



**COMMISSION
EIGHTH REGULAR SESSION**

Tumon, Guam, USA
26-30 March 2012

OFAD's REQUEST FOR AMENDMENTS TO THE WCPFC8

WCPFC8- 2011-OP/01

Paper prepared by OFAD



10/7/11 Rev. 10/13/11

OFAD's request for Amendments to the WCPFC8

Ocean Friends Against Driftnets (OFAD) was formed to alert and educate the public about the destruction from ongoing international driftnet activities.

OFAD consists of over 140 MSC certified sustainable Albacore Tuna "Troll & Pole" stakeholders (fishermen; Guardians) active in both the North and South Pacific Ocean.

Our goal is to teach & establish **sustainable fishing** methods internationally, and promote the benefits of a world-wide **BAN** on "high seas" driftnets.

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Submitted to the WCPFC's 8th regular session (WCPFC8) in Koror, Palau on Dec 5th – 9th of 2011

Written by OFAD president- John Harder

OFAD requests, to the WCPFC, the following amendments:

- Amend CMM-2007-02 [Commission Vessel Monitoring System](#)
- Amend CMM-2008-04 [Conservation and Management Measure to Prohibit the use of Large Scale Driftnets on the High Seas in the Convention Area](#)

TO: WCPFC8

OFAD would like to start by expressing its' sincere gratitude, to the Commission, for accepting OFAD as an observer to this commission. It hopes to serve you well.

OFAD would also like to express that it has stakeholder ship in the taking of Albacore Tuna stocks in the Pacific and may be considered as a "fishing entity". As OFAD is currently made up

of US stakeholders, its' intent, and nature, is universal. With stakeholder status, It intends to exercise its' rights to "Freedom of the High Seas".

In understanding the objective of the Convention is to ensure, through effective management, the long-term conservation and sustainable use of highly migratory fish stocks in the western and central Pacific Ocean in accordance with the 1982 United Nations Convention on the **Law of the Sea** and the 1995 UN Fish Stocks Agreement,

OFAD humbly requests that the commission review and adopt changes to: **CMM-2007-02** **Commission Vessel monitoring system**, in regards to:

3. With respect to the area north of 20°N and west of 175°E, the system will be activated at a date to be determined by the Commission.

OFAD suggests it to be activated on the date of January 1st, 2012 for the following reasons:

- 1. *In view of: The Law of the Sea, Article 119, Conservation of the living resources of the high seas: Part 3) "States concerned shall ensure that conservation measures and their implementation do not discriminate in form or in fact against the fishermen of any State".***

OFAD feels that using 175%E as a dividing point of origin to determine vessels with or without VMS is discriminating against states from the east, to states from the west. As state vessels from the west of the CA can enter the CA without activating VMS, as opposed to state vessels from east of the CA must activate VMS as soon as they enter the CA and must keep VMS active even after leaving the CA.

The adoption of the "Commission VMS" regarding east and west of 175%E, north of 20%N is not consistent with "The Law of the Sea", article 119, part 3) and therefore should be amended.

- 2. *Noting that*** from the year 2001- to the present time of 2011, **99% of all IUU large-scale driftnet sightings** have come from this northwest quadrant of the CA which has not yet been activated. If anything, this area should be considered as under "high surveillance", and should be the 1st in the CA to be active with VMS.

**In the documents of: 2005 & 2006 REPORT OF THE SECRETARY OF COMMERCE
TO THE CONGRESS OF THE UNITED STATES
CONCERNING U.S. ACTIONS TAKEN ON
FOREIGN LARGE-SCALE HIGH SEAS DRIFTNET FISHING
PURSUANT TO SECTION 206(e) OF THE
MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT ACT,
AS AMENDED BY PUBLIC LAW 104-297,
THE SUSTAINABLE FISHERIES ACT OF 1996,
all vessels were sighted west of 175%E**

During the NC meeting in Sapporo, Japan this last September, 2011, USCG was apprehending the f/v Bangun Perkasa for IUU fishing with large-scale driftnets. The vessel was captured inside this same northwest quadrant.

3. ***This CMM was originally adopted*** as CMM-2006-06 with this exception to the rule. It is now 2011 and the area is still exempt. States that oppose have **enjoyed 5 years of exemption** to prepare their nationals to abide by VMS. OFAD would like to know why it is taking so long, as 1 year of exemption is considered too long. OFAD suspects foul play. This should be unacceptable in terms of fairness and conservation management.

OFAD requests the Commission to revisit and consider adopting new amendments to: **CMM-2008-04 CONSERVATION AND MANAGEMENT MEASURE TO PROHIBIT THE USE OF LARGE SCALE DRIFTNETS ON THE HIGH SEAS IN THE CONVENTION AREA**

OFAD asks that the Commission strike out "Larger-scale" from this CMM for the following reasons:

Considering that: This year is the 20th anniversary of the UN moratorium on "high seas driftnets" as adopted in 1991, and also the 10th year anniversary on the return of "Large-scale high seas driftnets" in the WCPFC's CA that have been detected and reported by the WCPFC's only certified sustainable tuna "Troll and Pole" fishery. In 1998, before this commission was formed, there were 50-70 vessels fishing sustainably for Albacore Tuna inside the CA of the WCPFC in both North and South Pacific. In 2001, Albacore Tuna Trollers reported sighting large-scale driftnet vessels and detecting driftnet markings (scratches) on their diminishing catches of Albacore Tuna. By 2005, there was only a hand full of sustainable Albacore Tuna Trollers left fishing in the WCPFC's CA, as the minimum sustainable yield dropped way below 1 ton per day. This sustainable fishery, inside the CA, was allowed to perish. From 2005 to the present time of 2011, West Coast Albacore Troll and Pole fishermen continued to detect driftnet marked Albacore in their caches, making 2010 the highest year ever since 1988.

Please permit OFAD to resubmit a report presented to the WCPFC7 in Honolulu, HA. December, 2010.



"High Seas" Driftnets still prevail over Sustainable Tuna Fisheries!

TO: NMFS, NOAA, WCPFC, & United Nations

11/17/10

From: F/V "OCEAN JOY", US Doc. # 554321, Captain John Harder; co- founder of Ocean Friends Against Driftnets (OFAD)

Summary of 2010 North Pacific Albacore troll season.

Before setting out for fishing this season, I, John Harder, tried to pass on to NMFS, and the Coastal Commission, that "High Seas Driftnets" are still fishing for albacore tuna in the North Pacific. I have been reporting illegal driftnet activity for the past 10 years with pictures of gill-net marked fish & boat sightings on our international fishing grounds.

Trip #1

We left San Diego on the 26th of June for fishing. On the 30th of June we landed our 1st of many gill net marked fish. The fish were averaging 15 lbs. These were well marked fish that

would indicate targeted in 2009 (picture marked "A"). After moving north to the area of 45°N X 126° W, approximately 70 miles off the coast of Oregon, school fish, averaging 10-12 lbs started showing up with both heavy to light gill net markings on them (pictures B-G). These gill net markings were fresh and indicate driftnet activity done earlier this year. The fish were not old enough to be marked in years past. They are only average 2 years old. Many fish were scuffed up with broken fins & tails. We landed gill net marked fish every day. We ended our trip on the 26th of July. I tried notifying NMFS to arrange for an observer, but to no avail. I submitted my log information, hoping that it would be addressed at the technical & compliance comity for the WCPFC. It was not brought forward!

Trip # 2

We left Westport, WA. On the 30th of July for off- shore. Approximately 800 miles west of the coast, in the area of 47.30N X 143.30W, we started catching fish again. These fish were sometimes heavily marked by High Seas driftnets. We averaged 20% marked fish for the trip. Many of the 12 lb fish had light scratches & were barely visible to the untrained eye. The schools of fish were not staying in the same location, but migrating into the east towards the west coast. We ended our trip into Westport, WA, on the 26th of August. I submitted many pictures along with my log information hoping that it would be addressed at the technical & compliance committee for the WCPFC. It was ignored!

Trip # 3

We set out for off-shore once again on the 30th of August, only to get stopped in the approximate area of 47.30N X 139W for fishing. The 12-13 lb avg. fish we were landing were relatively clean. We had very few gill net marked fish and a more uniform size in the grade. This was obviously a different "run" of fish moving east towards the coast. We heard reports of a bigger run of fish being landed in the area of 44.30N X 128W (inside US EEZ) with a major amount of fish having gill- net markings on them. The avg. size of this fish was 12 lbs. As I had suspected, the fish from off-shore on the previous trip had migrated into the coastal waters and was now spreading up & down the west coast. I talked with Canadian aircraft boarder patrol on the 9th of September. Canadian Patrol was not aware of any driftnet vessels sighted previously this year. Most of the driftnet marked fish landed this trip were in the 15-17 lbs size. We ended our trip on the 26th of September in Westport, WA. I sent pictures of gill-net marked fish, along with my log information to NMFS hoping that it would be addressed at the technical & compliance committee for the WCPFC. Nothing was mentioned!!

Trip # 4

We left Westport on the 29th of September for fishing on the coast. On October 3rd, we landed 7 driftnet marked fish in the area of 42.30N X 126.20W. These fish avg. 15-17 lb. We were only

50- 70 miles off the coast of Northern California. I am submitting 9 pictures with this letter & log information to NMFS (pictures # 1-8). I understand that the technical & compliance meeting has already taken place which does not seem appropriate, unless people are trying hard to avoid this situation, in which case is convenient. I will be making this letter public & bring it with me to the WCPFC in HA. In Dec.

Conclusion

Time & time again, we have proven, with our US tagging programs for albacore tuna, that stocks of albacore generally migrate east & west across the North Pacific. I personally have followed schools of fish starting in the area of 163E - 153W along the 44N latitude in a matter of 12 days. This is old news to "High Seas" troll fishermen such as me. There have been reports of good fishing in early May & June of this year by Japanese vessels. If so, they must have witnessed some High Seas driftnet activity in their area, or they are driftnet vessels themselves. How ells do these migrating fish get driftnet marks?

I ask gillnetters, what is the reward for your gillnet tagged fish? Where did you tag your gillnet fish? Is this incomplete data going to continue? Please, stand & be recognized. We all must fish fairly! Maybe I should be asking our US state department, or "Chicken of the Sea". My fishery in International waters has been eliminated, & my coastal fishery is being depleted AGAIN! The North & South Pacific Albacore stocks should belong to sustainable hook & line fisheries, NOT driftnets!

Thanks for your time & attention in this matter.

Regards, John Harder- Captain/owner of F/V "Ocean Joy"

In Further consideration: OFAD requests the commission to view **WCPFC-TCC7-2011-OB-04** to better understand that more stringent measures must be made and adopted to protect its natural recourses and sustainable fisheries. As facts presented show, the UN moratorium on high seas driftnets has not deterred the IUU driftnet fishery. This "other" fishery continues to keep its' market share, driving the price of Albacore Tuna down and depleting the natural recourses, along with WCPFC's sustainable tuna fishery.

In conclusion,

Revisiting the issue of: The Law of the Sea, Article 119, Conservation of the living resources of the high seas: Part 3) "States concerned shall ensure that conservation measures and their implementation do not discriminate in form or in fact against the fishermen of any State".

Further noting that: the Wellington Convention seeks to ***prohibit driftnet fishing activities*** in its convention area.

OFAD feels that the WCPFC's CA should coincide with this ruling. As it stands, fishermen coming from states in the South Pacific, such as New Zealand, have more protection against high seas driftnets than fishermen coming from states in the North Pacific such as Canada.

This is clearly a form of discrimination and therefore should be amended and noted as such.

In closing,

OFAD thanks the Commission members of the WCPFC8 in considering these amendments and hopes that the proper attention will be given to these matters. It hopes that WCPFC will project a positive report to the United Nations on the status of its "sustainable fisheries" in the future.

Regards to all, OFAD president- John Harder