



COMMISSION
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**CONSERVATION AND MANAGEMENT MEASURE ON MINIMUM
STANDARDS FOR PORT STATE MEASURES**

Conservation and Management Measure 2017-02

The Western and Central Pacific Fisheries Commission (WCPFC):

Deeply concerned about the continuation of illegal, unreported and unregulated (IUU) fishing¹ in the WCPF Convention Area and its detrimental effect upon fish stocks, marine ecosystems and the livelihoods of legitimate fishers in particular in Small Island Developing States and Participating Territories (SIDS), and the increasing need for food security in the region;

Recalling that Article 27(1) of the WCPF Convention affirms that a port State has the right and the duty to take measures to promote the effectiveness of sub-regional, regional and global conservation and management measures;

Conscious of the role of the port CCMs in the adoption of effective MCS measures to promote the sustainable use and the long-term conservation of living marine resources;

Recognizing that port State measures potentially provide a powerful and cost-effective means of preventing, deterring and eliminating IUU fishing;

Aware of the need for increasing coordination at the regional and interregional levels to combat IUU fishing through, inter alia, port State measures;

Recognizing the special requirements of developing countries, in particular SIDS provided for in Article 30 of the WCPF Convention, including the importance of port operations in the domestic economies of many SIDS, the need to ensure that port State measures do not result in transferring a disproportionate burden of conservation action onto developing CCMs, and the need for assistance to developing countries, in particular SIDS to adopt and implement port State measures;

Bearing in mind that CCMs exercise sovereignty over ports in their territory in accordance with their national laws, and consistent with international law;

¹ The definition of IUU fishing is as described in the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU).

Recognizing the importance in the Western and Central Pacific Ocean (WCPO) of measures applied by sub-regional fisheries management arrangements and organisations;

Recalling the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982, hereinafter referred to as the 1982 Convention;

Further recalling the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 December 1995, the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas of 24 November 1993 and the 1995 FAO Code of Conduct for Responsible Fisheries;

Noting that some CCMs are parties to the *FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing*;

Noting the Plan of Action adopted in Kobe in January 2007 by the Joint Tuna RFMOs Meeting and the overall Kobe process;

Adopts the following conservation and management measure (CMM) in accordance with Article 10 of the WCPF Convention:

Objective

1. The purpose of this measure is to establish processes and procedures for CCMs to request that port inspections be undertaken on fishing vessels suspected of engaging in IUU fishing or fishing related activities in support of IUU fishing.

General rights and obligations

2. Nothing in this CMM shall prejudice the rights, jurisdiction and duties of CCMs under international law. In particular, nothing in this CMM shall be construed to affect:

- a) the sovereignty of CCMs over their internal, archipelagic and/or territorial waters, or their sovereign rights over their continental shelves and/or exclusive economic zones;
- b) the exercise by port CCMs of their sovereignty over their ports in their territory in accordance with international law, including their right to deny entry thereto as well as adopt more stringent measures than those provided for in this CMM.

3. This CMM shall be interpreted and applied consistently with international law, taking into account applicable international rules and standards.

4. Nothing in this measure affects the entry of vessels to port in accordance with international law for reasons of force majeure or distress, or prevents a port CCM from permitting entry into port to a vessel exclusively for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

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5. Each flag CCM shall require its flagged vessels to cooperate with any port CCM that is implementing any port State measures under the WCPF Convention, and this CMM.

Designation of Ports

6. Each port CCM is encouraged to designate ports for the purposes of inspection through the provision of a list of its *designated ports* to the WCPFC Executive Director. Any subsequent designation of ports or changes to this list shall be notified to the WCPFC Executive Director at least 30 days before the designation or change takes effect.

7. The WCPFC Executive Director shall establish and maintain a record of designated ports based on the lists submitted by port CCMs. The record and any subsequent change shall be immediately published on the WCPFC website.

Authorized fisheries Inspectors

8. Port CCMs shall ensure that fisheries inspections are undertaken by Government authorized inspectors. Each inspector shall carry a document of identity issued by the port CCM.

Inspection requirements

9. Port CCMs shall carry out inspections on at least the following vessels:

- a) on any foreign longline, purse seine and carrier vessel that enters their *designated port* and is not listed on the WCPFC Record of Fishing Vessels, other than in cases where the vessel is authorized with another RFMO that the port CCM is a Party to, as practicable;
- b) vessels that appear on the IUU list of an RFMO.

10. A port CCM shall give particular consideration to inspecting those vessels suspected of undertaking IUU fishing activities, including if identified by non-CCMs or other RFMOs, particularly where evidence of IUU fishing or fishing related activities in support of IUU fishing has been provided.

Request for Port Inspection

11. When a CCM has reasonable grounds to believe that a vessel has engaged in IUU fishing or fishing related activities in support of IUU fishing, and is seeking entry in to, or is in the *designated port* of another CCM, it may request that CCM to inspect the vessel or to take other measures consistent with that CCM's port State measures.

12. CCMs shall ensure that requests for inspections, as per paragraph 11, include information on the nature and grounds for suspicion of IUU fishing or fishing related activities in support of IUU fishing. Port CCMs shall acknowledge the receipt of the request for an inspection, and advise whether an inspection will be undertaken based on an assessment of the information provided, availability of resources, and their capacity to do so at the time of the request.

Inspection procedures

13. If an inspection, as per paragraph 12, is undertaken by the port CCM, a report on the outcome (inspection report) shall be provided to the requesting CCM, to the flag CCM and to the Executive Director as soon as practicable, and in any case within 15 days of such request. Where a port CCM cannot provide a report within 15 days, that port CCM shall notify the requesting CCM, flag CCM and the WCPFC Executive Director of the expected date that the inspection report will be provided.

14. On completion of an inspection, the port inspector shall provide a copy of an interim report on the vessel inspection to the vessel master prior to leaving the vessel.

15. Where, following a port inspection, a flag CCM receives an inspection report, as referred to in paragraph 13, indicating that there are clear grounds to believe that its flagged vessel has engaged in IUU fishing or fishing related activities in support of IUU fishing, it shall immediately and fully investigate the matter in accordance with Article 25 of the Convention.

16. In the event a port CCM does not carry out an inspection, following a request under paragraph 11, the requesting CCM may then seek assistance from the WCPFC Secretariat to advise the requesting CCM, using available surveillance information², which designated port the vessel may next enter. The requesting CCM may then request that port CCM of the designated port to undertake an inspection on the vessel in accordance with paragraphs 11 to 15.

17. In cases where there is sufficient evidence indicating that a vessel has committed IUU fishing, or fishing related activities in support of IUU fishing, or is on a RFMO IUU list, port CCMs shall only provide such a vessel authorisation to enter its designated port for inspection and investigation purposes. Activities that support fishing operations inter alia, landing, transshipment, and re-provisioning shall be prohibited.

18. In the establishment of port State measures, CCMs may consider implementing the port State inspection procedures, port inspection reports and port inspector training provided in Annex A, B and C of this CMM as guidelines³. CCMs may also consider implementing FFA standard inspection procedures and reporting frameworks or other such compatible procedures and frameworks.

Coordination and Communication

19. Each port CCM shall notify the Commission of a contact point for the purposes of this measure. Port CCMs shall transmit this information to the Executive Director within 6 months from the date of entry in to force of this CMM. Any subsequent changes shall be notified to the WCPFC Executive Director at least 15 days before such change takes effect. The WCPFC Executive Director shall establish

² Surveillance information can include VMS information and other sources that may provide vessel location information, including information that may be obtained through consultation with other regional organisations.

³ CCMs should also consider investigating implementation of bycatch mitigation equipment.

and maintain a list of port CCM contacts and shall publish this list on the WCPFC website.

20. CCMs shall cooperate and exchange information with relevant CCMs, the WCPFC Secretariat, other regional organisations and relevant international organisations to further the objectives and ensure the effective implementation of this CMM, in accordance with the Commission's confidentiality and data protection requirements, and with national laws.

21. CCMs that establish port State measures shall publicize all relevant measures in an appropriate manner, within 30 days of entering into force of such measures, and shall advise the Commission to facilitate wider distribution through posting on the WCPFC website.

Special Requirements of Small Island Developing States and Participating Territories

22. CCMs shall give full recognition to the Special Requirements of Developing States, in particular SIDS, in relation to the implementation of this CMM. To this end, WCPFC shall provide assistance to CCM SIDS in order to, inter alia:

- a. enhance their ability to develop a legal basis and capacity for the implementation of effective port State measures;
- b. facilitate their participation in any international organizations that promote the effective development and implementation of port State measures; and
- c. facilitate technical assistance to strengthen the development and implementation of port State measures by them, in coordination with relevant international mechanisms.

23. CCMs shall cooperate to establish appropriate mechanisms to assist Developing CCMs, in particular SIDS in the implementation of this CMM, which may include the provision of technical and/or financial assistance through bilateral, multilateral, and regional cooperation channels

24. These mechanisms shall, inter alia, be directed specifically towards:

- developing national and international port State measures;
- developing and enhancing capacity, including for monitoring, control and surveillance and for training at the national and regional levels of port managers, inspectors, and enforcement and legal personnel;
- monitoring, control, surveillance and compliance activities relevant to port State measures, including access to technology and equipment; and
- assisting SIDS CCMs with the costs involved in any proceedings for the settlement of disputes that result from actions they have taken pursuant to this CMM.

25. Starting in 2018, the Commission shall commence development of a mechanism, including through cost recovery, to provide funding support to SIDS CCMs that undertake inspections of foreign fishing vessels in accordance with this measure. The Commission shall use best endeavors to finalize and agree this mechanism by WCPFC16, noting that it will be critical in SIDS' decision making processes about whether to designate their ports under this CMM.

26. CCMs shall, to the extent practicable, encourage the use of ports of SIDS in order to increase the opportunity to undertake inspections, and participation of SIDS in fisheries for WCPO tuna stocks.

27. In implementing any obligation of this CMM, where the transfer of a disproportionate burden has been demonstrated by a SIDS despite measures in this section, CCMs shall cooperate to identify mechanisms required to mitigate the burden of implementation, which may include key capacity or resource assistance and those mechanisms set out in paragraph 4 of CMM 2013-06. CCMs shall cooperate with that SIDS to adopt or obtain those mechanisms in order to assist that SIDS to implement that obligation.

Periodic review

28. The Commission shall review this measure within 2 years of its entry in to force, which shall include but not be limited to an evaluation of its effectiveness, and any financial and administrative burdens associated with its implementation.

29. In the review of this measure, the Commission may consider additional elements such as notification requirements, port entry, authorization or denial, use of ports, and additional inspection requirements.

Inspectors should:

- a) verify, to the extent possible, that the vessel identification documentation onboard and information relating to the owner of the vessel is true, complete and correct, including through appropriate contacts with the flag State or international records of vessels if necessary;
- b) verify that the vessel's flag and markings (e.g. name, external registration number, International Maritime Organization (IMO) ship identification number, international radio call sign and other markings, main dimensions) are consistent with information contained in the documentation;
- c) verify, to the extent possible, that the authorizations for fishing and fishing related activities are true, complete, correct and consistent with the information provided in accordance with Annex A;
- d) review all other relevant documentation and records held onboard, including, to the extent possible, those in electronic format and vessel monitoring system (VMS) data from the flag State or relevant regional fisheries management organizations (RFMOs). Relevant documentation may include logbooks, catch, transshipment and trade documents, crew lists, stowage plans and drawings, descriptions of fish holds, and documents required pursuant to the Convention on International Trade in Endangered Species of Wild Fauna and Flora;
- e) examine, to the extent possible, all relevant fishing gear onboard, including any gear stowed out of sight as well as related devices, and to the extent possible, verify that they are in conformity with the conditions of the authorizations. The fishing gear should, to the extent possible, also be checked to ensure that features such as the mesh and twine size, devices and attachments, dimensions and configuration of nets, pots, dredges, hook sizes and numbers are in conformity with applicable regulations and that the markings correspond to those authorized for the vessel;
- f) determine, to the extent possible, whether the fish on board was harvested in accordance with the applicable authorizations;
- g) examine the fish, including by sampling, to determine its quantity and composition. In doing so, inspectors may open containers where the fish has been pre-packed and move the catch or containers to ascertain the integrity of fish holds. Such examination may include inspections of product type and determination of nominal weight;
- h) evaluate whether there is clear evidence for believing that a vessel has engaged in IUU fishing or fishing related activities in support of such fishing;
- i) provide the master of the vessel with the report containing the result of the inspection, including possible measures that could be taken, to be signed by the inspector and the master. The master's signature on the report should serve only as acknowledgment of the receipt of a copy of the report. The master should be given the opportunity to add any comments or objection to the report, and, as appropriate, to contact the relevant authorities of the flag State in particular where the master has serious difficulties in understanding the content of the report. A copy of the report should be provided to the master; and
- j) arrange, where necessary and possible, for translation of relevant documentation.

ANNEX B Guidelines for Port Inspection Reports

1. Inspection report no.		2. Port State			
3. Inspecting authority					
4. Name of principal inspector		ID			
5. Port of inspection					
6. Commencement of inspection	YYYY	MM	DD	HH	
7. Completion of inspection	YYYY	MM	DD	HH	
8. Advanced notification received	Yes		No		
9. Purpose(s)	LAN	TRX	PRO	OTH (specify)	
10. Port and State and date of last port call			YYYY	MM	DD
11. Vessel name					
12. Flag State					
13. Type of vessel					
14. International Radio Call Sign					
15. Certificate of registry ID					
16. IMO ship ID, if available					
17. External ID , if available					
18. Port of registry					
19. Vessel owner(s)					
20. Vessel beneficial owner(s), if known and different from vessel owner					
21. Vessel operator(s), if different from vessel owner					
22. Vessel master name and nationality					
23. Fishing master name and nationality					
24. Vessel agent					
25. VMS	No	Yes: National	Yes: RFMOs	Type:	
26. Status in RFMO areas where fishing or fishing related activities have been undertaken, including any IUU vessel listing					
<i>Vessel identifier</i>	<i>RFMO</i>	<i>Flag State status</i>	<i>Vessel on authorized vessel list</i>	<i>Vessel on IUU vessel list</i>	

27. Relevant fishing authorization(s)						
<i>Identifier</i>	<i>Issued by</i>	<i>Validity</i>	<i>Fishing area(s)</i>	<i>Species</i>	<i>Gear</i>	
28. Relevant transshipment authorization(s)						
<i>Identifier</i>		<i>Issued by</i>		<i>Validity</i>		
<i>Identifier</i>		<i>Issued by</i>		<i>Validity</i>		
29. Transshipment information concerning donor vessels						
<i>Name</i>	<i>Flag State</i>	<i>ID no.</i>	<i>Species</i>	<i>Product form</i>	<i>Catch area(s)</i>	<i>Quantity</i>
30. Evaluation of offloaded catch (quantity)						
<i>Species</i>	<i>Product form</i>	<i>Catch area(s)</i>	<i>Quantity declared</i>	<i>Quantity offloaded</i>	<i>Difference between quantity declared and quantity determined, if any</i>	
31. Catch retained onboard (quantity)						
<i>Species</i>	<i>Product form</i>	<i>Catch area(s)</i>	<i>Quantity declared</i>	<i>Quantity retained</i>	<i>Difference between quantity declared and quantity determined, if any</i>	
32. Examination of logbook(s) and other documentation			<i>Yes</i>	<i>No</i>	<i>Comments</i>	
33. Compliance with applicable catch documentation scheme(s)			<i>Yes</i>	<i>No</i>	<i>Comments</i>	
34. Compliance with applicable trade information scheme(s)			<i>Yes</i>	<i>No</i>	<i>Comments</i>	
35. Type of gear used						
36. Gear examined in accordance with paragraph e) of Annex B			<i>Yes</i>	<i>No</i>	<i>Comments</i>	
37. Findings by inspector(s)						
38. Apparent infringement(s) noted including reference to relevant legal instrument(s)						
39. Comments by the master						
40. Action taken						
41. Master's signature						
42. Inspector's signature						

ANNEX C

Guidelines for the training of port inspectors

Elements of a training programme for port State inspectors should include at least the following areas:

1. Ethics;
2. Health, safety and security issues;
3. Applicable national laws and regulations, areas of competence and conservation and management measures, port state measures of relevant RFMOs, and applicable international law;
4. Collection, evaluation and preservation of evidence;
5. General inspection procedures such as report writing and interview techniques;
6. Analysis of information, such as logbooks, electronic documentation and vessel history (name, ownership and flag State), required for the validation of information given by the master of the vessel;
7. Vessel boarding and inspection, including hold inspections and calculation of vessel hold volumes;
8. Verification and validation of information related to landings, transshipments, processing and fish remaining onboard, including utilizing conversion factors for the various species and products;
9. Identification of fish species, and the measurement of length and other biological parameters;
10. Identification of vessels and gear, and techniques for the inspection and measurement of gear;
11. Equipment and operation of VMS and other electronic tracking systems; and
12. Actions to be taken following an inspection.
