

5th Meeting of the Compliance and Technical Committee

Lima, Peru, 26 - 28 January 2018

CTC5-Report (ADOPTED, 28 Jan 2018, 20:22 hrs)

1. WELCOME AND INTRODUCTION

The Chairperson of the Commission, Mr. Osvaldo Urrutia (Chile) opened the meeting. Mr Hector Soldi (Vice Minister of Fisheries and Aquaculture of Peru and Vice-Chairperson of the Commission) welcomed delegates on behalf of Peru and wished all a successful meeting. The Commission Chairperson then informed delegates that the elected CTC Chairperson, Ms Jihyun Kim, regretted that she was not able to attend the meeting and fulfil her role. Australia advised that as an interim measure Mr Tobias Hanson (Australia) was available to chair the current meeting if this was acceptable to the CTC. The Committee gratefully accepted this generous offer.

2. ADMINISTRATIVE ARRANGEMENTS

a. Adoption of Agenda

The agenda was adopted without modification (Annex 1).

b. Meeting Documents

The Chairperson referred to the list of meeting documents (CTC5-Doc02) and the Secretariat introduced participants to the meeting server and document handling system devised for the meeting.

3. VESSEL MONITORING SYSTEM (VMS)

The VMS Working Group, chaired by Mr Luis Molledo (European Union), was convened and discussed the following items: Secretariat's VMS implementation report, review of CMM06-2017 (COMM6-Prop01) and final acceptance of the SPRFMO VMS solution hosted by CLS.

The Chairperson of the VMS WG reported that the group had not yet been able to conclude its deliberations and will reconvene during the 6th Meeting of the Commission. The CTC thanked the VMS WG and its Chairperson for the work conducted intersessionally and during the meeting and recommended that discussions continued in the Commission.

4. SPRFMO OBSERVER PROGRAMME

The Observer Programme Working Group (OPWG) chaired by Mr Michael Tosatto (USA) was convened and discussed COMM6-Prop02.

The CTC took note of Revision 1 of the proposed new CMM. China stated that a minimum observer coverage of 10% should not apply to the squid fishery, where other means of accredited observations should be considered as an alternative to human observers. Some Members expressed their strong support for appropriate observer coverage for all fisheries. Some Members recalled that Article 28 of the Convention establishes that the Observer Programme shall consist of independent and impartial observers, thus understanding this as human observers. The CTC thanked the Chairperson of the OPWG for his work and encouraged him to continue with his efforts to advance this important matter during this Annual Meeting. In addition, the CTC recommended to the Commission that the terms of reference for the OPWG be revised as appropriate.

5. ASSESSMENT OF COMPLIANCE OF MEMBERS AND CNCPS

The Secretariat introduced CTC5-Doc05, which summarises actions taken by Members and CNCPS in response to compliance issues identified at the previous meeting or to recommendations made by the Commission in this regard. Members noted their concern that none of the Compliance Action Plans that were requested by the Commission in the 2017 Final Compliance Report were received.

The Secretariat introduced the Draft Compliance Report (CTC5-Doc04) and the outcomes of the discussion are reflected in the Executive Summary of the Provisional Compliance Report.

The CTC adopted the Provisional Compliance Report for consideration by the Commission.

6. MATTERS CONCERNING IMPLEMENTATION OF CURRENT CMMs

a. Transshipment outside the SPRFMO Area

Explanatory note CTC5-Doc07 was introduced by the Secretariat, and Korea presented its document COMM6-INF10, highlighting in its view the ambiguity of the first three paragraphs of CMM12-2017.

The issue was whether it was consistent with paragraph 2 of CMM 12-2017 for fisheries resources caught within the SPRFMO Convention Area to be transhipped to vessels not included in the SPRFMO Record of Vessels outside the Convention Area. China noted that it is clear that paragraph 2 just applies to transshipments within the Convention Area. In contrast, some Members expressed their view that paragraph 2 clearly applied to all transshipments irrespective of where they occur.

Members agreed that the intention of paragraph 3 was to require that all vessels involved in the transfers (of fuel, crew, gear or any other supplies) inside the Convention Area are on the SPRFMO Record of Vessels, but that this paragraph did not create obligations in relation to transfers that take place outside the Convention Area.

Most Members agreed that the intention of paragraph 2 was to require that all vessels involved in the transshipment of fisheries resources caught in the Convention Area are included in the SPRFMO Record of Vessels, irrespective of whether the transshipment takes place inside or outside of the Convention Area.

CTC recommended that the Commission consider clarifying the relevant obligation in relation to transshipments of CMM 12-2017 to avoid future implementation issues.

b. Pair Trawling within the SPRFMO Area

The Secretariat introduced CTC5-Doc08 on pair trawling within the SPRFMO Convention Area, documenting some issues relating to pair trawling with vessels flagged to different Members or CNCPS. The CTC recommended that the Commission endorse the advice outlined by the Secretariat in its paper and to task the SC with reviewing potential ecosystem and stock assessment impacts related to pair trawling. China asked whether pair trawling was a new fishing method and thus constituted an exploratory fishery. The Secretariat advised while it had been consulted about pair trawling twice since early 2015, the last documented pair trawling activity in the Jack mackerel fishery was in 2007 and 2010, and accordingly did not constitute a new or exploratory fishery as it had been used in the last 10 years.

c. Implementation of CMM 07-2017 (Port Inspection)

The CTC took note of the Secretariat's information on implementation of the CMM on Minimum Standards of Inspections in Port (CTC5-Doc09).

7. EXAMINATION OF CURRENT AND DRAFT IUU LISTS

a. Examination of the 2018 Draft IUU List

In accordance with CMM 04-2017, paragraph 9, the CTC examined the Draft IUU List (CTC05-Doc10, restricted) and the current IUU list (2017), as well as additional information provided in accordance with paragraphs 5 and 8 of CMM 04-2017.

Regarding the FU YUAN YU LENG 999, the CTC noted information suggesting that the highly migratory species found on board this vessel were not ‘fisheries resources’ as defined in the SPRFMO Convention. Accordingly, the CTC was satisfied that the vessel did not take part in any IUU fishing activities covered by CMM 04-2017 and decided to remove the vessel from the Draft IUU List, in accordance with paragraph 10(a) of CMM 04-2017. Noting information indicating that tuna species were on board the vessel, some Members suggested that this vessel may be of interest to the Inter-American Tropical Tuna Commission (IATTC). Members also suggested that a Memorandum of Understanding between SPRFMO and the IATTC would facilitate cooperation on issues such as presumed IUU fishing activity in the overlapping area of the two RFMOs.

After consideration of the report provided by the European Union, outlining actions taken in relation to the TRONIO’s fishing activities within the Convention Area, Members agreed that the TRONIO had engaged in IUU activities covered by CMM 04-2017 and the CTC decided that effective action had been taken by the flag State. Accordingly, the CTC decided to remove the vessel from the Draft IUU List, in accordance with paragraph 10(b) of CMM 04-2017.

The CTC considered the investigative report provided by the Russian Federation in relation to the PAMYAT KIROVA. Members agreed that the vessel had engaged in IUU fishing activities, but were satisfied that effective action had been taken against the vessel. Accordingly, the CTC decided to remove the vessel from the Draft IUU List in accordance with paragraph 10(b) of CMM 04-2017.

The CTC did not include any vessels on the Provisional IUU List.

b. Examination of the Current (2017) IUU List

The CTC considered a request from the Russian Federation to remove the TAVRIDA from the current IUU List in accordance with 11(b) of CMM 04-2017. In considering this request, Members expressed the view that the criteria in paragraph 19 of CMM 04-2017 had not been met. Members reiterated suggestions made in CTC4 that further suitably documented information would be required to meet these criteria, including the company structures of the new and previous owners and lists of any beneficial owners of these companies, the Russian Federation providing documentation demonstrating that there is no connection between the new and previous owners, and that the new owner has not participated in IUU fishing. The Russian Federation indicated that it would consider making an intersessional request to remove the TAVRIDA from the IUU List

Peru presented an update regarding the vessel DAMANZAIHAO and explained that the vessel was still immobilised in the port of Chimbote, where it has been since 2014. Peru informed the CTC that a significant fine of over 1.5 million USD had been imposed. As there are ongoing judicial proceedings in relation to this vessel, Peru did not request that the vessel be removed from the IUU List. Peru intends to request the removal of the DAMANZAIHAO from the IUU list once this sanctioning process is concluded and since there is no certainty on how long this may take, the Peruvian delegation requested that a paragraph similar to the one included in the COMM-03, COMM-04 and COMM-05 Reports be included in the COMM-06 Report to allow for the review of this case in the intersessional period.

The CTC acknowledged the update provided by the Peruvian delegation and supported their request regarding the possible inclusion of a paragraph on this matter in the COMM-06 report.

Several Members also noted that CMM04-2017 does not specify what domestic sanctions will constitute ‘effective action’ for the purpose of removing vessels from the Draft IUU List

and the current IUU List and suggested that criteria on this issue could be developed intersessionally.

The CTC also considered a request from the Russian Federation to remove the MYS MARI from the current IUU List. Members noted that the criteria in paragraph 19 of CMM 04-2017 had not been met and that the summary of actions that had been provided did not constitute suitably documented information for the purpose of satisfying these requirements. Members also questioned whether the sanctions imposed were commensurate with the initial IUU fishing activities that formed the basis of the MYS MARI's listing.

c. **Other IUU Information not included in the Draft IUU List**

The CTC took note of additional information regarding the Liberian-flagged vessel ZHONG XIANG, and also referring to several other vessels, and noted that the ZHONG XIANG would be included in the 2019 Draft IUU List. Regarding the intention of Liberia to include the vessel in the SPRFMO Record, Liberia was encouraged to consider the fishing and compliance history of the vessel in accordance with CMM 05-2016, paragraph 2.

Peru informed the CTC about a new network of Latin-American countries for the fight against IUU fishing in the context of the FAO Port State Measures Agreement, which Peru is currently chairing. Peru indicated that there was a dedicated website and that it was the intention of the network to closely collaborate with SPRFMO and other intergovernmental organisations.

8. **ASSESSMENT OF COOPERATING NON-CONTRACTING PARTIES' APPLICATIONS**

The CTC considered four applications for CNCP status against the criteria set out in paragraph 3 of Decision 02-2016.

The CTC considered the applications by Curaçao and Liberia and recommended the acceptance of these applications by the Commission, noting that Curaçao and Liberia had both satisfied all criteria for CNCP application adopted by the Commission.

The CTC decided to consider the late application submitted by Colombia, but Members stressed the importance of a timely submission of applications to allow the CTC and the Commission a proper consideration of the request. The application by Colombia was deemed incomplete in accordance with paragraph 3(g) because it did not commit to making a voluntary contribution. The CTC requested that the Secretariat contact Colombia for further clarification of the possibility of providing voluntary contributions, if not for the current year, for future years.

With regard to the application for CNCP status by Panama, the CTC noted that it was submitted during the meeting but decided to consider the application for reasons of consistency. The Chairperson quoted from the report of the 2017 meeting of the Commission, in which the Commission noted its deep concerns regarding "*the serious issue of non-compliance by Panama*" and "*advised that Panama should not expect its CNCP application to be approved in 2018 unless Panama takes steps to improve its cooperation with the Commission, including:*

1. *Undertake the corrective actions requested of Panama by the Commission in the Final Compliance Report 2017, including:*
 - (a) *Developing a Compliance Action Plan regarding CMM 4.01 (Trachurus murphyi) within six months after the end of the Commission Meeting 2017;*
 - (b) *Undertaking a Compliance Review regarding CMM 4.02 (Data Standards) within 90 days after the end of the Commission Meeting 2017;*
 - (c) *Undertake a Compliance Review regarding CMM 4.05 (Commission Record of Vessels Authorised to fish) within 90 days after the end of the Commission Meeting 2017;*
 - (d) *Develop a Compliance Action Plan regarding CMM 4.10 (Establishment of a Compliance and Monitoring Scheme) within six months after the end of the Commission Meeting 2017.*

2. *Demonstrate considerable improvements with regard to their obligations as a CNCP compared to last year, including a commitment to participate in the effective operation of the Commission;*
3. *Submit its Implementation Report for the 2018 Compliance Report in accordance with paragraph 5 of CMM 4.10 (Compliance and Monitoring Scheme; 2016); and*
4. *Address all requirements for a non-member seeking the status of CNCP, as listed in paragraph 3 of Decision 1.02 (Rules for Cooperating Non-Contracting Parties; 2016).*

The CTC advised that Panama had not complied with the corrective actions, except partial implementation of point (c), and had not submitted an Implementation Report for 2018.

While some Members expressed their support of Panama's application in view of Panama's explanations and assurances, other Members were concerned about the repeated non-compliance issues experienced, pointing out that Panama gave the same assurances last year. It was agreed to defer the matter to the Commission noting the advice given above.

Some Members emphasised the need to apply the SPRFMO deadlines and criteria for accepting CNCP applications more strictly and proposed a more rigid application in the future.

Members also noted that paragraph 3c) of Decision 02-2016 refers to "*the Commission's procedures for high seas boarding and inspection, **once they have been adopted***" (emphasis added). The CTC recommended that since the adoption of CMM 11 in 2015, the current wording is outdated and should be revised.

9. OTHER CONSERVATION AND MANAGEMENT MEASURES

The European Union introduced COMM6-Prop06 to amend CMM 10-2017 (CMS). Some Members expressed their appreciation for the proposal, especially the changes to Annex 1 which were felt to be an improvement. However, concerns were voiced regarding the replacement of the term "*compliance*" with the term "*implementation*", as this would no longer adequately reflect the intent of this CMM in their view. In addition, it was proposed that a revision of CMM 10-2017 should also include stipulations on possible consequences for non-compliance. The European Union expressed its willingness to continue working on the proposal with other delegations and said that it intended to present a revised version to the Commission within the next days.

Cook Islands presented its proposal for an exploratory pot fishery (COMM6-Prop03, Rev.1). Some Members voiced concern that the proposal did not address all the requirements of CMM 13-2016 and CMM 03-2017, nor the advice of the Scientific Committee in this regard. Cook Islands advised it will submit COMM6-Prop03, Rev.2 for distribution to Members to be considered by the Commission.

Vanuatu presented its proposal to amend CMM 01-2017 (COMM6-Prop 04), also referring to the Secretariat's information document COMM6-INFO6, which provided a hypothetical example of how the proposal might work in practice. Some Members expressed their general support for the proposal, but reservations were also voiced, noting that such a measure could result in increased fishing pressure with consequences on the speed of stock recovery. This view was echoed in an intervention by the observer NGO OCEANA. Vanuatu expressed its willingness to continue working on the proposal with delegations during this meeting; one Member indicated that a revision of the proposed threshold of 70% could be a way forward.

10. The USA introduced its proposal on amendments to CMM 11-2015 on boarding and inspection procedures (COMM6-Prop07) and advised that it was still consulting with Members to develop a revision of the proposal for consideration by the Commission. Several Members voiced their general support of the proposal, noting that they had technical comments on the proposed draft. One Member expressed concerns over the consistency of the proposal with the SPRFMO Convention, Article 27 and other concerns over the details of the proposed measure. OTHER MATTERS

No other matters were discussed.

11. ADOPTION OF THE REPORT

The Members thanked Mr Tobias Hanson for his solid guidance in carrying out the duties of the CTC Chairperson during this meeting.

The report was adopted on 28 January 2018 at 20:22 hrs.