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**FFA MEMBERS PROPOSAL FOR A CMM FOR BIGEYE, SKIPJACK AND
YELLOWFIN TUNAS**

**WCPFC8- 2011- DP/09
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Paper prepared by FFA Members



4 November 2011

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Dear Dr Karnella,

FFA members' proposals on a conservation and management measure for bigeye, skipjack and yellowfin tunas.

FFA members submit for your consideration the following comments and draft proposals on a review of CMM 2008-01. We have structured this submission in the same way as our previous letter on this subject from May this year. The letter contains updated positions and further development in several key areas. We note that development of the enhanced CMM is still underway and are expecting to receive comments and proposals from other CCMs. As such, this letter is submitted without prejudice to the further development of positions by FFA members collectively or individually.

This submission is structured into four parts:

- A Key concepts and principles for the enhanced CMM;
- B Purse Seine Fishery Measures;
- C Longline Fishery Measures;
- D On the forward and latter provisions;

Each part is divided into sub-headings which include comments from FFA members, and where possible, proposed text.

A. Key concepts and principles for the enhanced CMM

A. i) Structure and timeframe for application of CMM

FFA Members believe that the management of these stocks should continue to be based on the major tools in CMM 2008-01, and that an enhanced CMM should build on, tighten and strengthen the approaches in CMM 2008-01.

FFA members suggest that the structure of CMM 2008-01 with general objectives, measures by fishery, and final clauses could be maintained in the new CMM.

FFA members would prefer a repeat of the three-year time frame for an enhanced CMM. Some additions are proposed to avoid uncertainty that was associated with timeframes and continuity of non-time related provisions in CMM 2008-01.

46. The measures described above for the purse seine and longline fisheries shall be reviewed annually in conjunction with ~~the scientific advice from the SC and TCC~~ to measure the impact and compliance with the measure. ~~The measure shall remain in place unless the Commission adopts alternative measures.~~ This review shall consider, inter alia, whether the measures are having the intended effect and the extent to which all CCMs and fishing sectors are contributing to achieving the Commission's conservation goals. Any review does not imply the cessation of the Measure (and in particular any limits imposed).

47. ~~This Measure replaces CMM 2005-01 & CMM 2006-01.~~ This Measure replaces CMM 2008-01. Except for measures where there is an explicit date of cessation, this CMM shall remain in effect until the Commission decides otherwise.

A. ii) Objectives

FFA members suggest that objectives for the CMM would be specified in the opening section, and would not require further elaboration in other parts of the CMM, that is fishery specific objectives are not required within purse seine or longline sections of the CMM.

FFA members acknowledge that the agreed WCPFC process for developing an enhanced CMM 2008-01 specified that the enhanced CMM would cover bigeye, skipjack and yellowfin. FFA members expect that an objective for skipjack may need to be articulated possibly along the lines of maximising the economic yield of skipjack fisheries.

FFA members expect that the drafting of objectives may require updates based on latest scientific advice following SC7.

FFA Members propose that any reference to annual reviews in the CMM should include an appropriate reference to the need for adequate time to assess measures along the following lines

- Adopt a package of measures that will be reviewed annually and adjusted as necessary by the Commission taking account of the scientific advice available at the time and of the need for adequate time to appropriately assess the impacts of measures. In addition, this review shall include any adjustments required by Commission decisions regarding management objectives and reference points.

A. iii) Charter provision and catch attribution matters

FFA members propose to replace paragraph 2 in CMM 2008-01 with language that

- i) clarifies the manner in which catch and effort are attributed under the CMM;
- ii) identifies vessels considered to be chartered by reference to the Charter Notification CMM; and
- iii) provides that attribution for the purpose of this CMM shall be without prejudice to attribution for rights and allocation in future.

~~2. For the purposes of these measures, vessels operated under charter, lease or other similar mechanisms by developing islands States and participating territories, as an integral part of their domestic fleet, shall be considered to be vessels of the host island State or territory. Such charter, lease or other similar mechanism shall be conducted in a manner so as not to charter known illegal, unreported and unregulated (IUU) vessels. The Commission shall consider the implementation of a Charter Arrangements Scheme at its 6th Session in 2009. For the purpose of paras .(referring to longline catch limits and high seas purse seine effort limits), attribution of catch and effort shall be to the flag state, except that catches and effort of vessels notified as chartered under CMM 2011/xx (the new Charter Notification CMM) shall be attributed to the chartering CCM. For the purpose of the in-zone purse seine effort limits, all catch in the EEZ shall be attributed to the coastal state.~~

Attribution for the purpose of this measure is without prejudice to attribution for the purposes of establishing rights and allocation

A. iv) SIDS provision (paragraph 6 of CMM 2008-01)

FFA members support maintaining paragraph 6 as drafted in CMM 2008-01. As implied by the phrase "unless otherwise stated" FFA members are prepared to give case-by-case consideration of the application of paragraph 6 throughout the enhanced CMM. FFA members are prepared to consider the possible first application of the existing 3 month FAD closure and catch retention provisions to Pacific Island domestic vessels (draft text is proposed in Section B). This is consistent with our position at WCPFC5.

FFA members advise of our preference to operationalise, to the extent possible, the notice in preamble of CMM 2008-01 of FFA members intention to replace the current system of flag based bigeye catch limits with zone-based longline limits. FFA members, who are not members of PNA, are also intending to elaborate zone-based purse seine limits. Accordingly, appropriate provisions are proposed in Section B and C for inclusion in purse seine and longline measures. In high seas areas, drawing on the Kobe Management Workshop and Bellagio framework, FFA members are seeking the application of a principle of at least equal rights in high seas of the Convention Area.

6. Unless otherwise stated, nothing in this measure shall prejudice the legitimate rights and obligations of those small island developing State Members and participating territories in the Convention Area seeking to develop their own domestic fisheries.

A. v) Existing arrangements provision (paragraph 7 of CMM 2008-01)

FFA members advise other CCMs that the Multilateral Treaty between FFA members and the United States remains under renegotiation given the impending expiry of current arrangements. FFA members anticipate that these negotiations will progress in the period before WCPFC8.

A. vi) Jurisdictional matters

FFA members support maintaining paragraph 5 as drafted in CMM 2008-01.

However, to ensure that the WCPFC has the best available scientific data and information, FFA members propose an additional sentence related to encouraging data collection and sharing with the WCPFC, relating to fishing activities occurring within areas under national sovereignty.

5. The Commission encourages CCMs to ensure that the effectiveness of these measures is not undermined by a transfer of effort into archipelagic waters and territorial seas. CCMs that have not been providing data relating to fishing activities within archipelagic waters and territorial seas are encouraged to share with the WCPFC, fisheries data relating to fishing activities occurring in those areas.

A. vii) WCPFC and IATTC overlap area

FFA members propose that for clarity, a new paragraph should be included in the new CMM, that specifies catches and fishing effort in the area of overlap between IATTC and WCPFC are counted against limits in this measure.

Proposed new paragraph:

Until a joint management scheme is agreed between the IATTC and the WCPFC, the limits and conservation measures of this CMM apply to the area of overlap between IATTC and WCPFC (area bounded by 150°W-130°W and 4°S-60°S) in the same way as they apply to other waters in the the Convention Area. Catches and effort taken by vessels operating in the area of overlap between IATTC and WCPFC shall be counted against the applicable limits specified in this CMM.

A. viii) Reference Points

FFA Members propose to include a commitment to the development of reference points as follows:

Proposed new paragraph:

Notwithstanding the setting of catch and effort limits throughout this CMM, the Commission places a high priority on the development of target and limit reference points in a more formal harvest strategy context. This development will be completed by.....

B. Purse Seine Fishery Measures

FFA members propose that the whole section in CMM 2008-01 on purse seine measures should be shortened. As a starting point for the purse seine section of the new CMM, FFA members propose that the purse seine fishery measures should start with the 2011 measures applying over the 3 year life of the CMM, and considering that many of the special exemptions do not apply.

Specific comments on the structure and content of the purse seine fishery measures section of the new CMM follow, with a whole of purse seine fishery measure proposal which includes a mixture of proposed CMM language and comments are provided below.

B. i) Areas of application

Given that the process agreed at WCPFC7 includes skipjack management, FFA members propose that the area of application of purse seine measures in general should be throughout the range of the purse seine fishery (including areas beyond 20°N and 20°S), acknowledging that some measures will be more appropriately focussed on the tropical area only.

B ii) Purse Seine Effort Transfers

FFA Members consider that para 9 of CMM 2008-01 will not be needed if purse seine measures cover all high seas and EEZs in the Convention Area and should be deleted.

B. iii) Purse Seine fishery measures to be applied

FFA members propose the following principles for purse seine fishery measures:

- FFA Members support the setting of defined effort limits throughout the area of application of the CMM, and would prefer to have a clear articulation of zone-based purse seine limits under the CMM for high seas, PNA EEZs, other FFA EEZs and other EEZs in the Convention Area..
- For the high seas limits, the principle we are pursuing is for at least equal allocations among Commission members of high seas fishing rights.
- FFA Members who are not members of PNA intend to establish zone-based purse seine limits.
- To the extent that specific EEZ limits are not specified in the measure, relevant CCMs shall notify the Commission of specific effort limits in 2012.

PNA members have decided to use the 2010 effort levels in their EEZs as the baseline for this measure in their EEZs as put forward in the WCPFC draft presented to TCC7.

FFA Members propose that the purse seine fishery measures would be comprised of:

- Catch/effort limits in all applicable areas (as described above);
- FAD closure:
 - Current closure for 3 months 1 July – 30 Sept; and
 - Additional closure of one month for all vessels on the high seas and non-domestic vessels in EEZs (timing to be considered).
- Two high seas pockets closed from 1 Jan 2010 remain closed until the Commission decides otherwise; and
- Catch retention.

B. iv) High Seas effort limits and additional high seas closures

The PNA additional high seas closure will greatly reduce the available area for high seas purse seine fishing activities, which will also impact on the total high seas fishing opportunities that are available. Where there are fishing opportunities in the high seas, the principle that FFA members will be pursuing is at least equal allocations among Commission members of high seas fishing rights.

B. v) Catch retention

FFA members confirm that paragraph 27 (requirement for 100% retention of all bigeye, skipjack and yellowfin) should be retained . and propose that the species covered should be extended to include including mahi mahi, rainbow runner, wahoo and billfish. B. v) Observer coverage and monitoring

The 100% ROP coverage requirement must be retained in the new CMM. Drawing from experience in implementing the ROP, FFA members propose additional language that builds on paragraph 28 and clarifies that in accordance with the hybrid approach it is not acceptable to use of flag State observers in place of ROP observers. It is also the position of FFA members that national licensing requirements related to observer coverage must be complied with where a vessel has access to a coastal State's EEZ.

B. vi) Alternative or incentive Arrangements

FFA members accept that paragraphs 15 and 16 in CMM 2008-01 didn't work. However the concept of having some incentive for purse seine industry to continue to develop ways to mitigate catches of juvenile bigeye and yellowfin tunas is valuable for future tropical tuna management options. The aim of such an approach must be to achieve reductions equal to the reductions of the new measure. Such alternative measures should be reviewed by the SC and TCC prior to the Commission considering whether to approve them.

Noting the lack of reliable estimates of bigeye catches as a serious obstacle to the implementation of bigeye bycatch-related alternative arrangements, FFA Members request statistics on bigeye bycatch by zone and fleet

The Commission should note the scope for application of MSC certification to WCPO tuna fisheries as an incentive arrangement as an alternative to the development of separate incentive arrangements by the Commission

FFA Members propose that the Commission should call on market states in the CMM to apply their own measures to reduce bigeye catches.

B. vii) FAD Management Plan and Monitoring, Research and encouraging industry

FFA members propose that paragraphs 23 – 26 in CMM 2008-01 should be deleted.

FFA members proposal on Purse Seine Fishery Measures

**** It is proposed that paragraphs 8 -30 of CMM 2008-01 would be replaced, although some of these provisions may need to be reconsidered in light of how the negotiations proceed.****

[New para.] Unless otherwise stated, the purse seine fishery provisions of this Measure apply to the EEZs and high seas in the Convention Area.

Purse Seine Fishery Measures

**** see the specific principles described in section B ii) above. ****

Purse seine fishing on FADS 20N - 20S shall be closed as follows:

(a) from 1 July – 30 September for all vessels in all areas of EEZs and high seas.

(b) from [a one month period yet to be specified] for all vessels fishing in the high seas and for all foreign vessels fishing in EEZs.

~~22. The high seas pockets indicated in Attachment D will be closed effective from 1 January 2010 and remain closed unless the Commission decides otherwise. at its 6th annual meeting in December 2009. At this meeting the Commission will also consider the closure of all high seas pockets in the Convention Area between 20 north and 20 south.~~

Observers

~~28. Purse seine vessels fishing within the area bounded by 20°N and 20°S exclusively on the high seas, on the high seas and in waters under the jurisdiction of one or more coastal States, or vessels fishing in waters under the jurisdiction of two or more coastal States, shall carry effective 1 January 2010, an observer from the Commission's Regional Observer Programme. Flag States may not substitute a ROP observer with an observer from their national program. Where these requirements cannot be met the vessel shall not leave port to commence fishing. The provisions of this paragraph shall not prevent the imposition by coastal States of additional terms and~~

conditions of fisheries access on purse seine fishing vessels fishing within their EEZ, including observer coverage requirements.

Catch Retention

27. In order to create a disincentive to the capture of small fish and to encourage the development of technologies and fishing strategies designed to avoid the capture of small bigeye and yellowfin tuna, CCMs shall require their purse seine vessels fishing in EEZs and on the high seas within the area bounded by 20°N and 20°S from 1 January 2010, subject to the Commission implementing the program in Paragraph 28 for 100 percent coverage on purse seine vessels by the observers from the Regional Observer Program, to retain on board and then land or transship at port all bigeye, skipjack and yellowfin tuna, mahi mahi, rainbow runner, wahoo and billfish, except where fish of these species are subject to requirements for live release under national law.. The only exceptions shall be:

- a) when, in the final set of a trip, there is insufficient well space to accommodate all fish caught in that set noting that excess fish taken in the last set may be transferred to and retained on board another purse seine vessel provided this is not prohibited under applicable national law; or
- b) when the fish are unfit for human consumption for reasons other than size; or
- c) when serious malfunction of equipment occurs.

Alternative arrangements

[New para.] The Commission may consider applications from Members seeking to establish arrangements as an alternative to elements of the CMM. Such applications shall be reviewed by the SC and TCC prior to consideration by the Commission.

[New para.] The Commission notes the scope for application of MSC certification to WCPO tuna fisheries as an incentive arrangement as an alternative to the development of separate incentive arrangements by the Commission

[New para.] The Commission encourages market states to apply their own measures to reduce bigeye catches and report back to the Commission on measures they have taken..

C. Longline Fishery Measures

FFA Members consider it essential that there should be an additional 10% reduction in bigeye catch limits to respond to the Scientific Committee recommendation for additional reductions in bigeye tuna fishing mortality across all gear types,

FFA members advise of our intention to operationalise, to the extent possible, the notice in preamble of CMM 2008-01 of FFA members intention to replace current system of flag based bigeye catch limits with zone-based longline limits. The zone-based limits will reflect the principle of equitable participation in the longline fishery for all SIDS, including a minimum level of participation FFA members are seeking the application of a principle of at least equal rights in high seas. For the moment, FFA members are prepared to accept flag-based catch limits to ensure that the objective of the CMM is achieved. This should be viewed as an interim arrangement only and while there are flag-based limits in place in the CMM for longline fisheries, the application of paragraph 6 in CMM 2008-01 must be maintained in the new CMM, accordingly FFA members propose that paragraph 34 of CMM 2008-01 should be retained.

To improve the transparency of the CMM, it is proposed that tables of limits be specified for each of the years following the adoption of the CMM in 2011 – there should be a separate table for bigeye and yellowfin with limits by CCM for 2012, 2013 and 2014.

FFA Members Proposal on Longline Fishery Measures

Proposed to replace paragraphs 31 - 38 of CMM 2008-01 although some provisions may need to be reconsidered in light of how the negotiations proceed.

[new para] Noting paragraph [XX – new paragraph below], in the interim, the following limits shall apply for bigeye and yellowfin (see table X and Y)

****Table X would identify each CCM's limit compared to the baseline in current attachment F (or any updated figures that are available)***

- ***The US and China will be subject to the full 30% reduction from their original baseline.***
- ***There should be an additional 10% cut to the bigeye catch limits of CCMs with limits exceeding 2,000 tonnes in 2011***
- ***Numbers in Table X will reflect current paragraphs 32 and 38 which set a minimum limit of 2,000 tonnes (for non SIDS) and deal with limits for cooperating non-members.***
- ***Table X should also deal with further reductions for CCMs that have exceeded their current catch limits in 2008-01 and the expectation that these will be achieved.***

Separate Table Y with YFT catch limits based on average of 2001-2004 as already reported to Commission. Countries with less than 2000t catch same rules apply as for BET.*

[new para XX] The Commission notes that for the purposes of this measure, the current flag-based limits are necessary to achieve reductions in bigeye fishing mortality. FFA Members are committed to the development and adoption of a comprehensive scheme of zone-based measures which will replace and/or complement current flag-based limits. This includes the longline VDS adopted by the PNA that will replace flag-based limits.

34. In accordance with paragraph 6, the limits for bigeye tuna established in paragraphs [31 to 33 above], shall not apply to small island developing State members and participating territories in the Convention Area undertaking responsible development of their domestic fisheries.

D. detail on the forward and latter provisions

Other commercial fisheries, reporting, final clauses, attachments

D i) Preamble and Definitions

FFA members propose the addition of a new preambular paragraph that reflects the seventh paragraph in the preamble of the WCPF Convention.

FFA members also propose that the FAD definition from CMM 2009-02 should replace the definition in Note 1 of CMM 2008-01. This should be placed at the front end of the CMM as a new paragraph.

[new preambular paragraph to be added to the CMM] Further noting that the Preamble of the Convention recognises that smaller island developing States have unique needs which require special attention and consideration in the provision of financial, scientific and technological assistance.

[new para] For the purposes of this measure, a FAD is considered to be any object or group of objects, of any size, that has or has not been deployed, that is living or non-living, including but not limited to buoys, floats, netting, webbing, plastics, bamboo, logs and whale sharks floating on

or near the surface of the water that fish may associate with.

D ii) Other commercial fisheries (paragraph 39 of CMM 2008-01)

FFA members note that this provision needs to be revised to apply to all commercial fisheries for bigeye, skipjack and yellowfin in EEZs and high seas, including those outside of 20N and 20S.

Noting the SIDS exemption, FFA Members consider that limits should be cover other commercial fisheries for skipjack, noting that fisheries such as pole and line fisheries generally have relatively lower impacts on stocks because they take larger fish, and also generally have less bycatch

Also it would be preferable for the provision to be strengthened to include, where possible, a better description of the fisheries that this provision encompasses and some further clarity on the limits and the fisheries to which the provision will apply.

D iii) Tables and Attachments

FFA members propose that Attachments A and Attachment C in CMM 2008-01 should not be carried over into the new CMM. FFA members believe that attaching the text of arrangements is not good practice for an operational CMM.

FFA members propose that Attachment E of CMM 2008-01 is not needed, given changes above.

FFA members note that based on experience with CMM 2008-01, it would be preferable to have catch limits or effort limits specified within the CMM, this could be attached as attachments, schedules or tables within the body of the CMM. Ideally, it would be good to give some consideration to a process or mechanism, where the Commission can revise the applicable limits without the whole CMM needing to be re-endorsed. This might be because of more current data becoming available following the adoption of the CMM, or because a penalty may be imposed on the applicable limit for a CCM.

D. iv) Reporting and data provisions (paragraph 40 and 43 of CMM 2008-01)

FFA members support the new paragraph on provision of operational catch and effort data included in the WCPFC draft considered at TCC 7.

Proposed new paragraph:

CCMs shall provide within the agreed timeframes each year, complete and accurate operational catch and effort data and size composition data for all fleets in the format required by the rules and requirements adopted by WCPFC as "Scientific Data to be provided to the Commission".

D. v) Penalties

FFA members propose that the following principles should be applied as penalties within the new CMM:

- poor data = better monitoring ie increased ROP coverage;
- overcatch or exceed allowable effort = pay back;
- stronger penalties for repeat offenders.

Ideas for a Penalty schedule

Transgression	Penalty
Non provision of operational data	Double ROP LL observer coverage requirement, rationale is that this provides more real time data and at least addresses lack of data

Overfishing of catch limit	Pay back in following year for 1 st offence, payback at double the rate for 2 nd offence, black list the fleet for 3 rd offence Some further work required on how to operationalise it, whether the second offence must be within a certain timeframe of the first offence, whether different magnitudes of overcatch are treated the same etc.
Ignoring FAD closure	Offence under IUU CMM – so penalty not specified here also reference to national laws
Not carrying an observer	Offence under IUU CMM – so penalty not specified here. This will also be a breach of coastal State national laws
Exceeding high seas effort allocation	Same principal as over catch, pay back in following year with increased penalties for repeat offenders

D. vi) Other provisions (paragraphs 41, 42 44, and 45 of CMM 2008-01)

FFA members propose that paragraphs 41, 44 and 45 be deleted.

FFA members propose to delete paragraph 42 relating to Port State provisions, which is probably better dealt with elsewhere.

D vii) Capacity Limits

FFA Members support the principles of the Kobe III decision on capacity, and consider that developed fishing members should freeze large scale purse seine and longline capacity under their flag and support the transfer of capacity and rights to SIDS.

FFA members have developed these proposals and principles in good faith to contribute to the conservational and management of Western and Central Pacific Tuna Fisheries. We trust that these will be useful to you and to all CCMs and request that you circulate this letter widely.

Yours sincerely,



Faalavaau Perina Sila
Chair,
Forum Fisheries Committee