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Greenpeace International findings at sea, November 2012

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During November 2012 Greenpeace International conducted a ship expedition in the waters of Palau and Pacific Commons area 1, the pocket of international waters between the EEZs of Palau, Federated States of Micronesia, Papua New Guinea and Indonesia. This is the sixth Greenpeace expedition in the Western and Central Pacific region to defend dwindling tuna stocks and expose the conservation, management and compliance challenges in this region. As part of this work the Government of Palau and Greenpeace cooperated in a joint surveillance exercise in Palauan waters. Similar exercises were conducted in 2011 with Palau, and in 2006 with Kiribati and Federated States of Micronesia.

The findings from this expedition reinforce the need for many of the proposed conservation and management measures being put forth by Pacific Island countries to the WCPFC at this and previous Commission meetings. Greenpeace highlights the following findings from our most recent Defending Our Pacific expedition, as evidence to be considered in the deliberations of the Commission at its 9th meeting.

Widespread non-compliance with high seas fishing conditions

At its 5th regular meeting in Korea in 2008, the Commission decided to close two areas of Pacific Commons (areas 1 and 2) to purse seine fishing as part of a Conservation and Management Measure (CMM 2008-01) for bigeye and yellowfin tuna. Greenpeace fully supported that closure, but argues that it is justified for a broader range of reasons that bigeye and yellowfin recovery. Repeated expeditions in the region have revealed that the Pacific Commons are havens for pirate fishing, and their closure to all fishing would enable greater monitoring, control and surveillance of fleets operating in the region. Furthermore, closure of large areas to fishing and other extractive activities and designation of marine reserves is becoming accepted as an important tool in marine conservation and precautionary, ecosystem-based management.

Earlier this year CMM 2008-01 was extended via CMM 2011-01, but that extension removed the high seas closure provision, instead setting out specific conditions around the intended high seas fishing of Philippine purse seine vessels. Those conditions were legislated by the Philippines Bureau of Fisheries and Aquatic Resources (BFAR) through Administrative Orders FAO 241, 242 and 245.

During one month at sea, Greenpeace encountered several vessels fishing in the high seas, and was invited aboard some of those vessels to check whether WCPFC measures were being adhered to. Our findings indicate widespread non-compliance with the measures set out by the WCPFC, including:

1. **Philippine and other vessels operating in the high seas without high seas permits.** Under WCPFC CMM 2011-01 “*The Commission shall maintain an updated list of all fishing vessels operating in HSP1 SMA based on the foregoing vessel’s entry and exit reports submitted to the Commission. The list will be made available to Commission Members through the WCPFC website.*” The Philippine reefer vessel Sal 19 did not appear on the WCPFC record of fishing vessels authorised to fish in the WCPO¹ nor on the list submitted by the Philippines to TCC-8 of vessels intending to fish in HPS-1 SMA and requesting an exemption in order to transship in the high seas². The Indonesian purse seiners KM Starcki 10 and KM Starcki 11 appear on the WCPFC record of fishing vessels list but with authorisation periods for both vessels ending on

3/6/2010³. These vessels were engaged in an illegal transshipment with a non-CCM flagged reefer on 14 November 2012.

2. **Failure to report via VMS.** BFAR Administrative Order 241: Regulations and Implementation of the Vessel Monitoring System (VMS) in the High Seas⁴ requires vessels to electronically report their position to the Philippine fisheries monitoring centre at least 6 times per day from the day they leave port. Furthermore, BFAR Administrative Order 245: Regulations and Implementating Guidelines on Group Tuna Purse Seine Operations in High Seas Pocket Number 1 as a Special Management Area states that, in accordance with FAO 241 requirements, *“The fisheries monitoring centre shall provide continuous, real-time VMS information to the adjacent coastal states/Territories for monitoring purposes.”* The fishing master of the vessel Geneviva stated to Greenpeace that they had transited through Palauan EEZ on 28 and 29 September. However, Palauan authorities confirmed they received no notification of that transit. That would indicate a breach of FAO 245.

Furthermore, four vessels (flagged to the Philippines, Indonesia and Cambodia) were documented by Greenpeace undertaking an illegal/unregulated transshipment in the high seas. None of these vessels were reporting via VMS.

3. **Use of nets with mesh size below the minimum requirement.** The minimum mesh size for Philippine purse seiners operating in the high seas is specified under Administrative Order FAO 245 Section 10 as not less than 3.5 inches⁵ for the mid-body to the wing of the purse seine net. The mesh size of both Geneviva and Vergene’s nets was measured at around 1.75". The observer aboard Geneviva confirmed that the requirement for mesh size should be no less than 3.5" but said the mesh size looks smaller when not deployed. On the Vergene, the observer assisted in measurement of the net mesh at 1.75" but could not provide any explanation on the size of mesh size being significantly less than 3.5".
4. **FAD deployment.** According to the Master and Observer aboard Geneviva, 20 FADs had been deployed in Pacific Commons area 1 in 2008 and they were going to deploy 2 more on this trip. The vessel had 3 FADs onboard 2 marked as “MV 26” and “MV 27” and had just deployed one FAD before Greenpeace crew were invited aboard the vessel. However, the observer logbook showed that they had deployed 3 FADs on Oct 28, contradictory to their claim. Greenpeace was informed that the positions of the FADs would be reported at the end of their trip. According to FAO 245 Section 11. Use of Fish Aggregating Device (FAD): *“Each group tuna purse seine/ring net operation shall deploy not more than 40 FADs per catcher vessel. Location coordinates of FADs should be submitted to the Bureau.”* This leaves FAD regulation open to interpretation, including whether the FADs deployed historically by these same vessels are included within their 40 FAD limit, whether the locations of previously deployed FADs need to be reported to the Bureau, whether the limit of 40 is over the lifetime of the fishing vessel or by year or fishing trip, or what timeframe FAD locations must be reported within.

Greenpeace urges the Commission to reinstate the closure of the high seas to purse seine fishing, eliminate the exemption applied to Philippine vessels and extend those closures to cover all four areas of Pacific Commons and to apply to all forms of fishing, not only purse seine.

Massive FAD deployment underway – impending bigeye crisis

The impact of FAD use by purse seine fleets on the region’s tuna stocks is well-known, in particular the bycatch of juvenile bigeye and yellowfin tuna which is markedly increased when purse seiners use FADs as opposed to setting on unassociated tuna schools. The WPCFC Scientific Committee (SC) has repeatedly advised that greater restriction on FAD use would assist the recovery of bigeye from its overfished state. Recently, stock modeling showed that a combination of complete prohibition of purse seine FAD use and restriction of bigeye fishing effort in spawning areas would be most effective in recovering the bigeye tuna stock⁶. The PNA has agreed to extend the current three-month ban on purse seine FAD use to four months, but while science indicates that FAD bans have significant benefits to

bigeye recovery, FAD use periods coupled with high fishing rates and record high FAD use are undermining the benefits accrued during the ban.

This expedition has uncovered a massive density of FADs in the region, including FADs illegally deployed in the waters of Palau. In total 33 FADs were discovered in Palau's EEZ and Pacific Commons area 1 (HSP-1), over a period of around one month. The majority of those FADs are Philippine payao style (a cylindrical metal FAD often anchored to the seabed, even in water several kilometers depth). Some of these FADs had been recently deployed, and fishing vessels were observed with more FADs onboard due to be deployed. This warns of an impending stock crisis threatening bigeye and yellowfin tuna if a ban on FAD use by purse seiners is not urgently implemented.

A full account of the locations of FADs observed by Greenpeace and Palau fisheries officers is available, including a summary of the decommissioning or removal of FADs that was undertaken.

Greenpeace urges the commission to adopt an immediate ban on FAD use by purse seine fleets in the WCPO to aid the recovery of bigeye and yellowfin tuna stocks, and conserve other vulnerable species including oceanic whitetip and silky sharks.

Transshipment at sea aiding pirate fishing

Transshipment at sea provides an avenue for stolen fish to be spirited out of a fishing area without being reported to the relevant countries and RFMO. In a number of regions, transshipment at sea has been banned in order to close down this method of laundering stolen fish.

Greenpeace documented and exposed an IUU transshipment occurring between four vessels in the high seas of Pacific Commons area 1 (HSP-1) on 14 November 2012. The transshipment operation involved vessels flagged to one WCPFC member state (Philippines) and a cooperating non-member (Indonesia). The receiving vessel, Heng Xing 1, is according to Lloyd's List Intelligence beneficially owned by a company from WCPFC member state mainland China, but is flagged to a non-CCM, Cambodia.⁷

This transshipment violated a number of WCPFC measures.

1. Philippine reefer Sal 19 is not on the WCPFC register of fishing vessels meaning it is not authorised to fish (which by definition includes transshipment) in the WCPFC Convention Area.
2. Indonesian purse seiners KM Starcki 10 and KM Starcki 11 are on the WCPFC register of fishing vessels however their authorisation expired on 3/6/2010, indicating they are no longer authorised to fish in the Convention Area beyond the Indonesian EEZ, yet they were documented undertaking an illegal transshipment in the high seas.
3. Philippines as a member and Indonesia as a cooperating non-member of the WCPFC must comply with WCPFC CMM 2009-06 on transshipment⁸. These vessels were all in breach of Section 1A paragraph 20 which prohibits transshipment to a non-CCM vessel, and Section 3 paragraph 35 requiring 36 hours prior notification of transshipments to the Executive Director. In addition the two Indonesian purse seiners were in violation of Section 2 paragraph 25 prohibiting transshipment at sea by purse seine vessels.
4. The Cambodian reefer Heng Xing 1 is 'Unregulated' (part of the definition of IUU) due to its fishing activity in the WCPO without being a member or cooperating non-member of the relevant regional fisheries management organisation, namely the WCPFC. It should be noted that despite being flagged to a non-CCM state, Lloyd's List Intelligence gives Zhoushan International Shipping Agency, based in mainland China (a WCPFC member state), as the Beneficial Owner, Commercial Operator and Technical Manager of the vessel.
5. All vessels involved in the transshipment were failing to comply with the FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing⁹. Specifically,

they were failing to comply with paragraph 48 (for transshipping to or from IUU vessels) and paragraphs 49 and 50.

All four vessels engaged in this activity must be placed on the WCPFC IUU vessel list by the Commission for their illegal and unregulated fishing activities within the Convention Area.

This follows on from a similar illegal transshipment documented by Greenpeace in November 2011. In that case a nameless, unflagged purse seine vessel with a Philippine captain was caught transshipping illegally in HSP-1 to an Indonesian flagged reefer Lapu Lapu.¹⁰

Greenpeace urges the Commission to ban transshipment at sea in order to curb activities of this nature, and the unwanted contribution they bring to IUU fishing.



Heng Xing 1 with Sal 19 and KM Starcki 11 alongside during an IUU transshipment in HSP-1 on 14 November 2012.

Flick the switch!

Much debate has surrounded the issue of VMS data provision to coastal states during recent meetings of the Commission and its Technical and Compliance Committee (TCC). The common-sense request by Pacific states to have access to VMS data on vessels transiting their waters – data that is already being held by the Commission – has been resisted by some.

There is no doubt that giving Pacific states information on vessels passing through their waters will aid in monitoring, control and surveillance in the region. Greenpeace has revealed, during our month at sea in 2012, various cases of vessels navigating through country EEZ's that demonstrate how *flicking the switch* could help unmask and combat IUU activities occurring in the WCPO.

1. A Philippine vessel confirming they had passed through Palau's EEZ on their way to fish in HPS-1 but not having reported on VMS to Palau, therefore not compliant with Philippine regulation FAO 245.
2. A large number of anchored payao-style FADs deployed illegally in Palau waters, which may have been deployed by transiting vessels. These were located not far from a large deployment of similar FADs just beyond Palau's EEZ in HSP-1.
3. IUU vessels dispersing into the EEZs of Palau and Indonesia after being exposed during their illegal transshipment of tuna in the high seas.

4. Following the IUU transshipment in HSP-1, the reefer Sal 19 was later spotted by Greenpeace in the EEZ of Palau, having painted over its name and number and no longer flying a Philippine flag.

These incidents underline the need for greater transparency by fleets operating in the region, and the need for all countries that are serious about combatting IUU fishing to support the call by Pacific Island states to “flick the switch” and open up access to VMS data for fishing vessels transiting their waters.

Greenpeace urges the Commission to “flick the switch” at WCPFC-9.



Sal 19 in HSP-1 on 14 November showing name (left) and in Palauan EEZ on 22 November with name painted over (right).



Sal 19 in HSP-1 on 14 November showing home port (left) and in Palauan EEZ on 22 November with home port painted over (right).

WCPFC members conveniently using non-CCM flags

Flags of convenience (FOC) are a global scourge allowing fishing companies to avoid compliance with important laws governing fisheries management, marine conservation, pollution, labour and human rights. This Commission has had to contend with non-CCM flagged vessels fishing with impunity outside the rules of the Commission. The case of Heng Xing 1 appears to be yet another example of a flag of convenience being used, in this case by a vessel which, according to Lloyd's List Intelligence on 14 November 2012, has the Beneficial Owner, Commercial Operator and Technical Manager: *Zhoushan International Shipping Agency*. This company is based in mainland China (i.e. a WCPFC member state).

Greenpeace urges all WCPFC members to ensure that vessels that engage in fishing activities in the Convention Area and are beneficially owned by their nationals and companies are flagged to a WCPFC member state which has a genuine link to the ship.

- ¹ WCPFC Record of Fishing Vessels contained no vessel by the name of Sal 19 on 15 November 2012. http://intra.wcpfc.int/_layouts/searchresults.aspx?k=sal%20&u=http%3A%2F%2Fintra.wcpfc.int%2FLists%2FVessels
- ² WCPFC-TCC8-2012-DP 11 Philippines Request For Recognition Of Transshipment Exemption Under CMM 2009-06 For Philippine Flagged Vessels That Will Operate In High Seas Pocket Number 1. Available online at: <http://www.wcpfc.int/doc/WCPFC-TCC8-2012-DP11/Philippines-request-recognition-transshipment-exemption-under-CMM-2009-06-P>
- ³ WCPFC Record of Fishing Vessels. Vessel listing available online at:
KM Starcki 10: <http://intra.wcpfc.int/Lists/Vessels/DispForm.aspx?ID=9149>
KM Starcki 11: <http://intra.wcpfc.int/Lists/Vessels/DispForm.aspx?ID=9150>
- ⁴ FAO 241 s 2012 available online at: http://www.bfar.da.gov.ph/pages/Legislation/fishadminorder01_04June12.html
- ⁵ BFAR Administrative Order FAO 245 Section 10 states: “All fishing vessels covered by this order shall use net mesh size of not less than 3.5 inches starting at the mid body to the entire wing for purse seine, while mesh size of not less than 3.5 inches at both wings for ring net.” (Note this Order is not yet available online).
- ⁶ Shifting from marine reserves to maritime zoning for conservation of Pacific bigeye tuna (*Thunnus obesus*) <http://www.pnas.org/content/109/44/18221.abstract>
- ⁷ Further details of the activity can be found in Greenpeace press release available online at: <http://www.greenpeace.org/international/en/press/releases/Southeast-Asian-ships-caught-illegally-transferring-fish-in-the-Pacific-Ocean-/>
- ⁸ Conservation and Management Measure 2009-06 on the Regulation of Transshipment. Available online at: <http://www.wcpfc.int/doc/cmm-2009-06/conservation-and-management-measure-regulation-transshipment-0>
- ⁹ FAO International Plan Of Action To Prevent, Deter And Eliminate Illegal, Unreported And Unregulated Fishing. Available online at: <http://www.fao.org/docrep/003/y1224e/y1224e00.htm>
- ¹⁰ Greenpeace 2012, Defending Our Pacific: Summary of findings from the Esperanza expedition, September – December 2011. WCPFC8-2011/OP-09 <http://www.wcpfc.int/doc/WCPFC8-2011-OP-09/WCPFC8-2011-OP-09-Greenpeace-2011-SHIP-TOUR-REPORT>