

**Proposal for Conservation and Management Measure on Minimum  
Standards for Port State Measures**

Republic of Korea

**Abstract:**

**This paper proposes the adoption of a new Conservation and Management Measure to establish minimum standards for port inspections of foreign vessels engaged in NPFC fisheries that land in the ports of NPFC Members and Cooperating Non-Contracting Parties.**

*The North Pacific Fisheries Commission (NPFC),*

*DEEPLY CONCERNED* about potential illegal, unreported, and unregulated (IUU) fishing in the NPFC Convention Area and its detrimental effect upon fish stocks, marine ecosystems, and the livelihoods of legitimate fishers;

*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;

*RECOGNISING* that measures to combat IUU 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 IUU fishing;

*RECOGNISING* that port State measures provide an efficient and effective means of preventing, deterring and eliminating IUU fishing;

*AWARE OF* the need for increasing coordination at the regional and international levels to combat IUU fishing through port State measures;

*BEARING IN MIND* that, in the exercise of their sovereignty over ports located in their territory, Member and Cooperating Non-Contracting Parties (CNCPs) 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;

*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;

*RECALLING* the 2009 FAO Port State Measures Agreement (PSMA) and noting that most NPFC Members are parties to PSMA;

*RECALLING* Article 7.2(d) of the NPFC Convention, which calls on Members to establish appropriate cooperative mechanisms for effective monitoring, control and surveillance to ensure enforcement of the conservation and management measures adopted by the Commission including mechanisms to prevent, deter, and eliminate IUU fishing;

*ALSO RECALLING* the recommendation of the NPFC Performance Review Panel that the Commission adopt, as a matter of priority, a conservation and management measure specifying minimum standards for port inspections consistent with the PSMA;

*ADOPTS* the following Conservation and Management Measure (CMM) in accordance with Article 7 of the Convention:

## **Application**

1. Each Member and Cooperating non-Contracting Party (CNCP), in its capacity as a port State, shall apply this CMM for an effective scheme of port inspections in respect of fishing vessels not entitled to fly its flag (hereinafter, “foreign fishing vessels”) that are seeking entry to its ports or are in one of its ports and that have engaged in, or are suspected of having engaged

in, fishing activities for NPFC-managed species in the Convention Area.

2. Each Member and CNCP may, in its capacity as a port State, decide not to apply this CMM to:
  - a. vessels chartered by its nationals exclusively for fishing in areas under its national jurisdiction and operating under its authority therein. Chartered fishing vessels shall be subject to measures by the port State which are as effective as measures applied in relation to vessels entitled to fly its flag.
  - 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.

### **Designated Ports**

3. Each Member and CNCP shall designate its ports to which foreign fishing vessels may request entry pursuant to this CMM.
4. Each Member and CNCP shall, to the greatest extent possible, ensure it has sufficient capacity to conduct inspections in every port it designates pursuant to this CMM.
5. Each Member and CNCP shall provide to the Secretariat within 30 days from the date of entry into force of this CMM a list of designated ports to which foreign fishing vessels may request entry pursuant to this CMM. Each Member and CNCP shall notify the Secretariat of any change to its list of designated ports at least 30 days before the change takes effect.
6. The Secretariat shall establish and maintain a register of designated ports based on the lists submitted by Members and CNCPs and publish the register on the NPFC web site.

### **Advance Request for Port Entry**

7. Each Member and CNCP shall require foreign fishing vessels seeking to use its ports for any purposes to submit the information in the Port Call Request Template located in Annex 1 to its point of contact identified in paragraph 27, at least 24 hours before the estimated time of arrival at the port or immediately after the end of the fishing operations, if the time distance to the port is less than 24 hours. For the latter, the port State must have enough time to examine the above mentioned information.
8. Each Member and CNCP may request additional information as required to determine whether the vessel has engaged in IUU fishing activities or any other activities that contravene the CMMs adopted by the NPFC.

### **Port entry, authorization or denial**

9. After receiving the relevant information pursuant to paragraphs 7 and 8, the Member or CNCP shall decide whether to authorize or deny the entry of the vessel into its port. In cases where the Member or CNCP decides to authorize the entry of the vessel into its port, the provisions on port inspection shall apply.
10. In cases of denial of entry, each Member or CNCP shall notify the vessel or its representative and the vessel's flag state. The Member or CNCP shall also notify a denial of entry to the Secretariat, which will communicate the decision to other Members and CNCPs. Members are encouraged to share information on denials of entry to port with relevant coastal states and

regional fisheries management organizations if it assists with efforts to combat IUU fishing.

11. When a Member or CNCP has reasonable grounds to believe that a vessel has engaged in IUU fishing activities and is seeking entry into, or is in the designated port of another Member or CNCP, it may request that Member or CNCP to inspect the vessel or to take other measures consistent with that Member or CNCP's port State measures.
12. Without prejudice to paragraph 14, when a Member or CNCP has sufficient proof that a vessel seeking entry into its port does not have a valid fishing authorization, there is clear evidence that the vessel has engaged in IUU fishing activities, or the vessel is on NPFC's List of Vessels Presumed to Have Carried Out IUU Activities in the NPFC Convention Area or other RFMO IUU Vessel Lists, the Member or CNCP shall deny that vessel entry into its ports.
13. Notwithstanding paragraph 12, a Member or CNCP may allow a foreign fishing vessel referred to in that paragraph to enter its port exclusively for the purpose of inspecting it and taking other appropriate actions in conformity with international law aimed at preventing, deterring and eliminating IUU fishing activities.
14. Where a vessel referred to in paragraphs 13 is in port for any reason, a Member or CNCP 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*, bunkering, maintenance and dry-docking. Denial of such use of ports shall be in conformity with international law.

### **Force Majeure**

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

### **Port Inspections**

16. Inspections shall be carried out by the competent authorities of the Members and CNCPs.
17. Each year Members and CNCPs shall inspect at least 5% of landing and transshipment operations in their designated ports made by foreign fishing vessels to which this CMM applies.
18. Port Members and CNCPs shall prioritize for inspection, in accordance with their domestic law, foreign fishing vessels when:
  - a. the foreign fishing vessel has failed to provide complete information as required by paragraphs 7 and 8;
  - b. the foreign fishing vessel has been denied entry or use of a port in accordance with this or another RFMO's provisions;
  - c. the foreign fishing vessel enters a designated port and is not listed on the NPFC Vessel Registry, other than in cases where the foreign fishing vessel is authorized by another RFMO that the Member or CNCP is a party to ; and

- d. foreign fishing vessels that appear on the IUU list of any RFMO other than NPFC, if the port Members and CNCP has allowed the entry of such vessels.

### **Inspection Procedure**

- 19. Each Member and CNCP shall, in carrying out inspections in its ports:
  - a. ensure that its inspectors carry an approved identity card issued by the Member or CNCP that identifies the inspector as authorized to carry out the inspection.
  - b. ensure that inspectors examine all relevant areas of the vessel, the fish and fish products onboard, decks of the fishing vessel, its license, gear, equipment, records (both physical and electronic), facilities, and any documents necessary to verify compliance with relevant CMMs in force. Inspectors may take copies (physical or electronic) of any records or documents considered relevant. Inspectors may also question the master and any other person on the vessel being inspected.
  - c. ensure that inspections involve the monitoring of the landing or transshipment and include a cross-check between the estimated quantities by species notified in the prior notification message in paragraph 7 above and held on board the fishing vessel.
  - d. ensure that inspections are carried out thoroughly but expeditiously to interfere as little as possible with legitimate activity, and that degradation of the quality of the catch is avoided to the extent practicable.
  - e. take necessary action to ensure that foreign fishing vessel masters facilitate safe access to the fishing vessel, cooperate with the competent authority of the port State, facilitate the inspection and communication, and do not obstruct, intimidate or interfere with, inspectors in the execution of their duties.
  - f. make all possible efforts to facilitate communication with the master or crew members of the vessel, including using a language interpreter where possible and needed..
  - g. ensure that inspections are conducted in a fair, transparent and non-discriminatory manner and would not constitute harassment of any vessel.
  - h. not interfere with the master's ability, in conformity with international law, to communicate with the authorities of the flag State.

### **Procedure in the Event of Noncompliance**

- 20. If the information collected during the inspection provides evidence that a foreign fishing vessel has not complied with one or more NPFC CMMs, Members and CNCPs shall ensure that the inspector:
  - a) records the noncompliance in the inspection report;
  - b) transmits the inspection report and the evidence collected to the port State competent authorities;
  - c) to the extent practicable, ensures safekeeping of the evidence pertaining to such alleged breach.
- 21. Where the inspection includes a finding of potential non-compliance, the Member or CNCP, in its capacity as a port State, shall transmit a copy of the inspection report to the Secretariat no later than 15 working days following the date of completion of the inspection using the Format for Port Inspection Reports in Annex 2. If the inspection report cannot be transmitted within 15 working days, the Member or CNCP shall notify the Secretariat within the 15 working day time period of the reasons for the delay and when the report will be submitted.

The Secretariat shall promptly convey the report to the authorities of the foreign fishing vessel inspected.

22. If the noncompliance falls within the legal jurisdiction of the Member or CNCP, in its capacity as a port State, it may take action in accordance with its domestic laws. The Member or CNCP shall promptly notify the action taken to the competent authority of the foreign fishing vessel and the Secretariat, who shall promptly circulate the information to Members.
23. If the noncompliance does not fall under the jurisdiction of the Member or CNCP in its capacity as a port State, the inspection report shall be referred to the Member or CNCP with jurisdiction over the fishing vessel. Upon receiving the inspection report, the flag Member or CNCP shall promptly investigate the alleged noncompliance. Within 90 days of receipt, the flag Member or CNCP shall notify the Secretariat of the status of the investigation and any enforcement action taken. If the flag Member or CNCP cannot provide this status report within 90 days, the flag Member or CNCP should notify the Secretariat within the 90-day time period of the reasons for the delay and when the status report will be submitted. The Secretariat shall promptly circulate the information to Members.
24. If noncompliance has been referred to a Member or CNCP under paragraph 24, that Member or CNCP may authorize the competent authority of the port State to undertake the investigation. The competent authority of the port State on accepting to undertake the investigation shall report the findings of the investigation to the authorities of the fishing vessel and the NPFC Executive Secretary within 90 days. Enforcement action will remain the responsibility of the flag Member or CNCP as applicable.
25. Should the inspection provide evidence that the inspected vessel has engaged in IUU fishing activities as referred to in CMM 2024-02 (To Establish a List of Vessels Presumed to Have Carried Out IUU Activities in the NPFC Convention Area) the Member or CNCP, in its capacity as a port State, shall follow the procedures and timelines of that CMM.

### **Points of Contact and Coordination**

26. Each Member and CNCP shall designate a point of contact for the purposes of receiving notifications pursuant to paragraphs 7 and 22(b). Each Member and CNCP shall designate a point of contact for [the purpose of receiving inspection reports pursuant to paragraph 26(b) of this CMM. It shall transmit the name and contact information for its points of contact to the Secretariat no later than 30 days following the entry into force of this CMM. Any subsequent changes shall be notified to the Secretariat at least 14 working days before such changes take effect. The Secretariat shall promptly notify Members and CNCPs of any such change.
27. The Secretariat shall establish and maintain a register of points of contact based on the lists submitted by the Members and CNCPs. The register and any subsequent changes shall be published promptly on the NPFC website.
28. Each Member and CNCP shall cooperate and exchange information with relevant Members and CNCPs, the Secretariat, other regional organizations and relevant international organizations to further the objectives and ensure the effective implementation of this CMM, in accordance with the Commission's Data Sharing and Data Security Protocol, and with national laws.

### **General Provisions**

29. Nothing in this CMM shall prejudice the rights, jurisdiction and duties of Members and CNCPs under international law. In particular, nothing in this CMM shall be construed to affect:
- a. the sovereignty of Members or CNCPs over their internal, archipelagic, and territorial waters, or their sovereign rights over their continental shelves and/or exclusive economic zones;
  - b. the exercise by Members and CNCPs of their authority over their ports in accordance with international law, including their right to deny entry thereto as well as to adopt more stringent measures than those provided for in this CMM.
30. Members and CNCPs, in their capacity as port States 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 IUU 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 CMM.
31. In the implementation of this CMM and with due regard to appropriate confidentiality requirements, Members and CNCPs shall cooperate and exchange information with the Secretariat, relevant States, international organizations, and RFMOs
34. Members and CNCPs, in their capacity as port States, are encouraged to enter into bilateral agreements/arrangements that allow for joint inspections and 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 NPFC CMMs and the Convention.
35. Each Member or CNCP, in its capacity as a port State shall, in accordance with its domestic laws and regulations, invite officials from the flag Member or CNCP to observe or take part in the inspection of a vessel of that flag based on appropriate agreements or arrangements to the extent possible. Flag Members and CNCPs shall consider and act on reports of noncompliance from inspectors of a port State on a similar basis as the reports from their own inspectors, in accordance with their domestic laws. Members and CNCPs 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.
36. The Secretariat will report annually on the implementation of this CMM.

# ANNEX 1

## Port Call Request Template

Port call information:

Port of call	Last port	Date of last port call

Vessel Identification:

Vessel Name	Vessel flag	IMO number	Call sign	External markings

VMS:

VMS operational?	VMS Reporting to National FMC?	VMS Reporting to SPRFMO?
Type		

Vessel dimensions:

Length	Beam	Draft (Moulded depth)

Vessel master name and nationality:

Vessel master name	Vessel master nationality
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Relevant transshipment authorisation(s):

Identifier	Issued by	Valid dates

Transshipment information (concerning donor vessels):

Date	Location (Lat/Long)	Donor vessel name	Flag State of donor vessel	IMO number	Species	Product state	FAO Area of capture	Quantity (kilograms)

Port Call Details:

Intended port of call <sup>1</sup>	Port State	Purpose <sup>2</sup> of port call	Estimated arrival date	Estimated arrival time	Current date

<sup>1</sup>Should be a designated port as listed on the NPFC port register

<sup>2</sup>E.g., landing, transshipment, refuelling

NPFC Managed Species held on-board:

Species	FAO area of capture	Product state	Total kilograms held on board ( <i>Estimated</i> )	Amount to be transhipped / landed ( <i>Estimated</i> )	Recipient of transhipped/landed amount

*If no NPFC species and/or fish products originating from such species are held on board, then enter “nil”*

Relevant fishing authorisation details:

Identifier	Issued by	Validity	Fishing area(s)	Species	Gear <sup>3</sup>

<sup>3</sup> If the authorisation is for transshipments enter “tranship” as the gear

Fishing authorisation indicates vessel catch limit per species (Y/N)	Species <sup>4</sup>	Vessel Catch limit per species <sup>4</sup>

<sup>4</sup> If the authorization does not indicate vessel catch limit, enter N/A.

Is a copy of the crew list attached?

Yes	No

*This form should be completed in the language of the Port State to the extent possible. This form should be transmitted to the appropriate Point of Contact at least 72 hours prior to the estimated time of arrival at the port. Contact information can be found on the NPFC website: (ENTER)*

## ANNEX 2

### Format for Port Inspection Reports

Inspection Details	
Inspection report number:	
Principal inspector's name:	
Port State:	Inspecting authority:
Port of inspection:	Purpose of call:
Inspection start date: YYYY-MON-DD	Inspection start time: hh:mm
Inspection end date: YYYY-MON-DD	Inspection end time: hh:mm
Prior notification received? Yes <input type="checkbox"/> No <input type="checkbox"/>	Prior notification details consistent with inspection? Yes <input type="checkbox"/> No <input type="checkbox"/>

Vessel Details	
Vessel name:	Vessel Flag:
Vessel type:	Call Sign:
External identification:	IMO number:
Vessel owner:	

Vessel beneficial owner(s): <i>(If known and different from vessel owner)</i>	
Vessel operator:	
Vessel master and nationality:	
Vessel agent:	
VMS present? Yes <input type="checkbox"/> No <input type="checkbox"/>	VMS type:

<sup>1</sup>If the authorisation is for transhipment enter “tranship” as the gear.

Relevant Fishing Authorisations	
Authorisation identifier:	Issued by:
Validity:	Fishing areas:
Species:	Gear <sup>1</sup> :
Is the vessel on the SPRFMO authorised vessel list? Yes <input type="checkbox"/> No <input type="checkbox"/>	Currently authorised? Yes <input type="checkbox"/> No <input type="checkbox"/>

NPFC-Managed Species Off Loaded ( <i>during this port call</i> )				
Species	FAO Area of Capture	Product state	Declared quantity off loaded (kg)	Quantity off loaded (kg)


NPFC-Managed Species Retained On-board				
Species	FAO Area of Capture	Product state	Declared quantity held on board (kg)	Quantity held on board (kg)

NPFC-Managed Species Received from Transshipment <i>(during this port call)</i>				
Species	FAO Area of Capture	Product state	Declared quantity received (kg)	Quantity received (kg)

Examinations and Findings	
Section:	Comments:
Examination of Logbooks and other documentation:	
Compliance with applicable catch documentation schemes(s):	
Compliance with applicable trade information schemes(s):	
Type of gear on board:	
Findings by inspector:	
Apparent Infringements ( <i>include reference to relevant legal documents</i> ):	
Master's comments:	
Actions taken:	
Master's signature:	Inspector's signature:

*Upon completion, a copy of this form shall be provided to the vessel master. Subsequently, a copy should also be transmitted to the NPFC Executive Secretary within 15 days. If this cannot be achieved, then the reasons for the delay and an estimated submission date shall be transmitted to the NPFC Executive Secretary within 15 days of the completion of the inspection.*

*If the information collected provides evidence that a breach of any NPFC CMM has occurred, then this form should be transmitted to the competent port State authorities (who shall forward a copy to the NPFC Executive Secretary and to the relevant point of contact as soon as possible and no later than 5 working days).*