

Small Working Group Planning and Development

Proposal for a new Transshipment Observer Program measure

Abstract

This working paper proposes a new Conservation and Management Measure to establish a regional NPFC Transshipment Observer Program based on discussions during the intersession. Track changes in the document reflect areas for discussion at TCC.

Explanatory Note

In accordance with the taskings from TCC 07 and COM 08 to develop a regional observer program for transshipment by COM 09, the Small Working Group on Planning and Development (SWG PD) proposes the attached new conservation and management measure (CMM).

CONSERVATION AND MANAGEMENT MEASURE ON NPFC ~~Transshipment Observer~~
Program TRANSSHIPMENT OBSERVER PROGRAM

The North Pacific Fisheries Commission (NPFC),

Noting Article 7(2)(a) of the Convention which states that the Commission shall establish procedures for the regulation and monitoring of transshipment of fisheries resources and products of fisheries resources taken in the Convention Area;

Noting further Article 7(2)(b) of the Convention which states that the Commission shall develop and implement a North Pacific Ocean Fisheries Observer Program taking into account relevant international standards and guidelines;

Recognizing that paragraph 27 of the Conservation and Management Measure on Transshipment states that the Commission shall establish a regional observer program no later than its 9th Commission meeting;

Adopts the following:

Definitions

The following definitions apply:

- a) “Observer service provider” means an [external, non-governmental] entity that provides observer services to fishing vessels
- b) “Observer” means an individual employed by an observer service provider for the purpose of working as an observer aboard fishing vessels
- c) “Authorized observer” means an observer on the list of authorized observers maintained by the NPFC Secretariat.

General

1. The Commission hereby establishes the NPFC Transshipment Observer Program, under Article 7, subparagraph 2(b) of the Convention, which shall be coordinated and administered by the Secretariat of the Commission, in accordance with this measure.

2. The objectives of the NPFC Transshipment Observer Program shall be to collect verified

transshipment data, collect additional information related to the fisheries in the Convention Area, and to monitor the implementation of the conservation and management measures (CMM) adopted by the Commission.

3. To complement the Secretariat's annual report on the implementation of the CMM on Transshipment, the Secretariat shall also report annually to the Commission with regard to the implementation of the NPFC Transshipment Observer Program and on other matters relevant to the efficient operation of the Program. The Secretariat shall, upon request of a Member or Cooperating non-Contracting Party (CNCP) and in a manner consistent with any applicable confidentiality requirements, provide the requesting Member or CNCP any specific data in relation to transshipment activities conducted.

4. The Secretariat may enter into a contract with ~~one~~an observer service provider~~(s)~~ that demonstrates their capacity to meet the requirements of this measure and to provide authorized observers to support the administration of the NPFC Transshipment Observer Program including, inter alia, the provision, training, equipment, deployment, and recovery of observers. Such contracts shall be valid for up to three years and contain provisions authorizing the Secretariat to end contract services should the observer service provider not perform the duties of the contract completely, in a timely manner or otherwise according to the responsibilities detailed in the CMM, but not before a new contract is in place.

5. The terms of any such contract entered into under paragraph 4 shall require the observer service provider to appoint the authorized observers, place them on board the authorized receiving vessels planning to or engaging in transshipment of NPFC fisheries resources or products of fisheries resources in accordance with the CMM on Transshipments and ensure that authorized observers have a designated contact point for deployed observers to implement this CMM. The observer service provider should appoint and deploy authorized observers in a manner to ensure cost effectiveness and avoid duplications, particularly by sourcing trained and qualified observers from existing regional ~~[and national Member and CNCP] observer programs}~~ [and national Member and CNCP] observer programs ~~and observer programs of Members and CNCPs~~ as much as possible.

6. Members and CNCPs shall accept the deployment of authorized observers to their receiving vessels as required by this CMM and ensure that their vessels which carry observers are outfitted with appropriate safety equipment for the entirety of each voyage and are compliant with relevant international standards.

Authorization and training of observers

7. The Secretariat shall maintain a list of authorized observers for the NPFC Transshipment

Observer Program, who meet the requirements of paragraphs 8, 10, and 11. ~~[The Secretariat may only include, and retain, observers on the list of authorized observers if they are:~~
~~a) independent and impartial in accordance with paragraph 10; and~~
~~b) trained in accordance with paragraphs 8 and 11.}]~~

8. The terms of any such contract entered into under paragraph 4 shall require the observer service provider to ensure that authorized observers have the training, knowledge, skills, and abilities to perform all of their duties and functions. To this end, an authorized observer will, at a minimum, have:

- a) sufficient experience in identifying, or satisfactorily completed training to identify NPFC species and fishing gear;
- b) satisfactory knowledge of NPFC conservation and management measures;
- c) the ability to observe and record information accurately; and;
- d) sufficient training in technical matters and safety.

9. In addition to the requirements under paragraph 8, the terms of any such contract entered into under paragraph 4 shall encourage the observer service provider to ensure that authorized observers have a satisfactory knowledge of the language of the flag of the vessel to which they are deployed.

10. The terms of any such contract entered into under paragraph 4 shall require the observer service provider to ensure that all authorized observers are independent and impartial. To this end, an authorized observer shall:

- a) ~~[to the extent possible, not be deployed to a receiving vessel whose flag is the same as the observer's nationality or citizenship;]~~
- b) be neither part of the crew, nor have any employment or family or business relationship to the ownership or operator of a fishing vessel included in the NPFC Vessel Registry;
- c) ~~[to the extent possible, ensure that the same observer is not deployed on consecutive fishing trips on the same vessel;]~~
- d) not have a direct financial interest with vessels, processors, agents and retailers involved in the catching, taking, harvesting, transporting, processing or selling of fish or fish products, other than the provision of observer services, including but not limited to ownership, or business links; and,
- e) not solicit or accept, directly or indirectly, any gratuity, gift, favour, entertainment, inordinate accommodation, loan or anything of monetary value from anyone who either conducts activities that are regulated by a Member or CNCP connected with its services or the Commission, or has interests that may be substantially affected by the performance or non-performance of the observer's official duties.

11. The terms of any such contract entered into under paragraph 4 shall require the observer service provider to ensure authorized observers receive proper safety training and equipment to perform their duties. To this end, an authorized observer shall:

- a) receive safety training that meets the International Maritime Organization (IMO) safety training standards, before they are deployed on a vessel for the first time and at appropriate intervals thereafter;
- b) be equipped with appropriate safety equipment that is in good working order, routinely checked and renewed to carry out their duties on board a vessel. Safety equipment includes but is not limited to each observer being equipped with a lifejacket or personal flotation device, personal locator beacons (PLBs), immersion suits, hard hat, proper deck working boots or shoes, gloves and protective glasses (including sunglasses), and other safety equipment appropriate to the specific fishing operations and activities, including ocean area and distance from shore;
- c) be equipped with, and have control and sole use of an independent two-way satellite communications device capable of sending and receiving voice or text communications suitable for use when the vessel is at sea ~~{and be provided with internet connectivity which allows for unrestricted use of email or messaging}.~~

Electronic Monitoring Systems (EMS)

12. The Commission shall **[endeavor to]** develop and adopt minimum standards for EMS to monitor transshipment at sea and a list of Secretariat responsibilities in relation to an EMS. Once EMS standards are adopted by the Commission, the Commission will determine how to incorporate EMS into the NPFC Transshipment Observer Program, including whether to use EMS to complement and/or replace any of the duties of an observer outlined in this CMM.

Observer Responsibilities

13. The terms of any such contract entered into under paragraph 4 shall require the observer service provider to ensure that authorized observers perform their duties completely, in a timely manner, and otherwise according to the responsibilities detailed in this CMM. Observer service providers shall monitor the performance of authorized observers, and may recommend to the Secretariat the removal of an authorized observer from the authorized observer list.

14. The terms of any such contract entered into under paragraph 4 shall require the observer service provider to ensure that authorized observers monitor and collect information on each transshipment and, to the greatest extent possible, monitor whether each transshipment is

conducted in a manner consistent with the ~~NPFC~~CMM on Transshipment. In particular, an authorized observer shall verify the quantities of transshipped fisheries resources, the species of transshipped fisheries resources, including bycatch and unregulated species, and the form of product transshipped.

15. To fulfill paragraph 14, an authorized observer shall:

a. collect information to monitor the receiving vessel's compliance with the ~~NPFC~~CMMs, including:

- i. the date, time and the position of the vessel when engaged in transshipping;
- ii. their own estimation of the quantities of products by species, including bycatch and unregulated species, transshipped by vessel;
- iii. the name of the offloading vessel concerned, and its registration number; and
- iv. [the quantities of all product being offloaded by species, including bycatch and unregulated species, when offloaded in the port where the authorized observer is disembarked to verify consistency with quantities received during all at sea transshipment operations].

b. acknowledge the [advance notification for transshipment for receiving vessels and] transshipment declaration and compare the data collected as per 15(a) with the data reported by the vessel in the advance notification and transshipment declaration;

c. compile the information in an observer transshipment report, as per Annex I, immediately after each transshipment;

d. keep the observer transshipment report onboard and provide the report, as soon as possible, but no later than 10 days from the disembarkation, to the observer service provider responsible for the NPFC Transshipment Observer Program, for subsequent transmission to:

- i. the Commission Member, or CNCP, of the flags of the receiving vessel and the offloading vessel;
- ii. the Coastal Members, if applicable; and
- iii. the Secretariat.

e. exercise any other functions as defined by the Commission.

16. The terms of any such contract entered into under paragraph 4 shall require the observer service provider to ensure that authorized observers shall treat as confidential all information with respect to the fishing operations of the receiving vessels and of their owners and accept this

requirement in writing as a condition of employment as an authorized observer.

17. The terms of any such contract entered into under paragraph 4 shall require the observer service provider to ensure that authorized observers, while on board a receiving vessel, comply with the applicable laws and regulations of the Member or CNCP exercising jurisdiction over the receiving vessel to which the observer is deployed.

18. The terms of any such contract entered into under paragraph 4 shall require the observer service provider to ensure that authorized observers respect the hierarchy and general rules of behavior which apply to all receiving vessel personnel, provided such rules do not interfere with the duties of the observer under this measure.

19. The terms of any such contract entered into under paragraph 4 shall require the observer service provider to ensure that authorized observers not unduly interfere with the lawful operations of the vessel and in carrying out their duties shall give due consideration to the operational requirements of the vessel [and to the extent practicable minimize disruption to the operation of vessels fishing in the Convention Area]

Observer Rights

20. To facilitate the performance of their duties specified in paragraph 15, and to ensure their safety, Members and CNCPs shall take necessary measures to ensure that the masters of the vessels to which authorized observers are deployed provide the authorized observer with:

(a) full, unobstructed, and safe access to each fishing vessel involved in the transshipment, including, inter alia,

- i. reasonable assistance from the crew;
- ii. gear;
- iii. equipment;
- iv. records, including electronic records;
- v. communication equipment;
- vi. fish holds;
- vii. satellite navigation equipment;
- viii. radar display viewing screens when in use;
- ix. VMS; and
- x. scale used for weighing transshipped product.

(b) accommodations on the receiving vessel, including lodging, food, potable water, medical facilities and adequate sanitary facilities, equal to those of officers;

(c) adequate space on the bridge or pilot house of the receiving vessel for clerical work, as well as

space on deck adequate for the performance of their duties;

(d) the ability to determine the most advantageous location and method for viewing transshipment operations and estimating species and quantities transshipped. The master of the receiving vessel, giving due regard to safety and practical concerns, shall accommodate the needs of the authorized observer, including, upon request, temporarily placing product on the receiving vessel deck for inspection by the observer and providing adequate time for the observer to perform their duties. Observations shall be conducted in a manner that minimizes interference and avoids compromising the quality of the products transshipped;

(e) freedom from physical, psychological, or sexual abuse or harm, assault, resistance, opposition, impedance, harassment, sexual harassment, intimidation, interference with, influence, bribery or attempted bribery.;

(f) freedom from undue obstruction in the discharge of their duties as specified under this measure;

(g) [freedom from performing duties normally performed by crew members] [including, but not limited to, cooking, washing dishes, standing watch, vessel maintenance, assisting with setting or retrieving of gear, or any duties associated with the processing of fish;]

(h) access to verify safety equipment on board the receiving vessel (through a safety orientation tour provided by officers or crew) before the vessel leaves the dock;

(i) access to communicate at any time the occurrence of safety issues to the vessel captain, service provider, the Secretariat, and flag Member or CNCP, as appropriate;

(j) [internet connectivity which allows for unrestricted use of email or messaging].

(k) observer data, records, documents, equipment and belongings not being accessed, harmed, or destroyed.

(l) notification at least [one hour] prior to a transshipment commencing

21. Members and CNCPs shall ensure that an authorized observer be allowed to visit the offloading vessel in a transshipment and have access to the offloading vessel in accordance with paragraph 22 in this CMM.

22. Members and CNCPs shall ensure that the master of the offloading vessel and master of the receiving vessel provide all necessary assistance to an authorized observer to ensure safe transport between the receiving and offloading vessel. Should conditions present an unacceptable risk to the welfare of the observer such that a visit to the offloading fishing vessel is not feasible prior to the start of a transshipment operation, the transshipment may still be carried out.

23. Members and CNCPs shall ensure that observer rights and emergency procedures applicable to authorized observers on receiving vessels also apply to the authorized observers when they work on offloading vessels during the transshipment.

24. The terms of any such contract entered into under paragraph 4 shall require the observer service provider ensure that authorized observers are informed that should they experience physical, psychological, or sexual abuse or harm, assault, obstruction, harassment, sexual harassment, intimidation, or otherwise unsafe working conditions, they are highly encouraged to document the incident and report it to the observer service provider. Upon receiving a report, the observer service provider shall immediately inform the Secretariat. The Secretariat shall then transmit the report to the flag Member or CNCP of the vessel involved. Per paragraph 37 of the CMM on Transshipment, the flag Member or CNCP shall conduct an investigation into the incident. The flag Member or CNCP shall report any findings and/or relevant actions taken to address the issue without delay to the observer service provider and the Secretariat, for transmission to all Members and relevant CNCPs. The observer service provider has discretion to not deploy an observer on a vessel because of concerns about risk to the observer's health, safety, or welfare if an investigation is ongoing.

25. The terms of any such contract entered into under paragraph 4 shall require the observer service provider to notify all authorized observers of any ongoing investigations, and the findings and/or relevant actions taken of any completed flag Member or CNCP investigation pursuant to paragraph 23.

[26. The terms of any such contract entered into under paragraph 4 shall require the observer service provider to ensure that authorized observers may refuse a deployment to a receiving vessel for justified reasons, including when a safety issue has been identified on the receiving vessel. The observer service provider shall document and provide the reason for refusal to the Secretariat. The Secretariat shall forward the documentation to the relevant Member or CNCP. The Member or CNCP shall undertake an investigation per paragraph 37 of the CMM on Transshipment and shall report any finding and/or relevant actions taken as soon as possible to the service provider and to the Secretariat, as well as in their Annual Report.]

Procedure in the Event of an Emergency

27. If an observer is missing or is presumed to have fallen overboard, the Member or CNCP whose flag the receiving vessel is flying shall ensure that the vessel:

- a) immediately ceases fishing operations and commences search and rescue and searches for at least 72 hours, unless the observer is found sooner, or unless instructed by the Member whose flag the vessel is flying to continue searching longer;
- b) immediately notifies the flag Member or CNCP and observer service provider;
- c) immediately alerts other vessels in the vicinity by using all available means of communication;
- d) cooperates fully in any search and rescue operation;

- e) whether or not the search is successful, returns to the nearest port, as requested by the Member or CNCP whose flag the vessel is flying, for further investigation;
- f) provides a report to the Secretariat, observer provider and appropriate authorities on the incident; and
- g) cooperates fully in any and all official investigations, and preserves any potential evidence and the personal effects ~~and quarters~~ of the ~~deceased or~~ missing observers before the new observer is on board.

28. In the event that an observer suffers from a serious illness or injury that threatens his or her health or safety, the Member or CNCP whose flag the receiving vessel is flying shall take necessary measures to require that the receiving vessel:

- a) immediately ceases fishing operations, as long as practicable, and takes all reasonable actions to care for the observer and provide any medical treatment available and possible on board the vessel;
- b) immediately notifies the flag Member or CNCP and observer provider of the situation, including to advise if a medical evacuation is warranted, and where appropriate seeks external medical advice;
- c) ~~[where necessary and appropriate, including as directed by the observer provider, if not already directed]~~~~[as requested]~~ by the flag Member or CNCP, facilitates the disembarkation and transport of the observer to a medical facility equipped to provide the required care, as soon as practicable; and
- d) cooperates fully in any and all official investigations into the cause of the illness or injury.

29. In the event that an observer dies, the Member or CNCP whose flag the receiving vessel is flying shall ensure that the receiving vessel:

- a) immediately ceases fishing operations;
- b) immediately notifies the flag Member or CNCP and the observer service provider;
- c) immediately returns to the nearest port, as requested by the Member or CNCP whose flag the vessel is flying, for further investigation;
- d) provides a report to the Secretariat, observer service provider and appropriate authorities on the incident; and
- e) cooperates fully in any and all official investigations, and preserves any potential evidence and the personal effects ~~and quarters~~ of the deceased ~~or missing~~ observers before the new observer is on board.

30. Members and CNCPs shall take and implement ~~all~~necessary steps, as a matter of due diligence, to prevent incidents causing serious harm or death to observers on board receiving vessels flying their flag, and, if appropriate, to sanction or punish those involved, including

through criminal investigation and prosecution. The Members and CNCPs shall cooperate to that end and ensure results of investigations conducted and any actions taken related to observer assault or harassment will be provided promptly to the observer provider and the Secretariat, for transmission to all Members and the relevant CNCPs.

Observer fees

31. The costs of implementing this program shall be financed by the flag Member or CNCP of offloading vessels wishing to engage in transshipment operations. The fee shall be calculated on the basis of the total costs of the program. This fee shall be paid into a special account of the Secretariat and the Executive Secretary shall manage the account for administering the program.

32. Members and CNCPs shall not allow their fishing vessels to engage in a transshipment unless they have paid their fees, as required under paragraph 30.

33. This CMM shall enter into force on January 1st, 2026.

OBSERVER TRANSSHIPMENT REPORT

INSTRUCTIONS

In completing the observer transshipment report, the observer shall ensure that:

1. the information is as **accurate** as possible, and legible; and
2. the information is provided in **clear, legible print** in accordance with the clarifications below (either by hand or electronically).

The observer must provide ~~(e.g. as an attachment)~~ the completed transshipment declaration with the completed observer transshipment report. It is the responsibility of the observer to provide sufficient reasoning in order to effectively explain any non-compliance.

CLARIFICATIONS

To assist in the accurate completion of the observer transshipment report:

- use the DD-MM-YYYY format to specify the date (e.g. 01-11-2022);
- use the HH:MM format, and the 24-hour clock (UTC, or specify time zone) to specify the time (e.g. 23:15);
- use the Degrees (°) Minutes (′) format to specify the latitude and longitude (e.g. 40° 26′ N, 79° 58′ W);
- “Interruptions” refers to any stoppage in observation of the transshipment by the observer.
- for “FAO CODE”, utilize the FAO 3-alpha codes found at www.npfc.int/priority-species, or Fisheries and Aquaculture - All Information Collections - ASFIS List of Species for Fishery Statistics Purposes (fao.org);
 - the Codes for major NPFC species are; SAP (Pacific saury), MAS (chub mackerel), MAA (blue mackerel), JAP (Japanese sardine), OFJ (neon flying squid) and SQJ (Japanese flying squid).
- for “STATE OF FISH”, state whether the fisheries resource, or product of fisheries resource, is: (1) fresh (FRS), or (2) frozen (FRZ)

OBSERVER TRANSSHIPMENT REPORT (1/3)

Per the NPFC's CMM on the NPFC Transshipment Observer Program, this form shall be completed by the authorized observer for each transshipment activity and submitted to the observer service provider as soon as possible, but no later than 10 days following the disembarkation of the observer.

PART I – TRANSSHIPMENT INFORMATION

1	Date of Transshipment			
2	Time of Transshipment			
3	Location of Transshipment	<input type="checkbox"/> High Seas	<input type="checkbox"/> National Waters	<input type="checkbox"/> Port
4	Longitude and Latitude			
5	Receiving Vessel: <ul style="list-style-type: none"> Vessel Name NPFC Vessel ID Name of Vessel Master 			
6	Offloading Vessel: <ul style="list-style-type: none"> Vessel Name NPFC Vessel ID Name of Vessel Master 			

PART II –TRANSSHIPMENT INFORMATION

7	Observed (Y/N)	
8	Total Hours Observed	
9	Interruption(s) in Observation (Y/N)	
10	Number of Interruptions	
11	Total Time Interrupted	

OBSERVER TRANSSHIPMENT REPORT (2/3)							
PART III – OBSERVER ESTIMATION OF PRODUCTS TRANSSHIPPED							
FAO Code	State of Fish	Type of Product	Unit	Kg per unit	Number of Units	Total (kg)	Consistent with transshipment declaration? (Y/N) (Note any discrepancies in Part IV below)
PART IV – OBSERVATION OF OFFLOADING VESSEL							
12	Boarded Offloading Vessel ? <input type="checkbox"/> Yes <input type="checkbox"/> No						
13	Product Remaining on Offloading Vessel Following Transshipment (if applicable):						
FAO Code	State of Fish	Type of Product	Unit	Kg per unit	Number of Units	Total (kg)	Consistent with transshipment declaration? (Y/N) (Note any discrepancies in Part IV below)
Source: <input type="checkbox"/> Hold Inspection <input type="checkbox"/> Verbal Report from Vessel Master							

OBSERVER TRANSSHIPMENT REPORT (3/3)

PART V - COMMENTARY

In this section, the authorized observer shall note for both the offloading and receiving vessels:

- any discrepancies between their estimation of product transshipped and what was declared on the advance notification and transshipment declarations, not to exclude estimates of bycatch and unregulated species, and the form of products transshipped.;
- any other observed non-compliance with CMM *on Transshipments*
- any observed non-compliance with the NPFC Convention or other NPFC CMMs

PART VI – ~~VERIFICATION~~ OBSERVER SIGNATURE

14	Observer	
	Name	
	Nationality	
	Signature	