

# New Bold Steps

Island States in the Pacific have taken bold steps in transboundary fisheries management that may be of interest to developing countries in other regions

**R**egional Tuna Fisheries Management Organizations (T-RFMOs) have long been dominated by distant-water fishing interests. The flag States with the broadest geographical spread—with vessels operating in several oceans—tend to have the loudest voices.

Coastal States—the countries whose waters are within, or adjacent, to the range of a particular tuna stock—are usually developing countries, and, in the Indian and Pacific Oceans, are often small-island developing countries. As T-RFMO members, they are usually less vocal,

countries, it is not just a matter of a few distant-water vessel-owning companies being affected by T-RFMO management processes, but entire economies.

Tuna are highly migratory fish. It is not enough for a small-island country to responsibly regulate fishing within its own waters in order to secure the future mainstay of its economy. It also has to worry about what happens to the stock in adjacent waters. And when those adjacent waters are high seas, the coastal State is entirely at the mercy of collective decisions made (or not made) by T-RFMO members.

The Pacific Islands entered the T-RFMO scene late. Before the United Nations Fish Stocks Agreement came into force, tuna fisheries in Pacific Island exclusive economic zones (EEZs) were managed under a set of common regional standards and agreements developed by the coastal States of the region. Through mechanisms such as the Forum Fisheries Agency (FFA), the Nauru Agreement, and the Palau Arrangement, they had already developed a strong basis for conservation-oriented regional co-operation in tuna fishery management well before the Western and Central Pacific (Highly Migratory Fish Stocks) Commission (WCPFC) was established.

## Unmanaged fishery

The establishment of the WCPFC was encouraged by Pacific Island States not as a means of bringing control to an unmanaged fishery, but to bring the high seas adjacent to

have fewer resources for monitoring foreign fisheries, and have fewer scientific services to provide answers to their questions. Traditionally, they have been less effective in the T-RFMO decision-making process.

Although it has been difficult for developing coastal States to gain an effective voice in regional tuna management processes, it is precisely these countries that are likely to be most affected by the decisions (or lack of decisions) made by T-RFMOs. These are the countries in whose waters, or adjacent waters, the fish live in and move through, and they are also countries where tuna fisheries can play a large role in national development. For these

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their already jointly managed EEZs under the rule of law—to add the final geographical piece to the regional tuna management jigsaw puzzle.

But since the WCPFC opened its doors, certain flag States seem to have found it difficult to come to terms with the Pacific Island coastal State attitude. Apparently, it was expected that the WCPFC would work the same way as the longer-established T-RFMOs—where the majority decision of RFMO members determines allocations and where established flag fishing States dominate the dialogue. Instead, the WCPFC has been shaped from the start by small island States—working together primarily through the FFA—into an institution that concentrates, first and foremost, on the control of areas which are outside the control of national law, and which does not seek to supplant existing measures applying within coastal State EEZs—particularly regionally agreed measures which take into account regional stock limitations.

Pacific Island countries (and, in some cases, Territories) not only share common tuna fisheries assessment, scientific advisory services, joint observer training, joint vessel monitoring systems, databases and licensing measures (such as agreed Minimum Terms and Conditions for access) amongst themselves, but also work together in their approach to broader fisheries negotiations. With facts and arguments at their fingertips, a well-versed set of Pacific Island national representatives is a powerful and effective voice.

In addition, harmonized EEZ regulation covering a number of coastal States—when those EEZs cover a significant proportion of the range of a stock—can be economically very persuasive when it comes to extending compatible management measures to cover the whole range of the stock.

Decisions in the WCPFC are inherently no easier to make than in other T-RFMOs, particularly when the two-chambered system of decisionmaking is taken into account. The broad diverse membership shares

the natural tendency of all RFMOs to avoid making decisions of major effect. However, Pacific Island States, either acting together through the FFA, or as subgroups with common interests in particular fisheries, such as the Parties to the Nauru Agreement (PNA), have found that subregional co-operation can help to drive decisionmaking by the broader group to a quicker conclusion.

One example of how a stalled WCPFC decision-making process was given a helping hand by coastal State action occurred in 2006-08 when, in response to mounting scientific evidence that overfishing was occurring on bigeye tuna (*Thunnus obesus*), Pacific Island WCPFC members organized themselves through the FFA to seek further restrictions on the catch of bigeye tuna from purse-seine fishing. The FFA members who were party to the Nauru Agreement—the eight countries that host most of the western tropical Pacific (WTP) purse-seine fishery—had already taken considerable steps to limit the fishery within their own waters, including a cap on effort, and stringent reporting requirements, but they felt that these in-zone measures were being undermined by uncontrolled fishing on the high seas. They wanted the

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Tuna longliners, at Lami, Fiji (near Suva, the capital). These vessels are listed on the WCPFC fishing vessel register

## Box 1

**WCPFC two-chamber decision-making structure**

Decisions of the WCPFC are normally made by consensus. However, under Article 6 of the WCPFC Convention (<http://www.wcpfc.int/key-documents/convention-text>), a decision on a question of substance that goes to a vote has to be passed by two subgroups of WCPFC member countries. These two 'chambers' are defined by their membership or their non-membership of the FFA (<http://www.ffa.int/members>). Questions of substance require a 75 per cent majority in both chambers, but questions of procedure can be decided by a simple majority of the entire membership.

WCPFC to fulfil the purpose for which they had agreed that it be set up, and to decide how to control bigeye fishing mortality on the high seas.

Unfortunately, despite the increasing risk of taking no action, the full WCPFC membership was unable to reach a decision on how to control high-seas fishing at its December 2007 meeting. Pacific Island coastal States were disappointed. The FFA members who were party to the Nauru Agreement decided that they could afford to wait no longer and declared two major high-seas enclaves in the WTP entirely closed to purse-seine fishing, from the beginning of 2010.

Of course, this was not a decision that was directly enforceable on vessels—in the absence of WCPFC agreement, there was no relevant international regulatory instrument that could prevent purse-seine vessels fishing on the high seas in the WCPFC Convention Area. Instead, the decision was made effective by the fact that PNA States applied this prohibition on high-seas purse-seine fishing as a licensing measure: not fishing in the high-seas pockets became one of the conditions for access to PNA EEZs. And since the PNA EEZs, between them, cover the majority of the main purse-seine fishing grounds in the Western and Central Pacific, this action carried considerable weight. Without access to PNA EEZs, or to other fishing grounds in the Indian Ocean or Eastern Pacific Ocean, purse-seine fishing in the WCPFC area would, in most cases, be economically impossible.

This decision was finalized by PNA Fisheries Ministers and further endorsed by all FFA Fisheries Ministers at their meetings in Palau in May 2008, and was applied via domestic legislation or as licensing policy by all PNA countries.

At the December 2008 WCPFC meeting, in Busan, it was generally accepted that the high-seas pockets closure to purse-seining was a “done deal”—that the PNA countries were not about to reverse their new joint policy, and that there would be little additional impact if the entire

Commission adopted a compatible measure. In fact, the 2008 WCPFC meeting—the last meeting under the control of its inaugural Chairman—went further than the PNA decision. As well as lending its agreement to the high-seas pockets closure and the other associated PNA measures—100 per cent catch retention, 100 per cent observer coverage, and a three-month annual fish aggregating device (FAD) closure, all effective from January 2010—WCPFC actually brought the FAD measure forward and agreed an additional two-month closure in 2009.

This example of collective domestic action facilitating an international decision—or perhaps this example of how a decision by a smaller group can catalyze a decision by a larger group—was a much-needed “shot in the arm” for Pacific Island country joint involvement in regional fisheries processes. The PNA was strengthened considerably with the establishment of a dedicated co-ordinating office, and many new collaborative initiatives are beginning to emerge from that renewed optimism. Also, joint actions through the established regional facilitators, FFA and the Secretariat of the Pacific Community (SPC), have gathered strength with support from key development partners such as the Australian Agency for International Development (AusAID), the New Zealand Agency for International Development (NZAID) and the European Development Fund.

**Collective action**

Unfortunately, the same kind of preliminary collective action by a subgroup of the WCPFC membership did not have the same impact in 2010, when the PNA proposed that the WCPFC agree on measures compatible with the decision of the PNA heads of government to close further high-seas areas in the central Pacific to purse-seine fishing in 2011, in view of the higher percentage of bigeye observed in catches from those areas. Despite this lack of broader endorsement, the outcome is that most purse-seine vessels will

not be able to fish these additional high-seas areas because they cannot afford to lose access to PNA waters. The WCPFC non-agreement essentially means that a minority of vessels will be effectively exempted from the PNA closure. These include the European Union-built purse-seine vessels that normally operate out of the Eastern Pacific (and which can make a living even if they have no access to PNA waters), and the United States purse-seine fleet, which continues to have access to PNA waters under a long-standing multilateral treaty that overrides any incompatible national regulations. This treaty is currently under review.

The example above is just one of several examples of co-ordinated decisionmaking on transboundary fisheries by groupings of developing States in the insular Pacific. There is no single group of States taking all these actions, but different groups, depending on the context:

- the parties to the Nauru Agreement make specific joint decisions concerning the day-to-day management and development of purse-seine fisheries within their EEZs;
- the members of the FFA collaborate to improve the overall management of tuna fisheries across the whole region;
- the members of the SPC pool their resources—particularly their scientific development assistance resources—in a shared oceanic fisheries assessment and scientific advisory service;
- the countries and territories in the Te Vaka Moana group co-operate in surveillance and monitoring, particularly of longline fisheries; and
- the members of the Pacific Islands Forum co-operate in negotiating fisheries trade agreements.

It will be interesting to see how WCPFC—the first UNFSA-mandated RFMO in a region already well-served by regional fisheries organizations—consolidates its role: whether it will become the ‘one-stop shop’ for tuna fisheries management across the entire region that its developed members

## Box 2

**Scientific advisory services**

Small island developing States tend to be at a disadvantage when it comes to obtaining scientific evidence and interpretative advice in response to specific questions they might ask about the status of resources, or the potential effect of proposed management decisions. By definition, they have limited finances as well as limited human resources. The SPC’s Oceanic Fisheries Programme (OFP) is a resource that is shared between all SPC members (SPC membership includes France, the US, and their territories, as well as the FFA members), and has evolved over the past quarter-century into a comprehensive tuna fisheries stock assessment, ecosystem research, monitoring support and training programme. OFP staff provide scientific services to individual member territories and countries (as a function of the assessed contributions paid by them to the SPC plus special research or scientific development projects funded by external agencies), and to regional groups or subgroups of SPC members, as appropriate.

Since the advent of the WCPFC, the SPC-OFP has also provided scientific services to the Commission membership as a whole, in particular assessments of the status of the highly migratory populations that are mainly fished in the tropical area of the Commission. One of the founding principles of the WCPFC was to avoid wasteful duplication of existing regional fisheries technical functions, and setting up a separate WCPFC unit to repeat the regional stock assessments that SPC had to perform anyway would not have been cost-effective in an organization that is continually looking to trim its budget.

would obviously prefer; or whether it concentrates its attention on achieving overall agreement on total stock status indicators and limits, and on implementing explicit management measures and allocations for high-seas fisheries while leaving it up to coastal States to manage fisheries and allocations in EEZ waters within agreed overall regional envelopes. 3

**For more**

[www.ffa.int](http://www.ffa.int)

**Forum Fisheries Agency**

[www.wcpfc.int/key-documents/  
convention-text](http://www.wcpfc.int/key-documents/convention-text)

**WCPFC Convention**

[www.spc.int/en/](http://www.spc.int/en/)

**Secretariat of the Pacific Community**