

REPUBLIC OF THE MARSHALL ISLANDS

MANAGEMENT PLAN FOR THE REGULATION OF FISH AGGREGATING DEVICES

A. Objective

This Plan is developed in accordance with the Western and Central Pacific Fisheries Commission (WCPFC or Commission) CMM 2008-01, which requires Members whose vessels fish on the high seas to submit to the Commission Management Plans for the use of Fish Aggregating Devices (FAD). The Plan includes strategies to limit the capture of small bigeye and yellowfin tuna associated with fishing on FADs. This Plan has been prepared with due regard to the WCPFC Guidelines for the Preparation of FAD Management Plans, as articulated in Attachment E to CMM 2008-01¹, and sets out the mechanisms and procedures that the Republic of the Marshall Islands (RMI) will use to regulate the use of FADs.

In addition, this Plan is to implement the FADs closure requirements under the Third Arrangement Implementing the Nauru Agreement Setting Forth Additional Terms and Conditions of Access of the Fisheries Zones of the Parties (3IA), which has been implemented in the RMI through the *Fishing License (Third Implementation Arrangement) Regulations of 2009* (RMI 3IA). This Plan will also provide alternative mechanisms for the reduction of fishing on FADs by local fishing vessels² highly dependent on fishing on FADs.

B. Scope

The provisions in this Plan apply to RMI-flagged purse seine vessels operating on the high seas³, in other jurisdictions and in the RMI Exclusive Economic Zone (EEZ), and to foreign flagged purse seine vessels operating in the RMI EEZ under license. Unless otherwise specified, references to fishing or fishing vessels only apply to purse seine fishing vessels, group purse seine fishing vessels and their support vessels.

¹ Noting that decisions taken by the WCPFC from time to time will result in new or revised Conservation and Management Measures, references in this Plan to CMM 2008-01 apply equally (as relevant) to any future CMM adopted by the WCPFC for the Conservation and Management of Bigeye and Yellowfin Tuna.

² "Local Fishing Vessel" is defined in section 102(44) of 51 MIRC Ch. 1. References to "Local Fishing Vessel" in this Plan are not inclusive of RMI-flagged vessels. A vessel flagged to the RMI does not necessarily qualify that vessel as a Local Fishing Vessel in accordance with the definition in section 102(44) of the Act.

³ This Plan does not apply to the high seas pockets that have been closed by the RMI 3IA. Those high seas pockets remain closed to fishing at all times.

This Plan does not apply to FADs deployed by Marshall Islands Marine Resources Authority (MIMRA) and The Billfish Club for the purposes of research or sport fishing.

C. Legal Status

Pursuant to section 119(1)(b) of 51 MIRC Ch. 1 (“the Act”), MIMRA has the power to establish management plans and programs to manage the resources in the Fishery Waters of the RMI.

D. Types of Fish Aggregating Devices

A FAD is defined in the RMI 3IA as follows:

“Fish Aggregating Device” has the corresponding meaning in section 102(27) of the Act⁴ and includes an object or group of objects, of any size, that has or has not been deployed, that is living or non-living. FAD also includes, but not limited to buoys, floats, netting, webbing, plastics, bamboo, logs, whale and sharks floating on or near the surface of the water that fish may associate with.

Nothing in this Plan detracts from or replaces the meaning given to a “FAD” for the purposes of the RMI 3IA, which give legal and operational effect to the Third Arrangement Implementing the Nauru Agreement.

For purposes of this Plan, the following types of FADs are covered:

Anchored FAD – An object or group of objects, of any size, that has or has not been deployed, including but not limited to buoys, floats, netting, webbing, plastics, bamboo and logs floating on or near the surface of the water that fish may associate with and that has a mooring line attached to an anchor or other object that ensures the FAD remains in a fixed location.

Deployed Drifting FAD – An object or group of objects, of any size, that has been deployed, including but not limited to buoys, floats, netting, webbing, plastics, bamboo and logs floating on or near the surface of the water that fish may associate with.

Other FAD – Any other object or group of objects that fits the overriding definition of a FAD but is not an anchored FAD or a deployed drifting FAD.

E. FAD Limits

Each RMI-flagged fishing vessel may deploy a total of sixty (60) Deployed Drifting and Anchored FADs at any one time for both the high seas, which are not closed for fishing under the RMI 3IA, and within the RMI EEZ, except that no

⁴ 51 MIRC Ch.1

FADs may be deployed during the FAD prohibition period (see Section F), consistent with the RMI 3IA and CMM 2008-01. FAD deployment in the jurisdictions of other States will be subject to the requirements of other States. Foreign flagged vessels operating under license in the RMI may deploy up to fifty (50) FADs at any one time within the RMI EEZ, and consistent with the RMI 3IA and CMM 2008-01, shall not deploy FADs within RMI EEZ and in the High Seas during the prohibition period. In addition, no fishing vessel license to fish in the RMI EEZ shall deploy any FADs at any time in the high seas pockets specified in the RMI 3IA.

F. Requirements for Deploying/Serviceing and Retrieving FADs in the RMI EEZ by all Vessels and by RMI flagged fishing Vessels on the High Seas

Deploying FADs

The RMI 3IA prohibits the deployment or serviceing of any FADs in the RMI EEZ by any fishing vessels during the FAD prohibition period specified in Section G. At other times, deployment must be conducted in accordance with the requirements below.

RMI EEZ: Consistent with the RMI 3IA, all fishing vessels operating in the RMI EEZ from 1 January 2010 are subject to 100% observer coverage from either the national observer programme of another Party to the Nauru Agreement or an existing sub-regional observer programme. Observers will monitor all FAD deployments/serviceing in the RMI EEZ.

High Seas: Consistent with CMM 2008-01, all RMI-flagged vessels operating on the high seas as of 1 January 2010 are subject to 100% observer coverage under the Regional Observer Programme. Observers will monitor all FAD deployments/serviceing on the high seas.

The master of any fishing vessel operating under license in the RMI EEZ must provide the following information in writing to the Director of MIMRA when deploying or serviceing a drifting and an anchored FAD within the RMI EEZ:

- The date of deployment/serviceing;
- The location (latitude and longitude) recorded in degrees and minutes;
- The FAD number that has been assigned; and
- Description of the type of FAD being deployed or serviceed.

No FAD shall be deployed or serviceed in the RMI EEZ by any fishing vessel without prior authorization from MIMRA, which will be contingent on:

- Provision of all of the information above; and

- The number of FADs already deployed by the vessel.

RMI flagged fishing vessels must also provide the above information to MIMRA when deploying or servicing drifting FADs on the high seas.

MIMRA shall not approve the deployment of a FAD if records indicate that the FAD limit would be exceeded by the relevant vessel.

Retrieving FADs

The RMI 3IA places specific restrictions on the retrieval of FADs during the FAD prohibition period specified in Section F. Those restrictions continue to apply in addition to the requirements listed below.

RMI EEZ: Consistent with the RMI 3IA, all vessels operating in the RMI EEZ from 1 January 2010 are subject to 100% observer coverage from either the national observer programme of another Party to the Nauru Agreement or an existing sub-regional observer programme. Observers will monitor all FAD retrievals in the RMI EEZ.

High Seas: Consistent with CMM 2008-01, all RMI-flagged fishing vessels operating on the high seas as of 1 January 2010 are subject to 100% observer coverage under the Regional Observer Programme. Observers will monitor all FAD retrievals on the high seas.

When retrieving FADs in the RMI EEZ, the vessel master of any fishing vessel must provide the following information in writing to MIMRA:

- The date of retrieval;
- The location (latitude and longitude) recorded in degrees and minutes of retrieval;
- The FAD number; and
- A description of the type of FAD being retrieved.

Any RMI flagged fishing vessel that is retrieving a FAD on the high seas must also provide this information to MIMRA.

G. FAD Prohibition Period and Applicability

This section of the Plan describes the arrangements that will be applied to RMI flagged fishing vessels and foreign flagged fishing vessels operating in the RMI EEZ, and to RMI flagged fishing vessels operating on the high seas and other jurisdictions. Fishing in areas of national jurisdiction beyond the RMI by RMI flagged fishing vessels is subject to the relevant laws and regulations of the other State.

FAD Prohibition Period

RMI EEZ: Beginning in 2010 and consistent with the RMI 3IA, all RMI flagged vessels and foreign flagged fishing vessels operating in the RMI EEZ are required to observe a three-month (July-September) FAD prohibition period each year. The FAD prohibition period will begin at 0001 hours GMT on 1 July and end at 2359 hours GMT on 30 September each year. During the prohibition period, the deployment or servicing of a FAD and/or any associated electronic equipment within the RMI EEZ is strictly prohibited.

In accordance with the RMI 3IA, RMI reserves the right to implement flexible arrangements for local fishing vessels through such alternative mechanism provide in this plan, or any amendments to this Plan.

As an alternative during the FAD prohibition period, local fishing vessels may continue to fish in the RMI EEZ in association with FADs provided that the Minister has given exemption to such vessel in accordance with the RMI 3IA. When fishing under exemption during the FAD prohibition period, local fishing vessels are subject to 100% observer coverage and continued monitoring and reporting of catches taken in association with FADs in the RMI EEZ, in accordance with conditions of license. In addition, local fishing vessels fishing on FADs during the FAD prohibition period are subject to increased port sampling, [at the expense of the vessel], to ensure that continued fishing on FADs is not contributing to increased catches of small yellowfin and bigeye tunas.

MIMRA will review catch data received from the local fishing vessels, data collected by the Observers and port samplers at the conclusion of the FAD prohibition period and determine whether additional alternative measures may be necessary.

High Seas: Beginning in 2010, all RMI flagged fishing vessels operating on the high seas, not including the high seas pockets closed by the RMI 3IA, and in other jurisdictions will be required to observe a three-month (July-September) FAD prohibition period each year. The FAD prohibition period will begin at 0001 hours GMT on 1 July and end at 2359 hours GMT on 30 September each year. During the prohibition period, the deployment or servicing of a FAD and/or any associated electronic equipment within the high seas and other jurisdictions is prohibited.

H. Catch Retention

In order to discourage fishing practices that result in a high level discard of small tuna, all bigeye, skipjack and yellowfin tuna taken by any purse seine fishing vessel licensed to fish in the RMI EEZ shall be retained on board when landed, transhipped or transferred to another purse seiner through net sharing.

If the operator of a purse seine vessel determines that fish bycatch of bigeye, skipjack and yellowfin tuna should not be retained on board for reasons related to

the size, marketability or species composition, said fish shall only be released before the net is fully pursed and one half of the net has been retrieved.

This measure shall commence on 1 January 2010 and specific operational guidance regarding this catch retention requirement is contained in the relevant provisions of the RMI 3IA.

I. Anchored FADs in the RMI EEZ

Deployment of anchored FADs within the RMI EEZ requires approval by MIMRA. MIMRA shall establish the number of anchored FADs that can be deployed in the RMI EEZ by each company, including the information required when deploying an anchored FAD.

Mooring lines attached to anchored FADs must be sufficiently weighted along their length such that if the FAD becomes detached, the line will sink to the sea floor.

MIMRA shall not approve the deployment of an anchored FAD if the proposed location is within 5 nautical miles of another anchored FAD or a submerged reef.

J. Administration

FAD Register

MIMRA may establish a register of deployed FADs in order to manage the number of deployed FADs (both drifting and anchored) and to monitor location of anchored FADs.

FAD Ownership

This Plan does not create any property right over FADs or fish that may aggregate to them. No exclusivity of access is conferred when a particular vessel deploys a FAD in accordance with this Plan.

K. Review

This Plan may be amended from time to time, as appropriate.