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**USA PROPOSAL RESPECTING THE OPERATION OF PARAGRAPH 46 OF CMM
2008-01**

**WCPFC8-2011-DP/14
17 November 2011**

Letter and Proposal Submitted by the United States of America



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October 19, 2011

Dr. Charles Karnella
c/o Professor Glenn Hurry
Executive Director
Western and Central Pacific Fisheries Commission
PO Box 2356
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Dear Dr. *Charles Karnella* Karnella:

We believe that the discussions at the recent meeting of the Technical and Compliance Committee (TCC7) were constructive and thought-provoking. We appreciate your efforts and those of the Vice-Chair and the Executive Director at developing the straw man and allowing free and open discussion on this important matter. The United States would like to provide additional thoughts and some requests for further analysis on the important issues under consideration for "CMM 2011-01".

Analyses and information provided at the 2011 sessions of the Scientific Committee (SC) and TCC were not conclusive regarding the conservation effects of the seasonal ban on the use of fish aggregating devices (FADs) for two months in 2009 and for three months in each of 2010 and 2011. Although some CCMs have suggested that the FAD closures reduced significantly the catch of juvenile bigeye and yellowfin tuna without adverse impacts to the catch of skipjack tuna, the United States believes that there continue to be many technical and operational issues related to correctly identifying small bigeye and yellowfin with the needed levels of certainty. For instance, most of the data collected by fishery observers have not been verified through debriefing of the observers, which is a necessary step to ensure that the data collected by observers are reliable. The lack of verified data, the relatively low level of audited port sampling programs implemented around the region, and the fact that the recent changes in onboard sampling protocols during the past two years have yet to be peer-reviewed lead us to conclude that the results presented at TCC7 based on recent at-sea sampling have a high degree of uncertainty.

Separate from the issue of the reliability of data available to assess the effectiveness of the FAD closures, there are other concerns related to the compliance with, and enforcement of, this part of CMM 2008-01. For example, there are anecdotal reports that some CCMs are allowing foreign vessels to fish on FADs in their waters during the closures and that others are not requiring their own vessels to abide by the closures. The United States raised these concerns during the 2009



Commission meeting. To our knowledge, no CCM other than the United States has implemented the closures by regulation and no CCM other than the United States has actively enforced the FAD closure with respect to vessels flying their own flag. Our understanding of how this part of CMM 2008-01 has been implemented and enforced by other CCMs is not complete due to the lack of transparency, but we do not believe the FAD closures have been equitable or effective, or that the conservation benefits are reliably measureable at this time. Given this situation, we believe that additional analyses and discussion are needed before the Commission can make any definitive statements about the efficacy of this element of CMM 2008-01.

Given the uneven implementation of the FAD closures and questions regarding their effectiveness, the United States continues to support—as it did in Busan at WCPFC5—a full seasonal closure of the purse seine fishery. We believe the implementation and enforcement of such a closure would be more transparent and equitable than a FAD closure, and would lead to measurable conservation and management benefits for all species of tuna caught in the purse seine fishery. We believe that a full seasonal closure can be implemented in a manner that does not cause significant economic disruption to any CCM. Accordingly, the Commission should give greater consideration to a full seasonal closure.

We note that the information provided by the science provider during TCC7 did not fulfill the request of the Scientific Committee in paragraph 365 of the SC7 report for an analysis of the effects of two- and three-month full purse seine closures. We further note that using a 2009 baseline, a year in which there was a two-month FAD closure, confounds the assessment of the effectiveness of such a measure. Applying a uniform scalar to associated and unassociated effort to examine the effects of a full closure overestimates unassociated effort as it does not account for the proportion of unassociated effort that occurred during the FAD closure in 2009. We respectfully request that the science provider complete the requested two- and three-month full closure analyses as recommended by the SC, and we suggest that the base year not be one during which there was a FAD closure. Alternatively, if the base year had a FAD closure, unassociated fishing effort should be scaled appropriately. Additionally, we note that the SC requested the science provider to update projections for TCC7 and WCPFC8. The science provider's report to TCC7 explained that due to the limited time available between the sessions of the SC and TCC, it had made some minor modifications to the requested analyses in order to make the results available in time for TCC7. Since not all scenarios requested by the Scientific Committee were provided to TCC7, we recommend that the science provider produce the projections requested by the Scientific Committee for WCPFC8.

The work of the science provider establishes that closure of the two western high seas pockets have not resulted in the conservation benefits that can be measured with any statistical reliability. As predicted, and shown by the scientific provider, purse seine effort was redistributed at equal or greater levels into the adjoining EEZs. The result of this redistribution of effort was that fishing mortality in the area did not decrease; it increased in adjacent and other CMMs EEZs. Furthermore, a recent paper presented to the Scientific Committee (Sibert et al.) draws into question the biological efficacy of large high seas area closures and suggests that the period of time that any impact, much less a significant one, could be measured is on the order of decadal, as opposed to annual, time scales. The Commission should use the best scientific and technical information available when considering whether to continue the current high seas pocket closures

and before closing any further high seas areas. The United States believes that the model developed at WCPFC7 for the eastern high seas pocket would result in a stronger benefit-cost ratio from biological, compliance and economic perspectives.

In the past, we have heard some proposals to consider closing or otherwise specially managing particular areas due to relatively high CPUE of bigeye in those areas. We continue to seek a greater understanding of catch by size and suggest that the science provider be requested to provide information on size frequency of bigeye tuna by month and by 5 degree square for regions 3 and 4 as used in the stock assessments for the past five years. This information would be helpful in determining where special management areas might be best located.

With respect to longline fisheries, we continue to support the basic approach used in CMM 2008-01, limits on catches of bigeye tuna. However, the current measure suffers from a lack of firm definitions and rules related to catch attribution, including in the context of charter or similar arrangements. Without these definitions and rules, the Commission cannot be assured that the limits are being applied fairly among CCMs, or that they are having the desired conservation effect. Even with clear definitions and rules in the Commission on catch attribution, we believe that the management of this fishery will be improved by establishing a firm total allowable catch (TAC) and setting hard catch limits for every CCM. We emphasize that this approach, if formulated appropriately, would not prevent Small Island Developing States (SIDS) and Participating Territories from fulfilling their development aspirations in accordance with the Convention and Commission resolutions. For example, it could be made clear that the CCM-specific limits established for the next three years would in no way prejudice the limits established for subsequent periods.

Two advantages of establishing a firm TAC are that the desired conservation effect would be much more assured and it would open the possibility of allowing the transfer of catch limits among CCMs. The flexibility afforded by such transferability would bring both enhanced economic efficiency in CCMs' fisheries and an additional mechanism for SIDSs and Participating Territories to responsibly develop their fisheries. We recognize that formulating an appropriate TAC and setting catch limits for CCMs for the purpose of this measure (e.g., for three years) will require significant discussion. In our view, the catch limits established in CMM 2008-01 provide a good starting point and we are prepared to offer concrete proposals for setting the TAC.

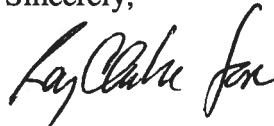
To improve the utility of catch limits as a management tool, we emphasize SC7's finding that "The Commission may consider measures that utilize a spatial management approach" (para 171). We would like to see analysis of the effects of various options of spatially differentiated catch limits and inclusion of such limits in this CMM if found to be appropriate.

We also believe that consideration should continue to be given to those fisheries that support locally owned and operated fleets and provide local markets with fresh longline-caught fish. As made clear in Article 10.3 of the Convention, equity considerations go well beyond historical levels of participation or catch, and should include factors such as the extent to which fisheries provide direct employment for local communities and the extent to which their catch is utilized for domestic consumption.

Finally, the United States continues to be concerned that there is no clear path to be followed in the event that no agreement is reached at WCPFC8 on a new conservation and management measure for bigeye, yellowfin and perhaps skipjack tunas. We agree with many CCMs that having no measure in place at the end of 2011 would not be an acceptable outcome. We would like to underscore our view that absent any agreement by the Commission on a new measure to replace CMM 2008-01, those elements in CMM 2008-01 that do not have end dates attached to them would continue in effect indefinitely. For those elements that have end dates attached, the Commission would need to make a specific decision to have them remain in effect. Unfortunately, there are some elements for which it is unclear whether there is an end date. At WCPFC7, the United States urged consideration of an alternative that would allow the important elements of CMM 2008-01 to continue in effect until a new measure is adopted. However, many CCMs preferred not to consider such an approach at that time. We would like to propose language along these lines and request that time be included in the meeting schedule to discuss the attached proposal.

We look forward to your next iteration of "CMM 2011-01" and the Commission's discussions in Palau. We would appreciate your sharing this letter with the other CCMs.

Sincerely,

A handwritten signature in black ink, appearing to read "Russell Smith". The signature is fluid and cursive, with the first name being more prominent.

Russell Smith

Deputy Assistant Secretary for International Fisheries

United States Proposal

Operation of Paragraph 46 of Conservation and Management Measure 2008-01

CMM 2008-01 was developed with the intent of implementing a package of measures over a three-year period, commencing in 2009, to manage bigeye and yellowfin stocks. However, in paragraph 46, the Commission recognized that the life of the measure might extend beyond that three-year period. In order to ensure a common understanding by all CCMs as to the operation of paragraph 46 of CMM 2008-01, the Commission agrees as follows:

1. The objectives, general rules of application, provisions dealing with other commercial tuna fishing effort restrictions, data provisions, port controls, capacity, reporting and all other provisions not tied to any specific year shall remain unchanged and in effect until the Commission adopts a new Conservation and Management Measure for bigeye and yellowfin tuna or repeals CMM 2008-01.
2. Starting in 2012, the provisions for purse seine and longline vessels and all other provisions that have different requirements under specific years shall continue to operate as specified for 2011 until the Commission adopts a new Conservation and Management Measure for bigeye and yellowfin tuna or repeals CMM 2008-01.

