



FOURTH REGULAR SESSION
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**KOREA'S PROPOSAL ON THE "CONSERVATION MEASURE TO ESTABLISH A
LISTS OF VESSELS PRESUMED TO HAVE CARRIED OUT ILLEGAL,
UNREPORTED AND UNREGULATED FISHING ACTIVITIES IN THE WESTERN
AND CENTRAL PACIFIC OCEAN (CMM06-09)"**

WCPFC4-2007/DP16
26th November 2007

Proposal submitted by Korea

1. Proposal

Korea proposes that subparagraph j of Paragraph 3 of the CMM2006-09 be deleted.

3. For the purposes of this Conservation Measure, vessels fishing for species covered by the WCPFC Convention are presumed to have carried out IUU fishing activities, as defined in the IPOA on IUU fishing, in the convention Area when a CCM present evidence that such vessels, *inter alia*:

~~j. Are under the control of the owner of any vessel on the WCPFC IUU Vessel List.~~

2. Rationale

Paragraph. 3 lists examples of those vessels that are presumed to have carried out IUU fishing activities as defined in the IPOA on IUU fishing. Subparagraph j of para. 3 says that the vessels under the control of the owner of any vessel on WCPFC IUU Vessel List are presumed to have carried out IUU fishing activities. However, Korea finds that subparagraph j is in the legal and practical perspectives as follows:

First, it is unjustifiable to presume other vessels under the control of the same owner to have carried out IUU fishing activities when they are not directly linked to such activities. Only the vessel suspected of actual offending vessel should be considered to be included on the WCPFC by the Commission. In most cases, fishing vessels regarding fishing activities are controlled not by owners but by operators or captains. The definition of IUU fishing activities in the IPOA-IUU is not supposed to cover the subparagraph j.

Second, the meaning of the “control” in subparagraph j is unclear. If “control” means management of a company in a general sense, there should be no reason to presume other vessels of the owner to have carried out IUU fishing activities. Meanwhile, if “control” means “to direct the vessels to conduct IUU fishing activities,” without clear evidence it would be very difficult to prove that the vessels violated the WCPFC conservation and management measures.

Third, it is related to the effectiveness or practicability of subparagraph j. For example, let us suppose a case that a company owns about 40 vessels which are operating in the Convention Area. Suppose that one vessel is on the WCPFC IUU Vessel Lists. Then, the other 39 fishing vessels will be presumed to have carried out IUU fishing activities. In accordance with the paragraphs of CMM2006-09, there will be too much documentation to determine whether those vessels may be included in the WCPFC IUU Vessel Lists or not. It is time consuming and moreover it will be extremely difficult to prove those vessels to be IUU vessels.

Fourth, subparagraph j mirrored the conservation measure in IATTC. However, we do not find any similar regulations to this subparagraph in the conservation measures regarding IUU vessel lists of the other RFMOs such as ICCAT, IOTC, CCAMLR and NEAFC.

For those reasons, Korea argues that subparagraph j of Paragraph. 3 of the CMM2006-09 is neither just nor effective in establishing WCPFC IUU Vessel Lists.