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**Procedures for Applying Paragraph 3(j) of WCPFC CMM 2007-03**

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**WCPFC7-2010-DP/16 Rev 1**

## Procedures for Applying Paragraph 3(j) of WCPFC CMM 2007-03

These procedures are to be followed by the Commission in applying paragraph 3(j) of WCPFC CMM 2007-03. The procedures must work in concert and not conflict with the procedures outlined in CMM 2007-03, and the rules and responsibilities of TCC and the Commission.

### Ownership and control

1. For the purposes of these procedures, the legal or natural person(s) or entity/entities that own and control a vessel (the “owner(s) of record”) are those indicated on the WCPFC Record of Fishing Vessels or the WCPFC Interim Register of non-Member Carrier and Bunker Vessels. If a vessel is not on either of those lists, then the owner of record is the owner or owners as indicated on the vessel’s national registration document.

2. For the purposes of these procedures, a vessel shall be considered to have the same owner(s) of record where one or more of the legal or natural person(s) or entity/entities indicated on the WCPFC Record of Fishing Vessels or the WCPFC Interim Register of non-Member Carrier and Bunker Vessels is the same. If a vessel is not on either of those lists, then the owner(s) of record is/are the same where one or more of the legal or natural person/s or entity/entities indicated on the vessel’s national registration document is/are the same.

3. For the purpose of considering whether to add or remove a vessel or vessels from the Provisional WCPFC IUU Vessel List or the WCPFC IUU Vessel List pursuant to paragraph 3j and paragraph 25(d) of CMM 2007-03, the owner(s) of record will not be considered to have changed unless the new owner(s) of record provides suitably documented informationevidence demonstrating to the satisfaction of the Commission that the ownership of the vessel has changed, that the previous owner(s) of record no longer has any legal, financial or real interests in it, and that the new owner(s) of record has not participated in any IUU fishing activities.

### Identification and nomination of vessels

4. For the purposes of these procedures, a vessel may be nominated by a CCM under paragraph 3(j) of CMM 2007-03 if it meets the condition in paragraph (a) below, and the conditions in either ~~or both~~ paragraphs (b) or (c) below:

- a. The fishing vessel to be nominated:
  - i. is currently operating in the Convention Area; or
  - ii. has operated in the Convention Area at any time since the date of the infringement(s) that led to the listing of the underlying vessel(s) on the WCPFC IUU Vessel List (as defined below in paragraph (b)); and
  - iii. is, or was at any time since the date of infringement(s) that led to the listing of the underlying vessel(s) (as defined below in paragraph (b)) on the WCPFC IUU Vessel List, on the WCPFC Record of Fishing Vessels or the WCPFC Interim Register of non-Member Carrier and Bunker Vessels.

b. The owner of record is the owner of record of ~~three~~ or more vessels currently on the WCPFC IUU Vessel List (hereafter “the underlying vessel(s)”).

- c. The owner of record has one or more vessels that have been included on the WCPFC IUU Vessel List for the last two years or more (hereafter “the underlying vessels”).

5. For the purposes of these procedures, all additional vessels fully or partly owned by the same owner of record as the underlying vessel(s) that meet condition 4(a) shall be considered together and either all or none will be placed on the WCPFC IUU Vessel List. Similarly, all additional vessels fully or partly owned by the same owner of record as the underlying vessel(s) that meet condition 4(a) will be considered as one and either all or none will be removed from the WCPFC IUU Vessel List.

### **Information to be provided**

6. CCMs shall submit suitably documented information demonstrating that the fishing vessels they wish to nominate under paragraph 3(j) of CMM 2007-03 meet the criteria set out in paragraph 4 of these procedures. CCMs shall submit this information to the Executive Director ~~84~~20 days before the annual meeting of the TCC along with the list of fishing vessels being nominated (hereinafter “3j” vessels).

7. Before or at the same time as transmitting a list of 3j vessels to the Executive Director, the CCM shall notify, either directly or through the Executive Director, the relevant flag State of the vessels’ inclusion on this 3j list, and provide a copy of the pertinent suitably documented information. The flag State shall promptly acknowledge receipt of the notification. If no acknowledgment is received within 10 days of the date of transmittal, the CCM shall retransmit the notification through an alternative means of communication.

### **Draft IUU Vessel List**

8. The Executive Director shall include on the Draft IUU Vessel List, which is drawn up and circulated in accordance with the provisions of CMM 2007-03, those 3j vessels that have been nominated by CCMs in accordance with these procedures.

9. The Executive Director shall notify the relevant flag states of the inclusion of their 3j vessels on the draft IUU Vessel List and of the consequences of these vessels being confirmed on the IUU Vessel List.

10. As appropriate, relevant flag states with 3j vessels on the Draft IUU Vessel List may transmit to the Executive Director, at least ~~23~~0 days before the TCC’s annual meeting, suitably documented information showing the 3j vessels do not meet the criteria outlined in paragraph 4 of these procedures. The Executive Director shall circulate this information to all CCMs immediately upon receipt of such information.

11. Small island developing CCMs may provide additional information to the Executive Director prior to TCC, or anytime before the Annual Commission meeting to advise that the proposed IUU listing of such 3j vessels would constrain the operation of domestic processing, transshipment facilities, or associated vessels of small island developing CCMs, or would undermine existing investment in FFA member countries. The Executive Director shall circulate this information to all CCMs immediately upon receipt of such information.

### **Provisional and current WCPFC IUU Vessel List**

12. At its annual meeting, with respect to 3j vessels that are on the Draft IUU Vessel List, the TCC shall:

a. consider suitably documented information, if any, provided by a CCM or a non-CCM, as well as any relevant information regarding the status of an investigation, judicial or administrative proceeding related to the underlying vessel(s) and the cooperation and responsiveness of the owner of record in such proceedings;

b. consider information related to 3j vessels that may be submitted by small island developing CCMs pursuant to paragraph 11; and

c. following consideration of this information, decide whether to include the nominated 3j vessels on the Provisional IUU Vessel List developed in accordance with the provisions of CMM 2007- 03.

13. As appropriate, relevant flag states with 3j vessels on the current WCPFC IUU Vessel List may transmit, at least ~~32~~0 days before the TCC’s annual meeting, but may submit at any time, to the Executive Director suitably documented information showing the 3j vessels do not meet the criteria outlined in paragraph 4 of these procedures, or any other relevant information, including suitably documented information as

provided for in paragraph 1. The Executive Director shall circulate this information to all CCMs immediately upon receipt of such information.

14. The TCC shall not include 3j vessels on the Provisional IUU Vessel List if suitably documented information is provided **by any CCM** that the vessels no longer have a common owner of record with the underlying vessel(s) that triggered the nomination under paragraph 4.

15. At its annual meeting, with respect to 3j vessels that are on the current WCPFC IUU Vessel List the TCC shall:

- a. consider suitably documented information, if any, provided by a CCM or non-CCM, as well as any relevant information regarding the status of an investigation, judicial or administrative proceeding related to the underlying vessel(s) and the cooperation and responsiveness of the owner of record in such proceedings; and
- b. following consideration of the suitably documented information, recommend to the Commission whether or not the 3j vessels should be removed from the WCPFC IUU Vessel List.

16. The TCC shall recommend removal of 3j vessels from the current WCPFC IUU Vessel List if suitably documented information:

- a. is provided that the vessels no longer have a common owner of record with the underlying vessel(s) that triggered the nomination under paragraph 4; **or**
- b. **is provided that demonstrates that significant progress has been made to resolve the matter related to the underlying vessel(s) that triggered the nomination of the 3j vessels, and the CCM that originally submitted the 3j vessels for listing is satisfied.**

#### **WCPFC IUU Vessel List**

17. Once 3j vessels are included on the Provisional IUU Vessel List, they shall be treated as part of that List and, where appropriate, the WCPFC IUU Vessel List, in accordance with paragraphs 20-24 of CMM 2007-03.

#### **Modification of the WCPFC IUU Vessel List**

18. Relevant flag states may request to remove 3j vessels from the WCPFC IUU Vessel List at any time during the intersessional period by submitting to the Executive Director suitably documented information that:

- a. the vessels no longer have a common owner of record with the underlying vessel(s) that triggered the nomination under paragraph 4; or
- b. significant progress has been made to resolve the matter related to the underlying vessel(s) that triggered the nomination of the 3j vessels, and the CCM that originally submitted the 3j vessels for listing is satisfied.

19. Small island developing CCMs may also request removal of 3j vessels from the WCPFC IUU Vessel List at any time during the intersessional period by submitting to the Executive Director information that the listing of such 3j vessels has resulted in a disproportionate burden on the operation of domestic processing, transshipment facilities, or associated vessels of small island developing CCMs, or has undermined existing investment in FFA member countries.

20. Removal requests for 3j vessels shall be treated in accordance with paragraphs 26-29 of CMM 2007-03.

21. If the underlying vessel is removed from the WCPFC IUU List, all additional vessels fully or partly owned by the same owner of record as the underlying vessel(s) and listed pursuant to the 3j procedures contained herein will be automatically removed at the same time.