



FOURTH REGULAR SESSION

3-7 December 2007

Tumon, Guam, USA

CHAIR'S REPORT – PROPOSED AMENDMENTS TO CMM-2004-01

WCPFC4-2007/28

6 December 2007

1. Consider any inconsistencies between the proposals from the Republic of Marshall Islands and Australia.

No areas of direct inconsistency between the two proposals were identified so the group considered the two delegation papers separately.

2. Register of non-CCM carrier and bunker vessels (RMI proposal).

There was overall support for an amendment to CMM 2004-01 to provide a list of non-CCM flagged support vessels. The group discussed a range of issues relating to the control of such support vessels, generally agreeing that control would have to be applied on a flag state basis.

It was noted that the use of non-CCM support vessels is very closely related to issued of IUU listing, transshipment and charter arrangements. One participant proposed deferring consideration of this matter until such associated measures have been finalised, but the general opinion was that it could be progressed.

Representatives from the United States and the Republic of Marshall Islands, as well as other interested parties, were tasked to consider minor drafting amendments to prescribe better regulation over non-CCM support vessels listed on the register.

3. Active vessel list (Australian proposal)

- Should WCPFC have an active vessel list?

The group generally agreed that an active vessel list would be a valuable contribution to monitoring, assessment and general reporting.

- Should an active list be enacted through a separate CMM?

Only a small number of participants spoke on this issue and opinion was divided.

In order to allow assessment of the relative complexity of simplicity of a single measure, the Chair undertook to prepare an consolidated draft incorporating amendments proposed by both delegation papers for the group's consideration.

- Should the list include the number of days that each vessel fished (as proposed) or should it simply be active/inactive?

The general consensus was that prescribing a requirement for CCMs to report number of days fished per fishing vessel would be overly onerous for little benefit above data reporting mechanisms that are currently in place, or about to commence.

The Chair undertook to revise the Australian proposal accordingly.

- Should an active list be based on an annual snap shot (as proposed) or a real time notification process?

The meeting discussed a proposal from New Zealand to establish a real time list of vessels that are active in the convention area. Participants noted that such a measure could be very useful as part of an integrated package of MCS measures, but would also be extremely onerous on vessels, CCMs and the secretariat. Some participants noted that other measures such as VMS should provide this information in the future.

Given the agreement on the potential benefit of such a measure, the group recommended that the Commission consider this proposal at a later time.

Explanatory Note for Chair's Draft Measure v1

The Chair's draft achieves the following:

1. Combine the proposals from RMI and Australia;
2. Remove the Australian proposal to include the number of days that each vessel fished;
3. Provide guidance for CMMs who have charter and bilateral agreements to ensure that data is provided by the flag state; and
4. Provide two options for consideration on the control of non-CCM support vessels. The first option provides for CCMs to exercise control as part of agreements with non-CCM support vessel providers. The second seeks to impose obligations on the flag state of non-CCM support vessels.

Chair's draft v1 – consolidated version of proposals from RMI and Australia (including amendments from first meeting)

A. Authorization to fish

1. Each member of the Commission shall:

(a) authorize its vessels to fish in the Convention Area, consistent with article 24 of the Convention, only where it is able to exercise effectively its responsibilities in respect of such vessels under the 1982 Convention, the Agreement and this Convention;

(b) take necessary measures to ensure that its vessels comply with conservation and management measures adopted pursuant to the Convention;

(c) take necessary measures to ensure that fishing for highly migratory fish stocks in the Convention Area is conducted only by vessels flying the flag of a member of the Commission, except that: a CCM may allow its fishing vessels to transship to, or be bunkered by, that transshipment and supply operations may be conducted in the Convention Area by carrier and/or bunker vessels flying the flag of states that are not a Members or cooperating Members of the Commission CCM, but only if such non-CCM-flagged vessels are on the WCPFC Record of non-CCM Carrier and Bunker Vessels established under -authorised under section D below;

(d) take necessary measures to ensure that its vessels transship fish to, and are bunkered by, non-CCM-flagged vessels in the Convention Area only if such vessels are on the WCPFC Record of non-CCM Carrier and Bunker Vessels and only if such vessels comply with all applicable provisions of conservation and management measures. In order to ensure such compliance, CCMs are encouraged to take measures to ensure that any authorizations or contracts associated with the transshipment or bunkering services of non-CCM carriers and bunkers include conditions requiring that carriers and bunkers comply with the applicable provisions of the Commission's conservation and management measures.

(e) take necessary measures to ensure that any fishing vessel flying its flag conducts fishing in areas under the national jurisdiction of another State only where the vessel holds an appropriate license, permit or authorization, as may be required by such other State;

(f) undertake to manage the number of authorizations to fish and the level of fishing effort commensurate with the fishing opportunities available to that member in the Convention Area;

(g) ensure that no authorization to fish in the Convention Area is issued to a vessel that has a history of illegal, unreported or unregulated (IUU) fishing, unless the ownership of the vessel has subsequently changed and the new owner has provided sufficient evidence demonstrating that the previous owner or operator has no legal, beneficial or financial interest in, or control of the vessels, or the member concerned is satisfied that, having taken into account all relevant facts, the vessel is no longer engaged in or associated with IUU fishing;

(gh) withdraw authorizations to fish consistent with article 25(4) of the Convention;

(i) take into account the history of violations by fishing vessels and operators when considering applications for authorization to fish by fishing vessels flying its flag;

(j) take necessary measures to ensure that the owners of the vessels on the WCPFC Record of Fishing Vessels flying its flag are citizens, residents or legal entities within its jurisdiction so that any control or punitive actions can be effectively taken against them.

2. No member of the Commission shall allow any fishing vessel entitled to fly its flag to be used for fishing in the Convention Area beyond areas of national jurisdiction unless it has been authorized to do so by the appropriate authority or authorities of that member.

3. Each such authorization shall set forth for the vessel to which it is issued:

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

(b) permitted activities by the 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 license, permit or authorization that may be required by such other State;

(d) the requirement that the vessel keep on board the authorization issued pursuant to paragraph 1 above, or certified copy thereof; any license, permit or authorization, or certified copy thereof, issued by a coastal State, as well as a valid certificate of vessel registration; and

(e) any other specific conditions to give effect to the provisions of the Convention and conservation and management measures adopted pursuant to it.

B. Members' record of fishing vessels

4. Pursuant to article 24(4) on the Convention, each member of the Commission shall maintain a record of fishing vessels entitled to fly its flag and authorized to fish in the Convention Area beyond its area of national jurisdiction, and shall ensure that all such fishing vessels are entered in that record.

5. Each member of the Commission shall submit, electronically where possible, to the Executive Director by 1 July 2005 the following information with respect to each vessel entered in its 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;
- (m) moulded depth;
- (n) beam;
- (o) gross registered tonnage;
- (p) power of main engine or engines;
- (q) carrying capacity, including freezer type, capacity and number, and fish hold capacity; and
- (r) the form and number of the authorization granted by the flag State including any specific areas, species and time periods for which it is valid.

6. After 1 July 2005, each member of the Commission shall notify the Executive Director, within 15 days, or in any case within 72 hours before commencement of fishing activities in the Convention Area by the vessel concerned, of:

- (a) any vessel added to its Record along with the information set forth in paragraph 5;
- (b) any change in the information referred to in paragraph 5 with respect to any vessel on its record; and
- (c) any vessel deleted from its record along with the reason for such deletion in accordance with article 24 (6) of the Convention,

7. Before 1 July of each year, each member of the Commission shall submit to the Executive Director a list of all vessels that appeared in its record of fishing vessels at any time during the preceding calendar year, together with each vessel's registration number, and 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: (a) fished; (b) did not fish; or (c) unknown., that fished for highly migratory fish stocks in the Convention Area beyond its area of national jurisdiction at any time during the preceding year.

8. Members of the Commission that operate joint-venture or charter arrangements that result in data reporting obligations being conferred to a party other than the flag state will make arrangements to ensure that the flag state can meet its obligations under paragraph 7 above.

9. Each member of the Commission shall submit to the Executive Director, information requested by the Executive Director with respect to fishing vessels entered in its national record of fishing vessels within fifteen (15) days of such request.

C. WCPFC Record of Fishing Vessels

10. The Commission shall, in accordance with article 24(7) of the Convention and based on the information provided to the Commission in accordance with the Convention and these procedures, establish and maintain its own record of fishing vessels authorized to fish in the Convention Area beyond the national jurisdiction of the member of the Commission whose flag the vessel is flying. Such record shall be known as the WCPFC Record of Fishing Vessels.

D. WCPFC Record of non-CCM Carrier and Bunker Vessels

101. The Commission shall establish and maintain a record of carrier and bunker vessels flying the flag of states that are not Members or cooperating Members of the Commission that shall be deemed to be authorized to operate as carriers and bunkers in the Convention Area-CCMs. Such record shall be known as the WCPFC Record of non-CCM Carrier and Bunker Vessels.

12. By [1 July 2008], each CCM shall submit to the Executive Director, in electronic format if possible, the list of the non-CCM carrier vessels and bunker vessels flying the flags of states that are not Members or cooperating Members of the Commission that it intends to allow its vessels to transship to, or be bunkered by, are authorized to receive transshipments and supplies from its fishing vessels in the Convention Area. This list shall include the following information for each vessel:

- a. The flag of the vessel;
- b. Name of vessel, registration number;
- c. Previous names (if any known);
- d. Previous flag (if any and if known);
- e. Details of previous deletion from other registries (if any and if known);
- f. International radio call sign;
- g. Type of vessels;
- h. Length;
- i. Gross registered tonnage (GRT); and
- j. Carrying capacity;
- k. Name and address of owner(s);
- l. and Name of vessel master(s) operator(s) (if known);
- i. Time period authorized for transshipping

123. Each CCM shall promptly notify the Executive Director, after the establishment of the initial WCPFC Record, of any addition to, deletion from and/or modification of the vessels it has submitted for inclusion on the WCPFC Record, at the time such changes occur.

134. Based on the initial lists submitted by CCMs and subsequent requests for additions, deletions, and modifications, the Secretariat shall maintain the record, and shall include for each vessel on the record the information listed above and the CCM(s) that has/have requested its inclusion on the record.

145. If a CCM has requested that a vessel be deleted from the record, the Executive Director shall promptly notify all CCMs of such request and delete the vessel from the record no earlier than 60 days after the request.

E. Obligations of non-CCM carrier vessels and bunker vessels

16. Non-CCM-flagged carrier vessels and bunker vessels may receive transshipments of highly migratory fish stocks in the Convention Area or bunker fishing vessels fishing for highly migratory fish stocks in the Convention Area only if they are on the WCPFC Record of Non-CCM Carrier and Bunker Vessels. Furthermore, they are obligated to comply with all applicable provisions of the Commission's conservation and management measures. Failure to comply with this or any of the Commission's conservation and management measures shall be deemed to undermine the effectiveness of the Commission's conservation and management measures.

F. Implementation of the WCPFC Records

17. The WCPFC Record of Fishing Vessels shall identify those fishing vessels so listed that were active in the Convention Area in the preceding year, consistent with the information provided by members of the Commission under paragraph 7 above.

148. The Executive Director shall use available information, including the information supplied by members of the Commission under paragraph 7 above, to assist in the assessment of the implementation of relevant conservation and management measures, and resolutions for the annual consideration of the Technical and Compliance Committee.

19. The Executive Director shall ensure that due publicity is given to the WCPFC Record of Fishing Vessels **and the WCPFC Record of non-CCM Carrier and Bunker Vessels** including making ~~its~~their contents available through an appropriate website.

20. In addition, the Executive Director shall circulate an annual summary of the information contained in the WCPFC Record of Fishing Vessels **and the WCPFC Record of non-CCM Carrier and Bunker Vessels** to all members of the Commission at least 30 days prior to the annual meeting of the Commission.

21. Members of the Commission shall review their own internal actions and measures taken pursuant to paragraph 1, including sanctions and punitive actions and, in a manner consistent with domestic law as regards disclosure, report annually to the Commission the results of the review.

22. In consideration of the results of such review, the Commission shall, if appropriate, request that the Flag State, or member, of vessels on the WCPFC Record of Fishing Vessels **or the WCPFC Record of non-CCM Carrier and Bunker Vessels** take further action to enhance compliance by those vessels with WCPFC conservation and management measures.

23. Any vessel not included in the WCPFC Record of Fishing Vessels or the WCPFC Record of non-CCM Carrier and Bunker Vessels shall be deemed not to be authorized to fish for, retain on board, transship or land highly migratory fish stocks in the Convention Area beyond the national jurisdiction of its flag State. Each member of the Commission shall prohibit such activities by any vessel entitled to fly its flag that is not included on the Record and shall treat a violation of this prohibition as a serious violation.

24. Each member of the Commission shall further prohibit landing at its ports or transshipment to vessels flying its flag of highly migratory fish stocks caught in the Convention Area by vessels not entered on the WCPFC Record of Fishing Vessels ~~or the WCPFC Record of non-CCM Carrier and Bunker Vessels~~.

25. Each member of the Commission shall notify the Executive Director, in accordance with the relevant provisions of article 25 of the Convention, of any factual information showing that there are reasonable grounds to suspect that a vessel that is not on the WCPFC Record of Fishing Vessels is or has been engaged in fishing for or transshipment of highly migratory fish stocks in the Convention Area.

26. If such vessel is flying the flag of a member of the Commission, the Executive Director shall notify that member and shall request that member to take the necessary measures to prevent the vessel from fishing for highly migratory fish stocks in the Convention Area and to report back on the actions taken with respect to the vessel.

27. If such vessel is flying the flag of a non-member without cooperating status or if the flag of the vessel cannot be determined, the Executive Director shall inform all members of the Commission so that they may, in addition to measures specified in paragraph 15, take appropriate action consistent with the Convention.

208. The Commission and the members concerned shall communicate with each other, and make the best efforts with FAO and other relevant regional fishery management bodies to develop and implement appropriate measures, where feasible, including the establishment of records of a similar nature in a timely manner so as to avoid adverse effects upon fishery resources in other oceans. Such adverse effects might consist of excessive fishing pressure resulting from a movement of IUU fishing vessels between areas covered by other regional fishery management organizations.

DE. General

29. The obligations and responsibilities set forth in these provisions for members shall apply equally to any cooperating non-member designated by the Commission.

30. The Commission shall keep these procedures under review and may amend them as appropriate.