



COMMISSION
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US PAPER – Article 24(8) / VMS Template Agreement

WCPFC8-2011-DP- 30 Rev 3
30 March 2012

Proposed Language

The Commission recalls the following decisions of WCPFC7, contained in WCPFC-2010-DP27 rev 1, which remain in effect. Those decisions are as follows:

- a. The Commission approved the application of the Commission VMS, pursuant to Article 24(8) of the WCPF Convention and Paragraph 6(c) of CMM 2007-02, to the national waters of all Commission Members that request such application.
- b. A Commission Member's decision to exercise the option to apply the Commission VMS to its waters will not affect, impair or invalidate its participation in any other future or existing national or regional VMS program. Nothing in this decision in any way affects, impairs or invalidates the operation of VMS programs within the waters under national jurisdiction, which, as stated in the SSPs, shall be the exclusive responsibility of the coastal State.
- c. The Secretariat will provide notification to all CCMs when any Commission Member exercises the option to apply the Commission VMS to its national waters. The Secretariat will maintain an updated list of all CCMs that have access to Commission VMS data in their waters on the secure area of the WCPFC website.

Furthermore, WCPFC8 ~~We recommend that WCPFC8 consider and~~ adopts the following decisions relating to the application of the Commission VMS solely to waters under the jurisdiction of Members and to complement and support Members' national VMS, including compatibility:

1. Coastal States, particularly Small Island Developing States, have a legitimate and pressing need to increase their ability to monitor fishing vessels in their national waters to ensure the effectiveness of measures adopted by the Commission or domestic laws or regulations of any Member are not undermined. CCMs that are both SIDS and coastal States are some of the smallest developing nations in the world.
2. Flag States have a legitimate right to know when vessels flying their flag in the Convention Area are being monitored and must consent to that monitoring in the national waters of another Member.
3. All Members have an interest in ensuring that vessels that are authorized to fish in the Convention Area do so in accordance with the provisions of the Convention, any conservation and management measures or decisions adopted by the Commission or domestic laws or regulations of any Member when operating in waters under its jurisdiction. Effective conservation and management in Members' national waters is critical to the success of the Commission as these areas are where the majority of catch and effort occurs in the Convention Area.

~~4. The first three decisions of WCPFC7, contained in WCPFC 2010 DP27 rev 1, remain in~~

~~effect. Those decisions are as follows:~~

- ~~a. — The Commission approved the application of the Commission VMS, pursuant to Article 24(8) of the WCPF Convention and Paragraph 6(c) of CMM 2007-02, to the national waters of all Commission Members that request such application.~~
- ~~b. — A Commission Member's decision to exercise the option to apply the Commission VMS to its waters will not affect, impair or invalidate its participation in any other future or existing national or regional VMS program. Nothing in this decision in any way affects, impairs or invalidates the operation of VMS programs within the waters under national jurisdiction, which, as stated in the SSPs, shall be the exclusive responsibility of the coastal State.~~
- ~~c. — The Secretariat will provide notification to all CCMs when any Commission Member exercises the option to apply the Commission VMS to its national waters. The Secretariat will maintain an updated list of all CCMs that have access to Commission VMS data in their waters on the secure area of the WCPFC website.~~

54. The fourth decision contained in WCPFC-2010-DP27 rev 1 that paper, which stated that “The Secretariat will develop a template agreement, for Commission review and approval, which will be used for all Commission Members exercising this option. The template agreement will address details regarding the application of the Commission VMS to the individual Commission Member’s waters, including any costs that may be associated” is hereby replaced by the following paragraphs.

5. Members who have an existing national VMS programs may choose to have the Pacific VMS directly provide the Commission VMS data for their national waters to their national VMS to ensure compatibility between national and high seas vessel monitoring systems.

6. Members will use the VMS data only for (i) monitoring, control and surveillance purposes and (ii) scientific purposes as described in paragraph 35 of the Commission Rules and Procedures for the Protection of, Access to, and Dissemination of High Seas Non-Public Domain Data and Information Compiled by the Commission for the Purpose of Monitoring, Control or Surveillance (MCS) Activities and the Access to and Dissemination of High Seas VMS Data for Scientific Purposes, first adopted in 2009. (Commission’s 2009 Rules and Procedures).

7. Members shall maintain the confidentiality and security of the VMS data in a manner no less stringent than the security standards established by the Commission for the Secretariat in its Information Security Policy. If a Member has a national VMS program whose standards, specifications and procedures (SSPs) relating to data confidentiality and security are equally or more stringent than the Commission’s standards, the national standards may apply. Members who apply their national standards will provide the Secretariat with a copy of their national SSPs.

8. Members will destroy any VMS data received for its national waters within 15 days of receipt, unless such data are necessary for (i) an investigation or a judicial or administrative

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proceeding of an alleged violation of the provisions of the Convention, any conservation and management measures or decisions adopted by the Commission or domestic laws or regulations of the Member or (ii) a scientific purpose as described in paragraph 35 of the Commission's 2009 Rules and Procedures.

9. Members may only share this data consistent with their national VMS SSPs, data sharing agreements with other Members, and with intergovernmental ~~will not transfer, trade, sell, publicize or otherwise provide these data to any third party, with the exclusion of authorized regional fisheries bodies.~~

10. The VMS data will be provided only to Authorized MCS Personnel and Authorized Management Personnel, as defined in paragraphs 11 and 32, respectively, of the Commission's 2009 Rules and Procedures or FFA Secretariat on behalf of FFA Members.

11. Members will be responsible for any additional costs associated with the application of the Commission's VMS to their national waters, as determined by the Executive Director. However, this issue will be revisited in the event that there is any change to cost and payment structure of the Commission's VMS. Failure to make timely payment of the additional costs, if any, identified by the Executive Director will result in the Member's national waters being excluded from the Commission's VMS until payment is made.

12. A Member's national waters will only be included in the Commission's VMS at that Member's request and Members are not obligated to request inclusion.

13. In the event that two Members have conflicting claimed EEZ geographical coordinates, VMS data for the disputed area will only be provided to either Member with the agreement of both Members. If either Member objects to the provision of VMS data in the disputed area, neither Member will be provided such data. No Member may object to the provision of VMS data in disputed areas not associated with its own claimed EEZ.

14. The implementation of these decisions will be in accordance with the provisions of the Convention including Article 3(2) of the Convention.

15. The implementation of and compliance with these decisions will be subject to review under the existing and any future Compliance Monitoring Scheme.

16. These decisions will be effective 60 days after the Commission meeting and shall only allow for the provision of data generated from that date forward. These decisions will reviewed or revised in two years. ~~be binding for a period of two years at the end of which they will no longer apply unless explicitly renewed or revised.~~