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**DRAFT CONSERVATION AND MANAGEMENT MEASURE ON
REGULATION OF TRANSHIPMENT (Revision from WCPFC-TCC4-
2008/DP-06)**

**WCPFC5-2008/DP02 (Rev.3)
12 December 2008**

**Changes to DP02 from discussions in the Small Working Group on
Transshipment that will be used to progress a Transshipment Measure in 2009**

The Commission for the Conservation and Management of Highly Migratory Fish Stock in the Western and Central Pacific Ocean,

Acknowledging that effective conservation and management of highly migratory fish stocks is dependent on the provision of accurate reporting of catches of such stocks in the Convention Area;

Recognizing that transshipment of catches of highly migratory fish stocks at sea, in particular on the high seas contributes to distort reporting of catches of such stocks and supports IUU fishing in the Convention Area;

Recalling Article 29(1) of the Convention which provides that in order to support efforts to ensure accurate reporting of catches, the members of the Commission shall encourage their fishing vessels, to the extent practicable, to conduct transshipment in port.

Recalling also Article 29(2) and (3) of the Convention that transshipment at a port or in an area within waters under the national jurisdiction of a member of the Commission shall take place in accordance with applicable national laws, and that the Commission shall develop procedures to obtain and verify data on the quantity and species transhipped both in port and at sea in the Convention Area and procedures to determine when transshipment covered by the Convention has been completed;

Recalling further Article 29(4) of the Convention that Transshipment at sea in the Convention Area beyond areas under national jurisdiction shall take place only in accordance with the terms and conditions set out in article 4 of Annex III to the Convention, and any procedures established by the Commission pursuant to Article 29(3). Such procedures shall take into account the characteristics of the fishery concerned;

Recalling further that Article 29(5) of the Convention prohibits transshipping at sea by purse seine vessels operating within the Convention Area, subject to specific exemptions which the Commission shall adopt in order to reflect existing operations;

Recognizing the importance of economic benefits from port operations to Small Island Developing State developing CCMs;

Noting that those CCMs with a real interest in undertaking monitoring, control and surveillance activities in the high seas require access to information about transshipment activities in the convention area before they occur.

~~Desiring to establish procedures to obtain and verify data on the quantity and species transhipped in the Convention Area to ensure accurate reporting of catches, and enhance stock assessments of highly migratory fish stocks.~~

Adopts in accordance with Article 10 of the WCPFC Convention:

SECTION 1: GENERAL RULES

1.1(new) This Measure will commence on 1 January 2010.

- 1.1 The provisions of this Measure shall apply to all transshipment of highly migratory fish stocks in the Convention Area, and will apply to the transshipment outside the Convention Area of highly migratory fish stocks taken in the Convention Area
- 1.2 The provisions of this Measure shall not apply to transshipment of highly migratory fish stocks where fish is taken and transhipped wholly in archipelagic waters or territorial seas.
- 1.3 Each CCM shall take necessary measures to ensure that vessels it is responsible for comply with this Measure. For the purposes of this Measure, CCMs are responsible for vessels flying their flag except where the vessel is operated under charter, lease or other similar mechanisms, as an integral part of the domestic fleet of a coastal state in the Convention Area. In such case, the chartering state shall be the CCM responsible for the vessel. Nothing in this Measure shall derogate the obligations on flag states to ensure compliance by vessels flying their flag while operating on the high seas.
- 1.4 CCMs shall report on all transshipment activities covered by this Measure as part of their Annual Report in accordance with guidelines established by the Executive Director. In doing so, CCMs shall take all reasonable steps to validate and where possible, correct information contained in the declarations using all available information such as catch and effort data, position data, observer reports and port monitoring data.
- 1.5 The Commission shall provide appropriate financial and technical assistance to developing states, in particular small island developing states, in the implementation of this Measure.
- 1.6 A WCPFC transshipment declaration, including the information set out in Annex I shall be completed for each transshipment in the Convention Area, and each transshipment of catch taken in the Convention Area. Where required in this Measure the transshipment declaration shall be sent to the Executive

Director. Annual reporting on this Measure by flag, chartering, port and coastal state CCMs shall be based on information compiled from the transshipment declarations.

1.7 The Executive Director, in conjunction with other RFMOs shall develop a cross-endorsement arrangement to be approved by the Commission in order to allow vessels operating between RFMOs to use the same observer. For the purposes of this measure, references to an observer from the WCPFC regional observer programme includes an observer from another RFMO endorsed under the arrangement.

1.8 The measure shall be reviewed periodically in response to other measures and decisions taken by the Commission and taking into account the implementation of this and other measures.

SECTION 2: HIGH SEAS TRANSHIPMENT

2.1bis Except where otherwise stated, this section applies to transshipment in the high seas of fish taken using all gear types, noting the specific exemptions to reflect existing purse seine operations in section 4.

2.1 ~~From 1 January 2010~~ There shall be no transshipment on the high seas except where a CCM has determined, in accordance with the guidelines described in paragraph 2.2 below, that it is impracticable for certain vessels that it is responsible for to operate without being able to tranship on the high seas, and has advised the Commission of such.

In these cases:

a) the CCMs responsible for both the offloading and receiving vessels ~~the vessel~~ shall, as appropriate:

- i) advise the Commission of its procedures for monitoring and verification of the transshipments;
- ii) indicate vessels to which the determinations apply.
- iii) notify the following information to the Executive Director at least ~~[72/48]~~ [24/48] hours prior to each transshipment.
 - a. the name and WCPFC Identification Number (WIN) of the offloading vessel,
 - b. the name and WIN of the receiving vessel,
 - c. the product (including species and its processed state) to be transhipped,
 - d. the tonnage by product to be transhipped,
 - e. the date and location of transshipment, and
 - f. the geographic location of the highly migratory fish stock catches¹.

[CCMs shall provide an amended report of the above information if there are any changes between the initial report

¹ Not required for receiving vessels

and the actual transhipment.]The Executive Director shall ensure that these notifications are made available to other CCMs for compliance activities;

iv) provide the Executive Director with a WCPFC Transhipment Declaration within 15 days of completion of each transhipment. The Executive Director shall ensure that these Transhipment Declarations are made available to CCMs in a timely manner in accordance with the Commission's Rules And Procedures For Access To And Dissemination Of Data ; and

b) each CCM shall ensure that there is 100% coverage on receiving vessels by observers from the WCPFC Regional Observer Programme of all transhipments from purse seine vessels and on all transhipments of frozen fish from longline vessels. The WCPFC observer shall monitor implementation of this Measure, and notably that the transhipped quantities are consistent with information available to the observer, as prescribed by the Regional Observer Programme, which may include any of the following:

i) the catch reported in the WCPFC transhipment declaration;

ii) catch and effort logsheets, including catch and effort logsheets reported to coastal waters in waters from which fish being transhipped has been taken; and

iii) position data; and

iv) the intended port of landing.

~~c) there shall be no transhipment to or from non-CCM vessels, except in relation to paragraph 2.1 (d) below;~~

d) vessels shall be prohibited from commencing transhipping on the high seas in the Convention Area without a WCPFC observer on board the receiving vessel, except in cases of force majeure. In such cases, the Executive Director must be notified of the transhipment within [12 hours] of the completion of transhipment. The CCM responsible for, or in the case of a non-CCM carrier vessel that is on the WCPFC Temporary Register of Bunkers and Carriers, the ~~master [nominating CCM²] of the vessel~~ shall provide the Executive Director with a WCPFC Transhipment Declaration consistent with the requirement under paragraph 2.1(a)(iv);

~~e) the Commission may vary these conditions for any particular fisheries in order to ensure accurate reporting of catches, including verification of catches transhipped, taking into account the characteristics of the fishery concerned; and~~

f) the Commission through the TCC shall review each vessel determination as appropriate but at least every 2 years to establish whether monitoring

² See paragraph 7.3

and verification has been effective. After review, the Commission may prohibit transshipment on the high seas by any vessel or vessels in relation to which monitoring and verification of transshipment on the high seas is proven to have been ineffective, or establish or vary any conditions for transshipping on the high seas; and

g) ~~the Commission may apply additional conditions to those set out above.~~

2.2 The Executive Director shall prepare draft guidelines for the determination of circumstances where it is impracticable for certain vessels to tranship in port or in waters under national jurisdiction. The Technical and Compliance Committee shall consider these guidelines, amend as necessary, and recommend them to the Commission for adoption in 2009. In the meantime, CCMs shall use the following guidelines when determining the practicability of high seas transshipments

- a) The prohibition of transshipment in the high seas would cause a significant economic hardship, which would be assessed by comparing the average value of the catch to be transshipped with the average cost that would be incurred to move into waters under the national jurisdiction of a CCM; and
- b) The vessel would have to make significant and substantial changes to its historical mode of operation as a result of the prohibition of transshipment in the high seas;

2.3 Notwithstanding paragraph 2.1 above:

[a] there shall be no transshipment on the high seas of frozen fish taken by longliners within the area bounded by 20°N and 20°S.]

[b] there shall be no transshipment in any area of the high seas within the area bounded by 20°N and 20°S that are entirely surrounded by exclusive economic zones] [other than by any vessels approved by the Commission under paragraph 4.4 below.]

2.4 In the case of a serious mechanical breakdown, transshipment will be permitted on the high seas only in accordance with the following:

- a) the CCMs responsible, or in the case of non-CCM carriers listed in the WCPFC Temporary Register of Bunkers and Carriers, the [nominating CCMs masters responsible] for both the offloading and receiving vessels ~~allow~~ authorise the transshipment; and
- b) the Executive Director is notified, within no later than 12 hours ~~of~~ after commencing the transshipment; and
- c) both CCMs ~~and/or masters~~ provide the Executive Director with a WCPFC Transshipment Declaration consistent with the requirement under paragraph 2.1(a)(iv).

SECTION 3: TRANSHIPMENT IN NATIONAL WATERS AND IN PORT

- 3.1 Transhipment in a port or in waters under the national jurisdiction of a CCM shall take place in accordance with applicable national laws. Nothing in this Measure shall prejudice the application of national laws when transhipment occurs in areas under the national jurisdiction of a CCM, including the application of more stringent requirements.
- 3.2 A CCM may notify the Executive Director of its designated port or ports for transhipment. The Executive Director shall circulate periodically to all members a list of such designated ports. "Port" is defined as an onshore area used for landing, transhipping, processing, refueling or resupplying, or an offshore terminal, area of water not immediately adjacent to land, or other installation used for those purposes.
- 3.3 Each CCM shall monitor and verify, inter alia, the type of information described in Annex I ~~volumes, species, and areas of for~~ catches transhipped from each vessel in its ports or waters. In doing so, CCMs shall take all reasonable steps to validate and where possible, correct information contained in the declarations using all available information such as catch and effort data, position data, observer reports and port monitoring data. [Question – is this required now that it is reflected in the general rules?]
- 3.3bis Each CCM shall ensure that all transhipment at sea of frozen longline caught fish shall be in the presence of a nationally approved observer.
- 3.4 If the catch transhipped includes catch taken on the high seas or in waters under the national jurisdiction of another CCM, WCPFC Transhipment Declarations shall be sent to the Executive Director within 15 days of completion of each transhipment operation by:
- a) the coastal or port state CCM; and
 - b) the CCM responsible for the vessel.

SECTION 4: PROHIBITION OF TRANSHIPMENT AT SEA BY PURSE SEINE VESSELS

- 4.1 In accordance with Article 29 (5) of the Convention, transhipment at sea by purse seine vessels shall be prohibited except in respect of exemptions granted by the Commission ~~to~~ for:
- a) [existing group seine operations of Papua New Guinea and Philippines composed of small purse seine boats [600 mt or less] that meet the following conditions:∴
 - i. operate in tandem with freezer carrier boat/s to freeze the catch or if operating closer to base with ice carrier boat/s to store the fish,
 - ii. operate as one group together with their support vessels such as

freezer carrier boat/s and/or ice carrier boat/s.

iii. undertake transhipment when refrigerated or other ice carrier boats dock alongside catcher boats and tranship fish from the catcher boats]

b) [transhipment activities involving New Zealand flagged domestic purse-seine vessels where the fishing activity, transhipment and landing of fish all take place within New Zealand fisheries waters in accordance with New Zealand's existing legal and operational framework for monitoring and control of transhipment activity and the verification of catch, and in accordance with the provisions of Section 3 above.] [Debate ongoing whether to specifically list re;event fleets as above, or prescribe criteria that they would meet]

4.2 CCMs seeking an exemption for a vessel that meets the conditions set out in paragraph 4.1, in accordance with Article 29(5) of the Convention, shall submit a written request to the Executive Director by 1 July of a given year that includes, at a minimum, the following information:

- a) The name of the purse seine vessel, its registration number, international radio call sign and its WIN, if any,
- b) The characteristics of the vessel, including GRT and fish hold capacity,
- c) The vessel's history of prior transhipment exemptions,
- c) The main species and product forms that would be transhipped,
- d) The areas where transhipments would take place, to as much detail as possible,
- e) The period of exemption being requested, and
- f) An explanation for the exemption request.

4.3 The Executive Director shall compile all requests for transhipment exemptions and circulate them to all CCMs at least 30 days in advance of the regular annual session of the Technical and Compliance Committee (TCC). The TCC shall review the requests and make recommendations to the Commission regarding exemptions.

4.4 Taking into account the recommendations of the TCC, the Commission, during its regular annual session, shall consider each request and may adopt exemptions in accordance with Article 29(5) of the Convention. The Commission may attach to each granted exemption any conditions or requirements that it determines necessary to achieve the objectives of the Convention, such as limitations on areas, time periods or species, the fishing vessels that may be transhipped to, and any additional requirements necessary for the purposes of monitoring, control and surveillance.

4.5 CCMs shall only authorize those of the purse seine vessels that they are responsible for that have received an exemption by the Commission to engage in transhipment outside of port. CCMs shall issue vessel-specific

authorizations outlining any conditions or requirements identified by the Commission or CCM responsible for the vessel, and shall require that vessel operators carry such authorizations on board at all times.

- 4.6 The CCM responsible for any such authorized purse-seine vessel that is required to be on the WCPFC Record of Fishing Vessels shall notify the Executive Director that the vessel is authorized to engage in transshipment outside of port, in accordance with the Commission-granted exemption and shall indicate in such notification any limitations, conditions or requirements on its authorization.
- 4.7 The Executive Director shall maintain and make publicly available, including on the Commission's website, the list of purse seine vessels that have been granted exemptions and are authorized to tranship outside of port, as well as any corresponding conditions or provisions attached to their exemption.
- 4.8 [Excepting paragraph 3.1], there shall be 100% observer coverage of all transshipments at sea from purse seine vessels in accordance with the WCPFC Regional Observer Programme. The observer shall monitor implementation of this Measure, and notably that the transhipped quantities are consistent with information available to the observer, which may include any of the following:
- a) the catch reported in the WCPFC transshipment declaration;
 - b) catch and effort logsheets, including catch and effort logsheets reported to coastal waters in waters from which fish being transhipped has been taken; and
 - c) position data.
- 4.9 Vessels shall be prohibited from commencing transshipping on the high seas in the Convention Area without a WCPFC observer on board, except in cases of force majeure. In such cases, the Executive Director must be notified of the transshipment and the circumstances giving rise to the force majeure within [12 hours] of the completion of transshipment. The CCM responsible for the vessel shall provide the Executive Director with a WCPFC Transshipment Declaration consistent with the requirement under paragraph 2.1(a)(iv).
- 4.10 Notices to the Executive Director under paragraphs 2.1(d), 2.4 and 4.9 shall be given via a means of two-way communication by data (e.g., telex, facsimile, email) and may be transmitted either from the vessel or the vessel operator. Such notices shall include the information set out in paragraph 2.1 (a)(iii) as well as the nature of the force majeure or breakdown.

SECTION 5: TRANSHIPMENT OUTSIDE THE CONVENTION AREA

- 5.1 CCMs that are responsible for vessels that tranship catch from the Convention Area outside the Convention Area shall provide the Commission with a WCPFC Transshipment Declaration within 15 days of completion of each

transhipment.

SECTION 6: TRANSHIPMENT OF FROZEN BIGEYE

Include any specific additional conditions needed for consistency with regulation of transhipment of frozen bigeye by other tuna RFMOs.

SECTION 7: TRANSHIPMENTS INVOLVING NON-CCM VESSELS

- 7.1 CCMs shall take measures to ensure that vessels they are responsible for do not tranship to or from a vessel flagged to a non-CCM unless that vessel is authorized by a decision of the Commission, such as a non-CCM that is on the WCPFC Temporary Register of non-CCM Carriers and Bunkers.
- 7.2 To retain any authorisation from the Commission relevant to paragraph 7.1, a non-CCM vessel shall not tranship to or from a non-authorized non-CCM vessel.
- 7.3 In cases where transhipment involves a non-CCM vessel, any required communications to the Executive Director, including pre-transhipment notices and transhipment declarations that are required under various sections of this measure, shall be responsibility of the CCM that nominated the non-CCM vessel for authorisation.] [Proposed text but not discussed]

ANNEX 1
INFORMATION TO BE INCLUDED IN WCPFC TRANSHIPMENT
DECLARATION

- A unique document identifier
- the name of the fishing vessel and its WIN,
- the name of the carrier vessel and its WIN
- the quantity of product³ (including species and its processed state⁴) to be transhipped
- the state of fish (fresh or frozen)
- ~~the quantity of product to be transhipped,~~
- the quantity of by-product⁵ to be transhipped,
- the geographic location⁶ of the highly migratory fish stock catches
- the date and location⁷ of the transhipment
- If applicable, the name and signature of the WCPFC observer
- The quantity of product already on board the receiving vessel and the geographic origin⁸ of that product.

³ Tuna and tuna-like species

⁴ Whole; gutted and headed; gutted, headed and tailed; gutted only, not gilled; gilled and gutted; gilled, gutted and tailed; shark fins.

⁵ Non tuna and tuna-like species

⁶ Geographic location of catch means sufficient information to identify what proportion of the catch was taken in the following areas: High seas, outside the WCPFC Convention Area, EEZs (listed separately)

⁷ Location of transhipment is to be in decimal Latitude and Longitude and accompanied by a description of the location, such as high seas, outside the convention area or within a named EEZ.

⁸ The origin of product shall be reported by RFMO area and will include the quantity of product from each different area.