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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	23 April 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2021) 198 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down conservation and management measures applicable in the Western and Central Pacific Fisheries Convention Area and amending Council Regulation (EC) No 520/2007

Delegations will find attached document COM(2021) 198 final.

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EUROPEAN
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Brussels, 23.4.2021
COM(2021) 198 final

2021/0103 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

laying down conservation and management measures applicable in the Western and Central Pacific Fisheries Convention Area and amending Council Regulation (EC) No 520/2007

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The purpose of the proposal is to implement into European Union (EU) law the conservation and management measures adopted by the Western and Central Pacific Fisheries Commission (WCPFC). The EU has been a contracting party to the WCPFC since 2004, when it ratified the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (the Convention). The WCPFC is the regional fisheries management organisation (RFMO) responsible for managing fishery resources in the Western and Central Pacific Ocean. WCPFC conservation and management measures apply to the entire WCPFC Convention Area.

In 2019, the EU had five active fishing vessels operating in the WCPFC Convention Area. The WCPFC has the authority to adopt conservation and management measures (CMMs) for the marine biological resources under its remit, which are binding for the contracting parties.

In accordance with paragraph 5 of Article 20 of the Convention, CMMs adopted as a WCPFC decision enters into force 60 days from the date of adoption. Before each WCPFC Commission meeting, the European Commission, on behalf of the EU, draws up negotiating guidelines based on a five-year mandate set by a Council decision and on scientific advice. In accordance with the mandate, these guidelines are presented, discussed and endorsed at the Council working party. They are further adjusted, to take account of real-time developments, at coordination meetings with Member States during WCPFC annual meetings.

The annual meetings of the WCPFC bring together WCPFC members, including the European Union represented by the Commission, and representatives of stakeholders. All measures are binding unless an objection is raised under the Convention. The objection can subsequently be withdrawn by a contracting party, after which that party is bound by the measures. The objection procedure also falls under Article 218(9) TFEU, as CMMs have a legal effect, meaning that they become binding on contracting parties. Before deciding to raise an objection to a measure, the Commission asks the relevant bodies in the Council to endorse the decision to object. Article 3(5) of the Treaty on European Union stipulates that the EU must abide strictly by international law, including compliance with CMMs. This proposal relates to the measures adopted by the WCPFC since 2008.

CMMs are aimed mainly at WCPFC contracting parties, but they also impose obligations on operators (e.g. the vessel master). WCPFC CMMs can be amended annually, and an historical overview of WCPFC meetings shows that any part of the CMMs may be amended. It is incumbent on the EU to ensure compliance with these measures, as international obligations, as soon as they enter into force. This proposal is therefore designed to implement the most recent version of the WCPFC CMMs. It also includes a mechanism to facilitate implementation of WCPFC measures in the future.

This proposal provides for delegated powers to be granted to the Commission under Article 290 of the Treaty on the Functioning of the European Union (TFEU). This will cater for amendments to WCPFC measures, which are expected to be frequent, and make sure that Union fishing vessels are put on an equal footing with the vessels of other contracting parties to the WCPFC. Delegated powers have therefore been laid down for: the WCPFC Transhipment Declaration, reporting notices for transhipment, best handling practices for mobulid rays and whale sharks, reference to shark lines depiction, handling practices for cetaceans and sea turtle, vessel information submission, VMS requirements, percentage of

observer coverage scheme under the Regional Observer Programme, and duties of observers, reporting deadlines, reporting formats for transhipment and Annexes 1 to 3 covering bird mitigations measures, marking and other specifications for vessels, and standards for Automatic Location Communicators used in the WCPFC Vessel Monitoring System.

The reporting deadlines set out in this proposal were established on the basis of the WCPFC timetable. The aim is to enable the EU to submit reports promptly to the WCPFC Secretariat.

The draft closely follows the structure and wording of WCPFC CMMs, to avoid deviating from the EU's international obligations as a contracting party, and to make the text easier to use for monitoring, control and surveillance officials, as well as operators.

- **Consistency with existing policy provisions**

This proposal complements and is generally consistent with other provisions of Union law in this area. Derogations from existing acts are however established in certain instances due to the nature of the more specific measures proposed.

The WCPFC CMMs were last implemented through Title V of Council Regulation (EC) No 520/2007 of 7 May 2007. This laid down technical measures for the conservation of certain stocks of highly migratory species and repealed Regulation (EC) N° 973/2001.

The WCPFC CMMs adopted between 2008 and 2019 (i.e. after the last main implementation) amended previously adopted measures and established new.

For reasons of clarity, simplification and legal certainty, it is therefore preferable to repeal Title V of Council Regulation (EC) No 520/2007 to take account of the changes adopted since 2008 and not yet covered by EU law.

The proposal is fully aligned with Part VI (External policy) of Regulation (EU) No 1380/2013 on the common fisheries policy (CFP). This provides that the Union shall conduct its external fisheries in accordance with its international obligations, basing EU fishing activities on regional fisheries cooperation.

The proposal complements Regulation (EU) 2017/2403 on external fleet management. This provides that Union fishing vessels are subject to RFMO fishing authorisations according to the conditions and rules of particular RFMOs and Council Regulation (EC) No 1005/2008 on illegal, unreported and unregulated fishing.

This proposal does not cover fishing opportunities for the EU decided by the WCPFC. Fishing opportunities are implemented through Council decisions under Article 43(3) of the TFEU. It is the Council's prerogative to adopt measures on fixing prices, levies, aid and quantitative limitations and on the fixing and allocation of fishing opportunities.

- **Consistency with other Union policies**

The proposal is consistent with other Union policies.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The proposal is based on Article 43(2) TFEU and sets out provisions necessary to pursue the CFP objectives.

• Subsidiarity (for non-exclusive competence)

The proposal falls under the exclusive competence of the Union (Article 3(1)(d) TFEU). The subsidiarity principle, therefore, does not apply.

• Proportionality

The proposal will ensure that Union law is in line with its international obligations adopted by the WCPFC and that the Union complies with the decisions taken by the RFMOs to which the Union is a contracting party. The proposal does not exceed the powers that are necessary to achieve this objective.

• Choice of the instrument

The instrument chosen is a regulation of the European Parliament and of the Council.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

• Ex-post evaluations/fitness checks of existing legislation

Not relevant.

• Stakeholder consultations

The purpose of this proposal is to implement existing WCPFC measures which are binding upon the contracting parties. National experts, and industry representatives from EU countries, are consulted both during the run-up to the WCPFC meetings at which these CMMs are adopted and throughout negotiations at the WCPFC annual meeting. Consequently, it was not considered necessary to hold a stakeholder consultation on this regulation.

• Collection and use of expertise

Not relevant.

• Impact assessment

Not relevant. This is an implementation of a CMM that is directly applicable to Member States.

• Regulatory fitness and simplification

This proposal is not linked to REFIT.

• Fundamental rights

This proposal has no consequences for the protection of citizens' fundamental rights.

4. BUDGETARY IMPLICATIONS

There are no budgetary implications.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Not applicable.

- **Explanatory documents (for directives)**

Not applicable.

- **Detailed explanation of the specific provisions of the proposal**

Chapter I contains general provisions on the proposal's subject matter, scope and objective. It also sets out definitions. This Regulation is applicable to EU vessels fishing in the WCPFC Convention Area and to the rules related to authorisation to fish.

Chapter II deals with conservation and management measures, including provisions for: purse seine vessels fishing for tropical tuna and longline vessels fishing for swordfish; closure of fisheries; prohibition of fishing on data buoys; provisions on fishing in the vicinity of fish aggregating devices, their deployment and design; and setting rules for transhipment in port.

Chapter III sets out measures designed to protect marine species in the WCPFC Convention Area, such as: oceanic white tip, silky and hammerhead sharks; mobulid rays, including provisions for data collection and reporting on these rays, as well as their release; and sea turtles, seabirds and cetaceans.

Chapter IV sets rules on: requirements for vessels, their marking and identification; the vessels monitoring scheme, including the WCPFC regional vessels register scheme; bunkering duties; and the charter notification scheme.

Chapter V contains provisions on: the WCPFC regional observer scheme, including rules on the coverage of the observer programme; the rights and responsibilities of vessel operators and masters; the safety of observers; and the reporting duties and obligations of observers.

Chapter VI regulates boarding and inspection procedures, the list of serious infringements, provisions for evidence, and enforcement and use of force.

Chapter VII covers port State measures, and the procedure in the event of suspected illegal, unreported and unregulated fishing activities.

Chapter VIII contains final provisions on matters including the confidentiality of electronic reports and messages, the procedure for tabling amendments, delegated powers and amendments to existing EU legislation.

2021/0103 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

laying down conservation and management measures applicable in the Western and Central Pacific Fisheries Convention Area and amending Council Regulation (EC) No 520/2007

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[1],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) The objective of the Common Fisheries Policy ('CFP'), as set out in Regulation (EU) No 1380/2013 of the European Parliament and of the Council[2] is to ensure exploitation of living aquatic resources in a way that provides sustainable economic, environmental and social conditions.

(2) The European Union has by Council Decision 98/392/EC[3] approved the United Nations Convention on the Law of the Sea and 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[4], which contain principles and rules with regard to the conservation and management of the living resources of the sea. In the framework of its wider international obligations, the Union participates in efforts made in international waters to conserve fish stocks.

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1 OJ C , , p. .

2 Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common, Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

3 Council Decision of 23 March 1998 concerning the conclusion by the European Community of the United Nations Convention of 10 December 1982 on the Law of the Sea and the Agreement of 28 July 1994 relating to the implementation of Part XI thereof (OJ L 179, 23.6.1998, p. 1).

4 Council Decision 98/414/EC of 8 June 1998 on the ratification by the European Community of the Agreement for the implementing 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 stocks and highly migratory fish stocks (OJ L 189, 3.7.1998, p. 14).

(3) By Council Decision 2005/75/EC[5] the European Community approved the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (the Convention), establishing the Western and Central Pacific Fisheries Commission (WCPFC).

(4) WCPFC has the authority to adopt legally-binding decisions ('Conservation and Management Measures', 'CMM') for the conservation of fisheries resources under its purview. These acts are essentially addressed to the WCPFC Contracting Parties, but also contain obligations for the operators (e.g. vessel masters).

(5) Upon their entry into force, the WCPFC conservation and management measures are binding on all WCPFC Contracting Parties, including the Union;

(6) While relevant key provisions of CMM are implemented on an annual basis in the context of the fishing opportunities regulation, the remaining provisions were last implemented through Title V of Council Regulation (EC) No 520/2007[6] laying down technical measures for the conservation of certain stocks of highly migratory species. It is therefore necessary to ensure that the CMM adopted by the WCPFC are fully implemented into Union law and are, therefore, uniformly and effectively implemented within the Union.

(7) Taking into consideration that WCPFC decisions are likely to be amended further in future at its annual meetings, in order to swiftly incorporate these decisions into Union law, and to reinforce the level playing field and further support the long-term sustainable management of the stocks, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the following aspects: the WCPFC Transhipment Declaration, reporting notices for transhipment, best handling practices for mobulid rays, whale sharks and other sharks, reference to shark lines depiction, handling practices for cetaceans and sea turtle, vessel information submission, Vessel Monitoring Scheme ('VMS') requirements, percentage of observer coverage scheme under the Regional Observer Programme ('ROP'), and duties of observers, and reporting deadlines, reporting formats for transhipment and Annexes 1 to 3 covering bird mitigations measures, marking and other specifications for vessels, and standards for Automatic Location Communicators used in the WCPFC Vessel Monitoring System. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations are conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[7]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

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5 Council Decision 2005/75/EC of 26 April 2004 on the accession of the Community to the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (OJ L 32, 4.2.2005, p. 1).

6 Council Regulation (EC) No 520/2007 laying down technical measures for the conservation of certain stocks of highly migratory species and repealing Regulation (EC) N° 973/2001 (OJ L 123, 12.5.2007, p. 3).

7 Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making, Interinstitutional Agreement of 13 April 2016 on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

(8) The delegated acts provided for in this Regulation should not affect the implementation into Union law of future changes to CMMs through the ordinary legislative procedure.

(9) Article 4(4) and Article 28 of Council Regulation (EC) No 520/2007 should be deleted as provisions of this Regulation implement all WCPFC measures.

HAVE ADOPTED THIS REGULATION:

CHAPTER I
GENERAL PROVISIONS

Article 1
Subject matter

This Regulation lays down management and conservation measures relating to fishing in the area covered by the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean[8] and with respect to the species of fish under the purview of that Convention.

Article 2
Scope

This Regulation applies to Union fishing vessels carrying out fishing in the Convention Area.

Article 3
Definitions

For the purposes of this Regulation, the following definitions shall apply:

(a) 'the Convention' means the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, as amended from time to time;

(b) 'the Convention Area' means the area to which the Convention applies as described in its Article 3.1;

(c) 'WCPFC' means the Fisheries Commission for the Western and Central Pacific Ocean established under the Convention;

(d) 'Union fishing vessel' means any vessel flying the flag of a Member State, used or intended for use for the purpose of fishing, including support ships, carrier vessels and any other vessel directly involved in such fishing;

(e) 'fishing' means:

[8] Council Decision 2005/75/EC of 26 April 2004 on the accession of the Community to the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (OJ L 32, 4.2.2005, p. 1).

– searching for, catching, taking or harvesting fish;

– attempting to search for, catch, take or harvest fish;

– engaging in any other activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fish for any purpose;

– placing, searching for or recovering fish aggregating devices or associated electronic equipment such as radio beacons;

– any operations at sea directly in support of, or in preparation for, any activity described in subparagraphs (i) to (iv), including transhipment;

– use of any other vessel, vehicle, aircraft or hovercraft, for any activity described in subparagraphs (i) to (v) except for emergencies involving the health and safety of the crew or the safety of a vessel;

(f) 'CMM' means Conservation and Management Measures adopted by the WCPFC currently in force,[9] as amended from time to time;

(g) 'fishing opportunities' means fishing quotas, effort allocated to a Member State, or closure periods as provided in a Union act in force for the Convention Area;

(h) 'unfit for human consumption' includes, but is not limited to fish that:

– is meshed or crushed in the purse seine net; or

– is damaged due to shark or whale depredation; or

– has died and spoiled in the net where a gear failure has prevented both the normal retrieval of the net and catch as well as efforts to release the fish alive;

(i) 'unfit for human consumption' does not include fish that:

– is considered undesirable in terms of size, marketability, or species composition; or

– is spoiled or contaminated as the result of an act or omission of the crew of the fishing vessel.

(j) 'fish aggregating device' or 'FAD' means any object or group of objects, of any size, that has or has not been deployed, that is living or non-living, including but not limited to buoys, floats, netting, webbing, plastics, bamboo, logs and whale sharks floating on or near the surface of the water that fish may associate with;

(k) 'Shallow-set' means fisheries are those in which the majority of hooks fish at depth shallower than 100 metres;

(l) 'Record' means the WCPFC Record of Fishing Vessels;

(m) 'WIN' means WCPFC identification number;

(n) 'VMS' means the Vessels Monitoring System;

(o) 'ROP' means the Regional Observer Programme established by the WCPFC to collect verified catch data, other scientific data, and additional information

[9] https://www.wcpfc.int/conservation-and-management-measures

related to the fishery from the Convention Area and to monitor the implementation of the CMM;

(p) ‘an instrumented buoy’ is a buoy with a clearly marked reference number allowing it to be identified and which is equipped with a satellite-tracking system to monitor its position;

(q) ‘data buoy’ is a floating device, either drifting or anchored, that is deployed by governmental or recognised scientific organisations or entities for the purpose of electronically collecting and measuring environmental data, and not for the purpose of fishing activities;

(r) ‘WCPFC Transhipment Declaration’ means a document containing information from Annex I to CMM 2009-06, as amended from time to time;

(s) ‘Eastern High Seas Pocket’ means the area of high seas bounded by the Exclusive Economic Zones of the Cook Islands to the west, French Polynesia to the east and Kiribati to the north with the geographical coordinates provided in the CMM 2016-02;

(t) ‘mobulid rays’ means species of the family Mobulidae, which includes manta rays and mobula rays;

(u) ‘ALC’ means ‘automatic location communicator’ a near real-time satellite position fixing transmitter;

(v) 'discards' means catches that are returned to the sea;

(w) ‘authorised inspector’ means an inspector of a contracting party to the WCPFC whose identity was communicated to the WCPFC;

(x) ‘authorised Union inspector’ means a Union inspector whose identity was communicated to the WCPFC in accordance with Article 121 of Regulation (EU) 404/2011.

Article 4
Authorisations

1. Member States shall manage the number of authorisations to fish and the level of fishing in accordance with the fishing opportunities.

2. Each authorisation shall set out for the Union fishing vessel to which it is issued:

(a) the specific areas, species and time periods for which the authorisation is valid;

(b) permitted activities by the Union fishing vessel;

(c) a prohibition of fishing, retention on board, transshipment or landing by the vessel in areas under the national jurisdiction of another State except pursuant to any licence, permit or authorisation that may be required by such other State;

(d) the requirement that the Union fishing vessel keeps on board the authorisation issued pursuant to this paragraph, or certified copy thereof; any licence, permit or authorisation, or certified copy thereof, issued by a coastal State, as well as a valid certificate of vessel registration.

CHAPTER II
CONSERVATION AND MANAGEMENT MEASURES

Article 5
Catch retention in the tropical tuna purse seine fishery

1. Union purse seine vessels fishing in Exclusive Economic Zones and on the high seas within the Convention Area bounded by 20°N and 20°S shall retain on board all catches of bigeye, skipjack, and yellowfin tuna with the following exceptions:

   (a) when, in the final set of a trip, there is insufficient storage space to accommodate all fish caught in that set, the excess fish taken in that last set may be transferred to and retained on board another purse seine vessel, provided this is not prohibited under applicable national law; or

   (b) when the fish are unfit for human consumption; or

   (c) when a serious malfunction of equipment occurs.

2. Where the master of a Union fishing vessel determines that fish should not be taken on board for reasons related to the size, marketability, or species composition, the fish shall be released before the net is fully pursed and not more than one half of the net has been retrieved.

3. Where the master of a Union fishing vessel determines that fish should not be taken on board because it was caught during the final set of a trip when there is insufficient storage space to accommodate all fish caught in that set, the fish may be discarded provided that:

   (a) the master and crew attempt to release the fish alive as soon as possible;

   (b) no further fishing is undertaken after the discard until the fish on board the fishing vessel has been landed or transhipped.

4. Fish shall be discarded from Union fishing vessels only after a ROP observer has estimated the species composition of the fish to be discarded.

5. Within 48 hours after any discard, the Member State shall submit to the WCPFC Secretariat, with the Commission in copy, a report that includes the following information:

   (a) name, flag and WCPFC identification number of the fishing vessel name and nationality of the master;

   (b) licence number;

   (c) name of the observer on board;

   (d) date, time and location (latitude/longitude) of discarding;

   (e) date, time, location (latitude/longitude) and type (drifting FAD, anchored FAD, free school etc.) of the set;

   (f) reason that fish were discarded, including a statement of retrieval status if fish were discarded in accordance with paragraph 4 of Article 7;

   (g) estimated tonnage and species composition of discarded fish;

   (h) estimated tonnage and species composition of retained fish from that set;

(i) if fish were discarded in accordance with paragraph 3, a statement that no further fishing will be undertaken until the catch on board has been unloaded; and

(j) any other information deemed relevant by the vessel master.

6. The master of the Union fishing vessel shall provide the information described in paragraph 5 to a ROP observer on board.

Article 6

Monitoring and control in the tropical tuna purse seine fishery

1. Notwithstanding Article 26, VMS polling frequency of vessel position transmission shall be increased to every 30 minutes during the FAD closure periods as defined in the fishing opportunities.

2. Union purse seine vessels shall not operate under manual reporting during the FAD closure periods.

3. If automatic reception of VMS positions of the Union fishing vessels by the WCPFC Secretariat is discontinued, the vessel will not be directed to return to port until the WCPFC Secretariat has exhausted all reasonable steps to re-establish normal automatic reception of VMS positions.

4. Purse seine vessels shall carry a ROP observer if that vessel is fishing within the area bounded by 20°N and 20°S in one of the following situations:

(a) on the high seas, or

(b) on the high seas and in waters under the jurisdiction of one or more coastal States,

(c) or in waters under the jurisdiction of two or more coastal States.

Article 7

FADs and instrumented buoys in the tropical tuna purse seine fishery

1. The design and construction of FADs to be deployed in, or that drifts into the Convention Area shall comply with the following specifications:

(a) if the floating or raft part (flat or rolled structure) of the FAD is covered with mesh net it must have a stretched mesh size less than 7 cm (2.5 inches) and the mesh net must be well wrapped around the whole raft so that there is no netting hanging below the FAD when it is deployed;

(b) if mesh net is used, it must have a stretched mesh size of less than 7 cm (2.5 inches) or be tied tightly in bundles or “sausages” with enough weight at the end to keep the netting taut down in the water column. Alternatively, a single weighted panel of less than 7 cm (2.5 inches) stretched mesh size net or a solid sheet (such as canvas or nylon) can be used.

2. During the FAD closure periods established by Union acts on allocation of fishing opportunities, Union purse seine vessels, including any of their fishing gears or tenders, conducting a set are prohibited from being located within one nautical mile of a FAD.

3. Union fishing vessels shall not be used to aggregate fish, or to move aggregated fish, including using underwater lights and chumming.

4. FADs or associated electronic equipment shall not be retrieved by a Union fishing vessel during the period of a FAD closure unless:

   (a) FADs or associated electronic equipment are retrieved and kept on board the vessel until landed or until the end of the FAD closure period; and

   (b) the Union fishing vessel does not conduct any set either for a period of 7 days after retrieval or within a 50 nautical mile radius of the point of retrieval of any FAD.

5. In addition to paragraph 4, Union fishing vessels shall not operate in cooperation with each other in order to catch aggregated fish.

6. Union fishing vessels shall not conduct any set during the closure period within one nautical mile of a point where a FAD has been retrieved by another vessel within 24 hours before the set.

7. Paragraphs 2 to 6 apply also to the high seas FADs.

8. Member Stats shall ensure that their vessels operating in the waters of a coastal State comply with the laws of that coastal State relating to FAD management, including FAD tracking.

Article 8
Instrumented buoys

The instrumented buoy shall be activated exclusively on board the purse seine vessel.

Article 9
Data Buoys

1. Fishing within one nautical mile of, or interacting with, a data buoy is prohibited. This includes encircling the buoy with fishing gear; tying up to or attaching the vessel, or any fishing gear, part or portion of the vessel, to a data buoy or its mooring; or cutting a data buoy anchor line.

2. Where a Union fishing vessel becomes entangled with a data buoy, the entangled fishing gear shall be removed with as little damage to the data buoy as possible.

3. The master of a Union fishing vessel shall report to the flag Member State all entanglements providing the date, location and nature of the entanglement, along with any identifying information contained on the data buoy. The report shall be sent immediately by that flag Member State to the Commission.

4. Notwithstanding paragraph 1, scientific research programmes notified to and authorised by the Commission may operate fishing vessels within one nautical mile of a data buoy, so long as they do not interact with those data buoys as described in paragraph 1.

Article 10
Eastern High Seas Pocket Special Management Area

1. Masters of Union fishing vessels operating in the Eastern High Seas Pocket shall report sightings of any fishing vessel to their flag Member State, the Commission, and the WCPFC Secretariat. Such information should include: date and time (UTC), position (true degrees), bearing, markings, speed (knots), and vessel type. Fishing

vessels shall ensure this information is transmitted within six hours of a sighting event taking place.

2. Adjacent coastal states or territories shall receive continuous near real-time VMS data.

Article 11
Transhipment

1. All transhipments made in the Convention Area concerning highly migratory species covered under the Convention shall take place in a port and shall be weighted in accordance with Article 60 of Regulation (EC) No 1224/2009[10].

2. Member States shall report transhipments made by vessels flying their flag, unless the vessel is operated under charter, lease or other similar mechanisms, as an integral part of the domestic fleet of a coastal State in the Convention Area.

3. The master of a Union fishing vessel offloading fishery products of highly migratory fish stocks covered by and taken in the Convention Area during a transhipment in port or outside the WCPFC Convention Area, shall complete a WCPFC Transhipment Declaration, including the information set out in Annex I of CMM 2009-06, for each transhipment of catch taken in the Convention Area. The WCPFC Transhipment Declaration shall be sent to the competent authority of the vessel's Member State.

4. The master of a Union fishing vessel receiving fishery products of highly migratory fish stocks covered by and taken in the Convention Area during a transhipment in port or outside the WCPFC Convention Area, shall complete a WCPFC Transhipment Declaration, including the information set out in Annex I of CMM 2009-06, for each transhipment of catch taken in the Convention Area. The WCPFC Transhipment Declaration shall be sent to the competent authority of its Member State.

5. Flag Member States shall validate this data in conformity with Article 109 of Regulation (EC) 1224/2009 and where possible, correct information received from vessels undertaking transhipment, using all available information such as catch and effort data, position data, observer reports and port monitoring data.

Article 12
Transhipment to and from non-Contracting Party Vessels

1. Union fishing vessels shall not engage in transhipment operations to or from a vessel flagged to a non contracting party unless that vessel has been authorised by a decision of the WCPFC, such as:

   (a) a non-contracting party carrier vessel that is on the Record; or

[10] Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006, (OJ L 343 22.12.2009, p. 1)

(b) a non-contracting party fishing vessel that is licenced to fish in the Exclusive Economic Zone of a Contracting Party in accordance with a decision of the WCPFC.

2. In the situation specified in paragraph 1, the master of a Union carrier vessel or chartering Member State shall send WCPFC Transhipment Declaration to the competent authority of the flag Member State and Article 11(5) applies.

CHAPTER III

PROTECTION OF MARINE SPECIES

Article 13
Mobulid rays

1. It is prohibited to target mobulid rays by means of fishing or intentional setting.

2. It is also prohibited to retain on board, tranship, land, or offer for sale any part or whole carcass of mobulid rays.

3. Union fishing vessel shall ensure the prompt release, alive and unharmed to the extent practicable, of mobulid rays, and shall do so in a manner that will result in the least possible harm to the specimen captured. Union fishing vessels shall take all reasonable steps to apply the handling practices detailed in Annex 1 to CMM 2019-05, while taking into consideration the safety of the crew.

4. Notwithstanding paragraph 3, in the case of mobulid rays that are unintentionally caught and landed as part of a purse seine vessel's operation, the vessel must, at the point of landing or transhipment, surrender the whole mobulid ray to the responsible authorities, or discard them where possible. Mobulid rays surrendered in this manner may not be sold or bartered but may be donated for purposes of domestic human consumption.

5. Such catches shall be reported in the logbook in accordance with Article 14 of Regulation (EC) No 1224/2009 including the status upon release (dead or alive).

Article 14
General measure for the protection of sharks

1. The Union long line vessels targeting tuna and billfish shall not use branch lines running directly off the longline floats or drop lines, known as shark lines as depicted in Annex I to CMM 2019-04.

2. Union fishing vessels shall take all reasonable steps to follow the guidelines for both longline and purse seine fisheries for best handling practises of sharks[11] adopted by the WCPFC.

Article 15
Oceanic Whitetip Sharks

3. It is prohibited to retain on board, tranship, store on a fishing vessel, land or offer for sale any oceanic whitetip shark, in whole or in part.

[11] https://www.wcpfc.int/doc/supplcmm-2010-07/best-handling-practices-safe-release-sharks-other-whale-sharks-and

4. Any oceanic whitetip shark caught shall be released as soon as possible after the shark is brought alongside the vessel, in a manner that results in as little harm to the shark as possible.

5. ROP observers shall be allowed to collect biological samples from oceanic white tip sharks that are dead on haulback, provided that the samples are part of a research project approved by the WCPFC Scientific Committee.

6. Incidental catches of oceanic white tip sharks shall be reported in the logbook in accordance with Article 14 of Regulation (EC) No 1224/2009 including the status upon release (dead or alive).

Article 16
Whale sharks

1. It shall be prohibited to set a purse seine on a school of tuna associated with a whale shark if the whale shark is sighted prior to the commencement of the set.

2. In the event that a whale shark is unintentionally encircled in the purse seine net, the Union vessel shall:

   (a) ensure that all reasonable steps are taken to ensure its safe release; and

   (b) report the incident to the relevant authority of the flag Member State, including the number of individuals, details of how and why the encirclement happened, where it occurred, steps taken to ensure safe release, and an assessment of the life status of the whale shark on release (including whether the animal was released alive but subsequently died).

3. In taking steps to ensure the safe release of the whale shark as required under paragraph 2(a), Union fishing vessels shall take all reasonable steps to follow the guidelines of best handling practises of whale sharks[12] adopted by the WCPFC.

4. Incidental catches of whale sharks shall be reported in the logbook in accordance with Article 14 of Regulation (EC) No 1224/2009 including the status upon release (dead or alive).

Article 17
Silky Sharks

1. It is prohibited to retain on board, tranship, store on a fishing vessel, or land any silky shark in whole or in part.

2. Silky sharks caught shall be released as soon as possible after the shark is brought alongside the Union fishing vessel, in a manner that results in as little harm to the shark as possible.

3. Incidental catches of silky sharks shall be reported in the logbook in accordance with Article 14 of Regulation (EC) No 1224/2009 including the status upon release (dead or alive).

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[12] https://www.wcpfc.int/doc/supplcmm-2012-04/guidelines-safe-release-encircled-animals-including-whale-sharks

4. Member States shall estimate, through data collected from observer programmes and other means such as fishing logbooks or electronic monitoring, the number of releases of silky sharks caught, including the status upon release (dead or alive), and report this information to the Commission in accordance with Article 37.

5. ROP Observers shall be allowed to collect biological samples from silky sharks caught that are dead on haulback, provided that the samples are part of a research project approved by the WCPFC Scientific Committee.

Article 18
Cetaceans

1. It is prohibited to set a purse seine net on a school of tuna associated with a cetacean, if the animal is sighted prior to commencement of the set.

2. In the event that a cetacean is unintentionally encircled in the purse seine net, the Union fishing vessels shall ensure that all reasonable steps are taken to ensure its safe release. This shall include stopping the net roll and not recommencing fishing operations until the animal has been released and is no longer at risk of recapture.

3. Incidental catches of cetaceans shall be reported in the logbook in accordance with Article 14 of Regulation (EC) No 1224/2009 including the status upon release (dead or alive).

4. In taking steps to ensure the safe release of the cetacean as required under paragraph 2, the Union fishing vessels shall take all reasonable steps to follow the guidelines adopted by the WCPFC. The Commission is empowered to adopt delegated acts in accordance with Article 46 for the purpose of amending or supplementing this Regulation with the Annex containing the WCPFC guidelines.

Article 19
Seabird mitigation measures

1. Union longline vessels fishing south of 30° South shall use either:

   (a) at least two of three mitigation measures: weighted branch lines; night setting; or tori lines (bird scaring lines); or

   (b) hook-shielding devices.

2. Union longline vessels fishing in between the parallels of 25° South and 30° South, shall use one of the following mitigation measures: weighted branch lines; tori lines; or hook-shielding devices.

3. Union longline vessels that are 24 meters or more in overall length fishing North of 23° shall use at least two of the mitigation measures of Table 1 of Annex 1 to this Regulation, including at least one from Column A.

4. Tori lines can be used only in accordance with specifications of Annex 1 to this Regulation.

5. Such interactions shall be reported in the logbook in accordance with Article 14 of Regulation (EC) No 1224/2009 including the status upon release (dead or alive).

Article 20
Sea turtles

1. Union fishing vessel shall bring on board any captured hard-shell sea turtle that is comatose or inactive as soon as possible after capture and foster its recovery, including giving it resuscitation, before returning it to the water. Masters and operators of Union fishing vessels shall ensure that crew is aware of and use proper mitigation and handling techniques, as described in the WCPFC guidelines for Handling of Sea Turtles.[13]

2. Union purse seine vessels shall:

   (a) avoid the encirclement of sea turtles, and if a sea turtle is unintentionally encircled or entangled, take practicable measures to safely release the turtle;

   (b) release all sea turtles observed to be entangled in FADs or other fishing gear;

   (c) ensure that if a sea turtle is entangled in the net, the net roll is stopped as soon as the turtle comes out of the water; disentangle the turtle without injuring it before resuming the net roll; and to the extent practicable, assist the recovery of the turtle before returning it to the water;

   (d) carry and employ dip nets, when appropriate, to handle turtles.

3. Union longline vessels shall take all reasonable steps to ensure that when carrying and using line cutters and de-hookers to handle and promptly release sea turtles caught or entangled, the WCPFC guidelines referred in paragraph 1 are followed as much as possible.

4. Union longline vessels that fish in a shallow-set manner shall use at least one of the following three methods to mitigate the capture of sea turtles:

   (a) use only large circle hooks, which are fishing hooks that are generally circular or oval in shape and which are originally designed and manufactured so that the point is turned perpendicularly back to the shank. These hooks shall have an offset not exceeding 10 degrees;

   (b) use only finfish for bait;

   (c) use any other measure, mitigation plan or activity that has been reviewed by the WCPFC Scientific Committee (SC) and the WCPFC Technical and Compliance Committee (TCC) and approved by the WCPFC to be capable of reducing the interaction rate (observed numbers per hooks fished) of turtles in shallow-set longline fisheries.

5. The requirements of paragraph 4 do not apply to shallow-set longline fisheries in which the observed mean sea turtle interaction rates is lower than 0.019 sea turtles (all species combined) per 1,000 hooks, over the preceding three consecutive years, and the level of observer coverage is of at least 10% during each of those three years.

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13 WCPFC Guidelines for the Handling of Sea Turtles https://www.wcpfc.int/doc/sc-06/wcpfc-guidelines-handling-sea-turtles and https://www.wcpfc.int/doc/supplcmm-2008-03/wcpfc-guidelines-handling-sea-turtles-graphics

Article 21
Discharge of plastic

Union fishing vessels are prohibited from discharging any plastics not constituting fishing gear (including plastic packaging, items containing plastic and polystyrene) into the sea.

CHAPTER IV

VESSELS REQUIREMENTS AND CHARTERING

Article 22
Record of fishing vessels

1. Member State shall ensure that vessels have been placed on the Record of fishing vessels in accordance with the requirements of this Regulation.
2. Any Union fishing vessel not included in the Record shall be deemed not to be authorised to fish for, retain on board, tranship, transport or land highly migratory fish stocks in the Convention Area.
3. Member States shall notify the Commission of any factual information showing that there are reasonable grounds to suspect that a vessel is that not on the Record is or has been engaged in fishing for or transhipment of highly migratory fish stocks in the Convention Area.

Article 23
Submission of vessel information

1. Each flag Member State shall submit, electronically, to the Commission the following information with respect to each vessel listed in the Record:
   (a) name of the fishing vessel, registration number, WCPFC Identification Number (WIN), previous names (if known) and port of registry;
   (b) name and address of the owner or owners;
   (c) name and nationality of the master;
   (d) previous flag (if any);
   (e) international radio call sign;
   (f) vessel communication types and numbers (Inmarsat A, B and C numbers and satellite telephone number);
   (g) colour photograph of the vessel;
   (h) where and when the vessel was built;
   (i) type of vessel;
   (j) normal crew complement;
   (k) type of fishing method or methods;
   (l) length (specify type and metric);
   (m) moulded depth (specify metric);
   (n) beam (specify metric);

(o) gross registered tonnage (GRT) or gross tonnage (GT);

(p) power of main engine or engines (specify metric);

(q) carrying capacity, including freezer type, capacity and number, fish hold capacity and capacity of freezer chambers (specify metric);

(r) the form and number of the authorisation granted by the flag State including any specific areas, species and time periods for which it is valid; and;

(s) International Maritime Organization (IMO) number or Lloyd's Register (LR) number.

2. Member States shall notify the Commission of any changes in paragraph 1 above, and any fishing vessel to be added to or deleted from the Record within 12 days of after any change and in any case not later than 7 days before the commencement of fishing activities in the Convention Area by the vessel concerned.

3. Member States shall submit to the Commission information requested by the Commission with respect to fishing vessels entered in the Record of fishing vessels not later than 7 days of such request.

4. Before 1 June of each year, each Member State shall submit to the Commission a list of all vessels that appeared in the Record at any time during the preceding calendar year, together with each vessel's WIN and an indication of whether each vessel fished for highly migratory fish stocks in the Convention Area beyond its area of national jurisdiction. The indication shall be expressed as follows: the vessel (a) fished, or (b) did not fish.

5. Members States that operate, lease, or charter, or have similar arrangements that result in data reporting obligations being conferred on a party other than the flag State will make arrangements to ensure that the flag State can meet its obligations under paragraph 4.

6. Members States shall submit complete fishing vessel record data to the Commission that meet the structure and format specifications of Attachment 1 to CMM 2014-03, and submit vessel photographs that meet the specifications of Attachment 2 to CMM 2014-03.

7. Submission of vessel record data to the Commission shall be in an electronic transmission that meet the electronic formatting specifications of Attachment 3 to CMM 2014-03.

Article 24
Bunkering

1. Member States shall ensure that their fishing vessels only provide bunkering for, are bunkered by or are otherwise supported by:

(a) fishing vessels flagged to Contracting Parties, or

(b) fishing vessels flagged to non-Contracting Parties if such vessels are on the Record; or fishing vessels operated by non-Contracting Parties under charter, lease, or similar arrangements and comply with CMM.

Article 25
Marking and identification of fishing vessels

1. By derogation from Article 6(c) of the Commission Implementing Regulation (EU) 404/2011[14], Union fishing vessels operating in the Convention Area, shall be marked for their identification with the International Telecommunication Union Radio Call Signs (IRCS).

2. Union fishing vessels shall comply with the other marking and technical specification provided in Annex 2 to this Regulation.

Article 26
Vessels Monitoring System (VMS)

1. Union fishing vessels operating in the Convention Area shall use two monitoring systems:

a) system prescribed by Article 9(1) of Regulation (EC) No 1224/2009 including the satellite-tracking device ('ALC') provided in Article 19 of Implementing Regulation (EU) 404/2011, and

b) the VMS which receives data directly from Union fishing vessels operating on the high seas in the Convention Area, that is either administered by the WCPFC or reporting to the Fisheries Forum Agency, for which Member States shall:

(a) ensure that its fishing vessels on the high seas in the Convention Area comply with the VMS requirements established by WCPFC and are equipped with ALC that shall communicate such data as determined by the WCPFC;

(b) ensure that VMS equipment on Union fishing vessels complies with standards, specifications and procedures for the fishing vessel monitoring in the Convention Area of the WCPFC as provided in Annex 3;

(c) shall cooperate to ensure compatibility between national and high seas VMS;

(d) ensure that the ALC installed on board Union fishing vessels shall conform to the minimum requirements of Annex 3 to this Regulation;

(e) ensure that default position reporting rate is 4 hours while in the Convention Area (6 position reports per day);

(f) vessels that exit the Convention Area report position once a day.

Article 27

Charter Notification Scheme

1. Within twenty days, or in any case within ninety-six hours before commencement of fishing activities under a charter arrangement, the chartering Member State shall notify the Commission of any vessel to be identified as chartered by submitting electronically the following information with respect to each chartered vessel:

[14] Commission Implementing Regulation (EU) No 404/2011 of 8 April 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy (OJ L 112, 30.4.2011, p. 1).

(a) name of the fishing vessel;

(b) WIN;

(c) name and address of the owner(s);

(d) name and address of the charterer;

(e) the duration of the charter arrangement; and

(f) the flag State of the vessel.

2. Upon receipt of the information referred to in paragraph (1), the Commission will immediately notify the WCPFC Secretariat.

3. Each chartering Member State shall notify the Commission as well as the flag State, within twenty days, or in any case within ninety-six hours before commencement of fishing activities under a charter arrangement of:

(a) any additional chartered vessels, along with the information set out in paragraph 1;

(b) any change in the information referred to in paragraph 1 with respect to any chartered vessel; and

(c) termination of the charter of any vessel previously notified under paragraph 1.

4. Only vessels listed on the Record are eligible for charter.

5. Vessels on the WCPFC IUU vessel list, or the IUU List of another Regional Fisheries Management Organisation are not eligible for charter.

6. Catches and fishing effort of vessels notified as chartered shall be attributed to the chartering Member States or Contracting Party. The chartering Member State shall report annually to the Commission catch and fishing effort of chartered vessels in the previous year.

7. Paragraph 6 does not apply to the tropical tuna purse seine fishery for which catch and effort is allocated to a flag State.

CHAPTER V

REGIONAL OBSERVER PROGRAME

Article 28
The Regional Observer Programme (ROP)

1. The objective of the WCPFC Regional Observer Programme (ROP) is to collect verified catch data, other scientific data, and additional information related to the fishery from the Convention Area and to monitor the implementation of the conservation and management measures adopted by the WCPFC.

2. The ROP shall apply to vessels fishing on the high seas in the Convention Area in waters under the national jurisdiction of one or more coastal States.

3. Member States are responsible for meeting the level of observer coverage as set by the WCPFC.

4. Member States shall achieve 100% observer coverage annually by ROP observers for purse-seine fishery the area bounded by 20°N and 20°S, and at least 5% coverage annually by ROP observers in other fishery.

5. The ROP shall collect verified catch data, other scientific data, and additional information related to the fishery from the Convention Area and to monitor implementation of the CMM.

6. The duties of observers operating under the ROP shall include the collection of catch data and other scientific data, monitor the implementation of the conservation and management measures adopted by the WCPFC and collection of any additional information related to the fishery that may be decided by the WCPFC.

7. Union fishing vessels fishing in the Convention Area shall accept an observer from the ROP.

8. Member States shall utilise the information collected by observers for the purpose of investigation possible instances of non-compliance, and shall cooperate in the exchange of such information, including by proactively requesting, responding to, and facilitating the fulfilment of requests for copies of observer reports in accordance with standards adopted by the WCPFC.

9. The vessels operators or masters of vessels shall provide to ROP observers:

   (a) full access to and use of all facilities and equipment of the vessel which the observer may determine is necessary to carry out his or her duties, including full access to the bridge, fish on board, and areas which may be used to hold, process, weigh, and store fish;

   (b) full access to the vessel's records including its logs and documentation for the purpose of inspection and copying of records, reasonable access to navigational equipment, charts and radios, and reasonable access to other information relating to fishing;

   (c) access to and use of communications equipment and crew, upon request, for entry, transmission, and receipt of work related data or information;

   (d) access to any additional equipment present on board, to facilitate the work of the observer while on board the vessel, such as high powered binoculars, electronic means of communication, etc.;

   (e) access to the working deck during net or line retrieval and to specimens (alive or dead) in order to collect and remove samples;

   (f) a notice of at least 15 minutes before hauling or net setting procedures, unless the observer specifically requests not to be notified;

   (g) access to food, accommodations, medical facilities and sanitary facilities of a reasonable standard equivalent to those normally available to an officer on board the vessel;

   (h) the provision of adequate space on the bridge or other designated area for clerical work and adequate space on the deck for observer duties;

   (i) freedom to carry out their duties without being assaulted, obstructed, resisted, delayed, intimidated or interfered with in the performance of their duties.

10. The obligations of observers are the following:

   (a) being capable of performing the duties set out by this Regulation and CMM;

(b) acceptance and compliance with agreed confidentiality rules and procedures with respect to the fishing operations of vessels and of vessel owners;

(c) maintenance of independence and impartiality at all times while on duty in the ROP;

(d) compliance with the ROP protocols for observers carrying out ROP duties on board a vessel;

(e) compliance with the laws and regulations of the CMM that exercises jurisdiction over the vessel;

(f) respecting the hierarchy and general rules of behaviour that apply to all vessel personnel;

(g) performance of duties in a manner that does not unduly interfere with the lawful operations of the vessel, with due consideration to the operational requirements of the vessel communicating regularly with the master of the vessel for this purpose;

(h) familiarity with the emergency procedures aboard the vessel, including the locations of life rafts, fire extinguishers, and first aid kits;

(i) communicating regularly with the vessel master on relevant observer issues and duties;

(j) observance of the ethnic traditions of the crew and the customs of the flag State of the vessel;

(k) adherence to the applicable code of conduct[15] for observers;

(l) promptly writing and submitting reports to the Commission in accordance with procedures adopted by the WCPFC;

(m) shall 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;

(n) take all reasonable steps to follow the Guidelines in Annex A Guidelines for the Rights and Responsibilities of Observers CMM 2018-05 and Guidelines Annex B for Vessels Operators Captains and Crews.

Article 29
Responsibilities of vessel operators and masters and crews

1. The fishing vessel operators, including the masters, shall comply with the following obligations:

(a) accepting on board the vessel any person identified as an observer under the ROP when required by the WCPFC;

(b) informing the crew of the timing of the ROP observer's boarding as well as their rights and responsibilities when an ROP observer boards the vessel;

(c) assisting the ROP observer to safely embark and disembark the vessel at an agreed place and time;

15 WCPFC/IWG-ROP2/2008-09.

(d) giving notice to the ROP observer at least 15 minutes before the start of a set or haul on-board, unless the observer specifically requests not to be notified;

(e) allowing and assisting the ROP observer to carry out all duties safely;

(f) allowing the ROP observer full access to the vessel's records including vessel logs and documentation for the purpose of records inspection and copying;

(g) allowing the ROP observer to have reasonable access to navigational equipment, charts and radios, and reasonable access to other information relating to fishing;

(h) permitting access to any additional equipment present in order to facilitate the work of the ROP observer while on-board the vessel, such as high-powered binoculars, electronic means of communication, etc.

(i) allow and assist the ROP observer to remove and store samples from the catch;

(j) allow and assist the ROP observer to carry out all duties safely;

(k) provide food, accommodation, adequate sanitary amenities to the ROP observer while on-board the vessel, at no expense to the observer or the ROP observer's provider or any government providing observers, as well as medical facilities of a reasonable standard equivalent to those normally available to an officer on-board the vessel;

(l) provide insurance coverage to the ROP observer while on-board the vessel, for the duration of the observer's time on-board;

(m) allow and assist the ROP observer to have full access to and use of all facilities and equipment of the vessel that the observer may determine is necessary to carry out his or her duties, including full access to the bridge, fish on-board, and areas which may be used to hold, process, weigh, and store fish;

(n) ensure that the ROP observer is not assaulted, obstructed, resisted, delayed, intimidated, interfered with, influenced, bribed or subject to a bribe attempt in the performance of his or her duties;

(o) ensuring that the ROP observer is not coerced or convinced to breach his/her responsibilities.

2. The fishing vessel crew shall comply with the following obligations:

(a) refraining from impeding or delaying observer duties, coercing or convincing the ROP observer to breach his/her responsibilities;

(b) compliance with this Regulation, regulations and procedures established under the Convention and other guidelines, regulations, or conditions established by the Member State that exercises jurisdiction over the vessel;

(c) allowing and assisting full access to and use of all facilities and equipment of the vessel which the observer may determine is necessary to carry out his or her duties, including full access to the bridge, fish on-board, and areas that may be used to hold, process, weigh, and store fish;

(d) allow and assist the ROP observer to carry out all duties safely;

(e) allow and assist the ROP observer to remove and store samples from the catch;

(f) compliance with directions given by the vessel master with respect to the ROP observers duties.

Article 30
Safety of observers

1. If an ROP observer dies, is missing or presumed fallen overboard, the master of a fishing vessel shall:

   (a) immediately cease all fishing operations;

   (b) immediately commence search and rescue if the observer is missing or presumed fallen overboard, and searches for at least 72 hours, unless force majeure constrains Member States to allow their vessels to cease search and rescue operations before the 72 hours have elapsed, or unless instructed by the flag Member State to continue searching beyond the 72 hour time-limit; [16]

   (c) immediately notify the flag Member State;

   (d) immediately alert other vessels in the vicinity by using all available means of communication;

   (e) cooperate fully in any search and rescue operation;

   (f) whether or not the search is successful, return the vessel for further investigation to the nearest port, as agreed by the flag Member State and the ROP observer provider;

   (g) provide the report on the incident to the observer provider and the appropriate authorities on the incident; and

   (h) cooperate fully in any and all official investigations, and preserves any potential evidence and the personal effects and quarters of the deceased or missing observer.

2. Paragraphs 1(a), (c) and (h) apply in the event that an observer dies. In addition, the master of the fishing vessel shall ensure that the body is well-preserved for the purposes of an autopsy and investigation.

3. If an ROP observer suffers from a serious illness or injury that threatens his or her health or safety, the master of the fishing vessel shall:

   (a) immediately cease fishing operations;

   (b) immediately notify the flag Member State;

   (c) care for the observer and provide any medical treatment available and possible on board the vessel;

   (d) assist in the disembarkation and transport of the observer to a medical facility equipped to provide the required care, as soon as practicable in accordance with the flag Member States directions; or in the absence of such directions, the directions provided by the ROP observer provider; and

   (e) cooperate fully in any and all official investigations into the cause of the illness or injury.

4. For the purposes of paragraphs 1 to 3, the Member State shall ensure that the appropriate Maritime Rescue Coordination Centre, the observer provider and the WCPFC Secretariat are immediately notified.

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[16] In the event of force majeure, flag Member State may allow their vessels to cease search and rescue operations before 72 hours have elapsed.

5. If there are reasonable grounds to believe an ROP observer has been assaulted, intimidated, threatened, or harassed such that their health or safety is endangered and the observer or the observer provider indicates to the Member State that they wish for the observer to be removed from the fishing vessel, the Member State shall ensure that the master of the fishing vessel:

   (a) immediately takes action to preserve the safety of the observer and mitigate and resolve the situation on board;

   (b) notifies the flag Member State and the observer provider of the situation, including the status and location of the observer, as soon as possible;

   (c) assist in the safe disembarkation of the observer in a manner and place as agreed by the flag Member State and the ROP observer provider, that facilitates access to any necessary medical treatment; and

   (d) cooperates fully in any and all official investigations into the incident.

6. If there are reasonable grounds to believe that an ROP observer has been assaulted, intimidated, threatened, or harassed but neither the observer nor the observer provider wishes that the observer be removed from the fishing vessel, the Member State shall ensure that the master of a fishing vessel:

   (a) takes action to preserve the safety of the observer and mitigate and resolve the situation on board as soon as possible;

   (b) notifies the flag Member State and the observer provider of the situation as soon as possible; and

   (c) cooperates fully in all official investigations into the incident.

7. If, after port disembarkation from a fishing vessel of an ROP observer, an observer provider identifies a possible violation involving assault or harassment of the observer while on board the fishing vessel, the observer provider shall notify, in writing, the Member State and the WCPFC Secretariat.

8. Following the notification referred to in paragraph 7, the Member State shall:

   (a) investigate the event based on the information given by the observer provider and take any appropriate action in response to the results of the investigation;

   (b) cooperate fully in any investigation conducted by the observer provider, including submitting the report of the incident to the observer provider and appropriate authorities; and

   (c) notify the observer provider and the WCPFC Secretariat of the results of its investigation and any actions taken.

9. Member States shall ensure that their national observer providers:

   (a) immediately notify the Member State in the event that an ROP observer dies, is missing or presumed fallen overboard in the course of observer duties;

   (b) cooperate fully in any search and rescue operation;

   (c) cooperate fully in any and all official investigations into any incident involving an ROP observer;

   (d) assist in the disembarkation and replacement of an ROP observer in a situation involving the serious illness or injury of that observer as soon as possible;

(e) assist in the disembarkation of an ROP observer in any situation involving threats to, or the assault, intimidation or harassment of that observer where the observer wishes to be removed from the vessel as soon as possible; and

(f) provide the Member State with a copy of the observer report on alleged infringements involving that provider's observer upon request.

10. Flag Member States shall ensure that their authorised inspection vessels cooperate, in any search and rescue operation involving an observer.

CHAPTER VI

BOARDING AND INSPECTION

Article 31
Duties of the master of a Union vessel during an inspection

1. In addition to Articles 113 and 114 of Regulation (EU) 404/2011, during the conduct of a boarding and inspection the master of a Union fishing vessel shall:

(a) follow internationally accepted principles of good seamanship so as to avoid risks to the safety of authorised inspection vessels and inspectors;

(b) accept and facilitate prompt and safe boarding by authorised inspectors;

(c) cooperate with and assist in the inspection of the vessel pursuant to these procedures;

(d) refrain from unduly obstructing or delaying the inspectors in the performance of their duties;

(e) allow the inspectors to communicate with the crew of the inspection vessel, the authorities of the inspection vessel, as well as with the authorities of the fishing vessel being inspected;

(f) provide them with reasonable facilities, including, where appropriate, food and accommodation; and

(g) facilitate safe disembarkation by the inspectors.

2. If the master of a Union fishing vessel refuses to allow an authorised inspector to carry out boarding and inspection activity in accordance with the procedures set out in this Regulation, such master shall explain reason for such refusal. The authorities of the inspection vessel shall immediately notify the authorities of the fishing vessel, as well as the Commission, of the master's refusal and any explanation provided. The Commission shall immediately inform the WCPFC Secretariat of such notification.

3. When notified of such refusal, the flag Member State authorities of a fishing vessel shall direct the master to accept boarding and inspection unless generally accepted international regulations, procedures and practices relating to safety at sea make it necessary to delay the boarding and inspection.

4. If the master does not comply with such a direction, the flag Member State shall suspend the vessel's authorisation to fish and order the vessel to return immediately to port. The flag Member State shall immediately notify the authorities of the

inspection vessel and the Commission of the action it has taken in these circumstances.

Article 32
Procedure in case of infringements

1. Upon receipt of a notification under Article 33 from an authorised inspector of a Contracting Party, the flag Member State of the fishing vessels concerned shall without delay:

   (a) assume its obligation to investigate in accordance with Article 43 of Regulation (EC) 1005/2008[17] and, if the evidence warrants, take enforcement action against the fishing vessel in question and so notify the inspector's authorities, the Commission and the WCPFC Secretariat; or

   (b) authorize the inspector's authorities to complete the investigation of the possible infringement and so notify the Commission and the WCPFC Secretariat.

2. Union inspectors shall treat inspection reports in accordance with Article 76 of Regulation (EC) 1224/2009.

3. In the case of paragraph 1(b), the Member State authorities of the inspector shall submit the specific evidence collected by the inspectors, along with the results of their investigation, to the flag state authorities of the fishing vessel immediately upon completion of the investigation. Upon receipt of a notification pursuant to paragraph 1, the flag Member State of the fishing vessel shall respond without delay and in any case no later than within 3 working days.

Article 33
Serious infringement

1. Each of the following violations constitutes a serious infringement, within the meaning of Article 90 of Regulation (EC) No 1224/2009:

   (a) fishing without a licence, permit or authorisation issued by the Member State;

   (b) failure to maintain sufficient records of catch and catch-related data in accordance with the Regulation's reporting requirements or significant misreporting of such catch or catch-related data;

   (c) fishing in a closed area;

   (d) fishing during a closed season;

   (e) intentional taking or retention of species in contravention of any applicable conservation and management measure of this Regulation;

   (f) significant violation of catch limits or quotas in fishing opportunities;

   (g) using prohibited fishing gear;

   (h) falsifying or intentionally concealing the markings, identity or registration of a fishing vessel;

[17] Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999 (OJ L 286, 29.10.2008, p. 1).

(i) concealing, tampering with or disposing of evidence relating to investigation of a violation;

(j) multiple infringements which taken together constitute a serious disregard of measures in force pursuant to this Regulation;

(k) refusal to accept a boarding and inspection;

(l) unduly obstruct or delay an inspector;

(m) intentionally tampering with or disabling the VMS;

(n) fishing by Union fishing vessels not included in the Record;

(o) fishing near data buoy or taking data boy on board in breach of Article 9(1) or 9(2).

2. Where it has been established that a Union fishing vessel has been involved in the commission of a serious infringement, the authorities of the flag Member State shall withdraw the license of that vessel and ensure that fishing in the Convention area ceases until of the sanctions imposed by the flag State in respect of the violation have been complied with.

Article 34
Enforcement

1. The authorities of the Member State shall regard interference by their fishing vessels, master or crew with an authorised inspector or an authorised inspection vessel in the same manner as any such interference occurring within its exclusive jurisdiction.

2. Authorised Union inspectors, while carrying out activities to implement the procedures set out in this Regulation, shall engage in surveillance aimed at identifying fishing vessels of non-Contracting Parties undertaking fishing activities on the high seas in the Convention Area. Any such vessels identified shall be immediately reported to the Commission and WCPFC Secretariat.

3. Any fishing activities referred to in paragraph 2, shall be reported by the Member States to the Commission and the flag State of the vessel in question.

4. Member State authorities shall report to the Commission as soon as possible any sightings of fishing vessels that appear to be without nationality that may be fishing in the high seas of the Convention Area for species covered by the Convention.

CHAPTER VII

PORT STATE MEASURES

Article 35
Port State measures

The master of a Union fishing vessel shall cooperate with the port authorities of any Contracting Party in implementing port State measures under the Convention and this Regulation.

Article 36
Procedure in the event of suspected IUU fishing

Where, following a port inspection, a Member State receives an inspection report, indicating that there are clear grounds to believe that a vessel flying its flag has engaged in IUU fishing or fishing related activities in support of IUU fishing, it shall immediately and fully investigate the matter in accordance with Article 43 of Regulation (EC) 1005/2008 and Article 25 of the Convention.

CHAPTER VIII
FINAL PROVISIONS

Article 37
Reporting

1. Member States shall submit to the Commission, by 20 April of each year scientific data in accordance with applicable WCPFC reporting requirements[18] and by 15 June an annual report on implementation and compliance with WCPFC reporting guidelines,[19] including any checks they have imposed on its fleets and any monitoring, control, and compliance measures they have established to ensure compliance with such checks.

2. Catch and effort by the Union vessels shall be reported according to the following species groups: albacore tuna, bigeye tuna, skipjack, yellowfin tuna, swordfish, other billfish, and sharks.[20] Estimates of discards/releases shall also be provided for each of these species. Catch estimates shall also be provided for other species as determined by the Commission.

3. Member States shall report annually to the Commission, including in particular:

   (a) the catch levels of their fishing vessels that have taken striped marlin as a bycatch as well as the number and catch levels of vessels fishing for striped marlin in the Convention Area south of 15°S;

   (b) the annual catch levels taken by each of their fishing vessels that has taken South Pacific albacore, as well as the number of vessels actively fishing for South Pacific albacore, in the Convention Area south of 20°S;

   (c) the progress of implementation of the Regulation for sea turtles conservation, including information collected on interactions with sea turtles in fisheries managed under the Convention;

   (d) estimate, through data collected from observer programmes and other means, the number of releases of silky sharks and oceanic whitetip sharks, including the status upon release (dead or alive);

   (e) sending all WCPFC transhipment declarations received pursuant to paragraphs 3 and 4 of Article 11 to the Commission;

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18 https://www.wcpfc.int/doc/data-01/scientific-data-be-provided-commission-revised-wcpfc4-6-7-and-9

19 https://www.wcpfc.int/file/430562/download?token=BQxkRith

20 https://www.wcpfc.int/doc/sc-01/annual-report-commission-part-1-information-fisheries-research-and-statistics-revised

(f) any instances in which whale sharks have been encircled by the purse seine nets of their flagged vessels, including the details required under paragraph 2(b) of Article 16;

(g) any instances in which cetaceans have been encircled by the purse seine nets of their flagged vessels, reported under paragraph 2 of Article 18;

(h) all transhipment activities covered by Article 11 as part of their Annual Report in accordance with the guidelines in Annex II to CMM 2009-06;

(i) an annual statement of compliance under Article 25(8) of the Convention concerning action that they have taken in response to any alleged infringement of this Regulation, including boarding and inspections of their fishing vessels that resulted in observation of alleged infringements, including any proceedings instituted and sanctions applied.

4. Member States shall report to the Commission the total number of vessels that fished for swordfish and the total catch of swordfish for the following:

(a) vessels flying their flag anywhere in the Convention Area south of 20°S other than vessels operating under charter, lease or other similar mechanism as part of the domestic fishery of another Contracting Party;

(b) vessels operating under charter, lease or other similar mechanism as part of their domestic fishery south of 20°S; and

(c) any other vessels fishing within their waters south of 20°S.

5. Member States shall also report to the Commission as soon as possible any sightings of fishing vessels that appear to be without nationality that may be fishing in the high seas of the Convention Area for species covered by the Convention.

Article 38
Alleged non-compliance reported by the WCPFC

1. If the Commission receives from the WCPFC any information indicating a suspected non-compliance with the Convention or CMM by a Member State or by vessels flying its flag, the Commission shall transmit that information to the Member State concerned without delay.

2. The Member State shall provide the Commission with the findings of any investigation undertaken in relation to the allegations of non-compliance and any actions taken to address compliance concerns within 1 month after receiving the request from the Commission referred to in paragraph 1.

3. The Commission shall forward that information to the WCPFC at least 60 days in advance of the WCPFC Technical and Compliance Committee meeting.

Article 39
Confidentiality

In addition to the obligations laid down in Articles 112 and 113 of Regulation (EC) No 1224/2009, Member States and the Commission shall ensure confidential treatment of electronic reports and messages transmitted to and received from the WCPFC Secretariat.

Article 40
Procedure for amendments

1. The Commission is empowered to adopt delegated acts in accordance with Article 46 concerning measures adopted by WCPFC in the following areas:

   (a) the WCPFC Transhipment Declaration referred to in Article 3(18);

   (b) reference to the area of the Eastern High Seas Pocket in Article 3(19);

   (c) reporting notices for transhipment referred to in Article 11(3)(4);

   (d) best handling practices for mobulid rays referred to in Article 13(3);

   (e) reference to shark lines depiction of Article 14(1);

   (f) reference to guidelines for both longline and purse seine fisheries for best handling practises of sharks of Article 14(2);

   (g) best handling practices for the safe release of whale sharks as referred to in Article 16(3);

   (h) measures for handling of cetaceans referred to in Article 18(4);

   (i) mitigation and handling techniques for sea turtles referred to in Article 20(1);

   (j) the vessel information to be submitted to the Commission in accordance with Article 23(1);

   (k) VMS requirements provided in Article 26;

   (l) percentage of observer coverage scheme of the Regional Observer Programme referred to in Article 28(4);

   (m) additional duties of ROP observers referred to in Article 28(10);

   (n) reporting deadlines for the reporting obligation referred to in Article 37(1);

   (o) reporting format for transhipment activities referred to in Article 37(3)(h);

   (p) changes to Annexes 1-3.

   (q) amendments in accordance with paragraph 1 shall be strictly limited to the implementation of amendments to the CMM into Union law.

Article 41
Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 40 shall be conferred on the Commission for a period of 5 years from the date of entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power not later than 9 months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than 3 months before the end of each period.

3. The delegation of power referred to in Article 40 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day

following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated act already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 40 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or of the Council.

Article 42
Amendments to Council Regulation (EC) No 520/2007

Article 4(4) and Article 28 of Council Regulation (EC) No 520/2007 are deleted.

Article 43
Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*