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FFA members – Comments on application of Commission VMS to national waters of Members

**WCPFC9-2012-DP07
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02 November 2012

Glenn Hurry
Executive Director
Western and Central Pacific Fisheries Commission
PO Box 2356
Kolonia
Federated States of Micronesia

Dear Professor Hurry,

FFA Member's Comments on the Application of Commission VMS to the National Waters of Members

I write in my capacity as the Chair of the Forum Fisheries Committee on behalf of the 17 FFA Members.

FFA Members would like to reiterate for all CCMs the point that the Commission, in its WCPFC6 decision, has already approved the application of the Commission VMS to the national waters of all Commission Members that request such application. The process that CCMs are looking to resolve at this point is agreeing to the administrative vehicle to making this happen. Any decision otherwise requires the Commission to specifically reverse its previous decision.

The ongoing failure to provide this data constrains the ability of coastal States to effectively battle IUU fishing. The clear benefits of resolving this outstanding issue was clearly evident at TCC8 with as demonstrated by the cooperative approach by two CCMs to identify and resolve a potential IUU listing case.

FFA Members remain committed to the rationale provided by RMI/US proposal to "Flick the Switch" as outlined in WCPFC-TCC8-2012-DP-08(rev 3). Sharing access to in-zone VMS data within WCPFC would serve to build trust and cooperation between CCMs. FFA Members recognize the rights of unlicensed fishing vessels legitimately transiting their waters. At the same time, we are also interested in being able to effectively manage our fisheries, which includes monitoring fleets which operate inside our zones.

The VMS data will enhance the ability for surveillance assets operating in the region to discern those fishing vessels legitimately transiting from those which may be conducting IUU activity.

At TCC8, FFA members called on distant water fishing nations support finalization of "Flick the Switch" by giving effect to their obligations under:

- Article 24 (8) (9) (10) Duties of the Flag State;
- Article (30) (4) relating to Small Island Developing States, to direct the necessary assistance to Small Island Developing States associated with monitoring, control, surveillance, compliance and enforcement by providing High Seas Commission VMS compatibility with FFAs coastal VMS;
- CMM 2011-02 (6c) Applicability "Any CCM may request, for the Commission's consideration and approval, that waters under its national jurisdiction be included within the area covered by the Commission VMS"; and
- CMM 2011-02 (9b) (b) CCMs shall cooperate to ensure compatibility between national and high seas VMSs.

We greatly appreciate the progress that has been made thus far with respect to the sharing of VMS information. The Commission has made the landmark decision of agreeing that we will each be able to access information about each other's fishing vessels (under specific rules and circumstances) when they operate on the high seas. This high seas decision reflects an attitude of cooperation and goodwill that is not reflected in other RFMOs. The proposal currently on the table simply applies that high seas decision into EEZs, thereby completing the information available to all coastal State CCMs to manage and monitor these fisheries. We therefore encourage all CCMs to recognise this issue not as a threat, but as a simple continuation of the agreement that is already in place for the high seas; an area in which vessels enjoy far greater freedom under international law than in EEZs.

We believe it is important to briefly address potential concerns of CCMs with respect to VMS tracking of vessels as impinging on freedom of navigation rights provided under UNCLOS.

FFA members draw a parallel to the sharing of information under the Automatic Identification System (AIS) as required by the IMO. Since its inception, many nations have expanded AIS requirements to their fishing fleets, regardless of vessel size. The global sharing of this AIS data among governments has proven to be an effective tool which has not only enhanced maritime and natural resource security, but also commercial and environmental safety. The AIS data sharing has created greater inter- and intra-regional trust and cooperation amongst nations as increased global safety and security was deemed more important than freedom of navigation rights strictly afforded under UNCLOS. FFA members believe the application of in-zone VMS data within WCPFC will serve the same purpose; build greater trust and cooperation between CCMs who are all like-minded in ensuring the long term sustainability of fish stocks in the region.

We believe "Flick the Switch" can finally be resolved at WCPFC9. FFA Members thank the US for their leadership in attempting to resolve this issue over the past two years, most notably with the progress made at TCC8.

Noting that only three subparagraphs of bracketed text remain to be agreed upon within DP-08(rev 3), FFA members provide the following input:

Paragraph 4(a): [vessels reporting to the Commission VMS] – FFA members support the text as written and advocate collectively for the removal of the brackets.

Paragraph 4(l): [No Member may object to the provision of in-zone VMS data in disputed areas not associated with its own claimed EEZ.] - FFA members support the text as written and advocate collectively for the removal of the brackets.

Paragraph 4(lbis): [In the event that any Member has disputed another Member's claimed EEZ geographical coordinates, no Member will be provided in-zone VMS data in the disputed area until and unless the dispute is either formally resolved under international law or the Members have reached an agreement.] - FFA members support the Chair's rewrite of 4(lbis) and advocate for inclusion of this paragraph as written, but are willing to consider alternative text that satisfies those members that this provision most applies to.

Please provide this letter to the US to support their intercessional work and to all other CCMs for their information and consideration.

Yours Sincerely,



Dr Sione Vailala Matoto
Chair
Forum Fisheries Committee