



TECHNICAL AND COMPLIANCE COMMITTEE

Fifth Regular Session

1-6 October 2009

Pohnpei, Federated States of Micronesia

TONGA – PROPOSED AMENDMENT TO PARAGRAPH 15 OF CMM 2007-03

WCPFC-TCC5-2009/DP-12 (Rev.1)

06 October 2009

Proposal by Tonga

TCC4 noted with concern the issue raised by Tonga regarding when a flag State has made sufficient action with respect to an IUU incident. Paragraph 15 of the CMM 2007-03 places the onus on the flag State to demonstrate that it has fulfilled any one of the actions (below) so that the TCC does not list the vessel on the Provisional IUU List.

Paragraph 15 of CMM 2003-07 provides that:

“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;
- b) 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) 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.”

Tonga strongly believes that coastal State satisfaction should be the only consideration in order for a vessel not to be placed on the Provisional IUU List.

Attachment A includes amendments to paragraph 15 b) and c) that seek to separate the treatment of IUU activity in an EEZ from IUU activity on the high seas. In particular, the amendment to paragraph 15 c) ensures that EEZ offences or contravention of national laws could only be resolved through the satisfaction of the coastal State.

It is also intended that a high seas offence would be subject to the test of “adequate severity”. Criteria based on the types of issues described by Tonga throughout 2008 could form the basis for qualifying adequate severity such as the number of offences committed on the high seas, the number of days the vessel has spent fishing illegally on the high seas.

Attachment A

“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, ~~t~~hat 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.~~”