



## PORT STATE MEASURES KEEPING ILLEGALLY CAUGHT FISH OUT OF SADC MARKETS



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**Uniting to regionally implement an international agreement on ‘Port State Measures’ will enable SADC countries to protect their markets from illegally caught fish and seafood and secure the foundation for growing sustainable blue economies.**

Sea ports are critical for fisheries operations as well as for the import and export of fishery products. Fishing vessel operators that catch fish and seafood use ports to unload their catch for sale, processing, or onward transport. They then resupply their vessels with the provisions needed to return to sea and continue catching. Transport vessel operators use ports to load and unload frozen or processed fish and seafood to transport it to global destinations. Vessels used include refrigerated cargo vessels known as reefers and container vessels and general cargo or container vessels.

Industrially caught fish and seafood will almost certainly have passed through one or more ports, either in fishing or transport vessels, before it is consumed. These ports provide an operational bottleneck, offering an opportunity for fisheries management authorities to check information before allowing a vessel to enter port, and inspect fishing vessels and catches in port, before allowing the fish to be offloaded from the vessel. Applying these checks and inspections enables authorities to assess if fishing has taken place legally – with the correct authorisations and in compliance to the applicable rules and regulations – this process is known as applying Port State measures.

When Port State measures are comprehensively applied, and sufficient proof that illegal, unreported and unregulated (IUU) fishing has taken place, States must as a minimum, deny access to either their port or port use – stopping illegally caught fish from entering their country and their markets.

**When Port State measures are applied cooperatively and systematically across all ports within a region, the entire region – including landlocked countries – are protected from the importation of illegally caught fish. Taking this step will protect SADC’s fishery value chain, markets, and legitimate operators from illegal products and players and it will pave the way for sustainable blue growth for the benefit of all SADC citizens.**

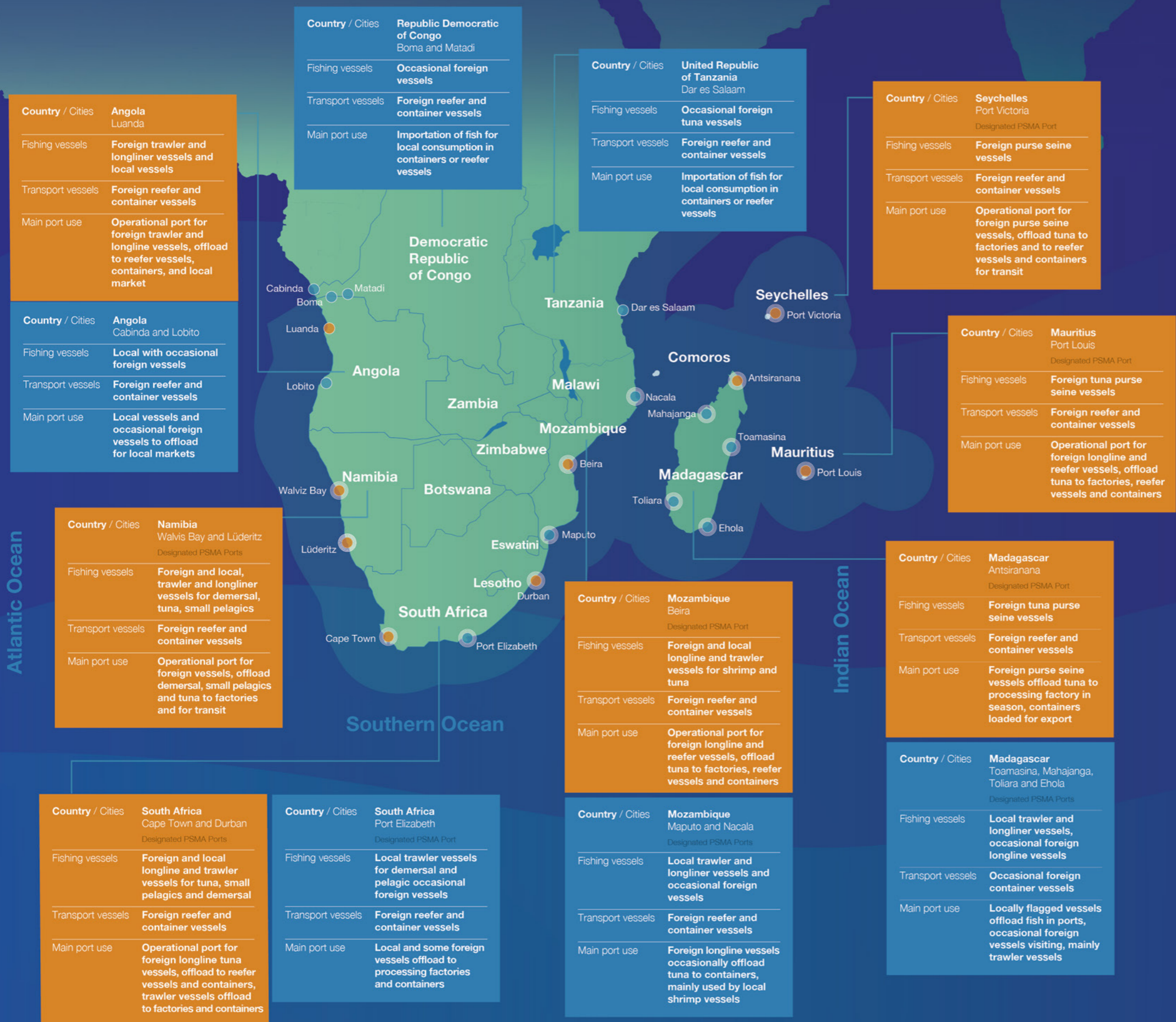
# Which ports are important for the SADC industrial fishery sector

Nine SADC ports receive most foreign fishing vessel visits within the region with many of the visiting vessels using these ports as their main operational base.

- **Atlantic Ocean:** Luanda, Walvis Bay, Lüderitz, and Cape Town are critical for foreign vessels from the Atlantic Ocean using SADC ports to offload tuna from longliners and pelagic and demersal species from trawlers for processing, sale in the local markets, and transport to markets in the hinterlands. These ports also receive foreign transport vessels both importing fish for local and regional markets and exporting high value fish mainly to Europe and factories in Mauritius.

- **Indian Ocean:** Port Louis, Cape Town, Durban, and Beira, are key ports for foreign longliners offloading tuna species mainly for export in containers and reefers to Asia. Port Victoria is the main purse seine operational port, with foreign vessels offloading to the factory and for export in reefers and containers, mainly to Europe. Antsiranana is also an important port for receiving purse seine and reefer vessels offloading tuna to their factory.

- **Southern Ocean:** Walvis Bay, Cape Town, Durban, and Port Louis, all receive visits each year from foreign trawlers and longliners that have fished in the Southern Ocean, they offload mainly into containers for export.



## Key for SADC ports:

- Designated PSMA Port
- Important operational port for foreign fishing vessels (highly important for PSM implementation)
- Occasional port for foreign fishing vessels (moderately important for PSM implementation)



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## Why are Port State measures important?

### Illegal fishing – destroys fisheries, damages economies and harms people.

IUU fishing refers to fishing which is carried out without proper authorisation or in non-compliance to applicable rules and regulations. IUU fishing is estimated to account for about 20 per cent of global fish catch, undermining national, regional, and global efforts to conserve and manage fish stocks. It is estimated to cost the industry about USD 23 billion a year in lost incomes<sup>1</sup>. The devastation caused by IUU fishing has resulted in it being a key aspect sustainable development goal 14, which focuses on conserving and sustainably using the oceans, seas, and marine resources: target 14.4 includes the aim to end IUU fishing.

While Port State measures are established with the aim to tackle IUU fishing, there are significant links to other aspects of national stability and security, and transnational crime. Illegal fishing is generally deliberate, organised, and systematic. It often takes place alongside related and associated crimes, such as document forgery, vessel identity fraud, tax evasion and modern-day slavery. While many of these crimes and illegalities occur at sea where monitoring and oversight are difficult to enforce their impacts are felt onshore where overfished stocks undermine local fishers and industry, unpaid taxes reduce government revenue, and unsafe vessels cause pollution and endanger human life. Port State measures and Port State controls offer an opportunity for countries to protect their fisheries, economies, and people from these negative impacts and provide a deterrence to stop IUU fishing and associated crimes.

### What are the benefits of applying Port State measures in the SADC ports?

Port State measures, if effectively implemented, will remove 'ports of convenience' from the SADC region. These are ports that attract IUU fishing vessels because of their lax controls and easy market access. These ports tarnish a region's reputation and damage the legitimate industry as they provide an entry point for illegal fish to be whitewashed into the value chain. These ports exist due to inadequate capacity and resources to monitor vessels or due to corrupt systems enabling illegal

operators to gain access and to be protected while conducting their illegal business. By closing ports and port services to illegal operators, market access is denied, and the cost of operating is increased. This reduces the profits that can be made which ultimately removes the incentive to conduct IUU fishing.

### Regional cooperation closes ports to illegal operators

**When access to port is denied in a unified manner across all ports within a region, vessel owners are forced to take their illegally caught fish elsewhere. South Korean purse seine fishing vessel PREMIER was denied access to port and/or port services by all SADC Port States in 2013 due to its illegal fishing history. This regional resolve resulted in the owners having to sail the vessel to Sri Lanka to offload the catch, which was later sold at reduced price on the Bangkok market. This high profile case also resulted in the flag State, South Korea making amendments to their laws and the company paying a sizeable fine to Liberia.**

Port State measures are one tool within a monitoring, control and surveillance (MCS) system that may also include at-sea fishery observers and patrols and remote surveillance. The main advantages of applying Port State measures are cost, safety and coverage. Inspection of vessels in port reduces the cost of

at-sea operations and increases the fishery inspectors' safety, it also makes it possible to check and inspect many vessels and considerable catch volume. In applying Port State measures the Port State does not have to take expensive actions, such as court procedures: denial of port entry and/or use and communication with relevant States and organisations can be enough to deter illegal operators.



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## Frameworks for implementing Port State measures

**The Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA) was adopted under the auspices of the Food and Agriculture Organization of the United Nations (FAO) in 2009 and entered into force in 2016.**

### The international agreement

The PSMA is the first legally binding international treaty falling under the auspices of the FAO to globally tackle IUU fishing. The PSMA is concerned with marine fisheries, it is applicable to foreign fishing vessels that catch fish and foreign carrier vessel that transport fish, but not to container vessels. In early 2021, there are 68 parties to the PSMA, including six of the ten SADC coastal States: Madagascar, Mauritius, Mozambique, Namibia, Seychelles and South Africa.

### Regional implementation

Regional cooperation is central to implementing the PSMA and to stopping IUU fishing. If this is not in place, Illegal operators will select the most convenient and cost-efficient port available to them to unload their illegal catch to enter it into the regional fishery value chain. They will then resupply their vessel and return to sea to continue the plunder of fish stocks. Regional instruments have been developed to support implementation of the PSMA through the regional fisheries management organisations (RFMOs), specifically for SADC, through the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), the International Convention for the Conservation of Atlantic Tuna (ICCAT) and the Indian Ocean Tuna Commission (IOTC). These instruments are limited in terms of the species they apply to, the fishing grounds they cover and the ports that they apply to.

### SADC implementation

The 2001 SADC Protocol on Fisheries lays the foundation for cooperation in respect to fisheries within the region and requires cooperation between member States in enforcing international conservation and management measures which would include the Port State measures of the CCAMLR, ICCAT and IOTC.

However, the 2008 SADC Statement of Commitment by SADC Ministers responsible for marine fisheries on IUU fishing is the main SADC instrument providing policy guidance on regional commitments in respect to Port State measures. In the Statement the Ministers resolved to 'Emphasize the importance of, and commitment to, developing nationally and regionally tailored Port State measures based on relevant international instruments on Port State control to which Member States are parties and operational mechanisms for their implementation'. The Ministers further agreed to 'Review and harmonize national laws to ensure that they (inter alia) incorporate internationally agreed measures to combat IUU fishing as reflected in international instruments on Port State control'.

**To implement these commitments the SADC Regional Fisheries Monitoring Control and Surveillance Coordination Centre (SADC MCSCC) will support building capacity to implement common Port State measures standards and to facilitate coordination, communication and information sharing to implement these standards.**

Through this mechanism the region will be capacitated to prevent illegal operators, their fishing vessels and catch from accessing any SADC port or the SADC markets. The SADC MCSCC will support facilitate coordinated responses – enabling efficient communication which allows ports throughout the region to be closed to a vessel if needed and facilitate cooperation and communication with relevant flag or coastal States. They will also coordinate and provide technical and intelligence support and facilitation in the development of regional standards and procedures, and link the region into the African Ports Network being developed to share information across all African fishery ports.

**Building on the success of the FISH-i Africa Task Force, this cooperation will place the SADC region and the MCSCC as a global leader in implementing regional networks to fight illegal fishing.**

# How Port State measures work

## Legal requirements

Before a State can effectively implement Port State measures certain legal provisions are required within national legislation to support the required activities and actions. These include establishing the procedure for accessing port, the powers of relevant officials in relation to Port State measures and offence and penalties which help with enforcement of the procedure for accessing port. Offences and penalties in coastal and flag State legislation are necessary for Port State measures to be an effective means of combating IUU fishing by increasing deterrence for non-compliance.

## State roles

In the implementation of Port State measures a State may be a port, flag or coastal State or all of these. Depending on the State role, different activities will be required to maximise the potential benefits from Port State measures and cooperation between States will be vital.

STATE AND ROLE	ACTIVITIES	SADC SITUATION
Port States to control and monitor fishing vessels entering and using their ports and fish being moved through their ports.	The activities for a Port State are key in implementation of Port State measures, with the core element being the denial of port entry and port use to prevent the landing and marketing of illegally caught fish (see opposite).	Nine SADC States are marine fishery Port States: Angola, Democratic Republic of Congo, Namibia, Madagascar, Mauritius, Mozambique, Seychelles, South Africa and United Republic of Tanzania
Flag States to regulate and monitor the management and operations of their fishing vessels, wherever they fish.	<p><b>The activities for a flag State include to:</b></p> <ul style="list-style-type: none"> <li>require vessels to cooperate with Port States;</li> <li>request inspection of vessels by Port States when there are grounds for believing the vessel engaged in or supported IUU fishing; and</li> <li>investigate and take enforcement action when possible IUU fishing has been detected by a Port State.</li> </ul>	Significant SADC flag States for fishing or transport vessels that operate beyond national jurisdiction are: Namibia, South Africa and Seychelles.
Coastal States to apply conservation and management measures to whoever fishes within their waters.	<p><b>The activities for a coastal State include to:</b></p> <ul style="list-style-type: none"> <li>request a Port State to inspect a vessel, if required; and</li> <li>take enforcement action when possible illegal fishing has been detected by a Port State.</li> </ul>	Ten SADC States are marine fishery coastal States: Angola, Comoros, Democratic Republic of Congo, Namibia, Madagascar, Mauritius, Mozambique, Seychelles, South Africa and United Republic of Tanzania.
Market States to ensure that imported fish has been caught legally.	The activities of a market State may assist in the implementation of PSM, if a market State is responsible to inform port and flag States if they consider that fish that has been imported into their country has been illegally caught.	All SADC States are market States for imported fish and seafood.

## Operating requirements for Port States

Port States that are party to the PSMA must designate ports for use by foreign-flagged vessels; inspect foreign-flagged fishing vessels and other vessels supporting or servicing fishing vessels; deny port entry or port use to IUU fishing vessels; and take other measures in cooperation with flag States, coastal States and RFMOs to ensure that fishing is conducted in accordance with conservation and management measures.

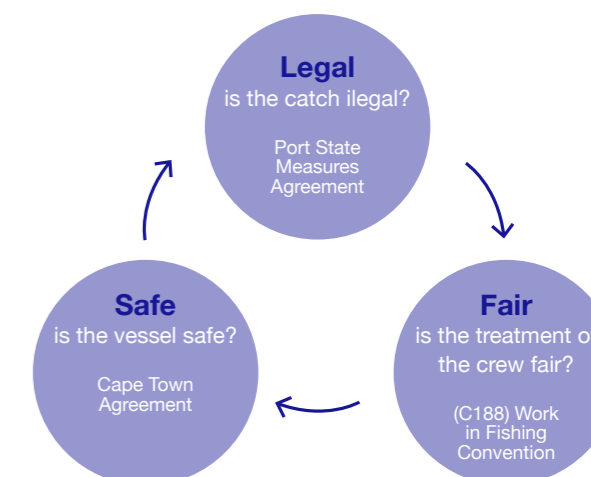
Implementing Port State measures consists of three operational elements for the Port States – check, inspect and act.

CHECK	INSPECT	ACT
<b>To keep illegal vessels out of our ports</b>	<b>To keep illegally caught fish out of our ports</b>	<b>To put illegal operators out of business</b>
Checks can reveal illegal activity such as vessel identity fraud, illegal fishing activity, a history of non-compliance or unauthorised activity such as transshipment at sea before the vessel arrives in port. A risk assessment will indicate what type of follow-up activity is required, such as targeting an inspection when high-risk vessels are identified.	Inspections are essential to verify information supplied with the actual vessel documents and to make physical checks of the catch that can be crosschecked with logbook, positional data, cargo manifesto or the offloading bill. Inspections can be targeted or routine depending on the findings in the checking phase.	Follow-up action is required when illegal activities are identified or suspected to disrupt operations, add cost to business and stop repeat offenders from operating. This will prevent and deter illegal fishing and the trade in illegally caught fish. Recording and reporting when no illegal activity is evidenced or suspected is also important and this may include sharing information nationally and regionally.
<b>Check</b>	<b>Inspect</b>	<b>Act</b>
<ul style="list-style-type: none"> <li><b>The vessel</b> – identity, history, documents, IUU record and photographs;</li> <li><b>The catch</b> – authorisations to fish, the tracks of the vessel, the gear and if its compatible to authorisations; and</li> <li><b>The players</b> – the history of owner and operator and the records of crew risk factors.</li> </ul>	<ul style="list-style-type: none"> <li><b>The vessel</b> – IMO number, characteristics and markings, safety;</li> <li><b>The catch</b> – species type, volume, product form and bycatch and the fishier activity the gear, logbook and tracks; and</li> <li><b>The players</b> – the crew living and working conditions.</li> </ul>	<ul style="list-style-type: none"> <li><b>To deny</b> – port access and/or port use;</li> <li><b>To inform</b> – relevant authorities and neighbouring States;</li> <li><b>To initiate</b> – investigations, detain or impound the vessel or catch, confiscate the catch or gear and prosecute the owner or operator; and</li> <li><b>To prosecute</b> – the owners or operators.</li> </ul>

## Cooperation and information sharing requirements

### National interagency cooperation

While Port State measures focus on fisheries with the intention of stopping IUU fishing, Port State controls are broader, covering a range of factors, such as vessel safety and pollution. The International Maritime Organization (IMO) Cape Town Agreement (CTA), once in force, will address safety of vessels and provide a cooperative framework for vessel inspections, while the International Labor Organization's (ILO) Work in Fishing Convention (C188) addresses human trafficking in the fishing industry. Ratifying and implementing these two instruments along with the PSMA will provide a Port State with different routes to increase the likelihood that it can identify IUU fishing practices and ensure legal, safe and fair fisheries. Close cooperation between port authorities and fisheries inspectors is particularly important for exercising control over foreign flagged fishing and support vessels. In addition, cooperation with the marine police, safety, customs, immigration and labour authorities as well as the coastguard or navy are necessary at different stages of the risk assessment, inspection and enforcement process.



Establishing working groups with communication channels for routine sharing of information and an alert system for notification when high-risk or illegal activity is identified are key. This also facilitates crosschecking and verification of information, sharing of resources and cooperation on risk assessment and cases of illegal fishing. Procedures and protocols for the exchange of information and coordination of activities among relevant authorities have proved to be very useful in supporting interagency cooperation.

### Regional information sharing and cooperation

The SADC MCSCC will take the regional lead on facilitating the development of mechanisms to check and share information with neighbouring Port States and help to create awareness of illegal fishing vessels. These mechanisms, including a regional record of fishing vessels, will support the sharing of information on port visits, inspections, offloading and in-port transshipment. These SADC mechanisms will link to regional fishery bodies

including RFMOs, and to relevant regional maritime security centres to increase awareness and knowledge of fishing and support vessels, their activities, and identities.

### Global information sharing and cooperation

Increasing systematic cooperation with coastal, flag, port and market States by making it easy for States to contact each other, and by responding quickly to requests for information assists in implementing Port State measures. This can include, providing information, documents, photographs and movement tracks to coastal, port and market States to support crosschecking, verification and risk assessment. Participating in international organisations and fora helps in develop an understanding of other States' needs and to make evidence of violations available. Sharing data on landings and transshipment with coastal States and RFMOs supports effective fisheries management.

## Where to from here?

For the SADC MCSCC to play its role, the Charter on its establishment must enter into force. The longer the Charter is not in force, the more SADC States lose to IUU fishing – this is currently estimated at a rate of USD 400 million per year<sup>2</sup>. Without the coordination and efficient communication channels that the SADC MCSCC can provide, efforts to prevent, deter and eliminate IUU fishing through Port State measures are undermined.

SADC States that have not already, are encouraged to become party to the FAO PSMA, to fulfil the commitments of the 2008 SADC Statement of Commitment and to develop legislation to enable the PSMA's effective implementation. Becoming party to the PSMA does not only bring obligations, it also creates an avenue for assistance. Assistance can come through various mechanisms including from the FAO or bilaterally from supporting countries or partners. Assistance can help with human and institutional capacity, enabling the receiving State to effectively implement the PSMA. Implementing the PSMA has additional benefits – the PSMA requires flag States to promote use of ports in States implementing Port State measures. This means that States which effectively implement Port State measures should receive increased port visits, thereby increasing job creation, allowing for shore-based activities to develop and grow and securing revenue for the government.

### To keep IUU caught fish out of SADC ports and markets all SADC States should:

- Support the establishment of the SADC MCSCC by signing the Charter for its establishment.
- Share information with the SADC MCSCC in respect to illegal fish or illegal fishery operators in the SADC fishery value chain and markets.
- Create awareness and share information in respect to the damaging impacts of IUU fishing socially, economically and environmentally.

### In addition, SADC Ports States should:

- Become a party to the FAO PSMA, if they are not already.
- Designate ports for use by foreign flagged vessels.
- Build capacity so that ports are staffed with competent fishery inspectors.
- Require all fishing vessels using SADC ports to provide an advance request for entry into port.
- Require all Industrial fishing vessels using SADC ports to have an IMO number and an automatic identification system (AIS).
- Work nationally to share information and take multiagency action against illegal operators.
- Conduct risk assessments to identify high-risk operators and fishing vessels.
- Deny access to vessels when there is sufficient proof of their involvement in IUU fishing or allow entry only for inspection.
- Conduct inspections on vessels if information required for risk assessment is incomplete and apply random checks on other vessels.

## Resources

- **The SADC protocol on fisheries:** SADC\_Protocol\_on\_Fisheries.pdf
- **The SADC statement of commitment on IUU fishing:** SADC\_Statement\_of\_Commitment\_on\_IUU.pdf
- **The FAO website for PSM including the agreement:** <http://www.fao.org/port-state-measures/en/>
- **SIF publications are available in English, French and Portuguese at this site:** <https://stopillegalfishing.com/all-publications/>
- **Implementing the Port State measures agreement a methodology for conducting a capacity needs assessment:** [https://www.pewtrusts.org/-/media/assets/2017/04/capacity\\_needs\\_assessment.pdf](https://www.pewtrusts.org/-/media/assets/2017/04/capacity_needs_assessment.pdf)
- **The African Ports network material is being developed at:** <https://stopillegalfishing.com/initiatives/african-ports-network/>

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## About SADC

The SADC's main objectives are to achieve development, peace and security, and economic growth, to alleviate poverty, enhance the standard and quality of life of the peoples of Southern Africa, and support the socially disadvantaged through regional integration, built on democratic principles and equitable and sustainable development.

Find out more at: [www.sadc.int](http://www.sadc.int)

## About WWF

WWF works to look after our natural resources – oceans, land and wildlife – so we can continue to benefit from food, water and a healthy climate. It is the world's leading independent conservation organization, which promotes building of a sustainable and equitable future.

Find out more at: [www.wwf.org.mz](http://www.wwf.org.mz)

## About Stop Illegal Fishing

SIF is an African based Not-for-Profit organisation committed to ending the devastating impacts of illegal fishing across all African fisheries. We work in partnership with governments, civil society, NGOs, IGOs and the fishing industry to harness the necessary international support and African commitment to achieve positive change.

Find out more at: [www.stopillegalfishing.org](http://www.stopillegalfishing.org)

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<sup>2</sup>SADC (2019) SADC Fisheries Policy Brief.