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Ministry of Fisheries, Marine Resources and Agriculture

Male', Republic of Maldives

Regulation on Port State Measures to Prevent, Deter and Eliminate IUU Fishing

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Ministry of Fisheries, Marine Resources and Agriculture,
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Regulation on Port State Measures to Prevent, Deter and Eliminate IUU Fishing

Chapter 1 General Provisions

- Introduction and Name**
1. (a) This regulation is made by the Ministry of Fisheries, Marine Resources and Agriculture, under the power vested in it pursuant to subsection (h), subsection (i) and subsection (j) of Section 71 of the Act No. 14/2019 (Fisheries Act of the Maldives).
- (b) This regulation shall be cited as “Regulation on port state measures to prevent, deter and eliminate IUU fishing”.
- Purpose of Regulation**
2. The main objectives of the regulation are as follows: -
- (a) To form a procedure for the fishing vessels or vessels undertaking fishing related activities that use the ports of the Maldives.
- (b) To administer measures at the ports of the Maldives, to eliminate foreign vessels that undertake illegal fishing and fisheries related activities in the Special Economic Zones of the Maldives and outside of this zone.
- (c) To form a procedure, to enforce the terms of the agreement – “Agreement On Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing” of F.A.O, an international organization related to foods, signed by the Maldives.
- Applicability**
3. (a) This regulation shall apply to the following parties: -
1. Fishing vessels or vessels that undertake fishing activities that are not registered in the Maldives and wishes to enter a port of the Maldives.
 2. All the persons, vessels and land vehicles that relate to the activities that falls within the scope of this Regulation.

3. Vessels that were used to engage in fishing activities in a foreign country before, and are currently registered under a provisional or temporary registry in the Maldives, shall be considered as fishing vessels or vessels that undertake fishing activities that are not registered in the Maldives, as stipulated in Subsection (1)
 - (b) Notwithstanding subsection (a) (1) above, the Regulation shall not apply to the vessels that falls under the following categories.
 1. Container vessels, that have not carried any type of fish; vessels that carry fish or fish related products, that have not landed in a port of any other country; vessels that do not carry containers of fish that were caught through unlawful, unregulated and unreported fishing.
- Determination of fishing ports for foreign vessels** 4. (a) The Ministry shall determine the fishing ports permitted for foreign vessels under this Regulation, and shall publicize the details of such ports.
 - (b) The details of the ports determined under subsection (a) shall be shared with the regional and international organizations related to fisheries, which the Maldives is party to.
- Requirements to satisfy Prior to Entering into Ports** 5. (a) Any vessel that falls under the scope of this Regulation, that wishes to enter a port for any reason, shall apply to the Ministry for approval to enter the port through “Advanced Request for Entry into Port Form”, 3 (three) days prior to entering the port. The vessel shall enter the port following the receipt of written approval to the owner or operator or local agent or Master of the vessel. Government holidays shall not be considered in counting of 3 (three) days period stipulated in this section. The form and the procedure related to the form shall be available in the website of the Ministry.
 - (b) Under this Section, fishing vessels may only be permitted to enter into those ports that are determined as fishing ports pursuant to Section 4 of this Regulation.
 - (c) Prior to the entry of vessel into port, the Ministry shall provide information of the fishing vessels that are permitted pursuant to this Section, to the Maldives Customs Services and the Coast Guard of the Maldives National Defense.
 - (d) Notwithstanding the issuance of permit to foreign fishing vessel to enter into a port of Maldives by the Ministry, pursuant to this section, the foreign fishing vessels shall obtain all the required

permits to enter in to a port, from the relevant government authorities in accordance with the general guidelines.

Prohibition of Entry into Port

6. (a) The Ministry shall not issue a permit to any vessels that have applied to enter into a port of the Maldives pursuant to this Regulation, if vessels fall into any of the following categories.
1. Vessels that are listed and published as IUU vessels by any regional organization related to fisheries.
 2. Any vessels that allegedly undertake unlawful fishing or fisheries related activities, any vessels that have allegedly weighed fish caught by such a vessel and any vessels that have allegedly provided assistance to such a vessel.
- (b) The vessels, that may not be permitted to enter into a port pursuant to subsection (a) herein, may be permitted to enter into a port, following further inspections, and to impose penalties and undertake measures to eliminate unlawful fishing activities conducted by the vessels, in accordance with the relevant international standards. Any vessels granted permit to enter into a port, pursuant to this Section, shall not be allowed to use any services of the port. However, the provision of services stipulated in the section 8 (d) of this Regulation shall not be prohibited by this Section.
- (c) The decisions of the Ministry in relation to prohibition of entry of vessel into a port pursuant to this Section, shall be reported to the owner or to the operator or to the local agent or to the party undertaking responsibilities related to vessel or to the master of the vessel.
- (d) The Ministry has the discretion to prohibit entry of a vessel into a port, if the vessel is in breach of any part of this regulation.
- (e) In the event, in which a vessel is prohibited to enter in to a port pursuant to subsection (a) or subsection (b), the Ministry shall notify to the relevant authorities of the Country of registration of the vessel, within a reasonable period of time. The neighboring coastal countries and the regional organization related to fishing shall also be notified, if the circumstances warrant it.

Vessels in distress conditions and force majeure

7. (a) The vessels in distress conditions or in force majeure circumstances, shall not be required to comply with the procedural requirements stipulated in this Regulation to enter into a port.

- (b) The following vessels shall not be considered as vessels in distress or vessels seeking refuge in a port, from a natural disaster, pursuant to subsection (a) herein.
1. Vessels that provide false information under the pretense of being in distress.
 2. Vessels that provide false information under the pretense of being in distress, to deceive or abdicate responsibilities.
 3. Vessels in distress due their own course of actions.
- (c) The burden of proof of proving that the vessel is in distress or that the vessel is seeking refuge from a natural disaster, shall be borne by the owner of the vessel or master of the vessel or the operator of vessel.
- (d) This Regulation provides the Ministry or any other relevant government authority the discretion to search and inspect the vessel, to guarantee that the vessel is in distress as stipulated in this Section.
- (e) The vessels in distress or vessels seeking refuge in a port from a natural disaster, shall fully comply with the orders of the Ministry.
- (f) The Ministry or any other relevant government authority shall have the discretion to determine the time period a vessel in distress or a vessel seeking refuge in a port from a natural disaster is allowed to stay in a port to resolve the matter, and the services that can be used at the port by an aforementioned vessel.
- Denial of the Permit to Use Port Services, after Entering into the Port**
8. (a) The permit to use the port services shall not be issued, if the vessels that are permitted to enter a port pursuant to section 5 (a) of this Regulation, do not satisfy the following or appears to not satisfy the following.
1. If the vessel does not hold a valid permit to undertake fishing or fisheries related activities issued by the flag state;
 2. If the vessel used to undertake or is currently undertaking fishing or fisheries related activities in a Special Economic Zone of a coastal country, is not permitted to undertake fishing or fisheries related activities by the coastal country.
 3. If there is clear evidence proving that the fish in the vessel is related to fishing activities carried out in breach of the

- regulations formulated by the regional organizations, or in breach of the regulations of the coastal country or coastal countries in which the fishing activities were carried out at.
4. If the flag state fails, upon the request of the Ministry, to provide information in relation to activities of the vessel or the fish in the vessel or any other information in a reasonable period of time.
 5. Unless proven otherwise, if there is evidence that the vessel conducted illegal, unreported and unregulated fishing or undertakes fisheries related activities, or provided assistance to such a vessel.
- (b) If any vessel is not permitted to use port services pursuant to subsection (a) herein, this shall be reported to the flag state of the vessel, to the coastal country or the coastal countries in which the vessel conducts fishing and to the regional fisheries organizations, within a reasonable period of time.
- (c) The burden of proof of proving that a vessel conducts fishing in accordance with the regulations formulated by the regional organizations related to fishing, is on the owner of vessel, or the operator of the vessel, or the charterer of the vessel, if the vessel is deemed to have participated in illegal, unreported and unregulated fishing pursuant to section 5(a) herein. And the duty to prove that services or assistance provided by vessel to another vessel engaging in illegal, unregulated and unreported fishing, was provided prior to its engagement in activities that are in breach of the regulations, is on the owner or the operator of the vessel that provided the service or assistance.
- (d) The vessels that are not permitted to use ports services pursuant to subsection (a) herein, shall be provided with the appropriate services in the following circumstances.
1. If the service has to be provided for the health and safety of the crew of the vessel or the safety of the vessel.
 2. If the service is required for the demolition of the vessel
- (e) The Ministry has the discretion to revise its decision to not provide port services pursuant to subsection (a) herein, based on the information exchanged between the Ministry and the operator of the vessel, or the information exchanged between the Ministry and the registered country of the vessel.
- (f) The decision to not issue the permit to use port services pursuant to subsection (a) herein, shall only be revised if the

decision was made under circumstances in which information was incomplete incomplete and based on false information.

- (g) If a decision is revised pursuant to subsection (f) herein, the revised decision and the details of the decision shall be reported to all parties, to which the information was provided pursuant to subsection (c) herein.

Inspection of the vessel at the Port

9. (a) Inspection of a vessel that falls under the scope of this regulation, shall be carried out in accordance with this Regulation and for the purposes of this Regulation.
- (b) The following vessels shall be prioritized for inspection, pursuant to this Section.
1. Vessels that are not permitted to enter and not permitted to use port services pursuant to this Regulation.
 2. If another country or regional organization related to fishing has provided sufficient evidence of the vessel having undertaken illegal, unreported and unregulated fishing; or providing assistance to vessel engaging illegal, unreported and unregulated fishing.
 3. Where there is sufficient evidence of the vessel having undertaken illegal, unreported and unregulated fishing, or sufficient evidence of the vessel having provided assistance to a vessel engaging illegal, unreported and unregulated fishing.
- (c) The inspections pursuant to this Section, shall be carried out in accordance with the relevant regional or international standards.
- (d) The Ministry shall form a report, following the conduction of inspections pursuant to this Section.
- (e) The full corporation shall be provided by the master of the vessel for the inspection carried out pursuant to this Regulation. The information and documents required for the inspection shall be provided without any secrecy or deception.
- (f) The Ministry shall provide a report on inspection undertaken pursuant to this Section shall be provided to the following parties.
1. The relevant authorities of the flag state of the vessel.
 2. Coastal countries that are related to the vessel.

3. The relevant authorities of the country of the master of the vessel.
4. The owner of the vessel
- Prohibition of the use of port services after inspection**
10. (a) After carrying out inspection pursuant to Section 9 of this Regulation, if it is found that the vessel participated in illegal, unreported and unregulated fishing, or provided assistance to another vessel engaging illegal, unreported and unregulated fishing, this shall be reported within a reasonable period of time, to the relevant authorities of the flag state, and to the relevant authorities of the country of the master of the vessel and to the owner of the vessel. From that point of time, the decision to not provide port services shall be made and this shall be implemented.
- (b) Notwithstanding, the measures taken to decline the use of port services pursuant to subsection (a) herein, if the port service is absolutely required for the health and safety of the crew members of the ship, or for the safety of the vessel, these services shall be provided.
11. (a) The operator, owner, crew members or any party directly or indirectly participating in activities of any vessel that falls under any of the following categories, shall not use any port services or shall not conduct any activity that can be interpreted as such. No party shall provide port services or attempt to provide port services to such a vessel.
1. Any vessel that enters into the port in breach of section 5 of this Regulation, or any vessel that is not permitted to enter into the port pursuant to section 6 of this Regulation.
2. Vessels that are permitted to enter into the port only for inspections pursuant to section 6 of this Regulation, or any vessels that enters into the port due to distress or to take refuge from a natural disaster pursuant to section 7 of this Regulation.
3. Vessels that are not permitted to enter into the port or not permitted to use the port pursuant to section 8 or section 10 of this Regulation.
- (b) Parties may only provide any of the port services after to the vessels that falls under the categories stipulated in subsection (a) herein, following written authorization from the Ministry.

Requirements of Vessels of the Maldives

12. (a) If it is found by the Ministry, that any vessel registered in the Maldives falling within the scope of this Regulation has engaged in illegal, unreported, unregulated fishing or provided assistance to such a vessel, and if it is found that such a vessel is attempting or may attempt to enter into a port of another Country, the Ministry has the discretion to request for an inspection of the vessel and impose measures in accordance to the policies of that Country and international policies.
- (b) If a vessel registered in the Maldives, is found to have conducted illegal, unregulated and unreported fishing after inspection at the port, penalties pursuant to the Fisheries Act of the Maldives shall be imposed within a reasonable period of time, following investigation based on the information provided by the port state and any other relevant information.

Definitions

13. Unless otherwise expressly provided herein, the following terms and phrases shall be defined as follows.
- “Master” means any person holding the most responsible position at any given time on-board a fishing vessel.
- “Ministry” means the ministry responsible for fisheries, including aquaculture.
- “Fish” means all organisms living in fresh waters, or salt waters, or the sea (whether animal or plant, or whether having a characteristic of a fish or not) and includes vertebrates, invertebrates, shellfish, turtles, lobsters and crabs; and the juveniles, larvae and eggs of such organisms
- “Fishing” means:
- (1) searching for the purpose of catching, taking, killing and harvesting of fish;
 - (2) attempting to search for, catch, take, kill or harvest fish;
 - (3) engaging in any other activity that results in the searching, catching, taking, killing or harvesting of fish;
 - (4) placing or searching or retaking of any fish aggregating device or equipment including “radio beacons”;
 - (5) undertaking any operation at sea or on an island in preparation for any activity mentioned in subsections (1), (2), (3) or (4)
- “Related activity” in respect of fishing means:
- (1) transshipment of fish or fisheries products to a vessel or from a vessel to another place;
 - (2) preserving or transporting of fish from one place to another from the time of catching or taking of fish;

- (3) storing, purchasing and processing of fish and fishery products from when they are taken from the maritime zones of the Maldives and until the time, they are landed ashore;
- (4) exporting fish and fishery products;
- (5) refueling or supplying fuel to fishing vessels or providing any activity or service in support of fishing operations; and
- (5) attempting to or preparing to carry out any of the activities set out from subsections (1) to (5).

“Illegal, unreported and unregulated fishing” means all fishing and related activities in contravention of Law Number 14/2019 (Fisheries Act of the Maldives) or any regulation made pursuant to the aforementioned Act, or as defined in the aforementioned Act, any all fishing and related activities in contravention of international fisheries planning and management measures.

“port” means any facility in which landing, distribution, or packing or processing of fish is undertaken or provision of food or provision of food.

“Use of the port” or “port services” means services such as landing or distribution or packing or processing of fish or provision of food or taking the vessel out of the water or maintenance of the vessel or provision of the oil.

“Vessel” means any type of vessel, ship or any other thing which is used for fishing, which has been prepared for fishing, or which is usually used for fishing or related activities.

“Landing” means weighing or selling or discharge of the catch after travelling back to the port or any similar facilities. 4

Commencement 14.

This regulation shall be enforced and implemented after 1 (one) month from the date of publishing of the regulation on the Government Gazette.