



**Commission for the Conservation and Management of  
Highly Migratory Fish Stocks in the Western and Central Pacific Ocean**

**Technical and Compliance Committee  
Fourth Regular Session**

**Pohnpei, Federated States of Micronesia  
2–7 October 2008**

**SUMMARY REPORT**

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**SUMMARY REPORT<sup>1</sup>**

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**AGENDA ITEM 1 — OPENING OF MEETING**

**1.1 Welcome**

1. The Chair of the Technical and Compliance Committee (TCC), Wendell Sanford (Canada), welcomed participants to the meeting. The Chair expressed his appreciation for the support provided by the Federated States of Micronesia, both for the Fourth Regular Session of TCC (TCC4) itself and the reception held the previous evening, commemorating the generous provision of furniture and fittings to the Western and Central Pacific Fisheries Commission (WPCFC) offices by Papua New Guinea. He also thanked the College of Micronesia for providing the meeting facilities.

2. The following members and participating territories attended TCC4: Australia, Canada, China, Cook Islands, the European Community (EC), Federated States of Micronesia (FSM), Fiji, France, French Polynesia, Japan, Kiribati, the Republic of Korea, Marshall Islands, Nauru, New Caledonia, New Zealand, Niue, Palau, Papua New Guinea, Philippines, Samoa, Solomon Islands, Chinese Taipei, Tonga, United States of America (USA), and Vanuatu.

3. Belize attended TCC4 as a cooperating non-member.

4. Observers representing the Secretariat of the Pacific Islands Forum Fisheries Agency (FFA), the Secretariat of the Pacific Community (SPC), Birdlife International, Ecuador, Greenpeace, Senegal and the World Wildlife Fund also participated. A list of participants is appended as Attachment A.

**1.2 Adoption of Agenda**

5. The provisional agenda (WCPFC-TCC4-2008/03/Rev. 2) was adopted, as amended, by TCC4 (Attachment B).

**AGENDA ITEM 2 — PRIORITY MONITORING, CONTROL AND SURVEILLANCE  
ISSUES BEFORE THE COMMISSION**

**2.1 Regional Observer Programme**

**(a) Report of the Second Meeting of the Inter-sessional Working Group**

6. Dr Charles Karnella, Chair of the Inter-sessional Working Group for the Regional Observer Programme (IWG-ROP), provided an overview of the work of the IWG at its second

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<sup>1</sup> Note that text items in bold Arial font are agreements reached by TCC4.

meeting (IWG-ROP2) held in Nadi, Fiji from 7–10 July 2008. Dr Karnella noted that key agreements on interim minimum standards, observer programme authorization processes, and audits were reached during that meeting (WCPFC-TCC4-2008/07). He noted that very few Members, Cooperating Non-members and participating Territories (CCMs) had responded to the agreements at IWG-ROP1 and IWG-ROP2 for CCMs to submit additional material to the WCPFC Secretariat relating to i) candidate elements of the ROP with a focus on monitoring, control and surveillance (MCS) elements, ii) existing data forms, and iii) the role and function of audits.

7. Also during the IWG-ROP2 meeting, 11 interim minimum standards were agreed on, covering the following areas: Data Fields; Observer Guides and Manual; Training; Code of Conduct; Safety; ROP National Coordinators; Briefing and Debriefing; Equipment and Materials; Communications; Measuring Performance; and Dispute Settlement. These standards are recommended to the Commission on an interim basis as they may need to be revised as implementation of the ROP proceeds.

8. IWG-ROP2 considered that the requirement under Article 28(3) of the Convention for the Secretariat (i.e. to authorize individual observers) is impractical. It will therefore recommend to the Commission that the function of the Secretariat be to authorize national, sub-regional or regional observer programmes rather than individual observers. The authorization process will involve a declaration by a national or sub-regional observer programme that all applicable standards are met. The Secretariat will then conduct an initial review of the documentation and decide on whether to issue an interim authorization which, if issued, will be valid until 1 July 2012. Prior to that date, the Secretariat will conduct a programme audit to verify that minimum standards are being met, and if so, the programme will be included in the ROP. Procedures for handling any programme deficiencies, and for continuous refinement as new standards are adopted, were also agreed on.

9. The IWG-ROP2 also developed text describing the purposes of the ROP audits, which include identifying a) gaps in observer coverage; b) gaps in achieving standards; c) opportunities to harmonize individual programmes; d) opportunities for efficiencies among programmes; and e) other matters determined by the Commission. Although no specific audit process was prescribed, the Secretariat was encouraged to work with CCMs to develop these. The Secretariat had received few responses to the call during the IWG-ROP2 for submissions from CCMs with regard to audit processes by 11 August 2008.

**10. TCC4 noted the conclusions reached by the IWG-ROP2 and recommends that WCPFC5 approve the contents of its report.**

**(b) Consideration of outstanding issues**

11. Of the various areas of work remaining before IWG-ROP, the agreement on data fields, definitions, vessel size exemptions and costs were prioritized for further discussion at TCC4. The remaining issues are proposed to be taken up in future IWG-ROP meetings.

12. Agreement on remaining issues associated with data fields were progressed through discussion of WCPFC-TCC4-2008/07, Attachment B, as prepared by the IWG-ROP. The results of these discussions are in Attachment C.

13. Concerning a requirement for observers to record the nationality of crew members, some CCMs recognized the benefit of such information from a variety of perspectives, including monitoring crew composition requirements and opportunities for control of nationals. However, other CCMs thought that this information was not relevant to the main purpose of the ROP. It was noted that CMM-2004-01, para 5, lists the information needed to be provided about the vessel but does not list crew nationality. It was further noted that an agreement by TCC4 to not

collect information on crew nationality under the ROP did not in any way diminish the ability of national or sub-regional observer programmes to collect such data if they see fit to do so.

14. Concerning a requirement for observers to record fish hold capacity, there was general agreement among CCMs that such information is useful. Nevertheless, concern was expressed that observers would be expected to measure hold capacity, and that may be beyond the capabilities of some observers in some programmes. Other CCMs noted that an ROP data requirement to verify hold capacity would not interfere with data collection requirements of national or sub-regional programmes.

**15. TCC4 recommended to the IWG-ROP that nationality of the crew was not an essential data field, but that verification of fish hold capacity should be included as a data field for the ROP.**

16. Discussion then turned to Table 8 in WCPFC-TCC4-2008/07, Attachment B.

17. Regarding the requirement for the observer to record whether there has been any inaccurate recording of target or bycatch species, it was noted that the identification of which species are considered target and which are bycatch may require consultation between the observer and the captain. It was also noted that in some cases, the vessel license will specify the target species and this will assist the observer in identifying target and bycatch species.

18. With regard to the wording of fields pertaining to hindering the observer and provision of adequate working conditions, suggestions were made to align this text with that from Convention Annex III, Article 3, paras. 2 and 3.

19. The Marshall Islands and FSM wished to note for the record that minimum data standards might vary for some operations and that the ROP standards will not in any way limit observer data collection in national waters.

20. In response to a question regarding whether net sharing would be considered as a transfer of fish to be recorded by the observer, it was agreed that the observer should record this as a transfer of fish, and include a description of the transfer in the comment field. The flag State would then decide whether or not to investigate any compliance issues associated with the observed transfer. It was recommended that the term transfer include, but not be limited to, net sharing, and that observers be trained to record information about net sharing. TCC4 noted that the collection of such information by observers does not indicate anything about the legality of the activity.

21. With reference to this issue, Korea, supported by China, Chinese Taipei and Japan, noted their preference for additional text in Table 8, Observer Trip Monitoring Summary, stating that “net sharing” be excluded from the requirement to observe whether the vessel did “transfer or tranship fish from, or to, another vessel”. These CCMs stated that net sharing commonly occurs in purse-seine fisheries and it should be distinguished from transshipment.

22. Belize noted for the record its opinion regarding the importance of observers checking licensing documents, including names of owners/operators, issuing date, expiry dates, authorized areas and species, catch limits and transshipment authorizations.

**23. TCC4 recommends that the Commission approve the collection of the data listed in Attachment C.**

24. TCC4 then discussed definitions of terms used in previously agreed on language as referred to by the IWG-ROP (WCPFC-TCC4-2008/07, para. 30), including “principally”, “occasionally”, “adjacent”, “independent”, “impartial” and “observer trip”.

25. Some CCMs advocated a precise definition of “vessels that operate principally in coastal waters” as being those for which “95% of the vessel’s time spent within the EEZ based on sea days per vessel per trip”. Similarly, “vessels that operate occasionally on the high seas” would be defined as those for which “5% of the vessel’s time spent on the high seas based on sea days per vessel per trip”.

26. Other CCMs believed it was not appropriate to define the two terms as a pair, and furthermore not necessary, to specify precise definitions for these terms. Some CCMs thought that the terms principally and occasionally, which were derived from para. 54(ii) of the TCC2 Summary Report must not be taken out of context of that report. Their view is that the various terms should not be separated out and discussed separately. Their view is that in its entirety, para. 54 of the TCC2 Summary Report indicates that national observers can continue to be deployed on coastal fleets on the high seas of the Convention Area.

27. Some CCMs saw a linkage between these terms and the ability to use national observers rather than drawing observers from sub-regional or other CCMs’ observer programmes. These CCMs maintain that a national observer on their own vessels should be allowed, in accordance with CMM-2007-01, which states “existing national observer programmes shall be regarded as a part of the ROP”. It was noted that this issue may relate to the definitions of “impartial” and “independent”. Believing that the nationality of the observer is irrelevant, these CCMs suggested that third-party observers would only be drawn upon if there was not sufficient (i.e. 5%) coverage by their own national observers.

28. FSM, on behalf of FFA members, reiterated support for the hybrid approach as agreed on by PrepCon Working Group 1 and TCC1, and adopted by the Second Regular Session of WCPFC (WCPFC2). FSM noted that WCPFC2 had agreed that under this approach, Commission members would be free to choose the source of observers from either the national observer programmes of other members or from the existing sub-regional programmes. FFA is working to implement the hybrid approach in their waters and make their observers available to other flag States, noting the employment opportunities this provided for small island developing States (SIDS).

29. Regarding the issue of what size of vessels should be subject to observer requirements, vessels < 24m (overall length) in the view of one CCM, and < 30m (overall length) in the view of another CCM, should be exempt from carrying observers. These CCMs noted that many of these small vessels do not have sufficient space to accommodate an observer. Other CCMs expressed the view that there should be no minimum vessel size limit applied under the ROP.

30. Regarding which party should bear the cost of observers, some CCMs stated that the funding of individual observers should be subject to bilateral agreements between the coastal State and the CCM (or vessel operator), while general programme costs under the ROP such as administration, training and audits should be borne by the Commission. It was noted that this arrangement is the basis of the hybrid approach.

31. Other CCMs stated that flag States that are already funding their own national observer programmes from their own discretionary budgets believe the Commission should fully fund the ROP, including the costs of any observers that are additional to current requirements. It was noted that under this approach, CCMs would still contribute to the ROP through their WCPFC budget contributions.

32. The Chair of the IWG-ROP proposed issues for the continuing work of the IWG based on previous presentations and discussions. CCMs suggested two additional items, including “source of observers” and “observer monitoring”. It was noted that it is not anticipated to be necessary to reach agreement on all of these issues before implementing the ROP.

- 33. TCC4 recommends that CCMs continue to discuss outstanding issues inter-sessionally.**
- 34. TCC4 recommends to WCPFC5 that the mandate of the IWG-ROP be extended for a period of one year.**
- 35. TCC4 recommends to WCPFC5 that it authorize the IWG-ROP to continue its work on outstanding items contained in CMM-2006-07, a non-exhaustive list of which is attached as Attachment D.**
- 36. Dates and venues for the IWG-ROP will be set at WCPFC5.**

## **2.2 Vessel Monitoring System**

- (a) WCPFC VMS implementation status**
- (i) Implementation status report**

37. The WCPFC Executive Director, Andrew Wright, provided a summary of developments with the Commission's vessel monitoring system (VMS) since WCPFC4 (WCPFC-TCC-2008/08 [Rev. 1]). Progress during this period by the Secretariat has included efforts to recruit a VMS Manager who is anticipated to start work prior to WCPFC5. The VMS technical working group, chaired by David Marx (New Zealand)<sup>2</sup>, conducted a series of meetings electronically, and met in the margins of the IWG-ROP2 in July 2008. During this period, the terms of reference for elaborating standards, specifications and procedures (SSP) for the VMS were developed and agreed on, and Mr Robert Gallagher of Navigs s.a.r.l., was selected to undertake this work. A draft SSP was prepared and circulated, and subsequently discussed by TCC4 under the subsequent agenda item.

**(ii) Service Level Agreement (SLA) with FFA**

38. The Executive Director noted in his summary of progress on VMS issues that it would have been premature to begin developing an SLA with FFA before the draft SSPs had been finalized. With agreement of the SSP (see below), work on the SLA can commence.
39. CCMs stated it was appropriate for the Secretariat to proceed with negotiating this agreement in the best interest of the Commission. Service providers should be reviewed at regular intervals to ensure costs are competitive.

**40. TCC4 recommends that the WCPFC Secretariat and the FFA Secretariat enter into discussions with a view to preparing a draft service level agreement for consideration by the Commission at WCPFC5.**

**(b) SSP for the Commission VMS**

41. Mr Gallagher made a brief presentation on the scope and purpose of the draft SSP. He explained that the SSP is written to embody high level principles for minimum performance standards. More detailed standard operating procedures will be required at a later date.
42. As a general comment, some participants cautioned against expecting that the SSP would be perfect at this stage, but rather it could act as a useful starting point for fine-tuning over time.
43. TCC4 participants discussed the draft SSP text in detail, making text amendments as agreed.

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<sup>2</sup> Due to other work commitments, Mr Marx announced in July 2008 that he could no longer continue in the role of Chair.



44. Several CCMs expressed concern about the requirement for an alternative means of communication, in addition to the VMS, which is real-time and two-way, and whose medium is the English language. These CCMs proposed an alternative process for making contact with the vessel should the VMS malfunction, which would make use of national liaison officers acting as facilitators between the Secretariat and the vessel. Wording to this effect was added to the VMS SSP.

45. Other CCMs noted that the requirements for an alternative means of communication had been agreed on in CMM-2007-02 (Annex 1). It was further noted that the need for an alternative means of communication only applied in cases when the vessel could not be polled and therefore could be avoided if a polling capability could be otherwise guaranteed.

46. Alternative wording regarding VMS operation at all times while within the WCPFC Convention Area was discussed. Some CCMs considered that there should be a requirement for the VMS to provide an entry and exit report on entry and exit from the high seas within the Convention Area. Other CCMs preferred wording which requires that the VMS remain operational the entire time the vessel is within the Convention Area. There was general consensus that vessels may be crossing between EEZs and the high seas in the Convention Area, or between the Convention Area and the area of another regional fisheries management organization (RFMO), and both cases need to be accounted for in the text. Consensus was reached on the need for entry and exit reporting and the text was modified.

47. In discussions of procedures applicable when a vessel's VMS has stopped transmitting, some CCMs requested a grace period of more than 30 days to re-establish automatic reporting due to some vessels making trips of up to 90 days.

48. Other CCMs requested that the time required to re-instate VMS functionality should be reduced from 30 days because they considered that most trips were less than 20 days.

49. Robert Gallagher noted that in order to accommodate a variety of circumstances, a period of 30 days was included in the draft SSP because it appears to be the international standard. He also noted that VMS repairs tended to occur just before the deadline, regardless of how many days' allowance is granted.

50. Some CCMs expressed views that should VMS functionality not be restored during the allocated grace period, that withdrawing the vessel's fishing authorization may not be the most appropriate action. Some of these CCMs suggested that as an alternative, upon identification of a VMS functionality problem, the vessel should be ordered to return to port immediately. Other CCMs advocated that the vessel should be ordered to stop fishing as soon as the VMS functionality problem is detected.

51. In response to a discussion of the applicability of the VMS throughout the WCPFC Convention Area, the WCPFC Legal Services Provider, Martin Tsamenyi, explained that Article 24(8) of the Convention provides for the application of the Commission VMS to the high seas, but that the final sentence provides for coastal States without their own VMS to use the Commission's VMS. Since these arrangements would be left to the coastal State to negotiate with the Commission, it is possible that they may operate under terms that are separate from those described in the VMS SSP. Amendments to the SSP were made in order to allow for this situation.

52. In response to a question regarding data sharing with other RFMOs, including the Inter-American Tropical Tuna Commission (IATTC), it was clarified that these arrangements are subject to the Rules and Procedures for the Protection, Access to, and Dissemination of Data Compiled by the Commission, and to the applicable memorandum of understanding between

WCPFC and the other RFMO. As such, it was acknowledged that provisions for this type of data sharing need not be explicitly accounted for in the SSP.

53. FSM noted for the record that in accepting the VMS SSP, their understanding is that the interpretation of “vessels required to report to the Commission VMS” is set out in CMM-2007-02, para. 6.

**54. TCC4 recommends to WCPFC5 for its approval the VMS Standards, Specifications and Procedures (SSP attached as Attachment E to this report), noting that paras. 5.3, 5.4 and 7.3.6 remain in square brackets.**

55. With regard to costs, the WCPFC Executive Director clarified that programme costs in 2009 for the Secretariat have been calculated on the basis of 600 vessels reporting. Costs to individual CCMs will vary based on a number of CCM-specific factors and have not been calculated.

**56. TCC4 recommends to WCPFC5, with respect to costs for Commission VMS, CCMs will assume costs for their vessels. Costs for Secretariat operations of the Commission VMS will be borne by the Commission budget.**

57. Several CCMs stated they are ready to begin implementation of the VMS on 1 April 2009. However, suggestions were made to designate an initial period for testing and correction of any initial technical difficulties.

**58. TCC4 recommends to WCPFC5, that the activation date for the WCPFC VMS be 1 April 2009.**

### **2.3 Illegal, unreported and unregulated (IUU) Vessel List**

#### **(a) Provisional IUU Vessel List**

##### **(i) Chu Huai No. 868 and Sheng Jyi Shyang No. 638**

59. Both the *Chu Huai No. 868* and *Sheng Jyi Shyang No. 638* are Chinese Taipei flagged vessels that are included on the Draft IUU Vessel List by New Zealand.

60. New Zealand sighted these vessels fishing on the high seas in January 2008, and at that time, neither vessel was on the WCPFC Record of Fishing Vessels. Both vessels were subsequently listed on the WCPFC Record of Fishing Vessels in March 2008.

61. According to Chinese Taipei records, both vessels were authorized by Chinese Taipei at the time of the incident but due to an administrative oversight, caused by the relocation of the Fisheries Administration from Taipei to Kaohsiung, the vessels' names were not part of the list of authorized fishing vessels forwarded to the Secretariat. Chinese Taipei committed to improving their administrative procedures so that such oversights will not occur in the future.

62. Dr Martin Tsamenyi explained that vessels can be considered for inclusion in the Draft IUU Vessel List if they are fishing for species covered by the WCPFC Convention but are not on the WCPFC Record of Fishing Vessels.

63. New Zealand noted that considerable resources are devoted to monitoring and patrolling the Convention Area in an effort to ensure that conservation and management measures (CMMs) are complied with and to deter IUU fishing. They also noted that these efforts are undermined if CCMs allow their vessels to fish without authorization and they are not on the WCPFC Record of Fishing Vessels. New Zealand stated that in the future, any vessels found fishing in the Convention Area which are not on the WCPFC Record of Fishing Vessels, will be nominated for the Provisional IUU Vessel List. It then withdrew from proceeding further with the IUU listing of

the vessels concerned, stressing that they were unlikely to be open to administrative excuses in the future.

64. Several other CCMs expressed concerns that the incident represents a clear violation and that the explanation of administrative error is not fully acceptable. It was also noted that it is the responsibility of the fishing vessel to verify that it has been placed on the WCPFC Record of Fishing Vessels before it begins fishing.

(ii) *Chu Huai No. 638*

65. The *Chu Huai No. 638* is a Chinese Taipei flagged fishing vessel proposed for listing by Tonga.

66. Tonga explained that the vessel was sighted by a New Zealand aerial patrol in Tonga's EEZ in January 2008, at which time it did not hold a Tongan fishing permit. The vessel was also not on the WCPFC Record of Fishing Vessels. The conditions of the violation are not disputed by the vessel. Tonga noted that it treats such cases very seriously. Under Tongan law, penalties of US\$250,000 per offence (i.e. fishing without a license, failure to register, and failure to stow fishing gear while in Tongan waters) can be levied against the master, owner and charterer individually, for a maximum penalty of US\$1.2 million. On the basis that Tonga does not consider that effective action has been taken by the flag State, it proposes that the *Chu Huai No. 638* be placed on the Provisional IUU Vessel List.

67. Chinese Taipei confirmed that it has taken punitive action in this case. The vessel was ordered to return to port before 18 September 2008, and the vessel's fishing license was suspended for three months. The captain's license was suspended for six months. In Chinese Taipei's view, effective disciplinary action has been taken and thus the vessel need not be placed on the Provisional IUU Vessel List.

68. Dr Tsamenyi noted that this incident constitutes a clear violation of CMM-2007-03, para. 3b, involving fishing in waters under the jurisdiction of a coastal State without a license. He also explained that Chinese Taipei submits that it has met the requirements of CMM-2007-03, para. 15(b) by taking effective action to address the issue, whereas Tonga claims that the case has not been resolved to its satisfaction. TCC4 must decide how to harmonize these two perspectives.

69. Many CCMs, including FFA members, supported Tonga's position, stating that fishing in a coastal State's waters without a license is a very serious violation and that "effective action" by the flag State should equate to similar penalties as would have been imposed by Tonga. These CCMs agreed that the vessel should be placed on the Provisional IUU Vessel List.

70. Some CCMs, including Chinese Taipei, recognized that there will inevitably be differences between the penalties allowed by various national legal frameworks. Some also noted that there are no explicit standards for assessing whether an action is effective.

71. Chinese Taipei contended that the adoption of a Provisional IUU Vessel List by TCC needs to be adopted by consensus in accordance with Article 11(4) of the WCPFC Convention, thus Chinese Taipei did not agree to place the vessel on the Provisional IUU Vessel List.

72. New Zealand and other CCMs noted that where there is no consensus as to whether a vessel should remain on the Provisional IUU Vessel List, the vessel should be retained on the list and considered by the Commission, so as not to undermine the intent of the measure.

**73. A majority of TCC members supported the inclusion of the *Chu Huai No. 638* on the Provisional IUU List, whilst a minority of TCC members were against the inclusion of *Chu Huai No. 638* on the Provisional IUU Vessel List. TCC4 agreed to place the vessel on the Provisional IUU Vessel List with a note to WCPFC5 that consensus was not reached on this vessel.**

**(iii) *Ugavi***

74. The *Ugavi* is an Ecuadorean flagged fishing vessel proposed for inclusion on the Provisional IUU Vessel List by the Cook Islands.

75. The Cook Islands explained that the logbook of the *Ugavi* clearly indicated the vessel was fishing within the Cook Islands waters from 26–27 September 2006, but that the vessel did not possess a Cook Islands fishing license. Some discussions have taken place between the Cook Islands and Ecuador over the past few days but the situation has yet to be resolved.

76. Ecuador responded that it has taken prompt action to investigate the incident and that the maximum fine under Ecuadorian law (US\$5000) has been imposed.

77. The USA expressed support for the position of the Cook Islands, stating that there was evidence that the *Ugavi* fished illegally in USA waters in 2000.

78. Dr Tsamenyi explained that a critical factor in considering the inclusion of the *Ugavi* on the Provisional IUU Vessel List is that at the time of the incident, there was no applicable WCPFC IUU measure because CMM-2006-09 (later replaced by CMM-2007-03) did not become effective until February 2007. Paragraph 4 of CMM-2007-03 only allows for nomination of vessels based on incidents that occurred in the current or previous year.

79. The Cook Islands noted that the evidence for a serious violation is clear. It also requested further clarity on whether CMM limitations to the current or previous year apply to when the incident occurred or when the incident was detected (i.e. which could be some time later). Regardless, the Cook Island agreed to withdraw the nomination of the *Ugavi* for inclusion on the Provisional IUU Vessel List on the basis that the incident pre-dates the timeframe allowed in para. 4 of CMM-2007-03.

80. The TCC Chair thanked Ecuador for its attendance but stated that the non-inclusion of the *Ugavi* on the Provisional IUU Vessel List on this occasion was a procedural matter because a US\$5000 fine was wholly inadequate under the circumstances. The Chair also noted that TCC may wish to consider in the future whether more flexible procedures with respect to the timing of incidents relative to the timing of nominations are warranted, and if so, the CMM would need to be revised.

**(iv) *Ho Tsai Fa No. 6 and Ho Tsai Fa No. 38***

81. The *Ho Tsai Fa No.6* and *Ho Tsai Fa No. 38* are Chinese Taipei flagged vessels nominated by Papua New Guinea for inclusion on the Provisional IUU Vessel List.

82. Papua New Guinea described the case as being one in which the two vessels were sighted fishing and transshipping in the Convention Area, but one of the vessels was not found on the WCPFC Record of Fishing Vessels and there was an allegation that illegal transshipment may have occurred. The vessels fled Papua New Guinea while being held for investigation. These incidents occurred from March–May 2006.

83. Chinese Taipei responded that the reason for one of the vessels not appearing on the WCPFC Record of Fishing Vessels is that its Chinese name had been incorrectly transcribed into English for the Record of Fishing Vessels. High seas transshipment occurred but there was no prohibition on the transshipment at that time. Therefore, Chinese Taipei maintains that there is no legal basis for listing these two vessels. They further noted that the two vessels have changed ownership since the incident, therefore it is difficult to pursue any further action.

84. Dr Tsamenyi noted that as with the case of the *Ugavi* (iii, above) at the time of the incident there was no applicable WCPFC IUU measure in place, and the provisions of the current

measure only allow for nomination of vessels based on incidents that occurred in the current or previous year.

85. Whilst noting the serious nature of the incident, Papua New Guinea agreed to withdraw the nomination on the basis that the incident pre-dates the timeframe allowed in para. 4 of CMM-2007-03.

**(v) *Gouta***

86. The *Gouta*, a Panamanian flagged vessel, was proposed for listing by French Polynesia and presented for the consideration of TCC4 by France.

87. France explained that the *Gouta* was inspected in Papeete in December 2007, and according to the vessel's logbook, it had received transhipped fish within the WCPFC Convention Area from Indonesian flagged vessels. France acknowledged that it had not yet informed Panama, which is not a WCPFC CCM, or Indonesia, which is a cooperating non-member, of the proposed listing actions.

88. It was noted that neither Panama nor Indonesia were available to respond to these issues at TCC4.

89. Dr Tsamenyi clarified that para. 16 of CMM-2007-03 requires that "the TCC shall not include a vessel on the Provisional IUU Vessel List if the notifying CCM did not follow the provisions of para. 5."

90. On the basis that the flag States had not been notified as required, France agreed to withdraw the proposals for listing of these vessels in the Provisional IUU Vessel List.

**(vi) *Minako and Senko***

91. *Minako* and *Senko* are Indonesia flagged longliners nominated by French Polynesia for inclusion on the draft IUU Vessel List. France reported that the *Minako* and *Senko* transhipped their catches to the *Gouta* on the high seas in the WCPFC Convention Area. Noting that French Polynesia did not notify the flag State of the inclusion of the *Minako* and *Senko* on the draft IUU Vessel List as required under para. 5 of CMM-2007-03, France agreed to withdraw the proposal for including these vessels on the Provisional IUU Vessel List.

**(vii) *Neptune***

92. *Neptune*, a Georgia flagged vessel, was sighted by France when arriving from Pago Pago, American Samoa and inspected in Papeete, French Polynesia in December 2007. According to the vessel's logbook, it had received transhipped fish from a longliner in the Convention Area. France explained that considering that Georgia is not a member of the WCPFC, this vessel may only be allowed to fish in the Convention Area provided the flag State cooperates with the WCPFC and effectively controls its vessels so as not to contravene any of the WCPFC CMMs.

93. France acknowledged it had not notified Georgia of the potential listing and given that this requirement for listing has not yet been met, France agreed to withdraw the *Neptune* from inclusion on the Provisional IUU Vessel List.

**(viii) *Jing Chuen No. 68***

94. The *Jing Chuen No 68* a Chinese Taipei flagged vessel was nominated for the Provisional IUU Vessel List and presented to TCC4 by France.

95. France explained that captain and shipowner were convicted of IUU fishing violations in New Caledonia. A fine of €83,800 was assessed, and the captain and shipowner have committed in writing to making the payment, but the entire amount of the fine has yet to be received.

96. Chinese Taipei responded that the incident had been investigated in a responsible manner and that delays in paying the fine had been only due to administrative issues associated with the transfer of funds to New Caledonia, rather than any intent on the part of the Chinese Taipei parties. Payment is expected to be completed shortly.

**97. TCC4 agreed to include the *Jing Chuen No. 68* on the Provisional IUU Vessel List and noted that the vessel shall be subsequently removed from the list once France confirms the payment of assessed fines is complete.**

(ix) Provisional IUU Vessel List

**98. With respect to the Provisional IUU Vessel List, all vessels contained in WCPFC-TCC4-2008/11 were reviewed. A Provisional IUU Vessel List is attached as Attachment F.**

(b) WCPFC IUU Vessel List

(i) *Athena F*

99. Based on notification from the Cook Islands, the Venezuelan flagged *Athena F* was placed on the WCPFC IUU Vessel List in 2007. Since the listing, there has been no communication from the flag State.

100. Dr Tsamenyi explained that a vessel can only be removed from the WCPFC IUU Vessel List if it provides the information specified in CMM-2007-03, para. 25.

**101. TCC4 agreed to recommend to WCPFC5 that the *Athena F* should remain on the WCPFC IUU Vessel List.**

(ii) *Jinn Feng Tsair No. 1*

102. Based on notification from FSM, the Chinese Taipei flagged *Jinn Feng Tsair No.1* was placed on the WCPFC IUU Vessel List in 2007.

103. FSM noted the efforts of the Chinese Taipei government in attempting to resolve this issue by taking action in their courts. However, FSM considers the matter to be unresolved until the vessel submits to FSM's judicial process. Therefore, FSM maintains that the *Jinn Feng Tsair No.1* should remain on the WCPFC IUU Vessel List.

104. Chinese Taipei outlined the various actions it has taken with regard to the *Jinn Feng Tsair No.1*, including a one-year suspension of the vessel's fishing license and one-year suspension of the captain's license. These appear to be the maximum penalties allowable under Chinese Taipei law because the court cannot impose a criminal penalty on the former owner who has sold the vessel since the incident occurred.

**105. With respect to the vessel *Jinn Feng Tsair No. 1*, TCC4 noted that negotiations between FSM and Chinese Taipei to resolve this case are still ongoing.**

**106. TCC4 agreed to recommend to WCPFC5 the removal of *Jinn Feng Tsair No. 1* from the WCPFC IUU Vessel List if a satisfactory settlement is reached by the time WCPFC5 meets.**

(iii) *Daniela F*

107. Based on notification from France, the Venezuelan flagged *Daniela F* was placed on the WCPFC IUU Vessel List in 2007. Since the listing, there has been no communication from the flag State with regard to the requirements of CMM-2007-03, para. 25.

**108. TCC4 agreed to recommend to WCPFC5 that the *Daniela F* should remain on the WCPFC IUU Vessel List.**

109. The Chair suggested that those CCMs with a diplomatic presence in Venezuela may wish to consider raising the issue with the Venezuelan authorities through their resident embassies.

**(b) CMM-2007-03 [IUU Fishing] – Review of outstanding issues from WCPFC4**

**(i) Vessels associated with the WCPFC IUU Vessel List via ownership or control**

110. Dr Martin Tsamenyi presented a paper (WCPFC-TCC4-2008/12) explaining the issues associated with para. 3(j) of CMM-2007-03 [IUU Fishing]. This paragraph permits the inclusion on the WCPFC IUU Vessel List of vessels that have not themselves engaged in IUU fishing activities but are associated with vessels on the IUU List by reason of ownership or control. He noted that similar provisions are made in a measure adopted by the IATTC, but no policy rationale for the inclusion of this paragraph has been provided. Arguments in support of retaining para. 3(j) are that it reflects international interest in addressing the role of beneficial owners in IUU fishing activities, and that it is a desirable complement to other measures in CMM-2007-03. However, he recognized that concerns have been raised about the interpretation and practical application of para. 3(j), including how to handle complex ownership arrangements and procedures for removing vessels listed under para. 3(j) from the WCPFC IUU Vessel List.

111. Some CCMs, citing particular concerns with a) the potential for excessive and disproportionate penalties by moving away from a vessel specific definition of IUU fishing; and b) the potential to encourage proliferation of companies controlling only a single vessel, recommended deletion of para. 3(j).

112. Some CCMs expressed support for broadening the applicability of Paragraph 3(j) to include operators as well as owners. It may also potentially include skipper, master and authorized holder. Belize offered to provide a paper on this issue.

113. Other CCMs voiced strong support for the intent of para. 3(j) as written, stating that the provision a) acts as a strong deterrent; b) allows for co-owned vessels proven to be operating as a team to be penalised even if only a single vessel is observed; c) provides a way of escalating action taken against an operator who fails to take appropriate action in respect of an IUU vessel; and d) supports other measures such as port State controls. Many of these, however, acknowledged that further elaboration of practical guidelines for its application is required.

114. In order to promote transparency and fairness, some CCMs suggested that para. 3(j) not be used as the basis for placing a vessel on the WCPFC IUU Vessel List until the practical aspects of its application are elaborated and agreed. Other CCMs were concerned that such a process could be lengthy and that it would be undesirable to indefinitely suspend para. 3(j) as a basis for placing a vessel on the WCPFC IUU Vessel List.

**115. Regarding TCC4's discussions of para. 3(j) of CMM-2007-03, the majority favored retaining this paragraph while the minority favored its removal. CCMs agreed to recommend to the Commission not to apply para. 3(j) of CMM-2007-03 as a criterion for IUU listing in developing the Draft IUU Vessel List in 2009. During this period, the Secretariat in consultation with interested CCMs, will develop additional procedures to give effect to this paragraph for discussion at TCC5.**

116. FSM noted for the record that those vessels that were nominated for listing on the Provisional IUU Vessel List but did not make it due to a technical limitation with CMM-2007-03, should not be interpreted as legitimizing those IUU activities, nor do they limit the application of national laws.

(ii) **Other revisions to CMM-2007-03**

117. Some CCMs supported an amendment to CMM-2007-03, which would provide a procedure for coordinating IUU Vessel Lists between WPCFC and other RFMOs. It was acknowledged that, while desirable to prevent listed vessels from registering with other RFMOs, parallel listing procedures would first require harmonization of listing criteria between RFMOs and could require substantial time to complete. Therefore, in the meantime, there was support for more general procedures that would allow for information from other RFMO IUU Vessel Lists to be considered as one of the criteria used when deciding whether to place a vessel on the WPCFC IUU Vessel List. Issues to be considered in the harmonization process, which were raised by CCMs included ensuring due process and providing for a right of appeal. It was noted that this issue could be progressed at the next meeting of Tuna RFMOs scheduled for February–March 2009 in Spain.

**118. TCC4 recommended participation of CCMs and the WPCFC Secretariat in the Second Meeting of Tuna RFMOs.**

**119. TCC4 recommended consideration of IUU lists developed in other RFMOs as a criterion in the development of the WPCFC IUU Vessel List. In doing so, WPCFC should take into account the processes used within other RFMOs and characteristics of the area for IUU listing.**

120. Some CCMs requested development of procedures for sanctioning CCMs whose flag vessels are frequently nominated for placement on the WPCFC IUU Vessel List. It was noted that this issue is a subset of issues that are raised under TCC4 Agenda Item 2.8 (c).

**121. TCC4 noted that in the future, the development and implementation of a measure in this Commission might be required to sanction CCMs that frequently have their vessels nominated for IUU listing, especially if any CCM fails to effectively monitor, control and sanction offending vessels and vessel operators.**

**122. Noting this point, TCC4 suggested that any potential measure should take into account actions taken to impose sanctions in other RFMOs.**

**123. TCC4 recommended that this issue be taken up by the Compliance with Conservation and Management Measures (CCMM) Working Group facilitated by Australia.**

124. Based on the issues raised by several vessels on the Draft IUU Vessel List, several CCMs recommended that clear procedures be developed for evaluating whether effective action has been taken by the flag State under CMM-2007-03 para. 15(b).

125. Tonga, supported by several CCMs, with regard to such evaluations suggested that factors including the number of offences, the applicable penalties under national law in the coastal State, the number of days of violation and the total expenses of MCS activities to the coastal State should be considered. Other CCMs supported Tonga and offered that two additional criteria — the dependency of the coastal State on its marine resources and the value of the illegal catch — would be useful to consider. Some CCMs considered that CMM-2007-03 needed to be revised, whereas others stated this guidance could be provided through other means.

126. Chinese Taipei stated their view that evaluation of whether effective action has been taken by the flag State should be transparent, fair, non-discriminatory, account for differences in legal systems between States, and traditional operating patterns and fishing history between the coastal State and the flag State.



127. The USA stated that an essential element of the assessment is that the evaluation of effective action cannot be taken by the flag State of the vessel nominated on the Draft IUU Vessel List.

128. In relation to resolving the issues associated with IUU listing, particularly the discharge by flag States of their obligations and the determination of the adequacy of the severity of sanctions imposed by the flag State, Dr Tsamenyi drew attention to the importance of utilizing the provisions of Article 25 of the Convention in addition to any subsequent actions through CMM-2007-03 to place the vessel on the Provisional IUU Vessel List.

129. The Philippines provided useful information pertaining to incidents involving the intrusion of vessels into the waters of coastal States. In such cases, the Philippines recognizes the authority of the coastal States to impose their domestic laws in dealing with such violations in the same manner that the Philippines expects that other flag States would recognize the authority of the Philippines in dealing with perpetrators until the issues are resolved. The Philippines indicated that these issues are also resolved diplomatically.

**130. TCC4 noted with concern the issue raised by Tonga regarding when a flag State has made sufficient action with respect to an IUU incident.**

**131. Tonga's position statement on this matter, which is attached as Attachment G, received strong support from CCMs.**

**132. TCC4 undertook to review this matter as a priority item at TCC5.**

133. One CMM suggested that CMM-2007-03 be amended to allow the Secretariat to provide a preliminary screening of the information supporting the vessels on the Draft IUU Vessel List. This would enable missing information to be identified prior to TCC review.

## **2.4 Conservation and Management Measure for Yellowfin and Bigeye Tuna**

### **(a) Purse-seine effort on the high seas and the zones of non-Parties to the Nauru Agreement (PNA) CCMs**

134. The Executive Director introduced two papers (WCPFC-TCC4-2008/13 and WCPFC-TCC4-2008/13 Suppl.), which are designed to allow TCC4 to review options for measures, similar to the Vessel Day Scheme, to limit purse-seine effort on the high seas. The first paper presents options for defining measures of purse-seine effort and an initial compilation of effort (for 2004 and the annual average of 2001–2004) for the high seas and zones of non-PNA members. These data were reviewed by SC4, and CCMs were allowed until 15 September 2008 to provide any additional, verifiable data that could result in amendments. Submissions from Korea, the Philippines and the USA were received and are contained in the second paper. The USA could not verify the values attributed to its fleet in Table 1, and will work with the Secretariat to determine the appropriate numbers.

135. Nauru, on behalf of PNA, introduced WCPFC-TCC4-2008/DP-04, which set out the procedures for catch retention and fish aggregating device (FAD) closure that will be adopted for implementation of the Third Implementing Arrangement to the Nauru Agreement. The Arrangement has been adopted and is now being implemented through revisions to national legislation in PNA countries. The measures include a FAD closure in the third quarter, and the retention of all tunas other than those that are unfit for human consumption, and excess catch in the final set of a trip. Commission members that are not PNA members were welcomed to discuss the revised procedures particularly with regard to suggestions for improved effectiveness.

**(b) Technical issues supporting management**

**(i) Catch retention plans (CRPs)**

136. WCPFC-TCC4-2008/23, concerning the establishment of enforceable technical and compliance aspects of CRPs, was presented by the Executive Director. TCC4 was invited to note the information for future reference.

**(ii) FADs**

137. The Executive Director introduced WCPFC-TCC4-2008/22, explaining that this paper was prepared in response to a request from TCC3 to correspond with other RFMOs, notably IATTC, in order to gather relevant experience with FAD-related measures. The paper was presented to TCC4 for information purposes only.

**(iii) Draft CMM for yellowfin and bigeye**

**138. WCPFC Chair Glenn Hurry led a preliminary discussion of a proposed CMM based on WCPFC-TCC4-2008/14.**

**139. TCC4 noted that agreement on a bigeye tuna and yellowfin tuna CMM would be a principal goal of WCPFC5.**

140. Chairman Hurry undertook to carry on discussions with CCMs inter-sessionally, and to circulate a draft measure, which reflected the discussion at TCC4, well in advance of WCPFC5 for consideration by the Commission.

**2.5 Cooperating Non-Members**

**(a) Process for considering applications**

141. Palau, on behalf of FFA members, presented a statement highlighting their views on the complexity of the cooperating non-member (CNM) issue within the WCPFC. This statement is provided in Attachment H.

142. New Zealand introduced WCPFC-TCC4-2008/DP-02 (Rev. 1), which describes the existing legal framework for CNM applications, its limitations, and efforts to revise and improve the current process. New Zealand was pleased to note that several of the amendments proposed in their delegation paper also appear in the FFA proposal at WCPFC-TCC4-2008/DP-05. Furthermore, New Zealand concurred with FFA members that a revised process, if adopted by WCPFC5, should apply to CNM applications beginning in 2009, and that 2008 applications should be dealt with under the existing process. To clarify understanding of the existing process, WCPFC-TCC4-2008/DP-02 (Rev.1) presents flowcharts describing procedures for evaluating whether all information requirements have been met by the application and, if so, for the Commission to consider whether CNM status should be accorded.

143. CCMs discussed potential revisions to the flowchart in Part 2 to reflect the role of the WCPFC's Scientific Committee in accounting for stock status, to incorporate any voluntary agreements on the part of the applicant, and to make allowances for the possibility that the applicant does not have any history of compliance (positive or negative) with RFMO measures.

**144. With regard to the New Zealand paper "Cooperating Non-Members at WCPFC5" (WCPFC-TCC4-2008/DP-02 [Rev.1]), TCC4 provides WCPFC5, for its use as appropriate, the diagram at Attachment I as documentation of the process currently employed to review cooperating non-member applications.**

145. Niue, on behalf of FFA members, then opened discussion on the proposed amendments to CMM-2004-02 as contained in WPCFC-TCC4-2008/DP-05. The proposed amendments were characterised as:

- i. Specifying a role for TCC in assisting the Commission in assessing the completeness of CNM applications, and providing advice to the Commission on the compliance record of CNM applicants;
- ii. A revised deadline for applications to allow time for TCC review (i.e. 60 days in advance of the TCC);
- iii. Elaboration of the means by which the fishing interests of CNMs may be accommodated consistent with the criteria outlined in Article 11 of the United Nations Fish Stocks Agreement (UNFSA);
- iv. Non-substantial editorial changes to clarify the text; and
- v. Providing an opportunity for CNM applicants to submit additional information in advance of the relevant Commission session.

146. Several CCMs expressed support for the intent of the proposed amendments but reserved formal comments pending the review by other relevant national authorities that had not yet had the opportunity to review the text.

147. Regarding para. 5bis of the proposed text (WP-05), it was clarified that this wording is drawn directly from Article 11 of the UNFSA. It was also noted that a distinction needs to be made between the issues of CNM status and participatory rights.

148. Some CCMs commented that para. 7, regarding financial contributions, should be clarified to be more specific about the contributions expected from CNMs.

149. Some CCMs also sought clarification of the role of the WCPFC's Scientific Committee under 12bis and that the criteria listed under 13bis should be consistent with the criteria outlined in para. 5.

**150. TCC4 reviewed the principles contained in "Cooperating Non-Members Proposed Amendments to CMM-2004-02" (WCPFC-TCC4-2008/DP-05)**

**151. TCC4 agreed that CCMs provide written comments to Canada by 31 October 2008. Canada undertook to provide a revised version of the paper to the Secretariat by 7 November 2008 for distribution to CCMs and consideration at WCPFC5.**

## **2.6 High seas boarding and inspection**

152. The Executive Director presented a working paper on Implementation of High Seas Boarding and Inspection Procedures (WPCFC-TCC4-2008/21 Rev.2). This working paper reports on progress with implementation of procedures mandated by CMM-2006-08.

153. The USA reported that the first boarding under the WCPFC High Seas Boarding and Inspection (HSB&I) procedures was conducted on 21 August 2008 with regard to Japanese flagged pole-and-line vessels. The inspection proceeded smoothly and no violations were observed. Boarding of a second vessel, a Korean longliner, was conducted on 4 September 2008. During these boardings, USA Coast Guard personnel found the multi-language questionnaires to be very useful.

154. Japan stated that since there was no radio contact received by the fishing vessel prior to the boarding, and because the Japanese authorities were not notified of the boarding until several hours after it took place, it was their desire to see prior communication in future boardings.

155. Several CCMs spoke favorably of the new procedures stating that they were ready to support compliance activities of the Commission.

156. Fiji, on behalf of FFA, expressed appreciation for the funding received from the Government of Japan's Japan Trust Fund, which supported an inspection training workshop in Nadi, Fiji in April 2008.

157. It was noted that TCC3 had agreed that numbers should be placed on HSB&I flags and pennants. The Secretariat will undertake to add numbers to the flags and pennants and distribute them to CCMs.

158. Japan noted that two radio frequencies are provided for in the Convention text at Annex 3, Article 6, para. 4, but that the frequency at 2182 kHz was not listed on the multi-language questionnaire. It was agreed that the frequency of 2182 kHz should be included on the questionnaire. Japan also noted that it was taking domestic procedures to register its enforcement vessels.

159. Noting the requirement to contact the authorities of the flag State of the vessel being boarded, the USA requested a list of contact details for each CCM.

160. Dr Tsamenyi noted that although the procedure does not specifically provide for information on the CCM's fishing authorities to be submitted, two parts of the procedures — para. 20(a) and 30) — assume this information is available. He suggested that since each CCM provides one official contact point, this contact point may serve as the contact point for the fishing authority in the absence of a separate point of contact for the fishing authority.

161. The USA also requested a legal opinion on the application of the WCPFC HSB&I procedures to CNMs.

162. Dr Tsamenyi provided the following opinion regarding HSB&I procedures for CNMs:

“The power to undertake high seas boarding and inspection procedures is given only to Contracting Parties under paragraph 5 of the Procedures and a fishing entity covered by a notification from a Contracting Party pursuant to paragraph 6 of the Procedures. Members of the Commission are obliged to accept high seas boarding and inspection under paragraph 7 of the Procedures. Conservation and management measures adopted by the WCPFC apply to cooperating non-members by virtue of paragraphs 2(b) and 3(a) of CMM 2004-02. It follows that Cooperating Non-members are subject to the High Seas Boarding and Inspection Procedures, a conservation and management measure of the Commission. However, such Cooperating Non-Members cannot undertake high sea boarding and inspection in the Convention Area. It is also important to note that under Article 21(1) of the UN Fish Stocks Agreement fishing vessels of non-members of the WCPFC who are parties to the UN Fish Stocks Agreement may be subject to High Seas Boarding and Inspection in the WCPFC Convention Area.”

**163. TCC4 noted favorably that high seas boardings and inspections had begun in the WCPFC Convention Area, the first such boardings undertaken by a tuna RFMO.**

**164. TCC4 reviewed WCPFC-TCC4-2008/21 (Rev. 2).**

**165. Recommendations contained in para. 14 of that paper were noted.**

**166. Members were encouraged to submit information as required and to begin conducting inspections on the high seas as soon as they are able. The Secretariat undertook to post relevant information on the website.**

**167. TCC4 recommends that WCPFC5 agree that the authority of the fishing vessels be provided.**

## **2.7 WCPFC Record of Fishing Vessels**

### **(a) Active vessels**

168. WCPFC's Executive Director presented WCPFC-TCC4-2008/10 (Rev. 3), which reports on progress with the implementation of a data field in the WCPFC Record of Fishing Vessels that indicates whether the vessel is active or inactive in the Convention Area. Only four CCMs supplied information for this field against particular vessels. Another CCM stated that all its vessels on the WCPFC Record of Fishing Vessels are active. It was noted that a lack of information on which of the 8,741 vessels on the WCPFC Record of Fishing Vessels are active in the Convention Area will have implications for MCS issues such as the ROP. Issues involving the lack of completeness of information provided in CCMs' reports on their vessels were also identified. A suggestion for developing a web-based form for submission of vessel information was put forward as a means of improving the quality of future vessel-related submissions.

169. Several CCMs expressed support for the idea of a web-based form for vessel data submission to the Secretariat. The Secretariat was encouraged to consult with CCMs during the development of such a system.

**170. TCC4 noted that only seven Members (Australia, Canada, EC, Japan, Korea, New Zealand and the USA) plus CNM Belize, had submitted their list of fishing vessels active in the WCPFC Convention Area in accordance with the requirement of WCPFC4 para. 300.**

**171. Noting the incomplete nature of current lists and the fact that this is a matter of critical importance to the management of the fishery, all CCMs are encouraged to provide the information required for the WCPFC Record of Fishing Vessels as a matter of priority with a view to having fully compliant lists no later than WCPFC5.**

**172. TCC4 recommends that the Secretariat, in consultation with CCMs, develop a web-based system for vessel record information.**

### **(b) Temporary register of fish carriers and bunkers**

173. TCC4 also considered information in WCPFC-TCC4-2008/10 (Rev. 3) regarding a temporary register of fish carriers and bunkers. This register originated from a decision at WCPFC3 that only fish carriers and bunkers flagged to CCMs will be licensed for the western and central Pacific Ocean (WCPO). Subsequently, WCPFC4 authorized a one-year phase out for non-CCM carriers and bunkers. TCC4 was invited to consider how to handle the issue of non-CCM carriers and bunkers for 2009.

174. Most CCMs acknowledged that the current temporary register of fish carriers and bunkers is not ideal, however, identifying an optimal solution to this issue was expected to require some time.

**175. TCC4 recommended to WCPFC5 that the exemption for non-CCM carrier and bunker vessels be extended for a further year.**

**(c) Unique vessel identifier for fishing vessels**

176. The Executive Director updated TCC4 on progress with the development of a unique vessel identifier (UVI), which is a collaborative effort involving tuna RFMOs, the Food and Agriculture Organization (FAO) of the United Nations and Lloyds Register/Fairplay (WCPFC-TCC4-2008/24). In order to create a UVI system, it will be necessary for CCMs to provide some additional information for the WCPFC Record of Fishing Vessels. Most of the information is expected to be standard data required by national ship registries. Tuna RFMOs are now actively supporting the development of the UVI, but progress to date has been slow.

177. Most CCMs did not oppose development of the UVI but expressed concerns about its practicality, feasibility, data requirements, administration and/or costs. Improving the WCPFC Record of Fishing Vessels was considered by some CCMs to be a higher priority than developing a UVI.

**178. TCC4 noted the Secretariat paper WCPFC-TCC4-2008/24.**

**179. TCC4 discussed the concept; noted the difficulty of this matter, including costs and gathering information; and encouraged continued efforts by CCMs, the FAO and the WCPFC Secretariat regarding this matter.**

180. Kiribati expressed concern about the interpretation of sovereign rights under CMM2004-01 and was strongly of the view that the Commission's area of mandate is the high seas in the Convention Area. The delegate stated that other areas come strictly under national laws and legislature. For areas within national jurisdiction, the Commission's function is without prejudice to the sovereign rights of coastal States provided under Article 10 (1) of the Convention.

181. Kiribati further reiterated that at WCPFC4 (see WCPFC4 Summary Report para. 179), the Secretariat advised that,

“UNCLOS grants sovereign rights to all coastal States to decide which parties they allow to fish within their EEZ, provided the fishing activities are not inconsistent with the conservation and management obligations of the coastal State. However, CMM 2004-01, under which CCMs have committed to allowing only CCMs to fish in their EEZs, has limited those sovereign rights. Therefore, CCMs that allow a non-CCM to fish in their EEZ are in violation of Commission measures and the Convention.”

182. Kiribati urged reconsideration of these issues of interpretation and jurisdiction of CMM2004-01 at a future session of TCC.

**2.8 Compliance review and enforcement of management measures**

**(a) Part 2 reports**

**(i) Submissions by CCMs**

183. WCPFC-TCC4-2008/10 (Rev.2) provides a summary of CCMs' Part 1 and 2 reports. The number of CCM Part 1 Reports received annually has increased from 27 to 30 in 2005–2007, and the number of CCM Part 2 reports submitted each year from 2005-2007 has been between 21 and 24. The Executive Director noted that the understanding of information requirements was improving over time, resulting in gradually better reports. It was noted however, that as of the start of TCC4, only 14 Part 2 reports had been received; receipt of another 10 reports during TCC4 presented difficulties for compiling the information in time for TCC4's review. An increasing number of CMMs, and a potential need for additional capacity building, were noted as key issues. The Executive Director noted a joint project with the Commission's Science Provider,

SPC, which has developed web pages for the Commission's website, showing data gaps and a checklist of data submissions for each CCM.

184. WCPFC Chairman Glenn Hurry stressed that compliance reporting is essential to the effective functioning of the Commission. He strongly encouraged all CCMs to submit all outstanding reports prior to WCPFC5. If compliance reporting remains inadequate, WCPFC5 may consider a CMM that establishes punitive measures, such as suspension of members who have poor compliance records. It was noted that WCPFC-TCC4-2008/25 presents options for a compliance review and enforcement procedures.

**(ii) Part 2 report template**

185. WCPFC's Executive Director explained to TCC4 that due to confusion about the reporting format, 2007 CCM Part 2 reports were received in several different formats: a) the 2006 Part 2 report template; b) the Part 2 template developed at TCC3; and c) the Part 2 template provided in WCPFC Circular 2008-03. Although b) was developed by TCC3 and was intended to be forwarded to WCPFC4 for endorsement, the record does not clearly indicate its status. Dr Tsamenyi stated that if the template in a) is to be replaced by b) or c), then an endorsement of b) or c) by TCC4 would be necessary.

186. Several CCMs indicated that they were not comfortable with the new templates. Some CCMs stated that this was because they did not fully understand the new data fields. Other CCMs felt the new data requirements were too onerous or that the template should not be changed until a few cycles of reporting had occurred and necessary improvements had become clear.

**187. TCC4 reviewed the issue of Part 2 report templates.**

**188. TCC4 agreed that the Secretariat shall issue enhanced guidelines to which will be attached the current templates that have been considered by TCC. This will be circulated by 16 October 2008.**

**189. CCMs are invited to comment by 10 November 2008 to the Secretariat.**

**190. CCMs will then be invited at WCPFC5 to propose a template for 2009.**

**(b) Report by the Secretariat**

**(i) CMM-2005-01 and CMM-2006-01 relating to bigeye and yellowfin tuna**

191. As detailed in WCPFC-TCC4-2008/10(Rev.3), these CMMs require CCMs to register existing regional or bilateral fisheries partnership arrangements or agreements with the Commission. Twelve CCM reports have been received. Bigeye and yellowfin effort levels for purse seines and catch levels for longlines were presented and comments were requested by 15 September 2008. Comments were received from the USA, Philippines, Korea and the EC. With regard to exemptions for developing skipjack purse-seine fisheries between 20°N and 20°S, one CCM has provided a skipjack development plan. FAD management plans for areas beyond national jurisdictions have been received from five CCMs. CRPs, required for all purse-seine fisheries in the Convention Area, have been submitted by four CCMs.

192. Papua New Guinea also reiterated a comment that the requirement to submit a development plan for skipjack purse-seine fisheries does not apply to SIDS.

193. This point raised the related issue of how best to report the number of submissions under each item. It was suggested that the number of submissions should be reported relative to the total possible number of submission, taking account of those CCMs that are not required to make submissions of a given type.

194. Samoa, on behalf of FFA members, expressed concern that the 2007 provisional longline catch of bigeye tuna as reported by the USA appears to be in breach of the limit set out in CMM-2005-01, para. 17. Given that scientific advice from the WCPFC's Scientific Committee calls for a 30 per cent reduction in bigeye tuna fishing mortality, FFA members support the development of a process of sanctions for those CCMs in breach of CMMs, and welcome WCPFC-TCC4-2008/25, which seeks to progress work on this issue.

**(ii) CMM-2005-02 for South Pacific albacore**

195. This CMM calls for no increase in the number of fishing vessels fishing for albacore tuna south of 20°S. The Executive Director noted that although the measure calls for limits in vessel numbers, except for Australia, New Zealand and Belize, only aggregate catch and effort data have been reported. CCMs were encouraged to report operational catch and effort data in order to allow evaluation of compliance with this measure.

196. New Zealand noted its strong concern about the lack of reporting, and suggested it may be timely to consider sanctions for non-compliance.

**(iii) CMM-2005-03 for North Pacific albacore**

197. This CMM requires that catch of albacore north of the equator, by gear type, be reported to the Commission every six months and that catch and effort data be reported annually. The Executive Director noted that 10 fisheries have reported recently but the scope of reporting varies and few reports contain information on effort.

**(iv) CMM-2007-04 for seabird mitigation**

198. The Executive Director noted that three CCMs reported on measures used in their fisheries to mitigate the effects of longline fisheries on seabirds under CMM-2006-02. These three CCMs and another CCM have reported under CMM-2007-04.

**(v) CMM-2006-03 for swordfish in the southwest Pacific**

199. This CMM requires CCMs to report the number of vessels that have fished for swordfish in waters south of 20°S during the period 2000–2005, and thus nominate the maximum number of vessels that shall continue to be permitted to fish for swordfish in the area south of 20°S. This CMM also requires annual reporting of the number of vessels that fished for swordfish in that area. The Executive Director noted that nine CCMs had provided vessel numbers for each year, whereas one CCM provided information in the form of catches.

200. Australia noted the advice of the Second Regular Session of the WCPFC's Scientific Committee (SC2) was that there be no increases in fishing mortality on the swordfish stock in the southwest, and the most recent advice of the Fourth Regular Session of the Scientific Committee (SC4) that there be no further increases in catch or effort for the stock in order to keep the stock above its associated reference points. Australia cited particular concerns with what it considered to be the poor level of compliance with CCM-2006-03. Australia noted that it was the largest catcher of southwest swordfish, and had voluntarily reduced its catch from over 2,100 tonnes by imposing a total allowable catch for its vessels of 1,600 tonnes; a limit that applies both within its EEZ and to Australian flagged vessels fishing in the high seas. Australia is concerned that its efforts are being undermined by other CCMs who are increasing their catch in contravention of scientific advice and the intent of CMM-2006-03. In light of these developments, and noting that CMM-2006-03 is due to be reviewed this year, Australia stated it is giving serious consideration to bringing forward a revised and strengthened measure to WCPFC5.



(vi) **CMM-2006-04 for striped marlin in the southwest Pacific**

201. This measure calls for CCMs to report the number of vessels that have fished for striped marlin in waters south of 15°S during the period 2000–2004, and thus nominate the maximum number of vessels that shall continue to be permitted to fish for striped marlin in the area south of 15°S. This CMM also requires annual reporting of number of vessels that fished for striped marlin in that area. The Executive Director noted that six CCMs had provided vessel numbers for each year, whereas one CCM provided information in the form of catches.

202. Vanuatu stated that they will provide their data in the form of vessels.

(vii) **Resolutions on Reduction of Capacity Constraints (Resolution 2005-02) and Sea Turtles (Resolution 2005-04)**

203. The Executive Director noted that no reports have been received for sea turtles.

**204. TCC4 reviewed WCPFC-TCC4-2008/10 (Rev. 3) on the subject of compliance review and enforcement of management measures.**

**205. It was noted with great concern that many CCMs had not met their reporting obligations with respect to various measures.**

**206. CCMs were urged to bring their reporting up to date in advance of WCPFC5.**

**207. TCC4 directed the Secretariat to prepare a table for consideration by WCPFC5, which would list the names of CCMs in compliance with various reporting measures and obligations, and those not in compliance.**

**208. TCC4 noted that failure to provide information constitutes a failure to comply with the measure in question.**

**209. TCC4 recommended to WCPFC5 that, depending on the response to para. 206 above, the Commission may wish to consider remedial action, including sanctions, for failure to comply.**

(c) **Development of a process and structure for monitoring compliance**

210. The Executive Director introduced WCPFC-TCC4-2008/25, which is the result of a request by TCC3 for the Secretariat to consider compliance procedures employed by other RFMOs. He noted that TCC4's review of compliance reporting has identified a number of substantial data gaps, and that reporting requirements are very likely to expand as the number of CMMs increases. The paper explores what mechanisms may be available to the Commission to improve the performance of CCMs with regard to compliance.

211. Several CCMs stated support for further development, led by the Secretariat and beginning immediately, of compliance monitoring procedures, but stressed that any sanctions should be proportionate and suited to the varying degrees of non-compliance which are likely to arise.

212. Other CCMs, while also supportive of the concept of compliance monitoring, suggested forming a working group to consider both sanctions and the procedures under which they might be applied. This was considered to be particularly important to ensure transparency and fairness.

213. There was consensus that, if possible, progress should be made in order to allow further discussions in the margins of WCPFC5 and for a proposal to be considered at TCC5.

**214. TCC4 discussed paper WCPFC-TCC4-2008/25 (Rev. 2).**

**215. Australia's offer to prepare a paper on principles and terms of reference for tabling at WCPFC5 was accepted.**

**216. New Zealand offered to examine the possibility of providing a legal analysis.**

**217. On tabling of these papers, a Compliance with Conservation and Management Measures (CCMM) working group will be formed at WCPFC5 with a view to preparing a draft approach for consideration at TCC5.**

## **2.9 Transshipment verification**

218. The Executive Director noted that there are two papers on this issue: Draft Conservation and Management Measure on Regulation of Transshipment (WCPFC-TCC4-2008/DP-06) submitted by the Marshall Islands, Papua New Guinea, Nauru, FSM, Solomon Islands, Palau and Kiribati; and Draft Conservation and Management Measure on Establishing Procedures for Transshipments by Fishing Vessels (WCPFC-TCC4-2008/DP-07) submitted to WCPFC4 by Australia and Japan.

219. The Marshall Islands stated that their position had initially been to ban transshipment, but they are now proposing strict limits on the practice under a small number of exemptions. The paper provides the details of restrictions on transshipment for the high seas. The Marshall Island noted that transshipment in zones is subject to national laws and regulations.

220. Japan, in presenting its paper, explained that it is identical to that tabled at WCPFC4. The paper is based on the position that duly controlled transshipment on the high seas can be allowed. Japan indicated its willingness to work with the authors of DP-06 in order to progress toward a mutually agreeable draft CMM.

221. Some CCMs stated their position was that a complete ban on high seas transshipment was desirable in order to foreclose opportunities to launder catches and to prevent IUU fishing.

222. Other CCMs, including FFA members, were supportive of the Marshall Islands' proposal, noting the importance of effective monitoring in ensuring that any transshipment activities are conducted in compliance with applicable measures. These CCMs believe that measures to control transshipment are necessary in order to deter IUU fishing in zones and on the high seas.

223. Yet another group of CCMs supported Japan and Australia's proposal, citing the fact that similar transshipments are being applied in other RFMOs.

224. All CCMs agreed on the importance of working cooperatively and inter-sessionally toward a revised draft CMM for consideration at WCPFC5.

**225. TCC4 examined two working papers tabled during the meeting: Draft Conservation and Management Measure on Regulation of Transshipment (WCPFC-TCC4-2008/DP-06) and Draft Conservation and Management Measure on Establishing Procedures for Transshipments by Fishing Vessels (WCPFC-TCC4-2008/DP-07).**

**226. TCC4 agreed that ongoing discussions should be undertaken by CCMs — led by Marshall Islands and assisted by Australia — with comments to the Marshall Islands by 20 October 2008.**

**227. Given the importance of this issue to the management of the fishery, CCMs are encouraged to bring forward a draft measure for WCPFC5's consideration.**

## **AGENDA ITEM 3 — SPECIAL REQUIREMENTS OF SMALL ISLAND DEVELOPING STATES**

**228. The statement by Cook Islands on behalf of FFA members was noted by TCC4 and is attached as Attachment J.**

229. Marshall Islands raised the issue of specific vessels purchased from Chinese Taipei but not yet operating within the WPCO. Marshall Islands, Nauru on behalf of PNA, and Chinese Taipei each made a statement regarding this matters which are attached as Attachment K.

**230. TCC4 noted that as this is an important issue for the Commission, CCMs are encouraged to address this matter at WCPFC5.**

231. The USA made a statement that is appended as Attachment L.

#### **AGENDA ITEM 4 —FUTURE WORK PROGRAMME**

##### **4.1 Draft work programme for 2009–2013**

**232. TCC4 reviewed the draft work programme and budget (WCPFC-TCC4-2008/15 (Rev. 1)).**

**233. Following discussion, the document was amended as Rev. 2 and is provided as Attachment M.**

**234. TCC4 recommended to WCPFC5 that this budget and work plan be approved.**

#### **AGENDA ITEM 5 — ADDITIONAL MONITORING, CONTROL AND SURVEILLANCE (MCS) ISSUES BEFORE THE COMMISSION**

##### **5.1 Ad-Hoc Task Group [Data]**

235. The Chair of the Ad Hoc Task Group (AHTG) [Data], Holly Koehler (USA) introduced WCPFC-TCC4-2008/17. She reported that in 2008, following the adoption of revised Rules and Procedures for the Protection, Access to, and Dissemination of Data Compiled by the Commission in Guam in December 2007, the Secretariat worked electronically with CCMs to develop a process and work programme to address the requirements of paras. 23 and 24 of the rules in relation to the release of non-public domain data for compliance and enforcement purposes on the high seas and, for VMS data, for scientific purposes. She noted that the Secretariat's circulars (08/2008 (March 2008) and 14/2008 (June 2008)), first invited CCMs to comment on draft terms of reference (TOR) to support the work of the AHTG [Data], and second, to nominate an individual to chair the work of the group.

236. Following her selection, the Chair arranged for informal discussions on the work required to address the requirements of paras. 23 and 24 in the margins of the Inter-sessional Working Group for the Regional Observer Programme on 11 July 2008 in Nadi, Fiji. Further, in preparing a draft for consideration by CCMs, the Chair reviewed current practices in other RFMOs and proposals on the subject previously tabled by several CCMs (WCPFC-TCC3-2008/DP-10). Additionally, with respect to scientific purposes for VMS data, the Chair sought advice from the WCPFC's Scientific Committee's Statistics Specialist Working Group during the SC4 at Port Moresby, Papua New Guinea from 11–22 August 2008. Following SC4, the Chair circulated a first draft of the rules and procedures to address the requirements of paras. 23 and 24 for consideration by CCMs and TCC4.

237. On behalf of FFA members, Cook Islands, noted that the general principles for these rules and procedures should draw on the general principles of the revised Rules and Procedures for the Protection, Access to, and Dissemination of Data Compiled by the Commission adopted at WCPFC4. Cook Islands stated that the rules must enable access by members and participating territories to non-public domain data for the high seas only. In addition, Cooks Islands noted that

the WCPO is unique in terms of the operational elements of high seas surveillance in that many operations are launched from coastal State waters on to the high seas, and FFA members require access to Commission VMS data for i) planning and executing enforcement activities on the high seas, and ii) planning enforcement operations for the high seas areas just beyond a coastal State's EEZ.

238. FFA members are of the view that the rules should cover access to data associated with existing MCS tools already adopted or being elaborated on by the Commission, which includes HSB&I reports, ROP reports for the high seas, and Commission VMS data for the high seas, and that such data should be maintained in accordance with the Commission's Information Security Policy (ISP).

239. Several CCMs noted that access to the data covered by these Rules should be confined to enforcement agencies in CCMs, that the purpose for access to the data must be clearly elaborated on prior to the release of the data requested, and that historical data (i.e. not just near-real time or one year's time lagged data) will also be required to support some investigations. It was noted that historical VMS data is particularly important for surveillance planning and supporting efforts to address the threats posed by IUU fishing. In this respect, it was considered important to be clear on the "purpose" for which data were requested and on the meaning of "active surveillance/inspection presence". Some CCMs considered that non-public domain data should only be made available with the prior approval of the provider of that data and that, because near-real time VMS data are commercially valuable, security of this data is critical. Several CCMs, including FFA members, considered that data access should not be constrained either temporally or spatially.

240. TCC4 noted that this discussion has implications for work currently underway in the Commission on VMS, the ROP and HSB&I procedures, and that data access arrangements should be aligned with the decisions of the Commission and accurately reflect in the specific provisions of those CMMs. One CCM noted that HSB&I procedures were an arrangement between contracting parties.

**241. The Chair of the Ad Hoc Task Group [Data] requested CCMs to provide written comments to her by 24 October 2008.**

**242. She undertook to provide a revised version well in advance of WCPFC5 for consideration of CCMs at that meeting.**

## **5.2 Port State measures**

243. No paper was presented on this topic.

244. FSM, on behalf of FFA members, noted the importance of port State measures as a package of MCS tools. It was further noted that some of the IUU vessel nominations are the direct result of port State controls. However, it was suggested that since the FAO Port State Measures consultation was ongoing, it would be prudent to wait for this process to conclude before developing port State measures for WCPFC.

245. The Philippines described its ongoing involvement with two regional forums —Southeast Asian Fisheries Development Center (SEAFDEC) and a regional MCS initiative involving Australia and Indonesia) — which are addressing port State measures.

**246. TCC4 recommended deferral of the issue of port State measures for WCPFC until conclusion of the FAO process.**

### **5.3 Vessel chartering scheme**

247. The Executive Director, noting a working paper tabled by Japan at WPCFC4, invited CCMs to comment on the progress of any recent discussions regarding vessel chartering schemes and how these might be progressed.

248. Several CCMs who are also FFA members stated the importance of charter vessel management. These CCMs recognize that notification arrangements that make clear which vessels are operating and which CCM they are attached to are essential in closing loopholes that could allow IUU or undermine CMMs. Nevertheless, these CCMs will not agree to any flag State approval of chartering arrangements or any other mechanisms by which vessel chartering arrangements are seen to restrict the development of SIDS. These CCMs requested that the Secretariat conduct a gaps analysis to determine what useful measures related to vessel chartering that are not already implemented under other CMMs could usefully be considered for a new CMM on vessel chartering arrangements.

249. Other CCMs, while noting the importance of avoiding any impacts on SIDS development, also noted that vessel chartering arrangements must be in accordance with international law, and flag States will necessarily maintain a responsibility for their vessels. These CCMs acknowledged that this is a problematic issue but one that must be solved because of its link to IUU fishing.

**250. Charter schemes were identified as an important matter, particularly for SIDS.**

**251. FFA members were encouraged to meet with Japan in an effort to make progress on this issue.**

**252. The Secretariat is directed to produce an analysis of existing draft CMMs by Japan and FFA with respect to chartering for consideration at TCC5.**

### **5.4 Catch documentation scheme**

253. The EC presented WCPFC-TCC4-2008/27, which presented a draft catch documentation scheme (CDS) for WCPFC, drawing heavily on the International Commission for the Conservation of Atlantic Tunas (ICCAT) Catch Documentation Programme for Atlantic bluefin tuna. The EC explained that a wide variety of comments were received, ranging from high-level questions regarding purpose and objective to detailed comments on the text. The EC's conclusion is that this issue is not yet sufficiently advanced within WCPFC to make useful progress on a CDS before WCPFC5. Nevertheless, the EC noted that under a new EC fishing control regulation, which will be implemented in January 2010, all fish exports into the EC will require catch certification documents. A number of workshops around the world are being planned by the EC to introduce the new scheme and begin capacity building. More details on these workshops are expected soon. With this background, a strong commitment to adopt a CDS at WCPFC6 was encouraged.

254. Fiji, on behalf of FFA members, made a detailed statement regarding CDS issues. This statement is attached as Attachment N. FSM supported the development of a CDS but expressed concerns about the potential impacts on SIDS that may lack capacity to administer or comply with such schemes.

255. A representative of WWF/TRAFFIC introduced a new report (WCPFC-TCC4-2008/OP-01) on issues associated with a CDS for the WCPO, containing lessons learned from other RFMOs and the benefits of a CDS versus a statistical document programme. The report is available on the WCPFC TCC4 meeting website.

**256. TCC4 recommended formation of a working group coordinated by the EC to discuss this matter based on the EC's draft CMM and the intervention by Fiji on behalf of FFA, which is attached as Attachment N.**

## **5.5 Sea turtles**

257. USA presented WCPFC-TCC4-2008/19 (Suppl.), which describes progress on the issue of sea turtle bycatch mitigation since TCC3, where a table was developed of effective strategies to reduce the capture and mortality of sea turtles in WCPFC fisheries (TCC3 Summary Report, para.117). USA referred to its proposed CMM on sea turtles (WCPFC4-2007/DP13), noting that at WCPFC4, the Chair requested USA to progress this work inter-sessionally. USA noted that since WCPFC4, the electronic working group it facilitated had generated relatively little comment on WCPFC4- 2007/DP13. Also of note was a Sea Turtle Action Plan developed by FFA members. At SC4, two papers that reviewed the efficacy of circle hooks with regard to target catch and catch of certain bycatch species had inconclusive results. With regard to sea turtles and hook types, USA advised that it plans to present a revised sea turtle proposal to WCPFC5.

258. CCMs congratulated USA for its inter-sessional work on facilitating exchanges of views on sea turtle bycatch mitigation since WCPFC4, noting the need for a holistic, flexible approach to this issue. In supporting the need for a revised measure on this issue to be presented to WCPFC5, there was some support for a suggested approach based on "hot-spots" of fishing effort and sea turtle interactions.

**259. TCC4 called on CCMs to provide additional comments to the USA delegation by 21 October 2008, with a view to the USA delegation tabling an updated paper on this subject at WCPFC5.**

## **5.6 Control of nationals**

260. New Zealand presented WCPFC-TCC4-2008/DP-01, expressing its view that in addition to controlling vessels that fly their flag, CCMs should also endeavor to ensure that they control their nationals, so as to discourage them from avoiding CMMs developed by the WCPFC and/or engage in IUU fishing. It stated its wish to collaborate with CCMs in developing a measure on this issue for consideration at WCPFC5, and offered itself as a point of contact for this initiative.

261. In supporting New Zealand's proposal on this issue, CCMs noted the importance of the measure being developed within the framework of combating IUU fishing and the need to avoid its possible impact on matters such as investment policy.

**262. TCC4 discussed New Zealand's paper WCPFC-TCC4-2008/DP-01.**

**263. New Zealand agreed to act as coordinator for this subject.**

**264. CCMs were invited to contribute comments to New Zealand by 15 November 2008 with a view to discussing this in the margins of WCPFC5.**

## **AGENDA ITEM 6 — SUPPLEMENTARY ITEMS**

### **6.1 Report on the North Pacific IUU Tripartite Joint Meeting**

265. Robert Martinolich (Canada) presented a paper describing the February 2008 International North Pacific IUU workshop (WCPFC-TCC4-2008/DP-03 [Rev.1]). The paper notes that while it is difficult to quantify the impact of high seas driftnet fishing on North Pacific

albacore, there have been recent observations of illegal high seas fishing vessels in areas suitable for tuna fishing and several reports by legitimate tuna fishers in the North Pacific of net-marked tuna. It was therefore suggested that TCC4 consider recommending to WCPFC5 the adoption of a CMM prohibiting high seas driftnet fishing in the Convention Area.

266. New Zealand, while generally supporting Canada's proposal, noted that if a draft CMM is prepared, it would need to consider how a WCPFC measure could be closely linked with the 1991 Wellington Convention for the prohibition of fishing with long driftnets in the southern Pacific Ocean.

267. USA further noted that this issue was discussed at NC4 and that USA had offered to develop a draft CMM, together with other interested CCMs, for discussion at WCPFC5 (NC4 Report, paras. 36–39).

**268. TCC4 noted this report and thanked Canada for it. TCC4 recommends to WCPFC5 that it consider the adoption of a measure prohibiting high seas drift net fishing in the Convention Area.**

## **6.2 Issues arising from SC4**

269. The Executive Director presented WCPFC-TCC4-2008/19 (Rev.1), summarizing the recommendations from the SC4 Summary Report that refer to possible action by TCC in general, or TCC4 in particular.

### *Seabird bycatch mitigation*

270. SC4 recommended that the Secretariat seek advice from other RFMOs on the wording of CMM-2007-04, Attachment O, Annex 1, 1 a) (iv) and 1 b) (iv) to ensure that tori lines include branch streamers along the aerial extent of the line and that in 1 a) (iv) the branch streamers are of a length that ensures that they would touch the surface of the water in the absence of wind and swell. Paragraph 213 of the draft SC4 Summary Report notes that this matter will be further discussed by TCC4, but TCC will need to ensure that it has access to advice from an appropriate range of experts.

271. The Executive Director noted that the advice received by the Secretariat on this matter is that the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) Conservation Measure 25-02(2007) appended as Attachment A of WCPFC-TCC4-2008/19 (Rev.1) provides best practice advice.

272. CCMs discussed the issue of “weighted branch lines” appearing in both Column A and Column B of Table 1 of CMM-2007-04, noting the possibility of this mitigation measure being selected twice. While some CCMs supported amending CMM-2007-04 to require that the two mitigation measures being selected must be different, others favored the deletion of “weighted branch lines” from Column B.

273. On the issue of best practice advice available to TCC4 on this issue, CCMs noted that the Indian Ocean Tuna Commission (IOTC) has recently adopted a binding measure relating to pelagic longlines that was not available to the Secretariat at the time of writing WCPFC-TCC4-2008/19 (Rev.1).

**274. TCC4 reviewed the question of interpretation of Table 1: Mitigation measures, of CMM-2007-04 regarding seabirds.**

**275. TCC4 agreed that different measures must be taken from each column when weighted branch lines are under consideration.**

**276. TCC4 discussed the technical specifications provided as Attachment O, Annex 1 and recommended further review of these specifications at SC5 and TCC5, drawing on the most recent decision by IOTC on this matter.**

#### *Sharks*

277. The Executive Director advised that SC4 had noted that because no additional information on the five per cent shark fin–carcass ratio was presented to it, it was not necessary to modify its previous advice on this issue. Based on the ecological risk assessment work presented in WCPFC-SC4-2008/EB-WP-1, there is no apparent difference in the catch rates for sharks by longliners above and below 24m overall length. SC4 recommended that para. 16 of CMM-2006-05 on sharks be revised to include vessels under 24m.

278. Several CCMs expressed support for SC4's recommendation for the revision of CMM-2006-05, and stated their interest in working inter-sessionally with USA on this revision, which would be presented at WCPFC5.

**279. TCC4 noted SC4's views on the matter of sharks.**

**280. USA indicated that it will present a revised shark measure at WCPFC5, and invited CCMs to provide comments to USA by 25 October 2008.**

**281. TCC4 considered that at a future meeting, consideration should be given to reviewing implementation and monitoring for the five per cent shark fin–carcass ratio requirement.**

#### *Other issues arising from SC4*

282. The Executive Director noted that other issues arising from SC4 listed in WCPFC-TCC4-2008/19 (Rev.1) — Small Tuna on Floating Objects, Sea Turtles, WCPFC Bycatch Mitigation Database System, Regional Observer Programme and Scientific Needs for VMS Data — have been discussed under other agenda items.

**283. TCC4 noted SC4's comments regarding:**

- **Small Tuna on Floating Objects;**
- **WCPFC Bycatch Mitigation Database System;**
- **Regional Observer Programme;**
- **Paragraph 325(d) of the WCPFC4 Summary Report — purse-seine effort data; and**
- **Scientific needs of VMS data.**

#### **6.3 Oceanographic data buoys**

284. USA raised the issue of vandalism to high seas data buoys. These buoys collect information supporting global meteorological systems but incur high rates of loss and damage (10–15 per cent) due to their use as FADs. Two techniques are believed to be used: a low impact method in which real FADs are tied to data buoys, then slowly pulled away and set on; and a high impact method in which the data buoy is towed off its anchor, associated with a FAD and then



released so that it sling-shots back to its original position. The latter method is particularly damaging as it can cause the anchor line to break. USA requested TCC's support in drafting a CMM for consideration at WCPFC6. Input from interested CCMs was welcomed and should be directed to Alexa Cole as the USA point of contact.

**285. TCC4 noted USA's intervention regarding data buoys. USA invited comments with a view to submitting a draft measure for consideration at WCPFC6.**

286. As a SIDS situated in the WCPO and vulnerable to climatic and environmental changes, FSM saw this international programme as an important effort to understand and predict tsunami and climatic changes that affect Pacific livelihoods. FSM supported USA's proposal to develop a draft CMM for protection of data buoys for consideration at WCPFC6.

**6.4 Driftnet fishing in the North Pacific**

287. USA noted, in relation to its offer to prepare an initial draft of a CMM prohibiting high seas driftnet fishing in the Convention Area (TCC4 Summary Report paras. 264–267), that an initial draft had been prepared and circulated via WCPFC's Northern Committee. Once comments from Northern Committee members are received, considered and incorporated as appropriate, the draft CMM will be circulated to TCC4 members for further comment. A revised draft CMM can then be considered at WCPFC5.

**6.5 Next meeting**

288. TCC4 agreed that TCC5 will take place in Pohnpei from 1–6 October 2009.

289. Chairman Hurry advised TCC4 that as part of WCPFC's commitment to FSM as host of WCPFC's headquarters, there was an agreement that the TCC meeting would be held in Pohnpei annually, and he expected to uphold that commitment to FSM.

**AGENDA ITEM 7 — REPORT TO THE COMMISSION**

**7.1 Adoption of the Summary Report of the Fourth Regular Session of the Technical and Compliance Committee, and any recommendations to the Commission**

290. The advice and recommendations of the Summary Report were adopted by TCC4. The Chair requested that all comments on remaining sections of the report to be forwarded to him (within the next day). Once comments are considered and incorporated as appropriate, the Summary Report will be forwarded to WCPFC5 for its consideration.

**AGENDA ITEM 8 — CLOSE OF MEETING**

**8.1 Close of meeting**

291. The Chair thanked all delegations, observers and the Secretariat for their efforts during TCC4. The meeting was closed at 16:30 on 7 October 2008.

**The Commission for the Conservation and Management of Highly Migratory Fish Stocks in  
the Western and Central Pacific Ocean**

**Technical and Compliance Committee  
Fourth Regular Session**

**2–7 October 2008  
Pohnpei, Federated States of Micronesia**

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**ATTACHMENTS**

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Attachment A.	List of Participants
Attachment B.	Agenda
Attachment C.	Status of Data Fields Referred to TCC by IWG-ROP2
Attachment D.	Priorities for a possible IWG-ROP3 to be held in 2009
Attachment E.	VMS SSP
Attachment F.	Provisional IUU Vessel List
Attachment G.	Tonga's Statement Regarding para. 15(b) CMM-2007-03
Attachment H.	Palau's Statement on CNMs
Attachment I.	CNM Flowchart
Attachment J.	Statement by the Cook Islands on SIDS
Attachment K.	Statements on Special Requirements
Attachment L.	Statement by the USA on SIDS
Attachment M.	Revised Draft Work Plan and Budget, 2009-2013
Attachment N.	Statement of Fiji on Catch Documentation Schemes

**The Commission for the Conservation and Management of  
Highly Migratory Fish Stocks in the Western and Central Pacific Ocean**

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**LIST OF PARTICIPANTS**

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**CHAIR**

**Wendell Sanford**

Director  
Oceans and Environmental Law  
Foreign Affairs Canada  
125 Sussex Dr., Ottawa, Ontario  
Canada K1M1Z1  
Tel: 613-992-2104  
wendell.sanford@international.gc.ca

**AUSTRALIA**

**Anna Willock**

Manager, International Fisheries  
Australian Government Department of  
Agriculture, Fisheries and Forestry  
GPO Box 858  
Canberra City ACT 2061  
Tel: 61-2-6272-5561  
anna.willock@daff.gov.au

**Fraser McEachan**

Manager Foreign Compliance Policy  
Australian Fisheries Management Authority  
PO Box 7051  
Canberra Mail Centre  
ACT 2601  
Tel: +61-2-62255555  
fraser.mceachan@afma.gov.au

**Trysh Stone**

Senior Manager  
Pelagic and International Fisheries  
Australian Fisheries Management Authority  
PO Box 7051  
Canberra Mail Centre  
ACT 2601  
Tel: 61-2-62255311  
trysh.stone@afma.gov.au

**Peter Trott**

Fisheries Program Manager  
WWF-Australia  
15 Barana Street Mornington,  
Tasmania 7018  
Tel: 61-0-437-960-812  
ptrott@wwf.org.au

**CANADA**

**Robert Martinolich**

Chief Enforcement Operations  
Fisheries and Oceans Canada  
#200-401 Burrard Street  
Vancouver, BC V6C3S4  
Tel: 604-666-0589  
Robert.Martinolich@dfo-mpo.gc.ca

## CHINA

### **Li Hu**

Diplomat  
The Treaty and Law Department  
The Ministry of Foreign Affairs  
No. 2 Chaoyangmen Nan Street, Beijing  
Tel: 086-010-65963266  
li\_hu@mfa.gov.cn

### **Baoying Zhu**

Bureau of Fisheries  
Ministry of Agriculture  
No. 11, Nongzhannanli, Beijing  
Tel: 086-10-59192964  
inter-coop@agri.gov.cn

### **Gang Zhao**

Bureau of Fisheries  
Ministry of Agriculture  
No. 11, Nongzhannanli, Beijing  
Tel: 0086-10-59192869  
bofdwf@agr.gov.cn

### **Zhang Zuliang**

Vice-President  
Shangai Kaichuang Deep Sea Fisheries Co.,  
Ltd  
No. 10 Jiangpu Road  
Shanghai 200082  
Tel: 86-21-6589-9857/5521-0880-6810  
zzionly@163.com

### **Wang Cheng**

Vice President  
No.448 Gongging Road  
Shanghai 200090  
Tel: 86-21-6568-8503  
eastmanlink@vip.163.com

### **Alan Qian**

Manager of Market Department  
No.448 Gongging Road  
Shanghai 200090  
Tel: +86-21-6569-8503

## COOK ISLANDS

### **Peter Graham**

Director of Policy and Legal Division  
Ministry of Marine Resources  
PO Box 85  
Rarotonga  
Tel: 682-28721  
P.W.Graham@mmr.gov.ck

## EUROPEAN COMMUNITY

### **Staffan Ekwall**

European Commission, Dg Mare  
Principal Administrator  
200 Rue de la loi  
1000 Bruxelles, Belgium  
Tel: 32-229-96907  
Staffan.ekwall@ec.europa.eu

### **Michael Parker**

European Commission, Dg Mare  
200 Rue de la loi  
1000 Bruxelles, Belgium  
Tel: 32-229-68234  
Michael.Parker@ec.europa.eu

### **Miguel Angel Blasco Molina**

Head of Fisheries  
Fisheries Secretariat Spain  
Velazquez, 144 Madrid, Spain  
Tel: 34-91-3476178  
mblascom@mapya.es

### **Julio Moron**

Managing Director  
OPAGAC  
Calle Ayala 54, 2-A,  
28001 Madrid, Spain  
Tel: 34-91-5758959  
opagac@arrakis.es

### **Joseba Itxaso**

Fleet Manager  
C. Garvavilla  
Lamiaran, S/H  
98360 Mundaka, Spain

**FEDERATED STATES OF  
MICRONESIA**

**Eugene Pangelinan**

Deputy Director  
National Oceanic Resource Management  
Authority  
PO Box PS122  
Palikir 96941  
Tel: 691-320-2700  
eugenep@mail.fm

**Patricia Jack**

Economist  
National Oceanic Resource Management  
Authority  
PO Box PS122  
Palikir 96941  
Tel: 691-320-2700  
keeshacj@yahoo.com

**Bernard Thoulag**

Executive Director  
National Oceanic Resource Management  
Authority  
PO Box PS122  
Palikir 96941  
Tel: 691-320-2700  
norma@mail.fm

**Ricky Carl**

NORMA Board  
PO BOX 216  
Palikir  
rcarl@tnc.org

**Pius Chotailug**

Chief, FSM Police  
FSM National Government  
PO Box PS141  
Palikir 96941  
Tel: 691-320-2628  
piusc@mail.fm

**Steven Ratelmai**

Assistant Fisheries Biologist  
National Oceanic Resource Management  
Authority  
PO Box PS122, Palikir 96941  
Tel: 691-320-2700  
nevetslater@hotmail.com

**Pole Atanaroi**

Assistant Attorney General  
FSM Department of Justice  
Palikir  
Tel: 691-320-2644  
pole\_atanraoi@yahoo.com

**James T. Movick**

Consultant  
FSM Government R&D  
PO Box 2143  
Kolonias 96941  
Tel: 691-320-5133  
mmps@mail.fm

**Nicholson Solomon**

CEO/President  
National Fisheries Corporation  
PO Box R  
Kolonias 96941  
Tel: 691-320-2529  
nicksolomon@aol.com

**FIJI**

**Madden George**

MCS Officer  
Fisheries Department, Fiji  
Takayawa Building, Suva  
Tel: (679) 330-1611  
joji\_madden@yahoo.com

**Jone Amoe**

Oceanic Fisheries Officer  
Department of Fisheries  
Ministry of Primary Industries  
PO Box 3165  
Lami  
Tel: 679-3-361122  
fishfinderfj@gmail.com

**FRANCE**

**Lemeunier Jonathan**

Charge de mission-Bureau des affaires  
européennes et internationales  
3, place de Fontenoy – 75007 Paris  
Tel: 0033-0-149558236  
jonathan.lemeunier@agriculture.gouv.fr

## **FRENCH POLYNESIA**

### **Benoit Le Marechal**

Service De La Peche  
BP 20-98 713 Papeete  
benoit.le-marechal@peche.gov.pf

## **JAPAN**

### **Takashi Koya**

Senior Fisheries Negotiator  
International Affairs Division  
Fisheries Agency of Japan  
1-2-1 Kasumigaseki, Chiyoda-ku  
Tokyo 100-8907  
takashi\_koya@nm.maff.go.jp

### **Takumi Fukuda**

Assistant Director  
International Affairs Division  
Fisheries Agency of Japan  
1-2-1 Kasumigaseki, Chiyoda-ku  
Tokyo 100-8907  
Tel: 81-3-3502-8459  
takumi\_fukuda@nm.maff.go.jp

### **Haruo Tominaga**

International Affairs Division  
Fisheries Agency of Japan  
1-2-1 Kasumigaseki, Chiyoda-ku,  
Tokyo 100-8907  
Tel: 81-3-3502-8459  
haruo\_tominaga@nm.maff.go.jp

### **Takeshi Miwa**

Fisheries Agency of Japan  
1-2-1 Kasumigaseki, Chiyoda-ku,  
Tokyo 100-8907  
takeshi\_miwa@nm.maff.go.jp

### **Hitoshi Honda**

National Research Institute of Far Seas  
Fisheries  
5-7-1 Shimizu-Orido, Shizuoka 424-8633  
Tel: 81-54-336-6042  
hhonda@fra.affrc.go.jp

### **Hiroshi Minami**

Researcher  
National Research Institute of Far Seas  
Fisheries  
5-7-1, Orido, Shimizu  
Shizuoka, 424-8633  
Tel: 81-54-336-6000  
hminami@affrc.go.jp

### **Akihiko Yatsuzuka**

National Offshore Tuna Fisheries  
Association of Japan  
Tohan No.3 Bldg. 1-3-1 Uchikanda  
Chiyoda-ku, Tokyo 101-0047  
Tel: 81-3-3295-3721  
yatsuzuka@kinkatsukyo.or.jp

### **Shinba Fukuda**

International Division  
Japan Tuna Fisheries Cooperative  
Association  
2-31-1 Eitai, Koto-ku, Tokyo, 135-0034  
Tel: 81-35646-2382  
gyogyo@japantuna.or.jp

### **Masaaki Nakamura**

International Division  
Japan Tuna Fisheries Cooperative  
Association  
2-31-1 Eitai, Koto-ku, Tokyo, 135-0034  
Tel: 81-35646-2382  
gyogyo@japantuna.or.jp

### **Takeshi Sato**

5-9-25 Nakaminato  
Yaizu, Shizuoka, Japan  
Tel: 81-54-627-1211; Fax: 81-54-629-4833  
Ta-satoh@pukuichi-world.jp

### **Minoru Honda**

Japan Far Seas Purse Seine Fishing  
Association  
1-14-10 Ginza, Chuo-ku Tokyo, 104-0061  
Tel: +81-3-3564-2315  
japan@kaimaki.or.jp

**Yuki Okuda**

Japan Far Seas Purse Seine Fishing  
Association  
1-14-10 Ginza, Chuo-ku Tokyo, 104-0061  
Tel: 81-3-3564-2315  
japan@kaimaki.or.jp

**Takashi Shibata**

Company President, Cubic-i-Ltd.  
2-15-9 Nishi-Gotanda Shinagawa-ku  
Tokyo 141-0031  
Tel: +81-3-3779-5506  
shibata@cubic-i-co.jp

**Toshio Tsukahara**

Special Adviser  
Overseas Fishery Cooperation Foundation  
tsukahara@ofcf.or.jp

**Kosuke Higaki**

Manager  
National Ocean Tuna Fishery Association  
Tel: 81+3-3294-9633  
k-higaki@zengyoren.jf-net.ne.jp

**KIRIBATI****Raikaon Tumo**

Principal Fisheries Officer  
Ministry of Fisheries and Marine Resources  
Development  
PO Box 64  
Bikenibeu, Tarawa  
Tel: 686-28095  
raikaont@fisheries.gov.ki

**KOREA****Young-Hoon Chung**

Director, International Fisheries  
Organization Division  
Ministry for Food, Agriculture, Forestry and  
Fisheries  
88 Gwanmu-ro, Gwacheon-Si  
Gyeonggi-do 427-719  
Tel: 82-2-500-2422  
yhefish@mifaff.go.kr

**Chiguk Ahn**

Deputy Director, International Fisheries  
Organization Division  
Ministry for Food, Agriculture, Forestry and  
Fisheries  
88 Gwanmu-ro, Gwacheon-Si  
Gyeonggi-do 427-719  
Tel: 82-2-500-2429  
Chiguka62@yahoo.com

**Dae Yae Moon**

Director, National Fisheries Research and  
Development Institute  
408-1 Shringa-ri, Kijang-gun, Busan 619-  
705  
Tel: 82-51-720-2310  
dymoon@nfrdi.go.kr

**Kisu Kim**

Deputy Director, International Fisheries  
Organization Division  
Ministry for Food, Agriculture, Forestry and  
Fisheries  
88 Gwanmu-ro, Gwacheon-Si  
Gyeonggi-do 427-719  
Tel: 82-2-500-2433  
kimks11@mifaff.go.kr

**Jiseon Kim**

Interpreter, International Fisheries  
Organization Division  
Ministry for Food, Agriculture, Forestry and  
Fisheries  
88 Gwanmu-ro, Gwacheon-Si  
Gyeonggi-do 427-719  
Tel: 82-2-500-2444  
njoyseon@maf.go.kr

**Hyunai Shin**

Korea Overseas Fisheries Association  
275-1, Yungjaedong, Sescho-gu  
Seoul  
Tel: +82-2-589-1614  
fleur@kosfa.org

**Min-Gyu Park**

Professor of Law, Attorney at Law  
253 Yonghyun-Dong, Nam-Gu  
Incheon, 402-751  
Tel: 82-32-860-7803  
trade@inha.ac.kr

**Byung Goo Min**  
Managing Director  
Dongwon Industries  
275 Yangae, Seocho  
Seoul, Korea  
Tel: 82-2-589-3072  
bgmin@Dongwon.com

**Kwang-Se Lee**  
Executive Director  
Silla Co., Ltd  
#286-7 Seokchon-Dong  
Song Pa-ku, Seoul  
Tel: 822-3434-9777  
tunalee@sla.co.kr

**Kyung-Soo Lee**  
Deputy General Manager  
Sajo Industries Co., Ltd  
#157 Chung Jeong-Ro 2Ga Seodaemun-ku  
Seoul  
Tel: 822-3277-1815  
kslee@sajo.co.kr

## **REPUBLIC OF THE MARSHALL ISLANDS**

**Glen Joseph**  
Director, Marshall Islands Marine Resources  
Authority  
PO Box 860  
Majuro  
Tel: 692-625-8262  
gjoseph@mimra.com

**Samuel Lanwi Jr.**  
Deputy Director, Marshall Islands Marine  
Resources Authority  
PO Box 860  
Majuro  
Tel: (692) 625- 8262  
skljr@mimra.com

**James Myazoe**  
Deputy Commissioner  
MI Ship Registry  
PO Box 1405  
Majuro 96960  
Tel: 692-247-3018  
tcmi@ntamar.net

**Eugene Muller**  
Manager  
Koo's Fishing Co.  
PO Box 321  
Majuro 96960  
gene.muller@ntamar.net

## **NAURU**

**Charleston Deije**  
Chief Executive Officer  
Nauru Fisheries and Marine Resources  
Authority  
PO Box 449  
Tel: 674-444-3733; Fax: 674-444-3812  
cdeije@hotmail.com;  
ceonfmra@cenpac.net.nr

**Murin Jeremiah**  
VMS, Nauru Fisheries and Marine  
Resources Authority  
PO Box 449  
Tel: 674-444-3733  
Fax: 674-444-3812  
murin.jeremiah@naurugov.nr  
mjerehz@yahoo.com.au

## **NEW CALEDONIA**

**Regis Etaix-Bonnin**  
Fisheries Expert  
Government of New Caledonia  
Tel: 687-27-26-26  
regis.etaix-bonnin@gouv.nc

## **NEW ZEALAND**

**David Marx**  
Senior International Advisor  
Ministry of Fisheries  
PO Box 1020, Wellington  
Tel: 64-4819-4231  
david.marx@fish.govt.nz

**Graeme McGregor**  
Senior Fisheries Advisor  
Ministry of Fisheries  
PO Box 19747, Auckland  
Tel: 64-98207689  
graeme.mcgregor@fish.govt.nz



**Jacqui Caine**

Deputy Director, Legal Division  
New Zealand Ministry of Foreign Affairs  
and Trade  
Private Bag 18901, Wellington  
Tel: 64-4-439-8595  
jacqui.caine@mfat.govt.nz

**Phillip Kerr**

Compliance Advisor International  
Ministry of Fisheries  
PO Box 1020, Wellington  
Tel: 64-4819-4255  
Phillip.Kerr@fish.govt.nz

**NIUE****James Tafatu**

Principal Fisheries Officer  
Niue (DAFF)  
PO Box 143, Alofi (via NZ)  
Tel: 683-4302  
jtafatu@yahoo.co.uk

**Toepenina Hekau**

Crown Counsel  
Crown Law Office  
PO Box 40, Alofi (via NZ)  
Tel: 683-4228  
th@mail.gov.nu

**REPUBLIC OF PALAU****Nannette D. Malsol**

Fisheries Law Compliance Officer II  
Ministry of Resources & Development  
PO Box 5050  
Koror 96940  
Tel: 680-488-3125  
tunapal@palaunet.com

**Thomas Tutii**

OIC Surveillance  
Marine Law Enforcement  
Ministry of Justice  
PO Box 5022  
Koror 96940  
Tel: 680-488-2882  
[thomastutii@yahoo.com](mailto:thomastutii@yahoo.com)

**PAPUA NEW GUINEA****Noan Pakop**

National Fisheries Authority  
PO Box 2016  
Port Moresby, NCD  
Tel: 675-309-0444  
npakop@fisheries.gov.pg

**Anlus Iwais**

National Fisheries Authority  
PO Box 2016  
Port Moresby, NCD  
Tel: 675-309-0444  
aIwais@fisheries.gov.pg

**Ludwig Kumoru**

National Fisheries Authority  
PO Box 2016  
Port Moresby, NCD  
Tel: 675-309-0444  
lkumoru@fisheries.gov.pg

**Justin Ilakini**

National Fisheries Authority  
PO Box 2016  
Port Moresby, NCD  
Tel: 675-309-0444  
jilakini@fisheries.gov.pg

**David Karis**

National Fisheries Authority  
PO Box 2016  
Port Moresby, NCD  
Tel: 675-309-0444  
dkaris@fisheries.gov.pg

**Francis Houji**

Fairwell Fishery (PNG) Ltd  
PO Box 262 Gordons, NCD 0135  
hope@daltron.com.pg  
Tel: 675-320-0685/0655

## **PHILIPPINES**

### **Benjamin F.S. Tabios Jr.**

Assistant Director for Administrative Services,  
Bureau of Fisheries and Aquatic Resources  
3<sup>rd</sup> Floor, PCA Bldg., Elliptical Road,  
Diliman, Quezon City  
Tel: 632-426-3426  
benjo\_tabios@yahoo.com

### **Noel C. Barut**

National Fisheries Research and Development Institute  
940 Kayumanggi Press Bldg. 1, Quezon Avenue  
Quezon City 1103  
Tel: 63-2-3725063  
noel\_c\_barut@yahoo.com

## **SAMOA**

### **Antonio P. Mulipola**

Assistant CEO  
Fisheries Division  
Ministry of Agriculture and Fisheries  
PO Box 1874, Apia  
Tel: 685-23863/20369; Fax: 685-24292  
apmulipola@lesamoa.net

### **Savali Time**

Principal Fisheries Officer  
Fisheries Division  
Ministry of Agriculture and Fisheries  
PO Box 1874, Apia  
Tel: 685-20369  
sgtime@lesamoa.net

## **SOLOMON ISLANDS**

### **Sylvester Diake**

Under Secretary Fisheries  
Ministry of Fisheries and Marine Resources  
PO Box 924, Honiara  
Tel: 677-38674/39143;  
Fax: 677-38730/38106  
[sdiake@fisheries.gov.sb](mailto:sdiake@fisheries.gov.sb)

### **Charles Tobasala**

PFO (VMS/Surveillance)  
Ministry of Fisheries and Marine Resources  
PO Box 624, Honiara  
Tel: 677-38106; Fax: 677-38730/38106  
ctobasala@fisheries.gov.sb

### **Albert Wata**

Fishing Industry  
National Fisheries Development Ltd.  
PO Box 717, Panatina Plaza Unit 15  
Honiara  
Tel: 677-30991  
awata@trimarinegroup.com

### **Phil Roberts**

Industry Representative  
Trimarine International  
Tel: 65-9829-3112  
philroberts@trimarinegroup.com

## **CHINESE TAIPEI**

### **Hong-Yen Huang**

Deputy Director  
Deep Sea Fisheries Division  
Fisheries Agency of Taiwan  
No. 1 Fishing Harbour North 1<sup>st</sup> Road,  
Chien-cheng District,  
Kaohsiung  
Tel: 886-7-823-9828  
hangyen@msl.f.a.gov.tw

### **Wei-yang Liu**

Secretary  
Overseas Fisheries Development Council  
19, Lane 113, Roosevelt rd, S4,  
Taipei  
Tel: 886-2-2738-1522 ext. 123  
weiyang@ofdc.org.tw

### **Joseph, Chia-Chi Fu**

Secretary  
Overseas Fisheries Development Council  
19, Lane 113, Roosevelt rd, S4,  
Taipei  
Tel: 886-2-2738-1522 ext. 115  
[joseph@ofdc.org.tw](mailto:joseph@ofdc.org.tw)

**Ted Tien-Hsiang Tsai**  
Section Chief  
Fisheries Agency of Taiwan  
No. 1, Fishing Harbour North 1<sup>st</sup> Rd.,  
Chien-chen District,  
Kaohsiung  
Tel: 886-7-823-9881  
ted@ms1.fa.gov.tw

**Huang-Chih Chiang**  
Professor  
National Taiwan University  
No.21, Hsu Chow Road,  
Taipei  
Tel: 886-2-2351-9641 ext.385  
hcchiang@ntu.edu.tw

**Hsien-Chang Yang**  
Officer, Coast Guard Administration  
No. 296, Hsin-Lung Rd., Sec 3  
Taipei  
Tel: 886-2-2239-9303  
hay0516@sea.cga.gov.tw

**Chih-Kuo Chia**  
Officer, Coast Guard Administration  
No. 296, Hsin-Lung Rd., Sec 3  
Taipei  
Tel: 886-2-22399303  
zenocck@sea.cga.gov.tw

## **TONGA**

**Viliani Mo'ale**  
Principal Fisheries Officer  
Ministry of Agriculture & Food, Forests &  
Fisheries  
PO Box 871  
Nuku'alofa  
Tel: 676-21399  
vmoale@tongafish.gov.to

**Ana Finau Taholo**  
Senior Fisheries Officer  
Ministry of Agriculture & Food, Forests &  
Fisheries  
PO Box 871, Nuku'alofa  
Tel: 679-21399  
[anataholo@tongafish.gov.to](mailto:anataholo@tongafish.gov.to)

## **UNITED STATES OF AMERICA**

**Jane Luxton**  
General Counsel, NOAA  
U.S. Department of Commerce  
1401 Constitution Ave., N.W., Room 5814  
Washington, DC 20230  
Jane.Luxton@noaa.gov

**William Gibbons-Fly**  
Director  
Office of Marine Conservation  
US Department of State  
2201 C Street, NW Suite 2758  
Washington, DC 20520  
Tel: 1-202-647-2335  
Gibbons-FlyWH@state.gov

**Charles Karnella**  
International Fisheries Administrator  
NOAA Fisheries Service  
Pacific Islands Regional Office  
1601 Kapiolani Blvd., Suite 1110  
Honolulu, HI 96814  
Tel: 1-808-944-2206; Fax: 1-808-973-2941  
charles.karnella@noaa.gov

**Thomas Graham**  
Fishery Policy Analyst  
NOAA Fisheries Service  
Pacific Islands Regional Office  
1601 Kapiolani Blvd., Suite 1110  
Honolulu, HI 96814  
Tel: 1-808-944-2219  
Tom.Graham@noaa.gov

**Raymond Clarke**  
Fisheries Biologist  
NOAA Fisheries Service  
Pacific Islands Regional Office  
1601 Kapiolani Blvd., Suite 1110  
Honolulu, HI 96814  
Tel: 1-808-944-2205  
[Raymond.Clarke@noaa.gov](mailto:Raymond.Clarke@noaa.gov)

**Alexa Cole**

Senior Enforcement Attorney  
NOAA Office of General Counsel  
Pacific Islands Region  
1601 Kapiolani Blvd., Suite 1110  
Honolulu, HI 96814  
Tel: 1-808-944-2167; Fax: 1-808-973-2935  
alex.cole@noaa.gov

**Bill Pickering**

NOAA Office of Law Enforcement  
1601 Kapiolani Blvd. #950  
Honolulu, HI 96814  
Bill.Pickering@noaa.gov

**Elena Onaga**

NOAA OGC  
NOAA Fisheries Service  
Pacific Islands Regional Office  
1601 Kapiolani Blvd., Suite 1110  
Honolulu, HI 96814  
Elena.Onaga@noaa.gov

**Sarah McTee**

Office of Marine Conservation  
US Department of State  
2201 C Street, NW Suite 2758  
Washington, DC 20520  
Tel: 1-202-647-3941  
McTeeSA@state.gov.

**Holly Koehler**

Foreign Affairs Officer  
Office of Marine Conservation  
US Department of State  
2201 C Street, NW Suite 2758  
Washington, DC 20520  
Tel: 1-202-647-3010  
koehlrhr@state.gov

**Mark Young**

USCG  
PJJK Federal Building Room 9-232  
300 Ala Moana Blvd.  
Honolulu, HI 96850  
Tel: 1-808-541-2300  
[Mark.S.Young@uscg.mil](mailto:Mark.S.Young@uscg.mil)

**Rhea Moss**

PIRO1601 Kapiolani Blvd., Suite 1110  
Honolulu, HI 96814  
Rhea.Moss@noaa.gov

**Paul Krampe**

ATA Executive Director  
American Tuna Boat Association  
Tuna Lane Suite 1  
San Diego, CA 92101  
Tel: 1-619-233-6407; Fax: 1-619-839-3643  
krampepaul@aol.com

**Terry Boone**

VMS Program Manager  
1601 Kapiolani Blvd., Suite 950  
Honolulu, HI 96814  
Tel: 1-808-203-2503  
Terry.Boone@noaa.gov

**Linda Paul**

Hawaii Audubon Society  
815 Pahumele Place  
Kailua, HI 96734  
Tel: 1-808-262-6859; Fax: 1-808-262-7728  
linpaul@aloha.net

**Eric Kingma**

Analyst, Western Pacific Fishery  
Management Council  
1164 Bishop St. Suite 1400  
Honolulu, HI 96813  
Tel: 1-808-522-8220  
eric.kingma@noaa.gov

**Randi P. Thomas**

National Fisheries Institute  
7918 Jones Ranch Dr. STE 700  
McLean, VA 22102  
Tel: 1-703-752-8895  
RThomas@NFI.org

**VANUATU****Tony Taleo**

Data Manager  
Vanuatu Fisheries  
VMB 9045, Port Vila  
Tel: 678-27244/7755560  
[ttaleo@gmail.com](mailto:ttaleo@gmail.com)

**Wesley Obed**

Licensing Officer  
Vanuatu Fisheries  
VMB 9045, Port Vila  
Tel: 678-27244/7741318  
wesley.obed@vanuatu.com.vu  
wes.obed@gmail.com

**Guan Oon**

Technical Advisor  
PO Box 3108  
Domain Road Post  
Melbourne, Victoria 3141  
Australia  
guan@clsargos.com.au  
tunafishing@vanuatu.com.vu

**COOPERATING NON-MEMBERS****BELIZE****Angelo Mouzouropoulos**

Director General of IMMARBE – Belize  
Suite 204 Marina Towers  
Newtown Barracks  
Belize City, Belize, Central America  
Tel: 501-223-5026/5031/5047  
Fax: 501-223-5070/5048/5087

**OBSERVERS****BIRDLIFE INTERNATIONAL****Susan Waugh**

BirdLife Global Seabird Programme  
Scientist  
116 Wilton Road, Wellington 6012  
New Zealand  
Tel: 64-4-976-4227  
s.waugh@sextant-technology.net

**ECUADOR****Ramon Montano**

Undersecretariat of Fisheries Resources  
Av.4 Y Calle 12  
Manta  
Tel: 593-5-2627930/911  
[rmontano@pesca.gov.ec](mailto:rmontano@pesca.gov.ec)

**Rafael Trujillo**

Executive Director  
National Chamber of Fisheries  
9 De Octubre 424, of 802  
Guayaquil  
Tel: 593-4-230 6142 / 8448  
direjec@camaradepesqueria.com

**Gabriela Villar**

Boat Owner  
Pesquera Ugavi  
Edif. Banco Pichincha, of 802  
Manta  
Tel: 593-5-2621-364  
eliugavi@systray.net

**GREENPEACE****Lagi Toribau**

Pacific Oceans Campaigner  
Greenpeace Australia Pacific  
Private Mail Bag, Suva, Fiji  
Tel: 679-331-2861  
Lagi.Toribau@fj.greenpeace.org

**Joshua Turaganivalu (Jnr)**

Oceans Campaigner  
Greenpeace Australia Pacific  
Private Mail Bag, Suva, Fiji  
Tel: 679-331-2861  
Josua.Turaganivalu@fj.greenpeace.org

**PACIFIC ISLANDS FORUM  
FISHERIES AGENCY****Transform Aqorau**

Deputy Director  
Pacific Islands Forum Fisheries Agency  
PO Box 629  
Honiara, Solomon Islands  
transform.aqorau@ffa.int

**Amdrea Volentras**

Director Fisheries Operation  
Pacific Islands Forum Fisheries Agency  
PO Box 629  
Honiara, Solomon Islands  
[andrea.volentras@ffa.int](mailto:andrea.volentras@ffa.int)

**Timothy Park**

Observer Program Manager  
Pacific Islands Forum Fisheries Agency  
PO Box 629  
Honiara, Solomon Islands  
Tel: 677-21124  
tim.park@ffa.int  
timothy.park@ffa.int

**Apolosi Turaganivalu**

Compliance Policy Officer  
Pacific Islands Forum Fisheries Agency  
PO Box 629  
Honiara Solomon Islands  
Tel: 677-21124  
apolosi.turaganivalu@ffa.int

**Lara Manarangi-Trott**

WCPFC Liaison Officer  
Pacific Islands Forum Fisheries Agency  
PO Box 629, Honiara Solomon Islands  
Tel: 677-21124; Fax: 677-23995  
lara.manarangi-trott@ffa.int

**Pio Manoa**

Legal Officer  
Pacific Islands Forum Fisheries Agency  
PO Box 629  
Honiara, Solomon Islands  
Tel: 677-21124  
pio.manoa@ffa.int

**Callista Murdoch**

Personal Assistant Deputy Director-General  
Pacific Islands Forum Fisheries Agency  
PO Box 629  
Honiara Solomon Islands  
Tel: 677-21124  
callista.murdoch@ffa.int

**Les Clark**

Consultant  
85 Innes Road,  
Christchurch, New Zealand  
Tel: 64-3-356-2896,  
[les\\_g\\_clark@xtra.co.nz](mailto:les_g_clark@xtra.co.nz)

**Anouke Ride**

Communications and Media Officer  
Pacific Islands Forum Fisheries Agency  
PO Box 629  
Honiara, Solomon Islands  
Tel: 677-21124  
anouke.ride@ffa.int

**Mike Ferris**

MCS Consultant  
Pacific Islands Forum Fisheries Agency  
PO Box 629  
Honiara, Solomon Islands  
Tel: 677-21124  
michael.ferris@ffa.int

**SECRETARIAT OF THE PACIFIC  
COMMUNITY****Shelton Harley**

Principal Fisheries Scientist  
Secretariat of the Pacific Community  
BP D5  
98848 Noumea Cedex  
New Caledonia  
Tel: 687-260192  
sheltonh@spc.int

**SENEGAL****Sidi Ndaw**

Technician des Pêches maritimes  
Direction des Pêches maritimes  
I rue Joris, place du Tirailleur  
BP 289 Dakar Senegal  
Tel: 221-775594914/338230137  
sidindaw@hotmail.com

**WORLD WILDLIFE FUND****Seremaia Tuqiri**

Fisheries Policy Officer  
WWF Pacific Islands Programme Office  
Private Mail Bag, Suva, Fiji  
Tel: 679-331-5533  
[stuqiri@wwfpacific.org.fj](mailto:stuqiri@wwfpacific.org.fj)

**Mark Stevens**  
Senior Program Officer  
WWF – USA  
1250 24<sup>th</sup> St. NW  
Washington, DC 20037  
Tel: 1-202-861-8108  
mark.stevens@wffus.org

**WCPFC SECRETARIAT**

**Andrew Wright**  
Executive Director  
PO Box 2356  
Kolonias, Pohnpei 96941  
Federated States of Micronesia  
Tel: 691-320-1992; Fax: 691-320-1108  
wcpfc@mail.fm  
andrew.wright@wcpfc.int

**Andrew Richards**  
Compliance Manager  
PO Box 2356  
Kolonias, Pohnpei 96941  
Federated States of Micronesia  
Tel: 691-320-1992; Fax: 691-320-1108  
andrew.richards@wcpfc.int

**Ken Smithson**  
Finance and Administration Officer  
PO Box 2356  
Kolonias, Pohnpei 96941  
Federated States of Micronesia  
Tel: 691-320-1992; Fax: 691-320-1108

**SungKwon Soh**  
Science Manager  
PO Box 2356  
Kolonias, Pohnpei 96941  
Federated States of Micronesia  
Tel: 691-320-1992; Fax: 691-320-1108  
sungkwon.soh@wcpfc.int

**Karl Staisch**  
Observer Program Coordinator  
PO Box 2356  
Kolonias, Pohnpei 96941  
Federated States of Micronesia  
Tel: 691-320-1992; Fax: 691-320-1108  
[karl.staisch@wcpfc.int](mailto:karl.staisch@wcpfc.int)

**Sam Taufao**  
ICT Manager  
PO Box 2356  
Kolonias, Pohnpei 96941  
Federated States of Micronesia  
Tel: 691-320-1992; Fax: 691-320-1108  
sam.taufao@wcpfc.int

**Glenn Jano**  
Asst. Admin and Data Entry  
PO Box 2356  
Kolonias, Pohnpei 96941  
Federated States of Micronesia  
Tel: 691-320-1992; Fax: 691-320-1108  
glenn.jano@wcpfc.int

**Herolyn Movick**  
Admin. Support  
PO Box 2356  
Kolonias, Pohnpei 96941  
Federated States of Micronesia  
Tel: 691-320-1992/1993  
Fax: 691-320-1108  
herolyn.movick@wcpfc.int

**Lucille Martinez**  
Admin. Support  
PO Box 2356  
Kolonias, Pohnpei 96941  
Federated States of Micronesia  
Tel: 691-320-1992/1993  
Fax: 691-320-1108  
lucille.martinez@wcpfc.int

**Shelyane Lohn**  
Admin. Support  
PO Box 2356  
Kolonias, Pohnpei 96941  
Federated States of Micronesia  
Tel: 691-320-1992/1993  
Fax: 691-320-1108  
shelyane.lohn@wcpfc.int

**Martin Tsamenyi**  
Adviser, Australian National Centre for  
Ocean Resources and Security (ANCORS)  
University of Wollongong  
Normfield Avenue  
Wollongong, NSW 2522  
Australia  
Tel: 61-2-42213224; Fax: 61-2-42215544

**Shelley Clarke**

Rapporteur  
Imperial College London  
1675 Sasama-kami, Kawane-cho  
Shizuoka-ken  
Japan 428-0211  
Tel: 81-547-54-0275  
[shelley.clarke@imperial.ac.uk](mailto:shelley.clarke@imperial.ac.uk)

**Glenn Hurry**

Chairman of the Commission  
Managing Director  
Australian Fisheries Management Authority  
P.O. Box 7051  
Canberra ACT 2610  
Tel: 61-2-6225-5555  
[glenn.hurry@afma.gov.au](mailto:glenn.hurry@afma.gov.au)

**Robert Gallagher**

VMS Consultant  
Navigs s.a.r.l.



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**AGENDA FOR THE FOURTH REGULAR SESSION OF THE TCC**

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**WCPFC-TCC4-2008/03 Rev.3  
2 October 2008**

**AGENDA ITEM 1 OPENING OF MEETING**

- 1.1 Welcome
- 1.2 Adoption of agenda
- 1.3 Meeting arrangements

**AGENDA ITEM 2 PRIORITY MONITORING, CONTROL AND SURVEILLANCE  
(MCS) ISSUES BEFORE THE COMMISSION**

- 2.1 Regional Observer Programme
  - a) Report of the Second Meeting of the Inter-sessional Working Group
  - b) Consideration of outstanding issues
- 2.2 VMS
  - a) WCPFC VMS Implementation Status
    - i) Implementation status report
    - ii) Service Level Agreement with FFA
  - b) Standards, specifications and procedures for the Commission VMS
- 2.3 IUU Vessel List
  - a) Draft Provisional IUU Vessel List for 2009
  - b) CMM-2007-03 – Review of outstanding issues from WCPFC4
- 2.4 Conservation and Management Measure for BET and YFT
  - a) Purse-seine effort on the high seas and the zones of non-PNA CCMs
  - b) Technical issues supporting management
    - (i) Catch Retention Plans (CRPs)
    - (ii) Fish Aggregating Devices (FADs)
  - c) Draft CMM for yellowfin and bigeye tuna

- 2.5 Cooperating Non-members
  - a) Process for considering applications
- 2.6 High Seas Boarding and Inspection
  - a) Implementation report
  - b) Administrative review
- 2.7 WCPFC Record of Fishing Vessels
  - a) Active vessels
  - b) Temporary register of carriers and bunkers
  - c) Unique vessel identifier
- 2.8 Compliance with reporting obligations
  - a) Part 2 Reports
    - i) Submissions by CCMs
    - ii) Part 2 Report Template
  - b) Report by the Secretariat
  - c) Development of a process and structure for monitoring compliance
- 2.9 Transshipment verification

**AGENDA ITEM 3 SPECIAL REQUIREMENTS OF SMALL ISLAND DEVELOPING STATES**

**AGENDA ITEM 4 FUTURE WORK PROGRAMME**

- 4.1 Draft Work Programme for 2009–2013

**AGENDA ITEM 5 ADDITIONAL MONITORING, CONTROL AND SURVEILLANCE (MCS) ISSUES BEFORE THE COMMISSION**

- 5.1 AHTG [Data]
- 5.2 Port State Measures
- 5.3 Vessel Chartering Scheme
- 5.4 Catch Documentation Scheme
- 5.5 Sea Turtles
- 5.6 Control of nationals

**AGENDA ITEM 6 SUPPLEMENTARY ITEMS**

- 6.1 Report on North Pacific IUU Tripartite Joint Meeting
- 6.2 Issues arising from SC4

- 6.3 Oceanographic data buoys
- 6.4 Driftnet fishing in the North Pacific
- 6.5 Next meeting

**AGENDA ITEM 7 REPORT TO THE COMMISSION**

- 7.1 Adoption of the Summary Report of the Fourth Regular Session of the Technical and Compliance Committee, and any recommendations to the Commission.

**AGENDA ITEM 8 CLOSE OF MEETING**

- 8.1 Close of meeting

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**STATUS OF DATA FIELDS REFERRED TO TCC4 BY IWG-ROP2**

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**Data fields referred to TCC4 by IWG-ROP2**

1. Most data fields contained in Attachment H of the IWG-ROP2 Summary Report “WCPFC/IWG-ROP2 2008-11 Rev 1” were recommended to be approved by the Commission, however three data fields, Table 8, and the data fields associated with CMMs have been forwarded by IWG-ROP2 to TCC4 for further discussion. After comprehensive discussion it was agreed on to recommend the following fields to become part of the ROP data collection. Along with the fields reviewed by SC3, IWG-ROP2 and TCC4 there was agreement to recommend all these to fields to WCPFC5 for adoption.
2. Three fields from Tables 1–7 were referred to TCC4 for discussion. TCC4 recommended that “Crew Nationality” be deleted from the tables and that “Vessel Hold Capacity” should be collected by ROP observers.

<b>CREW INFORMATION</b>	
<del>Nationality of Crew</del>	Delete field from Table
<b>GENERAL VESSEL ATTRIBUTES</b>	
Vessel Fish Hold Capacity	Recommended to be collected by ROP observers by TCC4
<b>POLE &amp; LINE VESSEL ATTRIBUTES</b>	
Vessel Fish Hold Capacity	Recommended to be collected by ROP observers by TCC4

## Observer Trip Monitoring Summary

3. An amended Table 8 (WCPFC-IWG-ROP2-2008/11), was refereed by IWG-ROP2 this was further discussed and some extra changes were made. TCC4 agreed that ROP Observers would collect the information in this table. The agreed changes are underlined in the table.

**Table 8 Observer Trip Monitoring Summary**

<b>VESSEL TRIP MONITORING</b>	
Observer name & nationality:	
Observer Trip number:	
Observer Provider/ <b><u>Programme:</u></b>	
Name of Vessel:	
Vessel Call sign:	
Vessel Gear Type:	
Coastal state license, <b><u>when applicable:</u></b>	
Vessel certificate of registration:	
WCPFC Authorisation:	
Did the vessel do any of the following: (indicate YES or NO; for any YES response, please provide additional explanation and information in space that will be provided below)	
inaccurately record vessel positions on vessel log sheet for sets, hauling and catch;	Yes No
inaccurately record retained 'Target Species' in the vessel logs;	Yes No
inaccurately record 'Target Species' discards;	Yes No
inaccurately record retained By catch species	Yes No
inaccurately record By catch species discards;	Yes No
record species <b><u>inaccurately</u></b> <del>as a different species e.g. ( Juvenile BET as YFT);</del>	Yes No
<b><u>interact with non target species:</u></b> <del>e.g. sea birds, marine mammals and marine reptiles, species of special interest;</del>	Yes No
<b><u>high grade or cull the catch;</u></b>	Yes No
fail to comply with any Commission Conservation and Management Measures;	Yes No
fish in areas where it is not permitted to fish;	Yes No
fail to report vessel position to countries, where required, when entering and leaving an EEZ (crossing to or from an EEZ into or out of the High Seas);	Yes No
transfer or <b><u>tranship</u></b> fish from, or to, another vessel <del>at sea;</del>	Yes No
request that an event not be reported by the observer;	Yes No
<del>hinder the observer in the carrying out of their duties;</del> <b><u>Did the operator or any crew member</u></b>	Yes No

<b><u>assault, obstruct, resist, delay, refuse boarding to, intimidate or interfere with observers in the performance of their duties.</u></b>	
fail to supply reasonable accommodation, food and facilities to the observer onboard the vessel; <b><u>Did the operator fail to provide the observer, while on board the vessel, at no expense to the observer or the observer's government, with food, accommodation and medical facilities of a reasonable standard equivalent to those normally available to an officer on board the vessel.</u></b>	Yes No
use a fishing method other than the method the vessel was designed or licensed;	Yes No
lose any fishing gear;	Yes No
abandon any gear;	Yes No
fail to report any abandoned gear;	Yes No
dispose of any metals, plastics, chemicals or old fishing gear;	Yes No
discharge any oil;	Yes No
fail to monitor international safety frequencies;	Yes No
fail to stow fishing gear when entering areas where they were not authorized to fish;	Yes No

#### Proposed new data fields

4. WCPFC / IWG-ROP2 / 2008-16 "Candidate elements of the ROP with a focus on MCS" were presented to the IWG-ROP2. These data fields are additional to the proposed data fields discussed at SC3 and IWG-ROP2 (WCPFC-IWG-ROP2-2008/11). IWG-ROP2 agreed that these would be provided to TCC4 for review and comment. TCC4 agreed that ROP Observers should collect this information for the Commission and recommended that the agreed recommendation be presented to WCPFC5.

<b>Candidate Data Elements of the ROP with a focus on MCS</b>	
<b>Article 26 (Boarding and Inspection)</b>	
<del>Vessel Name of vessel making boarding.</del>	<b>Recommend Delete field from Table</b>
<del>Call sign of vessel making boarding.</del>	<b>Recommend Delete field from Table</b>
<b><u>Nationality of boarding vessel</u></b>	<b>Recommend to be included in ROP observer data tables</b>
<b><u>Freezer Type</u></b>	<b>Already included in ROP observer data tables</b>
Observer will check from records on board if possible the following Vessel Attributes: <del>Where and when Built (delete)</del> <b><u>Length Over All (LOA)(Specify unit)</u></b> <del>Moulded Depth (delete)</del> <del>Beam (delete)</del>	<b>Recommend to be included in ROP observer data tables</b>

<b><u>Gross registered Tonnage</u></b> (Specify Unit)	
<b><u>Engine power</u></b> (Specify Unit)	
<b>CMM 2004-03 - Specifications for the Marking and Identification of Fishing Vessels</b>	
<b><u>Hull markings consistent with CMM 2004-03</u></b>	(Yes or No) <b>Recommend to be included in ROP observer data tables</b>
<b><u>WIN markings consistent with CMM 2004-03</u></b>	(Yes or No) <b>Recommend to be included in ROP observer data tables</b>
<b><u>WIN format for markings consistent with CMM 2004-03</u></b>	(Yes or No) <b>Recommend to be included in ROP observer data tables</b>
<b>CMM 2006-05 - Conservation and Management Measure for Sharks in the Western and Central Pacific Ocean</b>	
<b><u>Estimated shark fin weight by species</u></b>	<b>Recommend to be included in ROP observer data tables (Table 6)</b>
<b><u>Estimated shark carcass weight by species</u></b>	<b>Recommend to be included in ROP observer data tables (Table 6)</b>
<b>CMM 2007-04 - Conservation and Management Measure to Mitigate the Impact of Fishing for Highly Migratory Fish Stocks on Seabirds</b>	
<b><u>Seabirds captured alive and released</u></b>	<b>Already included on Table 6 data fields– Species of Special Interest - Condition when Landed on deck &amp; Condition when released</b>

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**PRIORITIES FOR A POSSIBLE IWG-ROP3 TO BE HELD IN 2009**

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**TCC 4 recommends to WCPFC5 that it authorize IWG-ROP to continue its work on outstanding issues contained in CMM 2006-07. A non-exhaustive list is given below in order of priority for the next meeting, if approved, by WCPFC5**

**Priority for next IWG-ROP3**

1. Definitions and Scope
2. Costs
3. Vessel Size;
4. Vessel Safety Certificate

**Supplementary items for next IWG-ROP3**

5. Data Management
6. Fisheries to be monitored
7. Source of Observers
8. Code of Conduct
9. Observer Monitoring
10. Cadre of Observers for special purposes
11. At sea transshipment coverage if applicable
12. Liability and Insurance
13. Observer and observer trainer qualifications
14. Accreditation and Authorisation of Derrieries

**Further work required (no prioritized order)**

- Special requirements of developing State
- Develop and maintain an ROP database
- ROP website
- Standardized procedures for deployment of ROP observer



- Consider other means of collecting data required by the Commission;
- ROP Manual (Observer Manual)
- ROP Workbook
- Develop and manage a list of specific tasks for ROP observers for individual fisheries
- Coverage levels established by the Commission
- Explore developing technologies for monitoring vessel operations and sampling the catch

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**COMMISSION VMS STANDARDS, SPECIFICATIONS AND PROCEDURES**

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**WCPFC-TCC4-2008/29**

**Standards, specifications and procedures (SSP) for the fishing vessel monitoring system (VMS) of the Western and Central Pacific Fisheries Commission (WCPFC)**

Responsible for conservation and management of highly migratory species within its convention area, WCPFC is empowered to establish a VMS under Article 24(8) of the *Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean* and, subsequently, by the adoption of Conservation and Management Measure 2007-02 at its Fourth Regular Session. Annex 1 of this measure defines the basic, functional specification for the VMS in terms of the generic equipment to be used, position accuracy and reporting frequency and data delivery time.

The purpose of these SSP is to establish the terms of implementation of the VMS, including methods to ensure compliance of automatic location communicators (ALCs: term identical with the FFA's mobile transceiver/transmitter unit or MTU) with the Annex 1 standards; inspection protocols; rules on polling; reporting frequencies; tampering prevention measures; and obligations and roles of fishing vessels, CCMs, the FFA secretariat and the Commission Secretariat.

**1. Application**

SSP shall apply to the Commission VMS that covers the high seas within the Convention Area. SSP for the operation of VMS programmes within waters under national jurisdiction shall be the exclusive responsibility of the coastal State.

**2. Methods to ensure ALCs comply with WCPFC standards**

1. Vessels subject to the Commission's VMS in the WCPFC Convention Area will be required to carry a fully operational ALC that complies with the full range of minimum standards set out in Annex 1 of CMM-2007-02, (hereafter referred to as Annex 1).
2. The installation and use of ALCs will be governed by rules, based upon the principles set down in this SSP, and adopted and published by the Commission.
3. Vessels with ALCs that comply with the full range of the minimum standards set out in Annex I, but that cannot be remotely polled must either have a regular reporting rate of one hour

or less, or will carry and operate, in addition to the ALC, a means of two-way communication by voice (e.g., radio, satellite telephone) or data (e.g. telex, facsimile, email) permitting real time contact with the WCPFC Secretariat, as necessary, with the assistance of the flag CCM, in the English language.

4. At the time of registration of the VMS, vessels equipped with a means of two-way communication, as provided in para. 3 above, will declare this means of communication as well as relevant user ID and any additional information required by the Secretariat to be able to establish communications with the vessel.
5. Verification of compliance with the requirements of Annex 1 will be the responsibility of the flag-state CCM for a given vessel.
6. In preparing the initial list of approved ALCs, the WCPFC Secretariat will take into account lists approved by existing regional and sub-regional VMS programmes and lists approved by CCMs.
7. The Secretariat will assess proposals for inclusion of additional ALC makes and models on this list from both CCMs and equipment manufacturers. Approval of ALCs such requests will be based on assessments of ALCs against minimum standards for the Commission VMS as set out in Annex 1 of CMM 2007-02, WCPFC SSPs, as relevant, and using the methodology established by the FFA with expenses for type approval processing to be borne by the proposing entity.
8. The Secretariat will administer a Commission VMS database. For each fishing vessel required to report to the Commission VMS the flag CCM will submit all necessary data to complete its data file in the Commission's VMS database. This data will include the name of the vessel, unique vessel identification number (UVI)<sup>3</sup>, radio call sign, length, gross registered tonnage, power of engine expressed in kilowatts/horsepower, types of fishing gear(s) used as well as the make, model, unique network identifier (user ID) and equipment identifier (manufacturer's serial number) of the ALC that vessel will be using to fulfil its Commission VMS reporting requirements.
9. Periodic audits of a representative sample of installed ALCs are to be carried out by CCMs to verify that the specification and standards as set out in Annex 1 are being complied with, and that there is no visible evidence of tampering.
10. The number of audits, to be planned on an annual basis, will be determined by cost/benefit, logistical and practical aspects.
11. CCMs are responsible for ensuring that the audits are conducted by qualified operatives, such as officers currently authorised under CCM national fisheries legislation.
12. Audit reports will include measurements of ALC position accuracy, elapsed time between transmission and reception of data, and any physical anomalies (connections, power supply, evidence of tampering) noted by the inspectors.

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<sup>3</sup> If, and when, adopted by the Commission.

13. The results of these audits will be provided to the Commission in the part 2 component of the annual report to the Commission by the CCMs and those results compiled by the Secretariat into a VMS Audit Report Document.

14. Furthermore, the Secretariat of the WCPFC, or its appointee will be, at the Secretariat's discretion and on *prima facie* grounds, entitled to audit ALCs from any CCM to independently to verify conformity with standards. The execution of such examinations will be guided by an analysis of the ongoing data files kept on each vessel. The resulting reports will be made available to the Commission through its TCC.

### **3. ALC inspection protocol**

1. At the time of a boarding and inspection of a vessel authorised to fish in the Convention Area, such inspections to be conducted in accordance with national laws, when undertaken inside a country's EEZ and, when on the high seas, in accordance with the CMM-2006-08.

2. On boarding, the vessel master must make available for inspection, where so directed by an authorised fisheries officer or inspector, its ALC unit, including antenna, connectors and antenna cable.

3. Should a vessel master refuse access to its ALC unit, antenna and connectors to an authorised fisheries officer or inspector, the inspecting party will immediately inform the relevant flag state CCM and the Secretariat. The flag State will order the vessel to immediately comply. Any vessels which refuse this order will be directed by the flag State, or the chartering State, to head directly to port where a full inspection of the equipment in question can be carried out.

4. Failure to carry out this order may result in the suspension or revocation of a vessel's authorisation to fish in the Convention Area by the flag State responsible. The responsibilities of a vessel master during boarding and inspection on the high seas are detailed in CMM 2006-08.

5. A report issued as a result of each inspection will confirm conformity of the ALC unit and installation with the specifications set out in Annex 1. A copy of this report will be given to the master of the vessel and forwarded to the vessel's responsible flag State.

6. In the case where the inspection reveals any anomaly with the specification, the inspector will inform the flag State CCM, the Secretariat and, if applicable, its chartering State. From that date, the vessel operator will have 30 days to rectify the problem and to submit to a new inspection to verify the installation. During that period, the vessel will be required to report its position at intervals of four (4) hours by an alternative communications means approved by the Secretariat.

7. A report of each inspection will be submitted to the CCM to which the vessel is flagged and to the Commission by the inspecting authority, as provided for in CMM-2006-08 and at Article 25 of the Convention.

### **4. Rules on polling and reporting of ALC units incapable of being polled**

1. Any request by the WCPFC monitoring authority for a vessel's current position must receive a response within 90 minutes after its transmission, that response to include the vessel position in latitude and longitude, and date and time of message transmission.

2. For vessels carrying an ALC that uses the ARGOS system to report to the Commission VMS, the Commission VMS will use the ARGOS proprietary positioning system as a means of verifying the GPS calculated positions provided by the vessel's ALC.

## **5. Vessel reporting, including position reporting frequencies**

1. In accordance with Annex 1, ALCs fitted to vessels subject to the Commission's VMS must be capable of transmitting data hourly. The Commission may vary these standards depending upon the fishery, applicable Conservation and Management Measures or for monitoring control and surveillance purposes.

2. The Secretariat will require written authorisation from the vessel operator to download a data network identifier (DNID) or equivalent. Should a vessel operator withhold such an authorisation then the vessel's authorisation to fish may be made invalid by the relevant flag State CCM.

3. [The Commission VMS shall include an automated alert to report when vessels enter or exit the high seas of the Convention Area. Vessels subject to the Commission's VMS must be reporting to the Commission VMS through automatic means before entry into the Convention Area and continue reporting until the Convention Area is exited. In the case of ALC failure or malfunction, these reports shall be provided by the vessel on a manual basis. It is the responsibility of a vessel's flag State CCM to ensure compliance with this requirement.]

4. In the event of non-reception of two consecutive, programmed high seas VMS positions, and where the Secretariat has exhausted all reasonable steps to re-establish normal automatic reception of VMS positions the Secretariat shall inform the vessel's flag State CCM and the vessel Master. From the time of transmission of this communication to the CCM, the vessel Master shall be required to take immediate steps to re-establish automatic reporting and in any event within [30 days or at its first port of call if less than 30 days]. During this period the vessel shall be required to report its position manually to the Secretariat every [8][4] hours. In cases where automatic reporting has not been re-established within [30] days the CCM shall order the vessel to cease fishing, stow all fishing gear and return to port. The vessel may recommence fishing on the high seas only when the ALC has been confirmed as operational by the Secretariat following the flag State CCM informing the Secretariat that the vessel's automatic reporting complies with the regulations established in this SSP.

5. In exceptional circumstances, the flag State CCM may extend the period established in paragraph 4 for an additional consecutive [15] days during which time the vessel will continue to report its position manually every [4] hours to the Secretariat while on the high seas. When such permission is provided the flag State CCM shall provide a report to the Secretariat as to the nature of the exceptional circumstances and steps taken to re-establish automatic reporting. Such reports shall be included in the Secretariat's annual report on the operations of the Commission's VMS to the TCC as required under para. 7.3.9.

6. The Secretariat shall maintain and make available to all CCMs a current list of those vessels subject to manual reporting and the duration of that reporting.

## **6. Measures to prevent tampering**

1. Before being authorized for operation aboard vessels authorised to fish in the Convention Area, ALCs must be included on the WCPFC approved list of ALCs.

2. ALCs so designated during their type approval process, will be fitted with a physical security mechanism to prevent access to the processing unit.
3. It will be the responsibility of WCPFC to provide CCMs with requirements for the physical security, which will be chosen taking into account the cost, facility of fitting and security quality as well as relevant ISO standards.
4. Data routes from ALCs to the Commission VMS will use international data communications services provided by recognized telecommunications authorities whose systems and operations conform to current ISO guidelines for network data security, or to standards that may supersede these guidelines in the future or their equivalents.
5. The auditing processes described in Section 1 of this document will be used to assure that anti-tampering and, tamper-evident, standards for ALCs are being met.
6. Security of the Commission Secretariat's VMS data will reflect the Secretariat's role as the guardian of the confidential VMS data for the high seas in Convention Area.
7. All security standards, procedures and practices will be consistent with the Commission's Information Security Policy (ISP).
8. Access to the Secretariat's VMS data computer system will be in conformity with the Commission's ISP.
9. A set of standard operating procedures, elaborated by the Secretariat, and subject to approval by the Commission on the recommendation of TCC, will be developed to deal with all operational anomalies of the VMS, such as interruption of position reports, downloading of DNIDs and their equivalent and responding to reports providing incoherent data (e.g. vessel on land, excessive speed, etc.).
10. The integrity of the Secretariat's VMS data will be verified annually by qualified personnel, exterior to Commission Secretariat staff.

## **7. Obligations and roles of fishing vessels, CCMs, service level provider(s) and the WCPFC Secretariat**

### **7.1 Fishing vessel obligations**

1. To register, carry and continually operate an ALC that meets the standards set out in Annex 1 as well as any additional standards, specifications and procedures agreed by the Commission.
2. To provide access to the ALC, associated connections and antennas, when directed by authorized fisheries officers, inspectors or other authorized persons or organizations, in accordance with relevant inspection provisions whilst on the high seas or in port.
3. To carry aboard and monitor at all times a two-way communication device that supports real-time communication between vessels and the Commission's VMS, with the assistance of the flag State, as necessary.

4. To ensure that a vessel's ALC is protected from any attempt to tamper with its operation, data transmission or integrity of data transmitted in conformity with Section 5 above.

## **7.2 CCMs**

1. To ensure compliance by their vessels and operators with the provisions of Annex 1 and any other WCPFC standards, specifications and procedures, including those that may be established in relation to the management and use of VMS data in the high seas by application of the inspection protocol described in section 2 above.

2. To conduct and report results of ALC inspections in accordance to procedures established for that purpose, results to include data specified in Section 2 above.

3. To utilize the Commission VMS in accordance with the Commission's conservation and management measures and any of the standards, specifications and procedures agreed by the Commission.

4. To provide to the WCPFC Secretariat a list of all ALC inspections by flag and vessels type, including a summary of the results of each inspection.

5. To report, by email, facsimile or data entry procedures established by the Commission to the Secretariat within a period of five days any registered ALC, including connections and antennas, associated vessels (by name and flag) and vessel masters that appear to not be in compliance with CMM-2007-02 and/or specifications and procedures agreed by the Commission as well as the details of the non-compliance. The Secretariat will issue an acknowledgement of reception of each report and, in the absence of this acknowledgement within 72 hours of transmission, the CCM is required to re-transmit any unacknowledged report.

6. To apply sanctions and penalties sufficient to deter violations of applicable VMS requirements and standards and to report action taken and sanctions applied to ensure compliance.

## **7.3 The WCPFC Secretariat**

1. To ensure that data once received at the Commission VMS is not altered, accessed, manipulated, copied or interfered with in any way, or used by anyone other than those authorized to do so, as prescribed in the Commission's ISP and the associated rules and procedures developed by the Ad Hoc Task Group (AHTG) [Data] adopted by the Commission.

2. To provide a stable, reliable, fully maintained and supported Commission VMS that conforms to the security standards set out in the Commission's ISP.

3. To develop and manage a service level agreement (SLA) with the FFA for provision of VMS services. An additional SLA may be required for the provision of VMS software, support and the possible provision of out sourced VMS services between the WCPFC secretariat and a software provider.

4. SLAs will include provisions for confidentiality and non-disclosure; SLA contract clauses; services provided under the SLA; service rates; target response times; help desk support; billing; possible provision of outsourced VMS services (e.g. front-line ALC management).

5. To enter into, and to maintain, direct contracts with mobile communications service providers for the provision of position (and other) data from the ALCs to the Commission VMS. A strategy of joining cooperating RFMOs, where possible, will be followed to achieve a goal of negotiating the best possible rates for these services.
6. To utilize the Commission VMS in a manner consistent with the Convention, the Commission's conservation and management measures, and any of the standards, specifications and procedures relating to the Commission's VMS adopted by the Commission. [Unless explicitly requested by a coastal State in accordance with Article 24(8) of the Convention the Commission shall not have access to, interfere with, or use any VMS data owned by the coastal State.] USA/RMI wants to consider
7. To administer the list of ALCs approved for use in the Commission VMS.
8. To compile and circulate to all CCMs a list of registered ALCs by vessel and flag reported to the Commission in compliance or non-compliance with CCM-2007-02 and these standards, specifications and procedures, as agreed by the Commission.
9. To monitor and report annually to TCC the performance of the Commission VMS and its application and, as necessary, make recommendations for improvements or modifications to the system, standards, specifications or procedures established to support it, in order to ensure the Commission VMS continues to function as a stable, secure, reliable, cost effective, efficient, fully maintained and supported system.
10. The Secretariat will include in its annual report (6.3.9) on the operations of the Commission's VMS to TCC, all details for non-compliant ALCs detected in the previous 12 months. TCC may recommend appropriate penalties or sanctions to the Commission as a means of deterring non-compliance.



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**PROVISIONAL IUU VESSEL LIST — 6 OCTOBER 2008**

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<b>Current name of vessel (previous names)</b>	<b>Current flag (previous flags)</b>	<b>Date first included on draft IUU Vessel List</b>	<b>Flag State Registration Number/IMO Number</b>	<b>Call Sign (previous call signs)</b>	<b>Owner/beneficial owners (previous owners)</b>	<b>Notifying CCM/Contact Details</b>	<b>Alleged IUU activities<sup>4</sup></b>
Chu Huai No.638 <sup>5</sup>	Chinese Taipei	4 June 2008	CT4-2988	BJ4988	Ta-Fu Tsai, Pingtung, Chinese Taipei	Tonga	Att. B 1-9
Jing Chuen No.68 <sup>6</sup>	Chinese Taipei	15 September 2008	CT4-2909	BJ4909	Hung Wen Liang, Gao Xiaong City, Chinese Taipei	New Caledonia	Att. F 1-4

<sup>4</sup> The attachments referred to in this table accompanied the draft IUU Vessel List attached to WCPFC Circular 2008/20 dated 15 September 2008.

<sup>5</sup> Consensus could not be reached on this matter. The majority favored its listing. The minority were opposed.

<sup>6</sup> TCC4 noted that the vessel shall be subsequently removed from this list once France confirms the payment of assessed fines is complete.

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**TONGA’S STATEMENT ON PARA. 15(B) OF CMM-2007-03**

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Mr Chair,

I am aware from our previous discussions on IUU listing cases and in particular the application of paragraph 15(b) of CMM-2007-03 that there are no explicit standards and criteria for assessing whether an action taken by flag State is effective.

With that in mind Mr Chair, Tonga delegations would like to request that the following issues be noted in the record.

**One**, that Tonga is concerned about having no explicit standards or criteria for assessing whether an action taken by flag State is effective.

**Two**, Tonga would like the Commission to take note that Tonga believes that there is a need to develop a clear and transparent criteria to be used when assessing the effectiveness of action taken by flag State when applying paragraph 15(b) of CMM-2007-03.

**Number of offences committed within the EEZ of a coastal State:** There is a need to take into account the number of offences committed within the EEZ of the coastal State. For example, in Tonga’s case, there were 3 offences committed within the Tonga EEZ.

**Penalty and fine provided by the national law of a coastal State:** There is a need to consider the penalty and fine imposed by the national law of the coastal State with respect to the offences committed. For example, in Tonga’s case, total fine amounted to 1.2 million US dollars.

**Number of days that the vessel had spent within the EEZ of a coastal State:** Take into account the number of days the vessel spend fishing (illegally) within the fisheries waters of the coastal State. For example, in Tonga’s case, Chu Huai 638 fished illegally within Tonga EEZ for a total of 13 days.

**Total expenses incurred:** Take into account the total expenses incurred by the coastal State and others in carrying in combating IUU activities including costs to air surveillance, sea surveillance, to mention the least. For example, in Tonga’s case, costs incurred by NZ air surveillance etc.

**Sovereign rights of coastal State:** The sovereign rights of coastal State whose waters the offences were committed should be taken into account in considering the effectiveness of action taken by flag State.

Thank you Chair.

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**PALAU'S STATEMENT ON CNMS ON BEHALF OF FFA MEMBERS**

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Mr Chairman,

The Forum Leaders have recognized the importance of fisheries to the economies of all Pacific Forum countries. The members of the Forum Fisheries Agency, FFA, have committed to promoting domestic fisheries, in particular the development of national tuna industries, supported by an appropriate management and regulatory framework.

FFA members are intensifying efforts to apply a long-term strategic approach to Pacific fisheries, and in tuna species in particular, to ensure that these resources are effectively managed so as to provide enduring economic, social and cultural benefits; and upholding and strengthening the existing regional and national arrangements, agreements and conservation measures that protect this essential resource.

It is increasingly dismaying to learn that some of the fishing nations of the Commission are still questioning the legitimate right of the small island developing states to develop their own fisheries. The actions of some of the fishing nations of this Commission continue to block the development of some of the smallest developing island States in this region.

FFA members are very concerned about IUU fishing in this region, particularly unauthorized and unlicensed fishing in coastal State areas under national jurisdiction. Yesterday, we heard of numerous incidences of illegal incursions into the waters of small island developing States and Territories. As we meet this week, vessels that are not authorised to fish pursuant to the Conservation and Management measures of this Commission are fishing in the Convention Area. Their activities, if uncontrolled, present a threat to the long-term sustainability of our region's valuable tuna stocks. Equally, their activities also present alternative opportunities for some of the smallest developing island States in this region to maximize returns on the utilization of tuna resources including developing domestic industries.

Mr Chairman, for some years the Commission has been grappling with the issue of cooperating non-members. For FFA members, the cooperating non-member issue has presented complexities that reach to the heart of this Commission. Mr Chairman, FFA members initiated the MHLC process, the founding process of our Convention, to achieve many goals. We hoped at the time that this Commission would secure and protect the rights and interests of FFA countries; would secure maximum long-term benefits for FFA member countries; and would ensure conservation

of the resource. It must also be recognized, that the issue of new entrants in this region has a history that stems from the 1999 MHLC Resolution on Future Participation in the Conference, that shaped our Convention, and the 2002 Decision of the PrepCon relating to participation in the work of the Conference. The WCPFC Convention was designed to make it harder for new entrants, because of the problems of overcapacity and also because unlike other tuna regions most of the participants are small island countries for whom the tuna resources are important.

FFA members have been very mindful of this history, and have carefully considered and reflected on the outcomes from the Guam Commission meeting in 2007. We have also sought to continue to build on our efforts through 2007 to find a way to improve the process and outcomes from the consideration cooperating non-member applications. We note that the fourth priority issue for the Commission in 2008, is described in the Guam record as the “development of an improved and rationalized process for considering applications for CNM status.”

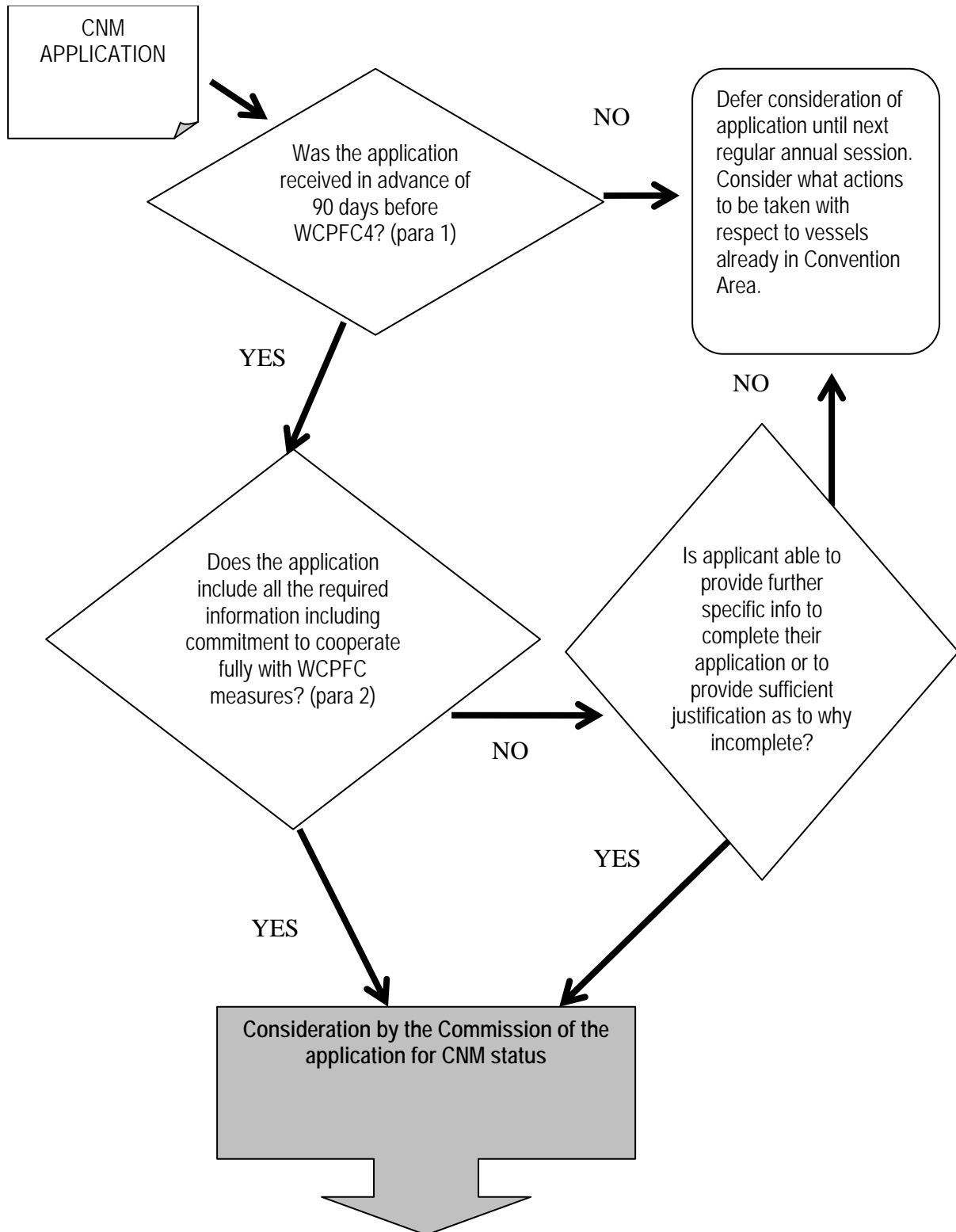
To this end, at this TCC session FFA members have two delegation papers to contribute to the TCC4 deliberations. FFA members would like to propose that discussion of Agenda 2.5 a) be held in two parts.

- First, we would propose that the TCC discuss the process for considering CNM applications in 2008. We agree it is only fair that CNM applications which were received in 2008 must be considered in accordance with CMM 2004-02. FFA members would like to propose that TCC4-DP02, a paper by New Zealand, be used a basis of these deliberations during TCC4.
- Second, we would propose the TCC discuss how the process for considering CNM applications from 2009 and beyond might be improved. FFA members have carefully considered this matter and have tabled DP05 which includes some possible amendments to CMM 2004-02, that build on the FFA delegation papers which were tabled at the Guam meeting.

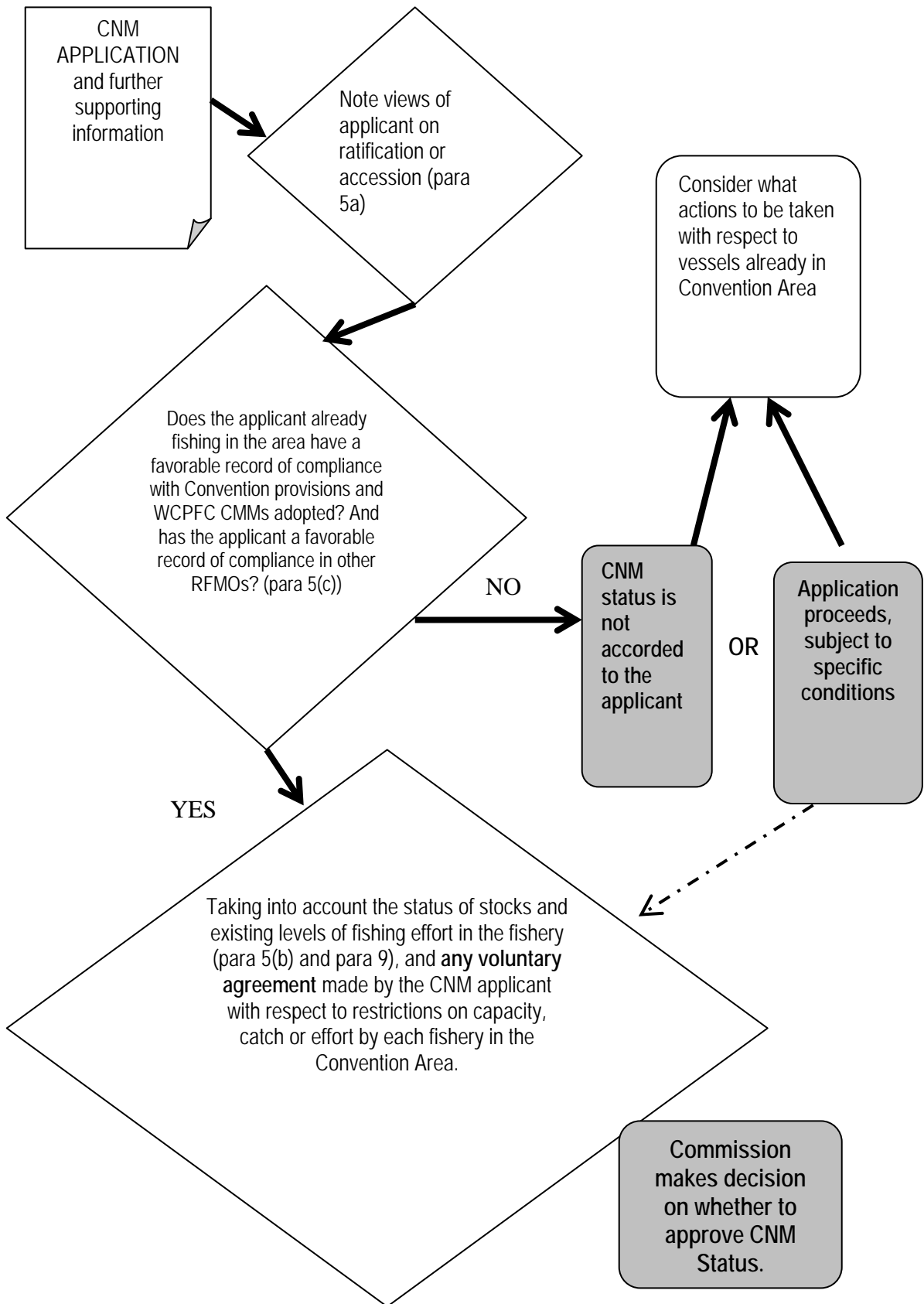
Finally, noting the limited time under this agenda item and to ensure that we make good progress towards the resolution of this priority Commission issue, FFA members would like to propose that the TCC defer deliberations of the technical merits of individual CNM applications that have been tabled to date. This is consistent with the current CMM 2004-02, and would present an opportunity for the TCC to maximize the progress that could be made on clarifying the process for considering CNM applications, both at WCPFC5 in Busan and also for the future.

**PROCESS CURRENTLY EMPLOYED TO REVIEW CNM APPLICATIONS**

**PART 1 – Have the requirements of the application been met?**



**PART 2 – Process for Commission to consider whether CNM status should be accorded**



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**STATEMENT BY COOK ISLANDS ON SIDS ON BEHALF OF FFA MEMBERS**

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Mr Chairman, I make this statement on behalf of the 17 FFA members, 15 of whom are small island developing States.

Mr Chairman, FFA members wish to express our sincere appreciation to Japan, for the co-funding of USD 80,000 that was provided from the Japanese Trust Fund to the 2008 High Seas Boarding and Inspection Scheme Training Workshop. The Executive Officer of the Cook Islands Pacific Patrol Boat “Te Kukupa” participated in the workshop, and he returned to the Cook Islands ready to take part in the Cook Islands contribution to the effective implementation of the WCPFC High Seas Boarding and Inspection Scheme.

Mr Chairman, FFA members would also like to express our sincere appreciation to the on-going voluntary contributions that the United States has made to the Special Requirements Fund, and the contribution this year of a further USD 50,000. I understand that these funds have contributed, among others to a range of SPC activities that my colleague, the MMR Data Manager and Turtle Lady, participated in previous years as well as 2008. Although these workshops are not directly related to MCS, such as the SPC Stock Assessment Workshop and the SPC Tuna Data Workshop.

Mr Chairman, the inclusion of the “Consideration of the Special Requirements of Developing States, pursuant to Part 8 of the Convention” agenda item at each meeting of the Commission and its subsidiary bodies is required by the WCPFC Rules of Procedure: specifically, Rule 2.

Whilst, we are extremely appreciative of the voluntary contributions that have been made which continue to provide assistance to small island developing States in areas of science, data and MCS, FFA members would like to point out that these funding arrangements only relate a portion of Part 8 of the Convention: particularly paragraph 3 and aspects of paragraph 4 of Article 30.

Mr Chairman, through this meeting deliberations have continued for the adoption of a new conservation and management measure for bigeye tuna. FFA members are also very concerned of the ongoing abuse of the Overcapacity Resolution, even after the apparent resolution of this issue at the Guam meeting. Noting these, FFA members would like to remind other Commission members of the obligation in our Convention that the Commission shall give full recognition of the special requirements of developing State members, including small island developing States and territories. In particular, the Commission shall give full recognition to the special

requirements of developing States when developing and implementing conservation and management of highly migratory fish stocks in the Convention Area and in respect of the development of fisheries for such stocks.

Paragraph 2 of Article 30 provides further detail on how the Commission, in giving effect to the duty to cooperate for conservation and management of highly migratory fish stocks, shall take into account the special requirements of developing State members, in particular small island developing States and territories. Paragraph 2 further notes that small island developing States and territories are vulnerable and dependent on exploitation of marine living resources. There is also a need to avoid adverse impacts on, and ensure access to fisheries by peoples of small island developing State members. Additionally there is a need to ensure that conservation and management measures do not result in transferring, directly or indirectly, a disproportionate burden of a conservation action onto developing State members and territories.

Mr Chairman, in addition to Article 30, our Convention has many key provisions that also require the Commission to take into account the special requirements of developing States, particularly the special requirements of small island developing States and Territories that are dependent on marine living resources. For example, in Article 5 (b) requires that the Commission give consideration to the special requirements in the adoption of conservation and management measures. In Article 10 there is specific mention of the need to take into account the special requirements of developing States, particularly 10(3) which stipulates a number of relevant criteria for Allocation decisions by the commission. Article 8(2) of the Convention, requires the Commission when establishing compatible measures to take into account the respective dependence of coastal States on the resource.

Noting these, FFA members look forward to future deliberations giving full recognition of all aspects of Part 8 of the Convention.

Thank you Mr Chairman.



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**STATEMENTS ON SPECIAL REQUIREMENTS**

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**Statement by  
the Republic of the Marshall Islands on Small Island Developing States SIDS**

As CCMs are aware, at the last annual WCPFC meeting in Guam, there was substantial debate around the table regarding the domestic fisheries development aspirations of SIDS and where, if any place, it would be appropriate to accommodate such aspirations in the ongoing discussions and dialogue of the WCPFC. In our view, the Convention itself appropriately accommodates the sovereign rights of coastal States by having within and throughout its text, explicit language that safeguard those rights. Without having to go into details and in the interest of time, I need not revisit nor reopen past issues and the ongoing debate which we have come to find ourselves hanging in the crossfire of competing fishing interests.

In reference to the outcome and agreed decision at WCPFC4 in Guam, I wish to make note of the final version of the Summary Report dated 21 February 2008; specifically, paragraphs 323–326 wherein there was a sense of common understanding among all CCMs alongside the WCPFC Chair that the issue with regards to the Marshall Islands aspiration to acquire newly-constructed fishing vessels from Chinese Taipei as part of its overall domestic fisheries development efforts was finally resolved and that no further disproportionate burden will be exerted upon SIDS. To date, however, this has not been the case as we find ourselves having to come and report to the TCC on possible non-compliance by developed Members. We feel that it is only fitting that this issue be taken up and addressed as appropriate given that the TCC is tasked to look at issues of general compliance with related WCPFC decisions, especially those agreed at the annual meeting.

On that note, I wish to seek some form of explanation from any concerned developed Members around the table on this issue and it is our hope that we can move forward and leave this meeting on a more positive and reassuring note.

## Statement by Nauru on behalf of the PNA

Mr Chairman I wish to make a brief statement on behalf of the PNA.

The PNA wishes to lend our support to the statement by Marshall Islands with regards to the difficulties Marshall Islands and Tuvalu have been facing in securing purse-seine vessels from Taiwan. We strongly believe that these actions are in contravention of Resolution 2005-02 on Reduction of Overcapacity which essentially calls on CCMs to work together to reduce equivalent capacity by 31 December 2007 of purse-seine vessels that entered Contravention Area after MHLC and PrepCon.

The Resolution stipulates that it shall be implemented to ensure that no adverse effect is given to the coastal processing and transshipment facilities and associated vessels of developing island coastal States and territories, and would not affect investment that has occurred legally in FFA member countries.

Subsequent to its adoption in 2006, Marshall Islands and Tuvalu informed FFC and the WCPFC of ongoing issues with Taiwan over the Resolution with the Marshall Islands being denied the release of two purse-seine vessels that were constructed in Taiwan and Tuvalu being denied the ability to purchase a vessel to be constructed in Taiwan.

At WCPFC4 there were lengthy discussions, which FFA members understood, would result in Taiwan being able to finally release the two purse-seine vessels that Marshall Islands was waiting on and for Tuvalu to finally be able to obtain a vessel as planned. However, this has not eventuated and instead **Taiwan** has confirmed its intention for the two purse-seine vessels originally intended for Marshall Islands to be sold to the **United States of America**.

In recent years, the United States of America has been steadily increasing their purse-seine fleet in the WCPFC Convention Area within the pre-existing limit of the Treaty on Fisheries with FFA members, including through the purchase of new vessels from Taiwan. We understand that the reason the United States is able to purchase new vessels from Taiwan is because of the footnote to paragraph 1 in CMM 2005-01, which provides for an interpretation of current levels of fishing effort to include fishing rights authorized under existing regional or bilateral fishing partnership agreements which were registered with the Commission, such as the Fisheries Treaty between FFA and the United States.

However, in comparison the content of paragraph 6 of CM 2005-01 which states “Nothing in this decision shall prejudice the legitimate rights and obligations of those small island developing Members and Territories in the Convention Area seeking to develop their own domestic fisheries”, does not seem to make a difference in the case of Marshall Islands and Tuvalu and therefore we lend our full support to the Marshall Islands Statement.

## **Statement by Chinese Taipei on Small Island Developing States (SIDS)**

In response to the criticism and concerns raised by the Republic of the Marshall Islands (RMI) and some delegations from FFA, on behalf of the delegation of Chinese Taipei, I would like to take this opportunity to reaffirm the position of our support on the special requirement of small island developing states in recognition of their aspiration for developing their own fisheries. Over the past year, the Fisheries Agency of Chinese Taipei received many applications submitted by our shipyard companies requesting for the permit for building vessels in Taiwan, in particular the purse seine vessels, and for export. The Fisheries Agency reviewed those applications with cautious attitude.

As some of you might be recalled, we have a painful experience in the matter of operation of foreign flagged purse seine fishing vessels by Chinese Taipei entrepreneurs, and such criticism by members of WCPFC had finally led to the adoption the Resolution 2005-02 by WCPFC. The matter took more than two years for Chinese Taipei to resolve, when our efforts on solving the problem of overcapacity were recognized by members of the Commission in last annual Commission meeting. (Please see WCPFC4 record of meeting paragraphs 238–240.)

During the meeting of WCPFC4, our delegation made a brief introduction of the amendment of the Regulation of Permission for the Export of Fishing Vessels. The objective of the amendment was to prevent the expansion of fishing capacity with Chinese Taipei capital and beneficiary. The cost of rectification of such expansion of fishing capacity was a substantial one, in both tangible and intangible terms. Therefore, Chinese Taipei takes the matter with extreme care, in order to prevent any possibility of criticism by members of WCPFC and other members of the international community that Chinese Taipei is taking the advantage of small island developing countries to seek expansion of its own fishing capacity.

Nevertheless, we have also noted the discussion in the meeting of WCPFC4 that the Commission clearly supports the legitimate development aspirations of the developing small island States and Territories, such as 2 vessels for the Republic of the Marshall Islands (RMI) and 1 vessel for Tuvalu.

If the Commission takes into account the special requirement of RMI and Tuvalu and decides to overrule the restriction of source of capital, we are ready to permit the vessels built in Taiwan for export to RMI and Tuvalu.

At the same time, for the purpose of conserving the resource of tuna and tuna-like species, we also hope some criteria or guideline could be established in WCPFC so as to avoid the expansion of fishing capacity in the region. Thank you.

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**STATEMENT BY THE UNITED STATES OF AMERICA ON THE SPECIAL  
REQUIREMENTS OF SMALL ISLAND DEVELOPING STATES (SIDS)**

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The United States assigns a very high priority to the special requirements of small island developing States and territories (SIDS). Throughout the negotiations that led to the WCPF Convention and during the period of its implementation, the United States has sought to defend and advance the interests of SIDS and, in particular, has worked to ensure that recognition of these special requirements is among the priority issues addressed within the Commission.

During the negotiations for the Convention, the United States was a strong proponent of the “Special Requirements Fund” established to support participation by SIDS in the work of the Commission and, since the fund was established, the United States has been the single largest contributor. The United States was instrumental in ensuring that the annual budget of the Commission included a line item for travel to the meetings of the Commission by representatives of SIDS to ensure that full participation in the meetings of the Commission and its subsidiary bodies does not pose an undue economic burden for these States and territories.

The United States supports efforts by small island developing States and territories to develop their own domestic fisheries. In this regard, during discussions within the Commission on how to address the growth of fishing capacity in the region, the United States has argued that efforts to control fishing capacity must not target vessels operating in direct support of shoreside development projects in the SIDS. The United States remains supportive of efforts by SIDS to develop their domestic fisheries, including through the acquisition of vessels to operate under their flags, and only seeks to ensure that such efforts do not have the unintended consequence of unchecked growth of fishing capacity in the region by interests with little or no direct ties to the economies of the SIDS in question.

Under the 1988 Treaty on Fisheries between the United States and the Pacific Island States of the Forum Fisheries Agency (FFA) the United States has long recognized the special requirements of SIDS, and the right of these States to the economic benefits

derived from the fishery resources harvested in waters under their jurisdiction. Under the Economic Assistance Agreement associated with the Treaty, and the corresponding industry payment under the Treaty itself, the U.S. contribution through the end of the current extension period in 2013 to the Pacific Island States Party to the Treaty totals US\$450 million. If the Treaty were negotiated solely for the purpose of gaining fishery access for U.S. vessels on terms comparable to other distant water fishing states, this amount would be considerably lower. The economic assistance provided under the Treaty includes significant amounts, above and beyond straight fees for fisheries access, precisely because the United States recognizes the special requirements of these SIDS and understands the importance of contributing directly to their economic development and wellbeing.

Under the original terms of the Treaty concluded in 1988, the United States was authorized up to 50 licenses (with an additional 5 licenses available under specific circumstances, but these have never been utilized). During the negotiations to extend the Treaty for an additional 10 years, from 2003 through 2013, the United States accepted a reduction in the number of licenses from 50 to 40 to allow the Pacific Island States to make the capacity these licenses represent available to other vessels, including vessels operating under their own flags. As a result, the United States is not only the only fishing fleet in the region that is constrained by a legally binding limit on the number of licenses available to it, the United States is the only country that has accepted a legally binding 20 percent reduction in the number of fishing opportunities available to its fleet in the WCPFC Convention Area. Moreover, even though the number of U.S. vessels operating under the Treaty in recent years has been well below the 40 licenses that the fleet is authorized, the United States has continued to pay the full amount for all 40 licenses each and every year.

Under the Treaty, and in implementing its obligations under the Convention, the United States has taken unparalleled steps to support efforts by FFA Member States to ensure that the fisheries conducted throughout the Western and Central Pacific are adequately monitored and enforced. The United States was the first fishing fleet in the region to accept 100 percent VMS coverage on its purse seine fleet. The same fleet operates with a minimum level of 20 percent observer coverage, a level not approached by any other fleet in the region. The VMS, observer, and reporting provisions under the Treaty apply not only in waters under the jurisdiction of the FFA Member States, but to U.S. vessels operating throughout the Treaty Area, including the high seas. No other fleet in the region has accepted these conditions.

In summary, the United States makes every effort to recognize and respond to the special requirements of SIDS and to work with the Pacific Island States, in particular, to ensure that they receive the maximum benefits for the fishery resources in waters under their jurisdiction. This includes concrete and unequalled efforts, undertaken in cooperation with the FFA Member States to ensure that these fisheries are monitored and regulated, so as to make the benefits of these resources available to future generations.

**The Commission for the Conservation and Management of  
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**DRAFT WORK PLAN AND BUDGET, 2009–2013**

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**WCPFC-TCC4-2008/15 (Rev.2)**

**7 October 2008**

**Paper prepared by the Secretariat**

**Introduction**

1. The Second Regular Session of the Commission (WCPFC2) in December 2005 endorsed an agreement by the First Regular Session of the Technical and Compliance Committee (TCC1) that the priority components for the elaboration of the Commission's monitoring, control and surveillance (MCS) framework for the next two years are as follows:

- (a) Members' and Commission's list of fishing vessels;
- (b) Vessel Monitoring System (VMS);
- (c) Regional Observer Programme;
- (d) Port State Scheme and Transshipment;
- (e) High Seas Boarding and Inspection Scheme;
- (f) Catch Verification;
- (g) Catch and Statistical Documentation Scheme; and
- (h) Gear Marking.

2. At the Fourth Regular Session of the Commission (WCPFC4) held at Guam, USA in December 2007, the Chair identified several priority issues for the Commission in 2008:

- (a) development of a CMM for bigeye and yellowfin tuna;
- (b) development of compatible measures for the high seas, including development of measures for the high seas and for EEZs of other non-PNA CCMs, which are compatible with those measures applicable to the PNA members of the Commission consistent with paras 9 and 10 of CMM-2005-01;
- (c) development of a CMM that regulates transshipment activities; and
- (d) development of an improved and rationalized process for considering applications for CNM status.

4. Using discussions in WCPFC4 and previous TCCs as a guide, the proposed technical and compliance elements of the Commission's Work Programme for 2009–2013 based on the three functions of TCC identified in Article 14 of the Convention, are presented in Attachment 1. TCC may elect to consider draft work programmes (i.e. identifying key activities/outcomes/milestones) and associated budgets for the Commission VMS, Regional Observer Programme, High Seas Boarding and Inspection Procedures, Bycatch Mitigation, WCPFC Record of Fishing Vessels and Legal Consultancy Services for the period 2009–2013. A template to assist with this is presented in Attachment 2.

5. Some work programme elements may be accomplished “in-house” and at nominally zero cost, others may require outside expertise and significant financial support.

6. TCC4 is invited to consider its technical and compliance priorities within the Commission's MCS framework for the next five (5) years. It is also invited to consider the activities and associated budget required to support the effective implementation of the work programme to achieve the objectives associated with each element of that framework.

Attachment M, Annex 1

DRAFT TCC WORK PROGRAMME, 2009-2013									
Article 14(1)(a)- Provide information, technical advice and recommendations relating to the implementation of, and compliance with, conservation and management measures.	Article 14(1)(b)- Monitor and review compliance with conservation and management measures adopted by the Commission and make such recommendations to the Commission as may be necessary.		Article 14(1)(c) - Review the implementation of cooperative measures for monitoring, control and surveillance, and enforcement adopted by the Commission and make such recommendations as may be necessary.						
Priority 1	Priority 1	Cross Cutting	Priority 1	Priority 2	Priority 3	Priority 4	Priority 5	Priority 6	Priority 7
Information, advice and recommendations on:	Development of the framework for reviewing and monitoring compliance in the Commission	MSC elements of AHTG [Data]	Development of the Commission Vessel Monitoring System	Development of the Regional Observer Programme	Adoption of the High Seas Boarding and Inspection Scheme	Procedures for Transshipment Verification	Statistical Documentation Schemes (SDS) and Catch Documentation Schemes (CDS)	Fishing Vessel Charter Arrangements Scheme	Port State Measures and Port Inspections
Dec-08	Review framework adopted			WCPFC5		Transshipment verification procedures adopted			
Jan-09			Commission VMS partially implemented	ROP partially implemented	HSB&I Scheme Implemented				
Feb-09			Agreed SLA with FFA	ROP implementation	Implementation by flag State	Transshipment Verification			
Mar-09									
Apr-08									



May-09			implemented	proceeds and	CCMs. Training	procedures			
Jun-09			and monitored	IWG-ROP	In HSBI	implemented			
Jul-09			SSPs	continues work	Procedures arranged by the Secretariat.				
Aug-09			implemented and applied.	to further elaborate outstanding elements of the ROP.					
Sep-09				TCC5					
Oct-09									
Nov-09									
						Transshipment verification procedures fully operational	CDS or SDS Scheme adopted	Charter Arrangements Scheme adopted	
Dec-09				WCPFC6					
Jan-10			Commission VMS further implemented	ROP further implemented					
Feb-10									
Mar-10			CCMs and the Secretariat monitor, refine as necessary and advise the TCC and Commission on implementation of the VMS.	IWG-ROP monitors, refines as necessary, and advises the TCC and Commission on implementation of the ROP.			CDS or SDS Scheme implemented	Charter Arrangements Scheme implemented	
Apr-10									
May-10									
Jun-10									
Jul-10									
Aug-10									
Sep-10				TCC6					
Oct-10									
Nov-10									
Dec-10				WCPFC7					FAO-based port State measures

										adopted
Jan-11	IUU fishing mitigated	Compliance by CCMs with CMMs routinely reviewed and monitored								
Feb-11			Commission VMS fully implemented	ROP further implemented						
Mar-11				IWG-ROP						FAO-based
Apr-11				further develops						port State
May-11				options for cost-sharing, coverage and an implementation schedule						measures implemented
Jun-11										
Jul-11										
Aug-11										
Sep-11				TCC7						
Oct-11										
Nov-11										
Dec-11				WCPFC8						
Jan-12				ROP fully implemented						
Feb-12										
Mar-12										
Apr-12										
May-12										
Jun-12										
Jul-12										
Aug-12										
Sep-12				TCC8						
Oct-12										
Nov-12										
Dec-12				WCPFC9						
Jan-13										
Feb-13										
Mar-13										
Apr-13										
May-13										
Jun-13										
Jul-13										

Aug-13				
Sep-13				TCC9
Oct-13				
Nov-13				
Dec-13				WCPFC10

Provisional Estimated Budget<sup>78</sup>

TCC Work Program Element	2009 (USD)	2010 (USD)	2011 (USD)	2012 (USD)	2013 (USD)	Five-year Total
<b>Regional Observer Programme (General Account Fund)</b>						
Intersessional Working Group Meeting	60,000	60,000	0	0	0	120,000
Post-Audit Remediation	10,000	10,000	15,000	15,000	20,000	70,000
Observers for special circumstances	30,000	30,000	30,000	35,000	35,000	160,000
Data entry support	40,000	40,000	44,000	48,000	52,800	224,800
Data Quality Officer	0	30,000	33,000	36,300	39,930	139,230
Sub-Total	140,000	170,000	122,000	134,300	147,730	714,030
<b>WCPFC Record of Fishing Vessels</b>						
Amendments to WCPFC Record database and web facility	5,000	5,500	6,000	6,500	7,000	30,000
Sub-Total	5,000	5,500	6,000	6,500	7,000	30,000
<b>Commission VMS</b>						
Capital Costs	93,290	35,000	35,000	35,000	70,000	268,290
Operating Costs <sup>9</sup>	243,600	400,200	556,800	713,400	870,000	2,784,000
Annual Security Audit <sup>10</sup>	0	25,000	25,000	30,000	30,000	110,000
Sub-Total	336,890	460,200	616,800	778,400	970,000	3,162,290
<b>Information Management System</b>						
Database for management of data related to CMM-2007-03, CMM-2004-02 and CMM-2006-08	60,000	65,000	0	0	0	125,000
Sub-Total	60,000	65,000	0	0	0	125,000
<b>By-Catch Mitigation</b>						
Website Development	5,000	5,000	2,500	2,500	2,500	17,500
Website Maintenance	2,500	2,500	5,000	5,000	5,000	20,000
Sub-Total	7,500	7,500	7,500	7,500	7,500	37,500
<b>Legal Consultancy Services</b>						
Legal Consultant to address para.3(j) of CMM-2007-03	20,000	0	0	0	0	20,000
Sub-Total	20,000	0	0	0	0	20,000
<b>TOTAL</b>	<b>569,390</b>	<b>708,200</b>	<b>752,300</b>	<b>926,700</b>	<b>1,132,230</b>	<b>4,088,820</b>

<sup>7</sup> For 2009 only. All figures for 2010-2013 are indicative.

<sup>8</sup> Cross-cutting budget needs, e.g. support of MCS elements of the work of the AHTG [Data], are accommodated elsewhere in the Commission budget.

<sup>9</sup> Assuming 600 active MTUs reporting in 2009 with annual increments of 600 active MTUs reporting thereafter.

<sup>10</sup> Pursuant to Draft Commission VMS Standards, Specifications and Procedures (Section 5, para.10).

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**STATEMENT BY FIJI ON BEHALF OF FFA MEMBERS ON THE CATCH DOCUMENTATION  
SCHEME**

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Relevant paper: WCPFC-TCC4-2008/DP-05

FFA members acknowledge with appreciation the lead the EU has taken in developing a draft Conservation and Management Measure on a WCPFC Bigeye Tuna Catch Documentation Programme, noting that Forum members fully support the concept of a CDP.

FFA members have repeatedly stated that an integrated and comprehensive framework of monitoring, control and surveillance measures is required within the WCPFC to ensure compliance with, and effectiveness of, the Conservation and Management Measures of the WCPFC. The implementation of a Catch Documentation Scheme is considered a central element of such an MCS framework.

As you will recall, FFA members endeavoured at WCPFC4 to establish a formal working group (the Catch Tracking Scheme Intercessional Working Group [CTS-IWG]) that could prepare objectives and develop an agreed design framework for a Catch Tracking Scheme. These efforts were made through the submission of WCPFC 4-2007-DP30 and participation in the small working group convened by Australia. FFA members remain of the opinion that a structured approach allowing a more holistic consideration of issues is required to ensure that the WCPFC will implement a CMM which will be effective and consistent with its conservation and management objectives.

FFA members note that Japan has implemented a catch documentation scheme for Pacific bluefin tuna effective 4 June 2008. It was noted that this was implemented under the ICCAT recommendation of 2007 to create a catch documentation scheme for Atlantic bluefin tuna. We are of the view that a catch documentation scheme for Pacific bluefin tuna is the responsibility of this organisation and not ICCAT.

The draft CMM on CDS proposed by the EU raises a number of concerns including its effectiveness, species, data accuracy, scope, integration with other MCS initiatives and small island state issues. This suggests that it may be prudent to initially agree on the objectives of the scheme and design standards and framework before developing its operational structure. Once the objectives and design are established and agreed upon, a catch documentation scheme can be developed to reflect such standards and framework. The draft CMM presented by the EU will provide an excellent base for such consideration.

It is therefore suggested that a formal CTS-IWG be established and consider the following in designing it:

- a. Objective/s including compliance and verification of catch data, harmonisation with other Tuna RFMO's and elimination of IUU fishing.
- b. Scope including species, fishing gears, product form and transshipping operations.
- c. Operational issues of data submission, handling, analysis, reconciliation and dissemination including use of electronic based systems and consideration of commercial trade tracking programs.
- d. Roles and responsibilities of flag states, coastal states, port states, WCPFC Secretariat and trade organisations
- e. Capacity within CCM's and particularly small island developing states to implement and capacity building assistance.
- f. Integration within the MCS framework of WCPFC.

It is further suggested that the CTS-IWG seek technical expertise and input from CCAMLR who have an operational catch tracking system which has been repeatedly modified and improved over time. Input from other tuna RFMO's, regional trade and customs bodies is also considered to be of potential value. For these reasons FFA members propose that the second option in the Secretariat's working paper TCC4-2008/27 be adopted and that the CTS-IWG be tasked with working to developing a catch documentation scheme to receive further consideration at TCC5.

