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VIEWS OF THE UNITED STATES ON CONSERVATION AND MANAGEMENT MEASURES FOR BIGEYE TUNA AND YELLOWFIN TUNA

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The United States strongly supports effective conservation and management measures for bigeye tuna (BET) and yellowfin tuna (YFT) and attaches a high priority to the adoption of such measures at the December 2008 Commission Meeting in Busan, Korea. The United States expresses deep appreciation to the Chair for his comprehensive proposal, which we believe provides a solid basis for discussion at WCPFC5.

With respect to the proposals under consideration, the United States reviews each proposed measure and evaluates its viability against four specific criteria. First, any proposed measure should have a measurable and credible conservation benefit. Even if the effects are not directly quantifiable, the measure should be justified on the basis that it can be expected to reduce the level of fishing mortality for the stocks being conserved (i.e., BET, and to a lesser extent, YFT) to an appreciable degree. Second, any proposed measure should ensure that the conservation burden is distributed equitably among Members of the Commission and among industry sectors. We emphasize that the criterion here is *equitably*, rather than *equally*. Of course, special circumstances of developing States must be taken into consideration, but all Members should accept a fair and equitable share of the responsibility for reductions. A proposal under which some countries are expected to shoulder the entire burden, while others have no obligation along these lines, does not meet this criterion. Third, before accepting any proposed measures, the Members must have confidence that the measure can be effectively implemented, monitored and enforced by all Members. Uneven implementation, or an inability to monitor whether a measure is, in fact, being implemented by all Members, will weaken support for such measures and may make agreement on future measures more difficult. Finally, Members must be able to assess

whether or not the adopted measure is having the intended or expected effect on fishing mortality for BET and YFT so that appropriate modifications can be made, as necessary.

The latter two points are particularly relevant in the early stages of the Commission's efforts to manage and regulate the fisheries under its purview. To date, the limited monitoring, control and surveillance (MCS) measures established and operating in the Convention Area serve to restrict the number and type of conservation and management measures that can be adopted with full confidence that they will be effectively implemented, monitored and enforced by all Commission Members. Thus, the Commission must ensure that the continued development of a stronger and more robust MCS regime goes hand in hand with any package of conservation and management measures for BET and YFT. In our view, the most important components in this regard are the Regional Observer Program and the Commission vessel monitoring system (VMS). Both programs are critical to the Commission's ability to manage and conserve the fish stocks for which it is responsible. In addition, Members must provide the Commission with timely and accurate reports, particularly with respect to the catch and landings of tuna and tuna-like species. The Commission has stressed the importance of such reporting as the only means of monitoring the effectiveness of any CMM for BET and YFT.

As the MCS programs and strategies of the Commission develop and become more robust, a wider and more sophisticated range of options for conservation and management of tuna species will become available. For the time being, however, realistic and effective measures are limited to a fairly basic set of options. Conservation and Management Measures must evolve side by side with the Commission's developing MCS regime and each must complement and serve to reinforce the other. With these considerations in mind, US views on the development of an achievable, measurable, enforceable suite of measures, that move the Commission toward its conservation goal, are presented below. The elements below are drawn primarily from the Chair's draft text, a particular strength of which is the integration of both conservation and management measures and MCS components in order to establish a comprehensive approach. The discussion below also draws from previous proposals considered by the Commission and other relevant documents as outlined.

LONGLINE MEASURES

Longline catches of BET have a greater impact on the biomass of that stock than the purse seine or the Philippines and Indonesia fisheries (WCPFC-SC4-2008/SA-WP-1, figure 44.) On the other hand, the increase in catches by the other fisheries has been seen as a major contributor to overfishing of BET, in the sense that overfishing has occurred only

recently, after the other sectors expanded, whereas the impact of longline fishing has been relatively stable over the last four decades. Therefore, proposals to end overfishing have focused on an equitable reduction of fishing by all sectors (meaning that each sector should be reduced by comparable amounts, even though each has different impacts). As a result, the United States is prepared to accept measures to reduce fishing mortality of BET in longline fisheries, as part of an overall package of measures that provides an equitable balance between all Members and fishing sectors. The actions taken in each sector must provide a substantial contribution to eliminating overfishing on BET and YFT and be evaluated annually to ensure that progress is being made and that the contribution being made by each of the fishing sectors to achieving the goal is reasonably equitable.

PURSE SEINE MEASURES

The Chair's proposal for purse seine vessels establishes a goal of a 30 percent reduction in fishing mortality of BET in the purse seine fishery in the Convention Area between 20°N and 20°S. This is to be achieved through a combination of measures including a closure of the fishery on the high seas between 20°N and 20°S for 90 days, and the development of a vessel day scheme for these high seas areas. In addition, the proposal calls upon coastal states to take measures to achieve the goal of a 30 percent reduction in waters under their respective jurisdiction.

In particular, for waters under the jurisdiction of the Parties to the Nauru Agreement, these goals are to be achieved through the implementation of the PNA vessel day scheme (VDS) and the "Third Implementing Arrangement" adopted by the PNA in May 2008, according to their domestic processes and legislation. The United States sees merit in looking at these arrangements, in particular (in the short term) the Third Implementing Arrangement, to identify whether there are aspects that can be adopted and implemented by all Commission Members as part of the Commission's management regime. In our view, looking at these arrangements and adopting elements of them under a specific Commission Conservation and Management Measure that applies to all Members, and is implemented in a uniform manner, is preferable to leaving them to be implemented on a case-by-case basis by a subset of Members only in certain areas.

With respect to the VDS, the United States greatly appreciates the constructive dialogue that the PNA has entered into with us so that we might better understand the details of the VDS, and we look forward to continuing those discussions. With a better understanding of the VDS, we will be in a better position to gauge its effectiveness as a component of the Commission's conservation and management regime. However, this

would require a more universal understanding and a more transparent implementation of this scheme.

As a result, and pending further analysis of the factors discussed above, the Commission should, in our view, seek to avoid adopting different sets of measures to apply on the high seas and in waters under national jurisdiction. Instead, the Commission should adopt measures that apply, except in limited circumstances, throughout the Convention Area, or subset thereof (such as between 20°N and 20°S); that can be effectively implemented, monitored and enforced; and that can achieve an identified conservation benefit in the short-term. In this regard, it may be necessary to develop both near-term and longer-term measures to achieve the reductions in fishing mortality for BET.

To this end, the United States supports the immediate development of a multi-year program to be implemented as follows:

(1) As noted above, a robust MCS regime is essential to any effective conservation and management program. Therefore, the United States supports the proposal in the Chair's draft for **one hundred percent observer coverage in the tuna purse seine fishery** operating in the Convention Area between 20°N and 20°S. At the same time, we recognize that this level of coverage cannot be achieved overnight and will require a phase-in period. As a result, we support a five-year phase-in with the level beginning at 20 percent in 2009, and rising by twenty percent each subsequent year to achieve one hundred percent coverage by 2013. The Chair's draft also reinforces the existing requirement for one hundred percent VMS coverage, which the United States also supports and which is to become effective as of April 1, 2009.

(2) As the level of observer coverage outlined above is phased-in, the United States is prepared to consider further measures that can be effectively monitored and enforced through the ROP and other MCS measures. Therefore, the proposal for a **closure for the purse seine sector, including restrictions on FADS, would be phased in over three years**, as follows:

Year 1 (2009): In the first year the purse seine fishery would be subject to **a full 60-day closure throughout the Convention Area between 20°N and 20°S**, both on the high seas and in areas under national jurisdiction. To avoid unnecessary market disruption, this closure could be implemented in alternating periods by various fleets, with each country choosing one of two or three possible periods during which time its purse seine fleet would be inactive and remain in port for the 60 days.

Year 2 (2010): In year two, the 60-day closure of the fishery would continue as in year one. Again, each Member would choose, from among specific periods, the period its vessels would be in port.

However, in year two vessels would also have the option of accepting on board an observer from the Regional Observer Program (ROP observer) and continuing to fish during the closed period, provided that it carried an ROP observer on board for a period of 90 days (the 60 day closure plus an additional 30 days) and did not make any sets on fish aggregating devices during this 90 day period.

In other words, **vessels would have a choice of tying up for 60 days, or not setting on FADs for 90 days, with an ROP observer on board to monitor compliance with this requirement.**

Year 3 (2011): In year three, the measure would shift to **a 90-day closure of the FAD fishery**, with an ROP observer on board all purse seine vessels to monitor compliance with this requirement. Although, under the 5-year phase in outlined above, observer coverage in year three is projected at 60 percent, this should be sufficient to cover this requirement. If the fleets are distributed fairly evenly between two 90-day periods, the observers would only need to cover 50 percent of the vessels in each period. This provision would be subject to review by the Scientific Committee in 2011 and could be modified if the science so warrants.

The implementation of this measure would be monitored closely and reviewed each year. Implementation along the timeline outlined above would be contingent on a sufficient number of trained and authorized ROP observers being available to be deployed on vessels during the specified periods. If sufficient observers are not available (or perhaps even if they are) **the option could be left open beyond year two to allow vessels to tie up for 60 days, rather than carry an observer and not fish on FADs for 90 days.**

(3) The United States is prepared to support a CMM that includes the **closure of the high seas pockets** within the Convention Area to all fishing by purse seine vessels, on the following basis. We recognize, as a practical matter, that a number of Pacific Island States, under the Third Implementing Arrangement, intend to issue licenses to fish in their exclusive economic zones only to States that agree not to fish in these high seas areas. We see implementation of this provision on a State-by-State basis as problematic on a number of fronts. Among other things, we see a risk of uneven implementation, challenges to effective monitoring and enforcement, and potential differential treatment of and by States resulting from a number of factors. In our view, this type of differential and potentially uneven implementation should be avoided.

Implementation of this measure by all States, on a transparent, equal and equitable basis under the framework of the WCPFC, will serve to mitigate significantly any such risks. Moreover, this measure can be effectively implemented and enforced using the Commission's VMS, which TCC4 recommended be fully operational as of April 1, 2009, with a six-month period, through October 1, 2009 to resolve any issues that might arise. Implementation of this requirement would be contingent on the full implementation of the VMS system by the date envisioned. As a result, this requirement would become effective January 1, 2010. Our consideration of this element is without prejudice to the freedom of States to fish on the high seas in accordance with international law, subject to specific terms and conditions including the duty to cooperate with other States for the conservation and management of highly migratory fish stocks throughout their range. In particular, we do not see such a measure as a precedent for closure of other high seas areas or for further differential treatment between the high seas and areas under national jurisdiction.

(4) WCPFC CMMs 2005-01 and 2006-01 both call for the development of FAD management plans by WCPFC Members. Although we see such plans as useful, they also lend themselves to wide discrepancies between and among Members with respect to FAD management. The Chair's proposal includes additional specific requirements with respect to FADs. Building on the Chair's proposal, the United States supports the development of **guidelines by the Commission to establish minimum terms and conditions for national FAD management plans**. Such guidelines should include: provisions for marking FADs with a unique vessel identifier in a uniform format agreed by Commission members; a limit on the total number of FADs that can be on board the vessel and those deployed by the vessel at any time; criteria for gear specifications (both FADs and nets) to minimize aggregation and capture of juvenile BET; and other relevant provisions. Such guidelines would ensure a level of uniformity among such plans that is not currently foreseen.

(5) The United States supports the development of **a dedicated research programs to investigate modifications to fishing gear and techniques that would reduce catches of juvenile BET in purse seine nets**. Any such research plan should include close cooperation with, and direct input from, the purse seine fishing industry and might begin with a survey of industry for specific ideas and suggestions along these lines.

(6) Finally, during the three-year period of the implementation of such a measure, the Members would commit to developing **a longer-term CMM integrating more fully the components of the PNA vessel day scheme and the Third Implementing Arrangement**. This would require that uniform procedures be developed to ensure that management goals would be met and that the plan would be implemented in a uniform way by all

Members throughout the Convention Area or an indentified sub-area, such as between 20°N and 20°S.

MEASURES FOR OTHER COMMERCIAL FISHERIES

Other commercial fisheries are dominated by those in the Philippines and Indonesia, which have the second greatest impact on BET and the greatest impact on YFT. An equitable approach to the management of these stocks must include measures to reduce these fisheries to achieve the overall goal of a 30% reduction in total fishing mortality. Beginning in 2007, CCMs have undertaken to take necessary measures to ensure that the total capacity of their respective "other" commercial tuna fisheries for BET and YFT do not exceed the average level for the period 2001-2004 or 2004. The WCPFC will need to work closely and in a cooperative manner with Indonesia and the Philippines as they develop and implement further management measures for these fisheries. In particular, the WCPFC should request that these two countries provide to the Commission any relevant information regarding their plans to achieve the Commission's stated goal.

OTHER CONSIDERATIONS

The United States is prepared to consider other elements such as those contained in Paragraph 30 of the Chair's draft related to developing skipjack fisheries, although we may have further comments on the specific text of any such proposal.

We also note that the Chair's text is comprehensive in that, in addition to elements related to conservation and management issues and the emerging MCS regime, it also includes provisions related to fishing capacity, allocations, and other issues. The United States recognizes that all of these issues are important and need to be addressed at the earliest possible time. At the same time, we are of the view that these issues are best dealt with separately and not within the framework of the CMM being considered for BET and YFT at WCPFC5. In particular, the United States has continued to engage in research and analysis on the issue of fishing capacity and welcomes a discussion within the Commission that will lead to effective control of fishing capacity in the WCPFC Convention Area. In the meantime, the capacity limits established for certain fisheries in Paragraph 1 of CMM-2006-01 remain in effect.