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MANAGEMENT**

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**REVIEW OF POLICY AND LEGAL ARRANGEMENTS OF WCPFC  
RELATED MATTERS AND CHECKLIST OF COMPLIANCE  
SHORTFALLS**

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# **REVIEW OF POLICY AND LEGAL ARRANGEMENTS OF WCPFC RELATED MATTERS AND CHECKLIST OF COMPLIANCE SHORTFALLS**

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## **1. Introduction**

### **1.1. Basic Principles On Tuna Fishery**

There are at least two parts in 1982 UNCLOS in which touching the affairs of tuna fishery, those are the part of EEZ and the high seas. By ratifying 1982 UNCLOS alone a State is actually bound by the obligations to manage tuna fishery in regional level, especially those in EEZ and high seas. Nevertheless tuna fishing within national jurisdiction including those in territorial sea and archipelagic water is supposedly compatible with the management taken in the EEZ and high seas.

#### **a. The Exclusive Economic Zone**

1982 UNCLOS has stipulated under the Part VI of EEZ particularly in article 63 and 64, the obligations of a State to cooperate within regional level in regards to highly migratory species, such as tuna. This cooperation is strongly suggested to be developed within regional organization. The country that actually involves in tuna fishing is called to manage this resource in sustainable manner including to adopt both national and regional measures in conserving tuna.

Even though the EEZ falls under the sovereign right of coastal state tuna fishery is however a highly migratory stock in nature since it is moving distantly in a continues manner. The management of tuna in EEZ is therefore related to the availability of tuna beyond EEZ in which subject to the high seas regime that is freedom of fishing. The management of tuna in the jurisdiction of coastal state whether in territorial sea or archipelagic water is therefore should be compatible with the sustainable fisheries principle. The conservation measures shall also be applied in the EEZ as well as national waters so that the tuna fishery as highly migratory species would be well managed in sustainable manner.

#### **b. The High Seas**

The doctrine freedom the high sea is actually almost could not be recognized in present day. 1982 UNCLOS remains stating that in article 87, which acknowledges the right of every state to navigate, overflight, lay submarine cable and pipelines, construct any artificial islands and other installations, fish and carry out scientific research. These rights nonetheless have to be exercised according to other stipulations recorded in the Convention. It means that any states who fish on

the high seas should regard any other stipulations spelled out in the Convention including those regarding highly migratory species and straddling stocks<sup>1</sup>.

1982 UNCLOS has specifically mentioned certain kind of species as shared resources, those are:

- a. Highly migratory species
- b. Straddling stocks
- c. Marine mammals
- d. Anadromous species
- d. Catadromous species

At least there are two major obligations of states which should be performed if engaging fishing activities on the tuna fishery, those are duty to adopt national measures and duty to cooperate:

**a. duty to adopt national measures**

Any states who engage fishing on the high seas have to adopt national measures to their nationals who are dealing with that activity. Those measures could be in form of issuance of license to fish on the high seas, maintaining the data of catches on the high seas, issuance of certificate of seaworthiness and manning of fishing vessels, including the monitoring, control and surveillance (MCS) of activities held by their nationals on the high seas. Many states have govern in their national laws all fishing activities engaged by their national regardless the area of fishing, it means that the laws will apply wherever their nationals go fishing, and their states could impose such legal enforcement if those laws are ever violated.

**b. duty to cooperate**

This kind of duty could be performed in several manners. There is no obligation of states to enter into any organizations if they determine to do that. They also could not be enforced to come into any agreement with any other states. They could cooperate in any manners, such as exchange of information of activities that have been carried out by their

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<sup>1</sup> During the negotiation of the Third United Nations Conference on the Law of the Sea there was a hectic debate about the doctrine of freedom of fishing. Many develop countries who had built organization to manage fisheries that counted as shared stocks such salmon and tuna, wanted to abolish the freedom of fishing on the high seas. They had experienced the declining of the fish resources in their own water and they had realized that fisheries on the high seas would be considered as the global commons that meant have to be cooperatively utilized and managed<sup>1</sup>. This proposition was however denied by the majority developing states since the freedom of the high seas regime was still spelled out in the Convention. The challenge was however persisted that is how to encourage states to cooperate in managing high seas fisheries so the resources would not be depleted or overexploited. That is the reason of stipulations in the article 116-120, 1982 UNCLOS.

By the time of The III United Nations Conference on the Law Sea started in early 1970s the application of freedom of fishing on the high seas is no longer a genuine freedom, the concept has been moved out from its original meaning to the regime that would be more accepted by all nations, that is "highly regulated freedom of fishing". It means that freedom of fishing shall be regarded as responsible freedom of fishing that is to utilize high seas fisheries in sustainable manner. Thus there is shifting from the regime of freedom of fishing to the sustainable utilization of high seas fisheries, which is actually undertaken for the continuous utilization and viability of the states' interest in engaging high seas fishing. Further reference, see Melda Kamil Ariadno, Indonesian Responsibility for High Seas Fisheries: A Legal Analysis, Lambert Academic Publishing, Germany, 2012.

nationals or develop the appropriate technology that is safe and sound to the sustainability of fisheries resources on the high seas. Many states have been performing their duty to cooperate through FAO, as also has been done by Indonesia as a member of FAO. This cooperation nonetheless would be regarded as non specific cooperation since the spirit would be more through inventing policy instead of implementing them. FAO has initiated/sponsored many some major conventions on fisheries such as 1993 FAO Compliance Agreement, the establishment of IOTC, and the adoption of 1995 UN Fish Stocks Agreement, not to mention the launching of IPOA as the implementation of CCRF.

1982 UNCLOS stipulates that there is no jurisdiction of whomever on the high seas except those from the state whose flag have been used by such vessels. It means that only flag state which could exercise jurisdiction in any case for vessel navigating on the high seas. Unfortunately not every state is willing to supervise and to impose their laws upon their vessels. Some states even do not maintain their relationship with their vessel once they are finish with the registration process to obtain the state's flag. This kind of states would be regarded as "flag of convenience" (FOC) states, which only have a considerably little and simple requirements for any vessel to obtain their nationality. The motive is merely to take economic advantages from the registration process that is the registration fee, but those states have no intention to maintain a close relationship with the vessels once they are granted the nationality. This explains why 1982 UNCLOS maintains the principle of "genuine link" between the state and the vessel (article 91 paragraph 1). This principle requests there should be a true connection between the state that granted the nationality and the vessel flying its flag. The relationship could be proven by certain requirements that have to be met by vessels which applies nationality to that particular state, such as shall have office in that states, the manning should be recruited from its nationals, the reports should be given on regular basis to the state regarding the activities of the vessels.

This situation has been acknowledged by many states including FAO, 1993 FAO Compliance Agreement is actually adopted to implement the regime of flag state jurisdiction. States are expected to exercise their jurisdiction on the high seas upon their fishing vessels, so the vessel would not violate the laws including international law that is applied to that particular area.

## **1.2. The International Rule Relating to Tuna Fishery**

### **1.2.1. The 1995 UN Fish Stocks Agreement**

#### **a. Background of Adoption**

Nearly ten years after the adoption of the 1982 UNCLOS, fishing on the high seas became a major international problem. The 1982 UNCLOS gave all states the freedom to fish on the high seas, but coastal states began to complain that fleets fishing on the high seas were reducing catches in their waters.<sup>2</sup> The main problem is the fish populations that "straddle" the boundaries of countries' 200-mile EEZs, like cod off Canada's eastern coast and pollack in the Bering Sea,

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<sup>2</sup>Evelyn Meltzer, 'Global Overview of Straddling and Highly Migratory Fish Stocks: The Nonsustainable Nature of High Seas Fisheries', *Ocean Development and International Law* :1994, 25, PP.226. Viewed on 15 March 2010.

and highly migratory species like tuna and swordfish, which move between EEZs and the high seas.

In the early 1990s, most stocks of commercially valued fish were running low, according to the FAO<sup>3</sup>. Many coastal states argued that the industrial-scale fishing operations of the so-called "distant-water" states on the high seas were undermining their efforts to conserve and revitalize fish stocks within the EEZs.<sup>4</sup> Governments then addressed this issue at the Earth Summit -- the UN Conference on Environment and Development (UNCED), held in Rio de Janeiro in June 1992. They called on the United Nations to find ways to conserve fish stocks and prevent international conflicts over fishing on the high seas.

According to the Conference, there are three main problems regarding the conservation and management of straddling and fish stocks: environmental, economic and political. The environmental problem is that commercial fishing operations are exceeding the ocean's ecological limits, unraveling an intricate web of marine life that makes the sea a vital part of the earth's life support system. Almost 70 per cent of all fish stocks are either fully to heavily exploited (44 percent), over-exploited (16 percent), depleted (6 percent) or very slowly recovering from overfishing (3 percent), according to the FAO<sup>5</sup>. In a third of the world's major fishing regions, the annual catch is down 20 per cent or more from peak years<sup>6</sup>. Without significant changes in current fishing practices and remedial action to allow endangered fish stocks to regenerate, the world's fisheries face possible collapse.

Two main factors endanger the sustainability of straddling and highly migratory fish stocks: overfishing and the impact of human activities<sup>7</sup>. Efforts were taken to conserve and manage the long-term sustainability of fish stocks. Human activities that imperil fish include oil spills; destruction of mangrove swamps and estuaries; industrial air pollution; and production of nutrients, pesticides and other materials that run off the land and pollute the oceans<sup>8</sup>. Some fishing practices, such as using dynamite on coral reefs to kill fish that will destroy critical habitats, likewise introduce exotic species either accidentally or deliberately into a marine environment that can harm other species in the ecosystem<sup>9</sup>.

Governments have called on the United Nations to negotiate an agreement to reduce land-based sources of marine pollution. Under a program of action adopted by the UN General Assembly in December 1995, states agreed to reduce ocean pollution caused by sewage, heavy metals, oil,

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<sup>3</sup>The 1995 UN Fish Stocks Agreement elaborates general principles concerning conservation and management of straddling fish stocks and highly migratory fish stocks. Viewed at [www.fao.org](http://www.fao.org) on 15 March 2010.

<sup>4</sup> See Note 186.

<sup>5</sup> <http://www.un.org/ecosocdev/geninfo/sustdev/fishery>.

<sup>6</sup> See Note 186.

<sup>7</sup> Gordon Munro, et.al. "The Conservation and Management of Shared Fish Stocks: Legal and Economic Aspects", FAO Fisheries Technical Paper, Food and Agriculture Organization, 2004.

<sup>8</sup> Lawrence Juda , 'The United Nations Fish Stocks Agreement', in Olav Schram Stokke and Øystein B. Thommessen (eds.), Yearbook of International Co-operation on Environment and Development, 2001, London: Earthscan Publications), 56. See also <http://www.un.org/ecosocdev/geninfo/sustdev/fishery.htm>

<sup>9</sup> See Munro, Note 191.

pesticides, nutrients and litter, and to stop activities that physically alter and destroy marine habitats.<sup>10</sup>

The economic problem is the fisheries industry. According to the FAO, the size of the world's fishing fleet increased at twice the rate of the increase in the global marine catch between 1970 and 1990<sup>11</sup>. This increasing fishing capacity has undermined the sustainability of fisheries and the viability of the fishing industry itself. Furthermore, the fishing industry is overcapitalized. Worldwide, government subsidies to the fishing industry total some US\$ 54 billion annually<sup>12</sup>. Usually, fleets on the high seas use non-selective fishing equipment, which indiscriminately sweeps up everything in their path – e.g., undersize target species, non-target species and other marine life, such as mollusks, jellyfish, turtles and porpoises. This "by-catch", currently estimated at 27 million tons annually, is thrown back into the ocean, but the species are usually too damaged to survive<sup>13</sup>.

The political issue concerns conflicts between coastal and distant-water fishing states. For example, in mid-1993, Canada declared a moratorium on cod fishing off its Atlantic coast until stocks were able to regenerate, putting between 20,000 and 30,000 fishermen out of work<sup>14</sup>. This also happened in the USA, where fisheries for Atlantic haddock, cod and flounder and for Pacific salmon virtually collapsed. Iceland also cut back its domestic fishing by 50 percent because of depleted stocks<sup>15</sup>. Meanwhile, unregulated foreign fleets continued to fish just off these countries' boundaries.

Coastal states argued that the high social and economic cost at home of fishermen out of work in order to preserve fish stocks could not be supported if foreign fleets continued to fish without restrictions on the high seas<sup>16</sup>. Based on the situation described above, a draft resolution was proposed by several countries.<sup>17</sup> The UN Conference on Straddling and Highly Migratory Fish Stocks held its first full meeting in July 1993. After six negotiating sessions, a legally binding Agreement, that is, The United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, was opened for signing on 4 December 1995.<sup>18</sup>

The Agreement was adopted on 4 August 1995 by the United Nations Conference on Straddling Stocks and Highly Migratory Fish Stocks and opened for signature on 4 December 1995. It

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<sup>10</sup>*Ibid.*

<sup>11</sup>*Ibid.*

<sup>12</sup>*Ibid.*

<sup>13</sup> <http://www.un.org/ecosocdev/geninfo/sustdev/fishery.htm>

<sup>14</sup> Brad M. Caldwell, United Nations fishing Agreement in Force 11 December 2001: an Incremental Step Towards Enforcements on the High Seas, 2002. Viewed at [www.admiraltylaw.com](http://www.admiraltylaw.com) on 14 March 2010.

<sup>15</sup> *Ibid.*

<sup>16</sup>*Ibid.*

<sup>17</sup> Those were: Argentina, Australia, Belize, Brazil, Canada, Cape Verde, Fiji, Gabon, Guinea-Bissau, Iceland, Indonesia, Israel, Malaysia, Marshall Islands, Mauritania, Namibia, New Zealand, Norway, Samoa, Senegal, Singapore, Trinidad and Tobago, Ukraine, the US and Uruguay.

<sup>18</sup> See Lawrence Juda, Note 191 at 54.

remained open for signature until 4 December 1996 and was signed by 59 States and entities,<sup>19</sup> entering into force on 11 December 2001, 30 days after the date of deposit of the thirtieth instrument of ratification or accession, in accordance with article 40 (1) of the Agreement<sup>20</sup>.

## **b. Concept**

The 1995 UN Fish Stocks Agreement establishes significant principles for the conservation and management of those fish stocks and emphasizes that all related management must be based on the precautionary approach and the best available scientific information<sup>21</sup>. It restates the fundamental principle of the 1982 UNCLOS: states should cooperate to ensure conservation and promote the objective of optimum utilization of fishery resources both within and beyond the exclusive economic zone. It also provides means to give effect to this new goal, stressing the role and responsibility of regional fishery bodies to ensure protection of stocks in areas beyond the jurisdiction of coastal states.

The Agreement provides a framework for cooperation among member states and also encourages third parties to respect such cooperation. It establishes minimum international standards for the conservation and management of straddling fish stocks and highly migratory fish stocks; ensures that measures taken for the conservation and management of those stocks in areas under national jurisdiction and in the adjacent high seas are compatible and coherent; ensures that there are effective mechanisms for compliance and enforcement of those measures on the high seas; and recognizes the special requirements of developing states in relation to conservation and management and to the development and participation in fisheries for the two types of stocks<sup>22</sup>.

## **c. General Principles**

Based on Article 5, the general principles are as follows:

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<sup>19</sup> The requirements for the entry into force of the Agreement were met on 11 November 2001, when the Minister for Foreign Affairs of Malta deposited an instrument of accession to the Agreement with the Secretary-General. Viewed at [www.fao.org/aquaculture](http://www.fao.org/aquaculture) on 14 March 2010.

<sup>20</sup>*Ibid.*

<sup>21</sup> The concept of this Agreement shown as follow:

- (1) The unity of stocks and the need for management of stocks over their entire range;
- (2) The imperative for compatibility of EEZ and high-seas fisheries regimes;
- (3) A concern with the catch of non-targeted species and the interdependence of stocks;
- (4) The need for a precautionary approach to fisheries management;
- (5) The transparency in the decision making and activities of regional fisheries management organizations and arrangements.
- (6) Establishes the basis for the sustainable management and conservation of the world's fisheries;
- (7) Provides for the establishment of quotas;
- (8) Calls for the setting up of regional fishing organizations where none exist;
- (9) Tackles problems caused by the persistence of unauthorized fishing;
- (10) Sets out procedures for ensuring compliance with its provisions, including the right to board and inspect vessels belonging to other States; and
- (11) Prescribes options for the compulsory and binding peaceful settlement of disputes between States.

<sup>22</sup> See at [http://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)



1. Long-term sustainability of straddling fish stocks and highly migratory fish stocks and promotion of the objective of their optimum utilization<sup>23</sup>.
2. The application of a precautionary approach<sup>24</sup>.
3. Reduction of pollution, waste, discards, catch by lost or abandoned gear, catch of non-target species, and impacts on associated or dependent species, in particular endangered species, through measures including, to the extent practicable, the development and use of selective, environmentally safe and cost-effective fishing gear and techniques.
4. Protection of biodiversity in the marine environment.
5. Sustainable use of marine resources.
6. Taking into regard the interests of artisanal and subsistence fishers.
7. The use of technology to promote and conduct scientific research and develop appropriate technologies in support of fishery conservation and management.
8. Effective monitoring, control and surveillance.

#### **d. Main Features**

This Agreement consists of 50 articles and one annex. Among its main features are: (1) The relationship between this Agreement and the United Nations Convention on the Law of the Sea. According to Article 4, this Agreement shall be interpreted as a part of UNCLOS. (2) Compatibility of conservation and management measures (Article 7). With respect to highly

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<sup>23</sup> Such measures shall be based on the best scientific evidence available and are designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards.

<sup>24</sup> Moreover, article 6 stipulates the application of the precautionary approach. States are obliged to apply the precautionary approach widely to conservation, management and exploitation of straddling fish stocks and highly migratory fish stocks in order to protect the living marine resources and preserve the marine environment<sup>24</sup>. In implementing the precautionary approach, States shall:

- (1) Improve decision-making for fishery resource conservation and management by obtaining and sharing the best scientific information available and implementing improved techniques for dealing with risk and uncertainty;
- (2) Apply the guidelines set out in Annex II and determine, on the basis of the best scientific information available, stock-specific reference points and the action to be taken if they are exceeded;
- (3) take into account, inter alia, uncertainties relating to the size and productivity of the stocks, reference points, stock condition in relation to such reference points, levels and distribution of fishing mortality and the impact of fishing activities on non-target and associated or dependent species, as well as existing and predicted oceanic, environmental and socio-economic conditions; and develop data collection and research programs to assess the impact of fishing on non-target and associated or dependent species and their environment, and adopt plans which are necessary to ensure the conservation of such species and to protect habitats of special concern.
- (4) Where the status of target stocks or non-target or associated or dependent species is of concern, States shall subject such stocks and species to enhanced monitoring in order to review their status and the efficacy of conservation and management measures. They shall update those measures regularly.
- (5) If a natural phenomenon has a significant adverse impact on the status of straddling fish stocks or highly migratory fish stocks, States shall adopt conservation and management measures on an emergency basis to ensure that fishing activity does not exacerbate such adverse impact. States has to adopt such measures on an emergency basis where fishing activity presents a serious threat to the sustainability of stocks. That emergency measures shall be temporary and shall be based on the best scientific evidence available.

migratory fish stocks, the relevant coastal and other states whose nationals fish for such stocks in the region shall cooperate, either directly or through the appropriate mechanisms for cooperation, with a view to ensuring conservation and promoting the objective of optimum utilization of such stocks throughout the region, both within and beyond the areas under national jurisdiction<sup>25</sup>. Conservation and management measures established for the high seas and those adopted for areas under national jurisdiction shall be compatible in order to ensure conservation and management of the straddling fish stocks and highly migratory fish stocks in their entirety<sup>26</sup>. To this end, coastal states and states fishing on the high seas have a duty to cooperate for the purpose of achieving compatible measures in respect of such stocks<sup>27</sup>. (3) Cooperation for Conservations and Management (Article 8). Coastal states and states fishing on the high seas shall manage to ensure effective conservation and management of such stocks. Moreover, states could do consultations in good faith and without delay, particularly where there is evidence that the straddling fish stocks and highly migratory fish stocks concerned may be under threat of over-exploitation or where a new fishery is being developed for such stocks. In case there is a subregional or regional fisheries management organization or arrangement that has the competence to establish conservation and management measures for particular straddling fish stocks or highly migratory fish stocks, states fishing for the stocks on the high seas and relevant coastal states shall give effect to their duty to cooperate by becoming members of such organization or participants in such arrangement, or by agreeing to apply the conservation and management measures established by such organization or arrangement<sup>28</sup>. (4) This Agreement

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<sup>25</sup> See [http://www.un.org/Depts/los/convention\\_agreements/texts/fish\\_stocks\\_agreement/CONF164\\_37/htm](http://www.un.org/Depts/los/convention_agreements/texts/fish_stocks_agreement/CONF164_37/htm)

<sup>26</sup> See [http://www.un.org/Depts/los/convention\\_agreements/texts/fish\\_stocks\\_agreement/CONF164\\_37/htm](http://www.un.org/Depts/los/convention_agreements/texts/fish_stocks_agreement/CONF164_37/htm)

<sup>27</sup> In determining compatible conservation and management measures, States shall:

- a. take into account the conservation and management measures adopted and applied in accordance with article 61 of the Convention in respect of the same stocks by coastal States within areas under national jurisdiction and ensure that measures established in respect of such stocks for the high seas do not undermine the effectiveness of such measures;
- b. take into account previously agreed measures established and applied for the high seas in accordance with the Convention in respect of the same stocks by relevant coastal States and States fishing on the high seas;
- c. take into account previously agreed measures established and applied in accordance with the Convention in respect of the same stocks by a subregional or regional fisheries management organization or arrangement; take into account the biological unity and other biological characteristics of the stocks and the relationships between the distribution of the stocks, the fisheries and the geographical particularities of the region concerned, including the extent to which the stocks occur and are fished in areas under national jurisdiction;
- d. take into account the respective dependence of the coastal States and the States fishing on the high seas on the stocks concerned; and
- e. Ensure that such measures do not result in harmful impact on the living marine resources as a whole. In giving effect to their duty to cooperate, States shall make every effort to agree on compatible conservation and management measures within a reasonable period of time. *Ibid.*

<sup>28</sup> The functions of subregional and regional fisheries management are governed in article 10, they are :

- a. to ensure the long-term sustainability of straddling fish stocks and highly migratory fish stocks;
- b. to regulate the participatory rights such as allocations of allowable catch or levels of fishing effort;
- c. to recommend international minimum standards for the responsible conduct of fishing operations;
- d. to obtain and evaluate scientific advice, review the status of the stocks and assess the impact of fishing on non-target and associated or dependent species;
- e. to facilitate on standards for collection, reporting, verification and exchange of data on fisheries for the stocks;
- f. to compile and disseminate accurate and complete statistical data, as described in Annex I, to ensure that the best scientific evidence is available, while maintaining confidentiality where appropriate;

also stipulates that only those states that are members of such an organization or participants in such an arrangement, or which agree to apply the conservation and management measures established by such organization or arrangement, shall have access to the fishery resources to which those measures apply. Where there is no subregional or regional fisheries management organization or arrangement to establish conservation and management measures for a particular straddling fish stock or highly migratory fish stock, relevant coastal states and states fishing on the high seas for such stock in the subregion or region shall cooperate to establish such an organization or enter into other appropriate arrangements to ensure conservation and management of such stock and shall participate in the work of the organization or arrangement<sup>29</sup>. Any state intending to propose that action is taken by an intergovernmental organization having competence with respect to living resources should, where such action would have a significant effect on conservation and management measures already established by a competent subregional or regional fisheries management organization or arrangement, consult through that organization or arrangement with its members or participants<sup>30</sup>. Such consultation should take place prior to the submission of the proposal to the intergovernmental organization, sub-regional and regional fisheries management organizations and arrangements. (5) There are several issues the states shall consider when they enter or propose to establish a sub-regional or regional fisheries management organizations for straddling fish stocks and highly migratory fish stocks<sup>31</sup>. (6) States fishing for straddling fish stocks and highly migratory fish stocks in an area of the high seas surrounded entirely by an area under the national jurisdiction of a single state and the latter state shall cooperate to establish conservation and management measures in respect of those stocks in the high seas area. Taking into account the natural characteristics of the area, states shall pay special attention to the establishment of compatible conservation and management measures for such stocks pursuant to Article 7 of this Agreement. Measures taken shall take into account the rights, duties and interests of the coastal state under the 1982 UNCLOS, shall be based on the best scientific evidence available and shall also take into account any conservation and management measures adopted and applied with respect to the same stocks in accordance with Article 61 of the 1982 UNCLOS by the coastal state in the area under national jurisdiction.

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- g. to promote and conduct scientific assessments of the stocks and relevant research and disseminate the results thereof;
  - h. to establish appropriate cooperative mechanisms for effective monitoring, control, surveillance and enforcement;
  - i. to facilitate decision-making procedures which facilitate the adoption of conservation and management measures in a timely and effective manner;
  - j. to promote the peaceful settlement of disputes in accordance with Part VIII of this Agreement;
  - k. to ensure the full cooperation of their relevant national agencies and industries in implementing the recommendations and decisions of the organization or arrangement; and
  - l. to give due publicity to the conservation and management measures established by the organization or arrangement.

<sup>29</sup> *Ibid*

<sup>30</sup> *Ibid*

<sup>31</sup> Those aspects include the following:

- a. The stocks to which conservation and management measures apply;
- b. The area of application;
- c. The relationship between the work of the new organization or arrangement and the role, objectives and operations of any relevant existing fisheries management organizations or arrangements; and
- d. The mechanisms by which the organization or arrangement will obtain scientific advice and review the status of the stocks, including, where appropriate, the establishment of a scientific advisory body.

There should be also measures for MCS and enforcement to ensure compliance with the conservation and management measures in respect of the high seas. (7) States shall act in good faith and make every effort to agree without delay on conservation and management measures to be applied in the carrying out of fishing operations in the area. The Agreement also stipulates the duties of the flag state<sup>32</sup>. (8) Compliance and enforcement of this Agreement can be done by flag states; international cooperation, or sub-regional or regional cooperation of port states (Articles

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<sup>32</sup> Pursuant to article 18, the duties are as follows:

- a. ... take such measures as may be necessary to ensure that vessels flying its flag comply with subregional and regional conservation and management measures and those vessels do not engage in any activity which undermines the effectiveness of such measures. It also shall authorize the use of vessels flying its flag for fishing on the high seas only where it is able to exercise effectively its responsibilities in respect of such vessels under the Convention and this Agreement. This measures are: control of such vessels on the high seas by means of fishing licenses, authorizations or permits, in accordance with any applicable procedures agreed at the sub regional, regional or global level; to apply terms and conditions to the license, authorization or permit sufficient to fulfill any sub regional, regional or global obligations of the flag State; to prohibit fishing on the high seas by vessels which are not duly licensed or authorized to fish, or fishing on the high seas by vessels otherwise than in accordance with the terms and conditions of a license, authorization or permit;
- b. to oblige vessels fishing on the high seas to carry the license, authorization or permit on board at all times and to produce it on demand for inspection by a duly authorized person; and to ensure that vessels flying its flag do not conduct unauthorized fishing within areas under the national jurisdiction of other States;
- c. to establish a national record of fishing vessels authorized to fish on the high seas and provision of access to the information contained in that record on request by directly interested States, taking into account and national laws of the flag State regarding the release of such information;
- d. to require for marking of fishing vessels and fishing gear for identification in accordance with uniform and internationally recognizable vessel and gear marking systems, such as the Food and Agriculture Organization of the United Nations Standard Specifications for the Marking and Identification of Fishing Vessels;
- e. to require for recording and timely reporting of vessel position, catch of target and non-target species, fishing effort and other relevant fisheries data in accordance with sub regional, regional and global standards for collection of such data;
- f. to require for verifying the catch of target and non-target species through such means as observer programmes, inspection schemes, unloading reports, supervision of transshipment and monitoring of landed catches and market statistics;
- g. to undertake monitoring, control and surveillance of such vessels, their fishing operations and related activities by, inter alia: the implementation of national inspection schemes and subregional and regional schemes for cooperation in enforcement pursuant to articles 21 and 22, including requirements for such vessels to permit access by duly authorized inspectors from other States; the implementation of national observer programs and subregional and regional observer programs in which the flag State is a participant, including requirements for such vessels to permit access by observers from other States to carry out the functions agreed under the programs; and the development and implementation of vessel monitoring systems, including, as appropriate, satellite transmitter systems, in accordance with any national programs and those which have been subregionally, regionally or globally agreed among the States concerned; regulation of transshipment on the high seas to ensure that the effectiveness of conservation and management measures is not undermined; an regulation of fishing activities to ensure compliance with subregional, regional or global measures, including those aimed at minimizing catches of non-target species. Where there is a subregionally, regionally or globally agreed system of monitoring, control and surveillance in effect, States shall ensure that the measures they impose on vessels flying their flag are compatible with that system.

19-23). (9) There are special requirements for developing states (Articles 24-26)<sup>33</sup>. These requirements were given to developing states due to differences regarding technology, resources, and interests. This Agreement noted that the least developed countries and small island countries shall have more privileges. It stated that there is a need for assistance (which also includes funding assistance for the implementation of the Agreement) and facilitation from developed states. (10) The Annex contains Standard Requirements for the Collection and Sharing of Data, which consists of seven articles. Data should be verified through an appropriate system by the states' parties<sup>34</sup>.

### **1.2.2. The 1993 FAO Compliance Agreement**

The 1993 FAO Compliance Agreement arose from concerns over the reduction of fish stocks on the high seas as a result of the increase in IUU fishing. In particular, the agreement was to try to overcome the problem of reflagging and flag of convenience associated with fishing vessels conducting IUU fishing<sup>35</sup>.

At its November 1992, the FAO Council put forward some opinions on the actions of reflagging fishing vessels in order to avoid the setting of conservation and management measures. This problem must be addressed by the FAO so that it can be immediately implemented. The Flagging Agreement proposal evolved into the Agreement to promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas and was adopted at the 27th session of the FAO Conference on 24 November 1993, with an entry into force on 24 April 2003. The 1993 FAO Compliance Agreement will become an integral part of the International CCRF.

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<sup>33</sup> The Agreement also mentions some aspects that need to be consider regarding the cooperation with the developing states, namely as follows:

- a. The vulnerability of developing States which are dependent on the exploitation of living marine resources, including for meeting the nutritional requirements of their populations or parts thereof;
- b. The need to avoid adverse impacts on, and ensure access to fisheries by, subsistence, small-scale and artisanal fishers and women fishworkers, as well as indigenous people in developing States, particularly small island developing States; and
- c. The need to ensure that such measures do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto developing States.

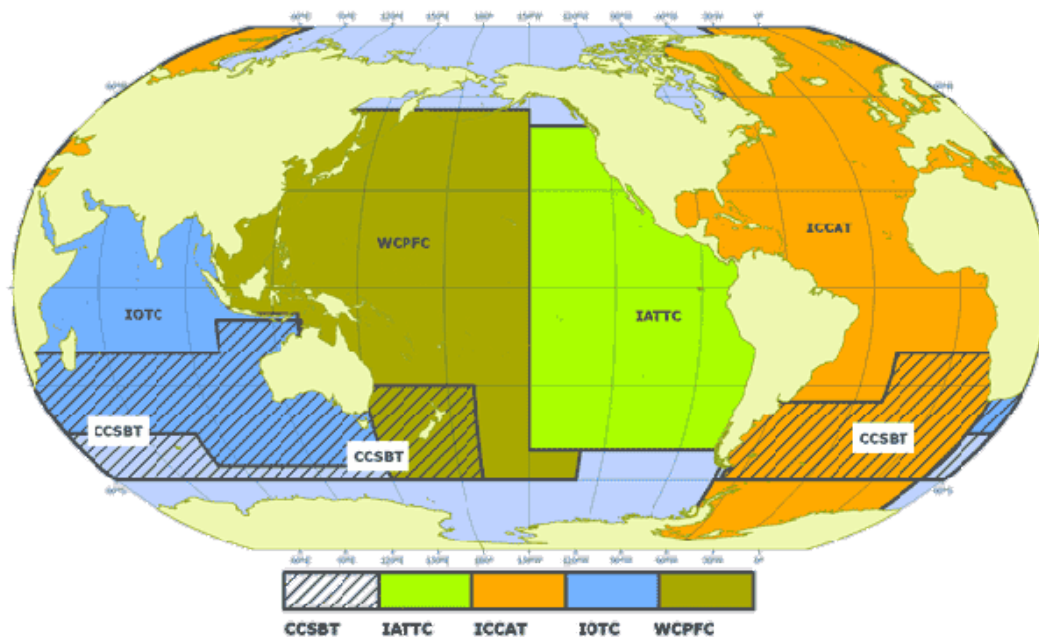
<sup>34</sup> The data that should be provided by states parties to manage the conservation of straddling fish stocks and highly migratory fish stock are:

- a. Time series of catch and effort statistics by fishery and fleet;
- b. Total catch in number, nominal weight, or both, by species (both target and non-target) as is appropriate to each fishery. [Nominal weight is defined by the Food and Agriculture Organization of the United Nations as the live-weight equivalent of the landings];
- c. Discard statistics, including estimates where necessary, reported as number or nominal weight by species, as is appropriate to each fishery;
- d. Effort statistics appropriate to each fishing method; and fishing location, date and time fished and other statistics on fishing operations as appropriate.

<sup>35</sup> Indonesia however has not yet ratified this Agreement, even though the fisheries officials in MMAF have campaigned on the necessity to ratify this Agreement. An academic draft has been prepared to convince the Indonesian Government to consider this ratification.

### 1.3. Regional Fisheries Management Organization (RFMO)

The fact that tuna fisheries are profitable will increase the intensification of tuna fishing unless it is effectively restrained by fisheries management measures. As mentioned above, among the measures that could be taken is to establish regional fisheries management organizations (the full list is provided in the appendix). The FAO publishes the world map for existing RFMOs, as follows<sup>36</sup>:



**Figure 6. FAO World Map of RFMOs**

Indonesia has become a member of several RFMOs, including the IOTC and the CCSBT, while it is also considering joining the WCPFC. These RFMOs are now discussed.

#### **a. Indian Ocean Tuna Commission (IOTC)**

The IOTC, a regional fisheries management organization, has a management region bordering the waters of Indonesia. The rule on Financial Aspects was adopted by the IOTC in its first special session in Rome on March 21 to 24, 1997, and the Rules of Procedure were adopted at the second session in Victoria on September 21 to 24, 1997<sup>37</sup>.

<sup>36</sup> FAO has published various books and guidelines on fisheries. Erik Franckx has written *Fisheries Enforcement, Related Legal and Institutional Issues: National, Subregional or Regional Perspectives*, Food and Agriculture Organization, 2001. Franckx analyzed various existing RFMOs in implementing 1995 UN Fish Stocks Agreement and 1993 FAO Compliance. FAO has induced many activities in managing sustainable fisheries, see *Report of the KMI/APRACA/FAO Regional Workshop on the Effects of Globalization and Deregulation on Marine Capture Fisheries in Asia and the Pacific (Pusan, Republic of Korea, 11-15 October 1999)*. FAO also tries to maintain high seas fishery statistic by enhancing the role of regional fisheries agency, see *Report of the Adhoc Consultation on the Role of Regional Fishery Agencies in Relation to High Seas Fishery Statistic (La Jolla, CA, USA, 13-16 December 1993)*.

<sup>37</sup> <http://www.fao.org/docrep>

Prior to the IOTC, there was a body called the Indo-Pacific Tuna Development and Management Programme (IPTP). IPTP was created in 1982 in Colombo, Sri Lanka, with funding from the UNDP and initiated by the FAO. However, since 1986, the IPTP has been funded by its members. It covered areas around the Indian Ocean and Western Pacific, but it lacked the authority to manage fisheries. This is what distinguishes it from the IOTC<sup>38</sup>.

For more than 15 years, the IPTP conducted various activities; it created a database of tuna fishing in the Indian Ocean, conducted scientific research, organized workshops, and provided advice on the status of the stock of tuna fisheries to the parties. IOTC is the direct successor of all activities undertaken by IPTP<sup>39</sup>.

The Agreement for the Establishment of the Indian Ocean Tuna Commission, elements of which are summarized below, was adopted by the FAO Council at its Hundred and Fifth Session in Rome on 25 November 1993. The Agreement entered into force on the accession of the tenth Member on 27 March 1996. The IOTC is an intergovernmental organization established under Article XIV of the FAO Constitution. It is mandated to manage tuna and tuna-like species in the Indian Ocean and adjacent seas<sup>40</sup>.

The objective of the Commission is to promote cooperation among its members with a view to ensuring, through appropriate management, the conservation and optimum utilization of stocks covered by this Agreement and encouraging sustainable development of fisheries based on such stocks<sup>41</sup>.

In order to achieve these objectives, the Commission has the following functions and responsibilities, in accordance with the principles expressed in the relevant provisions of the UNCLOS<sup>42</sup>:

1. To keep under review the conditions and trends of the stocks and to gather, analyze and disseminate scientific information, catch and effort statistics and other data relevant to the conservation and management of the stocks and to fisheries based on the stocks covered by this Agreement<sup>43</sup>.
2. To encourage, recommend, and coordinate research and development activities with respect to the stocks and fisheries covered by this Agreement, and such other activities as the Commission may decide appropriate, including activities connected with transfer of technology, training and enhancement, having due regard to the need to ensure the

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<sup>38</sup> *Ibid.*

<sup>39</sup> *Ibid.*

<sup>40</sup> *Ibid.*

<sup>41</sup> *Ibid.*

<sup>42</sup> *Ibid.*

<sup>43</sup> Trott, Lara Manarangi. *Fisheries Data Requirements under the International Law: Achieving Long-Term Conservation and Sustainable Use of Tuna Fisheries in the Western Central Pacific Ocean*, Unpublished Dissertation, Australian National Centre for Ocean Resources & Security, Faculty of Law, University of Wollongong, Australia, 2008. In her dissertation, Trott emphasized the importance of data collection in managing tuna fisheries.

equitable participation of members of the Commission in the fisheries and the special interests and needs of members in the region that are developing countries.

3. To adopt, on the basis of scientific evidence, conservation and management measures to ensure the conservation of the stocks covered by this Agreement and to promote the objective of their optimum utilization throughout the area.
4. To keep under review the economic and social aspects of the fisheries based on the stocks covered by this Agreement bearing in mind, in particular, the interests of developing coastal states.

Conservation and management measures binding on members of the Commission must be adopted by a two-thirds majority of members present and voting. Individual members objecting to a decision are not bound by it. If objections to a measure are made by more than one-third of the members of the Commission, the other members are not bound by that measure; but this does not preclude any or all of them from giving effect.

Recommendations concerning conservation and management of the stocks for furthering the objectives of this Agreement need be adopted only by a simple majority of its members present and voting. It is under the responsibility of members to ensure that action is taken under their national legislation to implement conservation and management measures that become binding on it. Members of the Commission are also expected to cooperate in the exchange of information regarding any fishing for stocks covered by this Agreement by nationals of any state or entity that is not a member of the Commission. The IOTC launched an “Indian Ocean Tropical Tuna Tagging Programme” (IOTTP) and issued an IOTC IUU Vessels List in its effort to manage tuna in its area of competence<sup>44</sup>.

#### **b. The Convention for the Conservation of Southern Bluefin Tuna (CCSBT)**

In 1973, the third United Nations Conference on the Law of the Sea met in New York. It concluded its work in 1982 with a new treaty -- the UNCLOS. This treaty went into force in 1994, with the signature of the seventieth state. Article 64 of the UNCLOS provides that the coastal states and other states whose nationals fish in the region for the highly migratory species listed in Annex I shall cooperate directly or through appropriate international organizations with a view to ensuring conservation and promoting the objective of optimum utilization of such species throughout the region, both within and beyond the EEZ<sup>45</sup>.

Articles 116 through 119 contain other provisions on the conservation of marine resources. The Southern Bluefin Tuna is included on the list in Annex I. In 1985, Australia, Japan, and New Zealand -- countries that do the most fishing for this type of tuna -- stipulated voluntary agreements on tuna fishing. These agreements proved to be inadequate because they were non-binding, so in 1993, these three nations signed the Convention for the Conservation of Southern Bluefin Tuna, which went into force in 1994. Other countries later acceded to this treaty<sup>46</sup>.

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<sup>44</sup> <http://www.iotc.org/English/index.php>

<sup>45</sup> Rayfuse, Note 182.

<sup>46</sup> <http://www.ccsbt.org/docs/about.html>



The 1994 Convention establishes a Commission for the Conservation of Southern Bluefin Tuna (CCSBT). The Commission has legal personality, a budget and rules governing accounting and employment relations, a Secretariat with its own staff, and headquarters in Canberra. Within it, separate bodies carry out oversight and consultation tasks. In 2001, the Commission established an Extended Commission, made up not only of the Commission's member states, but also of other "entities or fishing entities" whose flagships fish for tuna<sup>47</sup>.

With authority from the CCSBT treaty and the acts subsequently adopted, the Commission is in charge of gathering statistical and scientific information on tuna and similar species, adopting binding decisions establishing quotas of tuna that may be fished annually by each treaty adherent, monitoring respect for fixed trade limitations (for example, the Commission has established that the importation of tuna by party states must be accompanied by statistical information on its provenance), adopting, "if necessary, additional measures," controlling illegal fishing on the basis of the FAO's International Plan of Action for Illegal, Unregulated and Unreported Fishing, and inviting non-party states to respect the treaty's objectives.

The treaty binds the parties, but it also requires them to cooperate in deterring tuna fishing by "nationals, residents or vessels of any state or entity not party to this Convention, where such activity could affect adversely the attainment of the objective of this Convention."

The Commission fixed national quotas in 1994. CCSBT continues fixing quotas based on the best scientific data available through the Extended Scientific Committee. It forms the Action Plan, the Trade Information Scheme, Scientific Observer Program, Vessel Monitoring System, CCSBT Catch Documentation Scheme, the Program for Transshipment by Large-Scale Fishing Vessel, the Total Allowable Catch, Data Protection, and Compliance Measures<sup>48</sup>.

### **c. The Western and Central Pacific Fisheries Commission (WCPFC)**

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 (WCPFC Convention) which entered into force on 19 June 2004. The Convention was concluded after six years of negotiation, which commenced in 1994<sup>49</sup>.

The WCPFC Convention draws on many of the provisions of the UN Fish Stocks Agreement while, at the same time, reflecting the special political, socio-economic, geographical and environmental characteristics of the western and central Pacific Ocean (WCPO) region. This Convention seeks to address problems in the management of high seas fisheries resulting from unregulated fishing, over-capitalization, excessive fleet capacity, vessel re-flagging to escape controls, insufficiently selective gear, unreliable databases and insufficient multilateral cooperation with respect to conservation and management of highly migratory fish stocks. A framework for the participation of fishing entities in the Commission legally binds fishing

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<sup>47</sup> *Ibid.* See also Rayfuse, Note 182.

<sup>48</sup> *Ibid.*

<sup>49</sup> See <http://www.wcpfc.int/>

entities to the provisions of the Convention, participation by territories and possessions in the work of the Commission, recognition of special requirements of developing states, and cooperation with other RFMOs whose respective areas of competence overlap with the WCPFC<sup>50</sup>.

WCPFC is more advanced than other RFMOs. Its many resolutions, guidelines, procedures and regulations include: the Resolution on the Reduction of Overcapacity, Specification for the Marking and Identification of Fishing Vessels, Resolution on Conservation and Management Measures, Regional Observer Programme, Vessel Monitoring System, a List of Vessels presumed to have carried out IUU Fishing Activity, WCPFC Record of Fishing Vessels and Authorization to Fish, and Regulation of Trans-shipment and Measures for Vessels without Nationality. It even has its own inspection flag and pennant for executing its management measures, as shown below<sup>51</sup>:

#### **1.4. Tuna Fishery in Western and Central Pacific Ocean**

The tuna fishery in the Western and Central Pacific Ocean is diverse, ranging from small-scale artisanal operations in the coastal waters of Pacific states, to large-scale, industrial purse-seine, pole-and-line and longline operations in both the Exclusive Economic Zones (EEZ) of Pacific states and on the high seas. The main species targeted by these fisheries are skipjack tuna (*Katsuwonus pelamis*), yellowfin tuna (*Thunnus albacares*), bigeye tuna (*T. obesus*) and albacore tuna (*T. alalunga*).

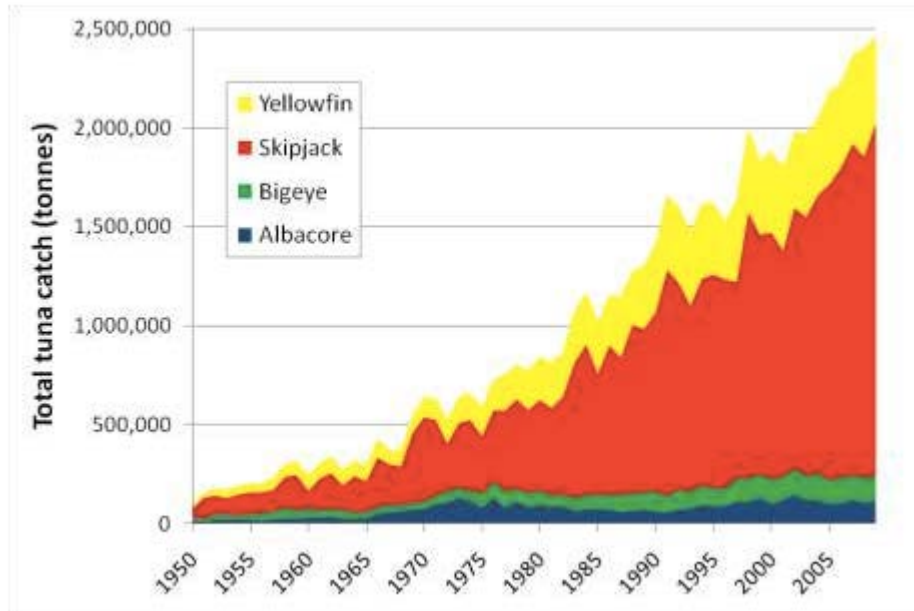
Although the Western and Central Pacific Fisheries Commission (WCPFC) does not regard the albacore tuna fish stock as potentially unsustainable yet, I believe it is still one of the main targeted species of tuna that has to be conserved. Artisanal and larger-scale commercial fisheries exploiting the same stocks of these species also occur in the Pacific Ocean waters of adjacent South-East Asian countries, particularly Indonesia, Philippines and Vietnam.

Annual catches of the four main tuna species (skipjack, yellowfin, bigeye and albacore tunas) in the WCPFC-Convention Area (WCPFC-CA) have increased continuously since the beginning of significant commercial exploitation in the early 1950s (Figure 2). In 2009, the highest ever catch of 2.46 million tonnes was recorded (Williams and Terawasi, 2010). The expansion in the total catch over the past 30 years has been due primarily to the development of purse seine fishing in the region. As a result, catches of skipjack, the main target of the purse seine fishery, and yellowfin, a secondary target species, have been the main source of catch increases. The value of the landed catch has also grown, and has been USD 4-5 billion in recent years

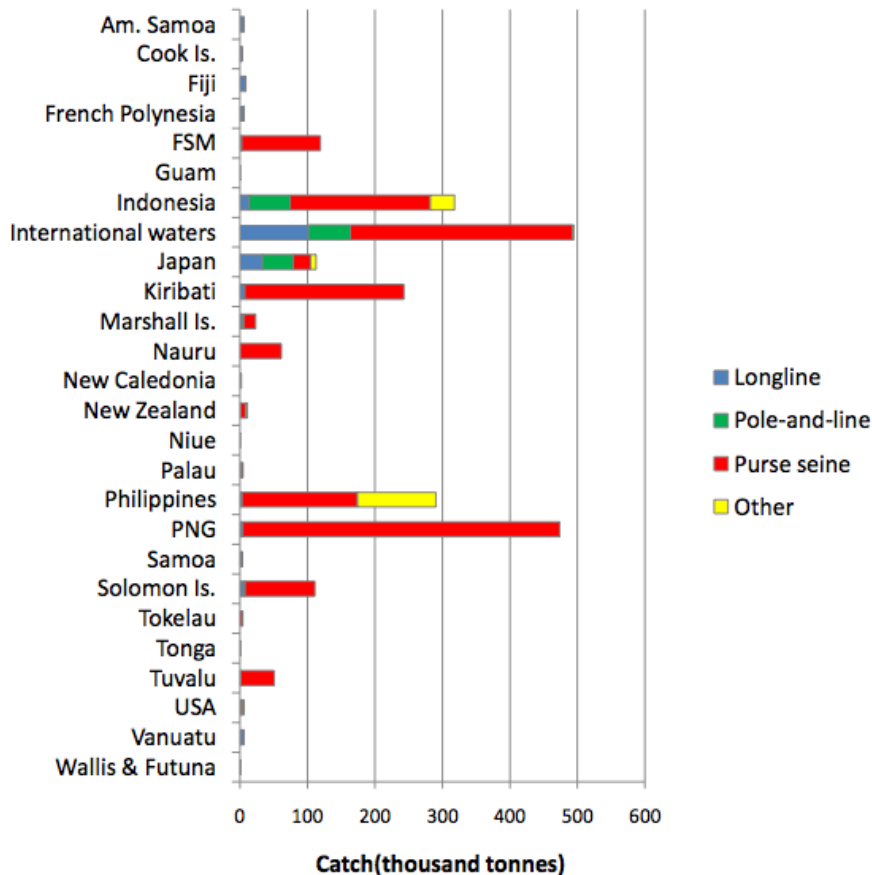
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<sup>50</sup> *Ibid.* See also Rayfuse Note 182.

<sup>51</sup> *Ibid.*



The catch is highly concentrated in the equatorial zone, due to the concentration of the purse seine fishery, and skipjack catches, in this area. This also results in a concentration of catch in the equatorial EEZs of Federated States of Micronesia, Indonesia, Kiribati, Philippines, PNG and Solomon Islands, and in international waters. Indonesia ranked third in highest annual catches of tunas in this region, after catches in International waters and Papua New Guinea.



According to the analysis of the WCPFC Scientific Committee (SC) in its 5th, 6th and 7th Meeting, bigeye tuna is approaching overfished state and may in fact already be overfished. Scientific Committee 7 recommended with regard to bigeye tuna that the Commission adopts "additional measures to secure additional reductions in fishing mortality above those expected from the current CCM, to ensure that fishing mortality is reduced to at least FMSY level, and remove the risk of the stock being overfished". Although fishing mortality levels of yellowfin and skipjack tunas seem sustainable for the time being, SC warned that ongoing intensive fishing in the equatorial region increases juvenile yellowfin mortality and could also lead to contractions of the skipjack stock.

## 1.5. Fishing Methods of Catching Tuna in WCPFC region

### 1.5.1. Purse Seine

The purse seine fishery in the western and central Pacific is essentially a skipjack fishery, unlike those of other ocean areas. Skipjack generally account for 70–85% of the purse seine catch, with yellowfin accounting for 15–30% and bigeye accounting for only a small proportion. Small amounts of albacore tuna are also taken in temperate water purse seine fisheries in the North Pacific.

Features of the purse seine catch by species during the past decade include:

- Annual skipjack catches fluctuating between 600,000 and 800,000 tonnes prior to 1998, a significant increase in the catch during 1998, with catches now maintained well above 1,000,000 tonnes. The provisional catch of skipjack for 2009 of 1,889,966 tonnes is the record high;
- Annual yellowfin catches fluctuating considerably between 115,000 and 270,000 tonnes. The proportion of yellowfin in the catch is generally higher during El Niño years and lower during La Niña years (for example, 1995/96 and to a lesser extent 1999/2000). The 2008 yellowfin catch (386,293 tonnes) was easily the highest on record and remains an outlier, with the provisional 2009 catch falling back to 263,015 tonnes;
- Increased bigeye tuna purse seine catches, (e.g. 41,628 tonnes in 1997 and 37,775 tonnes in 2000) coinciding with the introduction of drifting FADs (since 1996). In the period 2001–2006, bigeye catches were generally lower, but the catch estimate for bigeye in 2008 (44,457 tonnes) is the highest on record and the 2009 catch the second highest.

### **1.5.2. Pole-and-Line**

The WCP–CA pole-and-line fishery has several components:

- a) The year-round tropical skipjack fishery, mainly involving the domestic fleets of Indonesia, Solomon Islands and French Polynesia, and the distant water fleet of Japan.
- b) Seasonal sub-tropical skipjack fisheries in the home waters of Japan, Australia, Hawaii and Fiji
- c) A seasonal albacore/skipjack fishery east of Japan (largely an extension of the Japan home-water fishery).

Economic factors and technological advances in the purse seine fishery (primarily targeting the same species, skipjack) have seen a gradual decline in the number of vessels in the pole-and-line fishery and in the annual pole-and-line catch during the past 15–20 years. The gradual reduction in numbers of vessels has occurred in all pole-and-line fleets over the past decade. Pacific Island domestic fleets have declined in recent years – fisheries formerly operating in Palau, Papua New Guinea and Kiribati are no longer active, only one vessel is now operating (seasonally) in Fiji, and fishing activity in the Solomon Islands fishery has reduced significantly from the level experienced during the 1990s. Several vessels continue to fish in Hawai'i, and the French Polynesian bonitier fleet remains active, but more vessels have turned to longline fishing. Provisional statistics also suggest that the Indonesian pole-and-line has also declined over the past decade. Most of the current pole- and-line catch occurs in the waters around Japan and Indonesia, with a now reduced level of catch by Japanese distant-water vessels in the tropical WCPO.

### **1.5.3. Longline**

The longline fishery continues to account for around 10–13% of the total WCPFC–CA catch, but rivals the much larger purse seine catch in landed value. It provides the longest time series of

catch estimates for the WCP–CA, with estimates available since the early 1950s. The total number of vessels involved in the fishery has generally fluctuated between 3,500 and 5,500 for the last 30 years.

The fishery involves two main types of operation:

- a) Large (typically >250 GRT) distant-water freezer vessels which undertake long voyages (months) and operate over large areas of the region. These vessels may target either tropical (yellowfin, bigeye tuna) or subtropical (albacore tuna) species. Voluntary reduction in vessel numbers by at least one fleet has occurred in recent years;
- b) Smaller (typically <100 GRT) offshore vessels which are usually domestically-based, undertaking trips less than one month, with ice or chill capacity, and serving fresh or air-freight sashimi markets, or [albacore] canneries.

The following broad categories of longline fishery, based on type of operation, area fished and target species, are currently active in the WCPFC–CA:

- South Pacific offshore albacore fishery comprises Pacific-Islands domestic “offshore” vessels, such as those from American Samoa, Cook Islands, Fiji, French Polynesia, New Caledonia, Samoa, Solomon Islands, Tonga and Vanuatu; these fleets mainly operate in subtropical waters, with albacore the main species taken.
- Tropical offshore bigeye/yellowfin-target fishery includes “offshore” sashimi longliners from Chinese-Taipei, based in Micronesia, Guam, Philippines and Chinese-Taipei, mainland Chinese vessels based in Micronesia, and domestic fleets based in Indonesia, Micronesian countries, Philippines, PNG, the Solomon Islands and Vietnam.
- Tropical distant-water bigeye/yellowfin-target fishery comprises “distant-water” vessels from Japan, Korea, Chinese-Taipei, mainland China and Vanuatu. These vessels primarily operate in the eastern tropical waters of the WCP–CA (and into the EPO), targeting bigeye and yellowfin tuna for the frozen sashimi market.
- South Pacific distant-water albacore fishery comprises “distant-water” vessels from Chinese-Taipei, mainland China and Vanuatu operating in the south Pacific, generally below 20°S, targeting albacore tuna destined for canneries.
- Domestic fisheries in the sub-tropical and temperate WCP–CA comprise vessels targeting different species within the same fleet depending on market, season and/or area. These fleets include the domestic fisheries of Australia, Japan, New Zealand and Hawaii. For example, the Hawaiian longline fleet has a component that targets swordfish and another that targets bigeye tuna.
- South Pacific distant-water swordfish fishery is a relatively new fishery and comprises “distant-water” vessels from Spain.
- North Pacific distant-water albacore and swordfish fisheries mainly comprise “distant-water” vessels from Japan (swordfish and albacore), Chinese-Taipei (albacore only) and Vanuatu (albacore only).

Additionally, small vessels in Indonesia, Philippines and more recently in Papua New Guinea target yellowfin by handlining and small vertical longlines, usually around the numerous arrays of anchored FADs in home waters. The commercial handline fleets target large yellowfin tuna that comprises the majority of the overall catch (> 90%).

## **1.6. Stock Status of each Tuna Type**

### **1.6.1. Skipjack Tuna**

The most recent assessment of skipjack tuna was performed in August 2010 and reported to the 2010 meeting of the WCPFC Scientific Committee (Hoyle et al. 2010). Despite greatly increased catches now reaching approximately 1.7 million tonnes, estimated biomass is relatively stable, fishery impacts are moderate and the stock is neither over-fished nor is it experiencing over-fishing. However, while current catch levels appear to be sustainable, the assessment suggests that there is not much scope for further long-term catch increase.

### **1.6.2. Yellowfin Tuna**

The most recent assessment of yellowfin tuna was performed in August 2009 and reported to the 2009 meeting of the WCPFC Scientific Committee (Langley et al. 2009). Catches have been fairly stable since the mid-1990's at 400,000 – 450,000 tonnes annually (although there was an abnormally high catch in 2008, not considered in the 2009 assessment, of >500,000 tonnes). For the WCPO as a whole, both total and spawning biomass are estimated to be declining with moderate overall fishery impacts. Fishing mortality and biomass are estimated to be within their MSY-based reference points. While this is a fairly optimistic outlook, more severe biomass declines and fishery impacts are estimated for the western equatorial sub-region, where more than 90% of the WCPO yellowfin catch is taken. This warrants a more cautious approach to management than is suggested by the overall stock status indicators. The 2009 meeting of the WCPFC Scientific Committee therefore recommended that fishing mortality rates not be increased beyond the 2001-2004 average levels.

### **1.6.3. Bigeye Tuna**

The most recent assessment of bigeye tuna was performed in August 2010 and reported to the 2010 meeting of the WCPFC Scientific Committee (Harley et al. 2010a). A serious source of uncertainty in the assessment is the catch of bigeye tuna by purse seine. It is becoming apparent that previous estimates of bigeye purse seine catch are under-estimated, and higher, but still preliminary, estimates were used in the 2010 assessment. Catches of bigeye peaked in the late 1990s at around 180,000 tonnes and have since declined. Spawning biomass has been in a long-term decline, but greatly mitigated by an estimated increase in recruitment since the mid-1980s. Fishery impacts on spawning biomass are high and fishing mortality rates since the late 1990s are estimated to have exceeded the MSY-based reference point; however, spawning biomass, elevated by the above-average recent recruitment, remains above the MSY- based reference level. Therefore, over-fishing is occurring, but the stock is not yet in an over-fished state. The 2010 WCPFC Scientific Committee recommended that measures be taken to achieve a 29% reduction in fishing mortality from the 2005-2008 average levels.

### **1.6.4. South Pacific Albacore Tuna**

The most recent assessment of South Pacific albacore tuna was performed in August 2009 and reported to the 2009 meeting of the WCPFC Scientific Committee (Hoyle and Davies 2009). Catches are predominantly of larger adult albacore taken by longline and have reached around 65,000 tonnes in recent years (Figure 14A). Biomass has declined to some extent since the late 1980s while the impacts of fishing on the older portion of the stock (spawning biomass and biomass vulnerable to longline fishing) have increased to 30 – 50% depletion from unexploited levels (Figure 14C). However, both fishing mortality and biomass remain well within their respective MSY- based reference levels.

## **1.7. Current Management in WCPO region**

There are existing management arrangements for tuna fisheries in the WCPO at three levels: namely national, sub-regional and regional. These are described as follows:

### **1.7.1. National**

Most of the island members of the Forum Fisheries Agency (FFA) have national tuna management plans that provide guidelines for catch and/or effort levels for the various fisheries operating in their EEZs. These plans usually articulate aspirations for domestic tuna fisheries development, and, through a process coordinated by FFA and assisted by Secretariat of the Pacific Community (SPC) at a technical level, incorporate the ecosystem approach to fisheries management. Some national plans provide for limits on EEZ-based catch and/or effort, but most do not. Where they do exist, they are not generally applied in terms of hard limits.

One reason for this is that the tuna are not particularly responsive to unilateral management action at the EEZ level because of their wide distribution and potential for large-scale movement. Effective national catch and/or effort limits would necessarily need to be coordinated among coastal states so that the sum of such limits was consistent with stock-wide sustainable exploitation. This implies a need for a top-down allocation process, which is yet to be done comprehensively for all species and gear types. However, there are specific examples of where this is being attempted or considered at the sub-regional level, and these are described in the next section.

### **1.7.2. Sub-Regional**

Certain groups of FFA members have been proactive in developing coordinated management measures at the sub-regional level. One such group is the Parties to the Nauru Agreement (PNA), which is a group of eight coastal states located near the equator in whose EEZs nearly half of the WCPO tuna catch is taken. The eight coastal states are namely Palau, Federated States of Micronesia, Marshall island, Papua new Guinea, Solomon Islands, Nauru, Kiribati and Tuvalu.

The PNA have implemented a number of important management measures, the most notable of which has been the Vessel Days Scheme (VDS) for purse seiners fishing in their EEZs. The important elements of the VDS are:



- The designation of a Total Allowable Effort (TAE) for the combined PNA EEZs, expressed as a number of days fishing or searching for fish;
- The allocation of a portion of the TAE to the United States purse seine fleet, which is licensed to fish throughout the EEZs of PNA and other FFA members, and on the high seas under the US Tuna Treaty;
- The allocation of the remainder of the TAE to the PNA EEZs (termed Party Allowable Effort or PAE) according to agreed criteria; and
- Provisions for the transfer of PAE among years within a three-year management period for an individual Party, and among Parties in any given year.

Currently, the TAE is arbitrarily specified and not related to the status of the main stocks taken by the purse seine fishery (skipjack, yellowfin and bigeye tuna). It does, however, provide a cap on the level of purse seine effort for the combined PNA EEZs. The PNA are currently considering a similar VDS for longline fishing in their EEZs.

In addition to managing total purse seine effort, the PNA have introduced other measures, effective 1 January 2010, as part of their Third Implementing Arrangement:

- A prohibition on purse seine sets on floating objects (commonly termed FAD sets) during the period 1 July – 30 September;
- A requirement for all licensed purse seiners to carry observers;
- A requirement that all purse seine caught tuna be retained on board and not discarded (unless unfit for human consumption and with an exemption for excess catch from the final set of a trip that cannot be carried); and
- A requirement that licensed purse seine vessels do not fish in the two high seas pockets bounded by PNA EEZs.

The FAD closure is designed to mitigate the purse seine catch of juvenile bigeye tuna, which are captured mainly in sets on floating objects. The full catch retention measure is intended to encourage vessel operators to avoid setting on aggregations of tuna that they know in advance to contain large amounts of small fish. The 100% observer coverage is to monitor compliance with these measures. Closure of the high seas pockets is intended mainly to simplify the detection of unlicensed, i.e. illegal, fishing in the EEZs, but also potentially removes effort from the fishery. An additional high seas measure, covering the high seas between 10 and 150 □N and 20□  
□W ~~with the intent of this additional~~ closure is to limit purse seine effort in the eastern portion of the WCPO, where the vulnerability of bigeye tuna to capture by purse seine appears to be particularly high.

The PNA has recently established a secretariat based in Majuro, Marshall Islands, to pursue their goal of increasing the flow of economic benefits from the tuna resource to PNA members.

Two sub-regional arrangements that deal with licensing of purse seiners operate in the WCPO – the US Tuna Treaty, which provides for access of up to 40 US-flagged purse seiners to FFA EEZs and the adjacent high seas, and the FSM arrangement, which provides for access of vessels flagged (or otherwise sponsored) by PNA members to each others' EEZs. These two arrangements deal primarily with licensing and, while they provide for certain data collection, do not operate as management arrangements in the usual sense.

A new grouping of a sub-set of FFA members, called Te Vaka Moana (TVM) has recently been established. TVM has a limited membership (Cook Islands, New Zealand, Niue, Samoa and Tonga) and is currently considering coordinated management of longline fishing for albacore in their EEZs. However, no specific management measures have been agreed at this time.

### **1.7.3. Regional**

The development and implementation of stock-wide management measures for WCPO tuna fisheries is the responsibility of the Western and Central Pacific Fisheries Commission (WCPFC). Conservation and Management Measures (CMMs) are agreed at the annual sessions of the Commission. A key CMM is CMM 2008-01, which applies to bigeye and yellowfin tuna. This CMM has the objectives of achieving a 30% reduction in bigeye tuna fishing mortality from the 2001-2004 average and restricting yellowfin tuna fishing mortality to the 2001-2004 average so as to maintain stocks at levels capable of producing the maximum sustainable yield (MSY). These objectives are pursued through a combination of measures involving longline catch limits, purse seine effort limits, a closure relating to purse seine fishing using fish aggregation devices (FADs) and a closure of two high-seas pockets to purse seine fishing. Most of these measures have various exemptions or alternatives built in and are phased in over the period 2009 – 2011. The CMM includes several provisions of the PNA's Third Implementing Arrangement, i.e. the FAD closure, closure of the high seas pockets and full tuna catch retention. Additionally, CMM 2008-01 specifically adopts the PNA VDS as its main tool for limiting purse seine effort in PNA EEZs. Compatible measures for non-PNA EEZs and the high seas are also specified.

An evaluation of CMM 2008-01 has been carried out by Hampton and Harley (2009; 2010). The evaluation showed that CMM2008-01 is unlikely to meet its objectives of a 30% reduction in bigeye tuna fishing mortality from the 2001-2004 level, or maintenance of the bigeye tuna stock at a level capable of producing MSY over the long term. However, the evaluation concluded that the CMM should achieve its objectives with respect to yellowfin tuna.

The main reasons for the lack of effectiveness of the measure regarding bigeye tuna are:

- (i) The reductions in longline catch do not result in the required reduction in fishing mortality on adult bigeye tuna;
- (ii) The increase in purse seine effort potentially allowed under the measure, and the increase in purse seine catchability (fishing mortality per unit effort) that has occurred since 2001- 2004, is not sufficiently offset by the FAD and high seas pockets closures to reduce purse seine fishing mortality below 2001-2004 average levels; and
- (iii) The exclusion of archipelagic waters, which encompass most of the fishing activity of the Indonesian and Philippines domestic fleets and significant amounts of purse seine effort in Papua New Guinea and Solomon Islands, from the measure effectively quarantines an important source of fishing mortality on juvenile bigeye tuna. The Commission will need to consider additional measures if bigeye tuna fishing mortality is to be reduced to levels consistent with achievement of MSY.

The other CMM of relevance to the four main tuna stocks covered in this paper is CMM 2005-02, which relates to South Pacific albacore. The measure is restricted in scope, limiting the

number of vessels fishing for South Pacific albacore south of 20°S, which is largely comprised of EEZs, to 2005 or 2006 average levels. The limitation in geographic scope of the measure is intended to restrict it to largely the high seas, with the presumption that coastal states would take responsibility for the area between the Equator and 20°S, which is largely comprised of EEZs.

A range of other CMMs have been agreed by WCPFC covering pelagic species in the North Pacific, south-west Pacific swordfish, south-west Pacific striped marlin, sharks, sea turtles, sea birds and others.

## **1.8. Western and Central Pacific Fisheries Commission (WCPFC)**

### **1.8.1. Background of Establishment**

The Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (the Convention) established the Western and Central Pacific Fisheries Commission (WCPFC) to conserve and manage migratory fishery resources in the western and central Pacific Ocean.

The Convention was negotiated at a series of multilateral high-level conferences (MHLCs), which included participants from Pacific Island Countries (PICs) and distant water fishing nations. At the Seventh meeting of the MHLC in September 2000 the delegates adopted the text of the Convention.

Headquarters: Pohnpei, Federated States of Micronesia.

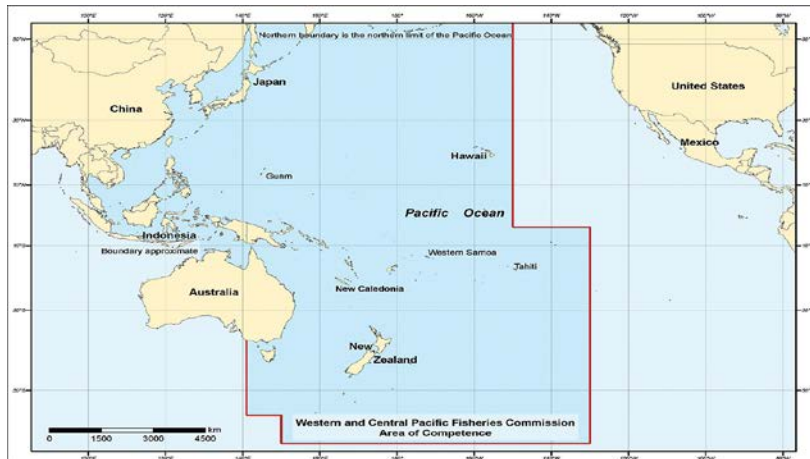
Convention: Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean.

Signed: September 4, 2000 Honolulu, USA.

In force: June 19, 2004. (Organizational meeting held December 2004. First substantive meeting to be held December 2005).

### **1.8.2. Area of Competence**

The Western and Central Pacific Ocean. From the south coast of Australia south along 141° E to its intersection with 55°S then east along 55° S to its intersection 150°E; then south along 150° E to its intersection with 60°S; then east along 60°S to its intersection with 130°W; then north along 130° W to its intersection with 4°S; then west along 4°S to its intersection with 150° W; then north along 150°W.



### 1.8.3. Objectives

To ensure, through effective management, the long-term conservation and sustainable use of highly migratory fish stocks (Annex 1 of UNCLOS and other species as the Commission may determine) in the Western and Central Pacific Ocean in accordance with the 1982 UNCLOS and UN Fish Stocks Agreement (UNFA). The Convention draws upon the principles of sustainable use, long-term conservation, effective monitoring, control and surveillance and the precautionary approach.

The Commission seeks to manage all highly migratory fish stocks within the Convention area including tuna, billfish such as swordfish, marlin, sailfish, mackerel and sharks.

### 1.8.4. Organizational Structure

WCPFC's organizational structure namely are: Commission, Scientific Committee (SC), Technical and Compliance Committee, Northern Committee, Secretariat (Executive Director).

### 1.8.5. Role and operations of WCPFC

The WCPFC Convention seeks to address problems in the management of high seas fisheries resulting from unregulated fishing, over-capitalization, excessive fleet capacity in some fisheries, vessel re-flagging to escape controls, insufficiently selective gear, unreliable databases and insufficient multilateral cooperation in respect to conservation and management of highly migratory fish stocks. A framework for the participation of fishing entities in the Commission, which legally binds fishing entities to the provisions of the Convention, participation by territories and possessions in the work of the Commission, recognition of special requirements of developing States, and cooperation with other Regional Fisheries Management Organizations (RFMO) whose respective areas of competence overlap with the WCPFC reflect the unique geo-political environment in which the Commission operates.

The Commission supports four subsidiary bodies; a Finance and Administration Committee, a Scientific Committee, Technical and Compliance Committee, and a Northern Committee, that each meet once during each year. The meetings of the subsidiary bodies are followed by a full session of the Commission. In addition, in 2006, the Commission established an ad-hoc task group to develop the Commission’s data management policies and, in 2007, established an inter-sessional working group to facilitate the development of the Regional Observer Programme (ROP).

## 2. Analysis on the WCPFC Measures

### 2.1. Analysis on the WCPFC Convention

The *Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean* (“**the Convention**”) had established the commission for the conservation and management of highly migratory fish stocks in the western and central pacific ocean (“**the Commission**”) that would be in charge for the management of all highly migratory fish stocks, except sauries in the western and central pacific ocean. The Convention comprises the structure of the commission itself, as well as the rights and duties imposed to those members of the Commission. State parties to the Convention will automatically become a member of the Commission.

As members of the Commission, States are to ensure that they are in compliance to the rules and obligations set out in the Convention. These are some notices that have to be taken into account by Indonesia upon becoming State Party to the Convention and becoming member of the Commission.

Article	Major Principles	Implications to Indonesia
Article 1	Use of Terms and Definition	Indonesia must adjust the definitional terms used in their laws (if any) so it would not deviate from the definition in the Convention
Article 2	Objective	The objective set out in this convention must be the basis for the objectives of any laws relating to what is governed in this convention
Article 3	Area of Application	-
Article 4	Relationship between this Convention and the 1982 Convention	-
Article 5	Principles and measures for conservation and management	Indonesia, upon becoming member of the commission, shall: (a) adopt measures to ensure long-term sustainability of highly migratory fish stocks in the Convention Area and promote

		<p>the objective of their optimum utilization;</p> <ul style="list-style-type: none"><li>(b) ensure that such measures are based on the best scientific evidence available and are designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing States in the Convention Area, particularly small island developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global;</li><li>(c) apply the precautionary approach in accordance with the Convention and all relevant internationally agreed standards and recommended practices and procedures;</li><li>(d) assess the impacts of fishing, other human activities and environmental factors on target stocks, non-target species, and species belonging to the same ecosystem or dependent upon or associated with the target stocks;</li><li>(e) adopt measures to minimize waste, discards, catch by lost or abandoned gear, pollution originating from fishing vessels, catch of non-target species, both fish and non-fish species, (hereinafter referred to as non-target species) and impacts on associated or dependent species, in particular endangered species and promote the development and use of selective, environmentally safe and cost effective fishing gear and techniques;</li><li>(f) protect biodiversity in the marine environment;</li><li>(g) take measures to prevent or eliminate over-fishing and excess fishing capacity and to ensure that levels of fishing effort do not exceed those commensurate with the sustainable use of fishery resources;</li><li>(h) take into account the interests of artisanal and subsistence fishers;</li></ul>
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		<ul style="list-style-type: none"> <li>(i) collect and share, in a timely manner, complete and accurate data concerning fishing activities on vessel position, catch of target and non-target species and fishing effort, as well as information from national and international research programmes; and</li> <li>(j) implement and enforce conservation and management measures through effective monitoring, control and surveillance.</li> </ul>
Article 6	Application of the precautionary approach	<ol style="list-style-type: none"> <li>1. Indonesia, upon becoming member of the commission must: <ul style="list-style-type: none"> <li>a) apply guidelines set out in Annex II of the Agreement for the Implementation of the Provisions of the United Nation Convention on Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (“<b>the Agreement</b>”).</li> <li>b) Determine, on the basis of the best scientific information available, stock-specific reference points and the action to be taken if they are exceeded.</li> <li>c) Take into account the uncertainties relating to the size and productivity of the stocks, reference points, stock condition in relation to such reference points, levels, and distributions of fishing mortality and the impact of fishing activities on non-target and associated or dependent species, as well as existing and predicted oceanic, environmental and socio-economic conditions; and</li> <li>d) Develop data collection and research programmes to assess the impact of fishing on non-target and associated or dependent species and their environment, and adopt plans where necessary to ensure the conservation of such species and to protect habitats of special concern.</li> </ul> </li> <li>2. Indonesia must be cautious when information is uncertain, unreliable or inadequate.</li> <li>3. Indonesia must take measures to ensure that, when reference points are approached they will not be exceeded.</li> </ol>

		<p>4. Indonesia must enhance monitoring of stocks or non-target or associated or dependent species that is of concern, in order to review their status and the efficacy of conservation and management measures. Such measures must regularly be revised in light of new information.</p> <p>5. Indonesia must adopt cautious conservation and management measures, such as catch limits and effort limits to new or exploratory fisheries.</p> <p>6. Indonesia must adopt conservation and management measures on an emergency basis when natural phenomenon has a significant adverse impact on the status of highly migratory fish stocks, or when a fishing activity presents a serious threat to the sustainability of such stocks. Measures taken on an emergency basis must be based on the best scientific information available.</p>
Article 7	Implementation of principles in areas under national jurisdiction	<p>1. If Indonesia is the coastal state within the convention area is, then they are to enact laws and regulation of the principles and measures for conservation and management in the convention.</p> <p>2. Indonesia must give due consideration to the respective capacities of developing coastal state that are within the convention area</p>
Article 8	Compatibility of conservation and management measures	Indonesia must cooperate for the purpose of achieving compatible measures in respect of highly migratory fish stocks in their entirety within the convention area
Article 23	Obligations of members of the Commission	<p>1. Indonesia must promptly implement the provisions of the Convention and any conservation, management, and other measures or matters, which may be agreed pursuant to the Convention from time to time. Indonesia must cooperate in furthering the objective of the Convention.</p> <p>2. Indonesia must provide to the Commission:</p> <p>(a) an annual statistical, biological, and other data and information in accordance with Annex I of the Agreement, and other data and information as may be required from</p>



		<p>the Commission</p> <p>(b) information concerning its fishing activities in the Convention Area, including fishing areas and fishing vessels</p> <p>(c) information on steps taken to implement the Conservation and management measures adopted by the Commission</p>
Article 24	Flag State duties	<ol style="list-style-type: none"> <li>1. Indonesia must take measures to ensure that: <ol style="list-style-type: none"> <li>(a) Fishing vessels flying Indonesian flag to comply with the provision in the Convention and the conservation and management measures adopted. Such Vessels must not engage in any activity, which undermine the effectiveness of such measures.</li> <li>(b) Fishing vessels flying Indonesian flag do not conduct unauthorized fishing under the national jurisdiction of a Contracting party</li> </ol> </li> <li>2. Indonesia must ensure Fishing Vessels flying Indonesian flag when wanting to fish in the Convention area beyond its national jurisdiction to have obtained the necessary authorization, specified in this article.</li> <li>3. For the purpose of effective implementation of the Convention, Indonesia must maintain a record of fishing Vessels flying Indonesian flag that have been authorized on fishing in the Convention area beyond its national jurisdiction. Indonesia must make sure that the authorized vessel are recorded</li> <li>4. The record as stated above must contain information according to Annex IV of the Convention. Indonesia must also annually report to the Commission about the status of the vessels, and must promptly inform the commission if there are modifications to such information. <ol style="list-style-type: none"> <li>(a) additions to the records</li> <li>(b) deletion from the records because of: <ol style="list-style-type: none"> <li>1. voluntary relinquishment or non-renewal of fishing authorization by</li> </ol> </li> </ol> </li> </ol>

		<p>the vessel owner or operator</p> <ol style="list-style-type: none"> <li>2. the withdrawal of the fishing authorization</li> <li>3. the fact that the concerned vessel is no longer entitled to fly its flag</li> <li>4. scrapping, decommissioning, and or loss of a fishing vessel</li> <li>5. other reasons</li> </ol> <p>5. Indonesia must ensure that every fishing vessels flying Indonesian flag fishing for Highly Migratory fish in the Convention Area to install near real-time satellite position-fixing transmitters that are in accordance to the standards, specifications, and procedures as established by the Commission.</p> <p>6. Indonesia must ensure that every fishing vessels flying Indonesian flag fishing for Highly Migratory fish in the Convention Area under the national jurisdiction of another member to install near real-time satellite position-fixing transmitters that are in accordance to the standards, specifications, and procedures as established by the Commission.</p> <p>7. Indonesia must ensure the compatibility between national and high seas vessel monitoring system.</p>
Article 25	Compliance and Enforcement	<ol style="list-style-type: none"> <li>1. Indonesia must enforce the rules established in the Convention, and enforce the conservation and management measures adopted by the Commission.</li> <li>2. Indonesia must be able to handle cases of violation of the provision of the Convention or conservation by Fishing Vessels flying Indonesian flags. Indonesia must have sufficient laws and regulations in light to resolving such cases, and to the extent possible enforce those laws. Indonesia must also be prepared upon any request of investigation of such cases by other members or the commission.</li> </ol>
Article 33	Good Faith and abuse of rights	<p>The principle of good faith must be upheld by Indonesia in assuming the obligations set out in the Convention.</p>

(Not all articles in the Convention have implication to Indonesia. To make this report concise, such articles are not mentioned in the table)

## 2.2. Analysis on Resolution on the Incidental Catch of Seabirds

The resolution was made in light of the concerns on threats of global extinctions of some species of seabirds, notably albatrosses and petrels. The WCPFC had noted advices from CCAMLR that together with illegal, unreported and unregulated fishing, the greatest threat to those abovementioned seabirds from being extinct is mortality in longline fisheries in the waters of the western and central pacific ocean.

To minimize the threats of global extinction of those seabirds by incidental catch and taking into consideration article 5(e) and 10(c) of the Convention, WCPFC had adopted this resolution.

<b>Major Principles</b>	<b>Implication to Indonesia</b>
1. Commission Members, Cooperating Non-Members, and participating Territories (called CCMs) shall, to the extent possible, implement the International Plan of Action for Reducing Incidental Catches of Seabirds in Longline Fisheries (IPOA-Seabirds) if they have not already done so.	Indonesia must implement the IPOA-Seabirds to the extent possible
2. CCMs shall report to the Commission on their implementation of the IPOA-Seabirds, including, as appropriate, the status of their National Plans of Action for Reducing Incidental Catches of Seabirds in Longline Fisheries.	Indonesia must report the Commission on their implementation of the IPOA Seabird, and the status of their National Plans of Action to reduce Incidental catches of Seabirds in longline fisheries
3. CCMs shall provide the Commission with all available information on interactions with seabirds, including incidental catches and details of species, to enable the Scientific Committee to estimate seabird mortality in all fisheries to which the WCPF Convention applies.	Indonesia must provide the Commission data regarding to interaction with seabirds, including incidental catches and details of species

(Not all the resolutions have implication to Indonesia. To make this report concise, such resolution are not mentioned in the table)

## 2.3. Analysis on Resolution for non-target fish species

This resolution was made pursuant to the Convention, particularly in light to the requirement of

members of the Commission to adopt measures to minimize discards, catch of non-target species, and the impacts on associated or dependent species. This resolution also notes the importance of many non-target species to the sustainable livelihood in many communities in the Convention area.

<b>Major Principles</b>	<b>Implications to Indonesia</b>
1. Commission Members, Cooperating Non-members and participating Territories (CCMs) shall encourage their vessels operating in fisheries managed under the WCPFC Convention to avoid to the extent practicable, the capture of all non-target fish species that are not to be retained;	Indonesia must ensure that vessels operating in fisheries under the Convention area to avoid to the extent practicable, the capture of all non-target species that are not to be retained
2. Any such non-target fish species that are not to be retained, shall, to the extent practicable, be promptly released to the water unharmed.	Indonesia must ensure that their vessels release the non-target species that are not to be retained to the water unharmed

#### **2.4. Analysis on Resolution to mitigate the impacts fishing of highly migratory fish species on sea turtles**

This Resolution recognizes the ecological and cultural significance of all sea turtles within the convention area. This resolution further stresses on the issue of the effort to reduce the mortality of sea turtles caused by fishing of highly migratory fish species. This resolution outlines the concern of preserving the sea turtles species. This resolution was made in light of Article 5 of the Convention.

<b>Major Principles</b>	<b>Implications to Indonesia</b>
1. Commission Members, Cooperating non-Members, and participating Territories (called CCMs) shall, as appropriate, implement the FAO Guidelines to Reduce Sea Turtle Mortality in Fishing Operations (the Guidelines) in order to reduce the incidental catch of sea turtles and to ensure the safe handling of all turtles that are captured, in order to improve their survivability.	Indonesia is expected to implement the Guidelines
2. The WCPFC shall encourage CCMs to collect, and provide to the WCPFC, all available information on interactions with sea turtles in fisheries managed under the WCPF Convention.	Indonesia is expected to provide WCPFC all available information on interactions with sea turtles in their fisheries in the Convention area.

<p>3. The Commission encourages CCMs to enhance the implementation of their respective turtle mitigation measures that are already in place (using best available scientific information on mitigation techniques) and urges them to foster collaboration with other CCMs in the exchange of information in this area.</p>	<p>Indonesia is encourage to enhance the implementation of turtle mitigation measures that are already in place.</p>
<p>4. The Commission urges CCMs to require that purse seine vessels flying their flags:</p> <ul style="list-style-type: none"> <li>i. Avoid encirclement of sea turtles to the extent practicable and, if encircled or entangled, take all practicable measures to safely release sea turtles.</li> <li>ii. Take all reasonable efforts whenever a sea turtle is sighted in the net to rescue the turtle before it becomes entangled in the net, including if necessary, the deployment of a speedboat.</li> <li>iii. Stop net roll, if a turtle is entangled in the net, as soon as the turtle comes out of the water and, to the extent practicable, assist the recovery of the turtle before returning it to the water.</li> <li>iv. Take necessary measures to monitor fish aggregating devices (FADs) to the extent practicable to release any sea turtles that become entangled and consider FAD designs and use that reduce the likelihood of sea turtle entanglement.</li> </ul>	<p>Indonesia must create regulations, requiring their purse seine vessels to:</p> <ul style="list-style-type: none"> <li>i. Avoid encirclement of sea turtles to the extent practicable and, if encircled or entangled, take all practicable measures to safely release sea turtles.</li> <li>ii. Take all reasonable efforts whenever a sea turtle is sighted in the net to rescue the turtle before it becomes entangled in the net, including if necessary, the deployment of a speedboat.</li> <li>iii. Stop net roll, if a turtle is entangled in the net, as soon as the turtle comes out of the water and, to the extent practicable, assist the recovery of the turtle before returning it to the water.</li> <li>iv. Take necessary measures to monitor fish aggregating devices (FADs) to the extent practicable to release any sea turtles that become entangled and consider FAD designs and use that reduce the likelihood of sea turtle entanglement.</li> </ul>
<p>5. The Commission urges CCMs to:</p> <ul style="list-style-type: none"> <li>i. Undertake research trials of appropriate-size circle hooks in commercial pelagic longline fisheries.</li> <li>ii. Undertake research and trials on the use of circle hooks in recreational and artisanal fisheries;</li> <li>iii. Require longline vessels flying</li> </ul>	<p>Indonesia is expected to undertake research and trials on the effective usage of circle hooks.</p> <p>Indonesia is expected to employ necessary equipment for the prompt release of incidental catches of sea turtle in every longline fishing vessels fishing in the Convention area.</p>

their flags to carry on board and, when sea turtle interactions occur, employ the necessary equipment (e.g. de-hookers, line cutters, and scoop nets) for the prompt release of incidentally caught sea turtles.	
10. The Commission encourages CCMs to contribute to the Special Requirements Fund to support eligible small-island developing States, territories, and possessions in implementing this resolution, or to do so through bilateral arrangements.	Indonesia is expected to contribute in the funding of the Commission and to support the livelihood SIDS
11. Beginning in 2006, CCMs shall include in their Annual Report to the Commission (Part II) a report on the steps taken to implement this resolution.	Indonesia must provide annual report to the commission which contains section on matters of steps taken to implement this resolution

(Not all the resolutions have implication to Indonesia. To make this report concise, such resolution are not mentioned in the table)

## 2.5. Analysis on Resolution on Aspirations of Small island Developing States and Territories

The resolution was made to encourage and support the small island developing states (“SIDS”) and their territories within the convention area, also taking into consideration their aspirations to develop and manage their domestic fisheries. Recognizing that 25 members of the commission are SIDS, The resolution mainly focuses on harmonizing the conservation and management measures taken by CCMs with the protection of SIDS’s Aspirations.

Major Principles	Implications to Indonesia
1. CCMs will develop, interpret and apply conservation and management measures in the context of and in a manner consistent with the 1982 Convention and the Agreement. To this end, CCMs shall cooperate, either directly or through the Commission, to enhance the ability of developing States, particularly the least developed among them and SIDS and Territories in the Convention Area, to develop their own fisheries for highly migratory	Indonesia must cooperate to enhance the ability of developing states, particularly SIDS and territories within the Convention Area

<p>fish stocks, including but not limited to the high seas within the Convention Area.</p>	
<p>2. To implement this resolution, developed CCMs shall make concerted efforts and consider innovative options to reduce and or restructure their fleet so as to accommodate aspirations of SIDS and Territories in the Convention Area to develop their own fisheries.</p>	<p>Indonesia (if it were to be considered a developed CCM) must implement this resolution by making innovative options to reduce and or restructure their fleet so as to accommodate aspirations of SIDS and Territories in the Convention Area to develop their own fisheries.</p>
<p>3. Developed CCM's shall cooperate in investments in fishing vessels or other fishing related activities and facilities in SIDS and Territories, provided that such investments are directly linked to the onshore development of domestic fishing industries established in SIDS and Territories in accordance with their legislation.</p>	<p>Indonesia (if it were to be considered a developed CCM) must cooperate in investments in fishing vessels or other fishing related activities and facilities in SIDS and Territories.</p>
<p>4. CCM's commit to achieve the goal of ensuring that by 2018, the domestic fishing and related industries of developing States, in particular, the least developed SIDS and Territories, accounts for a greater share of the benefit than what is currently realized of the total catch and value of highly migratory fish stocks harvested in the Convention Area.</p>	<p>Indonesia must commit to ensure that by 2018, domestic fishing and related industries of developing States, particularly the least developed SIDS and Territories, could increase.</p>
<p>5. When adopting Commission conservation and management measures the following principles should be taken into account:  a) CCMs shall ensure that measures do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto SIDS and Territories.  b) CCMs shall implement measures, including through direct cooperation with SIDS and Territories that enhances the ability of developing States, particularly the least</p>	<p>Indonesia must, upon adopting conservation and management measures, take into account these principles:  a) that such measures do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto SIDS and Territories  b) measures implemented must enhance the ability of developing States, particularly the least developed SIDS, to develop their own fisheries for highly migratory fish.</p>

developed SIDS, to develop their own fisheries for highly migratory fish stocks, including but not limited to the high seas within the Convention Area.	
6. Developed CCMs shall ensure that conservation and management measures will not be implemented to constrain coastal processing and transshipment facilities and associated vessels of SIDS and Territories, nor shall it be implemented to undermine legitimate investment that has occurred legally in FFA member countries.	Indonesia (if it were to be considered a developed CCM) must ensure that conservation and management measures is not implemented to constrain coastal processing and transshipment facilities and associated vessels of SIDS and Territories.

## **2.6. Analysis on the Conservation and Management Measure to Prohibit the Use of Large Scale Driftnets on the High Seas in the Convention Area (2008-04)**

This measure was made in light of the UNGA 46/1215 and the Wellington convention that seeks the prohibition of using driftnets for fishing. It was noticed that, some vessels continue to engage in large-scale high seas driftnet fishing, within the Convention area. Driftnet fishing has serious detrimental effects on some species of highly migratory fishes, and the marine environment, and consequentially had likely undermine the effectiveness of Conservation and Management measures adopted by WCPFC.

In light of those issues, and creating an effective conservation and management measures, particularly on the issue of use of fishing driftnets on the high seas in the Convention area, the Commission adopts this measure.

<b>Major Principles</b>	<b>Implications to Indonesia</b>
1. The use of large-scale driftnets <sup>1</sup> on the high seas within the Convention Area shall be prohibited and such nets shall be considered prohibited fishing gear, the use of which shall constitute a serious violation in accordance with Article 25 of the Convention.	Indonesia is prohibited to use large-scale driftnets on the high seas of the Convention Area.
2. CCMs shall take all measures necessary to prohibit their fishing vessels from using	Indonesia must take necessary measures to prohibit fishing vessels from using large-scale driftnets while on the high seas in the



large-scale driftnets while on the high seas in the Convention Area	Convention Area.
3. A CCM-flagged fishing vessel will be presumed to have used large-scale driftnets on the high seas in the Convention Area if it is found operating on the high seas in the Convention Area and is configured <sup>2</sup> to use large-scale driftnets or is in possession of large-scale drift-nets.	-
4. Paragraph 3 is not intended to apply to a CCM-flagged vessel that can demonstrate that it is duly authorized to use large-scale driftnets in waters under national jurisdiction and while on the high seas in the Convention Area all of its large-scale driftnets and related fishing equipment are stowed or secured in such a manner that they are not readily available to be used for fishing.	-
5. CCMs shall include in Part 2 of their Annual Reports a summary of monitoring, control, and surveillance actions related to large-scale driftnet fishing on the high seas in the Convention Area.	Indonesia must include in their Annual Reports a summary of monitoring, control, and surveillance actions related to large-scale driftnet fishing on the high seas in the Convention Area.
6. The WCPFC shall periodically assess whether additional measures should be adopted and implemented to ensure that large-scale driftnets are not used on the high seas in the Convention Area.	-
7. Nothing in this measure shall prevent CCMs from applying more stringent measures to regulate the use of	Indonesia is allowed to apply more stringent measures to regulate the use of large-scale driftnets.

large-scale driftnets.	
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## 2.7. Analysis on Conservation and Management Measures for North Sea Albacores (2010-01)

The measure was made with concern to the albacore species within the Convention area. The International Scientific Committee for Tuna and Tuna-like species had indicated that the species had either been fully exploited, or may be experiencing fishing mortality above level. In light of those concerns, this measure was adopted. It also was made in accordance to Article 22(4) and Article 10 of the convention.

Major Principles	Implications to Indonesia
1. The total level of fishing effort for North Pacific albacore in the Convention Area north of the equator shall not be increased beyond current levels.	-
2. The Members, Cooperating Non-Members and participating Territories (hereinafter referred to as CCMs) shall take necessary measures to ensure that the level of fishing effort by their vessels fishing for North Pacific albacore in the WCPFC Convention Area is not increased beyond current levels;	Indonesia must take necessary measures to ensure the level of fishing effort by their vessels fishing for North Pacific Albacore in the Convention area is not increased beyond current levels.
3. All CCMs shall report all catches of North Pacific albacore to the WCPFC every six months, except for small coastal fisheries which shall be reported on an annual basis. Such data shall be reported to the Commission as soon as possible and no later than one year after the end of the period covered.	Indonesia must report all catches of North Pacific Albacore to the Commission every 6 months. Such data must be reported as soon as possible and no later than one year after the end of the period covered.
4. All CCMs shall report annually to the WCPFC Commission all catches of albacore north of the equator and all fishing effort north of the equator in fisheries directed at albacore. The reports for both catch and fishing effort shall be made by gear type. Catches shall be reported in terms of	Indonesia must annually report the Commission all catches of albacore north of the equator and all fishing effort north of the equator in fisheries directed at albacore. The reports are made by gear type, and catches is reported in terms of weight. Fishing effort is reported in terms of the most relevant measures for a given gear

weight. Fishing effort shall be reported in terms of the most relevant measures for a given gear type, including at a minimum for all gear types, the number of vessel-days fished.	type, including at a minimum for all gear types, the number of vessel-days fished.
5. The Northern Committee shall, in coordination with International Scientific Committee for Tuna and Tuna-like Species in the North Pacific Ocean and other scientific bodies conducting scientific reviews of this stock, including the WCPFC Scientific Committee, monitor the status of North Pacific albacore and report to the Commission on the status of the stock at each annual meeting, and make such recommendations to the Commission as may be necessary for their effective conservation.	-
6. The Commission shall consider future actions with respect to North Pacific albacore based on recommendations of the Northern Committee.	-
7. The CCMs shall work to maintain, and as necessary reduce, the level of fishing effort on North Pacific albacore within the Convention Area commensurate with the long-term sustainability of the stock.	Indonesia must work to maintain, and as necessary reduce the level of fishing effort on North Pacific Albacore within the Convention Area commensurate with the long-term sustainability of the stock.
8. The WCPFC Executive Director shall communicate this resolution to the IATTC and request that the two Commissions engage in consultations with a view to reaching agreement on a consistent set of conservation and management measures for North Pacific albacore, and specifically, to propose that both Commissions adopt as soon as practicable uniform conservation and management measures and any reporting or other measures needed to ensure compliance with agreed measures.	-
9. The provisions of paragraph 2 shall	-

<p>not prejudice the legitimate rights and obligations under international law of those small island developing State Members and participating territories in the Convention Area whose current fishing activity for North Pacific albacore is limited, but that have a real interest in, and history of, fishing for the species, that may wish to develop their own fisheries for North Pacific albacore in the future.</p>	
<p>10. The provisions of paragraph 9 shall not provide a basis for an increase in fishing effort by fishing vessels owned or operated by interests outside such small island developing State Members or participating territories, unless such fishing is conducted in support of efforts by such Members and territories to develop their own domestic fisheries.</p>	-

## 2.8. Analysis on Conservation and Management Measure for Striped Marlin in the Southwest Pacific (2006-04)

This measure was adopted in notice of the consistent declines in stock abundance of striped marlins in the Southwestern Pacific region. This measure was also made in light of the recommendation of the Scientific Committee, whereas a precautionary measure, there be no increases in fishing mortality on this stock until estimates of stock status are more certain, as increases in fishing mortality are likely to move the stock towards an overfished state.

<b>Major Principles</b>	<b>Implication to Indonesia</b>
<p>1. Commission Members, Cooperating Non-Members, and participating Territories (CCMs) shall limit the number of their fishing vessels fishing for striped marlin in the Convention Area south of 15<sup>0</sup>S, to the number in any one-year between the period 2000 – 2004.</p>	<p>Indonesia must implement regulations to limit the number of fishing vessels fishing for striped marlin in the Convention Area south of 15<sup>0</sup>S, to the number in any one-year between the period 2000 – 2004.</p>
<p>2. Paragraph 1 shall not prejudice the legitimate rights and obligations under international law of small island developing State and Territory CCMs, in the Convention Area who may wish to pursue a responsible level of development of their own fisheries for striped marlin in the Convention Area south of 15<sup>0</sup>S from 2000 -</p>	

<p>2004 levels, and the legitimate rights and obligations of coastal states who may wish to pursue a responsible level of development within their fisheries waters.</p>	
<p>3. CCMs shall cooperate to protect the long-term sustainability and economic viability of the fisheries for striped marlin in the Southwest Pacific, and in particular shall cooperate on research to reduce uncertainty with regard to the status of striped marlin stocks.</p>	<p>Indonesia must take into account the protection of long-term sustainability and economic viability of the fisheries for striped marlin in the Southwest Pacific.</p>
<p>4. In accordance with paragraph 1, CCMs shall provide information to the Commission, by 1 July 2007, on the number of their vessels that have fished for striped marlin in the Convention area south of 15°S, during the period 2000 – 2004, and in doing so, nominate the maximum number of vessels that shall continue to be permitted to fish for striped marlin in the area south of 15°S. CCMs shall report annually to the Commission the catch levels of their fishing vessels that have taken striped marlin as a bycatch as well as the number and catch levels of vessels fishing for striped marlin in the Convention Area south of 15°S.</p>	<p>Indonesia must prepare annual report to the Commission on the catch level of their fishing vessels that have taken striped marlin as a by catch as well as the number and catch levels of vessels fishing for striped marlin in the Convention Area south of 15°S.</p>
<p>5. Paragraphs 1-4 do not apply to those coastal states CCMs south of 15 degrees south in the Convention Area who have already taken, and continue to take, significant steps to address concerns over the status of striped marlin in the Southwestern Pacific region, through the establishment of a commercial moratorium on the landing of striped marlin caught within waters under their national jurisdiction.</p>	<p>-</p>
<p>6. The Executive Director shall compile and disseminate the information provided to the Commission by CCMs in accordance with para 4. The Technical and Compliance Committee shall monitor and review compliance with this measure and make recommendations to the Commission as may be necessary.</p>	<p>-</p>

### **2.9. Analysis on Conservation and Management Measure for the Regional Observer Programme (2006-07)**

This measure establishes the Commission Regional Observer Programme (“**Commission**

**ROP**”), in accordance to Article 28(1) and 28(7) of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (“**the Convention**”). The Commission ROP is purposed to, among other things, collect verified catch data, and to monitor the implementation of the conservation and management measures adopted by the Commission.

This resolution majorly focuses on the establishment Commission ROP and its standards. However these are the implication to States concerned with the Commission.

<b>Major Principles</b>	<b>Implications to Indonesia</b>
7. Each CCM of the Commission shall ensure that fishing vessels fishing in the Convention Area, except for vessels that operate exclusively within waters under the national jurisdiction of the flag State, are prepared to accept an observer from the Commission ROP if required by the Commission.	Indonesia must notice their fishing vessels fishing in the convention area to prepare to accept an observer from the Commission ROP if required by the Commission
8. Each CCM of the Commission shall be responsible for meeting the level of observer coverage as set by the Commission.	Indonesia must ensure that fishing vessel meets the level of observer coverage as set by the commission
9. CCMs shall source observers for their vessels as determined by the Commission.	
10. CCMs shall explain to the vessel captain, observer duties relevant to appropriate measures adopted by the Commission.	Indonesia must prepare a procedural regulation on observer acceptance on board standards for their fishing vessels fishing in the Convention area
	<p>The abovementioned standards includes the responsibilities of vessel operators and captains in:</p> <ul style="list-style-type: none"> <li>a) Accepting onboard the vessel any person identified as an observer under the ROP when required by the Commission.</li> <li>b) Informing the crew of the timing of the ROP observer boarding as well as their rights and responsibilities when an ROP observer boards the vessel.</li> <li>c) Assisting the ROP observer to safely embark and disembark the vessel at an agreed upon place and time.</li> <li>d) Giving notice to the ROP observer at least fifteen (15) minutes before the start of a set or haul onboard, unless the observer specifically requests not to be notified.</li> <li>e) Allow and assist the ROP observer to carry out all duties safely.</li> <li>f) Allowing ROP observer full access to the</li> </ul>

	<p>vessel's records including vessel logs and documentation for the purpose of records inspection and copying.</p> <p>g) Allowing reasonable access to navigational equipment, charts and radios, and reasonable access to other information relating to fishing.</p> <p>h) Permitting access to additional equipment, if present, to facilitate the work of the ROP observer while onboard the vessel, such as high-powered binoculars, electronic means of communication, etc.</p> <p>i) Allow and assist the ROP observer to remove and store samples from the catch.</p> <p>j) The provision to the ROP observer, while onboard the vessel, at no expense to the observer or the ROP observer's provider or government, with food, accommodation, adequate sanitary amenities, and medical facilities of a reasonable standard equivalent to those normally available to an officer onboard the vessel.</p> <p>k) The provision to the ROP observer, while onboard the vessel, insurance coverage for the duration of the observer's time onboard the vessel.</p> <p>l) Allow and assist full access to and use of all facilities and equipment of the vessel that the observer may determine is necessary to carry out his or her duties, including full access to the bridge, fish onboard, and areas which may be used to hold, process, weigh, and store fish.</p> <p>m) Ensuring the ROP observer is not assaulted, obstructed, resisted, delayed, intimidated, interfered with, influenced, bribed or is attempted to be bribed in the performance of their duties.</p>
	<p>The abovementioned standards includes the responsibilities of the vessel crew in:</p> <p>a) Not assaulting, obstructing, resisting, intimidating, influencing, or interfering with the ROP observer or impeding or delaying observer duties.</p> <p>b) Compliance with regulations and procedures established under the Convention and other guidelines, regulations, or</p>

	<p>conditions established by the CCM that exercises jurisdiction over the vessel.</p> <p>c) Allowing and assisting full access to and use of all facilities and equipment of the vessel which the observer may determine is necessary to carry out his or her duties, including full access to the bridge, fish onboard, and areas that may be used to hold, process, weigh, and store fish.</p> <p>d) Allow and assist the ROP observer to carry out all duties safely.</p> <p>e) Allow and assist the ROP observer to remove and store samples from the catch.</p> <p>f) Compliance with directions given by the vessel captain with respect to the ROP observers duties.</p>
<p>Implementation programme for the Regional Observer Programme</p> <p>1. When the measure enters into force, CCMs shall commence implementation of the ROP, in accordance with the measure adopted at WCPFC4, by using the sub-regional and national programmes already operational in the region. CCMs are encouraged to submit data from such programmes as soon as possible.</p>	<p>Indonesia must implement the ROP using the subregional and national programme. Indonesia is encouraged to submit data from such programmes.</p>
<p>6. No later than 30 June 2012, CCMs shall achieve 5% coverage of the effort in each fishery under the jurisdiction of the Commission (except for vessels provided for in paras 9 and 10). In order to facilitate the placement of observers the logistics may dictate that this be done on the basis of trips.</p>	<p>Indonesia will achieve 5% coverage of the effort in each fishery under the jurisdiction of the commission.</p>
<p>8. CCMs shall also be expected to meet any additional ROP observer obligations that may be included in any measure adopted by WCPFC, such as provisions of a catch retention measure, a FAD management measure or a transshipment measure. Such measures may include observer requirements for freezer longliners, purse seiners and/or carriers.</p>	<p>Indonesia must ensure to meet additional ROP observer obligations that may be included in any measure adopted by WCPFC, such as provisions of a catch retention measure, a FAD management measure or a transshipment measure. Such measures may include observer requirements for freezer longliners, purse seiners and/or carriers.</p>

(Not all the paragraphs have implication to Indonesia. To make this report concise, such resolution are not mentioned in the table)



## 2.10. Analysis on WCPFC Records on fishing vessels and authorization to Fish (2009-01)

This measure was made as basic guideline for the Members of the Commission and the Commission itself on matters of authorization of vessels and fishing activity within the Convention area. It described the specification of information records that needs to be provided by the members of the commission, as well as the obligation of the members to maintain such record and submit it to the commission. By being members of the WCPFC, Indonesia must comply to this measure, in such manners as described in the measure, provide the commission with information on the authorization of vessels and fishing activity.

<b>Major Principles</b>	<b>Implications to Indoensia</b>
Authorization to fish	<p>1. Indonesia must:</p> <ul style="list-style-type: none"><li>(a) authorize its vessels to fish in the Convention Area, consistent with article 24 of the Convention, only where it is able to exercise effectively its responsibilities in respect of such vessels under the 1982 Convention, the Agreement and this Convention</li><li>(b) take necessary measures to ensure that its vessels comply with conservation and management measures adopted pursuant to the Convention;</li><li>(c) take necessary measures to ensure that fishing for highly migratory fish stocks in the Convention Area is conducted only by vessels flying the flag of a member of the Commission, and in respect of non-member carriers and bunkers, in accordance with Section D of this Measure</li><li>(d) take necessary measures to ensure that any fishing vessel flying its flag conducts fishing in areas under the national jurisdiction of another State only where the vessel holds an appropriate license, permit or authorization, as may be required by such other State</li><li>(e) undertake to manage the number of authorizations to fish and the level of fishing effort commensurate with the fishing opportunities available to that member in the Convention Area;</li><li>(f) ensure that no authorization to fish in the Convention Area is issued to a vessel that</li></ul>

	<p>has a history of illegal, unreported or unregulated (IUU) fishing, unless the ownership of the vessel has subsequently changed and the new owner has provided sufficient evidence demonstrating that the previous owner or operator has no legal, beneficial or financial interest in, or control of the vessels, or the member concerned is satisfied that, having taken into account all relevant facts, the vessel is no longer engaged in or associated with IUU fishing;</p> <ul style="list-style-type: none"> <li>(g) withdraw authorizations to fish consistent with article 25(4) of the Convention;</li> <li>(h) take into account the history of violations by fishing vessels and operators when considering applications for authorization to fish by fishing vessels flying its flag;</li> <li>(i) take necessary measures to ensure that the owners of the vessels on the Record flying its flag are citizens, residents or legal entities within its jurisdiction so that any control or punitive actions can be effectively taken against them</li> </ul>
	<p>2. Indonesia must take necessary measures to ensure that its fishing vessels, when in the Convention Area, only tranship to/from, and provide bunkering for, are bunkered by or otherwise supported by:</p> <ul style="list-style-type: none"> <li>(a) vessels flagged to members, or</li> <li>(b) Other vessels flagged to States not members of the Commission only if such vessels are on the WCPFC Interim Register of non-Member Carrier and Bunker Vessels established under section D below (the “Register”); or</li> <li>(c) Vessels operated under charter, lease, or similar mechanisms in accordance with paragraphs 41 to 43 of this measure.</li> </ul>
	<p>3. Indonesia must not allow any fishing vessel entitled to fly its flag to be used for fishing in the Convention Area beyond areas of national jurisdiction unless it has been authorized to do so by the appropriate authority or authorities of that member.</p>

	<p>4. Each such authorization shall set forth for the vessel to which it is issued:</p> <ul style="list-style-type: none"> <li>(a) the specific areas, species and time periods for which the authorization is valid;</li> <li>(b) permitted activities by the vessel;</li> <li>(c) a prohibition of fishing, retention on board, transshipment or landing by the vessel in areas under the national jurisdiction of another State except pursuant to any license, permit or authorization that may be required by such other State;</li> <li>(d) the requirement that the vessel keep on board the authorization issued pursuant to paragraph 1 above, or certified copy thereof; any license, permit or authorization, or certified copy thereof, issued by a coastal State, as well as a valid certificate of vessel registration; and</li> <li>(e) any other specific conditions to give effect to the provisions of the Convention and conservation and management measures adopted pursuant to it.</li> </ul>
Records of Vessel	<p>5. Pursuant to article 24(4) on the Convention, each member of the Commission shall maintain a record of fishing vessels entitled to fly its flag and authorized to fish in the Convention Area beyond its area of national jurisdiction, and shall ensure that all such fishing vessels are entered in that record.</p>
	<p>6. Indonesia must submit, electronically where possible, to the Executive Director by 1 July 2005 the following information with respect to each vessel entered in its record:</p> <ul style="list-style-type: none"> <li>(a) name of the fishing vessel, registration number, WCPFC Identification Number (WIN), previous names (if known) and port of registry;</li> <li>(b) name and address of the owner or owners;</li> <li>(c) name and nationality of the master;</li> <li>(d) previous flag (if any);</li> <li>(e) International Radio Call sign</li> <li>(f) vessel communication types and numbers (Inmarsat A, B and C numbers and satellite telephone number);</li> <li>(g) colour photograph of the vessel;</li> <li>(h) where and when the vessel was built;</li> <li>(i) type of vessel;</li> <li>(j) normal crew complement;</li> </ul>

	<p>(k) type of fishing method or methods;  (l) length (specify type and metric);  (m) moulded depth (specify metric);  (n) beam (specify metric);  (o) gross registered tonnage (GRT) or gross tonnage (GT);  (p) power of main engine or engines (specify metric);  (q) carrying capacity, including freezer type, capacity and number, fish hold capacity and capacity of freezer chambers (specify metric);  and  (r) the form and number of the authorization granted by the flag State including any specific areas, species and time periods for which it is valid.</p>
	<p>7. After 1 July 2005, Indonesia must notify the Executive Director, within 15 days, or in any case within 72 hours before commencement of fishing activities in the Convention Area by the vessel concerned, of:  (a) any vessel added to its Record along with the information set forth in paragraph 6;  (b) any change in the information referred to in paragraph 6 with respect to any vessel on its record; and  (c) any vessel deleted from its record along with the reason for such deletion in accordance with article 24 (6) of the Convention,</p>
	<p>8. Indonesia must submit to the Executive Director, information requested by the Executive Director with respect to fishing vessels entered in its national record of fishing vessels within fifteen (15) days of such request.</p>
	<p>9. Before 1 July of each year, each Member shall submit to the executive director a list of all vessels that appeared in its record of fishing vessels at any time during the preceding calendar year, together with each vessel's WCPFC identification number (WIN) and an indication of whether each vessel fished for highly migratory fish stocks in the Convention Area beyond its area of national jurisdiction. The indication shall be expressed as (a) fished, or (b) did not fish.</p>
	<p>10. Members that operate lease, charter</p>

	arrangements or similar arrangements that result in data reporting obligations being conferred to a party other than the flag State will make arrangements to ensure that the flag State can meet its obligations under paragraph 9.
	16. Indonesia has the responsibility to ensure that its fishing vessels have been placed on the WCPFC Record of Fishing Vessels in accordance with the requirements of this measure, and any vessel not included in the WCPFC Record of Fishing Vessels shall be deemed not to be authorized to fish for, retain on board, transship or land highly migratory fish stocks in the Convention Area beyond the national jurisdiction of its flag State. Each member of the Commission shall prohibit such activities by any vessel entitled to fly its flag that is not included on the Record and shall treat a violation of this prohibition as a serious violation. Such vessels shall be eligible to be considered for IUU listing.
	17. Indonesia must prohibit landing at its ports or transshipment to vessels flying its flag of highly migratory fish stocks caught in the Convention Area by vessels not entered on the Record or the Register.
	18. Indonesia must notify the Executive Director, in accordance with the relevant provisions of article 25 of the Convention, of any factual information showing that there are reasonable grounds to suspect that a vessel that is not on the Record or the Register is or has been engaged in fishing for or transshipment of highly migratory fish stocks in the Convention Area.

(Not all the paragraphs have implication to Indonesia. To make this report concise, such resolution are not mentioned in the table)

### **2.11. Analysis on Conservation And Management Measure For South Pacific Albacore (2010-05)**

The measure was made in notice of the critical biological uncertainties for South Pacific

Albacore. And that, though the catch level of South Pacific Albacore appears to be sustainable, given the age-specific mortality of the longline fleets, any significant increase in effort would reduce CPUE to low levels with only moderate increases in yields. It further notes, that though future Albacore catches appear to be sustainable, the uncertainties of the future had raise the need to take measures on the catches of South Pacific Albacore. Hence, this measure was taken into effect.

<b>Major Principles</b>	<b>Implications to Indonesia</b>
1. Commission Members, Cooperating Non-Members, and participating Territories (CCMs) shall not increase the number of their fishing vessels actively fishing for South Pacific albacore in the Convention Area south of 20°S above current (2005) levels or recent historical (2000-2004) levels.	Indonesia (if they fish the South pacific albacores) must not increase the number of their fishing vessels actively fishing for South Pacific albacore in the Convention Area south of 20°S above current (2005) levels or recent historical (2000-2004) levels.
2. The provisions of paragraph 1 shall not prejudice the legitimate rights and obligations under international law of small island developing State and Territory CCMs in the Convention Area for whom South Pacific albacore is an important component of the domestic tuna fishery in waters under their national jurisdiction, and who may wish to pursue a responsible level of development of their fisheries for South Pacific albacore.	-
3. CCMs that actively fish for South Pacific albacore in the Convention Area south of the equator shall cooperate to ensure the long-term sustainability and economic viability of the fishery for South Pacific albacore, including cooperation and collaboration on research to reduce uncertainty with regard to the status of this stock.	Indonesia (if they fish the South pacific albacores) must ensure the long-term sustainability and economic viability of the fishery for South Pacific albacore.
4. CCMs shall report annually to the Commission the catch levels of their fishing vessels that have taken South Pacific Albacore as a bycatch as well as the number and catch levels of vessels actively fishing for South Pacific albacore in the Convention area south of 20°S. Initially this information will be provided for the period 2006-2010 and then updated annually.	Indonesia must report annually to the Commission the catch levels of their fishing vessels that have taken South Pacific Albacore as a bycatch as well as the number and catch levels of vessels actively fishing for South Pacific albacore in the Convention area south of 20°S.

5. This measure will be reviewed annually on the basis of advice from the Scientific Committee on South Pacific albacore.	-
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## 2.12. Analysis on Conservation And Management Measure For Pacific Bluefin Tuna (2010-04)

This measure was taken recalling the Northern Committee request to develop a new draft CMM applying to the Korean EEZ for consideration at the WCPFC7, and taking into account importance that the level of F is decreased below the 2002-2004 levels, particularly on juvenile age classes of Tuna and Tuna Like-species in the North Pacific Ocean. It recognizes the annual level of recruitment has influenced the trend of spawning stock biomass substantially and that collecting of fisheries data in an accurate and timely manner is critically important for the proper management of this stock. In essence to those issues, this measure was taken into force.

Major Principles	Implications to Indonesia
1. The interim management objective for Pacific bluefin tuna is to ensure that the current level of fishing mortality rate is not increased in the Convention Area. Initially, control over fishing effort will be used to achieve this objective as follows:	-
2. The Commission Members, Cooperating Non-Members and participating Territories (hereinafter referred to as CCMs) shall take measures necessary to ensure that total fishing effort by their vessels fishing for Pacific bluefin tuna in the area north of the 20 degrees north shall stay below the 2002-2004 levels for 2011 and 2012, except for artisanal fisheries. Such measures shall include those to reduce catches of juveniles (age 0-3) below the 2002-2004 levels, except for Korea. Korea shall take necessary measures to regulate the catches of juveniles (age 0-3) by managing Korean fishery in accordance with this CMM. CCMs shall cooperate for this purpose.	Indonesia must take measures necessary to ensure that total fishing effort by their vessels fishing for Pacific bluefin tuna in the area north of the 20 degrees north shall stay below the 2002-2004 levels for 2011 and 2012, except for artisanal fisheries.  The measure includes those to reduce catches of juveniles (age 0-3) below the 2002-2004 levels,
3. CCMs shall also take measures necessary to strengthen data collecting system for Pacific bluefin tuna fisheries in order to improve the data quality and timeliness of all the data reporting;	Indonesia must take measures necessary to strengthen data collecting system for Pacific bluefin tuna fisheries
4. CCMs shall report to Executive Director	Indonesia must report to Executive Director

<p>by 31 July 2011 and 2012 measures they used to implement paragraphs 2, 3, 6 and 7 of this CMM. The Northern Committee shall annually review reports CCMs submit pursuant to this paragraph;</p>	<p>by 31 July 2011 and 2012 measures they used to implement paragraphs 2, 3, 6 and 7 of this measure.</p>
<p>5. The Northern Committee at its Regular session in 2012 shall review this CMM based on the new ISC stock assessment for Pacific bluefin tuna scheduled in 2012 and take appropriate actions</p>	<p>-</p>
<p>6. The WCPFC Executive Director shall communicate this Conservation Management Measure to the IATTC Secretariat and its contracting parties whose fishing vessels engage in fishing for Pacific bluefin tuna and request them to take equivalent measures in conformity with paragraphs 2 and 3 above</p>	<p>-</p>
<p>7. To enhance effectiveness of this measure, CCMs are encouraged to communicate with and, if appropriate, work with the concerned IATTC contracting parties bilaterally</p>	<p>Indonesia is encouraged to communicate with and, if appropriate, work with the concerned IATTC contracting parties bilaterally</p>
<p>8. The provisions of paragraph 2 shall not prejudice the legitimate rights and obligations under international law of those small island developing State Members and participating territories in the Convention Area whose current fishing activity for Pacific bluefin tuna is limited, but that have a real interest in fishing for the species, that may wish to develop their own fisheries for Pacific bluefin tuna in the future.</p>	<p>-</p>
<p>9. The provisions of paragraph 8 shall not provide a basis for an increase in fishing effort by fishing vessels owned or operated by interests outside such developing coastal State, particularly Small Island developing State Members or participating territories, unless such fishing is conducted in support of efforts by such Members and territories to develop their own domestic fisheries.</p>	<p>-</p>



### 2.13. Analysis on Conservation And Management Measure Prohibiting Fishing On Data Buoys (2009-05)

Many nation basically deployed data buoys throughout the sea, particularly in this context, within the Convention Area. Moreover, highly migratory species, in particular tuna species, aggregate in the vicinity of data buoys, and at some cases, many fishing vessels deployed in fishing near the buoys and ends up damaging the buoys, that are purposed to improved weather and marine forecasts, provide assistance to fisheries by generating data on sea surface and subsurface measurements, provide assistance to search and rescue efforts at sea, and collect critical data used to conduct research on meteorological and oceanographic topics and climate prediction.

Believing that a reduction of fishing near data buoys may assist the Commission in its efforts to reduce the mortality of juvenile bigeye and yellowfin tunas. As well as reducing the possibilities damage to those buoys, the Commission adopted this measure.

<b>Major Principles</b>	<b>Implications to Indonesia</b>
1. CCMs shall prohibit their fishing vessels from fishing within one nautical mile of or interacting with a data buoy in the high seas of the Convention Area, which includes, but is not limited to, encircling the buoy with fishing gear; tying up to or attaching the vessel, or any fishing gear, part or portion of the vessel, to a data buoy or its mooring; or cutting a data buoy anchor line.	Indonesia must prohibit their fishing vessels from fishing within one nautical mile of or interacting with a data buoy in the high seas of the Convention Area, which includes, but is not limited to, encircling the buoy with fishing gear; tying up to or attaching the vessel, or any fishing gear, part or portion of the vessel, to a data buoy or its mooring; or cutting a data buoy anchor line.
2. For the purposes of this measure, data buoys are defined as floating devices, either drifting or anchored, that are deployed by governmental or recognized scientific organizations or entities for the purpose of electronically collecting and measuring environmental data, and not for the purpose of fishing activities.	
3. CCMs shall prohibit their fishing vessels from taking on board a data buoy unless specifically authorized or requested to do so by the Member or owner responsible for that buoy.	Indonesia must prohibit their fishing vessels from taking on board a data buoy unless specifically authorized or requested to do so by the Member or owner responsible for that buoy.
4. CCMs shall encourage their fishing vessels operating in the Convention Area to keep watch for moored data buoys at sea and to take all reasonable measures to avoid fishing gear entanglement or directly interacting in any way with those data buoys.	Indonesia must shall encourage their fishing vessels operating in the Convention Area to keep watch for moored data buoys at sea and to take all reasonable measures to avoid fishing gear entanglement or directly interacting in any way with those data buoys.

<p>5. CCMs shall require their fishing vessels that become entangled with a data buoy to remove the entangled fishing gear with as little damage to the data buoy as possible. CCMs are encouraged to require their fishing vessels to report to them all entanglements and provide the date, location and nature of the entanglement, along with any identifying information contained on the data buoy. CCMs shall notify the Secretariat of all such reports.</p>	<p>Indonesia must require their fishing vessels that become entangled with a data buoy to remove the entangled fishing gear with as little damage to the data buoy as possible. Such entanglements must be reported, and must be notified to the Secretariat.</p>
<p>6. Fishing activities inconsistent with paragraphs 1 and 2 above shall be deemed fishing activities that undermine the WCPF Convention and WCPFC conservation and management measures and shall constitute a serious violation in accordance with Article 25 of the Convention.</p>	
<p>7. Notwithstanding paragraph 1, scientific research programs notified to and authorized by the Commission may operate fishing vessels within one nautical mile of a data buoy so long as they do not interact with those data buoys as described in paragraph 1.</p>	

#### **2.14. Analysis on Conservation And Management For Swordfish (2009-03)**

The stock assessment undertaken for swordfish in the South Western Pacific region indicated an increase in south-west stock abundance in recent years and the model projections predict further increase at current levels of fishing mortality. Plausible assessments indicate that overfishing is not occurring and the south western Pacific swordfish stock is not in an overfished state. From this it was noted, and was supported by the 2008 stock assessment for south-western Pacific swordfish, that there are uncertainties in the population of Swordfish and that it recommended that there be no further increase in catch or effort in order to keep the stock above its associated reference points. It further recommended that there be no increases in fishing mortality for south-central Pacific swordfish as a precautionary measure given the lack of a formal assessment and that constraining fishing mortality to current levels is recommended until there is a better understanding of fishing impacts in the south-central Pacific stock and the relationship between this stock and other south Pacific stocks is more certain.

Due to those conditions, Recognizing that well managed stocks of swordfish in the central south Pacific represent an important source of long-term economic opportunities for the domestic fisheries of small island development States and participating Territories, and noting that there is a need to adopt conservation and management measures to provide for the sustainable

management of swordfish stocks across the Pacific Ocean, this measure was made.

<b>Major Principles</b>	<b>Implications to Indonesia</b>
1. Commission Members, Cooperating Non-Members and participating Territories (CCMs) shall exercise restraint through limiting the number of their fishing vessels for swordfish in the Convention Area south of 20°S, to the number in any one year between the period 2000-2005 (listed in Annex 1).	Indonesia (if they fish for swordfishes) must exercise restraint through limiting the number of their fishing vessels for swordfish in the Convention Area south of 20°S, to the number in any one year between the period 2000- 2005 (listed in Annex 1).
2. In addition to vessel limits established under paragraph 1, CCMs shall exercise restraint through limiting the amount of swordfish caught by fishing vessels flagged to them in the Convention Area south of 20°S to the amount caught in any one year during the period 2000 – 2006.	Indonesia must exercise restraint through limiting the amount of swordfish caught by fishing vessels flagged to them in the Convention Area south of 20°S to the amount caught in any one year during the period 2000 – 2006.
3. CCMs shall not shift their fishing effort for swordfish to the area north of 20°S, as a result of this measure.	-
4. No later than 30 April 2010 CCMs shall nominate the maximum total catch of swordfish that it shall continue to be permitted to fish in the area south of 20°S. This amount shall be no more than their maximum verified catch declared to the Commission for any one year in the period 2000-2006.	Indonesia must determine the total catch of swordfishes permitted. It must be no more than their maximum verified catch declared to the Commission for any one year in the period 2000-2006.
5. Paragraphs 1 to 4 and paragraph 9 shall not prejudice the legitimate rights and obligations under international law of small island developing State and participating Territory CCMs, in the Convention Area who may wish to pursue a responsible level of development of their own fisheries in the Convention Area.	-
6. For the purposes of these measures, vessels operated under charter, lease or other similar mechanisms as an integral part of the domestic fleet of a coastal State, shall be considered to be vessels of the host State or Territory. Such charter, lease or other similar mechanism shall be conducted in a manner so as not to charter known IUU vessels.	-

<p>7. CCMs shall cooperate to protect the long-term sustainability and economic viability of the fisheries for swordfish in the Southwest Pacific, and in particular shall cooperate on research to reduce uncertainty with regard to the status of swordfish stocks.</p>	<p>Indonesia must cooperate to protect the long-term sustainability and economic viability of the fisheries for swordfish in the Southwest Pacific.</p>
<p>8. CCMs shall report to the Commission the total number of vessels that fished for swordfish and the total catch of swordfish for the following:</p> <ul style="list-style-type: none"> <li>a. vessels flying their flag anywhere in the Convention Area south of 20°S other than vessels operating under charter, lease or other similar mechanism as part of the domestic fishery of another CCM;</li> <li>b. vessels operating under charter, lease or other similar mechanism as part of their domestic fishery south of 20°S; and</li> <li>c. any other vessels fishing within their waters south of 20°S.</li> </ul> <p>This information shall be provided in Part 1 of each CCM's annual report. Initially, this information will be provided in the template provided at Annex 2 for the period 2000-2009 and then updated annually.</p>	<p>Indonesia must provide reports to the Commission regarding the number of fishing vessels that fished for swordfishes, and its total catch.</p>
<p>9. As an interim measure, and without prejudice to future decisions of the Commission relating to monitoring and responding to compliance with conservation and management measures, until the Commission adopts a scheme relating to compliance with CMMs which includes responses when a flag State exceeds any limits assigned to it, if it is determined by the Commission that the catch of vessels flying the flag of a CCM exceeds the total catch specified for them under paragraphs 2 and 4 above, that CCM will be subject to a reduction in their catch limit equal to the exceeded amount. The reduction will apply in the year immediately after it has been determined that the catch limit has been exceeded.</p>	<p>If Indonesia exceeds the total catch as determined by them, then it will be subject to a reduction in their catch limit equal to the exceeded amount.</p>
<p>10. The Executive Director shall compile and disseminate the information provided to</p>	<p>-</p>

the Commission by CCMs in accordance with paragraph 8 above to the Technical and Compliance Committee each year. The Technical and Compliance Committee shall monitor and review compliance with this measure and make recommendations to the Commission as may be necessary.	
11. This measure will be reviewed in 2011 by the Commission, including on the basis of advice from the Scientific Committee based on future stock assessments of South Pacific swordfish.	-
12. This measure replaces CMM 2008-05.	-

### 2.15. Analysis on Conservation and Management of Sea Turtles (2008-03)

The commission had recognized the concerns on all species of sea turtles, and the adverse effects of fishing for highly migratory fish stocks on some populations of sea turtles through capture, injury and mortality. Noting that there are some efforts that could be conducted to minimize the mortality of sea turtles due to fishing for highly migratory fishes, the commission made this conservation and management measure.

<b>Major Principles</b>	<b>Implications to Indonesia</b>
1. Commission Members, Cooperating non-Members and participating Territories (CCMs) will implement, as appropriate the FAO Guidelines to Reduce Sea Turtle Mortality in Fishing Operations and to ensure the safe handling of all captured sea turtles, in order to improve their survival.	Indonesia must implement FAO Guidelines to Reduce Sea Turtle Mortality in Fishing Operations.
2. Beginning in 2009, CCMs shall report to the Commission in Part 2 of their annual reports the progress of implementation of the FAO Guidelines and this measure, including information collected on interactions with sea turtles in fisheries managed under the Convention.	Indonesia's annual report to the Commission must include the progress of implementation of the FAO Guidelines and this measure, including information collected on interactions with sea turtles in fisheries managed under the Convention.
3. All data collected by the WCPFC Regional Observer Program (ROP), shall be reported to the Commission as provided in paragraph 2 above or as agreed to under other Commission data	

collection provisions.	
<p>4. CCMs shall require fishermen on vessels targeting species covered by the Convention to bring aboard, if practicable, any captured hard-shell sea turtle that is comatose or inactive as soon as possible and foster its recovery, including giving it resuscitation, before returning it to the water.</p> <p>CCMs shall ensure that fishermen are aware of and use proper mitigation and handling techniques, as described in WCPFC guidelines to be developed and provided to all CCMs by the Secretariat.</p>	<p>Indonesia must require fishermen on vessels targeting species covered by the Convention to bring aboard, if practicable, any captured hard-shell sea turtle that is comatose or inactive as soon as possible and foster its recovery, including giving it resuscitation, before returning it to the water.</p> <p>Indonesia must ensure their fishermen are aware of and use proper mitigation and handling techniques.</p>
<p>5. CCMs with purse seine vessels that fish for species covered by the Convention shall:</p> <p>a. Ensure that operators of such vessels, while fishing in the Convention Area:</p> <p>i. To the extent practicable, avoid encirclement of sea turtles, and if a sea turtle is encircled or entangled, take practicable measures to safely release the turtle.</p> <p>ii. To the extent practicable, release all sea turtles observed entangled in fish aggregating devices (FADs) or other fishing gear.</p> <p>iii. If a sea turtle is entangled in the net, stop net roll as soon as the turtle comes out of the water; disentangle the turtle without injuring it before resuming the net roll; and to the extent practicable, assist the recovery of the turtle before returning it to the water.</p> <p>iv. Carry and employ dip nets, when appropriate, to handle turtles.</p> <p>b. Require that operators of such vessels record all incidents involving sea turtles during fishing operations and report such incidents to the appropriate authorities of the CCM.</p> <p>c. Provide the results of the reporting under paragraph 5(b) to the Commission as part of the reporting requirement of</p>	<p>Indonesia (if they have purse seine vessels) must:</p> <p>a. Ensure that operators of such vessels, while fishing in the Convention Area:</p> <p>i. To the extent practicable, avoid encirclement of sea turtles, and if a sea turtle is encircled or entangled, take practicable measures to safely release the turtle.</p> <p>ii. To the extent practicable, release all sea turtles observed entangled in fish aggregating devices (FADs) or other fishing gear.</p> <p>iii. If a sea turtle is entangled in the net, stop net roll as soon as the turtle comes out of the water; disentangle the turtle without injuring it before resuming the net roll; and to the extent practicable, assist the recovery of the turtle before returning it to the water.</p> <p>iv. Carry and employ dip nets, when appropriate, to handle turtles.</p> <p>b. Require that operators of such vessels record all incidents involving sea turtles during fishing</p>

<p>paragraph 2.</p> <p>d. Provide to the Commission the results of any research related to the development of modified FAD designs to reduce sea turtle entanglement and take measures to encourage the use of designs found to be successful at such reduction.</p>	<p>operations and report such incidents to the appropriate authorities of the CCM.</p> <p>c. Provide the results of the reporting under paragraph 5(b) to the Commission as part of the reporting requirement of paragraph 2.</p> <p>d. Provide to the Commission the results of any research related to the development of modified FAD designs to reduce sea turtle entanglement and take measures to encourage the use of designs found to be successful at such reduction.</p>
<p>6. CCMs with longline vessels that fish for species covered by the Convention shall ensure that the operators of all such longline vessels carry and use line cutters and de-hookers to handle and promptly release sea turtles caught or entangled, and that they do so in accordance with WCPFC guidelines that are to be developed and provided to all CCMs by the Secretariat. CCMs shall also ensure that operators of such vessels are, where appropriate, required to carry and use dip-nets in accordance with these WCPFC guidelines.</p>	<p>Indonesia (if they use longline vessels) must ensure that the operators of all such longline vessels carry and use line cutters and de-hookers to handle and promptly release sea turtles caught or entangled.</p> <p>Indonesia must also ensure that operators of such vessels are, where appropriate, required to carry and use dip-nets.</p>
<p>7. Starting on 1 January 2010, CCMs with longline vessels that fish for swordfish in a shallowest manner shall:</p> <p>a. Ensure that the operators of such vessels, while in the Convention Area, are required to employ or implement at least one of the following three methods to mitigate the capture of sea turtles:</p> <p>i. Use only large circle hooks, which are fishing hooks that are generally circular or oval in shape and originally designed and manufactured so that the point is turned perpendicularly back to the shank. These hooks shall have an offset not to exceed 10 degrees.</p> <p>ii. Use only whole finfish for bait.</p>	<p>(applied if Indonesia fishes for swordfish using longline vessels) :</p> <p>a. Ensure that the operators of such vessels, while in the Convention Area, are required to employ or implement at least one of the following three methods to mitigate the capture of sea turtles:</p> <p>i. Use only large circle hooks, which are fishing hooks that are generally circular or oval in shape and originally designed and manufactured so that the point is turned perpendicularly back to the shank. These hooks shall have an offset not to exceed 10 degrees.</p> <p>ii. Use only whole finfish for bait.</p>

<p>iii. Use any other measure, mitigation plan<sup>2</sup> or activity that has been reviewed by the Scientific Committee (SC) and the Technical and Compliance Committee (TCC) and approved by the Commission to be capable of reducing the interaction rate (observed numbers per hooks fished) of turtles in swordfish shallow-set longline fisheries.</p> <p>b. The requirements of paragraph 7(a) need not be applied to those shallow-set swordfish longline fisheries determined by the SC, based on information provided by the relevant CCM, to have minimal<sup>3</sup> observed interaction rates of sea turtles over a three-year period and a level of observer coverage of at least 10% during each of those three years.</p> <p>c. For the purpose of implementing this paragraph (7), establish and enforce their own operational definitions of shallow-set swordfish longline fisheries, large circle hooks, and any measures under 7(a)(iii) or adopted by the Commission under paragraph 12, ensuring that they are as enforceable as possible, and report these definitions to the Commission in Part 2 of their annual reports.</p> <p>d. Provide for their longline vessels to record all incidents involving sea turtles during fishing operations and report such incidents to the appropriate authorities of the CCM.</p> <p>e. Provide the results of the reporting under paragraph 7(d) to the Commission as part of the reporting requirement of paragraph 2.</p>	<p>iii. Use any other measure, mitigation plan<sup>2</sup> or activity that has been reviewed by the Scientific Committee (SC) and the Technical and Compliance Committee (TCC) and approved by the Commission to be capable of reducing the interaction rate (observed numbers per hooks fished) of turtles in swordfish shallow-set longline fisheries.</p> <p>b. The requirements of paragraph 7(a) need not be applied to those shallow-set swordfish longline fisheries determined by the SC, based on information provided by the relevant CCM, to have minimal<sup>3</sup> observed interaction rates of sea turtles over a three-year period and a level of observer coverage of at least 10% during each of those three years.</p> <p>c. For the purpose of implementing this paragraph (7), establish and enforce their own operational definitions of shallow-set swordfish longline fisheries, large circle hooks, and any measures under 7(a)(iii) or adopted by the Commission under paragraph 12, ensuring that they are as enforceable as possible, and report these definitions to the Commission in Part 2 of their annual reports.</p> <p>d. Provide for their longline vessels to record all incidents involving sea turtles during fishing operations and report such incidents to the appropriate authorities of the CCM.</p> <p>e. Provide the results of the reporting under paragraph 7(d) to the Commission as part of the reporting requirement of paragraph 2.</p>
<p>8. CCMs with longline fisheries other than shallow-set swordfish fisheries are urged to:</p>	<p>Indoensia (if using longline fisheries) other than shallow set swordfish fisheries are urged to:</p>



<p>a. Undertake research trials of circle hooks and other mitigation methods in those longline fisheries.</p> <p>b. Report the results of these trials to the SC and TCC, at least 60 days in advance of the annual meetings of these subsidiary bodies.</p>	<p>a. Undertake research trials of circle hooks and other mitigation methods in those longline fisheries.</p> <p>b. Report the results of these trials to the SC and TCC, at least 60 days in advance of the annual meetings of these subsidiary bodies.</p>
<p>9. The SC and TCC will annually review the information reported by CCMs pursuant to this measure. Where necessary an updated suite of mitigation measures, specifications for mitigation measures, or recommendations for their application will be developed by these committees and provided to the Commission for its consideration and review.</p>	<p>-</p>
<p>10. This measure authorizes the Secretariat to obligate resources available to the Special Requirements Fund to be used to assist developing State Members and Territories in implementing the FAO Guidelines to Reduce Sea Turtle Mortality. These funds can be used to train and encourage fishers to adopt appropriate methods and technologies to reduce interactions with sea turtles and to mitigate their adverse effects.</p>	<p>-</p>
<p>11. The Commission urges CCMs to contribute to the Special Requirements Fund to support eligible members in their efforts to implement this measure, or to provide such support through bilateral arrangements.</p>	<p>-</p>
<p>12. The Commission will regularly consider additional or new mitigation measures for other longline and purse seine fisheries, based on advice from the SC and TCC and on information provided by CCMs pursuant to this measure.</p>	<p>-</p>
<p>13. The Secretariat, in coordination with interested CCMs, shall develop</p>	<p>-</p>

guidelines for the handling of sea turtles and distribute them to CCMs no later than June 30, 2009.	
14. Nothing in this measure shall prejudice the sovereignty and sovereign rights of coastal States, including for traditional fishing activities and the rights of traditional artisanal fishers, to apply alternative measures for the purpose of exploring, exploiting, conserving and managing sea turtles, including any national plans of action for the conservation and management of sea turtles, within areas under their national jurisdiction.	-

### **2.16. Analysis on Conservation and Management Measure to Mitigate the Impact of Fishing for Highly Migratory Fish Stocks on Seabirds (2007-04)**

The commission adopted this measure with concerns that some seabird species, notably albatrosses and petrels, are threatened with global extinction. Besides illegal, unreported, and unregulated fishing, one other threat to the decline of Southern Ocean Seabirds population is mortality in longline fisheries. In light of the intention of the Commission to mitigate seabird bycatch in surface longline fisheries, and noting that combinations of mitigation measures are essential for effective reduction of seabird bycatch, This measure was created.

<b>Major Principles</b>	<b>Implications to Indonesia</b>
<p>Resolve</p> <p>1. Commission Members, Cooperating Non-members and participating Territories (CCMs) shall, to the extent possible, implement the International Plan of Action for Reducing Incidental Catches of Seabirds in Longline Fisheries (IPOA-Seabirds) if they have not already done so.</p> <p>2. CCMs shall report to the Commission on their implementation of the IPOA-Seabirds, including, as appropriate, the status of their National Plans of Action for Reducing Incidental Catches of Seabirds in Longline Fisheries.</p>	
Action	Indonesia must require their longline vessels

<p>1. CCMs shall require their longline vessels to use at least two of the mitigation measures in Table 1, including at least one from Column A in areas south of 30 degrees South and north of 23 degrees North.</p>	<p>to use at least two of the mitigation measures in Table 1, including at least one from Column A in areas south of 30 degrees South and north of 23 degrees North.</p>														
<p>2. In other areas, where necessary, CCMs are encouraged to employ one or more of the seabird mitigation measures listed in Table 1.</p>	<p>In other areas, Indonesia is encouraged to employ one or more of the seabird mitigation measures listed in this table.</p> <table border="1" data-bbox="732 596 1323 1226"> <thead> <tr> <th data-bbox="732 596 1015 632">Column A</th> <th data-bbox="1015 596 1323 632">Column B</th> </tr> </thead> <tbody> <tr> <td data-bbox="732 632 1015 783">Side setting with a bird curtain and weighted branch lines</td> <td data-bbox="1015 632 1323 783">Tori line</td> </tr> <tr> <td data-bbox="732 783 1015 934">Night setting with minimum deck lighting Weighted branch lines</td> <td data-bbox="1015 783 1323 934">Weighted branch lines</td> </tr> <tr> <td data-bbox="732 934 1015 1003">Tori line</td> <td data-bbox="1015 934 1323 1003">Deep setting line shooter</td> </tr> <tr> <td data-bbox="732 1003 1015 1073">Weighted branch lines</td> <td data-bbox="1015 1003 1323 1073">Blue-dyed bait</td> </tr> <tr> <td data-bbox="732 1073 1015 1142"></td> <td data-bbox="1015 1073 1323 1142">Underwater setting chute</td> </tr> <tr> <td data-bbox="732 1142 1015 1226"></td> <td data-bbox="1015 1142 1323 1226">Management of offal discharge</td> </tr> </tbody> </table> <p><b>Table1</b></p>	Column A	Column B	Side setting with a bird curtain and weighted branch lines	Tori line	Night setting with minimum deck lighting Weighted branch lines	Weighted branch lines	Tori line	Deep setting line shooter	Weighted branch lines	Blue-dyed bait		Underwater setting chute		Management of offal discharge
Column A	Column B														
Side setting with a bird curtain and weighted branch lines	Tori line														
Night setting with minimum deck lighting Weighted branch lines	Weighted branch lines														
Tori line	Deep setting line shooter														
Weighted branch lines	Blue-dyed bait														
	Underwater setting chute														
	Management of offal discharge														
<p>4. For research and reporting purposes, each CCM with longline vessels that fish in the Convention Area south of 30°S or north of 23°N shall submit to the Commission in part 2 of its annual report for 2007 (due in 2008) information describing which of the mitigation measures in Table 1 they require or will require their vessels to use, as well as the technical specifications for each of those mitigation measures. Each such CCM shall also include in its annual reports for subsequent years any changes it has made to its required mitigation</p>	<p>Indonesian longline vessel vessels that fish in the Convention Area south of 30°S or north of 23°N shall submit to the Commission in part 2 of its annual report for 2007 (due in 2008) information describing which of the mitigation measures in Table 1 they require or will require their vessels to use, as well as the technical specifications for each of those mitigation measures. This is used as a research and reporting purposes.</p>														

<p>measures or technical specifications for those measures.</p>	
<p>5. CCMs are encouraged to undertake research to further develop and refine measures to mitigate seabird bycatch including mitigation measures for use during the hauling process and should submit to the Secretariat for the use by the SC and the TCC any information derived from such efforts. Research should be undertaken in the fisheries and areas to which the measure will be used.</p>	<p>Indonesia is expected to undertake research to further develop and refine measures to mitigate seabird bycatch including mitigation measures for use during the hauling process and should submit to the Secretariat for the use by the SC and the TCC any information derived from such efforts. Research should be undertaken in the fisheries and areas to which the measure will be used</p>
<p>6. The SC and TCC will annually review any new information on new or existing mitigation measures or on seabird interactions from observer or other monitoring programmes. Where necessary, an updated suite of mitigation measures, specifications for mitigation measures, or recommendations for areas of application will then be provided to the Commission for its consideration and review as appropriate.</p>	
<p>7. CCMs are encouraged to adopt measures aimed at ensuring that seabirds captured alive during longlining are released alive and in as good condition as possible and that wherever possible hooks are removed without jeopardizing the life of the seabird concerned.</p>	<p>Indonesia is encouraged to adopt measures aimed at ensuring that seabirds captured alive during longlining are released alive and in as good condition as possible and that wherever possible hooks are removed without jeopardizing the life of the seabird concerned.</p>
<p>8. The intersessional working group for the regional observer programme (IWG-ROP) will take into account the need to obtain detailed information on seabird interactions to allow analysis of the effects of fisheries on seabirds and evaluation of the effectiveness of by-catch mitigation measures.</p>	
<p>9. CCMs shall annually provide to the Commission, in part 1 of their annual reports, all available information on interactions with seabirds, including bycatches and details of species, to</p>	<p>Indonesia must annually provide the Commission all available information on interactions with seabirds, including bycatches and details of species, to enable the Scientific Committee to estimate seabird</p>

enable the Scientific Committee to estimate seabird mortality in all fisheries to which the WCPF Convention applies.	mortality in all fisheries to which the WCPF Convention applies.
10. Paragraph 1 of this Conservation and Management Measure shall be implemented by CCMs in the following manner: - In areas south of 30 degrees South, no later than 1 January 2008 in relation to large-scale longline vessels of 24 meters or more in overall length, and no later than 31 January 2009 in relation to smaller longline vessels of less than 24 meters in overall length. - In areas north of 23 degrees North, and in relation to large-scale longline vessels of 24 meters or more in overall length, no later than 30 June 2008.	This manner must be noted by Indonesia
11. CCMs shall as of 1 January 2007 initiate a process to ensure that vessels flying their flag will be able to comply with the provisions of para 1 within the deadlines referred to in para 10.	Indonesia must initiate a process to ensure that vessels flying their flag will be able to comply with the provisions of para 1 within the deadlines referred to in para 10.
12. This Conservation and Management measure replaces Resolution 2005-01, which is hereby repealed.	

### **2.17. Analysis on Conservation And Management Measure For Bigeye And Yellowfin Tuna In The Western And Central Pacific Ocean (2008-01)**

The present Conservation And Management Measure For Bigeye And Yellowfin Tuna In The Western And Central Pacific Ocean was made in light of the purpose to mitigate overfishing of bigeye and yellowfin tuna and to limit the growth of fishing capacity in the Western and Central Pacific Ocean. The commission had realized that previous measures have been unsuccessful in either restricting the apparent growth of fishing capacity or in reducing the fishing mortality of bigeye or juvenile yellowfin tuna. The commission also recalls that there needs to be a long-term conservation and sustainable use of the highly migratory fish stocks of the Western and Central Pacific Ocean in accordance with the 1982 Convention and the Agreement. It also notes that there is a high probability that the bigeye stock is subject to overfishing, and that and yellowfin stocks are currently being fished at capacity, reductions in fishing mortality are required in order

to reduce the risks that these stocks will become overfished

Recognizing the above issues, this measure was made and taken into affect by WCPFC.

<b>Major Principles</b>	<b>Implications to Indonesia</b>
<p>8. The purse seine fishery provisions of this Measure herein apply to the Convention Area bounded by 20°N and 20°S with the objective of achieving over a 3-year period commencing from the date this measure comes into effect in 2009, a 30% reduction in fishing mortality on bigeye tuna in the purse seine fishery in that area and a reduction in the risk of overfishing yellowfin tuna.</p>	<p>-</p>
<p>9. CCMs shall ensure that the effectiveness of these measures for the purse seine fishery are not undermined by a transfer of effort in days fished into areas within the Convention Area south of 20°S. In order to not undermine the effectiveness of these measures, CCMs shall not transfer fishing effort in days fished in the purse seine fishery to areas within the Convention Area north of 20°N.</p>	<p>Indonesia must ensure that the effectiveness of these measures for the purse seine fishery are not undermined by a transfer of effort in days fished into areas within the Convention Area south of 20°S.</p>
<p>10. CCMs shall take necessary measures to ensure that the level of purse seine fishing effort in days fished by their vessels in areas of the high seas does not exceed 2004 levels or the average of 2001-2004. In accordance with paragraph 6 this Measure, this paragraph shall not apply to small developing state members and participating territories.</p>	<p>Indonesia must take necessary measures to ensure that the level of purse seine fishing effort in days fished by their vessels in areas of the high seas does not exceed 2004 levels or the average of 2001-2004.</p>
<p>12. Other non-PNA CCMs shall implement compatible measures to reduce purse seine fishing mortality on bigeye tuna in their EEZs.</p>	<p>Indonesia must implement compatible measures to reduce purse seine fishing mortality on bigeye tuna in their EEZs</p>
<p>13. The purse seine fishery on the high seas in the area bounded by</p>	<p>Indonesia ensure that their vessels comply with these rules on restriction of fishing on</p>

<p>20°N and 20°S shall be closed to fishing on FADs between 0000 hours on 1 August and 2400 hours on 30 September. During this period all purse seine vessels without an observer from the Regional Observer Program on board will cease fishing and return directly to port. During this period, a vessel may only engage in fishing operations if the vessel carries on board an observer from the Regional Observer Program to monitor that at no time does the vessel deploy or service any FAD or associated electronic devices or fish on schools in association with FADs.</p>	<p>FADs.</p>
<p>14. Vessels seeking an observer from the Regional Observer Program for the period of the closures identified in paragraphs 12 and 13 above shall notify the Regional Observer Program Coordinator 21 days in advance. If the lack of an available observer from the Regional Observer Program would prevent a vessel from being able to fish during the period in question, the flag State may place an observer from its national program on the vessel to monitor compliance with these measures with approval from the Regional Observer Program Coordinator and, in respect to fishing in EEZs, the approval of the relevant national authority.</p>	<p>Indonesia, in seeking an observer pursuant to paragraph 12 and 13 must notify the ROP Coordinator 21 days in advance. Indonesia must ensure the effectiveness of ROP regulations.</p>
<p>15. As an alternative to the high seas FAD closure established pursuant to paragraph 13, Members may adopt measures to reduce their catch by weight of bigeye tuna in the purse seine fishery in the area between 20°N and 20°S by a minimum of 10 percent relative to</p>	<p>Indonesia may adopt measures to reduce their catch by weight of bigeye tuna in the purse seine fishery in the area between 20°N and 20°S by a minimum of 10 percent relative to 2001-2004 average levels through a Member-specific catch limit to achieve this goal.</p>

<p>2001-2004 average levels through a Member-specific catch limit to achieve this goal. This alternative shall only be available to Members identified by the Commission in advance as having demonstrated a functioning capacity to implement such measures in an effective and transparent manner, including through: an established and functioning port monitoring program that allows monitoring of bigeye landings for each trip by each vessel; a commitment to carry on board observers from the Regional Observer Program, including upon return to port so that the observer can view the port monitoring program for each trip; a commitment to provide data for each trip by each vessel to the Commission within 30 days from the completion of the trip; having provided operational catch and effort data at least for the period 2001 to 2004 to substantiate the base level catch and effort; other such conditions as the Commission may determine. Any such program will be open to audit by the Commission to review the effectiveness of the program.</p>	<p>To be able to do this, Indonesia must demonstrate a functioning capacity to implement such measures in an effective and transparent manner, inter alia, an established and functioning port monitoring program that allows monitoring of bigeye landings for each trip by each vessel; a commitment to carry on board observers from the Regional Observer Program, and other such conditions as the Commission may determine.</p>
<p>16. Once identified by the Commission as having met the requirements outlined above, the Members in question shall submit the full details of their intended measures and their port-monitoring program to the Commission by 31 January 2009. The Commission will review these submissions and take them into account when assessing the effectiveness of the measures.</p>	<p>After Indonesia is considered to have met the requirements above, it must submit the full details of their intended measures and their port-monitoring program to the Commission.</p>
<p>23. By 1 July 2009, CCMs fishing on the high seas shall submit to the</p>	<p>Indonesia must submit to the Commission Management Plans for the use of FADs by</p>



<p>Commission Management Plans for the use of FADs by their vessels on the high seas. These Plans shall include strategies to limit the capture of small bigeye and yellowfin tuna associated with fishing on FADs, including implementation of the FAD closure pursuant to paragraphs 13 and 19 above. The Plans shall at a minimum meet the Suggested Guidelines for Preparation for FAD Management Plans for each CCM (Attachment E).</p>	<p>their vessels on the high seas.</p>
<p>26. CCMs, working independently or collaboratively with industry, and reporting through the Scientific Committee and the Technical and Compliance Committee at each regular session, shall explore and evaluate mitigation measures for juvenile bigeye and yellowfin taken around FADs and present the results annually to the Commission.</p>	<p>Indonesia must explore and evaluate mitigation measures for juvenile bigeye and yellowfin taken around FADs and present the results annually to the Commission.</p>
<p>27. In order to create a disincentive to the capture of small fish and to encourage the development of technologies and fishing strategies designed to avoid the capture of small bigeye and yellowfin tuna, CCMs shall require their purse seine vessels fishing in EEZs and on the high seas within the area bounded by 20°N and 20°S from 1 January 2010, subject to the Commission implementing the program in Paragraph 28 for 100 percent coverage on purse seine vessels by the observers from the Regional Observer Program, to retain on board and then land or transship at port all bigeye, skipjack and yellowfin tuna. The provisions of this paragraph, shall not prevent the PNA from implementing the catch retention requirement in their</p>	<p>Indonesia must require their purse seine vessels fishing in EEZs and on the high seas within the area bounded by 20°N and 20°S from 1 January 2010, subject to the Commission implementing the program in Paragraph 28 for 100 percent coverage on purse seine vessels by the observers from the Regional Observer Program, to retain on board and then land or transship at port all bigeye, skipjack and yellowfin tuna.</p>

<p>EEZs in accordance with the Third Implementing Agreement. The only exceptions shall be:</p> <p>a) when, in the final set of a trip, there is insufficient well space to accommodate all fish caught in that set noting that excess fish taken in the last set may be transferred to and retained on board another purse seine vessel provided this is not prohibited under applicable national law; or</p> <p>b) when the fish are unfit for human consumption for reasons other than size; or</p> <p>c) when serious malfunction of equipment occurs.</p>	
<p>31. The total catch of bigeye tuna by longline fishing gear will be subject to a phased reduction such that by 1 January 2012 the longline catch of bigeye tuna is 70% of the average annual catch in 2001-2004 or 2004. The catch of yellowfin tuna is not to be increased in the longline fishery from the 2001-2004 levels.</p>	-
<p>32. Paragraph 31 does not apply to members and participating territories that caught less than 2,000 tonnes in 2004. Each member that caught less than 2,000 tonnes of bigeye in 2004 shall ensure that their catch does not exceed 2,000 tonnes in each of the next 3 years (2009, 2010 and 2011). Consistent with paragraph 3 opportunities for non members will be decided by the Commission on a case-by-case basis.</p>	-
<p>33. Each member or cooperating non-Member that caught an average of more than 2,000 tonnes of bigeye shall be subject to the following catch limits for bigeye</p>	-

<p>tuna for the years 2009 to 2011 inclusive:  2009: 10% reduction of the catch;  2010: 20% reduction of the catch;  2011: 30% reduction of the catch.</p>	
<p>39. Beginning in 2009, CCMs shall take necessary measures to ensure that the total capacity of their respective other commercial tuna fisheries for bigeye and yellowfin tuna, including purse seining that occurs north of 20°N or south of 20°S, but excluding artisanal fisheries and those fisheries taking less than 2,000 tonnes of bigeye and yellowfin, shall not exceed the average level for the period 2001-2004 or 2004. CCMs shall provide the SC with estimates of fishing effort for these other fisheries or proposals for the provision of effort data for these fisheries for 2009 and future years.</p>	<p>Indonesia must take necessary measures to ensure that the total capacity of their respective other commercial tuna fisheries for bigeye and yellowfin tuna, including purse seining that occurs north of 20°N or south of 20°S does not exceed the average level for the period 2001-2004 or 2004.</p> <p>Indonesia must provide estimates of fishing effort for those fisheries.</p>
<p>40. CCMs shall provide within the agreed timeframes each year, catch and effort data and size composition data for all fleets in the format required by the rules and requirements adopted by WCPFC as “Scientific Data to be Provided to the Commission”.</p>	<p>Indonesia must provide within the agreed timeframes each year, catch and effort data and size composition data for all fleets in the format required by the rules and requirements adopted by WCPFC as “Scientific Data to be Provided to the Commission”</p>
<p>42. Each CCM shall prohibit landings, transshipment and commercial transactions in tuna and tuna products that are positively identified as originating from fishing activities that contravene any element of the Commission’s CMMs.</p>	<p>Indonesia must ensure that there are regulations to prohibit landings, transshipment and commercial transactions in tuna and tuna products that are positively identified as originating from fishing activities that contravene any element of the Commission’s CMMs.</p>
<p>43. Monitoring shall be conducted at landing and transshipping ports to assess the amount of catch by species. The outcomes shall be reported annually to the Commission.</p>	<p>-</p>
<p>45. All CCMs will report to each</p>	<p>Indonesia must prepare reports to each</p>

regular session of the Technical and Compliance Committee, through their Annual Report Part 2, on the implementation of this Measure for their fishing vessels operating on the high seas and/or in waters under national jurisdiction. The Technical and Compliance Committee will prepare a template for reporting this requirement for the consideration of the Commission.	regular session of the Technical and Compliance Committee, through their Annual Report Part 2, on the implementation of this Measure for their fishing vessels operating on the high seas and/or in waters under national jurisdiction.
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(Not all the paragraphs have implication to Indonesia. To make this report concise, such resolution are not mentioned in the table)

### **2.18. Analysis on the Conservation And Management Measure On The Application Of High Seas FAD Closures And Catch Retention (2009-02)**

This measure was made in support of the Conservation And Management Measure For Bigeye And Yellowfin Tuna In The Western And Central Pacific Ocean. It was made to ensure clear rules for the application of the provisions relating to the FAD closure and catch retention, and to ensure compatibility of measures established for the high seas with those already adopted for areas under national jurisdiction. It is hoped that the establishment of this measure could achieve consistent application on matters of fishing on FADs.

<b>Major Principles</b>	<b>Implications to Indonesia</b>
1. The objectives of this Measure are: a. to ensure consistent and robust application of FAD closures and catch retention in the high seas between 20 <sup>0</sup> S and 20 <sup>0</sup> N through the specification of minimum standards. b. to apply high standards to the application of the FAD closure and catch retention in order to remove any possibility for the targeting of aggregated fish, or the discard of small fish.	-
2. Each CCM shall take the necessary measures to ensure that purse seine vessels flying its flag on the high seas comply with these rules in the application of the provisions of CMM 2008-01 relating to a FAD closure and catch retention.	Indonesia must take necessary measures to ensure that purse seine vessels flying its flag on the high seas comply with these rules in the application of the provisions of CMM 2008-01 relating to a FAD closure and catch retention.
3. The definition of a FAD in footnote 1 to CMM 2008-01 shall be interpreted as including:	

<p><i>“any object or group of objects, of any size, that has or has not been deployed, that is living or non-living, including but not limited to buoys, floats, netting, webbing, plastics, bamboo, logs and whale sharks floating on or near the surface of the water that fish may associate with”</i></p>	
<p>4. During the FAD closure period specified in CMM 2008-01, no purse seine vessel shall conduct any part of a set within one nautical mile of a FAD. That is, at no time may the vessel or any of its fishing gear or tenders be located within one nautical mile of a FAD while a set is being conducted.</p>	<p>Indonesia must ensure that no purse seine vessel be located within one nautical mile of a FAD during FAD closures.</p>
<p>5. The operator of a vessel shall not allow the vessel to be used to aggregate fish, or to move aggregated fish including using underwater lights and chumming.</p>	<p>Indonesia must ensure that their vessels is not used for fishing aggregate fishes.</p>
<p>6. A FAD and/or associated electronic equipment shall not be retrieved by a vessel during the period of a FAD closure unless:</p> <ul style="list-style-type: none"> <li>a. the FAD and/or associated electronic equipment are retrieved and kept on board the vessel until landed or until the end of the closure; and</li> <li>b. the vessel does not conduct any set either for a period of seven (7) days after retrieval or within a fifty (50) mile radius of the point of retrieval of any FAD.</li> </ul>	
<p>7. In addition to paragraph 6, vessels shall not be used to operate in cooperation with each other in order to catch aggregated fish. No vessel shall conduct any set during the prohibition period within one nautical mile of a point where a FAD has been retrieved by another vessel within twenty four (24) hours immediately preceding the set.</p>	<p>Indonesia must ensure that vessels shall not be used to operate in cooperation with each other in order to catch aggregated fish. No vessel shall conduct any set during the prohibition period within one nautical mile of a point where a FAD has been retrieved by another vessel within twenty four (24) hours immediately preceding the set.</p>
<p>8. Where the operator of a vessel determines that fish should not be retained on board for reasons related to the size, marketability, or species composition, the fish shall only be released before the net is fully pursed and one half of the net has been retrieved.</p>	<p>Indonesia must apply this measure to all Indonesian vessels.</p>
<p>9. Where the operator of a vessel determines that fish should not be retained on board</p>	<p>Indonesia must refer to this standards when making such measures to Indonesian</p>

<p>because they are “unfit for human consumption”, the following definitions shall be applied:</p> <p>a. “unfit for human consumption” includes, but is not limited to fish that:</p> <ul style="list-style-type: none"> <li>i. is meshed or crushed in the purse seine net; or</li> <li>ii. is damaged due to shark or whale depredation; or</li> <li>iii. has died and spoiled in the net where a gear failure has prevented both the normal retrieval of the net and catch and efforts to release the fish alive; and</li> </ul> <p>b. “unfit for human consumption” does not include fish that:</p> <ul style="list-style-type: none"> <li>i. is considered undesirable in terms of size, marketability, or species composition; or</li> <li>ii. is spoiled or contaminated as the result of an act or omission of the crew of the fishing vessel.</li> </ul>	<p>vessels</p>
<p>10. Where the operator of a vessel determines that fish should not be retained on board because it was caught during the final set of a trip when there is insufficient well space to accommodate all fish caught in that set, the fish may only be discarded if:</p> <ul style="list-style-type: none"> <li>a. the vessel master and crew attempt to release the fish alive as soon as possible;</li> <li>b. no further fishing is undertaken after the discard until the fish on board the vessel has been landed or transhipped.</li> </ul>	
<p>11. Fish shall not be discarded from the vessel until after an observer has estimated the species composition of the fish to be discarded.</p>	
<p>12. The operator of the vessel shall submit to the Executive Director a report that includes the following information within forty-eight 48 hours after any discard:</p> <ul style="list-style-type: none"> <li>a. Name, flag and WCPFC Identification Number of the vessel;</li> <li>b. Name and nationality of master;</li> <li>c. Licence number;</li> <li>d. Name of observer on board;</li> <li>e. Date, time and location</li> </ul>	<p>Indonesia must assist the operator of the vessel to submit the report after any discard. Regulations must be made to note this.</p>

<p>(latitude/longitude) that discarding occurred;</p> <p>f. Date, time, location (latitude/longitude) and type (drifting FAD, anchored FAD, free school etc) of the shot;</p> <p>g. Reason that fish were discarded (including statement of retrieval status if fish were discarded in accordance with paragraph 6);</p> <p>h. Estimated tonnage and species composition of discarded fish;</p> <p>i. Estimated tonnage and species composition of retained fish from that set;</p> <p>j. If fish were discarded in accordance with paragraph 10, a statement that no further fishing will be undertaken until the catch on board has been unloaded; and</p> <p>k. Any other information deemed relevant by the vessel master.</p> <p>13. The operator of the vessel shall also provide a hard copy of the information described in para 12 to the WCPFC Observer on board.</p>	
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**2.19. Analysis on Conservation And Management Measure For North Pacific Striped Marlin (2010-01)**

The measure was made realizing that the stock of north pacific striped marlin is subject to fishing mortality above levels that are sustainable in the long term. Since the striped marlin itself is to be considered as a highly migratory fish, which could be found at the Convention area, movements to preserve the striped marlin to achieve sustainability.

<b>Major Principles</b>	<b>Implications to Indonesia</b>
1. This Measure shall apply in high seas and EEZs within the convention area north of the equator.	-
2. For the purposes of this measure, vessels operated under charter, lease or other similar mechanisms as an integral part of the domestic fleet of a coastal State, shall be considered to be vessels of the host State or Territory. Such charter, lease or other similar	-

mechanism shall be conducted in a manner so as not to charter known IUU vessels.	
3. Nothing in this measure shall prejudice the legitimate rights and obligations of Small Island Developing State Members and participating territories in the Convention Area seeking to develop their own domestic fisheries.	-
4. The total catch of North Pacific Striped Marlin will be subject to a phased reduction such that by 1 January 2013 the catch is [80%] of the levels caught in 2000 to 2003.	-
5. Each flag/chartering CCM with vessels fishing in the convention area north of the equator shall be subject to the following catch limits for North Pacific Striped Marlin for the years 2011 and beyond: a. 2011 [10%] reduction of the highest catch between 2000 and 2003; b. 2012 [15%] reduction of the highest catch between 2000 and 2003; c. 2013 and beyond: [20%] reduction of the highest catch between 2000 and 2003;	Indonesia, when fishing for North Pacific Striped Marlin in the convention area, must note the following catch limits: a. 2011 [10%] reduction of the highest catch between 2000 and 2003; b. 2012 [15%] reduction of the highest catch between 2000 and 2003; c. 2013 and beyond: [20%] reduction of the highest catch between 2000 and 2003;
6. Each flag/chartering CCM shall decide on the management measures required to ensure that its flagged/chartered vessels operate under the catch limits specified in paragraph 5, noting that previous examples of such measures have included effort reductions, gear modification and spatial management.	Indonesia must decide on the management measures required to ensure that its flagged/chartered vessels operate under the catch limits specified in this measure.
7. By 30 April 2011, each flag/chartering CCM shall report to the Commission verifiable information regarding its catch of North Pacific Striped Marlin by its flagged/chartered vessels north of the equator.	Indonesia must report to the Commission verifiable information regarding its catch of North Pacific Striped Marlin by its flagged/chartered vessels north of the equator
8. Each year CCMs shall report in their	Indonesia must report their implementation of



Part 2 annual reports their implementation of this measure, including the measures applied to flagged/chartered vessels to reduce their catch and the total catch taken against the limits established under paragraphs 5 and 7.	this measure, including the measures applied to flagged/chartered vessels to reduce their catch and the total catch taken against the limits established under paragraphs 5 and 7
9. This measure shall be amended in 2011 based on the revised stock assessment for north Pacific striped marlin.	

### 3. Indonesian Obligation for Tuna Fishery

Indonesia has become a member of 1982 UNCLOS since 1985 by Law No 17 of 1985 and has been trying to comply with rules stipulated in 1982 UNCLOS ever since. In 2009 Indonesia has eventually ratified the UNFSA 1995 after quite long debate in national forum among stakeholders. Those two major conventions relating to tuna fishery have then adopted certain rights and obligations which are principally emphasize the significance of adoption of national measures in line with international and regional measures as well as actively involving in the regional fisheries management organization (RFMO) as applicable.

Indonesia has adopted not only 1982 UNCLOS but also 1995 UNFSA. It also has become a member of IOTC and CCSBT and cooperating non member to WCPFC. There are many obligations arising from the adoption of 1995 UNFSA and adhere to IOTC and CCSBT including WCPFC, which include:

- a. adopt specific standards to ensure long-term balance of straddling fish stocks and highly migratory fish stocks
- b. Use the precautionary principle
- c. Minimize pollution
- d. Protect marine biodiversity
- e. Perform an action to prevent illegal fishing
- f. Conducting research to find new technologies to support conservation and fisheries management.
- g. Indonesia should cooperate with other countries to do the actions required to conserve and standards formed must be compatible
- h. Indonesia must do cooperation relating to straddling fish stocks and highly migratory fish stocks to ensure the effectiveness of conservation and management. As a result, Indonesia can have access to catch fish in places governed by the agreement.
- i. Indonesia must also agree to:
  - i. stock to be regulated and be in the conservation of biological considering characteristics and the origin of the relevant fish

- ii. area to be set
- iii. working relationship between the new organization with the role, objectives and operations of the organization or management of existing fish
- iv. mechanism by which the management or regulation shall receive scientific advice and evaluation of stock status, including if necessary, will nurture a scientific advisory body
- j. Indonesia must:
  - i. approved and subject to standards applicable conservation and management
  - ii. agreed to limit the rights that have been established, such as the allocation of fishing that is determined or specified level of fishing
  - iii. Adopt and implement all international minimum standards for responsible fishing operations
  - iv. Receive and evaluate scientific opinion, evaluate the status of existing stock and fishing impact towards other fish species
  - v. Approved the standards of the collection, reporting, verification and exchange of data concerning fishing stocks
  - vi. Collect and publish accurate and complete data
  - vii. Reproduce and publish the results of scientific research
  - viii. Creating a mechanism of cooperation, especially regarding the monitoring, control, surveillance and enforcement
- k. Indonesia must be transparent in decision making processes and other activities involving other organizations
- l. Indonesia must cooperate with other countries to strengthen the organization and management of existing agreements in order to improve the effectiveness of creating and implementing standards for the conservation and management of straddling fish stocks and highly migratory fish stocks
- m. Indonesia should ensure that fishing vessels that use the flag country, provide the information needed to fulfill its obligations as set forth in this agreement
- n. Indonesia must cooperate either directly or through regional or sub-regional organizations to:
  - i. approved specifications and formats the data to be presented to the organization
  - ii. enhance and share technical stock analysis and evaluation methodology
- o. Indonesia's obligations to the Indonesian-flagged vessels are:
  - i. must ensure that the vessel is to follow the rules of conservation and management standards that apply and do not do such a negative impact on the effectiveness of existing regulations
  - ii. only allow a ship to use its flag for fishing activities on the high seas when the vessel can be responsible and obey all applicable laws in the conventions and agreements
  - iii. Indonesian actions in regulating fishing vessels flying its flag, shall include: controlling the vessel through fishing permit, authorization, in accordance with applicable regulations
  - iv. issuance of regulations, such as, certain terms and conditions to get a permit, prohibit fishing when the boat did not have permission, the necessity of a vessel to carry always permit

- v. Making a recording data on fishing activities nationwide and access to such information
  - vi. Requirements against the standard of fishing vessel and fishing equipment in accordance with applicable international standards
  - vii. Requirements for recording and reporting regularly position, catches, and fishing activity
  - viii. Needs verification about the target catchment
- p. Indonesia must ensure that vessels flying its flag, obey the high seas management measures.
  - q. Indonesia must cooperate with the other countries to ensure compliance with and enforcement of regulation on the conservation and management standards
  - r. As a party, Indonesia has the right to conduct inspections when violations occur in areas of Indonesia.
  - s. While performing inspections, Indonesia must ensure that officers who conduct the inspection:
    - a. show the duty letter to the captain of the ship
    - b. give warning to the country of the ship at the time he go up to the ship
    - c. do not interfere the communication of the captain
    - d. make a copy of the report of inspection results
    - e. leave the ship if it does not find evidence of violations
    - f. avoid the use of violence
    - g. things that can be checked by the inspector is licensed, equipment, records, facilities, fish and all related documents
  - t. While Indonesian vessel is inspected, Indonesia shall ensure that the captain of the ship:
    - i. accept and facilitate the inspector
    - ii. cooperate and assist in the inspection activities
    - iii. not interfere, intervene or interfere with the inspection activities
    - iv. allow the inspectors to communicate with the state board
    - v. guarantee safety of the inspector

#### **4. Indonesian Existing Legal Framework Relating To Tuna Fishery**

There are several laws in Indonesia which relate to tuna fishery namely:

1. Law No. 31 of 2004 as amended by Law No. 45 of 2009
2. Presidential Regulation No. 9 of 2007 on the Ratification of Agreement for the Establishment of the Indian Ocean Tuna Commission
3. Presidential Regulation No. 109 of 2007 on the Ratification of Convention for the Conservation of Southern Bluefin Tuna
4. Law No. 21 of 2009 on Ratification of Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks
5. Ministerial Regulation No. Per.02/Men/2011 On Fishing Line, Fishing Gear And Fishing Tools

6. Ministerial Regulation No. Per.12/Men/2012 On Capture Fisheries Business On The High Seas
7. Ministerial Regulation No. Per.13/Men/2012 On Certification Of Fish Catch
8. Ministerial Regulation No. Per.14/Men/2011 On Capture Fisheries Business As Amended By Ministerial Regulation No. Per.49/Men/2011
9. Ministerial Regulation No. Per.13/Men/2005 On Coordinating Forum On Handling Criminal Offences Relating To Fisheries As Amended By Ministerial Regulation No. Per.11/Men/2006 And No. Per.18/Men/2011

#### **4.1. Fisheries Law**

Indonesia enacted the law on fisheries (Law No. 31 of 2004) to create a new paradigm in managing its marine resources which was subsequently amended by Law No. 45 of 2009. As a member of the FAO, Indonesia had adopted the CCRF and ratified the 1982 UNCLOS by Law No. 17 of 1985. Thus, the old fisheries law was seen as insufficient and incompatible with the current issues of fisheries management, particularly the principle of a sustainable fishery.

Law No. 31 of 2004 was signed by President Megawati Sukarnoputri on October 6, 2004. It was formulated to adopt the global approach to fishery management. Among the improvements addressed by that law and preserved under Law No, 45 Year 2009 are the following:

1. Rectification of law enforcement problems by establishing the Fishery Court, which is a special chamber in the general court. This court is expected to handle criminal cases concerning fisheries.
2. Designation of fishery investigators that consist of civil servant investigators, Indonesian naval officers, and Indonesian police officers.
3. Recognition of Indonesian responsibility under international law to cooperate in managing “shared stocks” and to join with the regional fisheries organization concerning high seas fisheries.
4. Creation of a much clearer licensing system that requires both the Indonesian and foreign fishing industry to obtain licenses to operate within Indonesian water. The Indonesian fishing vessels that operate on the high seas are also subject to licensing requirements. (This has not been regulated previously.)
5. Creation of a strong enforcement mechanism on fishery management, introducing the possibility of punishing the owner/operator of fishing vessels proven to have conducted unsustainable fishing methods forbidden by laws and regulations.
6. Adoption of precautionary principles to maintain fishing efforts and fishery products so they will not be harmful to human beings or the environment. (The government will undertake certain obligations in order to supervise the distribution and management of fish.)
7. Empowerment of small/subsistence fishermen by giving them financial assistance as well as education and training.
8. Enhancement of human resources through better education and training as well as public awareness of fishery management.

In terms of implementation, many previous regulations made under the old law and institutions are still in force. These are usually ministerial decrees or director general decisions. A change in laws and regulations does not automatically revoke all previous laws and regulations unless specifically mentioned.

The principle under Law No. 31 of 2004 as maintained by Law No. 45 of 2009 on Fisheries has created a solid base for Indonesian high seas fishing activities in which relating to tuna fishery. The Preamble of the Law states that the high seas are available resources, and international rules will apply to it. It also states the need for the sustainability of the resources while utilizing them. It goes on to further explain in the elucidation of that Law that Indonesia acknowledges that the ratification of the 1982 UNCLOS has given the right to Indonesia to exploit, conserve and manage fishing resources in both the Indonesian EEZ as well as on the high seas based on the applied international law/standard. The definition of high seas then is defined in article 1 paragraph 22.

“Management of fisheries” is then defined as including the sustainability of resources (article 1 paragraph 7). Article 2 also states that fishery management is to be carried out based on the principles of benefit, fairness, partnership, equitable distribution, integration, transparency, efficiency and sustainable conservation. Article 3 sets out the objectives of fishery management to include guaranteeing the sustainability of fishery resources. This Law is also applicable to every Indonesian fishing vessel, including those that catch fish (and other species) outside Indonesian fishing management areas (Article 4c). The Indonesian fishing management areas include the following (Article 5):

1. Indonesian territorial sea
2. Indonesian EEZ
3. Rivers, lakes, reservoirs, swamps, and other wetlands

This Law is aware of the applicability of international law outside Indonesian waters, for example, see Article 5, paragraph 2, which emphasizes that fishery management outside the Indonesian fishing management area should be conducted based on generally accepted international law/regulations and any requirements/standards. The elucidation on the law explains that “outside the Indonesian fishing management area” means on the high seas.

The Minister of Fisheries is responsible for the country’s fishery management, which includes highly migratory species and straddling stocks (Article 7). The government is also required by the Law, for the benefit of international cooperation, to publish regularly a report on conservation measures and fishery management (Article 10 paragraph 1a) and to cooperate with neighboring countries and other countries in conservation measures and fishery management on the high seas, semi-enclosed seas and enclosed seas (Article 10 paragraph 1b). The same article then stipulates that the Indonesian government shall inform flag states of any evidence of foreign vessels conducting activities that impair conservation and management measures (Article 10 paragraph 1b). Under paragraph 2 of Article 10, the government is also to be actively involved in international (and regional) organizations (and institutions) in order to assist international/regional management cooperation. The elucidation of this article specifically mentions that the government is expected to proactively sponsor the foundation/establishment of a regional/international institution for the benefit of Indonesian fishery development.

The Law also requires the government to manage high seas fishing. Every Indonesian vessel that operates on the high seas shall obtain a fishing license, which shall be issued by the Minister (Article 27). The practice of “reflagging” or double nationality has also received attention in the new law, by requiring that any foreign ship that wishes to be registered in Indonesia should obtain a “deletion certificate” issued by the country of origin (Article 36). This effort will also be furthered by the stipulation under Article 47 that requires the government to establish a fishery information network with other institutions, either national or international. By having such a network, any fraudulent activities involving either Indonesian or foreign vessels can be tracked and rectified more efficiently. Article 36 of the Law No. 45 Year 2009 specifically mentions that every fishing vessels owned by Indonesia which operates on the high seas shall obtain fishing license, while article 48 requires that everyone taking advantage from fisheries either from Indonesian water or outside Indonesian water shall pay fisheries fee. The punishment against the law violations are quite severe as stipulated in the article 93 paragraph 1 of the Law No. 31 of 2004, which states that everyone who owns and operates fishing vessels on the high seas without obtaining license shall be imprison up to 6 years and fined up to 2 billion rupiah. The Law no 45 of 2009 also gives mandate to civil servant investigator/fishery surveillance officer to enforce law on the Indonesian EEZ as previously not the case. This new rule then gives a wider competency to the MMAF to empower and build its force in combating IUU fishing not only in Indonesian water but also in Indonesian EEZ and in the future hopefully in the high seas as mandated both by 1982 UNCLOS and 1995 UNFSA.

It is clear that Indonesian policy on tuna fishing is actually in line with the principle spelled out in the 1982 UNCLOS and in the 1995 UN Fish Stock Agreement. The new law has rectified weaknesses under the old law of fisheries (Law No. 9 of 1985), which had not addressed the possibility of having activities on the high seas which is mainly tuna fishing. It is apparent that the drafters of the new law have acknowledged that the activities carried out by Indonesian fishing vessels beyond Indonesia water especially dealing with tuna fishery require the government’s attention. The only problem now is that Law No 31 of 2004 as amended by Law No 45 of 2009 requires a substantial amount of implementing regulations specifically dealing with duty under international law which until recently, have been virtually nonexistent. The transitional article stipulates that all existing regulations based on the former law will continue to applicable to the extent that they do not contradict the new law.

The action taken by Indonesia that is to adopt 1995 UNFSA and become a member to IOTC and CCSBT is not without a risk, which is actually resulted of high risk. Indonesia is now bearing many international obligation to manage high seas fisheries including to make its national rules compatible with the international regulations, as made by 1995 UNFSA and RFMO’s measures.

#### **4.2. Fisheries Regulations**

In 2012, the Indonesian Government stipulated Ministerial Regulation No. PER.12/MEN/2012 on Capture Fisheries Business in the High Seas that replaced Ministerial Regulation No. PER.03/MEN/ 2009 on Fishing and Transporting Fish on the High Seas. This regulation made clear that every fishing vessel engaged in high seas fishing needs to obtain a license and fulfill

certain obligations, including maintaining a logbook, installing a VMS, and accepting an on-board observer. Even though it is far from complete, this regulation has nonetheless demonstrated Indonesia's good intention to undertake its duty under the high seas regulatory framework. However, it could not establish the argument that Indonesian practices could be regarded as adequate in meeting the state's obligations since the enforcement mechanism has not been adopted under the Fisheries Law.

Below are some analysis on applicable regulations:

#### **a. Ministerial regulation No. Per.02/Men/2011 On Fishing Line, Fishing Gear And Fishing Tools**

Some key points in this regulation are:

1. The Indonesian fishing management area is defined as internal water, archipelagic water, territorial sea, contiguous zone, and exclusive economic zone (article 1 paragraph 5)
2. This rule is made for achieving responsible and sustainable fisheries and to reduce conflict in utilizing fisheries resources (article 2 paragraph 2)
3. The fishing rule is divided into fishing line I, II and III (article 3 and 4)
  - a. Fishing Line I  
This line is divided into IA and IB. IA is measured from the low water line up to 2 nautical mile, and IB is from 2 nm to 4 nm
  - b. Fishing Line II  
This line is from fishing I up to 12 nm
  - c. Fishing Line III  
This line covers Indonesian EEZ and all waters outside the Fishing Line II

#### **Comments:**

1. This rule covers a wide area of management, including those of Rumpon/Fish Aggregating Device (FAD), the Ministry is now planning to make a separate regulation on rumpon which is advisable
2. The division on fishing line is somewhat unclear. Fishing Line II is started outside Fishing Line I, but which one? IA or IB? It is logically IB but it shall be stated clearly to avoid confusion
3. Fishing Line III is including those water outside Fishing Line II, does it mean those within archipelagic water beyond 12 nm from coastline of each island? It shall be made more clearly.

#### **b. Ministerial Regulation No. Per.14/Men/2011 On Capture Fisheries Business As Amended By Ministerial Regulation No. Per.49/Men/2011**

Some key points in this regulation are:

1. Capture fishing businesses are including : a) fishing catch, b) fishing transportation, c) fishing catch and transportation, d) integrated fishing catch (article 2)

2. Fishing licenses are including: a) fishing business license (SIUP), b) fishing catch license (SIPI), c) fish transportation license (SIKPI) (article 3)
3. Licenses for fishing vessel beyond 30 GT are issued by Director General, between 10 – 30 GT are issued by Governor and between 5-10 GT are issued by Head of District/Major
4. The exemptions to obtain licenses are only for small fisherman and government or regional government in conducting fishing research or exploration (article 5). Small fisherman is defined as person whose fishing to meet his daily line and use boat up to 5 GT.
5. License issuance shall be made based on the availability and sustainability of fishing resources (article 7)

**Comments:**

1. This regulation is actually quite comprehensive regulating all aspects of licensing, including to consider the sustainability of resources. It is yet to be observed how this license is issued and how the fishing data are collected and reliable.
2. By the enactment of Ministerial Regulation No. PER.12/MEN/2012, all licensing rule regarding high seas are revoked.

**c. Ministerial Regulation No. Per.13/Men/2005 On Coordinating Forum On Handling Criminal Offences Relating To Fisheries As Amended By Ministerial Regulation No. Per.11/Men/2006 And Ministerial Decree No. Per.18/Men/2011**

Some key points in this regulation are:

1. There shall be cooperation between several institutions in enforcing the law relating to fisheries. There is a coordinating forum consist of Minister of Marine Affairs and Fisheries, Chief of Indonesian Police, Chief of Indonesian Navy and relevant key officers from several institutions.
2. All expenses relating to the activity of this forum shall be borne by The MMAF, and in the regional level will be borne by Regional Government

**Comments:**

This regulation has given a strong basis for cooperation among ministries and institution to enforce the law in fisheries law infringement, unfortunately has not yet given the guidance for enforcing the law infringement on the high seas by Indonesian vessel.

**d. Ministerial Regulation No. Per.12/Men/2012 On Capture Fisheries Business in The High Seas**

Some key points of this regulation are:



1. The Ministry of Marine Affairs and Fisheries Regulation No. Per.12/Men/2012 regarding Fishing Activities on the High Sea (“**Ministry Regulation**”) was made to regulate fishing activities in the high sea conducted by Indonesia persons, business entities, and/or Indonesian flagged fishing vessels or fish transport vessels.
2. This regulation replaces the previous Ministry Regulation on fishing activities in the High Seas, Ministry Regulation No. Per.03/Men/2009
3. Pursuant to Article 3 of the Ministry Regulation, Fishing Activities on the High Sea includes:
  - a. Fishing Activities
  - b. Fish Transport ActivitiesThe fishing activities mentioned above must use Indonesian flagged vessels, with the size of more than 30 Gross Tonnage, or Length Overall of 15 meter.
4. Every person who conducts Fishing Activities on the High Sea must have a fish catches venture permit issued by the Directorate General of Fish Catches (“**Directorate General**”), which consists of:
  - a. **Fishing venture permit issued in the form of *Surat Izin Usaha Perikanan* (“SIUP”)**
    - Pursuant to Article 5(1), every person that fishes and/or transport fishes in the High Sea must own a SIUP. The requirements to file a request for the issuance of SIUP is stipulated in Article 5(3), and the procedure will further be regulated in the Directorate General decision.
    - Pursuant to Article 15 to 18, a SIUP may be amended and replaced. Amendment takes place when there are changes in the administrative data of the business entity/the persons and/or changes of business plans, Replacement takes place when the original SIUP is lost or destroyed.
  - b. **Fishing permit issued in the form of *Surat Izin Penangkapan Ikan* (“SIPI”)**
    - Pursuant to Article 8(1), every person that owns and/or operates fishing vessels that is used to fish in the High Sea must own a SIPI. The requirements to file a request for the issuance of SIPI is stipulated in Article 8(3) of the Ministry Regulation.
    - Pursuant to Article 19 to 24, a SIPI may be amended, extended, or replaced. Amendment takes place when there are changes in the SIUP and/or changes of base ports, Replacement takes place when the original SIUP is lost or destroyed.
  - c. **Fish transport permit issued in the form of *Surat Izin Kapal Pengangkut Ikan* (“SIKPI”)**
    - Pursuant to Article 10(1), every person that owns and/or operates fish transport vessels that is used to transport fish in the High Sea must own a SIKPI. The requirements to file a request for the issuance of SIKPI is stipulated in Article 8(3) of the Ministry Regulation.

→ Pursuant to Article 25 to 29, SIKPI may be amended, extended, or replaced. Amendment takes place when there are changes in the SIUP and/or changes of base ports, Replacement takes place when the original SIUP is lost or destroyed.

5. Every fishing vessels or fish transport vessels operating in the high seas could dock their fish catches in Indonesia or in other countries that are members of the same Regional Fishing Management Organization (“**RMFO**”). Each fishing vessels of fish transport vessels docking their catches in Indonesia is assigned with one port base. Each fishing vessels of fish transport vessels docking their catches in other countries that are members of the same RMFO must give report to the head of the assigned port base, in accordance to Article 13 paragraph (3), (4), (5) and its annex.
6. Fishing vessels that already owns a SIPI or fish transport vessels that already own a SIKPI will be registered to the Secretariat of the listed RMFOs by the Directorate General. The format requirements for the registration of vessels to the RMFOs refers to each RMFO standards. If the registration is approved by the RMFO, the vessels will be inputted at the Record of Vessels as an authorized vessel, and is given a Vessel Identity Number, which consists of:
  - a. Western and Central Pacific Fisheries Commission (WCPFC) identification number  
→ Allows the vessel to conduct fishing/fish transport/accept transshipment of tunas or other tuna-like species in the Pacific Ocean.
  - b. Indian Ocean Tuna Commission (IOTC) number  
→ Allows the vessel to conduct fishing/fish transport/accept transshipment of tunas or other tuna-like species in the Indian Ocean.
  - c. Convention for the Conservation of Southern Bluefin Tuna (CCSBT) number  
→ Allows the vessel to conduct fishing/fish transport/accept transshipment of Southern Bluefin tunas in the Indian Ocean.
7. Every vessel that conducts activities in the high seas must comply the requirements and/or international standards set out by the RFMOs. Vessels that fail to comply will be regarded as vessels that have conducted Illegal, Unreported, Unregulated (“**IUU**”) fishing, and such vessel will be listed as in the IUU vessel list. There are 3 classifications of IUU Vessel List:
  - a. Draft IUU Vessel List, the initial stage of being listed as an IUU vessel. Upon Vessels that is classified as Draft IUU Vessel List, pursuant to article 33(2), the Directorate General gives an administrative sanction in the form of warnings. Directorate General must also take effort to discard the vessel from being listed by the RMFO, by proving that the suspicion that the vessel has been conducting IUU Fishing is not true.
  - b. Provisional IUU Vessel List, the second stage if the vessel cannot be discarded from being listed as Draft IUU Vessel List classification. Pursuant to article 34(2), the Directorate General imposes an administrative sanction in the form of SIPI or SIKPI freeze for 2 months. Directorate General must also take effort to discard the vessel from being listed by the RMFO by handing in Authentic Evidences of the SIPI or SIKPI freeze.

- c. IUU Vessel List, the last stage. After the vessel attained the Provisional IUU Vessel List, but fails to be discarded from being listed as such, then the vessel will be classified in the IUU Vessel List. For vessels classified in the IUU Vessel List, the Directorate General imposes an administrative sanction in the form of SIPI or SIKPI freeze for 3 months. . Directorate General must also take effort to discard the vessel from being listed by the RMFO by handing in Authentic Evidences of the SIPI or SIKPI freeze. If all the above attempts has been pursued, but the vessel cannot be discarded from being listed in the IUU Vessel List, then the Directorate General revokes the SIPI or SIKPI. Those vessels whose SIPI or SIKPI is revoked cannot be given a SIPI or SIKPI again.

In all stages, if the attempts to discard the vessel from being classified succeeded, then the vessel will return to be listed in the Record of Vessels. Pursuant to article 48, Fish vessels proven to have conducted IUU fishing will be erased from the RMFO Record of Vessels.

8. Every fishing vessels fishing in the high sea that catches *bycatch* or side catches that is an ecologically related species with tuna, such as, sharks, seabirds, sea turtles, sea mammals, including whales, and thresher sharks must conduct conservation measures.
  - a. According to Article 40 for bycatches of sharks, the Captain of the Vessel must report such catch to the Head of the assigned port base. The report uses and takes form in a fish catch log book.
  - b. According to Article 41 for bycatches of seabirds in an area of 25 degrees latitude south, effective mitigation to prevent such catches must be conducted by the vessel. The mitigation attempts is further specified in article 41(2) Ministry Regulation.
  - c. Every unintentional catches of seabirds, sea turtles, sea mammals, including whales and/or thresher sharks must be followed by the release of such catch. In cases where those bycatches are dead, the Captain of the Vessel must report this to their port bases, which will then be informed to the Directorate General through letter. Specially for fishing vessels that catches, transports, docks, keeps, and/or sells thresher sharks from the family Alopiidae will be sanctioned. The sanctions elevates the vessel to be classified in the IUU Vessel Lists.
  - d. According to Article 46, every other fish species that the RMFO takes special conservation measures, may not be caught by fishing vessels. Those who catches such fish species will be sanctioned, elevating the vessel to be classified in the IUU Vessel List.
9. Pursuant to Article 47 Fishing Vessels and fish transport vessels are not allowed to conduct any fishing activities 1 mile for the location of data buoys, to take data buoys when the vessel is fishing, and to disturb the presence and position of data buoys. Data buoy is a tool that floats, that is installed by the government or other authorities with the purpose of collecting electronic data and take environment calculation measures, and is not purposed for fishing activities.
10. Every persons that wants to procure fishing vessels or fish transport vessels to be used in the High Sea, must first obtain a written approval from the Directorate General. The

attachment required to request the written approval is described in Article 50(2). Below are the vessel requirement of the procurement of fishing vessels, elaborated in Article 51

- a. Domestic fishing vessels and/or fish transport vessels must have the size of above 30 Gross Tonnage
  - b. Foreign fishing vessels must have the size of above 100 Gross Tonnage
  - c. Foreign fish transport vessels must have the size of above 500 Gross Tonnage until 1500 Gross Tonnage
11. Head of port bases must give a monthly report to the Directorate General regarding the
- a. Amount of vessels
  - b. Amount of transshipment
  - c. Amount of fish docking,
  - d. Result of bycatches that is an ecologically related species to tuna fishes.
12. Based on those information, the Directorate General must give an annual report to the RMFO Secretariat
13. Pursuant to Article 57, documents that a fishing vessel and/or a fish transport must carry all the time:
- a. Original SIPI or SIKPI
  - b. Sailing Approval Letter (*Surat PErsetujuan Berlayar*)
  - c. Fish catch log book
  - d. Operation Acceptance Letter (*Surat Laik Operasi*)

#### **Comments:**

1. The regulation is only intended to apply to Indonesian fishing vessel who operating on the high seas under the management of RFMO in Indian Ocean and Pacific Ocean. This regulation then closes the chance of Indonesian fishing vessel to operate in any other high seas as distant fishing vessel. The general application to include all high seas therefore will be more effective and efficient (article 3 paragraph 2)
2. Article 35 (6) is actually quite effective to create a deterrent effect by revoking the license without any possibility to obtain the license again in the future. For those who gets the suspension could also be punished by the placement of observer in their future operation for certain of time.

#### **e. Ministerial Regulation No. Per.13/Men/2012 On Certification Of Fish Catch**

Some key points of this regulation are:

#### **General**

1. The Ministry Regulation was basically made in response to European Council Regulation No. 1005/2008 of 29 September 2009, which sets a criterion for fisheries trade in the EU, and in addition was made to banish IUU fishing, by issuing a Fish Catch Result Letter, or referred to as SHTI.
2. Pursuant to Article 2 of the Ministry Regulation, SHTI is purposed to:
  - a. Expedite sea fisheries trade activities of Indonesian or Foreign Fishing Vessels directly or indirectly in the EU;
  - b. Assist national and international effort to prevent, fight and deter IUU Fishing
  - c. Assure the traceability of fish catch results at catch, manufacture, transport, and marketing stages
  - d. Conduct the provision of creating a sustainable conservation and resource management of fisheries.
3. The Ministry Regulation encompasses all the procedures and requirements of SHTI issuance, including in it the authorities involved in the process (Article 3).
4. There are several types of SHTI;
  - a. SHTI-Initial Sheet, alongside with SHTI Derivative sheet is issued for fish catch result from fishing vessels sizing more then 20 gross tonnage (Article 5(1))
  - b. SHTI-Derivative Sheet, alongside with SHTI Initial Sheet is issued for fish catch result from fishing vessels sizing more then 20 gross tonnage (Article 5(1))
  - c. SHTI-Simplified Derivative Sheet , which is issued for fish catch result coming from fishing vessels sizing below or until 20 gross tonnage (Article 5(2))
  - d. SHTI-Import, which is issued for fish catch results that enter the Fish Manufacturing Unit
5. In accordance to article 21 SHTI is not a permit (*surat jalan*).

#### **Authorities related to SHTI issuance**

6. The delegation of authorities for SHTI issuance are as follows
  - a. The Ministry of Marine affairs and Fisheries delegates the authority to The Directorate General of Fish Catches (Article 6(1))
  - b. The Directorate General of Fish Catches delegates the authority to Competent Local Authorities (Article 6(2)), which is appointed by the Directorate General itself and includes (Article 6(3) and (4)):
    - i. Head of Fishing Ports that is the Ministerial Technical Executive Unit (UPT/*Unit Pelaksana Teknis Kementrian*)
    - ii. Head of Fishing Ports that is the Regional Technical Executive Unit (UPT/*Unit Pelaksana Teknis Daerah*)
7. In cases where the Competent Local Authorities are unable to issue SHTI, Alternate officials, which the Directorate General of Fish Catches also appoints, handles such task (Article 8).
8. In the Issuance of SHTI, the Competent Local Authorities coordinates with the Directorate General of Manufacture and Marketing of Fishing Results and Directorate General of Marine and Fisheries Resources Control.

## **SHTI Issuance Procedure**

9. **SHTI Initial Sheet**
  - a. Make a request to the Competent Local Authorities by attaching the requirements that are set out in Article 10 of the Ministry Regulation and its Annex
  - b. In a maximum time of 2 days after the acceptance of the request, the Competent Local Authorities checks the completeness and appropriateness of the request, taking into account the (i) fishing vessel supervision result, and (ii) for those vessels fishing in the high sea, the register of vessel at the competent RMFO.
  - c. An approval or a declination of SHTI Initial Sheet is then issued as the result of the checking.
  
10. **SHTI Derivative Sheet**
  - a. Make a request to the Competent Local Authorities by attaching the requirements that are set out in Article 14 of the Ministry Regulation and its Annex
  - b. In a maximum time of 2 days after the acceptance of the request, the Competent Local Authorities checks the completeness and appropriateness of the request, taking into account the (i) fishing vessel supervision result, and (ii) for those vessels fishing in the high sea, the register of vessel at the competent RMFO.
  - c. An approval or a declination of SHTI Derivative Sheet is then issued as the result of the checking.
  
11. **SHTI Simplified Derivative Sheet**
  - a. Make a request to the Competent Local Authorities by attaching the requirements that are set out in Article 15 of the Ministry Regulation and its Annex
  - b. In a maximum time of 2 days after the acceptance of the request, the Competent Local Authorities checks the completeness and appropriateness of the request, taking into account the (i) fishing vessel supervision result, and (ii) for those vessels fishing in the high sea, the register of vessel at the competent RMFO.
  - c. An approval or a declination of SHTI Simplified Derivative Sheet is then issued as the result of the checking.
  
12. **SHTI Import**
  - a. Make a request to the Competent Local Authorities by attaching the requirements that are set out in Article 16 of the Ministry Regulation and its Annex
  - b. In a maximum time of 2 days after the acceptance of the request, the Competent Local Authorities checks the completeness and appropriateness of the request, taking into account the (i) fishing vessel supervision result, and (ii) for those vessels fishing in the high sea, the register of vessel at the competent RMFO.
  - c. An approval or a declination of SHTI Import is then issued as the result of the checking.

## **Guidance and Report**

13. The Directorate General of Fish Catches, Directorate General of Manufacture and Marketing of Fishing Results and Directorate General of Marine and Fisheries Resources Control give guidance to the issuance of SHTI (Article 19)

- a. The Directorate General of Fish Catches provides guidance to Head of Fishing Ports Ministerial and Regional UPT, and Alternate Officials as the authorities that issues SHTI
  - b. The Directorate General of Manufacture and Marketing of Fishing Results provides guidance towards the Fisheries Manufacturing Unit, exporters, importers, and vessel owners that uses SHTI
  - c. The Directorate General of Marine and Fisheries Resources Control provides guidance to the Fisheries Supervisors in conducting the issuance of Fish Landing Verification Results
14. Competent Local Authority gives monthly reports regarding the conducts of SHTI issuance to the Directorate General of Fish Catches.
  15. With the collected report, the Directorate General of Fish Catches conducts an SHTI evaluation every 6 months
  16. Such evaluation is used as a material to review and consider further determination of Competent Local Authority.

**Comments:**

1. This regulation should actually be made for the benefit of implementing sustainable and responsible fisheries in Indonesia. It is therefore it is not necessary to mention that this regulation has been adopted to fulfill the demand of European Union in the first place (see the Preamble)
2. The rule is good enough to prevent importation from IUU catch to be used as raw material of export items.
3. The issuance of Clarifying Letter of Fish Landing (SKPI) is necessary to avoid the landing of IUU catch.
4. It is necessary to impose that every fish landing shall obtain SKPI not only those catches that will be exported but also those for local consumption, thus the IUU fishing will not have any market at least not in the formal market.
5. The use of terminology “pejabat alternate” is suggested to be replaced by “pejabat pengganti”

**f. Draft of Ministerial Regulation on Observer**

This regulation is intended to place an observer in a fishing vessel and fish transportation vessel, but it should be made clear when and in what condition the observer will be placed on board.

**g. Draft Of Ministerial Regulation On Fad (Rumpon)**

It needs to be clarified that the area beyond 12 nm is including those within archipelagic water or only in territorial sea. There are a lot of water territory beyond 12 mile from the coastline of each islands within archipelagic water.

#### **h. Draft Of Ministerial Regulation On Bycatch And Ers**

In order to fulfill the objective to implement responsible and sustainable fisheries, this regulation needs to be general in application, not only in the RFMO's management area. It shall be including all water territory of Indonesia thus the ultimate goal will be achieved.

### **5. Compatibility of Indonesian National Law to WCPFC Rules**

The Table below contains compatibility of WCPFC rules to the Law 45/2009, Ministerial Regulation No. 14/2011 as amended by Ministerial Regulation No. 49/2012.

<b>Article</b>	<b>Major Principles</b>	<b>Implications to Indonesian National Laws</b>
Article 1	Use of Terms and Definition	<p>WCPFC defines what the precise definition of 'fishing', as it is different than 'fishery' where its notion refers more towards commercial purpose. The two laws between WCPFC Convention and Law 45/2009 have its differences in defining what 'fishery' is. WCPFC Convention defines 'fishing' as:</p> <ul style="list-style-type: none"> <li>(i) Searching for, catching, taking or harvesting fish;</li> <li>(ii) Attempting to search for, catch, take or harvest fish;</li> <li>(iii) Engaging in any other activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fish for any purpose;</li> <li>(iv) Placing, searching for or recovering fish aggregating devices or associated electronic equipment such as radio beacons;</li> <li>(v) Any operations at sea directly in support of, or in preparation for, any activity described in subparagraphs (i) to (iv), including transshipment;</li> <li>(vi) Use of any other vessel, vehicle, aircraft or hovercraft, for any activity described in subparagraphs (i) to (v) except for emergencies involving the</li> </ul>



		<p>health and safety of the crew or the safety of a vessel.</p> <p>Whereas, the Law 45/2009 does not define what the action of 'fishing' is, where the law only defines 'fisheries' where it leans towards commercial purposes:</p> <p>"Fishery is all the activities associated with the management and utilization of fish resources and the environment ranging from the pre-production, production, processing to marketing of a system implemented in the fishery business."</p> <p>The definition of the law lacks in determining the action of 'fishing' itself.</p>
Article 5	Principles and measures for conservation and management	Any Fishery management has the obligation to uphold the principles such as: beneficial, justice, fairness, togetherness, cooperation, openness, sustainable development, preservation, and efficiency. These principles are relatively compatible with the principles mentioned in the WCPFC Rules.
Article 7	Implementation of principles in areas under national jurisdiction	<p>The problem of not ratifying the WCPFC Rules would create an imbalance between the Rights and Obligations of a Non-Cooperating Member State. As this Article is crucial for Indonesia to prevent any future economical setbacks or political misunderstandings if Indonesia does not enact laws and regulation that contain the general principles and measures for conservation and management in the convention. However, Indonesia has their</p> <p>3. Indonesia must give due consideration to the respective capacities of developing coastal state that are within the convention area</p>
Article 10	Functions of the Commission	<p>The benefits of being a member of the WCPFC is so that Indonesia has rights regarding concerned matters with other member states of the commission. As we can see on the Map Area, geographically Indonesia is bound with the Western or Pacific Sea fishing region. As the issue that comes up would be Indonesia's sovereign rights regarding to fishing matters that occur within its national jurisdiction.</p> <p>Moreover, being a member of WCPFC, Article 10 of the Convention states that "Without prejudice</p>

		<p>to the sovereign rights of coastal States for the purpose of exploring and exploiting, conserving and managing highly migratory fish stocks within areas under national jurisdiction, the functions of the Commission shall be to:</p> <p>(a) Determine the total allowable catch or total level of fishing effort within the Convention Area for such highly migratory fish stocks as the Commission may decide and adopt such other conservation and management measures and recommendations as may be necessary to ensure the long-term sustainability of such stocks;</p> <p>(b) Promote cooperation and coordination between members of the Commission to ensure that conservation and management measures for highly migratory fish stocks in areas under national jurisdiction and measures for the same stocks on the high seas are compatible;</p> <p>(c) Adopt, where necessary, conservation and management measures and recommendations for non- target species and species dependent on or associated with the target stocks, with a view to maintaining or restoring populations of such species above levels at which their reproduction may become seriously threatened;</p> <p>(d) Adopt standards for collection, verification and for the timely exchange and reporting of data on fisheries for highly migratory fish stocks in the Convention Area in accordance with Annex I of the Agreement, which shall form an integral part of this Convention;</p> <p>(e) Compile and disseminate accurate and complete statistical data to ensure that the best scientific information is available, while maintaining confidentiality, where appropriate;</p> <p>(f) Obtain and evaluate scientific advice, review the status of stocks, promote the conduct of relevant scientific research and disseminate the results thereof;</p> <p>(g) Develop, where necessary, criteria for the</p>
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		<p>allocation of the total allowable catch or the total level of fishing effort for highly migratory fish stocks in the Convention Area;</p> <p>(h) Adopt generally recommended international minimum standards for the responsible conduct of fishing operations;</p> <p>(i) Establish appropriate cooperative mechanisms for effective monitoring, control, surveillance and enforcement, including a vessel monitoring system;</p> <p>(j) Obtain and evaluate economic and other fisheries-related data and information relevant to the work of the Commission;</p> <p>(k) Agree on means by which the fishing interests of any new member of the Commission may be accommodated;</p> <p>(l) Adopt its rules of procedure and financial regulations and such other internal administrative regulations as may be necessary to carry out its functions;</p> <p>(m) (n) (o)</p> <p>Any disputes or matters may be brought up towards the Contracting States if Indonesia ratifies the Convention. There is a slight problem with giving up the EEZ of Indonesian borders to other foreign vessels, but if it constitutes a problem, a member would have the privilege or right to file a say to the Commission. It is much better than being the Non-Cooperating Member, which is currently only bound to the obligation of the convention instead of the rights as a State. Therefore, the ratification upon WCPFC is necessary if Indonesia wants to claim, protest over matters of its rights over exclusivity zones.</p>
Article 23	Obligations of members of the Commission	3. Article 40 (2) of Ministerial Regulation No. 14/2011 states the obligation of the license holders (SIPI), is to provide statistics, or information regarding fishing activities as each license holder to issue a report once every 3 months. Where Article 23 of the WCPFC Convention stipulates that:

		<p>(d) An annual statistical, biological, and other data and information in accordance with Annex I of the Agreement, and other data and information as may be required from the Commission</p> <p>(e) Information concerning its fishing activities in the Convention Area, including fishing areas and fishing vessels</p> <p>(f) Information on steps taken to implement the Conservation and management measures adopted by the Commission</p> <p>The degree of providing a 'logbook' is highly appropriate in relating with the principle of Monitoring, Control and Surveillance as previously stated in Article 5 of WCPFC Convention. Therefore, Indonesia has stipulated a relevant obligation of being the Non-Cooperating Member of the WCPFC Commission.</p>
Article 25	Compliance and Enforcement	<p>According to Article 45 of Ministerial Regulation No 14/2011, Fishery business or transport of fish at sea is conducted based on laws and regulations, requirements and/or international standards. Therefore this stipulation suggests international standards are external though included in conducting the proper manner of fishery. However the consequences can be seen that Indonesia must also be prepared upon any request of investigation of such cases by other members or the Commission.</p> <p>Under Law 21/2009 Concerning the Agreement of UNCLOS, it further states that the law has also acknowledged Regional Fisheries Management Organization (RFMO) and WCPFC. Therefore the Indonesia has actually implemented the international standards and also enforced the laws and conventions from the international bodies.</p>

The complete compatibility table is presented as the attachment.

## 6. Some Comments of Indonesia Joining the WCPFC

Based on those above explanations and analysis Indonesia is actually ready to become a member of WCPFC. The laws and regulations are quite compatible even though many further adjustments shall be made into the law.

The law enforcement for law infringement done by Indonesian fishing vessel in the high seas are not yet effective since the only stipulations is regarding to license infringement while the other infringements are not yet touched. This loophole shall be rectified through law, since under the Law No. 12 of 2011 on Legislative Drafting the criminal sanction can only be made through law. The Ministerial Regulation No. PER.12/MEN/2012 is not enough to answer the potential problems of IUU fishing in the high seas, including those of WCPFC's management area.

The clarification on the Convention Area needs to be made by the WCPFC higher officers that the Convention Area does not touch the Indonesian water, including those of Indonesian EEZ, Territorial Sea and Archipelagic Water. The compatibility of national laws to the rules of WCPFC shall of course be made but through Indonesian national law and enforced by Indonesian vessels and officers.

In performing Indonesian obligation under the WCPFC, Indonesia will be needing the technical assistance to enhance the capacity and the capability of Indonesian government in fulfilling its obligation under the Convention.

The WCPFC rules is actually international law in nature that only will bind Indonesia should Indonesia agree to be bound by it. It is therefore very important to justify that becoming the member of WCPFC is beneficial for national interest and many disadvantages will be arising should Indonesia away from it. Therefore the benefit analysis needs to be made much clearly and the preparation of implementation shall be further initiated.

August 2012.

Melda Kamil Ariadno, Ph.D.

**COMPLIANCE CHECKLIST FOR WCPFC**  
**PREPARED BY MELDA KAMIL ARIADNO, PH.D.**

**A. INTERNATIONAL LAWS****1. UN FISH STOCKS AGREEMENT 1995**

No	Article	Implications for Indonesia	Existing Condition of Indonesia Measures	Actions to be taken
1	Article 1 (Use of terms and scope)	Definition of national regulations needs to be adjusted.	N/A	Compatibility must be checked. Adjustment between Indonesian laws and this agreement needs to be made.
2	Article 2 (Objective)	The purpose of this agreement must be the basis of any law relating to the implementation of the agreement.	N/A	N/A
3	Article 3 (Application)	National provisions must also comply with the provisions of the 1995 UN Fish Stocks Agreement.	N/A	N/A
4	Article 4 (Relationship between this agreement and the Convention)	In applying this agreement, all regulations made by the Indonesian government must be based on good faith and based on the provisions of the Convention.	N/A	N/A
5	Article 5 (General Principles)	Indonesia must: <ul style="list-style-type: none"> <li>u. Adopt specific standards to ensure long-term balance of straddling fish stocks and highly migratory fish stocks and to optimize the same.</li> <li>v. Apply the precautionary principle.</li> <li>w. Minimize pollution.</li> <li>x. Protect marine biodiversity.</li> <li>y. Take action to prevent illegal fishing.</li> <li>z. Conduct research in order to find new technologies to support conservation and fisheries management.</li> </ul>	Government Regulation No. 60 year 2007 on Conservation of Fishing Resources  Government Regulation No. 30 / 2008 on Research and Development on Fisheries Article 2, Article 9(d), Article 16. (Especially to reference in point f.)	N/A
6	Article 6 (Application of the precautionary	To apply the precautionary principle, the Indonesian government should: <ul style="list-style-type: none"> <li>a. Improve the quality of their policies on the basis of scientific research</li> </ul>	Government Regulation No. 30 / 2008 on	N/A

	approach)	<p>and the latest technology.</p> <p>b. Apply outline set out in Annex II.</p> <p>c. Improve data collection and scientific research emphasis.</p> <p>If there is a natural phenomenon which causes an adverse effect on the status of fish stocks, Indonesia must take action to prevent fishing activity which does not exacerbate the situation.</p>	Research and Development on Fisheries Article 2, Article 9(d), Article 16.	
7	Article 7 (Compatibility of conservation and management measures)	Indonesia should strive to cooperate with other countries in taking the actions required to conserve and standards formed must be compatible.	N/A	N/A
8	Article 8 (Cooperation for conservation and management)	Indonesia must engage in cooperation relating to straddling fish stocks and highly migratory fish stocks to ensure the effectiveness of conservation and management. As a result, Indonesia can obtain access to catching fish in places governed by the agreement.	N/A	N/A
9	Article 9 (Subregional and regional fisheries management organizations and arrangements)	<p>Indonesia must also agree as follows:</p> <p>v. Stock to be regulated and be in the conservation of biological considering characteristics and the origin of the relevant fish.</p> <p>vi. Area to be set.</p> <p>vii. Working relationship between the new organization with the role, objectives and operations of the organization or management of existing fish.</p> <p>viii. Mechanism by which the management or regulation shall receive scientific advice and evaluation of stock status, including if necessary, will nurture a scientific advisory body.</p>	N/A	N/A
10	Article 10 (Functions of subregional and regional management organizations and arrangements)	<p>To meet its obligations, Indonesia must:</p> <p>ix. Approve and be subject to standards applicable in conservation and management.</p> <p>x. Agree to limit rights that have been established, such as allocation of fishing that is determined or specified level of fishing.</p> <p>xi. Adopt and implement all international minimum standards for responsibility recommended for fishing operations.</p> <p>xii. Receive and evaluate scientific opinion, evaluate the status of existing stock and fishing, attention towards other fish species.</p> <p>xiii. Approve standards for the collection, reporting, verification and exchange of data concerning fishing stocks hedged against.</p> <p>xiv. Collect and publish accurate and complete data.</p> <p>xv. Reproduce and publish the results of scientific research.</p> <p>xvi. Create a mechanism of cooperation, especially regarding monitoring, control, surveillance and enforcement.</p> <p>xvii. Approve the rules so that the interests of new members will be accommodated.</p>	Government Regulation No. 30 / 2008 on Research and Development on Fisheries Article 2, Article 9(d), Article 16. (Especially on reference to point g.)	N/A

		<p>xviii. Approve the decision making procedures in accordance with the Convention.</p> <p>xix. Give priority to the settlement of disputes by peaceful means</p> <p>xx. Ensure full cooperation of the parties in the country in implementing the decisions and all the rules contained in the agreement.</p> <p>xxi. Publish the arrangements concerning conservation and management issued by the organization.</p>		
11	Article 11 (New members or participants)	-	N/A	N/A
12	Article 12 (Transparency in activities of subregional and RFMs and arrangements)	<ol style="list-style-type: none"> <li>1. Indonesia must be transparent in decision-making processes and other activities involving other organizations.</li> <li>2. Indonesia must also provide an opportunity to the representatives of intergovernmental organizations and representatives of nongovernmental organizations that care for straddling fish stocks and highly migratory fish stocks to speak up at meetings held by the parties, in their capacity as observers.</li> </ol>	N/A	Indonesia must develop good data management so that transparency could be easily achieved. Regulation on transparency of activity should be strongly considered
13	Article 13 (Strengthening of existing organizations and arrangements)	Indonesia must cooperate with other countries to strengthen the organization and management of existing agreements in order to improve effectiveness in creating and implementing standards for the conservation and management of straddling fish stocks and highly migratory fish stocks.	N/A	N/A
14	Article 14 (Collection and provision of information and cooperation in scientific research)	<ol style="list-style-type: none"> <li>1. Indonesia should ensure that fishing vessels that use the flag country, provide the information needed to fulfill its obligations as set forth in this agreement.</li> <li>2. Indonesia must cooperate either directly or through regional or sub-regional organizations to: <ol style="list-style-type: none"> <li>iii. Approve specifications and formats of data to be presented to the organization.</li> <li>iv. Enhance and share technical stock analysis and evaluation methodology.</li> </ol> </li> </ol>	Government Regulation No. 51 year 2002 on vessel (Basic guidelines to Indonesia's standards on fishing vessels)	N/A
15	Article 15 (Enclosed and semi enclosed seas)	In implementing this agreement in the enclosed and semi enclosed sea, Indonesia must pay attention to natural characteristics of that sea and the action taken must be consistent and in accordance with Part IX of the Convention from other related arrangements.	N/A	N/A
16	Article 16 (Areas of high seas surrounded entirely by an area)	If Indonesia is fishing in this area, it will have to cooperate and in good faith agree upon and create conservation and management standards to maintain existing stock in the area.	N/A	N/A



	under the national jurisdiction of a single state)			
17	Article 17 (Non-members of organizations and non-participants in arrangements)	If Indonesia does not become a member of the treaty, it should prohibit fishing vessels flying its flag state to conduct fishing activities in the area that became the subject of agreement.	Government Regulation No. 51 year 2002 on vessel (Basic guidelines to Indonesia's standards on fishing vessels)	N/A
18	Article 18 (Duties of the flag state)	Indonesia's obligations to the Indonesian-flagged vessels are as follows: ix. Ensure that the vessel is to follow the rules of conservation and management standards that apply and do not bring a negative impact on the effectiveness of existing regulations x. Only allow a ship to use its flag for fishing activities on the high seas when the vessel can be responsible and obey all applicable laws in the conventions and agreements xi. Indonesian actions in regulating fishing vessels flying its flag, shall include the following: a. Controlling the vessel at sea such as fishing permit, authorization, in accordance with applicable regulations. b. Issuance of regulations, such as certain terms and conditions to obtain a permit, prohibit fishing when the boat does not have permission, the requirement for a vessel to carry a permit at all times. c. Making records of data on fishing activities nationwide and providing access to such information. d. Setting requirements for the standard of fishing vessel and fishing equipment in accordance with applicable international standards. e. Setting requirements for recording and reporting regularly position, catches, fishing activity and other data. f. Requiring verification of the target catchment.	Government Regulation No. 51 year 2002 on vessel (Basic guidelines to Indonesia's standards on fishing vessels)	N/A
19	Article 19 (Compliance and enforcement by flag state)	Indonesia must ensure that vessels flying its flag comply with the regulations. In the case of violations, the state can request the board to cooperate in conducting investigations, such as providing information and the necessary data.	Government Regulation No. 51 year 2002 on vessel (Basic guidelines to Indonesia's standards on fishing vessels)	N/A
20	Article 20 (International cooperation in enforcement)	1. Indonesia must cooperate with other countries in order to ensure compliance with and enforcement of regulation on the conservation and management standards. 2. In cooperation with countries conducting investigation.	N/A	N/A
21	Article 21 (Subregional and regional cooperation in	Once Indonesia becomes a party, it has the right to conduct inspections when violations occur in Indonesian territory. Inspections must be carried out in accordance with the provisions stipulated by treaties and conventions.	N/A	N/A

	enforcement)			
22	Article 22 (Basic procedures for boarding and inspection pursuant to article 21)	<ol style="list-style-type: none"> <li>2. Countries that perform inspections must ensure that officers who conduct the inspection: <ol style="list-style-type: none"> <li>a. Show the duty letter to the captain of the ship.</li> <li>b. Give warning to the country of the ship at the time of boarding the ship.</li> <li>c. Refrain from interfering with the communication of the captain</li> <li>d. Make a copy of the report of inspection results.</li> <li>e. Leave the ship if no evidence of violation is found.</li> <li>f. Avoid the use of violence.</li> </ol> </li> <li>3. Things that can be checked by the inspector include licensed, equipment, records, facilities, fish and all related documents.</li> <li>4. state board shall ensure that the captain of the ship shall: <ol style="list-style-type: none"> <li>a. Accept and facilitate the inspector.</li> <li>b. Cooperate and assist in the inspection activities.</li> <li>c. Not interfere, intervene or interfere with the inspection activities.</li> <li>d. Allow the inspectors to communicate with the state board.</li> <li>e. Guarantee the safety of inspector.</li> </ol> </li> <li>5. If the captain refuses the inspection, then the state should warn the ship, and if equipment is not allowed then the state should pull the ship into the port of the vessel</li> </ol>	N/A	Indonesia must prepare inspection procedures to ensure that the inspection process goes accordingly with this article
23	Article 23 (Measures taken by a port state)	If the vessel sails to a port in Indonesia, the Indonesian port can conduct an inspection of the ship that docked.	Government Regulation no. 70 year 1996 on Ports Government Regulation no. 61 year 2009 on Port Activities (Kepelabuhan)	N/A
24	Article 24 (Recognition of the special requirements of developing states)	-	N/A	N/A
25	Article 25 (Forms of cooperation with developing states)	Indonesia as a developing country can benefit from this aid to development in Indonesia.	N/A	N/A
26	Article 26 (Special assistance in the implementation of this agreement)	Indonesia may request funds and use them for development in Indonesia.	N/A	N/A
27	Article 27 (Obligation to settle disputes by	Indonesia should settle disputes as much as possible by peaceful means.	N/A	N/A

	peaceful means)			
28	Article 28 (Prevention of disputes)	There are dispute resolution provisions in national laws.	N/A	N/A
33	Article 33 (Non-parties to this agreement)	When Indonesia becomes a party, it has the obligation to invite other countries to become parties to the convention or treaty.	N/A	N/A
34	Article 34 (Good faith and abuse of rights)	Indonesia must fulfill its responsibilities.	N/A	N/A
35	Article 35 (Responsibility and liability)	Indonesia is responsible for any damage it makes.	N/A	N/A

## 2. FAO COMPLIANCE AGREEMENT 1993

No	Article	Implications for Indonesia	Existing Condition of Indonesia Measures	Actions to be taken
1	Article 1 (Definitions)	-	N/A	N/A
2	Article 2 (Application)	Disseminate the agreement to Indonesian-flagged fishing vessels.	N/A	N/A
3	Article 3 (Flag state responsibility)	1. Take the necessary measures to ensure that fishing vessels flying its flag (Indonesia) is not doing any activities which violate international regulations concerning conservation and management standards. Do not allow a fishing vessel to conduct the activity if the vessel has been registered elsewhere, unless the ban has expired or has been withdrawn.	Government Regulation No. 51 year 2002 on vessel Article 43	N/A
4	Article 4 (Records of fishing vessel)	Indonesia must update and maintain data on Indonesian flagged fishing vessels.	Government Regulation No. 51 year 2002 on vessel Article 41-48	N/A
5	Article 5 (International cooperation)	Indonesia must cooperate with other state members in exchanging the required information relating to this agreement.		
6	Article 6 (Exchange of information)	Indonesia must complete and submit the data required by the FAO.	N/A	Indonesia must prepare and submit the data inquired by FAO. Disclosure of information must be made effective.
7	Article 7 (Cooperation with developing countries)	Indonesia may use this article to obtain assistance for Indonesia's progress.	N/A	N/A
8	Article 8 (Non	Invite countries that have not yet become parties to join. Then among the parties	N/A	N/A

	Parties)	there must also be an exchange of information about the activities of vessels flying its flag of non-party country in violation of regulations.		
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## B. REGIONAL LAWS (WCPFC RULES)

Article	Major Principles	Implications to Indonesia	Existing Condition of Indonesia Measures	Actions to be taken
Article 1	Use of Terms and Definition	Indonesia must adjust the definitional terms used in their laws (if any) so it would not deviate from the definition in the Convention	Law No 31/2004 and Law No 45/2009 Ministerial Regulations. 12/2007: - The definitions of should abide to what is deemed acceptable by the Convention	The definitions should be somewhat congruent
Article 2	Objective	The objective set out in this convention must be the basis for the objectives of any laws relating to what is governed in this convention	Law No 45/2009: Article 2: Any Fishery management has the obligation to uphold the principles of benefits, justice, fairness, togetherness, cooperation, openness, sustainable development, preservation, and efficiency. These principles are relatively compatible with the principles mentioned in the WCPFC Rules.	Law No. 45/2009 should include the Precautionary Principle.
Article 3	Area of Application	N/A	Need to have clarification upon the implication of WCPFC to Indonesian EEZ, territorial sea and archipelagic water  Existing implementation on FMA 716 and 717	Ratification with interpretation that Convention Area will not cover Indonesian EEZ, territorial sea and archipelagic water
Article 4	Relationship between this Convention and the 1982 Convention	N/A	Under Law 21/2009 Concerning the Agreement of UNCLOS, it states that the law has also acknowledged Regional Fisheries Management Organization (RFMO) and WCPFC.	Indonesia have actually implemented some of the international standards and also enforced the laws and conventions from other international bodies.
Article 5	Principles and measures for conservation and management	Indonesia, upon becoming member of the commission, shall: (k) adopt measures to ensure long-term sustainability of highly migratory fish stocks in the Convention Area	Law No 31/2004 and Law No 45/2009 Article 2  Law No 21/2009: GENERAL PRINCIPLES UNIA 1995	These stated principles should also be applied to all regulations concerning Fishery.

		<p>and promote the objective of their optimum utilization;</p> <p>(l) ensure that such measures are based on the best scientific evidence available and are designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing States in the Convention Area, particularly small island developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global;</p> <p>(m) apply the precautionary approach in accordance with the Convention and all relevant internationally agreed standards and recommended practices and procedures;</p> <p>(n) assess the impacts of fishing, other human activities and environmental factors on target stocks, non-target species, and species belonging to the same ecosystem or dependent upon or associated with the target stocks;</p> <p>(o) adopt measures to minimize waste, discards, catch by lost or abandoned gear, pollution originating from fishing vessels, catch of non-target species, both fish and non-fish species, (hereinafter referred to as non-</p>	<p>are as follows:</p> <p>a. Take measures to ensure long term sustainability of fish stocks beruaya limited and far beruaya fish stocks and promote the objectives optimal use of fish stocks;</p> <p>b. Ensure that these measures are based on best available scientific evidence and is designed to maintain or restore fish stocks to levels that to ensure maximum sustainable results;</p> <p>c. Apply the precautionary approach;</p> <p>d. measure the impact of fishing, other human activities, and these environmental factors on the target stocks and species belonging to the same ecosystem or integrated / connected with or dependent on the sediaantarget;</p> <p>e. Take conservation and management measures for the species in the same ecosystem or integrated / connected with or dependent on the target stocks;</p> <p>f. Minimize pollution, waste disposal goods, catch a useless, abandoned fishing gear, catch of non-target species, both fish and non-fish species, and impacts on the species, through measures of development and use of selective fishing gear and techniques that are environmentally friendly and inexpensive;</p> <p>g. Protect biodiversity in the marine environment;</p>	
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		<p>target species) and impacts on associated or dependent species, in particular endangered species and promote the development and use of selective, environmentally safe and cost effective fishing gear and techniques;</p> <p>(p) protect biodiversity in the marine environment;</p> <p>(q) take measures to prevent or eliminate over-fishing and excess fishing capacity and to ensure that levels of fishing effort do not exceed those commensurate with the sustainable use of fishery resources;</p> <p>(r) take into account the interests of artisanal and subsistence fishers;</p> <p>(s) collect and share, in a timely manner, complete and accurate data concerning fishing activities on vessel position, catch of target and non-target species and fishing effort, as well as information from national and international research programmes; and</p> <p>(t) implement and enforce conservation and management measures through effective monitoring, control and surveillance.</p>	<p>h. Take action to prevent and / or reduce the incidence of Excessive fishing and excess fishing capacity and to ensure that the level of fishing effort do not exceed a level commensurate with sustainable use of fish resources;</p> <p>i. Attention to the interests of coastal and subsistence fishing;</p> <p>j. Collect and deliver at the right time, the data are complete and accurate information on fishing activities, inter alia, vessel position, catch of target and nontarget species and fishing effort, as well as information from national and international research programs;</p> <p>k. Promote and carry out scientific research and develop appropriate technologies in support of conservation and management of fish; and</p> <p>l. Carry out and implement conservation and management measures through monitoring, surveillance, and control.</p>	
Article 6	Application of the precautionary approach	<p>1. Indonesia, upon becoming member of the commission must:</p> <p>e) apply guidelines set out in Annex II of the Agreement for the Implementation of the Provisions of the United Nation Convention on Law of the Sea of 10 December</p>	<p>Law No 31/2004 and Law No 45/2009</p> <p>Law No 21/2009</p> <p>Ministerial regulation No. 12/2012</p> <p>Ministerial Decree No 45/2011</p>	<p>No. 3: Need further research on reference point, increase involvement of PAKSI (research center for fisheries management and conservation) on</p>

		<p>1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (“<b>the Agreement</b>”).</p> <p>f) Determine, on the basis of the best scientific information available, stock-specific reference points and the action to be taken if they are exceeded.</p> <p>g) Take into account the uncertainties relating to the size and productivity of the stocks, reference points, stock condition in relation to such reference points, levels, and distributions of fishing mortality and the impact of fishing activities on non-target and associated or dependent species, as well as existing and predicted oceanic, environmental and socio-economic conditions; and</p> <p>h) Develop data collection and research programmes to assess the impact of fishing on non-target and associated or dependent species and their environment, and adopt plans where necessary to ensure the conservation of such species and to protect habitats of special concern.</p> <p>2. Indonesia must be cautious when information is uncertain, unreliable or inadequate.</p> <p>3. Indonesia must take measures to ensure that, when reference points are approached they will not be exceeded.</p> <p>4. Indonesia must enhance monitoring of stocks or non-target or associated or dependent species that is of concern, in order to</p>	<p>Ministerial regulation No 18/2010</p> <p>Uncertain involvement of PAKSI (research center for fisheries management and conservation) on reference point determination</p> <p>Government Regulation No. 30 / 2008 on Research and Development on Fisheries Article 16 (The regulation does not apply precautionary principle per se, but had urged that researches are established for the purpose of improving the qualities of fishing)</p>	<p>reference point determination</p>
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		<p>review their status and the efficacy of conservation and management measures. Such measures must regularly be revised in light of new information.</p> <p>5. Indonesia must adopt cautious conservation and management measures, such as catch limits and effort limits to new or exploratory fisheries.</p> <p>6. Indonesia must adopt conservation and management measures on an emergency basis when natural phenomenon has a significant adverse impact on the status of highly migratory fish stocks, or when a fishing activity presents a serious threat to the sustainability of such stocks. Measures taken on an emergency basis must be based on the best scientific information available.</p>		
Article 7	Implementation of principles in areas under national jurisdiction	<p>4. If Indonesia is the coastal state within the convention area, then they are to enact laws and regulation along with the CMMs adopted by the WCPF Commission</p> <p>5. Indonesia must give due consideration to the respective capacities of developing coastal state that are within the convention area</p>	<p>Law No 21/2009: This stipulation is an expression that Indonesia have fully ratified the 1982 Law of the Sea Convention and will act whatever necessary to its national jurisdiction that is accepted under the 1982 Convention.</p>	To carefully draft or update legislation/regulations regarding the Coastal State's authority in implementing the principles into the national jurisdiction.
Article 8	Compatibility of conservation and management measures	Indonesia must cooperate for the purpose of developing compatible measures in respect of highly migratory fish stocks in their jurisdiction	<p>Law No 31/2004 and Law No 45/2009: The attempt to conserving and preserving need the obligation of having the catch level fishing report or the 'logbook' in order to analyse the progress of conservation.</p>	The government body in Indonesia needs to strengthen their productivity and efficiency in controlling the logbook or the report.
Article 23	Obligations of members	4. Indonesia must promptly	Ministerial regulation No 18/2010	Improving the data collection



	<p>of the Commission</p>	<p>implement the provisions of the Convention and any conservation, management, and other measures or matters, which may be agreed pursuant to the Convention from time to time. Indonesia must cooperate in furthering the objective of the Convention.</p> <p>5. Indonesia must provide to the Commission:</p> <p>(g) an annual statistical, biological, and other data and information in accordance with Annex I of the Agreement, and other data and information as may be required from the Commission</p> <p>(h) information concerning its fishing activities in the Convention Area, including fishing areas and fishing vessels</p> <p>(i) information on steps taken to implement the Conservation and management measures adopted by the Commission</p>	<p>Ministerial Regulation No 14/2011 Article 40 (2) states the obligation of the license holders (SIPI), is to provide statistics, or information regarding fishing activities as each license holder to issue a report once every 3 months.</p> <p>Ministerial regulation No. 14/2011 and 49/2011</p> <p>Ministerial regulation No. 12/2012</p> <p>Draft Ministerial regulation on observer</p> <p>Data submission:</p> <ol style="list-style-type: none"> <li>1) "Scientific data" to be provided to the Commission"</li> <li>2) Data requests from CMMs</li> </ol>	<p>system and submission to the CMMs</p> <p>The degree of providing a 'logbook' is highly relevant in relating with the principle of Monitoring, Control and Surveillance (MCS) as stated in Article 5 of WCPFC Convention. Therefore, Indonesia has stipulated an applicable obligation of being the Non-Cooperating Member of the WCPFC Commission.</p>
<p>Article 24</p>	<p>Flag State duties</p>	<p>2. Indonesia must take measures to ensure that:</p> <p>(c) Fishing vessels flying Indonesian flag to comply with the provision in the Convention and the conservation and management measures adopted. Such Vessels must not engage in any activity, which undermine the effectiveness of such measures.</p> <p>(d) Fishing vessels flying Indonesian flag do not conduct unauthorized fishing</p>	<p>Government Regulation No. 51 year 2002 on vessel Article 41-48</p> <p>Ministerial regulation No. 14/2011 and 49/2011 Article 40 (2) relating to the SIPI license holders obligations regarding the report of</p> <p>Ministerial regulation No. 12/2012</p> <p>Indonesia has been implementing the reporting obligation</p>	<p>Indonesia needs to improve the reporting system.</p> <p>The reporting system should be more transparent thus it would provide more clarity and accuracy.</p>

		<p>under the national jurisdiction of a Contracting party</p> <ol style="list-style-type: none"><li>8. Indonesia must ensure Fishing Vessels flying Indonesian flag when wanting to fish in the Convention area beyond its national jurisdiction to have obtained the necessary authorization, specified in this article.</li><li>9. For the purpose of effective implementation of the Convention, Indonesia must maintain a record of fishing Vessels flying Indonesian flag that have been authorized on fishing in the Convention area beyond its national jurisdiction. Indonesia must make sure that the authorized vessel are recorded</li><li>10. The record as stated above must contain information according to Annex IV of the Convention. Indonesia must also annually report to the Commission about the status of the vessels, and must promptly inform the commission if there are modifications to such information.<ol style="list-style-type: none"><li>(c) additions to the records</li><li>(d) deletion from the records because of:<ol style="list-style-type: none"><li>6. voluntary relinquishment or non-renewal of fishing authorization by the vessel owner or operator</li><li>7. the withdrawal of the fishing authorization</li><li>8. the fact that the concerned vessel is no longer entitled to fly its flag</li></ol></li></ol></li></ol>	<p>Ministerial regulation No. 5/2007 and Draft Ministerial regulation on VMS</p>	
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		<p>9. scrapping, decommissioning, and or loss of a fishing vessel</p> <p>10. other reasons</p> <p>11. Indonesia must ensure that every fishing vessels flying Indonesian flag fishing for Highly Migratory fish in the Convention Area to install near real-time satellite position-fixing transmitters that are in accordance to the standards, specifications, and procedures as established by the Commission.</p> <p>12. Indonesia must ensure that every fishing vessels flying Indonesian flag fishing for Highly Migratory fish in the Convention Area under the national jurisdiction of another member to install near real-time satellite position-fixing transmitters that are in accordance to the standards, specifications, and procedures as established by the Commission.</p> <p>13. Indonesia must ensure the compatibility between national and high seas vessel monitoring system.</p>		
<p>Article 25</p>	<p>Compliance and Enforcement</p>	<p>3. Indonesia must enforce the rules established in the Convention, and enforce the conservation and management measures adopted by the Commission.</p> <p>4. Indonesia must be able to handle cases of violation of the provision of the Convention or conservation by Fishing Vessels flying Indonesian flags. Indonesia must have sufficient laws and regulations in light to resolving such cases, and to the extent</p>	<p>Government Regulation No. 51 year 2002 on vessel Article 41-48</p> <p>Indonesia has not yet established the enforcement mechanism outside Indonesian Management Area (beyond EEZ)</p> <p>Under Law 21/2009 Concerning the Agreement of UNCLOS, it further states that the law has also acknowledged Regional Fisheries Management Organization (RFMO) and WCPFC. Therefore the Indonesia has actually implemented the</p>	<p>Indonesia needs to regulate in Law on the enforcement mechanism to Indonesian flag vessels beyond EEZ</p>

		possible enforce those laws. Indonesia must also be prepared upon any request of investigation of such cases by other members or the commission.	international standards and also enforced the laws and conventions from the international bodies.	
Article 33	Good Faith and abuse of rights	The principle of good faith must be upheld by Indonesia in assuming the obligations set out in the Convention.	The principle of Good Faith is to be implemented to the existing conditions/practice of the fisheries in Indonesia	

### Analysis on Resolution on the Incidental Catch of Seabirds

Major Principles	Implication to Indonesia	Regulation	Actions to be taken
1. Commission Members, Cooperating Non-Members, and participating Territories (called CCMs) shall, to the extent possible, implement the International Plan of Action for Reducing Incidental Catches of Seabirds in Longline Fisheries (IPOA-Seabirds) if they have not already done so.	Indonesia must implement the IPOA-Seabirds to the extent possible	Draft Ministerial regulation on bycatch and ERS	N/A
2. CCMs shall report to the Commission on their implementation of the IPOA-Seabirds, including, as appropriate, the status of their National Plans of Action for Reducing Incidental Catches of Seabirds in Longline Fisheries.	Indonesia must report the Commission on their implementation of the IPOA Seabird, and the status of their National Plans of Action to reduce Incidental catches of Seabirds in longline fisheries	N/A	Indonesia must prepare such referred report.
3. CCMs shall provide the Commission with all available information on interactions with seabirds, including incidental catches and details of species, to enable the Scientific Committee to estimate seabird mortality in all fisheries to which the WCPF Convention applies.	Indonesia must provide the Commission data regarding to interaction with seabirds, including incidental catches and details of species	N/A	N/A

### Analysis on Resolution for non-target fish species

Major Principles	Implications to Indonesia	Regulation	Action to be taken
1. Commission Members, Cooperating Non-members and	Indonesia must ensure that vessels operating in fisheries under the	Government Regulation No. 51 year 2002 on vessel Article 41-48	

participating Territories (CCMs) shall encourage their vessels operating in fisheries managed under the WCPFC Convention to avoid to the extent practicable, the capture of all non-target fish species that are not to be retained;	Convention area to avoid to the extent practicable, the capture of all non-target species that are not to be retained	Draft Ministerial regulation on bycatch and ERS	
2. Any such non-target fish species that are not to be retained, shall, to the extent practicable, be promptly released to the water unharmed.	Indonesia must ensure that their vessels release the non-target species that are not to be retained to the water unharmed		

**Analysis on Resolution to mitigate the impacts fishing of highly migratory fish species on sea turtles**

<b>Major Principles</b>	<b>Implications to Indonesia</b>	<b>Regulations</b>	<b>Action to be taken</b>
1. Commission Members, Cooperating non-Members, and participating Territories (called CCMs) shall, as appropriate, implement the FAO Guidelines to Reduce Sea Turtle Mortality in Fishing Operations (the Guidelines) in order to reduce the incidental catch of sea turtles and to ensure the safe handling of all turtles that are captured, in order to improve their survivability.	Indonesia is expected to implement the Guidelines	Draft Ministerial regulation on bycatch and ERS  Ministerial regulation No 30/2004 and Draft Ministerial regulation on FAD Ministerial Regulations. 17/2007: Emphasize on the conservation of unique/rare species that live around the coasts and the small islands of Indonesia. Sea Turtles is considered to be a relatively rare species and therefore is fit to the criteria above.	Indonesia must implement the Guideline to reduce sea turtles mortality
2. The WCPFC shall encourage CCMs to collect, and provide to the WCPFC, all available information on interactions with sea turtles in fisheries managed under the WCPF Convention.	Indonesia is expected to provide WCPFC all available information on interactions with sea turtles in their fisheries in the Convention area. Ministerial Regulations No. 17/2007: The law have proposed to provide the extra care of conservation around the coasts and islands (KKP3K) (Article 5)	Ministerial Regulations. 17/2007: The law has initiated a ‘Strategic and Management Plan’ in implementing conservation of Indonesian coasts (KKP3K) under Articles 4, 6 and 10.	Indonesia must prepare the information which must be distributed to the WCPFC
3. The Commission encourages CCMs to enhance the implementation of their	Indonesia is encourage to enhance the implementation of turtle mitigation	In case the sea turtles are within the coasts and the islands of Indonesia,	

<p>respective turtle mitigation measures that are already in place (using best available scientific information on mitigation techniques) and urges them to foster collaboration with other CCMs in the exchange of information in this area.</p>	<p>measures that are already in place.</p>	<p>Article 10 of Ministerial Regulations No. 17/2007 states that an individual, community groups, legal entity, research institute or the government body may propose the Conservation (KKP3K) under the permission of the appropriate authority</p>	
<p>4. The Commission urges CCMs to require that purse seine vessels flying their flags:</p> <ul style="list-style-type: none"> <li>i. Avoid encirclement of sea turtles to the extent practicable and, if encircled or entangled, take all practicable measures to safely release sea turtles.</li> <li>ii. Take all reasonable efforts whenever a sea turtle is sighted in the net to rescue the turtle before it becomes entangled in the net, including if necessary, the deployment of a speedboat.</li> <li>iii. Stop net roll, if a turtle is entangled in the net, as soon as the turtle comes out of the water and, to the extent practicable, assist the recovery of the turtle before returning it to the water.</li> <li>iv. Take necessary measures to monitor fish aggregating devices (FADs) to the extent practicable to release any sea turtles that become entangled and consider FAD designs and use that reduce the likelihood of sea turtle entanglement.</li> </ul>	<p>Indonesia must create regulations, requiring their purse seine vessels to:</p> <ul style="list-style-type: none"> <li>i. Avoid encirclement of sea turtles to the extent practicable and, if encircled or entangled, take all practicable measures to safely release sea turtles.</li> <li>ii. Take all reasonable efforts whenever a sea turtle is sighted in the net to rescue the turtle before it becomes entangled in the net, including if necessary, the deployment of a speedboat.</li> <li>iii. Stop net roll, if a turtle is entangled in the net, as soon as the turtle comes out of the water and, to the extent practicable, assist the recovery of the turtle before returning it to the water.</li> <li>iv. Take necessary measures to monitor fish aggregating devices (FADs) to the extent practicable to release any sea turtles that become entangled and consider FAD designs and use that reduce the likelihood of sea turtle entanglement.</li> </ul>	<p>Government Regulation No. 51 year 2002 on vessel (this is the basic ground for compliance and general standards of vessels)</p> <p>Indonesia must stipulate a regulation that is solely based on the safety of sea turtles.</p> <p>Current regulations have only been targeting the illegal fishing done by illegal fishing instruments, and not directly upon the illegal fishing of sea turtles.</p>	
<p>5. The Commission urges CCMs to:</p> <ul style="list-style-type: none"> <li>i. Undertake research trials of appropriate-size circle hooks in commercial pelagic longline fisheries.</li> </ul>	<p>Indonesia is expected to undertake research and trials on the effective usage of circle hooks.</p> <p>Indonesia is expected to employ</p>	<p>Indonesia is expected to undertake research and trials on the effective usage of circle hooks.</p> <p>Indonesia is expected to employ</p>	<p>Indonesia has undertaken research on circle hooks usage</p> <p>Draft Ministerial regulation on</p>

<p>ii. Undertake research and trials on the use of circle hooks in recreational and artisanal fisheries; iii. Require longline vessels flying their flags to carry on board and, when sea turtle interactions occur, employ the necessary equipment (e.g. de-hookers, line cutters, and scoop nets) for the prompt release of incidentally caught sea turtles.</p>	<p>necessary equipment for the prompt release of incidental catches of sea turtle in every longline fishing vessels fishing in the Convention area.</p>	<p>necessary equipment for the prompt release of incidental catches of sea turtle in every longline fishing vessels fishing in the Convention area.  Government Regulation No. 30 / 2008 on Research and Development on Fisheries Article 2 (Especially in reference to point ii.)</p>	<p>bycatch and ERS  Despite that drafting regulations would solve the current problems, in practice, Indonesia needs more enforcement in implementing the safety of the living species that is especially done due to illegal hooks or fishing instruments.</p>
<p>10. The Commission encourages CCMs to contribute to the Special Requirements Fund to support eligible small-island developing States, territories, and possessions in implementing this resolution, or to do so through bilateral arrangements.</p>	<p>Indonesia is expected to contribute in the funding of the Commission and to support the livelihood SIDS</p>	<p>There is cooperation with SIDS in form of technical assistance</p>	
<p>11. Beginning in 2006, CCMs shall include in their Annual Report to the Commission (Part II) a report on the steps taken to implement this resolution.</p>	<p>Indonesia must provide annual report to the commission which contains section on matters of steps taken to implement this resolution</p>	<p>Ministerial Regulations No. 14/2005: The 'Commission Board' (KOMNAS KAJISKAN) supervises and coordinate the stock level of the fishing and other research activities.</p>	

### Analysis on Resolution on Aspirations of Small island Developing States and Territories

Major Principles	Implications to Indonesia		Actions to be taken
<p>1. CCMs will develop, interpret and apply conservation and management measures in the context of and in a manner consistent with the 1982 Convention and the Agreement. To this end, CCMs shall cooperate, either directly or through the Commission, to enhance the ability of developing States, particularly the least developed among them and SIDS and Territories in the Convention Area, to develop their own fisheries for highly migratory fish stocks, including but not limited to the high seas within the Convention Area.</p>	<p>Indonesia must cooperate to enhance the ability of developing states, particularly SIDS and territories within the Convention Area</p>	<p>There is cooperation with SIDS</p>	
<p>2. To implement this resolution, developed CCMs shall make concerted efforts and consider innovative options to reduce and or restructure their fleet so as to accommodate aspirations of SIDS and Territories in the Convention Area to develop their own fisheries.</p>	<p>Indonesia (if it were to be considered a developed CCM) must implement this resolution by making innovative options to reduce and or restructure their fleet so</p>		

	as to accommodate aspirations of SIDS and Territories in the Convention Area to develop their own fisheries.		
3. Developed CCM's shall cooperate in investments in fishing vessels or other fishing related activities and facilities in SIDS and Territories, provided that such investments are directly linked to the onshore development of domestic fishing industries established in SIDS and Territories in accordance with their legislation.	Indonesia (if it were to be considered a developed CCM) must cooperate in investments in fishing vessels or other fishing related activities and facilities in SIDS and Territories.		
4. CCM's commit to achieve the goal of ensuring that by 2018, the domestic fishing and related industries of developing States, in particular, the least developed SIDS and Territories, accounts for a greater share of the benefit than what is currently realized of the total catch and value of highly migratory fish stocks harvested in the Convention Area.	Indonesia must commit to ensure that by 2018, domestic fishing and related industries of developing States, particularly the least developed SIDS and Territories, could increase.		
5. When adopting Commission conservation and management measures the following principles should be taken into account: a) CCMs shall ensure that measures do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto SIDS and Territories. b) CCMs shall implement measures, including through direct cooperation with SIDS and Territories that enhances the ability of developing States, particularly the least developed SIDS, to develop their own fisheries for highly migratory fish stocks, including but not limited to the high seas within the Convention Area.	Indonesia must, upon adopting conservation and management measures, take into account these principles: c) that such measures do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto SIDS and Territories d) measures implemented must enhance the ability of developing States, particularly the least developed SIDS, to develop their own fisheries for highly migratory fish.		
6. Developed CCMs shall ensure that conservation and management measures will not be implemented to constrain coastal processing and transshipment facilities and associated vessels of SIDS and Territories, nor shall it be implemented to undermine legitimate investment that has occurred legally in FFA member countries.	Indonesia (if it were to be considered a developed CCM) must ensure that conservation and management measures is not implemented to constrain coastal processing and transshipment facilities and associated vessels of SIDS and Territories.		

**Analysis on the Conservation and Management Measure to Prohibit the Use of Large Scale Driftnets on the High Seas in the Convention Area (2008-04)**

Major Principles	Implications to Indonesia		Actions to be taken
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1. The use of large-scale driftnets <sup>1</sup> on the high seas within the Convention Area shall be prohibited and such nets shall be considered prohibited fishing gear, the use of which shall constitute a serious violation in accordance with Article 25 of the Convention.	Indonesia is prohibited to use large-scale driftnets on the high seas of the Convention Area.	Ministerial regulation No 08/2008	
2. CCMs shall take all measures necessary to prohibit their fishing vessels from using large-scale driftnets while on the high seas in the Convention Area	Indonesia must take necessary measures to prohibit fishing vessels from using large-scale driftnets while on the high seas in the Convention Area.	Government Regulation No. 51 year 2002 on vessel (this is the basic ground for compliance and general standards of vessels)	
3. A CCM-flagged fishing vessel will be presumed to have used large-scale driftnets on the high seas in the Convention Area if it is found operating on the high seas in the Convention Area and is configured <sup>2</sup> to use large-scale driftnets or is in possession of large-scale drift-nets.	-		
4. Paragraph 3 is not intended to apply to a CCM-flagged vessel that can demonstrate that it is duly authorized to use large-scale driftnets in waters under national jurisdiction and while on the high seas in the Convention Area all of its large-scale driftnets and related fishing equipment are stowed or secured in such a manner that they are not readily available to be used for fishing.	-		
5. CCMs shall include in Part 2 of their Annual Reports a summary of monitoring, control, and surveillance actions related to large-scale driftnet fishing on the high seas in the Convention Area.	Indonesia must include in their Annual Reports a summary of monitoring, control, and surveillance actions related to large-scale driftnet fishing on the high seas in the Convention Area.		
6. The WCPFC shall periodically assess whether additional measures should be adopted and implemented to ensure that large-scale driftnets are not used on the high seas in the Convention Area.	-		
7. Nothing in this measure shall prevent CCMs from applying more stringent measures to regulate the use of large-scale driftnets.	Indonesia is allowed to apply more stringent measures to regulate the use of large-scale driftnets.		

**Analysis on Conservation and Management Measure for Striped Marlin in the Southwest Pacific (2006-04)**

Major Principles	Implication to Indonesia	Regulation	Actions to be taken
1. Commission Members, Cooperating Non-Members, and participating Territories (CCMs) shall limit the number of their fishing vessels fishing for striped marlin in the Convention Area south of 15 <sup>0</sup> S, to the number in any one-year between the period 2000	Indonesia must implement regulations to limit the number of fishing vessels fishing for striped marlin in the Convention Area south	Ministerial regulation No. 12/2012	

<p>– 2004.</p>	<p>of 15°S, to the number in any one-year between the period 2000 – 2004.</p>		
<p>2. Paragraph 1 shall not prejudice the legitimate rights and obligations under international law of small island developing State and Territory CCMs, in the Convention Area who may wish to pursue a responsible level of development of their own fisheries for striped marlin in the Convention Area south of 15°S from 2000 - 2004 levels, and the legitimate rights and obligations of coastal states who may wish to pursue a responsible level of development within their fisheries waters.</p>			
<p>3. CCMs shall cooperate to protect the long-term sustainability and economic viability of the fisheries for striped marlin in the Southwest Pacific, and in particular shall cooperate on research to reduce uncertainty with regard to the status of striped marlin stocks.</p>	<p>Indonesia must take into account the protection of long-term sustainability and economic viability of the fisheries for striped marlin in the Southwest Pacific.</p>		
<p>4. In accordance with paragraph 1, CCMs shall provide information to the Commission, by 1 July 2007, on the number of their vessels that have fished for striped marlin in the Convention area south of 15°S, during the period 2000 – 2004, and in doing so, nominate the maximum number of vessels that shall continue to be permitted to fish for striped marlin in the area south of 15°S. CCMs shall report annually to the Commission the catch levels of their fishing vessels that have taken striped marlin as a bycatch as well as the number and catch levels of vessels fishing for striped marlin in the Convention Area south of 15°S.</p>	<p>Indonesia must prepare annual report to the Commission on the catch level of their fishing vessels that have taken striped marlin as a by catch as well as the number and catch levels of vessels fishing for striped marlin in the Convention Area south of 15°S.</p>		
<p>5. Paragraphs 1-4 do not apply to those coastal states CCMs south of 15 degrees south in the Convention Area who have already taken, and continue to take, significant steps to address concerns over the status of striped marlin in the Southwestern Pacific region, through the establishment of a commercial moratorium on the landing of striped marlin caught within waters under their national jurisdiction.</p>	<p>-</p>		
<p>6. The Executive Director shall compile and disseminate the information provided to the Commission by CCMs in accordance with para 4. The Technical and Compliance Committee shall monitor and review compliance with this measure and make recommendations to the Commission as may be necessary.</p>	<p>-</p>		

**Analysis on Conservation and Management Measure for the Regional Observer Programme (2006-07)**

Major Principles	Implications to Indonesia	
7. Each CCM of the Commission shall ensure that fishing vessels fishing in the Convention Area, except for vessels that operate exclusively within waters under the national jurisdiction of the flag State, are prepared to accept an observer from the Commission ROP if required by the Commission.	Indonesia must notice their fishing vessels fishing in the convention area to prepare to accept an observer from the Commission ROP if required by the Commission	Ministerial regulation No. 12/2012  Draft Ministerial regulation on Observer
8. Each CCM of the Commission shall be responsible for meeting the level of observer coverage as set by the Commission.	Indonesia must ensure that fishing vessel meets the level of observer coverage as set by the commission	
9. CCMs shall source observers for their vessels as determined by the Commission.		
10. CCMs shall explain to the vessel captain, observer duties relevant to appropriate measures adopted by the Commission.	Indonesia must prepare a procedural regulation on observer acceptance on board standards for their fishing vessels fishing in the Convention area	
	<p>The abovementioned standards includes the responsibilities of vessel operators and captains in:</p> <ul style="list-style-type: none"> <li>a) Accepting onboard the vessel any person identified as an observer under the ROP when required by the Commission.</li> <li>b) Informing the crew of the timing of the ROP observer boarding as well as their rights and responsibilities when an ROP observer boards the vessel.</li> <li>c) Assisting the ROP observer to safely embark and disembark the vessel at an agreed upon place and time.</li> <li>d) Giving notice to the ROP observer at least fifteen (15) minutes before the start of a set or haul onboard, unless the observer specifically requests not to be notified.</li> <li>e) Allow and assist the ROP observer to carry out all duties safely.</li> <li>f) Allowing ROP observer full access to the vessel's records including vessel logs and documentation for the purpose of records inspection and copying.</li> <li>g) Allowing reasonable access to navigational equipment, charts and radios, and reasonable access to other information relating to fishing.</li> <li>h) Permitting access to additional equipment, if present, to facilitate the work of the ROP observer while onboard the vessel, such as high-powered binoculars, electronic means of communication, etc.</li> <li>i) Allow and assist the ROP observer to remove and store samples from the catch.</li> </ul>	

	<p>j) The provision to the ROP observer, while onboard the vessel, at no expense to the observer or the ROP observer's provider or government, with food, accommodation, adequate sanitary amenities, and medical facilities of a reasonable standard equivalent to those normally available to an officer onboard the vessel.</p> <p>k) The provision to the ROP observer, while onboard the vessel, insurance coverage for the duration of the observer's time onboard the vessel.</p> <p>j) Allow and assist full access to and use of all facilities and equipment of the vessel that the observer may determine is necessary to carry out his or her duties, including full access to the bridge, fish onboard, and areas which may be used to hold, process, weigh, and store fish.</p> <p>m) Ensuring the ROP observer is not assaulted, obstructed, resisted, delayed, intimidated, interfered with, influenced, bribed or is attempted to be bribed in the performance of their duties.</p>	
	<p>The abovementioned standards includes the responsibilities of the vessel crew in:</p> <p>a) Not assaulting, obstructing, resisting, intimidating, influencing, or interfering with the ROP observer or impeding or delaying observer duties.</p> <p>b) Compliance with regulations and procedures established under the Convention and other guidelines, regulations, or conditions established by the CCM that exercises jurisdiction over the vessel.</p> <p>c) Allowing and assisting full access to and use of all facilities and equipment of the vessel which the observer may determine is necessary to carry out his or her duties, including full access to the bridge, fish onboard, and areas that may be used to hold, process, weigh, and store fish.</p> <p>d) Allow and assist the ROP observer to carry out all duties safely.</p> <p>e) Allow and assist the ROP observer to remove and store samples from the catch.</p> <p>f) Compliance with directions given by the vessel captain with respect to the ROP observers duties.</p>	
<p>Implementation programme for the Regional Observer Programme</p> <p>1. When the measure enters into force, CCMs shall commence implementation of the ROP, in accordance with the measure adopted at WCPFC4, by using the sub-regional and national programmes already operational in the region. CCMs are encouraged to submit data from such programmes as soon as possible.</p>	<p>Indonesia must implement the ROP using the subregional and national programme. Indonesia is encouraged to submit data from such programmes.</p>	
<p>6. No later than 30 June 2012, CCMs shall achieve 5% coverage of the effort in</p>	<p>Indonesia will achieve 5% coverage of the effort in each fishery under the jurisdiction of the commission.</p>	

<p>each fishery under the jurisdiction of the Commission (except for vessels provided for in paras 9 and 10). In order to facilitate the placement of observers the logistics may dictate that this be done on the basis of trips.</p>		
<p>8. CCMs shall also be expected to meet any additional ROP observer obligations that may be included in any measure adopted by WCPFC, such as provisions of a catch retention measure, a FAD management measure or a transshipment measure. Such measures may include observer requirements for freezer longliners, purse seiners and/or carriers.</p>	<p>Indonesia must ensure to meet additional ROP observer obligations that may be included in any measure adopted by WCPFC, such as provisions of a catch retention measure, a FAD management measure or a transshipment measure. Such measures may include observer requirements for freezer longliners, purse seiners and/or carriers.</p>	

Note : On Government Regulation no. 51/2002 on vessel, the presence of observers on board is not yet regulated. So is the obligation of vessel captain and crews in responding to the presence of observers. This needs further regulation.

**Analysis on WCPFC Records on fishing vessels and authorization to Fish (2009-01)**

Major Principles	Implications to Indonesia		
<p>Authorization to fish</p>	<p>1. Indonesia must:</p> <ul style="list-style-type: none"> <li>(j) authorize its vessels to fish in the Convention Area, consistent with article 24 of the Convention, only where it is able to exercise effectively its responsibilities in respect of such vessels under the 1982 Convention, the Agreement and this Convention</li> <li>(k) take necessary measures to ensure that its vessels comply with conservation and management measures adopted pursuant to the Convention;</li> <li>(l) take necessary measures to ensure that fishing for highly migratory fish stocks in the Convention Area is conducted only by vessels flying the flag of a member of the Commission, and in respect of non-member carriers and bunkers, in accordance with Section D of this Measure</li> <li>(m) take necessary measures to ensure that any fishing vessel flying its flag conducts fishing in areas under the national jurisdiction of another State only where the vessel holds an appropriate license, permit or authorization, as may be required by such other State</li> <li>(n) undertake to manage the number of authorizations to fish and the level of fishing effort commensurate with the fishing opportunities available to that member in the Convention Area;</li> <li>(o) ensure that no authorization to fish in the Convention Area is issued to a vessel that has</li> </ul>	<p>Government Regulation No. 51 year 2002 on vessel (this is the basic ground for compliance and general standards of vessels)</p> <p>Ministerial regulation No. 14/2011 as amended by Ministerial regulation No. 49/2011</p> <p>Ministerial regulation No. 12/2012</p> <p>Draft NPOA IUU</p> <p>Law No 17/2008</p>	

	<p>a history of illegal, unreported or unregulated (IUU) fishing, unless the ownership of the vessel has subsequently changed and the new owner has provided sufficient evidence demonstrating that the previous owner or operator has no legal, beneficial or financial interest in, or control of the vessels, or the member concerned is satisfied that, having taken into account all relevant facts, the vessel is no longer engaged in or associated with IUU fishing;</p> <p>(p) withdraw authorizations to fish consistent with article 25(4) of the Convention;</p> <p>(q) take into account the history of violations by fishing vessels and operators when considering applications for authorization to fish by fishing vessels flying its flag;</p> <p>(r) take necessary measures to ensure that the owners of the vessels on the Record flying its flag are citizens, residents or legal entities within its jurisdiction so that any control or punitive actions can be effectively taken against them</p>		
	<p>2. Indonesia must take necessary measures to ensure that its fishing vessels, when in the Convention Area, only transship to/from, and provide bunkering for, are bunkered by or otherwise supported by:</p> <p>(a) vessels flagged to members, or</p> <p>(b) Other vessels flagged to States not members of the Commission only if such vessels are on the WCPFC Interim Register of non-Member Carrier and Bunker Vessels established under section D below (the “Register”); or</p> <p>(c) Vessels operated under charter, lease, or similar mechanisms in accordance with paragraphs 41 to 43 of this measure.</p>		
	<p>3. Indonesia must not allow any fishing vessel entitled to fly its flag to be used for fishing in the Convention Area beyond areas of national jurisdiction unless it has been authorized to do so by the appropriate authority or authorities of that member.</p>		
	<p>4. Each such authorization shall set forth for the vessel to which it is issued:</p> <p>(a) the specific areas, species and time periods for which the authorization is valid;</p> <p>(b) permitted activities by the vessel;</p> <p>(c) a prohibition of fishing, retention on board, transshipment or landing by the vessel in areas under the national jurisdiction of another State except pursuant to any license, permit or authorization that may be required by such other State;</p> <p>(d) the requirement that the vessel keep on board the authorization issued pursuant to paragraph 1 above, or certified copy thereof; any license, permit or authorization, or certified copy thereof, issued by a coastal State, as well as a valid certificate of vessel registration; and</p> <p>(e) any other specific conditions to give effect to the provisions of the Convention and conservation and management measures adopted pursuant to it.</p>	<p>Government Regulation No. 51 year 2002 on vessel (this is the basic ground for compliance and general standards of vessels)</p>	
Records of Vessel	<p>5. Pursuant to article 24(4) on the Convention, each member of the Commission shall maintain a record of fishing vessels entitled to fly its flag and authorized to fish in the Convention Area beyond its area of national jurisdiction, and shall ensure that all such fishing vessels are entered in that record.</p>		
	<p>6. Indonesia must submit, electronically where possible, to the Executive Director by 1 July</p>		

	<p>2005 the following information with respect to each vessel entered in its record:</p> <ul style="list-style-type: none"> <li>(a) name of the fishing vessel, registration number, WCPFC Identification Number (WIN), previous names (if known) and port of registry;</li> <li>(b) name and address of the owner or owners;</li> <li>(c) name and nationality of the master;</li> <li>(d) previous flag (if any);</li> <li>(e) International Radio Call sign</li> <li>(f) vessel communication types and numbers (Inmarsat A, B and C numbers and satellite telephone number);</li> <li>(g) colour photograph of the vessel;</li> <li>(h) where and when the vessel was built;</li> <li>(i) type of vessel;</li> <li>(j) normal crew complement;</li> <li>(k) type of fishing method or methods;</li> <li>(l) length (specify type and metric);</li> <li>(m) moulded depth (specify metric);</li> <li>(n) beam (specify metric);</li> <li>(o) gross registered tonnage (GRT) or gross tonnage (GT);</li> <li>(p) power of main engine or engines (specify metric);</li> <li>(q) carrying capacity, including freezer type, capacity and number, fish hold capacity and capacity of freezer chambers (specify metric); and</li> <li>(r) the form and number of the authorization granted by the flag State including any specific areas, species and time periods for which it is valid.</li> </ul>		
	<p>7. After 1 July 2005, Indonesia must notify the Executive Director, within 15 days, or in any case within 72 hours before commencement of fishing activities in the Convention Area by the vessel concerned, of:</p> <ul style="list-style-type: none"> <li>(a) any vessel added to its Record along with the information set forth in paragraph 6;</li> <li>(b) any change in the information referred to in paragraph 6 with respect to any vessel on its record; and</li> <li>(c) any vessel deleted from its record along with the reason for such deletion in accordance with article 24 (6) of the Convention,</li> </ul>		
	<p>8. Indonesia must submit to the Executive Director, information requested by the Executive Director with respect to fishing vessels entered in its national record of fishing vessels within fifteen (15) days of such request.</p>		
	<p>9. Before 1 July of each year, each Member shall submit to the executive director a list of all vessels that appeared in its record of fishing vessels at any time during the preceding calendar year, together with each vessel's WCPFC identification number (WIN) and an indication of whether each vessel fished for highly migratory fish stocks in the Convention Area beyond its area of national jurisdiction. The indication shall be expressed as (a) fished, or (b) did not fish.</p>		
	<p>10. Members that operate lease, charter arrangements or similar arrangements that result in data reporting obligations being conferred to a party other than the flag State will make arrangements</p>		

	to ensure that the flag State can meet its obligations under paragraph 9.		
	16. Indonesia has the responsibility to ensure that its fishing vessels have been placed on the WCPFC Record of Fishing Vessels in accordance with the requirements of this measure, and any vessel not included in the WCPFC Record of Fishing Vessels shall be deemed not to be authorized to fish for, retain on board, transship or land highly migratory fish stocks in the Convention Area beyond the national jurisdiction of its flag State. Each member of the Commission shall prohibit such activities by any vessel entitled to fly its flag that is not included on the Record and shall treat a violation of this prohibition as a serious violation. Such vessels shall be eligible to be considered for IUU listing.		
	17. Indonesia must prohibit landing at its ports or transshipment to vessels flying its flag of highly migratory fish stocks caught in the Convention Area by vessels not entered on the Record or the Register.	Government Regulation no. 70 year 1996 on Ports Government Regulation no. 61 year 2009 on Port Activities ( <i>Kepelabuhan</i> ) Draft Ministerial regulation on PSM	
	18. Indonesia must notify the Executive Director, in accordance with the relevant provisions of article 25 of the Convention, of any factual information showing that there are reasonable grounds to suspect that a vessel that is not on the Record or the Register is or has been engaged in fishing for or transshipment of highly migratory fish stocks in the Convention Area.		

**Note: Specific regulation or references for the standards of the fishing vessel that are going to fish in the Convention Area needs to be prepared.**

**Analysis on Conservation And Management Measure For South Pacific Albacore (2010-05)**

Major Principles	Implications to Indonesia		
1. Commission Members, Cooperating Non-Members, and participating Territories (CCMs) shall not increase the number of their fishing vessels actively fishing for South Pacific albacore in the Convention Area south of 20°S above current (2005) levels or recent historical (2000-2004) levels.	Indonesia (if they fish the South Pacific albacores) must not increase the number of their fishing vessels actively fishing for South Pacific albacore in the Convention Area south of 20°S above current (2005) levels or recent historical (2000-2004) levels.	Indonesia has complied with the measures	Indonesia will maintain the data of the vessel fishing SPA
2. The provisions of paragraph 1 shall not prejudice the legitimate rights and obligations under international law of small island developing State and Territory CCMs in the Convention Area for whom South Pacific albacore is an important component of the domestic tuna fishery in waters under their	-		



national jurisdiction, and who may wish to pursue a responsible level of development of their fisheries for South Pacific albacore.			
3. CCMs that actively fish for South Pacific albacore in the Convention Area south of the equator shall cooperate to ensure the long-term sustainability and economic viability of the fishery for South Pacific albacore, including cooperation and collaboration on research to reduce uncertainty with regard to the status of this stock.	Indonesia (if they fish the South Pacific albacore) must ensure the long-term sustainability and economic viability of the fishery for South Pacific albacore.	Government Regulation No. 30 / 2008 on Research and Development on Fisheries	
4. CCMs shall report annually to the Commission the catch levels of their fishing vessels that have taken South Pacific Albacore as a bycatch as well as the number and catch levels of vessels actively fishing for South Pacific albacore in the Convention area south of 20°S. Initially this information will be provided for the period 2006-2010 and then updated annually.	Indonesia must report annually to the Commission the catch levels of their fishing vessels that have taken South Pacific Albacore as a bycatch as well as the number and catch levels of vessels actively fishing for South Pacific albacore in the Convention area south of 20°S.		
5. This measure will be reviewed annually on the basis of advice from the Scientific Committee on South Pacific albacore.	-		

**Analysis on Conservation And Management Measure Prohibiting Fishing On Data Buoys (2009-05)**

Major Principles	Implications to Indonesia	Regulation	Actions to be taken
1. CCMs shall prohibit their fishing vessels from fishing within one nautical mile of or interacting with a data buoy in the high seas of the Convention Area, which includes, but is not limited to, encircling the buoy with fishing gear; tying up to or attaching the vessel, or any fishing gear, part or portion of the vessel, to a data buoy or its mooring; or cutting a data buoy anchor line.	Indonesia must prohibit their fishing vessels from fishing within one nautical mile of or interacting with a data buoy in the high seas of the Convention Area, which includes, but is not limited to, encircling the buoy with fishing gear; tying up to or attaching the vessel, or any fishing gear, part or portion of the vessel, to a data buoy or its mooring; or cutting a data buoy anchor line.	Ministerial regulation No. 12/2012	Indonesia should enact the regulation
2. For the purposes of this measure, data buoys are defined as floating devices, either drifting or anchored, that are deployed by governmental or recognized scientific organizations or entities for the purpose of electronically collecting and measuring environmental data, and not for the purpose of fishing activities.			
3. CCMs shall prohibit their fishing vessels from taking on board a data buoy	Indonesia must prohibit their fishing		

unless specifically authorized or requested to do so by the Member or owner responsible for that buoy.	vessels from taking on board a data buoy unless specifically authorized or requested to do so by the Member or owner responsible for that buoy.		
4. CCMs shall encourage their fishing vessels operating in the Convention Area to keep watch for moored data buoys at sea and to take all reasonable measures to avoid fishing gear entanglement or directly interacting in any way with those data buoys.	Indonesia must shall encourage their fishing vessels operating in the Convention Area to keep watch for moored data buoys at sea and to take all reasonable measures to avoid fishing gear entanglement or directly interacting in any way with those data buoys.		
5. CCMs shall require their fishing vessels that become entangled with a data buoy to remove the entangled fishing gear with as little damage to the data buoy as possible. CCMs are encouraged to require their fishing vessels to report to them all entanglements and provide the date, location and nature of the entanglement, along with any identifying information contained on the data buoy. CCMs shall notify the Secretariat of all such reports.	Indonesia must require their fishing vessels that become entangled with a data buoy to remove the entangled fishing gear with as little damage to the data buoy as possible. Such entanglements must be reported, and must be notified to the Secretariat.		
6. Fishing activities inconsistent with paragraphs 1 and 2 above shall be deemed fishing activities that undermine the WCPF Convention and WCPFC conservation and management measures and shall constitute a serious violation in accordance with Article 25 of the Convention.			
7. Notwithstanding paragraph 1, scientific research programs notified to and authorized by the Commission may operate fishing vessels within one nautical mile of a data buoy so long as they do not interact with those data buoys as described in paragraph 1.			

**Analysis on Conservation And Management For Swordfish (2009-03)**

Major Principles	Implications to Indonesia	
1. Commission Members, Cooperating Non-Members and participating Territories (CCMs) shall exercise restraint through limiting the number of their fishing vessels for swordfish in the Convention Area south of 20°S, to the number in any one year between the period 2000-2005 (listed in Annex 1).	Indonesia (if they fish for swordfishes) must exercise restraint through limiting the number of their fishing vessels for swordfish in the Convention Area south of 20°S, to the number in any one year between the period	Ministerial Regulation No 14/2011 as amended by Ministerial regulation No. 49/2011  Ministerial regulation No. 12/2012

	2000- 2005 (listed in Annex 1).	
2. In addition to vessel limits established under paragraph 1, CCMs shall exercise restraint through limiting the amount of swordfish caught by fishing vessels flagged to them in the Convention Area south of 20°S to the amount caught in any one year during the period 2000 – 2006.	Indonesia must exercise restraint through limiting the amount of swordfish caught by fishing vessels flagged to them in the Convention Area south of 20°S to the amount caught in any one year during the period 2000 – 2006.	
3. CCMs shall not shift their fishing effort for swordfish to the area north of 20°S, as a result of this measure.	-	
4. No later than 30 April 2010 CCMs shall nominate the maximum total catch of swordfish that it shall continue to be permitted to fish in the area south of 20°S. This amount shall be no more than their maximum verified catch declared to the Commission for any one year in the period 2000-2006.	Indonesia must determine the total catch of swordfishes permitted. It must be no more than their maximum verified catch declared to the Commission for any one year in the period 2000-2006.	
5. Paragraphs 1 to 4 and paragraph 9 shall not prejudice the legitimate rights and obligations under international law of small island developing State and participating Territory CCMs, in the Convention Area who may wish to pursue a responsible level of development of their own fisheries in the Convention Area.	-	
6. For the purposes of these measures, vessels operated under charter, lease or other similar mechanisms as an integral part of the domestic fleet of a coastal State, shall be considered to be vessels of the host State or Territory. Such charter, lease or other similar mechanism shall be conducted in a manner so as not to charter known IUU vessels.	-	
7. CCMs shall cooperate to protect the long-term sustainability and economic viability of the fisheries for swordfish in the Southwest Pacific, and in particular shall cooperate on research to reduce uncertainty with regard to the status of swordfish stocks.	Indonesia must cooperate to protect the long-term sustainability and economic viability of the fisheries for swordfish in the Southwest Pacific.	Government Regulation No. 30 / 2008 on Research and Development on Fisheries
8. CCMs shall report to the Commission the total number of vessels that fished for swordfish and the total catch of swordfish for the following: a. vessels flying their flag anywhere in the Convention Area south of 20°S other than vessels operating under charter, lease or other similar mechanism as part of the domestic fishery of another CCM; b. vessels operating under charter, lease or other similar mechanism as part of their domestic fishery south of 20°S; and c. any other vessels fishing within their waters south of 20°S. This information shall be provided in Part 1 of each CCM's annual report. Initially, this information will be provided in the template provided at Annex 2 for the period 2000-2009 and then updated annually.	Indonesia must provide reports to the Commission regarding the number of fishing vessels that fished for swordfishes, and its total catch.	

<p>9. As an interim measure, and without prejudice to future decisions of the Commission relating to monitoring and responding to compliance with conservation and management measures, until the Commission adopts a scheme relating to compliance with CMMs which includes responses when a flag State exceeds any limits assigned to it, if it is determined by the Commission that the catch of vessels flying the flag of a CCM exceeds the total catch specified for them under paragraphs 2 and 4 above, that CCM will be subject to a reduction in their catch limit equal to the exceeded amount. The reduction will apply in the year immediately after it has been determined that the catch limit has been exceeded.</p>	<p>If Indonesia exceeds the total catch as determined by them, then it will be subject to a reduction in their catch limit equal to the exceeded amount.</p>	
<p>10. The Executive Director shall compile and disseminate the information provided to the Commission by CCMs in accordance with paragraph 8 above to the Technical and Compliance Committee each year. The Technical and Compliance Committee shall monitor and review compliance with this measure and make recommendations to the Commission as may be necessary.</p>	<p>-</p>	
<p>11. This measure will be reviewed in 2011 by the Commission, including on the basis of advice from the Scientific Committee based on future stock assessments of South Pacific swordfish.</p>	<p>-</p>	
<p>12. This measure replaces CMM 2008-05.</p>	<p>-</p>	

**Analysis on Conservation and Management of Sea Turtles (2008-03)**

Major Principles	Implications to Indonesia	
<p>1. Commission Members, Cooperating non-Members and participating Territories (CCMs) will implement, as appropriate the FAO Guidelines to Reduce Sea Turtle Mortality in Fishing Operations and to ensure the safe handling of all captured sea turtles, in order to improve their survival.</p>	<p>Indonesia must implement FAO Guidelines to Reduce Sea Turtle Mortality in Fishing Operations.</p>	<p>Draft Ministerial Regulation on bycatch and ERS</p>
<p>2. Beginning in 2009, CCMs shall report to the Commission in Part 2 of their annual reports the progress of implementation of the FAO Guidelines and this measure, including information collected on interactions with sea turtles in fisheries managed under the Convention.</p>	<p>Indonesia's annual report to the Commission must include the progress of implementation of the FAO Guidelines and this measure, including information collected on interactions with sea turtles in fisheries managed under the Convention.</p>	
<p>3. All data collected by the WCPFC Regional Observer Program (ROP), shall be reported to the Commission as provided in paragraph 2 above or as agreed to under other Commission data collection provisions.</p>		
<p>4. CCMs shall require fishermen on vessels targeting species</p>	<p>Indonesia must require fishermen on vessels targeting</p>	

<p>covered by the Convention to bring aboard, if practicable, any captured hard-shell sea turtle that is comatose or inactive as soon as possible and foster its recovery, including giving it resuscitation, before returning it to the water. CCMs shall ensure that fishermen are aware of and use proper mitigation and handling techniques, as described in WCPFC guidelines to be developed and provided to all CCMs by the Secretariat.</p>	<p>species covered by the Convention to bring aboard, if practicable, any captured hard-shell sea turtle that is comatose or inactive as soon as possible and foster its recovery, including giving it resuscitation, before returning it to the water.  Indonesia must ensure their fishermen are aware of and use proper mitigation and handling techniques.</p>	
<p>5. CCMs with purse seine vessels that fish for species covered by the Convention shall: a. Ensure that operators of such vessels, while fishing in the Convention Area: i. To the extent practicable, avoid encirclement of sea turtles, and if a sea turtle is encircled or entangled, take practicable measures to safely release the turtle. ii. To the extent practicable, release all sea turtles observed entangled in fish aggregating devices (FADs) or other fishing gear. iii. If a sea turtle is entangled in the net, stop net roll as soon as the turtle comes out of the water; disentangle the turtle without injuring it before resuming the net roll; and to the extent practicable, assist the recovery of the turtle before returning it to the water. iv. Carry and employ dip nets, when appropriate, to handle turtles. b. Require that operators of such vessels record all incidents involving sea turtles during fishing operations and report such incidents to the appropriate authorities of the CCM. c. Provide the results of the reporting under paragraph 5(b) to the Commission as part of the reporting requirement of paragraph 2. d. Provide to the Commission the results of any research related to the development of modified FAD designs to reduce sea turtle entanglement and take measures to encourage the use of designs found to be successful at such reduction.</p>	<p>Indonesia (if they have purse seine vessels) must: e. Ensure that operators of such vessels, while fishing in the Convention Area: v. To the extent practicable, avoid encirclement of sea turtles, and if a sea turtle is encircled or entangled, take practicable measures to safely release the turtle. vi. To the extent practicable, release all sea turtles observed entangled in fish aggregating devices (FADs) or other fishing gear. vii. If a sea turtle is entangled in the net, stop net roll as soon as the turtle comes out of the water; disentangle the turtle without injuring it before resuming the net roll; and to the extent practicable, assist the recovery of the turtle before returning it to the water. viii. Carry and employ dip nets, when appropriate, to handle turtles. f. Require that operators of such vessels record all incidents involving sea turtles during fishing operations and report such incidents to the appropriate authorities of the CCM. g. Provide the results of the reporting under paragraph 5(b) to the Commission as part of the reporting requirement of paragraph 2. h. Provide to the Commission the results of any research related to the development of modified FAD designs to reduce sea turtle entanglement and take measures to encourage the use of designs found to be successful at such reduction.</p>	<p>Government Regulation No. 30 / 2008 on Research and Development on Fisheries</p>

<p>6. CCMs with longline vessels that fish for species covered by the Convention shall ensure that the operators of all such longline vessels carry and use line cutters and de-hookers to handle and promptly release sea turtles caught or entangled, and that they do so in accordance with WCPFC guidelines that are to be developed and provided to all CCMs by the Secretariat. CCMs shall also ensure that operators of such vessels are, where appropriate, required to carry and use dip-nets in accordance with these WCPFC guidelines.</p>	<p>Indonesia (if they use longline vessels) must ensure that the operators of all such longline vessels carry and use line cutters and de-hookers to handle and promptly release sea turtles caught or entangled.</p> <p>Indonesia must also ensure that operators of such vessels are, where appropriate, required to carry and use dip-nets.</p>	
<p>7. Starting on 1 January 2010, CCMs with longline vessels that fish for swordfish in a shallowest manner shall:</p> <p>a. Ensure that the operators of such vessels, while in the Convention Area, are required to employ or implement at least one of the following three methods to mitigate the capture of sea turtles:</p> <p>i. Use only large circle hooks, which are fishing hooks that are generally circular or oval in shape and originally designed and manufactured so that the point is turned perpendicularly back to the shank. These hooks shall have an offset not to exceed 10 degrees.</p> <p>ii. Use only whole finfish for bait.</p> <p>iii. Use any other measure, mitigation plan<sup>2</sup> or activity that has been reviewed by the Scientific Committee (SC) and the Technical and Compliance Committee (TCC) and approved by the Commission to be capable of reducing the interaction rate (observed numbers per hooks fished) of turtles in swordfish shallow-set longline fisheries.</p> <p>b. The requirements of paragraph 7(a) need not be applied to those shallow-set swordfish longline fisheries determined by the SC, based on information provided by the relevant CCM, to have minimal<sup>3</sup> observed interaction rates of sea turtles over a three-year period and a level of observer coverage of at least 10% during each of those three years.</p> <p>c. For the purpose of implementing this paragraph (7), establish and enforce their own operational definitions of shallow-set swordfish longline fisheries, large circle hooks, and any measures under 7(a)(iii) or adopted by the Commission under paragraph 12, ensuring that they are as enforceable as possible, and report these definitions to the Commission in Part 2 of their annual reports.</p>	<p>(applied if Indonesia fishes for swordfish using longline vessels) :</p> <p>f. Ensure that the operators of such vessels, while in the Convention Area, are required to employ or implement at least one of the following three methods to mitigate the capture of sea turtles:</p> <p>i. Use only large circle hooks, which are fishing hooks that are generally circular or oval in shape and originally designed and manufactured so that the point is turned perpendicularly back to the shank. These hooks shall have an offset not to exceed 10 degrees.</p> <p>ii. Use only whole finfish for bait.</p> <p>iii. Use any other measure, mitigation plan<sup>2</sup> or activity that has been reviewed by the Scientific Committee (SC) and the Technical and Compliance Committee (TCC) and approved by the Commission to be capable of reducing the interaction rate (observed numbers per hooks fished) of turtles in swordfish shallow-set longline fisheries.</p> <p>g. The requirements of paragraph 7(a) need not be applied to those shallow-set swordfish longline fisheries determined by the SC, based on information provided by the relevant CCM, to have minimal<sup>3</sup> observed interaction rates of sea turtles over a three-year period and a level of observer coverage of at least 10% during each of those three years.</p> <p>h. For the purpose of implementing this paragraph (7), establish and enforce their own operational definitions of shallow-set swordfish longline fisheries, large circle hooks, and any measures</p>	

<p>d. Provide for their longline vessels to record all incidents involving sea turtles during fishing operations and report such incidents to the appropriate authorities of the CCM.</p> <p>e. Provide the results of the reporting under paragraph 7(d) to the Commission as part of the reporting requirement of paragraph 2.</p>	<p>under 7(a)(iii) or adopted by the Commission under paragraph 12, ensuring that they are as enforceable as possible, and report these definitions to the Commission in Part 2 of their annual reports.</p> <p>i. Provide for their longline vessels to record all incidents involving sea turtles during fishing operations and report such incidents to the appropriate authorities of the CCM.</p> <p>j. Provide the results of the reporting under paragraph 7(d) to the Commission as part of the reporting requirement of paragraph 2.</p>	
<p>8. CCMs with longline fisheries other than shallow-set swordfish fisheries are urged to:</p> <p>a. Undertake research trials of circle hooks and other mitigation methods in those longline fisheries.</p> <p>b. Report the results of these trials to the SC and TCC, at least 60 days in advance of the annual meetings of these subsidiary bodies.</p>	<p>Indonesia (if using longline fisheries) other than shallow set swordfish fisheries are urged to:</p> <p>a. Undertake research trials of circle hooks and other mitigation methods in those longline fisheries.</p> <p>b. Report the results of these trials to the SC and TCC, at least 60 days in advance of the annual meetings of these subsidiary bodies.</p>	<p>Government Regulation No. 30 / 2008 on Research and Development on Fisheries</p>
<p>9. The SC and TCC will annually review the information reported by CCMs pursuant to this measure. Where necessary an updated suite of mitigation measures, specifications for mitigation measures, or recommendations for their application will be developed by these committees and provided to the Commission for its consideration and review.</p>	<p>-</p>	
<p>10. This measure authorizes the Secretariat to obligate resources available to the Special Requirements Fund to be used to assist developing State Members and Territories in implementing the FAO Guidelines to Reduce Sea Turtle Mortality. These funds can be used to train and encourage fishers to adopt appropriate methods and technologies to reduce interactions with sea turtles and to mitigate their adverse effects.</p>	<p>-</p>	
<p>11. The Commission urges CCMs to contribute to the Special Requirements Fund to support eligible members in their efforts to implement this measure, or to provide such support through bilateral arrangements.</p>	<p>-</p>	
<p>12. The Commission will regularly consider additional or new mitigation measures for other longline and purse seine fisheries,</p>	<p>-</p>	

based on advice from the SC and TCC and on information provided by CCMs pursuant to this measure.		
13. The Secretariat, in coordination with interested CCMs, shall develop guidelines for the handling of sea turtles and distribute them to CCMs no later than June 30, 2009.	-	
14. Nothing in this measure shall prejudice the sovereignty and sovereign rights of coastal States, including for traditional fishing activities and the rights of traditional artisanal fishers, to apply alternative measures for the purpose of exploring, exploiting, conserving and managing sea turtles, including any national plans of action for the conservation and management of sea turtles, within areas under their national jurisdiction.	-	

**Analysis on Conservation and Management Measure to Mitigate the Impact of Fishing for Highly Migratory Fish Stocks on Seabirds (2007-04)**

Major Principles	Implications to Indonesia	
<p>Resolve</p> <p>1. Commission Members, Cooperating Non-members and participating Territories (CCMs) shall, to the extent possible, implement the International Plan of Action for Reducing Incidental Catches of Seabirds in Longline Fisheries (IPOA-Seabirds) if they have not already done so.</p> <p>2. CCMs shall report to the Commission on their implementation of the IPOA-Seabirds, including, as appropriate, the status of their National Plans of Action for Reducing Incidental Catches of Seabirds in Longline Fisheries.</p>		Draft Ministerial Regulation on bycatch and ERS
<p>Action</p> <p>1. CCMs shall require their longline vessels to use at least two of the mitigation measures in Table 1, including at least one from Column A in areas south of 30 degrees South and north of 23 degrees North.</p>	Indonesia must require their longline vessels to use at least two of the mitigation measures in Table 1, including at least one from Column A in areas south of 30 degrees South and north of 23 degrees North.	
<p>2. In other areas, where necessary, CCMs are encouraged to employ one or more of the seabird mitigation measures listed in Table 1.</p>	In other areas, Indonesia is encouraged to employ one or more of the seabird mitigation measures listed in this table.	



	Column A	Column B	
	Side setting with a bird curtain and weighted branch lines	Tori line	
	Night setting with minimum deck lighting Weighted branch lines	Weighted branch lines	
	Tori line	Deep setting line shooter	
	Weighted branch lines	Blue-dyed bait	
		Underwater setting chute	
		Management of offal discharge	
	<b>Table1</b>		
<p>4. For research and reporting purposes, each CCM with longline vessels that fish in the Convention Area south of 30°S or north of 23°N shall submit to the Commission in part 2 of its annual report for 2007 (due in 2008) information describing which of the mitigation measures in Table 1 they require or will require their vessels to use, as well as the technical specifications for each of those mitigation measures. Each such CCM shall also include in its annual reports for subsequent years any changes it has made to its required mitigation measures or technical specifications for those measures.</p>	<p>Indonesian longline vessel vessels that fish in the Convention Area south of 30°S or north of 23°N shall submit to the Commission in part 2 of its annual report for 2007 (due in 2008) information describing which of the mitigation measures in Table 1 they require or will require their vessels to use, as well as the technical specifications for each of those mitigation measures. This is used as a research and reporting purposes.</p>		
<p>5. CCMs are encouraged to undertake research to further develop and refine measures to mitigate seabird bycatch including mitigation measures for use during the hauling process and should submit to the Secretariat for the use by the SC and the TCC any information derived from such efforts. Research should be undertaken in the fisheries and areas to which the measure will be used.</p>	<p>Indonesia is expected to undertake research to further develop and refine measures to mitigate seabird bycatch including mitigation measures for use during the hauling process and should submit to the Secretariat for the use by the SC and the TCC any information derived from such efforts. Research should be undertaken in the fisheries and areas to which the measure will be used</p>		<p>Government Regulation No. 30 / 2008 on Research and Development on Fisheries</p>
<p>6. The SC and TCC will annually review any new information on new or existing mitigation measures or on seabird interactions from observer or other monitoring programmes. Where necessary, an updated suite of mitigation measures, specifications for mitigation measures, or recommendations for areas of application will then be provided to the Commission for its consideration and review as appropriate.</p>			
<p>7. CCMs are encouraged to adopt measures aimed at ensuring that seabirds captured alive during longlining are released alive and in as good condition as possible</p>	<p>Indonesia is encouraged to adopt measures aimed at ensuring that seabirds captured alive during longlining are released alive and in as good condition as possible and that wherever possible hooks are removed without jeopardizing the</p>		

<p>and that wherever possible hooks are removed without jeopardizing the life of the seabird concerned.</p>	<p>life of the seabird concerned.</p>	
<p>8. The intersessional working group for the regional observer programme (IWG-ROP) will take into account the need to obtain detailed information on seabird interactions to allow analysis of the effects of fisheries on seabirds and evaluation of the effectiveness of by-catch mitigation measures.</p>		
<p>9. CCMs shall annually provide to the Commission, in part 1 of their annual reports, all available information on interactions with seabirds, including bycatches and details of species, to enable the Scientific Committee to estimate seabird mortality in all fisheries to which the WCPF Convention applies.</p>	<p>Indonesia must annually provide the Commission all available information on interactions with seabirds, including bycatches and details of species, to enable the Scientific Committee to estimate seabird mortality in all fisheries to which the WCPF Convention applies.</p>	
<p>10. Paragraph 1 of this Conservation and Management Measure shall be implemented by CCMs in the following manner:  - In areas south of 30 degrees South, no later than 1 January 2008 in relation to large-scale longline vessels of 24 meters or more in overall length, and no later than 31 January 2009 in relation to smaller longline vessels of less than 24 meters in overall length.  - In areas north of 23 degrees North, and in relation to large-scale longline vessels of 24 meters or more in overall length, no later than 30 June 2008.</p>	<p>This manner must be noted by Indonesia</p>	
<p>11. CCMs shall as of 1 January 2007 initiate a process to ensure that vessels flying their flag will be able to comply with the provisions of para 1 within the deadlines referred to in para 10.</p>	<p>Indonesia must initiate a process to ensure that vessels flying their flag will be able to comply with the provisions of para 1 within the deadlines referred to in para 10.</p>	
<p>12. This Conservation and Management measure replaces Resolution 2005-01, which is hereby repealed.</p>		

**Analysis on Conservation And Management Measure For Bigeye And Yellowfin Tuna In The Western And Central Pacific Ocean (2008-01)**

Major Principles	Implications to Indonesia	
8. The purse seine fishery provisions of this Measure herein apply to the Convention Area bounded by 20°N and 20°S with the objective of achieving over a 3-year period commencing from the date this measure comes into effect in 2009, a 30% reduction in fishing mortality on bigeye tuna in the purse seine fishery in that area and a reduction in the risk of overfishing yellowfin tuna.	-	
9. CCMs shall ensure that the effectiveness of these measures for the purse seine fishery are not undermined by a transfer of effort in days fished into areas within the Convention Area south of 20°S. In order to not undermine the effectiveness of these measures, CCMs shall not transfer fishing effort in days fished in the purse seine fishery to areas within the Convention Area north of 20°N.	Indonesia must ensure that the effectiveness of these measures for the purse seine fishery are not undermined by a transfer of effort in days fished into areas within the Convention Area south of 20°S.	Ministerial regulation No. 14/2011 and Ministerial regulation No. 49/2011
10. CCMs shall take necessary measures to ensure that the level of purse seine fishing effort in days fished by their vessels in areas of the high seas does not exceed 2004 levels or the average of 2001-2004. In accordance with paragraph 6 this Measure, this paragraph shall not apply to small developing state members and participating territories.	Indonesia must take necessary measures to ensure that the level of purse seine fishing effort in days fished by their vessels in areas of the high seas does not exceed 2004 levels or the average of 2001-2004.	Ministerial regulation No. 14/2011 and Ministerial regulation No. 49/2011
12. Other non-PNA CCMs shall implement compatible measures to reduce purse seine fishing mortality on bigeye tuna in their EEZs.	Indonesia must implement compatible measures to reduce purse seine fishing mortality on bigeye tuna in their EEZs	Ministerial regulation No 30/2004 on FAD
13. The purse seine fishery on the high seas in the area bounded by 20°N and 20°S shall be closed to fishing on FADs between 0000 hours on 1 August and 2400 hours on 30 September. During this period all purse seine vessels without an observer from the Regional Observer Program on board will cease fishing and return directly to port. During this period, a vessel may only engage in fishing operations if the vessel carries on board an observer from the Regional Observer Program to monitor that at no time does the vessel deploy or service any FAD or associated electronic devices or fish on schools in association with FADs.	Indonesia ensure that their vessels comply with these rules on restriction of fishing on FADs.	Ministerial regulation No 30/2004 on FAD
14. Vessels seeking an observer from the Regional Observer Program for the period of the closures identified in paragraphs 12 and 13 above shall notify the Regional Observer Program Coordinator 21 days in advance. If the lack of an available observer from the Regional Observer Program would prevent a vessel from being able to fish during the period in question, the flag State may place an observer from its national program on the vessel to monitor compliance with these measures with approval from the Regional Observer Program Coordinator and, in respect to fishing in EEZs, the approval of the relevant national authority.	Indonesia, in seeking an observer pursuant to paragraph 12 and 13 must notify the ROP Coordinator 21 days in advance. Indonesia must ensure the effectiveness of ROP regulations.	Draft Ministerial Regulation on observer
15. As an alternative to the high seas FAD closure established pursuant to	Indonesia may adopt measures to reduce their	Ministerial regulation No.

<p>paragraph 13, Members may adopt measures to reduce their catch by weight of bigeye tuna in the purse seine fishery in the area between 20°N and 20°S by a minimum of 10 percent relative to 2001-2004 average levels through a Member-specific catch limit to achieve this goal. This alternative shall only be available to Members identified by the Commission in advance as having demonstrated a functioning capacity to implement such measures in an effective and transparent manner, including through: an established and functioning port monitoring program that allows monitoring of bigeye landings for each trip by each vessel; a commitment to carry on board observers from the Regional Observer Program, including upon return to port so that the observer can view the port monitoring program for each trip; a commitment to provide data for each trip by each vessel to the Commission within 30 days from the completion of the trip; having provided operational catch and effort data at least for the period 2001 to 2004 to substantiate the base level catch and effort; other such conditions as the Commission may determine. Any such program will be open to audit by the Commission to review the effectiveness of the program.</p>	<p>catch by weight of bigeye tuna in the purse seine fishery in the area between 20°N and 20°S by a minimum of 10 percent relative to 2001-2004 average levels through a Member-specific catch limit to achieve this goal.</p> <p>To be able to do this, Indonesia must demonstrate a functioning capacity to implement such measures in an effective and transparent manner, inter alia, an established and functioning port monitoring program that allows monitoring of bigeye landings for each trip by each vessel; a commitment to carry on board observers from the Regional Observer Program, and other such conditions as the Commission may determine.</p>	<p>14/2011 and Ministerial regulation No. 49/2011</p>
<p>16. Once identified by the Commission as having met the requirements outlined above, the Members in question shall submit the full details of their intended measures and their port-monitoring program to the Commission by 31 January 2009. The Commission will review these submissions and take them into account when assessing the effectiveness of the measures.</p>	<p>After Indonesia is considered to have met the requirements above, it must submit the full details of their intended measures and their port-monitoring program to the Commission.</p>	<p>Ministerial regulation No. 14/2011 and Ministerial regulation No. 49/2011</p>
<p>23. By 1 July 2009, CCMs fishing on the high seas shall submit to the Commission Management Plans for the use of FADs by their vessels on the high seas. These Plans shall include strategies to limit the capture of small bigeye and yellowfin tuna associated with fishing on FADs, including implementation of the FAD closure pursuant to paragraphs 13 and 19 above. The Plans shall at a minimum meet the Suggested Guidelines for Preparation for FAD Management Plans for each CCM (Attachment E).</p>	<p>Indonesia must submit to the Commission Management Plans for the use of FADs by their vessels on the high seas.</p>	<p>Draft Ministerial regulation FAD</p>
<p>26. CCMs, working independently or collaboratively with industry, and reporting through the Scientific Committee and the Technical and Compliance Committee at each regular session, shall explore and evaluate mitigation measures for juvenile bigeye and yellowfin taken around FADs and present the results annually to the Commission.</p>	<p>Indonesia must explore and evaluate mitigation measures for juvenile bigeye and yellowfin taken around FADs and present the results annually to the Commission.</p>	<p>Draft Ministerial regulation FAD</p>
<p>27. In order to create a disincentive to the capture of small fish and to encourage the development of technologies and fishing strategies designed to avoid the capture of small bigeye and yellowfin tuna, CCMs shall require their purse seine vessels fishing in EEZs and on the high seas</p>	<p>Indonesia must require their purse seine vessels fishing in EEZs and on the high seas within the area bounded by 20°N and 20°S from 1 January 2010, subject to the Commission implementing</p>	<p>Government Regulation no. 70 year 1996 on Ports (General regulation on port activities)</p>

<p>within the area bounded by 20°N and 20°S from 1 January 2010, subject to the Commission implementing the program in Paragraph 28 for 100 percent coverage on purse seine vessels by the observers from the Regional Observer Program, to retain on board and then land or transship at port all bigeye, skipjack and yellowfin tuna. The provisions of this paragraph, shall not prevent the PNA from implementing the catch retention requirement in their EEZs in accordance with the Third Implementing Agreement. The only exceptions shall be:</p> <p>a) when, in the final set of a trip, there is insufficient well space to accommodate all fish caught in that set noting that excess fish taken in the last set may be transferred to and retained on board another purse seine vessel provided this is not prohibited under applicable national law; or</p> <p>b) when the fish are unfit for human consumption for reasons other than size; or</p> <p>c) when serious malfunction of equipment occurs.</p>	<p>the program in Paragraph 28 for 100 percent coverage on purse seine vessels by the observers from the Regional Observer Program, to retain on board and then land or transship at port all bigeye, skipjack and yellowfin tuna.</p>	<p>Government Regulation no. 61 year 2009 on Port Activities (<i>Kepelabuhan</i>) Article 37 (Stating that the basic function of ports are to control fisheries activities)</p> <p>Draft Ministerial Regulation on observer</p> <p>Director General Circular on closure of territory</p>
<p>31. The total catch of bigeye tuna by longline fishing gear will be subject to a phased reduction such that by 1 January 2012 the longline catch of bigeye tuna is 70% of the average annual catch in 2001-2004 or 2004. The catch of yellowfin tuna is not to be increased in the longline fishery from the 2001-2004 levels.</p>	<p>-</p>	
<p>32. Paragraph 31 does not apply to members and participating territories that caught less than 2,000 tonnes in 2004. Each member that caught less than 2,000 tonnes of bigeye in 2004 shall ensure that their catch does not exceed 2,000 tonnes in each of the next 3 years (2009, 2010 and 2011). Consistent with paragraph 3 opportunities for non members will be decided by the Commission on a case-by-case basis.</p>	<p>-</p>	
<p>33. Each member or cooperating non-Member that caught an average of more than 2,000 tonnes of bigeye shall be subject to the following catch limits for bigeye tuna for the years 2009 to 2011 inclusive:</p> <p>2009: 10% reduction of the catch;</p> <p>2010: 20% reduction of the catch;</p> <p>2011: 30% reduction of the catch.</p>	<p>-</p>	
<p>39. Beginning in 2009, CCMs shall take necessary measures to ensure that the total capacity of their respective other commercial tuna fisheries for bigeye and yellowfin tuna, including purse seining that occurs north of 20°N or south of 20°S, but excluding artisanal fisheries and those fisheries taking less than 2,000 tonnes of bigeye and yellowfin, shall not exceed the average level for the period 2001-2004 or 2004. CCMs shall provide the SC with estimates of fishing effort for these other fisheries or proposals for</p>	<p>Indonesia must take necessary measures to ensure that the total capacity of their respective other commercial tuna fisheries for bigeye and yellowfin tuna, including purse seining that occurs north of 20°N or south of 20°S does not exceed the average level for the period 2001-2004 or 2004.</p>	

<p>the provision of effort data for these fisheries for 2009 and future years.</p>	<p>Indonesia must provide estimates of fishing effort for those fisheries.</p>	
<p>40. CCMs shall provide within the agreed timeframes each year, catch and effort data and size composition data for all fleets in the format required by the rules and requirements adopted by WCPFC as “Scientific Data to be Provided to the Commission”.</p>	<p>Indonesia must provide within the agreed timeframes each year, catch and effort data and size composition data for all fleets in the format required by the rules and requirements adopted by WCPFC as “Scientific Data to be Provided to the Commission”</p>	
<p>42. Each CCM shall prohibit landings, transshipment and commercial transactions in tuna and tuna products that are positively identified as originating from fishing activities that contravene any element of the Commission’s CMMs.</p>	<p>Indonesia must ensure that there are regulations to prohibit landings, transshipment and commercial transactions in tuna and tuna products that are positively identified as originating from fishing activities that contravene any element of the Commission’s CMMs.</p>	<p>Ministerial regulation No. 12/2012 fishing</p>
<p>43. Monitoring shall be conducted at landing and transshipping ports to assess the amount of catch by species. The outcomes shall be reported annually to the Commission.</p>	<p>-</p>	<p>Government Regulation no. 70 year 1996 on Ports  Government Regulation no. 61 year 2009 on Port Activities (<i>Kepelabuhan</i>)</p>
<p>45. All CCMs will report to each regular session of the Technical and Compliance Committee, through their Annual Report Part 2, on the implementation of this Measure for their fishing vessels operating on the high seas and/or in waters under national jurisdiction. The Technical and Compliance Committee will prepare a template for reporting this requirement for the consideration of the Commission.</p>	<p>Indonesia must prepare reports to each regular session of the Technical and Compliance Committee, through their Annual Report Part 2, on the implementation of this Measure for their fishing vessels operating on the high seas and/or in waters under national jurisdiction.</p>	

**Analysis on the Conservation And Management Measure On The Application Of High Seas FAD Closures And Catch Retention (2009-02)**

Major Principles	Implications to Indonesia	
<p>1. The objectives of this Measure are: a. to ensure consistent and robust application of FAD closures and catch retention in the high seas between 20<sup>0</sup>S and 20<sup>0</sup>N through the specification of minimum standards.</p> <p>b. to apply high standards to the application of the FAD closure and catch retention in order to remove any possibility for the targeting of aggregated fish, or the discard of small fish.</p>	-	<p>Ministerial regulation No. 30/2004</p> <p>Draft Ministerial regulation on FAD</p>
<p>2. Each CCM shall take the necessary measures to ensure that purse seine vessels flying its flag on the high seas comply with these rules in the application of the provisions of CMM 2008-01 relating to a FAD closure and catch retention.</p>	<p>Indonesia must take necessary measures to ensure that purse seine vessels flying its flag on the high seas comply with these rules in the application of the provisions of CMM 2008-01 relating to a FAD closure and catch retention.</p>	
<p>3. The definition of a FAD in footnote 1 to CMM 2008-01 shall be interpreted as including:  <i>“any object or group of objects, of any size, that has or has not been deployed, that is living or non-living, including but not limited to buoys, floats, netting, webbing, plastics, bamboo, logs and whale sharks floating on or near the surface of the water that fish may associate with”</i></p>		
<p>4. During the FAD closure period specified in CMM 2008-01, no purse seine vessel shall conduct any part of a set within one nautical mile of a FAD. That is, at no time may the vessel or any of its fishing gear or tenders be located within one nautical mile of a FAD while a set is being conducted.</p>	<p>Indonesia must ensure that no purse seine vessel be located within one nautical mile of a FAD during FAD closures.</p>	
<p>5. The operator of a vessel shall not allow the vessel to be used to aggregate fish, or to move aggregated fish including using underwater lights and chumming.</p>	<p>Indonesia must ensure that their vessels is not used for fishing aggregate fishes.</p>	
<p>6. A FAD and/or associated electronic equipment shall not be retrieved by a vessel during the period of a FAD closure unless:</p> <p>a. the FAD and/or associated electronic equipment are retrieved and kept on board the vessel until landed or until the end of the closure; and</p> <p>b. the vessel does not conduct any set either for a period of seven (7) days after retrieval or within a fifty (50) mile radius of the point of retrieval of any FAD.</p>		
<p>7. In addition to paragraph 6, vessels shall not be used to operate in cooperation with each other in order to catch aggregated fish. No vessel shall conduct any set during the prohibition period within one nautical mile</p>	<p>Indonesia must ensure that vessels shall not be used to operate in cooperation with each other in order to catch aggregated fish. No vessel shall</p>	

<p>of a point where a FAD has been retrieved by another vessel within twenty four (24) hours immediately preceding the set.</p>	<p>conduct any set during the prohibition period within one nautical mile of a point where a FAD has been retrieved by another vessel within twenty four (24) hours immediately preceding the set.</p>	
<p>8. Where the operator of a vessel determines that fish should not be retained on board for reasons related to the size, marketability, or species composition, the fish shall only be released before the net is fully pursed and one half of the net has been retrieved.</p>	<p>Indonesia must apply this measure to all Indonesian vessels.</p>	
<p>9. Where the operator of a vessel determines that fish should not be retained on board because they are “unfit for human consumption”, the following definitions shall be applied:</p> <p>a. “unfit for human consumption” includes, but is not limited to fish that:</p> <ul style="list-style-type: none"> <li>i. is meshed or crushed in the purse seine net; or</li> <li>ii. is damaged due to shark or whale depredation; or</li> <li>iii. has died and spoiled in the net where a gear failure has prevented both the normal retrieval of the net and catch and efforts to release the fish alive; and</li> </ul> <p>b. “unfit for human consumption” does not include fish that:</p> <ul style="list-style-type: none"> <li>i. is considered undesirable in terms of size, marketability, or species composition; or</li> <li>ii. is spoiled or contaminated as the result of an act or omission of the crew of the fishing vessel.</li> </ul>	<p>Indonesia must refer to this standards when making such measures to Indonesian vessels</p>	
<p>10. Where the operator of a vessel determines that fish should not be retained on board because it was caught during the final set of a trip when there is insufficient well space to accommodate all fish caught in that set, the fish may only be discarded if:</p> <ul style="list-style-type: none"> <li>a. the vessel master and crew attempt to release the fish alive as soon as possible;</li> <li>b. no further fishing is undertaken after the discard until the fish on board the vessel has been landed or transhipped.</li> </ul>		
<p>11. Fish shall not be discarded from the vessel until after an observer has estimated the species composition of the fish to be discarded.</p>		
<p>12. The operator of the vessel shall submit to the Executive Director a report that includes the following information within forty-eight 48 hours after any discard:</p> <ul style="list-style-type: none"> <li>a. Name, flag and WCPFC Identification Number of the vessel;</li> <li>b. Name and nationality of master;</li> <li>c. Licence number;</li> <li>d. Name of observer on board;</li> </ul>	<p>Indonesia must assist the operator of the vessel to submit the report after any discard. Regulations must be made to note this.</p>	



<p>e. Date, time and location (latitude/longitude) that discarding occurred;</p> <p>f. Date, time, location (latitude/longitude) and type (drifting FAD, anchored FAD, free school etc) of the shot;</p> <p>g. Reason that fish were discarded (including statement of retrieval status if fish were discarded in accordance with paragraph 6);</p> <p>h. Estimated tonnage and species composition of discarded fish;</p> <p>i. Estimated tonnage and species composition of retained fish from that set;</p> <p>j. If fish were discarded in accordance with paragraph 10, a statement that no further fishing will be undertaken until the catch on board has been unloaded; and</p> <p>k. Any other information deemed relevant by the vessel master.</p> <p>13. The operator of the vessel shall also provide a hard copy of the information described in para 12 to the WCPFC Observer on board.</p>		
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Notes

- Fisheries law (Law No 31/2004 and its amendment) guarantees the secrecy of logbooks that are kept in ports. However the WCPFC regulations demands information on the Indonesia's fishing activities. The law might disrupt the process of information transfer according to the FAO rules and WCPFC rules. Openness of information to the WCPFC needs to be adjusted.
- There is still a lack of regulation on observers of the WCPFC on board of Indonesia's Fishing Vessels. A new regulation on this, and amendments on present laws still needs to be made.
- The Fisheries law (Law No 31/2004 and its amendment) lacks peaceful dispute settlement clause, while the FAO rules requested that disputes be firstly reconciled peacefully. Though in nature it would have been a general principle for Indonesia to reach peaceful dispute settlement, adding clauses to the prevailing laws would be better.