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Halieutique entre les Etats Africains Riverains de
l'Océan Atlantique

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Study for the
implementation of a Regional
Programme for Harmonised
Port Inspection in the
ATLAFCO Region

Summary



SUMMARY

Introduction

This summary presents the main results of the study on a Regional Programme for Harmonised Port Inspections initiated following the Rabat Declaration on regional cooperation against IUU fishing¹, adopted during the 9th ATLAFCO Ministerial conference in September 2014 and following the conclusions of the ATLAFCO Workshop held in October 2015 in Marrakech.

In the frame of the fight against IUU fishing, which is a priority followed by West African States, either individually or through their representative organisations, strengthening port controls can bring an important contribution to this objective, **by deterring or preventing access of IUU vessels into their ports, depriving them from the economic benefits from their illegal activities.**

West African States have an important role to play in the global fight against IUU fishing. **According to available data, about 3.5 tonnes of fisheries products are landed each year into ports of ATLAFCO Member States.** In addition, some ports which are not landing sites can be used by IUU vessels for servicing or transhipping. Recent information suggests that African ports have been used by IUU fishing vessels in a recent past. The threat is therefore present and it still needs to be combatted.

Main Port Inspection Programmes in the ATLAFCO Region

The existing port inspection programmes in the ATLAFCO region are largely based on the prescriptions of two major international agreements: **the FAO Port State Measure Agreement (PSMA)**, which is into force since 2016 and already ratified by 10 ATLAFCO Member States with other in the ratification process, and the **ICCAT Recommendation 12-07** for an ICCAT Scheme for Minimum Standards for Inspection in Port mandatory for all ATLAFCO Member States contracting parties to this organisation.

In brief, the two instruments mandate foreign fishing vessels to request prior authorisation to enter into designated ports, the opportunity for port States to accept or to refuse entry if there are reasonable grounds to suspect IUU activities and should access be authorised, to inspect fishing vessels in port, according to quantitative objectives. Through these instruments, port States commit to provide adequate port inspection resources (training of inspectors, equipment). Finally, these two agreements include an international cooperation dimension through the creation of networks for exchange of information.

The implementation modalities of these two international agreements are largely convergent. Responsible international organisations (FAO, ICCAT) have the responsibility to develop tools to facilitate and accelerate implementation while taking due account of specific needs of developing countries. FAO is in the process of developing a platform for exchange of information between the parties (article 6) and has secured a special fund to build capacities in developing countries (Umbrella fund). ICCAT adopted two new recommendations supporting Rec. 12-07: Recommendation 14-08 creating a special assistance fund for developing countries (MCSF fund) and Recommendation 16-18 creating an expert group for capacity building. FAO and ICCAT already responsible launched calls for expression of interest for developing countries, but the number of request received so far has been fairly low.

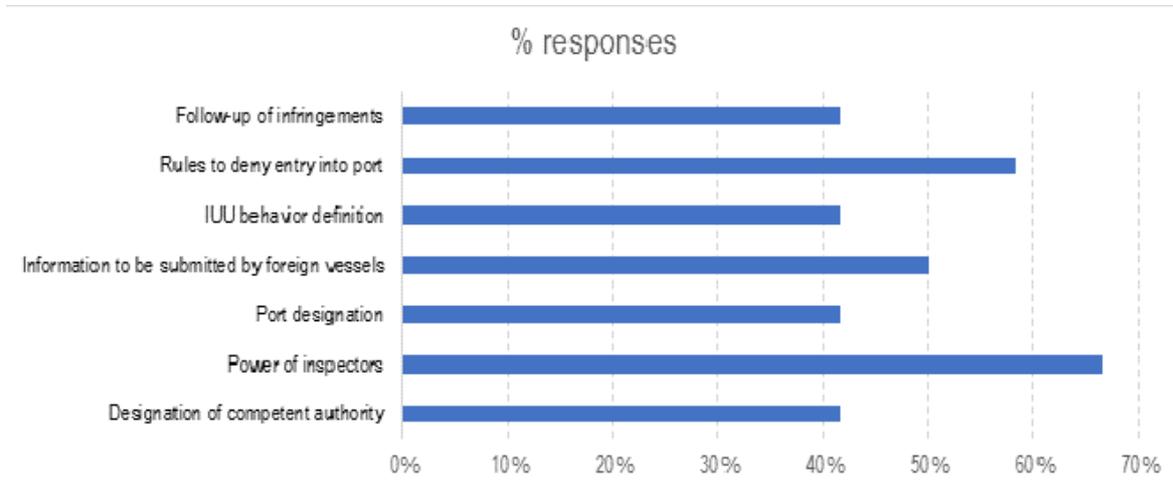
Port inspection situation in the ATLAFCO Region

In the frame of this study, a questionnaire has been sent in September 2017 to all 22 ATLAFCO Member States to obtain information on the situation of port inspections. Twelve States responded (55%) allowing the identification of trends.

¹ Illegal, Unregulated et Undeclared



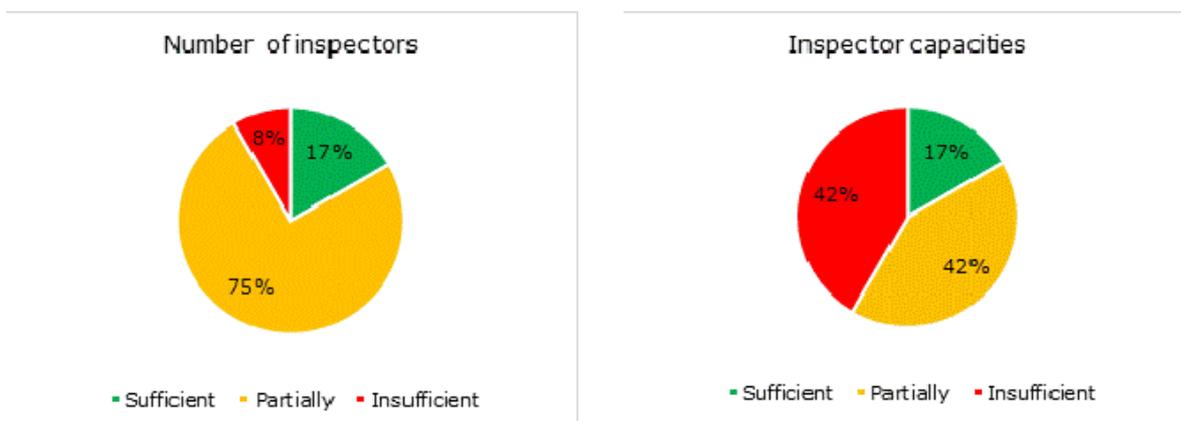
Concerning the national legislation that must include PSMA prescriptions in the national regulatory framework to support its full implementation, all contributions received expressed their needs in this respect. The most frequent needs include the definition of the power of inspectors, rules to deny or authorise entry into ports, minimal information that must be submitted by the vessels, definition of INN behaviors and follow-up of infringements. The adaptation of the national legislation is a substantial work that, according to some State's experience, can request drafting and adoption of dozens of texts (laws and implementing regulations).



Main component of the national regulatory framework that States cite as to be reinforced for full effectiveness of port inspections

Inter-agencies cooperation mechanisms are also to be created or to be reinforced for more than 90% of respondents. Port inspections can involve several national agencies including, depending on countries, fisheries, port authorities, maritime authorities, customs, immigration, health authorities, police, defence and prosecutors. So far, few States could establish cooperation mechanisms but encouraging experiences are being developed in countries like Senegal or by the Fisheries Committee for the West Central Gulf of Guinea (FCWC) Member States.

Responding States raised important needs in relation to the training of port inspectors. Most States reported inspector teams with training insufficient or partially to totally insufficient levels. States also mentioned insufficient number of port inspectors with ageing available staff. This situation raises concerns as PSMA requests adequate inspection resources in designated ports (PSMA article 7). For consulted States, training difficulties stem from lack of financial resources for training and from insufficient resources for delivering training.



Status of port inspector teams concerning number (left) and training level (right). Sufficient: green, insufficient: red, partially: orange

Concerning the exchange of information, consulted States reported that 82% implement measures to exchange information at regional and sub-regional levels. For a majority of them, information is exchanged with RFMOs only (ICCAT, SEAFO, CCAMLR) as foreseen by relevant resolutions. FCWC Member States mentioned exchanges of information at sub-regional level through a dedicated



computer platform. This being said, most respondents reported inadequate verification resources to analyse information submitted by foreign fishing vessels wishing to access their ports.

Lessons drawn from other port inspection programmes implemented in other contexts (benchmarking)

Benchmarking provides lessons in the perspective of the development of **Regional Programme for Harmonised Port Inspections**.

Examples of IOTC², European Union or Abuja MoU for inspection of commercial ships show that **harmonisation of port inspections is largely supported when the organisation takes responsibility, with a mandate from concerned States, for the centralisation of certain tasks and functions** including definition of standardised inspection procedures or training manuals, and when it is involved in the implementation of the inspection programme through delivery of harmonised training to inspectors and centralisation of information.

Example of the Pacific Ocean indicate that in the absence of involvement from the relevant RFMO in port inspection, **States can cooperate through their RFBs to include port access rules in their Minimum Terms and Conditions (MTC) for access and to mutualise through the RFB information useful for inspectors** like regional lists of authorised vessels or other intelligence. This requires a high level of trust between States and their RFB, which seems to be lacking in the ATLAFCO region, at least until a recent past.

Regarding training strategy, the initiative of the European Fisheries Control Agency consisting in providing to inspectors internet-based training modules (e-learning) must be underlined. E-learning is effective to provide, at least, cost-effective, updated and multilingual modules that relevant inspectors can use according to their needs and availability. Paper manuals do not offer the same flexibility and efficiency.

For the 19 ATLAFCO Member States concerned by the implementation of the Abuja MoU, **there is certainly useful experience to obtain from national authorities concerned by commerce ship inspections for the benefit of fishing vessel inspections**. Reconciliation of the different services has been estimated as inadequate or non-existent during the analysis of the situation in the ATLAFCO region.

Institutional context and relevant achievements in the ATLAFCO region

In the ATLAFCO region, there are three Regional Fisheries Bodies (RFBs): SRFC, FCWC and COREP with a mandate encompassing harmonisation of Member States initiatives concerning fisheries management and support of sub-regional cooperation. **Achievements of the three RFBs concerning governance, and in particular monitoring, control and surveillance are relatively uneven**. The three RFBs adopted Minimum Terms and Conditions (MTC) for access which consider port inspections. SRFC and FCWC adopted conventions on sharing of information between Member States, including information on inspections. **SRFC substantially progressed toward sub-regional integration of monitoring, control and surveillance** with the drafting of a specific MCS convention that foresees implementation of port inspections with detailed implementing protocols. However, these instruments are yet to be formally adopted. **COREP aims at creating a regional MSC coordination unit**. Finally, **FCWC achieved significant progresses through its Task Force against IUU fishing** which supports since 2014 initiatives supporting cooperation between its Member States, with funding from Norway.

The study identifies several external donor interventions in support of the improvement of the fisheries governance framework that will consider strengthening of port inspections in ATLAFCO Member States. These ongoing or foreseen initiatives include EU PESCAO programme, World Bank WARFP and forthcoming WARFP-COREP programme, FAO Umbrella programme, ICCAT MCSG programme, not including bilateral donors intervention like NORAD support to FCWC. The total budget of these interventions is important and whilst if they do not all concern port inspections, significant financial resources will be available to ATLAFCO Member States and their RFBs to considerably strengthen their port inspection schemes at least over the next few years and even beyond.

² Indian Ocean Tuna Commission



Recommendations

Information developed in the foregoing sections **suggests not to recommend *ex-nihilo* creation of a new Regional Programme for Port inspection which would be redundant with the numerous ongoing initiatives, but to recommend implementation of support mechanisms, mainly coordinated by ATLAFCO, to support and ensure coherence of the different projects with support of the competent RFBs.** This analysis guides the proposed recommendations to remove obstacles and to reinforce what can be assumed to be the main pillars of PSMA implementation : *i)* adaption of national legislation, *ii)* national inter-agency mechanisms, *iii)* training of port inspectors, *iv)* inspection operational procedures and *v)* prosecution of offenders. The main recommendations developed in the main report are detailed below with responsible entities in italic.

Adaptation of national legislation

- **States which ratified PSMA, or which committed to do so, should evaluate their legislative framework in relation to PSMA** with as first objective the finalisation of a list of texts to amend, to draft or to repeal according to needs. *(ATLAFCO to provide a methodological support for evaluation, legal experts to conduct the evaluation)*
- **National government entities concerned should elaborate / review legal instruments according to the results of the evaluation** and engage the relevant legislative procedures. *(Concerned States with support of legal experts)*
- In order to support and accelerate adoption of texts which need Parliament or other Ministries signatures, **fisheries authorities should implement an active communication strategy** targeting other institutions and the civil society to clearly demonstrate the benefits of fully implementing PSMA and the threats of not doing so. *(ATLAFCO for development of common language elements).*

National mechanisms for national inter-agency cooperation

- **Sub-regional workshops on inter-agencies cooperation for port inspections should be organised** to raise awareness of States to this important PSMA dimension and to foster exchanges on experience on problems and solutions for cooperation and exchange of information. These workshops could concern SRFC and COREP sub-regions as a priority. For FCWC sub-region, significant progresses have been achieved in this domain, which will be of great interest for non-parties. *(ATLAFCO for organisation of sub-regional workshops)*
- **Contracting of sub-regional facilitators of inter-agency working groups should be envisaged.** FCWC experience shows that creation and implementation of national inter-agency working groups is more effective when an external expert facilitate discussions. These facilitators will be responsible for organising regular meeting the working groups at national level with main objective of finalising mutually agreed inter-agency cooperation mechanisms formalised by relevant texts (e.g. MoU, inter-ministerial circulars). *(RFBs for recruitment and management of facilitators, ATLAFCO for support to RFBs)*

Training of port inspectors

- **The different States should prepare training plans for their port inspectors** including number of agents needing initial training and number of agents needing refreshing courses. Training plans should be prepared for a multiannual period (4 to 5 years). *(ATLAFCO to conduct and consolidate training needs assessment, ATLAFCO and RFBs to participate and contribute to FAO and ICCAT working groups on capacity building)*
- Efforts should be produced **to identify and coordinate interventions supported by donors and by international organisations (FAO, ICCAT) in relation to port inspections.** A first task will be to map foreseen interventions and to support a concerted approach at ATLAFCO region that can satisfy needs identified by States for implementation of multiannual training plans. *(ATLAFCO for donor intervention mapping and organisation of a donor meeting)*
- **Available training material, manuals or e-learning should be promoted.** In this respect, multiplication of training curricula should be avoided and those produced by



authorised institutions like FAO or the European Fisheries Control Agency should be prioritized. *(ATLACO for collection and dissemination of relevant training curricula)*

Support to operational inspection procedures

- **Parties concerned should contribute to technical ICCAT and FAO working groups that will be organised as from 2018** concerning the development of tools and mechanisms for exchange of information in support of implementation of port inspectors foreseen by these two organisations. *(ATLAFCO and RFBs to participate / contribute to FAO and ICCAT working groups on international exchange of information)*
- **Sub-regional fisheries organisations should make quick progress toward establishment of sub-regional registers of authorised fishing vessels** and invite their members to cooperate with FAO for the development of the Global Record of Fishing Vessels. Lists of vessels readily accessible by port inspectors are pivotal to complete verification of information transmitted by foreign fishing vessels prior to their arrival into ports. *(RFBs for pushing sub-regional register fishing vessels initiatives, ATLAFCO for pushing cooperation with FAO for the Global Register of Fishing Vessels)*
- **A Regional Programme for Harmonised Port Inspection should not develop an autonomous information exchange platform** since it would be redundant with FAO and ICCAT initiatives. However, a more flexible and less formalised network of port inspectors could possibly be developed by extension of the network already developed by FCWC for its Member States if associated conditions are met. *(ATLAFCO and FCWC for joint review of extension opportunities of the FWCW network to other States)*

Prosecution of offenders

- **Inter-agency cooperation mechanisms shall involve the judiciary** *(to be taken into account when constituting the inter-agencies working groups, e.g.. previous recommendation)*
- **A specific fund should be secured to mobilise international legal assistance for prosecution** in order to support Member States following up alleged IUU behaviors detected during port inspections in their own ports. *(ATLAFCO for negotiation with NGOs on the availability of such fund)*

The study proposes an action plan over 4 years. This duration corresponds to the expected duration of the EU PESCAO programme and of the World Bank interventions with, as a consequence, some visibility on the available support during this period.

Relevant national institutional and legal basis being a pillar for the development of a Regional Programme for Harmonised Port Inspections in the ATLAFCO region, **the action plan proposed prioritises support to States concerning the adaptation of the legal framework and implementation of inter-agency mechanisms.**

Once these foundations built, the regional programme can address **capacity building of ATLAFCO Member States in relation to training of port inspectors and the development of tools and mechanisms for international cooperation.** Actions in relation to States prosecution of offenders can be addressed in parallel with the previous phase. The issue is mainly to secure access to extern funding for swift mobilization when the need emerge.

Conclusion

ATLAFCO Member States commitment to fight IUU fishing does not need to be demonstrated. This willingness should materialise by new concrete progresses that will add to results already obtained. **Port inspections, which require less financial needs than sea inspections, can be a strong signal sent to the international community.**

With ongoing or foreseen implementation of several international programmes aiming at improving the fisheries governance framework in West Africa, the context is particularly enabling with availability of funds over multiannual periods to strengthen States capacities and to foster sub-regional cooperation. **The main challenge for ATLAFCO and its Member States will be to**



coordinate implementation of these different programmes and to ensure coherence between them.

Implementation of harmonised port inspections must be complemented by other actions engaged by ATLAFCO Member States to fight IUU fishing. In this respect, **it is critical for the success of port inspections that ATLAFCO Member States progress toward other equally important initiatives including conclusion of specific MCS sub-regional conventions and establishment of sub-regional fishing vessels registers** that will be key to support effectiveness of port inspections.

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