



FOURTH REGULAR SESSION

3 -7 December, 2007

Tumon, Guam, USA

Rules and Procedures for the Protection, Access to, and Dissemination of Data Compiled by the Commission

WCPFC4-2007/12

3 November 2007

Introduction

1. The Second Session of the Commission, 12-16 December 2005 at Palikir, Federated States of Micronesia adopted a recommendation from the First Regular Session of the Scientific Committee, 8-19 August 2005 at Noumea, New Caledonia to establish an Ad Hoc Task Group to consider the types of data to be administered by the Commission (AHTG [Data]) and develop rules and procedures for the security, access to, and dissemination of, that data.
2. The AHTG [Data] met 31 July to 4 August 2006 at Manila, Philippines. It was chaired by Mr Kim Duckworth (New Zealand).
3. The report of the work of the AHTG [Data] was considered by the Second Regular Sessions of both of the Scientific Committee (7-18 August 2006 at Manila, Philippines) and the Technical and Compliance Committee (28 September to 3 October 2006 at Brisbane, Australia).
4. The Third Regular Session of the Commission (WCPFC3) which met 11-15 December 2006 at Apia, Samoa adopted the *Rules and Procedures for the Access to and Dissemination of Data Compiled by the Commission* as a “living document”, noting reservations tabled by Japan. The Commission invited SC3 and TCC3 to further refine the report of the AHTG [Data] as necessary and table advice and recommendations for subsequent consideration at the Fourth Regular Session of the Commission (WCPFC4) scheduled for December 2007.
5. The Third Regular Session of the Scientific Committee (SC3) which met at Honolulu, USA, 13-24 August 2007 reviewed the *Rules and Procedures for Access to, and Dissemination of, Data Compiled by the Commission* adopted at WCPFC3 as a “living document”. The SC3 considered a revision (WCPFC-SC3-ST-IP-9) prepared by the Convener of the Statistics Specialist Working Group (Mr Duckworth) that addressed comments received from WCPFC Members, Cooperating Non-Members and Participating Territories (CCMs) and the Inter-American Tropical Tuna Commission (IATTC) in the intersessional period, and during, discussion on this matter at WCPFC3. Subsequently, SC3 forwarded the *Rules and Procedures for Access to, and Dissemination of, Data Compiled by the Commission*, as revised by the SC3, to the Technical and Compliance Committee for consideration prior to forwarding to WCPFC4.

6. During the Third Regular Session of the Technical and Compliance Committee (TCC3), 27 September to 2 October 2007 at Palikir, Federated States of Micronesia, a data working group considered WCPFC-TCC3-2007/17, which included, as Attachment A, the *Rules and Procedures for the Access to and Dissemination of Data Compiled by the Commission*, as refined by SC3. The data working group also considered written proposals for amending the data Rules and Procedures tabled by Japan (WCPFC-TCC3-2007/DP-04) and Australia (WCPFC-TCC3-2007/DP-14), as well as several proposals offered from the floor by CCMs. The working group was chaired by Ms Holly Koehler (USA).

7. As a result of the discussions in the data working group, the *Rules and Procedures for the Protection, Access to and Dissemination of Data Compiled by the Commission* were further refined. In noting that CCMs would have an opportunity to provide additional comments by 31 October 2007, TCC3 agreed to recommend the amended Rules and Procedures to WCPFC4 for its consideration and adoption. Comments were subsequently received from Japan and Korea (appended at Attachment A and B respectively).

8. The Rules and Procedures, as amended by the TCC3, is attached at Attachment C. The underlined text in Attachment C represents the amendments agreed by the TCC3.

Recommendation

9. The Fourth Regular Session of the Commission is invited to review, refine as necessary, and adopt the revised *Rules and Procedures for the Protection, Access to, and Dissemination of Data Compiled by the Commission*.



FISHERIES AGENCY

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Mr. Andrew Wright
Executive Secretary of WCPFC
P.O. Box 2356
Kolonias, Pohnpei State 96941
Federated States of Micronesia

15 October 2007

Re: Comments on data management

Dear Mr. Wright,

As you may be aware, CCMs are requested to submit the Secretariat their comments on a set of data management issues, which include data confidentiality agreement, draft framework, and information security policy. Since Japan have been participating the discussions on these issues at previous opportunities, some of Japan's concerns were already accommodated in respective documents as well as in the meeting report. Taking this opportunity, nevertheless, I would like to reiterate following Japan's opinion in these regards for the reference of the Secretariat and other CCMs.

1. Data confidentiality agreement

Non-public data hold by the Secretariat may be disseminated to the person/entity outside, on the conditions provided by the data confidentiality agreement. Japan is of the view that current draft is not strong enough to prevent data users from abusing the data for the purpose not originally assumed. In particular, what kind of remedy against such ill-use occurred and the damage consequently caused would be ensured or not based on the agreement is our concern.

In this sense, I would like to refer to the paragraph 248 of the third session of the Scientific Committee:

248. The SC noted that there was general support for the draft framework for access by CCMs, draft data request form, and draft data confidentiality agreement (contained in SC3-ST-WP-1). Some views were noted that the draft confidentiality agreement needed to be modified to impose more obligations on the person(s) wanting to receive non-public domain data. (underline added)

Japan therefore would suggest that experts' views need to be sought in this regard to strengthen the agreement. This is not a concern by the source originally provided the data, but a concern by the Secretariat, particularly when a breach of agreement occurred. Since confidentiality agreement will be concluded between the Executive Director and the person/entity that receives data, appropriately crafted agreement would safeguard the position of the Secretariat.

2. Draft framework

The draft framework is a supplementary document for the Rules of Procedure for the access to and dissemination of data compiled by the Commission, the latter of which is currently under consideration for possible revisions. In this sense, I would like to endorse the paragraph 249 of the third session of the Scientific Committee:

249. The SC also noted that the draft framework would need to be modified to conform with any revisions to the "Rules of Procedure for the access to and dissemination of data compiled by the Commission".

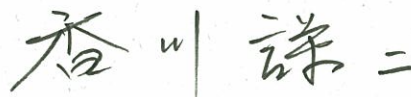
Upon approval of the Rules of Procedure by the Commission, necessary adjustments may be done according to the prescription of the Rules of Procedure.

3. Information security policy

It is our understanding that the draft Information Security Policy contained in SC3-ST-IP-1 is of purely technical nature that serve as a reference which describes the Secretariat's direction and support for information security. Because of this understanding, Japan has no comment on this item at this moment. If necessary, Japan will submit additional comments in due time.

Thank you very much for your cooperation.

Sincerely,

Handwritten signature in Japanese characters, reading "香川 謙二" (Kagawa Kenji).

Kenji Kagawa
Counsellor
Fisheries Agency of Japan

Comments received from Korea

From: Chiguk Ahn [mailto:chiguka62@yahoo.com]
Sent: Wednesday, October 31, 2007 3:43 AM
To: Andrew Wright
Cc: 이기국; Du Hae An; Park Hyun-Jin; Son Jae-Hak; Park Jeongseok; Chi-Gon Kim; Kwang Se Lee; Byung-Goo Min; Dae Yeon Moon; Sung Woo Park; Kyu Jin Seok; Hyun Ae Shin; ;
Subject: Comments on the draft Framework for Access to Non-Public Domain Data

Dear Mr. Andrew Wright,

On behalf of the Korean Commissioner to the WCPFC, I make some comments on the subject above as follows:

1. As regards para. 2, any CCMs requesting the non-public domain data other than those listed para.1 should, prior to the provision by the Executive Director, obtain written permission from the all CCMs that provided their data to the Secretariat.
2. As regards para. 4, disputes in regards to access to non-public domain data by CCMs should be resolved by the Commission rather than by the Chair of the Commission.

Thank you very much.

Regards,

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[Draft] Rules and Procedures for the Protection, Access to and Dissemination of Data Compiled by the Commission [Revision 2.0]

The scope of these Rules and Procedures is data and information held by the WCPFC Commission or Secretariat, and by service providers or contractors acting on their behalf.

1. Basic principles relating to the dissemination of data by the WCPFC

1. Data and information held by the WCPFC Commission or Secretariat, and by service providers or contractors acting on their behalf, shall only be released in accordance with these Rules and Procedures; which reflect the policies of confidentiality and security determined by the Commission.

2. Data may be disseminated if the CCM providing the data to the WCPFC authorizes its release.

3. Persons duly authorised by the Executive Director within the WCPFC secretariat and service providers, who have read and signed the Commission's confidentiality protocol, shall have access to the data necessary to perform their WCPFC duties.

4. Officers of the Commission and its subsidiary bodies shall have access to the data necessary to perform their WCPFC duties.

5. CCMs shall have access to data to serve the purposes of the Convention, including data:

- (a) covering vessels flying their flag in the WCPFC Convention Area
- (b) covering any vessels fishing in waters under their jurisdiction
- (c) covering vessels applying to fish in their national waters, unloading in their ports or transshipping fish within waters under their jurisdiction
- (d) for the purpose of compliance and enforcement activities on the high seas, consistent with the Convention and the Conservation and Management Measures and other relevant decisions adopted by the Commission, subject to the rules and procedures for access and dissemination of such data that the Commission will adopt under paragraph 23
- (e) for the purpose of scientific and other research, if the CCM that originally provided that data authorises the Commission to release them. In cases where a CCM elects to provide an ongoing authorisation for the

release of such data, the CCM may at any time cancel this authorisation by notifying the Secretariat that it has revised its earlier decision.

6. To the greatest extent practical, the WCPFC Commission, Secretariat and their service providers, should disseminate data in a timely manner.

2. Risk classification and definition of confidentiality

7. Data covered by these Rules and Procedures will be classified in accordance with the risk classification methodology included in the Commission's Information Security Policy (ISP), which reflects *inter alia* the damage that would be done to the operations or creditability of the Commission as a consequence of the unauthorized disclosure or modification of such information. The classification is attached as Table 1.

8. Data covered by these Rules and Procedures were determined to be either public domain or non-public domain data in accordance with the definition of confidentiality established in the Commission's ISP.

3. Dissemination of Public Domain Data

9. Data in the public domain shall not reveal the individual activities of any vessel, company or person and shall not contain private information. Catch and Effort data in the public domain shall be made up of observations from a minimum of three vessels.

10. Annual catch estimates and aggregated catch and effort data that can be used to identify the activities of any vessel, company or person are not in the public domain.

11. Except for data as described in Paragraphs 9 and 10, the types of data listed in Appendix 1 have been designated to be Public Domain data.

12. Public Domain data shall be available to any persons for (a) downloading from the Commission's website and/or (b) release by the Commission on request.

13. The website should contain a statement describing the conditions associated with the viewing or downloading of Public Domain Data (for example, that the source of the data must be acknowledged), and should require the person requesting the data to "Accept" these conditions before viewing / downloading can begin.

4. Dissemination of Non-Public Domain Data

4.1 Definition of Non-Public Domain Data

14. Subject to the decisions of the Commission, all types of data not described in paragraph 11 shall be referred to as Non-Public Domain data.

15. A list of examples of Non-Public Domain data can be found in Appendix 2.

4.2 General rules for dissemination of, and access to, Non-Public Domain data

16. Access to and dissemination of Non-Public Domain data shall be authorised in accordance with these Rules and Procedures and the policies of confidentiality and security established in the Commission's ISP.

17. The WCPFC Secretariat shall log and report to the Commission all access and dissemination of Non-Public Domain data, including the name and affiliation of the

person, the type of data accessed or disseminated, the purpose for which the data were requested, the date when the data were requested, the date when the data were released and authorizations that may have been required.

4.3 Access to Non-Public Domain data by the Staff of the Secretariat, the WCPFC Service Providers, and Officers of the Commission and its Subsidiary Bodies

18. Persons duly authorised by the Executive Director, within the WCPFC secretariat and service providers, including scientific experts engaged under Article 13 of the Convention, shall have access to the data necessary to perform their WCPFC duties. Officers of the Commission and its subsidiary bodies shall have access to the data necessary to perform their WCPFC duties. All such persons shall sign a Confidentiality Agreement with the Executive Director and maintain the data security standards of the Commission in respect of data to which they have access. The Executive Director shall maintain a Register of all such persons (including the purpose for which they require access to the data) and make the Register available to a CCM on written request.

4.4 Access to Non-Public Domain data by CCMs

19. CCMs shall have access to Non-Public Domain data to serve the purposes of the Convention, including data:

- (a) covering vessels flying their flag in the WCPFC Convention Area
- (b) covering any vessels fishing in waters under their jurisdiction
- (c) covering vessels applying to fish in their national waters, unloading in their ports or transshipping fish within waters under their jurisdiction
- (d) for the purpose of scientific and other research, if the CCM that originally provided that data authorises the Commission to release them. In cases where a CCM elects to provide an ongoing authorisation for the release of such data, the CCM may at any time cancel this authorisation by notifying the Secretariat that it has revised its earlier decision.

20. CCMs shall notify the Secretariat of a small number of representatives (preferably only 2) authorised to receive Non-Public Domain data. Such notification will include name, affiliation, and contact information (e.g. telephone, facsimile, email address). The WCPFC Secretariat will maintain a list of such authorized representatives. CCMs and the Secretariat shall ensure the list of CCM representatives is kept up to date and made available.

21. The authorized representative(s) of the CCMs are responsible for ensuring the confidentiality and security of the Non-Public Domain data according to its risk classification and in a manner consistent with security standards established by the Commission for the WCPFC Secretariat.

22. The Non-Public Domain data described in paragraph 19 will be made available by the Secretariat to authorised representatives of the CCMs for release by the Commission on request and, where appropriate, downloading from the Commission's website in accordance with the Commission's ISP.

23. For the purpose of compliance and enforcement activities on the high seas, Non-Public Domain data will be made available subject to separate rules and

procedures for the access and dissemination of such data, that the Commission will adopt for these purposes.

24. VMS data will be made available for scientific purposes, subject to the separate rules and procedures referred to in paragraph 23 above.

25. Access to Non-Public Domain data by CCMs shall be administered by the Executive Director on the basis of these Rules and Procedures and a Framework which will be established by the Commission. The Framework may include, *inter alia*, guidelines for access to different data types, the possibility of standing authorizations, compliance with the Commission's policy for the provision of data and a mechanism for resolving disputes. CCMs shall provide a written request for such data to the Executive Director specifying the purpose for which the data is required.

26. The Executive Director will implement the Framework and authorize access to and dissemination of Non-Public Domain data.

27. Unless otherwise decided by the Member or CCM responsible for its external affairs, Participating Territories shall have the same access rights to data as CCMs.

28. A CCM that has not fulfilled its obligations to provide data to the Commission for two consecutive years shall not be granted access to Non-Public Domain data until all such matters are rectified. A CCM whose representative, authorized in accordance with paragraphs 20 and 21 above, failed to observe the rules stipulated in these Rules and Procedures shall not be granted access to Non-Public Domain data until the appropriate actions have been taken.

4.5 Exchange of data with other regional fisheries management organisations

29. If the Commission enters into agreements for the exchange of data with other regional fisheries management organisations (RFMOs), such agreements must include requirements that the other RFMO provides equivalent data on a reciprocal basis and maintains the data provided to them in a manner consistent with the security standards established by the Commission. The data which may be exchanged is specified in Appendix 3. At each annual session the Executive Director will provide copies of data exchange agreements that exist with other RFMOs and a summary of the data exchanges that occurred during the previous 12 months under such agreements. For the purposes of these Rules and Procedures, the following organisations will be treated as being equivalent to a RFMO:

- International Scientific Committee (ISC)
- Secretariat of the Pacific Community (SPC)

4.6 Disseminations of Non-Public Domain data in other circumstances

30. Non-Public Domain data will be made available by the Secretariat to any persons¹ if the CCM that originally provided that data authorises the Commission to release them. In cases where a CCM elects to provide an ongoing authorisation for the release of such data, the CCM may at any time cancel this authorisation by notifying

¹ Including universities, researchers, NGOs, media, consultants, industry, federations, etc

the Secretariat that it has revised its earlier decision. Unless otherwise requested by the provider of the data:

- (a) Persons that request Non-Public Domain data shall complete and sign the Data Request Form and sign the Confidentiality Agreement and provide them to the Commission in advance of obtaining access to said data.
- (b) The Data Request Form and Confidentiality Agreement shall then be forwarded to the CCM that originally provided the requested data and the provider shall be requested to authorise the Commission to release the data.
- (c) Such persons shall also agree to maintain the data requested in a manner consistent with the security standards established by the Commission for the WCPFC Secretariat.

31. CCMs that have provided Non-Public Domain data to the Commission shall notify the Secretariat regarding their representatives with the authority to authorise the release of Non-Public Domain data by the Commission. Decisions whether to authorise the release of such data shall be made in a timely manner.

4.7 Force majeure

32. The Executive Director may authorise the release of Non-Public Domain data to rescue agencies in cases of *force majeure* in which the safety of life at sea is at risk.

5. Periodic Review

33. The Commission or its subsidiary bodies will periodically review these Rules and Procedures, and subsidiary documents, and the rules and procedures referred to in paragraphs 23 and 24 above, and amend these if necessary.

6. Final Clause

34. These Rules and Procedures do not prevent a CCM from authorizing the release of any data it has provided to the WCPFC.

Table 1. Types of information and confidentiality classification.

Information type	Risk classification
Operational level Catch Effort data	High
Annual catch estimates stratified by gear/flag and species for the WCPFC Statistical Area.	Lowest
Annual catch estimates stratified by gear/flag, EEZ and species.	Lowest
Aggregated catch and effort data stratified by gear/year/month, 5x5 (LL) or 1x1 (surface), and flag.	Low
Records of vessel unloading	Medium
Transshipment consignments by species	Medium
[Biological data (if adequate time has passed to allow the scientists that organised the for collection of such data to publish a paper analysing it)]	Lowest
Tagging data	Lowest
WCPFC Record of Fishing Vessels (Authorization to fish/Vessel Record)	Lowest
Vessel and gear attributes from other open sources	Lowest
Any vessel record established for the purpose of the Commission's VMS	Lowest
Oceanographic and meteorological data	Lowest
Movements of fishing vessels recorded at a fine resolution / VMS Vessel position, direction and speed	High
Boarding and Inspection Reports	High
Certified observer personnel	Medium
Certified inspection personnel	High
Catch Documentation Scheme / Trade Documentation Scheme	Medium
Port State Inspection Reports	Medium
Violations and infringements, detailed	High
Annual number of active vessels, by gear type and flag	Lowest
Economic data	[unassigned]
[Social data]	[unassigned]
Fisheries intelligence-sharing information	High
Part 2 of the Annual Report to the Commission by CCMs	Low
Part 1 of the Annual Report to the Commission by CCMs	Lowest

The security controls implemented by the Commission will reflect the classifications given to each information type. Where categories within an information type cover two classifications, the higher has been used. If a data type covers more than one row then the higher risk classification would apply.

Table 2. Annotations on information types mentioned in Table 1.

Information Type	Annotations
Operational level Catch Effort data	Collected on fishing vessel logbooks and by observers.
Compliance-related observer data	Excludes operational catch and effort data, biological data and vessel and gear attributes.
Biological data	Biological data include size data, data on gender and maturity, genetic data, data on hard parts such as otoliths, stomach contents, and isotopic N15/C14 data collected by observers, port samplers and other sources. “Biological data” in this context does not include information identifying the fishing vessel, for example, which would otherwise alter its security classification.
Tagging data	Tagging data include species, release and recapture positions, lengths and dates. “Tagging data” in this context does not include information identifying the fishing vessel that recaptured the tagged tuna, for example, which would otherwise alter its security classification.
WCPFC Record of Fishing	Vessels (Authorization to fish/Vessel Record) Covers vessels fishing in the WCPFC Convention area outside of waters under their national jurisdiction.
Vessel and gear attributes from other sources	Includes data collected by observers and port inspectors. Covers all vessels (i.e. includes vessels restricted to national jurisdiction – domestic fleets) Includes electronic equipment.
Oceanographic and meteorological data	“Oceanographic and meteorological data” in this context does not include information identifying the fishing vessel that collected the information, for example, which would otherwise alter its security classification.
Certified observer personnel	If identified by individual then Risk Classification would be assigned to HIGH.
Certified inspection personnel	If identified by individual then Risk Classification would be assigned to HIGH.
Violations and infringements, detailed	May cover Individual Violations and infringements pending investigation and/or prosecution. Summarised information included in Annual WCPFC TCC Report from CCMs. Includes compliance information collected by observers.
Economic data	Insufficient information currently available to determine Risk Classification.

Public Domain data

The following types of data are considered to be in the public domain:

- 1) annual catch estimates stratified by gear, flag and species for the WCPFC Statistical Area;
- 2) annual catch estimates stratified by gear, flag, species, and waters under the jurisdiction of CCMs and the high seas in the WCPFC Statistical Area;
- 3) the annual numbers of vessels active in the WCPFC Statistical Area stratified by gear type and flag;
- 4) catch and effort data aggregated by gear type, flag, year/month and, for longline, 5° latitude and 5° longitude, and, for surface gear types, 1° latitude and 1° longitude – and made up of observations from a minimum of three vessels;
- 5) [biological data (if adequate time has passed to allow the scientists that organised for the collection of such data to publish a paper analysing it)];
- 6) tagging data;
- 7) the WCPFC Record of Fishing Vessels;
- 8) [information on vessel and gear attributes compiled from other sources];
- 9) any vessel record established for the purpose of the Commission's VMS;
- 10) oceanographic and meteorological data;
- 11) [social data]; and
- 12) Part 1 of the Annual Report to the Commission by CCMs.

In regard to paragraphs 1, 2, 3 and 4 above - data describing vessels based in a territory of the State in which they are flagged may be stratified (or aggregated) by the name of the territory.

Examples of Non-Public Domain data

The following are examples of types of data considered to be Non-Public Domain:

- 1) Operational level Catch Effort data
- 2) Records of vessel unloading
- 3) Transshipment consignments by species
- 4) Data describing (at a fine resolution) the movement of vessels including near-real time Commission VMS data (Vessel position, direction and speed)
- 5) Boarding and Inspection Reports
- 6) Regional Observer Programme observer reports, and lists of certified observer personnel
- 7) Certified inspection personnel
- 8) Raw data from any Catch Documentation Scheme or Trade Documentation Scheme
- 9) Port State Inspection Reports
- 10) Violations and infringements, detailed
- 11) Economic data
- 12) Fisheries intelligence-sharing information
- 13) Part 2 of the Annual Report to the Commission by CCMs
- 14) Data that reveals the individual activities of any vessel, company or person

Data that may be disseminated to other regional fisheries management organisations

Operational level data

1 Operational-level tuna fisheries data may be disseminated to other regional fisheries management organisations (RFMOs), subject to the terms of the agreement specified in paragraph 29 of these Rules and Procedures. Such data includes catch and effort (including by-catch of mammals, turtles, sharks and billfish), observer, unloading, transshipment and port inspection data.

Aggregated data

2 Aggregated catch and effort data may be disseminated to other RFMOs. Such data includes:

- Data for long line gear aggregated by flag State by 5° latitude and by 5° longitude by month
- Data for surface gear (including purse seine) aggregated by flag State by 1° latitude and by 1° degree longitude by month
- Aggregated observer data (made up of observations from a minimum of three vessels).

Other data

3 Monitoring, control, surveillance, inspection and enforcement data may be disseminated to other RFMOs. Such data includes:

- The names and other markings of 'Vessels Of Interest' to each organization;
- Transshipment verification reports for vessels transshipping in the Convention Area of one RFMO but which have fished within the Convention Area of the other.