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Philippines – Position Paper on Proposal for CMM on bigeye, yellowfin and skipjack

WCPFC9-2012-DP04
5 November 2012



Republic of the Philippines
Department of Agriculture
Bureau of Fisheries and Aquatic Resources
PCA Compound, Elliptical Road, Diliman, Quezon City
Tel. Nos. 929-95-97 * 929-80-74

PHILIPPINE POSITION PAPER

In support of the Philippine Proposed Conservation and Management Measure for Bigeye, Yellowfin and Skipjack Tuna in the Western and Central Pacific Ocean

The Philippines appreciates the Commission's acceptance of its proposal to allow Philippine traditional fresh/ice chilled fishing boats, operating as a fleet, to operate in high seas pocket 1 (HSP-1) Special Management Area during the 8th WCPFC. This proposal eventually became part of CMM 2011-01, which is set to expire on February 28, 2012.

Basis for the 2011 Proposal:

The above mentioned proposal was presented to the Commission in 2011 on the basis of the following factual grounds:

1. That it is generally observed, that since the implementation of CMM 2008-01, fishing effort has been transferred from the high seas to the CCM's EEZ ;
2. That as a result of the closure of both High Seas to Philippine traditional fresh/ice chilled fishing boats, following the implementation of CMM 2008-01, tuna production in the Philippines became less sustainable as the volume dropped significantly and the catch are mostly juvenile tunas;
3. That in the case of the Philippines, the transfer of fishing effort from the high seas to the CCM's territorial seas and EEZ has resulted in increased competition that has serious social, economic and conservation implications;
4. That the Philippine territorial seas and EEZ along with others is an important spawning and nursery ground of juvenile tuna, and that conservation measures have to be taken within this area of the CCM;

The Philippines proposal is also guided by Article 30(2)(c) of the Convention, which requires the Commission to ensure that conservation and management measures adopted by it do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto developing States Parties, and territories and possessions.

We are also guided by Article 8(1) of the Convention requiring compatibility of conservation and management measures established for the high seas and those adopted for areas under national jurisdiction.

We are also convinced that conservation measures of the CCM will be better implemented if the Commission takes into account the ecological, economic and social realities of the CCM;

Steps Taken by CCM to Comply with CMM 2011-01

In connection therewith, the Philippines made the necessary steps to ensure full compliance with the said Measure. A series of consultations with local stakeholders was undertaken which resulted in the development of a parallel local regulation –the Fisheries Administrative Order Number 245 - which incorporates, among others, all the requirements stipulated in CMM 2011-01. Moreover, FAO No. 245 sets catch limit based on effort and imposes penalties which are significantly higher than existing FAOs (Annex 1).

In addition, the Philippines is taking steps towards acquiring a patrol vessel that will enable the regular monitoring of its fishing vessels in the high seas and to ensure full compliance of its obligations under CMM 2006-08 on High Seas Boarding and Inspection, as well.

Basis for 2011 Philippine Proposal are still obtaining

However, attachment 1 of CMM 2011-01 only allow Philippine traditional fresh/ice chilled catcher fishing boats, operating as a group for fishing operations from October 1, 2012 to February 28, 2013, or a total of five months .

The Philippines believes that the factual, scientific, social economic and policy reasons obtaining at the time we made the proposal for the Commission to allow Philippine traditional fresh/ice chilled fishing boats to operate in HSP1 are still valid. For these reasons, the Philippines respectfully requests the Commission to consider our Proposed CMM that will allow 36 Philippine traditional fresh/ice chilled catcher fishing boats, operating as a fleet, to operate and fish in HSP-1.

Philippine Proposal is a Conservation Management Measure

The Philippines also wishes to inform the members of the Commission that the proposal is a conservation management measure imposed by the country for itself; the Philippine waters being a spawning and nursery ground of tunas. Such findings are clearly pointed out in the documents entitled “Fisheries Observers Preliminary Assessment of Purse Seine/Ring Net Fishing in Philippine Major Fishing Grounds during the FAD Fishing Closure CY 2010 [WCPFC-SC7-2011/ST- IP-07] submitted during the 7th Science Committee meeting; and the “Analysis of Purse Seine/Ring Net Fishing Operations in Philippine EEZ [WCPFC-SC8-2012/ ST-IP-04] provided during the 8th Science Committee meeting. The studies were conducted in a fleet operated in four (4) fishing grounds, namely the Mindanao Sea in the Celebes (CEL), the southern portion of the Philippine Sea in the Pacific Seaboard (PAC), central-south Sulu Sea (SS) and the West Philippine Sea (WPS) particularly in the Kalayaan Group of Islands. Of significant importance, are the findings indicated below:

The length frequency distribution of skipjack, yellowfin, bigeye and mackerel scad is shown in Figure 4. For skipjack, size ranged from 10 to 87 cm with mean length of 27 cm. The equivalent size ranges and mean lengths for yellowfin, bigeye and mackerel scad were 11-159 cm and 29 cm, 15-78 cm and 28 cm, and 9-40 cm and 23 cm respectively. These findings emphasize that the bulk of tunas caught by the fleet were essentially small and of comparable sizes.

A similar finding can be found in Figure 8 for the SC8 meeting document mentioned above. Initial reports of catches have indicated that the catches are significantly more mature in compared to those caught in the Philippine waters.

Proposal promotes limited fishing effort and is well regulated

The Philippine proposal provides for limited fishing effort; to wit, fishing was only allowed for a total of 36 catcher fishing vessels with gross tonnage of only 250 GRT or less and only for traditional fresh/ice chilled fishing vessels operating as a group. In addition, the deployment of fish aggregating device or FAD had been significantly reduced to only 40 per catcher under the Philippine FAD Management Plan.

Our sincere commitment to uphold CMM 2011-01 could best be illustrated by the fact that, to date, only eight (8) catcher fishing vessels and their support vessels are operating in HSP#1 for the reason that these are the only vessels that had fully complied with FAO No. 245.

More importantly, with catch documentation in place and full or 100 percent observer coverage in all catcher fishing vessels, Philippines would like to find out the effectiveness of this measure and if it will be proven otherwise, the country will be willing to make the necessary adjustments.

Our submission

It is our humble submission that our proposal will contribute to the conservation effort of bigeye and yellowfin tuna, through the decrease fishing pressure in the spawning and juvenile nursery fishing ground. It is also consistent with Article 30(2)(c) of the Convention, which requires the Commission to ensure that conservation and management measures adopted by it do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto developing States Parties. The proposed measure is also implementable as the same takes into account relevant scientific, social and economic factors.

With the above premises, the Philippines submits the Proposed CMM herein attached which will be implemented for a period of three (3) years from March 1, 2013 to February 28, 2016.





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FISHERIES ADMINISTRATIVE

ORDER NO. 245:

Series of 2012)

SUBJECT: Regulations and Implementing Guidelines on Group Tuna Purse Seine Operations in High Seas Pocket Number 1 as a Special Management Area

WHEREAS, the Philippines signed the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean and its Annexes on September 5, 2000, which was subsequently ratified by the Senate on 2005;

WHEREAS, the Philippines is a member of the regional fisheries management organization, the Western and Central Pacific Fisheries Commission (WCPFC);

WHEREAS, the WCPFC within its framework has developed resolutions and conservation and management measures relevant to fishing operations in the High Seas;

WHEREAS, in December 2008, the Commission adopted Conservation and Management Measure (CMM) 2008-01 for Bigeye and Yellowfin Tuna in the Western and Central Pacific Ocean with the following objectives:

- a. Ensure through the implementation of compatible measures for the high seas and EEZs that bigeye and yellowfin tuna stocks are maintained at levels capable of producing their maximum sustainable yield, as qualified by relevant environmental and economic factors including the special requirements of developing States in the Convention area as expressed by Article 5 of the Convention;
- b. Achieve, through the implementation of a package of measures, over a three-year period commencing in 2009, a minimum of 30% reduction in bigeye tuna fishing mortality from the annual average during the period 2001-2004 or 2004;
- c. Ensure that there is no increase in fishing mortality for yellowfin tuna beyond the annual average during the period 2001-2004 average or 2004; and
- d. Adopt a package of measures that shall be reviewed annually and adjusted as necessary by the Commission taking account of the scientific advice available at the time as well as the implementation of the measures. In addition, this review shall include any adjustments required by Commission decisions regarding management objectives and reference points.

WHEREAS, in the 8th WCPFC Regular Session in March 2012, CMM 2011-01 for Temporary Extension of CMM 2008-01 was adopted giving Philippines limited access to High Seas Pocket Number 1 (HSP-1) as a Special Management Area (SMA);

WHEREAS, this policy is designed as a conservation measure primarily to reduce effort in the Philippine waters;

WHEREFORE, in view of these premises, the Department of Agriculture, through the Bureau of Fisheries and Aquatic Resources (BFAR) hereby promulgates the following regulations and implementing guidelines.

Section 1. Definition of Terms. For purposes of this Order, the following terms as used herein shall mean and shall be construed as follows:

1. Automatic Location Communicator (ALC) or Mobile Tracking-Transceiver Unit – a two-way automatic tracking device approved by the Bureau to be installed on the fishing vessels that utilizes a satellite navigation and communication system for the purpose of transmitting information concerning the Philippine flagged fishing vessels' positions, fishing activities, and any other activity of the vessels as may be required.
2. Bureau/BFAR – Bureau of Fisheries and Aquatic Resources
3. Exclusive Economic Zone (EEZ) – an area beyond and adjacent to the territorial sea of a country as defined under their respective existing laws.
4. High Seas (HS) - the area beyond Philippine waters which does not belong to the jurisdiction of any other State.
5. Fisheries Monitoring Center (FMC) - serves as a land base component for fisheries monitoring control and surveillance which operates and maintains the Vessel Monitoring System.
6. Fishing vessel – any boat, ship or other watercraft equipped to be used for taking of fishery species or aiding or assisting one (1) or more vessels in the performance of any activity relating to fishing, including, but not limited to, preservation, supply, storage, refrigeration, transshipment, transportation and/or processing.
7. Purse Seine/Ring Net - a form of encircling net having a line at the bottom passing through rings attached to the net, which can be drawn or pursed. In general, the net is set from a boat or pair of boats around the school of fish. The bottom of the net is pulled closed with the purse line. The net is then pulled aboard the fishing boat or boats until the fish are concentrated in the bunt or fish bag.
8. Group Seine – purse seine/ring net boats operating as a group, consisting of a catcher boat and its support vessels, such as ice carrier boats, ranger and light boats.
9. RFMOs – refers to the Regional Fisheries Management Organizations that implements conservation and management measures on tuna such as IOTC, ICCAT, and WCPFC in which the Philippines is a member, or the CCSBT in which Philippines is a cooperating non-member.

10. BFAR Vessel Monitoring System (VMS) – refers to the National Fisheries Monitoring Center established and operated by the Bureau which is used to track and monitor the position, time and course and speed of commercial fishing vessels in the territorial waters, EEZ and the high seas for the purpose of conservation and management of fisheries resources.
11. CFVGL – Commercial Fishing Vessel/Gear License
12. IFP – International Fishing Permit
13. FAD – Fish Aggregating Devices that shall include drifting logs, other drifting objects and anchored FADs.
14. WCPFC – Western and Central Pacific Fisheries Commission
15. IOTC – Indian Ocean Tuna Commission
16. ICCAT – International Commission for the Conservation of Atlantic Tuna
17. CCSBT – Commission on the Conservation of Southern Bluefin Tuna
18. Regional Fisheries Observer – Personnel duly authorized by the Commission's Regional Observer Program to collect and record fisheries scientific data on fishing activities and monitor/report vessel compliance on the various CMMs by the Commission, other RFMOs and by the Bureau's compatible measures.
19. HSP-1 – High Seas Pocket 1 as referred to in CMM 2011-01 (see Annex A)
20. SMA – Special Management Area as referred to in CMM 2011-01
21. High Seas Fishing Day – This refers to the day when a fishing vessel sets its net with an intention to fish.

Section 2. Scope and Application

- A. This Administrative Order covers the 36 Philippine registered traditional fresh/ice chilled catcher fishing vessels granted access to the HSP1-SMA, having gross tonnage of not more than 250 GT issued with International Fishing Permits, and listed in the WCPFC.
- B. This Administrative Order applies only to HSP-1SMA, which is the area of the high seas bounded by the EEZs of the Federated States of Micronesia to the north and east, Republic of Palau to the west, Indonesia and Papua New Guinea to the south with exact coordinates as used by WCPFC Vessel Monitoring System.

Section 3. Allocation of Fishing Access.

A. Criteria in Qualifying for Fishing Access. Any person, corporation or entity who signifies intent to engage in group tuna purse seine operations in HSP-1SMA shall be prequalified based on the following criteria:

1. The traditional fresh/ice chilled catcher fishing vessels shall be no more than 250 GRT;
2. The fishing vessels are Philippine-registered, with valid Commercial Fishing Vessel and Gear License (CFVGL), and licensed with International Fishing Permit;
3. The fishing vessels must be SOLAS compliant;
4. The fishing vessels must be Catch Documentary Scheme compliant;
5. The purse seine net shall have mesh size not less than 3.5 inches starting at the mid body to the entire wing while ring net shall have mesh size not less than 3.5 inches at both wings;
6. The fishing vessels have not been convicted in any administrative or criminal offenses for engaging in fishing activities in the Convention Area in violation of any conservation and management measures adopted by the WCPFC;
7. The fishing vessels shall be registered with WCPFC;
8. The fishing vessels shall be equipped with two-way Vessel Monitoring System;
9. The fishing vessels shall avail of the services of accredited Regional Observer preferably fishery graduates;
10. Each group tuna purse seine/ring net operation shall commit to deploy no more than 40 FADs per catcher vessel;
11. The boat owner and three highest ranking officers of the boat must have attended the orientation to be conducted by the Bureau prior to operations;
12. The 36 vessel listed to access the high seas shall not fish in Philippine waters during the validity of their license in the high seas.

B. Procedure in the Allocation of Fishing Access.

1. **Letter of Intent.** All interested persons, corporations or entities shall submit a formal Letter of Intent (LOI) addressed to the Director of the Bureau not later than 15 days from effectivity of this FAO indicating the vessel details such as registered name, gross tonnage, and gear.
2. **Preliminary List.** The Bureau shall draw a preliminary list from those that submitted LOI. Subsequently, those in the list will be evaluated on the basis of their compliance to the criteria and their history of fishing operations in the High Seas prior to 2010.
3. **Allocation.** Each person, corporation or entity in the preliminary list will be allocated one (1) slot. If there are still remaining slots out of the thirty-six available slots, these will be raffled off among the persons, corporations or entities in the preliminary list. The companies given slots shall comply with all the requirements before given the final confirmation of the access

allocation. Failure to comply with the all the criteria shall result to revocation of the slot thus making the slot available for raffle to others in the preliminary list.

Section 4. Observer Coverage. All catcher vessels operating in HSP-1 SMA shall have 100% regional observer coverage in accordance to FAO 240 Series of 2012 on *Rules and Regulations in the Implementation of Fisheries Observer Program in the High Seas*, and WCPFC Conservation Management Measure (CMM) 2007-01. Priority will be given to fisheries graduates in the deployment of Observers.

Section 5. Vessel Monitoring System. All catcher vessels shall be equipped with and shall operate a two-way Automatic Location Communicator in accordance to FAO 241 Series of 2012 on *Regulations in the Implementation of the Vessel Monitoring System (VMS) in the High Seas*, CMM 2011-02. The fisheries monitoring center shall provide continuous real-time VMS information to the adjacent coastal States/Territories for monitoring purposes. Access to VMS and other data related to HSP-1 SMA shall be in accordance with WCPFC's Rules and Procedures for the Protection, Access to and Dissemination of High Seas Non-Public Domain Data and Information Compiled by WCPFC for the Purpose of Monitoring, Control or Surveillance (MCS) Activities and Access to and Dissemination of High Seas VMS for Scientific Purposes.

Section 6. Reporting.

- A. The vessels or the fishing company shall notify BFAR through electronic or any other means at least 24 hours prior to entry and no more than 6 hours prior to exiting the HSP-1 SMA. Likewise, this information shall be transmitted to the adjacent coastal States/Territories and WCPFC.
- B. The report should be in the following format: "VID/Entry or Exit: Date/Time; Lat/Long."
- C. The vessels operating in HSP-1 SMA should report sightings of any fishing vessel to the BFAR and WCPFC Secretariat. Such information shall include vessel type, date, time, position, markings, heading and speed.

Section 7. Vessel Listing. The Bureau shall maintain an updated list of all fishing vessels operating in the HSP-1SMA based on the foregoing vessel's entry and exit reports submitted to WCPFC. The list will be submitted to WCPFC and will be made available to WCPFC members and other concerned stakeholders through dedicated website, www.bfar.gov.ph.

Section 8. Monitoring of Port Landings. All landings of vessels operating in the HSP-1 SMA shall be made at the General Santos, Zamboanga, and/or other designated ports. Catch logsheet shall be accomplished and submitted to the Bureau to make certain that reliable catch data by species are collected for processing and analysis (see Annex B).

Section 9. Catch Limit. The annual total catch per vessel shall not exceed an equivalent to 273 high seas fishing days in the HSP-1 SMA ($4,923 \times 2 = 9846$ days, divided by 36).

Section 10. Net Mesh Size. All fishing vessels covered by this Order shall use net mesh size of not less than 3.5 inches starting at the mid body to the entire wing for purse seine, while mesh size of not less than 3.5 inches at both wings for ring net.

Section 11. Use of Fish Aggregating Device (FAD). Each group tuna purse seine/ring net operation shall deploy not more than 40 FADs per catcher vessel. Location coordinates of FADs should be submitted to the Bureau.

Section 12. Nature of Access Right. Any transfer of access right or replacement of vessel covered by this Order shall be subject to the prior approval of the Bureau and shall be based on the same conditions and criteria as provided herein, otherwise the transfer shall be considered void.

Section 13. Penalties. Any violations of the provisions of this Fisheries Administrative Order shall be penalized with the following fines and penalties:

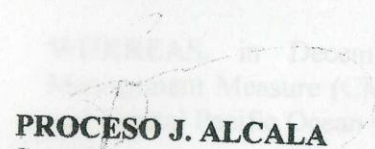
1. Sailing from the home port on the way to HSP-1 SMA without an on-board observer as required by Section 4 hereof shall be penalized with an administrative fine of Php 100,000.00 for the first offense, and Php 500,000.00 and revocation of their Special Permit for HSP-1 SMA for the second offense;
2. Intentionally non-reporting of position manually every four hours after having been notified by BFAR FMC that the VMS ALC is not transmitting as required shall be penalized with an administrative fine of Php 500,000.00 for the first offense, and Php 1,000,000.00 with revocation of Special Permit for HSP-1 SMA for the second offense;
3. Failure to report or notify BFAR as required in Section 6 hereof, shall be penalized with an administrative fine of Php 500,000.00 for the first offense, and Php 1,000,000 for the succeeding offenses;
4. Intentional non-submission of catch logsheets as required under Section 8 hereof, shall be penalized with Php 500,000 for the first offense, and Php 1,000,000 for the succeeding offenses;
5. Vessel exceeding HS fishing days as provided in Section 9 hereof, shall be liable to pay Php1,000,000 with revocation of all the Special Permit for HSP-1 SMA issued to the owner of the offending vessel;
6. Non-compliance with the prescribed mesh size provided under Section 10 shall be penalized with administrative fine of Php 1,000,000 for the first offense, and Php2,000,000 with revocation of Special Permit for HSP-1 SMA for the second offense;

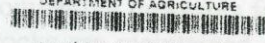
- Bureau of Fisheries and Aquatic Resources
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7. Deployment of FADs in excess of 40 as provided in Section 11 hereof shall be penalized with administrative fine of Php 50,000 per excess FAD and confiscation of the excess FADS;
 8. Unauthorized transfer of access right or replacement of vessel as provided under Section 12 hereof shall be penalized with Php1,000,000 at first offense, Php 2,000,000 as well as revocation of Special Permit for HSP-1 SMA at second offense.

Section 15. Separability Clause. If any section or provision of Order or part thereof, is declared unconstitutional or invalid, the other sections or provisions thereof which are not affected thereby shall continue to be in full force and effect.

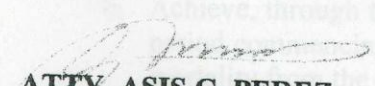
Section 16. Repealing Clause. All existing administrative orders, rules and regulations which are inconsistent with the provisions of this Order are hereby repealed or modified.

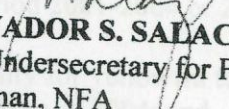
Section 17. Effectivity. This Order shall take effect fifteen (15) days after publication in any newspaper of general circulation and upon registration with the Office of the National Administrative Register and shall be deemed coterminous with CMM 2011-01.


PROCESO J. ALCALA
Secretary
Department of Agriculture

DEPARTMENT OF AGRICULTURE

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