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NINETEENTH REGULAR SESSION**
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COOPERATING NON-MEMBER REQUESTS FOR 2023

**WCPFC19-2022-07
26 October 2022**

Paper by the WCPFC Secretariat

Purpose

1. The paper presents the requests received for grant of Cooperating Non-Member (CNM) status in 2023 for the consideration and decision of WCPFC19.

Background

2. The Sixteenth Regular Session of the Commission (WCPFC16) adopted amendments to the Conservation and Management Measure ‘Cooperating Non-Members’ (CMM 2019-01¹). The decisions to be made by the Commission are set out in paragraphs 6, 7, 8, 12 and 13, which is a two-step process:

‘6. The Commission shall, in determining whether a non-party is accorded CNM status have regard to the criteria outlined in paragraph 3, including attendance at the Commission meeting where its application is considered, subject to the applicant being able to attend as an observer.’

‘7. The Commission shall also consider information available from other RFMOs relating to non-members seeking CNM status, as well as data submitted by such non-members to the Commission. Caution shall be used so as not to introduce into the Convention Area excess fishing capacity from other regions or IUU fishing activities in granting CNM status to such non-members.’

‘8. The Commission shall accord CNM status on an annual basis. It may renew the CNM status subject to a review of the CNM’s compliance with the Convention’s objectives and requirements.’

‘12. Without prejudice to the sovereign rights of coastal States for the purpose of exploring and exploiting, conserving and managing highly migratory fish stocks within areas under national jurisdiction, and following the granting of CNM status, the Commission shall, where

¹ CMM 2019-01 replaced CMM 2009-11 and before that CMM 2008-02 and CMM 2004-02.

necessary, determine how the participatory rights of CNMs will be limited by the conservation and management measures adopted by the Commission.’

‘13. The limits determined for CNMs under paragraph 12 may be reviewed by the Commission from time to time in accordance with this measure and other conservation and management measures adopted by the Commission.’

3. The WCPFC6 Summary Report included as Attachment S, a flowchart that was intended to illustrate the CMM 2019-01 process (see **Annex 1**).
4. **Annex 2** to this paper provides information on WCPFC18 decisions regarding Cooperating Non-Members and their Participatory Rights. It also provides the paragraphs from WCPFC18 that are relevant to WCPFC/IATTC Overlap Area and CNM general process.
5. On 8 February 2022, the Executive Director sent letters to all 2022 CNM applicants confirming the outcomes from WCPFC18 in relation to their CNM requests and the financial commitment expected from each CNM for 2022. The letter also drew attention to the latest version of the electronic form to be used when requesting CNM status be granted for 2022.² (refer to *WCPFC-TCC18-2022-07_rev1 Att 1*)

CNM requests for 2023

6. The Secretariat received eight (8) requests for the granting of Cooperating Non-Member status in 2023 (see **Table 1** below) (refer to *WCPFC-TCC18-2022-07_rev1 Att 3*). All CNM applicants have submitted an electronic form. As has been the case previously, a few requesting countries also provided a written cover letter to support their CNM request. The requests are from the eight countries with CNM status for 2022

Table 1: Details of CNM requests received for 2023

| Applicant <i>(New applicant)</i> | Date request for new/renewal of status was received* | Format of Request | |
|--|---|---|--|
| | | E-form submitted and directly imported (not pre-scanned) | Correct version of template used? |
| Curacao | 04 August 2022 | Yes | Yes |
| Ecuador | 22 July 2022 | Yes | Yes |
| El Salvador | 23 July 2022 | Yes | Yes |
| Liberia | 29 July 2022 | Yes | Yes |
| Nicaragua | 13 July 2022 | Yes | Yes |
| Panama | 05 July 2022 | Yes | Yes |
| Thailand | 23 June 2022 | Yes | Yes |
| Viet Nam | 29 July 2022 | Yes | Yes |

* Completed template due to the Secretariat by 23 July 2022

² The form is posted on the WCPFC website at this link:- <https://www.wcpfc.int/doc/commission-07b/cooperating-non-member-request-template>

7. **Table 2** provides an update on payments of financial contributions for 2022.

Table 2: Financial contributions from Cooperating Non-Members for 2021 and 2022

| COOPERATING NON-MEMBER | 2021 assessed financial contribution | 2021 payments | 2022 assessed financial contribution | 2022 payments |
|-------------------------------|---|----------------------|---|----------------------|
| Curacao | 19,081 | 19,006 | 20,170 | 20,170 |
| Ecuador | 43,863 | 43,863 | 46,090 | 46,050 |
| El Salvador | 20,282 | 20,256 | 20,904 | 20,904 |
| Liberia | 13,001 | 13,001 | 13,526 | 13,526 |
| Nicaragua | 14,013 | 14,013 | 14,564 | 14,529 |
| Panama | 22,474 | 22,474 | 23,297 | 23,297 |
| Thailand | 19,472 | 19,472 | 19,868 | 19,868 |
| Viet Nam | 15,483 | 15,482 | 16,238 | 16,238 |

TCC18 Outcomes

8. TCC18 reviewed the requests for CNM status and made the following decisions and recommendations as reflected in the Provisional Outcomes Document (WCPFC-TCC18-2022-outcomes):

5. TCC18 provided the following decisions and recommendations to WCPFC19 on Cooperating Non-Member (CNM) requests:
- a) TCC18 reviewed the following eight applications for renewal of CNM status and is forwarding them to WCPFC19 for consideration: Curacao, Ecuador, El Salvador, Liberia, Nicaragua, Panama, Thailand, and Vietnam.
 - b) TCC18 noted with appreciation the attendance and participation of Curacao, Ecuador, El Salvador, Liberia, Nicaragua, Panama, Thailand, and Vietnam at this year’s meeting.
 - c) TCC18 reminded CNM applicants of the obligations included in CMM 2019-01, particularly paragraph 3 and paragraph 11(a), which states that CNMS shall “*comply with all conservation and management measures adopted by the Commission.*”
 - d) TCC18 noted that while it is tasked with taking into consideration the record of compliance of CNM applicants with the provisions of the Convention and the conservation and management measures adopted by the Commission, the record of compliance will not consider the review of the CMR (2021 RY) this year.
 - e) TCC18 reminded CNM applicants of the importance of flag state’s control over its flagged vessels and encouraged them to continue to make improvements to the management of flagged vessels.

- f) TCC18 considered paragraph 2.1 of the CNM applications: “2.1 Submitted full historical data?” and recommended an additional field “N/A” be applied as this paragraph is not applicable to all CNM applicants.
- g) TCC18 further reminded CNM applicants of the considerations specified in paragraph 3(a) of CMM 2019-01, which include “*the attendance by an applicant for CNM status at the TCC meeting where its application is considered, subject to the applicant being able to attend the meeting as an observer.*” TCC18 thanked all CNM applicants for their attendance and participation in TCC18 and the CNM SWG.
- h) TCC18 noted that seven of the eight CNM applications have paid financial contributions in full prior to the commencement of TCC18. TCC18 reminded CNM applicants to ensure that financial contributions are paid in a timely manner and referred to TCC15 recommendation that CNM Contributions are treated with the same expectations applied to full members “*contributions from members are “due and payable in full within 60 days of the receipt of the communication of the Executive Director referred to in regulation 5.3 above, or as of the first day of the calendar year to which they relate, whichever is the later.”*”
- i) TCC18 noted Liberia’s statement that it paid its financial contribution during the meeting. TCC18 noted the status of Liberia’s contribution was considered paid, as was confirmed by the WCPFC Secretariat during TCC18.
- j) TCC18 noted that seven of the eight applications for CNM renewal status were complete and complete applications were received from Curacao, Ecuador, El Salvador, Liberia, Nicaragua, Thailand, and Vietnam.
- k) TCC18 sought further information from one of the eight applications for CNM renewal status from Panama:
 - (i) TCC18 noted recent serious incidents involving Panama’s flagged vessels in the NPFC Convention area. TCC18 noted the investigation conducted by one CCM on a carrier vessel flagged to Panama, pursuant to the Port State Measures Agreement, which resulted in the identification of a number of infringements relating to obligations under NPFC. TCC18 sought further information from Panama regarding its application relating to ensuring effective flag state control over its flagged vessels, including in response to alleged violations or IUU activities.
 - (ii) TCC18 noted Panama’s response to concerns raised by several CCMs about Panama’s efforts to deter and eliminate IUU fishing associated with flagged vessels. TCC18 noted Panama’s preliminary efforts on carrying out actions to ensure corrective measures, including proposing the vessel of concern be added to the NPFC draft list of IUU vessels. TCC18 forwards this matter to WCPFC19 for its consideration, and requests Panama to provide to the Commission detailed information about all control and enforcement measures adopted as a flag State (as well as status of their implementation), including any follow up actions regarding the issues identified by TCC18, to allow the Commission to make an informed final decision on the matter. TCC18 reiterated its reminder under Recommendation e) to specifically encourage Panama to make efforts to make improvements to the management of its vessels.

Nicaragua's request for an extension of its CNM Participatory Rights:

6. TCC18 noted Nicaragua's request for additional CNM participatory rights and referred to WCPFC18's request that Nicaragua provide further information to support its request.
7. TCC18 noted that extension of CNM Participatory Rights is generally a consideration for the WCPFC Commission meeting and encouraged Nicaragua to provide further detailed information regarding this request, including an assessment of the vessel type, implications of a further vessel, and areas intended to be fished, to the early attention of the WCPFC19 for a complete assessment of its proposal.

9. On 18 October 2022, the Secretariat sent letters to all CNM Applicants on the outcomes of the discussion at TCC18 in relation to the ability of CCMs to provide additional information up to 21 days after TCC18, on issues shown in the draft Compliance Monitoring Report in preparation for review at TCC19³.
10. A list of all CNM-related documents will be maintained as part of the WCPFC19 List of Documents (**WCPFC19-2022-03**).
11. The CCM section of the WCPFC website which is accessible to authorized CCM users (<https://www.wcpfc.int/cooperating-non-members>) has:
 - a. copies of letters and communications to CNMs related to WCPFC18 outcomes; and
 - b. a copy of the information that was submitted by CNM applicants with the information submitted on the .pdf form extracted into a single document.
12. As with previous WCPFC meetings, it is expected that a small working group will be established to prepare draft decision points for consideration by WCPFC19 and as maybe relevant, to any reviews of Cooperating Non-Member participatory limits. As recorded in paragraphs 6 and 7 of the TCC18 outcomes (shown in the box above), Nicaragua has request for additional CNM participatory rights and was encouraged to provide further detailed information regarding this request to the early attention of the WCPFC19 for a complete assessment of its proposal.

Recommendation

13. WCPFC19 is invited to decide with respect to each Cooperating Non-Member applicant whether to accord Cooperating Non-Member status for 2023.

³ As notified in Circular 2022/70: Guidance on Process for CCMs to Provide Additional Information up to 21 Day Post TCC18

Was the application to request CNM status (new or renewal) submitted in English at least 60 days before the TCC? (Para. 1)

Yes

No

The **TCC considers** all applications that met the deadline. It may consider those that did not, as appropriate.
 The **TCC assesses** whether the applications includes all the information required (Para. 3a) and has fulfilled the requirements of paragraph 3.
 The **TCC provides recommendations and technical advice** on the applications, using criteria in paragraph 3, to the Commission.

The Ex. Director forwards TCC's recommendations and advice to the applicants (Para. 4)

Applicants consider TCC's advice and recommendations and may submit additional information, as necessary, to the Executive Director in advance of the Annual Commission meeting (Para. 5).

The Commission considers:
 (1) TCC's advice and recommendations and criteria in para 3 and any resulting information (para 6);
 (2) any additional information provided by the applicant(s);
 (3) other information and data (Para. 7); and
 (4) In renewing CNM status, **the Commission** also reviews the CNM's compliance with the Convention's objective and requirements (Para. 8).

Yes
 Is CNM status renewed or accorded?

CNM status is accorded or renewed for one year.

The Commission may prescribe requirements to ensure compliance with CMMs (para 9) and shall, where necessary, determine how participatory rights of each CNM will be limited by CMMs adopted by the Commission (Para. 12 and 13).

CNM status is not renewed or accorded by the Commission.

CNMs are entitled to participate in Commission and subsidiary body meetings as an observer (Para. 10).

CNMs shall comply with the requirements of Paras. 9 and 11 and be invited by the Commission to make financial contributions (Para. 14).

The Commission shall monitor the activities and compliance of CNMs and shall take appropriate action against CNMs deemed to have undermined CMMs. (Paras. 15 and 16).

Cooperating Non-Member and Participatory Rights Decisions from WCPFC18 (paragraph numbers refer to WCPFC18 Summary Report – Issued 13 April 2022)

Application for CNM Status

31. The Commission considered applications for Cooperating Non-Member (CNM) status for 2022 in accordance with CMM 2019-01, including recommendations from TCC17. The Chair noted that as outlined in **WCPFC18-2021-07: Cooperating Non-Member Requests for 2022_rev2**, there were eight applications for CNM status in 2022 from the Curacao, Ecuador, El Salvador, Liberia, Nicaragua, Panama, Thailand and Vietnam. All applicants for 2022 were CNMs in 2021; of the 2021 CNMs, only the Bahamas did not apply for CNM status in 2022, but the Bahamas remained a CNM until the end of 2021.

32. The Assistant Compliance Manager stated that all CNMs had made the required payments for 2021, and that of the 8 applicants, 7 were currently attending; all were registered but Liberia had yet to join the meeting. The TCC Vice-Chair and Chair of CNM SWG stated that there had been two requests for additional information made by TCC to CNMs (one to Liberia and one to Nicaragua), and that the requested information had been received.

33. The Commission noted and accepted the 8 applications for CNM status in 2022 from Curacao, Ecuador, El Salvador, Liberia, Nicaragua, Panama, Thailand and Vietnam. The Commission agreed that the CNM SWG would meet to work on CNM participatory rights, and that applicants could attend the SWG to provide clarifications and answers to questions that might be posed. Following its deliberations, the SWG would provide advice to the Commission on the participatory rights of CNMs (under Agenda Item 3.3.1).

34. The Commission approved the applications for CNM status for 2022 from Curaçao, Ecuador, El Salvador, Liberia, Nicaragua, Panama, Thailand and Vietnam.

Participatory Rights of CNMs

35. The Commission reviewed the limits of participatory rights of CNMs under various CMMs in accordance with paragraphs 12 and 13 of CMM 2019-01.

36. The Commission agreed to the following limits to be applied to the participatory rights of CNMs per the Convention and CMM 2019-01:

- i. In accordance with the WCPF Convention and its conservation and management measures and resolutions, the following participatory rights apply to Cooperating Non- Members (CNMs) for fisheries in the high seas within the WCPFC Convention Area.
- ii. In addition, unless otherwise specified below, CNMs may fish in waters under their national jurisdiction or other CCMs' national jurisdiction, in accordance with appropriate bilateral arrangements.
- iii. CNMs shall ensure vessels flying their flags comply with all provisions of the WCPF Convention and the WCPFC conservation and management measures. In addition, CNM vessels will be placed on the WCPFC Record of Fishing Vessels (WCPFC RFV).
- iv. CCMs shall ensure that CNM fishing activities that are conducted in waters under their national jurisdiction in accordance with bilateral arrangements are consistent with all relevant conservation and management measures and provisions of the WCPF Convention.

- v. Renewal of CNM status by the Commission will take into account compliance with the national laws and regulations of any licensing CCM, and all conservation and management measures and provisions of the WCPF Convention. CCMs shall identify any violations by vessels flagged to a CNM and report on any investigations of such violations to the Secretariat for attention by TCC.

Participatory rights of each CNM in 2022

37. The Commission considered the findings of the CNM SWG, which recommended that Curacao, Ecuador, El Salvador, Liberia, Nicaragua, Panama, Thailand and Vietnam retain the same participatory rights in 2022 as they had in 2021. The CNM SWG also noted that in both 2020 and 2021, Nicaragua requested that the CNM SWG and the Commission consider revising their participatory rights to increase purse seine fishing from one to two vessels. Nicaragua indicated that the addition of one vessel would greatly assist in allowing the timely submission of financial contributions and further enhance their ability to implement WCPFC CMMs in the WCPFC-CA. CNM SWG participants were unable to support the requested addition to Nicaragua's participatory rights for 2022 due to the existing purse seine capacity limits as stipulated in paragraph 45 of the current tropical tuna measure (CMM 2020-01/2018-01). However, to assist the Commission with considering any increased participatory rights in the future, the CNM SWG invited Nicaragua to put forward any proposed changes to participatory rights when submitting their CNM application in future years, to allow TCC to properly consider the implications of such a request prior to the Commission's annual meeting.

38. **Curacao:** The participatory rights of Curacao are limited to carrier vessels to engage in transshipment activities in the Convention area.

39. **Ecuador:** The participatory rights of Ecuador for fishing in the WCPO are limited to purse seine fishing, with no participatory rights for fishing on the high seas for highly migratory fish stocks in the Convention Area. Any introduction of purse seine fishing capacity is to be in accordance with paragraph 12 of CMM 2019-01 and CMM 2020-01 or its replacement measure.

40. **El Salvador:** The participatory rights of El Salvador for fishing in the WCPO are limited to purse seine fishing only. The total level of effort by purse seine vessels of El Salvador on the high seas shall not exceed 29 days in the Convention Area. Any introduction of purse seine fishing capacity is to be in accordance with paragraph 12 of CMM 2019-01 and CMM 2020-01 or its replacement measure.

41. **Liberia:** The participatory rights of Liberia are limited to carrier vessels to engage in transshipment activities in the Convention area.

42. **Nicaragua:** The participatory rights of Nicaragua are limited to purse seine fishing for one vessel, with no participatory rights for fishing on the high seas for highly migratory fish stocks in the Convention Area. Any introduction of fishing capacity is to be in accordance with paragraph 12 of CMM 2019-01 and CMM 2020-01 or its replacement measure.

43. **Panama:** The participatory rights of Panama in the WCPO are limited to the provision of carrier and bunker vessels. Panama's participatory rights also apply to vessels that supply food, water and spare parts to carrier vessels that engage in transshipment activities, provided that these vessels do not engage in activities supporting fishing vessels, including providing and/or servicing FADs.

44. **Thailand:** The participatory rights of Thailand in the WCPO are limited to the provision of carrier and bunker vessels only.

45. **Vietnam:** The participatory rights of Vietnam in the WCPO are limited to the provision of carrier and bunker vessels only.

WCPFC/IATTC Overlap Area

46. In accordance with the decision of WCPFC9 regarding the management of the overlap area of 4°S and 50°S between 130°W and 150°W, vessels flagged to Ecuador, El Salvador and Nicaragua and Panama will be governed by the IATTC when fishing in the overlap area.

47. In accordance with the Data Exchange MOU agreed by both Commissions, fishing vessels flying the flag of a member of either the IATTC or WCPFC shall cooperate with the RFMO to which they are not a member by voluntarily providing operational catch and effort data for its fishing activities for highly migratory species in the overlap area.

48. For the purpose of investigation of possible IUU fishing activities and consistent with international and domestic laws, vessels flying the flag of a CNM that is a Contracting Party to the IATTC will cooperate with those coastal State members of the WCPFC whose EEZs occur in the overlap area by voluntarily providing VMS reports (date, time and position) to those coastal States when operating in the overlap area.
