



DEVELOPMENT OF A NEW WCPFC TROPICAL TUNA MEASURE WORKSHOP 3 (TTMW3)

Electronic Meeting
28-29 June 2023

Reference paper for allocation discussions

WCPFC-TTMW3-2023-02

16 June 2023

Prepared by the Secretariat

1. The purpose of this paper is to provide a reference to guide discussions on agenda item 4.1 of the June 2023 workshop on the development of a revised Tropical Tuna (TT) measure. It provides background information on the Commission's mandate with respect to allocation and its allocation-related discussion held in the past.
2. The WCPO Convention sets out the functions of the Commission in Article 10. Article 10(1) and Article 10(3) provide:
 - (1) Without prejudice to the sovereign rights of coastal States for the purpose of exploring and exploiting, conserving and managing highly migratory fish stocks within areas under national jurisdiction, the functions of the Commission shall be to:
 - ...
 - (g) develop, where necessary, criteria for the allocation of the total allowable catch or the total level of fishing effort for highly migratory fish stocks in the Convention Area;
 - (3) In developing criteria for allocation of the total allowable catch or the total level of fishing effort the Commission shall take into account, inter alia:
 - (a) the status of the stocks and the existing level of fishing effort in the fishery;
 - (b) the respective interests, past and present fishing patterns and fishing practices of participants in the fishery and the extent of the catch being utilized for domestic consumption;
 - (c) the historic catch in an area;
 - (d) the needs of small island developing States, and territories and possessions, in the Convention Area whose economies, food supplies and livelihoods are overwhelmingly dependent on the exploitation of marine living resources;
 - (e) the respective contributions of participants to conservation and management of the stocks, including the provision by them of accurate data and their contribution to the conduct of scientific research in the Convention Area;
 - (f) the record of compliance by the participants with conservation and management measures;
 - (g) the needs of coastal communities which are dependent mainly on fishing for the stocks;
 - (h) the special circumstances of a State which is surrounded by the exclusive economic zones of other States and has a limited exclusive economic zone of its own;
 - (i) the geographical situation of a small island developing State which is made up of non-contiguous groups of islands having a distinct economic and cultural identity of their own but which are separated by areas of high seas;

(j) the fishing interests and aspirations of coastal States, particularly small island developing States, and territories and possessions, in whose areas of national jurisdiction the stocks also occur

3. Articles 8 (Compatibility of conservation and management measures) and Article 30 (Recognition of the special requirements of developing States) are also relevant and specifically referred to in CMM 2021-01 (Tropical Tuna Measure).

4. The Commission's mandate to develop an allocation framework in 2022 for adoption in 2023 comes from paragraphs 27 and 41 of CMM 2021-01:

27. The limits set out in Attachment 1, Table 2 do not confer the allocation of rights to any CCM and are without prejudice to future decisions of the Commission. The Commission commits to transitioning to a more equitable allocation framework for high seas fishing opportunities that takes into account Articles 8, 10 (3) and 30 of the Convention. The Commission will commence a process to develop that framework in 2022, to enable the Commission to reach agreement in 2023 on hard effort or catch limits in the high seas of the Convention Area and a framework for the allocation of those limits in the high seas amongst all Members and Participating Territories that adequately takes into account Articles 8, 10 (3) and 30 of the Convention. The Commission shall also consider options as to how CCMs would use their limits.

41. The Commission commits to transitioning to a more equitable allocation framework for fishing opportunities that takes into account Articles 8, 10 (3) and 30 of the Convention. The Commission will commence a process to develop that framework in 2022, to enable the Commission to reach agreement in 2023 on hard limits for bigeye amongst all Members and Participating Territories.

5. Other provisions of the Tropical Tuna Measure may also be relevant, in particular paragraph 7:

In giving effect to this CMM, the Commission shall pay attention to:

- (a) the geographical situation of a small island developing State which is made up of non-contiguous groups of islands having a distinct economic and cultural identity of their own but which are separated by areas of high seas;
- (b) the special circumstances of a State which is surrounded by the exclusive economic zones of other States and has a limited exclusive economic zone of its own; and
- (c) the need to avoid adverse impacts on subsistence, small-scale and artisanal fishers.

6. The Commission has had several allocation-related discussions in the past. This background from WCPFC Summary Reports is provided verbatim for the information of CCMs and is set out in Annex 1 to this paper.

Background Information on WCPFC Allocation Discussions (from meeting records)

WCPFC3

7.3 Allocation

118. Dr David Agnew (Marine Resources Assessment Group Ltd., United Kingdom) presented a review of tuna resource allocation matters for the Commission's consideration in developing a scheme for the allocation of WCPO tuna resources ([WCPFC3-2006-15](#)). The report was commissioned by WCPFC2, and reviews specific challenges that the Commission will encounter by addressing the issue of allocation, and describes options for allocation schemes that may be utilized to address these challenges.

119. FSM, on behalf of FFA members, stated that the report provides a basis for further discussion on allocation, and reflects an appropriate balance of the interests of CCMs. However, FFA members expressed concern about the report's treatment of central issues of allocation. FFA members indicated that the role of the Commission is to determine stock-wide effort and catch limits and to make allocations for the high seas with no major role in waters under national jurisdiction as that is subject to the sovereign rights of coastal states. FFA members believe that CCMs will need to think beyond the limited scope of the report, and suggested that the report be referred to the SC and TCC for discussion and review, with reports made to WCPFC4.

120. The Commission noted New Zealand's plans to submit a proposal to WCPFC4 for holding a workshop on allocation, to be held in New Zealand in 2008.

121. Some CCMs, while noting the report's utility regarding the allocation issue, stated that they were not in a position to negotiate the basic legal framework of management of highly migratory species in relation to allocation. They suggested that the Commission prioritize its work so that issues such as conservation and management and fishing capacity are addressed prior to the issue of allocation.

122. The Commission:

- a. agreed that written comments by CCMs on the allocation report should be provided to the Executive Director by 31 August 2007 for collation and presentation to WCPFC4;
- b. noted the possibility of an allocation workshop to be held in New Zealand in 2008; and
- c. agreed on the need to prioritize the issues before the Commission, including the allocation issue, to assist with strategic planning.

WCPFC4

8.2 Allocation

327. The Executive Director presented [WCPFC4-2007-14](#), which summarizes the history of consideration of the allocation issue by WCPFC. Two CCMs provided comments on a discussion paper presented at WCPFC3 ([WCPFC3-2006-15](#)) in 2007. WCPFC4 was invited to discuss options for further consideration of the allocation issue in the coming year.

328. New Zealand stated that it felt holding an allocation workshop in 2008 would be premature.

329. New Zealand, on behalf of FFA-member CCMs, stressed the critical nature of determining equitable allocation arrangements for the development of SIDS, for the implementation of effective CMMs and for economic security for all CCMs. However, given the other priority issues facing the SC, TCC and Commission, it has not been possible to undertake the work programme outlined in WCPFC3-2007/15. Nevertheless, these CCMs will certainly be working to advance this issue over the next year.

330. Tuvalu echoed the points made by New Zealand, stating their expectation that the Commission will develop total allowable catch and effort limits for the high seas but will not prescribe allocations within EEZs.

331. WCPFC4 agreed to retain allocation as an agenda item for next year's meeting but noted it is not one of the top priority items for 2008.

WCPFC5

[WCPFC5-2008-20](#)

4.4 Allocation

71. The Chair introduced a paper on allocation (WCPFC5-2008/20), reminding the Commission that this issue was raised at WCPFC3, but following limited discussion at WCPFC4, it was deferred to WCPFC5.

72. Several CCMs, including FFA members, noted that although allocation issues are important, work on these issues is not a high priority task for the Commission at present. It was considered that discussion of allocation would be best conducted as a component of an overall strategic management plan once management objectives, reference points and total allowable catch (TAC) and/or total allowable effort (TAE) are identified and agreed on by the Commission.

73. Some CCMs representing FFA members clarified that long-term management of the resources in their EEZs is now being undertaken through the VDS, and that allocations in EEZs are decided upon by the coastal States.

74. The Commission agreed that consideration of allocation issues should be merged with the Commission's consideration of management objectives and reference points. Therefore, discussions of allocation issues at WCPFC6 will be guided by the outcomes of work on reference points and management objectives by SC5 and TCC5.

WCPFC15

6.3.1.b Para.28 allocation process

231. The Chair referred to the text of para. 28 of CMM 2017-01: "The limits set out in Attachment 1, Table 2 do not confer the allocation of rights to any CCM and are without prejudice to future decisions of the Commission. By 2019 the Commission shall agree on hard effort or catch limits in the high seas of the Convention Area and a framework for the allocation of those limits in the high seas amongst all Members and Participating Territories that adequately take into account Articles 8, 10 (3) and 30 of the Convention. The Commission shall also consider options as to how CCMs would use their limits", and noted the need to determine a process for allocations to take place, and enable considerations at WCPFC16. She asked members for proposals including on how the Commission could start discussions in early 2019.

232. Korea stated that the high seas fish effort needed to be adjusted in accordance with Convention Article8 (Compatibility of Conservation and Management Measures). It noted the need for sufficient time for discussions, and stated that the limits set forth in CMM 2017-01 Attachment1,Table 2 do not confer any rights to CCMs, and that there was therefore a need to start

our discussions without any assumptions. Korea suggested the need for a special session to address allocations in early 2019.

233. Solomon Islands, on behalf of FFA members, stated that workshops should be undertaken to determine high seas allocations, and referenced the discussion in WCPFC15-2018-DP09: Views on Paragraphs 28 and 44 of CMM 2017-01. They emphasized the need for preliminary discussions in advance of WCPFC16.

234. Kiribati noted it would participate in any work referred under para 28.

235. The EU stated that discussion on allocation needed a comprehensive approach, and that conversations regarding the high seas needed to also address allocation in EEZs. It noted both needed to be taken into account, and such an approach was in the spirit of cooperation and followed provisions of UNCLOS and the UNFSA; to address the high seas without considering the EEZs would be discriminatory and neglecting the large majority of tropical tuna fisheries.

236. Niue noted that WCPFC15 had made important progress in addressing conservation and management of the fisheries. It noted that implementation of para.28 must build a framework for the need to adequately take into account artisanal fisheries and stated that WCPFC needed to set aside sufficient time for needed discussions.

237. The Chair stated that Korea suggested a workshop be held in early 2019, and that a discussion on funding had not been held by FAC and might not be possible given the schedule. The workshop duration would need to be 1–2 days. She noted that the wording in para.28 and work agreed to be done in 2019 was specific. If a standalone meeting was to be held in 2019, funding (possibly external) would be needed. She observed that in the past requests had been made to the Executive Director to explore options, but the meeting would in that case be contingent on securing funding. She agreed it was hard to think about planning another meeting but stated that if work did not begin before WCPFC16, there would be a delay in meeting the timeframes in para 28 of CMM 2017-01. The Chair suggested that WCPFC15 agree that the Commission hold a two-day meeting in early 2019, pending availability of funds, and the Executive Director is tasked to explore funding options and communicate with members intersessionally.

238. Japan stated that it could support the proposed meeting schedule and having it dependent on the availability of funds, but noted the need to determine the TORs, and observed the need to address the comment from the EU. Japan agreed with the need for the Commission to discuss para.28, but stated there had to be a clear mandate in writing.

239. The Chair agreed that clear directions would be needed and stated she would work with the Executive Director to develop brief TORs, taking into account the comments raised. The WCPFC Vice-Chair subsequently presented draft TORs for a workshop for the framework for allocation for review, noting the objectives were drawn from para.28 of CMM 2017-01. The Chair invited comments noting the proposal was to have a 2-day stand-alone workshop, dependent on availability of funds.

240. Japan noted that IOTC and IATTC were addressing allocation, but that their approaches were similar to Article 10 of the Convention and did not have a true allocation framework. The EU noted that its previous intervention on this point and stated that it could not address high seas without looking at the situation in the EEZs. The EU noted there was an obligation for members fishing in high seas and coastal States to cooperate in order to ensure effective conservation and management of the stocks, and this should be reflected in the tasks or background of the TORs.

241. Tuvalu expressed a preference to retain wording that focused on holding a workshop on high seas allocation. RMI agreed with Tuvalu regarding the workshop focus and saw no need to consider processes of other tuna RFMOs. It stated that the workshop would not have a real outcome they

could foresee, noting that limits are already in place, and that some members were seeking to reinvent the situation.

242. During the ensuing discussion, members reiterated their positions, with some advocating for consideration of stocks throughout their range, and others seeking to limit the focus to setting high seas catch and effort limits. Japan indicated that it would be conducting bilateral discussions with the PNA and FFA members in 2019, and with the EU and the United States. Japan expressed its willingness to visit any members in the Pacific to have discussions, but not to hold a workshop. It encouraged other members to undertake such direct consultations, which it felt would facilitate the discussions. Indonesia stated its view that it was mandatory to have a workshop, noting that a discussion of the allocation framework would accommodate all these issues raised, including the relationship between high seas and EEZ allocations.

243. The Chair stated that in the absence of an agreement on the task workshop was unlikely to be productive, and suggested members consider updating para. 28 of the measure with a new target date of 2020. Korea and RMI expressed support for this suggestion and there were no views to the contrary.