



SIXTH REGULAR SESSION
Papeete, Tahiti, French Polynesia
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AUSTRALIA - DRAFT CCMM TERMS OF REFERENCE SENT TO WCPFC6

WCPFC6-2009/DP17
26 November 2009

Submitted by Australia

At the 5th Regular Session of the Western and Central Pacific Fisheries Commission (WCPFC5) in December 2008, WCPFC5 agreed that further discussions of the terms of reference for a Compliance with Conservation and Management Measures (CCMM) Working Group, as proposed by Australia, would occur through electronic means with a view toward holding more focused discussions on the topic at TCC5.

On 26 June 2009 the Secretariat distributed to all WCPFC Official Contacts a letter from Australia with draft Terms of Reference for the CCMM Working Group for members' considerations.

At TCC5 in October 2009, three CCMMs sought further time to consider the Terms of Reference. TCC5 agreed that CCMMs should provide any comments to Australia by 2 November 2009.

A revised Terms of Reference is provided at **Attachment A** for WCPFC5's consideration and approval.

Draft Terms of Reference for the Compliance with Conservation and Management Measures Working Group

The Compliance with conservation and management measures (CMMs) Working Group (the C-CMM Working Group) shall comprise a Chair, the Executive Director and any WCPFC Member wishing to participate. The working group will convene intersessionally and, to the extent possible, progress its work through electronic means.

The Working Group shall recommend to TCC6 options for an effective structure and process for a WCPFC Compliance Monitoring Scheme in light of the direction provided by WCPFC6 in regard to the objective and scope for such a scheme.

The Working Group shall consider:

1. Procedures for reporting of information on compliance with WCPFC CMMs, including tasks for the Secretariat and consideration of the timing and frequency of reports (if different than annual reporting requirements)

Work under this item could include:

- (a) categorization of CMMs into groups depending on the type and severity of compliance issues that might arise;
- (b) consideration of processes to ensure that information is available in a form and within a timeframe that supports consideration under a Compliance Monitoring Scheme; and
- (c) recognition of the sensitive and confidential nature of some of this information and identification of existing processes for sharing of this data.

2. Process to review information on non-compliance by CCMs

Work under this item could include consideration and possible development of transparent process(es) to:

- (a) review the information provided by the Commission;
- (b) seek any additional or clarifying information available;
- (c) provide an opportunity for CMMs and relevant non-CCMs to respond to the information pertaining to alleged non-compliance; and
- (d) determine, based on available information, whether there is a situation of non-compliance.

3. Options available to respond to instance(s) of non-compliance, as determined by a process to be developed (see paragraph 2).

Work under this item could include establishing processes to engage with non-compliant CCMs / non-CCMs, identifying the cause for non-compliance and addressing obstacles to compliance (including consideration of the special requirements of small island developing States), identifying opportunities for capacity building cooperation and training, and establishing guidelines for prescribing incentives.

4. Procedures for addressing situations where compliance obligations have not been met.

Work under this item could include establishing a fair, non-discriminatory and transparent process to address non-compliance, including, but not limited to recommendations for any punitive actions to be taken, the impact, degree, severity, importance and reason for such non-compliance,

and consideration of decision-making processes that would prevent a non-compliant party from blocking punitive action.

5. Structures and resources required to support an effective and efficient Compliance Monitoring Scheme

Work under this item could include:

- (a) considering the best place for this function within the Commission, for example, in a new subcommittee or working groups under existing subsidiary bodies or for the Commission to be responsible for the Scheme
- (b) ensuring that the functions of the TCC are not duplicated;
- (c) assessing compatibility of the Scheme with other RFMO compliance schemes;
- (d) assessing the Scheme's utility to the Commission and its subcommittees, including identifying triggers for review of the Compliance Monitoring Scheme; and
- (e) assessing the cost of the Scheme.