



**TECHNICAL AND COMPLIANCE COMMITTEE
THIRD REGULAR SESSION**
27 September – 02 October 2007
Pohnpei, Federated States of Micronesia

WCPFC FISHING VESSEL CHARTER ARRANGEMENTS SCHEME

**WCPFC-TCC3-2007-23
11 September 2007**

Prepared by the Secretariat

Introduction

1. The second meeting of the Western and Central Pacific Fisheries Commission (WCPFC2) in December 2005 adopted measures for bigeye and yellowfin conservation which included the provision that:

For the purposes of these measures, vessels operated under charter, lease or other similar mechanisms by developing islands States and participating territories, as an integral part of their domestic fleet, shall be considered to be vessels of the host island state or territory. Such charter, lease or other similar mechanism shall be conducted in a manner so as not to invite IUU vessels. *The Commission shall develop a Charter Arrangements Scheme, which will include notification provisions, at its third Session in 2006.*

2. At the Second Regular Session of the Technical and Compliance Committee (TCC2) at Brisbane, Australia 28 September to 2nd October 2006 Members, Cooperating Non-members and Participating Territories (CCMs) considered a paper on this matter prepared by the Secretariat. The paper was based on an earlier draft prepared by the FFA Secretariat and included a draft Charter Arrangements Scheme for consideration by CCMs.

3. In relation to charters TCC2 recognised the need to satisfy the economic requirements of some CCMs who rely on charters, concerns that unregulated use of charters may result in an increase or transfer of effort, and the need to ensure that charters do not create a loophole for IUU fishing and excessive fishing capacity in the Convention Area.

4. Japan also tabled a proposed charter arrangements scheme that was based on the International Commission for the Conservation of Atlantic Tunas (ICCAT)-adopted charter arrangements scheme.

5. TCC2 agreed that the issue of charter arrangements was complicated. Some Members noted that the scheme should be kept as simple as possible. TCC2 noted there were several key issues associated with charter arrangements schemes,

particularly with regards to which CCMs have responsibility for ensuring compliance by charter vessels; the area in which charter vessels can operate and whether the scheme should be restricted to charter arrangements in CCMs' exclusive economic zone; where any catch by charter vessels would be attributed; the need to consider the aspirations of small island developing States; and the need to control IUU fishing.

6. Subsequently, at the Third Regular Session of the Commission (WCPFC3) at Apia, Samoa 11-15 December 2006, Niue, on behalf of FFA members, presented a proposal for a Conservation and Management Measure (CMM) for a regional vessel chartering scheme (WCPFC3-2006/DP06 Rev.1). Noting the concerns expressed by some CCMs relating to the proposal and suggestions for improvement of the proposed measure, including the need to take into account issues involving flag State and charter State responsibilities, the Commission agreed to refer the draft CMM for a Regional Vessel Chartering Scheme to TCC3 for its consideration and advice. At WCPFC3, Japan reiterated its views regarding charter arrangements as long term arrangements and stated that it will resubmit its proposal (WCPFC3-2006/DP32) on vessel charter arrangement for consideration at TCC3, taking into account the comments of other members including the proposal tabled by FFA members (WCPFC-2006/DP06 Rev.1).

7. WCPFC3-2006/DP06 Rev.1 (Attachment A) and WCPFC3-2006/DP32 (Attachment B) are appended to this paper for further consideration by TCC3, as requested by the Commission.

Recommendation

8. TCC3 is invited to further consider the matter of a WCPFC Fishing Vessel Charter Arrangements Scheme for possible advice to the Commission.



THIRD REGULAR SESSION

Apia, Samoa

11-15 December 2006

**DRAFT WCPFC CONSERVATION AND MANAGEMENT MEASURE TO
ESTABLISH A WCPFC VESSEL CHARTERING SCHEME**

**WCPFC3-2006-DP06 Rev. 1
November 13 2006**

Submitted by FFA Members

The Western and Central Pacific Fisheries Commission (WCPFC)

RECOGNIZING that, under the WCPF Convention, Contracting Parties shall cooperate in ensuring, through effective management, the long term conservation and sustainable use of highly migratory fish stocks in the Convention area;

RECALLING that according to Article 92 of the United Nations Convention on the Law of the Sea of 10 December 1982, ships shall sail under the flag of one State only and shall be subject to its exclusive jurisdiction on the high seas except as otherwise provided in relevant international instruments and any relevant measures adopted by the Commission;

ACKNOWLEDGING the important contribution of chartered vessels to sustainable fisheries development in the Western & Central Pacific Ocean;

CONCERNED to ensure that charter arrangements do not promote IUU fishing activities or undermine conservation and management measures;

REALIZING that there is a need for the WCPFC to regulate charter arrangements;

1. The provisions of this Scheme shall apply to vessels participating in fisheries managed under the Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean that fly the flag of one Commission Member, or Cooperating non-Member or Participating Territory (CCMs), and are operated under charter, lease or other similar mechanisms by another Member or participating Territory as an integral part of its domestic fleet.
2. Vessels operating under charter arrangements shall be considered as an integral part of the chartering Member or participating Territory's domestic fleet if:
 - a) they are licensed to fish in waters under the jurisdiction of the chartering Member or participating Territory and

- b) they are normally unloaded in the ports of the chartering Member or participating Territory or a neighbouring CCM, and
 - c) the commercial entity chartering the vessel is legally established in the chartering Member or participating Territory, except for chartering Members or participating Territories that do not have a system of national company registration or control measures. Such chartering Member or participating Territory shall establish an alternative arrangement for securing control over the charterer.
1. Each chartering Member or participating Territory shall submit to the Executive Director by 1 July 2007, and thereafter annually on the 1 July each year, the following information with respect to each chartered vessel:
 - a) name of the fishing vessel, port of registry and WCPFC Identification Number (WIN);
 - b) name and address of owner(s);
 - c) name and address of the charterer;
 - d) fishing method; and,
 - e) the duration of the charter arrangement.

 4. After 1 July 2007, each chartering Member or participating Territory shall notify the Executive Director, within 15 days, or in any case within 72 hours before commencement of fishing activities under a charter arrangement of:
 - a) any additional chartered vessels along with the information set forth in paragraph 3;
 - b) any change in the information referred to in paragraph 3 with respect to any chartered vessel; and,
 - c) termination of any charter arrangement.

 5. (a) Unless there is an existing alternative arrangement for catch attribution and effort between the chartering Member or participating Territory and the flag State, catches taken and effort exercised pursuant to the chartering arrangement by vessels that operate under these provisions shall be attributed to, and counted against, the quota, catch limit or any other type of fishing possibilities of the chartering Member or participating Territory.

(b) The details of any such existing alternative arrangement under sub-paragraph (a) of paragraph 5 shall be provided to the Commission.

 6. (a) Both the chartering Member or participating Territory and the flag State shall ensure compliance by chartered vessels with the Convention and with relevant conservation and management measures adopted by the WCPFC in accordance with their rights, obligations and jurisdiction under international law.

(b) Notwithstanding sub-paragraph (a) of paragraph 6, the flag State is responsible for exercising flag State responsibility for all chartered vessels carrying its flag with respect to fishing activities by such vessels on the high seas within the Convention Area.

 7. Chartered vessels shall be fully subject to the same reporting, observer, VMS, transshipment, catch documentation and other controls applied to other fishing

vessels involved in similar fishing activities, in accordance with the relevant conservation and management measures adopted by the WCPFC.

8. A vessel may not be authorised as a chartered vessel under the Scheme by more than one Member or participating Territory at the same time.
9. Chartered vessels shall carry on board:
 - a) an appropriate licence or authorisation issued by the chartering Member or participating Territory for fishing in waters within the national jurisdiction of the chartering Member or participating Territory;
 - b) an appropriate license or authorization issued by the flag State to cover any fishing activities by the vessel in waters beyond areas of national jurisdiction within the Convention Area.
10. Each year the Executive Director shall present a summary of all notified chartering arrangements to the Commission for review.



THIRD REGULAR SESSION

Apia, Samoa

11-15 December 2006

DRAFT WCPFC CONSERVATION AND MANAGEMENT MEASURE ON VESSEL CHARTERING

WCPFC3-2006/DP32

12 December 2006

Proposal by Japan

The Western and Central Pacific Fisheries Commission (WCPFC),

RECOGNIZING that, under the WCPFC Convention, Contracting Parties shall cooperate in ensuring, through effective management, the long term conservation and sustainable use of highly migratory fish stocks in the Convention area;

RECALLING that, according to Article 92 of the United Nations Convention on the Law of the Sea, of 10 December 1982, ships shall sail under the flag of one State only and shall be subject to its exclusive jurisdiction on the high seas except as otherwise provided in relevant international instruments;

ACKNOWLEDGING the needs and interests of all Members and participating Territories to develop their fishing fleets so as to enable them to fully utilize the fishing opportunities available to them under relevant rules and regulations of WCPFC;

MINDFUL that the practice of charter arrangements, whereby fishing vessels do not change their flag, might seriously undermine the effectiveness of conservation and management measures established by WCPFC unless properly regulated;

REALIZING that there is a need for WCPFC to regulate charter arrangements with due regard to all relevant factors;

FURTHER MINDFUL that the charter arrangement was under the control of other tuna regional fisheries organizations such as ICCAT and the measures on charter arrangement in particular for tuna resources should be consistent with each other.

Adopts, in accordance with the Article 10 of the WCPFC Convention that:

The chartering of fishing vessels, other than bareboat chartering, shall observe the following provisions:

1. Charter arrangements may be allowed, predominantly as an initial step in the fishery development of the chartering nation. The period of the chartering arrangement shall be consistent with the development schedule of the chartering nation.

2. Chartering nations shall be the Members and participating Territories of the Convention.
3. Fishing vessels to be chartered shall be registered to responsible Members, Cooperating Non-Members and participating Territories (hereinafter referred to as CCMs) which explicitly agree to apply WCPFC conservation and management measures and enforce them on their vessels. All flag CCMs concerned shall effectively exercise their duty to control their fishing vessels to ensure compliance with WCPFC conservation and management measures.
4. Both the chartering Members and participating Territories and the flag CCMs shall ensure compliance by chartered vessels with relevant conservation and management measures established by WCPFC, in accordance with their rights, obligations and jurisdiction under international law.
5. Catches taken pursuant to the chartering arrangement of vessels that operate under these provisions shall be counted against the quota, catch limit or any other type of fishing possibilities of the chartering Members and participating Territories.
6. All catches taken under the chartering arrangement shall be recorded by both the flag CCMs and the chartering Members and participating Territories separately from catches taken by other vessels. The chartering Members and participating Territories shall report to WCPFC catches and other information required by the Commission.
7. Vessel Monitoring Systems (VMS) and, as appropriate, tools for differentiation of fishing areas, such as fish tags or marks, shall be used, according to the relevant WCPFC measures, for effective fishery management.
8. There shall be observers on board at least [10]% of the chartered vessels, or during [10]% of the fishing time of the chartered vessels, before the Commission's observer scheme being implemented.
9. The chartered vessels shall have a fishing license issued by the chartering Members and participating Territories, and shall be on the Commission's record of fishing vessels and authorization to fish established by the Convention.
10. When operating under charter arrangements, the chartered vessels shall not be authorized to use the quota, catch limit or any other type of fishing opportunities ~~of~~ or entitlement of the flag CCMs. In no case, shall the vessel be authorized to fish under more than one chartering arrangement at the same time.
11. Unless specifically provided in the chartering arrangement, and consistent with relevant domestic law and regulation, the catches of the chartered vessels shall be unloaded exclusively in the Ports of the chartering Members and participating Territories or under its direct supervision in order to assure that the activities of the chartered vessels do not undermine WCPFC conservation and management measures. The chartering company must be legally established in the chartering Members and participating Territories.
12. [Any transshipment at sea shall be consistent with the rules established by the Commission. Any transshipment at sea shall also be previously and duly authorized by the chartering Members and participating Territories and shall occur only under the supervision of an observer on board.]

- 13 a At the time the chartering arrangement is made, the chartering Members and participating Territories shall provide the following information to the Executive Director:
- i the name (in both native and Latin alphabets) and registration of the chartered vessel;
 - ii the name and address of the owner(s) of the vessel;
 - iii the description of the vessel, including the length, type of vessel and the type of fishing method(s);
 - iv species of fish covered by the charter and quota, catch limit or any other type of fishing opportunities allocated to the chartering Members and participating Territories;
 - v the duration of the chartering arrangement;
 - vi the consent of the flag CCMs; and
 - vii the measures adopted to implement these provisions.
- b At the time the chartering arrangement is made, the flag CCMs shall provide the following information to the Executive Director:
- i its consent to the chartering arrangement;
 - ii the measures adopted to implement these provisions; and
 - iii its agreement to comply with WCPFC conservation and management measures.
- c Both the chartering Members and participating Territories and the flag CCMs shall inform the Executive Director of the termination of the charter;
- d The Executive Director shall circulate all the information without delay to all CCMs.
14. the chartering Members and participating Territories shall report to the Executive Director by July 31 each year, and for the previous calendar year, the particulars of charter arrangements made and carried out under this recommendation, including information of catches taken and fishing effort deployed by the chartered vessels, in a manner consistent with confidentiality requirements.
15. Each year the Executive Director shall present a summary of all the chartering arrangements to the Commission which, at its annual meeting, shall review compliance with this recommendation.
16. At its future session, the Commission shall review and, as appropriate, revise this measure.