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November 23, 2010

Dear WCPFC Member, Participating Territory, Cooperating Non-member, or Observer,

I am writing on behalf of the Pew Environment Group, in regards to the discussions that will take place at the upcoming 7<sup>th</sup> Regular Session of the Western and Central Pacific Commission (WCPFC) in Honolulu, Hawaii. As the newest and largest RFMO responsible for managing highly migratory fish stocks, the WCPFC has the ability to apply current “best-practice” in fisheries management so that tuna, sharks and other fisheries under its remit are assured a well managed future, and can thus continue to provide income and benefits to the countries of the Pacific.

However, we believe that for this to happen, all members, cooperating non-members and participating territories (CCMs) must ensure that WCPFC decision making does not follow the same path as other RFMOs in other regions. This 7<sup>th</sup> Regular Session offers an opportunity to: ensure strong Conservation and Management Measures (CMMs) are in place and effectively implemented; implement scientifically sound, precautionary measures to protect the ecological and economic viability of tuna and shark populations and the ecosystems on which they depend; and ensure that progress is made toward implementation of port State measures to reduce and eventually eliminate illegal, unregulated, and unreported (IUU) fishing.

In the attached policy brief we outline our key areas of interest and concern, and accompanying this letter are several documents providing information and analysis for your perusal and consideration:

- The overall Pew Policy Brief for the 7<sup>th</sup> Regular Session of the Western and Central Pacific Commission (WCPFC)
- The results of our research on Port State Performance and WCPFC-specific findings of a recent Gap Analysis comparing port State measures developed by ten RFMOs and the FAO Port State Measures Agreement

We look forward to working with you and your delegation in Honolulu to progress sustainable fisheries in the Pacific through conservation of shark and tuna populations and progress towards elimination of IUU fishing. Please feel free to contact us at [international@pewtrusts.org](mailto:international@pewtrusts.org), now or during the meeting, if we may be of any assistance.

Sincerely,

Amanda Nickson  
Senior Officer, International Policy  
The Pew Environment Group

# FINDING SUSTAINABILITY

Recommendations to the Western and Central Pacific Fisheries  
Commission (WCPFC):

7<sup>th</sup> Regular Session of the Commission

December 6-10, 2010

Honolulu, Hawaii



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### ABOUT THE PEW ENVIRONMENT GROUP

The Pew Environment Group is the conservation arm of The Pew Charitable Trusts, a non-governmental organization that applies a rigorous, analytical approach to improving public policy, informing the public and stimulating civic life.

[www.pewenvironment.org](http://www.pewenvironment.org)

Cover photo Left: Marc Colin Seapics, Right: Wolcott Henry 2005 Marine Photobank

## Executive Summary

The Western and Central Pacific Fisheries Commission (WCPFC) is the newest and largest Regional Fisheries Management Organization (RFMO) responsible for managing highly migratory fish stocks. It arguably is the best equipped to create a sustainable future for a large proportion of the world's commercial fish populations. Given its more modern and comprehensive mandate, the WCPFC has the ability to apply current international best practices in fisheries management so that the tuna, sharks and other fisheries under its remit do not follow the same path as those managed by RFMOs in other regions. WCPFC can instead chart a course towards a sustainable future.

Members, cooperating non-members and participating territories (CCMs) involved in the development of bilateral treaties related to fisheries access in the Convention Area must ensure that any such treaties are complementary to and supportive of strong, science-based management with appropriate limits and enforcement measures.

The WCPFC has an opportunity at this 7<sup>th</sup> Regular Session to ensure the implementation of strong and effective conservation management measures (CMMs). These measures should be scientifically sound and precautionary and should protect the ecological and economic viability of tuna and shark populations and the ecosystems on which they depend. Specifically, the Pew Environment Group recommends that WCPFC takes the actions outlined below.

To help ensure the **conservation of shark populations**:

- Prohibit purse seine vessels from setting nets around whale sharks, a species classified by the International Union for the Conservation of Nature (IUCN) as Vulnerable to extinction.
- Approve the Shark Research Plan and the associated budget to determine the status of key shark species.
- Add sharks to the Commission rules on scientific data to require shark reporting and improve estimates on annual catches, effort and discards.
- Prohibit the removal of shark fins at sea by requiring that fins be naturally attached on landing
- Prohibit the use of wire leaders<sup>i</sup> in order to reduce bycatch.
- Make all portions of the Conservation and Management Measure for Sharks (CMM 2009-04) mandatory.
- Include hammerhead and porbeagle sharks among the key shark species identified in CMM 2009-04, and also include other species at highest risk from longline and purse seine fishing, such as those identified in the Pacific Islands Regional Plan of Action (PI-RPOA): blacktip, salmon, silvertip, sandbar and Galapagos sharks, as well as the pelagic stingray.
- Require the release of all live sharks.
- Prohibit the dumping of carcasses after landing.

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<sup>i</sup> Longline gear consists of a main line suspended by floats with branch lines. Leaders, or traces, are the portion of the branchline before the hook. Heavy-duty nylon monofilament is often used for the leader, but wire is sometimes used as well. The catch rates of sharks are significantly higher on wire than on nylon leaders. Sharks are better able to sever or break the nylon leader, thus reducing shark bycatch.

To help ensure the **conservation of tuna populations**:

- Manage stocks with a higher degree of precaution, particularly bigeye tuna, given high uncertainty with regard to recruitment levels.<sup>1</sup> As a precautionary action, measures should be implemented to reduce fishing mortality of bigeye by at least 39% from 2005-2008 levels, in order to include a 10% precautionary buffer on top of the 29% reduction proposed by the Scientific Committee at its 6<sup>th</sup> Regular Session (SC6).
- Further extend the fish aggregating device (FAD) closure and fully enforce it. Significantly extend the FAD closure to ensure increased effectiveness or establish a limit on the number of total FAD sets allowed throughout the year based on advice from the Scientific Committee. Implement reporting and monitoring provisions and keep them under active review.
- Identify and correct non-compliance, particularly for negligent or late data reporting. A lack of timely data provision continues to hamper the ability of the Scientific Committee to provide the highest quality management recommendations.

To **address illegal, unregulated and unreported (IUU) fishing**:

- Seek to improve WCPFC port State Measures (PSMs), with the goal of bringing them into line with the recently adopted Port State Measures Agreement (PSMA).<sup>ii</sup> By adopting an improved PSM regime, WCPFC CCMs not only would reduce IUU fishing in the WCPFC Area but would also support global efforts to close ports to all IUU fishing vessels.
- Encourage WCPFC CCMs to sign and ratify the PSMA as soon as possible.
- Require fishing and support vessels authorized to operate in the Convention Area to have a unique IMO (International Maritime Organization) number to allow the identification and tracking of these vessels.
- Ensure that CCMs are implementing their Convention obligations and conservation and management measures by adopting a compliance monitoring scheme.
- Support the continued closures of the high seas pockets and the additional closures proposed by the PNA.

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<sup>ii</sup> Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing. Opened for signature Nov. 22, 2009. Extract from the Report of the One Hundred and Thirty Seventh Session of the FAO, available: <ftp://ftp.fao.org/docrep/fao/meeting/018/k6339e.pdf> and <http://www.ecolex.org>.

## Overcoming Challenges: Towards Sustainability

***“Pacific Island Fisheries are the major renewable resource available to the region for food security, livelihoods and economic growth. Despite considerable progress in fisheries management and development, many of these fisheries face collapse over the next 25 years and major development opportunities will be missed unless strategic action is taken.”***

### **The Future of the Pacific Island Fisheries**

[https://spc.int/fame/doc/corporate\\_docs/Future\\_of\\_PI\\_fisheries\\_Brochure.pdf](https://spc.int/fame/doc/corporate_docs/Future_of_PI_fisheries_Brochure.pdf)

The Western and Central Pacific Fisheries Commission was established by the Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, and entered into force on June 19, 2004. The WCPFC aims to ensure the long-term conservation and sustainable use of highly migratory fish stocks in the Western and Central Pacific Ocean while also reflecting the unique social, economic and geographic characteristics of the region. Mirroring many of the provisions of the U.N. Fish Stocks Agreement (UNFSA),<sup>iii</sup> the WCPFC has a mandate to use precautionary and ecosystem-based approaches to management, to make decisions based on the best scientific information available and to minimize bycatch and protect biodiversity.

The WCPFC is the newest and largest RFMO responsible for managing highly migratory fish stocks and arguably is the best-equipped to create a sustainable future for a large proportion of the world’s commercial fish populations. Accounting for nearly 20% of the earth’s surface, the WCPFC is responsible for management of the world’s largest tuna fishery and important populations of sharks, as well as marine turtles and many other commercially and ecologically important species. With almost 60% of the world’s tuna originating from the waters of the western and central Pacific<sup>2</sup>, tunas are critical to the livelihoods of Pacific peoples and States. The developing countries of the Pacific, whose waters are home to these species, should receive equitable benefits from the sustainable harvesting of fish. In addition, they need capacity building support to facilitate sustainable management and enforcement capabilities. In this regard, the effects of IUU fishing, in particular unregulated fishing and the under-reporting of catch, also need to be addressed.

At the global level, despite efforts by the 18 RFMOs and individual States to manage fisheries, a 2010 peer-reviewed evaluation of RFMO performance determined that two-thirds of stocks fished on the high seas and under RFMO management are either depleted or overexploited.<sup>3</sup> Similarly, according to the U.N. Food and Agriculture Organization (FAO): “In the case of straddling stocks and of other high seas fishery resources, nearly two-thirds of the stocks for which the state of exploitation can be determined were classified as overexploited or depleted.”<sup>4</sup> Further, more than one-half of the shark species taken in high seas fisheries are classified by the IUCN Red List as

<sup>iii</sup> U.N. Agreement for the Implementation of the Provisions of the U.N. Convention on the Law of the Sea of Dec.10, 1982. Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. Entered into force on Dec. 11, 2001. [www.un.org/Depts/los/convention\\_agreements/convention\\_overview\\_fish\\_stocks.htm](http://www.un.org/Depts/los/convention_agreements/convention_overview_fish_stocks.htm) and <http://www.ecolex.org>.

Threatened or Near Threatened. These data confirm that RFMOs are not sustainably managing the high seas fisheries for which the global community holds them accountable. The challenge to the WCPFC is to defy this trend and chart a course towards a sustainable future.

Given its more modern and comprehensive mandate, the WCPFC has the ability to apply current international best practice in fisheries management so that the tuna, sharks and other fisheries under its remit do not follow the same path as those managed by RFMOs in other regions. In this regard, the WCPFC has an opportunity in 2010 to ensure that strong and effective CMMs are in place and effectively implemented by CCMs. It also has the opportunity to implement scientifically sound, precautionary measures to protect the ecological and economic viability of tuna and shark populations and the ecosystems on which they depend.

Many member countries of the WCPFC have been operating under bilateral and multilateral access agreements with one or more Parties to the Nauru Agreement (PNA) to ensure access for their tuna fleets. Some of these agreements are being renegotiated as we speak. While some of these agreements could contain more effective conservation measures than have been agreed by the Commission, others could contain measures that would be obstacles to progress by the Commission. It is important that access agreements are not obstacles to the agreement or implementation of conservation and management measures. Sustainability must be mainstreamed into all access agreements. In order to increase the effectiveness of the WCPFC and its primary role of managing and conserving tuna and other fisheries under its remit, the Pew Environment Group encourages the Commission to integrate these agreements into the Commission's processes. In this regard, we would encourage parties to consider including provisions from the PSMA and a greater attention to the conservation and management of sharks, both in these access agreements and the WCPFC provisions as a whole.

At this 7<sup>th</sup> Regular Session of the WCPFC, there are opportunities to create a new era of sustainability. Although the capacity to adapt to the impacts of climate change challenge these opportunities, the adoption of strong precautionary conservation and management measures by WCPFC CCMs can help mitigate these challenges. This Session provides a launching point for regional progress and long-term strategic action, which can be achieved only through strong political commitments with effective implementation thereafter. This document sets out the Pew Environment Group's recommended actions on: 1) critical conservation management actions needed for sharks; 2) tuna conservation; and 3) reduction of IUU fishing. We look forward to providing scientific and technical information and working closely with States to help ensure sustainable, legal fisheries and healthy populations of tunas, sharks and other species for the benefit of all.

## 1. Conservation Measures Needed to Protect Sharks

### 1.1 Sharks Need Attention Now

Sharks caught in high seas fisheries are among the oceans' most vulnerable animals. Their low reproductive rates make them particularly susceptible to overfishing in the face of increased demand for shark products. Up to 73 million sharks are killed annually to support the global shark fin trade.<sup>5</sup> More than one-half of the shark species taken in high seas fisheries are classified by the IUCN Red List as Threatened or Near Threatened.<sup>6</sup>

In 2010, the international community focused much attention on the plight of sharks. In March, at the 15th meeting of the Convention on International Trade in Endangered Species (CITES) Conference of the Parties, four Appendix II listing proposals narrowly missed receiving the number of votes required to give these species the protections to help ensure sustainable international trade. In May, the resumed Review Conference of the U.N. Fish Stocks Agreement called on countries to implement "fins naturally attached" provisions.

However, as 2010 draws to a close, there are still virtually no international limits on high seas shark catches, and loopholes still hamper the enforcement of international prohibitions on "finning" – the wasteful and cruel practice of slicing off a shark's fins and discarding the body at sea.

As sharks are among the most biologically vulnerable fish in the ocean and little is currently known about their population status, the Pew Environment Group believes shark fishing should not occur in the absence of scientific population assessments and precautionary management plans. Further, WCPFC and its CCMs should prohibit the landing of exceptionally biologically vulnerable sharks, as well as those that the IUCN classifies as Threatened or Near Threatened with extinction by the IUCN. Ecological risk assessments can inform those measures in the absence of stock assessments.

Finally, sharks are essential to the health of ocean ecosystems and the economies of countries, including those that offer marine recreation such as diving and snorkeling. For these reasons coastal countries should consider creating shark sanctuaries –where no commercial shark fishing is permitted—to protect sharks in their exclusive economic zones (EEZs).

### 1.2 Shark Bycatch: Part of the Problem

According to the IUCN, bycatch is one of the most devastating threats facing sharks. At the Kobe II Bycatch Workshop<sup>7</sup> earlier this year, participants supported presenting a number of recommendations to RFMOs for sharks and other bycatch species. The recommendations include the following:

Photo credit: Toddessick.com





- “For populations of concern including those evaluated as depleted, RFMOs should develop and adopt immediate, effective management measures, for example, prohibition as appropriate on retention of such species where alternative effective sustainability measures are not in place.”
- “[RFMOs should] seek binding measures or strengthen existing mitigation measures, including the development of mandatory reporting requirements for bycatch... across all gear types and fishing methods where bycatch is a concern.”
- “Due to the conservation status of certain populations and in accordance with priorities in the RFMO areas, [RFMOs should] expedite action on reducing bycatch of threatened and endangered species.”

Whether unintended, unwanted or highly sought after, shark bycatch and the impact of shark removals on ecosystem stability needs urgent attention.

### 1.3 Action Needed From WCPFC

The WCPFC has taken initial action to conserve Pacific sharks, including CMM 2009-04, which mandates that vessels adhere to a 5% fin-to-carcass weight ratio for sharks and encourages the live release of incidental catches of sharks, among other useful measures. However, stronger, more meaningful conservation measures are needed now by WCPFC and its CCMs to ensure that targeted fishing as well as bycatch does not deplete shark species and drive them toward extinction.

The WCPFC and its CCMs should adopt and implement guidelines from the Pacific Islands Regional Plan of Action for sharks (PI-RPOA), which was completed in October 2009 by the Forum Fisheries Agency (FFA), the Secretariat of the Pacific Community (SPC) and the South Pacific Regional Environment Programme (SPREP). The PI-RPOA provides guidance to Pacific Island Countries and Territories as well as the WCPFC on the conservation and management of sharks.

Specifically, the Pew Environment Group recommends that CCMs adopt the following measures to help ensure the conservation of shark populations under WCPFC’s management purview:

- Prohibit purse seine vessels from setting nets around whale sharks, a species the IUCN classified as Vulnerable to extinction.
- Approve the Shark Research Plan and the associated budget to determine the status of key shark species.
- Add sharks to the Commission rules on scientific data to require shark reporting and improve estimates on annual catches, effort and discards.
- Prohibit the removal of shark fins at sea by requiring that fins be naturally attached on landing;
- Prohibit the use of wire leaders in order to reduce bycatch.
- Make all portions of the Conservation and Management Measure for Sharks (CMM 2009-04) mandatory.
- Include hammerhead and porbeagle sharks among the key shark species identified in CMM 2009-04, and also include other species at highest risk from longline and purse seine fishing, such as those identified in the PI-RPOA: blacktip, salmon, silvertip, sandbar, and Galapagos sharks, as well as the pelagic stingray.
- Require the release of all live sharks.
- Prohibit the dumping of carcasses after landing.

## 2. A Return to Healthy Tuna Stocks

### 2.1 FADs and Juvenile Bigeye Bycatch

The most significant threat to sustainability in the WCPFC tuna fisheries is the inability of the purse seine fishery to significantly reduce the mortality of juvenile bigeye tuna when setting on floating objects. Provisional 2009 bigeye tuna catches of 118,675 metric tons (mt) exceeded the maximum sustainable yield (MSY) of 73,840 mt by 61%.<sup>8</sup> Extreme overfishing is now occurring, and the stock may already be in an overfished state. Additionally, the spawning potential of bigeye tuna is now down to 17% of unfished levels.<sup>9</sup> As in other RFMOs, it appears that management advice is being repeatedly ignored while the status of the stocks spirals towards collapse.

Photo credit: C & M Fallows SeaPics



A number of recommendations on tuna, shark and other bycatch species management were supported by participants in the Kobe II Bycatch Workshops to present to RFMOs. The challenge of juvenile bigeye bycatch is clearly a concern shared by CCMs, as evidenced by the amount of research on potential solutions. In the past year alone, research on acoustic identification techniques, underwater monitoring systems, escape panels, and light stimuli has been undertaken by a variety of CCMs, but no conclusive solutions have been identified. Although more research will always be needed, significant action must be taken immediately to alleviate fishing pressure on this imperiled stock, based on what is known today. There is one very simple and effective solution that can be immediately implemented: Reduce juvenile bigeye bycatch to a level that will stop overfishing and allow the stocks to begin to rebuild.

Based on the results presented at the last Scientific Committee (SC6) on the effectiveness of the FAD closure on reducing juvenile bycatch,<sup>10</sup> the Pew Environment Group urges WCPFC countries to agree to significantly extend FAD closures or to establish a limit on the number of FAD sets allowed throughout the year in order to ensure a reduction in juvenile bigeye bycatch. These should be accompanied by robust reporting and monitoring provisions, so that the Commission has access to meaningful data on bycatch, the number of FADs being employed and the frequency and results of fishing on FADs. This information should be actively reviewed.

### 2.2 Fishing Beyond MSY

To ensure that WCPFC does not mirror the decades of mismanagement seen in at least one other tuna RFMO, it is critical that WCPFC countries reach agreement on how to effectively reduce capacity to a level in line with the sustainable take of tuna resources in the Convention Area.

Information from the WCPFC Scientific Committee indicates that skipjack purse seine catches continue to soar. In 2009, purse seine catches were approximately 500,000 metric tons (mt) beyond the long-term MSY of 1,350,000mt—a record tonnage for the region.<sup>11</sup>(See Table 1) Likewise, the effort that this record number of vessels exerts on the resource already exceeds the long-term sustainable take for skipjack. The complex problem of overcapacity is a challenge that WCPFC countries must tackle immediately, before fishing pressure on the skipjack fishery reaches dangerous levels. Further, purse seine fishery’s high level of bigeye bycatch is a primary factor in driving the bigeye population towards collapse. It must be noted also that MSY is now widely recognized as an absolute minimum below which fishing should not continue.

The Pew Environment Group urges CCMs to modify CMM2008-01 to reflect the most recent science from the SPC, and to put precautionary caps on catches of all tuna species until scientifically sound “limit” and “target” reference points have been identified.

### 2.3 High Seas Pocket Closures

The High Seas Closures to Purse Seine Fishing Vessels, as proposed by the PNA, provide a clear and concrete opportunity for the WCPFC to follow scientific advice through precautionary measures, thereby conserving tuna and other species, and combating IUU fishing. The PNA proposal follows advice from the Scientific Committee on the need for additional measures to conserve bigeye tuna (see further below). Keeping the existing areas closed, and closing these additional areas to fishing not only provides protection for marine life between the rich fishing grounds of the surrounding EEZs, it also helps stop IUU fishing and reduce the problem of additional “invisible” overfishing efforts. These closures reinforce other efforts by the WCPFC for the conservation and management of important tuna and other fish in the Convention Area, as well as helping ensure that Pacific Island Countries are not cheated out of income as fish caught within EEZ’s may be falsely disguised as high seas catch to avoid payment of access fees. The Pew Environment Group encourages CCMs to support the additional closures proposed by the PNA.

### 2.4 Regional Tuna Fisheries and Climate Change

Among its myriad impacts, climate change has the potential to impact regional tuna fisheries in major ways by shifting species distribution, productivity and abundance, raising average ocean surface temperatures, changing the productivity of the oceans, changing currents and upwellings and increasing climate variability.<sup>iv</sup> Although research is ongoing, there are indications that the adverse impacts of climate change on tuna fisheries will be pervasive. Given the importance of tuna fisheries to the CCMs and the potential adverse effects of climate change on this resource, it is of critical importance that a precautionary approach is taken and strong conservation and management measures are adopted.

### 2.5 Action Needed From WCPFC

Specifically, the Pew Environment Group recommends that CCMs adopt the following measures to help ensure the conservation of tuna populations under WCPFC’s management purview:

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<sup>iv</sup> See for instance D.E.J. Currie and K. Wowk, “Climate Change and CO2 in the Oceans and Global Oceans Governance: Improving Governance of the World’s Oceans,” 4 CCLR (2009) 387 and Allison Perry *et al.*, “Climate change and distribution shifts in marine fishes”, 308 *Science* (2005) 1912.

- Manage stocks with a higher degree of precaution, particularly bigeye given high uncertainty with regard to recruitment levels.<sup>12</sup> As a precautionary action, measures should be implemented to reduce fishing mortality of bigeye by at least 39% from 2005-2008 levels, which includes a 10% precautionary buffer on top of the 29% reduction proposed by SC6.<sup>v</sup>
- Significantly extend FAD closures or establish a limit on the number of FAD sets allowed throughout the year based on advice from the Scientific Committee, together with robust reporting and monitoring provisions.
- Identify and correct non-compliance, particularly for negligent or late data reporting. A lack of timely data provision continues to hamper the ability of the Scientific Committee to provide the highest quality management recommendations.

Table 1: Overview of Western and Central Pacific- Convention Area (WCP-CA) Fisheries –2009

Source: FACTS on 2009 WCP-CA Fisheries (based on provisional data that underestimates actual catch)<sup>13</sup>:

<b>Catch:</b>	
Total Tuna Catch	2,467,903 mt (Record for the sixth successive year)
Purse Seine	1,894,500 mt (Record for the sixth successive year)
Skipjack (all)	1,789,979 mt (Record)
Skipjack Purse Seine	1,585,307 mt (Record)
Bigeye Purse Seine	43,580 mt (2nd highest, but provisional)
Longline Bigeye	65,606 mt (Lowest since 1996)
<b>Fleet sizes:</b>	
Purse seine	Record vessel numbers (257)
Longline DWFN	Decreased

Photo credit: Richard Hermann



<sup>v</sup> SC6 recommended a minimum of 29% reduction in fishing mortality from the average levels for 2005-2008 with the goal of returning the fishing mortality rate to Fmsy. However the SC noted that the interpretation of the stock status may be more pessimistic and greater reductions in fishing mortality would be required to obtain Fmsy. SC6 Summary Report Preliminary Version, 4 October, Para. 266.

### 3. Port State Measures to combat IUU Fishing

#### 3.1 Stopping IUU Fishing

Photo credit: Ibon Barandika Ugartetxe / SHIPSPOTTING.COM

IUU fishing continues to be a matter of concern in the WCPFC Convention Area, where it can undermine conservation and management measures, inhibit stock rebuilding efforts, increase overfishing and threaten food and livelihood security for poor coastal communities in developing countries.<sup>14</sup> IUU fishing also has a direct effect on competitiveness because it ignores labor and safety standards and distorts trade and market prices.



The WCPFC has taken a number of important steps to combat IUU fishing, including the closure of high seas pockets as mentioned earlier. However, those engaged in IUU fishing activity have shown in the past and in other fisheries that they can quickly modify their operations to adapt to new measures. Therefore, it is important that individual States and the WCPFC remain vigilant to possible increases in IUU activity and use all available tools to combat it in the Convention Area. PSMs are an effective way to ensure the effective enforcement of management measures by substantially reducing the profitability of IUU fishing operations through denying port entry, transshipment and other services to IUU vessels.<sup>15</sup>

We recognize that technical and financial assistance must be available to small island developing States to implement effective port State measures and advocated strongly for this during the negotiation and adoption of Article 21 of the PSMA – Requirements for Developing States. In addition, we have and will continue to develop tools to assist developing States to assess the requirements of the FAO PSMA and to ratify and implement the agreement.<sup>16</sup>

#### 3.2 A Close Look at Port State Measures

If well implemented, PSMs can be an efficient and cost-effective tool that can be used to combat IUU fishing as part of a broader set of instruments. The Pew Environment Group is committed to enhancing the effectiveness of PSMs both globally and at the regional level. We have conducted two studies that help explain the changes that need to take place, particularly in the framework of RFMOs, to improve PSMs and their implementation. More detailed documentation about these studies is available at: [www.pewenvironment.org/iuufishing](http://www.pewenvironment.org/iuufishing).

The first study concerns the performance of port States in implementing PSMs directed at RFMO IUU-listed vessels and shows that the current global system of port State controls has significant

loopholes, which are to the benefit of IUU operators. Consequently, a system with greater transparency, accountability and global reach is needed to track these vessels and provide important information to port States. These data would allow them to determine whether or not these vessels should access their ports and, if so, how they should be dealt with once in a port.

Specifically in the case of the WCPFC, we researched the movements of vessels included on its IUU vessel list after the implementation of listing procedures from February 2007 to December 2009. The vessels were tracked using information from publicly available databases. Only three vessels were listed on the WCPFC IUU vessel list during this period, of which two vessels accounted for 16 port visits. All these visits were to ports in Non-Contracting Parties of the WCPFC that were not obliged to implement WCPFC's PSMs. For more information on the study please see [www.portstateperformance.org](http://www.portstateperformance.org).

The second and still ongoing study is a gap analysis that compares the PSMs developed by 10 RFMOs with the minimum standards outlined in the FAO PSMA. It identifies which aspects need to be further developed by RFMOs to align their measures with the new agreement. Our preliminary findings indicate that the WCPFC needs to establish a more comprehensive system of port State controls to meet the minimum standard set out in the PSMA. Such arrangements would provide standards for conducting inspections, a requirement to inspect vessels even if they are not IUU-listed and an effective information-sharing system to improve transparency of vessels and product.

### 3.3 Action Needed From WCPFC

To address IUU fishing, the WCPFC should strengthen its CMMs in the following ways:

1. The WCPFC should seek to improve its PSMs, with the goal of bringing them into line with the recently adopted PSMA. By adopting an improved PSM regime, WCPFC CCMs would not only reduce IUU fishing in the WCPFC Area but would also support global efforts to close ports to all IUU fishing vessels.
2. The WCPFC should encourage its CCMs to sign and ratify the PSMA as soon as possible. The prompt entry into force and broad implementation of this agreement is a high priority in the global fight to combat IUU fishing. We recognize that this will take time and that many CCMs will need assistance in implementing new PSMs. In this regard the Pew Environment Group is working to develop tools to assist CCMs with this process and as a first step has produced "*A Methodology for Capacity Needs Assessment towards implementation of the Port State Measures Agreement*". This report is available at [www.pewenvironment.org/iuufishing](http://www.pewenvironment.org/iuufishing). The Pew Environment Group stands ready to work with any State that seeks to ratify the agreement at an early stage.
3. The WCPFC should require fishing and support vessels authorized to operate in the Convention Area to have a unique IMO number to allow the identification and tracking of these vessels. We recommend that all CCMs should require that vessels flying their flags have IMO numbers regardless of where they are operating.
4. The WCPFC should ensure that CCMs are implementing their Convention obligations and conservation and management measures by adopting a compliance monitoring scheme. Such a scheme would:

- Assist CCMs to identify and address compliance gaps, including provision of appropriate capacity building.
- Identify aspects of conservation and management measures that may be impractical or ineffective.
- Address serious or repeated non-compliance, including appropriate remedial action.
- Monitor and resolve outstanding instances of non-compliance.

## Endnotes

<sup>1</sup> Harley, S., et al. (2010). *Stock assessment of bigeye tuna in the Western and Central Pacific Ocean*. WCPFC-SC6-2010/SA-WP-04. [www.wcpfc.int/doc/sa-wp-1/stock-assessment-bigeye-tuna-western-and-central-pacific-ocean-including-analysis-manage](http://www.wcpfc.int/doc/sa-wp-1/stock-assessment-bigeye-tuna-western-and-central-pacific-ocean-including-analysis-manage)

<sup>2</sup> Report of the Sixth Regular Session of the Scientific Committee. 2010. WCPFC7-2010/14. [www.wcpfc.int/node/2751](http://www.wcpfc.int/node/2751)

<sup>3</sup> Cullis-Suzuki, S. and Pauly, D. (2010). Failing in the high seas: A global evaluation of regional fisheries management organizations. *Marine Policy* 34:1036-1074

<sup>4</sup> U.N. Food and Agriculture Organization. (2009). *The state of world fisheries and aquaculture 2008*. P. 35.

[www.fao.org/docrep/011/i0250e/i0250e00.HTM](http://www.fao.org/docrep/011/i0250e/i0250e00.HTM)

<sup>5</sup> Clarke, S.C., et al. (2006). Global estimates of shark catches using trade records from commercial markets. *Ecology Letters* 9:1115-1126.

<sup>6</sup> Camhi, M.D., et al. (2009). *The conservation status of pelagic sharks and rays: Report of the IUCN shark specialist group pelagic shark Red List workshop*. IUCN Species Survival Commission Shark Specialist Group, Newbury, U.K.

<sup>7</sup> Kobe II Bycatch Workshop, Brisbane, Australia 2010.

<sup>8</sup> Harley, S., et al

<sup>9</sup> Harley, S., et al.

<sup>10</sup> Harley, S., et al. (2010). *Characterization of purse seine fishing activities during the 2009 FAD closure*. WCPFC-SC6-2010/MI-WP-03. [www.wcpfc.int/node/2878](http://www.wcpfc.int/node/2878)

<sup>11</sup> Hoyle, S., et al. (2010). *Stock assessment of skipjack tuna in the Western and Central Pacific Ocean*. WCPFC-SC6-2010/SA-WP-10 rev. 1. [www.wcpfc.int/node/2938](http://www.wcpfc.int/node/2938)

<sup>12</sup> Harley, S., et al. *Stock assessment of bigeye tuna in the Western and Central Pacific Ocean*.

<sup>13</sup> Report of the Sixth Regular Session of the Scientific Committee. 2010. WCPFC7-2010/14

<sup>14</sup> Doulman, D. (2008). *International framework for port state measures to combat IUU fishing: Towards more stringent and binding measures*. FAO, Rome.

<sup>15</sup> Flothmann et al. (2010). Closing loopholes: Getting illegal fishing under control. *Science* 328(5983):1235-1236.

[www.sciencemag.org/content/328/5983/1235.short](http://www.sciencemag.org/content/328/5983/1235.short)

<sup>16</sup> See *A methodology for capacity needs assessments towards implementation of the port state measures agreement*, which provides detailed methodology on how to undertake a capacity needs assessment for the implementation of port state measures in developing countries. [www.pewtrusts.org/our\\_work\\_detail.aspx?id=940](http://www.pewtrusts.org/our_work_detail.aspx?id=940)

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# **The Port State Measures Agreement Implementation Toolkit**



**The PSMA implementation toolkit provides a comprehensive set of practical materials that aim to support States to implement the UN Port State Measures Agreement which, once in force, will close ports to vessels involved in IUU fishing.**



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## The Port State Measures Agreement Implementation Toolkit

Ports play a major role in the fishing industry. They give vessels and crews access to essential services and supplies and enable vessel operators to offload their catch and transport it to market. However, ports can also provide a lifeline for illegal, unreported and unregulated (IUU) fishing, an activity that undermines the very essence of global ocean governance, threatens the sustainable use of marine resources and, consequently, the social and economic wellbeing of the coastal communities and countries that depend on them.

The United Nations Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (Port State Measures Agreement, or PSMA), adopted in November 2009 by the United Nations Food and Agriculture Organization (FAO), is an ambitious international agreement that aims to stop the use of ports by IUU fishing and support vessels. It provides port States with a set of highly cost-effective measures that, when implemented globally and effectively, will ensure that a country's ports are closed to IUU fishing fleets. For this to be possible, particularly in the ports of developing countries, a comprehensive set of tools is needed to support the practical implementation of the Agreement.

As part of its commitment to improve ocean governance, the Pew Environment Group is developing the *PSMA Implementation Toolkit*. The toolkit aims to help developing countries identify their capacity needs, provide them with key information, and guide them through the most technical and detailed elements of the Agreement.

The toolkit is an open and evolving set of practical materials, developed using on-the-ground experience. Input from potential users is a key element of the toolkit's evolution. To achieve this, we encourage collaboration with national and regional authorities in the ongoing development of these materials.

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### The first tools in the toolkit: Capacity Needs Assessment Methodology

Implementation of the PSMA requires an adequate, well-trained fisheries inspectorate that has good levels of communication and coordination between domestic agencies, such as customs and port authorities, and cooperates with relevant regional and global bodies.

In collaboration with the Nordenfjeldske Development Services (NFDS), the New Partnership for Africa's Development (NEPAD) and six African countries, the Pew Environment Group has developed a simple and robust methodology that can be used to determine a country's specific capacity-building needs. The methodology also provides a platform for the development of a capacity-building plan which, when implemented, would ensure that the country has adequate capacity to comply with its obligations under the PSMA.

The full Capacity Needs Assessment methodology report is available at [www.pewenvironment.org/IUUFishing](http://www.pewenvironment.org/IUUFishing)

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## The PSMA Implementation Handbook

The PSMA is an extensive instrument that provides a new set of technical measures to be implemented at the domestic and international levels. This requires greater coordination among countries, increased capacity in all relevant agencies (fisheries, customs, ports, etc), and, in many cases, new procedures for decision-making, vessel inspections and reporting, domestically, to flag States, and internationally.

The Pew Environment Group, in collaboration with experts in the field and government authorities, is currently producing the PSMA implementation handbook. The handbook will translate the PSMA's technical and legal text into clear and practical tools to help government agencies and their enforcement personnel implement the Agreement effectively.

The PSMA implementation handbook will be available in early 2011.

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## Combined IUU Vessel Database

IUU operators are skilled at disguising and hiding their activities and often remain undetected by port authorities. The Pew Environment Group's research on Port State Performance documented some alarming situations in apparently well-regulated ports. As called for in Article 16 of the PSMA, a global information-sharing mechanism is essential if domestic, regional and international authorities are to keep track of IUU activities.

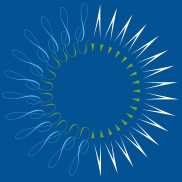
As a first contribution, the Pew Environment Group has developed the combined IUU vessel database, which draws together all publicly available information on IUU vessels officially listed by Regional Fishery Management Organizations. On launch, the database will provide an up-to-date resource that will enhance information-sharing among relevant officials. The list will be made available to the International Monitoring, Control and Surveillance (IMCS) Network, which will host and maintain it.

The Combined IUU vessels database will be available in early 2011.

The Port State Performance Research can be found at [www.portstateperformance.org](http://www.portstateperformance.org)

To find out more about the PSMA implementation toolkit, please contact Adriana Fabra: [AFabra-consultant@pewtrusts.org](mailto:AFabra-consultant@pewtrusts.org)





## PRELIMINARY FINDINGS

# Gap analysis: Comparing WCPFC's port State measures with those in the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing

The Pew Environment Group has conducted a gap analysis comparing the port State measures (PSMs) established by 10 Regional Fisheries Management Organizations (RFMOs) with those established by the United Nations Food and Agriculture Organization (FAO) Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA, or Agreement). The research assesses the extent to which measures adopted by these RFMOs meet the PSMA's standards, and identifies those aspects which need to be further developed by each RFMO in order that their measures become aligned with the Agreement's. The newly adopted PSMA represents an international minimum standard on PSMs and provides a unique opportunity to harmonise and strengthen Port State controls globally. RFMOs have a special role to play in this process and specifically in helping to combat

illegal, unreported and unregulated (IUU) fishing on the high seas.

This document presents the preliminary findings of this gap analysis for WCPFC, based on information that was publicly available up to 31 July 2010. We invite WCPFC's Contracting Parties (CPs) to assist in refining this analysis by commenting on the information provided and providing additional information where appropriate. The preliminary aim of this exercise is to identify specific gaps in WCPFC's conservation and management measures in relation to the PSMA, and make clear recommendations to WCPFC for improvement. The long-term aim is to provide information to States and RFMOs to help eliminate IUU fishing. A full report on this study, with specific conclusions and recommendations for each of the RFMOs analysed, will be released early in 2011.

## THE PORT STATE MEASURES AGREEMENT AND RFMOs

In November 2009, the FAO adopted the PSMA, providing a set of highly effective tools to be used by port States to combat IUU fishing, such as the designation of ports where foreign vessels may request entry; the prohibition of entry into port, the prohibition of landing, the prohibition of transshipping and the refusal of other port services to IUU fishing vessels; the carrying out of inspections in port; and the adoption of enforcement measures.

The Pew Environment Group strongly supports the earliest possible entry into force of the Agreement and welcomes the fact that 15 States and the European Union have signed it. The PSMA establishes the current international minimum standard on PSMs targeting IUU fishing, which should be followed by States even prior

to the Agreement's official entry into force. In addition to each State's individual efforts to ratify the Agreement, steps should be taken within the framework of RFMOs to ensure that PSMs adopted in the regional context are adjusted to meet the new international minimum standard. PSMs will only be truly effective in combating IUU fishing if they are enforced in a uniform manner globally.

RFMOs and the PSMA can reinforce each other. Not only are RFMOs essential to the effective implementation of the PSMA in a regional context, but the PSMA, if implemented by a critical number of States, can support the role of RFMOs by improving overall compliance with RFMO conservation and management measures.



According to the WCPFC Convention, port States have the right and the duty to take measures to promote the effectiveness of subregional, regional and global conservation and management measures. However, the Commission has yet to adopt any CMM establishing a comprehensive system of port State controls to prevent, deter and eliminate IUU fishing.

### Undertaking a gap analysis: what is missing from RFMO rules?

The study conducted by the Pew Environment Group focuses on 10 RFMOs that have adopted regulations, currently in force and published, that include some form of PSM<sup>1</sup>.

In order to compare the measures adopted by each of the reviewed RFMOs with the PSMA's measures, a review of the Agreement, including its annexes, was conducted and its provisions deconstructed into more than 100 obligations. Subsequently, all potentially relevant RFMO measures were reviewed and those that contain PSMs applicable to fishing or fishing-related activities were compared, obligation by obligation, with the obligations provided by the PSMA. In order to assess the alignment between RFMO measures and those contained in the PSMA, we have taken into account the objective pursued by the PSMA obligation, the effect of each RFMO measure in its regulatory context, and the clarity of the RFMO measures analysed.

To facilitate communicating the results of this research, we have systematised our conclusions under a number of PSM categories. These categories correspond closely to the main parts of the PSMA: scope; cooperation and information-sharing; port-designation and prior-to-entry information; denial of entry and port use; inspections; and the role of the flag State. To illustrate the alignment between RFMO measures and the PSMA's, we have allocated a grade from 0 to 10 showing our assessment of the degree of conformity on each measure. See Figure 1 for a representation of preliminary results for

<sup>1</sup> These are: Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR); Commission for the Conservation of Southern Bluefin Tuna (CCSBT); General Fisheries Commission for the Mediterranean (GFCM); Inter-American Tropical Tuna Commission (IATTC); International Commission for the Conservation of Atlantic Tunas (ICCAT); Indian Ocean Tuna Commission (IOTC); Northwest Atlantic Fisheries Organization (NAFO); North East Atlantic Fisheries Commission (NEAFC); South East Atlantic Fisheries Organisation (SEAFO); Western and Central Pacific Fisheries Commission (WCPFC).

WCPFC. While this is a qualitative and not quantitative scale and methodology, it does provide a useful tool for comparative analyses between RFMOs, and for an independent analysis of individual RFMOs.

The study shows that RFMO measures are rarely an exact match of a PSMA provision. However, a comparison of the measures in place in the different regimes enables both general and specific conclusions about the current state of development of PSMs at the regional level. We are aware that RFMOs have their own particularities, and face challenges that make their regulatory systems, including PSMs, different from each other. However, in analysing PSMs developed by 10 different RFMOs, we have tried to keep our analysis as objective as possible, focusing on the degree of conformity of such rules with the PSMA. It is undeniable that IUU fishing on the high seas is a common challenge for all RFMOs. The more the RFMOs apply a common standard on PSMs, the better they will be able to face this challenge. The comparison conducted under this analysis indicates the principal steps that RFMOs should take if they are to reach the international minimum standard provided by the PSMA.

Preliminary findings of this research indicate that the PSMs of most RFMOs have not yet reached the standard contained in the PSMA. Most importantly, RFMOs have not comprehensively covered all IUU fishing activity, their PSMs are not sufficiently effective in deterring the IUU operators, and their requirements on transparency and information sharing are inadequate. In general, the study finds that there are several aspects of port State controls that are especially under-regulated through RFMO regimes, such as the denial of port entry, refusal of port services, and minimum standards for inspections. Full implementation of the PSMA by States and RFMOs will significantly increase the feasibility of truly combating IUU fishing.

# PRELIMINARY FINDINGS ON WCPFC'S PSMs AND THEIR ALIGNMENT WITH THE PSMA

WCPFC should urgently develop standards for conducting inspections and require port States to inspect vessels even if they are not IUU-listed; require vessels to provide information prior to entry into ports; and mandate States to notify relevant parties of all actions taken at port.

## Structure and scope

According to art. 27 of the WCPFC Convention<sup>2</sup>: 'a port State has the right and the duty to take measures to promote the effectiveness of subregional, regional and global conservation and management measures'. However, there is not one single CMM that provides coverage of all port State controls. Thus far, the Commission has adopted a number of CMMs containing some PSMs that regulate specific situations<sup>3</sup>, but a comprehensive and systematic approach to PSMs is lacking.

With one exception, WCPFC does not exclude domestic vessels from the application of PSMs, although the PSMA does<sup>4</sup>. Although WCPFC's PSMs apply to carrier and support vessels, its definition of 'fishing' does not include some of the fishing-related activities mentioned by the PSMA, thus setting a more limited standard than the Agreement<sup>5</sup>. The PSMA incorporates the definition of IUU fishing provided by paragraph 3 of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU). WCPFC expressly refers to this definition of IUU fishing in the context of its CMM for IUU-listed vessels. However, the Convention's more general provision to deny landing and transshipment in port only refers to situations of non-compliance with CMMs and not to IUU fishing broadly<sup>6</sup>. As a result of all this, WCPFC's PSMs have a narrower scope than those contained in the PSMA.

## Information exchange/information systems and cooperation

WCPFC has developed several provisions on the need to cooperate with the FAO, other RFMOs and, in particular, IATTC, including cooperation on monitoring, control and surveillance measures<sup>7</sup>. There is also a partial recognition of IUU vessel lists adopted by other RFMOs, since vessels listed by any RFMO will be removed from the WCPFC register of authorised carrier vessels<sup>8</sup>.

2 Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, signed on 4 September 2000 in Honolulu, USA. The Convention entered into force on 19 June 2004.

3 CMM 2009-01, "Record of Fishing Vessels and Authorization to Fish"; CMM 2009-04, "Conservation and Management of Sharks"; CMM 2009-06, "Conservation and Management Measure on Regulation of Transshipment"; CMM 2008-01, "Conservation and Management Measure for Bigeye and Yellowfin Tuna in the Western and Central Pacific Ocean"; CMM 2007-03, "Conservation and Management Measure to Establish a List of Vessels presumed to Have Carried out Illegal, Unreported and Unregulated Fishing Activities in the WCPO".

4 CMM 2009-01:20.

5 WCPFC omits landing, packaging, processing and transporting fish. See art. 1 d) of the WCPFC Convention and art. 1 d) of the PSMA.

6 CMM 2007-03:3; art. 27.3 of the WCPFC Convention; art. 1 e) of the PSMA.

7 Arts. 22.3 and 22.4 of the WCPFC Convention. See also CMM 2009-01:22.

8 CMM 2009-01:37.

Information pertinent to WCPFC's lists of authorised vessels is to be transmitted electronically. These lists and WCPFC's IUU vessel lists are available online at WCPFC's website<sup>9</sup>. These obligations are consistent with the PSMA provisions that require port States to establish communication mechanisms that allow for direct electronic exchange of information (mainly art. 16 and Annex D).

However, WCPFC does not establish obligations to notify relevant parties of actions taken at port, such as denial of port use, or the results of port inspection<sup>10</sup>. These obligations are essential for the effectiveness of PSMs and have been developed in detail by the PSMA.

## Designation and capacity of ports

Under WCPFC rules, a Member 'may' notify the Executive Director of its designated ports for transshipments. The Executive Director will periodically circulate the list of designated ports to all Members<sup>11</sup>. However, there are no provisions requiring Members to use designated ports for transshipments. Furthermore, there is no regulation of designation of ports for uses other than transshipment, or to ensure that ports of WCPFC Members have the required capacity to conduct inspections.

## Prior-to-entry information

According to the PSMA, port States shall require vessels to provide a minimum set of information (described in Annex A) prior to entry, with sufficient time to allow for port State authorities to examine the information. WCPFC does not have any requirements to provide information prior to entry.

## Denial of entry except for inspection and effective action

One of the central obligations of the PSMA is the denial of entry into port to IUU fishing and support vessels, except for the purposes of inspecting and taking other actions against these vessels; these actions need to be as effective as denial of entry in deterring IUU fishing. WCPFC CMMs do not require Members to deny entry to IUU fishing vessels. However, in the case of IUU-listed vessels, CMMs require Members to inspect all such vessels and to not authorise them to land, transship, refuel or re-supply. Since WCPFC does not require Members to take other actions against these vessels, and does not prohibit other port services such as repairing and drydocking, this provision sets a slightly lower standard than the PSMA's in relation to IUU-listed vessels. In addition, this provision does not apply any port restrictions to other, non-listed, IUU vessels, contrary to what is required by the Agreement<sup>12</sup>.

## Port use

The PSMA requires port States to deny use of ports, including access to port services of any kind, to vessels engaged in IUU fishing. Under WCPFC measures, Members shall not allow IUU-listed vessels to land,

9 CMM 2007-03:23 and CMM 2009-01:13.

10 See arts. 11.3 and 15 of the PSMA.

11 Art. 29.1 of the WCPFC Convention; CMM 2009-06:5.

12 CMM 2007-03:22 b).

transshipment, refuel or re-supply, but there is no reference to denying other port services included in the PSMA<sup>13</sup>.

In addition to its measures against IUU-listed vessels, WCPFC prohibits landings and transshipments from vessels not included on the WCPFC's lists of authorised vessels<sup>14</sup>, and from vessels that do not have the required license from a coastal State<sup>15</sup>. There are also species-specific prohibitions of landings and transshipments<sup>16</sup>.

## Inspections

Under WCPFC rules, Members are only required to inspect IUU-listed vessels, thus covering a very limited category of vessels when compared with the PSMA. In addition, WCPFC has not developed rules about how inspections should be conducted. Although Annex III of the Convention gives some guidance on conducting transshipment inspections, including transshipment in port<sup>17</sup>, WCPFC has not yet developed any measure requiring Members to inspect vessels transshipping in port. Finally, WCPFC has not developed any guidelines on the training of port inspectors, as required by the PSMA (art. 17 and Annex E).

## Flag States

Art. 20 of the PSMA includes a set of flag State obligations

13 Arts. 9.6 and 11.1 of the PSMA also prohibit packaging, processing, maintenance and drydocking to these vessels.

14 WCPFC has a Record of Fishing Vessels, and an Interim Register of Non-Member Carrier and Bunker Vessels, authorised to fish and operate in the Convention Area beyond national jurisdictions. CMM 2009-01.

15 CMM 2009-01:4 c), 16 and 17.

16 These prohibitions apply to shark fins (CMM 2009-04:9) and tuna products (CMM 2008-01: 42).

17 Art. 4.2 and Annex II of the Convention.

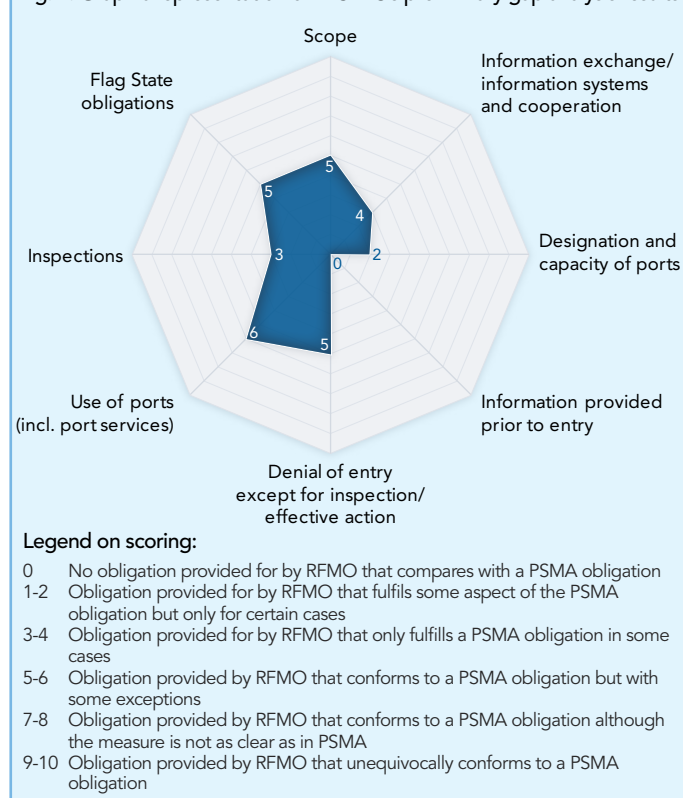
designed to facilitate the implementation of PSMs. The Agreement also requires flag States to take action against a vessel when an inspection report indicates that the vessel was involved in IUU fishing. The WCPFC Convention includes provisions requiring flag States to fully investigate any alleged violation by fishing vessels flying its flag, upon reception of relevant information, and to take action against such vessels<sup>18</sup>. Although these obligations are rather prescriptive, they do not make any reference to port inspections. Since there is no obligation under WCPFC to transmit port inspection reports to the flag State, these flag State obligations are not likely to be realised under WCPFC rules in the same way as is required by the PSMA.

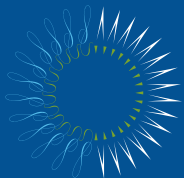
## Ten steps to WCPFC compliance with the PSMA

- Give effect to the WCPFC Convention's recognition that port States have the right and the duty to take measures to promote the effectiveness of subregional, regional and global conservation and management measures.
- Adopt a systematic and comprehensive scheme of PSMs that are applicable at least to the same categories of vessels that are subject to the PSMA.
- Incorporate IPOA-IUU's definition of IUU fishing for all PSMs. Incorporate the PSMA's definition of fishing and fishing-related activities.
- Adopt measures requiring Members to notify relevant parties and international organisations about all the different port State actions taken, as required by the PSMA.
- Adopt a measure requiring Members to designate and publicise ports to which vessels may request entry, and to ensure that these ports have the capacity to conduct inspections.
- In accordance with art. 8 and Annex A of the PSMA, adopt a measure requiring that all vessels provide advance information before calling into a port, regardless of their purpose for calling into port.
- Establish a measure to allow denial of entry into port to any vessels for which there is sufficient proof of IUU fishing or fishing-related activities, as stipulated in art. 9 of the PSMA. Clearly establish that such vessels should only be allowed port entry for the purposes of inspection and effective action.
- Establish a measure requiring that where a port State has reasonable grounds to believe that a vessel has been engaged in IUU fishing, it shall deny any kind of port use, including port services, to that vessel.
- Develop a comprehensive and effective system of port inspections. Such a system should include: a minimum number of vessels that should be inspected annually at ports; priorities for inspections; minimum standards for inspection procedures and inspection reports; guidelines on the training of inspectors.
- Establish clear obligations for flag States to cooperate in the implementation of port State controls and act upon cases of IUU fishing identified at port inspections, as required by art. 20 of the PSMA.

18 Art. 25 of the WCPFC Convention.

Fig. 1: Graphic representation of WCPFC's preliminary gap analysis results





# Western and Central Pacific Fisheries Commission

**WCPFC**

**25**

## Contracting Parties (CPs):

Australia; Canada; China; Chinese Taipei; Cook Islands; European Union; Fiji; France; Japan; Kiribati; Marshall Islands; Micronesia; Nauru; New Zealand; Niue; Palau; Papua New Guinea; Philippines; Republic of Korea; Samoa; Solomon Islands; Tonga; Tuvalu; United States; Vanuatu.

**7**

## Participating Territories:

American Samoa; French Polynesia; Guam; New Caledonia; Northern Mariana Islands; Tokelau; Wallis and Futuna.

**7**

## Cooperating NCPs:

Belize; Ecuador; El Salvador; Indonesia; Mexico; Senegal; Vietnam.

**3**

IUU-listed vessels during research period

**6,277**

Authorised vessels

## BACKGROUND

The Western and Central Pacific Fisheries Commission (WCPFC) was established by the Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, which entered into force on 19 June 2004. The WCPFC aims to ensure the long-term conservation and sustainable use of highly migratory fish stocks in the western and central Pacific Ocean.

## IUU LISTINGS

As a result of implementing the IUU vessel listing procedure in February 2007, WCPFC listed three IUU vessels during the research period.

## PORT STATE MEASURES

The landing and transshipment of fish products and the provision of port services to IUU-listed vessels were not allowed after February 2007 (*Resolution 06/09*).

## RESULTS OF THE RESEARCH

Of the three vessels on WCPFC's IUU vessel list, two were listed with an IMO number and one was not. The low number of listed vessels does not allow any conclusions to be drawn about the visibility of WCPFC IUU-listed vessels. The two WCPFC IUU-listed vessels with IMO numbers accounted for 16 port visits to four NCPs of WCPFC. Four of these visits were made in Aruba, an overseas territory of the Netherlands. However, Aruba is not a part of the European Union and therefore is not a territory of a CP of WCPFC. All recorded port visits were therefore to States (or territories) not obliged to implement WCPFC's CMMs.



## ASSESSMENT

- The WCPFC does not require its CPs to deny IUU-listed vessels entry to ports, which makes port State measures less effective. The measure in place requires that CPs observe IUU-listed vessels closely while in their ports, so that landing of product, transshipment and port services are denied.
- WCPFC should improve its port State measures with the goal of ultimately bringing them in line with the international minimum standards provided by the FAO Port State Measures Agreement.
- WCPFC should require vessels authorised to fish in its convention area to have an IMO number.
- With a total of 6,277 authorised fishing vessels in the WCPFC area, only three have been placed on WCPFC's IUU vessel list.
- WCPFC should consider recognising other RFMOs' IUU vessel lists, with the ultimate aim of creating one global and mutually accepted list.
- Generally there is a lack of accountability regarding the implementation of port State measures because there are no performance reviews or evaluations of these measures. WCPFC should set up transparent annual review processes to assess its CPs' compliance with port State measures, increasing the accountability of CPs towards their port State obligations.
- WCPFC is considering improving its port State measures to conform to the Port State Measures Agreement (PSMA). At its next meeting in December 2010, the WCPFC shall reconsider a proposal for port State measures based on the PSMA\*.
- WCPFC should encourage all its CPs to expeditiously sign and ratify the PSMA.

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