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Final Draft Record of SWG-CNMs

WCPFC12-2015-31
8 December
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SWG CNM
Chaired by Korea

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(8 December, 2015)

1. For 2016, seven CNM requests were submitted to the Secretariat using the agreed electronic format within the required timeframe. Those requests were from: Ecuador, El Salvador, Liberia, Mexico, Panama, Thailand, and Vietnam.
2. WCPFC 12 approved a CNM status to Ecuador, El Salvador, Liberia, Mexico, Panama, Thailand, and Vietnam.
3. At the Chair's direction a small working group (SWG) was established to assess associated participatory rights of each CNM applicant whose CNM status was approved at the plenary.
4. Framework documents for the working group were CMM 2009-11 and Secretariat paper WCPFC12-2015-08. The group also referred to TCC11's recommendations in the CNM section of the TCC11 Summary Report. These recommendations have been attached to this report for reference.
5. As a decision on CNM status had already been made with regard to all CNM applicants before the SWG commenced, the SWG did not readdress the issue of granting CNM status.
6. The SWG noted with appreciation the attendance and participation of Ecuador, El Salvador, Liberia, Mexico, Panama, Thailand, and Vietnam in the Group's discussions.
7. In addition to the discussions regarding participatory rights, some of the attending CNMs also raised the question as to how the Commission invites a non-member to become a full member, noting that Ecuador, El Salvador, Mexico, Panama and Vietnam had expressed their interest in becoming a full member of the Commission either in their CNM applications or during the course of TCC11.
8. In response, the Legal Advisor noted that while Article 35 of the Convention stipulates that the Contracting Parties may, by consensus, invite other countries to accede to the Convention, there were some practical questions about the process by which countries express interest in being considered for membership in the Commission.

9. Taking this advice, the SWG noted the Commission may consider clarifying an agreed invitation process at the Commission level consistent with Article 35 of the Convention (e.g. creating a new yes/no field in the CNM application form whereby a CNM applicant clearly indicates its interest in becoming a full member)

Participatory Rights

10. The SWG agreed to recommend that the CNMs accepted by the WCPFC plenary (i.e. Ecuador, El Salvador, Liberia, Mexico, Panama, Thailand and Vietnam) have the same participatory rights in 2016 as they had in 2015.
11. The SWG noted the recommendation from TCC11 that WCPFC12 take into consideration the Compliance Status of all CNM applicants in making its decision on the CNM applications and participatory rights, including encouraging them to rectify any gaps or issues in their applications prior to WCPFC 12.

Limits to be applied to the participatory rights of CNMs (Convention / CMM2009-11)

12. In accordance with the WCPF Convention and its conservation and management measures and resolutions, the following participatory rights apply to Cooperating Non- Members (CNMs) for fisheries in the high seas within the WCPFC Convention Area.
13. In addition, unless otherwise specified below, CNMs may fish in waters under their national jurisdiction or other CCMs' national jurisdiction, in accordance with appropriate bilateral arrangements.
14. CNMs shall ensure vessels flying their flags comply with all provisions of the WCPF Convention and the WCPFC conservation and management measures. In addition, CNM vessels will be placed on the WCPFC Record of Fishing Vessels (WCPFC RFV).
15. CCMs shall ensure that CNM fishing activities that are conducted in waters under their national jurisdiction in accordance with bilateral arrangements are consistent with all relevant conservation and management measures and provisions of the WCPF Convention.
16. Renewal of CNM status by the Commission will take into account -compliance with the national laws and regulations of any licensing CCM, and all conservation and

management measures and provisions of the WCPF Convention. CCMs shall identify any violations by vessels flagged to a CNM and report on any investigations of such violations to the TCC.

Participatory rights of each CNM in 2016

Ecuador

17. The SWG noted Ecuador's non-compliant status from TCC11 and encouraged Ecuador to aim for full compliance in 2016.
18. The Group noted WCPFC12's approval of the application for renewal of CNM status by Ecuador and provided a recommendation for participatory rights as follows: Ecuador's participatory rights for fishing in the WCPO are limited to purse seine fishing, with no participatory rights for fishing on the high seas for highly migratory fish stocks in the Convention Area. Any introduction of purse seine fishing capacity is to be in accordance with paragraph 12 of CMM 2009-11 and CMM 2014-01 or its replacement measure.

El Salvador

19. The SWG noted El Salvador's non-compliant status from TCC11 and encouraged El Salvador to aim for full compliance in 2016.
20. The Group noted WCPFC12's approval of the application for renewal of CNM status by El Salvador and provided a recommendation for participatory rights as follows: the participatory rights of El Salvador for fishing in the WCPO are limited to purse seine fishing only. The total level of effort by purse seine vessels of El Salvador on the high seas shall not exceed 29 days in the Convention Area. Any introduction of purse seine fishing capacity is to be in accordance with paragraph 12 of CMM 2009-11 and CMM 2014-01 or its replacement measure.

Liberia

21. The SWG noted that Liberia was not subject to compliance evaluation at TCC11.
22. The Group noted WCPFC12's approval of the application for renewal of CNM status by Liberia and provided a recommendation for participatory rights as follows: the participatory rights of Liberia are limited to reefer vessels to engage in transshipment activities, and bunker and supply vessels to support fishing vessels in the Convention area.

Mexico

23. The SWG noted that Mexico was not subject to compliance evaluation at TCC11.
24. The SWG noted that Mexico had participated in the work of the Northern Committee (NC) at NC 8, 9, 10 and 11 and, noting the need for cooperation with the work of the NC particularly in regard to Pacific bluefin tuna, encouraged Mexico to continue to participate in the NC. Mexico does not intend to have a vessel presence in 2016. Any future introduction of purse seine fishing capacity is to be in accordance with paragraph 12 of CMM 2009-11 and CMM 2014-01 or its replacement measure.

Panama

25. The SWG noted Panama's non-compliant status from TCC11 and encouraged Panama to aim for full compliance in 2016. The Group noted WCPFC12's approval of the application for renewal of CNM status by Panama and provided a recommendation for participatory rights as follows: the participatory rights of Panama in the WCPO are limited to the provision of carrier and bunker vessels. At the request of Panama, and after consulting the Legal Advisor, the SWG noted that Panama's participatory rights also apply to vessels that supply food, water and spare parts to carrier vessels that engage in transshipment activities, provided that these vessels do not engage in activities supporting fishing vessels, including providing and/or servicing FADs. The SWG also noted that this does not result in any additional participatory rights in 2016 to the participatory rights granted to Panama in 2015.

Thailand

26. The SWG noted Thailand's non-compliant status from TCC11 and encouraged Thailand to aim for full compliance in 2016.
27. The SWG noted the need for cooperation between Thailand and the Commission and the commitment from Thailand to provide data from canneries located in Thailand to assist in the work of the Commission, considering that the CNM status was granted to Thailand for 2016 on the understanding that Thailand will cooperate fully with the Commission in the acquisition and exchange of fishery information and data. The SWG noted the provision of data from Thai canneries and encourages Thailand to continue to cooperate with the Commission to improve the acquisition and exchange of fishery information and data. The participatory rights of Thailand in the WCPO are limited to the provision of carrier and bunker vessels only.

Vietnam

28. The SWG noted that TCC11 assessed Vietnam to be in full compliance with all applicable CMMs. Vietnam also informed the SWG that it had provided its assessed financial contribution.
29. The SWG noted the need for continued cooperation between Vietnam and the Commission to achieve compatibility of fisheries management and conservation, as well as on the acquisition and exchange of fishery information and data, for which Vietnam would require assistance. The SWG noted the Commission's appreciation that the significant improvements in the collection and provision of data from Vietnam fisheries through the GEF WPEA project, administered by the WCPFC and encourages Vietnam to continue to cooperate with the Commission to improve the acquisition and exchange of fishery information and data. The participatory rights of Vietnam in the WCPO are limited to the provision of carrier and bunker vessels only.

WCPFC/IATTC Overlap Area

30. In accordance with the decision of WCPFC 9 regarding the management of the overlap area of 4°S and between 130°W and 150°W, vessels flagged to Ecuador, El Salvador and Mexico will be governed by the IATTC when fishing in the overlap area.
31. In accordance with the Data Exchange MOU agreed by both Commissions, fishing vessels flying the flag of a member of either the IATTC or WCPFC shall cooperate with the RFMO to which they are not a member by voluntarily providing operational catch and effort data for its fishing activities for highly migratory species in the overlap area.
32. For the purpose of investigation of possible IUU fishing activities and consistent with international and domestic laws, vessels flying the flag of a CNM that is a Contracting Party to the IATTC will cooperate with those coastal State members of the WCPFC whose EEZs occur in the overlap area by voluntarily providing VMS reports (date, time and position) to those coastal States when operating in the overlap area.

Attachment

Recommendation from TCC11

117. TCC11 provides the following decisions and recommendations to WCPFC12:
- a. TCC11 has reviewed the following CNM applications and is forwarding them to WCPFC12 for consideration: Ecuador, El Salvador, Liberia, Mexico, Panama, Thailand, and Vietnam.
 - b. TCC11 again thanks the Secretariat for the development of the CNM application template which assisted the process greatly and thanks CNM applicants for using the template and submitting their applications in accordance with the prescribed timeframes.
 - c. TCC11 notes with appreciation the attendance and participation of Ecuador, El Salvador, Panama, and Vietnam at this year's meeting and encourages other CNM applicants to attend TCC meetings in the future.
 - d. TCC11 notes the CNM working group process occurred in parallel with the compliance monitoring scheme process and recommends that following TCC11, in consultation with SPC, the Secretariat write a particularised letter to CNMs outlining any identified deficiencies in data provision and requests that CNM applicants provide any information outlined in these letters, and as requested during the CMS process, 30 days in advance of WCPFC12 and that these letters, and any responses be assessed by WCPFC12.
 - e. TCC11 recommends that WCPFC12 take into consideration the Compliance Status of all CNM applicants in making its decision on the CNM applications and participatory rights.
 - f. TCC11 notes that all CNM applicants other than Mexico made a commitment to accept high seas boarding.
 - g. TCC11 notes that all CNM applicants other than Mexico and Vietnam made a financial contribution and notes Vietnam's statement that payment was made over the course of TCC.
 - h. TCC11 notes the position of some CCMs at WCPFC11 regarding provision on non-payment and notes the WCPFC11 summary record which recorded that WCPFC11 agreed to approve the application for renewal of CNM status in 2015 from Mexico on the understanding that the Secretariat will write a letter to Mexico advising that Mexico's non-payment of any financial contribution generated extensive discussion at WCPFC11. Some CCMs noted their strong concern at the unfairness for SIDS CCMs and other CNMs due to this non-payment and those CCMs did not consider the lack of presence of any Mexico vessels to justify non-payment. Those CCMs also noted that if this concern is not addressed before Mexico's next application for CNM

status any such application would not be supported by those CCMs.

- i. TCC11 recommends that Mexico consider the prospect of a voluntary payment in advance of WCPFC12 given this statement in the WCPFC11 record, and its position regarding its national legislation.
- j. TCC11 notes that during the SWG four CNM applicants (Ecuador, El Salvador, Panama and Vietnam) have expressed or reiterated interest in becoming full members and that WCPFC12 consider whether to invite them to become members.
- k. TCC11 notes the following gaps or issues in the applications for individual applicants and encourages applicants to rectify them if possible by WCPFC12:
 - i. Mexico – TCC11 notes that Mexico has not provided a commitment to make a financial contribution. TCC11 further notes that Mexico has not made an explicit commitment to accept High Seas Boardings and Inspections.
 - ii. Ecuador – TCC11 notes that the provision of the Annual Report Part 1 occurred at TCC and requested that Ecuador provide this important information in a timely manner in the future
 - iii. Panama – TCC11 notes that some Panama flagged vessels were listed on the SEAFO IUU list but Panama noted that these vessels had already been removed from the Panamanian ship register and undertook to provide a written update on this in advance of WCPFC.
 - iv. Vietnam – TCC11 noted that Vietnam’s financial contribution had not received during TCC11 but that Vietnam made a statement that payment was pending.