

Institutional Framework for Tuna Management in the Western Central Pacific: Achievements and Constraints

Un cadre institutionnel pour la gestion
des pêcheries thonières dans
l'océan Pacifique ouest et central

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■ Introduction

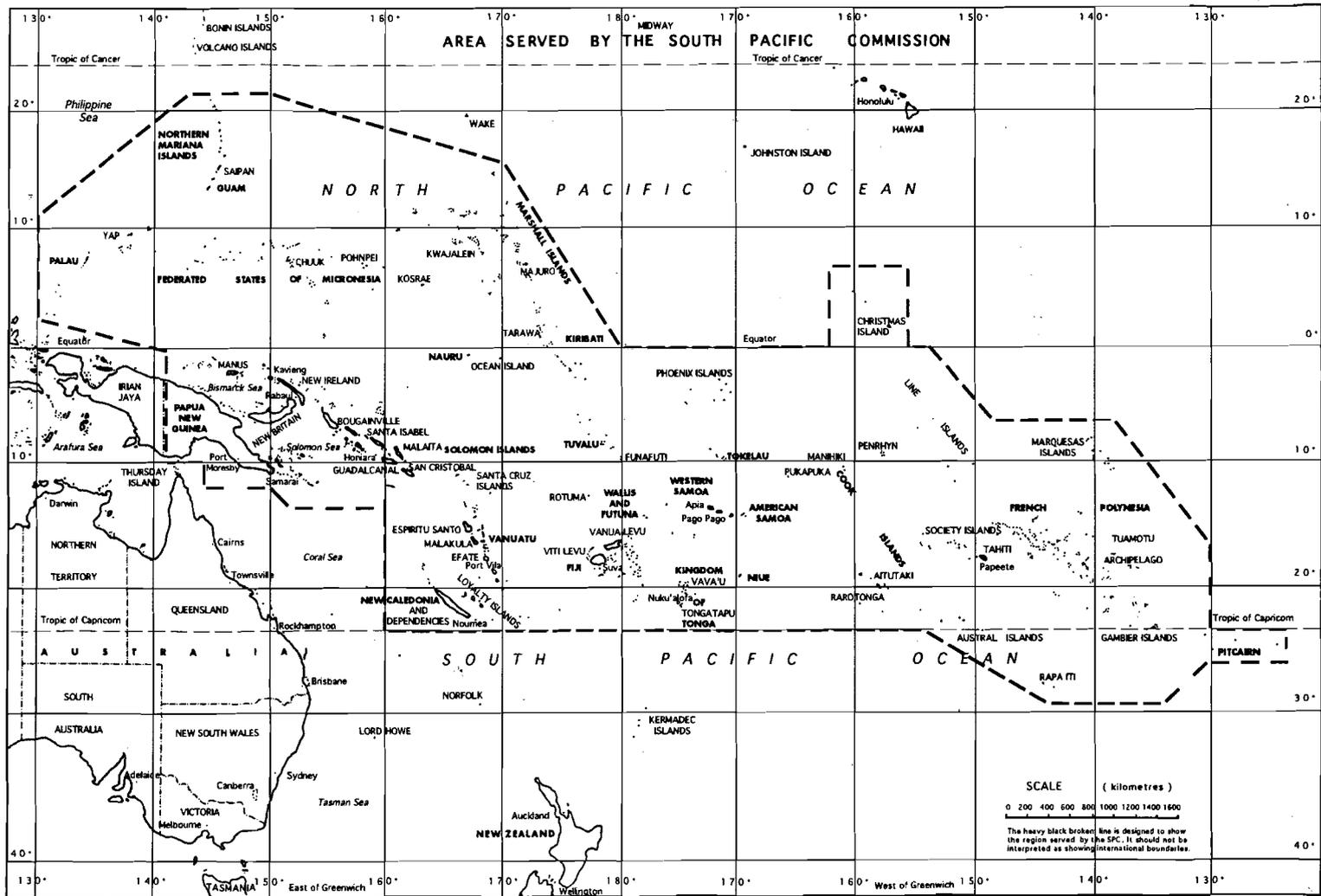
Since the late 1970s, the States and Territories in the Central and Western Pacific Ocean (hereafter referred to as the Pacific Island States and Territories) have achieved significant progress in enhancing regional co-operation in tuna fisheries. This article outlines the regional co-operative measures developed by the Pacific Island States and Territories and examines the challenges they face in the sustainable development of tuna resources in the region in light of emerging international obligation on coastal States to co-operate with distant water fishing nations in the management and conservation of the tuna resource under the United Nations Agreement on Straddling Stocks and Highly Migratory Fish Stocks (UN Agreement).

Background

The world-wide process of implementing the new regime of extended marine resource jurisdiction in the form of the exclusive economic zone (EEZ) has provided major economic opportunities for the island States and Territories in the CWPO region (the Pacific Island States and Territories). For the purpose of this study, the South Pacific States and Territories comprise the developing Island States and territories of the Central Western Pacific Ocean (CWPO) who are members of the South Pacific Commission (SPC) (see Diagram 1). These include the following: American Samoa, Cook Islands, Commonwealth of Northern Marianas, Fiji, Federated States of Micronesia, French Polynesia, Guam, Kiribati, Marshall Islands, New Caledonia, Niue, Nauru, Palau, Papua New Guinea, Pitcairn Islands, Solomon Islands, Tokelau, Tonga, Tuvalu, Vanuatu, Western Samoa, and Wallis and Futuna.

The Pacific Island States and Territories are at different stages of political and economic development. Most of them are politically independent but with substantial dependence on foreign aid (Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu). Two are affiliated with New Zealand (Cook Islands, Niue); and the rest are dependent territories (American Samoa-United States of America; French Polynesia-France; Guam-United States of America; Northern Marianas-United States; Pitcairn Islands-Great Britain; Tokelau-New Zealand; Wallis and Futuna-France).

The general lack of land-based natural resources of most of the islands of the region, is compensated for by the abundance of fisheries resources (especially various species of highly migratory character) within their exclusive economic zones (EEZ). The combined EEZs and fisheries zones of the Pacific Island States and Territories currently constitute one of the most productive fisheries regions in the world, accounting for 68 to 70 percent of the world's supply of tuna (FAO, 1994). The main species of tuna caught in the region are skipjack (*Katsuwonus pelamis*), yellowfin (*Thunnus albacares*), bigeye



(*Thunnus obesus*) and southern albacore (*Thunnus alalunga*) (SPC, 1994). Most of the tuna in the region is caught by distant water fishing fleets. The major distant water fishing nations operating in the EEZs of the Pacific Island States and Territories are Japan, the United States, South Korea and Taiwan.

The exploitation of marine fisheries is an important source of revenue for most of the Pacific Island States and Territories. The consequence is fisheries issues are politically sensitive in the region and policy-makers and the general populace regard the condition of the surrounding oceans and the state of their living resources as probably the most critical issue of national and regional economic importance.

Tables 1 and 2 show the annual catches of tuna by species and the value of the catches in CWPO (SPC Statistical Area).

The Pacific Island States and Territories have, by extending their jurisdiction over marine fisheries, acquired considerable problems which restrict their ability to gain maximum economic benefits from their EEZs (Gubon, 1993). These problems arise from the wide area of ocean space coming under their jurisdiction, their lack of technical and financial resources to successfully manage the EEZ; their lack of political power to negotiate with distant water fishing nations and their lack of enforcement capability. Regional cooperation has been embraced by the Pacific Island States and Territories as a strategy to overcome some of these constraints. The section below reviews briefly the activities of the institutions co-ordinating tuna management issues in the CWPO region.

■ Institutional Framework for Tuna Management in the CWPO Region

Tuna management issues in the CWPO are largely facilitated by two regional organisations, namely, the South Pacific Commission (SPC) and the South Pacific Forum Fisheries Agency (FFA). Diagram 2 below shows the members of the FFA. Comparing Diagram 1 above (showing the SPC region) with Diagram 2, it can be seen that not all the members

	Albacore	Bigeye	Yellowfin	Skipjack	Total
1970	31.8 (34.3)a	17.7 (19.1)	32.6 (35.1)	10.8 (11.6)	92.8
1971	34.3 (28.6)	21.9 (18.3)	39.7 (33.1)	24.3 (20.3)	120.0
1972	37.6 (18.5)	31.3 (15.4)	49.7 (24.5)	84.2 (41.5)	202.8
1973	41.5 (15.3)	26.2 (9.6)	50.7 (18.6)	153.8 (56.5)	272.1
1974	30.8 (9.7)	35.5 (11.1)	50.5 (15.8)	202.2 (63.4)	319.0
1975	27.9 (11.7)	34.0 (14.2)	42.7 (17.9)	134.3 (55.3)	238.9
1976	30.0 (9.9)	42.7 (14.1)	62.6 (20.7)	167.3 (55.3)	302.7
1977	35.8 (10.2)	41.0 (11.7)	73.9 (21.1)	200.8 (57.2)	350.9
1978	30.4 (8.1)	28.0 (7.5)	86.6 (23.2)	228.8 (61.2)	373.9
1979	25.4 (7.6)	39.0 (11.7)	83.3 (25.0)	186.0 (55.7)	333.7
1980	39.8 (10.0)	41.6 (10.5)	104.9 (26.4)	211.7 (53.2)	398.0
1981	32.9 (7.7)	29.4 (6.9)	112.0 (26.3)	250.9 (59.0)	425.2
1982	29.8 (6.6)	30.8 (6.9)	120.4 (26.8)	268.4 (59.7)	449.4
1983	20.3 (3.3)	27.0 (4.5)	144.4 (23.8)	414.8 (68.4)	606.6
1984	19.6 (3.1)	32.2 (5.1)	138.3 (21.9)	437.7 (69.2)	632.3
1985	27.5 (4.8)	40.5 (7.1)	219.4 (22.8)	371.3 (65.3)	568.6
1986	32.4 (5.1)	34.0 (5.4)	129.2 (20.4)	436.7 (69.1)	632.3
1987	23.5 (3.6)	41.1 (6.2)	187.7 (28.4)	407.5 (61.8)	659.9
1988	33.3 (4.5)	35.4 (4.8)	133.7 (17.9)	542.6 (72.8)	744.9
1989	47.6 (6.0)	33.9 (4.3)	184.3 (23.2)	529.0 (66.6)	794.8
1990	30.6 (3.5)	53.8 (6.2)	208.8 (23.9)	579.7 (66.4)	872.8
1991	24.9 (2.4)	41.1 (3.9)	231.1 (22.0)	754.7 (71.8)	1051.7
1992	41.8 (4.0)	45.0 (4.3)	272.4 (26.0)	689.9 (65.8)	1049.0
1993	40.9 (4.4)	46.7 (5.0)	291.7 (31.3)	552.3 (59.3)	931.7

Source: South Pacific Commission, *Tuna Fishery Yearbook* 1993, Oceanic Fisheries Program, SPC, Noumea, 1993.

Table 1

Annual catches of tuna by species, SPC statistical area, 1970-93 (thousand tonnes).

Note: Figures in parenthesis are a percent of the total.

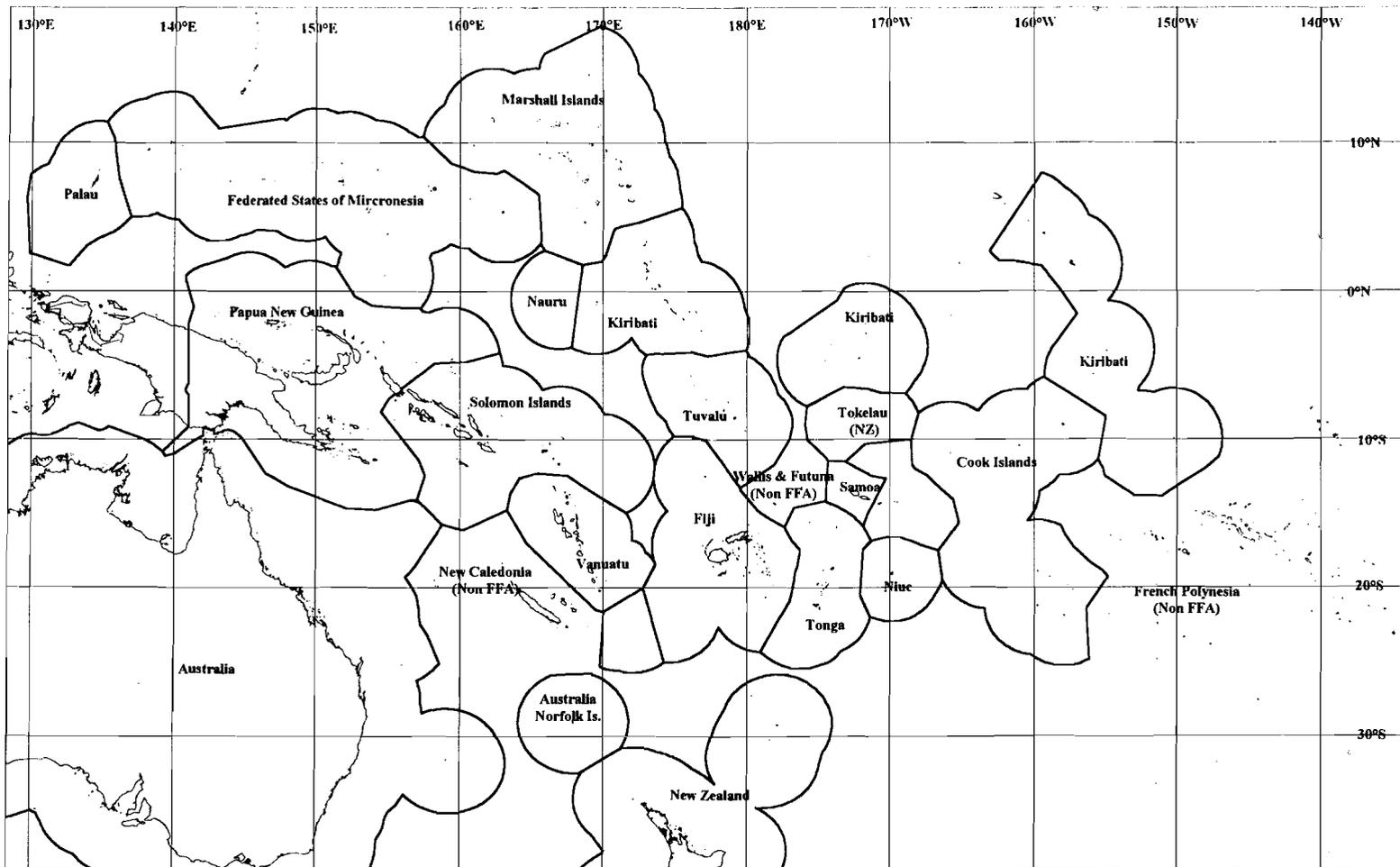
Gear	Fishing Nation	Catch (Tonnes)	Value (US\$'000)
Longline			
	Fiji	886	4,652
	French Polynesia	128	265
	FSM	30	168
	Japan (DWFN)	49,600	262,015
	Japan (Local)	8,350	49,239
	Korea (Republic)	23,600	122,591
	New Caledonia	930	4,895
	Taiwan (DWFN)	9,500	21,435
	Taiwan (Local)	4,300	33,740
	Tonga	255	571
	Sub-total	97,579	499,570
Pole-and-Line			
	Japan	39,711	86,785
	Solomon Islands	22,250	14,248
	Sub-total	61,961	101,034
Purse Seine			
	Japan	184,105	173,979
	Republic of Korea	205,000	136,325
	Philippines	31,240	20,775
	Taiwan	220,000	146,300
	United States	195,000	129,675
	Others	13,196	8,775
	Sub-total	848,541	615,829
Total		1,008,081	1,216,433

Source: Forum Fisheries Agency.

Table 2
Value of tuna catches in the SPC region, 1992.

Diagram 2
FFA member state ►

EEZs of FFA Members



of the FFA are members of the SPC. It is argued later in this article that the split in membership of the SPC and the FFA poses fundamental problems for the sustainable management of tuna in the WCPO region.

The South Pacific Commission

The SPC was established in 1947 as an international organisation; with its headquarters in Noumea, New Caledonia (Pacific Islands Yearbook 1989, 658-59). The objectives of SPC are:

- to provide a common forum within which the Island peoples and their governments can express themselves on issues, problems, needs and ideas common to the region, with a view to maintaining the opportunity for all Islands to be heard, viewed, considered and assisted on equal terms with one another;
- to be a vehicle for the development and implementation of the concept of regionalism;
- to assist in meeting the basic needs of the peoples of the region;
- to foster and develop means to facilitate the flow of indigenous products, technical know-how and people among the islands;
- to serve as a catalyst for development of regional resources that are beyond the capability of individual Island governments to develop;
- to serve as an aid -organising machine for Islands which are otherwise unable to reach aid sources outside the Islands or outside the region itself;
- to act as a centre for collection and dissemination of information on the needs of the region and also as a depository for such information;
- to undertake such other appropriate activities as may be determined by the South Pacific Commission.

The membership of the SPC is very broad and includes independent States in the CWPO region and territories of France, Great Britain, New Zealand and the United States.

Since 1976, SPC has identified the development of marine resources and research as one of its primary activities (Pacific Islands Yearbook, 1989: 661). In line with this focus, the SPC has established the Oceanic Fisheries Programme (OFP) (previously known as the Tuna and Billfish Assessment Programme). The OFP « is an integrated programme of fishery data collection, synthesis, analysis and scientific research on

behalf of member countries » (South Pacific Commission, 1994:23). Under the supervision of a Fisheries Programme Manager, the OFP Scientists undertake stock assessments and carry out scientific research into tuna species in the region. The OFP is also responsible for undertaking scientific research and analysis of the Regional Tuna Database. The database includes all the biological and catch reports received from foreign fishing vessels licensed to fish in the region (South Pacific Commission, 1994: 23).

The Forum Fisheries Agency

The Forum Fisheries Agency (FFA) was created in 1979 under the South Pacific Forum Fisheries Agency Convention (FFA Convention). The headquarters of the FFA is located in Honiara, Solomon Islands. The FFA comprises the Forum Fisheries Committee (the policy making body composed of fisheries ministers or their representatives) and the Secretariat or the Agency.

The functions of the Forum Fisheries Committee, according to Article V of the FFA Convention, include (a) the provision of detailed policy and administrative guidance and direction to the Agency; (b) provision of a forum for parties to consult together on matters of common concern in the field of fisheries; (c) and the carrying out of such other functions as may be necessary to give effect to the FFA convention. In addition to the above, the Committee has the responsibility to promote intra-regional co-ordination and co-operation in an number of fields such as:

- harmonisation of policies with respect to fisheries management;
- co-operation in respect of relations with distant water fishing countries;
- co-operation in surveillance and enforcement;
- co-operation in respect of onshore fish processing;
- co-operation in marketing; and co-operation in respect of access to the EEZs of other Parties.

The Secretariat of the FFA is charged with the responsibility to:

- collect, analyse, evaluate and disseminate to parties relevant statistical and biological information with respect to the living marine resources of the region and in particular the highly migratory species;

- collect and disseminate to Parties relevant information concerning management procedures, legislation and agreements adopted by other countries both within and beyond the region;
- collect and disseminate to Parties relevant information on prices, shipping, processing and marketing of fish and fish products;
- provide, on request, to any Party technical advice and information, assistance in the development of fisheries policies and negotiations, and assistance in the issue of licences, the collection of fees or in matters pertaining to surveillance and enforcement;
- seek to establish working arrangements with relevant regional and international organisations; and
- undertake such other functions as the Committee may decide.

Since its establishment, the FFA has made substantial progress in fostering regional cooperation among its members. The major initiatives developed under the auspices of the FFA are summarised below.

The Regional Register of Foreign Fishing Vessels

The Regional Register of Foreign Fishing Vessels, established in 1989, is a database and compliance mechanism comprising comprehensive details of foreign fishing vessels that are eligible to be licensed in the EEZs of the FFA member States (Doulman, and Terawasi 1989). As at February 1997, 1,400 foreign fishing vessels were registered on the data base (FFA, 1997).

The Regional Register operates on the basis of the concept of “good standing” (FFA, 1997). Under the Register rules, a foreign fishing vessel is not accorded “good standing” (i) if the person responsible for the operation of the vessel has been convicted of a serious offence; (ii) if there is evidence that gives reasonable cause to suspect an operator of a fishing vessel has committed an offence; (iii) if the vessel is known to use prohibited fishing methods; and (iv) if the vessel’s good standing has been suspended at least three times in the previous two years. The Regional Register has become an important tool the FFA member States use to regulate the activities of distant water fishing nations licenced to fish in their EEZs.

Harmonised Minimum Terms and Conditions of Access for Foreign Fishing Vessels

The harmonised minimum terms and conditions of access for foreign fishing vessels consists of rules which the FFA member States have agreed to impose on all foreign fishing vessels operating in the region. The rules stipulate uniform requirements for vessel identification, catch and position reporting; transshipment; catch and effort logsheets; observers; appointment of agents and requirements for foreign fishing vessels in transit (Lodge, 1992). The Harmonised Minimum Terms and Conditions of Access rules have become important compliance mechanism in the EEZs of FFA member States (Lodge, 1992).

The Prohibition of Fishing with Long Driftnets

Following intense diplomatic initiatives at the regional level and within the United Nations, the FFA member States succeeded in prohibiting driftnet fishing in the South Pacific Ocean through the *Convention to Prohibit Driftnet Fishing in the South Pacific* (Driftnet Convention) which was concluded in Wellington, New Zealand in November 1989.

Co-operation on Fisheries Surveillance and Law Enforcement

The FFA member States have also adopted a regional approach to fisheries enforcement and surveillance through the *Treaty on Co-operation in Surveillance and Fisheries Law Enforcement in the South Pacific Region*. This Treaty provides a framework for the FFA member States to negotiate bilateral or subregional agreements that would allow their vessels to undertake fisheries surveillance and enforcement activities in the EEZs of other Parties (Lodge, 1993).

The Treaty on Fisheries between the Government of Certain Pacific Island States and the Government of the United States

One of the most significant gains from regional co-operation in South Pacific fisheries was the successful negotiation of a multilateral fisheries treaty with the United States of America in 1986. The Treaty puts an end to a protracted dispute between the Pacific Island States

and the US in relation to jurisdiction over tuna (Tsamenyi, 1986) The Treaty stipulates the minimum terms and conditions under which US purse seine vessels operate in the EEZs of FFA member States. The Treaty also eliminates the prospect of seizures of US vessels, and especially the potential retaliatory action by the US under its domestic legislation. (Tsamenyi, 1986).

The Vessel Monitoring System

The FFA member States are also developing a satellite based vessel monitoring system (VMS) to enhance their fisheries compliance and enforcement efforts. It is believed that the VMS would promote the monitoring of vessels on a near real-time basis which in turn would assist in the detection of illegal fishing by the analysis of fishing patterns described by the vessel while carrying out its fishing operations. The data provided through the VMS can be cross-checked against catch reports submitted in logsheets (FFA, 1996). The VMS is scheduled to come into operation in early 1998.

Cooperation between the SPC and the FFA

Although there are no formal relations between the SPC and the FFA, both organisations work in close collaboration with each other through annual consultations. These consultations generally lay out the work programme for the two organisations and identify key areas where co-operation could be enhanced. The SPC and the FFA also conduct regular joint workshops on the harmonisation of fisheries law and policy, access negotiations, national fisheries projects, joint ventures, and enforcement and surveillance, particularly the training of observers on board fishing vessels in the region (FFA, 1997a). Scientific research and data provided by the SPC forms the basis of policy decisions by FFA member States.

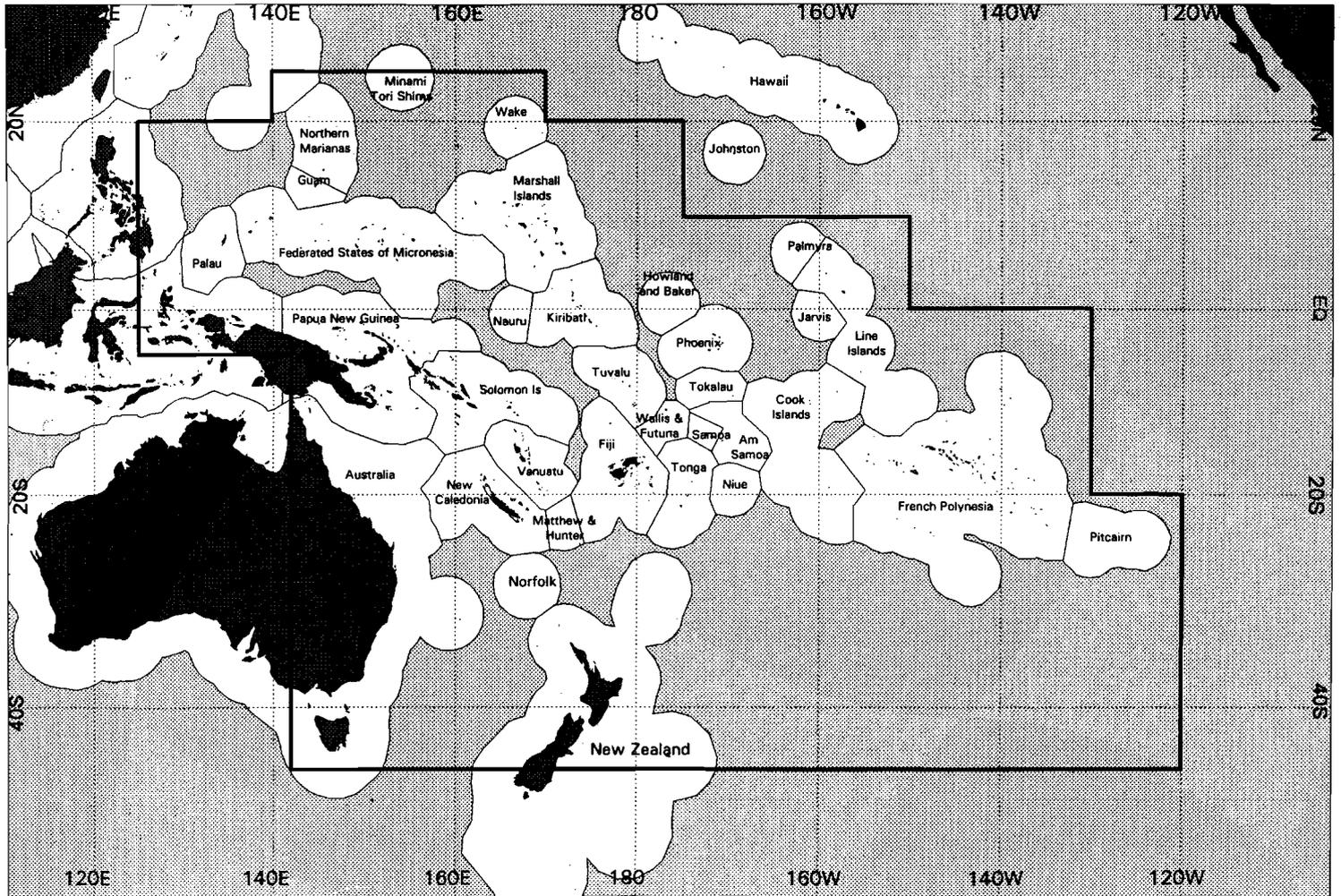
Shortcomings of the Institutional Framework for Tuna Management in the CWPO

Regional cooperation on tuna management in CWPO suffers from a number of shortcomings. Some of these shortcomings are discussed briefly below.

Restricted Membership

Of fundamental importance is the fact that the membership of the FFA does not comprise all the States with territorial sovereignty and sovereign rights in the CWPO region. There are 21 Pacific Island States and Territories which are members of the SPC. However, only 14 of them are Parties to the FFA Convention. Article II of the FFA Convention restricts membership in the FFA to (a) members of the South Pacific Forum (this excludes French and United States territories in the region) and (b) other States or territories in the region on the recommendation of the Committee and the approval of the Forum. To date, external territories of France (New Caledonia, Wallis and Futuna and French Polynesia); the United States (Guam, Northern Marianas and American Samoa) and (Great Britain (Pitcairn Islands) have not participated as active members of the FFA. There seems to be general reluctance by members of the FFA to encourage the participation of the territories because of the concern that this will open the door for the metropolitan States to join and the FFA. Similarly, the Philippines and Indonesia, whose EEZs adjoin the CWPO have not had any involvement with the FFA.

Given the highly migratory nature of the tuna stocks in the region, the exclusion of some of the States and Territories in the region from FFA activities is detrimental to the achievement of a sustainable management of the stocks. This problem is highlighted in the tuna statistics in the region which is based on the SPC Statistical Area (see Diagram 3 below) Unless this data is dis-aggregated to reflect the catch by FFA member States (which is often not done) the data will not be capable of providing a comprehensive information for tuna management decisions by FFA member States.



Lack of tuna management focus

The OFP of the SPC and the FFA are not management oriented. The overall objective of the OFP is « to generate the resource necessary for the rational exploitation and sound management of the very large international tuna fisheries in the SPC area » (South Pacific Commission 1994, 23). The FFA, on the other hand, focuses much of its attention on managing and harmonising the relations between its members and distant water fishing nations operating in the EEZs of its members. The result is that there is a gap in regional tuna management in the WCPO region. At present, most tuna management decisions are made by the individual States and territories with very little or no regional harmonisation.

Pockets of High Seas

The management of tuna in the WCPO region is further weakened by the fact that the EEZs of States and territories in the region are intersected by pockets of high seas. The 1982 United Nations Convention on the Law of the Sea and general customary international law recognise the freedom of fishing on the high seas. The fundamental principle of the freedom of fishing on the high seas is that it is only the flag State of the fishing vessel which has the power and competence to enforce conservation and management regimes on the high seas. In the context of tunas, the artificial division between EEZ and the high seas has posed serious management problems given their highly migratory nature (UNCED 1992). In the WCPO region, this problem was highlighted clearly in the use of driftnets by some distant water fishing nations on the high seas in the late 1980s to the early 1990s resulting in the negotiation of the Driftnet Convention described above

■ The Challenges Ahead

In the past, the issue of how tuna stocks in the WCPO should be managed has led to tensions between FFA member States, metropolitan States with territories in the region and distant water fishing nations. While the FFA member States recognise the need for some form of international co-operative arrangements to manage tuna in the region, (for example, as required under Article 64 of the *United Nations Convention on the Law of the Sea*), they have not succeeded in agreeing on the constitution of an appropriate international management arrangement. The FFA member States have also shown great reluctance in inviting French and US territories to join the Organisation, largely for political reasons. Although Article III (2) of the FFA Convention recognises that “effective co-operation for the conservation and management of highly migratory species of the region will require the establishment of additional international machinery to provide for co-operation between all coastal States in the region and all States involved in the harvesting of such stocks”, no consensus has emerged on the establishment of such a broad-based machinery.

Various attempts have been made in the past by the FFA member States and some distant water fishing nations operating in the region to negotiate an international co-operative arrangement to manage the region's living marine resources. For example, in December 1991, negotiations between the FFA member States and distant water fishing nations for international arrangements for southern albacore tuna broke down as a result of disagreements over the scope of the proposed arrangements (FFA, 1991). Whilst the FFA member States wanted an arrangement confined exclusively to southern albacore tuna to be restricted to the high seas, the distant water fishing nations demanded that the arrangement cover all tuna species throughout their migratory range, effectively giving them a role in their management inside the EEZs of the FFA member States.

The conclusion of the *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* (the Straddling/Highly Migratory Fish Stocks Agreement) has presented

significant challenges to tuna management in the WCPO region. The Agreement, potentially, removes the legal and political obstacles to co-operation by prescribing the specific mechanisms for international co-operation concerning tuna stocks.

The Straddling/Highly Migratory Fish Stocks Agreement) defines the duties of coastal States to co-operate with distant water fishing nations and sets out the principles upon which conservation and management must be based. Significantly, the Agreement reinforces that tuna stocks must be managed throughout their range of migration. The Agreement also ensures that the conservation and management measures are adhered to and complied with and are not undermined by those who fish for the stocks. hence the primary responsibility of the flag State is reaffirmed against abuse.

The provisions the Straddling/Highly Migratory Fish Stocks Agreement which will impact most on the States and territories in the WCPO region is Article 8 which deals with the form of international co-operation and membership of regional fisheries management organisations and arrangements. The Article provides in paragraph 1 that

Coastal States and States fishing on the high seas shall, in accordance with the Convention pursue co-operation in relation to straddling fish stocks and highly migratory fish stocks either directly or through appropriate sub-regional or regional fisheries management organisations or arrangements, taking into account the specific characteristics of the sub-region or region, to ensure effective conservation and management of such stocks.

The Straddling/Highly Migratory Fish Stocks Agreement has compelled States and territories in the CWPO region to begin a process of evaluating present management arrangements for tuna resources in the region. For example, the Forum Fisheries Committee has, since the beginning of 1995, established a Sub-Committee to develop an appropriate regional response to the Straddling/Highly Migratory Fish Stocks Agreement. In June 1997, a High Level Multilateral Conference on the conservation and management of highly migratory fish stocks in the CWPO was held in Majuro, Marshal islands. Of particular significance was the fact that the meeting was attended by not only FFA member States, but also distant water fishing nations fishing in the region, representatives from French Polynesia, New Caledonia, Wallis and Futuna and Philippines (FFA, 1997b). The Declaration at the end of the Conference emphasised the commitment

to establish a mechanism for the conservation and management of highly migratory fish stocks of the region and the need to co-operate effectively in the conservation and management of highly migratory fish stocks of the region throughout their range in order to ensure their long-term sustainability. The time-frame set to negotiate and establish the necessary mechanisms for co-operation is three years from June 1997(FFA, 1997b).

The challenges ahead of the Pacific Island States and Territories in achieving effective management and conservation of the tuna stocks in the WCPO region may be summarised as follows:

First, at the national level, the Pacific Island States and Territories must improve management and conservation of tuna by implementing specific conservation and management objectives. In terms of their international obligations, they will need to take measures that will ensure that the resources are not endangered by over-exploitation. They must also adopt a precautionary approach to the management of the resource. These measures must be reflected in their fisheries policies and practices; domestic legislation which provides the basis for fisheries management and conservation in the EEZ; and bilateral access agreements.

Second, the FFA member States will need to consider developing co-operative management arrangements with non-FFA coastal States, in particular French and United States territories; and Indonesia and the Philippines.

Third, at the international level, there is the task of determining the appropriate framework for co-operation between FFA member States, non-FFA coastal states and distant water fishing nations.

■ Conclusion

The principal response of the Pacific Island States and Territories to the task of maximising the benefits from the tunas resources in their EEZs has focused on regional co-operation through the FFA and the SPC. It has been shown that the two organisations have achieved a degree of success. However, some major problems still persist in

achieving an effective tuna management framework for the CWPO region. The implementation of the Straddling/Highly Migratory Fish stock Agreement is a major challenge to regional co-operation in tuna management in the CWPO region. The Agreement requires a greater degree of harmonisation at the regional level than has been the case under the SPC and FFA frameworks. The requirement for co-operation with distant water fishing nations that fish on the high seas has also opened debate on an issue which the Island States and Territories have avoided for the past 17 years. This is a challenge that can only be met by careful thought and planning and dialogue and negotiations among FFA member States, non-FFA coastal States and distant water fishing nations.

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