



TECHNICAL AND COMPLIANCE COMMITTEE
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Pohnpei, Federated States of Micronesia

**MARSHALL ISLANDS - DRAFT CONSERVATION AND MANAGEMENT MEASURE ON
REGULATION OF TRANSHIPMENT**

WCPFC-TCC5-2009/DP-08 (Rev.3)
5 October 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 at sea is a common global practice, but that unregulated and unreported transshipment of catches of highly migratory fish stocks at sea, in particular on the high seas, contributes to distorted 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 CCMs;

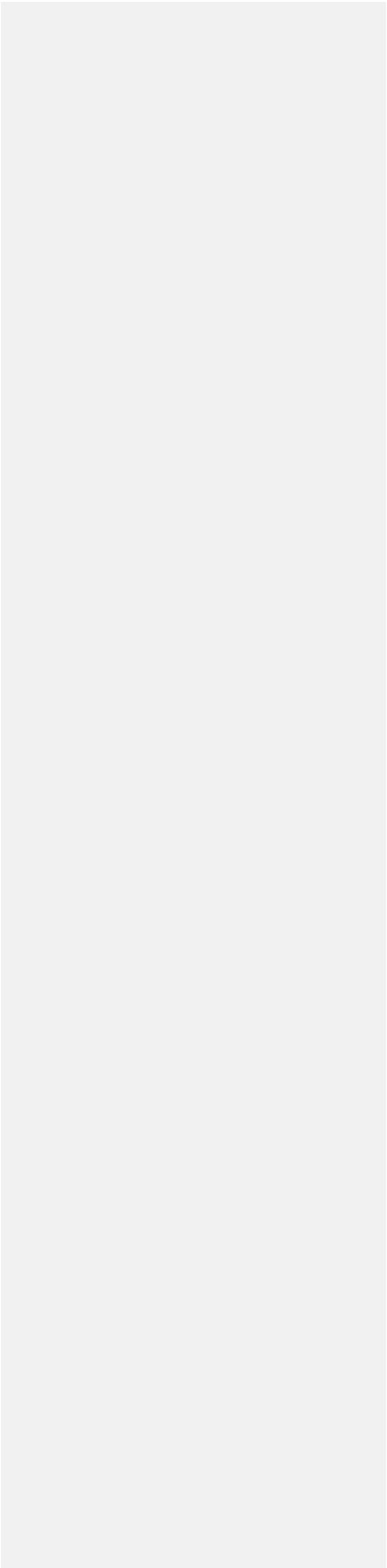
Noting that those CCMs with a real interest in undertaking monitoring, control and surveillance activities in the high seas require access to information about transshipment activities in the

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:

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SECTION 1 – GENERAL RULES

1. [[The provisions of this Measure shall apply to all transhipment in the Convention Area of all of highly migratory fish stocks covered by the Convention ~~in the Convention Area~~, and will apply to the transhipment outside the Convention Area of highly migratory fish stocks covered by the Convention taken in the Convention Area.]]
2. The provisions of this Measure shall not apply to transhipment of highly migratory fish stocks where fish is taken and transhipped wholly in archipelagic waters or territorial seas.
3. Transhipment in a port or in waters under the national jurisdiction of a CCM shall take place in accordance with applicable national laws. With the exception of Section 2 (which applies article 29(5) of the Convention), 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.
4. 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” includes offshore terminals and other installations for landing, transshipping, processing, refuelling or resupplying;
5. 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. Each CCM shall take necessary measures to ensure that vessels flying its flag comply with this Measure.
6. For the purposes of this Measure, CCMs are responsible for reporting against 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 reporting against the vessel.
7. Pursuant to paragraph 6, chartering CCMs and flag CCMs will cooperate for the appropriate management of the vessel to ensure compliance.
8. For a carrier vessel that is flagged to a non-CCM and is included on the WCPFC Interim Register of non-Member Carrier and Bunker Vessels, the vessel master shall be responsible for reporting against the vessel unless it is operating under a charter arrangement.
9. A WCPFC Transhipment Declaration, including the information set out in Annex I shall be completed by both the offloading and receiving vessel for each transhipment in the Convention Area, and each transhipment of catch taken in the Convention Area. Where required in this Measure the Transhipment Declaration shall be sent to the Executive Director.
10. CCMs shall report on all transhipment activities covered by this Measure (including transhipment activities that occur in ports or EEZs) as part of their Annual Report in accordance with the guidelines at Annex II. In doing so, CCMs shall take all reasonable steps to validate and where possible, correct information received from vessels undertaking transhipment using all available information such as catch and effort data, position data, observer reports and port monitoring data.
11. Notices to the Executive Director under paragraphs 22 and 33.a.iii shall be given via a means of two-way communication by data (e.g., telex, facsimile, email). The CCMs responsible for reporting against both the offloading and receiving vessels are responsible for providing notices, but may authorise the vessel or the vessel operator to provide notices directly. Notices must

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include the information set out in Annex III.

12. Each CCM shall ensure that there is 100% coverage on receiving vessels by observers from the WCPFC Regional Observer Programme (ROP) of all transshipments at sea. Observers 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;
- c. position data; and
- d. the intended port of landing.

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12 alt. Each CCM shall ensure that vessels they are responsible for carry observers from the WCPFC Regional Observer Programme (ROP) to observe transshipments at sea as follows:

- a. for transshipments to receiving vessels less than or equal to 33 meters in length, and not involving purse seine-caught fish or frozen longline-caught fish, 100% observer coverage starting on the effective date of this Measure, with the observer(s) deployed on either the offloading vessel or receiving vessel;
- b. for transshipments involving only troll-caught or pole-and-line-caught fish, 100% observer coverage starting 1 January 2013;
- c. for all other transshipments covered by this Measure, 100% observer coverage starting on the effective date of this Measure, with the observer(s) deployed on the receiving vessel.

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12 alt bis. Observers shall monitor implementation of this Measure, and notably {refer to 12 a-d}...

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13. Observers shall have full access to both the unloading and the receiving vessel in order to ensure that proper verification of catches can occur.

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14. Receiving vessels shall only receive product from one unloading vessel at a time for each observer that is available to monitor the transshipment.

15. [[OBSERVER CROSS ENDORSEMENT.....]]

16. The Commission shall provide appropriate financial and technical assistance to developing states, in particular small island developing states, in the implementation of this Measure including in accordance to Article 30.

17. 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.

1A – Transshipment to and from non-CCM Vessels

18. CCMs shall take measures to ensure that vessels 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. a non-CCM carrier vessel that is on the WCPFC Interim Register of non-CCM Carrier and Bunker Vessels established under CMM 2009-~~XX~~; or
 - b. a non-CCM fishing vessel that is licensed to fish in the EEZ of a CCM in accordance with a decision of the Commission.11
19. To retain any authorisation from the Commission relevant to paragraph 18, a non-CCM vessel shall not tranship to or from a non-authorized non-CCM vessel.
20. In cases where transshipment involves a non-CCM vessel specified in paragraph 18.a, any required communications to the Executive Director, including pre-transshipment notices and transshipment declarations that are required under various sections of this measure, shall be responsibility of the vessel master of the carrier vessel or chartering CCM.

1B – Force Majeure or Serious Mechanical Breakdown

21. Unless otherwise stated, the restrictions in this measure shall not prevent a vessel from transhipping in cases of force majeure or serious mechanical breakdown that could threaten the safety of the crew or result in a significant financial loss though fish spoilage.
22. 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 CCMs responsible for each vessel shall provide the Executive Director with a WCPFC Transshipment Declaration consistent with the requirement under paragraph 7 within 15 days of the transshipment.

SECTION 2 – TRANSHIPMENT FROM PURSE SEINE FISHING VESSELS

23. In accordance with Article 29 (5) of the Convention, transshipment at sea by purse seine vessels shall be prohibited except in respect of exemptions granted by the Commission for:
- a. existing group seine operations composed of small purse seine boats (600 mt or less) flagged to Papua New Guinea and Philippines 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 transshipment when refrigerated or other ice carrier boats dock alongside catcher boats and tranship fish from the catcher boats
 - b. transshipment activities involving New Zealand flagged domestic purse-seine vessels where the fishing activity, transshipment 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 transshipment activity and the verification of catch.

24. CCMs seeking to apply an exemption for a vessel(s) that meets the conditions set out in paragraph 23, 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. Details about the vessel(s) as they are required to appear on the WCPFC Record of Fishing Vessels under CMM 2004-01;
 - b. The vessel's history of prior transshipment exemptions,
 - c. The main species and product forms that would be transhipped,
 - d. The areas where transshipments would take place, to as much detail as possible,
 - e. The period of exemption being requested, and
 - f. An explanation for the exemption request.
25. The Executive Director shall compile all requests for transshipment 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 the application of the exemptions in paragraph 18.
26. 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.
27. CCMs shall only authorize those purse seine vessels that that have received an exemption by the Commission to engage in transshipment outside of port. CCMs shall issue vessel-specific authorizations outlining any conditions or requirements identified by the Commission or CCM, and shall require that vessel operators carry such authorizations on board at all times.
28. The flag State CCM 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.
29. 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.
30. All purse seine vessels, including those that receive an exemption to transship at sea under process described in paragraphs 24 to 28 shall be prohibited from commencing transshipping on the high seas in the Convention Area.

SECTION 2 – TRANSHIPMENT FROM FISHING VESSELS OTHER THAN PURSE SEINE VESSELS

31. Transshipment from longline, troll and pole and line fishing vessels in national waters shall be managed in accordance with relevant domestic laws and procedures pursuant to paragraph 3.
32. There shall be no transshipment on the high seas except where a CCM has determined, in accordance with the guidelines described in paragraph 36 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.
33. Where transshipment does occur on the high seas:
 - a. the CCMs responsible for reporting against both the offloading and receiving vessels 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 information in Annex III to the Executive Director at least 36 hours prior to each transshipment.
 - iv. provide the Executive Director with a WCPFC Transshipment Declaration within 15 days of completion of each transshipment; and
 - v. Submit to the Commission a plan detailing what steps it is taking to encourage transshipment to occur in port in the future.
34. ~~[[There needs to be some additional language in here that explains how, when and to whom the data in Transshipment Declarations and Prior Notices can be accessed. Left blank at this stage awaiting outcomes from AHTG [Data].USA text to RMI??.....]]~~
35. The Commission, through the TCC, shall review each vessel determination after a period of 3 years and every 2 years thereafter to establish whether monitoring 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.
36. 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 2012. 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;

37. When adopting the Guidelines referred to in paragraph 36, the Commission shall consider whether to prohibit transshipment in areas of high seas in the Convention Area entirely surrounded by the exclusive economic zones of CCMs. This consideration will include a review of the catch and effort reported for fishing vessels in these areas, the information from Transshipment Declarations in these areas and the role of the areas in supporting IUU activities.

ANNEX I

INFORMATION TO BE INCLUDED IN WCPFC TRANSHIPMENT DECLARATION

1. A unique document identifier
2. the name of the fishing vessel and its WIN,
3. the name of the carrier vessel and its WIN
4. the quantity of product¹ (including species and its processed state²) to be transhipped
5. the state of fish (fresh or frozen)
6. the quantity of by-product³ to be transhipped,
7. the geographic location⁴ of the highly migratory fish stock catches
8. the date and location⁵ of the transshipment
9. If applicable, the name and signature of the WCPFC observer
10. The quantity of product already on board the receiving vessel and the geographic origin⁶ of that product.

¹ Tuna and tuna-like species

² Whole; gutted and headed; gutted, headed and tailed; gutted only, not gilled; gilled and gutted; gilled, gutted and tailed; shark fins.

³ Non tuna and tuna-like species

⁴ 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)

⁵ Location of transshipment is to be in decimal Latitude and Longitude to the nearest 0.1 degrees and accompanied by a description of the location, such as high seas, outside the convention area or within a named EEZ.

⁶ The origin of product shall be reported by RFMO area and will include the quantity of product from each different area.

ANNEX II

TRANSHIPMENT INFORMATION TO BE REPORTED ANNUALLY BY CCMs

Each CCM shall include in Part 1 of its Annual Report to the Commission:

- (1) the total quantities, by weight, of highly migratory fish stocks covered by this measure that were transhipped by fishing vessels the CCM is responsible for reporting against, with those quantities broken down by:
 - a. offloaded and received;
 - b. transhipped in port, transhipped at sea in areas of national jurisdiction, and transhipped beyond areas of national jurisdiction;
 - c. transhipped inside the Convention Area and transhipped outside the Convention Area;
 - d. caught inside the Convention Area and caught outside the Convention Area;
 - e. species; and
 - f. product form;
- (2) the number of transhipments involving highly migratory fish stocks covered by this measure by fishing vessels that is responsible for reporting against, broken down by:
 - a. offloaded and received;
 - b. transhipped in port, transhipped at sea in areas of national jurisdiction, and transhipped beyond areas of national jurisdiction;
 - c. transhipped inside the Convention Area and transhipped outside the Convention Area; and
 - d. caught inside the Convention Area and caught outside the Convention Area.

ANNEX III

INFORMATION TO BE INCLUDED IN NOTICES TO THE EXECUTIVE DIRECTOR

1. the name and WCPFC Identification Number (WIN) of the offloading vessel,
2. the name and WIN of the receiving vessel,
3. the product (including species and its processed state) to be transhipped,
4. the tonnage by product to be transhipped,
5. the date and estimated or proposed location⁷ of transhipment (latitude and longitude to a tenth of a degree with a margin of error of 15 nautical miles), and
6. the geographic location of the highly migratory fish stock catches⁸.

⁷ Location of transhipment is to be in [decimal Latitude and Longitude to the nearest 0.1 degrees with a margin of error of 15 nautical miles] and accompanied by a description of the location, such as high seas, outside the convention area or within a named EEZ. Notice can be updated if location changes.

⁸ Not required for receiving vessels