



**ELEVENTH REGULAR SESSION**  
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- **Cooperating Non-Members - Report by Small Working Group**
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COMMISSION ELEVENTH REGULAR SESSION  
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**Cooperating Non-Members - Report by Small Working Group**

*Proposed report language for according Cooperating Non-Member status and establishing participatory rights. The working group proposed draft decisions points/report language where possible, with the working group noting that final decisions were to be made by the wider Commission meeting. In terms of participatory rights, existing rights were treated as the starting point for discussion and then were subject to comment from working group participants and applicants.*

At the Chair's direction a small working group was established to consider the applications of Cooperating Non-Members (CNMs) and, where a decision to renew status was proposed, to assess associated participatory rights. Further, the group was directed to consider the concept of conditional acceptance raised in plenary and the process of progression of CNM applications generally.

Framework documents for the working group were CMM 2009-11 and Secretariat paper WCPFC11-2014-08. The group also referred to TCC10's recommendations in the CNM section of the TCC10 Summary Report and the further recommendations highlighted by the TCC Chair during plenary session. These recommendations are set out below for reference.

A decision on CNM status had already been made with regard to several of the applicants before the SWG commenced. Those applicants were Ecuador, El Salvador, Liberia, Panama, and Thailand. It was decided that where a decision to grant CNM status had already been made this would not be readdressed. TCC's recommendations would still be considered though where, for example, information gaps had been identified and this was considered relevant for the subsequent granting of participatory rights.

This left the Democratic People's Republic of Korea (DPRK), Mexico, Senegal, and Vietnam for the group to consider in relation to granting CNM status as issues were raised regarding these applications during plenary session.

The small working group reviewed:

- TCC10's recommendations and requests regarding individual CNM applications;
- Where necessary, information provided by applicants subsequent to TCC10;
- Information provided during the course of the working group meeting.

The group noted with appreciation the attendance and participation of Ecuador, El Salvador, Liberia, Mexico, Panama and Vietnam in the SWG's discussions and encouraged other CNM applicants to attend in the future.

The group did not consider the issue of some CNM applicants indicating they would like to become full Members of the Commission

**Relevant TCC Recommendations**

TCC10 provided the following decisions and recommendations to WCPFC11:

- i. TCC10 has reviewed the following CNM applications and is forwarding them to WCPFC11 for consideration: Ecuador, El Salvador, Liberia, Mexico, Panama, Senegal, Thailand and Vietnam.

- ii. TCC10 thanked the Secretariat for the development of the CNM application template which assisted the process greatly.
- iii. TCC10 notes with appreciation the attendance and participation of Ecuador, El Salvador, Thailand and Vietnam at this year's meeting and encourages other CNM applicants to attend TCC meetings in the future.
- iv. TCC10 recommends that WCPFC11 take into consideration the Compliance Status of all CNM applicants in making its decision on the CNM applications and participatory rights. Furthermore, TCC10 recommends that CNM applicants provide any information requested during the CMS process 30 days in advance of WCPFC11.
- v. Some CCMs noted their strong reservations in forwarding the applications of Panama, Mexico and Senegal to WCPFC11 for consideration due to the failure to submit a complete and timely Annual Report or failure to make a commitment to make a financial contribution.
- vi. Some CCMs recommended that WCPFC11 agree that, in addition to this year's financial contribution, CNMs should be required to make any past financial contributions that remain outstanding.
- vii. TCC10 recommends to WCPFC11 that if conditional grants of cooperating non-member status are given, that there be a clear process for how the final determination will be made.
- viii. TCC10 notes that three CNM applicants (Ecuador, El Salvador and Mexico) have expressed an interest in becoming full members and recommends that WCPFC11 consider whether to invite them to become members.
- ix. TCC10 notes the following gaps in the applications for individual applicants and encourages applicants to rectify them if possible by WCPFC11:
  - a. Mexico – TCC10 notes that Mexico has not provided a commitment to make a financial contribution. TCC10 further notes that Mexico has not agreed to accept High Seas Boardings and Inspections, however, Mexico currently has no vessels operating in the Convention Area. In addition, SPC noted that there may be some remaining data gaps in Mexico's historical data.
  - b. Panama – TCC10 noted that Panama submitted its Annual Report Part I and II during TCC and consequently it was not able to be assessed, and strongly encourages it to submit its Annual Reports on time in future years. SPC notes that it is receiving some transshipment data from Panama, but believes there remain some gaps in these data.
  - c. Senegal – TCC10 notes that Senegal has not provided a commitment to make a financial contribution.
  - d. Thailand - SPC notes that it is receiving some transshipment data from Thailand, but believes there remain some gaps in these data.
  - e. Vietnam – SPC notes with appreciation the continuing improvement in data submission by Vietnam, but notes there remain some gaps in logbook data.

Further recommendations identified by the TCC chair are referred to below.

### **Part One – According Cooperating Non-Member Status**

As above, status for Ecuador, El Salvador, Liberia, Panama, and Thailand was decided in plenary.

Discussion was held around the nature of the payment commitment set out in para 2(g) of CNM 2009-11. The group did not form a view on whether the requirement was mandatory and it was observed that while the Commission has to have regard to the requirements set out in the measure, non-compliance with these requirements by a CNM was not necessarily conclusive for the Commission determination which retained a discretion in this regard.

Members of the group held different views on whether the requirement was to simply provide a commitment or to actually pay pursuant to this commitment.

In relation to process generally, there was discussion that an incomplete application did not necessarily lead to a recommendation of the SWG that a CNM application not be accepted and also required an assessment as to whether the reason for, or nature of, incompleteness warranted such a recommendation.

The group discussed paragraph 8 of CMM 2009-11 which states that, “The Commission shall accord CNM status on an annual basis. It may renew the CNM status subject to a review of the CNM’s compliance with the Convention’s objectives and requirements.”

The concept of conditional acceptance was also discussed by the group.

The group noted TCC’s recommendation to WCPFC11 that if conditional grants of cooperating non-member status are given, that there be a clear process for how the final determination will be made (para 26(vii)).

The concept as relayed in plenary was presented to the group and is summarised below.

Members of the group were open to the concept of ‘conditional acceptance’ provided that the process for allowing CNM status intersessionally is clear, such as:

- (i) clearly identifying the information/requirement gap;
- (ii) that information or requirement is to be met or provided to the ED by a certain date;
- (iii) the ED advises all CCMs, and forwards the advice/information as appropriate;
- (iv) unless an objection is received within a certain date of receipt of the ED’s letter, conditional acceptance is lifted and CNM status is allowed; and
- (v) the ED confirms this to all CCMs.

This approach was endorsed by the group noting that the clarity of obligation was important for this process to work effectively and that conditional acceptance should be avoided where possible through the applicant fulfilling all relevant obligations in advance of the Commission.

#### *DPRK*

The small working group noted that DPRK’s application was received after TCC and therefore was not able to be assessed by TCC. The application was also not in the template form provided by the Secretariat and no representative from DPRK was in attendance at the SWG. The group recommended that the Commission not accept the DPRK application in light of these factors.

#### *Mexico*

The group considered Mexico’s application incomplete in that it didn’t provide an explicit commitment to make a financial contribution or to accept high seas boarding and inspection but noted this was not necessarily conclusive.

Mexico was a participant in the small working group. Mexico advised that they continue to have national legislation which does not allow high seas boarding and inspection or the attribution of budget for financial contribution where Mexico is not a full member of the Commission.

The issue of whether commitment or actual payment was necessary was discussed in relation to Mexico’s application. An aspect of discussion was whether imposing a condition of payment in Mexico’s national law circumstance was appropriate. An indication was provided by Mexico that payment of any kind was unlikely but that it would investigate the possibility of a voluntary payment.

Mexico noted that it did not allow high seas boarding and inspection for any of its vessels worldwide but stated that were it to have a vessel presence in the WCPFC it would need to address this issue. On this basis Mexico stated that until this issue was resolved it would not seek to have a vessel presence in the Convention area. The SWG recommended that the Commission ask Mexico to investigate the possibility of a voluntary payment. Noting Mexico's national laws position and its lack of vessel presence for 2015, this would not be a condition on Mexico's CNM status but a request to be met if at all possible.

Taking the above into account, the group recommended that the WCPFC grant Mexico CNM status for 2015 but on the clear understanding that a letter be written by the Secretariat to Mexico. This letter will include reference to the fact that Mexico's non-payment of any financial contribution generated extensive discussion at WCPFC11. Also, that some CCMs noted their strong concern at the unfairness for SIDS CCMs and other CNMs, due to this non-payment and that those CCMs did not consider the lack of presence of any Mexico vessels to justify non-payment. Those CCMs also noted that if this concern is not addressed before Mexico's next application for CNM status any such application would not be supported by those CCMs.

### *Senegal*

The group considered Senegal's application incomplete in that it didn't provide an explicit commitment to make a financial contribution but noted this was not necessarily conclusive.

The group recommended that the Commission grant Senegal CNM status conditional upon payment of financial contribution of its 2015 assessed amount by [x date] 2015. It was noted that Senegal are requesting a small longline fishing presence as per previous years.

### *Vietnam*

The issue around capacity was resolved with Japan and the small working group recommended Vietnam be granted CNM status. Vietnam will present to the Commission the result of the investigation on the capacity issue raised by Japan.

## **Participatory Rights**

The group noted TCC's recommendation that that WCPFC11 take into consideration the Compliance Status of all CNM applicants in making its decision on the CNM applications and participatory rights (para 26(iv)) and the point that was made that participatory rights of CNMs need to be considered against the recognition of wider participation rights of SIDS members in the Commission. It was observed that capacity management of purse seiners needs to be considered, recalling the Commission's concerns on capacity.

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

the national laws and regulations of any licensing CCM, and all conservation and management measures and provisions of the WCPF Convention. CCMs shall identify any violations by vessels flagged to a CNM and report on any investigations of such violations to the TCC.

The CNMs identified below provide assurances that they will comply with all requests from Commission Members for information and documentation to investigate cases of possible illegal fishing.

The Commission advised CNMs to ensure that they meet the deadline for submission of applications for CNM status and meet all the obligations contained in CMM 2009-11. The Commission noted that failure to meet the above requirements could prejudice the future granting or renewal of CNM status.

The Commission noted TCC's recommendation that WCPFC11 take into consideration the Compliance Status of all CNM applicants in making its decision on the CNM applications and participatory rights (para 26(iv)) and the point made at the SWG that participatory rights of CNMs need to be considered against the wider participation rights of SIDs members.

#### *WCPFC/IATTC Overlap Area*

In accordance with the decision of WCPFC9 regarding the management of the overlap area south of 4°S and between 130°W and 150°W, vessels flagged to Ecuador, El Salvador and Mexico will be governed by the IATTC when fishing in the overlap area. Accordingly, the participatory rights for, Ecuador, El Salvador and Mexico below apply to the WCPFC Convention Area excluding the overlap area.

In accordance with the Data Exchange MOU agreed by both Commissions, fishing vessels flying the flag of a member of either the IATTC or WCPFC shall cooperate with the RFMO to which they are not a member by voluntarily providing operational catch and effort data for its fishing activities for highly migratory species in the overlap area.

For the purpose of investigation of possible IUU fishing activities and consistent with international and domestic laws, vessels flying the flag of a CNM that is a Contracting Party to the IATTC will cooperate with those coastal State members of the WCPFC whose EEZs occur in the overlap area by voluntarily providing VMS reports (date, time and position) to those coastal States when operating in the overlap area.

#### *Democratic People's Republic of Korea (DPRK)*

As the group did not consider DPRK's application should be accepted by the Commission, participatory rights were not considered or recommended.

#### *Ecuador*

The SWG noted Ecuador's non-compliant status from TCC10 and encouraged Ecuador to aim for full compliance in 2015.

The group noted WCPFC11's approval of the application for renewal of CNM status by Ecuador and recommended the following participatory rights:

The participatory rights of Ecuador for fishing in the WCPO are limited to purse seine fishing only. Ecuador has no participatory rights for fishing on the high seas for highly migratory fish stocks in the Convention Area.

Any introduction of purse seine fishing capacity is to be in accordance with paragraph 12 of CMM 2009-11 and CMM 2013-01 or its replacement measure.

#### *El Salvador*

The SWG noted El Salvador's non-compliant status from TCC10 and encouraged El Salvador to aim for full compliance in 2015.

The group noted WCPFC11's approval of the application for renewal of CNM status by El Salvador and recommended the following participatory rights:

The participatory rights of El Salvador for fishing in the WCPO are limited to purse seine fishing only. The total level of effort by purse seine vessels of El Salvador on the high seas shall not exceed 29 days in the Convention Area.

Any introduction of purse seine fishing capacity is to be in accordance with paragraph 12 of CMM 2009-11 and CMM 2013-01 or its replacement measure.

#### *Liberia*

The group noted WCPFC11's approval of the application for CNM status by Liberia and recommended the following participatory rights:

The right for reefer vessels to engage in transshipment activities, and bunker and supply vessels to support fishing vessels in the convention area.

#### *Mexico*

The SWG noted Mexico's compliant status from TCC10.

The SWG recommended that the Commission ask SPC to further identify the remaining gaps in historical data identified at TCC10 and request that Mexico provide this to the Secretariat, if possible.

The group recommended that WCPFC11 approve the application for renewal of CNM status by Mexico with the following participatory rights:

The Commission noted that Mexico has participated in the work of the Northern Committee (NC) at NC 8,9 and 10 and, noting the need for cooperation with the work of the NC particularly in regard to Pacific Bluefin tuna, encouraged Mexico to continue to participate in the NC.. Mexico does not intend to have a vessel presence in 2015. Any future introduction of purse seine fishing capacity is to be in accordance with paragraph 12 of CMM 2009-11 and CMM 2013-01 or its replacement measure.

#### *Panama*

The SWG noted Panama's non-compliant status from TCC10 and encouraged Panama to aim for full compliance in 2015.

The group noted that Panama submitted its Annual Report Part I and II during TCC and consequently it was not able to be assessed, and that TCC10 strongly encouraged it to submit its Annual Reports on time in future years. SPC notes that it is receiving some transshipment data from Panama, but believes there remain some gaps in these data.

The group asked the Commission to strongly encourage Panama to provide its reports as above and recommended that the Commission request that SPC further identify the transshipment data gap and request that this information be provided by Panama to the Secretariat, if possible.

The group noted WCPFC11's approval of the application for renewal of CNM status by Panama and recommended the following participatory rights:

The participatory rights of Panama in the WCPO are limited to the provision of carrier and bunker vessels

#### *Senegal*

The SWG noted Senegal's non-compliant status from TCC10 and encouraged Senegal to aim for full compliance in 2015.

The group recommended that WCPFC11 approve the application for renewal of CNM status by Senegal with the following participatory rights:

One Senegalese longline vessel to be authorised to fish in the Convention area. Any introduction of fishing capacity is to be in accordance with paragraph 12 of CMM 2009-11 and CMM 2013-01 or its replacement measure.

#### *Thailand*

The SWG noted Thailand's non-compliant status from TCC10 and encouraged Thailand to aim for full compliance in 2015.

The SWG recommended that the Commission ask SPC to further identify the missing transshipment data identified at TCC10 and request that these data be provided by Thailand to the Secretariat, if possible.

The group noted WCPFC11's approval of the application for renewal of CNM status by Thailand and recommended the following participatory rights:

Noting the need for cooperation between Thailand and the Commission and the commitment from Thailand to provide data from canneries located in Thailand to assist in the work of the Commission, WCPFC11 agreed to grant CNM status to Thailand for 2015 on the understanding that Thailand will cooperate fully with the Commission in the acquisition and exchange of fishery information and data. The Commission notes the provision of data from Thai canneries and encourages Thailand to continue to cooperate with the Commission to improve the acquisition and exchange of fishery information and data. The participatory rights of Thailand in the WCPO are limited to the provision of carrier and bunker vessels only.

#### *Vietnam*

The SWG noted Vietnam's non-compliant status from TCC10 and encouraged Vietnam to aim for full compliance in 2015.

The SWG recommended that the Commission ask SPC to further identify the missing logbook data identified at TCC10 and request that these data be provided by Vietnam to the Secretariat, if possible. Vietnam noted that its fishing activities only occurred in its own waters outside the Convention area but that it was prepared in the interests of the Commission to make the data available.

The group recommended that WCPFC11 approve the application for renewal of CNM status by Vietnam with the following participatory rights

Noting the need for continued cooperation between Vietnam and the Commission to achieve compatibility of fisheries management and conservation, as well as on the acquisition and exchange of fishery information and data, for which Vietnam would require assistance, WCPFC11 agreed to grant CNM status to Vietnam for 2015. The Commission notes the significant improvements in the collection and provision of data from Vietnam fisheries through the GEF WPEA project, administered by the WCPFC and encourages Vietnam to continue to cooperate with the Commission to improve the acquisition and exchange of fishery information and data. The participatory rights of Vietnam in the WCPO are limited to the provision of carrier and bunker vessels only.

### **General Process**

The group recommended that a more directive and particularised letter from the Secretariat be provided to a CNM applicant after TCC where an incomplete application had been identified. For example, that the nature of any data gap be set out more clearly. Also, there was a suggestion that TCC be more directive in relation to consequences of failure to provide such information. For example, that TCC would recommend an application be viewed less positively by the Commission if the required information were not to be provided.