

WCPFC Preparatory Conference  
Second session  
Madang, Papua New Guinea  
25 February – 1 March 2002

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WCPFC/PrepCon/WP.4  
13 February 2002

## **WORKING GROUP I**

### **OPTIONS FOR FUNDING THE SERVICE NEEDS OF THE COMMISSION**

Report by the Secretariat

## **OPTIONS FOR FUNDING THE SERVICE NEEDS OF THE COMMISSION**

### **I. INTRODUCTION**

1. Working Group I has requested that the Secretariat prepare a paper on funding options and budget structure to assist the working group in considering the matters associated with item (b) of the Group's Terms of Reference, namely:

*"b. On the basis of identified service needs develop an appropriate budget structure and prepare financing options; ..."*

2. The items, as identified by WG.I, to be provided for within a budget structure are as follows:

- (a) Secretariat functions/services
- (b) Scientific advice and information.
- (c) Compliance services.
- (d) Implementation of the Convention provisions on the effective participation and special requirements of small island developing States.
- (e) Operation of the regional Observer programme.
- (f) Cooperation with other organizations.
- (g) External communications and publicity of Commission decisions and rulings.
- (h) Commission's participation in the dispute settlement procedures

3. This paper outlines the provisions of the Convention with respect to the funds of the Commission and then discusses the main funding options available to the Commission for funding the identified service needs. Rather than dealing with the services on an individual basis the paper simply identifies those services that may appropriately be funded by the various funding options.

### **II. PROVISIONS OF THE CONVENTION**

4. Section 5, Articles 17 and 18, of the Convention outline the general principles relating to the funds of the Commission and its annual budget.

5. According to Article 18(1) it is clear that the draft budget prepared by the Executive Director need not be limited to only those funds collected through assessed contributions. Article 18(1) requires that in developing the draft budget the Executive Director identifies which of the Commission's administrative expenses are to be financed by assessed contributions and which are to be financed from other sources of Commission revenue.

6. Income for the Commission may, as outlined in Article 17(1), be from the following sources:

- (a) assessed contributions in accordance with article 18, paragraph 2;
- (b) voluntary contributions;
- (c) the fund referred to in article 30, paragraph 3; and
- (d) any other funds which the Commission may receive.

7. Further to the general funding principles in Section 5 the Convention also makes reference in specific articles to funding associated with particular services. An example being Article 28(8), which provides for the Commission to determine the manner in which the costs associated with the observer programme will be defrayed.

8. It is, therefore, open to the Commission to decide the nature of the budget and the extent to which the financial regulations of the Commission will provide for the use of charging by the Commission for certain services.

### **III. OPTIONS FOR FUNDING BUDGET ITEMS**

9. Historically fisheries commissions have relied upon assessed contributions to fund their budgets. More recently consideration is being given to the use of alternative funding mechanisms, primarily cost recovery or service fees. This move towards charging the users of particular services is an approach increasingly occurring within national administrations and to a lesser extent within some regional organisations.

10. For practical purposes there are two funding approaches that can be taken by the Commission. Those approaches are:

- A combination of assessed member contributions and cost recovery; or
- Assessed contributions only.

11. The following discussion focuses on these two approaches and identifies the Commission services that each approach may appropriately be applied to for funding.

12. Funding options associated with the provisions of Article 30(3) of the Convention, assistance to facilitate developing state participation in Commission meetings, are considered as a separate section of discussion.

#### **Assessed Contributions**

13. There are areas of the Commission's budget that will be most appropriately financed by all members of the Commission and therefore are best funded via assessed contributions. Those services/areas are:

- Administrative services, including Secretariat functions/services, cooperation with other organizations, external communications and publicity of Commission decisions and rulings, and the Commission's participation in

the dispute settlement procedures. (Items a, e, f and g of the services identified by the Working Group)

- Scientific advice and information.
- Data collection and management
- Compliance services, excluding VMS. .

14. A consideration in developing the formula for assessed contributions will be the extent to which the Commission accepts that cost recovery may be applied to areas of the Commission's budget where it may be appropriate.

15. If there are services that are primarily related to vessel activity but cost recovery of those services is not considered appropriate then an approach to ensure that non-fishing nations do not carry an undue burden for such costs would be appropriate. It may be appropriate under such circumstances for the variable fee component of the assessed contributions formula to form a greater percentage of the overall assessed contributions formula.

16. The Convention already gives guidance in Article 18(2) as to the broad nature of any assessed contributions formula. That is:

*“... due consideration shall be given to each member being assessed an equal basic fee, a fee based upon national wealth, reflecting the state of development of the member concerned and its ability to pay, and a variable fee. The variable fee shall be based, inter alia, on the total catch taken within exclusive economic zones and in areas beyond national jurisdiction in the Convention Area of such species as may be specified by the Commission, provided that a discount factor shall be applied to the catch taken in the exclusive economic zone of a member of the Commission which is a developing State or territory by vessels flying the flag of that member.”*

17. A number of fisheries commissions have adopted, or are in the process of adopting, funding formulae incorporating similar concepts to those outlined in Article 18(2) of the Convention. It is therefore recommended that the Working Group accept this approach as appropriate for the new WCPFC Commission.

*Matters for Consideration regarding a formula for assessed contributions.*

18. The question arises as to the nature of the funding formula and what weighting will be applied to each component of the formula.

19. While WG. I has not so far specifically requested advice on funding formula for assessed contributions some matters that the group may wish to consider in future discussions are outlined below.

20. Fundamental to any funding formula is the sustainability of the formula. All members of the Commission must be satisfied that the formula is equitable and able to take account of the changing circumstances of members over time. A number of fisheries commissions are currently in the process of reviewing their funding formula to better

reflect the current circumstances of the various members of the Commission. The members of IATTC for example have recognised that the funding formula of that organisation is no longer sustainable and have been in the process of negotiating a new formula for the last few years.

21. Discussions during the MHLC process centred on two options for the funding formula for assessed contributions. Those options were a 10/20/70 split or a 20/20/60 split of base payment/wealth payment/and production payment.

22. The approach presented by the Secretariat at MHLC 6 while not as complicated in its approach is not dissimilar to the scenarios that Commissions such as the IATTC and IOTC have considered and in the case of IOTC<sup>1</sup> adopted.

23. Discussion during the budget working group established at MHLC 6 highlighted a fairly high level of acceptance for the Secretariat's proposals but also emphasised the need to keep the basic or base payment contribution in any funding formula as low as possible. Noting this later point it is, therefore, suggested that the 10/20/70 split scenario proposed by the MHLC secretariat (refer to MHLC Conference document MHLC4/INF.2/Corr1) serve as an initial basis for further discussion by WG. I.

24. If the 10/20/70 funding scenario first presented at MHLC 6 is acceptable as a basis for further discussion some of the outstanding matters that need to be considered include:

- The weightings to be applied to the wealth payment component of the fee.<sup>2</sup>
- The appropriate discount factor to be applied to the catch taken by developing state members of the Commission within their own EEZ jurisdiction by vessels flying their flag.
- The extent to which account is made for the value of production in the variable fee component of the formula.

25. On the last point above, the value of catch in the variable fee component of the assessed contributions formula, there is considerable variation in the value of the

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<sup>1</sup> The IOTC funding formula is as follows:

- 10% of the total budget of the Commission shall be divided equally among all the Members.
- 10% of the total budget shall be divided equally among the Members having fishing operations in the Area targeting species covered by the Commission.
- 40% of the total budget shall be allocated among the Members on the basis of per caput GNP for the calendar year three years before the year to which the contributions relate, weighted according to the economic status of the Members in accordance with the World Bank classification as follows and subject to change in the classification thresholds: high income Members shall be weighted by the factor of 8; middle income Members by the factor of 2; low-income Members by the factor of 0.
- 40% of the total budget shall be allocated among the Members in proportion to their average catch in the three calendar years beginning with the year five years before the year to which the contributions relate, weighted by a coefficient reflecting their development status. The coefficient of OECD members and EC shall be 1, and the coefficient of other Members shall be one-fifth.

<sup>2</sup> As presented to MHLC 6 the wealth based component of the assessed contributions would be weighted according to three categories: low income members (GNP less than US\$765); middle income members (GNP greater than US\$766 but less than US\$9,385); and high income members (GNP greater than US\$9,386). The GNP data used at the time was for 1995. This approach is similar to that of the IOTC.

different fisheries operating in the region. A variable fee based purely upon the quantum of catch could see high volume lower value fisheries carrying a disproportionate burden of the budget. One option to avoid this may be to apply different weighting to the various fisheries. CCAMLR takes such an approach with respect to the calculation of its fishing based fee component of assessed contributions. Without going into the complexities of the CCAMLR formula, high volume low value fisheries such as krill are discounted as compared to lower volume but extremely high value toothfish fisheries. The Working Group may wish to consider the use of weighting on the basis of value for the component of assessed contributions that involves catch in the Convention Area.

### **Cost Recovery**

26. Three areas of the Commission's budget are potential candidates for funding via cost recovery mechanisms rather than assessed contributions. The three areas are the technical services:

- The regional observer programme
- The Commission satellite vessel monitoring scheme (VMS)
- The Commission register of vessels

27. During the MHLC<sup>3</sup> process there was some discussion of the use of cost recovery to fund certain aspects of the Commission's budget. The discussions within the MHLC process did not rule out the possibility of using cost recovery as a means of funding certain Commission services.

28. Should the Working Group consider it appropriate to apply cost recovery to the services identified above then there are two options as to how the costs may be levied. They are to levy costs directly against operators using the services or to levy the costs against the members of the commission whose vessels use the services.

#### *Levy Against Operators*

29. Where there are regional examples of cost recovery being applied to the provision of services the recovery of costs is generally on the basis of a levy against vessel operators.

30. The Inter-American Tropical Tuna Commission (IATTC) provides observers to purse seine vessels seeking observer coverage pursuant to the International Dolphin Protection Program. Under the program vessels are required to have 100% observer coverage while fishing within the program area. IATTC recovers the cost of providing such observers from the vessel operators. An annual fee<sup>4</sup> is charged on the basis of the carrying capacity of the vessel.

31. On a sub-regional basis the Forum Fisheries Agency manages an observer programme associated with the US-Pacific States Tuna Treaty and again a cost recovery

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<sup>3</sup> Multilateral High-Level Conference on the conservation and management of highly migratory fish stocks in the western and central Pacific.

<sup>4</sup> For a purse seine vessel with a carrying capacity of 1000 cubic metres the fee would be in the order of US\$12,500 per annum.

process is applied for the funding of that service. Each vessel under the US-Pacific States observer programme is charged in the order of US\$4,000.<sup>5</sup>

32. For a number of the vessels operating in the WCPFC Convention Area operators are already familiar with application of cost recovery for certain services. Vessels operating under licensed access agreements with FFA member countries are already required to pay for registration on the “FFA regional register” and an annual fee associated with the satellite vessel-monitoring scheme operated by the FFA member countries.

33. With a number of the vessels that will potentially be subject to the Commission’s jurisdiction already familiar with the concept of payment for certain services the level of resistance by vessel operators to charges for services may be less than might otherwise be anticipated.

#### *Levy Against Commission Members*

34. Discussions at the sixth session of the MHLC generally centred on the recovery of costs via a fee for service charged directly to vessel operators. Another option may be to recover the costs from the Commission member concerned and allow national administrations to determine the extent to which those charges are passed on to vessel operators.

35. There are few, if any, examples where fisheries commissions have undertaken this approach. To some extent the CCAMLR Scheme of International Observation has been applied by some CCAMLR members in a manner similar to the concept of applying charges to individual members.

36. The CCAMLR<sup>6</sup> Scheme does not prescribe that costs shall be recovered from the Commission member whose vessels receive observers under the Scheme. In fact paragraph B (i) of the Scheme places the costs upon the member providing the observer unless otherwise agreed. That paragraph reads:

*“(i) Unless otherwise agreed the equipment, clothing and salary and any related allowances of a scientific observer shall normally be borne by the Designating Member. The vessel of the Receiving Member shall bear the cost of on board accommodation and meals of the scientific observer.”*

37. Members of CCAMLR, however, are not under any obligation to provide observers under the Scheme so the provision of observers usually involves a process of negotiation on how costs may be apportioned. In an increasing number of cases this process of negotiation has resulted in the charging for the provision of observer services. Obligations for ensuring that charges are paid usually rest with the member whose vessels are receiving observers but increasingly this charge is being passed down to the vessel operator.

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<sup>5</sup> It should be noted that the US-Pacific States Tuna Treaty Observer Program seeks to achieve a level of observer coverage of approximately 25%. This lower level of coverage in part accounts for the difference in costs between this scheme and the IATTC scheme.

<sup>6</sup> Commission for the Conservation of Antarctic Marine Living Resources

*Implication of the various options for provision of services to the recovery of costs*

38. With respect to the recovery of costs associated with the regional observer programme the exact nature of the cost recovery process used may vary depending upon the style of the regional observer programme.

39. If the Conference, and subsequently the Commission, were to endorse the approach recommended in the Working Paper on Secretariat Structure, namely the use of existing sub regional observer schemes and observers provided from members of the Commission under bilateral arrangements negotiated within a Scheme similar to the CCAMLR Scheme, then there would be few costs for the Commission and its Secretariat. Instead the main costs of the programme (training, equipment, salaries, etc) are transferred to the members supplying observers. The costs that the Commission may continue to face may include coordination of the programme and the production of standardised reporting forms and training material. These costs are likely to be relatively small and cost recovery of these items alone would not be justified.

40. If the Commission does utilise an observer scheme similar to that recommended in the Working Paper on Secretariat Structure, the scheme should stipulate clearly the costs that the providers of observers can recover, as a minimum, from those members (or vessel operators) receiving the observers.

**IV. SPECIAL FUND FOR FACILITATION OF DEVELOPING STATE PARTICIPATION**

41. Article 30(3) of the Convention requires the Commission to establish a fund to facilitate the participation of developing states, particularly small island developing states, in the work of the Commission. No guidance is provided by the Convention as to the nature of the fund or as to how it should be funded within the Commission's budget.

42. There are potentially several options for funding the facilitation envisaged in Article 30(3). They include:

- Use of assessed contributions.
- Voluntary contributions.
- A small levy upon production in the Convention Area.

43. Discussions during the MHLC process were not able to resolve how any such fund should be financed. A number of participants at MHLC were of the view that the fund should be financed on the basis of voluntary contributions because the issue was related to matters of aid and assistance. Other Conference participants were clearly of the view that to rely solely upon voluntary contributions to finance such a fund would introduce too much uncertainty.

44. A matter that may be relevant in any determination on the use of assessed funds, voluntary contributions or a production levy to finance the assistance fund is the issue of whether the fund to be used in exceptional circumstances only or as a regular means of financing attendance by developing states.

45. If the fund is considered as a means of financing the regular attendance of developing states, and in particular small island developing states, to the meetings of the Commission then it may be appropriate to consider a more secure form of finance such as the use of assessed funds or a production based levy.

46. If the fund is to be used in exceptional circumstances, for example the Commission is required to hold an extraordinary session during the course of a year and for some developing states this is beyond their ability to finance, then the use of voluntary contributions may be sufficient to meet the needs of the fund.

## **V. CONCLUSIONS**

47. There are a number of services that can potentially be funded from sources other than assessed contributions. Those services are the regional observer programme, the Commission VMS and the Commission's register of vessels. An early decision on the whether to use funding mechanisms such as cost recovery for these services, when they are required, will greatly assist in the further development of the first budget for the Commission.

48. The funding formula for assessed contributions developed and presented by the MHLC Secretariat at MHLC 6 (refer to MHLC4/INF.2/Corr1) continues to provide the best basis for continued discussions on the assessed contributions of members and the funding of that portion of the budget that is financed by these contributions. This funding formula is reproduced in Annex II.

49. Further consideration needs to be given to the nature of the fund under Article 30(3) in order to better determine the most appropriate form of funding. For the time being the assumption has been made that the fund will be financed via voluntary contributions.

50. A possible budget structure reflecting the discussion above is outlined in Annex 1.

**Possible budget structure**

The budget structure below is based upon cost recovery being applied to the Commission services of the observer programme, VMS and the register of vessels.

<b>Component</b>	<b>Funding Source</b>
Secretariat and administration <sup>7</sup>	Assessed Contributions.
Scientific Services	Assessed Contributions.
Data Management	Assessed Contributions.
Compliance Services <sup>8</sup>	Assessed Contributions
VMS Operation	Activity based contributions <sup>9</sup>
Vessel Register	Activity based contributions
Observer Program	Activity based contributions <sup>10</sup>
Assistance to facilitate participation of developing States at commission meetings	Voluntary contributions and other income.
Special Funds	Voluntary Contributions from members and non-members

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<sup>7</sup> This item would include staff costs, travel, meeting expenses, consultancy services (those other than specified contracted technical services of the Commission), purchase of capital assets, maintenance, entertainment, and general operating expenses such as printing, communications, electricity etc.

<sup>8</sup> May include items such as catch and effort verification systems, technical advice on development of boarding and inspection regimes and maintenance/coordination of any such scheme, and monitoring and dissemination reporting with respect to infringement actions

<sup>9</sup> Activity based contributions can be collected by the Commission either directly from vessel operators or from the Commission members of such vessels.

<sup>10</sup> The costs associated with the provision and placement of observers will be recovered by the members providing observers. The costs associated with the Secretariats role, primarily preparation of reporting forms and manuals, will be met by assessed contributions.

## Annex II

### Extract of funding formula from MHLC4/INF.2/Corr1 as presented by MHLC Secretariat to the MHLC process.

“ It is proposed that the Commission adopt a three-tier structure of contributions for its members,  
...

#### 10 (or 20) percent base payment contribution

In determining the 10 (or 20) percent base contribution, it is proposed that this payment be an equal payment for all members. Scales of contributions under both the 10 and 20 percent scenarios for Years 1 to 5 are shown in Table 3.

The base payment should be paid in a lump sum by each member of the Commission at the commencement of each financial year.

#### 20 percent national wealth payment

The national wealth payment should account for 20 percent of the total annual budget of the Commission.

The payment should be related to the GNP *per caput* of members of the Commission.<sup>11</sup> It is proposed that in:

- low income countries (L) (where GNP *per caput* is less than US \$765 per annum) should contribute a zero share to the national wealth payment.<sup>12</sup> China is the only country participating in the MHLC process in this category of countries.
- middle income countries (M) (GNP *per caput* is greater than US \$766 and less than \$9,385 per annum) should contribute a 0.5 share to the national wealth payment.<sup>13</sup> Countries and territories participating in the MHLC process in this category include Cook Islands, Fiji, Indonesia, Kiribati, Marshall Islands, Micronesia Federated States of, Nauru, Niue, Palau, Papua New Guinea, Philippines, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu; and
- high income countries (H) (where GNP *per caput* is greater than US \$9,386 per annum) should contribute 8 shares to the national wealth payment. Countries and territories participating in the MHLC process in this category include Australia, Chinese Taipei, France, French Polynesia, Japan, Republic of Korea, New Caledonia, New Zealand and USA.

The national wealth payment should be paid in a lump sum by each member of the Commission at the commencement of each financial year.

#### 70 (or 60) percent fish production payment

In determining the relative payments of members to the 70 (or 60) percent fish production contributions the following considerations should be taken into account:

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<sup>11</sup> GNP data are for 1995 and are readily available from a UN source. United Nations Development Programme. 1998. *Human Development Report 1998*. Oxford University Press. New York. p.225. The following MHLC participants are not listed in the GNP data from this source: Cook Islands, Nauru, Niue, Chinese Taipei, Palau and Tuvalu. However, 1995 GNP *per caput* data for Cook Islands (M), Chinese Taipei (H) and Tuvalu (M) are available from Asian Development Bank sources. For the purposes of this exercise it is assumed that Nauru, Niue and Palau fall within the (M) category of countries.

<sup>12</sup> In both IOTC and GFCM members in this category contribute zero percent to the national wealth payment.

<sup>13</sup> In IOTC and GFCM countries in this developmental category contribute 2 percent of the contribution.

- total catch of the four tuna species that are the directly targeted for management (skipjack tuna, yellowfin tuna, albacore tuna and bigeye tuna) in the Convention Area;
- total catch by Flag State in the Convention Area, irrespective of whether the catch is taken in EEZs of the coastal States or on the high seas;<sup>14</sup>
- an OECD/non-OECD country weighting.

All tuna catch data used for calculation purposes should be based on a three-year moving average. This averaging of data has the effect of smoothing movements:

- production;
- members' contributions; and
- Commission income.

For OECD countries a weighting factor for catches of 1.0 is proposed and for non-OECD countries a factor of 0.2 is suggested. These relative weights have already been accepted, and are being used by, the Indian Ocean Tuna Commission (IOTC).

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<sup>14</sup> Catch data could be refined for calculation purposes (e.g. by species or gear type) but such refinement could unduly complicate calculations. Such refinement is not used in determining payments for IOTC, for example. It is therefore proposed that in the interests of simplicity that only aggregate data be used.