



FIFTH REGULAR SESSION

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**DRAFT WCPFC PROPOSAL – COOPERATING NON-MEMBERS
(AMENDMENTS TO CMM-2004-02)**

WCPFC5-2008/DP03 (Rev.2)

11 December 2008

REAFFIRMING the objective of the WCPF Convention is to ensure through effective management, the long-term conservation and sustainable use of highly migratory fish stocks in the Western and Central Pacific Ocean in accordance with the United Nations Convention on the Law of the Sea of 10 December 1982 and the Agreement on the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks;

RECALLING the 1999 MHLC Resolution on Future Participation in the Conference placed a limit on the number of participants in the Multilateral High Level Conference on the Conservation and Management of Highly Migratory Fish Stocks (MHLC), and confirmed the eligibility of MHLC participants to become members of the WCPFC;

RECALLING the Conservation and Management Measure 2004-02 on Cooperating Non-Members adopted at the inaugural session of the WCPFC December 9-10, 2004, ~~was designed to provide a mechanism for MHLC participants that had not completed their domestic ratification processes when the Convention came into force;~~

RECOGNIZING the continuing need to encourage non-Parties with vessels fishing for WCPFC species in the Convention Area to implement WCPFC conservation measures;

RECALLING Article 32(4) of the WCPF Convention that provides for members of the Commission to request non-Parties to this Convention whose vessels fish in the Convention Area to cooperate fully in the implementation of conservation and management measures adopted by the Commission;

TAKING INTO ACCOUNT the status of highly migratory fish stocks in the WCPF Convention Area and the existing level of fishing effort in the WCPF Convention Area;

REAFFIRMING that the Commission shall give full recognition to the special requirements of developing States Parties to this Convention, in particular small island

developing States, and of territories and possessions, in relation to conservation and management of highly migratory fish stocks in the Convention Area and development of fisheries for such stocks; and

GIVING EFFECT to Article 32 of the WCPF Convention:

1. A non-member of the Commission, with an interest in the fishery, or whose vessels fish or intend to fish in the Convention Area, may request the Commission for the status of Cooperating non-member (CNM). Any such request and supporting information shall be in English and shall be received by the Executive Director at least 60 days in advance of the annual meeting of the Technical and Compliance Committee meeting at which the request will be considered. The Executive Director shall notify all members of the Commission of any such request and circulate the full application to all members.
2. A non-member seeking the status of CNM shall include with its request:
 - a. its reason for seeking CNM status,
 - b. a commitment to cooperate fully in the implementation of conservation and management measures adopted by the Commission and to ensure that fishing vessels flying its flag and fishing in the Convention Area and, to the greatest extent possible, its nationals, comply with the provisions of the Convention and conservation and management measures adopted by the Commission;
 - c. an explicit commitment to accept high seas boarding and inspections in accordance with the Commission's procedures on high seas boarding and inspection procedures adopted by the Commission;
 - d. full data on its historical fisheries in the Convention Area, including nominal catches, number/type of vessels, name of fishing vessels, fishing effort and fishing areas;
 - ~~e.~~ all the data and information members of the Commission are required to submit, in accordance with the recommendations adopted by the Commission;
 - ~~f.~~ details on its current fishing presence in the Convention Area, including the number of its vessels and their characteristics;
 - ~~g.~~ ~~e.~~ results from research programmes it has conducted in the Convention Area; and
 - ~~h.~~ ~~f.~~ any further relevant information as determined by the Commission.
3. The Technical and Compliance Committee (TCC) shall assess applications for CNM status and provide recommendations and technical advice to the Commission, which shall ~~address consider~~, *inter alia*:
 - a. whether the CNM application includes all information required under paragraph 2;
 - b. in the case of renewal, the record of compliance of the applicant with the provisions of the Convention and the conservation and management

measures adopted by the Commission and the fisheries laws and regulations of coastal States in the Convention Area;

c. its record of responding to any IUU activities by vessels flying its flag that have been brought to its attention, in accordance with Article 25 of the Convention;

e.d. as appropriate, the record of compliance of the applicant with conservation and management measures of other Regional Fisheries Management Organizations (RFMOs); and

d.the status of the stocks and existing level of fishing effort in the fishery; and

e. in the case of applications for renewal of CNM status, whether the applicant is meeting all paragraph 11 requirements for CNM.

4. The Executive Director shall forward a copy of the relevant TCC recommendations and advice- to the non-member applicant as soon as practicable.
5. The non-member applicant shall have the opportunity to consider the recommendations and advice of the TCC, and to submit additional information if necessary in advance of the Commission's decision on its application.
6. The Commission shall, in determining whether a non-party is accorded CNM status have regard to the criteria outlined in paragraph 3.
7. The Commission shall also consider information available from other RFMOs relating to non-members seeking CNM status, as well as data submitted by such non-members to the Commission. Caution shall be used so as not to introduce into the Convention Area excess fishing capacity from other regions or IUU fishing activities in granting CNM status to such non-members.
8. The Commission shall accord CNM status on an annual basis. It may renew the CNM status subject to a review of the CNM's compliance with the Convention's objectives and requirements.
9. CNMs seeking to renew their status as a CNM shall comply with any other requirements the Commission may prescribe to ensure compliance with conservation and management measures adopted by the Commission.
10. CNMs are entitled to participate at meetings of the Commission and its subsidiary bodies as Observers.
11. CNMs shall:
 - a. comply with all conservation and management measures adopted by the Commission;
 - b. provide all data members of the Commission are required to submit, in a timely manner, in accordance with the recommendations- format and standards adopted by the Commission;

- c. inform the Commission annually of the measures it takes to ensure compliance by its vessels with the Commission's conservation and management measures;
 - d. respond in a timely manner to alleged violations of conservation and management measures adopted by the Commission and any IUU activities of vessels flying its flag that have been brought to its attention and the fisheries laws and regulations of coastal States in the Convention Area by its vessels, as requested by a member of the Commission or determined by the appropriate subsidiary bodies of the Commission and communicate to the member making the request and to the Commission, the actions it has taken against the vessels in accordance with the provisions of Article 25 of the Convention;
 - e. accept boardings in accordance with Commission high seas boarding and inspection procedures.
12. Without prejudice to the sovereign rights of coastal States for the purpose of exploring and exploiting, conserving and managing highly migratory fish stocks within areas under national jurisdiction, and following the granting of CNM status, the Commission shall, where necessary, determine the limits that apply how the participatory rights of CNMs will be limited by the conservation and management measures adopted by the Commission. for CNMs in a fishery. In giving effect to this paragraph, the Commission shall take into account *inter alia*:
- a. the status of the highly migratory fish stocks and the existing level of fishing effort in the fishery;
 - b. the extent to which the application supports or impedes the special requirements of developing States in the Convention Area, in particular small island developing States, and of territories and possessions, in relation to conservation and management of highly migratory fish stocks in the Convention Area and development of fisheries for such stocks;
 - c. the respective interests, fishing patterns and fishing practices of new and existing members or participants;
 - d. the respective contributions of new and existing members or participants to conservation and management of the stocks, to the collection and provision of accurate data and to the conduct of scientific research on the stocks;
 - e. the needs of coastal fishing communities which are dependant mainly on fishing for the stocks;
 - f. the needs of coastal States whose economies are overwhelmingly dependent on the exploitation of living marine resources; and
 - g. the interests of developing States from the subregion or region in whose areas of national jurisdiction the stocks also occur.
13. The limits that apply for The limits determined for CNMs under paragraph 12 CNMs may be reviewed by the Commission from time to time in accordance with this measure and other conservation and management measures adopted by the Commission.

14. ~~[A CNM shall make a financial contribution commensurate with their catch taken in the Convention Area as determined by the Commission.]~~
14. ~~[A CNM shall be~~ The Commission shall invited CNMs to make a financial contribution commensurate with what its obligations would be as a member under Article 18(2) of the Convention, ~~taking into account its ability to pay fees.]~~
15. The Commission shall monitor the activities of nationals and fishing vessels of CNMs, including their record of compliance with the provisions of the Convention and conservation and management measures adopted by the Commission.
16. CNMs that fail to comply with any of the conservation and management measures adopted by the Commission shall be deemed to have undermined the effectiveness of the conservation and management measures adopted by the Commission. The Commission shall take appropriate action, which may include revocation of CNM status and/or sanctions and penalties, against such CNMs, in accordance with the Convention and adopted conservation and management measures, ~~whose nationals or fishing vessels, have undermined the effectiveness of conservation and management measures adopted by the Commission.~~
17. ~~Where instructed by the Commission, t~~ The members of the Commission shall, individually or jointly, request non-parties to this Convention whose vessels fish in the Convention Area to cooperate fully in the implementation of the conservation and management measures adopted by the Commission and urge them ~~Executive Director shall contact each year all non-members whose vessels fish in the Convention Area for species under the Commission's competence to urge them to apply for the status of CNM. In doing so, the Executive Director shall provide a copy of all conservation and management measures and resolutions adopted by the Commission.~~