

**REVISED DRAFT PROCEDURES FOR BOARDING AND INSPECTION PURSUANT  
TO THE CONVENTION ON THE CONSERVATION AND MANAGEMENT OF  
HIGHLY MIGRATORY FISH STOCKS IN THE WESTERN AND CENTRAL PACIFIC  
OCEAN**

Prepared by the Chairman of Working Group III

1. The third meeting of WG.III will take place during the fifth session of the Preparatory Conference. The annex to the present document contains a revised draft of a scheme for boarding and inspection, which has been prepared by the Chairman of WG.III in the light of the discussions that took place during PrepCon IV, held in Nadi, Fiji from 5 – 9 May 2003,

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Annex

**REVISED DRAFT PROCEDURES FOR BOARDING AND INSPECTION PURSUANT  
TO THE WCPFC CONVENTION**

1. There is hereby established, pursuant to Article 26 of the Convention, the Western and Central Pacific Fisheries Convention (WCPFC) boarding and inspection scheme.

**PURPOSE**

2. Boarding and inspection and related activities, conducted pursuant to this scheme, shall be for the purpose of verifying compliance with the provisions of the Convention and conservation and management measures adopted by the Commission and in force.

**AREA OF APPLICATION**

3. The WCPFC boarding and inspection scheme shall operate on the high seas within the Convention area where conservation and management measures adopted by the Commission are in force.

**GENERAL RIGHTS AND OBLIGATIONS**

4. Each [Contracting Party] [Member of the Commission] is entitled to participate in the WCPFC boarding and inspection scheme and, subject to these provisions of the scheme, to carry out boarding and inspection on the high seas in the Convention Area of fishing vessels engaged in or reported to have engaged in a fishery regulated pursuant to the Convention.

5. Each Member of the Commission shall ensure that its vessels fishing on the high seas within the Convention area cooperate in the implementation of the WCPFC boarding and inspection scheme.

**GENERAL PRINCIPLES**

6. These procedures are intended to implement and give effect to Article 26 of the Convention and should be read to be consistent with those provisions.

7. The WCPFC boarding and inspection scheme shall be implemented with a view to achieving equitable distribution of inspections among fishing vessels and fleets operating in the scheme's area of application.

8. The scheme shall be implemented so as to take into account the full range of available measures to monitor compliance with the provisions of the Convention and agreed conservation and management measures, including inspection activities carried out by the authorities of Members of the Commission in respect of their own flag vessels.

9. The Commission shall keep the implementation of these principles under review.

## **PARTICIPATION**

10. The Commission shall maintain a register of all vessels and inspectors authorized to conduct boarding and inspection pursuant to the WCPFC boarding and inspection scheme.

11. Each [Contracting Party] [Member of the Commission] that intends to carry out boarding and inspection activities pursuant to this scheme shall so notify the Commission, through the Executive Director, and shall provide the following:

- (a) with respect to each vessel it proposes to assign to the scheme:
  - (i) details of the vessel (name, description, photograph, registration number, home port, international radio call sign, communication capability and crew complement);
  - (ii) certification that the vessel is dedicated solely to Government service and is clearly marked and identifiable as being on official Government service; and
  - (iii) certification that the crew has received and completed training in carrying out boarding and inspection activities at sea in accordance with standards and procedures adopted by the Commission.
- (b) with respect to each inspector it proposes to assign to the scheme:
  - (i) the name and affiliation of the inspector;
  - (ii) certification that the inspector is fully familiar with the fishing activities to be inspected and the provisions of the Convention and conservation and management measures in force; and
  - (iii) certification that the inspector has received and completed training in carrying out boarding and inspection activities at sea in accordance with standards and procedures adopted by the Commission.

12. Inspection vessels and inspectors notified by [Contracting Parties] [Members of the Commission] pursuant to paragraph 11 shall be included on the Commission inspection register once the Commission verifies that they meet the requirements of established in that paragraph.

13. In order to make optimum use of resources assigned to the scheme, [Contracting Parties] [Members of the Commission] shall seek to identify opportunities to place inspectors assigned by one [Contracting Party] [Member of the Commission] on the vessel assigned by another. Where appropriate, Members of the Commission should seek to conclude bilateral arrangements to this end or to otherwise facilitate communication and coordination between them for the purpose of implementing these procedures.

14. The Commission shall ensure that the register of authorized vessels and inspectors is at all times available to all Members of the Commission and shall immediately circulate any changes therein. Each Member of the Commission shall ensure that the list of vessels and

inspectors appearing on the register is circulated to each of its fishing vessels operating in the Convention area.

## **PROCEDURES**

15. Any vessel authorized to engage in boarding and inspection pursuant to this scheme (authorized inspection vessel) shall fly, in clearly visible fashion, a flag or pennant in the format and design designated by the Commission.

16. Any inspector authorized to engage in boarding and inspection pursuant to this scheme (authorized inspector) shall carry approved credentials issued by the designating [Contracting Party] [Member of the Commission] in the format agreed by the Commission.

17. An authorized inspection vessel that encounters a fishing vessel on the high seas that is engaged in or reported to have engaged in a fishery regulated pursuant to the Convention, shall be authorized to board and inspect such fishing vessel when:

(a) There is reason to believe that the vessel is or has been operating in violation of a conservation and management measure adopted by the Commission; and

(b) Such boarding and inspection is necessary to obtain or verify evidence documenting such a possible violation.

18. Prior to conducting a boarding and inspection of a fishing vessel on the high seas that is engaged in or reported to have engaged in a fishery regulated pursuant to the Convention, the inspecting vessel shall:

(a) establish contact with the vessel by radio and/or by the appropriate International Code of Signals;

(b) provide the information to identify itself as an inspection vessel authorized by the Commission - name, registration number, international radio call sign and contact frequency;

(c) provide notice of intent to board and the purpose of that boarding to the master of the fishing vessel; and

(d) initiate notice of the boarding and inspection to the competent authorities of the Member of the Commission of the vessel.

In carrying out these procedures, the inspectors shall make best efforts to communicate in a manner which the master of the fishing vessel in question can understand.

19. Authorized inspectors shall have the authority to inspect the vessel, its license, gear, equipment, records, facilities, fish and fish products and any relevant documents necessary to verify compliance with the conservation and management measures in force pursuant to the Convention.

20. Boarding and inspection pursuant to this scheme shall:

- (a) be carried out in accordance with internationally accepted principles of good seamanship so as to avoid risks to the safety of vessels and crews;
- (b) reduce interference with fishing operations to the greatest extent practicable and feasible;
- (c) avoid action that would adversely affect the quality of the catch on board; and
- (d) not be conducted in such manner as to constitute harassment of a fishing vessel.

21. In the conduct of a boarding and inspection, the authorized inspectors shall:

- (a) present a copy of their credentials to the master of the vessel and a copy of the text of the relevant measures in force pursuant to the Convention in the relevant area of the high seas;
- (b) not interfere with the master's ability to communicate with the authorities of the Member of the Commission under whose jurisdiction the vessel is operating during the boarding and inspection;
- (c) complete the inspection of the vessel within 6 (six) hours unless evidence of a serious violation is found;
- (d) acquire and clearly document any evidence they believe indicates a violation of measures in force pursuant to the Convention;
- (e) provide a copy of a report on the boarding and inspection to the master and to the competent authorities of the Member of the Commission under whose jurisdiction the vessel is operating, noting therein any objection or statement which the master wishes to have included in the report; and
- (f) promptly leave the vessel following completion of the inspection.

22. During the conduct of a boarding and inspection, the master of the fishing vessel shall:

- (a) accept and facilitate prompt and safe boarding by the authorized inspectors;
- (b) cooperate with and assist in the inspection of the vessel pursuant to these procedures;
- (c) not obstruct, intimidate or interfere with the inspectors in the performance of their duties;
- (d) allow the inspectors to communicate with the competent authorities of the Member of the Commission under whose jurisdiction the vessel is operating and the inspecting State during the boarding and inspection;
- (e) accord the inspectors the status of officers on board and provide them with reasonable facilities, including, where appropriate, food and accommodation; and

(f) facilitate safe disembarkation by the inspectors.

23. If the master of a fishing vessel denies permission for authorized inspectors to carry out a boarding in accordance with this scheme, such master shall offer an explanation of the reason for the denial. The [Contracting Party] [Member of the Commission] of the authorized inspection vessel shall immediately notify the Member of the Commission under whose jurisdiction the fishing vessel is operating, as well as the Commission, of the master's refusal and any explanation.

24. The Member of the Commission under whose jurisdiction the fishing vessel is operating shall, except in circumstances where generally accepted international regulations, procedures and practices relating to safety at sea make it necessary to delay the boarding and inspection, direct the master to accept the boarding and inspection. If the master does not comply with such direction, such Member shall suspend the vessel's authorization to fish and order the vessel to return immediately to port. That Member shall also notify the [Contracting Party] [Member of the Commission] of the authorized inspection vessel and the Commission as soon as practicable of the action it takes in these circumstances.

#### **USE OF FORCE**

25. The use of force for the purpose of stopping, slowing or boarding a vessel or, once on board a vessel, for carrying out inspection activities or for gaining access to any portion of the vessel, its gear, equipment, facilities, fish or fish products or its records shall be prohibited.

26. The master of the authorized inspection vessel may authorize the use of force only in circumstances when the conduct of the fishing vessel or its crew present a real and imminent threat to the safety of the inspection vessel, its crew or to the boarding party. In such cases, the degree of force used shall be the minimum necessary to counter the immediate threat in question.

27. Any incident involving the use of force shall be immediately reported to the competent authorities of the Member of the Commission under whose jurisdiction the fishing vessel involved is operating, as well as to the Commission.

#### **INSPECTION REPORTS**

28. Authorized inspectors shall prepare a complete report on each inspection they carry out pursuant to this scheme in accordance with such format as may be specified by the Commission. The [Contracting Party] [Member of the Commission] of the authorized inspection vessel from which the boarding and inspection was carried out shall transmit a copy of the inspection report to the Member of the Commission under whose jurisdiction the fishing vessel inspected is operating, as well as the Commission, within 3 (three) days of the inspection.

29. Such report shall clearly identify any observed activity or condition that the authorized inspectors believe to be a violation of the Convention or conservation and management measures adopted pursuant thereto and indicate the nature of specific factual evidence of such violation.

30. Each inspection report shall include any statement or objection that the master of the inspected vessel wishes to make.

## **SERIOUS VIOLATIONS**

31. In the case of any inspection of a fishing vessel during which the authorized inspectors observe an activity or condition that would constitute a serious violation, as defined in paragraph 36, [the Contracting Party] [Member of the Commission] of the authorized inspection vessel shall immediately notify the Member of the Commission under whose jurisdiction the fishing vessel is operating, directly as well as through the Commission.

32. Upon receipt of a notification under Paragraph 31, the Member of the Commission under whose jurisdiction the fishing vessel is operating shall:

(a) assume its obligation to investigate and, if the evidence warrants, take enforcement action against the fishing vessel in question and so notify the [Contracting Party] [Member of the Commission] of the authorized inspection vessel, as well as the Commission; or

(b) authorize the [Contracting Party] [Member of the Commission] of the authorized inspection vessel to complete investigation of the alleged violation and so notify the Commission.

33. In the case of 32(a), above, the [Contracting Party] [Member of the Commission] of the authorized inspection vessel shall provide, as soon as practicable, the specific evidence collected by the authorized inspectors to the Member of the Commission under whose jurisdiction the fishing vessel is operating.

34. In the case of 32(b), above, the [Contracting Party] [Member of the Commission] of the authorized inspection vessel shall provide the specific evidence collected by the authorized inspectors along with the results of its investigation to the Member of the Commission under whose jurisdiction the fishing vessel is operating immediately upon completion of the investigation.

35. If, after three full working days of receipt of a notification pursuant to Paragraph 31 (as confirmed by the Commission), the Member of the Commission under whose jurisdiction the fishing vessel is operating has failed to respond to the notification, the fishing vessel in question shall as of that date be deleted from the Commission's record of vessels authorized to fish in the Convention area (Article 24(4)).

36. For the purposes of this scheme, a serious violation means:

(a) fishing without a license, permit or authorization issued by the flag State in accordance with Article 24 of the Convention;

(b) failure to maintain accurate records of catch and catch-related data in accordance the Commission's reporting requirements or serious misreporting of such catch and/or catch-related data;

(c) fishing in a closed area;

(d) fishing during a closed season;

(e) taking of prohibited species;

- (f) significant violation of catch limits or quotas in force pursuant to the Convention;
- (g) using prohibited fishing gear;
- (h) falsifying or concealing the markings, identity or registration of a fishing vessel;
- (i) concealing, tampering with or disposing of evidence relating to investigation of a serious violation;
- (j) multiple violations which taken together constitute a serious disregard of measures in force pursuant to the Convention; and
- (k) refusal to accept a boarding and inspection in accordance with this scheme.

## **ENFORCEMENT**

37. Any evidence obtained with respect to violation by a fishing vessel of a measure in force pursuant to the Convention as a result of the operation of this scheme shall be referred to the competent authorities of the Member of the Commission under whose jurisdiction the vessel is operating for action in accordance with Article 25 of the Convention.

38. Interference with any authorized inspector shall be treated by the Member of the Commission under whose jurisdiction the fishing vessel being inspected is operating shall be treated by that Member as if the inspector were an inspector of that Member.

## **ANNUAL REPORTS**

39. [Members of the Commission][Contracting Parties] that assign vessels to this scheme shall report annually to the Commission on the boarding and inspections carried out by its authorized inspection vessels, as well as upon alleged violations observed.

40. Members of the Commission shall include in their annual compliance reports to the Commission under Article 25(8) of the Convention action that they have taken in response to boarding and inspections of their fishing vessels that resulted in observation of alleged violations, including information relating to any proceedings instituted and sanctions applied.

## **OTHER PROVISIONS**

41. Authorized inspection vessels, while assigned to this scheme, shall engage in surveillance aimed at identifying fishing vessels of non-Parties undertaking fishing activities on the high seas in the Convention area. Any such vessels identified shall be immediately reported to the Commission.

42. Members of the Commission shall be liable for damage or loss attributable to them from action in violation of these procedures.

## **COMMISSION COORDINATION AND OVERSIGHT**

43. Authorized inspection vessels shall establish regular contact for the purpose of sharing information on areas in which they are patrolling, sightings and boarding and inspections they have carried out, as well as other operational information relevant to carrying out their responsibilities under this scheme.

44. For this purpose, the Commission shall establish, within the Secretariat, a means to facilitate secure communication among authorized inspection vessels.

45. The Commission shall keep under continuous review the implementation and operation of the WCPFC boarding and inspection scheme, including review of annual reports relating to the scheme provided by Members. In particular, it shall seek to promote optimum use of the authorized inspection vessels and authorized inspectors assigned to the scheme by:

(a) identifying priorities by area and/or by fishery for boarding and inspections pursuant to this scheme;

(b) ensuring that boarding and inspection on the high seas is fully integrated with the other monitoring, compliance and surveillance tools available pursuant to the Convention;

(c) ensuring generally equitable distribution of boarding and inspections on the high seas among fishing vessels of Members of the Commission; and

(d) taking into account high seas inspection resources assigned by Members of the Commission to monitor and ensure compliance by their own fishing vessels, particularly for small boat fisheries whose operations extend onto the high seas in areas adjacent to waters under their jurisdiction.

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