

**FAO/FFA REGIONAL WORKSHOP TO PROMOTE THE FULL AND EFFECTIVE
IMPLEMENTATION OF PORT STATE MEASURES TO COMBAT IUU FISHING**

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**FIELD STUDY ON PORT STATE MEASURES IN SELECT MAJOR
SIDS FISHING PORTS IN THE WESTERN CENTRAL PACIFIC
REGION**

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ABSTRACT

This document provides a summary of the port State inspection schemes implemented in Federated State of Micronesia (FSM), Fiji, Papua New Guinea (PNG) and the Republic of the Marshall Islands (RMI) and analyses these inspection schemes in relation to the FAO Model Scheme on port State Measures to Combat Illegal, Unreported and Unregulated Fishing (FAO Model Scheme). Strengths and weaknesses are identified and recommendations are presented on actions that the Pacific Islands States may take to ensure that national port inspection schemes are an effective component of the regional effort to eradicate IUU fishing. Key among these recommended measures is the establishment of a regionally standard MCS information system with links to all relevant national and regional database systems including the licensing and MCS information of neighbour States.

The ports of FSM, Fiji, PNG and RMI are significant transshipment and landing points for the region's tuna and it is suggested that a regionally standard and coordinated inspection scheme based on the FAO Model Scheme, implemented at these and other regional ports, would significantly enhance the monitoring and enforcement of regional conservation and management measures. It is further recommended that regional cooperation and coordination in port State enforcement be formalized in regional or sub-regional Niue Treaty subsidiary arrangement(s), which include the full spectrum of MCS mechanisms.

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ACRONYMS

1982 UN Convention	United Nations Convention on the Law of the Sea of 10 December 1982
1993 FAO Compliance Agreement	Agreement to Promote Compliance and International Conservation and Management Measures by Fishing Vessels on the High Seas
1995 UN Fish Stocks Agreement	Agreement for the Implementation 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
ALC	Automatic location communicators
CCAMLR	Commission for the Conservation of Antarctic Marine Living Resources
CCM	Member and Co-operating non-Member and Participating Territory
CCSBT	Commission for the Conservation of Southern Bluefin Tuna
COFI	FAO Committee on Fisheries
CPC	Contracting Party and Cooperating non-Party
EPA	Environmental Protection Agency
EEZ	Exclusive Economic Zone
FAD	Fish Aggregation Device
FAO Model Scheme	FAO Port State Model Scheme on Measures to Combat IUU Fishing
FAO	The Food and Agriculture Organization of the United Nations
FFA	Pacific Islands Forum Fisheries Agency
FFA Convention	South Pacific Forum Fisheries Convention, 1979
FINSS	Fisheries Information Statistical System
FSM	Federated States of Micronesia
IATTC	Inter-American Tropical Tuna Commission
ICCAT	International Commission for the Conservation of Atlantic Tunas
IOTC	Indian Ocean Tuna Commission
IPOA-IUU	International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing
IMO	International Maritime Organization
MCS	Monitoring, control and surveillance
MIMRA	Marshall Islands Maritime Authority
MTCs	Harmonized Minimum Terms and Condition for Foreign Fishing Vessel Access
NFA	National Fisheries Authority
Niue Treaty	1992 Niue Treaty on Cooperation in Fisheries Surveillance and Law Enforcement in the South Pacific Region
NORMA	National Oceanic Resource Management Agency
NPOA	National plan of action
ONP	Oceanic Fisheries Programme
OFSMD	Oceanic Fisheries Management Services Division
PNG	Papua New Guinea
PNGDF	Papua New Guinea Defence Force
PPBP	Pacific Patrol Boat Programme
RAN	Royal Australian Navy
RFMOs	Regional fisheries management organizations
RMI	Republic of the Marshall Islands
SBT	Southern bluefin tuna
SPC	Secretariat of the Pacific Community
TAC	Total Allowable Catch
TCC	Technical and Compliance Committee
VMS	Vessel Monitoring System
VOI	Vessels of interest
WCPFC	Western and Central Pacific Fisheries Convention

1. FOREWORD

The Western and Central Pacific Fisheries Commission (WCPFC) is currently in the process of developing a regionally harmonized port State inspection regime. At its first session (December, 2005), the Technical and Compliance Committee (TCC) of the WCPFC noted the importance of port State measures in meeting the objectives of the WCPFC, increasing cooperation and coordination, addressing illegal, unreported and unregulated (IUU) fishing activity and ensuring compliance with conservation and management measures adopted by the WCPFC. The TCC further noted the benefits of developing a harmonized scheme and that the FAO Model Scheme on port State Measures to Combat IUU Fishing (FAO Model Scheme), could usefully serve as a basis in this regard.

In September 2006, the TCC will meet to consider a harmonized port State inspection scheme for possible adoption by WCPFC.

This report aims to assemble and analyse information on port State measures in the Federated States of Micronesia (FSM), Fiji, Papua New Guinea (PNG) and the Republic of the Marshall Islands (RMI). On the basis of this assessment it considers issues associated with a regional approach to port State enforcement recently initiated by the WCPFC. In particular the report will:

- Report any existing scheme for port State measures and to the extent possible assess these against the FAO Model Scheme framework adding other information of relevance as appropriate. Indicate where no formal scheme exists, and report information relevant to the framework.
- Report information on inspections undertaken and the results of inspections, including violations and prosecutions over recent years. Comment, as appropriate, on the collection of evidence, documentation of events, confiscation of gear, catch, impounding vessels, institutional considerations and roles and responsibilities.
- Identify where gaps exist between information reported above, and the FAO Model Scheme, and where national standards exceed standards in the FAO Model Scheme.
- Where gaps exist, identify how they may be addressed, including through capacity development, operational procedures, legal amendment and/or technical means.
- Where standards are exceeded, assess whether such standards should be considered as a component of the regional approach.
- Comment briefly on a strategy to link the port State scheme to the other measures of the WCPFC such as the Record of Fishing Vessels and the Vessel Monitoring System.
- Briefly consider the requirements for integrating the WCPFC's Port State Scheme with the schemes developed by other relevant Regional Fisheries Management Organisations (RFMOs).

2. BACKGROUND

The right for coastal States to make laws and regulations to regulate the activities of foreign fishing vessels is recognized in the 1982 UN Convention on the Law of the Sea (1982 Convention).¹ With specific reference to fishing, the 1995 UN Fish Stocks Agreement (Agreement) further elaborated on the "right and duty" of a port State to take non-discriminatory measures in accordance with international law to promote the effectiveness of sub-regional, regional and global conservation and management measures. The Agreement provides that a State may inspect documents, fishing gear and catch on board fishing vessels, and empower authorities to prohibit landings and transshipments where the catch was taken in a manner which undermines high seas conservation and management measures. In the context of fishing operations the 1995 Code of Conduct recommends² that port

¹ Reference is primarily in the context of marine pollution, Articles 218-220 assumes that ports are subject to the sovereignty of the coastal State because they are considered as internal waters.

² Under 8.3.1 and 8.3.2.

States should provide assistance to flag States when a fishing vessel is voluntarily in port and the flag State requests assistance in respect of non-compliance with conservation and management measures for the prevention of pollution and for safety, health and conditions of work on board fishing vessels.

The 2001 FAO International Plan of Action (IPOA)-IUU encourages port States to establish comprehensive port State measures for fishing vessels and provides guidelines on how this may be achieved.³ Port States are encouraged to cooperate through RFMOs to develop compatible measures to control the activities of foreign fishing vessels including mandatory inspection of non-RFMO vessels, banning the landing and transshipment of fish by vessels presumed to be IUU fishing in the region and information dissemination.

The FAO Model Scheme was developed in 2004 by the FAO Technical Consultation to Review Port State Measures to Combat Illegal, Unreported and Unregulated Fishing and was endorsed by the Twenty Sixth Session of the FAO Committee on Fisheries (COFI) in March 2005. The UN General Assembly provided further endorsement at its Sixtieth session in November, 2005 and urged States to cooperate at the regional level and through regional fisheries management organizations and arrangements, to apply the FAO Model Scheme in order to provide enhanced port State controls to combat IUU fishing. The UN General Assembly also called for the development of a legally binding instrument setting minimum standards for port State measures and this has been supported by the 2006 Review Conference on the UN Fish Stocks Agreement.

The FAO Model Scheme outlines minimum port State measures to be applied either through adoption of regional memoranda of understanding, through RFMOs or by individual port States. The scheme is a harmonized approach which is not intended to derogate from the sovereignty of States over their ports, but to promote a fair, transparent and non-discriminatory system for implementing port State obligations. The substantive parts of the FAO Model Scheme cover the following issues:

- port State inspection procedures;
- information to be provided in advance by fishing vessels prior to entry into port;
- actions to be taken by port States when violations are detected;
- information to be collected and exchanged by the port State;
- information systems on port State inspections;
- training to be provided for port State inspectors.

3. REGIONAL FISHERIES MANAGEMENT ORGANISATION PORT SCHEMES

Most regional fisheries management organizations (RFMOs) that deal with straddling and/or highly migratory fish stocks have some form of port inspection scheme in place as it is considered that at-port inspection provides an effective way to promote relevant conservation and management measures. The following is a summary of port inspection measures applied by a selection of RFMOs.

3.1. International Commission for the Conservation of Atlantic Tunas (ICATT)

ICATT considers that most regulations can only be enforced during off-loading and therefore at-port inspection is the most fundamental and effective tool for monitoring. At-port inspection is compulsory in order to check compliance with Commission regulations and to monitor landings and transshipments. A report in standard format of each inspection is required to be copied to the flag State and the Commission. In the case where a foreign vessel is suspected of violating Commission regulations, the flag State is required to report to ICCAT on actions taken to address the violation. If invited by the port State, a flag State may send its own inspectors to that foreign port in order to inspect flag vessel compliance with Commission regulations. The Commission also encourages parties to enter into bilateral arrangements that allow for an inspector exchange programme to promote cooperation, share information and enhance compliance techniques.

³ Paragraphs 52-64.

3.2. Commission for the Conservation of Antarctic Living Resources (CCAMLR)

CCAMLR requires parties to conduct inspections of all vessels carrying toothfish to check compliance with Commission conservation measures and to ensure that any landings or transshipments are accompanied by the appropriate catch document. Vessels are required to provide prior notice of port entry and to declare that they have not engaged in IUU fishing in the Convention Area. If there is evidence that the vessel has conducted IUU fishing in the Convention Area, the catch shall not be landed. The port State is then required to notify the flag State, cooperate in any investigation and apply penalties as appropriate. The outcome of each inspection is required to be reported to the Commission and in the case where a vessel has been denied access or permission to land or tranship, the Commission is to advise Contracting Parties.

3.3. Northwest Atlantic Fisheries Organisation (NAFO)

Contracting parties of NAFO are required to inspect vessels that have engaged in fishing for stocks subject to Commission conservation and enforcement measures. The Commission and flag State are to be provided a standard report of the outcome of each inspection covering landings and catch verification including catch retained, as well as verification of mesh size of nets.

3.4. Indian Ocean Tuna Commission (IOTC)

IOTC has adopted a port inspection scheme that allows each Contracting Party and Cooperating Non-Party (CPCs) to inspect documents, fishing gear and catch on board fishing vessels, when vessels are voluntarily in its port. In order to promote compliance by Non-Contracting Party vessels, CPCs are required to develop regulations to prohibit landings and transshipments by Non-Contracting Party vessels where it has been established that the catch of species covered by the Agreement establishing IOTC has been in a manner which undermines the effectiveness of conservation and management measures adopted by the Commission. The inspection of non-Contracting Party vessels is to take precedence over CPC vessels. Where there is evidence of a violation by a CPC vessel, the port State is required to provide full documentation to the flag State concerned as well as the Commission and the flag State is required to advise the Commission on details of actions it has taken in respect of the matter. The port State may exercise its right to prosecute the vessel under national law. Each CPC is required to submit electronically to the Commission, on an annual basis the list of foreign fishing vessels and catch of tuna and tuna-like species caught in the IOTC area, which have landed in their ports.

3.5. Forum Fisheries Agency (FFA)⁴

While FFA member countries have yet to agree on the details of a region-wide port State inspection scheme a number of regional initiatives have been adopted that support the standards elaborated in the FAO Model Scheme. These initiatives include:

- foreign vessels to be licensed, in “good standing” on the Regional Register, VMS compliant and on the WCPFC record of Fishing Vessels, in order to operate in the region;
- foreign vessels to be marked according to the FAO Standard Specifications for the Marking and Identification of Fishing Vessels;
- a ban on at-sea transshipment;
- 24 hours prior notice of port access and 72 hours notice if landing or transshipping;
- minimum catch reporting including daily logs, entry/exit, weekly in-zone and transshipment/landing;
- common boarding procedures;
- foreign vessels to submit to inspection of vessel, gear, documentation and catch; and
- foreign vessels required to have a resident agent.

⁴ Strictly speaking, FFA is a regional fisheries management arrangement.

4. COUNTRY REPORTS

The following reports compare port inspection schemes in the FSM, Fiji, RMI and PNG with the FAO Model Scheme. Each country report provides information on tuna fisheries and their management including details relating to vessels licensed, monitoring and enforcement, transshipment and unloading, exports and the level of IUU fishing.

4.1. Federated States of Micronesia

4.1.1. Background

The FSM Exclusive Economic Zone (EEZ) is 2.78 million km² in extent and is one of the largest and most productive in the Western Central Pacific Ocean (WCPO), spanning 136⁰-166⁰ E and 1⁰S to 13⁰N.

The tuna fishery is dominated by foreign vessels licensed under long-standing access agreements, involving purse seine, pole-and-line and longline vessels. Purse seine vessels of 13 different flag States, have taken between 60,000 and 220,000 tonnes annually in the FSM EEZ over the past two decades, with this variability strongly linked to ENSO events. The 2004 catch is estimated at 133,000 tonnes. The pole-and-line catch by Japanese vessels has been steadily declining since the early 1990s and is now around 1,000 tonnes in most years (1,700 tonnes in 2003). The longline catch, by Belize, FSM, Chinese, Japanese, and Taiwanese vessels, some of which were locally-based, has fluctuated between 5,000 and 10,000 tonnes in most recent years (3,747 tonnes in 2004), with bigeye and yellowfin comprising the bulk of the catch. Some of the foreign longline vessels are Guam-based and unload in Guam, whilst others unload for airfreight export in Pohnpei.

The FSM purse seine fleet now comprises 6 vessels, taking around 20,000 tonnes per year. The 2004 catch was estimated at 26,958 tonnes. The 2004 catch of the domestic longline fleet of around 25 vessels based in Pohnpei appears to be incompletely documented, with annual catches of less than 1,000 tonnes recorded. Some of the catch by these vessels is taken in RMI waters under an agreement with RMI.

Subsistence and artisanal fishing for oceanic species, based mainly on trolling and drop-lining, remains important for food security and income generation. There is also a small informal sport fishery targeting a range of large pelagic fish operating mainly from Pohnpei.

4.1.2. Oceanic fisheries management

The major objectives of tuna management and development policy set out in the FSM Tuna Management and Development Plan are to:

- ensure that the nation's tuna resources are used in a sustainable way;
- obtain maximum sustainable economic benefits from the nation's tuna resources;
- promote economic security for the nation through the use of tuna resources.

No specific regulations currently apply to the tuna fishery, although imposition of total allowable catch (TAC) has been considered in the past, and there are area restrictions. Larger commercial vessels are prohibited from fishing within 12 miles of islands and major reefs, and two other measures are set out in Section 501 of Title 24, specifying that no fishing be allowed within 1 mile from submerged reefs, and 2 miles from certain protected fish aggregating devices (FADs). The four states comprising the Federation generally exercise rights over marine resources out to 12nm, and claim a share of enforcement revenues.

4.1.3. Oceanic fisheries institutional arrangements

The National Oceanic Resource Management Agency (NORMA) is the primary agency responsible for oceanic fisheries management. The Ministry has an establishment of 11 posts, and an annual operating budget of USD\$400,000. Oceanic fisheries management is the total focus of the work of the

NORMA. Coastal and inshore fisheries are dealt with at state level, although there remain some unresolved issues concerning state and national responsibilities. Within NORMA, responsibilities for oceanic fisheries are divided as follows:

- Statistics, Licensing and Computer Branch – responsible for implementing fishing agreements, issuing licences, fee collection, monitoring vessel activities, log sheet processing, and maintaining the fisheries database and computer network.
- Research & Data Analysis Section - responsible for managing port sampling and observer programmes, monitoring transshipments, analyzing this information, and providing management advice.
- Executive Management /Administration and Finance Section - responsible for overall administration, economic analysis and planning, and management issues at national, regional and international level.

Revenue from oceanic fisheries access agreements and other fees is currently around \$US12 million per year, but has been as high as US\$ 35 million in the past

Other government agencies involved in oceanic fisheries are:

- the Maritime Wing of the National Police, Ministry of Justice, which operates three patrol boats (Palikir, Micronesia and Independent), hosts the VMS hub and carries out compliance duties including port inspection;
- External Affairs, who are active in international aspects of fisheries policy, including work related to the WCPFC and other regional and international aspects of fisheries affairs
- Office of the Attorney General (Ministry of Justice), which provides legal advice on issues pertaining to oceanic fisheries management and conducts prosecutions.

In each of the four states, there are Fisheries or Marine Resources Departments concerned with coastal fisheries development and management out to 12nm, and an Environmental Protection Authority (EPA).

NORMA's activities are directed by a Board, which has five members - one representative from each of the four states and one at-large member appointed by the President, with the Executive Director of NORMA serving as Secretary. Fisheries policy is largely driven by NORMA, with the approval of the Board; where legislative change is involved, approval of the National Congress is required.

Aside from the Board, there is currently no formal mechanism for broader consultation with stakeholders on oceanic fisheries management issues in FSM, although national fisheries summits have been held in the past. The Tuna Management Plan suggests such a mechanism would be desirable.

4.1.4. Compliance

Compliance and enforcement is a shared responsibility involving NORMA, the Police Maritime Wing and the Office of the Attorney General. As the agency responsible for offshore fisheries management, NORMA is the licensing authority and is mandated to coordinate and implement fisheries management control.⁵

FSM has a well developed capacity to enforce its fisheries laws, using 3 patrol vessels provided and supported through the Australian Pacific Island Patrol Boat Programme (PPBP), with a Maritime Surveillance Adviser and 2 technical advisors. Aerial surveillance is provided on a regular basis by the Australian and New Zealand air force Orion aircraft and on an ad hoc basis by the United States Coast Guard (USCG).

⁵ Marine Resources Act, 2002, section 205 (6).

In 2002, FSM, Palau and RMI established a subsidiary arrangement under the 1992 Niue Treaty on Cooperation in Fisheries Surveillance and Law Enforcement in the South Pacific Region (Niue Treaty) for the conduct of joint surveillance and enforcement operations. It is likely that this arrangement will be expanded to include other parties including Papua New Guinea and Kiribati. The arrangement allows for the sharing of surveillance assets and the cross-authorisation of personnel. Information on operational matters is shared including VMS data.

Patrol vessel operations, based in Pohnpei because of cost and coordination considerations, attempt to achieve around 170 days of seagoing patrols per vessel per year, but there are other calls on vessel services, albeit on a user-pays basis, which interfere with the attainment of these objectives. Communications costs are also a major factor in widely spaced FSM, but fuel remains the major operational cost constraint.

The Maritime Wing also operates the regional VMS but lacks back-up capacity. Of critical importance is the need to train additional personnel in the use of the VMS system.

Although informal monthly consultation on MCS matters occurs amongst concerned agencies the Marine Resources Act, 2002, allows NORMA to establish a Fisheries Management and Surveillance Working Group (FMSWG), to formulate and implement a national fisheries management surveillance strategy:

- “The working group shall consist of appropriate representatives of NORMA and the Department of Justice. In addition, representatives from other divisions and departments of the National and State governments engaged in activities related to surveillance may be invited to participate”.⁶

4.1.5. Monitoring

FSM has had a long history of involvement in fishery monitoring activities. The features of current activities are:

- Logsheet coverage of the locally-based longline fleet has in the past been incomplete, and may only be around 50%; current logsheet coverage of purse seine, longline and pole-and-line access vessels is considered high (at least 80%);
- A licensing database which holds vessel, master and owner information;
- A Port sampling programme comprised of three fulltime samplers covering landings in Pohnpei. The coverage of locally based longline vessels has in the past been high but coverage of the locally based purse seine fleet has been low;
- Landings data collected, via the port sampling programme, although coverage has been incomplete. Transshipments are monitored by NORMA;
- An observer programme with 7 trained observers on contract, who have achieved 4-5% coverage of purse seine and pole-and-line trips in the EEZ, but low coverage rates for longline trips. Observer placement on Guam-based vessels is difficult and currently does not occur. Coverage of FSM Arrangement purse seine vessels is close to 20%. NORMA maintains a target level of 20% coverage of trips in the EEZ; and
- Export data relating to the air-freight of tuna is available but not regularly collected.

As a member of WCPFC, FSM is preparing to meet expanded monitoring requirements and expects to use cost recovery to fund some expanded activities in the observer and port sampling programmes. The major focus will on the training of observers, port samplers and statistical staff, and a probable upgrade of existing IT capacity. It is not viable for FSM to establish its own training programmes for the small numbers involved, and FSM sees itself continuing to rely on the regional organisations for this function.

⁶ Marine Resources Act, 2002, section 207.

4.1.6. Scientific analysis

FSM sees the development of a national capacity for scientific analysis on oceanic fisheries as an important priority and also feels that regional scientific advice is not always well-tailored to national needs, an issue with an EEZ as large as FSM's. FSM will continue to rely on SPC for stock assessment analysis and related advice but also wants to develop its own capacity to interpret and apply the regional results and to be able to interpret data from national monitoring programmes.

There is a well developed national catch and effort database, competently maintained, but assistance will be needed to produce the verified estimates of annual catch by species, gear and fleet for FSM waters which is required to meet the data standards established by the WCPFC.

4.1.7. Transshipment and landing

Considerable transshipment and landing occurs in FSM ports, by purse seine (transshipment) and longline vessels (landing and transshipment), mainly in Pohnpei. In 2003, 381 purse seine transshipments were recorded accounting for 181,330 tonnes of mainly skipjack tuna. In 2004 the number of transshipments declined to 363 but the amount of tuna transhipped increased to 232,830 tonnes. The Police Maritime Wing reported 600 dockside inspections for 2004.⁷ It is anticipated that the level of transshipments will increase from 2006, due to the basing of the Dongwon fleet in Pohnpei.

The longline fleet has been severely impacted by the increasing cost of fuel and to date in 2006, no landings have taken place. In 2004, approximately 800 tonnes of mainly bigeye tuna was unloaded from 425 landings.

4.1.8. Exports

In 2004, FSM exported 580 tonnes of sashimi grade tuna mainly to Japan.

4.1.9. IUU fishing

Between 2000 and 2005, FSM prosecuted 28 vessels for violations that included, unlicensed fishing, fishing in a closed area, not filling out catch logs (target species as well as by-catch), unlicensed transshipping, incorrect position reporting, switching the automatic location device (ALC) off, and immigration violations. Apprehensions involved the use of patrol craft, VMS and Observer information as well as dockside inspections. In 2006, there are currently three cases under investigation: one involving a longliner apprehended for fishing inside 12 nautical miles and two involving purse seiners apprehended during operation "Island Chief" for transshipment and reporting violations. Penalties for violating FSM law are amongst the highest in the region. In 2001 a carrier and purse seiner were each fined US\$1.2 million for transshipping without authorisation.

Although there is still the occasional apprehension of a vessel not licensed to fish, the perception is that reporting violations are common and that more effort needs to be put into ensuring that all conditions of license are adhered to and that a more comprehensive analysis of catch and effort reports would reveal significant reporting violations.⁸

In order to more effectively deal with fisheries violations, FSM will soon introduce regulations to allow authorised officers to issue citations. From an operational perspective, the use of an administrative penalties system will lead to the more efficient use of patrol craft by reducing the need to accompany non-compliant fishing vessels to port.

In a further move to eliminate IUU fishing, FSM has enacted a law that will ban all fishing vessels and fishing vessel owners from fishing in the event that a court judgement in excess of US\$25,000, is entered against the vessel or owner, until such time as that judgement is settled.⁹

⁷ Personal comment, Commander Robert Maluweirang, Maritime Wing.

⁸ Personal comment, Commander Robert Maluweirang, Maritime Wing.

⁹ Public Law 13-86, enacted March 4, 2005.

4.1.10. International legal instruments

FSM is a party to or has adopted the following instruments:

Table 1: FSM International Legal Instruments

Instrument	Status
WCPF Convention	Ratified
1982 UN Convention	Ratified
1995 UN Fish Stocks Agreement	Ratified
FAO Code of Conduct	Principles included in Marine Resources Act and Tuna Management Plan.
Convention on Biological Diversity	Acceded
1993 FAO Compliance Agreement	Accepted
FAO International Plans of Action	NPOA-IUU implemented 2005
FFA Minimum Terms & Conditions	Implemented
Driftnet Convention	Ratified

4.1.11. IPOA-IUU

A national plan of action to prevent, deter and eliminate illegal, unreported and unregulated fishing was implemented in 2005.

4.1.12. Port State control

The Marine Resources Act, 2002, requires all foreign fishing vessels wishing to operate in FSM waters, to be duly licensed pursuant to a fishing access agreement. Terms and conditions of access require any fishing vessel wishing to enter the FSM EEZ to give 24 hours notice of its intention to do so, the proposed point of entry and the purpose for which entry is requested. A request to enter or depart from a port also requires at least 24 hours notice¹⁰. Once in port, all fishing and fishing support vessels are inspected to verify the accuracy of vessel, catch and activity reports.

Legislation relating specifically to ports of entry, requires all vessels authorised to enter the FSM and wishing to call at an official port of entry, to obtain clearance from that authorised port of entry, file a manifest and be subject to inspection.¹¹

Consistent with international law, FSM allows port access to foreign flagged vessels for reasons of *force majeure* or distress or for rendering assistance to persons, ships or aircraft in danger or distress.

4.1.13. Designated ports

The following are the authorised maritime ports of entry for the FSM:

- Yap State: Yap, Ulithi, Wjoleai, Satawal
- Chuuk State: Weno, Satowan
- Pohnpei: Mesenieng, Kapingamarangi, Temwen
- Kosrae: Lelu, Okat

Due to cost and security considerations, vessels now choose to tranship at Pohnpei.

¹⁰ Marine Resources Act, 2002, s.115.

¹¹ FSM Code Title 18, Chapter 2.

4.1.14. Prior Notice of Port access

FSM has adopted the Harmonised Minimum Terms and Conditions for Foreign Fishing Vessels Access (MTCs) and requires vessels to provide 24 hours notice of their intention to enter a designated port. Information relating to catch on board is also required. As a condition of license, vessels are required to provide entry/exit reports as well as weekly reports while in the EEZ. Vessels are also monitored by VMS prior to entry and while in the EEZ.

The Marine Resources Act, 2002, section 407 requires all transshipments to be conducted at a designated port and that a request to tranship must be received by NORMA at least 72 hours in advance. The transshipment notice must include:

- vessel name;
- call sign;
- position;
- catch on board by species/kg;
- time and port of transshipment.

On completion of the operation, the vessel is required to submit a report of transshipment or landing as set out in the regionally adopted FFA/SPC Landing Form. The vessel must also comply with environmental laws. Any breach of section 407 attracts a fine of between US\$75,000 and \$275,000.

The WCPFC is currently developing a resolution to regulate transshipment by purse seine vessels. The draft resolution seeks to ban at-sea transshipment for purse seine vessels¹² and includes the requirement that each Member and Co-operating non-Member and Participating Territory (CCM) of the WCPFC should ensure that transshipments and landings at its designated ports are restricted to vessels included in the WCPFC Record of Fishing Vessels. Detailed reporting procedures will also be required with respect to the fishing vessel, carrier vessel, port State and landing State. The port State and landing State are required to cooperate to verify the accuracy of the transshipment and landing information and each year the flag CCM the purse seiner shall include in its annual report to the Commission, the details on transshipments by its vessels.

4.1.14.1. Vessel identification

Vessel name and call sign information is required as part of the notice of port entry. This information is also provided in the zone entry report. All foreign fishing vessels must also be VMS compliant.

FSM has adopted the FAO standard specifications for the marking and identification of fishing vessels.

4.1.14.2. Purpose of access to port

This information is included in the notice of intention to enter port.

4.1.14.3. Fishing authorisations

The provision of information on fishing authorisations is not currently a requirement prior to port access. Only licensed fishing vessels may enter FSM for fisheries related purposes. As part of the license application process, foreign vessels are required to provide details of flag State authorisation to operate beyond areas of national jurisdiction in the WCPFC Area. NORMA holds vessel, owner and master related information in the license database. Details of vessels authorised to fish in the WCPFC Area are required to be on the WCPFC Record of Fishing Vessels.

¹² Subject to specific exemptions: licensed group seiners less than 600 tonnes regulated and monitored under current arrangements including 100% observer coverage and catch reporting and on the WCPFC Record of Fishing Vessels.

4.1.14.4. Trip information

Trip information as set out in Annex A (4) of the FAO Model Scheme, is not currently a requirement. Information on the last port of call and date of departure, are acquired on inspection.

It is noted however that each licensed vessel is monitored throughout its range by VMS. Currently only in-zone VMS information is available on a regular basis. Position information covering the full range of a vessel that enters port would include previous port calls.

4.1.14.5. Species information

Catch on board by species and weight is required as part of the request to enter port. The zone entry report also requires species/weight details.

4.1.15. Denial of access to tranship or unload

Only licensed fishing vessels may operate in FSM. If an offence has been committed, the vessel will be prosecuted. The Marine Resources Act, 2002, section 20, makes it an offence to import, export, transport, sell, receive, acquire or purchase any fish taken, possessed or transported in contravention of another State's laws.¹³ Penalties for fisheries offences may include a fine, confiscation of vessel, gear and catch as well as imprisonment.

4.1.16. Inspections (Annex B)

Inspections are carried out in accordance with the FFA Boarding and Prosecutions manual and conform to Annex B.

4.1.16.1. Powers of authorised officers

At port inspections are conducted by the Police Maritime Wing, Department of Justice. Section 601 of the Marine Resources Act, 2002, vests enforcement authority in the Police Maritime Wing which undertakes this function in collaboration with the monitoring and control authority, NORMA. An Authorised Officer appointed by the Secretary of Justice has the power to search any vessel, vehicle or aircraft that he reasonably believes may be transporting fish or engaging in other activities relating to fishing; require to be produced, examine and take copies of any permit, logbook, record or other documents required concerning the operation of any vessel or aircraft.¹⁴

4.1.16.2. Authorised officer identification

Identifying the vessel master and providing identification as an authorised fisheries officer is standard operating procedure.

4.1.16.3. Flag State participation

It is not standard practice to invite the flag State to participate in the inspection process. However, the vessel agent is usually on hand to assist.

4.1.17. Inspection report (Annex C)

The FSM National Police Inspection Form for Foreign and Domestic Fishing Vessels appended as **Attachment A** is required to be completed for each inspection. The following is the information required by Annex C of the FAO Model Scheme, but not specifically identified in the FSM inspection form:

¹³ Provided there is a reciprocal fisheries management agreement in place between FSM and that State.

¹⁴ Marine Resources Act, 2002, s.603.

Table 2: FSM Inspection Report: Information Gaps

Annex C requirement	Comments
Maritime Mobile Service Identity number	
Previous vessel names and flag	Available from the Regional Register
Whether the flag State is a party to a particular regional fisheries management organisation	Foreign fishing vessels operating in FSM are required to be on the WCPFC Record of Fishing Vessels
Home port	
Names and addresses of previous owners	Available from the Regional Register
Certificate of master	Ports Authority responsibility
Authorisations to fish	MTCs require vessels licensed in the region to have the license in the wheelhouse
Species and fishing gear authorisations	MTCs require vessels licensed in the region to have the license in the wheelhouse
Duration of authorisation to fish	MTCs require vessels licensed in the region to have the license in the wheelhouse
Areas visited on current trip	Available from logsheets and VMS
Areas where fish was caught	Available from logsheets
Ports visited	Port of departure required. Other port calls available from logsheets and VMS info.
Start and end date of discharge	Landing and transshipment monitored by NORMA and reports collected
Fish species unloaded	Landing and transshipment reports collected by NORMA
Presentation	
Live weight	
Processed weight	
Intended destination of fish and fishery product	Data on tuna unloaded for export collected by NORMA
Fish retained on board by species and weight	
Details of gear inspection	Gear inspected as a matter of course

The report is required to be signed by the vessel master as well as the inspecting officer.

4.1.18. Notification

If, following inspection it is found that there are reasonable grounds to believe that an offence has been committed, notice is served to the vessel agent in accordance with the fishing access agreement. The Government to Government agreement with Japan provides a mechanism for the Japan Government to be informed and to take appropriate action. FSM is currently developing its administrative penalty system to allow the issuing of citations for minor offences. For vessels operating under regional multilateral fishing arrangements administered by FFA, provision is made under those arrangements for dispute settlement.

4.1.19. Information management

4.1.19.1. Inspection database

FSM does not currently have a database for the management of reports from at port inspections. It is not the practice to send reports of all inspections to the flag State or relevant RFMOs. Details of port inspections are now required to be reported to the WCPF Commission on an annual basis.

FSM participates in the FFA coordinated “vessels of interest” (VOI) project whereby information concerning vessels of interest is shared with other FFA members .

4.1.19.2. Prosecutions database

A prosecutions database is managed by the Department of Justice.

4.1.20. Training of port State inspectors

All inspections are conducted by officers of the Maritime Wing. Support for the training of officers in boarding procedures and techniques is provided through the Australian Pacific Patrol Boat programme (PPBP) as well as through the FFA MCS programme.

4.2. Fiji

4.2.1. Background¹⁵

Fiji has an Exclusive Economic Zone (EEZ) of 1.29 million km², which supports a substantial domestic tuna fishing industry. Foreign fishing has occurred in Fijian waters since the early 1950s. Domestic fisheries started with pole and line ventures in the mid 70's and continued until the 1990s when low prices and relatively high costs made this form of fishing largely uneconomic. Taiwanese and Korean longline activity, primarily targeting albacore, increased in the 1980s, with substantial growth of the domestic longline fleet occurring over the last 10 years. The number of domestic longliners has grown rapidly in recent years reaching a peak of 103 in 2002. As at June 2006, 63 longline vessels are licensed to fish in the EEZ (37 Fiji, 23 China, 1 NZ, 2 Cook Islands), along with 1 purse seiner and 13 Japanese pole and line vessels. In addition Fiji hosts a further 90 foreign vessels licensed to fish in other zones and mainly in Vanuatu, Solomon Islands and Tuvalu.

Catches by the domestic fleet have increased from around 5,000 tonnes in 1998 to an all time high in 2004 of 19,617 tonnes, of which 10,832 tonnes (55%) was taken in the Fijian EEZ.

4.2.2. Oceanic fisheries management

Commercial tuna fishing is now focused on longline operations. The longline fishery is managed under a system of catch and effort limits with an overall TAC for yellowfin, bigeye and albacore of 15,000 tonnes, and a limit on the number of longline vessel licenses of 110. Of these 110 licenses, 60 are open licenses, 25 are reserved for indigenous Fijians and 25 for vessels associated with processors. Licenses are issued annually.

The area between internal waters and the shoreward boundary of archipelagic waters is closed to vessels over 20 metres and those owned by non-indigenous Fijians. All vessels using 'commercial' fishing gear i.e. longline, purse seine, pole and line require a license, irrespective of length. There is a proposal currently before Cabinet that the area of archipelagic waters be reserved for indigenous interests.

4.2.3. Oceanic fisheries institutional arrangements

The institutional structure of the Ministry of Fisheries and Forests is in the process of change. A National Fisheries Authority has been proposed under the new Fisheries Bill which is before Parliament. Currently the Oceanic Fisheries Management Services Division (OFMSD) of the Fisheries Department is responsible for oceanic fisheries management. The Fisheries Department has a total staff of 188, of which 36 are in the OFMSD. Of these 36 posts, only two are established, with the balance employed as project staff. One SPC funded contract officer is also employed by the Division, using EU funding. The Fisheries Department has an annual operating budget of US\$3.6 million. The OFMSD, with the exception of two core-funded established posts, is funded entirely from a trust fund from that portion of the license fees not paid to government. The OFMSD has five activity areas: Administration, Information Technology, Licensing and Enforcement, Observers, and Offshore Tuna Data Analysis. While oceanic fisheries are a high priority within the Fisheries Department, the OFMSD budget of US\$300,000 is only around 12% of the total Fisheries Department budget.

¹⁵ Statistical information is from: Department of Fisheries, Annual Report 2004. Institutional information is from: GEF SAP II Project, National Project Preparation Reports, Fiji, By Ian Cartwright and Seremaia Tuqiri, 2004.

The main government agencies involved in oceanic fisheries are the:

- Office of the Solicitor General, which provides legal advice, drafts legislation and attends meetings as legal advisors;
- Navy Division of the Fiji Military Forces, which undertakes surveillance and enforcement duties using three ocean-going patrol boats and two support vessels;
- Ministry of Foreign Affairs and External Trade which is active in the international aspects of fisheries policy, including work related to the WCPF Convention and other regional and international aspects of fisheries affairs;
- Fiji Police Force, which in collaboration with the Office of the Director of Public Prosecutions is responsible for prosecutions and enforcement; and
- Department of Environment which has interests in respect of marine conservation and sustainability issues, including turtles and other by-catch.

Fisheries policy is largely driven by the Fisheries Department. Consultation with government departments and other stakeholders (including industry and NGOs) on policy matters is dealt with through:

- an industry-based body, the Offshore Tuna Council¹⁶, whose membership comprises all Fiji License holders, those owning fish processing and packaging factories and representatives of government; and
- various ad-hoc committee processes, called to consult on specific issues, e.g. the review of the Tuna Management Plan.

Consultation with government departments on licensing and project matters occurs through two specific committees:

The **Licensing Committee** – responsible for making recommendations on all license applications for oceanic fisheries in Fiji. Cabinet appoints members of the Committee which comprise the CEO Fisheries and Forests, CEO Foreign Affairs and External Trade, CEO Home Affairs and Immigration and the Director of Fisheries. A large number of co-opted members also sit on the committee, including those from the line Ministries outlined above. There is no industry or environmental NGO participation. Application for licenses by fishing operators, including those involved in joint-ventures with local partners, are increasingly coming under closer scrutiny.

The **Project Committee**- responsible for considering all project proposals relating to fisheries in coastal and oceanic waters, e.g. foreign investment in oceanic fisheries. Membership comprises the Deputy Director of Fisheries, Principal Fisheries Officer (Research) and the Principal Fisheries Officer/Project Officer whose area is being applied for.

The Department of Environment is responsible for broader aspects of environmental management, including marine pollution.

4.2.4. Compliance

The Department of Fisheries has a compliment of 7 enforcement officers with duties that include fishing vessel inspection. Assistance with the monitoring of transshipments and landing is provided by regionally trained observers (7) and port samplers (5).

Compliance and enforcement activities are also carried out by the Naval Division through the operation of three ocean-going patrol vessels, the Fiji Police Force, the Department of Fisheries, and the Office of the Director of Public Prosecution. Naval officers have been given fisheries boarding powers to board vessels. A comprehensive database of registered vessels and gear characteristics is kept with the Department of Fisheries. There is recognition of the increasing mobility of fishing fleets and the associated compliance issues. To deal with such issues Fiji has entered into collaborative compliance arrangements with Vanuatu and Tuvalu and consideration is being given to the

¹⁶ Currently the Offshore Tuna Council meets infrequently.

establishment of a Niue Treaty arrangement to formalise this and to include other neighbouring FFA member countries in the arrangement.

The FFA VMS facility is managed by the Naval Division. A minimum criterion imposed on all fishing vessels is that they must be VMS compliant before they can be licensed to fish in Fiji waters. The Naval Division also conducts fisheries related surface patrols utilising 3 patrol craft for this purpose.

4.2.5. Monitoring

Fiji has a well developed system of data collection, verification and analysis of catch and effort data. It also has the capability to log and generate data before its transmission to SPC for review. This work has been well supported by SPC. A database has been set up containing Fiji's catch and effort data by species, gear, and fleet type and efforts are now focused towards the training of programmers and data analysts to do more detailed in-country analysis of both national and regional fisheries data.

While most vessel landings are well monitored ensuring a high level of port sampling coverage, some data gaps from landings still exist.

An onboard observer programme aimed at the domestic longline fleet is in place, with an approximate observer coverage of 20%. A common term of reference has been agreed to with Vanuatu to qualify Fiji Observers to become Vanuatu Observers, once multi-licensed vessels enter Vanuatu waters. This cross-accreditation is expected to be an on-going requirement.

4.2.6. Scientific analysis

Fiji, with software and training assistance provided by SPC, has well developed data collection and analysis capability that allows the production of reports to support the management process. The trend whereby recent stock assessment advice provided by SPC has increasingly focused on the impact of fishing on stocks in the Fiji EEZ has been welcomed by all stakeholders. While progress is acknowledged, there is considered to be a need to expand this activity and thereby provide a greater understanding of the relative impacts of fishing and environmental factors on tuna stocks.

Fiji is keen to build on the progress made with national data collection and analysis, and wishes to progress towards gaining a national capability to interpret regional stock assessment data. There is also a requirement to better understand and monitor the relationship between long line and purse seine fisheries.

Tuna by-catch is currently not considered to be an issue for Fiji, but is recognised as an emerging issue with the potential to impact exports. Under current practises, and using the SPC definitions, there is virtually no longline by-catch, with retained non-target species being landed as by-product and finding a ready market. Data on by-catch taken within the EEZ is generally sketchy and work to date on by-catch issues has been minimal.

Large scale oceanographic changes undoubtedly have impacts on Fiji's oceanic fisheries however there is little capacity to monitor and analyse large scale impacts, or to separate these impacts from the impacts of fishing. Analysis conducted through the Oceanic Fisheries Programme of the SPC is providing greater understanding of the local situation with respect to large scale ENSO-driven changes.

4.2.7. Transshipment and landing

A significant volume of tuna is transhipped at ports in Fiji by foreign vessels, and in particular Taiwanese longliners (88% of total transshipments in 2002). Other minor transshipments include those by China, Vanuatu and Japan flag vessels. In 2002 a total of 171 vessels transhipped 12,036 tonnes of tuna and related species around 90% of which was albacore. In 2004, a total of 302 transshipments of fish caught in the EEZ occurred. A further 799 vessels transhipped 58,000 tonnes of tuna caught outside the EEZ.

The total number of vessel inspections at port in 2004 was 1,354. Of these, 307 were inspections of vessels not based or licensed to fish in Fiji.

4.2.8. Exports

The PAFCO cannery in Levuka processes much of the albacore landed in Fiji, and produced around 12,600 tonnes of loins and 418,766 cases of tuna in 2002, primarily for export.

In 2004 Fiji exported 66% of its sashimi grade tuna to Japan and America, with the bulk of the remaining 34% going to China. Total revenue generated in 2004, from the export of tuna and associated species was US\$215 million. This makes tuna fishing one of Fiji's major industries, ranking third behind tourism and sugar. The domestic tuna industry in Fiji in 2002 accounted for some 900 jobs on vessels with a further 1,500 employed in shore-based facilities.

4.2.9. IUU fishing

Since 2004, Fiji has prosecuted 7 vessels in the High Court for fisheries offences.¹⁷ These offences include: being unlicensed to fish, targeting shark, non-reporting and unauthorised fishing for southern bluefin tuna (SBT). Detection and apprehension has involved dockside inspection, use of VMS tracking, at-sea boarding and the sharing of information with neighbouring States as well as with CCSTB.¹⁸

In 2005 the Indonesian flagged vessel, *Chin Shun Fa 66*, entered Fiji for the purpose of landing SBT. Upon checking with the Indonesian Embassy in Suva, as well as with the CCSBT, it was found that the Indonesian registry documents were false and that in any case Indonesia was not a member of CCSBT. In addition, the vessel owed money to a Taiwan interest. The vessel and catch were seized and subsequently sold.

As noted above, there are around 150 tuna vessels based in Fiji and landing and transshipment activity is significant. Many vessels that use the ports are licensed to fish in other neighbouring States. Fiji benefits from this and intends to further enhance port facilities and related infrastructure to increase port calls by tuna vessels. To assist in the management of these vessels, Fiji is working with Vanuatu, Solomon Islands and Tuvalu to establish a joint and reciprocal surveillance and enforcement arrangement. This arrangement is likely to include areas of common interest beyond fisheries. Discussions are also underway with neighbouring States including Cook Islands, Niue, Samoa and Tonga to develop a sub-regional management arrangement with respect to the albacore fishery.

4.2.10. International legal instruments

Fiji is a party to or has adopted the following international legal instruments relating to fisheries management:

Table 3: Fiji International Legal Instruments

Instrument	Status
WCPF Convention	Ratified
1982 UN Convention	Ratified
1995 UN Fish Stocks Agreement	Ratified
Driftnet Convention	Ratified
Convention on Biological Diversity	Ratified
FAO Code of Conduct	Accepted
1993 FAO Compliance Agreement	Endorsed
IPOA-IUU	Endorsed, not yet implemented
WSSD Fisheries Targets	Not formally adopted

¹⁷ Personal comment by Anari Raiwalui, Fisheries Officer.

¹⁸ The *Chin Shun Fa 66* case involved flag State verification communication with Indonesia.

FFA Minimum Terms and Conditions	Implemented
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4.2.12. IPOA IUU

A national plan of action to prevent, deter and eliminate illegal, unreported and unregulated fishing, has yet to be developed.

4.2.13. Port State control

The Marine Spaces Act, 1978, section 14, makes provision for the issuing of licenses to foreign fishing vessels. Conditions of license relate to:

- landing and transshipment;
- entry to port;
- provision of information including catch and effort and position;
- vessel markings;
- VMS.

In addition, foreign fishing vessels must be in “good standing” on the Regional Register, have flag State authorisation and be included in the WCPFC Record of Fishing Vessels, before a license can be issued. All vessels on the Regional Register are also VMS compliant.

Every vessel, that enters a Fiji port carrying fish taken outside the fisheries waters, is required to submit to inspection. Locally based vessels that fish inside fisheries waters may be inspected, but their activities are monitored primarily through the observer and port sampling programmes.

Vessels that are not licensed to fish in the fisheries waters but that intend to enter port for transshipment or landing purposes, are required to have a permit to do so.

4.2.14. Designated ports

Suva and Levuka.

4.2.15. Prior notice of port access

Fiji has adopted the regional MTCs and requires vessels to provide 24 hours notice of their intention to enter a designated port. Information relating to catch on board is also required. Licensed vessels are required to provide entry/exit reports as well as weekly reports while in the fisheries waters. It is normal practice for the vessel agent to notify details of vessel activity and to be on hand at inspection. Vessels are also monitored by VMS prior to entry and while in the fisheries waters.

4.2.15.1. Vessel identification

The Regional Register provides full information on foreign fishing vessels and this can be accessed by using vessel name, call sign or vessel identification number.

Fiji has adopted the FAO standard specifications for the marking and identification of fishing vessels.

4.2.15.2. Purpose of access to port

This information is included in the notice of intention to enter port.

4.2.15.3. Fishing authorisations

License information for Fiji licensed vessels is held in the license database and this information includes flag State authorisation. For vessels not licensed in Fiji, information is provided by the vessel agent and this is routinely cross-checked with licensing agencies in neighbouring States (Solomon Islands, Tuvalu, Vanuatu).

4.2.15.4. Trip information

Trip information as set out in Annex A (4) is not currently a requirement. Port of departure information is acquired on inspection. It is noted that vessel position information is monitored by

VMS and having access to position information for the full range of a vessel, would meet the FAO Model Scheme standard.

4.2.15.5. Species information

Catch on board by species and weight is required as part of the request to enter port. The zone entry report also requires species/weight details.

4.2.16. Denial of port access to tranship or unload

Only licensed vessels and non-licensed vessel with a permit to tranship or unload, may use Fiji ports for those purposes.

In compliance with WCPF Commission obligations, port access will be denied to foreign fishing vessels that fish in the WCPFC Area and are not included on the WCPFC Record of Fishing Vessels. Access will continue to be denied to vessels active in other RFMO regions that are not authorised to fish in those regions. Fiji will also cooperate to deny port use to any vessel which has been identified by a RFMO as engaging in or supporting fishing activities in contravention of its conservation and management measures.

The effective monitoring of unlicensed vessels that use Fiji as a base for maintenance and reprovisioning purposes, will continue to require close cooperation with the licensing States, flag States, the WCPFC and other RFMOs as appropriate. Towards this end, Fiji is pursuing a joint and reciprocal surveillance and enforcement arrangement with Solomon Islands, Tuvalu and Vanuatu and is also exploring sub-regional management arrangements with other Pacific Island States involved in the southern albacore longline fishery. Fiji will work through the WCPF Commission to develop cooperative arrangements with other RFMOs.¹⁹

4.2.17. Inspections (Annex B)

Inspections are carried out in accordance with the FFA Boarding and Prosecutions manual and conform to Annex B.

4.2.17.1. Powers of authorized officers

All vessels that have entered a port from outside the fisheries waters, are required to submit to health, customs, immigration and fisheries inspections. Section 17 of the Marine Spaces Act, 1978, empowers a Fisheries Officer to *inter alia*:

- board a fishing vessel;
- search the vessel and examine fish on board;
- require to be produced relevant documents.

4.2.17.2. Fisheries officer identification

Identifying the vessel master and providing identification as an authorised Fisheries Officer, is standard operating procedure.

4.2.17.3. Flag State participation

It is not standard practice to invite the flag State to participate in the inspection process. However, the vessel agent is usually on hand to assist.

Given the number of inspections required to be made and the prospect that these are likely to increase, it may be a practical solution to develop cooperative arrangements with flag States to allow their inspection officers to assist with port inspections.

¹⁹ WCPF Convention, article 22.

4.2.18. Inspection report (Annex C)

The Vessel Arrival Inspection Form, appended as **Attachment B**, is required to be completed for each inspection. The following is the information required by Annex C but not specifically identified in the Vessel Arrival Inspection Form:

Table 4: Fiji Inspection Report Gaps

Annex C requirement	Comments
Maritime Mobile Service Identity number	
Previous vessel names and flag	Available from the Regional Register
Whether the flag State is a party to a particular regional fisheries management organisation	
Names and addresses of previous owners	Available from the Regional Register
Certificate of master	Ports Authority responsibility
Areas visited on current trip	Available from logsheets and VMS
Areas where fish was caught	Available from logsheets
Ports visited	Port of departure required. Other port calls available from logsheets and VMS info.
Fish species unloaded	Landing and transshipment reports collected for customs and fisheries purposes
Presentation	
Live weight	
Intended destination of fish and fishery product	Data on tuna unloaded for export collected by fisheries and customs officers
Fish retained on board by species and weight	Available from logsheet data
Details of gear inspection	Gear inspected as a matter of course

The report is required to be signed by the inspecting officer and countersigned by the vessel master.

4.2.19. Notification

If, following inspection it is found that there are reasonable grounds to believe that a vessel has been involved in IUU fishing activity, notification is provided to:

- the flag State²⁰;
- any affected coastal State²¹;
- the relevant RFMO²².

²⁰ A number of diplomatic missions are based in Suva including those from the major fishing interests active in the region.

²¹ Fiji has established informal links with Solomon Islands, Tuvalu and Vanuatu to share information on the activities of vessels licensed in those countries and based in Fiji.

²² Article 25 of the WCPF Convention requires a member to investigate violations alleged to have been committed by its flag vessels.

4.2.19. Information Management

4.2.19.1 Inspection database

A database for the input of information from the Vessel Arrival Inspection form has been developed in-house. Currently it is not the practice to send reports of all inspections to the flag State or relevant RFMOs. Details of port inspections are now required to be reported to the WCPF Commission on an annual basis.

4.2.19.2. Prosecutions Database

A prosecutions database has been developed in-house.

4.2.20. Training of port State inspectors

There is no programme specifically designed to train and certify port inspectors. Training for officers involved in port inspections has been provided by FFA and SPC through their regional MCS, observer and port sampling training programmes. The basic training text is the FFA Boarding and Prosecutions manual. FFA is scheduled to convene a Dockside Boarding workshop in July.

Given the number of inspections undertaken and the prospect that frequency of port calls is likely to increase, there is a need to increase the number of trained inspectors. The amount of information generated coupled with the need for analysis and verification points to the need for enhanced MCS analytical capacity.

4.3. Republic of the Marshall Islands

4.3.1. Background

The Exclusive Economic Zone of Marshall Islands, lying between 5⁰N and 15⁰N, is large (2.1 million km²) and moderately productive, with over 50% of the zone bordering international waters to the north, east and west. RMI has opted to promote onshore development, transshipment and processing, rather than the development of its own domestic tuna fleet. RMI has had long-standing access agreements with a variety of countries and industry associations, and operates a vessel registry, with six (6) RMI-flag purse seine vessels currently on the register. In the 2004/2005 fiscal year, RMI had 13 access agreements in place covering 224 licensed vessels from 13 flag States. In addition 45 purse seine vessels were licensed to operate under the Multilateral Treaty on Fishing and the FSM Arrangement bringing to 17 the number of foreign flag States with vessels licensed to fish in the EEZ.

Table 5: RMI Licensed Tuna Vessels 2004

Country/Party	Gear	Vessels	Flag
USA	Purse Seine	14	
Japan	Purse Seine	34	Japan
Japan	Longline	15	Japan
Japan	Pole and line	7	Japan
Taiwan	Purse Seine	34	Taiwan
Korea	Purse Seine	27	Korea
FSM Arrangement	Purse Seine	31	FSM,RMI,KI, SI, PNG

Fong Seong Co.	Purse Seine	5	Vanuatu
Shandong Fishery Co.	Purse Seine	2	PROC
Shangai Fishery Co.	Purse Seine	1	PROC
Marshall Islands Fishing Venture	Longline	38	PROC, Taiwan
New Zealand	Purse Seine	3	NZ
Hsiang Sheng Fishery Co	Purse Seine	1	Taiwan
Fair Well Fishery (PNG) Ltd	Purse Seine	1	Vanuatu
Pacific Food & Services, Inc.	Longline	11	Japan
Sanko Bussan (Guam), Inc.	Longline	14	Japan

Catches taken by foreign vessels fishing in the zone under access agreements are significant - purse seine catches (various fleets) have been as high as 70,000 tonnes per year, longline catch (mostly Japanese) to 7,600 tonnes and Japanese pole-and-line vessel catch to 18,000 tonnes, but total catches (all gears) are usually less than 40,000 tonnes in most years. ENSO effects on purse seine catches, typically taken in the southern parts of the zone, are significant.

A base for locally-based foreign longline vessels has operated in Majuro at various times, and was recently reactivated. In 2004, 30 vessels, mostly of Chinese origin, fished in the EEZ, landing over 2,000 tonnes of mainly bigeye and yellowfin for airfreight export through Honolulu to the USA and Japan.

4.3.2. Oceanic fisheries management

The recently revised Marine Resources Act (1997) and associated Regulations establish the Marshall Islands Marine Resources Authority (MIMRA) and direct it to, *inter alia*:

- “conserve, manage and sustainably develop all resources in the Fishery Waters and seabed and subsoil there-under, in accordance with the principles and provisions in this Act and in sub-regional, regional and international instruments to which the Republic of the Marshall Islands is party”.

With respect to the conservation, management and sustainable use of the fishery resources, “the Authority shall ensure the long-term conservation and sustainable use of the fishery resources, and to this end shall adopt management measures which promote the objective of optimum utilization”. A Tuna Management Plan has been in place since 2004.

No formal management measures or limits currently apply to tuna fishing within the EEZ. Waters inside 12 nautical miles of all islands are closed to longlining, whilst waters inside 50 nautical miles around three heavily-populated islands (Majuro, Kwajalein, Arno) are also closed to longlining. These closures primarily apply to the locally-based foreign longline fishery.

4.3.3. Oceanic fisheries institutional arrangements

The Marshall Islands Marine Resources Authority (MIMRA) is the primary agency responsible for oceanic fisheries management in RMI. The Division has a staff establishment of around 50 posts,

and an annual operating budget of US\$1.4 million (which includes coastal fisheries and the Fisheries and Nautical Training Center). Within MIMRA, sections with responsibilities for oceanic fisheries include:

- Oceanic and Industrial Affairs Division: licensing, national fisheries database (data collection and statistics), research and monitoring (port sampling and observer programmes), international liaison, and collaboration in national MCS
- Administration and Finance, Policy and Planning : policy and administration

Other government agencies involved in oceanic fisheries are:

- Sea Patrol Division of the National Police, Ministry of Justice, who operate the patrol boat *Lmor*, with assistance from RAN;
- Foreign Affairs, Asia Pacific Desk, which is active in international aspects of fisheries policy, including work related to the WCPF Convention and other regional and international aspects of fisheries affairs;
- Office of the Attorney General (Ministry of Justice), which provides legal advice on issues pertaining to oceanic fisheries management;
- Ministry of Resources and Development – oversight Ministry for MIMRA with the Minister as Chairman of the MIMRA Board;
- Environmental Protection Agency (EPA), and Office of Environmental Planning and Policy Coordination.

There is currently no formal mechanism for consultation with stakeholders on off-shore fisheries management issues but this is envisaged under the Tuna Management Plan. The Board of MIMRA includes representatives from relevant government departments and the private sector. Fisheries policy is largely driven by MIMRA, with the approval of the Board, and where legislative change is involved, the National Parliament (Nitijela).

The Office of Environmental Planning and Policy Coordination is responsible for broader aspects of environmental management, including marine pollution, whilst EPA is concerned with grass roots environmental issues.

4.3.4. Compliance

MIMRA is responsible for the licensing of tuna fishing vessels and maintains a licensing database which is linked to the FFA Regional Register. All foreign fishing vessels are required to be FFA VMS compliant. Information required from licensed vessels including those relating to zone entry/exit and port visits, are reported to MIMRA.

Compliance activities are carried out by the Police Sea Patrol Division, with assistance from MIMRA, and ongoing technical support from the Royal Australian Navy (RAN). Sea Patrol operates one Australian-provided patrol vessel, the *Lmor*, with an annual target of 120 days of seagoing patrols. RMI is involved in collaborative surveillance operations with its neighbours FSM and Palau, undertakes contracted surveillance around Kwajalein Atoll, and has also been approached by Nauru to conduct patrols in the Nauru EEZ.

The FFA VMS is under the control of the Police and is operational, although there is limited capacity within RMI to maintain and service VMS operations.

Since 2004, a citation process has been in effect which allows enforcement officers to inspect fishing vessels and issue citations for minor offences. Should the receiver of a citation accept that an offence was committed, an administrative penalty may be extracted. In the case where the receiver of a citation denies the offence, the matter may be progressed through the adjudication process or by taking court action. The use of citations has allowed fisheries offences to be dealt with swiftly and has enabled compliance related resources such as the patrol craft to be released for further duties.

4.3.5. Flag vessels

Marshall Islands currently has six purse seiners operating in the region under the FSM Arrangement. As required by the WCPF Convention, these vessels are authorised to fish in the Convention Area beyond the RMI fisheries waters and are on the WCPFC Record of Fishing Vessels.

4.3.6. Monitoring

There is a well-developed system for the collection and analysis of catch and effort data from all vessels licensed under access agreements, RMI flag vessels and locally-based foreign vessels. With the assistance of SPC, to whom scanned logsheet data are routinely sent, RMI has the capacity to produce catch and effort data by species, gear, fleet and area. Catches are however not yet fully verified.

An observer programme, focusing on the locally based foreign longline vessels, RMI-flagged purse seine vessels, and FSM Arrangement vessels, is managed by a full-time Observer and Port Sampling Coordinator. Coverage is currently low, but there is a firm commitment to increase this to 5-10% in the short term, and 15-20% in the medium term. The observer programme is supported by SPC.

4.3.7. Scientific analysis

RMI has a well-developed capacity to provide scientific analysis of information related to oceanic fisheries, including regular reporting of catch and effort by fleet, gear and flag, as evidenced by the detailed and timely annual reports produced. RMI provides strong support for regional monitoring and scientific programmes undertaken by SPC.

The regular flow of information from regional stock assessment work in a form useful for national fisheries management continues, but there will be an ongoing need for assistance in interpretation of the regional analyses. RMI will continue to rely on SPC in this area but will continue to develop its national capacity particularly with respect to scientific expertise.

The species taken as by-catch in oceanic fisheries are important in RMI as highly regarded food products, although landings appear to be small. RMI has some data generally on by-catch from the observer programme. Interaction issues are important in the RMI situation - between longline fisheries and the sport fishery and dive operations, and between purse seine and longline fisheries.

Large scale oceanographic changes have significant impacts on oceanic fisheries in and adjacent to the RMI EEZ and thus transshipment activity. Improving understanding of these through current SPC work is valuable, and continuing that research is important.

4.3.8. Transshipment and landing

Large volumes of transshipment have occurred in Majuro in recent years, involving up to 400 vessels in some years and possibly 300,000 tonnes of fish: a significant proportion of the regional catch. In 2004 a total of 227 purse seiners transhipped 163,052 tonnes of tuna and in addition 569 longline landings took place. Transshipment by foreign fishing vessels is encouraged and it is estimated that each purse seine transshipment directly benefits the RMI economy by US\$5,000, through employment and local purchases.²³

4.3.9. Exports

In 2004 RMI exported approximately 3,000 tonnes of tuna to Japan, the United States, Canada and Taiwan, in chilled, fresh, frozen and loin form. The high quality bigeye and yellowfin tuna went to the Japanese sashimi market while the lower quality tuna and by-catch was exported to Taiwan.

A loining plant with a capacity of 10,000 tonnes, was established in 2000, to produce product for eventual canning in PagoPago. The plant is currently undergoing refurbishment.

²³ MIMRA Director, Glen Joseph, personal comment.

4.3.10. IUU fishing

With RMI largely surrounded by productive international waters, there is believed to be an issue with IUU fishing in contiguous waters, and possibly in the northern parts of the EEZ. RMI operates one patrol vessel, and is assisted by periodic air patrols by Australia and New Zealand. RMI is involved in collaborative surveillance and enforcement operations with its neighbours FSM and Palau. In June 2006, operation “Island Chief” was conducted and involved surveillance and enforcement personnel and platforms from RMI, FSM, Palau, Australia, New Zealand, the United States, Papua New Guinea, Kiribati and FFA.

In recent years fisheries prosecutions have been for violations of license conditions relating to catch reporting, VMS, pollution and by-catch including the targeting of shark. Since 2004, eight vessels have been prosecuted through the administrative penalties process with fines ranging from US\$10,000 to US\$250,000.²⁴ There have been no prosecutions of unlicensed vessels for some years.²⁵

4.3.11. International legal instruments

RMI is party to or has adopted the following international legal instruments relating to fisheries management:

Table 6: RMI International Legal Instruments

Instrument	Status
WCPF Convention	Ratified (2001)
1982 UN Convention	Ratified
1995 UN Fish Stocks Agreement	Ratified
FAO Code of Conduct	Accepted
WSSD fisheries targets	Not formally adopted
Convention on Biological Diversity	Ratified
1993 FAO Compliance Agreement	Adopted
FFA Minimum Terms & Conditions	Implemented
Driftnet Convention	Ratified

4.3.12. IPOA-IUU

A national plan of action to prevent, deter and eliminate illegal, unreported and unregulated fishing, has yet to be developed.

4.3.13. Port State control

The Marine Resources Act, 1997, section 20, establishes that exclusive management and control over living and non-living resources within the fisheries waters of the Marshall Islands is vested in the Government. All foreign and locally based fishing vessels are required to be licensed to operate pursuant to a fishing access agreement. Foreign fishing vessels are subject to the regionally adopted MTCs which includes the requirement to be in “good standing” on the Regional Register as well as VMS compliant. Fishing without a license is subject to a fine of US\$1 million.²⁶

All fishing vessels calling in to port are required to submit to clearance by health, customs and immigration authorities, followed by inspection by Sea Patrol and MIMRA.

²⁴ Chief of Police, Thomas Heine, personal comment.

²⁵ Ibid.

²⁶ Marine Resources Act, 1997, section 66 (l).

4.3.14. Designated Ports

Majuro is the port designated for all licensed fishing vessels.

4.3.14. Prior Notice of Port Access (Annex A)

Fishing vessels are required to give 24 hours notice of port entry.²⁷ If port access is for transshipment purposes, the fishing and carrier vessels are required to provide:²⁸

- 72 hours notice and current position
- species and weight of catch to be transhipped
- Name and call sign of vessel

In addition, vessels are required to provide faxed or telexed, entry/exit and Wednesday reports which include position and catch on board.

All vessels are monitored by VMS throughout the EEZ.

4.3.14.1. Vessel identification

The FFA Regional Register and the license registry provide full information on all foreign fishing vessels licensed to operate and this can be accessed by using vessel name, call sign or vessel identification number.

RMI has adopted the FAO standard specifications for the marking and identification of fishing vessels.

4.3.14.2. Purpose of access to port

This information is included in the notice of intention to enter port.

4.3.14.3. Fishing authorisations

Only licensed vessels are entitled to operate in RMI. Information held on licensed vessels includes flag State authorisation. Advice on authorisations to fish in other States in the region is not required in advance of a port call.

4.3.14.4. Trip information

Advance notice of trip information is currently a requirement. However, historical information on vessel movements can be provided by VMS. Information on the last port of call is acquired at inspection.

4.3.14.5. Species information

Catch on board by species and weight is required to be faxed or telexed in advance. The zone entry report also requires species, weight and position information.

4.3.15. Denial of Port Access

As required by the WCPF Convention, all flag vessels that fish in the WCPFC Area beyond areas of national jurisdiction must be authorised to do so and must be included on the WCPFC Record of Fishing Vessels. Any vessel not on the WCPFC Record of Fishing Vessels will be denied port access.

Only licensed vessels may be allowed port access. If such a vessel is suspected of IUU fishing activities outside of the EEZ, then it may have committed a fisheries offence and could therefore be prosecuted.

As a member of the WCPF Commission, Marshall Islands will cooperate to deny port use to any vessel which has been identified by a RFMO as engaging in, or supporting, fishing activities in contravention with its conservation and management measures.

²⁷ Marine Resources Act, 1997, section 74.

²⁸ Marine Resources Act, 1997, section 63.

The WCPF Commission has joined with other regional fisheries management organisations (CCSBT, IOTC, IATTC, ICCAT) to establish www.Tuna-org which currently provides information on IUU vessels.

4.3.16. Inspections (Annex B)

Inspections are carried out in accordance with the FFA Boarding and Prosecutions manual and conform to Annex B.

4.3.16.1. Powers of authorised officers

All fishing vessels that have entered the EEZ are required to submit to health, customs and immigration inspection, as well as inspection by authorised fisheries officers. Authorised officers have the power to board and search any fishing vessel in the Fishery Waters and inspect relevant documents.²⁹

4.3.16.2. Fisheries officer identification

Identifying the vessel master and providing identification as an authorised fisheries officer is standard operating procedure.

4.3.16.3. Flag State participation:

It is not standard practice to invite the flag State to participate in the inspection process. However, the vessel agent is usually on hand to assist.

4.3.17. Inspection report (Annex C)

The following inspection reports are produced:

- Boarding checklist: Carrier vessels;
- Boarding checklist: longline and pole and line fishing vessels; and
- Boarding checklist: purse seine fishing vessels.

Completed inspection forms are required to be signed by the vessel captain as well as the inspecting officer.

The following is the information required by Annex C of the FAO Model Scheme but not specifically identified in the RMI boarding checklists:

Table 7: RMI Inspection Report Gaps

Annex C requirement	Comments
Maritime Mobile Service Identity number	
Previous vessel names and flag	Available from the Regional Register and also included in license application form
Whether the flag State is a party to a particular regional fisheries management organisation	
Names and addresses of previous owners	Available from the Regional Register and also included in license registry database
Certificate of master	Ports Authority responsibility
Ports visited	Port of departure required. Other port calls available from logsheets and VMS info. Carrier vessels required to provide voyage memo

²⁹ Marine Resources Act, 1997, s.82 (1).

Presentation	
Live weight	
Intended destination of fish and fishery product	Data on tuna unloaded for export collected by MIMRA
Details of gear inspection	Gear inspected as a matter of course

4.3.18. Notification:

Where there are reasonable grounds to believe that a vessel has been engaged in IUU fishing the resident vessel agent is informed. It is a condition of fishing access that a resident agent is maintained to receive and respond to any legal process issued.³⁰ Remedial action may be pursued through the Adjudications Proceedings process,³¹ the High Court, the WCPF Convention³² or through FFA.³³

4.3.19. Information Management

4.3.19.1. Inspection database

A database for the input of information from the boarding checklists is currently under consideration. MIMRA has a strong data management capability supported largely by SPC and is able to process information relating to:

- catch and effort;
- transshipment and landing;
- observer reports;
- weekly/entry/exit vessel reports;
- registration and licensing; and
- marketing.

At present the licensing and registration system is linked to the FFA Regional Register. Eventually it is planned to link all sets of information. The inspection database will be a component of this linked system.

A recent FFA MCS initiative is the development of a VOI database through which member countries are able to share information on vessels of interest. RMI is an active participant in VOI.

4.3.20. Training

There is no programme specifically designed to train and certify port inspectors. Training for boarding officers, observers, port samplers, VMS operators and data entry personnel is provided by FFA, SPC and through the Pacific Patrol Boat programme. The basic text used is the FFA Boarding and Prosecutions manual.

4.4. Papua New Guinea

4.4.1. Background

Papua New Guinea (PNG) has a highly productive and extensive Exclusive Economic Zone (EEZ), with an area of 2.4 million km². These waters produce up to around 10% of the world's catch of major tuna species. Catches from the PNG EEZ are highly variable due to El Niño/La Niña effects, with total tuna catches varying between 125,000 tonnes in 1999 and the highest recorded catch of 374,000 tonnes in 2003. The 2004 catch is estimated to be 313,027 tonnes. More than 95% of this catch in most years is purse seine-caught skipjack, destined for canning. PNG has a long history of

³⁰ Marine Resources Act, 1997, s.60 4 (a).

³¹ Marine Resources Act, 1997, s.102.

³² WCPF Convention, art. 25.

³³ FFA administers the Regional Register, the US Treaty and the FSM Arrangement.

foreign fishing, initially licensing the Japanese fleet and in turn vessels from the United States, Korea, Taiwan and Philippines. Apart from the Japanese longline fleet, most of these vessels have been purse seiners.

PNG has put in place active policies to encourage PNG national involvement in the fishery and onshore investment in tuna processing for export, with considerable success. There is a cannery (130 tonnes/day) and a high capacity loining plant (potential 200 tonnes/day) in operation, with plans for expansion of these operations and two new canneries. If all planned expansions occur, up to 175,000 of tuna per annum could be processed in PNG.

Current purse seine fishing activity is a mix of access arrangements with the DWFN fleet and increasingly, by licensing domestic and locally based vessels. Catches for the latter group have increased from 31,800 tonnes in 1998 to 101,300 tonnes (or 28% of total p/s landings) in 2004. In 2006, 113 purse seine vessels are licensed to fish in PNG's EEZ, including the fleets of Korea (27), Taiwan (47) Philippines (17) and China (6) as well as the recently signed access agreement with Japan covering 32 purse seine vessels. A number of other purse seine vessels are domestically based and flagged to such countries as Vanuatu and Philippines. In addition vessels licensed under the multilateral Treaty on Fishing and the FSM Arrangement, have access to PNG waters.

Since 1987 longline effort by foreign longliners has been minimal and in 1995, a domestication policy was introduced to encourage local development of the tuna longline fishery. Since then this sector of the tuna fleet has expanded considerably with catches increasing more than four-fold since 1998 to 3,918 tonnes in 2004. In 2004 there were 42 tuna longliners and 8 shark longliners licensed to fish in PNG waters. Currently, 38 tuna longliners along with 9 longliners targeting shark, are licensed to fish.

4.4.2. Oceanic Fisheries Management

The objectives of oceanic (tuna) fisheries management stated in the National Tuna Fishery Management Plan 1999 are to:

- maximize benefits to Papua New Guinea from sustainable use of its tuna resource;
- satisfy Papua New Guinea's regional and international obligations to the management and conservation of tuna resources, while ensuring the national interest comes first and foremost;
- minimise any adverse impacts of tuna fishing and related activities on the marine environment;
- minimize any adverse impacts on the artisanal and traditional fishing sectors;
- improve decision-making in relation to management of the tuna fishery through effective information and communications network; and
- ensure that the provisions of the Plan are developed, implemented, administered and monitored in an efficient and cost-effective manner.

Catch and effort and other restrictions for the tuna fishery are specified in the 1998 Tuna Management Plan.

Commercial tuna fishing in PNG now consists of purse seine and longline operations. The purse seine fishery is managed under a TAC of 338,000 tonnes. Purse seine vessel numbers are managed under the Palau Arrangement with plans to implement the new Vessel Day Scheme (VDS) recently adopted by the Parties to the Palau Arrangement. Longline fishing is prohibited within 12 miles from any land, island or declared reef.

The tuna longline fishery is managed by a TAC of 10,000 tonnes and vessel limits, with a maximum of 100 licences. The longline shark fishery is managed separately, with a TAC of 2000 tonnes dressed weight (including by-catch from longline vessels) and effort limits (9 vessels and 1,200 hooks per vessel). Longline fishing is prohibited within 12 miles from any land, island or declared reef.

4.4.3. Oceanic Fisheries Institutional Arrangements

Oceanic fisheries management is under control of the National Fisheries Authority (NFA), a statutory body established under the Fisheries Management Act 1998. NFA is required to implement government policy for managing and developing fisheries as a national asset. In 2004, NFA had a total staff of 71, and an annual operating budget of US\$6.1 million³⁴. NFA receives no recurrent funding from Treasury, operating on an approved budget funded from income derived from access fees, licensing fees, penalties and other miscellaneous charges. In 2003, income from these sources totalled US\$9.4 million; US\$7.4 million was returned to government as the annual dividend, with the balance held in investments.

The NFA has four activity areas (business groups) directly related to oceanic fisheries management. These are: Provincial and Industry Liaison, Fisheries Management, Licensing and Information and Monitoring, Control and Surveillance.

While the Minister of Fisheries has overall and ultimate responsibility for policy direction, the NFA Managing Director and Board play a role in developing fisheries policy at an operational level. Consultation between NFA, government departments and other stakeholders (including industry and NGOs) on policy matters is dealt with through:

- The Tuna Consultative Committee (TCC) whose membership includes representatives from NFA, the fishing industry, Attorney Generals, Foreign Affairs and the Maritime Operations Section of the Defence Force. The TCC has direct input into NFA papers on tuna management issues prior to their submission to the Board for decision.
- The **Tuna Stakeholders Group**, which meets immediately prior to the TCC and is open to all stakeholders in the tuna fishery, including industry, NGOs and the wider public.

The TCC is scheduled to meet on a quarterly basis and more often when required.

The Department of Environment and Conservation is responsible for broader aspects of environmental management, including marine pollution. The Department is actively involved in turtle conservation and considers the significant turtle migratory route in the Bismarck/Solomon seas as a priority for research and monitoring. Reflecting PNG's status as a member of CITES, the Department has particular responsibilities towards controlling the trade of protected and endangered species.

Responsibility for ocean fisheries legal issues is shared between the International Law Division (ILD) of the Office of the State Solicitor and NFA. ILD have three lawyers working part-time on fisheries issues and NFA has three legal staff, dealing primarily with licensing, compliance and other national issues. The level of communication between AGs and ILD is considered to be good.

4.4.4. Compliance

Compliance, monitoring, licensing and enforcement activities are carried out by the NFA, in a unique collaboration with the Marine Element (i.e. the Navy) which is an arm of the PNG Defence Force (PNGDF). PNG has had difficulties with maintaining their fleet of four patrol boats, and with funding for fuel and allowances. An MOA exists between the NFA and the PNGDF Maritime Element under which NFA funds the cost of 10 patrols per year for a K1 million. Without this support, very little ship-borne surveillance would occur. In the last five years approximately US\$1.6 million was expended on fisheries surveillance activities, and over US\$1.75 million was collected in terms of penalties imposed on illegal fishers. The Navy is looking to improve links with NFA to improve data flow (e.g. by the use of a remote VMS station at the Surveillance Centre and more regular updates on vessel licensing), and to gain an increased understanding of the implications of the WCPFC and other fisheries legal instruments for compliance activities .

The FFA VMS facility is located with the NFA and is operational at around 80% efficiency. PNG also operates its own national VMS. While the level of compliance has increased, the NFA and the

³⁴ US\$1.00= K(kina)3.141

Maritime Element are aware that regulations are not being fully observed by foreign fishing vessels that do not carry an ALC for monitoring purposes and the use of illegal FADs continues to occur. There has also been anecdotal evidence of IUU fishing involving pump boat handline fishers from Indonesia illegally fishing in FAD areas.

NFA has its own enforcement section, dealing primarily with compliance with licence conditions and cooperating with the Navy during surveillance operations. Coordination between NFA and the Navy is generally good, and relies on regular informal communications.

Expanded sub-regional cooperation in surveillance is considered important to PNG. In June, PNG participated in a sub-regional MCS exercise together with the FSM, RMI and Palau. For the period of the operation, data obtained through their respective VMS facilities was shared. It is anticipated that PNG will seek to become a party to the joint and reciprocal surveillance and enforcement arrangement between Palau, FSM, and RMI.

4.4.5. Monitoring

NFA operates a licensing database that contains full information on vessel characteristics.

Logsheets are required to be submitted by both foreign and domestic licensed vessels. Currently there is approximately 100% coverage for the domestic purse seine fleet and 70% for the domestic longline fleet.

There is a large observer programme in PNG which is well supported and coordinated by NFA. The programme currently has 86 active observers, with a target of 103 by the end of July. For the foreign fleet, target coverage of 20% for purse seiners, 5% for longliners and 100% for mothership operations are reported as currently being achieved. PNG is reliant on SPC and FFA services for observer training.

Landings data are currently available for approximately 15% of the purse seine catch and while all transshipments are currently observed, systematic recording of transshipments is not undertaken. Port sampling of the longline fishery occurs at Port Moresby, Lae, and Rabaul. Given the high level of observer coverage of the domestic purse seine fleet, there is considered no need to increase port sampling for this sector. However SPC has suggested that increased port sampling coverage of the foreign vessels landing in Wewak and Rabaul is required.

4.4.6. Scientific Analysis

PNG generally has sufficient data available to support regional stock assessments. Logsheet and landings data are processed by NFA, with data entry verification (quality control) provided by SPC. Observer, port sampling and packing list data are forwarded to SPC for processing, although there are plans to provide these data electronically to SPC. All PNG data are incorporated into regional databases and the PNG national database. NFA uses SPC-supplied software for generating reports of catch and effort data which it uses for STCB reports and other uses. There is a need for further capacity building to enable NFA staff to undertake more detailed data interpretation using statistical packages to analyse nationally and regionally held data.

Advanced data processing, capacity building and stock assessment advice is expected to continue to be an important regional role for the SPC particularly with regards to modelling management scenarios and deciding on effort and catch limits to inform management decisions.

There is strong support for activities geared towards meeting nationally identified research needs (e.g. the impact of FAD fishing on species composition).

Tuna by-catch is not a significant issue at the present time. Non-target species landed catch (by-product) are valued both economically and as a food source. Fishers are being encouraged to land by-product ashore so that information on the different species types, sizes, and age are documented, a requirement under PNG access agreements. Buyers are also encouraged to buy non-target species. PNG has a relatively new Shark Management Plan that provides guidance for its shark fishery. At the time of the mission, 9 boats were involved in the shark fishery with a TAC of 2000 metric tonnes

annually. Sharks are also caught by tuna longliners as by-product. Observer data on by-catch is forwarded to, and coordinated by the SPC.

The work done by the SPC on climatic impacts on oceanic fisheries is creating a deeper understanding and appreciation of the effect of environmental factors on tuna resources. While a FADs management policy was introduced in 2003, there remains some concern that the large number of FADs currently in the Bismark Sea (around 700) may be having some impact on resident stocks of tuna and other species. The policy will require review in the near future, partly as a result of the impending introduction of the VDS and pump boats. A tuna tagging programme would provide an opportunity to do this particularly in the Bismarck Seas, preferably with the involvement of local scientists in order to build and strengthen local capacity. There is a need for training in the understanding of the application of reference points (an aspect of the precautionary approach) and of the application of ecosystem based approaches to management.

4.4.7. Transshipment and landing

Transshipment at sea is prohibited and transshipment in Papua New Guinea is required to take place at the designated ports of : Manus, Kavieng, Rabaul, Wewak, Lae, Vanimo, Alotau, Misima and Port Moresby. Purse seiners are required to make a minimum of three port calls for landing, resupply or maintenance purposes.

4.4.8. Exports

The total value of the tuna exports has more than doubled since 1999 and was estimated to be worth around US\$55 million in 2004. In 2001 the domestic tuna industry in Papua New Guinea accounted for some 460 jobs on vessels, with a further 2,700 employed in shore-based facilities. These numbers have increased significantly since that time, as domestic vessel and shore based activities, including the Wewak loining plant commissioned in 2004, have created 1,000 additional jobs alone.

PNG supplies a substantial domestic market (10,800 tonnes in 2003) and other markets in the region with canned tuna products, as well as export markets, mainly in US and Europe. In 2004 PNG exported 15,252 tonnes of canned tuna valued at US\$35 million. Other tuna products exported in 2004 included: 11,000 tonnes of frozen product valued at US\$7 million, shipped to Philippines, Japan and Taiwan; 2,111 tonnes of chilled tuna valued at US\$9.6 million, for the sashimi markets in Japan and Australia; and 2,973 tonnes of fishmeal, valued at US\$1.2 million exported to Australia.

4.4.9. IUU fishing

Illegal and unreported fishing is a problem in PNG. The MRAG³⁵ study of IUU activity estimated that the value of IUU caught fish amounted to US\$34 million for all fisheries in PNG in 2003, with IUU tuna valued at US\$2 million. The Gillett, Preston and Associates Inc., study³⁶, indicated that the major concern was the potential extent of under-reporting of catches in almost all fisheries with the main issues being:

- under-reporting of purse seine tuna catches;
- under-reporting of purse-seine by-catch;
- under-reporting of bi-catch;
- under-reporting in the shark longline fishery.

Illegal access to PNG waters by non-licensed vessels is also viewed as a major concern with specific concerns being:

- Illegal access by Indonesian vessels into the area of the PNG EEZ known as the dogleg;
- Cross-border incursions by Indonesian vessels on the northern boundary; and
- Illegal access to the fringes of the PNG EEZ by unlicensed flag of convenience vessels (vessels not included on the Forum Fisheries Agency Regional Register).

³⁵ MRAG, June 2005

³⁶ The Impacts of IUU fishing in Papua New Guinea, Gillett, Preston and Associates Inc., March 2005

In 2005, a total of six tuna vessels were prosecuted for illegal and unlicensed activity with fines ranging from US\$10,000 to US\$300,000. Already in 2006 there are five vessels under investigation for illegal activity.

4.4.10. International Legal Instruments

Papua New Guinea has been an active participant in the development of the following international legal instruments:

Table 8: PNG International Legal Instruments

Instrument	Status
WCPF Convention	Ratified
1982 UN Convention	Ratified
1995 UN Fish Stocks Agreement	Ratified
Driftnet Convention	Signed, awaiting ratification
Convention on Biological Diversity	Ratified
FAO Code of Conduct	Accepted
1993 FAO Compliance Agreement	Endorsed
IPOA-IUU	Endorsed, not yet implemented
WSSD Fisheries Targets	Not formally adopted
FFA Minimum Terms and Conditions	Implemented

4.4.11. IPOA IUU

Papua New Guinea does not have a national plan of action to prevent and deter IUU fishing. It appears from an initial study of relevant legislation and fisheries management procedures that the guidelines set out in the IPOA-IUU are being practiced. Assistance to formulate a national IUU plan of action was requested during the visit.

4.4.12. Port State control

Papua New Guinea establishes port State control over fishing vessels seeking to operate in national waters through the Fisheries Management Act 1998 (FMA 1998), Fisheries Management Regulations 2000 (FMR 2000) and through fishery management plans. The FMA 1998 established the National Fisheries Authority (NFA) to manage fisheries resources. All commercial fishing vessels including support-craft, are required to be licensed to operate. In addition, licenses are issued pursuant to a fishing access agreement to which PNG is a party. The access agreement and conditions of license, detail the manner in which vessels may be operated.

As a condition of license, vessels are required to submit to inspection prior to the first trip and following the last trip before exiting the EEZ. The regular inspection of vessels calling in to port to unload, tranship or resupply, is not undertaken. The monitoring of landings and transhipments as well as port sampling, is undertaken by fisheries officers.

4.4.13. Designated ports

Manus, Kavieng, Rabaul, Wewak, Lae, Vanimo, Alotau, Misima and Port Moresby

4.4.14. Prior Notice of port access (Annex A)

All foreign fishing vessels are required to provide NFA with a 24 hour notice of their intention to call at an authorized port. In addition, a port call form must be submitted to NFA detailing catch on board

and purpose of visit. All purse seine vessels are required to make four port calls a year: the first for a pre-trip inspection and the remaining three for landing, re-supply or repair purposes.

If the purpose of a port call is to tranship, then 48 hours notice must be given detailing:

- Vessel Name
- Vessel License Number
- Category of Report: Tranship to Vessel in Port; tranship to Port Facility
- Tonnes to be transhipped
- Name of Port
- Destination of Catch

In addition, if the landing is to a reefer vessel, that reefer vessel must also report activity details including the eventual destination of the tuna.

For tuna that is sold, a Sales Return Form detailing vessel, port, date, species and value, is required to be submitted.

4.4.14.1. Vessel identification

The vessel name and license number is required in the notice of access. Full details of the vessel, owner and master can be accessed from the licensing database and from the Regional Register.

It is a prerequisite of licensing that the vessel be marked according to the FAO standard specifications for the marking and identification of fishing vessels.

4.4.14.2. Purpose of access to port

Foreign fishing vessels are required to advise the purpose of a port call in the prior access notice.

4.4.14.3. Fishing authorisations

All vessels operating in PNG must be licensed pursuant to an access arrangement. The notice of entry requires vessels to indicate their PNG license number. Notice of authorisations to fish from the flag State or other coastal States is not a requirement.

4.4.14.4. Trip Information

Trip information as set out in Annex A (4) is not currently a requirement.

4.4.14.5. Species information

Catch on board by species and weight is required as part of the request to enter port. The zone entry report also requires catch information.

4.4.15. Denial of port access to tranship or unload

All vessels are required to be licensed to operate in the EEZ. If a vessel is suspected of conducting IUU activity, prosecution may be a course of action and this may lead to a fine, seizure of vessel gear and catch and imprisonment.

Section 75 of the Fisheries Management Act, 1998, makes it an offence to import fish that has been taken against the laws of another State.

4.4.16. Inspections (Annex B)

As indicated above, at port inspections occur prior to the vessel's first trip and following its last trip. Mandatory inspections are not a requirement for vessels that tranship, unload or re-provision. The inspection of vessels of interest does take place and in these cases the procedure established in the Surveillance manual, appended as **Attachment B**, is followed. This procedure is based on the FFA Boarding and Prosecution manual and is in compliance with Annex B.

4.4.16.1. Powers of authorised officers

Section 49 of the Fisheries Management Act, 1998, empowers Fisheries Officers to board and inspect fishing vessels and processing plants to inspect any documents, instruments, compartments and catch. A comprehensive Surveillance Manual establishes the protocol for such inspections. The Fishing Vessel Sighting/Boarding Form is appended as **Attachment C**.

4.4.16.2. Fisheries officer identification

The Fisheries Management Act, 1998, section 48, requires fisheries officers to “upon request, identify himself and to produce evidence that he is a fisheries officer.” Identifying the vessel master and providing identification as an authorised officer is standard operating procedure.

4.4.16.3. Flag State participation

It is not standard practice to invite the flag State to participate in the inspection process. However, the vessel agent may be on hand to assist.

4.4.17. Inspection report (Annex C)

The Fishing Vessel Sighting – Boarding form is required to be completed for each inspection. The following is the information required by Annex C but not specifically identified in the Fishing Vessel Sighting – Boarding form:

Table 9: PNG Inspection Report Gaps

Annex C requirement	Comments
Maritime Mobile Service Identity number	
Previous vessel names and flag	Available from the Regional Register
Whether the flag State is a party to a particular regional fisheries management organisation	Foreign fishing vessels operating in PNG are required to be on the WCPFC Record of Fishing Vessels as well as in good standing on the Regional Register
Home port	
Names and addresses of owner/operator and previous owners	Available from the Regional Register
Certificate of master	
Authorisations to fish	MTCs require vessels licensed in the region to have the license(s) in the wheelhouse
Species and fishing gear authorisations	MTCs require vessels licensed in the region to have the license(s) in the wheelhouse
Duration of authorisation to fish	MTCs require vessels licensed in the region to have the license(s) in the wheelhouse
Areas visited on current trip	Available from logsheets and VMS
Areas where fish was caught	Available from logsheets
Ports visited	Port and date of departure required. Other port calls available from logsheets and VMS info.
Start and end date of discharge	Landing and transshipment monitored by NFA and reports collected
Fish species unloaded	Landing and transshipment reports collected by NFA
Presentation	
Live weight	
Intended destination of fish and fishery product	Data on tuna unloaded for export collected by NFA

The report is required to be signed by the boarding officer but no provision is made for the vessel master to countersign.

Additional items required in the Fishing Vessel Sighting – Boarding form are:

- VMS unit inspection;
- navigation equipment inspection;
- bird radar fitted; and
- conditions of license.

4.4.18. Information management

4.4.18.1. Inspection database

A database of information from the Compulsory Vessel Inspection and Checklist is in operation. This information however, is limited to verification of vessel characteristics. There is no database for the management of information from the Fishing Vessel Sighting – Boarding form.

Currently it is not the practice to send reports of all inspections to the flag State or relevant RFMOs. Information relating to port inspections are now required to be reported to the WCPFC on an annual basis. Article 25 of the WCPF Convention makes provision for a member flag State to conduct an investigation of a flag vessel at the request of another member.

Other database systems include those relating to:

- The vessel licensing system
- VMS
- Prosecutions

4.4.19. Training of port State inspectors

There is no programme specifically designed to train and certify port inspectors. Training for officers involved in port inspections has been provided by FFA and SPC through their regional MCS, observer and port sampling training programmes.

FFA conducts approximately four “dockside boarding” workshops each year around the region. Budgetary constraints prevent more courses being held. An outline of the course is appended as **Attachment D**. These courses have been conducted for some years now so that there is a growing pool of “inspectors” trained to a regional standard. Providing supplementary training for the regional observers, would add to that pool.

5. SUMMARY AND ANALYSIS

5.1. The FAO Model Scheme

The FAO Model Scheme outlines minimum port State measures to be applied either through adoption of regional memoranda of understanding, through RFMOs or by individual port States. The scheme promotes a harmonised approach which is not intended to derogate from the sovereignty of States over their ports, but to support a fair, transparent and non-discriminatory system for implementing port State obligations. Port States are urged to consult, cooperate and exchange information with other States in order to facilitate the implementation of the FAO Model Scheme. The aim of the scheme is to eradicate IUU fishing.

The substantive parts of the FAO Model Scheme cover the following:

- port State inspection procedures;
- information to be provided in advance by fishing vessels prior to entry into port ;
- actions to be taken by port States when violations are detected;
- information to be collected and exchanged by the port State;
- information systems; and
- training for port State Inspectors.

Since the establishment of FFA, member countries have developed a number of fisheries management measures aimed to ensure that as coastal States, they maximize the benefits associated with the harvesting of tuna resources in the region. These measures, including the Regional Register, harmonized minimum terms and conditions for fishing access, VMS, the Niue Treaty, multilateral licensing, observer and sampling programmes, aerial and surface surveillance, standard boarding procedures and personnel development, have all contributed to the establishment of port inspection procedures that meet many of the requirements of the FAO Model Scheme. To be effective however, the inspection schemes need to be part of a fully integrated national MCS programme and the national MCS programmes need to be integrated with subregional, regional and eventually international MCS programmes. To achieve this would require the linking of information systems.

5.2. IUU fishing

After considering information provided by enforcement officials as well as FFA, it appears that the level of fishing by unlicensed vessels has decreased significantly in recent years. RMI reported that there had not been an arrest of an unlicensed vessel in years. This has been largely due to the increased level of aerial and surface surveillance as well as the increased level of cooperation between FFA member countries particularly with respect to joint surveillance and enforcement operations, application of MTCs and the involvement of US enforcement agencies. As well, it would appear that heavy penalties imposed in past years, has had a deterrent effect guiding foreign fishing vessels to become more compliant.

While the incidence of fishing by unlicensed fishers appears to have declined, prosecutions involving licensed vessels failing to comply with conditions of licence, continues. Recent prosecutions have involved violations associated with reporting, non-target species, closed area encroachment, VMS tampering, and at-sea transshipment.

The view of national enforcement agencies as well as FFA enforcement personnel, is that catch reporting violations present the biggest challenge because of the volume of work and analytical skill needed to verify daily logsheet data with other sources of information including VMS information, zone entry/exit/weekly reports, landing and transshipment reports as well as observer reports.

5.3. Comparative analysis

The following is a more detailed analysis of the vessel inspection schemes of the surveyed countries as they compare to the FAO Model Scheme.

The designated ports in Fiji, FSM, RMI and PNG are key transshipment, landing and resupply points for tuna fishing vessels operating in the region. All ports host vessels that are licensed to fish in a number of other coastal States in the region and in the case of Fiji, there has been at least one occasion on which a vessel that has fished in another RFMO region, has sought port access. Other key ports include PagoPago and Guam. These ports should be considered essential components of a regional port State inspection scheme.

There is some competition between the surveyed port States to maximize the number of port visits by vessels because of the added value associated with at-port transshipment and landing. The FFA member country ban on at-sea transshipment had two main purposes: to ensure better monitoring of catch and to take advantage of the economic benefits associated with at-port transshipment. FSM has estimated that a single transshipment generates up to US\$10,000 from fees and local purchases.³⁷ For RMI the value is estimated at US\$5,000.³⁸ Fiji and PNG have on-shore processing plants and need to keep these supplied with raw material. With a relatively stable number of vessels operating in the region, attracting a vessel to one port mean will mean a loss to another. In this competitive

³⁷ Federated States of Micronesia NPOA-IUU, 2004.

³⁸ Glen Joseph personal comment.

environment, it is essential that the nature and standard of compliance regimes among port States remains complimentary.

Table 10 provides a summary comparison between the FAO Model Scheme and the inspection schemes operating in Fiji, FSM, RMI and PNG. All countries except PNG conduct mandatory inspections of foreign vessels that call in to a designated port primarily to ensure compliance with conditions of license. Inspections in PNG are conducted prior to a vessel's first trip and at the completion of its last trip and where there is reason to believe that an IUU offence has been committed. For FSM and RMI the initial fisheries inspection is conducted by maritime (police) officers and any transshipment or landing is monitored by fisheries personnel. For Fiji and PNG, inspection and monitoring are undertaken by enforcement officers from the respective fisheries authority.

All four countries have inspection regimes that contain elements of the FAO Model Scheme largely due to the management measures adopted by FFA member countries over many years. It is evident however these gaps do exist particularly with respect to coordination and integration at the national level and at the regional level. Since the establishment of FFA in 1979, member countries have cooperated in the development and implementation of management mechanisms to monitor and control the exploitation of shared tuna resources by fishing fleets that operate throughout the region, across multiple zones of national jurisdiction and on the high seas. Many of these coastal State initiatives, such as the Regional Register, the region wide adoption of the FAO Standard Specification for Vessel Marking and Identification, VMS, standard catch and activity reporting requirements, the use of observers, the ban on at-sea transshipment and standard boarding and inspection regimes, contribute towards the fulfilment of many elements of the FAO Model Scheme.

5.3.1. Prior notice of access

The FAO Model Scheme assumes an environment where ports may be subject to open access including by vessels geared for a range of methods and target species. The inspection schemes in FFA member countries however are focused on the tuna fisheries and require a foreign fishing vessel which engages in fishing activity to be in good standing on the Regional Register and to be licensed to fish. Vessels are also required to be VMS compliant. Because of this FFA members are able to obtain full information on a vessel including with respect to characteristics, master and owner, at least 24 hours before it enters national waters.

However, the current regional system needs to factor in two sets of information to complete the information set required to be provided in advance by foreign fishing vessels:

- Flag State authorization;
- Fishing authorizations to fish in other coastal States.

This information is available but needs to be made accessible. Flag State authorization is now a requirement for vessels operating in the WCPFC Area beyond areas of national jurisdiction and all authorized vessels are required to be on the WCPFC Record of Fishing Vessels. Information on vessels licensed in other WCPFC Area coastal States, needs to be made available to the port State and this can be achieved by having a central registry of currently licensed vessels (at FFA) or by linking all national license registries.

5.3.2. Inspection protocol (Annex B)

All four countries follow the basic boarding procedure as set out in the FFA Boarding and Prosecution manual. This manual was developed in the early 1990s and has received some enhancement by the Australian and New Zealand armed services to strengthen the "use of force" components. Papua New Guinea has developed its own Surveillance manual which includes a boarding protocol and this is appended as **Attachment D**. Papua New Guinea has also developed its own Prosecution manual which provides detailed procedures relating to evidence and includes valuable information on previous fishing prosecutions.

All four countries also benefit from the training modules covering, dockside boarding, at-sea boarding, observer and port sampling duties, provided by FFA, SPC, RAAN and USCG. This regionally coordinated training helps to ensure that boarding and inspection is conducted in a standard manner across the region.

5.3.3. Flag State participation in inspections

It is not the current practice to request the flag State to participate in the dockside boarding process. For this to occur, there would need to be a formal arrangement in place. It is however the practice to have the vessel agent on hand to assist. In principle it may be beneficial to have flag State inspectors involved particularly at ports where inspections and their analyses are constrained by manpower restrictions.

5.3.4. Inspection report

Boarding and inspection checklists have been developed according to the needs of the individual countries covered in this study. They vary in form and content (fields) between one another and all omit fields specified in the FAO Model Scheme report (Annex C). One reason for this is that inspection is conducted in a phased approach with authorities from immigration, customs, ports, maritime patrol and fisheries agencies conducting inspections for different purposes. Vessel and master certification checks, for example, is the responsibility of the ports authority and not included in the fisheries/maritime inspection report. In terms of landing, transshipment and export information, this may be collected separately as part of the monitoring or sampling programmes. This highlights the need for coordination between the agencies involved to ensure that information collected disparately, is able to be retrieved readily for among other things, the compilation of a comprehensive inspection report.

The appropriate report content and format can be achieved at the database system design stage. Having standard database systems established at the various ports, will then ensure standardized reporting.

5.3.5. Notification to flag State, coastal State, RFMO

Formal mechanisms in place that allow for a port State to inform the flag State of a vessel suspected of committing a fisheries offence, are the centrally administered multilateral fishing arrangements and the WCPFC.³⁹ The WCPFC also provides for cooperation with other RFMOs.⁴⁰ Government to government agreements such as those between Japan and the governments of FSM, RMI and PNG, provide for dispute settlement.

It was noted, by all countries, that one of the aims of the IPOA-IUU is to ensure that flag States take responsibility for the actions of their flag vessels and that port State notification is one way to achieve this. The experience in the region however, is that more direct assertive action through the use of administrative penalties, has been required to ensure IUU vessels are dealt with efficiently. FFA member countries have also taken enforcement action through the Regional Register.

FSM, RMI and PNG all have “Lacey Act” provisions in their legislation. This provision makes it an offence for a vessel or person to import, export, transport, sell, receive, acquire or purchase any fish taken, possessed or transported in contravention of another State’s laws. For this to be applicable in RMI and FSM, a formal arrangement needs to be in place with the State where the offence took place, while for PNG, proof that the particular activity constitutes an offence in the foreign State, needs to be established.

A key reason for establishing fishing access arrangements is to ensure that the fishing party takes responsibility for the actions of vessels licensed pursuant to the arrangement. As part of the arrangement, the licensing State requires that a resident vessel agent be in place to respond to legal

³⁹ WCPFC Convention, article 25.

⁴⁰ WCPFC Convention, article 25.

notice. In PNG, all vessels are required to post a bond which NFA may draw on to cover payment of any penalties imposed for license breaches. In RMI and FSM, administrative procedures are in place to quickly deal with certain offences.

The only cases detected of a port State communicating with the flag State, coastal State and relevant RFMO regarding suspected IUU fishing activity, took place in Fiji. This involved two cases of IUU fishing, the assumed flag State of Indonesia, the coastal State of Vanuatu and CCSBT. The two vessels concerned were successfully prosecuted.

In terms of port State to coastal State notification, this occurs on an informal basis and on occasion, through FFA. The arrangement between FSM, RMI and Palau on Cooperation in Fisheries Surveillance and Law Enforcement, allows for joint and reciprocal surveillance and enforcement, but this arrangement is focused on at-sea patrols. There would appear to be value in extending such an arrangement to include other aspects of MCS including at-port inspections.

In relation to the development of joint and reciprocal surveillance and enforcement arrangements, it is noted that other States in the region are exploring the establishment of sub-regional fisheries MCS arrangements. Should this be the case then it would add to any such arrangement if the exchange of information relating to inspections (including at-port inspections), VMS, landing, transshipment, licensing and prosecutions, were included.

5.3.6. Information management

Information management is the most critical area of the inspection process that requires strengthening. The FAO Model Scheme provides guidance on the management of inspection information including that information should be in a standard format and that it should be shared through computerized communication between States and RFMOs. To equip countries with information management systems compliant with the FAO Model Scheme guidelines would require the provision of appropriate software and training in its use.

At present Fiji, and PNG have database systems that are used to process information obtained from boarding inspections (including at-sea boarding information) and all four have hardware capacity as well as software that might be appropriately configured. In addition the fisheries and/or maritime agencies have personnel skilled in the use of computers.

To be a fully effective management tool, however, at-port inspection needs to be integrated both nationally and regionally, with all other fisheries related programmes and mechanisms including the Regional Register, licensing, VMS, the observer programme, catch and effort monitoring as well as the prosecution process. In terms of information management, the inspection database should have links to all other fisheries related databases. The end result should be that all information relating to a vessel, an operator or an incident, is linked and reports on all aspects of a vessel can be produced. The national port inspection scheme should thus be integrated with all national and regional fisheries related programmes and all port inspection schemes need to be harmonised and networked.

Exploratory work into the development of a relational surveillance database for use by member countries, is currently underway at FFA. The proposed surveillance database would enable the input and processing of a range of information including from vessel sighting, inspection and prosecution. This information would then be linked to other sets of information such as catch, landing, transshipment, licensing and VMS.

The Seychelles now has an electronic, automated licensing system using the Fisheries Information Statistical System (FINSS), linking vessel agents, the management authority, licensing authority, central bank as well as coast guard and enforcement authorities. Testing is ongoing with the inspection and enforcement modules and a regional vessel record and statistical hub using FINSS. A case study of using FINSS for port inspections is appended as **Attachment E**.

5.3.7. Training (Annex D)

Enforcement officers active in vessel inspection schemes have received training through a range of modules provided by FFA and SPC as well as PPBP that together, appear to meet the guidelines outlined in Annex D of the FAO Model Scheme. There is however no regional certification process. Areas covered in these modules include boarding and inspection procedures, regional fisheries management, legal instruments, collection and presentation of evidence, vessel and gear characteristics and biological aspects. It is noted that the WCPFC will soon develop inspection procedures for use during high seas patrols. At-port inspection and at-sea inspection should mirror one another.

Table 10: Comparison of National Inspection Schemes with the FAO Model Scheme

FAO Model Scheme	FSM	FIJI	RMI	PNG	Comment
IPOA-IUU		X	X	X	FSM NPOA-IUU, 2004
					Regional Register/VMS compliant
					Licensed to fish in port State
Compulsory inspection				O	PNG inspects pre first trip and post last trip. Also when IUU suspected
Designated Ports					
24 hrs notice					72hrs for transshipment
Prior notice information					
Vessel ID					Link to RR/VMS, license database for full vessel information
Purpose of access					
Flag State, other coastal State authorizations	X	X	X	X	Available from WCPFC Record
Trip Information	X	X	X	X	All vessels VMS compliant
Species information					
Denial of access					Prosecute for IUU
Inspection protocol (Annex B)					FFA Boarding manual standard
Powers of authorized officers					Legislated
Identification					SOP
Flag State participation	X	X	X	X	Vessel agent on hand
Inspection Report (Annex C)	O	O	O	O	Large gaps c.f. FAO Model Scheme. Standard report format needed. Solved by having standard database.
Notifications re IUU					
Flag State	X		X	X	Resident agents required to accept and respond to legal notice
Coastal State	O		O	O	Multi-lateral treaties and occasional State to State
RFMOs	O		O	O	Occasional notification to FFA
Information Management					
Inspection database	O	O	O	O	Links needed to log sheet data, RR etc. A standard regional database would enhance info sharing and reporting to flag State, RFMOs, and coastal States
Prosecutions Database	O	O	O	O	Ibid

Training	O	O	O	O	Training in techniques provided by FFA, USCG, PPBP but regional certification needed
Formal Regional Arrangement for the exchange of information in place	X	X	X	X	Sub-regional or Regional Niue Treaty Arrangements could incorporate port inspection as one component.

Key: X : Non-compliant; O : Elements in place but requires enhancement.

6. RECOMMENDATIONS

Noting that effective MCS requires the coordinated use of assets and information and that inspection is one component, it is recommended that a holistic approach be taken to the implementation of a regional port State inspection scheme as follows:

6.1. Information management

It is recommended that a regionally standard MCS information system be established in all FFA member countries, that allows:

- the input of information from vessel sightings, boarding, prosecutions and other information that relates to all vessels operating in the Western and Central Pacific Ocean (WCPO);
- the maintenance of a record of (national/regional) authorized officers and their level of training;
- links to other databases including, the Regional Register, VMS, the WCPFC Record of Fishing Vessels, daily catch logsheets, landing and transshipment, export, final landing, observer reports, licensing;
- the production of a vessel history at the time a vessel registers an intention to enter port;
- the production of inspection forms (at-port and at-sea); and
- the production of reports including inspection and prosecution reports, with the requisite information available to the flag State, other coastal States and RFMOs as appropriate

In order to enhance the ability to analyse daily catch logsheets and noting that timely and accurate information is crucial for effective fisheries management, it is recommended that digital catch reporting by each vessel be introduced and that this information be provided to member countries through VMS on a daily basis. In relation to this it is further recommended that VMS information on each vessel be made available to all countries which license that vessel to ensure all licensing countries are able to track the vessel throughout its full range.

That an appropriate cost effective and secure communications network be established that allows for direct, computerized exchange of messages between FFA member countries as well as other significant port States (PagoPago and Guam).

6.2. Training

That a regionally coordinated training programme be developed to train and certify MCS personnel including in the areas of:

- vessel inspection;
- national, regional and international legal instruments;
- information gathering and analysis;
- evidence gathering and presentation; and

- VMS operation.

The current FFA Dockside Boarding Workshop (course outline appended as **Attachment D**) could be used as the basis for such a training programme.

6.3. Regional arrangements for the coordination of inspection

It is recommended that formal regional or subregional arrangements be entered into to ensure coordination and cooperation in port inspection among FFA member countries and that these arrangements include:

- the exchange of information relating to licensing, inspection outcomes and prosecutions; and
- the cross authorization of inspectors to allow for the exchange of inspection personnel and to ensure that high frequency ports that host commonly licensed vessels are adequately resourced.⁴¹

It is further recommended that other high frequency ports PagoPago and Guam that service vessels licensed by FFA member countries be included in such regional or subregional arrangements.

⁴¹ For example, Tuvalu has a number of regionally trained observers that could be based in Suva where Tuvalu licensed vessels are based, and utilized for inspection purposes

FSM NATIONAL POLICE

INSPECTION FORM FOR FOREIGN AND DOMESTIC FISHING VESSELS



INSTRUCTIONS: Fill in the Information below with assistance from Captain or Fishing Master from each Boat Calling at any FSM Port, whether they have an FSM Fishing Permit or not. Return Completed Form to the FSM National Police Maritime Wing Unit Office in Dekehtik, Kolonia Pohnpei. Tel #: (691)320-2384/ Fax # (691)320-8387/ E-mail: fsmvms@mail.fm

1. Name of Vessel: _____

2. Radio Callsign: _____

3. Registration #: _____

4. Type of Vessel: _____

5. FSM Permit Number: _____

6. Effective Date: _____

7. Name of Permit Holder: _____

8. Expiration Date: _____

9. Gross Tonnage: _____

10. Name of Captain: _____

11. Number of Crew: _____

12. Fishing Master: _____

13. Last Port: _____

14. Date Departed Last Port: _____

15. Agent: _____

16. Purpose of Entry into FSM: _____

17. Vessel Finished Fishing or Returning to Fishing: _____

18. If Returning to Fishing Ground where do they Plan to Operate in: _____

19. How Much Fuel do They have Onboard Now: _____

20. Do they Plan on purchasing Fuel in FSM: _____

21. How Much:
Gallons. _____

22. How much fish do they have Onboard Now: SkipJack: _____
YellowFin: _____
Big Eye: _____

Marlin: _____
Shark: _____
Others species: _____

23. Are They Fishing with Other Vessels in group: _____
24. How Many: _____
Callsign: _____
General Comments: _____

24. Log Books Check: YES/NO 25. Charts checked: YES/NO. 26. VHF: YES/NO 27. HF: YES/NO
VMS: YES/NO. 28. General Comments: _____

29. Boarded: AT SEA/INPORT 30. Standard of English: _____
30. Signature of Captain: _____
Date and Time: _____
31. Interviewed by Officer: _____
Signature of Boarding Officer: _____
Date and Time: _____

General Comments: _____

**Papua New Guinea
The Code of Conduct for Boarding**

This Code of Conduct should be adopted by Fisheries Officers of the NFA when they conduct routine checks of fishing vessels to make sure they are complying with the fisheries laws of Papua New Guinea.

The purpose of The Code of Conduct is to help maintain good relationships between Fisheries Officers, fishing vessel owner/operators and crew. Good relationships result in co-operation and, therefore, good results (successful prosecutions).

A fishing vessel for the purposes of this Code is defined in Part 2 of the Act 'Interpretation'. *Fishing Vessel (FV)* means any boat, ship or other craft which is used for, equipped to be used for, or of a type normally used for, fishing or related activities, and includes carrier vessels.

Foreign Fishing Vessel (FFV) means a fishing vessel other than a Papua New Guinea fishing vessel or a locally based foreign fishing vessel.

How to apply the Code of Conduct

In normal circumstances when a PNGDF Patrol vessel is approaching an FV with the intention of boarding, Fisheries Officers should permit the crew of the FV time to prepare before coming alongside. Using verbal signals and hand signals, as well as VHF radio calls to the FV concerned, Fisheries Officers should state their reasons for wanting to board the vessel.

If the crew of the FV do not agree to be boarded the Commanding Officer (C/O) of the PNGDF will take action to ensure the boarding can take place. The Fisheries Officer will be advised when it is safe to board. Officers must take care in all sea conditions and must not assume that the crew of a FV will assist in the boarding.

Section 49 of the Act refers to the '*powers of Fisheries Officers*'.

(1) Notwithstanding Section 3(2), this Section applies to all persons and all vessels.

A Fisheries Officer may, without a warrant:

stop, board, enter, search and stay on board for purposes of exercising his or her powers under this Act

- (i) *any vessel in the fisheries waters which he or she has reason to believe has been used, is being used or is intended to be used for fishing or a related activity*
- (ii) *any Papua New Guinea vessel outside the fisheries waters; or any other vessel to which this Act and any international law or agreement applies;*

Fisheries Officers are to produce their authorities, both as a matter of courtesy and as a legal requirement, immediately on boarding the vessel — the powers of inspectors is described in Section 49 of the Act.

The production by any Fisheries Officer of any identification document issued

to him or her shall, until the contrary is proved, be sufficient authority for any such Fisheries Officer to do any thing which he or she is authorised by this

Act to do.

The Captain of the fishing vessel should be approached first. Fisheries Officers will then formally state that they are conducting an investigation for the purposes of ascertaining compliance with the Act. (Use a language card if applicable.)

The Captain should be requested to be present when any inspection is being carried out. If any whole fish and/or fillets need to be removed from freezers, this should be done as quickly as possible to prevent the catch from spoiling. Crew members may be asked to assist. Fisheries Officers should attempt to gain their cooperation.

Fisheries Officers should be polite, courteous and professional at all times. Although they may have to be assertive towards the Captain and crew they should not be rude. It will be necessary to interview in a formal manner if a breach of the Act is alleged.

Nothing in this code should be read or interpreted in any way that may compromise a Fisheries Officer's duty as a law enforcement officer — this duty being to investigate potential breaches of the Act and to make a case to present to the Courts.

Reasons for boarding a fishing vessel

A Fisheries Officer may board a boat to find out whether the Act is being complied with. Section 30 — *'Fishing and related Activities Subject to Prohibition'* provides the legislative authority.

ATTACHMENT C

**PAPUA NEW GUINEA
FISHING VESSEL SIGHTING/BOARDING FORM
NATIONAL FISHERIES AUTHORITY
FISHING VESSEL SIGHTING - BOARDING FORM**

Date:	Time:		
Location:	GPS Fix	Lat.	Long.
Type of FV			
Registration Number and Flag			
Displayed	Yes/No		
Captain's Name			
Captain's Address			
Date of Departure	Port of Departure:		
Access or Conditions of Licence			
BRD/TED fitted			
Navigation equipment: Compass/ GPS/D sounder/sonar/ clock Operating Yes/No	If instrument not working reason:		

VMS	Unit operating	Yes/No
	Reason not working	
	Seal Intact	Yes/No
	Reason intact	
	Unit No.	

Catch	Weight	Catch	Weight	Log Book Carried	Y/N
Prawns		Squid		Log Book Completed	Y/N
Tuna Species:		Reef Fish		Validation Catch/Logbook	Y/N
Tuna Species:		Other Fish			
Tuna Species:		Crabs			
Mackerel		Swordfish			
Lobsters		Sharks			
Beche de mere		Others			
Fishing Equipment	Trawl: Length of head rope/s				
	How many nets on board				
	Mesh Size: (each net)				
	Type of nets				
	Long Line: Number on board:				
	Length of each line				
	Other Fishing Equipment		Type		
	Description and numbers:				

Breaches/Cautions/Comments and any impending action:

Boarding Officer/s		Signature/s	Date
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**Forum Fisheries Agency
Workshop on Dockside Boarding**

Course Outline

1. Overview of Fisheries
2. Fisheries Management
3. Regional Fleets and methods of fishing
4. Overview of International Arrangements as they relate to enforcement: UNCLOS, UNFSA, FAO Compliance Agreement, FAO Code of Conduct for Responsible Fishing (IUU), WCPFC Commission, Drifnet Convention, The US Treaty, Niue Treaty
5. Overview of sub-Regional arrangements: PNA, FSM, Palau
6. Harmonised Minimum Terms and Conditions
7. Fisheries Legislation
8. Authorised Officers
 - a. Powers: seize, detain, arrest and penalize
9. Identification of offences, penalties
10. Bonding, forfeiture
11. Type of evidence, burden of proof
12. Fishing access agreements
13. Exercise: Identification of offences
14. Boarding and inspection procedures
 - a. Kit
 - b. Party
 - c. Collection of evidence
15. Gathering, analyzing and safe-handling of evidence
16. Asian dating system: Taiwan, Japan, Korea
17. Charges and elements of fishing offences
18. Mapinfo-FFA Maps
19. Exercise: Boarding
20. Exercise: Witness statement writing

IOTC: Use of FINSS for Port Inspection

For port inspection, two new modules have been developed for FINSS that source data from within the vessel registry and the licensing registry as well as outside sources such as other regional inspection databases and vessel lists from other RFMOs. Prior to making an inspection a compliance officer would generate FINSS Enforcement Reports comprised of a Vessel Details Form, a Pre-boarding Form and a Boarding Form. The Vessel Details Form contains all the known information relating to a vessel and provides for any updates that are required following inspection. In addition, the MCS manager can highlight any items that require particular attention when next the vessel is inspected. The Pre-boarding Report draws information from multiple sources and includes license information (including vessel photo and license conditions) details of prior regional inspections, sighting, infractions and observer reports as well as RFMO registers. The Boarding Report acts as both a data collection form and an information source and details all information required at the time of the inspection. All items in both the Vessel Details Form and the Boarding Form are in both English and the spoken language of the vessel master. The full customisation features of FINSS allows the forms to look identical to the database tables thus minimising errors when updating FINSS after boardings and allows comprehensive security measures to be put in place.