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Technical Consultation on Voluntary Guidelines for Transshipment

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DRAFT VOLUNTARY GUIDELINES FOR TRANSSHIPMENT

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Scope and objective

1. These Guidelines are voluntary and address the regulation, monitoring and control of transshipment of fish, which have not been previously landed, whether processed or not. They are elaborated recognizing that all available means in accordance with international law and other international instruments, should be used to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing and fishing related activities in support of IUU fishing. They build on the primary responsibility of the flag State to implement transshipment regulations. They also constitute a valuable supplement to conservation and management measures in particular to port State measures and traceability schemes.
2. The objective of these Guidelines is to provide assistance to States, regional fisheries management organizations or arrangements (RFMO/As), regional economic integration organizations and other intergovernmental organizations when developing new transshipment regulations, revising existing regulations and integrating these within the broader regulatory framework.
3. These Guidelines are to be interpreted and applied in conformity with the relevant rules of international law. Nothing in these Guidelines prejudices the rights, jurisdiction or duties of States under international law as reflected in the United Nations Convention of the Law of the Sea of 10 December 1982. In particular, nothing in these Guidelines is to be construed to affect the right of States to adopt and implement more stringent requirements for the regulation, monitoring and control of transshipment than those provided for in these Guidelines, including any measures adopted pursuant to a decision of an RFMO/A.

Definitions

4. For the purpose of these Guidelines:
 - (a) “fish” means all species of living marine resources, whether processed or not;
 - (b) “regional fisheries management organization or arrangement” means an intergovernmental fisheries organization or arrangement, as appropriate, that has the competence to establish conservation and management measures, including measures concerning transshipment;
 - (c) “trip” means the voyage from port exit to the next port entry; and
 - (d) “vessel” means any vessel, ship of another type or boat, or any floating platform used for, or intended to be used for, fishing or fishing related activities, including transshipment of fish.

Principles

5. These Guidelines are based on the principles that the regulation, monitoring and control of transshipment should:
 - (a) be in conformity with the relevant rules of international law;
 - (b) ensure that all relevant movement of fish as transshipment and other related activities indicated in these Guidelines are sufficiently documented;
 - (c) ensure that donor and receiving vessels involved in transshipments are appropriately authorized;
 - (d) include reporting procedures to facilitate pre-event and post-event verification of authorizations and transshipment data;

- (e) ensure a risk-based approach;
- (f) require electronic reporting, if possible; and
- (g) ensure that transshipment events are adequately regulated, monitored, and complemented by port State measures or flag State actions related to landing of transshipped fish, and support traceability, where possible.

Application

6. These Guidelines apply to the direct transfer of fish from one vessel to another vessel, regardless of location of the event, hereinafter referred to as transshipment. Transshipped fish should be accompanied by a declaration containing the information as detailed in Annex I.
7. All transfers of fish not covered by paragraph 6, including transfers of fish to a port facility, transfers of fish from one vessel to another through a port facility or other means of transportation, and transfers of fish from a vessel to a container, truck, train, aircraft or other means of transportation, are considered landings for the purposes of these Guidelines and are subject to port State measures as well as applicable flag and coastal State requirements. These landings should be accompanied by declarations containing the information detailed in Annex II. Such declarations should be required for the exemption referred to in Article 3(1)(b) of the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA).

Authorizations

8. The flag State should not authorize vessels entitled to fly its flag to act as both donor and receiver vessels on the same trip.
9. The flag State should only authorize vessels entitled to fly its flag to conduct transshipment if they have an operational vessel monitoring system (VMS) onboard.
10. Donor and receiving vessels should be included in all vessel authorization records of relevant RFMO/As and, where applicable, the Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels.
11. Only donor and receiver vessels entitled to fly the flag of a contracting party or a cooperating non-contracting party of specific RFMO/A should be authorized to conduct transshipment of fish under the area of competence of that RFMO/A.
12. The flag State should authorize vessels entitled to fly its flag prior to carrying out transshipment in areas beyond national jurisdiction of the flag State, and should require vessels entitled to fly its flag to obtain authorizations from a coastal State if the transshipment is intended to take place within areas under national jurisdiction of that coastal State.
13. Transshipment should only take place between donor and receiver vessels that have been notified to the relevant RFMO/A by their respective flag States as vessels authorized to take part in transshipment.
14. All donor and receiver vessels eligible to receive an IMO number should be required to have one in order to be authorized by their flag State to transship, regardless of the location of the event. The number should be made readily available to all relevant States and relevant international organizations.
15. Measures controlling transshipment should be implemented to include specific criteria for how vessels receive authorizations to transship, including:
 - (a) the circumstances under which a flag State authorizes vessels entitled to fly its flag to transship;

- (b) the circumstances under which a coastal State or port State authorizes vessels to transship in areas under its national jurisdiction;
 - (c) the monitoring, control and surveillance (MCS) measures that must be in place for transshipment to occur;
 - (d) data collection and reporting requirements; and
 - (e) ensuring that transshipment is conducted consistent with the management regime of the relevant RFMO/A and the flag State, relevant coastal State and port State.
16. The flag State should only authorize vessels entitled to fly its flag to be involved in transshipment when its competent MCS authorities have the capacity to monitor and control the transshipment, including by applying risk assessments separately for transshipments in port and at sea.
17. Where fish is to be landed or transhipped in port, flag States should encourage vessels entitled to fly their flag to use ports of States that are acting in accordance with or in a manner consistent with the PSMA.

Standardized notification and reporting

18. Information relating to transshipment events such as notifications and authorizations, transshipment and landing declarations and observer reports should be reported in a standardized format.

Pre-event notification and verification

19. States should ensure that all donor and receiver vessels intending to carry out transshipments provide advance notifications of the specific transshipment event within a suitable and published timeframe to all competent authorities and consistent with relevant RFMO/A requirements.
20. Donor vessel should report quantities of fish on board prior to the transshipment event, as well as quantities to be transhipped. The receiving vessel should report the quantities of fish on board prior to the transshipment event. Quantities of transhipped fish should be reported by species and product form.
21. The advance notification from donor and receiving vessels should also include the date and time and estimated or proposed location of transshipment event.
22. Upon receipt of an advance notification of transshipment from a donor vessel and prior to acknowledging or confirming that the same could proceed, the flag State should verify the vessel's compliance with near real-time VMS reporting, and other electronic monitoring and observer coverage requirements.
23. The flag State of the donor vessel should verify that such vessel has provided regular reporting about fishing during its current trip, including catch and effort, and will meet other conditions that may be issued by relevant authorities, including the authorities of relevant port and coastal States, for the specific transshipment event to proceed.
24. The flag State should require vessels entitled to fly its flag that receive fish from more than one donor vessel to store the fish and related documentation from each donor vessel separately.
25. All donor and receiver vessels intending to conduct transshipment of fish in the area of competence of an RFMO/A should be required to notify that particular RFMO/A when they enter and exit the RFMO/A area of competence.

26. Nothing in this section supersedes port State responsibility in instances where transshipment is carried out in port.

Post-event reporting

27. All donor and receiver vessels involved in transshipment should be required to log the event and maintain declarations of such transshipments, which should be submitted to all concerned competent authorities and the relevant RFMO/A, ideally immediately, but in any case, without undue delay to avoid undermining MCS requirements.
28. Where transshipment observers are required, post-transshipment observer reports should be required as an independent means of verification and be provided to all competent authorities and the relevant RFMO/As for all transshipment events, regardless of location of the event, without undue delay to avoid undermining MCS requirements.
29. Both the donor and receiving vessel should report the quantities of fish transshipped as well as the quantities of fish on board following the transshipment. Quantities of transshipped fish should be reported by species, product form and area.
30. Landings and transshipments of fish harvested in the area of competence of an RFMO/A should be reported to that specific RFMO/A regardless of where the fish is transshipped or landed.
31. The pre-notification and post-event reporting procedures for transshipment should be electronic where possible.

Follow-up procedures

32. Procedures should be established to verify all reported transshipment data from vessels, flag States, coastal States, port States and observers. This auditing process may be completed in accordance with the laws of the flag State, a coastal State or port State for transshipments that occur within areas under its national jurisdiction and relevant RFMO/As, as appropriate.
33. Specific reporting procedures should be established to collect and cross-reference data and information on the quantity of fish landed, by species, product form and area against the corresponding transshipment data and information.
34. Procedures should be established to report, and follow-up on enforcement against infractions by vessels involved in transshipment, including prosecution and the levying of penalties or other sanctions, and where appropriate vessels should be placed on lists of vessels involved in IUU fishing.
35. RFMO/A compliance review processes should assess all obligations related to transshipments, including vessel authorizations, transshipment notifications and reporting.

Monitoring

36. All donor and receiver vessels authorized to conduct transshipment should be required to have and use an operational VMS onboard.
37. Procedures should be developed to allow VMS data to be reported to, all competent authorities and RFMO/A(s) in near real time in particular when the vessel is present within the relevant area of competence of such RFMO/A(s).
38. Vessel reporting requirements and procedures in case of VMS malfunction or failure should be established.

39. Independent verification of transshipment such as human observers or electronic monitoring or equivalent sensor technologies, or a combination of these, should be required for all transshipment events. A one hundred percent coverage rate should be required on receiver vessels involved in transshipment.
40. Independent collection of information and data by observers on transshipment events should be authorized for use for both scientific and compliance purposes.
41. The flag State of the harvesting vessel should confirm within a reasonable period of time, if requested by a port or coastal State, that the donated fish was taken in accordance with the applicable requirements of a relevant coastal State or a relevant RFMO/A.
42. Port State measures should be in place and implemented consistent with Articles 12, 13 and 17 of the PSMA for all ports where receiver vessels land their transshipped fish, and collected data should be cross-referenced against all available transshipment information.
43. The flag State should ensure that for vessels entitled to fly its flag and ineligible for IMO numbers under the IMO Ship Identification Number Scheme ¹ or exempted from VMS requirements due to their characteristics, any conduct of transshipment should be regulated, monitored and controlled in a manner as effective as the relevant provisions of these Guidelines, including through alternative means of near real time positional reporting.

Data exchange and information-sharing

44. Procedures for sharing transshipment data such as authorized vessel lists, transshipment notifications, authorizations and declarations, reported fish, landing declarations, observer reports, inspection reports, infractions and sanctions should be established among all relevant States and RFMO/As.
45. Formal procedures for sharing transshipment data between RFMO/As should be established, especially between RFMO/As with overlapping areas of competence, and where the same receiver vessels are authorized to be involved in transshipment in more than one RFMO/A area of competence.
46. Information related to transshipment such as number of events, locations, quantities of fish (by species, product form and catch area) transshipped and landed, and vessels involved should be made publicly available on an annual basis with due regard for appropriate confidentiality requirements.
47. The flag State should make publicly available updated lists with detailed information of all donor and receiver vessels authorized to transship.

Recognition of the special requirements of developing States

48. States should give full recognition to the special requirements of developing States, in particular the least developed among them and small island developing States, to ensure that they have the capacity to implement these Guidelines.
49. In this regard, States may, either directly or through international organizations, including RFMO/As, provide assistance to developing States in order for them to enhance their ability to, *inter alia*,
 - (a) develop an adequate legal and regulatory framework for transshipments and landings;

¹ Resolution A.1117(30), as may be amended

- (b) strengthen the institutional organization and infrastructure needed to ensure effective implementation of transshipment regulations;
 - (c) build institutional and human resource and capacity including for monitoring and control purposes and for training, at the national and regional levels; and
 - (d) strengthen the development and implementation of their port State measures.
50. Where fish is to be landed or transhipped, flag States, to the extent practicable, should encourage vessels entitled to fly their flag to use ports of developing States, in order to increase their capacity and opportunity to undertake inspections and foster economic development.

Annex I

Information to be included in a transshipment declaration

Element	Donor vessel	Receiving vessel
1. Vessel name		
2. Flag State		
3. Vessel type (ISSCFV)		
4. IMO number, if eligible		
5. External ID, if available		
6. Registration ID if different to 5		
6. International radio call sign, if available		
7. MMSI number, if available		
8. Vessel owner/company information		
<i>Name</i>		
<i>Address</i>		
<i>Contact information (email and phone number)</i>		
9. Vessel contact information		
<i>Name of master</i>		
<i>Nationality</i>		
<i>Phone number</i>		
<i>E-mail</i>		
10. Transshipment authorization identifier, if any		
11. Transshipment authorization issued by		
12. Transshipment authorization period of validity		
13. Time and date of the transshipment		
<i>Start (hour/day/month/year)</i>		
<i>End (hour/day/month/year)</i>		
14. Transshipment location Port/position at sea (lat./long.)		
15. Quantities onboard prior to transshipment	Donor vessel	Receiving vessel
<i>Catch area(s)</i>		
<i>Species (FAO/ASFIS codes)</i>		
<i>Product form (preservation and presentation type)</i>		
<i>Quantity (weight)</i>		
16. Transshipped fish	Donor vessel	Receiving vessel
<i>Catch area(s)</i>		
<i>Species (FAO/ASFIS codes)</i>		
<i>Product form (preservation and presentation type)</i>		
<i>Quantity (weight)</i>		
17. Signature	Donor vessel	Receiving vessel
<i>Master's signature</i>		

Note: International codes as per PSMA Annex D, d), as applicable.

Annex II

Information to be included in a landing declaration

1. Vessel name	
2. Flag State	
3. Vessel type (ISSCFV)	
4. IMO number, if eligible	
5. External ID, if available	
6. Registration ID if different to 5	
7. International radio call sign, if available	
8. MMSI number, if available	
9. Vessel contact information	
<i>Master or vessel's representative</i>	
<i>Phone number</i>	
<i>Email</i>	
10. Vessel master name & nationality	
11. Vessel owner/company information	
<i>Name</i>	
<i>Address</i>	
<i>Contact information (email and phone number)</i>	
12. Port State	
13. Port of landing	
14. Date and time of landing	
15. Landed fish (including transfers covered by para 7 of the Guidelines)	
<i>Catch area(s)</i>	
<i>Species (FAO/ASFIS Codes)</i>	
<i>Product form (presentation and preservation type)</i>	
<i>Quantity (weight)</i>	
<i>Next destination, if applicable/available</i>	
<i>Next mode of transport and transport ID, if applicable/available</i>	
16. Fish retained onboard (not landed)	
<i>Catch area(s)</i>	
<i>Species (FAO/ASFIS Codes)</i>	
<i>Product form (presentation and preservation type)</i>	
<i>Quantity (weight)</i>	
16. Competent port authority	
17. Date of inspection if any	
18. Signature	
<i>Signature vessel master</i>	

Note: International codes as per PSMA Annex D, d), as applicable.