



TECHNICAL AND COMPLIANCE COMMITTEE

Third Regular Session

27 September – 02 October 2007
Pohnpei, Federated States of Micronesia

Framework for Access to Different Types of Non-Public Data; Draft Data Request Form and Draft Confidentiality Agreement

WCPFC-TCC3-2007/18

30 August 2007

Introduction

1. The Scientific Committee's Statistics Specialist Working Group (ST-SWG), at the First Regular Session of the Committee, 8-19 August 2005, Noumea, New Caledonia proposed the establishment of Task Group to identify types of data that must be treated as confidential and to develop draft rules and procedures to govern the security and confidentiality of data collected and held by the Commission. The Scientific Committee endorsed this proposal which was subsequently adopted by the Second Session of the Commission, 12-16 December 2005 at Palikir, Federated States of Micronesia.
2. The Executive Director arranged for the AHTG [Data] to meet in the week preceding the Second Regular Session of the Scientific Committee, 31 July to 4 August 2006 at Manila, Philippines. The Chair of the ST-SWG, Mr Kim Duckworth (New Zealand) was asked to convene the AHTG [Data] meeting and was subsequently selected by attendees to be its Chair.
3. By Circular and web posting in April 2006, all Members, Cooperating Non-Members and Participating Territories (CMMs) were invited to participate in the AHTG [Data] meeting. As discussion during the AHTG was anticipated to include consideration of rules and procedures for both compliance and science data, together with data security, participation by representatives with experience in administering both kinds of data was encouraged.
4. Twelve CCMs, including the Chairs of the Scientific Committee and the Technical and Compliance Committee, and an observer, participated in the 5-day meeting in Manila. The Summary Record of the AHTG [Data] is posted on the Commission's website (www.wcpfc.int).
5. The Second Regular Session of the Scientific Committee, 7-18 August 2006 at Manila, Philippines received the report of the work of the AHTG [Data]. The Scientific Committee recommended:

"6.14 The Executive Director, in collaboration with the Chair of the Commission and officers of WCPFC subsidiary bodies, develop a framework for access to non-public domain data by CCMs. The framework may include, *inter alia*, guidelines for access to different data

types, the possibility of standing authorizations, compliance with the Commission's policy for the provision of data and a mechanism for resolving disputes.

6.15 The Executive Director should be tasked with developing a Data Request form and Confidentiality Agreement to be used in association with the rules and procedures for the access to and dissemination of data compiled by the Commission. The Executive Director shall be responsible for reporting the logs of requests for public and non-public domain data. The Executive Director will submit a draft of the Data Request form and Confidentiality Agreement for adoption by the Commission.

6.16 Pending comments from the TCC, the Commission adopt the Draft Rules and Procedures for the Access to and Dissemination of Data Compiled by the Commission (*Final Report of the Ad Hoc Task Group [Data], Attachment F*).

6.17 The Secretariat proceeds with further development of an Information Security Policy, based on ISO17799 Information Security Management standards.

6.18 The Secretariat is allocated sufficient resources to further develop and implement the Information Security Policy".

6. The Second Regular Session of the Technical and Compliance Committee, 28 September to 3 October 2006 at Brisbane Australia also received a brief report from the Chair of the AHTG [Data]. The Summary Report of the Technical and Compliance Committee noted:

"... the valuable work of the AHTG [Data] recognizing that this Group reports directly to the Commission for its review and final decision. Because of this procedural point, TCC2 did not conduct further consideration on the paper in detail. It was agreed that if CCMs had any particular comments on the report that they should communicate them directly to the Secretariat through their TCC representative by 27 October 2006".

7. In addition to noting the need to provide for cooperative data sharing arrangements with other RFMOs, the Third Regular Session of the Commission which met 11-15 December 2006 at Apia, Samoa adopted the report of the AHTG [Data] as a "living document", noting reservations tabled in writing by Japan. The Commission invited SC3 and TCC3 to further refine the report of the AHTG [Data] as necessary and table advice and recommendations for subsequent consideration at the Fourth Regular Session of the Commission scheduled for December 2007.

8. In response to the requests of the AHTG [Data] the Executive Director, in collaboration with officers of WCPFC subsidiary bodies developed Draft Framework for Access to Different Types of Non-Public Domain Data; a Draft Data Request Form and Draft Confidentiality Agreement.

9. The Third Regular Session of the Scientific Committee which met at Honolulu, USA, 13-24 August 2007 reviewed the Rules and Procedures for Access to, and Dissemination of, Data Compiled by the Commission adopted at WCPFC3 together with comments that were subsequently received from CCMs as presented in the draft revision prepared by the Convener of the Statistics Specialist Working Group (who was also Chair of the AHTG [Data]) (WCPFC-SC3-ST-IP-9). The Scientific Committee forwarded the Rules and Procedures for Access to, and Dissemination of, Data Compiled by the Commission, as revised by the Scientific Committee to the Technical and Compliance Committee so they might be considered by TCC3 and the Commission.

10. The Scientific Committee noted that, while there was general support for the draft Framework for Access to Non-public Domain Data, Data Request Form and Confidentiality Agreement that had been prepared by the Executive Director as presented in WCPFC-SC3-ST-

WP1, it was necessary to adopt Rules and Procedures for Access to, and Dissemination of, Data Compiled by the Commission before the Framework could be further refined.

11. On the basis that the Third Regular Session of the Technical and Compliance Committee will make progress towards finalizing the Rules and Procedures for Access to, and Dissemination of, Data Compiled by the Commission, the Draft Framework, Draft Data Request Form and Draft Confidentiality Agreement are also provided for review, refinement and possible recommendation to the Commission for adoption by the Committee.

Recommendation

12. TCC3 is invited to:

- i. consider the Draft Framework for Access to Different Types of Non-Public Domain Data (Attachment A);
- ii. consider the draft Data Request Form (Attachment B);
- iii. consider the Draft Confidentiality Agreement (Attachment C); and
- iv. recommend any refinements in relation to the issues considered by the AHTG [Data] and propose additional work required to progress the policies and procedures relating to the management of data in the Commission.



[DRAFT] FRAMEWORK FOR ACCESS TO NON-PUBLIC DOMAIN DATA

1. In accordance with the policies for data security and confidentiality established by the Commission's Information Security Policy (ISP), a member, participating territory or cooperating non-member (CCM) shall have access to non-public domain data types describing the activities of any vessels:
 - a) flying their flag in the WCPFC Convention Area;
 - b) operating under the jurisdiction of that member or cooperating non-member, including through joint-venture and/or charter arrangements (as described in paragraph 6 of the Commission's requirements in respect of Scientific Data to be provided to the Commission);
 - c) fishing in waters under their jurisdiction; and
 - d) unloading of fish in their ports or transshipped.
2. Non-public domain data, other than those listed in paragraph 1 above, shall be available to a CCM to serve the purposes of the Convention, including for the purpose of compliance and enforcement activities on the high seas and for scientific and other research, upon authorization by the Executive Director.
3. In regard to paragraph 2:
 - a) CCMs shall provide a written request for access to such data to the Executive Director, specifying the purpose of the Convention by reference to the relevant article(s).
 - b) The CCM shall undertake to only use such data for the purpose described in the written request.
 - c) The Executive Director shall not authorize the release of more data than is necessary to achieve the purpose described in the written request.
 - d) The Executive Director shall not authorize access to such data by any CCM that has not fulfilled its data-related obligations to the Commission for [2] consecutive years until all matters concerning non-compliance are rectified.
 - e) The Executive Director may attach conditions appropriate for the access to such data (such as that the data be deleted upon achievement of the purpose for which it was released or by a pre-determined date, that a register of persons accessing the data be maintained and furnished to the Commission upon request, etc.)
 - f) Requests may be made for a standing authorization, such that CCMs may have multiple accesses to the requested data for the same purpose of the original written request.

4. Dissatisfaction with the Executive Director's decisions in regard to access to non-public domain data by CCMs shall be resolved by the Chair of the Commission.



D R A F T
DATA REQUEST FORM

1. Data Requested

The specification of data being requested should refer to the type of data and any parameters relevant to the type of data, which may include, inter alia, the gear types, time periods, geographic areas and fishing nations covered, and the level of stratification of each parameter.

[Insert the list of data sets here]

2. Purpose

If non-public domain data are being requested, the use of the data shall be authorised only for the purpose described below.

[If non-public domain data are being requested, insert the description of the purpose for which the data is requested]

3. Persons for Whom Access to the Data is Requested

If non-public domain data are being requested, the name(s), job title(s) and affiliation(s) of the person(s) for whom access to the data is being requested shall be listed below; the use of the non-public domain data shall be authorised only for the person(s) listed below. If public domain data are being requested, the name, job title and affiliation of the person requesting the data shall be listed below.

[Insert the list of persons here]



D R A F T
CONFIDENTIALITY AGREEMENT

Confidentiality Agreement for the Dissemination of Non-Public Domain Data by the Western and Central Pacific Fisheries Commission

I/we agree to the following:

- *Prior to the publication of any report of an analysis for which the requested data will be used, the report shall be provided to and cleared by the Executive Director of the Western and Central Pacific Fisheries Commission, who shall ensure that no non-public domain data will be published.*
- *The data shall be used only for the purpose for which the data are being requested, be accessed only by the individuals listed in (3) above, and be destroyed upon completion of the usage for which the data are being requested.*

[If non-public domain data are being requested, then insert the name(s) and signature(s) of all persons listed in (3) above, and the date, here]