



COMMISSION
Tenth Regular Session
2th December – 6th December 2013
Cairns, AUSTRALIA

**CONSERVATION AND MANAGEMENT MEASURE ON PORT STATE MEASURES
TO PREVENT, DETER AND ELIMINATE ILLEGAL, UNREPORTED AND
UNREGULATED FISHING**

WCPFC10-2013-DP11 rev3
1445 -06/12/2013



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**CONSERVATION AND MANAGEMENT MEASURE ON PORT STATE MEASURES TO PREVENT,
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Conservation and Management Measure 2013-XX

The Western and Central Pacific Fisheries Commission (WCPFC):

Deeply concerned about the continuation of illegal, unreported and unregulated (IUU) 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 Participating Territories, and the increasing need for food security in the region;

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

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 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, inter alia, port State measures,

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

Noting the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported, Unregulated Fishing which was approved and opened for signature within the framework of the Food and Agriculture Organization of the United Nations (FAO) in November 2009;

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

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

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

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

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

Adopts the following conservation and management measure in accordance with Article 10 of the WCPFC Convention:

1. In addition to those measures able to be taken by a port State in Article 27 of the WCPFC Convention, port State CCMs are encouraged to take measures, in accordance with international law, for port State control of foreign fishing vessels in order to prevent, deter and eliminate IUU fishing. Such measures shall be implemented in a fair, transparent and non-discriminatory manner, consistent with international law.
2. In taking measures referred to in paragraph 1, port State CCMs are encouraged to have regard to the provisions and standards of the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing.
3. Port State CCMs that take measures referred to in paragraph 1 shall publicise those measures in an appropriate manner and shall advise the Commission of such measures to facilitate wider distribution. The Commission shall post the information on the WCPFC website.
4. 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 the internal, archipelagic and territorial waters or their sovereign rights over their continental shelf and in the exclusive economic zones;
 - b) the exercise by port CCMs of their sovereignty over ports in their territory in accordance with international law, including their right to deny entry thereto.
5. Nothing in this measure affects the entry of vessels to port in accordance with international law for reasons of force majeure or distress, or prevents a port State from permitting entry into port to a vessel exclusively for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.
6. Each port State CCM shall provide a list of its *designated ports for fisheries inspection* ('*designated ports*') to the WCPFC Executive Director within 6 months from the date of entry into force of this CMM. Any subsequent designation of ports or changes to this list shall be notified to the WCPFC Executive Director at least 30 days before the change takes effect.

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

8. Where a port State CCM implements port State measures provided for in the WCPFC Convention, this CMM or other international agreements or arrangements, each flag State CCM shall require its flagged vessels to cooperate with the port State CCM in the implementation of those port State measures.

Vessel inspection procedures

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

10. CCMs shall ensure that requests for inspections, as per paragraph 9, include information on the nature and grounds for suspicion of IUU fishing or fishing related activities. Port States shall acknowledge the receipt of the request for an inspection, and advise whether an inspection can be undertaken based on an assessment of the information provided, availability of resources, and their capacity to do so at the time of the request.

11. If an inspection, as per paragraph 9, is undertaken by the port State CCM, a report on the outcome shall be provided to the member making the request, to the flag State as appropriate and to the Commission as soon as practicable, and in any case within 15 days of such request.

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

13. Where, following a port State CCM inspection, a flag State CCM receives an inspection report, as referred to in paragraph 11, indicating that there are clear grounds to believe that its flagged vessel has engaged in IUU fishing or fishing related activities in support of such fishing, it shall immediately and fully investigate the matter in accordance with *Article 25 of the Convention*.

14. In the event a port State cannot carry out an inspection, referred to in paragraph 9, the requesting CCM may advise the Secretariat to include the vessel on a list of Vessels of Interest (VOI) which shall be maintained by the Executive Director on the secure site of the WCPFC website. The VOI shall include the information on the nature and grounds for suspicion of IUU fishing or fishing related activities, referred to in paragraph 9. Using surveillance information the Secretariat shall advise the requesting CCM of which designated port the vessel may next enter. The CCM may then request that port State to undertake an inspection on the vessel.

15. The Executive Director shall advise flag States of the VOI listing of any of its vessels.

16. When a CCM submits an inspection report to the Secretariat, they shall advise whether the vessel in question is to be removed from the VOI list. If the CCM makes no reference to retaining the vessel on the VOI, the Secretariat shall remove the vessel from the VOI list. The Secretariat shall maintain a database of all VOI listings.

17. If within 6 months of VOI listing no inspection has been carried out on a vessel, and flag States have completed an investigation on the suspected IUU activity and reported it to the

Commission, and the CCM that VOI listed the vessel, the flag State may then request the removal of the vessel from the VOI list.

General

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

19. Port State CCMs shall carry out inspections:

- a) on any foreign fishing vessel that enters their *designated port* and is not listed on the WCPFC Record of Fishing Vessels, as practicable; and
- b) vessels that appear on the WCPFC IUU list.

A report on the outcome of the inspection undertaken by the port State CCM shall be provided to the flag State and to the Commission as soon as practicable, and in any case within fifteen days of the date of inspection.

20. To facilitate, coordinate and support compliance and/or enforcement action where port inspections have not been carried out, CCMs may request that port States within the Convention Area deny all access and entry to their ports, to vessels suspected of IUU fishing activity and where port inspections have not been carried out in accordance with this measure. The denial of port entry, shall be reported to the Executive Director, and shall only be used where all other options provided in this CMM, to inspect the vessel, have been exhausted.

21. A port State CCM shall give particular consideration to inspecting vessels suspected of undertaking IUU fishing activities, as identified by non-CCMs or other regional fisheries management organisations, particularly where evidence of IUU fishing or fishing related activities in support of IUU fishing, is provided by the Executive Director to that CCM.

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

Special Requirements of Small Island Developing States and Participating Territories

23. CCMs shall give full recognition to the Special Requirements of CCMs Small Island Developing States and Participating 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.

24. WCPFC CCMs shall cooperate to establish appropriate mechanisms to assist CCMs Small Island Developing States and Participating Territories in the implementation of this CMM, including appropriate funding mechanisms.

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

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

26. CCMs shall promote the use of ports in the territory of Small Island Developing States and Participating Territories in order to increase the participation of Small Island Developing States and Participating Territories in fisheries for WCPO tuna stocks.

Periodic review

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