



TECHNICAL AND COMPLIANCE COMMITTEE

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**FFA DRAFT PROPOSAL FOR ENHANCED CONSERVATION AND MANAGEMENT
MEASURES ON TROPICAL TUNAS**

WCPFC-TCC7-2011-DP/07

8 September 2011

Paper prepared by FFA Members



FFA

27 May 2011

Dr Charles Karnella
Chair
Western and Central Pacific Fisheries Commission
PO Box 2356
Kolonias
Federated States of Micronesia

Dear Dr Karnella,

FFA members' draft proposal for enhanced conservation and management measures on tropical tunas

In accordance with paragraph 8 of the WCPFC7 agreed process to develop an enhanced CMM and in response to the WCPFC Memorandum of 12 May 2011 on the process and schedule for the review of CMM 2008-01, FFA members submit for your consideration the following comments and draft proposals on a review of CMM 2008-01.

Noting your request that submissions are made as early as possible, this document is submitted as a draft for discussion without prejudice to FFA member's individual or collective positions throughout the negotiations of an enhanced CMM.

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 tropical tuna management 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.

Without prejudice

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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, yellowfin and skipjack. FFA members accept 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.

A. iii) Charters provision and catch attribution matters

FFA members support maintaining paragraph 2 as drafted in CMM 2008-01. However, noting some of the recent information relating to catch attribution particularly as it relates to reporting against limits in CMMs, we propose that additional text should be added to more clearly specify the process of reporting under the CMM, where paragraph 2 is applicable. It is highly important that the process of clarifying reporting lines under charter arrangements does not impinge on the rights of SIDS and participating territories to have catches and effort history attributed to their EEZs for the purposes of establishing exploitation and participation rights and allocations in the future.

2. For the purposes of these measures, vessels operated under charter, lease or other similar mechanisms by developing island 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. The catches by, or fishing effort of, vessels operated under charter, lease or other similar mechanism by developing island States and participating territories within their EEZ, shall be counted against the flag of the vessel where flag-based limits apply within this CMM, unless the developing island State or participating territory has notified the Commission that the vessel is considered to be a vessel of that host island State or territory.

Nothing in these measures, including where catches or fishing effort by a vessel are counted against flag-based limits for the purpose of the CMM, shall prejudice the rights of coastal States to have catches and effort history attributed to their EEZs 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 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 in 2013. FFA members anticipate that these negotiations will progress in the next few months and hope to be in a position to provide greater clarity in future discussions on the enhanced CMM.

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 are encouraged to share with the WCPFC, fisheries data relating to fishing activities occurring within archipelagic waters and territorial seas.

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:

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.

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).

This is a general rule, but FFA members acknowledge that some measures will be more appropriately focussed on the tropical area only.

B. ii) Purse Seine fishery measures to be applied

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

- FFA Members 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 limits are not specified in the measure, the Commission shall establish a process to complete the determination of specific effort limits in 2012.

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 3 months for all vessels on the high seas and non-domestic vessels in EEZs (implementation to be considered).
- Two high seas pockets closed from 1 Jan 2010 remain closed until the Commission decides otherwise; and
- Catch retention.

B. iii) 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 equal allocations among Commission members of high seas fishing rights.

B. iv) Catch retention

FFA members confirm that paragraph 27 (requirement for 100% retention of all bigeye, skipjack and yellowfin) should be retained. FFA members are considering whether this provision should also be extended to compulsory retention of other species.

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.

B. vii) Compensatory mechanism

FFA members note that there are trade-offs between measures that would need to be applied to purse seine fisheries, and anticipated improved catch rates in longline and other fisheries. In proposing the extension of the FAD closure for an additional 3 months, FFA members are mindful that there could be adverse impacts on some Pacific Island members, particularly the smallest developing island States. FFA members draw to CCMs attention, the WCPF Convention, Article 30 (paragraph 2 (c)) which states that

"In giving effect to the duty to cooperate in the establishment of conservation and management measures for highly migratory fish stocks, the commission shall take into account the special requirements of developing State Parties, in particular small island developing States and of territories and possessions, in particular... c) the need to ensure that such measures do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto developing States Parties, and territories or possessions."

For these reasons, FFA members propose that the major beneficiaries of any additional purse seine measures in the new CMM, should pay a fee to the Commission based on their LL bigeye catch limits to establish a compensatory fund to be accessed by Pacific Island FFA members who determine that they are suffering a disproportionate burden from the implementation of the 3 month extension to the FAD closure.

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

FFA members suggest that paragraphs 23 – 26 in CMM 2008-01 would 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 provisions of this Measure apply to the EEZs and high seas in the Convention Area.

[9. CCMs shall ensure that the effectiveness of these measures for the purse seine fishery are not undermined by a transfer of effort in days fished into areas within the Convention Area south of 20°S. In order to not undermine the effectiveness of these measures, CCMs shall not transfer fishing effort in days fished in the purse seine fishery to areas within the Convention Area north of 20°N.]

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 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. The provisions of this paragraph, shall not prevent the PNA from implementing the catch retention requirement in their EEZs in accordance with the Third Implementing Agreement. 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.

Compensatory mechanism

[New para.] The Commission shall establish a financing mechanism to compensate developing island States and participating territories for financial losses associated with the application of the additional 3 month FAD closure in para xxx based on the longline bigeye catch limits in para xxx.

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.

C. Longline Fishery Measures

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. FFA members are seeking the application of a principle of 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 avoid problems with CMM2008-01, 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.**
- **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 paragraph] 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 there could be a need to revise this provision in line with the extension of some purse seine measures outside of 20N and 20S. 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 under the new CMM.

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 suggest that paragraph 40 should be strengthened in line with the outcomes from WCPFC7 (refer to paragraph 173 of the WCPFC7 report). It should be clearer that operational level catch and effort data submission is important for effective management and all CCMs should be complying with this requirement:

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 paragraph 42 relating to Port State provision probably better dealt with elsewhere.

FFA members have developed these proposals and principles in good faith to contribute to the conservation 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



Maalavaau Perina Sila
Chair
Forum Fisheries Committee

cc. Matthew Hooper (WCPFC Vice Chair), Glenn Hurry (Executive Director)