
**PREPARATORY CONFERENCE FOR THE COMMISSION FOR
THE CONSERVATION AND MANAGEMENT OF HIGHLY
MIGRATORY FISH STOCKS IN THE WESTERN AND
CENTRAL PACIFIC**

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**REVIEW OF PROGRESS IN THE PREPARATORY CONFERENCE AND
IDENTIFICATION OF PRIORITY ISSUES PRIOR TO ENTRY INTO FORCE OF THE
CONVENTION**

Note by the Chairman

I. INTRODUCTION

1. At the fourth session of the Preparatory Conference, held at Nadi, Fiji, from 5 – 9 May 2003, the Conference decided that it should take the opportunity at the fifth session to take stock of progress on its agenda to date and to review and prioritise the future work of the Conference. The present paper reviews the progress of the Conference to date against the agenda adopted at the first session of the Conference and suggests the main issues upon which it would be important to reach agreement before the Convention enters into force.

2. The paper makes recommendations as to the priority issues to be addressed during PrepCon V and, on the assumption that entry into force will occur by the middle of 2004, proposes that two further sessions of the Conference are held. PrepCon VI, to be held in March or April 2004, would, *inter alia*, finalize recommendations relating to the organizational structure of the Commission secretariat, the budget and scheme of contributions, draw up the provisional agenda for the first session of the Commission and make recommendations on the procedure for selection of an Executive Director. PrepCon VII, which would be the final session of the Preparatory Conference would be held back to back with the inaugural session of the Commission as soon as possible after entry into force. The main purpose of PrepCon VII would be to formally adopt the final report and recommendations of the Preparatory Conference and conclude the business of the Conference.

3. The Convention will enter into force 30 days after the deposit of instruments of ratification, acceptance, approval or accession by three States situated north of the 20° parallel of north latitude and seven States situated south of the 20° parallel of north latitude. Alternatively, if, within three years of its adoption, i.e. by September 2003, the Convention has not been ratified by three of the States situated north of 20° N, it will enter into force six months after the deposit of the thirteenth instrument of ratification, acceptance, approval or accession. As at 11 September 2003, eight States had ratified or acceded to the Convention. It is expected that at least four other States will ratify or accede to the Convention before the end of 2003. There is therefore a strong possibility that the Convention will enter into force before the middle of 2004.

4. It might also be noted that this timetable is consistent with the views expressed at the first session of the Preparatory Conference, in April 2001, when the Conference agreed that its

objective should be to complete the work of the Preparatory Conference within an overall time-frame of three years; that is, by early 2004.

II. REVIEW OF PROGRESS

5. The Preparatory Conference was established by resolution I of the Final Act of the Multilateral High-Level Conference on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean. That resolution also sets out the mandate of the Preparatory Conference as follows:

6. The Preparatory Conference will:
 - (a) prepare draft rules of procedure of the Commission;
 - (b) prepare draft rules, regulations and procedures, as necessary, to enable the Commission to commence its functions, including draft regulations concerning the financial management and internal administration of the Commission;
 - (c) prepare the provisional agenda for the first meeting of the Commission and, as appropriate, make recommendations relating to items thereon;
 - (d) make recommendations concerning the Secretariat of the Commission in accordance with the relevant provisions of the Convention;
 - (e) make recommendations concerning the establishment of the headquarters of the Commission; and
 - (f) make recommendations concerning the budget for the first financial period of the Commission, including recommendations for a scheme for contributions to the budget in accordance with article 18, paragraph 2, of the Convention.
7. The Preparatory Conference will also endeavour to:
 - (a) formulate recommendations for consideration by the Commission concerning:
 - (i) the implementation of articles 11, 12, 13 and 14 of the Convention;
 - (ii) the collection of data and information in accordance with article 23, paragraph 2 (a) and (b), of the Convention;
 - (iii) the establishment of a record of fishing vessels in accordance with article 24, paragraph 7, of the Convention;
 - (iv) the implementation of article 24, paragraphs 8, 9 and 10, of the Convention;
 - (v) the implementation of article 30, paragraph 3, of the Convention;
 - (b) make recommendations concerning the relationship between the Commission and existing regional institutions concerned with conservation and management of highly migratory fish stocks; and
 - (c) carry out such other functions as the Conference may decide.

6. Essentially, therefore, the task of the Conference is to lay the groundwork for the establishment of the Commission and to ensure that no vacuum exists in the period between

adoption of the Convention and its entry into force. The Conference will remain in existence until the conclusion of the first meeting of the Commission.

7. The Conference has held four sessions to date. It has proceeded on the basis of an agenda adopted at its first session (WCPFC/PrepCon/2). The agenda basically lists the matters set out in paragraph 6 of resolution I and requires the Preparatory Conference to prepare, *inter alia*, draft rules of procedure for the Commission; draft rules and regulations concerning the financial management and internal administration of the Commission; a draft organizational structure for the Commission; a draft budget for the first financial period of the Commission and a draft scheme of contributions to the budget; and a draft provisional agenda for the first meeting of the Commission. In addition, the Conference is to make recommendations concerning the establishment of the headquarters of the Commission and relating to the provision of interim scientific advice. In response to the concerns of a number of delegations, PrepCon I agreed to the addition of a supplementary agenda item on mechanisms to promote participation in the Convention. In terms of its organizational structure, the Conference has established three open-ended working groups to consider issues relating to organizational and budget matters (WG.I), the provision of scientific advice to the Commission (WG.II), and monitoring, control and surveillance (WG.III). In addition to terms of reference for each working group established by the Conference, each working group has also adopted its own plan of work. At each session of the Conference, the plenary has received a report on the progress made in each working group. The plenary has also convened in informal session to consider the draft rules of procedure for the Commission. The plenary has also considered such matters as have been referred to it by delegations. The work of each session of the Conference is summarized in the reports issued by the Chairman at the conclusion of each session.

8. The website of the Preparatory Conference, www.ocean-affairs.com, contains a detailed narrative of the work of the Conference to date. The following is a summary of the work carried out by the plenary and by each of the working groups.

A. Matters considered by plenary

9. One of the first matters to be taken up during PrepCon I was the draft rules of procedure for the Commission. To facilitate discussion of this matter, the secretariat had prepared a set of draft rules in the form of a working paper (WCPFC/PrepCon/WP.1), which was considered by the Conference in informal session. Following a first reading at PrepCon I, second and third readings of the draft rules of procedure were completed at PrepCon II and III. Following each session, the interim secretariat produced a further revision of the working paper. PrepCon IV focused its attention on those rules where specific problems had been identified, namely rules 1, 14, 15, 23, 24, 30, 31, 34 and 35. While it was possible to resolve the outstanding issues in relation to a number of these provisions, it was noted that considerable differences remained on other provisions. It was agreed to return to the draft rules of procedure at PrepCon V with a view to consideration of all remaining issues.

10. Other substantive matters dealt with by plenary include the administrative arrangements for the PrepCon itself, including the adoption of terms of reference for the establishment of an interim secretariat and a voluntary fund to finance the sessions of the Conference, and the question of the location of the permanent headquarters of the Commission. With respect to the latter, a decision was taken at PrepCon III to recommend to the Commission that the headquarters of the Commission be located in the Federated States of Micronesia, noting that, pursuant to

article 9, paragraph 7, of the Convention, the decision would be taken by the Contracting Parties to the Convention.

11. In addition, the plenary has dealt with other matters raised by delegations or of concern to the Conference as a whole. As a result, the Conference adopted a resolution on participation in the Preparatory Conference (WCPFC/PrepCon/12) and a resolution relating to IUU fishing and limits on fishing capacity (WCPFC/PrepCon/22).

B. Working Group I

12. The mandate of WG.I is to consider issues relating to organizational and budget matters. At PrepCon I, WG.I identified an open-ended list of the possible needs of the Commission and agreed that working papers should be developed that would provide information on appropriate options for delivering the identified service needs of the Commission.

13. WG.I held two meetings during PrepCon II. As a result of these meetings, WG.I was able to adopt a programme of work to guide the group through the next two sessions of the Conference (WCPFC/PrepCon/14). At PrepCon III, in accordance with the plan of work it had adopted, WG.I began consideration of the costs of a Commission secretariat to deliver core functions and science, the costs associated with the various options for providing additional Commission services and the application of cost recovery principles for the provision of specified Commission services. WG.I also considered possible mechanisms for funding participation in the work of the Commission by developing States consistent with article 30, paragraph 3, of the Convention. With respect to the provisional indicative budget of the Commission, WG.I considered that, while all components of the provisional indicative budget would be subject to further refinement and detailed discussion, the budgetary estimates set out in a working paper prepared by the Secretariat (WCPFC/PrepCon/WP.7) provided a useful indication of the likely costs associated with the Commission. WG.I also reviewed a possible structure for a Commission secretariat outlined in WCPFC/PrepCon/WP.7, and noted that, while the structure would need to be revisited at later sessions and would continue to evolve in line with discussions taking place in WG.II, it broadly reflected the basic principles that had been agreed at earlier sessions in terms of size, efficiency and cost-effectiveness.

14. WG.I held four meetings during PrepCon III, focusing its attention on the development of a formula for assessment of contributions to the budget of the Commission and on the development of financial regulations for the Commission, including regulations to govern the administration of the fund established under article 30, paragraph 3, of the Convention. In addition to a first reading of the draft financial regulations for the Commission contained in document WCPFC/PrepCon/WP.2, WG.I made substantial progress on consideration of the issues associated with the scheme for assessment of contributions to the budget of the Commission. Following its deliberations, WG.I requested the secretariat to prepare a revision of its working paper (WCPFC/PrepCon/WP.13), for further consideration at PrepCon V, taking into account the discussions that had taken place.

C. Working Group II

15. WG.II concentrated its discussions during PrepCon I on designing a work plan to obtain the necessary information to enable later decisions to be taken on the development of recommendations for the implementation of articles 12 and 13 of the Convention and paragraph 10 of resolution I. The group recommended that a number of working papers be prepared that

would seek to gather information regarding science needs, existing providers of regional science and their activities, and any existing information on the status of tuna stocks in the Convention Area. In accordance with that request, at PrepCon II the interim secretariat provided WG.II with a study containing: (a) a review of the WCPFC Convention to identify science needs; data requirements; priority-setting, planning and co-ordination of research; and the review of scientific work; (b) an analysis of information from regional organizations and arrangements on the processes used by those organizations to identify their scientific requirements; and (c) an analysis of information from such organizations and arrangements on their current activities, including species covered, membership, staffing levels, sources of funding, budgets, sources of data and methods used to collect data; and potential overlap with the WCPFC Commission's scientific activities.

16. WG.II held five meetings during PrepCon II and was able to develop, on a provisional basis, a revised alternative structure for scientific functions. WG.II also recommended to the Conference that it establish a scientific coordinating group (SCG) to assist WG.II in carrying out those parts of its terms of reference which require special scientific and technical considerations. The first meeting of the SCG was held in July 2002, in conjunction with the annual meeting of the Standing Committee on Tuna and Billfish.

17. At PrepCon III, WG.II reviewed the report of the first meeting of the SCG and took note of summary statements on the status of stocks in the Convention Area prepared by the SCG (WCPFC/PrepCon/15/Annex II). WG.II also discussed the special requirements of small island developing States in relation to data needs and scientific research. As a result the interim secretariat was requested to prepare a paper, in conjunction with interested parties, on the special requirements of developing States in regard to data requirements and technical capacity. No agreement was reached on a model for meeting the science and data needs of the Commission and it was considered that further work would be required to progress this issue.

18. At PrepCon IV, no formal meetings of WG.II took place. However, WG.II met informally in order to receive a briefing and have an exchange of views on the progress of intersessional work required and to review its work plan for future meetings. The Working Group agreed on a draft work plan for WG.II and for the SCG, including necessary intersessional activities, to be circulated to all participants through the chairman of the Working Group and the secretariat. It was noted that the work plan was intended to be flexible and would be subject to periodic review and adjustment.

19. The second meeting of the SCG took place in July 2003. In accordance with the work plan, the meeting focused on developing the long-term data needs of the Commission, identifying research priorities and research planning and coordination and on updating the summary stock status statements for the major target species of tuna.

D. Working Group III

20. WG.III met for the first time during PrepCon III. It considered the needs of the Commission with respect to monitoring, control and surveillance, identified by reference to the articles of the Convention, as well as the principal elements of a boarding and inspection scheme and the monitoring, control and surveillance component of the Commission's observer programme. The working group also adopted a programme of work (WCPFC/PrepCon/21).

21. During PrepCon IV, WG.III discussed draft procedures for boarding and inspection prepared by the Chairman of the Working Group (WCPFC/PrepCon/WP.14). Following

discussion of the procedures, the Working Group requested the chairman, with the assistance of the interim secretariat, to revise the draft for further consideration at PrepCon V. The Chairman of WG.III was also requested to prepare a discussion document on proposed guidelines for the rights, duties and responsibilities for observers, captains and crew, using similar guidelines adopted by other regional organizations and national governments as a starting point. In addition, the interim secretariat was requested to prepare an information paper on vessel and gear markings and a paper on vessel monitoring systems. It was agreed that these information papers, together with the draft guidelines on rights and responsibilities of observers would serve as the basis for substantive discussions at the next meeting of WG.III.

III. OUTSTANDING ISSUES AND PRIORITIES

22. The proposed work plan for PrepCon V is set out in detail in an Information Note issued by the interim secretariat in August 2003. In addition, the Conference will need to consider a number of proposals submitted by delegations, including a proposal for a draft resolution on capacity control. Given the short time available at PrepCon V, it is likely that it will not be possible for the working groups to deal with all the items on their agendas during the session. Accordingly, and bearing in mind the possibility that the Convention may enter into force before the working groups have completed their tasks, it is important to identify those tasks that must be completed before the Convention enters into force. In this regard, and without detracting from the importance of the subject-matter, it is suggested that much of the work of WG.II and WG.III is of an ongoing nature. Once the Commission begins to function, it is anticipated that the work of WG.II (including SCG) and WG.III would be continued by the Scientific Committee and the Technical and Compliance Committee respectively.

23. Subject to the consideration of the Conference, the proposed objectives at PrepCon V would be as enumerated in the following paragraphs.

24. The **informal plenary** will seek to conclude its consideration of outstanding issues with respect to the draft rules of procedure, in order that these may be adopted at the first session of the Commission.

25. **Working Group I** will consider:

- (a) the revised draft scheme of contributions to the budget of the Commission;
- (b) the draft financial regulations; and
- (c) (if possible) the provisional draft budget for the first year of operation of the Commission.

Assuming that WG.I can reach substantial agreement on a scheme of contributions to the budget of the Commission and on the draft financial regulations at PrepCon V, matters relating to the structure of the Commission secretariat and the provisional budget could be addressed in detail at the next session of the PrepCon, in the light of any recommendations from WG.II. In this regard, it is suggested that, for future sessions, priority should be given to the work of WG.I over that of other working groups.

26. **Working Group II** will consider:

- (a) the report of the second meeting of the SCG, including summary statements on the status of stocks (WCPFC/PrepCon/28);
- (b) the provisional structure for the scientific structure of the Commission;
- (c) the role of existing regional organizations in obtaining the best available scientific and other fisheries-related information (using, as a basis for discussions, the reports contained in WCPFC/PrepCon/WP.15/Rev.1 and Add.1 and WP.16/Rev.1 as well as the report and recommendations of SCG 2);
- (d) the special requirements of developing States and territories with respect to data requirements and technical capacities (WCPFC/PrepCon/WP.15/Add.1);
- (e) approaches to ecosystem and bycatch issues (using, as a basis for discussion, WCPFC/PrepCon/WP.10).

The most pressing matter for WG.II to deal with before the close of the PrepCon is the scientific structure of the Commission. Without agreement on this, at least for a transitional period following entry into force, it will be difficult for WG.I to finalize the structure for a Commission secretariat and the budget for the provision of services to the Commission. At PrepCon V, therefore, WG.II should aim to finalize recommendations relating to the scientific structure of the Commission, including the role of existing regional organizations in the transitional phase.

27. **Working Group III** will continue its work on the elaboration of a draft scheme for boarding and inspection. In addition, if time permits, WG.III will consider proposed guidelines for the rights, duties and responsibilities for observers, captains and crew, as well as a proposed scheme for vessel and gear markings.

IV. FUTURE WORK PROGRAMME

28. On the assumption that the Convention will enter into force in June or July 2004, it is suggested that there would be a need for two further sessions of the Preparatory Conference in 2004. These would be necessary in order to address priority issues and to finalize the proceedings of the Conference in an orderly manner.

29. PrepCon VI, which would take place in March or April 2004, would:

- (a) Finalize recommendations relating to the structure and composition of the Commission secretariat and provision of services;
- (b) Finalize recommendations relating to the draft budget of the Commission for its first years of operation;
- (c) Finalize recommendations relating to the scheme for assessment of contributions to the budget;
- (d) Consider and adopt procedures for the selection of the first Executive Director of the Commission;

(e) Consider and approve the draft provisional agenda for the first session of the Commission; and

(f) Continue work on monitoring, control and surveillance issues and identify priority issues for consideration by the Commission and the Technical and Compliance Committee.

30. PrepCon VII, which would be the final session of the Preparatory Conference would be held back to back with the inaugural session of the Commission as soon as possible after entry into force (if not on the exact date of entry into force). The main purpose of PrepCon VII would be to formally adopt the final report and recommendations of the Preparatory Conference and to conclude the business of the Conference. In this regard, it should be noted that the interim secretariat would need sufficient time between PrepCon VI and PrepCon VII to draw up the final report of the PrepCon (on “all matters within its mandate”) in order that it can be circulated in advance of the session and made ready for presentation to the Conference.

31. Subject to the need to finalize any outstanding recommendations, it is likely that PrepCon VII would be a short, two-day, session, which would be immediately followed by the inaugural session of the Commission. The inaugural session of the Commission, which may perhaps be convened by the Chairman of the Preparatory Conference (subject to a decision to that effect), would elect the first Chairman of the Commission and have a ceremonial aspect as well as a substantive aspect. The substantive aspect of the session is not discussed in the present paper, but would be a matter for consideration at PrepCon VI based on the background paper prepared for PrepCon I (WCPFC/PrepCon/BP.9).

V. RECOMMENDATIONS

32. The Preparatory Conference is invited to consider and approve the work programme as set out in Parts III and IV of the present document. The Conference is also invited to consider and decide upon the date and place of the next substantive session of the PrepCon as well as the time and place of the final session and inaugural session of the Commission.

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