



TECHNICAL AND COMPLIANCE COMMITTEE

Eighth Regular Session

27 September- 2 October 2012

Pohnpei, Federated States of Micronesia

Greenpeace edits review of replacement measure

WCPFC-TCC8-2012-OP06

29 September 2012

Submitted by Greenpeace

Greenpeace Suggested Edits to Chair's Text
TECHNICAL AND COMPLIANCE COMMITTEE

Eighth Regular Session

27 September- 2 October 2012

Pohnpei, Federated States of Micronesia

**CONSERVATION AND MANAGEMENT MEASURE FOR BIGEYE, YELLOWFIN AND
SKIPJACK TUNA IN THE WESTERN AND CENTRAL PACIFIC OCEAN**

**WCPFC-TCC8-2012/27 14
September 2012**

DRAFT

**COMMISSION
NINTH REGULAR SESSION
Manila, Philippines
3-7 December 2012**

**CONSERVATION AND MANAGEMENT MEASURE FOR BIGEYE,
YELLOWFIN AND SKIPJACK TUNA IN THE WESTERN AND CENTRAL
PACIFIC OCEAN**

WCPFC9-2012-01

Conservation and Management Measure 2012-01

The Western and Central Pacific Fisheries Commission (WCPFC):

Recalling that since 1999, in the Multilateral High Level Conferences, the Preparatory Conferences, and in the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (the Commission), a number of resolutions and Conservation and Management Measures (CMMs) were developed to mitigate the overfishing of bigeye and yellowfin tuna and to limit the growth of fishing capacity in the Western and Central Pacific Ocean and that these measures have been unsuccessful in either restricting the apparent growth of fishing capacity or in reducing the fishing mortality of bigeye or juvenile yellowfin tuna;

Recalling that the objective of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (the Convention) is to ensure through effective management, the long-term conservation and sustainable use of the highly migratory fish stocks of the Western and Central Pacific Ocean in accordance with the 1982 Convention and the Agreement;

Recalling further the final statement of the Chairman of the Multilateral High Level Conferences in 2000 that: "It is important to clarify, however, that the Convention applies to the waters of the Pacific Ocean. In particular, the western side of the Convention Area is not intended to include waters of South-East Asia which are not part of the Pacific Ocean, nor is it intended to include waters of the South China Sea as this would involve States which are not participants in the Conference" (Report of the Seventh and Final Session, 30 August- 5 September 2000, p.29);

Recognising that the Scientific Committee has determined that the bigeye stock is subject to

overfishing, and that yellowfin stocks are currently being fished at capacity, reductions in fishing mortality are required in order to reduce the risks that these stocks will become overfished;

Recognizing further the interactions that occur between the fisheries for bigeye, yellowfin and skipjack tuna;

Recalling Article 8 (4) of the Convention which requires the Commission to pay special attention to the high seas in the Convention Area that are surrounded by exclusive economic zones (EEZs);

Recalling that CMM 2008-01 provided that the high seas pockets indicated in Attachment D to that Measure will be closed effective from 1 January 2010;

Noting that Article 30(1) of the Convention requires the Commission to give full recognition to the special requirements of developing States that are Parties to the Convention, in particular small island developing States and Territories and possessions, in relation to the conservation and management of highly migratory fish stocks in the Convention Area and development of fisheries on such stocks, including the provision of financial, scientific and technological assistance;

Noting further that Article 30(2) of the Convention requires the Commission to take into account the special requirements of developing States, in particular small island developing States and Territories. This includes ensuring that conservation and management measures adopted by it do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto developing States, Parties and Territories;

Taking note of Article 8(1) of the Convention requiring compatibility of conservation and management measures established for the high seas and those adopted for areas under national jurisdiction;

Noting Annex II of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, being Guidelines for the Application of Precautionary Reference Points in Conservation and Management of Straddling fish Stocks and Highly Migratory Fish Stocks;

Further Noting the FAO Code of Conduct for Responsible Fisheries which states at paragraph 7.5.3 that States and subregional or regional fisheries management organizations and arrangements should, on the basis of the best scientific evidence available, *inter alia*, determine:

a. _____ stock specific target reference points, and, at the same time, the action to be taken if they are exceeded; and

b. _____ stock-specific limit reference points, and, at the same time, the action to be taken if they are exceeded; when a limit reference point is approached, measures should be taken to ensure that it will not be exceeded.

Adopts, in accordance with Article 10 of the Convention, the following Measure with respect to

bigeye, yellowfin and skipjack tuna, in particular.

OBJECTIVES

The objectives of this Measure are to ensure that:

General

1. Compatible measures for the high seas and EEZs are implemented so that bigeye, yellowfin and skipjack tuna stocks are, at a minimum, maintained at levels capable of producing their maximum sustainable yield as qualified by relevant environmental and economic factors including the special requirements of developing States in the Convention Area as expressed by Article 5 of the Convention.
2. To set limit reference points (LRPs), which correspond to the state of the stock which must be avoided, and to resolve to set target reference points (TRPs) which indicate the ideal state in which a stock should be maintained, according to biological, ecological, economic and social goals. If a LRP is exceeded in any year, the following Commission shall take immediate measures to ensure the LRP is no longer exceeded, including a ban on fishing the species in question, if necessary. If a LRP is approached, the Commission will in the next meeting adopt measures to ensure that it will not be exceeded, including, if necessary, closure of the fishery concerned. If a TRP is exceeded in any year, the Commission shall adopt necessary measures accordingly.
3. The incidence of illegal, unreported and unregulated (IUU) fishing in the high seas and of IUU fishing related to the use of the high seas to facilitate IUU fishing is reduced.
4. The biodiversity of the special high seas high seas within the Convention Area that enclosed areas surrounded by EEZs (high seas pockets) is protected.
5. LRPs and TRPs shall be reviewed at least every two years on the basis of scientific advice provided by the SC to ensure that the objectives of the Convention are being met.
6. The Commission shall set the TRP for all stocks no later than at the 9th Commission meeting.

Skipjack

The LRP for skipjack shall be $20\%SB_{\text{current, F=0}}$ with an acceptable risk level for breaching the LRP of 5%.

Bigeye

The LRPs for bigeye tuna shall be $20\%SB_{\text{current, F=0}}$ and $F_{40\%SPR_0}$ with an acceptable risk

level for breaching the LRP of 10%.

Yellowfin

The LRPs for yellowfin tuna shall be $20\%SB_{current, F=0}$ and $F_{40\%SPR_0}^{SPR}$ with an acceptable risk level for breaching the LRP of 10%.

RULES OF GENERAL APPLICATION

Charter Arrangements

5. For the purposes of this Measure, catch and effort by vessels operated under charter, lease or other similar mechanisms as an integral part of the domestic fleet of the host State or territory, shall be counted against the catch/and or effort limits that apply to the host State or territory. Such charter, lease or other similar mechanism shall be conducted in a manner so as not to charter **vessels that have been known to have carried out** illegal, unreported and unregulated (IUU) **fishing activities**. This paragraph is without prejudice to the rights and obligations of flag States under international law.

Non-Parties

6. In giving effect to CMM 2009-11 or its replacement the Commission shall advise non-Parties to the Convention wishing to acquire Co-operating Non Member (CNM) status as follows: (a) that for bigeye tuna the current fishing mortality rate is above that associated with MSY; yellowfin tuna is not being overfished but current F is close to F_{msy} ; **but that fishing in the western equatorial region should not increase beyond 2010 levels;** (b) that the Scientific Committee recommends no increase in F for yellowfin tuna; (c) that skipjack tuna is not being overfished and that the Scientific Committee recommended that the Commission consider adopting limits on fishing for skipjack tuna and noted that additional purse seine effort on skipjack tuna will yield only modest long term gains in catches. Therefore, where necessary, the limits that apply to CNMs, particularly on the high seas, will be determined by the Commission in accordance with CMM 2009-11 or its revision.

Transfer of Effort

7. Members, Cooperating Non-Members and Participating Territories (CCMs) shall ensure that the effectiveness of this Measure is not undermined by a transfer of effort into other areas in the Convention Area.

Small Island Developing States

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

Area of Application

9. This Measure applies to all areas of high seas and all EEZs in the Convention Area except where otherwise stated in the Measure.

Duration of the Measure

10. This Measure shall remain in force until the Commission decides otherwise.

PURSE SEINE FISHERY

Effort Levels EEZs

11. Coastal States within the Convention Area that are Parties to the Nauru Agreement (PNA) shall restrict the level of purse seine effort in their EEZs to 2010 levels, recognizing that consideration may need to be given to how this effort is expended in light of the objectives for bigeye and yellowfin tuna. The provisions of paragraph 8 shall not apply to this limit.
12. Other coastal States within the Convention Area shall establish effort limits for purse seine fisheries within their EEZs that reflect the geographical distributions of skipjack, yellowfin and bigeye tuna, and are consistent with the objectives for those species. Limits established pursuant to this provision shall be provided to the Commission by the relevant coastal States no later than 16 November 2013.

FADS

13. No purse seine vessel shall conduct any part of a set within one nautical mile of a FAD in the Convention Area between 20 degrees north and 20 degrees south. That is, at no time may the vessel or any of its fishing gear or tenders be located within one nautical mile of a FAD while a set is being conducted. Each CCM shall take the necessary measures to ensure that purse seine vessels flying its flag on the high seas comply with these rules.
14. The definition of a FAD shall be interpreted as including 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.
15. The operator of a vessel shall not allow the vessel to be used to aggregate fish, or to move aggregated fish including using underwater lights and chumming.

16. A FAD and/or associated electronic equipment shall not be retrieved by a vessel unless: a. the FAD and/or associated electronic equipment are retrieved and kept on board the vessel until landed; and b. the vessel does not conduct any set either for a period of seven (7) days after retrieval or within a fifty (50) mile radius of the point of retrieval of any FAD.
17. Vessels shall not be used to operate in cooperation with each other in order to catch aggregated fish. No vessel shall conduct any set within one nautical mile of a point where a FAD has been retrieved by another vessel within twenty four (24) hours immediately preceding the set.

High Seas

18. The high seas pockets 1-4 indicated in Attachment A will be permanently closed to all fishing effective from 1 January 2013.
19. The total level of purse seine effort on the high seas shall be the equivalent of 10,000 vessel days. Once this level is reached the high seas shall be closed to further fishing.
20. CCMs shall take necessary measures to ensure that total purse seine effort does not exceed this level by reporting the effort expended by their flagged vessels each month to the Secretariat not later than the 15th day of the next month.
21. The Secretariat will, to the extent possible, verify these reports through the use of any available data or information, for example vessel monitoring system and/or observer records, and notify CCMs of the date that the total purse seine effort reaches the limit specified above.

Observers

22. CCMs shall ensure that purse seine vessels entitled to fly their flags and 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 an observer from the Commission's Regional Observer Programme (ROP).
23. CCMs shall require Observer providers to submit observer data from ROP trips to the Commission within 3 weeks of the end of the trip and that proper debriefing of all observers occur before the observer report is forwarded to the

Commission for processing to ensure that all fields are accurate and correctly completed.

CAPACITY

24. (Potential to include further text depending on the outcome of the DWFN small group discussions).

Catch Retention:

25. Where the operator of a vessel determines that fish should not be retained on board for reasons related to the size, marketability, or species composition, the fish shall only be released before the net is fully pursed and one half of the net has been retrieved.

26. Where the operator of a vessel determines that fish should not be retained on board because they are “unfit for human consumption”, the following definitions shall be applied:

a. “unfit for human consumption” includes, but is not limited to fish that:

i. is meshed or crushed in the purse seine net; or

ii. is damaged due to shark or whale depredation; or

iii. has died and spoiled in the net where a gear failure has prevented both the normal retrieval of the net and catch and efforts to release the fish alive; and

b. “unfit for human consumption” does not include fish that:

i. is considered undesirable in terms of size, marketability, or species composition;

or ii. is spoiled or contaminated as the result of an act or omission of the crew of the fishing vessel. 10. Where the operator of a vessel determines that fish should not be retained on board because it was caught during the final set of a trip when there is insufficient well space to accommodate all fish caught in that set, the fish may only be discarded if:

a. the vessel master and crew attempt to release the fish alive as soon as possible;

b. no further fishing is undertaken after the discard until the fish on board the

vessel has been landed or transhipped.

27. Fish shall not be discarded from the vessel until after an observer has estimated the species composition of the fish to be discarded.

28. The operator of the vessel shall submit to the Executive Director a report that includes the following information within forty-eight 48 hours after any discard:

a. Name, flag and WCPFC Identification Number of the vessel; b. Name and nationality of master;

c. Licence number;

d. Name of observer on board;

e. Date, time and location (latitude/longitude) that discarding occurred;

f. Date, time, location (latitude/longitude) and type (drifting FAD, anchored FAD, free school etc) of the shot;

g. Reason that fish were discarded (including statement of retrieval status if fish were discarded in accordance with paragraph []);

h. Estimated tonnage and species composition of discarded fish;

i. Estimated tonnage and species composition of retained fish from that set;

j. If fish were discarded in accordance with paragraph 10, a statement that no further fishing will be undertaken until the catch on board has been unloaded; and

k. Any other information deemed relevant by the vessel master.

29. The operator of the vessel shall also provide a hard copy of the information described in para [] to the WCPFC Observer on board.

COMMERCIAL FISHERIES

30. CCMs shall take necessary measures to ensure that the total effort of their respective other commercial tuna fisheries for bigeye, yellowfin and skipjack tuna but excluding artisanal fisheries and those fisheries taking less than 2,000

tonnes of bigeye and yellowfin, shall not exceed the average level for the period 2001-2004 or 2004.

31. CCMs shall provide the Commission with estimates of fishing effort for these other fisheries or proposals for the provision of effort data for these fisheries for 2012 and future years.
32. To assist the Scientific Committee, the Technical and Compliance Committee and the Commission in evaluating compliance with this provision, each CCM shall conduct an inventory of vessels flying its flag that operate in fisheries other than purse seine and longline vessels that fish for tuna in the Convention Area. This inventory shall be provided to the Secretariat by 1 July, 2013 and shall include a report of the catch and effort of these vessels.

EVALUATION OF EFFECTIVENESS

33. Each year the Scientific Committee (SC) and the Technical and Compliance Committee shall evaluate the effectiveness of each of the measures in this CMM and provide the Commission with recommendations on how the individual measures and the CMM as a whole can be improved taking into account the need for adequate time to appropriately assess the impact of measures. LRPs and TRPs shall be reassessed at least every two years.
34. The Commission shall adjust the individual measures or the entire CMM as necessary to meet the goals established. The Commission shall only in exceptional circumstances take a decision which does not adopt a measure recommended by both the SC and the TCC or which is otherwise inconsistent with scientific advice of the SC.

FINAL CLAUSE

35. This Measure replaces CMM 2011-01.

Greenpeace Suggested Edits to Chair's Text for CMM for Bigeye, Yellowfin and Skipjack

ATTACHMENT Y. Longline catches and catch limits for bigeye tuna by flag under CMM 2008-01 and the limits agreed under CMM 2011-01.

CCM	2009 catch	2010 catch	2011 catch	CMM 2008- 01 2009 limits	CMM 2008- 01 2010 limits	CMM 2008- 01 2011 limits	CMM 2011- 01 limits
AMERICAN SAMOA	249	491					
AUSTRALIA	726	458		2,000	2,000	2,000	2,000
BELIZE	43	89		803	803	803	803
CHINA	15,289	13,924		11,748	11,748	8,224	8,224
CHINESE TAIPEI	13,319	11,552		14,513	12,900	11,288	11,288
COOK ISLANDS	217	192					
EUROPEAN UNION	46	15		2,000	2,000	2,000	2,000
FSM	1,395	899					
FIJI	689	532					
FRANCE (FRENCH POLYNESIA)	587	436					
FRANCE (NEW CALEDONIA)	51	44					
INDONESIA	4,000	1,221		2,000	2,000	2,000	2,000
JAPAN	16,650	14,565		25,290	22,480	19,670	19,670
KIRIBATI	0	3					
MARSHALL ISLANDS	381	257					
NAURU	0	0					
NEW ZEALAND	253	131		2,000	2,000	2,000	2,000
NIUE	10	4					
PALAU	0	0					
PAPUA NEW GUINEA	128	39					
PHILIPPINES	59	59		2,000	2,000	2,000	2,000
REPUBLIC OF KOREA	15,231	13,862		19,304	17,159	15,014	15,014
SAMOA	117	108					
SENEGAL	0	0					
SOLOMON ISLANDS	0	412					
TONGA	38	24					
USA	3,741	3,576		3,763	3,763	3,763	3,763
VANUATU	1,300	2,060					
VIETNAM		2,441					
Total	74,519	67,394					



ATTACHMENTS

Attachment A
(map)

The third high seas pocket comprises the high seas adjacent to the Cook Islands, French Polynesia and Kiribati EEZs and is marked '3' on the map below.

The fourth high seas pocket comprises the high seas adjacent to Vanuatu, Fiji and the Solomon Islands and is marked '4' on the map below.

Discussion

In the Outcome document of Rio+20, The Future We Want, all States agreed as follows:

168. We commit to intensify our efforts to meet the 2015 target as agreed to in JPOI to maintain or restore stocks to levels that can produce maximum sustainable yield on an urgent basis. In this regard we further commit to urgently take the measures necessary to maintain or restore all stocks at least to levels that can produce the maximum sustainable yield, with the aim of achieving these goals in the shortest time feasible, as determined by their biological characteristics. To achieve this we commit to urgently develop and implement science based management plans, including by reducing or suspending fishing catch and effort commensurate with the status of the stock. We further commit to enhance action to manage bycatch, discards, and other adverse ecosystem impacts from fisheries including by eliminating destructive fishing practices. We also commit to enhance actions to protect vulnerable marine ecosystems from significant adverse impacts including through the effective use of impact assessments. Such actions, including those through competent organizations, should be undertaken consistent with international law, the applicable international instruments and relevant General Assembly resolutions and Food and Agriculture Organization (FAO) Guidelines.

This means that the WCPFC Parties, all of whom agreed to the Rio+20 document, agreed to urgently take the measures to maintain or restore all stocks **at least** to levels that can produce MSY, and to do so reducing or suspending fishing catch and effort commensurate with the status of the stock.