

9TH MEETING OF THE SPRFMO COMMISSION

Held virtually, 25 January – 2 February 2021

COMM 9 – Prop 01

Peru

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| <input checked="" type="checkbox"/> Amend <input type="checkbox"/> Create | CMM 01-2020 on <i>Trachurus murphyi</i> |
| Submitted by: Republic of Peru | |
| <p>Summary of the proposal:</p> <p>It is proposed to delete paragraphs 27, 28 and 29 and clarify paragraphs 25 and 26, according to the following text: “25. Members and CNCPs participating in <i>Trachurus murphyi</i> 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 <i>Trachurus murphyi</i> 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 <i>Trachurus murphyi</i> 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 12-24, insofar as they are applicable, to vessels associated with the <i>Trachurus murphyi</i> fisheries in their areas under national jurisdiction. They are also invited to inform the Executive Secretary of the Conservation and Management Measures in effect for <i>Trachurus murphyi</i> in areas under their national jurisdiction.</p> <p>26. Acknowledging the duty to cooperate to promote that CMMs established for the high seas and those adopted for areas under national jurisdiction are compatible, as required by Article 4 paragraph 2 and Article 8 (f) of the Convention, coastal State Contracting Parties participating in the <i>Trachurus murphyi</i> fishery in areas under national jurisdiction that have not given their express consent under Article 20 paragraph 4 (a) (ii), will undertake their efforts to procure that the catches do not exceed the difference between the amount agreed in paragraph 10 of this CMM and the total catch allocated in paragraph 5 of CMM 01-2020 <i>Trachurus murphyi</i> 5 this CMM.”.</p> | |
| <p>Objective of the proposal:</p> <p>The Peruvian State exercises sovereign control over the exploitation, exploration, conservation and administration of its living natural resources in its jurisdictional waters, without prejudice to the commitments acquired before other States or international organizations, to the extent that they have agreed.</p> <p>In this regard, the SPRFMO Convention, to which Peru is a party, establishes in Article 20, among others, that States, with prior express consent, may submit their jurisdictional waters to a total allowable catch or total allowable fishing effort established by the Commission of said international organization.</p> <p>In this regard, Peru has not given such express consent, so total allowable catch or total allowable fishing effort established by the aforementioned Commission are not mandatory for it and, therefore, such obligations cannot be imposed like as it occurs in paragraphs 27, 28 and 29 of CMM 01-2020.</p> <p>In this sense, the sovereignty of the States in respect to their own jurisdictional waters would be unknown that is recognized in the same text of the Convention, as well as other international instruments on which it is inspired, such as the 1982 UNCLOS and the New York 1995 Agreement.</p> <p>Notwithstanding the foregoing, recognizing the duty to cooperate to promote and ensure the sustainability of living resources by providing information on a voluntary basis and with the commitment to maintain the compatibility of the conservation measures of the Convention with the measures adopted by each State, it has been able to maintain articles 25 and 26 with the clarifications indicated in this amendment proposal.</p> <p>It should be noted that Peru, in the framework of the annual meeting of the Commission (2020, Vanuatu), made a statement in the same sense of this proposal, and it was registered in paragraph 248 of the 8th Annual Meeting of the Commission Meeting Report.</p> | |
| <p>Has the proposal financial impacts or influence on the Secretariat work? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> | |
| Ref: COMM9-PROP01 | Received on: 05 December 2020 |

CMM 01-2021

Conservation and Management Measure for *Trachurus murphyi* (supersedes CMM 01-2020)

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 7 to 12 October 2019 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;

NOTING Article 4(1) regarding the need to ensure compatibility of conservation and management measures established for fishery resources that are identified as straddling areas under the national jurisdiction of a coastal State Contracting Party and the adjacent high seas of the Convention Area and acknowledge their duty to cooperate to this end;

BEARING IN MIND, the Findings and Recommendations of the Review Panel, from 5 June 2018, convened pursuant to Article 17 and Annex II of the Convention, in relation to the Objection by the Republic of Ecuador and their statements on possible ways forward in relation to that objection;

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 05-2019) 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 their national jurisdiction.
2. Only fishing vessels duly authorised pursuant to Article 25 of the Convention and in accordance with CMM 05-2019 (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.

Effort Management

4. Relevant Members and CNCPs shall limit the total gross tonnage (GT)¹ 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 2020 the total catch of *Trachurus murphyi* in the area to which this CMM applies in accordance with paragraph 1 shall be limited to 618,001 tonnes. Members and CNCPs are to share in this total catch in the tonnages set out in Table 1 of this CMM.
6. 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.
7. 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.
8. 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.
9. 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 domestically or endorse arrangements between owners participating in the transfer. Members and CNCPs receiving fishing entitlements by transfer who have consented to a total allowable catch that will apply throughout the range of the fishery resource under Art 20(4)(a)(iii) may pursue those entitlements in the Convention Area and in their areas under their national jurisdiction. 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.
10. Members and CNCPs agree, having regard to the advice of the Scientific Committee, that catches of *Trachurus murphyi* in 2020 throughout the range of the stock should not exceed 680,000 tonnes.
11. The Executive Secretary shall inform Members and CNCPs when catches of *Trachurus murphyi* in the range of its distribution have reached 70% of the amount referred to in paragraph 10. The Executive Secretary shall notify Members and CNCPs when the amount referred to in paragraph 10 has been reached.

¹ In the event that GT is not available, Members and CNCPs shall utilise Gross Registered Tonnage (GRT) for the purposes of this CMM.



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 02-2020 (Data Standards) and using templates prepared by the Secretariat and available on the SPRFMO website.
13. When total catches have reached 70% of the amount indicated in paragraph 10, Members and CNCPs agree to implement a 15-day reporting period:
 - a) for purposes of implementing this system, the calendar month shall be divided into 2 reporting periods, viz: day 1 to day 15 and day 16 to the end of the month;
 - b) once the 15-day reporting has been activated, Members and CNCPs shall report their catches within 10 days of the end of each period, excepting the first report, which shall be made within 20 days of the end of the period.
14. The Executive Secretary shall circulate monthly catches, aggregated by flag State, to all Members and CNCPs on a monthly basis. Once 15-day reporting has been activated the Executive Secretary shall circulate 15-day catches, aggregated by flag State, to all Members and CNCPs on a 15-day basis.
15. Except as described in paragraphs 12 and 13 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 02-2020 (Data Standards) and the templates available on the SPRFMO website, including an annual catch report.
16. 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.
17. Members and CNCPs participating in the *Trachurus murphyi* fisheries shall implement a vessel monitoring system (VMS) in accordance with CMM 06-2020 (VMS) and other relevant CMMs adopted by the Commission.
18. Each Member and CNCP participating in the *Trachurus murphyi* fishery shall provide the Executive Secretary a list of vessels² they have authorised to fish in the fishery in accordance with Article 25 of the Convention and CMM 05-2019 (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.
19. 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 02-2020 (Data Standards).
20. 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 2020 Scientific Committee meeting. Members and CNCPs shall also provide observer data for the 2020 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 2020 Scientific Committee meeting in order to ensure that the Scientific Committee has an adequate opportunity to consider the reports in its deliberations. Members should notify the Executive Secretary in the event they will not be submitting an annual report together with the reasons for not doing so.

² Fishing vessels as defined in Article 1 (1)(h) of the Convention.



21. 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 10-2020 (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.
22. The information collected under paragraphs 11, 13 and 18, 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 (2020) agreed by the Commission, in order to provide updated advice on stock status and recovery.
23. 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;
 - 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.
24. 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 02-2020 (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

25. 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 12-24, insofar as they are applicable, to vessels associated with the *Trachurus murphyi* fisheries in their areas under national jurisdiction. They are also invited to inform the Executive Secretary of the Conservation and Management Measures in effect for *Trachurus murphyi* in areas under their national jurisdiction.
26. Acknowledging the duty to cooperate to promote that CMMs established for the high seas and those adopted for areas under national jurisdiction are compatible, as required by Article 4 paragraph 2 and Article 8 (f) of the Convention, coastal State Contracting Parties participating in the *Trachurus murphyi* fishery in areas under national jurisdiction that have not given their express consent under Article 20 paragraph 4 (a) (ii), will undertake their efforts to procure that the catches do not exceed the difference between the amount agreed in paragraph 10 of this CMM and the total catch allocated in paragraph 5 of CMM 01-2020 *Trachurus*



murphyi 5 this CMM.

Special Requirements of Developing States

27. 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

28. This Measure shall be reviewed by the Commission in 2021. 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), CMM 01-2017 (*Trachurus murphyi*), CMM 01-2018 (*Trachurus murphyi*) and CMM 01-2019 (*Trachurus murphyi*) as well as the Interim Measures for pelagic fisheries of 2007, as amended in 2009, 2011 and 2012, have been complied with.

29. 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 2018 to 2021 inclusive.

Table 1: Tonnes in 2020 fishery as referred to in paragraph 5.

| Member / CNCP | Tonnage |
|--------------------|---------|
| Chile | 439 034 |
| China | 43 164 |
| Cook Islands | 0 |
| Cuba | 1 517 |
| Ecuador | 8 594 |
| European Union | 41 538 |
| Faroe Islands | 7 539 |
| Korea | 8 719 |
| Peru (HS) | 13 793 |
| Russian Federation | 22 321 |
| Vanuatu | 31 782 |
| | |
| Total | 618 001 |

Table 2: Percentages³ related to the catches referred to in paragraph 10.

| Member / CNCP | % |
|---------------|---------|
| Chile | 64.5638 |
| China | 6.3477 |
| Cook Islands | 0.0000 |
| Cuba | 0.2231 |

³ These percentages shall apply from 2018 to 2021 inclusive as amended in 2020.



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|--------------------|--------|
| Ecuador | 1.2638 |
| European Union | 6.1086 |
| Faroe Islands | 1.1087 |
| Korea | 1.2822 |
| Peru (HS) | 2.0284 |
| Russian Federation | 3.2825 |
| Vanuatu | 4.6738 |