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FFA Member views on Disproportionate Burden

WCPFC 11

November 2014



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Context

- General Introduction
- How Article 30 and CMM 2013-06 and -07 impact on decision making by the Commission
- Different manifestations of DB within WCPFC
- Examination of how DB is dealt with in other cases:
 - International law (non-fisheries)
 - National examples
- Options for dealing with DB within WCPFC
- Outcomes from adequate/inadequate handling of DB within WCPFC



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Introduction - note on Article 30

- Article 30 is about “special requirements of developing States” and is often referenced.
- But no consistent understanding of its application – ESP the obligations it places on the Commission and CCMs.
- 30(2)(c) – Commission shall recognise the need not to transfer a disproportionate burden to developing States, territories etc.
- Commission cannot implement a CMM that transfers a disproportionate burden.
- No commission wide assessments to date.



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- CMM 2013-07 agreed to operationalise Article (builds on Res 2008-01).
- CMM 2013-06 agreed as a basis for assessing whether a DB could result from a proposal – moving towards fuller consideration of costs and benefits.
- 2 focal areas for FFA members:
 - Getting DB right in measures
 - Using 13-06 as a tool to do so



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DB generally

- Is about the flow of costs and benefits to individual **CCMs** (or groups of similar CCMs).
- Is **NOT** about the impact on fishing fleets (except insofar as impacts on SIDS fleets prevent participation in the fishery)
- Is **NOT** about the impacts on non-SIDS (except insofar as assessing whether costs borne by SIDS are actually providing benefits to others)
- Must be approached differently and carefully on a case by case basis.
- 13-06 highlights this difference, including identifying what type of DB might accrue



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Different “types” of DB

- Administrative Burden – stemming from the cost or other burden on implementing a CMM. Can’t agree to CCMs where there is no capacity to implement them. Small additional reporting requirements are a big issue for small administrations.
- Outcome burden – where the outcomes of a CMM result in direct or indirect losses to a SIDS (or group).



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Quick Examples

Port States Measures Agreement (admin):

- Costs to SIDS very high (all major regional ports in SIDS) – SIDS need new officers, training and systems
- Costs to non-SIDS – NIL. Very few have ports used by FFV.
- Benefits – intangible and shared by all (reduced IUU)

Bigeye Conservation (outcome)

- Costs to SIDS very high – forgone purse seine access revenue, additional restrictions on developing fleets, interrupted product flow to processing plants
- Benefits to SIDS very small – low level of benefit from LL fishery
- Costs to other CCMs – may be high when examined at fleet level, but in proportion to “affordability” at the CCM level, very low
- Benefits to other CCMs vary – those with BET markets have large benefit, LL fleets in the long term.



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Outcome DB non-fish - International

- Rio declaration: *“common but differentiated responsibilities”*
- UN Framework on climate change.

“...and respective capabilities and their social and economic conditions”

“...standards applied by some countries may be inappropriate and of unwarranted economic and social cost to other countries, in particular developing countries”

“...and that, in order for developing countries to progress towards that goal, their energy consumption will need to grow”



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UN Framework cont

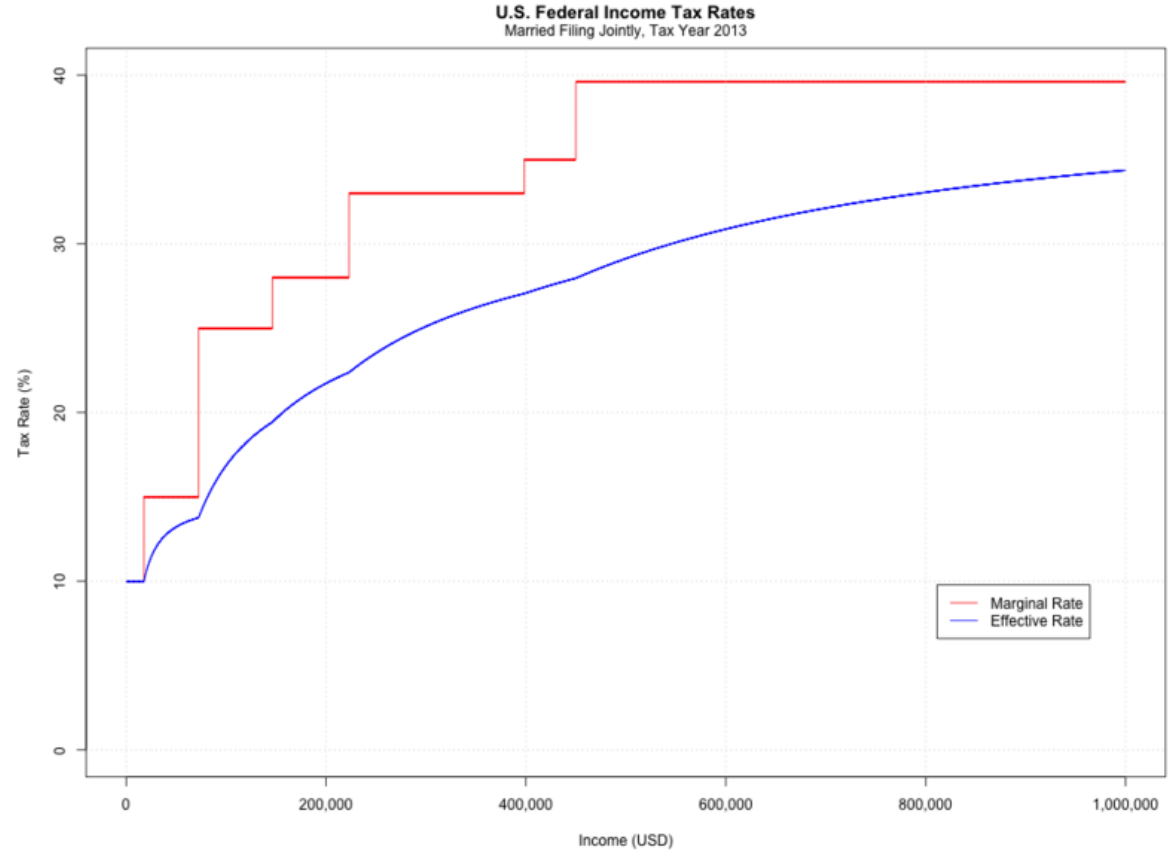
- Recognition that:
 - Responsibilities to implement management measures vary by party;
 - Capability to absorb costs drives expectations;
 - Social and economic conditions are a key criteria; and
 - **Even in a context where net reductions are required – developing States need to, and can grow.**



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Some National Examples – TAX!!!

- Many many countries employ “progressive tax” systems for income tax.
- Australia, Canada, China, EU (UK, Germany, Italy, Netherlands, France, Spain), Japan, Korea, NZ, Taiwan, US and so on.





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Progressive Tax

- Progressive tax rates address the OUTCOME DB of income tax.
- They recognise that lower earners do not have the same capacity to absorb taxation at the same rate as high earners (either proportionally or in absolute terms).
- Government specifically tailoring outcomes to mitigate unsustainable and unbearable costs on those who cannot afford them.



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Business Reporting Requirements

- Some countries have different financial (tax...) reporting requirements for different sized companies.
- Australia, UK, NZ and US – probably more
- Large companies must provide more detailed and more regular reporting
- Smaller companies; more basic requirements
- Recognises different capabilities to absorb responsibilities (and also probably different risks)
- This addresses the ADMIN DB of taxation reporting.



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What can be done if there is a DB

- Again – will vary with the nature of the issue
- Must focus on rebalancing flow of benefits and costs:
- Funding and technical assistance may help in some cases (PSMA)
- Provide additional benefits to SIDS (zone based longline management)
- Better balance costs – LL:PS & EEZ:HS balance
- Transfer payments – not favoured option but may be essential in short term while rights based solutions are identified.



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What can be done if there is a DB

Bottom line

- DB is a real thing, not an abstract concept.
- It must be identified early and specific measures put in place (preferably in the relevant CMM)
- Money is not always the solution, but may be required in some (hopefully short term circumstances)
- Long term arrangements will involve the establishment of rights
- Variety of interests amongst CCMs will always make this difficult.



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What happens without satisfying Art 30

- No agreement
- **Wider SIDS exemptions**
- Incomplete implementation
- Commission in breach



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What happens if we get it right?

- Sustainable fisheries
- Partnership approaches to utilise available fishing opportunities
- Contribute to economic development for SIDS
- Commission effective