

Decision 2-2016¹

RULES FOR COOPERATING NON-CONTRACTING PARTIES

REAFFIRMING the objective of the *Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean* (the Convention) to ensure the long-term conservation and sustainable use of fishery resources in the South Pacific Ocean through the application of the precautionary approach and the ecosystem approach;

RECOGNIZING the continuing need to encourage non-Contracting Parties with vessels fishing in the Convention area to implement conservation and management measures adopted by the Commission;

TAKING INTO ACCOUNT Article 8 (j) of the Convention which mandates the Commission to develop rules for cooperating non-Contracting Party status under the Convention and Article 32 of the Convention which defines Members' obligations with respect to non-Contracting Parties;

RECOGNIZING the need for clear criteria to enable non-Contracting Parties whose vessels fish in the Convention Area to attain the status of Cooperating non-Contracting Party;

REAFFIRMING that the Commission shall give full recognition to the special requirements of developing States, in particular the least developed among them, and small island developing States, and of territories and possessions, and their coastal communities, in relation to the conservation, management and sustainable development of fishery resources and equitable benefit from those resources;

GIVING EFFECT to Articles 8 and 32 of the Convention, the Commission has decided as follows:

- 1 Each year, the Executive Secretary shall contact all non-Contracting Parties whose vessels fish in the Convention Area and, if possible, non-Contracting Parties known to have an interest in fishing in the Convention Area, to request them to become a Contracting Party to the Convention or to attain the status of Cooperating non-Contracting Party.
- 2 A non-Member of the Commission, with an interest in the fishery, or whose vessels fish or intend to fish in the Convention Area, may request the Commission for the status of Cooperating non-Contracting Party (CNCP). Any such request and supporting information shall be in English and shall be received by the Executive Secretary at least 60 days in advance of the annual meeting of the Compliance and Technical Committee (CTC) at which the request will be considered. The Executive Secretary shall notify all members of the Commission of any such request and circulate the full application to all Members.

¹ Decision 2-2016 supersedes Decision 1.02 (reference change only). The original Decision from 2013 was amended in 2015 (SPRFMO-COMM-03, Annex G) and 2016 (SPRFMO-COMM-04, Annex K).

- 3 A non-member seeking the status of CNCP shall include within its request:
 - (a) its reason for seeking CNCP status,
 - (b) a commitment to cooperate fully in the implementation of conservation and management measures adopted by the Commission and to ensure that fishing vessels flying its flag and fishing in the Convention Area and, to the greatest extent possible, its nationals, comply with the provisions of the Convention and conservation and management measures adopted by the Commission;
 - (c) an explicit commitment to accept high seas boarding and inspections in accordance with the Commission's procedures on high seas boarding and inspection, once they have been adopted; full data on its historical fisheries in the Convention Area, including nominal catches, number/type of vessels, name of fishing vessels, fishing effort and fishing areas;
 - (d) all the data and information members of the Commission are required to submit, in accordance with the standards adopted by the Commission;
 - (e) a statement on how any compliance issues previously identified by the Commission have been addressed;
 - (f) any further relevant information as determined by the Commission;
 - (g) a statement of intent to make voluntary financial contributions commensurate with what would be assessed should it become a Member, pursuant to the scheme of contributions established by the Commission in accordance with Article 15(2) of the Convention and particularly in accordance with paragraph 4.7 of the Financial Regulations of the Commission".
- 4 The CTC shall assess applications for CNCP status and provide recommendations and technical advice to the Commission, which shall consider, *inter alia*:
 - (h) whether the CNCP application includes all information required under paragraph 3;
 - (i) in the case of renewal, the record of compliance of the applicant with the provisions of the Convention and the conservation and management measures adopted by the Commission;
 - (j) the applicant's record of responding to any IUU activities by vessels flying its flag that have been brought to its attention, in accordance with Article 27 of the Convention;
 - (k) as appropriate, the record of compliance of the applicant with conservation and management measures of other Regional Fisheries Management Organizations (RFMOs);
 - (l) in the case of applications for renewal of CNCP status, whether the applicant is meeting all paragraph 12 requirements for CNCP.
- 5 The Executive Secretary shall forward a copy of the relevant CTC recommendations and advice to the non-member applicant as soon as practicable.

- 6 The non-member applicant shall have the opportunity to consider the recommendations and advice of the CTC, and to submit additional information if necessary in advance of the Commission's decision on its application.
- 7 The Commission shall, in determining whether a non-member is accorded CNCP status at its annual meeting, have regard to the criteria outlined in paragraph 4.
- 8 The Commission shall also consider information available from other RFMOs relating to non-members seeking CNCP status, as well as data submitted by such non-members to the Commission.
- 9 The Commission shall accord CNCP status on an annual basis. It may renew the CNCP status subject to a review of the CNCP's compliance with the Convention's objectives and requirements.
- 10 CNCPs seeking to renew their status shall comply with any other requirements the Commission may prescribe to ensure compliance with conservation and management measures adopted by the Commission.
- 11 CNCPs are entitled to participate at meetings of the Commission and its subsidiary bodies as Observers.
- 12 CNCPs shall:
 - a) comply with all conservation and management measures adopted by the Commission; provide all data members of the Commission are required to submit, in a timely manner, in accordance with the format and standards adopted by the Commission;
 - b) inform the Commission annually of the measures it takes to ensure compliance by its vessels with the Commission's conservation and management measures;
 - c) respond in a timely manner to alleged violations of conservation and management measures adopted by the Commission and any IUU activities of vessels flying its flag, as requested by a member of the Commission or determined by the appropriate subsidiary bodies of the Commission and communicate to the member making the request and to the Commission, the actions it has taken against the vessels in accordance with the provisions of Article 27 of the Convention;
 - d) accept boardings in accordance with the Commission's high seas boarding and inspection procedures.
- 13 The Commission shall monitor the activities of nationals and fishing vessels of CNCPs, including their record of compliance with the provisions of the Convention and conservation and management measures adopted by the Commission.
- 14 CNCPs that fail to comply with any of the conservation and management measures adopted by the Commission shall be deemed to have undermined the effectiveness of the conservation and management measures adopted by the Commission. The Commission shall take appropriate action, which may include revocation of CNCP status and/or sanctions and penalties against such CNCPs, in accordance with the Convention and adopted conservation and management measures.