

Regulation (EU) 2018/975 of the European Parliament and of the Council of 4 July 2018 laying down management, conservation and control measures applicable in the South Pacific Regional Fisheries Management Organisation (SPRFMO) Convention Area

TITLE IV

**COMMON CONTROL MEASURES**

*CHAPTER I*

*Authorisations*

*Article 22*

**SPRFMO record of vessels**

1 By 15 November each year, Member States shall submit to the Commission a list of fishing vessels flying their flag authorised to fish in the SPRFMO Convention Area for the following year, including the information contained in Annex V. The Commission shall forward that list to the SPRFMO Secretariat. Member States shall take into account the compliance history of fishing vessels and operators when considering the issuance of fishing authorisations for the SPRFMO Convention Area.

2 Member States shall inform the Commission of fishing vessels flying their flag authorised to fish in the SPRFMO Convention Area at least 20 days prior to the date of first entry of such vessels in the SPRFMO Convention Area. The Commission shall transmit that information to the SPRFMO Secretariat at least 15 days prior to the date of first entry in the SPRFMO Convention Area.

3 Member States shall ensure that the data on fishing vessels flying their flag authorised to fish in the SPRFMO Convention Area are up-to-date. Any modification shall be notified to the Commission not later than 10 days after such modification. The Commission shall inform the SPRFMO Secretariat within five days of receiving such notification.

4 In the case of revocation, renunciation or any other circumstances that render an authorisation invalid, Member States shall inform the Commission without delay so that it can transmit that information to the SPRFMO Secretariat within a period of three days following the date of the invalidity of the authorisation.

5 Union fishing vessels not included in the SPRFMO record of vessels shall not be permitted to engage in fishing activities for species under the responsibility of the SPRFMO in the SPRFMO Convention Area.

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## CHAPTER II

### Transshipment

#### Article 23

#### General provisions on transshipment

- 1 This Chapter shall apply to transshipment operations carried out:
  - a within the SPRFMO Convention Area in respect of SPRFMO fishery resources, and other species caught in association with these resources, that were harvested in the SPRFMO Convention Area;
  - b outside the SPRFMO Convention Area in respect of SPRFMO fishery resources, and other species caught in association with these resources, that were harvested in the SPRFMO Convention Area.
- 2 Transshipments at sea and in port shall only be undertaken between fishing vessels included in the SPRFMO record of vessels.
- 3 At sea transfer of fuel, crew, gear or any other supplies in the SPRFMO Convention Area shall only be undertaken between fishing vessels included in the SPRFMO record of vessels.
- 4 Transshipment operations at sea in respect of SPRFMO fishery resources, and other species caught in association with these resources, that were harvested in the SPRFMO Convention Area, shall be prohibited in Union waters.

#### Article 24

#### Notification of transshipment of jack mackerel and demersal species

- 1 Regardless of where the transshipment takes place, in case of transshipment of jack mackerel and demersal species caught in the SPRFMO Convention Area by Union fishing vessels, the authorities of the flag Member State shall simultaneously transmit to the Commission and the SPRFMO Secretariat the following information:
  - a a notification of the intention to tranship, which shall indicate a 14-day period in which the transshipment of jack mackerel and demersal species caught in the SPRFMO Convention Area is scheduled to occur, and which shall be received seven days in advance of the first day of the 14-day period;
  - b a notification of the actual transshipment, which shall be received at least 12 hours before the estimated time of such activities.

Member States may authorise the Union fishing vessel operator to transmit that information directly to the SPRFMO Secretariat by electronic means subject to the simultaneous transmission of the information to the Commission.

- 2 The notifications referred to in paragraph 1 shall include the relevant information available regarding the transshipment operation, including the estimated date and time, anticipated location, fishery, and information about the Union fishing vessels involved, in accordance with Annex VII.

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## *Article 25*

### **Monitoring of transshipment of jack mackerel and demersal species**

1 If an observer is on board the unloading or receiving Union fishing vessel, the observer shall monitor the transshipment activities. The observer shall complete the SPRFMO transshipment logsheet in accordance with Annex VIII to verify the quantity and species of the fishery products being transhipped, and shall provide a copy of the logsheet to the competent authorities of the Member State to which the observed vessel is flagged.

2 The Member State to which the fishing vessel is flagged shall submit the observer data of the SPRFMO transshipment logsheet to the Commission within 10 days of the observer debarking. The Commission shall forward those data to the SPRFMO Secretariat within 15 days of the date of debarkation.

3 For the purpose of verifying the quantity and species of the fishery products being transhipped, and in order to ensure that proper verification can occur, the observer on board shall have full access to the observed Union fishing vessel, including crew, gear, equipment, records (including in electronic format) and fish holds.

## *Article 26*

### **Information to be reported after the transshipment of jack mackerel and demersal species**

1 Member States whose vessels are involved in the transshipment operation shall notify all the operational details simultaneously to the SPRFMO Secretariat and the Commission in accordance with Annex IX not later than seven days after the transshipment is carried out.

2 Member States may authorise the Union fishing vessel operator to transmit the information referred to in paragraph 1 directly to the SPRFMO Secretariat by electronic means subject to simultaneous transmission of the information to the Commission. Any request for clarification from the SPRFMO Secretariat received by the Union fishing vessel operator shall be forwarded to the Commission.

## *CHAPTER III*

### ***Data collection and reporting***

## *Article 27*

### **Data collection and reporting**

1 In addition to the data reporting requirements set out in Articles 7, 11, 14, 16, 18, 25 and 26, Member States whose vessels fish in the SPRFMO Convention Area shall provide the data set out in paragraphs 2 and 3 of this Article to the Commission.

2 By 15 September each year, Member States whose vessels fish in the SPRFMO Convention Area shall report the live weight for all species/species groups caught during the previous calendar year to the Commission. The Commission shall forward that information to the SPRFMO Secretariat by 30 September.

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3 By 15 June each year, Member States whose vessels fish in the SPRFMO Convention Area shall report to the Commission the data regarding trawl fishing activity on tow by tow basis; the data on bottom long lining on set by set basis; and the data on landings, including for reefers, and transshipments. The Commission shall forward that information to the SPRFMO Secretariat by 30 June.

4 The Commission may lay down, by means of implementing acts, detailed requirements for the data reporting referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 45(2).

## CHAPTER IV

### **Observer programmes**

#### *Article 28*

### **Observer programmes**

1 Member States whose vessels fish in the SPRFMO Convention Area shall establish observer programmes in order to collect the data set out in Annex X.

2 By 15 September each year, Member States whose vessels fish in the SPRFMO Convention Area shall provide the applicable observer data set out in Annex X covering the previous calendar year to the Commission. The Commission shall forward that information to the SPRFMO Secretariat by 30 September.

3 By 15 August each year, Member States whose vessels fish in the SPRFMO Convention Area shall provide an annual report on the implementation of the observer programme in the previous year. The report shall include observer training, programme design and coverage, the type of data collected, and any problems encountered during the year. The Commission shall forward that information to the SPRFMO Secretariat by 1 September.

#### *Article 29*

### **Vessel monitoring system**

1 The satellite-tracking device installed on board Union fishing vessels shall ensure the automatic transmission to the fisheries monitoring centre (FMC) of the flag Member State of VMS data with a position error which shall be less than 100 metres under normal satellite navigation operating conditions.

2 Member States shall ensure that their FMCs automatically and continuously report the VMS data of vessels flying their flag engaged in fishing in the SPRFMO Convention Area to the SPRFMO Secretariat at least once every hour and that satellite-tracking devices installed on board of vessels flying their flag are capable of reporting VMS data at least every 15 minutes.

3 For the purpose of Article 9(4) of Regulation (EC) No 1224/2009, the SPRFMO Convention Area shall include a zone of 100 nautical miles outside the SPRFMO Convention Area, within which paragraph 1 of this Article shall apply.

4 Member States shall ensure that, for fishing vessels flying their flag, in the event that the antenna of the satellite-tracking device is mounted separately from the physical enclosure,

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a single common antenna is used for both satellite navigation decoder and transmitter, and the physical enclosure is connected to the antenna using a single length of unbroken cable.

## CHAPTER V

### **Control of third country fishing vessels in Member State ports**

#### *Article 30*

#### **Points of contact and designated ports**

1 A Member State wishing to grant access to its ports to third country fishing vessels carrying SPRFMO fishery products caught in the SPRFMO Convention Area or fishery products originating from such resources that have not been previously landed or transhipped at port or at sea shall:

- a designate the ports to which third country fishing vessels may request entry pursuant to Article 5 of Regulation (EC) No 1005/2008;
- b designate a point of contact for the purposes of receiving prior notice pursuant to Article 6 of Regulation (EC) No 1005/2008;
- c designate a point of contact for the purposes of receiving inspection reports pursuant to Article 11(3) of Regulation (EC) No 1005/2008.

2 Member States shall transmit any changes to the list of designated points of contact and designated ports to the Commission at least 40 days before the changes take effect. The Commission shall forward that information to the SPRFMO Secretariat at least 30 days before the changes take effect.

#### *Article 31*

#### **Prior notification**

1 By way of derogation from Article 6(1) of Regulation (EC) No 1005/2008, port Member States shall require third country fishing vessels intending to land or tranship in their ports SPRFMO fishery resources that have not been previously landed or transhipped to provide, not later than 48 hours before the estimated time of arrival at the port, the following information in accordance with Annex XI:

- a vessel identification (external identification, name, flag, International Maritime Organization (IMO) number, if any, and international radio call sign (IRCS));
- b name of the designated port to which the fishing vessel seeks entry and the purpose of the port call (landing or transhipment);
- c a copy of the fishing authorisation or, where appropriate, any other authorisation held by the fishing vessel to support operations on SPRFMO fishery products, or to tranship such fishery products;
- d estimated date and time of arrival in port;
- e the estimated quantities in kilograms of each SPRFMO fishery product held on board, with associated catch areas. If no SPRFMO fishery products are held on board, a 'nil' report shall be transmitted;
- f the estimated quantities for each SPRFMO fishery product in kilograms to be landed or transhipped, with associated catch areas;

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- g the crew list of the fishing vessel;
- h the dates of the fishing trip.

2 The information provided in accordance with paragraph 1 shall be accompanied by a catch certificate validated in accordance with Chapter III of Regulation (EC) No 1005/2008 if the third country fishing vessel carries on board SPRFMO fishery products.

3 Port Member States may also request any additional information in order to determine whether the fishing vessel has engaged in IUU fishing or related activities.

4 Port Member States may prescribe a longer or shorter notification period than specified in paragraph 1, taking into account, inter alia, the type of fishery product and the distance between the fishing grounds and their ports. In such a case, port Member States shall inform the Commission which shall promptly transmit the information to the SPRFMO Secretariat.

#### *Article 32*

### **Authorisation to land or tranship in ports**

After receiving the relevant information pursuant to Article 31, a port Member State shall decide whether to authorise or deny the third country fishing vessel entry into its port. Where a third country fishing vessel has been denied entry, the port Member State shall inform the Commission which shall forward the information to the SPRFMO Secretariat without delay. Port Member States shall deny entry to fishing vessels included in the SPRFMO list of IUU vessels.

#### *Article 33*

### **Port inspections**

1 Port Member States shall inspect at least 5 % of landing and transhipment operations relating to SPRFMO fishery products made by third country fishing vessels in their designated ports.

2 Without prejudice to Article 9(2) of Regulation (EC) No 1005/2008, port Member States shall inspect third country fishing vessels when:

- a there is a request from another Contracting Party, CNCP or relevant RFMO that a particular fishing vessel be inspected, particularly where such requests are supported by evidence of IUU fishing by the fishing vessel in question, and there are clear grounds for suspecting that a fishing vessel has engaged in IUU fishing;
- b a fishing vessel has failed to provide complete information as required in Article 31;
- c a fishing vessel has been denied entry or use of a port in accordance with SPRFMO or another RFMO's provisions.

#### *Article 34*

### **Inspection procedure**

1 This Article shall apply in addition to the rules on the inspection procedure laid down in Article 10 of Regulation (EC) No 1005/2008.

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2 Inspectors from Member States shall carry a valid document of identity. They may take copies of any documents considered relevant.

3 Inspections shall be carried out in such a way that the third country fishing vessel suffers the minimum interference and inconvenience, and that degradation of the quality of the catch is avoided to the extent practicable.

4 On completion of the inspection, the vessel master shall be given the opportunity to add any comments or objections to the report and to contact the competent authority of the relevant port Member State in relation to the inspection report. The template for the inspection report is contained in Annex XII. A copy of the report shall be provided to the vessel master.

5 Within 12 working days following the date of completion of the inspection, the port Member State shall transmit to the Commission a copy of the inspection report referred to in Article 10(3) and Article 11(3) of Regulation (EC) No 1005/2008 completed in accordance with Annex XII to this Regulation. The Commission shall forward the report to the SPRFMO Secretariat within 15 working days of the date of completion of the inspection.

6 If the inspection report cannot be transmitted to the Commission for forwarding to the SPRFMO Secretariat within 15 working days, the port Member State shall notify the Commission within sufficient time of the reasons for the delay and when the report will be submitted, in order to allow the Commission to inform the SPRFMO Secretariat within the period of 15 working days.

#### *Article 35*

### **Procedure in case of evidence of infringements of SPRFMO conservation and management measures during port inspections**

1 If the information collected during the inspection provides evidence that a third country fishing vessel has committed a breach of the SPRFMO conservation and management measures, this Article shall apply in addition to Article 11 of Regulation (EC) No 1005/2008.

2 The competent authorities of the port Member State shall forward a copy of the inspection report to the Commission as soon as possible and in any case within five working days. The Commission shall transmit that report to the SPRFMO Secretariat and to the flag Contracting Party or CNCP point of contact without delay.

3 Port Member States shall promptly notify the action taken in the event of infringements to the competent authority of the flag Contracting Party or CNCP and to the Commission which shall transmit that information to the SPRFMO Secretariat.

#### *CHAPTER VI*

### ***Enforcement***

#### *Article 36*

### **Alleged infringements of SPRFMO conservation and management measures reported by the Member States**

Member States shall submit to the Commission any documented information that indicates possible instances of non-compliance by any fishing vessel with SPRFMO

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conservation and management measures in the SPRFMO Convention Area over the past two years at least 145 days in advance of the annual meeting of the SPRFMO Commission. The Commission shall examine that information and, if appropriate, forward it to the SPRFMO Secretariat at least 120 days in advance of the annual meeting.

#### *Article 37*

##### **Inclusion of a Union fishing vessel in the draft SPRFMO IUU vessel list**

1 If the Commission receives official notification of the inclusion of a Union fishing vessel in the draft SPRFMO IUU vessel list from the SPRFMO Secretariat, it shall transmit the notification, including the supporting evidence and any other documented information provided by the SPRFMO Secretariat, to the flag Member State for comments not later than 45 days in advance of the annual meeting of the SPRFMO Commission. The Commission shall examine and forward that information to the SPRFMO Secretariat at least 30 days in advance of the annual meeting.

2 Once notified by the Commission, the authorities of the flag Member State shall notify the owner of the fishing vessel of its inclusion in the draft SPRFMO IUU vessel list and of the consequences that may result from its inclusion being confirmed in the IUU vessel list adopted by the SPRFMO.

#### *Article 38*

##### **Measures concerning fishing vessels included in the SPRFMO IUU vessel list**

1 On adoption of the SPRFMO IUU vessel list, the Commission shall request the flag Member State to notify the owner of the fishing vessel identified on the SPRFMO IUU vessel list of its inclusion on the list and the consequences which result from being included on the list.

2 A Member State with information indicating a change of name or an IRCS of a fishing vessel appearing on the SPRFMO IUU vessel list shall, as soon as practicable, transmit such information to the Commission. The Commission shall forward that information to the SPRFMO Secretariat without delay.

#### *Article 39*

##### **Alleged non-compliance reported by the SPRFMO Secretariat**

1 If the Commission receives from the SPRFMO Secretariat any information indicating a suspected non-compliance with the SPRFMO Convention and/or SPRFMO conservation and management measures by a Member State, the Commission shall transmit that information to the concerned Member State 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 at least 45 days in advance of the annual meeting of the SPRFMO Commission. The Commission shall forward that information to the SPRFMO Secretariat at least 30 days in advance of the annual meeting.



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#### Article 40

### **Alleged infringements of SPRFMO conservation and management measures reported by a Contracting Party or CNCP**

1 Member States shall designate a point of contact for the purpose of receiving port inspection reports from Contracting Parties and CNCPs.

2 Member States shall transmit any changes to the designated point of contact to the Commission at least 40 days before the changes take effect. The Commission shall forward that information to the SPRFMO Secretariat at least 30 days before such changes take effect.

3 If the point of contact designated by a Member State receives an inspection report from a Contracting Party or CNCP providing evidence that a fishing vessel flying the flag of that Member State has committed a breach of the SPRFMO conservation and management measures, the flag Member State shall promptly investigate the alleged infringement and notify the Commission of the status of the investigation, and of any enforcement action that may have been taken, to enable the Commission to inform the SPRFMO Secretariat within three months of receipt of the notification. If the Member State cannot provide the Commission with a status report within three months of the receipt of the inspection report, it shall notify the Commission within the three month period of the reasons for the delay and of the date by which the status report will be submitted. The Commission shall transmit the information regarding the status or delay of the investigation to the SPRFMO Secretariat.

#### Article 41

### **Technical failure of the satellite-tracking device**

1 In case of technical failure of their satellite-tracking device, Union fishing vessels shall report the following data to the FMC of the Member State to which they are flagged every four hours, by appropriate telecommunication means:

- a IMO number;
- b IRCS;
- c vessel name;
- d vessel master's name;
- e position (latitude and longitude), date and time (UTC);
- f activity (fishing/transit/transshipping).

2 Member States shall ensure that, in the event that the technical failure of the satellite tracking device has not been solved within 60 days from the commencement of the reporting obligation as specified in paragraph 1, fishing vessels flying their flag cease fishing, stow all fishing gear and return to port without delay to repair the satellite-tracking device.

3 Paragraphs 1 and 2 of this Article shall apply in addition to the requirements laid down in Article 25 of Regulation (EU) No 404/2011.

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