



TECHNICAL AND COMPLIANCE COMMITTEE

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

[ST-SWG Convenor's DRAFT Revision 1.2]

WCPFC-SC3/ST SWG/IP-9

WCPFC-TCC3-2007/17

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Introduction

1. The Scientific Committee's Statistics Specialist Working Group (ST-SWG), at the First Regular Session of the Committee, 8-19 August 2005, Noumea, New Caledonia proposed the establishment of Task Group to identify types of data that must be treated as confidential and to develop rules and procedures to govern the security and confidentiality of data collected and held by the Commission. The Scientific Committee endorsed this proposal which was subsequently adopted by the Second Session of the Commission, 12-16 December 2005 at Palikir, Federated States of Micronesia.

2. The Executive Director arranged for the AHTG [Data] to meet in the week preceding the Second Regular Session of the Scientific Committee, 31 July to 4 August 2006 at Manila, Philippines. The Chair of the ST-SWG, Mr Kim Duckworth (New Zealand) was asked to convene the AHTG [Data] meeting and was subsequently selected by attendees to be its Chair. By Circular and web posting in April 2006, all Members, Cooperating Non-Members and Participating Territories (CCMs) were invited to participate in the AHTG [Data] meeting. As discussion during the AHTG was anticipated to include consideration of rules and procedures for both compliance and science data, together with data security, participation by representatives with experience in administering both kinds of data was encouraged.

3. Twelve CCMs, including the Chairs of the Scientific Committee and the Technical and Compliance Committee, and an observer, participated in the 5-day meeting in Manila. The Summary Record of the AHTG [Data] is posted on the Commission's website (www.wcpfc.int).

4. 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).

5. 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.

6. This revision attempts to address some of the comments made by:

Japan (letter dated 27 October 2006)

- European Commission (letter dated 15th November 2006)
- French Polynesia (letter dated 25 October 2006)
- Inter-American Tropical Tuna Commission (comments made at WCPFC3)

- where it was possible to do so without altering the substantive deliberations of the AHTG [Data].

7. Differences between this draft revision and the version adopted at WCPFC3 include, *inter alia*:

- i. The Rules and Procedures for the Access to and Dissemination of Data Compiled by the Commission have been reformatted to be a “stand alone document” (as opposed to an annex of the AHTG [data] report)
- ii. The addition of “accordance with these Rules and Procedures; which reflect” to paragraph 1
- iii. The addition of “consistent with the Convention and the Conservation and Management Measures and other relevant decisions adopted by the Commission” to paragraphs 5(d), 5(e), 19(d) and 19(e)
- iv. The addition of “or transshipping fish within waters under their jurisdiction” to paragraphs 5(c) and 19(c)
- v. The transfer of the lists of public domain and non-public domain data into the appendices
- vi. The addition of “individual” to paragraph 9
- vii. The re-wording of paragraphs 10, 11 and 12 to improve clarity
- viii. The addition of “Public Domain” to paragraph 13
- ix. The addition of a requirement for staff and service providers to sign a confidentiality agreement, and for the Executive Director to maintain a register of such confidentiality agreements, to paragraph 18
- x. The addition of “additional” and “from time to time” to paragraphs 23 and 24
- xi. The addition of “CCMs shall provide a written request for such data to the Executive Director specifying the purpose for which the data is required.” to paragraph 25
- xii. The addition of a new paragraph 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.”
- xiii. The addition of a new paragraph 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.”
- xiv. Re-wording of paragraph 29 to clarify intent
- xv. The addition of a new paragraph 31, and a new appendix 3, describing what data may potentially be exchanged with other RFMOs
- xvi. The addition of a new paragraph 33 “The Commission or its subsidiary bodies will periodically review these Rules and Procedures, and subsidiary documents, and amend these if necessary.”

8. The Third Regular Session of the Scientific Committee 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 together with comments that were subsequently received from CCMs as presented in the draft revision prepared by the Convener of the Statistics Specialist Working Group (who was also Chair of the AHTG [Data]) (WCPFC-SC3-ST-IP-9). The Scientific Committee forwarded the Rules and Procedures for Access to, and Dissemination of, Data Compiled by the Commission, as revised by the Scientific Committee to the Technical and Compliance Committee so they might be considered by TCC3 and the Commission.

Recommendation

9. TCC3 is invited to consider the Rules and Procedures for Access and Dissemination of Data Compiled by the Commission (Revision 1.2 attached – as forwarded from the Scientific Committee) with a view to providing advice and recommendations to WCPFC4 in relation to its further refinement, adoption and implementation.



Rules and Procedures for the 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 shall only be released in accordance with these Rules and Procedures; which reflect the policies of confidentiality and security determined by the Commission.
2. Nothing contained in these Rules and Procedures should prevent the release of data if the CCM that originally provided the data to the WCPFC authorises their 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 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
 - (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 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.
 - (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.
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 shall be available 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. Near real-time VMS data, Boarding and Inspection Reports, Certified observer personnel data, Certified Inspection personnel data and other Commission data collection programmes will be made available subject to the additional Rules and Procedures for the access and dissemination of such data that the Commission may adopt from time to time.
24. VMS data shall be available for scientific purposes [only after a lag of two years] subject to the additional Rules and Procedures for the access and dissemination of such data that the Commission may adopt from time to time.
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.

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)
 - South Pacific Commission (SPC)

4.6 Disseminations of Non-Public Domain data in other circumstances

30. Non-Public Domain data shall be available 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 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 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 amend these if necessary.

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

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.

Appendix 1

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.

Appendix 2

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 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

Appendix 3

Data that may be disseminated to other regional fisheries management organisations

Operational level data

- 1 [With the authorisation of the CCM that originally provided the data,] operational-level tuna fisheries data may be disseminated to other regional fisheries management organisations (RFMOs). 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.