



TECHNICAL AND COMPLIANCE COMMITTEE

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**EUROPEAN UNION PROPOSAL FOR A CMM ON WCPFC SCHEME FOR MINIMUM
STANDARDS FOR INSPECTION IN PORT**

WCPFC-TCC8-2012/DP13

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**EU PROPOSAL FOR A
CONSERVATION AND MANAGEMENT MEASURE ON**

**WCPFC SCHEME FOR MINIMUM STANDARDS FOR INSPECTION IN PORT
~~PORT STATE MEASURES TO PREVENT, DETER AND ELIMINATE ILLEGAL,
UNREPORTED AND UNREGULATED FISHING~~**

The Western and Central Pacific Fisheries Commission (WCPFC):

Deeply concerned about the continuation of illegal, unreported and unregulated fishing in the WCPFC Area and its detrimental effect upon fish stocks, marine ecosystems and the livelihoods of legitimate fishers in particular in Small Island Developing States, and the increasing need for food security in the region,

Recalling Article 27 of the WCPFC Convention on measures taken by a port State,

~~*Conscious of the role of the port State in the adoption of effective measures to promote the sustainable use and the long-term conservation of living marine resources,*~~

~~*Recognizing that measures to combat illegal, unreported and unregulated fishing should build on the primary responsibility of flag States and use all available jurisdiction in accordance with international law, including port State measures, coastal State measures, market related measures and measures to ensure that nationals do not support or engage in illegal, unreported and unregulated fishing,*~~

~~*Recognizing that port State measures provide a powerful and cost-effective means of preventing, deterring and eliminating illegal, unreported and unregulated fishing,*~~

~~*Aware of the need for increasing coordination at the regional and interregional levels to combat illegal, unreported and unregulated fishing through port State measures,*~~

Recognizing the need for assistance to developing countries, in particular Small Island Developing States and Territories to adopt and implement port State measures and thereby noting the requirements laid down in Article 30 of the WCPFC Convention, in particular paragraph 2 c) thereof, and the existence of a WCPFC Special Requirements Fund,

~~*Taking note of the binding Agreement on port State measures to combat IUU fishing which was adopted and opened for signature within the framework of FAO in November 2009, and desiring to implement this Agreement in an efficient manner in the WCPFC Area,*~~

Bearing in mind that, in the exercise of their sovereignty over ports located in their territory, CCMs may adopt more stringent measures, in accordance with international law,

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

~~*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,*~~

Taking note of the binding Agreement on port State measures to combat IUU fishing which was adopted and opened for signature within the framework of FAO in November 2009, and desiring to implement this Agreement in an efficient manner in the WCPFC Area,

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

Agrees to adopt the following Conservation and management measure in conformity of Article 10 of the WCPFC Convention:

GENERAL PROVISIONS

Use of terms

1. For the purposes of this Conservation and management measure:

~~() —“fishing related activities” means any operation in support of, or in preparation for, fishing, including the landing, packaging, processing, transshipping or transporting of fish that have not been previously landed at a port, as well as the provisioning of personnel, fuel, gear and other supplies at sea;~~

~~() —“illegal, unreported and unregulated fishing”, hereinafter referred as IUU fishing, refers to the activities set out in paragraph 3 of Conservation and management measure 2007/03;~~

~~() —“port” includes offshore terminals and other installations for landing, transshipping, packaging, processing, refueling or resupplying; and~~

Objective

~~2. The objective of this CMM is to prevent, deter and eliminate IUU fishing through the implementation of effective port State measures to control the harvest of fish caught in the WCPFC Convention Area, and thereby to ensure the long term conservation and sustainable use of these resources and marine ecosystems.~~

Application Scope

1. In the exercise of their sovereignty over ports located in their territory, CCMs may adopt more stringent measures in accordance with international law.

2. With a view to monitor compliance with WCPFC conservation measures, each port State CCM shall apply this CMM in respect of foreign fishing vessels not entitled to fly its flag carrying WCPFC-managed species and/or fish products originating from such species that have not been previously landed or transshipped at port, hereinafter referred to as "foreign fishing vessels".

3. Without prejudice to specifically applicable provisions of other WCPFC CMMs, this CMM shall apply to foreign fishing vessels equal to or greater than 12 meters in length, that are seeking entry to its ports or are in one of its ports, except for:

~~() — vessels of a neighboring State with an overall length of less than 12 meters, or without superstructure, or of less than measured 20 GT, that are engaged in artisanal fishing for~~

~~subsistence, provided that the port State and the flag State cooperate to ensure that such vessels do not engage in IUU fishing or fishing related activities in support of such fishing; and~~

~~b) container vessels that are not carrying fish or, if carrying fish, only fish that have been previously landed, provided that there are no clear grounds for suspecting that such vessels have engaged in fishing related activities in support of IUU fishing.~~

4. A port State-CCM may decide not to apply this CMM to foreign fishing vessels chartered by its nationals exclusively for fishing in areas under its national jurisdiction and operating under its authority therein. Such vessels shall be the subject to measures by the port CCM which are as effective as measures applied in relation to vessels entitled to fly its flag.

5. Each CCM shall subject foreign fishing vessels below 12 meters length overall and fishing vessels entitled to fly its flag to a comparable port inspection program to be designed and implemented by that CCM. This CMM shall be applied in a fair, transparent and non-discriminatory manner, consistent with international law

6. 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 territorial waters or their sovereign rights over their continental shelf and in their exclusive economic zones;

(b) the exercise by port State-CCMs of their sovereignty over ports in their territory in accordance with international law, including their right to deny entry thereto ~~as well as to adopt more stringent port State measures than those provided for in this CMM, including such measures adopted pursuant to a decision of the WCPFC.~~

~~7. This CMM shall be interpreted and applied in conformity with international law taking into account applicable international rules and standards, including those established through the International Maritime Organization, as well as other international instruments.~~

~~8. CCMs shall fulfill in good faith the obligations assumed pursuant to this CMM and shall exercise the rights recognized herein in a manner that would not constitute an abuse of right.~~

Integration and coordination at the national level

9. Each CCM shall, to the greatest extent possible:

a) ~~integrate or coordinate fisheries related port State measures with the broader system of port State controls;~~

b) ~~integrate port State measures with other measures to prevent, deter and eliminate IUU fishing and fishing related activities in support of such fishing, taking into account as appropriate the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing; and~~

c) ~~take measures to exchange information among relevant national agencies and to coordinate the activities of such agencies in the implementation of this Conservation and management measure.~~

Cooperation on exchange of information

~~10. In order to promote the effective implementation of this CMM and with due regard to appropriate confidentiality and data protection requirements, CCMs shall cooperate and exchange information with relevant States, the WCPFC Secretariat and other Regional organizations, including on the measures adopted by such regional fisheries management organizations in relation to the objective of this CMM, as appropriate:~~

~~11. Each CCM shall, to the greatest extent possible, take measures in support of conservation and management measures adopted by other States and other relevant international organizations:~~

~~12. CCMs shall cooperate through the WCPFC Secretariat in the effective implementation of this CMM, where appropriate, through regional fisheries management organizations and arrangements:~~

Competent authorities

~~13. Each port State CCM, shall designate the competent authority to serve as contact point for the purposes of receiving notifications, providing or receiving confirmations, issuing authorizations pursuant to this CMM and electronic exchange of information. It shall transmit the name and contact information for its competent authority to the WCPFC Secretariat no later than 30 days after the entry into force of this CMM. Any subsequent changes shall be notified to the WCPFC Secretariat at least 15 days before the change takes effect. This is without prejudice to the right of port State CCMs to designate as competent authorities under this CMM entities that are already competent authorities under other CMMs.~~

~~14. The WCPFC Secretariat shall establish and maintain a register of competent authorities based on the lists submitted by the CCMs. The register shall be posted on the WCPFC website.~~

Requirements of small island developing states and territories

~~7. CCMs shall give full recognition to the special requirements of CCMs small island developing States and territories in relation to the implementation of this CMM. To this end, WCPFC should provide assistance to CCMs_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.~~

~~8. CCMs shall give due regard to the special requirements of developing CCMs port States, in particular the least-developed among them and small island developing States, to ensure that a disproportionate burden resulting from the implementation of this CMM is not transferred directly or indirectly to them. In cases where the transfer of a disproportionate burden has been demonstrated, CCMs shall cooperate to facilitate the implementation by the relevant CCMs developing States of specific obligations under this CMM.~~

9. CCMs shall assess the special requirements of CCMs developing States concerning the implementation of this CMM.

10. WCPFC CCMs shall cooperate to establish appropriate funding mechanisms to assist CCMs small island developing States and territories in the implementation of this CMM. These mechanisms shall, inter alia, be directed specifically towards:

a) developing national and international port State measures;

b) 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;

c) monitoring, control, surveillance and compliance activities relevant to port State measures, including access to technology and equipment; and

d) assisting CCMs small island developing States and territories with the costs involved in any proceedings for the settlement of disputes that result from actions they have taken pursuant to this CMM.

11. Cooperation with and among developing States CCMs in implementing this CMM may include the provision of technical and financial assistance through bilateral, multilateral, and regional channels.

Competent authorities

12. Each port State CCM, shall designate the competent authority to serve as contact point for the purposes of receiving notifications and issuing authorizations pursuant to this CMM. It shall transmit the name and contact information for its competent authority to the WCPFC Executive Director no later than [30] days after the entry into force of this CMM. Any subsequent changes shall be notified to the WCPFC Executive Director at least [15] days before such change takes effect. This is without prejudice to the right of port State CCMs to designate as competent authorities under this CMM entities that are already competent authorities under other CMMs. The WCPFC Executive Director shall promptly notify CCMs of any such change.

13. The WCPFC Executive Director shall establish and maintain a register of competent authorities based on the lists submitted by the CCMs. The register and subsequent changes shall be published promptly on the WCPFC website.

Designation of ports

~~14. Each port State CCM wishing to grant access to its ports by vessels not entitled to fly its flag shall designate and publicize any of its ports to which vessels may request entry pursuant to this Conservation and Management measure CMM.~~

~~Each CCM shall provide a list of its designated ports to WCPFC Secretariat within two months from the date of entry into force of this Conservation and Management measure. Any subsequent changes to this list shall be notified to the WCPFC Secretariat at least 15 days before the change takes effect.~~

~~2415. Each CCM shall, to the greatest extent possible, ensure that every designated port designated and publicized in accordance with paragraph 1 of this Article has sufficient~~

capacity to conduct inspections pursuant to this Conservation and management measure CMM.

16. Each CCM shall provide a list of its designated ports to the WCPFC Executive Director within [2] months from the date of entry into force of this CMM. Any subsequent changes to this list shall be notified to the WCPFC Executive Director at least 15 days before the change takes effect.

17. The WCPFC Secretariat shall establish and maintain a register of designated ports based on the lists submitted by the port state CCMs. The register and any subsequent changes shall be posted promptly on the WCPFC website.

Advance request for port entry **Prior notification**

18. Each CCM flag State shall take necessary action to ensure that the fishing vessels entitled to fly its flag or their representatives notify the competent authority of the port State CCM whose designated port they wish to use for the purpose of landing and/or transshipment require, as a minimum standard, the master of a vessel or its authorised representative to provide the information in Annex 1 at least [72] before the estimated time of arrival at the port of the following information:

a) Vessel identification (External identification, Name, IMO No, if any, and IRCS);

b) Name of the designated port, as referred to in the WCPFC register, to which it seeks entry and the purpose of the port call (landing and/or transshipment);

c) Fishing authorization or, where appropriate, any other authorization held by the vessel to support fishing operations on WCPFC species and/or fish products originating from such species, or to transship related fishery products;

d) Estimated date and time of arrival in port;

e) The estimated quantities in kilograms live weight of each WCPFC species and/or fish products originating from such species held on board, with associated catch areas. If no WCPFC species and/or fish products originating from such species are held on board, a 'nil' report shall be transmitted;

f) The estimated quantities for each WCPFC species and/or fish products originating from such species in kilograms live weight to be landed or transshipped, with associated catch areas. The port CCM may also request other information as it may require to determine whether the vessel has engaged in IUU fishing, or related activities.

~~hours in advance of the requested port entry to the competent authority of the port State CCM. However, a~~ 19. The port State CCM may make provision for prescribe a longer or shorter notification period, taking into account, *inter alia*, the type of fishery product and the distance between the fishing grounds and its ports, and providing that the port State CCM must have enough time to examine the above mentioned information. In such a case, the port State CCM concerned shall inform the WCPFC Secretariat Executive Director, which shall publish promptly post the information on the WCPFC website.

Port entry, authorization or denial

~~24. After receiving the relevant information required pursuant to paragraph 23, as well as such other information as it may require to determine whether the vessel requesting entry into its port has engaged in IUU fishing or fishing related activities in support of such fishing, the port State CCM shall decide whether to authorize or deny the entry of the vessel into its port and shall communicate this decision to the master of the vessel or to its representative.~~

~~25. In the case of authorization of entry, the master of the vessel or the vessel's representative shall be required to present the authorization for entry to the competent authorities of the CCM upon the vessel's arrival at port.~~

~~26. In the case of denial of entry, the port State CCM shall communicate its decision to the flag CCM of the vessel, and to the WCPFC Secretariat, to be posted on the secure part of the WCPFC website. The WCPFC Secretariat shall communicate this decision to all CCMs and, as appropriate and to the extent possible, to other regional fisheries management organizations.~~

~~27. Without prejudice to paragraph 24 above, when a port State CCM has sufficient proof that a vessel seeking entry into its port has engaged in IUU fishing or fishing related activities in support of such fishing, in particular the inclusion of a vessel on a list of vessels having engaged in such fishing or fishing related activities adopted by a regional fisheries management organization in accordance with the rules and procedures of such organization and in conformity with international law, the port State CCM shall deny that vessel entry into its ports.~~

~~28. Notwithstanding paragraphs 26 and 27, a port State CCM may allow entry into its ports of a vessel referred to in those paragraphs exclusively for the purpose of inspecting it and taking other appropriate actions in conformity with international law which are at least as effective as denial of port entry in preventing, deterring and eliminating IUU fishing and fishing related activities in support of such fishing.~~

~~29. Where a vessel referred to in paragraph 27 and 28 is in port for any reason, the port state CCM shall deny such vessel the use of its ports for landing, transshipping, packaging, and processing of fish and for other port services including, *inter alia*, refueling and resupplying, maintenance and dry-docking. Paragraphs 31 and 32 apply *mutatis mutandis* in such cases. Denial of such use of ports shall be in conformity with international law.~~

Force majeure or distress

~~30. Nothing in this Conservation and management measure affects the entry of vessels to port in accordance with international law for reasons of force majeure or distress, or prevents a port State 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.~~

Use of port by foreign fishing vessels as authorized by the port CCM

20. Landing or transshipment operations shall be subject to verification by the competent authority of the port CCM to determine the completeness of the information submitted as prescribed in paragraph 18 and to carry out an inspection in accordance with paragraph 22 below, if required.

21. Notwithstanding paragraph 20, the port CCM may authorize all or part of a landing or transshipment in cases where the information set out in paragraph 18 is incomplete or verification is pending. In such cases, the fishery products concerned shall be kept in storage. The fishery products shall only be released once the information set out in paragraph 18 and the verification have been completed. If this information is not complied with within 14 days of the commencement of the landing or transshipment, the port CCM may seize and dispose of the fishery products in accordance with its domestic laws. The cost of storage shall be borne by the operators, [or supported] in accordance with the domestic laws of the port CCM.

Port inspections

31. ~~Where a vessel has entered one of its ports, the port State CCM shall deny, pursuant to its laws and regulations and consistent with international law, including this Conservation and management measure, that vessel the use of the port for landing, transshipping, packaging and processing of fish that have not been previously landed and for other port services, including, *inter alia*, refueling and resupplying, maintenance and dry docking, if:~~

- a) ~~The information provided by the vessel in Annex I is found to be false;~~
- b) ~~the port State CCM finds that the vessel does not have a valid and applicable authorization to engage in fishing or fishing related activities in the WCPFC Convention area or in respect of areas under the national jurisdiction of that State;~~
- c) ~~the port State CCM receives clear evidence that the fish on board was taken in contravention of the WCPFC Conservation and Management measures and/or applicable requirements of a coastal State in respect of areas under the national jurisdiction of that State;~~
- d) ~~the flag State does not confirm within [14] days, on the request of the port State, that the fish on board was taken in accordance with the WCPFC Conservation and Management measures; or~~
- e) ~~the port State CCM has reasonable grounds to believe that the vessel was otherwise engaged in IUU fishing or fishing related activities in support of such fishing in the WCPFC Convention area, including in support of a vessel included in the list of IUU vessels described in paragraph 27, unless the vessel can establish:~~
 - i) ~~that it was acting in a manner consistent with relevant WCPFC conservation and management measures; or~~
 - ii) ~~in the case of provision of personnel, fuel, gear and other supplies at sea, that the vessel that was provisioned was not, at the time of provisioning, included in the list of IUU vessels described in paragraph 27.~~

32. ~~Notwithstanding paragraph 31, the port State CCM shall not deny a vessel referred to in that paragraph the use of port services:~~

- a) ~~essential to the safety or health of the crew or the safety of the vessel, provided these needs are duly proven, or~~
- b) ~~where appropriate, for the scrapping of the vessel.~~

33. ~~Where a port state CCM has denied the use of its port in accordance with this Article, it shall promptly notify the flag State and the WCPFC Secretariat, which will post this information on the secure part of the WCPFC website. The WCPFC Secretariat shall~~

~~communicate this decision to all CCMs through the competent authorities referred to in paragraph 13 and, as appropriate and to the extent possible, to other regional fisheries management organizations.~~

~~34. A port state CCM shall withdraw its denial of the use of its port pursuant to paragraph 1 of this Article in respect of a vessel only if there is sufficient proof to show that the grounds on which the use was denied were inadequate or erroneous or that such grounds no longer apply.~~

~~35. Where a port state CCM has withdrawn its denial of the use of its ports, it shall promptly notify those to whom a notification was issued pursuant to paragraph 33.~~

~~INSPECTIONS AND FOLLOW-UP ACTIONS~~

~~Levels and priorities for inspection~~

~~3622. Inspections shall be carried out by the competent authority of the port State CCM.~~

~~23. Each year CCMs shall carry out inspections of inspect at least [5%] of landings and transshipment operations in their designated ports as are made by foreign fishing vessels its ports during each reporting year.~~

~~37. Inspections shall involve the monitoring of the entire discharge or transshipment and include a cross check between the quantities by species recorded in the prior notice of landing and the quantities by species landed or transhipped. When the landing or transshipment is completed, the inspector shall verify and note the quantities by species of fish remaining on board.~~

~~3824. In determining which vessels to inspect, the port State CCM shall give priority to:~~

~~a) vessels that have previously been denied entry or use of a port in accordance with this CMM;~~

~~a) requests from other CCMs or regional fisheries management organizations that particular vessels be inspected, particularly where such requests are supported by evidence of IUU fishing, or fishing related activities in support of such fishing, including in relation to species which are not under the competence of the WCPFC, by the vessel in question; and~~

~~b) other vessels for which there are clear grounds for suspecting that they have engaged in IUU fishing~~

~~c) vessels included on the WCPFC list of IUU vessels, or fishing related activities in support of such fishing, including in relation to species which are not under the competence of the WCPFC.~~

~~Inspection procedure~~ **Conduct of inspections**

~~25. Each inspector shall carry a document of identity issued by the port CCM. In accordance with domestic laws, port CCM inspectors may examine all relevant areas, decks and rooms of the fishing vessel, catches processed or otherwise, nets or other fishing gears, equipment both technical and electronic, records of transmissions and any relevant documents, including fishing logbooks, Cargo manifests and Mates Receipts and landing declarations in case of transshipment, which they deem necessary to ensure compliance with WCPFC CMMs. They may take copy of any documents considered relevant, and they may also question the Master and any other person on the vessel being inspected.~~

26. Inspections shall involve the monitoring of the landing or transshipment and include a cross-check between the quantities by species notified in the prior notification message in paragraph 18 above and held on board. Inspections shall be carried out in such a way that the fishing vessel suffers the minimum interference and inconvenience, and that degradation of the quality of the catch is avoided.

27. On completion of the inspection, the port CCM inspector shall provide the Master of the foreign fishing vessel with the inspection report containing the findings of the inspection, including possible subsequent measures that could be taken by the port State competent authority. The Master shall be given the opportunity to add any comments or objection to the report and to contact the competent authority of the flag State. The inspector and the Master shall sign the report and a copy of the report shall be provided to the Master. The Master's signature shall serve only as acknowledgement of the receipt of a copy of the report.

28. The port CCM shall transmit a copy of the inspection report to the WCPFC Secretariat no later than [14] days following the date of completion of the inspection.

29. CCMs shall take necessary action to ensure that Masters facilitate safe access to the fishing vessel, cooperate with the competent authority of the port CCM, facilitate the inspection and communication and not obstruct, intimidate or interfere, or cause other persons to obstruct, intimidate or interfere with port CCM inspectors in the execution of their duties.

Procedure in the event of infringements

30. If the information collected during the inspection provides evidence that a foreign fishing vessel has committed an infringement of the WCPFC CMMs, the inspector shall:

a) record the infringement in the inspection report;

b) transmit the inspection report to the port CCM competent authority, which shall promptly forward a copy to the WCPFC Secretariat and, if the vessel fly the flag of another CCM, to the competent authority of the flag CCM;

c) if possible, take all necessary action to ensure safekeeping of the evidence pertaining to such alleged infringement.

31. If the infringement falls within the legal jurisdiction of the port CCM, the port CCM may take action in accordance with its domestic laws. The port CCM shall promptly notify the action taken to the competent authority of the flag CCM and to the WCPFC Executive Director, which shall promptly publish this information in a secured part of the WCPFC website.

32. Other infringements shall be referred to the flag CCM. Upon receiving the copy of the inspection report, the flag CCM shall promptly investigate the alleged infringement and notify the WCPFC Executive Director of the status of the investigation and of any enforcement action that may have been taken within 6 months of such receipt. The WCPFC Executive Director shall promptly publish this information in a secured part of the WCPFC website. CCMs shall include in their Annual Report Part 2 information regarding the status of such investigations.

33. Should the inspection provide evidence that the inspected vessel has engaged in IUU activities as referred to in CMM 2010-06, the port CCM shall promptly report the case to the

flag State and notify as soon as possible the WCPFC Executive Director, along with its supporting evidence, for the purpose of inclusion of the vessel in the draft IUU list.

General provisions

34. CCMs are encouraged to enter into bilateral agreements/arrangements that allow for an inspector exchange program designed to promote cooperation, share information, and educate each party's inspectors on inspection strategies and methodologies which promote compliance with WCPFC CMMs. A description of such programs should be provided to the WCPFC Executive Director which should publish it on the WCPFC website.

35. Without prejudice to domestic laws of the port CCM, the flag CCM may send its own officials to accompany the inspectors of the port CCM and observe the inspection of its vessel, having previously received an invitation from the competent authority of the port CCM. Officials from the flag CCM shall not exercise any enforcement powers in the port CCM.

36. Flag CCMs shall consider and act on reports of infringements from inspectors of a port CCM on a similar basis as the reports from their own inspectors, in accordance with their domestic laws. CCMs shall collaborate, in accordance with their domestic laws, in order to facilitate judicial or other proceedings arising from inspection reports as set out in this CMM. Each port State CCM shall ensure that its inspectors carry out the functions set forth in Annex 2 as a minimum standard.

40. Each port State CCM shall, in carrying out inspections in its ports:

- a) — ensure that inspections are carried out by properly qualified inspectors authorized for that purpose, having regard in particular to paragraph 44;
- b) — ensure that, prior to an inspection, inspectors are required to present to the master of the vessel an appropriate document identifying the inspectors as such;
- c) — ensure that inspectors examine all relevant areas of the vessel, the fish on board, the nets and any other gear, equipment, and any document or record on board that is relevant to verifying compliance with WCPFC conservation and management measures;
- d) — require the master of the vessel to give inspectors all necessary assistance and information, and to present relevant material and documents as may be required, or certified copies thereof;
- e) — in case of appropriate arrangements with the flag State of the vessel, invite the flag State to participate in the inspection;
- f) — make all possible efforts to avoid unduly delaying the vessel to minimize interference and inconvenience, including any unnecessary presence of inspectors on board, and to avoid action that would adversely affect the quality of the fish on board;
- g) — make all possible efforts to facilitate communication with the master or senior crew members of the vessel, including where possible and where needed that the inspector is accompanied by an interpreter;
- h) — ensure that inspections are conducted in a fair, transparent and non-discriminatory

manner and would not constitute harassment of any vessel; and
i) ~~not interfere with the master's ability, in conformity with international law, to communicate with the authorities of the flag State.~~

Results of inspections

40. ~~Each CCM shall, as a minimum standard, include the information set out in Annex 3 in the written report of the results of each inspection.~~

Transmittal of inspection results

41. ~~The port State CCM shall transmit a copy of the inspection report to the flag State and to the WCPFC Secretariat within [three full working days] of the completion of the inspection and, as appropriate, as soon as possible to:~~

- a) ~~those States for which there is evidence through inspection that the vessel has engaged in IUU fishing or fishing-related activities in support of such fishing within WCPFC Convention area; and~~
- b) ~~the State of which the vessel's master is a national~~
- c) ~~the flag State of any vessel that has transshipped catch to or from the inspected vessel since that vessel's last port of call.~~

Electronic exchange of information

42. ~~To facilitate the implementation of this CMM, each port State CCM shall, where possible, establish a communication mechanism that allows for direct electronic exchange of information relevant to this CMM, with due regard to appropriate confidentiality and data protection requirements and the guidelines in Annex 4.~~

43. ~~The WCPFC Secretariat shall, to the extent possible, and with due regard to appropriate confidentiality and data protection requirements, coordinate and facilitate the electronic exchange of information relevant to the implementation of this CMM between CCMs as well as coordinate with other global or regional electronic information exchange systems that may be established to assist with the implementation of port State measures to combat IUU fishing and fishing-related activities.~~

Training of inspectors

44. ~~Each CCM shall ensure that its inspectors are properly trained taking into account the guidelines for the training of inspectors in Annex 5. The CCM shall seek to cooperate in this regard.~~

Port State actions following inspection

45. ~~Where, following an inspection, there are clear grounds for believing that a vessel has engaged in IUU fishing or fishing-related activities in support of such fishing, the inspecting CCM shall:~~

- a) ~~promptly notify the flag State, the WCPFC Secretariat, and as appropriate, the relevant Coastal State and the State of which the vessel's master is a national of its findings; and~~

~~b) deny the vessel the use of its port for landing, transshipping, packaging and processing of fish that have not been previously landed and for other port services, including, inter alia, refueling and resupplying, maintenance and dry docking, if these actions have not already been taken in respect of the vessel, in a manner consistent with this Conservation and management measure.~~

~~46. Notwithstanding paragraph 45, a port State CCM shall not deny a vessel referred to in that paragraph the use of port services essential for the safety or health of the crew or the safety of the vessel.~~

~~47. Nothing in this Conservation and management measure prevents a CCM from taking measures that are in conformity with international law in addition to those specified in paragraphs 45 and 46, including such measures as the flag State of the vessel has expressly requested or to which it has consented.~~

Information on recourse in the port State

~~48. A port State CCM shall maintain the relevant information available to the public and provide such information, upon written request, to the owner, operator, master or representative of a vessel with regard to any recourse established in accordance with its national laws and regulations concerning port State measures taken by that CCM pursuant to paragraphs 24-29, 31-35, 38-39, 45-47, including information pertaining to the public services or judicial institutions available for this purpose, as well as information on whether there is any right to seek compensation in accordance with its national laws and regulations in the event of any loss or damage suffered as a consequence of any alleged unlawful action by the CCM.~~

~~49. The port State CCM shall inform the flag State, the owner, operator, master or representative and the WCPFC Secretariat, as appropriate, of the outcome of any such recourse. The port State CCM shall inform the WCPFC Secretariat of any change in its decision pursuant to paragraphs 24-29, 31-35, 38-39, 45-47. The WCPFC Secretariat shall post the new decision on the secure part of the WCPFC website.~~

ROLE OF FLAG STATES

~~50. Each flag State CCMS shall require the vessels entitled to fly its flag to cooperate with the port State in inspections carried out pursuant to this CMM.~~

~~51. When a flag State CCM has clear grounds to believe that a vessel entitled to fly its flag has engaged in IUU fishing or fishing related activities in support of such fishing and is seeking entry to or is in the port of another State, it shall, as appropriate, request that State to inspect the vessel or to take other measures consistent with this CMM.~~

~~52. Each flag State CCM shall encourage vessels entitled to fly its flag to land, transship, package and process fish, and use other port services, in ports of States that are acting in accordance with, or in a manner consistent with this CMM. CCMS are encouraged to develop fair, transparent and non-discriminatory procedures for identifying any State that may not be acting in accordance with, or in a manner consistent with, this CMM.~~

~~53. Where, following port State inspection, a flag State CCM receives an inspection report indicating that there are clear grounds to believe that a vessel entitled to fly its flag has engaged in IUU fishing or fishing related activities in support of such fishing, it shall~~

~~immediately and fully investigate the matter and shall, upon sufficient evidence, take enforcement action without delay in accordance with its laws and regulations.~~

~~54. Each flag State CCM shall report to the WCPFC Secretariat, other CCMs, relevant port States and, as appropriate, other relevant States, regional fisheries management organizations and FAO on actions it has taken in respect of vessels entitled to fly its flag that, as a result of port State measures taken pursuant to this CMM, have been determined to have engaged in IUU fishing or fishing related activities in support of such fishing.~~

~~55. Each CCM shall ensure that measures applied to vessels entitled to fly its flag are at least as effective in preventing, deterring, and eliminating IUU fishing and fishing related activities in support of such fishing as measures applied to vessels referred to in paragraph 3.~~

~~ENTRY INTO FORCE~~

~~56. This CMM shall enter into force on [...]~~

~~57. Three years after the entry into force of this CMM, an assessment of its effectiveness will be conducted to determine whether a revision would be required.~~

ANNEX 1

Information to be provided in advance by vessels requesting port entry

1. Intended port of call

2. Port State

3. Estimated date and time of arrival

4. Purpose(s)

5. Port and date of last port call

6. Name of the vessel

7. Flag State

8. Type of vessel

9. International Radio Call Sign

10. Vessel contact information

11. Vessel owner(s)

12. Certificate of registry ID

13. IMO ship ID, if available

14. External ID, if available

15. WCPFC ID

16. VMS No Yes: National Yes: RFMO(s) Type:

17. Vessel dimensions Length Beam Draft

18. Vessel master name and nationality

19. Relevant fishing authorization(s)

<i>Identifier</i>	<i>Issued by</i>	<i>Validity</i>	<i>Fishing</i>	<i>Species</i>	<i>Gear</i>
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20. Relevant transshipment authorization(s)

<i>Identifier</i>	<i>Issued by</i>	<i>Validity</i>
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<i>Identifier</i>	<i>Issued by</i>	<i>Validity</i>
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21. Transshipment information concerning donor vessels

<i>Date</i>	<i>Location</i>	<i>Name</i>	<i>Flag State</i>	<i>ID number</i>	<i>Species</i>	<i>Product form</i>	<i>Catch area</i>	<i>Quantity</i>
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22. Total catch onboard

<i>Species</i>	<i>Product form</i>	<i>Catch area</i>	<i>Quantity</i>
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23. Catch to be offloaded

<i>Quantity</i>

ANNEX 2 Port State inspection procedures

Inspectors shall:

- 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;~~
- e) ~~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 1;~~
- 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 WCPFC Secretariat or other 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 shall, 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 shall serve only as acknowledgment of the receipt of a copy of the report. The master shall 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 shall be provided to the master; and~~
- j) ~~arrange, where necessary and possible, for translation of relevant documentation.~~

**ANNEX 3
WCPFC Port inspection report form**

1. Inspection report no		2. Port State		
3. Inspecting authority				
4. Name of principal inspector			ID	
5. Port of inspection				
6. Commencement of inspection		<i>YYYY</i>	<i>MM DD HH</i>	
7. Completion of inspection		<i>YYYY</i>	<i>MM DD HH</i>	
8. Advanced notification received		<i>Yes</i>	<i>No</i>	
9. Purpose(s)	<i>LAN</i>	<i>TRX</i>	<i>PRO OTH (specify)</i>	
10. Port and State and date of last port call		<i>YYYY</i>	<i>MM DD</i>	
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				
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	<i>No</i>	<i>Yes: National</i>	<i>Yes: RFMOs</i> Type:	
26. Status in IOTC, 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</i>	<i>Catch</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				<i>Yes</i>	<i>No</i>	<i>Comments</i>
33. Compliance with applicable catch				<i>Yes</i>	<i>No</i>	<i>Comments</i>
34. Compliance with applicable trade				<i>Yes</i>	<i>No</i>	<i>Comments</i>
35. Type of gear used						
36. Gear examined in			<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 4 Information systems on port

State measures

In implementing this Conservation and management measure, each CCM shall:

- a) ~~seek to establish computerized communication;~~
- b) ~~establish, to the extent possible, websites to publicize the list of ports designated in accordance with Article 5 and the actions taken in accordance with the relevant provisions of this Conservation and management measure;~~
- c) ~~identify, to the greatest extent possible, each inspection report by a unique reference number starting with 3 alpha code of the port State and identification of the issuing agency;~~
- d) ~~utilize, to the extent possible, the international coding system below in Annexes 1 and 3 and translate any other coding system into the international system.~~

~~countries/territories: _____ ISO 3166 3 alpha Country Code~~

~~species: _____ ASFIS 3 alpha code (known as FAO 3 alpha code)~~

~~vessel types: _____ ISSCFV code (known as FAO alpha code)~~

~~gear types: _____ ISSCFG code (known as FAO alpha code)~~

**ANNEX 5 Guidelines for the training of
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 of the WCPFC, 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.