



TECHNICAL AND COMPLIANCE COMMITTEE

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US PROPOSAL TO REVISE CMM 2004-01

WCPFC-TCC5-2009/DP-02

7 September 2009

Proposal by the United States

Record of Fishing Vessels and Authorization to Fish¹ Conservation and Management Measure – 2004 – 01

A. Authorization to fish

1. Each member² of the Commission shall:
 - (a) authorize its vessels to fish in the Convention Area, consistent with article 24 of the Convention, only where it is able to exercise effectively its responsibilities in respect of such vessels under the 1982 Convention, the Agreement and this Convention;
 - (b) take necessary measures to ensure that its vessels comply with conservation and management measures adopted pursuant to the Convention;
 - (c) take necessary measures to ensure that fishing for highly migratory fish stocks in the Convention Area is conducted only by vessels flying the flag of a member of the Commission and by non-member-flagged fishing vessels that are authorised by the Commission to be used for receiving transshipments and bunkering and supplying fishing vessels in the Convention Area in accordance with the provisions of Annex A of this measure;
 - (d) take necessary measures to ensure that any fishing vessel flying its flag conducts fishing in areas under the national jurisdiction of another State only where the vessel holds an appropriate license, permit or authorization, as may be required by such other State;
 - (e) undertake to manage the number of authorizations to fish and the level of fishing effort commensurate with the fishing opportunities available to that member in the Convention Area;
 - (f) ensure that no authorization to fish in the Convention Area is issued to a vessel that has a history of illegal, unreported or unregulated (IUU)

¹ As contained in Annex I of the Final Report of Working Group III [WCPFC/PrepCon/46]

² The term “member” when used in this measure includes cooperating non-members.

fishing, unless the ownership of the vessel has subsequently changed and the new owner has provided sufficient evidence demonstrating that the previous owner or operator has no legal, beneficial or financial interest in, or control of the vessels, or the member concerned is satisfied that, having taken into account all relevant facts, the vessel is no longer engaged in or associated with IUU fishing;

- (g) withdraw authorizations to fish consistent with article 25(4) of the Convention;
- (h) take into account the history of violations by fishing vessels and operators when considering applications for authorization to fish by fishing vessels flying its flag;
- (i) take necessary measures to ensure that the owners of the vessels on the WCPFC Record of Fishing Vessels flying its flag are citizens, residents or legal entities within its jurisdiction so that any control or punitive actions can be effectively taken against them.

2. Each member of the Commission shall take necessary measures to ensure that its fishing vessels, when in the Convention Area, tranship to, and are bunkered or otherwise supplied by either:

- (a) vessels flagged to members, or
- (b) vessels flagged to States not members of the Commission only if such vessels are on the WCPFC Register of non-member Carrier and Bunker Vessels established in Annex A of this measure.

3. No member of the Commission shall allow any fishing vessel entitled to fly its flag to be used for fishing in the Convention Area beyond areas of national jurisdiction unless it has been authorized to do so by the appropriate authority or authorities of that member.

34. Each ~~such~~ authorization shall set forth for the vessel to which it is issued:

- (a) the specific areas, species and time periods for which the authorization is valid;
- (b) permitted activities by the vessel;
- (c) a prohibition of fishing, retention on board, transshipment or landing by the vessel in areas under the national jurisdiction of another State except pursuant to any license, permit or authorization that may be required by such other State;
- (d) the requirement that the vessel keep on board the authorization issued pursuant to paragraph 1 above, or certified copy thereof; any license, permit or authorization, or certified copy thereof, issued by a coastal State, as well as a valid certificate of vessel registration; and

- (e) any other specific conditions to give effect to the provisions of the Convention and conservation and management measures adopted pursuant to it.

B. Members' record of fishing vessels

45. Pursuant to article 24(4) on the Convention, each member of the Commission shall maintain a record of fishing vessels entitled to fly its flag and authorized to fish in the Convention Area beyond its area of national jurisdiction, and shall ensure that all such fishing vessels are entered in that record.

56. Each member of the Commission shall submit, electronically where possible, to the Executive Director by 1 July 2005 the following information with respect to each vessel entered in its record:

- (a) name of the fishing vessel, registration number, WCPFC Identification Number (WIN), previous names (if known) and port of registry;
- (b) name and address of the owner or owners;
- (c) name and nationality of the master;
- (d) previous flag (if any);
- (e) International Radio Call sign
- (f) vessel communication types and numbers (Inmarsat A, B and C numbers and satellite telephone number);
- (g) colour photograph of the vessel;
- (h) where and when the vessel was built;
- (i) type of vessel;
- (j) normal crew complement;
- (k) type of fishing method or methods;
- (l) length;
- (m) moulded depth;
- (n) beam;
- (o) gross registered tonnage;
- (p) power of main engine or engines;
- (q) carrying capacity, including freezer type, capacity and number, and fish hold capacity; and
- (r) the form and number of the authorization granted by the flag State including any specific areas, species and time periods for which it is valid.

~~6-7.~~ After 1 July 2005, each member of the Commission shall notify the Executive Director, within 15 days, or in any case within 72 hours before commencement of fishing activities in the Convention Area by the vessel concerned, of:

- (a) any vessel added to its Record along with the information set forth in paragraph 56;
- (b) any change in the information referred to in paragraph 56 with respect to any vessel on its record; and

(c) any vessel deleted from its record along with the reason for such deletion in accordance with article 24 (6) of the Convention,

78. Each member of the Commission shall submit to the Executive Director, information requested by the Executive Director with respect to fishing vessels entered in its national record of fishing vessels within fifteen (15) days of such request.

9. Before 1 July of each year, each member of the Commission shall submit to the Executive Director a list of all vessels that appeared in its record of fishing vessels at any time during the preceding calendar year, together with each vessel's registration number, the WCPFC identification number (WIN) and an indication of whether each vessel fished for highly migratory fish stocks in the Convention Area beyond its area of national jurisdiction. The indication shall be expressed as (a) fished, or (b) did not fish.

10. Members that operate joint-venture or charter arrangements that result in data reporting obligations being conferred to a party other than the flag State will make arrangements to ensure that the flag State can meet its obligations under paragraph 9.

C. WCPFC Record of Fishing Vessels

811. The Commission shall, in accordance with article 24(7) of the Convention and based on the information provided to the Commission in accordance with the Convention and these procedures, establish and maintain its own record of fishing vessels authorized to fish in the Convention Area beyond the national jurisdiction of the member of the Commission whose flag the vessel is flying. Such record shall be known as the WCPFC Record of Fishing Vessels.

12. The WCPFC Record of Fishing Vessels shall include for each vessel an indication of whether or not it was active in the Convention Area beyond its flag State's area of national jurisdiction in each of the preceding years starting in 2007, consistent with the information provided by members under paragraph 9.

D. Implementation of the WCPFC Record and Register

13. The Executive Director shall ensure that due publicity is given to the WCPFC Record of Fishing Vessels and the WCPFC Register of non-member Carrier and Bunker Vessels, including making ~~its~~ their contents available through an appropriate website.

1014. In addition, the Executive Director shall circulate an annual summary of the information contained in the WCPFC Record of Fishing Vessels and the WCPFC Register of non-member Carrier and Bunker Vessels to all members of the Commission at least 30 days prior to the regular annual ~~meeting~~ session of the Commission.

- ~~415~~. Members of the Commission shall review their own internal actions and measures taken pursuant to paragraph 1, including sanctions and punitive actions and, in a manner consistent with domestic law as regards disclosure, report annually to the Commission the results of the review. In consideration of the results of such review, the Commission shall, if appropriate, request that the ~~Flag-flag~~ State, or member, of vessels on the WCPFC Record of Fishing Vessels take further action to enhance compliance by those vessels with WCPFC conservation and management measures.
- ~~4216~~. Any vessel not included in the WCPFC Record of Fishing Vessels or the WCPFC Register of non-member Carrier and Bunker Vessels shall be deemed not to be authorized to fish for, retain on board, transship or land highly migratory fish stocks in the Convention Area beyond the national jurisdiction of its flag State. Each member of the Commission shall prohibit such activities by any vessel entitled to fly its flag that is not included on the Record and shall treat a violation of this prohibition as a serious violation.
- ~~4317~~. Each member of the Commission shall further prohibit landing at its ports or transshipment to vessels flying its flag of highly migratory fish stocks caught in the Convention Area by vessels not entered on the WCPFC Record of Fishing Vessels or the WCPFC Register of non-member Carrier and Bunker Vessels.
- ~~4418~~. Each member of the Commission shall notify the Executive Director, in accordance with the relevant provisions of article 25 of the Convention, of any factual information showing that there are reasonable grounds to suspect that a vessel that is not on the WCPFC Record of Fishing Vessels or the WCPFC Register of non-member Carrier and Bunker Vessels is or has been engaged in fishing for or transshipment of highly migratory fish stocks in the Convention Area.
- ~~4519~~. If such vessel is flying the flag of a member of the Commission, the Executive Director shall notify that member and shall request that member to take the necessary measures to prevent the vessel from fishing for highly migratory fish stocks in the Convention Area and to report back on the actions taken with respect to the vessel.
- ~~4620~~. If such vessel is flying the flag of a non-member without cooperating status or if the flag of the vessel cannot be determined, the Executive Director shall inform all members of the Commission so that they may, in addition to measures specified in paragraph ~~4317~~, take appropriate action consistent with the Convention.
- ~~4721~~. The Commission and the members concerned shall communicate with each other, and make the best efforts with FAO and other relevant regional fishery management bodies to develop and implement appropriate measures, where feasible, including the establishment of records of a similar nature in a timely manner so as to avoid adverse effects upon fishery resources in other oceans. Such adverse effects might consist of excessive fishing pressure resulting from

a movement of IUU fishing vessels between areas covered by other regional fishery management organizations.

D22. The Executive Director will use all available information supplied by Commission members to assist in the assessment of the implementation of this and other relevant conservation and management measures and resolutions for the annual consideration of the Technical and Compliance Committee.

E. General

1823. The obligations and responsibilities set forth in these provisions for members shall apply equally to any cooperating non-member designated by the Commission, and the term “member” when used in this measure includes cooperating non-members.

1924. The Commission shall keep these procedures under review and may amend them as appropriate.

Annex A
WCPFC Register of non-Member Carrier and Bunker Vessels

1. The Commission shall establish and maintain a register of carrier and bunker vessels flying the flag of States that are not members of the Commission. Such register shall be known as the WCPFC Register of non-member Carrier and Bunker Vessels.
2. Vessels that are included by the Commission on the WCPFC Register of non-member Carrier and Bunker Vessels in accordance with the provisions of this section shall be deemed to be authorised to be used in the Convention Area to receive transshipments of highly migratory fish stocks and to bunker or otherwise supply member-flagged fishing vessels used to fish for highly migratory fish stocks.
3. Any member of the Commission may at any time submit to the Executive Director, in electronic format if possible, a list of any carrier vessels and bunker vessels that it wishes to be included on the WCPFC Register of non-member Carrier and Bunker Vessels. This list shall include the following information for each vessel:
 - (a) flag of the vessel;
 - (b) name of vessel, registration number;
 - (c) previous names (if known);
 - (d) previous flag (if any and if known);
 - (e) details of previous deletion from other registries (if any and if known);
 - (f) international radio call sign;
 - (g) type of vessel;
 - (h) length;
 - (i) gross registered tonnage (GRT);
 - (j) carrying capacity;
 - (k) name and address of owner(s);
 - (l) name of vessel master(s) (if known);
 - (m) colour photograph of the vessel (if available); and
 - (n) normal crew complement.
4. The member(s) recommending vessels to be included on the Register of non-member Carrier and Bunker Vessels shall attest that the vessel or vessels being recommended are not vessels:
 - (a) with a history of illegal, unreported or unregulated (IUU) fishing, unless the ownership of the vessel has subsequently changed and the new owner has provided sufficient evidence demonstrating that the previous owner or operator has no legal, beneficial or financial interest in, or control of the vessels, or the member concerned is satisfied that, having taken into account all relevant facts, the vessel is no longer engaged in or associated with IUU fishing; or
 - (b) that are currently listed on any of the IUU vessel lists adopted by regional fishery management organizations (RFMOs); or

- (c) that were removed from the WCPFC Register of non-member Carrier and Bunker Vessels pursuant to paragraph 9 within the one-year period prior to the receipt of the information under paragraph 3.
- 5. It shall be a condition for inclusion on the WCPFC Register of non-member Carrier and Bunker Vessels that the owner or manager/operator of the vessel provides a written undertaking, addressed to the Commission, that the owner, manager/operator and master of the carrier or bunker vessel will fully comply with all applicable decisions of the Commission, including conservation and management measures. Any reference in Commission decisions to member-flagged vessels shall be construed to include non-member flagged-vessels for the purposes of these written undertakings. This undertaking shall include an explicit commitment to accept high seas boardings and inspections in accordance with the Commission's Boarding and Inspection Procedures. The Secretariat will post on the Commission website a list of all the applicable conservation and management measures and other applicable Commission decisions that the written undertaking must cover. It will also be a condition that the owner, manager/operator or master of the carrier or bunker vessel will notify the Secretariat of any changes to the information provided under paragraph 3 within 15 days of the change.
- 6. Failure by the owner, manager/operator or master of a vessel on the WCPFC Register of non-member Carrier and Bunker Vessels to fully comply with applicable decisions of the Commission, including conservation and management measures, shall constitute an appropriate basis for placement of such vessel on the Commission's Draft IUU Vessel List in accordance with the relevant conservation and management measure for establishing the WCPFC IUU Vessel List.
- 7. Within 7 business days of receipt of complete information for a carrier or bunker vessel under paragraphs 3-5, the Secretariat will include the vessel on the WCPFC Register of non-member Carrier and Bunker Vessels, and within 7 business days of receipt of any changes to such information, the Secretariat will include the updated information in the Register. For each vessel, the Register will include all the information listed in paragraph 3, a copy of the written undertaking provided under paragraph 5, and the name(s) of the member(s) of the Commission that requested inclusion of the vessel on the Register.
- 8. The Secretariat will periodically monitor the IUU vessel lists maintained by RFMOs. At any time the Secretariat finds that a vessel on the WCPFC Register of non-member Carrier and Bunker Vessels has been placed on one of those IUU vessel lists, it will:
 - (a) immediately notify the members of the Commission and the owner of the vessel of its finding and that the vessel will be removed from the WCPFC Register of non-member Carrier and Bunker Vessels, effective 30 days from the date of the notice; and

- (b) 30 days from the notice given under sub-paragraph (a), remove the vessel from the WCPFC Register of non-member Carrier and Bunker Vessels.
9. The members of the Commission shall monitor the performance of the vessels on the WCPFC Register of non-member Carrier and Bunker Vessels with respect to the written undertakings submitted under paragraph 5. If at any time a member of the Commission finds evidence that the owner, manager/operator or master of a vessel on the WCPFC Register of non-member Carrier and Bunker Vessels has failed to fully discharge those undertakings:
- (a) the member of the Commission shall immediately submit such evidence to the Secretariat;
 - (b) the Secretariat will immediately circulate such evidence to the members of the Commission;
 - (c) the Commission shall review the evidence and decide whether or not to remove the vessel from the WCPFC Register of non-member Carrier and Bunker Vessels. If the Commission is to next meet between 14 and 60 days after the circulation made under paragraph 9(b), such decision shall be made in the next session of the Commission, otherwise it shall be made in accordance with the Commission Rules of Procedure as they relate to inter-sessional decision-making;
 - (d) if the Commission decides to remove a vessel from the WCPFC Register of non-member Carrier and Bunker Vessels, the Secretariat will notify the owner of the vessel of the decision within 7 days and remove the vessel from the Register 30 days after the Commission's decision.