PSMA and Trade / Market Access

Facilitating Market Access of Fish and Fishery Products for International Trade BFAR / INFOFISH



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Who am I?

- Ridiculous mixture of Austrian, Guarani-Argentinean, Russian-German and a proud New Zealand citizen
- Involved in I fishing since I'm 17. As a fisherman, deck officer, fisheries observer, fisheries scientist, factory QC, R&D Manager, Fishery Industry Officer at FAO Rome and a Consultant.
- I have a MSc in Fisheries Biology (1991), a MSc in Food Science (2000) and a Rhodes Scholar certification in Law and Policy of the Sea (2022).
- I have worked with industry in the Pacific since 1991 (and since 95 based in New Zealand), and since 1998 as an advisor for FFA, NZ MFAT, EU, FAO, UNDP, WB, SPC, etc.
- When I'm not doing my work, I write a fisheries blog, I cook for my family, play music and go surfing, outrigger paddling, ocean swimming, and spearfishing as much as I can.

Who am I?



But basically I'm an overqualified fisherman

What are we talking about?

	Harvesting	Transhipping	Landing	Transport	Processing	T
Costal State						
Flag State						
s Port State						
Processing State						
T Market State						

Remember that a country can be all of them or just one!

What are we talking about?

Port State measures (PSM) are requirements established or interventions undertaken by port states which a foreign fishing vessel must comply with or is subjected to as a condition for the use of ports within the port state.

 National PSM requirements would typically include requirements related to prior notification of port entry, use of designated ports, restrictions on port entry and landing/transhipment of fish, restrictions on supplies and services, documentation requirements and port inspections as well as related measures, such as sanctions and traderelated measures.

The FAO PSM Agreement (PSMA) is a binding agreement by FAO Members that lays down a minimum set of standard measures for Parties to apply when foreign vessels seek entry into their ports or while they are in their ports.

 It was drawn up in 2005, approved in 2009, and entered into force in 2016 for those that sign/ratify it. It does formalise PSM and requires better and more effective cooperation and information exchange among coastal States, flag States and regional fisheries management organisation and arrangements (RFMOs).

Do you need to sign PSMA to implement PSM in a country?

 No, you can implement PSM regardless. By signing, you agree to a series of minimum standards and obligations that foster collaboration.

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What are we talking about?

Market Access Requirements (MARs). These are regulatory conditions that the importing market imposes compliance to their own requirements, hence requiring that the exporting country proves that it operates a control structure applicable to its seafood exports equivalent to those existing in the importing country.

These official requirements relate to "how" official guarantees are offered and "what" are the particulars of these required guarantees.

Depending on the Importing market they relate to:

- EU, USA & CN: Seafood Safety (safe to eat)
- EU, USA: Legality of Catches (IUU fishing)
- USA has one on Marine Mammals status and welfare
- Most countries have them in terms of Origin and added value (customs and tariffs).

But what about Ecolabels & Private Certifications?

- They originate from the perception that public governance is falling short.
- Private certification schemes have no relevance from a regulatory perspective in regards market access.
- The origin of these certification schemes are normally for the buyer to gain further assurances on the safety/quality/ethical origin of their products.
- While these certifications are in fact a "condition" for business to be sorted among buyer and vendor, yet the compliance costs are borne disproportionately by those at the front end of the supply chain (producers as well as processors) rather than those downstream where the demands for certification generated.



Market Access – Official involvement Role for national authorities

Seafood Market Access to China

UPDATE BRIEF TO FFA MEMBERS

Disclaimer

This brief intends to inform interested parties informally on the limited evidence available to the author¹ on the issue of Seafood Market Access to China. The brief is based on documents collected from the USDA Foreign Agricultural service, NZ Seafood, and informal communications with the Philippines and Spanish Embassies in Beijing.

The information presented in this brief should be treated as a guideline only. All official dealings should be conducted via official channels and the diplomatic representation of China in your country.

1 Introduction

Seafood market access to China has experienced a raised profile over the last year, particularly regarding certification, as Chinago now implementing a range of new requirements. Unfortunately, many of these new requirements are not well understood, both outside and within China itself.

Chinese owned vessels and processors in the Pills exporting to China have contacted their various national sanitary authorities commercent authorities (CAs) for seafood exports, requesting them to provide adjust vertileste, which cohorms to China's official template. Based on these circumstartes, we following brieffippes to clarify some of the technical aspects and facilitate a cenario or compliance with the requirements, while minimizing potential mishaps do to lat of kn wiedge.

5.1 Background

Approximately ten government departments and ministries under the State Council monitor food safety in China. These include the Ministry of Health, the State Food and Drug Administration, the State Drug Administration, and the Ministry of Agriculture, the State Administration for Industry and Commerce, the General Administration of Quality Supervision, Inspection, and Quarantine (AQSIQ), the Ministry of Commerce, the Ministry of Science and Technology, and the National Institute of Nutrition and Food Safety.

No single agency is responsible for all food safety regulations and enforcement in China, and the departments' duties often overlap. There are also local and regional food safety agencies, but there is no clear hierarchy of agencies at the local or national levels. In response to complexity of numerous agencies monitoring and regulating food safety, the National People's Congress established the State Food and Drug Administration in 2003.

The State Food and Drug Administration was supposed to oversee the all aspects of food safety regulations and unify food safety controls. However, the State Food and Drug Administration has not become the main governing department as the government had intended, and the other national agencies have continued to regulate and monitor food safety. This unclear division of duties has created conflict and confusion both domestically and with trading partners.

¹ This document was research and prepared for the FFA Secretariat by FFA consultant, Francisco Blaha (franciscoblaha@mac.com).

http://www.franciscoblaha.info/publications/

MARKET ACCESS

FOR FISHERY & AQUACULTURE PRODUCTS

BY FRANCISCO BLAHA

Market Access – Non-Official involvement

No Role for national authorities - Responsibility in the Importer Seafood HACCP and the FDA Food Safety Modernization Act:

Compliance Guide:

U.S. Seafood Import Monitoring Program Revised October 2022

INTRODUCTION

The Seafood Import Monitoring Program (SIMP) establishes reporting and recordkeeping requirements for imports of certain seafood products to deter illegal, unreported and unregulated (IUU) fishing and/or misrepresented seafood from entering U.S. commerce. This provides additional protections for our national economy, global food security, and the sustainability of our shared ocean resources.

As a global leader in sustainable fisheries and a major market for seafood commerce, the United States has a responsibility to combat illegal practices that undermine the sustainability of our shared ocean resources. To that end, NOAA and its U.S. Government partner agencies are engaged in numerous efforts to engage internationally, enhance enforcement, strengthen partnerships, and establish seafood traceability. On December 9, 2016, NOAA Fisheries published a regulation establishing <u>SIMP</u>.

SIMP requires additional data to be reported at the point of entry into U.S. commerce or retained by the importer of record for imported fish and fish products identified as priority species due to the risk for IUU fishing and seafood fraud activities. Importers of record are identified to U.S. Customs and Border Protection (CBP) on each entry filing. The U.S. importer of record is required to obtain an <u>International Fisheries Trade</u> <u>Permit</u> (IFTP) from NOAA Fisheries to report certain harvest information at the time of entry filing, and to keep records regarding the chain of custody of the fish or fish product from harvest to point of entry into the United States.

The purpose of this document is to provide an overview of SIMP requirements with responses to frequently asked questions. This *Compliance Guide* does not offer any new interpretation of the SIMP regulation or speak to the potential enforcement actions that may result from noncompliance.

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INTRODUCTION DEFINITION OF TERMS PROGRAM REQUIREMENTS IMPORTER OF RECORD INTERNATIONAL FISHERIES TRADE PERMIT DATA REPORTING RECORDKEEPING AUDITS SMALL-SCALE FISHERIES AND FARMS ADDITIONAL RESOURCES Additional copies are available from: Center for Food Safety and Applied Nutrition Food and Drug Administration 5001 Campus Drive College Park, MD 20740 (tel) 240-402-1700 http://www.fda.gov/FoodGuidances

Guidance for Industry

You may submit electronic or written comments regarding this guidance at any time. Submit electronic comments to <u>http://www.regulations.gov</u>. Submit written comments on the guidance to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number FDA-2017-D-3716.

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List of Foreign Fisheries

NOAA's List of Foreign Fisheries lists foreign commercial fisheries that export fish and fish products to the United States and that have been classified as either "export" or "exempt" based on the frequency and likelihood of incidental mortality and serious injury of marine mammals.

Table of Contents

- About the List of Foreign Fisheries
- Developing the List of Foreign Fisheries
- Impact of the List of Foreign Fisheries

More information

Marine Mammals - Requires US approval

NOAA Fisheries has published its final 2020 List of Foreign Fisheries, as required by 50 C.F.R. § 216.24(h) implementing the Fish and Fish Product Import Provisions Section 101(a)(2) of the U.S. Marine Mammal Protection Act.

(PDF)

- Final List of Foreign Fisheries, 2020
- Final List of Fisheries Deleted, Added or Switched in Classification, 2020
- Final List of Intermediary Nations and Products, 2020
- Final List Wherein MMPA Import Provisions Rule Not Applicable, 2020
- Federal Register Notice on the final 2020 List of Foreign Fisheries
- International Affairs Information Capture and Reporting System (IAICRS)
- MMPA Import Final Rule

Is PSMA related to Market Access?

No, it is not.

No importing market has required that a state is a party to PSMA to access it

In fact:

- The EU IUU Catch Certification Scheme, dos not include a section for ports of unloading, only section 7 has a space for transshipment in port, but not unloading
- The US SIMP does require details of the unloading port, but does not officially involve the port authorities

EU Exclusives	X Necessary
US Exclusive	* Optional

Transhipment at sea			
Donor Vessel	Name of Master of Fishing Vessel	х	
	Signature:	x	
	Date:	х	
Events	Date	х	
	Area	x	
	Position	x	
	Estimated Weight (kg)	x	
Receiving Vessel/s	Master of receiving vessel:	x	
	Signature:	x	
	Vessel Name:	х	х
	Call Sign:	x	Х
	MO/Lloyds number	х	Х
Transhipment	Name	X	
authorization port	Authority:	X	
area:	Signature:	X	
	Address:	X	
	Telephone number:	X	
	Port	X	
	Date	X	
	Seal: (Stamp		
Landing port	Landing port		Y
Landing port			^
1st Buying Entity	Company Name of Landing Recipient,		х
	Facility or Vessel Landed/Delivered To		х
Exporter	Name of exporter:	x	
	Address of exporter:	х	
	Signature:	x	
	Date	x	
	Seal	х	
		12	
Flag State authority	Name	x	
- under offi	Title	X	
	Signatory	x	
I	Signatory	^	

This is well explored in these publications

FFA PSM Consultancy

TASK #3¶

April 2019

Port State Measures and Market Access Requirements ¶



http://www.franciscoblaha.info/publications/

A comparative study of key data elements in import control schemes aimed at tackling illegal, unreported and unregulated fishing in the top three seafood markets:

the European Union, the United States and Japan

January 2020





OCEANA







However, there is a common factor here: Traceability



CTEs and corresponding KDEs

CRITICAL TRACKING EVENTS (CTEs):

Good PSM is key for good traceability



Port State

- There is no other point in the supply chain that represents a more essential nexus for a integral traceability than the port, since it is the point where fisheries products transit from the vessels to the land-based supply chain
- Independently of PSMA, or any other regulations; fishing vessels must be subjected to a consistent monitoring framework in designated ports, and the conditions to conduct fisheries inspections must be given.
- For a suspected or established IUU fishing event, ports are able to deny unloading authorisation to prospective fishing vessels intending to use port services, or to access the port altogether. If no Port use and no further movement of products
- But we need
 - Inspection capacity, if a fishing vessel has been allowed port access and it has been decided that an inspection is to take place, then trained fisheries inspectors with the necessary law enforcement powers must be available as to handle the inspection load.
 - **Collection of standardised inspection information** in terms of minimal contents and format as per the national legislation, that allow for traceability.

What do we need to check for in PSM?

There was nothing written about it.

So with my friend Gilles Hosch we wrote a book about it.

- FAO TP 619
- Published November 2017

http://www.fao.org/3/a-i8183e.pdf



Port State



TABLE 4

Supply chain points, CTEs and KDEs at the port state level

ST Port state supply chain segment		CDS		Port State		
Supply chain stop	CTE	Main KDEs*	Data capture	Notes	Data source	Notes
Harvesting	End of harvesting operations/fishing trip	Prior notice	Not covered		Prior notice	PSMA procedures: documentary checks, authorization/refusal of port entry
		Catch certificate(s)	Covered		Port entry and unloading authorization/use of port	Physical verification; remote access in case of e-CDS Catch Certificate verified against
						information in prior notice
		Carrier ID and licence	Covered	Issued by flag state		Should appear on RFMO white list
		Observer ID	Partially covered	Only recorded in CCSBT CDS		
Unloading	Transhipment	Date and name of port, or geographic coordinates	Covered			Designated port for fisheries activities
		Volume, form and species - estimated	Covered			Estimates verified by monitoring using crane scales
					Port entry notice	Mate's receipt, hatch plan
		Catch certificate ID	Covered			
	Landing	Vessel ID and licence	Covered	Issued by flag state	Unloading authorization	Should appear on RFMO white list
		veser ib and iterice		issued by hug state	Inspections	Must have licences for coastal states fished
		Date & name of port	Partially covered	Only recorded in CCAMLR CDS		
		Volume, form and	Covered ¹	Before landing, weights are		Physical inspection of vessel and catch
		species - estimated		usually estimated		Note: Level of inspection as per risk analysis
		Volume, form and species - verified	Partially covered	Only recorded in CCAMLR CDS		
		Catch certificate ID	Covered		Catch certificate	
		Name of first buyer	Partially covered ²	Not recorded in EU and ICCAT CDS	Inspection Commercial invoice CDS	Inspection records/notifications

And how do we integrate the whole picture?

There was nothing written about it.

So with my friends Yahira and Andre, we wrote a specific book about it.

Guidance document: Advancing end-to-end traceability – Critical tracking events and key data elements along capture fisheries and aquaculture value chains. Rome, FAO.

https://www.fao.org/documents/card/en/c/cc5484en



Food and Agriculture Organization of the United Nations

GUIDANCE DOCUMENT: ADVANCING END-TO-END TRACEABILITY

Critical tracking events and key data elements along capture fisheries and aquaculture value chains



Port State

Contraction of the

Main supply chain stops, CTEs and KDEs identified for a standard supply chain overseen by a port state



Port state					(Cont.)				
Supply chain stop	CTEs	Main KDEs	Data source	Comments	Port state				
Harvesting	End of fiching	End of fishing/port entry	Port entry notice		Supply chain stop	CTEs	Main KDEs	Data source	Comments
	(reporting) (shared with flag State and coastal State If applicable)	estimate Fishing vessel identity (Based on the flag state	Port entry notice	Usually as defined for the flag state in section above	Uniosding	Transhipment In port	Dates of transshipment (start and end) GDST KDE W18	Fishing vessel captain/ master's records and transshipment vessel captain/ master's records	Can be validated by transshipment monitoring if in existence
		KDEs, Table 2) Fishing vessels authorization to fish (Based on the flag and	Port entry notice Can include flag state, coastal	Can be validated with access to regional/RFMO licensing registry			Estimated volumes transshipped (per species/ product type)	Mate's receipt, transshipment monitoring estimates, hatch plan, etc-	Can be validated by transshipment monitoring if in existence
		coastal State KDEs, Table 2 and 3)	state and RFMD				Landing authorization to	Portuse/Janding authorization	
		Fishing operations dates and zones (Based on the flag and coastal State KDEs, Table 2 and 3)	Port entry notice EEZ; FAO fishing area, sub-area and division(s) as applicable for RFMO reporting	Can be validated with access to regional/RFMD VMS and/or IAS			unload a fishing vessel based on PSM unique number associated with a regulatory document, from the relevant authority, granting permission GDST KDE W31	by the fisheries authority as per PSM best practices of PSMA	
		Species Name GDST KDE W15	ASFIS list of species Scientific name/FA0 3-Alpha code (e-g-YFT) Vessels logbook/harvest records/electronic reporting				First buyer/unique operator Identifier	Unique operator identifier	This is no different to identifying the receiving vessels in the case of transhipments. In the case of landing in more than one site, all information needs to be
		Estimated volume /weight / quantity oper type work	records/electronic reporting	Numerically quantifiable amount of seafood with a standard unit			Landing location GDST KDE W21	Designated landing site ID In port landings: port name Non-port landings: GPS coordinates	A port can have many designated
		Product form Vessel's log GDST KDE W16 records, w production lists, etc-	Vessel's logbook/harvest records, weight ticket,	Commercial short-hand reference of the degree of transformation of seafood from its original living form No single source exists, yet the more standardization, the better					landing sites, either state or privately owned
			production records, packing lists, etc-				Dates of landing(start and end dates) GDST KDE W22	Reporting/logbook Port operations log by fishery or port authority	Can be validated by unloading monitoring if in existence
Uniceding	Transshipment In port	Authorization to transship to fishing vessel based PSM unique number associated with a regulatory document, from the relevant authority, granting permission GDST KDE W33	Port use/transshipment authorization by the fisheries authority as per PSM best practices of PSMA	In the case of transshipment to more than one receiving vessel information needs to capture all receiving vessels			Volumes landed (per species/product type) GDST KDE W03, W15, W16	Estimated (i-c containers, truck weights) Verified, if in existence, (weight ticket, docket, etc.)	Codes for units of measure used in international trade ASFIS list of species Species, scientific name/FAD 3-Alpha code (e-g-YFT) if weights are verified in port, implies a form of official oversight and verification of volumes and species
		Carrier vessel's ID[same requirements as fishing vessels ID, Table 2]	Port entry notice	Can be validated with access to regional/RFMD licensing registry	Distribution	Factory/ warehouse 'weigh in'	Unique operator identifier	Legal fisheries and business operator are to be registered for existing regulatory	
		Carrier vessel licensing Usually as defined for the flag state and or coastal	Port entry notice	Can be validated with access to regional/RFMO licensing registry	TY .		Volumes received (ner	frameworks under fisheries, health, tax, etc.	Generally the "weigh in" implies
		states in sections above, Tables 2 and 3				species/product type) Verified net volume, forms	Invoices, weight ticket, production records, packing	a form of official oversight and verification of volumes and	
		Details of species, product types and volumes on board prior to entry to port (If any) GDST KDE W03, W15, W16	Port entry notice Cargo manifest/hatch plan Inspection report	Can be validated on arrival Inspection			and species transferred to Individual buyers GDST KDE W03, W15, W16	issts, codes on inventory, etc-	species
		Sanitary license ID/approval ID	Sanitary CA of the flag state	Can be required for market access (e-g- European Union and China)	Source: Authors' (wn claboration.			

The "in-state" component to traceability

- A "in State" (flag, coastal, port, processing and market).
- At country level, operations along the supply chain by a great number of diverse actors are subject to a variety of licenses, authorisations, and reporting obligations.
- Such operations include, fishing vessel registrations and licenses, VMS, fishing and transhipment operations, logbook and observer regimes, landings, imports, sales and distribution, processing and reprocessing, exportation and re-exportation into further processing destinations or consumer markets.
- All of these operations involve different types of information, generated and recorded by various means, collected and logged by a range of different actors – including public authorities.

The "inter-state" component to traceability

- A "inter-State" one of KDEs generated across the whole supply chain, and provides rules to record these centrally to be used on a CDS.
- These data pertain to three broad types of transactions, namely;
 - a) harvesting and landing operations;
 - b) export operations; and
 - c) import operations.
- By recording these data centrally (the necessary KDE's for traceability converge), the CDS is able to accomplish its central function – *i.e. the detection of mass imbalance of certified* products moving into a country, and then moving out again.
- Mass balance inconsistencies relating to more product moving out of a country than having moved into a country are indicative of illegal or "non-originating" harvests being laundered into CDScertified supply streams at the country level

How does it work at the country level?



How does it work at the "inter-country" level?



You need standards first

- The role of standards cannot be understated, as interoperability and verifiability among information systems are basic prerequisites for 21st century global commerce.
- You need a unified set of standards and guidelines to enable coherence and interoperability among seafood traceability systems and to help ensure the verifiability of the data those systems contain.
- As a critical initial step, there is a need to establish common global expectations and practices regarding two fundamental things:
 - 1. the nature of the information to be routinely associated with seafood products (i.e. the KDEs); and
 - 2. the technical design specifications allowing diverse digital traceability systems to communicate with one another (known as interoperability).

Do we all need blockchain?

There are scenarios where blockchain may work, but others where it may not be needed, and other alternatives are equally valid.

There was nothing written about it.

So with my friend Ken Katafono we wrote a book about it.

FAO Fisheries and Aquaculture Circular No. 1207 Published November 2020 <u>https://www.fao.org/3/ca8751en/CA8751EN.pdf</u>



Food and Agriculture Organization of the United Nations



BLOCKCHAIN APPLICATION IN SEAFOOD VALUE CHAINS



Do we all need blockchain?

Table 4. Supply chain points, critical tracking events and key data elements at the level of the port State

Port State							
Supply chain stop	Critical tracking events	Main key data elements	Data source	Suitability for blockchain			
Harvesting	End of harvesting operations / fishing trip	End of harvesting operations / fishing rip		Port States Measures Agreement (PSMA) procedures: documentary checks, authorization/refusal of Port entry may not be easy to codify			
		Unloading authorization code/ID	Port entry and unloading authorization / use of port register under PSMA	Post-physical verification and unloading code can be provided and could be easily be incorporated			
Unloading	Trans-shipment	Carrier ID and licence	Port entry notice Unloading	Fixed data, as carrier should appear on regional fisheries management organization			
		Observer ID	authorization	(RFMO) white list			
		Date and name of port, or geographic coordinates	Inspections	Fixed data and simple designated port for fisheries activities			

Do we all need blockchain?

- Use a well-designed decision tree, or another decision model, to determine whether it is the right tool to use.
- If blockchain is chosen as the appropriate tool, then attention still needs to be given to:
 - operational considerations,
 - security considerations,
 - electronic data interchange,
 - regulatory uncertainty,
 - increased responsibility of the user,
 - technical infrastructure,
 - costs: design, development, maintenance, operation, integration with existing ERP, and hardware (including data capture, tagging and printing devices).

But finally

For whatever way we want to make it work, the following recommendations apply

- Ports State Measures are based on routines and a robust system. My advice is always: *do first, sign later*
- Make sure your PSM integrate all possible as distinct from desirable – supply-chain events and scenarios under consideration so that traceability can be sustained.
- Clear definition of the "critical tracking events" (CTEs) and "key data elements" (KDEs) – to be covered.
- For regulatory purposes, consider the administrative, logistic and legal aspects associated with the types of "States" that have custody of fishery products as they move through national and international supply chains from harvesting, transshipment, landing and processing, to the consumer end-market.
- Clear understanding of the current operational and logistic limitations of the current traceability system in existence (if any).

Questions?

"I am not young enough to know everything" Oscar Wilde



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