



## **TECHNICAL AND COMPLIANCE COMMITTEE**

### **Fifth Regular Session**

1-6 October 2009

Pohnpei, Federated States of Micronesia

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## **PROVISIONAL ANNOTATED AGENDA**

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**WCPFC-TCC5-2009/04 (Rev.4)**

**30 September 2009**

### **AGENDA ITEM 1 OPENING OF MEETING**

The meeting will open at 08:30 on Thursday 1 October 2009.

The Chair (Ambassador Wendell Sanford, Canada) will open the Fifth Regular Session of the Technical and Compliance Committee (TCC5) of the Western and Central Pacific Fisheries Commission (WCPFC) and welcome delegations of the WCPFC Members, Cooperating Non-Members, Participating Territories (CCMs) and observers.

#### **1.1 Welcome**

The Chair will introduce (TBA) of (TBA) who will make the welcoming address.

#### **1.2 Adoption of agenda**

The Chair will introduce the Provisional Agenda for TCC5 (WCPFC-TCC5-2009/03) that was prepared and distributed on 1 July 2009 in accordance with Rule 1 of the Commission's Rules of Procedure. The Rules of Procedure adopted at WCPFC1 in December 2004 will apply *mutatis mutandis* until such time as the TCC adopts its own Rules of Procedure (Rule 31). The Rules of Procedure provide that Members may propose supplementary agenda items up until 30 days before the meeting (Rule 3). The Agenda, as modified, will need to be adopted by the meeting (Rule 5).

#### **1.3 Meeting arrangements**

The Chair will invite TCC5 to review the Indicative Schedule (WCPFC-TCC5-2009/05), noting logistical arrangements in place to support the meeting, proposed meeting times and any social events.

### **AGENDA ITEM 2 PRIORITY MONITORING, CONTROL AND SURVEILLANCE (MCS) ISSUES BEFORE THE COMMISSION**

#### **2.1 Regional Observer Programme**

##### **(a) Report of the Third Meeting of the Inter-sessional Working Group**

WCPFC5 extended the mandate of the IWG-ROP for an additional one-year period to continue to progress priority work items and agreed that the third ROP-IWG meeting (ROP-IWG3) be held at Guam, USA. The ROP-IWG3 meeting took place from 17-20 March 2009 at Guam. The ROP-IWG Chair, Dr Charles Karnella (USA) will present the ROP-IWG3 Summary Report to TCC5. TCC5 is invited to consider this report and make recommendations to the Commission for its consideration.

(b) Consideration of outstanding issues

The ROP-IWG3 identified the following outstanding issues; costs, vessel size limitations, source of observers, and related definitions, and recommended that these matters be added to the TCC5 agenda. TCC5 is invited to discuss these issues and provide recommendations to the Commission for its consideration.

(c) Annual Report by the Secretariat (see CMM 2007-01, para.3)

The Secretariat will provide an annual report with regard to the ROP to TCC5 pursuant to para.3 of CMM 2007-01. TCC5 is invited to consider this report and make recommendations to the Commission for its consideration.

(d) Estimated costs of observer data management options

The ROP-IWG3 encouraged the Secretariat to further explore hosting and costing options for consideration at TCC5. The Secretariat will provide a report to TCC5 on the estimated costs of observer data management options. TCC5 is invited to consider this report and provide recommendations to the Commission for its consideration.

(e) Cross-endorsement of IATTC Observers

The Secretariat will provide a report to TCC5 regarding the outcomes of its discussions with the IATTC Secretariat on the issue of cross-endorsement of IATTC observers, in order to allow vessels operating within IATTC and Commission areas on the same fishing trip to use the same observer. TCC5 is invited to consider this report and make recommendations to the Commission for its consideration.

## **2.2 Transshipment verification procedures**

WCPFC5 requested Marshall Islands to continue to lead development of a draft CMM on transshipment, based on the progress achieved at WCPFC5, with the objective of discussing a new draft as a priority issue at TCC5. Although WCPFC5 extended the exemption for non-CCM carrier and bunker vessels for another year, it was agreed that it would be critical to adopt a transshipment measure at WCPFC6 and that a more lasting solution on the issue of non-CCM flag carriers and bunkers was required. TCC5 is invited to consider the results of the working group led by Marshall Islands and make recommendations to the Commission on this issue.

## **2.3 Non-CCM flag carriers and bunkers**

Although WCPFC5 adopted a TCC4 recommendation that the exemption for non-CCM carrier and bunker vessels be extended for a further year, it identified as a priority for 2009 the determination of a more lasting solution to the issue of non-CCM flagged carriers and bunkers. TCC5 is invited to consider options in relation to this issue that may be informed by discussions under TCC5 Agenda Item 2.3.

## **2.4 Charter Arrangements (CMM 2008-01), para.2 and CMM 2008-05, para.7)**

TCC4 directed the Secretariat to produce an analysis of existing draft CMMs by Japan and FFA with respect to chartering and to review provisions of existing decisions of the Commission in relation to chartering for consideration at TCC5. WCPFC5 identified defining guidelines for chartering arrangements as a priority for 2009. TCC5 is invited to consider defining guidelines for chartering arrangements using an information paper on this issue prepared by the Secretariat.

## **2.5 Ad-Hoc Task Group on Data (AHTG [Data])**

(a) Report of the Second Meeting of the AHTG [Data]

WCPFC5 recommended that the Ad Hoc Task Group [Data] (AHTG [Data]) request comments on the latest draft of the Rules and Procedures by mid-February, and work electronically to produce a final draft Rules and Procedures for the Protection, Access to, and Dissemination of Non-Public Domain Data and Information Compiled by the Commission for the Purpose of Monitoring, Control or Surveillance (MCS) Activities in High Seas Areas and Scientific Purposes (R&P) document for discussion at TCC5. The AHTG [Data] Chair, Holly Koehler (USA) will present a Summary Report of the second meeting of the AHTG [Data] to TCC5. TCC5 is invited to consider this report.

(b) Advice and recommendations to the Commission

WCPFC5 identified as a priority in 2009 finalizing the R&Ps for the Protection, Access to, and Dissemination of Non-Public Domain Data and Information Compiled by the Commission for the Purpose of Monitoring, Control or Surveillance (MCS) Activities in High Seas Areas and Scientific Purposes, and recommended that such R&Ps be submitted for consideration and adoption at WCPFC6. TCC5 is invited to provide advice and recommendations to the Commission on these R&Ps.

## **2.6 VMS**

(a) Annual Report on the Commission VMS (see para. 7.3.9 SSPs)

The Secretariat will present an annual report to TCC5 on the Commission VMS pursuant to para. 7.3.9 of the Commission VMS Standards, Specifications and Procedures (SSPs). TCC5 is invited to make recommendations to the Commission pursuant to para. 7.3.10 of the SSPs.

(b) Operating costs of the Commission VMS

WCPFC5 adopted a TCC4 recommendation that with respect to costs for the Commission VMS, CCMs will assume costs for their vessels, and costs for Secretariat operations of the Commission VMS will be borne by the Commission budget. The Secretariat will present a report to TCC5 on the operating costs of the Commission VMS during 2009. TCC5 is invited to consider this report and offer advice and recommendations in relation to costs associated with the Commission VMS to WCPFC6 for its consideration.

(c) Enhancement options and future work (also provided for in para. 7.3.9 SSPs)

The Secretariat will present to TCC5 a report outlining enhancement options and proposals for future work on the Commission VMS, pursuant to para. 7.3.9 of the SSPs. TCC5 is invited to consider this report and make recommendations to the Commission for its consideration.

## **2.7 IUU Vessel List and IUU Listing Procedures**

(a) Draft Provisional IUU Vessel List for 2010

The Secretariat, in implementing its responsibilities in respect of CMM 2007-03, circulated a draft WCPFC IUU Vessel List and accompanying information received to CCMs and non-CCMs with vessels on the list, at least 90 days before TCC5. Based on responses from CCMs and non-CCMs with vessels on the list, at least 30 days before TCC5 the Secretariat compiled a draft WCPFC IUU Vessel List and transmitted it, two weeks in advance of TCC5, to CCMs and non-CCMs concerned, together with all suitably documented information provided. After consideration of the draft WCPFC IUU Vessel List and suitably documented information, TCC5 will recommend a Provisional IUU Vessel List to the Commission.

(b) CMM 2007-03 – Review of outstanding issues from WCPFC5

*(i) Review of paragraph 3(j) of CMM 2007-03*

Paragraph 3(j) of CMM 2007-03 permits the inclusion on the WCPFC IUU Vessel List of vessels that have not themselves engaged in IUU fishing activities but are associated with such vessels by reason of ownership or control. WCPFC5 endorsed a TCC4 recommendation not to apply para. 3(j) of CMM 2007-03 as a criterion for IUU listing in developing the Draft IUU Vessel List in 2009. TCC5 is invited to discuss additional procedures to give effect to this paragraph based on a paper prepared by the Secretariat, in consultation with interested CCMs.

*(ii) Control of nationals*

Following discussion at TCC4 of New Zealand's paper on this issue (WCPFC-TCC4-2008/DP-01, New Zealand agreed to act as coordinator for this subject. CCMs were invited to contribute comments to New Zealand by 15 November 2008 with a view to discussing this in the margins of WCPFC5. In discussion, WCPFC5 identified developing a measure regarding control of nationals as a priority for 2009. TCC5 is invited to consider this matter, including a draft CMM.

*(iii) IUU listing procedures*

WCPFC5 agreed that further development of guidelines for how the Commission should consider and assess the adequacy of any actions taken or sanctions imposed in relation to CMM 2007-03 should be a priority work item and referred the matter to TCC5. It was noted that work on a control of nationals measure may inform this process. TCC5 is invited to further consider this issue, including discussion under TCC5 Agenda Item 2.7(b)(ii), and provide recommendations to the Commission.

(c) Stateless Vessels

The US will present a delegation paper WCPFC-TCC5-2009/DP-04 entitled "Proposed CMM on Stateless Vessels" relating to vessels without nationality.

## **2.8 WCPFC Record of Fishing Vessels**

(a) Current status and developments, including a web-based system for vessel record information

WCPFC5 adopted a TCC4 recommendation that the Secretariat, in consultation with CCMs, develop a web-based system for vessel record information. The Secretariat will provide a summary report to TCC5 on the current status of, and developments related to, the WCPFC Record of Fishing Vessels, the provisions of CMM 2004-01 and Annex IV of the Convention, including a web-based system for vessel record information.

(b) Unique Vessel Identifier

TCC4 discussed the concept of a Unique Vessel Identifier (UVI) for fishing vessels and, while noting the difficulty of this matter, including costs and gathering information, encouraged continued efforts by CCMs, the FAO and the WCPFC Secretariat regarding this matter. The Secretariat will provide a summary report to TCC5 on the results of its continuing work on this matter, including the outcomes of discussion on a UVI at the Second Meeting of Tuna RFMOs at San Sebastian in July 2009.

## **2.9 High Seas Boarding and Inspection**

(a) Annual Reports by CCMs (see para.40, CMM 2006-08)

CCMs that authorize inspection vessels to operate under the WCPFC High Seas Boarding and Inspection Procedures are invited to submit an annual report for TCC5's consideration, pursuant to para. 40 of CMM 2006-08. TCC5 may prepare recommendations based on these annual reports for the Commission's consideration.

(b) Data Buoys

The US will present a delegation paper WCPFC-TCC5-2009/DP-03 entitled "Proposed CMM on Data Buoys" relating to damage to data buoys.

**2.10 Compliance with reporting obligations**

(a) Part 2 Reports

(i) *Submissions by CCMs*

Pursuant to Article 14(2) and Part IV of the Convention, CCMs are invited to report on measures taken to monitor the implementation of relevant provisions of the Convention and decisions adopted by the Commission. Reports will be based on the enhanced guidelines for Part 2 submissions contained in WCPFC5-2008/IP-07, Appendix B as agreed by WCPFC5.

(ii) *Part 2 Report Template*

Paragraph 45 of CMM 2008-01 states, "All CCMs will report to each regular session of the Technical and Compliance Committee, through their Annual Report Part 2, on the implementation of this Measure for their fishing vessels operating on the high seas and/or in waters under national jurisdiction. The Technical and Compliance Committee will prepare a template for reporting this requirement for the consideration of the Commission." TCC5 is invited to prepare a draft Annual Report Part 2 template for reporting on the implementation of CMM 2008-01, for consideration by the Commission.

(b) Report by the Secretariat

Consistent with Article 14(1) of the Convention, that describes the functions of the TCC, the Secretariat will provide a summary report to TCC5 on information received from CCMs, including information received under Article 24(5) of the Convention, relating to the implementation of the Convention and the decisions of the Commission.

(c) Further development of the process for monitoring compliance

After consideration of TCC4's recommendations on this issue, WCPFC5 agreed that further discussions of the terms of reference for a compliance with conservation and management measures (CCMM) working group would occur through electronic means with a view toward holding more focused discussions on the topic at TCC5. TCC5 may consider the outputs of the CCMM working group facilitated by Australia.

**2.11 Advice and recommendations in relation to the implementation of CMMs**

(a) CMM 2004-03 (4.1)

Para. 4.1 of CMM 2004-03 provides scope for review, and amendment as appropriate, of the "Specifications for the Marking and Identification of Fishing Vessels". TCC5 is invited to provide advice and recommendations to the Commission on this matter.

(b) CMM 2006-04, para.6

The Secretariat will present a report on Striped Marlin in the Southwest Pacific to TCC5 pursuant to para. 6 of CMM 2006-04. TCC5 is invited to provide advice and recommendations to the Commission on this matter.

(c) CMM 2007-04, para.6

Paragraph 6 of CMM 2007-04 requires that the SC and TCC annually review any new information on new or existing mitigation measures or on seabird interactions from observer or other monitoring programmes. Where necessary, an updated suite of mitigation measures, specifications for mitigation measures or recommendations for areas of application will then be provided to the Commission for its consideration and review as appropriate. TCC4 reviewed seabird mitigation measures for other RFMOs and the decision points from the TCC4 Summary Report at paragraph 276 state that, “TCC4 discussed the technical specifications provided as Attachment O, Annex 1 and recommended further review of these specifications at SC5 and TCC5, drawing on the most recent decision by IOTC on this matter”. WCPFC-TCC5-2009/33 responds to this TCC4 request. TCC5 is invited, where necessary, to provide to the Commission for its consideration and review as appropriate an updated suite of mitigation measures, specifications for mitigation measures or recommendations for areas of application.

(d) CMM 2008-01, para.21, 24, 26, 29, 43, 44, 45

WCPFC5 identified as a priority for 2009 the development of a Vessel Day Scheme for the high seas. TCC5 is invited to provide advice and recommendations to the Commission on this issue pursuant to para.21 of CMM 2008-01 based on a paper prepared by the Secretariat.

The Secretariat will present a report to TCC5 on additional FAD management options pursuant to para.24 of CMM 2008-01. TCC5 is invited to consider this report, and provide advice and recommendations to the Commission.

CCMs may report to TCC5 on the results of exploration and evaluation of mitigation measures for juvenile bigeye and yellowfin taken around FADs, pursuant to para. 26 of CMM 2008-01. TCC5 is invited to consider these reports, if any, and provide advice and recommendations to the Commission.

Based on reports by CCMs, the Secretariat will present a report to TCC5 on the level of observer coverage on purse seine fishing vessels achieved by CCMs in 2009 using observers drawn from the ROP, pursuant to para.29 of CMM 2008-01. TCC5 is invited to consider this report, and provide advice and recommendations to the Commission.

CCMs may report to TCC5 on the outcomes of monitoring at landing and transshipping ports, to assess the amount of catch by species of tuna and tuna products that are positively identified as originating from fishing activities that contravene any element of the Commission’s CMMs. TCC5 is invited to consider these reports, if any, and provide advice and recommendations to the Commission.

Drawing on work that has been completed by CCMs, the Secretariat will present a report to TCC5 on measuring and monitoring fishing capacity in the WCPO. TCC5 is invited to consider this report, and provide advice and recommendations to the Commission.

CCMs will report to TCC5 on the implementation of CMM 2008-01 for their fishing vessels operating on the high seas and/or in waters under national jurisdiction, pursuant to para. 45 of CMM 2008-01. TCC5 is invited to consider these reports (see Agenda Item 2.10 (a)(i)) and prepare a template for reporting this requirement for the consideration of the Commission (see Agenda Item 2.10 (a)(ii)).

(e) CMM 2008-03, para. 9 and 12

CCMs may report to TCC5 on the conservation and management of sea turtles, pursuant to para. 9 of CMM 2008-03. TCC5, where necessary, may develop an updated suite of mitigation measures, specifications for mitigation measures, or recommendations for their application and provide this information to the Commission for its consideration and review, pursuant to para. 9 and 12 of CMM 2008-03.

(f) CMM 2008-05, para.5 and 11

The status of reviews of swordfish catches reported to WCPFC5 will be reported to TCC5. TCC5 is invited to consider this information, and provide advice and recommendations to the Commission for its consideration.

The Secretariat will provide a report to TCC5 prepared using information provided by CCMs pursuant to para.11 of CMM 2008-03. TCC5 shall monitor and review compliance with CMM 2008-03, and make recommendations to the Commission as may be necessary, pursuant to para.11 of CMM 2008-03.

(g) CMM 2008-06, para.13

Including consideration of advice from the SC, TCC5 may develop its own advice to the Commission on the conservation and management of sharks, pursuant to para.13 of CMM 2008-06.

**AGENDA ITEM 3 APPLICATIONS FOR COOPERATING NON-MEMBER STATUS**

Paragraph 3 of CMM 2008-02 states the Commission's requirements of the TCC in relation to the assessment of applications for Cooperating Non-Member (CNM) status. TCC5 may assess applications for CNM status submitted by non-members to the Executive Director at least 60 days in advance of the TCC5 meeting.

**AGENDA ITEM 4 ADDITIONAL MONITORING, CONTROL AND SURVEILLANCE (MCS) ISSUES BEFORE THE COMMISSION**

**4.1 Port State Measures**

At WCPFC5, in discussion of the TCC Work Programme for 2009-2011, the Commission identified as a priority developing port State measures pursuant to the outcome of the FAO consultations. On the basis of contributions from CCMs that may have participated in the technical consultations convened by the FAO in 2009, TCC5 may review developments in relation to an international port State measures instrument and consider recommendations to the Commission relating to future work in the Commission on this issue.

**4.2 Catch Documentation Scheme**

At WCPFC5 the EC provided a report on progress with developing a WCPFC Catch Documentation Scheme for bigeye tuna. After raising the issue for discussion at WCPFC4, the EC attempted to progress a draft CMM intersessionally, and discussed the issue at TCC4. The EC committed to continuing its work on this issue in 2009, including the possibility of convening an intersessional workshop. Early in 2009 the EC advised the Secretariat that it was unable to continue this work. The Secretariat will provide TCC5 with a discussion document that may serve as a basis for considering other means of progressing this issue.

**4.3 Procedures for granting CNM status**

WCPFC5 adopted CMM 2008-02 governing the process of considering CNM applications from 2009 onward, agreed that incorporating a flowchart illustrating the process into CMM 2008-02 would be useful and referred the matter to TCC5 for action. In early 2009 the Secretariat circulated a draft flowchart to CCMs for their comments. TCC5 will be invited to consider a draft flowchart prepared by the Secretariat based on comments received from CCMs.

## **AGENDA ITEM 5 SPECIAL REQUIREMENTS OF SMALL ISLAND DEVELOPING STATES**

This agenda item will provide an opportunity to discuss the special requirements of developing States in relation to building their capacity to participate in the activities and work program of the TCC, and to support implementation of the Convention and the decisions of the Commission in developing State CCMs

## **AGENDA ITEM 6 FUTURE WORK PROGRAM**

### **6.1 Report by the Secretariat on implementation of the 2009 approved programme of work**

The Secretariat will brief TCC5 on the implementation status of the 2009 TCC work programme approved by WCPFC5.

### **6.2 Draft Work Program for 2010-2014**

Based on the outcomes of discussion on matters before TCC5, and other matters relating to conservation and management measures that may be considered by the Commission, TCC5 will recommend a program of work for the TCC for the period 2010-2014 for subsequent consideration by WCPFC6.

## **AGENDA ITEM 7 SUPPLEMENTARY ITEMS**

### **7.1 Issues arising from SC5**

The Secretariat will brief TCC5 on issues arising from SC5 that relate to the work of the TCC.

### **7.2 Independent Performance Review of the Commission**

WCPFC5 agreed that a WCPFC4 paper prepared by Australia (WCPFC4-2007/DP05) be used as a basis for TCC5 to develop recommendations for a structure and budget so that an independent performance review of the Commission can be conducted in 2010. TCC5 is invited to develop recommendations for a structure and budget for an independent performance review of the Commission for the Commission's consideration.

### **7.3 Cooperation with Other Organizations**

Issues related to cooperation with other organizations of interest to the TCC include cross-endorsement of IATTC observers (see TCC5 Agenda Item 2.1(e)), establishment of a data exchange protocol with the IATTC (Attachment G, WCPFC-SC5-2009/GN-WP-10) and establishment of a formal relationship with the North Pacific Anadromous Fish Commission (NPAFC) (para.271, WCPFC5 Summary Report). The Secretariat will brief TCC5 on the current status of progress in addressing these issues.

### **7.4 Election of Officers**

WCPFC4 confirmed Wendell Sanford (Canada) as Chair of the TCC and Noan Pakop (Papua New Guinea) as Vice-Chair of the TCC. Rule 8 of the Rules of Procedure states, in part, "...the Chairman and Vice-Chairman shall assume office at the end of the session at which they are elected. Subject to Rule 10 they shall hold office for a period of two years and shall be eligible



for re-election.” The TCC is invited to nominate candidates for the offices of TCC Chair and Vice-Chair for consideration by the Commission.

**7.5 Next Meeting.**

The date and venue for the Sixth Regular Session of the TCC will be agreed.

**AGENDA ITEM 8 REPORT TO THE COMMISSION**

**8.1 Adoption of the summary report of the Fifth Regular Session of the Technical and Compliance Committee, and any recommendations to the Commission**

TCC5 will need to adopt a report, including advice and recommendations, to the Commission.

**AGENDA ITEM 9 CLOSE OF MEETING**

**9.1 Close of meeting**

The meeting is scheduled to close at 18:00 on Tuesday, 6 October 2009.

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