

7<sup>th</sup> Annual Meeting of the Commission  
23-27 January, The Hague, The Netherlands

COMM7-Prop02

<input checked="" type="checkbox"/> Amend	CMM 01-2018 on <i>Trachurus Murphyi</i>
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Submitted by: ECUADOR

**Summary of the proposal:**  
This amendment aims at considering the special needs of Ecuador to develop the Jack Mackerel Fishery in the Convention Area. With the objective to obtain a significant allocation, Ecuador has decided to open its Exclusive Economic Zone to have the same opportunities of the other Members, without affecting the actual distribution of the quotas.

**Objective of the proposal:**  
“Recognize the right of Ecuador to participate in the *Trachurus Murphyi* fishery in the Convention Area, in its condition of developing coastal state”.

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## **SPRFMO**

### **Rationale of the Ecuadorian Proposal for Fisheries Allocation**

It is necessary to recognize and keep in mind that under the principles of the Convention the allocation of the Fisheries, among them the *Trachurus Murphyi*, must be carried out in a strict framework of equity for all present and future Members of the SPRFMO, keeping relationship and consistency with these principles.

That a fair and equitable system must guarantee to all the Members of the Commission the opportunity to realize fishing activities under their own flags, for that reason they must receive a basic capacity allocation that allow them to promote the development of the fishery in a sustainable manner and sustained with their own vessels, if they wish; especially to developing coastal States whose economies depends on this activity, this under the framework of the Convention and other international laws on the subject.

Taking into account, always the commitment to apply the precautionary approach and make decisions based on the best available scientific and technical information, as established in Article 3 of the Convention, so that fisheries develop within sustainable levels of the resource.

The scientific report of 2018 establishes, that fortunately the *Trachurus Murphyi* fishery is healthy, that is the reason why the Scientific Committee for the year 2019 recommended a maximum catch quota of up to 591,000 tonnes, increasing 15,000 tonnes compared to 2018.

Considering the respect for the sovereign rights of States in their Exclusive Economic Zones (EEZs), it must be taken into account that the rights on the high seas belong to all States without any difference, and that transfers of quotas between States do not limit the rights of own allocation that must correspond to each State.

Ecuador during the meeting of the Commission of the year 2018, in view of the need to develop the *Trachurus Murphyi* fishery in its condition of developing coastal country with vessels that can fish under its flag, justified through economic and technical analysis the need to allocate a quota of 12,900 MT for optimum operation with a new vessel and 6,500 MT for optimal operation with a used vessel.

With this background and in order to increase the allocation to develop its own fishery, Ecuador has decided to open its Exclusive Economic Zone (EEZ), as established in Art. 20 (4) (iii) so this allocation does not affect the rights of other Members, the allocation in reference is 11,523 MT, which added to the current allocation of 1,377 MT would reach a total of 12,900 MT.

In accordance with the provisions in Numeral 92 of the Explanatory Memorandum to assist the Review Panel established under Article 17 of the SPRFMO Convention to consider the Objection by Ecuador to the Conservation and Management Measure for *Trachurus Murphyi* (CMM-01-2018) dated May 14, 2018, presented by the secretariat, there is a determined amount of 58,418 tonnes, which correspond to the Exclusive Economic Zones of Ecuador and Peru, from which the amount assigned to our country will come.

It must be considered at all times that the opening of the Exclusive Economic Zone involves cooperating with the Commission for issues of stock assessment, scientific research, conservation and ordering of resources that are fished in the Commission Area, in accordance with the stipulations in Article 20 (4) (iii) of the Convention, but the access to any fishing

activity in this area by vessels flying another flag other than the flag of Ecuador, shall be prohibited and control shall be strictly carried out by the Ecuadorian Fisheries and Maritime Authorities, sovereign right prevailing at all times according to the guidelines found in the United Nations Convention on the Right to the Sea (UNCLOS) part V.

That the Review Panel, which in 2018 knew Ecuadorian's claim recognizing the need to resolve it, suggested that it should be resolved by the Commission, for which it commented a set of remedies, having mentioned that: *Possible Ways Forward. 126. During the hearing...*, "The Review Panel therefore invites de Commission to consider exploring the possibility of adjustments to the allocation transfer system that would address the sorts of difficulties experienced by Ecuador, such as by incorporating the notion of a right of first refusal or elements thereof, for Members and CNCPs with no or very low allocations. An alternative could be for individual Members to revise their domestic transfer procedures to assist Ecuador directly within the framework of the present system"

In addition to the possible solution routes established by the Review Panel, Ecuador shows its desire to cooperate by suggesting this proposal, which aims to include within the fishing activity of a developing country in the area of the Convention, without harming the rights of other Members, through a voluntary and sovereign mechanism.

#### **PROPOSAL**

Assign to Ecuador a quota of 11,523 MT, which would reach a total quota of 12,900 MT, which will allow it to develop its own fishery in the Convention area, by virtue of the opening of its Exclusive Economic Zone as established in the Article 20 (4) (a) (iii), for the Area of Application of the Regional Organization of the Fisheries of the South Pacific.

## CMM 01-2019<sup>1</sup>

### Conservation and Management Measure for *Trachurus murphyi*

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#### **The Commission of the South Pacific Regional Fisheries Management Organisation;**

*NOTING* that the *Trachurus murphyi* stock remains at very low levels;

*CONCERNED* in particular with the low levels of the current biomass, historically high fishing mortality, the need to maintain low fishing mortality, and the high degree of associated uncertainties;

*TAKING INTO ACCOUNT* the outcomes of the stock assessment carried out on 23 to 28 September of 2017 and the advice of the Scientific Committee;

*BEARING IN MIND* the commitment to apply the precautionary approach and take decisions based on the best scientific and technical information available as set out in Article 3 of the Convention;

*RECOGNISING* that a primary function of the Commission is to adopt Conservation and Management Measures (CMMs) to achieve the objective of the Convention, including, as appropriate, CMMs for particular fish stocks;

*AFFIRMING* its commitment to rebuilding the stock of *Trachurus murphyi* and ensuring its long-term conservation and sustainable management in accordance with the objective of the Convention;

*RECOGNISING* the need for effective monitoring and control and surveillance of fishing for *Trachurus murphyi* in the implementation of this measure pending the establishment of monitoring, control and surveillance measures pursuant to Article 27 of the Convention;

*BEARING IN MIND, the recommendations made by the Review Panel in order to assist the requirements established by Ecuador*

*RECALLING* Articles 4(2), 20(3), 20(4) and 21(2) of the Convention;

*RECALLING* also Article 21(1) of the Convention;

*ADOPTS* the following CMM in accordance with Articles 8 and 21 of the Convention:

#### **General Provisions**

1. This CMM applies to fisheries for *Trachurus murphyi* undertaken by vessels flagged to Members and Cooperating Non-Contracting Parties (CNCs) included on the Commission Record of Vessels (CMM 05- 2016) in the Convention Area and, in accordance with Article 20(4)(a)(iii) and with the express consent of Chile and Ecuador, to fisheries for *Trachurus murphyi* undertaken by Chile and Ecuador in areas under its national jurisdiction.
2. Only fishing vessels duly authorised pursuant to Article 25 of the Convention and in accordance with CMM 05-2016 (Record of Vessels) that are flagged to Members and Cooperating Non-Contracting Parties (CNCs) shall participate in the fishery for *Trachurus murphyi* in the Convention Area.
3. This CMM is not to be considered a precedent for future allocation decisions.

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<sup>1</sup> CMM 01-2019 supersedes CMM 01-2018, which supersedes CMM 01-2017

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### Effort Management

4. Relevant Members and CNCPs shall limit the total gross tonnage (GT)<sup>2</sup> of vessels flying their flag and participating in the fishing activities described in Article 1, (1)(g)(i) and (ii) of the Convention in respect of the *Trachurus murphyi* fisheries in the Convention Area to the total tonnage of their flagged vessels that were engaged in such fishing activities in 2007 or 2008 or 2009 in the Convention Area and as set out in Table 1 of CMM 1.01 (*Trachurus murphyi*; 2013). Such Members and CNCPs may substitute their vessels as long as the total level of GT for each Member and CNCP does not exceed the level recorded in that Table.

### Catch Management

5. In 2019 the total catch of *Trachurus murphyi* in the area to which this CMM applies in accordance with paragraph 1 shall be limited to XXXXX tonnes. Members and CNCPs are to share in this total catch in the tonnages set out in Table 1 of this CMM.
6. The Commission agree to give the allocation of 11.523 tonnes to Ecuador additionally of their current quota of 1,377 tonnes, because they express their consent for fisheries of *Trachurus Murphyi* undertaken in areas under its national jurisdiction and according to the special needs of developing coastal states.
7. Catches will be attributed to the flag State whose vessels have undertaken the fishing activities described in Article 1 (1)(g)(i) and (ii) of the Convention.
8. In the event that a Member or CNCP reaches 70% of its catch limit set out in Table 1, the Executive Secretary shall inform that Member or CNCP of that fact, with a copy to all other Members and CNCPs. That Member or CNCP shall close the fishery for its flagged vessels when the total catch of its flagged vessels is equivalent to 100% of its catch limit. Such Member or CNCP shall notify promptly the Executive Secretary of the date of the closure.
9. The provisions of this CMM are without prejudice to the right of Members and CNCPs to adopt measures limiting vessels flying their flag and fishing for *Trachurus murphyi* in the Convention Area to catches less than the limits set out in Table 1. In any such case, Members and CNCPs shall notify the Executive Secretary of the measures, when practicable, within 1 month of adoption. Upon receipt, the Executive Secretary shall circulate such measures to all Members and CNCPs without delay.
10. By 31 December each year a Member or CNCP may transfer to another Member or CNCP all or part of its entitlement to catch up to the limit set out in Table 1, without prejudice to future agreements on the allocation of fishing opportunities, subject to the approval of the receiving Member or CNCP. When receiving fishing entitlement by transfer, a Member or CNCP may either allocate it on the basis of domestic legislation or endorse arrangements between owners participating in the transfer. Before the transferred fishing takes place, the transferring Member or CNCP shall notify the transfer to the Executive Secretary for circulation to Members and CNCPs without delay.
11. Members and CNCPs agree, having regard to the advice of the Scientific Committee, that catches of *Trachurus murphyi* in 2019 throughout the range of the stock should not exceed 591.000 tonnes.

### Data Collection and Reporting

12. Members and CNCPs participating in the *Trachurus murphyi* fishery shall report in an electronic format the monthly catches of their flagged vessels to the Secretariat within 20 days of the end of the month, in accordance with CMM 02-2018 (Data Standards) and using templates prepared by the Secretariat and available on the SPRFMO website.
13. The Executive Secretary shall circulate monthly catches, aggregated by flag State, to all Members and CNCPs on a monthly basis.

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<sup>2</sup> In the event that GT is not available, Members and CNCPs shall utilise Gross Registered Tonnage (GRT) for the purposes of this CMM.

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14. Except as described in paragraph 12 above, each Member and CNCP participating in the *Trachurus murphyi* fishery shall collect, verify, and provide all required data to the Executive Secretary, in accordance with CMM 02-2018 (Data Standards) and the templates available on the SPRFMO website, including an annual catch report.
  15. The Executive Secretary shall verify the annual catch reports submitted by Members and CNCPs against the submitted data (tow-by-tow in the case of trawlers, and set by set or trip by trip in the case of purse-seine fishing vessels). The Executive Secretary shall inform Members and CNCPs of the outcome of the verification exercise and any possible discrepancies encountered.
  16. Members and CNCPs participating in the *Trachurus murphyi* fisheries shall implement a vessel monitoring system (VMS) in accordance with CMM 06-2018 (VMS) and other relevant CMMs adopted by the Commission.
  17. Each Member and CNCP participating in the *Trachurus murphyi* fishery shall provide the Executive Secretary a list of vessels<sup>3</sup> they have authorised to fish in the fishery in accordance with Article 25 of the Convention and CMM 05-2016 (Record of Vessels) and other relevant CMMs adopted by the Commission. They shall also notify the Executive Secretary of the vessels that are actively fishing or engaged in transshipment in the Convention Area within 20 days of the end of each month. The Executive Secretary shall maintain lists of the vessels so notified and will make them available on the SPRFMO website.
  18. The Executive Secretary shall report annually to the Commission on the list of vessels having actively fished or been engaged in transshipment in the Convention Area during the previous year using data provided under CMM 02-2018 (Data Standards).
  19. In order to facilitate the work of the Scientific Committee, Members and CNCPs shall provide their annual national reports, in accordance with the existing guidelines for such reports, in advance of the 2019 Scientific Committee meeting. Members and CNCPs shall also provide observer data for the 2019 fishing season to the Scientific Committee to the maximum extent possible. The reports shall be submitted to the Executive Secretary at least one month before the 2019 Scientific Committee meeting in order to ensure that the Scientific Committee has an adequate opportunity to consider the reports in its deliberations.
  20. In accordance with Article 24(2) of the Convention, all Members and CNCPs participating in the *Trachurus murphyi* fishery shall provide a report describing their implementation of this CMM in accordance with the timelines specified in CMM 10-2018 (Compliance Monitoring Scheme). On the basis of submissions received the CTC shall develop a template to facilitate future reporting. The implementation reports will be made available on the SPRFMO website.
  21. The information collected under paragraphs 12, 14 and 19, and any stock assessments and research in respect of *Trachurus murphyi* fisheries shall be submitted for review to the Scientific Committee. The Scientific Committee will conduct the necessary analysis and assessment, in accordance with its SC Multi-annual workplan (2019) agreed by the Commission, in order to provide updated advice on stock status and recovery.
  22. Contracting Parties and CNCPs, as port States, shall, subject to their national laws, facilitate access to their ports on a case-by-case basis to reefer vessels, supply vessels and vessels fishing for *Trachurus murphyi* in accordance with this CMM. Contracting Parties and CNCPs shall implement measures to verify catches of *Trachurus murphyi* caught in the Convention Area that are landed or transhipped in its ports. When taking such measures, a Contracting Party or CNCP shall not discriminate in form or fact against fishing, reefer or supply vessels of any Member or CNCP. Nothing in this paragraph shall prejudice the rights, jurisdiction and duties of these Contracting Parties and CNCPs under international law. In particular, nothing in this paragraph shall be construed to affect:
    - (a) the sovereignty of Contracting Parties and CNCPs over their internal, archipelagic and territorial waters or their sovereign rights over their continental shelf and in their exclusive economic zone;

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<sup>3</sup> Fishing vessels as defined in Article 1 (1)(h) of the Convention

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- (b) the exercise by Contracting Parties and CNCPs of their sovereignty over ports in their territory in accordance with international law, including their right to deny entry thereto as well as adopt more stringent port State measures than those provided for in this CMM and other relevant CMMs adopted by the Commission.
23. Until the Commission adopts an Observer Programme in accordance with Article 28 of the Convention, all Members and CNCPs participating in the *Trachurus murphyi* fishery shall ensure a minimum of 10% scientific observer coverage of trips for trawlers and purse seiners flying their flag and ensure that such observers collect and report data as described in CMM 02-2018 (Data Standards). In the case of the flagged vessels of a Member or CNCP undertaking no more than 2 trips in total, the 10% observer coverage shall be calculated by reference to active fishing days for trawlers and sets for purse seine vessels.

#### **Cooperation in Respect of Fisheries In Adjacent Areas Under National Jurisdiction**

24. Members and CNCPs participating in *Trachurus murphyi* fisheries in areas under national jurisdiction adjacent to the area to which this CMM applies in accordance with paragraph 1, and Members and CNCPs participating in *Trachurus murphyi* fisheries in the area to which this CMM applies, shall cooperate in ensuring compatibility in the conservation and management of the fisheries. Members and CNCPs participating in *Trachurus murphyi* fisheries in areas under national jurisdiction adjacent to the area to which this CMM applies are invited to apply the measures set out in paragraphs 11-22, insofar as they are applicable, to vessels associated with the *Trachurus murphyi* fisheries in their areas under national jurisdiction. They are also requested to inform the Executive Secretary of the Conservation and Management Measures in effect for *Trachurus murphyi* in areas under their national jurisdiction.

#### **Special Requirements of Developing States**

25. In recognition of the special requirements of developing States, in particular small island developing States and territories and possessions in the region, Members and CNCPs are urged to provide financial, scientific and technical assistance, where available, to enhance the ability of those developing States and territories and possessions to implement this CMM.

#### **Review**

26. This Measure shall be reviewed by the Commission in 2019. The review shall take into account the latest advice of the Scientific Committee and the CTC, and the extent to which this CMM, CMM 1.01 (*Trachurus murphyi*, 2013), CMM 2.01 (*Trachurus murphyi*, 2014), CMM 3.01 (*Trachurus murphyi*; 2015), CMM 4.01 (*Trachurus murphyi*, 2016) and CMM 01-2017 (*Trachurus murphyi*) as well as the Interim Measures for pelagic fisheries of 2007, as amended in 2009, 2011 and 2012, have been complied with.
27. Without prejudice to Members and CNCPs without an entitlement in Table 1 and the rights and obligations specified in Article 20(4)(c) and having regard to paragraph 10, the percentages included in Table 2 will be used by the Commission as a basis for the allocation of Member and CNCPs' catch limits from 2019 to 2021 inclusive.

Table 1: Tonnages in 2018 fishery as referred to in paragraph 5.

Member / CNCP	Tonnage
Chile	XXX.XXX
China	XX.XXX
Cook Islands	X
Cuba	X.XXX
Ecuador	XX.XXX
European Union	XX.XXX
Faroe Islands	X.XXX
Korea	X.XXX
Peru (HS)	XX.XXX
Russian Federation	XX.XXX
Vanuatu	XX.XXX
<b>Total</b>	<b>XXX XXX</b>

Table 2: Percentages related to the catches referred to in paragraph 11.

Member / CNCP	%
Chile	XX.XXX
China	X.XXX
Cook Islands	X.XXX
Cuba	X.XXX
Ecuador (HS)	X.XXX
European Union	X.XXX
Faroe Islands	X.XXX
Korea	X.XXX
Peru (HS)	X.XXX
Russian Federation	X.XXX
Vanuatu	X.XXX

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<sup>4</sup>These percentages shall apply from 2018 to 2021 inclusive