international cooperation should play an important role.

In line with the international trend of fisheries management and to ensure sustainable utilization of fisheries resources, as outlined in Section 2.2.7.6, in addition to normal budgets, Taiwan allocated with extraordinary budgets to enhance MCS measures in order to deter and eliminate IUU fishing.

3. FLAG STATE RESPONSIBILITIES

3.1 Fishing Vessel Registration

3.1.1 Exercise of Flag State Responsibility

The IPOA-IUU calls upon States to ensure that fishing vessels entitled to fly their flags do not engage in or support IUU fishing. Before registering a fishing vessel, flag State should ensure that it can exercise its responsibilities to ensure that the vessels do not engage in IUU fishing.

As outlined in Section 2.2.7.1, prior to engaging in fishing activities, fishing vessels of Taiwan are required to obtain permission from the competent authorities and may only engage in fishing activities after obtaining their fishing licenses.

To ensure the fishing opportunity commensurate with the fishing capacity, every fishing license is issued based on the policy of limited entry, that is to say a fishing license will only be issued to a new vessel to replace an old one which was sunk or scrapped. Therefore, any fishing license for the operation of a new vessel will have to replace the existing fishing license of an old vessel, either self-owned or transferred from another owner.

In addition, as outlined in Section 1.5.2 and Section 2.2.1, according to the Fisheries Act and relevant regulations (as listed in the Appendix), Taiwan has adopted relevant conservation and management measures to govern the fishing activities conducted by its nationals and fishing vessels, and has taken stringent administrative actions against those who have involved in IUU fishing activities, in accordance with the Fisheries Act and its relevant regulations. For instance, the issuance of fishing licenses will be denied²⁹ to fishing vessels having violated the relevant regulations in engaging in IUU fishing specified by the respective RFMOs, or engaging in high seas driftnet fishing, or pending completion of the administrative actions. Accordingly, Taiwan has adopted measures to ensure its fishing vessels do not engage in or support IUU fishing.

3.1.2 Vessels with a History of Non-Compliance

The IPOA-IUU calls upon flag States to avoid flagging vessels with a history of non-compliance, except where the ownership of the vessel has subsequently changed and the new owner has provided sufficient evidence demonstrating that the previous owner or operator has no further legal, beneficial or financial interest in, or control

²⁹ Article 20 and Article 27 of the Regulations for the Issuing of Building Permit and Fishing License to Fishing Vessels.

of the vessel; or having taking into account all relevant facts, the flag States determines that flagging the vessel would not result in IUU fishing.

Imports of foreign fishing vessels to Taiwan are prohibited, with limited and conditional exceptions.

3.1.3 Chartering Arrangements

The IPOA-IUU calls upon all States with vessels involved in chartering arrangements, including flag States and other States that accept such an arrangement, to, within the limits of their respective jurisdictions, take measures to ensure that chartered vessels do not engage in IUU fishing.

In accordance with the provisions of the relevant regulations³⁰, Taiwan's fishing vessels that intend to enter into fisheries cooperation with foreign countries are required to apply to the FA for permission. Fishing vessels authorized to enter into fisheries cooperation with a foreign country for operation in its EEZ under license, shall comply with both the Fisheries Act and regulations of Taiwan and the fisheries act and regulations of the licensing coastal country.

According to the existing regulations, foreign fishing vessels may operate within the EEZ of Taiwan under chartering arrangement with the approval from the FA. Presently, there is no foreign fishing vessel operating within the EEZ of Taiwan through such arrangement.

3.1.4 Flag Hopping

The IPOA-IUU calls upon flag States to take all practical measures, including refuse the right of fishing or flying its flag, to deter vessels from flag hopping, which is the practice of repeated and rapid changes of a vessel's flag to circumvent or for the purpose of non-compliance of conservation and management measures adopted at a national, regional or global level.

To prevent fishing vessels to circumvent conservation and management measures of Taiwan or RFMOs by flag hopping, Taiwan has promulgated regulations to restrict export of Taiwan's fishing vessels and the import of foreign fishing vessels.

In accordance with the provisions of the relevant regulations³¹, if a fishing vessel of

³⁰ Article 4 and Article 5 of the Regulations for External Fisheries Cooperation.

³¹ Article 9 of the Regulations on Permission for the Export of Fishing Vessels.

Taiwan which is intended to be exported has violated the measures adopted by relevant RFMOs, or the importing State is under sanction by relevant RFMOs, its application will be denied by the FA. In addition, in case that a fishing vessel of Taiwan is to be operated by Taiwan's national after its export, the FA also will manage and regulate that operator in accordance with the Ordinance and its relevant regulations. According to the provisions of the Ordinance and its relevant regulations³², no approval will be permitted for the operation or investment by Taiwan's national of a foreign fishing vessel flying the flag of a State who is neither a member nor cooperating non-member of the RFMOs, nor a State under sanction of RFMOs, to ensure fishing vessels to comply with management measures of RFMOs.

Furthermore, as outlined in Section 3.1.2, import of foreign fishing vessel is in principle prohibited, with limited and conditional exceptions. For years, Taiwan has not permitted any import of fishing vessel.

3.1.5 Coordination of Processes among Agencies

The IPOA-IUU calls upon flag States to ensure appropriate links between the operation of their vessel registers and the record those States keep of their fishing vessels. Where such functions are not undertaken by one agency, States should ensure sufficient cooperation and information sharing between the agencies responsible for those functions.

In Taiwan, the Maritime and Port Bureau of the Ministry of Transportation and Communication is in charge of the inspection and measurement of vessels and the competent fisheries authorities are in charge of the authorization of fishing operation. The FMIS established by the FA for fisheries management is designed to include complete data of fishing vessels and their change thereafter, including name of vessel owner, vessel name, type of operating fisheries, variation of fishing license, etc. Furthermore, the mechanism for communication and coordination and information exchange with the Maritime and Port Bureau of the Ministry of Transportation and Communication has been established by the FA, and such mechanism will be improved in the future.

3.2 Record of Fishing Vessels

The IPOA-IUU calls upon each flag States to maintain a record of fishing vessels entitled to fly its flag. Each flag State's record of fishing vessels should include, for vessels authorized to fish on the high seas, all the information set out in paragraph 1

³² See footnote 9.

and 2 of Article VI of the 1993 FAO Compliance Agreement, as well as the additional information specified in paragraph 42 of the IPOA-IUU.

As outlined in Section 2.2.7.2, fishing vessels may only engage in the fisheries authorized after the issuance of the fishing license by the competent fisheries authority. In case of any change of particulars on the fishing license, the owner of fishing vessel shall apply, accompanying the required documents, for update within one month of the change. In case of change of ownership, vessel name or fishing type, re-issuance of fishing license is required. Currently, the Fisheries Agency has established and maintained a comprehensive FMIS for the storage of data of fishing vessels and rafts, including those fishing vessels and rafts whose licenses are issued by the local competent fisheries authorities.

3.3 Authorization to Fish

3.3.1 Requirement to Hold Authorization to Fish

The IPOA-IUU calls upon States to adopt measures to ensure that no vessel be allowed to fish unless so authorized, in a manner consistent with relevant international law for high seas, in particular the rights and duties set out in articles 116 and 117 of the 1982 UNCLOS, or in conformity with national legislation within areas of national jurisdiction.

In accordance with the provisions of the relevant regulations³³, Taiwan's fishing vessels shall carry fishing licenses when operating at sea. In addition, fishing vessels that intend to proceed to the high seas or the waters of competence of relevant RFMOs for fishing shall apply to the FA for the certificates for operation in the foreign bases. In case that the RFMO concerned has adopted measures for recording of authorized fishing vessels, Taiwan's fishing vessels may only proceed to operate in the waters of that RFMO after the vessel has been placed on the record of authorized fishing vessels. In addition, before proceeding to fish in the EEZs of a foreign country, fishing vessels are required to obtain the fishing license issued by the coastal State concerned, as well as the authorization from the FA.

When operating on the high seas, a distant water fishing vessel is also required to conduct fishing activities in compliance with the terms and conditions as stipulated on its fishing license and its certificate for operation in foreign bases. When operating in

³³ Article 32 of the Enforcement Rules of the Fisheries Act.

the waters of competence of any RFMO, Taiwan's fishing vessels are also required to conduct fishing activities in compliance with regulations promulgated by the COA in accordance with the management measures adopted by that RFMO, including authorized fishing ground, fishing gear, target species, catch limit, VMS position reporting and catch transshipment, and others. In order to ensure fishing vessels of Taiwan to comply with the abovementioned regulations, the Coast Guard Administration and the FA have taken measures for high seas boarding and inspection, inspection at foreign and domestic ports, observer program, to ensure their compliance.

3.3.2 Authorization to Fish within the Jurisdiction of Coastal State

The IPOA-IUU calls upon coastal States, where a coastal State issues an authorization to fish to a vessel, it should ensure that no fishing in its waters occurs without an authorization to fish issued by the flag State of the vessel.

According to the relevant provisions of the Law on the Exclusive Economic Zone and the Continental Shelf of the Republic of China and the Regulations for External Fisheries Cooperation³⁴, foreign fishing vessels which intend to operate in the EEZ of Taiwan are required to obtain prior authorization. Such fishing vessels need to submit their certificate of nationality, fishing license and other documents, to the FA for application, and can only operate within the EEZ of Taiwan after the permission is granted. To-date, Taiwan has not authorized any foreign fishing vessel to operate within its EEZ.

3.3.3 Conditions of Authorization to Fish

The IPOA-IUU calls upon fishing vessels to have an authorization to fish and where required carry it on board. Each State's authorization to fish should at least include those contents specified in paragraph 46 of the IPOA-IUU.

As outlined in the preceding paragraphs, when operating at sea, Taiwan's fishing vessels shall carry fishing licenses onboard. When fishing vessels proceed to operate at foreign bases, they shall apply to the FA for the certificates for operation in foreign bases. On their fishing license and their certificate for operation in foreign bases of contents specified in paragraph 46 of the IPOA-IUU are included. When fishing vessels intend to operate in the EEZ of a coastal State, they shall obtain approval from the FA and the fishing license issued by that coastal State.

³⁴ Article 6 of the Law on the Exclusive Economic Zone and the Continental Shelf of the Republic of China, and Article 7 of the Regulations for External Fisheries Cooperation.

3.3.4 Authorization to Transship

The IPOA-IUU calls upon flag States to ensure that, to the greatest extent possible, all of their fishing, transport and support vessels involved in transshipment at sea have a prior authorization to transship issued by the flag State, and report specific information to the national fisheries administration or other designated institution; Flag States should make information from catch and transshipment reports available, aggregated according to areas and species, in a full timely and regular manner and, as appropriate, to relevant national, regional and international organizations, including FAO, taking into account applicable confidentiality requirements.

For the transshipment of fishing vessels and carrier vessels of Taiwan, prior authorization shall be obtained from the FA. In the event that the species intended for at-sea transshipment are under the management of tuna RFMOs, they shall comply with measures adopted by the respective tuna RFMOs. For at-sea transshipment within the areas of ICCAT, IOTC, WCPFC and IATTC, before transshipment, fishing vessels are required to report the species to be transshipped, quantity, date and location of transshipment to the FA, and the fishing vessels may only conduct transshipment after the approval. The carrier vessels are also required to submit transshipment plans to the FA for approval in advance, which include the fishing vessels involving in the intended transshipment, time and location of transshipment, and the time and place to pick up observers. When fishing vessels and carrier vessels conduct at-sea transshipment, the carrier vessels are required to carry observers dispatched or authorized by the respective RFMOs to observe the transshipment, and fill in the transshipment declaration signed by the captains of both the fishing vessel and carrier vessel. After the transshipment, both the fishing vessels and the carrier vessels are required to submit the transshipment declarations to the FA and the respective RFMOs within the required timeframe.

For at-sea transshipment of the catch not managed by relevant RFMOs, Taiwan's fishing vessels still have to obtain the approvals from the FA before transshipment, and the carrier vessels also need to submit their transshipment plans and related data to the FA for approval. A carrier vessel that intends to conduct at-sea transshipment is also required to submit the Data Network Identity number of the ALC onboard and the agreement of vessel position polling to the vessel monitoring center in Taiwan for monitoring its positions.

In addition, with respect to the availability of information on catch and transshipment reports to the RFMOs, apart from the provision of abovementioned transshipment declaration to RFMOs, the FA has been providing information of the catches of tuna and tuna-like species and transshipment reports to the relevant RFMOs, within the required timeframe and format for each specific species.

4. COASTAL STATE RESPONSIBILITIES

The IPOA-IUU calls upon coastal States to implement following measures to prevent, deter, and eliminate IUU fishing in waters within their exclusive economic zones: (1) monitoring, control and surveillance measures; (2) cooperation and exchange of information with other States, where appropriate, including neighboring coastal States and with regional fisheries management organizations; (3) to ensure that each vessel fishing within its waters is authorized; (4) to ensure that each vessel fishing within its waters maintains a logbook; (5) to ensure that transshipment and processing of fish and fish products are authorized, or conducted in conformity with appropriate management measures; (6) avoiding licensing a vessel to fish in its waters if that particular vessel has a history of IUU fishing.

To ensure there is no fishing vessel operating without authorization and engaging in IUU fishing activities in Taiwan's water, the FA and the Coast Guard Administration has jointly or individually conducted boarding and inspection within the EEZ of Taiwan for the conservation of fisheries resource. In 2012, more than 1,000 surveillance trips were conducted within the EEZ of Taiwan.

As a coastal State, Taiwan's responsibilities over its national fishing vessels and carrier vessels have been outlined in Section 2, Taiwan's Responsibilities; and Section 3, Flag State Responsibilities. They will not be repeated in this section to avoid redundancy, while focusing on Taiwan's regulations for foreign fishing vessels to operate within the EEZ of Taiwan.

In accordance with the relevant regulations, foreign fishing vessels operating within the EEZ of Taiwan shall obtain prior authorization. Any fishing operation conducted by a foreign fishing vessel within Taiwan's EEZ without authorization is subject to a fine of over New Taiwan Dollars 1 million, but not exceeding 5 million, along with confiscation of the vessel, equipment and catch³⁵. Any foreign fishing vessel which intends to operate in the EEZ of Taiwan shall submit its certificate of nationality, fishing license and other required documents, and apply to the FA for permission and may only engage in fishing activities in the area with fishing gear as authorized by the FA. To-date, the FA has not authorized any foreign fishing vessels to operate within its EEZ.

³⁵ Article 20 of the Law on the Exclusive Economic Zone and the Continental Shelf of the Republic of China.

5. PORT STATE MEASURES

The IPOA-IUU calls upon States to use port States measures, in accordance with international law, to prevent, deter and eliminate IUU fishing. Such measures should be implemented in a fair, transparent and non-discriminatory manner; Admission to foreign fishing vessels to ports or offshore terminals for the purpose of, inter alia, refueling, re-supplying, transshipping and landing, without prejudice to the sovereignty of that States; A vessel should be provided port access, in accordance with international law, for reasons of force majeure or distress or for rendering assistance to persons, ships or aircraft in danger or distress.

To prevent, deter and eliminate IUU fishing, Taiwan has promulgated relevant regulations to exercise port States measures in a fair, transparent and non-discriminatory manner. Vessels are permitted port access for reasons of force majeure, in accordance with international law.

5.1 Port State Measures

5.1.1 Advance Notice of Port Access

The IPOA-IUU calls upon States to require fishing vessels and vessels involved in fishing related activities seeking permission to enter their ports to provide reasonable advance notice of their entry into port, a copy of their authorization to fish, details of their fishing trip and quantities of fish on board, with due regard to confidentiality requirements, in order to ascertain whether the vessel may have engaged in, or supported, IUU fishing.

According to the provisions of the Regulations for Reviewing the Permission for Foreign Fishing Vessels Entering into or Departing from National Fishing Ports³⁶, a foreign fishing vessel which intends to enter into a fishing port in Taiwan, shall submit copies of its certificate of nationality, fishing license or fishing permit, crew list and the professional certificate of its captain through the shipyard with whom it has contracted for repairs, 14 days before its port entry, to the competent authority of fishing port, and may only enter into Taiwan's fishing port after approval. In the event that the fishing vessel is either registered in a country under sanction of any international fisheries organization, or that the catch include tuna, billfishes and sharks but the vessel is not listed in the record of fishing vessels maintained by an international tuna fisheries organization, or that the vessel is operating driftnet fishing, the vessel will be prohibited from entering Taiwan's ports.

³⁶ Article 7 of the Regulations for Reviewing the Permission for Foreign Fishing Vessels Entering into or Departing from National Fishing Ports.

With regard to a foreign fishing vessel entering into a commercial port in Taiwan, in accordance with the provisions of Commercial Port Law and other relevant regulations, a foreign fishing vessel that intends to enter into a commercial port of Taiwan is required to apply to the relevant authority of commercial ports (the Maritime and Port Bureau of the Ministry of Transportation and Communication) 24 hours before its port entry. In reviewing such application, the Bureau would consult with the FA. Upon receipt of the notice from the authority of commercial port, the FA will review the application for port entry of that foreign fishing vessel in accordance with the provisions of the Regulations for Reviewing the Permission for Foreign Fishing Vessels Entering into or Departing from National Fishing Ports, and notify the authority of commercial ports of the result of its review.

5.1.2 Denial of Port Access

The IPOA-IUU calls upon that if, in the course of an inspection, it is found that there are reasonable grounds to suspect that the vessel has engaged in or supported IUU fishing in areas beyond the jurisdiction of the port State, the port State should, in addition to any other actions it may take consistent with international law, immediately report the matter to the flag State of the vessel and, where appropriate, the relevant coastal States and regional fisheries management organization. The port State may take other action with the consent of, or upon the request of, the flag State. Where a port State has clear evidence that a vessel having been granted access to its ports has engaged in IUU fishing activity, the port States should not allow the vessel to land or transship fish in its ports, and should report the matter to the flag State of the vessel.

According to the provisions of the relevant regulations, regardless whether the application of a foreign fishing vessel is intended to enter into a commercial port or a fishing port of Taiwan, it may only enter into a port of Taiwan for the purposes of repairing, supply or refueling, and no landing or transshipment would be allowed³⁷. In case of force majeure for temporary landing or transshipment of catch, such as malfunction of refrigerating equipment which may result deterioration of the catch, the complete process of landing or transshipment of catch in port will be monitoring by the FA. Currently, the FA has cooperated with the competent port authorities to conduct inspection on fishing vessels and commercial vessels under 1,000 metric tons.

³⁷ Article 3 of the Regulations for Reviewing the Permission for Foreign Fishing Vessels Entering into or Departing from National Fishing Ports.

In addition, as outlined in Section 2.2.5, foreign fishing vessels not listed on the record of authorized fishing vessels of the relevant RFMOs, and driftnet or gillnet fishing vessels are not allowed to apply for port entry, except cases of force majeure.

5.1.3 Data Collection

The IPOA-IUU calls upon port States, in the exercise their right to inspect fishing vessels, to collect the following information and remit it to the flag state and, where appropriate, the relevant regional fisheries management organization: the flag State of the vessel and identification details; name, nationality, and qualifications of the master and the fishing master; fishing gear; catch on board, including origin, species, form, and quantity; where appropriate, other information required by relevant regional fisheries management organizations or other international agreements; total landed and transshipped catch.

In accordance with the applicable regulations, the inspectors from the relevant authorities of the fishing ports or the FA, if necessary, may inspect a foreign fishing vessel which has entered into the port, and the items for inspecting may include certificate of nationality of the vessel, fishing license, the captain's professional certificates, list of crew, fishing gear, species and quantity of catch on board, and others³⁸. After inspection, in case that the information on the application form is found to be not true, or after entering into the port the vessel has engaged in the activity not consistent with the activity described in the application form, the competent authority of fishing port may cancel or revoke its port entry permission, and instruct the vessel to leave the port within a required timeframe. If deemed necessary, such case would be reported to the relevant RFMOs and the flag State.

5.1.4 Authorized Ports of Access

The IPOA-IUU calls upon States to publicize ports of which foreign flagged vessels may be permitted admission and should ensure that these ports have the capacity to conduct inspections.

The FA has promulgated that Chienchen Fishing Port in the Kaohsiung commercial port area and Chengbin Fishing Port in the Keelung commercial port area are the fishing ports which may allow port access by foreign fishing vessels. In accordance with the provisions of the Commercial Port Law, foreign vessels can only enter into international commercial ports of Taiwan. At present, there are four international

³⁸ Article 11 of the Regulations for Reviewing the Permission for Foreign Fishing Vessels Entering into or Departing from National Fishing Ports.

commercial ports in Taiwan, including Keelung, Taichung, Kaohsiung and Hualien commercial ports. However, in practice under the existing arrangement, the competent authorities of commercial ports would consult with the FA before granting permission for foreign fishing vessels to enter into Taiwan's port. In accordance with the Regulations for Reviewing the Permission for Foreign Fishing Vessels Entering into or Departing from National Fishing Ports, the FA has designated Chienchen Fishing Port in the Kaohsiung commercial port area and Chengbin Fishing Port in the Keelung commercial port area as the ports for the berthing of foreign fishing vessels. In accordance with Article 58 of the Commercial Port Law, "The Procedures for Port State Control and its regulations announced by the commercial port authority according to the International Maritime Organization or other relevant authorities, should implement examination of ship's certificate, security, equipment, crew complement and other matters towards the entry and departure of foreign merchant ships."

5.1.5 Establishment and Publication of National Strategy and Procedures

The IPOA-IUU calls upon States to establish and publicize a national strategy and procedures for port State control of vessels involved in fishing and related activities, including training, technical support, qualification requirements and general operating guidelines for port State control officers. States should also consider capacity-building needs in the development and implementation of this strategy.

In preparation for the entry into force of the FAO Agreement on Port States Measures and the possible development of port States measures in WCPFC, based on the Commercial Port Law and the Regulations for Reviewing the Permission for Foreign Fishing Vessels Entering into or Departing from National Fishing Ports, Taiwan will develop and promulgate national strategy and procedures, including training, technical support, qualification requirements and general operating guidelines for inspectors, as well as capacity-building needs in such exercise.

5.2 Cooperation with Port States through RFMOs

The IPOA-IUU calls upon States to cooperate, as appropriate, bilaterally, multilaterally and within relevant regional fisheries management organizations, to develop compatible measures for port States control of fishing vessels. Such port State measures may prohibit landings and transshipment of catch unless the identified vessel can establish that the catch was taken in a manner consistent with those conservation and management measures. States should enhance cooperation,

including by the flow of relevant information, among and between relevant regional fisheries management organizations and States on port State controls.

As outlined in Section 2.2.5, the COA promulgated the Regulations for Reviewing the Permission for Foreign Fishing Vessels Entering into or Departing from National Fishing Ports in 2002 to regulate port access of foreign fishing vessels. In the future, Taiwan will amend the relevant regulations, taking into account of the FAO Agreement on Port States Measures, in order to be consistent with the port States measures of FAO and that of the relevant RFMOs.

Upon reviewing the port entry applications of foreign fishing vessels, or upon port inspection by the FA, once any fishing vessel is found to have involved in IUU fishing, the FA will inform the relevant flag State and RFMO, for exchange of information, and if appropriate, take necessary measures.

6. Internationally Agreed Market-Related Measures

In recent years, export and import of fisheries in Taiwan have grown drastically. In 2010, the fisheries production of Taiwan was 1.16 million metric tons, and its export was 580 thousand metric tons, accounting 50% of the total fisheries production, while importing 470 thousand metric tons, about 40% of the total fisheries production. In 2011, the fisheries production of Taiwan increased by 4.5% from the previous year, reaching 1.22 million metric tons, and export of fisheries products increased by 5% reaching 610 thousand metric tons, while the import remained stable reaching 480 thousand metric tons. As a member of WTO, Taiwan understands the importance and need of open market, and recognizes that the use of market-related measures in consistent with the WTO regulations are effective tools to combat IUU fishing, especially those market-related measures adopted through negotiations within the RFMOs. Hence, Taiwan has adopted the following market-related measures, in line with the measures adopted by relevant RFMOs.

6.1 Market-Related Measures

The IPOA-IUU calls upon States to take all steps necessary, consistent with international law, to prevent fish caught by vessels identified by the relevant regional fisheries management organization to have been engaged in IUU fishing being traded or imported into their territories. States should cooperate, including through relevant global and regional fisheries management organizations, to adopt appropriate multilaterally-agreed trade-related measures to prevent, deter and eliminate IUU fishing for specific fish stocks or species.

For preventing fish caught by IUU fishing vessels from entering into Taiwan, as outlined in Section 2.2.5, in 2006 Taiwan promulgated the Notices on prohibiting from importing, transshipping and storing of fish caught by IUU fishing vessels or fishing vessels flying the flag of States which do not comply with the measures adopted and identified by RFMOs. In addition, except for cases of force majeure, regulations were also promulgated by the COA to prohibit foreign fishing vessels flying the flag of States under trade sanction by RFMOs, and those not on the list of authorized fishing vessels of RFMOs, to enter into the ports of Taiwan.

As for the cooperation with the relevant RFMOs, Taiwan has also adopted measures in line with the market-related measures adopted by relevant RFMOs, including catch documentation scheme and statistical document measures on specific species, and prohibition of the import of fish from States under trade sanction. As outlined in Section 2.2.5, for the import of swordfish, bigeye tuna, southern bluefin tuna and

bluefin tuna into Taiwan, the management measures adopted by relevant RFMOs are applied.

6.1.1 Catch Documentation Scheme

The IPOA-IUU calls upon States to adopt trade-related measures to reduce or eliminate trade in fish and fish products derived from IUU fishing, including the adoption of multilateral catch documentation and certification requirements, as well as other appropriate multilaterally-agreed measures such as import and export controls or prohibitions. When such measures are adopted, States should support their consistent and effective implementation. Certification and documentation requirements should be standardized to the extent feasible, and electronic schemes developed where possible, to ensure their effectiveness, reduce opportunities for fraud, and avoid unnecessary burdens on trade.

To meet the requirement of market-related measures adopted by relevant RFMOs, namely, ICCAT, CCSBT, IOTC and IATTC, Taiwan has implemented catch documentation scheme for frozen bluefin tuna and southern bluefin tuna caught by tuna longline fishing vessels, as well as the statistical document scheme for frozen bigeye tuna and swordfish.

In addition to the compliance with market related measures adopted by RFMOs, for the purpose of resource conservation and combating IUU fishing, Taiwan also adopted the following market-related measures. In consideration that fishing vessels dolphin might be incidentally caught during fishing operation targeting on yellowfin tuna, to protect dolphin resources, Taiwan promulgated regulations to prohibit the import of yellowfin tuna from any country that had been imposed an tuna embargo by another country. To this end, a certificate of origin issued by the government of the flag State of the fishing vessel which has caught the yellowfin tuna intended to be imported is required in applying for import.³⁹

For the conservation and sustainable utilization of shark resources, it is the requirement for Taiwan's distant water fisheries that the ratio of fin to carcass onboard does not exceed 5%. Furthermore, in January 2012 the FA promulgated the measures of shark fin naturally attached would be implemented in a progressive manner. To enhance the management for shark fin import, in May 2012 the COA promulgated regulations, requiring that shark fin imported into Taiwan must be caught by legally

³⁹ Article 3 of the Regulations on the Application of the Import of Yellowfin Tuna.

operating fishing vessels promulgated by the RFMOs⁴⁰. In addition, in response to the EU IUU regulations, Taiwan also implemented a catch certificate scheme for the export of fisheries products to EU as required by the EU IUU regulation.

6.1.2 Transparency of Markets

The IPOA-IUU calls upon States to take steps to improve the transparency of their markets to allow the traceability of fish or fish products. States should work towards using the Harmonized Commodity Description and Coding System for fish and fisheries products in order to help promote the implementation of the IPOA-IUU.

In line with international trade practices and for the promotion of transparency in trade, Taiwan has established the Classification of Import & Export Commodities of the Republic of China in accordance with the Harmonized Commodity Description and Coding System of the World Customs Organization, ensuring the tariff information and statistical information on goods in Taiwan is consistent with world standard. The abovementioned Classification has 21 sections and 97 chapters, in which fisheries products are categorized in Chapter 3 (fish and crustaceans, mollusks and other aquatic invertebrates) and Chapter 16 (preparations of meat, of fish or of crustaceans, mollusk or other aquatic invertebrates).

For the fisheries products with conditional import and export restrictions, a letter of approval or a certificate for import or export issued by the FA is required. The letter of approval for import of yellowfin tuna and the statistical document for the import of Atlantic frozen bigeye tuna are some of the examples. To facilitate tracking of the fisheries products imported or exported, and for the sake of transparency, bar-codes are marked on the letters of approval and certificates for import or export.

6.2 Information Dissemination

The IPOA-IUU calls upon States to take measures to ensure that their importers, transshippers, buyers, consumers, equipment suppliers, bankers, insurers, other services suppliers and the public are aware of the detrimental effects of doing business with vessels identified as engaged in IUU fishing, whether by the State under whose jurisdiction the vessel is operating or by the relevant regional fisheries management organizations.

Starting from 2001, by holding seminars, or through press media, internet, and other means, the FA has been providing information to importers, transporters and other

⁴⁰ Article 2 and Article 3 of the Regulations on the Import of Shark Fins.

service providers, to raise their awareness of the detrimental consequence of doing business with vessels identified as having engaged in IUU fishing.

7. RESEARCH

The IPOA-IUU calls upon States to encourage scientific research on methods of identifying fish species from samples of processed products. FAO should facilitate the establishment of a network of databases of genetic and other markers used to identify fish species from processed product, including the ability to identify the stock of origin where possible.

To effectively implement the catch documentation scheme for bluefin tuna and southern bluefin tuna adopted by the relevant RFMOs, in 2008 the FA commissioned scholars to develop Real-Time PCR method, which is more efficient and cost-effective than the traditional way of DNA sequencing analysis, for identifying tuna species from tuna issue. At present, such technique is able to identify the fillet from the species of yellowfin tuna, southern bluefin tuna and bigeye tuna⁴¹.

In addition, to effectively implement the prohibition of catching certain shark species in compliance with the measures adopted by relevant RFMOs, except that the FA has transformed the abovementioned measures as domestic legislations, in 2011 the FA also commissioned scholars to develop techniques DNA sequencing analysis to identify shark fins sold in domestic markets. At present, using such techniques, fins from 23 shark species can be identified⁴².

⁴¹ In 2008, the FA commissioned a professor from the National Taiwan University to develop the techniques for identifying tuna species from tuna fillet. At present, yellowfin tuna, southern bluefin tuna and bigeye tuna could be identified from their fillets.

⁴² In 2011, the FA commissioned a professor from the National Taiwan University to undergo experiments for the identification of shark species by DNA sequencing analysis. At present, 23 shark species can be identified from shark fins, including scalloped hammerhead shark, bigeye thresher shark and pelagic thresher shark which are prohibited for catching by the RFMOs.

8. REGIONAL FISHERIES MANAGEMENT ORGANIZATIONS

8.1 Compliance of Members

The IPOA-IUU calls upon States to ensure compliance with and enforcement of policies and measures having a bearing on IUU fishing which are adopted by any relevant regional fisheries management organization and by which they are bound. States should cooperate in the establishment of such organizations in regions where none currently exist.

To ensure the sustainable development of the fisheries resources, Taiwan has actively participated in the work of the relevant tuna RFMOs, in support of and in compliance with the conservation and management measures adopted by these tuna RFMOs. Currently, Taiwan is a member of the WCPFC and IATTC, as well as the member of the Extended Commission of the CCSBT, and has actively complied with the conservation and management measures adopted by these organizations, including binding policies and measures for IUU fishing.

In the area without RFMOs, Taiwan has also actively participated in the negotiations for the establishment of new RFMOs, in cooperation with interested States. In consideration of the need to conserve and manage the non-tuna fish species in the south and north Pacific Ocean, Taiwan has cooperated with other interested States to promote the establishment of RFMOs for non-tuna fish stocks in such areas. In 2012 Taiwan has become a member of SPRFMO. In the foreseeable future, Taiwan will likewise become a member of the NPFC upon the establishment of the commission.

8.2 Compliance of Non-Members

The IPOA-IUU calls upon States which are not members of a relevant regional fisheries management organization to assume their international obligation to cooperate with that RFMO. To this end, States should give effect to their duty to cooperate by agreeing to apply the conservation and management measures established by that regional fisheries management organization, or by adopting measures consistent with those conservation and management measures, and should ensure that vessels entitled to fly their flag do not undermine such measures.

As an important tuna fishing country in the Atlantic Ocean and the Indian Ocean, despite the continued willingness of becoming a member of these organizations, however restrained by the agreement or convention under which these organizations were established and the situation of international politics, Taiwan now can only participate in the work of ICCAT as cooperating non-member. In IOTC, the

representatives of Taiwan can only attend the meetings as individual invited experts, not to mention enjoying the rights and obligations as other countries.

Nevertheless, for the sustainable utilization of tuna and tuna-like species under the jurisdiction of the abovementioned organizations, Taiwan has annually, where appropriate, introduced the conservation and management measures adopted by them as domestic legislation, to ensure the compliance of Taiwan's fishing vessels operating in such areas with the conservation and management measures adopted by these organizations. In addition, Taiwan has annually made voluntary financial contribution to ICCAT in its work. (As for IOTC, although Taiwan is willing to make financial contribution, the organization is not in the position to accept, due to political consideration.

8.3 Strengthening and Development of Innovative Ways to Prevent, Deter and Eliminate IUU Fishing

The IPOA-IUU calls upon States, acting through relevant regional fisheries management organizations, to take action to strengthen and develop innovative ways, in conformity with international laws, to prevent, deter and eliminate IUU fishing.

While participating in the activities of the relevant RFMOs, regardless of its status in such organization, Taiwan has always been supportive and in adherence with the measures adopted by such organizations to prevent, deter and eliminate IUU fishing, including submission of catch statistics, cooperation in the information exchange regarding to IUU fishing, adherence with measures of record of authorized fishing vessels and IUU vessels list, VMS measures, transshipment measures, reciprocal high seas boarding and inspection measures, observer measures, port State measures and market-related measures. In the future, Taiwan will continue to cooperate with the States concerned to promote and develop new measures within the frameworks of such RFMOs to prevent, deter, and eliminate IUU fishing.

8.4 Encouragement of Participation and Cooperation by Non-Contracting Parties

The IPOA-IUU calls upon States, acting through relevant regional fisheries management organizations, to encourage non-contracting parties with a real interest in the fishery concerned to join those organizations and participate fully in their work.

Despite of its unique political situation, under the existing legal framework of ICCAT and IOTC, Taiwan is not able to become their member. However, as one of the

important tuna fishing players in the world, Taiwan still actively cooperates with these RFMOs and observes the conservation and management measures adopted by them.

9. SPECIAL REQUIREMENT OF DEVELOPING COUNTRIES

The IPOA-IUU calls upon States, with the support of FAO and relevant international financial institutions and mechanisms, where appropriate, to cooperate to support training and capacity building and consider providing financial, technical and other assistance to developing countries, including in particular the least developed among them and small island developing States, so that they can more fully meet their commitments under the IPOA and obligations under international law, including their duties as flag States and port States.

Taiwan is supportive of providing assistance to developing States, in particular the least developed States and small island developing States. In the past, either bilaterally or through RFMOs, assistance was provided to developing States. In 2006, assistance was provided to the St. Vincent and the Grenadines in establishing catch data collection system and VMS monitoring program. In addition, as outlined in Section 2.3.3, Taiwan had held the observer training courses, inviting personnel from the Pacific island States, including Marshall Islands, Solomon Islands, Tuvalu and Kiribati to undergo training⁴³, so as to increase their employment opportunity back home and enhance the capacity of their national observer programs. In addition, Taiwan's entrepreneurs also invested in tuna fishing vessels or processing plants, either individually or through joint venture, in Papua New Guinea, Marshall Islands, Federated States of Micronesia, Vanuatu, and Tuvalu, etc. By providing capitals and techniques, assistance has been rendered to these countries to develop their fisheries in line with the conservation and management measures adopted by WCPFC. Meanwhile, through the technical mission dispatched by the International Cooperation and Development Fund, Taiwan has also provided technical or financial support on fisheries and aquaculture to developing countries, including Kiribati, Tuvalu, Gambia, Honduras, El Salvador, Guatemala, Belize, Panama, St. Lucia, Dominican Republic, Haiti, etc, to facilitate these countries in developing their fisheries and aquaculture.

As for rendering assistance through RFMOs, during the preparatory meetings of the WCPFC, Taiwan had contributed funds to the interim secretariat for holding meetings. After the establishment of WCPFC in 2004, in addition to paying the assessed contribution, Taiwan also donated funds to the Commission to facilitate the collection of catch data of small island developing States.

⁴³ See footnote 26

10. Future Actions

In the future, Taiwan will take the further actions as described below, to prevent, deter and eliminate IUU fishing activities:

- To establish Taiwan's National Plan of Action for the Management of Fishing Capacity;
- To consider the develop reporting mechanism for Taiwan's nationals working on foreign fishing vessels;
- To enhance the verification and management of the trade of the catch from fishing vessels by Taiwan's fish traders;
- To strengthen the declaration and verification mechanism for catch landing;
- To continue and strengthen cooperation with other countries and RFMOs to further eliminate the opportunity of IUU fishing;
- To strengthen management measures for coastal fisheries in a progressive manner;
- To consider strengthening the implementation of relevant regulations on port States measures, including capacity building such as strengthening inspectors training and technical supports;
- To continue cooperation with relevant countries to promote the modernization of international fisheries organizations so as to effectively carry out their duties, including the participation of non-members in RFMOs;
- To continue to render assistance to the developing countries.

APPENDIX Relevant Fisheries Laws and Regulations of Taiwan to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing

1. Fisheries Act
2. Ordinance to Govern Investment in the Operation of Foreign fishing vessels
3. Law on the Exclusive Economic Zone and the Continental Shelf of the Republic of China
4. Coast Guard Act
5. Enforcement Rules of the Fisheries Act
6. Regulations on the Approval of Investment in the Operation of Foreign fishing vessels
7. Regulations on the Reporting of Fishing Operations of Foreign fishing vessels Invested by a Taiwan National
8. Regulations on the Investment in the Operation of Foreign fishing vessels by Taiwan Nationals
9. Notice on the Amount or Proportion of Investment as Set Forth in Article 3 Paragraph 2 Sub-Paragraph 2 of the Ordinance to Govern Investment in the Operation of Foreign fishing vessels
10. Regulations for the Issuing of Building Permit and Fishing License to Fishing Vessels
11. Regulations on Permission for the Export of Fishing Vessels
12. Regulations on the Management of Fishing Vessels and Crews in Foreign Fishing Bases
13. Regulations for External Fisheries Cooperation
14. Regulations on the Management of Driftnet Fisheries
15. Regulations for Fishing Vessels over 100 Gross Registered Tonnage Proceeding to the Three Major Oceans for Catching Tuna and Tuna-like Species
16. Regulations for Distant Water Tuna Longline Fishing Vessels and Fish Carrier Vessels Proceeding to the Three Major Oceans for Transshipment
17. Regulations for Fishing Vessels Proceeding to the Atlantic Ocean for Catching Tuna and Tuna-like Species in 2012
18. Regulations for Fishing Vessels over 100 Gross Registered Tonnage Proceeding to the Indian Ocean for Catching Tuna and Tuna-like Species in 2012
19. Regulations for Fishing Vessels over 100 Gross Registered Tonnages Proceeding to the Pacific Ocean for Catching Tuna and Tuna-like Species in 2012
20. Regulations for Fishing Vessels Proceeding to the Three Major Oceans for Catching Southern Bluefin Tuna in 2012
21. Regulations for Fishing Vessels under 100 Gross Registered Tonnage Proceeding to the Pacific Ocean and the Indian Ocean for Catching Tuna and Tuna-like Species

22. Regulations for Longline Fishing Vessels Proceeding to the Western and Central Pacific Ocean for Catching Pacific Bluefin Tuna
23. Notices on the Specifications of Vessel Monitoring System on National Distant Water Fishing Vessels
24. Regulations for the Installation of Vessel Monitoring System on Longline Fishing Vessels over 20 Gross Registered Tonnages but under 100 Gross Registered Tonnages and Trawlers over 100 Gross Registered Tonnages
25. Directions on Measures Guiding Longline Fishing Vessels over 20 Gross Registered Tonnages but under 100 Gross Registered Tonnages to Install A Spare Set of Vessel Monitoring System Equipment Onboard
26. Regulations for Reviewing the Permission for Foreign Fishing Vessels Entering into or Departing from National Fishing Ports
27. Notices for the Prohibition of Foreign Vessels from Berthing and Importing, Transshipping and Storing of their Catch
28. Regulations on the Disposal of the Fins of the Shark Catches of Fishing Vessels
29. Regulations on the Import of Shark Fins
30. Directions for the Application and Issuing of the European Community Catch Certificate
31. Regulations on the Application of the Import of Yellowfin Tuna
32. Regulations on the Application of Statistical Documents for Bigeye Tuna and Swordfish
33. Regulations on the Application of Import and Re-Export of Swordfish
34. Regulations on the Application of Import and Re-Export of Bigeye Tuna
35. Regulations on the Application of Import and Re-Export of Southern Bluefin Tuna
36. Regulations on the Application of Import and Re-Export of Bluefin Tuna
37. Regulations for the Application of the Certificate for Operation by Squid Jigging Vessels and Fish Carrier Vessels Proceeding to the Southwestern Atlantic Ocean
38. Regulations for Squid Jigging Vessels Operating in the Southwestern Atlantic Ocean
39. Regulations for the Application of the Certificate for Operation by Squid Jigging Vessels, Saury Stick-held Dip Net Fishing Vessels and Fish Carriers Proceeding to the Northern Pacific Ocean
40. Regulations for Squid Jigging Vessels and Fish Carrier Vessels Proceeding to the Eastern Pacific Ocean
41. Regulations for Saury Stick-held Dip Net Fishing Vessels Proceeding to the North Pacific Ocean in 2011