



**TECHNICAL AND COMPLIANCE COMMITTEE**  
**Electronic Meeting**  
**23 – 29 September 2020**

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**PROVISIONAL OUTCOMES DOCUMENT**

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**WCPFC-TCC16-2020-outcomes**  
**2 October 2020**

**Agenda Item 1.2 Adoption of Agenda**

1. The agenda was adopted. (**Attachment C**).

**Agenda Item 2 Annual Report of the Executive Director**

2. TCC16 noted the Annual Report of the Executive Director, an overview report of the MCS and Compliance Programmes (**TCC16-2020-05**).

**Agenda Item 3 IUU Vessel List**

3. TCC16 recommended to WCPFC17 that the three fishing vessels **NEPTUNE, FU LIEN No.1** and **YU FONG 168** on the WCPFC IUU Vessel List in 2020 remain on that list for 2021, noting the inclusion of the updated information from Chinese Taipei to confirm the master of the **YU FONG 168** which has been included in the list.
4. TCC16 recommended the Commission task the Executive Director to:
- seek the former flag States' cooperation to provide any information on these vessels, including their respective masters' names and nationalities;
  - write to all CCMs to provide information to the Commission if they are located, or if there are any known changes to name, flag or registered owner, including any action that port States have taken such as denial of port entry and services to those vessels or any information from cannery States of any landings made by these vessels;

- c. write a letter to other RFMOs conveying this same message for cooperation to locate these vessels; and
- d. propose that any information received by the Executive Director is reported promptly to CCMs.

5. TCC16 noted that consensus was not reached on the inclusion of the **ORYONG No.721** on the Provisional IUU List with the majority of TCC members supporting its inclusion, whilst a minority of TCC members did not support its inclusion. TCC16 agreed to place the vessel on the Provisional IUU Vessel List with a note to WCPFC17 that consensus was not reached on this vessel.

#### **Agenda Item 4 CNM Requests**

6. TCC16 provided the following decisions and recommendations to WCPFC17 on Cooperating Non-Member (CNM) requests:

a. TCC16 has reviewed the following applications for renewal of CNM status and is forwarding them to WCPFC17 for consideration: Curacao, Ecuador, El Salvador, Liberia, Nicaragua, Panama, Thailand, and Vietnam. TCC16 has also reviewed new applications for CNM status by the Bahamas and Democratic People's Republic of Korea (DPRK) and is providing advice and recommendations to the Commission to inform consideration of those requests.

b. TCC16 noted with appreciation the attendance and participation of Ecuador, El Salvador, Nicaragua, Panama and Vietnam at this year's meeting.

c. TCC16 reminded CNM applicants of the obligations included in CMM 2019-01, particularly paragraph 11(a), which states that CNMS shall "comply with all conservation and management measures adopted by the Commission."

d. TCC16 further reminded CNM applicants of the considerations specified in paragraph 3(a) of CMM 2019-01, which include "the attendance by an applicant for CNM status at the TCC meeting where its application is considered, subject to the applicant being able to attend the meeting as an observer."

e. For those CNM applicants that have expressed interest in becoming a full member of the Commission, TCC16 noted that the issue of membership was not considered, as it is outside the mandate of TCC. This is a matter for further consideration by the Commission, which may invite States to accede the Convention.

f. For the eight applications for renewal of CNM status, from Curacao, Ecuador, El Salvador, Liberia, Nicaragua, Panama, Thailand, and Vietnam, TCC16 noted the following gaps or issues for individual applicants:

- **Curacao:** TCC16 noted that Curacao had not yet made a financial contribution for 2020 at the time of TCC16, and encouraged it to submit any outstanding contributions in advance of WCPFC17. TCC16 requested a clear statement from Curacao on whether any vessels flagged to Curacao were the subject of IUU fishing allegations, as well as any actions taken in the event of such allegations.
- **Ecuador:** TCC16 noted that Ecuador had submitted its financial contribution for 2020, had met all of the data provision requirements, and had no potential compliance issues listed for the current period.
- **El Salvador:** TCC16 noted that El Salvador had submitted its financial contribution for 2020, had met all of the data provision requirements, and had no potential compliance issues listed for the current period.
- **Liberia:** TCC16 requested additional information from Liberia, in advance of WCPFC17, on two of its vessels included on the IUU vessel lists of other RFMOs, including: i) *New Bai I No. 168*, listed by ICCAT; and (ii) *Labiko 2*, listed by NEAFC. TCC16 noted that Liberia had not yet made a financial contribution for 2020 at the time of TCC16, and encouraged it to submit any outstanding contributions in advance of WCPFC17. TCC16 also noted potential ongoing compliance issues for Liberia and encouraged it to fulfill any pending obligations in advance of WCPFC17.
- **Nicaragua:** TCC16 noted that Nicaragua had not yet made a financial contribution for 2020 at the time of TCC16, and encouraged it to submit any outstanding contributions in advance of WCPFC17. TCC16 also noted potential compliance issues for Nicaragua and encouraged it to fulfill any pending obligations in advance of WCPFC17.
- **Panama:** TCC16 noted that Panama had not yet made a financial contribution for 2020 at the time of TCC16, and encouraged them to submit any outstanding contributions in advance of WCPFC17. TCC16 also noted potential ongoing compliance issues for Panama and encouraged it to fulfill any pending obligations in advance of WCPFC17.
- **Vietnam:** TCC16 noted that Vietnam had not yet made a financial contribution for 2020 at the time of TCC16, and encouraged it to submit any outstanding contributions in advance of WCPFC17.

g. For the two new CNM applications from the Bahamas and DPRK, TCC16 included the following advice and recommendations:

- **Bahamas:** TCC16 requested additional information from the Bahamas on the participatory rights it would be seeking as a CNM, including: the number of refrigerated cargo ships for which it would be seeking participatory rights and the proposed types of activities that these ships would undertake in the Convention Area. TCC16 requested a clear statement from the Bahamas on whether any vessels flagged

to the Bahamas were the subject of IUU fishing allegations, as well as any actions taken in the event of such allegations.

- **DPRK:** TCC16 expressed strong concerns regarding DPRK's application. TCC16 noted DPRK's failure to comply with WCPFC CMMs during previous periods when it held CNM status in WCPFC (2012-2014). TCC16 noted in particular non-payment of financial contributions in any of the years for which DPRK was previously granted CNM status and data gaps, including missing data submissions for current and historical fishing data related to catch, effort, and operational information. TCC also noted the lack of sufficient information on the participatory rights sought by DPRK, as well as information on the effectiveness of the MCS capabilities of the applicant. TCC16 noted with concern reports of IUU fishing by DPRK vessels in the region and expressed a lack of confidence in DPRK's willingness and ability to act as a responsible flag state. Some members also noted the relevance of UN Security Council resolutions and sanctions to the consideration of DPRK's application. TCC16 recommends that the Commission deny CNM status for DPRK at WCPFC17.

## **Agenda Item 5 CMS Process**

7. TCC16 agreed on the proposed CMS process which was amended from that outlined in **TCC16-2020-WP09\_rev1** to follow the practice of past years of considering compliance issues raised from the floor that had not been previously identified by the Secretariat.

8. TCC16 agreed not to consider the aggregate tables summarizing the information on alleged infringements drawn from the online compliance case file system as per Paragraph 26 (ii) of CMM 2019-06 due to time constraints, the anticipation that the virtual meeting modality was not suitable for this kind of analysis, and the absence of an agreed process for the consideration of these tables. TCC16 agreed to consider this information during TCC17 alongside the draft CMR.

### **Agenda Item 5.1 Provisional CMR report and Executive Summary**

9. TCC16 submitted the Provisional CMR, containing its provisional compliance assessment, and recommends the report to WCPFC17 for its consideration and final assessment.

### **Agenda Item 5.2 Advice on CMMs that need revision**

10. TCC16 noted for WCPFC17 that there were recommendations in the Provisional CMR relating to the revision of existing Conservation and Management Measures. TCC16 recommends that WCPFC17 consider approaches to address challenges identified for the

following obligations, noting that more information related to these recommendations is contained in the Provisional CMR:

- a. **CMM 2005-03 04:** for North Pacific albacore annual catch and effort reporting;
- b. **CMM 2018-01 51:** for relevant CCMs where there are difficulties in terms of the scope of other commercial fisheries.

11. TCC16 noted the work to progress the development of audit points as a priority. This could assist in clarifying some CMM obligations and how they are to be assessed.

12. TCC16 also recommended that WCPFC17 task the VMS SWG to consider approaches to address challenges identified for the following obligation:

- **CMM 2014-02 para 9(a) VMS SSP 2.8:** in relation to the interpretation and link between data gaps in year (x) and ALC activation ahead of TCC in year (x + 1).

### **Agenda Item 5.3 (a) Enhancing the CMS (CMM 2019-06 para 46), TCC Workplan 2019-2021: Streamlining of Annual Reporting**

13. TCC16 noted the positive effect of improvements made to streamline annual reporting requirements set out in **TCC16-2020-10** that were implemented in 2020 and supported their continuation.

#### *Trial of Annual Catch and Effort (ACE) tables*

14. TCC16 noted that **TCC16-2020-10** reviewed the experiences and outcomes of the trial of ACE tables and that the cost and resource implications of the trial were modest.

15. TCC16 noted the SC16 recommendations to WCPFC17 (SC16 draft Summary report, paragraph 294 - 297) and recommended the Commission task the Scientific Services Provider with reviewing the feasibility of expanding the ACE tables to include:

- a. additional estimates of effort where it is practicable to be derived based on the April 30 scientific data submissions from CCMs and provide an update to SC17; and
- b. estimates of annual area-based CMM quantitative limits where it is practicable for the estimate to be derived based on the April 30 scientific data submissions from CCMs and to provide an update to TCC17.

### Agenda Item 5.3 (b) Improvements to online Compliance Case File System

16. TCC16 noted the findings and recommendations of the Review of the WCPFC online Compliance Case File System (**TCC16-2020-12**) which confirmed a widespread desire among CCMs to have the CCFS enhanced to better meet their needs.

17. TCC16 tasked the Secretariat, subject to available budgetary resources, to prioritize in its work planning for 2021 to implement recommendation 1 and 2 of **TCC16-2020-12** as follows:

- a. undertake the ten actions identified in Table 1 of the Review Report to enhance the CCFS, to automatically notify people within the CCM when a single case is created or updated, make the CCFS easier to use, allow CCMs to browse a single list containing all cases, enhance the aggregated summary tables produced by the CCFS, improve communication with CCMs regarding which internet browsers the CCFS works best on, improve the CCFS quick guide and offer CCFS training to CCMs; and
- b. undertake the one action contained in Table 1 of **TCC16-2020-12** to implement a proof of concept online graph / table creation tool for CCFS data.

18. TCC16 deferred for consideration at TCC17, recommendation 3 of **TCC16-2020-12** as follows:

- a. undertake the three actions contained in Table 1 of **TCC16-2020-12** to clarify CCM expectations, investigate realistic options, and if possible, produce a proof of concept of a tool which would allow CCMs to bulk upload comments that they had drafted offline.

19. TCC16 noted the Secretariats' advice that to further improve the usability of the Compliance Case File System and the aggregate summary tables, further guidance from TCC, as outlined in recommendations under Agenda 5.4 (c) (paragraph 22 (c) and 24), would be useful on:

- a. the case Status / Outcome ontology used in the CCFS (refer page 31 of **TCC16-2020-12**);
- b. the level of aggregation at which Article 25-2 alleged infringements are recorded in the CCFS (refer page 32 of **TCC16-2020-12**); and
- c. the range of questions that they want aggregated summary tables (as contained in the Summary Tables of Flag CCM Responses document produced each year at TCC) to address (refer page 30 of **TCC16-2020-12**).

20. TCC16 tasked the Secretariat to provide an update to TCC17 on progress on the implementation of the proposed CCFS enhancements.

### **Agenda Item 5.3 (c) CMS Future Work Tasks**

21. TCC16 noted that at WCPFC16 the Commission had established a CMS IWG, under the leadership of the TCC Vice-Chair, intended to work virtually to progress work intersessionally to undertake the CMS Future Work tasks (set out in paragraph 46 of CMM 2019-06).

22. TCC16 affirmed the importance of all the future work called for in section IX of CMM 2019-06 and supported the prioritisation of four streams of intersessional work for the CMS IWG in 2020/21 and recognised that some elements may extend until 2022:

- a. the development of a risk-based assessment framework to inform compliance assessments and ensure obligations are meeting the objectives of the Commission;
- b. the development of audit points to clarify the Commission obligations assessed under the CMS, as well as a checklist to be used by proponents of any proposal to include a list of potential audit points for the consideration of the Commission;
- c. the development of a process for TCC to consider the aggregate tables alongside the draft CMR (paragraph 33 and 34 of CMM 2019-06); and
- d. the development of guidance on the participation of observers in the CMS process as outlined in CMM 2019-06.

23. TCC16 recommended that Heather Ward from New Zealand would lead the risk-based assessment framework task and Rhea Moss-Christian from Marshall Islands would lead the development of audit points in support of the CMS IWG Chair.

24. TCC16 recommended that the TCC Chair lead work intersessionally prior to TCC17, with a view to providing guidance on how TCC17 would consider the aggregate tables alongside the draft CMR.

### **Agenda Item 5.4 List of obligations to be reviewed by the CMS in 2021**

25. Noting the task from the Commission (WCPFC16 Summary Report paragraph 572) and considering paragraph 6 of CMM 2019-06, TCC16 discussed a paper by the United States containing a proposed list of obligations to be assessed in 2021 (**TCC16-2020-DP02**). Noting the need for further time to consider the list of obligations, CCMs intend to work intersessionally to advance a proposed list for consideration and adoption at WCPFC17.

26. TCC16 noted that the development of a risk-based assessment framework under the CMS IWG work programme (Agenda Item 5.3(c)) was expected to provide a basis for determining the list of obligations to be reviewed by the CMS in the future.

## **Agenda Item 6: Technical and Compliance Matters arising under Intersessional Decisions in Response to COVID-19**

27. TCC16 noted the intersessional process led by the Chair of the Commission to review the COVID-19 related intersessional decisions set out in Circular No. 2020-71 which expire on 31 October 2020 unless extended.

28. TCC16 noted with concern the different ways in which flag CCMs have implemented the authorisation of at-sea transshipment for purse seine vessels and recommended that this be clarified to ensure the consistent application of the Decision, if extended. TCC16 noted the importance of ensuring consistent application of intersessional decisions.

29. TCC16 acknowledged the importance of placing observers safely back on vessels, and the need for establishing guidelines that could inform ROP providers' decisions on deploying observers on vessels with appropriate protection for observers and crew, and flexibility for national laws. TCC also acknowledged the role ER and EM can play in the absence of on-board observers and the importance of progressing the intersessional work of the ER/EM WG as a priority.

30. FFA Members encouraged other CCMs to engage with FFA Members regarding consideration and possible use of the FFA COVID-19 Operating Protocols as guidelines to minimize the risk of transmitting COVID-19 in the fisheries sector at sea or in ports in the Pacific. This discussion would include consideration of aspects from the COVID-19 protocols of other members.

31. TCC16 acknowledged the current difficulty with deploying observers and recommended that the Commission consider extending the three COVID-19 related Intersessional Decisions.

## **Agenda 7. Technical Matters requiring TCC Advice**

### **Agenda Item 7.1 VMS SWG**

32. TCC16 noted the report on progress from the VMS-SWG (**TCC16-2020-16\_rev1**). TCC16 recommends that WCPFC17 continue the work of the VMS SWG in 2021 and develop recommendations for TCC17's consideration to address VMS data gaps and improve the number of vessels reporting to the Commission.

### **Agenda Item 7.2 TCC Observer WG on flow of observer reports and observer conduct (WCPFC15 Summary Report para 364)**

33. TCC16 noted the report on progress from the TCC Observer WG (**TCC16-2020-17**).



*Improvements to the tracking of observer report requests and responses in order to better identify impediments to the flow of observer reports*

34. TCC16 recommended that the Secretariat be provided with the budgetary resources to further develop the Compliance Case File System (CCFS) such that it has the capabilities of automatically notifying relevant CCMs and ROP Providers of additions of cases and changes to cases (as outlined in recommendations under Agenda 5.3 (b) (paragraph 17(a))).

35. TCC16 recommended that the Commission task the Secretariat to provide a paper for TCC17 that outlines the feasibility and costs of further developing the CCFS such that it has the ability to: (1) serve as a messaging tool through which CCMs can request observer reports and ROP Providers can respond to requests; and (2) keep track of such requests and responses. In particular, it should be developed so that, to the extent possible:

- a. Requests and responses for observer reports are tied to specific cases in the CCFS, but also can include requests and responses related to investigations of possible violations other than those identified in the CCFS.
- b. From the perspective of the Secretariat, the messaging and tracking functions are automated, and do not increase the ongoing workload of Secretariat staff.
- c. It can handle bulk requests for observer reports and responses to bulk requests (i.e., multiple cases), provided that sufficient details are included by the requesting CCM.

36. TCC16 recommended that the Commission agree that once the CCFS's messaging tool is fully functional and the Secretariat has successfully trialed it with a subset of CCMs for a period of three months, all requests for observer reports, and all responses to such requests, should be sent through the CCFS's messaging tool so they can be tracked.

*Methods to filter out "false positive" and de minimis violations to reduce the number of observer report requests and the associated workloads for ROP Providers and CCMs*

37. TCC16 recommended that the expectations under the ROP Minimum Standards on "Briefing and Debriefing" and "The Pre-Notification Process" be revised as shown in **Attachment D**, such that any time a "YES" is noted on the Observer Trip Monitoring Summary (e.g., Form Gen-3) with respect to a WCPFC obligation, indicating a possible violation, the ROP Provider is expected to prioritize debriefing of the observer and not transmit the pre-notification to the Secretariat until:

- a. Debriefing of the observer has been completed and the information in the observer report has been finalized accordingly; and
- b. The observer or ROP Provider includes comments on the Observer Trip Monitoring Summary that give sufficient detail as to why the "YES" was noted, references to other parts of the observer report that contain information relevant to

the possible violation, and, where relevant, an indication of the magnitude of reporting discrepancies or the number of instances of the possible violation.

38. TCC16 recommended that ROP Providers be requested to review observer reports associated with cases in the CCFS that are generated by queries by the Secretariat of the ROP database, to help assess whether the possible violation(s) identified through the Secretariat's screening is supported by the information in the observer report, and to provide in the "CCM comments" box for the consideration of the relevant CCM(s) a succinct summary of the relevant information in the observer report.

39. TCC16 recommended that the Commission (possibly through work of the ROP IWG) review the minimum data fields associated with the Observer Trip Monitoring Summary and make updates to those data fields to better reflect the Commission's priorities and the types of violations that are amenable to yes/no indications by the observer. Any such recommendations should take into account their implications (e.g., on observers' workloads, in terms of ROP Providers having to revise their forms, etc.).

40. TCC16 requested that the TCC Working Group on the Flow of Observer Reports and Observer Conduct continue to serve-in-a-consultative-role to the Secretariat on the implementation of recommendations and continue to pursue TCC13's initial tasking, as appropriate.

### **Agenda Item 7.3 ER and EM WG**

41. TCC16 noted the report on progress from the ER and EM WG (**TCC16-2020-18**).

42. TCC16 noted that a meeting of the ER and EM Working Group would be held virtually on 14 October 2020 and confirms the importance of progressing this work.

### **Agenda Item 7.4 IWG Transshipment**

43. TCC16 noted the report on progress from the IWG Transshipment (**TCC16-2020-19**).

44. TCC16 acknowledged the current difficulty in deploying observers and recommended that the IWG Transshipment give this priority consideration.

45. TCC16 recommended that the Commission seek a nomination for a TS-IWG co-Chair at WCPFC17 and that it reaffirm its tasking of the TS-IWG to continue and complete its work.

## **Agenda Item 8      Special Requirements of Developing States**

46. TCC16 noted the importance of continuing to consider the capacity assistance needs of SIDS and Participating Territories, including as set out in paragraph 38(ii) of CMM 2019-06, and the Strategic Investment Plan.

## **Agenda Item 9      Administrative Matters**

### **Agenda Item 9.1      TCC Work Plan 2019 - 2021**

47. TCC16 noted that the TCC Workplan 2019-2021 adopted at WCPFC15 continues until 2021 and recommended that the TCC Vice Chair continue progressing intersessional work on the TCC work plan for consideration by TCC17 and WCPFC18 in 2021.

### **Agenda Item 9.2      Update on WCPFC IT/VMS Security Audit 2019/2020**

48. TCC16 noted the delay in finalizing the 2019/20 IT/VMS Security Audit report due to COVID-19 travel restrictions. TCC16 requested that the Secretariat circulate the Audit report, when available, and seek CCMs feedback intersessionally.

### **Agenda Item 9.3      Election of Officers**

49. TCC16 took note of this issue and sought to indicate the importance that Members placed on this issue to WCPFC17.

### **Agenda Item 9.4      Next meeting**

50. TCC16 recommended that TCC17 be held in Pohnpei, Federated States of Micronesia, from Wednesday 22 September to Tuesday 28 September 2021.

## **Agenda Item 10      Other Matters**

51. TCC16 recommended to WCPFC17 that the minimum pennant size for use by the boarding vessel, transiting from the inspection vessel, be 44 centimeters (cm) by 66 cm (height by length). Inspection flag usage and display for the inspection vessel itself would not change from what was agreed at WCPFC4. This recommendation only updates information on pennant dimensions contained in Attachment G, Annex 2 of TCC3 that was adopted at WCPFC4.

52. TCC16 noted **TCC16-2020-15** and recommended that discussions amongst interested CCMs, the Secretariat and other technical experts occur through the VMS SWG and that consideration be given to advancing the issues identified in **TCC16-2020-15** for WCPFC17.

53. TCC16 recommended consideration by WCPFC17 regarding the treatment of crew on fishing vessels and to further strengthen the provisions for observer safety.

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**DRAFT LIST OF ATTACHMENTS FOR TCC16 DRAFT SUMMARY REPORT**  
**(note order and numbering of attachments will change)**

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<b>Attachment A</b>	List of Participants
<b>Attachment B</b>	Opening Statements
<b>Attachment C</b>	TCC16 Agenda – as adopted (TCC16-2020-02_rev1 with updates on-screen)
<b>Attachment D</b>	ROP Minimum Standards with recommended revisions to “Briefing and Debriefing” and “The Pre-Notification Process”