



FOURTH REGULAR SESSION

3-7 December 2007

Tumon, Guam, USA

Draft Framework for Access to Different Types of Non-Public Data; Draft Data Request Form and Draft Confidentiality Agreement

**WCPFC4-2007/12 Suppl.
3rd November 2007**

Introduction

1. The Second Session of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (the Commission) from 12-16 December 2005 at Palikir, Federated States of Micronesia adopted a recommendation from the First Regular Session of the Scientific Committee from 8-19 August 2005 at Noumea, New Caledonia to establish an Ad Hoc Task Group (AHTG [Data]) to consider the types of data to be administered by the Commission and develop rules and procedures for the security, access to and dissemination of that data.

2. The AHTG [Data] met from 31 July to 4 August 2006 at Manila, Philippines. It was chaired by Mr Kim Duckworth (New Zealand).

3. The report of the work of the AHTG [Data] was considered by the Second Regular Sessions of both the Scientific Committee (7-18 August 2006 at Manila, Philippines) and the Technical and Compliance Committee (28 September to 3 October 2006 at Brisbane, Australia).

4. Aware that a lack of time prevented the AHTG [Data] completing its work, SC2 recommended that:

“6.14 The Executive Director, in collaboration with the Chair of the Commission and officers of WCPFC subsidiary bodies, develop a framework for access to non-public domain data by CCMs. The framework may include, *inter alia*, guidelines for access to different data types, the possibility of standing authorizations, compliance with the Commission’s policy for the provision of data and a mechanism for resolving disputes.

6.15 The Executive Director should be tasked with developing a Data Request form and Confidentiality Agreement to be used in association with the rules and procedures for the access to and dissemination of data compiled by the Commission. The Executive Director shall be responsible for reporting the logs of requests for public and non-public domain data. The Executive Director will submit a draft of the Data Request form and Confidentiality Agreement for adoption by the Commission.”

5. Subsequently, the Executive Director, in collaboration with the Chairs of the Scientific Committee (SC) and the Technical and Compliance Committee (TCC), developed a Draft

Framework for Access to Different Types of Non-Public Domain Data; a Draft Data Request Form and Draft Confidentiality Agreement. Consideration of these drafts was postponed pending finalization of the *Rules and Procedures for Access to, and Dissemination of, Data Compiled by the Commission.*

6. The Third Regular Session of the Commission (WCPFC3) which met 11-15 December 2006 at Apia, Samoa adopted the *Rules and Procedures for the Access to and Dissemination of Data Compiled by the Commission* as a “living document”, noting reservations tabled by Japan. The Commission invited SC3 and TCC3 to further refine the *Rules and Procedures for the Access to and Dissemination of Data Compiled by the Commission* as necessary and table advice and recommendations for subsequent consideration at the Fourth Regular Session of the Commission (WCPFC4) scheduled for December 2007.

7. The Third Regular Session of the SC met from 13-24 August 2007 in Honolulu, Hawaii (SC3) and the Third Regular Session of the TCC met from 28 September – 2 October 2007, in Palikir, Federated States of Micronesia (TCC3) reviewed the *Rules and Procedures for Access to, and Dissemination of, Data Compiled by the Commission* adopted at WCPFC3. Taking into account the refinements proposed during SC3, TCC3 agreed to recommend the *Rules and Procedures for Protection, Access to, and Dissemination of, Data Compiled by the Commission* to the Fourth Regular Session of the Commission to be held from 3-7 December 2007 in Tumon, Guam (see WCPFC4-2007/12).

Recommendation

8. Taking into account the revisions proposed by TCC3 to the *Rules and Procedures for Access to, and Dissemination of, Data Compiled by the Commission*, the Commission is invited to consider the:

- A revised draft Framework for Access to Different Types of Non-Public WCPFC Data,
- A revised draft WCPFC Data Request Form, and
- A revised draft WCPFC Confidentiality Agreement

And how best to integrate these documents with the *Rules and Procedures for Protection, Access to, and Dissemination of, Data Compiled by the Commission.*



[DRAFT] FRAMEWORK FOR ACCESS TO NON-PUBLIC DOMAIN WCPFC DATA

1. In accordance with the policies for data protection, security and confidentiality established by the Commission's Information Security Policy (ISP), a member, cooperating non-member or participating territory (CCM) shall have access to non-public domain data to serve the purposes of the Convention, including data:

- (a) covering vessels flying their flag in the WCPFC Convention Area
- (b) covering any vessels fishing in waters under their jurisdiction
- (c) covering vessels applying to fish in their national waters, unloading in their ports or transshipping fish within waters under their jurisdiction
- (d) for the purpose of scientific and other research, if the CCM that originally provided that data authorises the Commission to release them. In cases where a CCM elects to provide an ongoing authorisation for the release of such data, the CCM may at any time cancel this authorisation by notifying the Secretariat that it has revised its earlier decision.

2. For the purpose of compliance and enforcement activities on the high seas, non-public domain data will be made available subject to the separate rules and procedures for the access and dissemination of such data, that the Commission will adopt for these purposes. VMS data will be made available for scientific purposes, subject to these same separate rules and procedures.

3. In regard to paragraph 1:

- a) CCMs shall provide a written request for access to such data to the Executive Director, specifying the purpose of the Convention by reference to the relevant article(s). In so doing, CCMs shall use the Commission's Data Request Form.
- b) The CCM shall undertake to only use such data for the purpose described in the written request. The CCM shall also complete and sign the Commission's Confidentiality Agreement.
- c) The Executive Director shall not authorize the release of more data than is necessary to achieve the purpose described in the written request.

4. The Executive Director shall not authorize access to non-public domain data by any CCM that has not fulfilled its obligations to provide data to the Commission for two consecutive years until all such matters are rectified. The Executive Director also shall not authorize access

to a CCM whose authorized representative failed to observe the *Rules and Procedures for Access to, and Dissemination of, Data Compiled by the Commission* until the CCM informs the Executive Director that the appropriate actions have been taken.

5. The Executive Director may attach conditions appropriate for the access to such data (such as that the data be deleted upon achievement of the purpose for which it was released or by a pre-determined date, that a register of persons accessing the data be maintained and furnished to the Commission upon request, etc.)

6. Requests may be made for a standing authorization, such that CCMs may have multiple accesses to the requested data for the same purpose as the original written request.

7. Dissatisfaction with the Executive Director's decisions in regard to access to non-public domain data by CCMs shall be resolved by the Chair of the Commission.



D R A F T
WCPFC DATA REQUEST FORM

1. Data Requested

The specification of data being requested should refer to the type of data and any parameters relevant to the type of data, which may include, inter alia, the gear types, time periods, geographic areas and fishing nations covered, and the level of stratification of each parameter.

[Insert the list of data sets here]

2. Purpose

If non-public domain data are being requested, the use of the data shall be authorised only for the purpose described below.

[If non-public domain data are being requested, insert the description of the purpose for which the data is requested]

3. Persons for Whom Access to the Data is Requested

If non-public domain data are being requested, the name(s), job title(s) and affiliation(s) of the authorized representative(s) for whom access to the data is being requested shall be listed below; the use of the non-public domain data shall be authorised only for the person(s) listed below.

[Insert the list of persons here]

Each of the persons listed above will read and sign the WCPFC Confidentiality Agreement.

[Attach signed WCPFC Confidentiality Agreements here.]



D R A F T
WCPFC CONFIDENTIALITY AGREEMENT

Confidentiality Agreement for the Dissemination of Non-Public Domain Data by the Western and Central Pacific Fisheries Commission

For the purpose of this Confidentiality Agreement, “applicants” means a representative of a CCM who has been authorized by that CCM in accordance with paragraphs 20 and 21 of the Rules and Procedures for Access to, and Dissemination of, Data Compiled by the Commission.

Applicants name(s) and full contact details and signatures:

<i>Full name</i>	<i>Institution, address and contact details</i>	<i>Signature and Date</i>

I/we agree to the following:

- *To abide by any conditions attached to use of the data by the Executive Director;*
- *That the data shall be used only for the purpose for which the data are being requested, be accessed only by the individuals listed in Item 3 of the Data Request Form, and be destroyed upon completion of the usage for which the data are being requested;*
- *To make no unauthorized copies of the data requested. If a copy of all, or part, of the data requested is made by the applicant, all copies, or part thereof, will be registered with the Executive Director and will be destroyed upon completion of purpose for which the data was requested;*
- *To abide by the Commission’s data security standards as specified in the Commission’s Information Security Policy and the Rules and Procedures for Protection, Access to, and Dissemination of, Data Compiled by the Commission;*
- *That prior to the publication of any report of an analysis for which the requested data will be used, the report shall be provided to, and cleared by, the Executive Director of the Western and Central Pacific Fisheries Commission, who shall ensure that no non-public domain data will be published;*

- *To provide copies of all published reports of the results of the work undertaken using the data released shall be provided to the WCPFC Secretariat and to the relevant subsidiary body of the Western and Central Pacific Fisheries Commission;*
- *Applicant(s) will not disclose, divulge, or transfer, either directly or indirectly, the confidential information to any third party without the written consent of the Executive Director;*
- *Applicant(s) shall promptly notify the Executive Director, in writing, of any unauthorized, negligent or inadvertent disclosure of non-public domain data;*
- *Applicant(s) assume all liability, if any, in respect of a breach of this Confidentiality Agreement, once the data requested is released to the applicant(s);*
- *Pursuant to paragraph 28 of the Rules and Procedures for Access to, and Dissemination of, Data Compiled by the Commission, CCM(s) shall not be granted access to non-public domain data until the appropriate actions have been taken. to account for any disclosure in violation of this Agreement by the applicant or inter alia its affiliates, employees, attorneys, accountants, consultants, contractors, or other advisors or agents; and.*
- *That this Agreement may be terminated by giving written notice to the other party.*