



TECHNICAL AND COMPLIANCE COMMITTEE

Sixth Regular Session

30 September - 5 October 2010
Pohnpei, Federated States of Micronesia

**PROPOSED AMENDMENTS TO CONSERVATION AND MANAGEMENT MEASURE
2007-03**

**WCPFC-TCC6-2010-DP/04-[rev1](#)
1 September 2010**

Proposal by the Kingdom of Tonga for FFA Members

Introduction

1. This is the former WCPFC6-2009/DP11 resubmitted for further discussion at TCC6 as the issue remained unresolved at that meeting and was brought forward to TCC6.
2. TCC6 is invited to review the proposal.

AMENDMENTS TO PARAGRAPHS 15 AND 25 OF CMM 2007-03

CONSERVATION AND MANAGEMENT MEASURE TO ESTABLISH A LIST OF VESSELS PRESUMED TO HAVE CARRIED OUT ILLEGAL, UNREPORTED AND UNREGULATED FISHING ACTIVITIES IN THE WCPO

PROPOSAL BY FFA MEMBERS

Paragraph 15 of CMM 2007-03 allows the flag State to demonstrate that it has fulfilled any one of three actions so that the TCC does not list the vessel on the Provisional IUU List.

FFA Members reiterate our position at TCC 5 that for IUU activities that have been carried out within the jurisdiction of a coastal State, that coastal State's satisfaction should be the only consideration in order for a vessel not to be placed on the Provisional IUU List. It is not for the flag State to determine whether effective action has been taken for a violation in a coastal State's waters. FFA Members see this as fundamental to the exercise of our sovereign rights and sovereignty to determine this.

Therefore, our proposed amendments below to paragraphs 15 (b) and (c) separate the treatment of IUU activity in waters within the jurisdiction of a coastal State from IUU activity on the high seas. In particular, the amendment to paragraph 15 (c) ensures that offences within a coastal State's waters could only be resolved through the satisfaction of the coastal State.

Note that the proposed amendments below are the revised amendments that were made to Tonga's proposal and tabled at TCC5.

"15. The TCC shall not include a vessel on the Provisional IUU Vessel List if the vessel's flag State demonstrates that:

(a) The vessel fished in a manner consistent with WCPFC Conservation Measures or the laws and regulations of a State when fishing in waters under the jurisdiction of that State, or have fished exclusively for species not covered by the WCPF Convention; or

(b) For IUU activities that have been carried out in high seas areas, effective action has been taken in response to the IUU fishing activities in question, such as, inter alia, prosecution or the imposition of sanctions of adequate severity; or

(c) For IUU activities that have been carried out within the jurisdiction of a CCM, ~~that the case regarding the vessel or vessels that conducted IUU fishing activities has been settled to the satisfaction of the CCM that originally submitted the vessel for listing and the flag State involved~~ and in accordance with international law."

Like the proposed amendment to paragraph 15, the amendment to paragraph 25 requires the satisfaction of the coastal State CCM in whose waters the fishing violation took place.

PROPOSED AMENDMENT TO PARAGRAPH 25:

“Modification of the WCPFC IUU Vessel List

25. CCMs and non-CCMs with a vessel on the WCPFC IUU Vessel List may request the removal of the vessel from the list at any time during the intersessional period by submitting to the Executive Director suitably documented information demonstrating that:

- a) it has adopted measures that will seek to ensure that the vessel complies with all WCPFC measures; and
- b) it will be able to assume effectively flag state duties with regards to the monitoring and control of the vessel's fishing activities in the Convention Area; and
- c) it has taken effective action in response to the IUU fishing activities that resulted in the vessel's inclusion in the WCPFC IUU Vessel List, including prosecution or the imposition of sanctions of adequate severity; or
- d) the vessel has changed ownership and that the new owner can establish that the previous owner no longer has any legal, financial or real interests in the vessel or exercises control over it, and that the new owner has not participated in IUU fishing activities, or
- e) for IUU fishing activities that have been carried out within the jurisdiction of a CCM, that the case regarding the vessel or vessels that conducted IUU fishing activities has been settled to the satisfaction of ~~the~~ CCM ~~that originally submitted the vessel for listing and the flag State involved~~ and in accordance with international law.”