

**JOINT IATTC AND WCPFC-NC WORKING GROUP MEETING ON THE
MANAGEMENT OF PACIFIC BLUEFIN TUNA
NINTH SESSION (JWG-09)**

Kushiro, Japan
10 – 13 July 2024

DRAFT

**Agreement between the Pacific Community (SPC) and the Inter-American Tropical Tuna
Commission (IATTC) and the Western and Central Pacific Fisheries Commission (WCPFC)**

IATTC-NC-JWG09-2024/WP-04

CDS Technical Meeting



Draft Agreement
between
THE PACIFIC COMMUNITY (SPC)
and
THE INTER-AMERICAN TROPICAL TUNA COMMISSION (IATTC)
and
THE WESTERN AND CENTRAL PACIFIC FISHERIES COMMISSION (WCPFC)

RECOGNIZING that both the Western Central Pacific Fisheries Commission (WCPFC) and Inter-American Tropical Tuna Commission (IATTC) (hereinafter collectively “WCPFC/IATTC”) compile tuna fisheries data for the main purpose of research, conservation and management of respective stocks of oceanic tuna species;

RECOGNIZING that SPC has developed a comprehensive database system (TUFMAN 2[©]) for managing and integrating tuna fisheries data, and that WCPFC/IATTC recognise the efficiencies and synergies in using the core code of this system;

RECOGNIZING that the CCSBT has completed development of an online data management system using TUFMAN 2[©] that is actively being used by the CCSBT, and continues to develop a trial electronic Catch Documentation Scheme (eCDS) for southern bluefin tuna, and WCPFC-IATTC is seeking to utilize those resources as a basis for development of electronic Pacific Bluefin Catch Documentation (e-PBCD) of the Pacific bluefin tuna;

RECOGNIZING that SPC understands the benefits they will receive for the enhancements made to the TUFMAN 2[©] system by WCPFC/IATTC through written mutual agreement;

This Agreement (hereinafter “the Agreement”) sets out the agreement between SPC and WCPFC/IATTC regarding the provision of the SPC-developed TUFMAN 2^{1©} core code to WCPFC/IATTC and conditions for that.

I. Agreed activities and conditions

1. With respect to the use of the TUFMAN 2[©] core code:

- (a) WCPFC/IATTC have responsibility for satisfying any licensing requirements with respect to third party code or software components that are incorporated into the TUFMAN 2[©] core code provided.

1 ‘TUFMAN 2’ is defined to be the code, any part of the code, or modification thereof; “TUFMAN 2 core code” refers the core component of the TUFMAN2 code, that will be shared with the Parties for their use based on this Agreement.

- (b) WCPFC/IATTC acknowledge that SPC owns and retains the right to maintain the core code without consultation. The SPC will notify the WCPFC/IATTC in writing in advance where possible or within 30 days of any planned maintenance activities.
- (c) WCPFC/IATTC will advise SPC on any requirements to change the TUFMAN 2© core code and that the decision to change the core code will be taken by written mutual agreement between SPC and WCPFC/IATTC.
- (d) WCPFC/IATTC will not allow access or distribution of the TUFMAN 2© core code to any third party without the consent of SPC.
- (e) WCPFC/IATTC will ensure that the conditions for the use of the TUFMAN 2© core code by any third party does not allow them to use or distribute the TUFMAN 2© core code beyond their specific work for WCPFC/IATTC.
- (f) WCPFC/IATTC will acknowledge the use of the TUFMAN 2© core code by including the following text in the software 'ABOUT' form:

This system has been derived from TUFMAN 2© platform, developed by Oceanic Fisheries Programme of the Pacific Community
- (g) WCPFC/IATTC will allow access to any code they are responsible for developing under the TUFMAN 2© core code, to SPC.

2. With respect to the Agreement:

- (a) SPC will allow access to the TUFMAN 2© code to WCPFC/IATTC for the period of the Agreement.
- (b) SPC has no liability or responsibility for any third-party code or software components that are incorporated into the TUFMAN 2© core code provided.
- (c) SPC will consider any requirements to change the TUFMAN 2© core code provided by WCPFC/IATTC, noting that the decision to change the core code will be taken by mutual agreement between SPC and WCPFC/IATTC.
- (d) SPC will maintain a log of modifications to the TUFMAN 2© core code.
- (e) SPC reserves the right to revoke² WCPFC/IATTC access and continued use of the TUFMAN 2© core code if there is evidence that any conditions of this Agreement have been breached.

3. The following general conditions apply:

- (a) An informal annual review will be conducted, by email, to report: (i) general updates of TUFMAN 2© from SPC during the previous year, and (ii) general description of the use of TUFMAN 2© by WCPFC/IATTC during the previous year.
- (b) SPC shall not be liable for any errors/decisions/faults in the TUFMAN 2© core code.

4. All Parties agree to:

- a) communicate regularly with each other and provide timely information on matters relating to the activities; and
- b) raise any issues of concern with the relevant Party's nominated focal point in clause VIII

Additional responsibilities, or changes to these responsibilities, may be generated and agreed to by the Parties.

² Removal or revoking of WCPFC/IATTC's access to TUFMAN 2© core code means the removal or revoking of access to code maintained by SPC. The WCPFC/IATTC may continue to use the version of the TUFMAN 2© core code that it has at that time, so that its system can continue to be used and further developed.

II. Budget

The only budget implication for the Agreement is that SPC requires a cost recovery mechanism for any questions/support related to TUFMAN 2© that exceed 2 person-hours per month at the rate of USD 120 per hour.

WCPFC/IATTC will be notified via email when the 2 person-hours of support per month jointly for WCPFC/IATTC has been utilised, at which point the cost recovery mechanism would be engaged. A monthly summary of support subject to cost-recovery, if applicable, shall be provided to WCPFC/IATTC.

WCPFC/IATTC agree to make financial contributions to SPC at the end of each calendar year to cover support referenced above provided by SPC that exceed 2 person-hours per month throughout the year, beyond the in-kind support detailed above, as required.

III. Confidentiality and use of data

Each Party will ensure that its staffs, employees, and contractors will maintain the confidentiality of any information it receives from the other Party that has been designated as confidential or which by its nature is deemed to be confidential. All Parties will only use confidential information for purposes of this Agreement.

IV. Intellectual property rights and use of collected data

WCPFC/IATTC recognise the intellectual property rights of SPC to TUFMAN 2. Nothing in this Agreement is intended to affect any existing intellectual property (IP) rights. WCPFC/IATTC intend to consult on the allocation of rights to any IP created in the course of activities under this Agreement.

V. Child protection

WCPFC/IATTC acknowledge SPC's Child Protection Policy as updated from time to time and will use its best endeavours to act in accordance with those principles and to abide by other relevant international declarations, conventions and arrangements.

VI. Visibility

The Parties maintain sole authority over their respective names, logos and emblems. No Party is authorised to make use of the other Party's name, logo nor emblem, except as separately agreed in writing.

VII. Focal points

The focal points for this Agreement are as follows. Any subsequent changes or replacements shall be notified to other Parties in writing:

Mr Bruno Deprez Systems Development Manager Oceanic Fisheries Programme Pacific Community (SPC) Noumea, New Caledonia E: brunod@spc.int Ph: (+687) 26.20.00	TBD Inter-American tropical Tuna Commission (IATTC) La Jolla, CA, USA E: Ph:	TBD Western and Central Pacific Fisheries Commission (WCPFC) Pohnpei, Federated States of Micronesia E: Ph:
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VIII. Resolution of disputes

All Parties shall make their best efforts to amicably settle any dispute, controversy or claim arising out of this Agreement. Any disputes that might arise from or in relation to this Agreement, if not settled by negotiation, shall be settled by arbitration in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL). This Agreement will be governed by the general principles of international law.

IX. Privileges and immunities

Nothing in or relating to this Agreement shall be deemed a waiver of any Party's privileges and immunities.

X. Entry into force and term of agreement

This Agreement will enter into force on the date of its signature by all Parties and will remain in force until the Agreement is amended provided for in Clause XI or termination is triggered by a Party provided for in Clause XII.

XI. Amendment of the Agreement

This Agreement may be amended at any time by mutual consent among all Parties. The amendment will enter into force on the date of its signature by all Parties.

XII. Termination

Any Party may terminate this Agreement by giving a written notice to the other Parties. At the termination of the Agreement, SPC will remove access of the Parties to the TUFMAN 2 core code. Clause III will extend beyond the termination of the Agreement.

Dr. Paula Vivili
Deputy Director-General
Pacific Community (SPC)

Dr. Arnulfo Franco
Executive Director
IATTC

Ms. Rhea Moss-Christian
Executive Director
WCPFC

Date:

Date:

Date: