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Sent: Tuesday, May 30, 2006 2:53 AM
To: Gibbons-Fly, William H (OES)
Cc: Clinton.Dengate@dfat.gov.au; rohan.wilson@afma.gov.au; Trysh.Stone@afma.gov.au;
Matthew.Dadswell@affa.gov.au
Subject: RE: WCPFC Draft Boarding and Inspection Arrangements

Dear Bill,

I know we have left it to the last minute but trust the following comments are constructive. Our general comments on the text are set out below. Specific comments are attached.

Acceding States

The CCAMLR system of inspection applies to members of the Commission and also allows Acceding States to participate if they wish. Similarly we could insert a paragraph that allows acceding states to, on a voluntary basis, agree to adhere to the WCPFC inspection and boarding arrangements, pending their accession to the treaty.

UNFSA Article 21

Would be useful to have an explicit reference to Article 21 of UNFSA as a reminder that members of the WCPFC would be permitted to board and inspect vessels, fishing in the Convention area, of Convention members as well as State Parties to the UNFSA. General Principles would probably be the appropriate area for this reference. Paragraph 41 would also need to be broadened to apply to non-Convention and non-UNFSA parties.

Equitable distribution of inspections (Para 7)

Inspections would generally be random depending on where a fishing vessel chose to fish and if an inspection vessel was in the area. Perhaps inspections could be equitably distributed about the convention area therefore minimising the likelihood of one vessel being constantly inspected.

Use of Force (Paras - 25-27)

This section very clearly outlines when use of force is appropriate. On our reading Para 25 outlines that an inspection and boarding not be undertaken by force. In which case whether the inspectors are carrying firearms or not would not matter. However in Para 26 which is clearly about self defence, it would seem appropriate that an inspector be able to carry firearms to protect themselves or be in the company of armed officers. Suggest deleting reference to firearms or indicating that in Para 26 that the Authorised inspectors are authorised to carry arms but only for the purpose of self defence. Currently, Australia does not allow its inspection officers to board a foreign boat unless it is done in the company of an armed boarding party. For example, boarding conducted in CCAMLR waters from the Australia patrol vessel are done with an armed boarding party.

regards

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