

MEETING OF THE PERMANENT ADVISORY COMMITTEE TO THE U.S. SECTION TO
THE WESTERN AND CENTRAL PACIFIC FISHERIES COMMISSION

The first meeting of the Permanent Advisory Committee (PAC) occurred October 25-27, 2011, in Honolulu, Hawaii. The results of the meeting were not reported at the November 2011 Council meeting. This attachment contains the following materials:

- Final minutes of the PAC meeting
- Statement of Organization, Practices and Procedures as adopted October 25, 2011
- Recommendations drafted by Western Pacific Fishery Management Council staff and circulated at the PAC meeting. These recommendations reflect an agreed position of PAC members representing the longline and purse seine industries and the representatives from the U.S.-affiliated Pacific Islands but are not included in the official minutes of the meeting. They were, however, discussed by the full PAC during the meeting.
- A letter from Dr. Donald McIsaac, Pacific Council Executive Director, and Ms. Kitty Simonds, Western Pacific Council Executive Director, to Mr. Michael Tosatto, Regional Administrator, NMFS Pacific Island Region. The letter expresses concern that the minutes do not reflect conclusions reached by the Committee as a whole.

PFMC
02/21/12

**Meeting of the Permanent Advisory Committee to the U.S. Section to the Western and
Central Pacific Fisheries Commission
25-27 October, 2011**

Minutes of the Meeting

Agenda Item I – Welcoming Remarks

1. The meeting was opened by U.S. Commissioner to the Western and Central Pacific Fisheries Commission (WCPFC) Russell Smith at 8:00 am on October 25, 2011. Mr. Russell Smith, NOAA Deputy Assistant Secretary for International Fisheries, delivered a welcoming address and invited attendees to introduce themselves.
2. Twenty-four Permanent Advisory Committee (PAC) members, four U.S. Commissioners, staff of the National Oceanic and Atmospheric Administration (NOAA) and the Department of State (DoS) participated in the meeting. Members of the public also attended the meeting. A list of participants is provided in Attachment 1.

Agenda Item II – Opening of the Meeting

Election of Chair

3. Regional Administrator of the NOAA Fisheries Service Pacific Islands Regional Office, Michael Tosatto, described meeting-related logistics and called for nominations for a Chair and Vice Chair for the 2011-2013 term of the PAC.
4. Peter Flournoy and Svein Fougner were nominated to chair the PAC. The PAC members voted by secret ballot. Peter Flournoy was elected Chair. Svein Fougner was then nominated and elected Vice Chair.

Agenda Item III – Adoption of Agenda

5. Clarification was sought regarding when it would be appropriate for the PAC to conduct business in executive session. NOAA General Counsel provided guidance, concluding that in developing a reasonable construct for what constitutes an executive session, the PAC should err on the side of transparency and public participation, but ensure that U.S. positions with respect to the WCPFC are not prematurely disclosed to the public. The PAC agreed to take provisional agenda items 6-11 out of executive session and to add an agenda item “Executive Session,” with a sub-agenda item “Development of recommendations”, to the end of the agenda.
6. The PAC agreed to an additional agenda item regarding the area of overlap between the respective areas of competence of the WCPFC and the Inter-American Tropical Tuna Commission (IATTC).
7. The PAC discussed provisional agenda item 5, “Public Comment,” and agreed to remove it, and instead ask for public comment after each agenda item.
8. The adopted agenda is provided as Attachment 2.

Agenda Item IV – Consideration and Discussion of Advisory Committee Statement of Operating Practices and Procedures

9. NOAA staff presented the draft Statement of Operating Practices and Procedures (SOPPs) that had been previously circulated among the PAC members and explained the changes that had been incorporated into the document based on members' comments.
10. Topics discussed included: the status of ex-officio committee members; sub-committees and working groups – specifically, whether their members are appointed by the Chair or not and whether non-PAC members may serve on them; “closed meetings” and “executive sessions”; meeting frequency and dates; voting procedures; and developing advice as an advisory committee.
11. The PAC asked NOAA to revise the draft SOPPs so they could be adopted after the revised document was circulated.
12. NOAA staff presented the revisions to the SOPPs. There was discussion as to the interpretation of ex-officio members provided for under the Memorandum of Understanding Regarding Regional Fishery Management Council Participation in International Regional Fishery Management Organizations Governing Pacific Ocean Highly Migratory Species. NOAA staff provided legal advice as to the appointment of the two ex-officio members from the Pacific and Western Pacific Councils and how the appointees retained the same status and rights as official PAC members. The Chair disagreed with the legal advice and thought the matter was still open for interpretation and thus unresolved. A motion was passed to adopt the SOPPs.
13. The final adopted SOPPs are provided as Attachment 3.

Agenda Item V – Conservation and Management of Fish Stocks

- A. Conservation and Management Measure for Yellowfin and Bigeye Tuna (CMM) 2008-01/2011-01 (see power point (ppt.) presentation 1 and paragraphs 1-7 in briefing book)
14. NOAA staff presented an overview of the status of Western and Central Pacific Ocean (WCPO) bigeye (BET), yellowfin (YFT) and skipjack (SKJ) stocks, as reported by the Seventh Regular Session of the WCPFC Scientific Committee (SC7).
15. In response to questions from PAC members, NOAA staff explained that recruitment levels for bigeye tuna had returned to more normal levels in the last year; that the observer coverage rate is less than 1% currently in the longline fleets in the WCPO; that it is too early to determine the reduction in the fishing mortality rate due to the Fish Aggregating Device (FAD) closure and other conservation measures in CMM 2008-01, and that it typically takes a few years after implementation of a given measure before its effect on the fishing mortality rate can be evaluated; that there is uncertainty in catch estimates due to lack of information for some fisheries such as those in Indonesia and Philippines, and for 2009 and 2010 in particular; that estimates of catches by Illegal, Unreported, and Unregulated (IUU) vessels cannot be quantified; that CCMs are obligated to submit their data for a given year by April 30 of the following year and that because work on the stock assessments starts in May, it is critical to submit the data on time; that under the base case assessment, about 10% more bigeye tuna stock depletion would put it into overfished status; that two of the six scenarios used as the

assessment basis showed the stock to be overfished; that likelihood profiles for overfishing and overfished status were included in previous assessment reports but perhaps not the most recent ones; that TUMAS is a software application that allows managers and other users to make stock projections under various management scenarios, including region-specific inputs; and that further details on stock status can be found in the SC7 papers available on the WCPFC website.

16. Concern was expressed by some PAC members about catches not being accounted for and other countries not being compliant with elements of CMM 2008-01.
17. NOAA staff offered potential discussion topics (skipjack conservation, base year, FAD closure versus seasonal total purse seine closure(s), high seas pocket closures, catch retention, total hard catch limit) for the management aspects of CMM 2008-01/2011-01 (see ppt. presentation 2 and 8-26 in briefing book).
18. Some PAC members expressed concern about the lack of FAD management plans and clarification was sought as to why the United States had not submitted a FAD management plan to the Commission and whether it was considering doing so. NOAA staff explained that the United States was concerned that the FAD management plan requirements, given the lack of clear guidance on what they are expected to do, would be difficult to implement uniformly among WCPFC CCMs. Because of the lack of standardized requirements, developing a plan has not been a high priority. NOAA staff further explained that the United States has implemented FAD management measures via regulations in our fisheries, particularly the FAD closures, and has actively monitored and enforced those regulations.
19. A PAC member stated that there appears to be little information about the number of FADs being deployed globally, and expressed concern that unless we begin to estimate those numbers, such as through the implementation of FAD management plans, the United States will not be in a leadership position on this issue. Other PAC members expressed support for NOAA's approach to the issue of FAD management plans, stressing that any such plans should be developed pursuant to an agreed WCPFC measure that requires all CCMs to adopt similar measures.
20. Questions were asked about U.S. enforcement activities with respect to the FAD closures, particularly how much time NOAA spent reviewing observer reports for vessels of other nations. NOAA staff responded that NOAA requested and reviewed observer reports only for U.S. purse seine vessels, that the United States can request data for foreign vessels only if we suspect there may have been a specific violation, and that the United States has gathered mostly anecdotal information for foreign vessels.
21. Concern was expressed about the rigid domestic regulatory measures in place for the United States versus those for other countries and the need to make measures equitable and enforceable for all WCPFC CCMs.
22. Clarification was sought on the concept of special management areas versus closing the high seas pockets. NOAA staff explained that the concept of establishing special management areas would involve a report-in/report-out process for vessels to deter help IUU fishing—as opposed to a complete closure. The point was made that States bordering on high seas pockets had no unique or special right to such information under international law, and that if “special management areas” were to continue to be utilized that whatever information was required from the flag State of the fishing vessel should be made available in the same manner to all WCPFC members.

23. Regarding the confidentiality of CCMs' Annual Reports Part II, it was commented that it is important to make data available to the public and that the United States should strive for more transparency regarding the information provided in Annual Reports Part II.
24. Observer reports were discussed and it was commented that it is important to continue improving the WCPFC observer program regarding observer training, and transparency. There was particular emphasis put on debriefing of the observer.
25. It was questioned whether there is a need for skipjack tuna management given the current stock status and estimated levels of catch. It was expressed that skipjack tuna is significant to artisanal fisheries and Small Island Developing States (SIDs).
26. It was expressed that by implementing management measures for other species, such as a total closure aimed at bigeye conservation, there might not be a need to develop specific measures for skipjack tuna.
27. In response to questions, NOAA staff explained the SC's findings that the 2010 skipjack tuna levels are close to Maximum Sustainable Yield (MSY), and that the stock's range may be contracting from the higher latitudes, such as from the waters off Japan and western Australia. A PAC member suggested that there may be a need to consider regional management for this species.
28. Clarification was sought regarding FAD closures and their effects on the stocks, including the size of fish being caught and spawning. NOAA staff clarified that the benefits of the FAD closure are still unclear.
29. After discussing the FAD closure versus a seasonal closure on all purse seine fishing there was strong support for the latter as it would be easier to enforce. As long as there is the science to support it, this would be the better conservation choice for the stocks.
30. There was discussion on the base year(s) to use for CMM 2011-01. Several PAC members agreed that using 2010 would be beneficial, and others expressed concern with that option. There was discussion of possibly using different base years for different fisheries, and it was agreed that there could be different base years for different fisheries as long as there was a scientific basis for the different base years.
31. Concern was expressed as to how measuring effectiveness is different from determining the effects in terms of fisheries and how base years were chosen.
32. Concern was also expressed as to how the U.S. was perceived regarding implementing CMM 2008-01 by other CCMs and making it a level playing field for all CCMs.
33. There was discussion regarding the proposed continued closing of the high seas pockets. There was concern expressed that there was no conservation basis to keeping the high seas pockets closed if effort simply shifted into domestic EEZs, yielding no decline in overall effort expended by PS vessels in the WCPO. Measures, such as the closure of the high seas pockets, that only displace effort to the benefit of some CMMs, were not supported.
34. The concept of Special Management Areas (SMAs) was supported as an interesting possible alternative and one that should be further investigated. There was concern expressed regarding

the need for better monitoring and enforcement in both the high seas areas and in coastal zones and the need to have more observers and reporting to better deter IUU. Pushing for more transparency from the Pacific Island Countries (PICs) was also an issue discussed.

35. It was also expressed that there should be 100% observer coverage on purse seine vessels on the high seas.
36. There was discussion of the catch retention provisions in the WCPFC Chair's WCPFC Chair's CMM 2011/01; (Version 7 Final Thurs Sept 15) document. Concern was expressed that requiring full retention for all species would be a problem for the purse seiners and longliners and could have serious adverse impacts on the industry. Concern was also expressed how to resolve the problem of juvenile catches. The importance of CCM compliance was noted in assessing whether the measure is having the intended effect.
37. Clarification was sought regarding how a hard catch limit on bigeye for longline vessels would work. There was support for a total cap as well as allocations for each CCM, allowing transferability. There was concern expressed as how this would be enforced as well as the confidence in the science. Interest was expressed regarding how allocation to the territories and U.S. allocation could be combined and then how this could be explored for domestic application.

B. Cetaceans/Whale Sharks (see 30-38 in briefing document)

38. NOAA staff presented a history of the deliberations of the WCPFC on whale sharks and cetaceans, including the proposals tabled in 2010 by Australia and the Parties to the Nauru Agreement (PNA). NOAA staff explained that the United States has been supportive of protecting both whale sharks as well as cetaceans and has previously expressed a preference for combining the two measures into one, and that NOAA has been gathering information about potential ways to handle whale sharks once they are in the net. NOAA staff suggested that issues of interest include improving species identification and observer training, combining the two measures into one, and developing guidelines for mitigation in the event a whale shark is netted.
39. Clarification was sought regarding whether the PNA had instituted a prohibition on setting on whale sharks and whether such a prohibition would be problematic if vessel operators sometimes do not know that they are setting on a whale shark. NOAA staff explained the PNA 3rd Implementing Arrangement language, and that NOAA is not aware of any implementing regulations that have been put in place by the PNA.
40. The PAC discussed the practicalities related to prohibiting intentional sets on whale sharks, with some PAC members expressing the view that given the behavior of whale sharks, it is not reasonable to expect vessel operators to be able to identify them in advance of a set.
41. Concern was expressed about the language in the proposed measures being too vague. It was questioned whether there is a scientific basis for the proposal to ban setting on whale sharks, and a suggestion was made that additional scientific information be sought.
42. There was broad support among the PAC for a ban on setting on cetaceans, particularly in order to level the playing field, given restrictions on U.S. fishermen under the Marine Mammal Protection Act. There was some support among the PAC for a ban on intentional setting on whale sharks, but there was also strong opposition to this approach. There was broad support

for post-capture whale shark handling guidelines to be developed. On the issue of a combined measure versus two different CMMs – one PAC member indicated that issue is best left to the Government /Commissioners.

C. Consideration of Revision of Shark CMM (see 39-46 in briefing document)

43. Given the Shark Conservation Act of 2010, particularly its fins-attached provisions, NOAA staff introduced the possibility of seeking revisions to the WCPFC shark measure, CMM 2010-07, which has been in place since 2007.
44. A PAC member agreed that the United States should begin at the eighth annual meeting of the Western and Central Pacific Fisheries Commission (WCPFC8) to push for changes to CMM 2010-07 to require fins attached, consistent with U.S. policy as of January 2011 in the form of the Shark Conservation Act, and noted that such changes would not require a lot of drafting.
45. One PAC member offered that progress on shark conservation could be made by the use of monofilament leaders versus wire leaders in order to reduce mortality. Another member pointed out that this would be problematic for the U.S. longline fleet, and would not result in significant benefits since 95% or more of sharks now caught are released alive.
46. NOAA staff also introduced the possibility of bringing a proposal to WCPFC8 regarding oceanic whitetip shark, for which both the International Commission for the Conservation of Atlantic Tunas (ICCAT) and IATTC have measures in place. NOAA staff summarized the findings of the WCPFC Scientific Committee (SC) with regard to oceanic whitetip shark, particularly the large decline in catch per unit effort and the Scientific Committee's recommendation that WCPFC8 consider a management measure for the stock.
47. There was discussion about the term "sharks" and "bycatch" and the need to be clear when defining such terms.
48. It was asked whether other countries would be supportive of a proposal for oceanic whitetip shark and whether other any other countries are intending to bring a proposal forward. NOAA staff responded that there has been no indication of proposals coming from other countries, and that apart from the European Union (EU) and Canada, which would likely be supportive, it is not known how supportive other CCMs would be.
49. One PAC member expressed strong support for proposing an oceanic whitetip shark measure similar to the IATTC measure.
50. The PAC discussed blue sharks, noting the WCPFC Scientific Committee's finding of moderate declines in catch per unit of effort and that a stock assessment is scheduled to be completed in 2013. After receiving clarification that blue shark is not under the purview of the Northern Committee, a PAC member expressed the view that the Pacific Island countries should not be managing species in the North Pacific Ocean.

D. Other Stocks (see ppt. 3 and 4 and 47-64 in briefing document)

North Pacific Albacore

51. NOAA staff presented background on North Pacific (NP) albacore, including of the WCPFC's conservation and management measure (CMM 2005-03) and interim limit reference

point for the fishing mortality rate (F), the status of the stock and the conservation advice of the International Scientific Committee for Tuna and Tuna-like Species in the North Pacific Ocean (ISC), and outcomes from the 2011 Regular Session of the WCPFC Northern Committee.

52. Clarification was sought regarding the most recent ISC conservation advice – specifically whether it advised that F be maintained at levels no greater than the 2002-2004 average level or no greater than the 2005 – 2009 level. NOAA staff responded that the ISC advice, which can be found in the report of its 2011 plenary session, does not include an explicit recommendation regarding the level at which F should be maintained.

53. In response to a question of whether F has declined, NOAA staff explained that the estimate of “current” F in the 2011 stock assessment is lower than that in the 2006 assessment, and that the difference is partly due to a reduction over time and partly due to a change in the entire time series of F.

North Pacific Striped Marlin

54. NOAA staff presented background on NP striped marlin, including the CMM currently in place, CMM 2010-01, and outcomes from the 2011 Regular Session of the Northern Committee.

55. In response to a question as to whether any WCPFC CCM was considering tabling a proposal regarding this stock, NOAA staff responded that they were not aware of any such proposals.

Agenda Item VI – Monitoring, Control and Surveillance

A. Compliance Monitoring Scheme (see ppt. presentation 5 and 65 -75 in briefing document)

56. NOAA staff presented on the current Compliance Monitoring Scheme (CMS) CMM 2010-03, the outcomes of the Seventh Regular Annual Technical and Compliance Committee meeting (TCC7), and how Australia is preparing a draft measure for consideration at WCPFC8. Overall the CMS is a staged multiyear process, which will include a compliance review a compliance action plan, and compliance remedy for individual CCMs. WCPFC8 will set the compliance status for each CCM and make recommendations on corrective action needed. This year, the intent is to go only through the exercise of evaluating CCMs’ compliance, and not address corrective action.

57. It was expressed that the CMS is a critical issue and that transparency be made a priority in developing a permanent scheme and that compliance may help in leveling the playing field by making all players accountable for their actions.

58. Clarification was sought regarding the compliance status of each CCM and if reports would be made public. There was agreement the whole process should be made more transparent. It was questioned as to how uniformly could a scheme like this be implemented among CCMs and how the process would work.

59. NOAA staff responded that so far the process had been based on self reporting, while the intent was that there be a verification process and that there be some public portion, it is not clear what information would be public at this stage. The process was still being worked out.

60. There were also questions concerning the number of vessels charged with WCPFC violations and whether there is a matrix that links provisions of CMMs to what countries are doing to implement a CMM.
61. NOAA staff responded that the matrix in question is basically a larger CMS report at the CCM level and not the individual vessel level, with all CCMs and that the process so far had been a useful discussion to have about whether or not CCMs had and how they had implemented CMM provisions.
62. NOAA staff clarified that the U.S. was not in complete compliance with all CMMs regarding certain issues and how in the CMS process the U.S. is considered among the better complying CCMs.
63. A DoS representative further explained the struggle this year regarding making the process transparent and meaningful.
64. The confidentiality of reports was further questioned as well as the confidential nature regarding dealing with governments and not individuals.
65. NOAA staff responded that reports were kept at the NOAA level and it would be up to the NOAA directorate to further distribute reports. It was further clarified that the Annual Report Part II report is confidential only because it is still in provisional and draft status to ensure that information is correct before it is made public. This decision was decided by WCPFC and TCC and not the U.S. government. Once finalized, reports would most likely become public.
66. It was commented that reviewing the CMS process in other RFMOs to see how their compliance monitoring schemes work could be helpful.
67. NOAA staff further explained that the U.S. did articulate at TCC wanting some form of final product that could be made public and that work is still being done regarding sensitivities and in what format information would not be too damaging for CCMs once made public.

B. Vessel Monitoring Scheme (see ppt. presentation 6 and 76-78 in briefing document)

68. NOAA staff summarized TCC7 progress on Vessel Monitoring System (VMS) recommendations and what came out of discussion of the Joint VMS review, the cost optimization study and the manual reporting requirements in the VMS standards specifications and procedures (SSPs).
69. It was commented that VMS data are supposed to be for science and for enforcement purposes and that the quality of some of the observer data seen thus far was questionable.
70. NOAA staff clarified that the primary purpose of in-zone data from VMS is for enforcement but that probably in other contexts, science applications such as stock assessment is also a “primary” purpose.
71. Clarification was sought regarding the requirement for VMS on albacore troll vessels to be on 24/7 and what happens if the VMS stops working at sea. Concern was expressed as to the economic consequences of a malfunction which might require breaking a trip and requiring the vessel to travel to a port, the need for this to be made aware to the Commissioners and queried if changes could be made domestically.

72. NOAA staff explained that the domestic regulations address VMS issues and that this would be taken up with the Office of Law Enforcement (OLE). WCPFC obligations could require manual reporting and an eventual return to port, and those affected should continue to work through the regional offices, the Southwest Regional Office and the Pacific Islands Regional Office to promote a reasonable approach to this issue.
73. There was emphasis on the need for alternatives to address the worst case scenarios and the desire to work with OLE, which may have some discretion/guidelines in alternatives so that only in worst case scenario should a vessel be instructed to return to port.
74. It was questioned if there had been any discussion on smart VMS, like that required by the Atlantic fleets.
75. NOAA staff responded that currently this is what is used in the Pacific U.S. fleets.
76. Clarification was sought regarding the TCC report in reference to a vessel being outside the Convention Area and there being a reduction in the VMS frequency requirements. There was question as to the process for implementation of such an adjustment and whether this could be done by domestic regulations.
77. NOAA staff explained that there was no linkage based on NOAA regulations and that U.S. regulations would not change based on this. Overall there has been a request made for the WCPFC compliance manager to lower the polling rate to decrease the costs to the WCPFC for the VMS.
78. There was a question regarding manual reporting and to whom this information was reported.
79. NOAA staff clarified that there currently was a manual reporting requirement for some fleets and that data is reported directly to OLE.
80. Clarification was sought on whether the issue of WCPFC CCMs getting VMS in their waters had been resolved.
81. NOAA staff explained that this was being worked on via the VMS template agreement (78 in briefing book).

C. WCPFC IUU Listing Process (see ppt. presentation 7 and 79-81 in briefing document)

82. NOAA staff presented on the Tonga proposal regarding the WCPFC IUU listing process (WCPFC-TCC7-2011-DP16).
83. Clarification was sought regarding the pending IUU legislation and whether higher penalties were being considered.
84. NOAA staff clarified that increasing penalties are generally supported but the magnitude depends on the specifics of the case being considered. The problem is that all countries have different processes and one has to take this into account. Overall increasing penalties may help but does not completely solve the problem.

85. There was question as to whether the penalty scheme would be only for the high seas.
86. NOAA staff clarified that the issue for WCPFC is not a penalty scheme but a process for determining if a vessel is going to be on the IUU list based on a CCM's view as to whether the action taken against a violating vessel was sufficient. Guidelines would give meaning to what effective action means and in coming up with guidelines as to how a CCM has dealt with vessels on the IUU list. Penalties would still be assessed by flag state, and the guidelines would only address whether an action taken on a vessel was adequate in severity and action.
87. DoS further clarified that the flag state has to demonstrate what the action has been taken regarding IUU cases. The core issue is trying to allow the coastal state to have some role and ability in determining whether the action taken is/is not adequate.
88. Clarification was sought as to whether this management measure would apply both on the high seas and the Exclusive Economic Zones (EEZs).
89. NOAA staff clarified that a vessel could be IUU-listed based on a violation of domestic laws in national waters; it does not have to be a WCPFC violation to get IUU-listed.

D. Regional Observer Program (see 82-94 in briefing document)

90. NOAA staff reported on the WCPFC Regional Observer Program (ROP) noting a variety of issues and referred PAC members to the various papers posted on the TCC7 website. For the purposes of this meeting the focus was on various issues such as observer capacity, cross-endorsement of observers, adequate funding of the observer program, and possibly moving observer requirements of CMM 2008-01 to the observer CMM (2007-01), rather than in a new CMM (2011-01).
91. Clarification was sought regarding any more information about the PNA taking over the observer coverage for the purse seine fleet from the ROP with regard to placement of observers on purse seine vessels licensed to fish under the South Pacific Tuna Treaty (SPTT). There was overall support regarding debriefing and its importance and support to continue for the U.S. to be involved in the process of improving the program.
92. NOAA staff clarified that the IATTC has a model that is used regarding when vessels come into port and debriefing interviews take place, and this is being recommended for the WCPFC. The U.S. has concerns on unmitigated reliance on observer data if it is not verified. Staff also clarified that the PNA office in Majuro will develop their capacity to put PNA observers on vessels and that this appears to be the last year Pacific Islands Forum Fisheries Agency (FFA) will be responsible for placing observers on U.S. purse seine vessels licensed under the SPTT.
93. There was concern about the modest levels of debriefing and how there should be a move to improve the debriefing process as this also affects the data collected for scientific purposes.
94. NOAA staff explained that this was a major concern and that the single most important part of the data collection process by observers is debriefing.
95. It was expressed that cross observer training for observers that could then be placed on vessels that fish in both WCPFC and IATTC areas is very important, and the PAC urged NMFS and DoS to continue to be part of the process of ensuring orderly implementation.

96. The quality of observers' data was questioned and clarification was sought regarding the use of observer records for MCS, given the questions about the credibility of the data.
97. NOAA staff explained that there is a clear understanding on using data for compliance purposes, based on the WCPFC Ad Hoc data rules, and that data quality continues to be an issue that is continually discussed. It was clarified that the observer reports include narratives as well as data on pre-approved forms. The data forms are what are most amenable to the debriefing process.
98. Overall there was general appreciation for observers and general support that observer data should be improved and made more consistent across the board. There was also overall support for taking the observer requirements out of CMM 2008-01 and moving them to CMM 2007-01 or a replacement. There was general support for the U.S. to continue being involved until the ROP is up on its feet and running smoothly.
99. Clarification was sought as to whether any observer data were going to the Commission other than U.S. data.
100. NOAA staff clarified that data collected on purse seine vessels are provided to FFA and then to the Secretariat of the Pacific Community (SPC), which provides the data to the Commission; essentially the process is the same as how it has been implemented for the past 25 years. In that regard the U.S. is fully compliant. In the case of the U.S. longline fleet there is constraint on both the observer data side and on the operational data side. Now that the U.S. is authorized to provide the data to the Commission, NOAA has been working with the Secretariat to develop a process to actually transfer data. Other CCMs have not done much to provide data—especially operational data. The FFA has been fairly vocal in trying to pressure other CCMs to provide data.
101. Clarification was sought regarding how the science providers are getting the data if the longline data are not going to the Commission.
102. NOAA staff responded that there is an obligation to provide the data and that this has not been done directly in all cases. However, the data are cooperatively shared for the stock assessments but not retained.

E. Catch Documentation Scheme (CDS) (see 95-111 in briefing document)

103. NOAA staff presented on the issue of catch documentation scheme, which has been given low priority by TCC. Overall there has been little progress made on the issue and it is important to note that the European Union (EU) proposal has been re-tabled at the upcoming WCPFC8 and that Japan and Papua New Guinea have also introduced proposals.
104. Concern was expressed for processors and marketers of canned tuna and how this would be very cumbersome for vessels. It was noted that the IATTC process of using Form 370, which tracks fish all the way to the canneries, has been very useful and can maybe be used as a model.
105. Clarification was sought regarding if the U.S. had commented to the countries tabling the proposals.
106. NOAA staff clarified that the U.S. provided a letter to the EU on general concerns and provided numerous specific comments. A lot of the issues being raised by the PAC were raised

in the letter provided to the EU and WCPFC, including concerns about the paperwork burden the process would impose.

107. Overall there was agreement that moving towards an electronic documentation system is a good idea, with the initial focus being on species of greatest concern. It was pointed out that the current proposals were not suitable for the individual tracking of smaller fish such as the pole and line and baitboat catch of albacore.

F. Chartering including Catch Attribution (see ppt. presentation 8 and 112-124 in briefing document)

108. NOAA staff reported on the issue of chartering and highlighted the following discussion topics: linkage between CMMs, establishing attribution rules for charters, defining or certifying charters “as integral to” fisheries of chartering State/participating territories, and fisheries development of chartering State/participating territory.

109. Clarification was sought regarding the definition of charters and the term “integral”.

110. NOAA staff clarified that definitions were from within Regional Fisheries Management Organizations (RFMOs) and were defined as consistent with the FAO definition yet in context there were three types of arrangements that could be considered as charters: direct charter and other arrangements, joint ventures, and access agreements and for these purposes it was broadly defined. NOAA staff emphasized the need for clarity and better consistency on how chartering is dealt with and proposed the idea of drafting a potential proposal to table at WCPFC8.

111. NOAA legal counsel agreed that it was important to focus on the conditions by which to determine when a charter vessel is truly operating as an integral part of the domestic fleet.

112. Clarification was sought regarding the case of Kiribati/China and the lack of reporting of longline catches and it being attributed (at least by China) to a charter arrangement. This case is still not clear. There was agreement that the current CMM 2009-08 should be tightened regarding which entity is responsible for collecting information and reporting catch and effort data from charters.

113. It was expressed that there seemed to be a loophole in the measure and in compliance and that it should be made clear against whose limit that catch report is going to count towards and that one way to start may be by covering catch attribution rules.

114. There was agreement that the Chartering Notification Scheme was important and that the issue should be worked on to better define issues such as attribution. Clarification was sought regarding the status of a U.S. proposal.

115. NOAA staff explained that nothing was drafted and that the U.S. was still developing its position. This issue was being presented to the PAC to see if there was support for such a proposal.

116. It was expressed that regarding the term “integral” there was more to it than just catch attribution and to keep in mind that developing states may not have the sought after fishing capacity, their own vessels etc. and that they need to be able to develop this aspect of their domestic fisheries.

117. It was expressed how there is a need to decide how far catch attribution actually goes.

118. NOAA staff clarified that attribution by zone is a key issue.

G. Marking and Identification of Fishing Gear (see ppt. presentation 9 and 125-132 in briefing document)

119. NOAA staff introduced a potential draft U.S. proposal that is not ready for public distribution. A brief history of the development of the issue was presented.

120. Clarification was sought regarding the U.S. regulations on purse seine related requirements with regard to marking certain gear. NOAA staff clarified that in terms of the U.S. regulations this fell under the helicopters and small boats for purse seine vessels and for instance not specific gear such as FADs at 50 C.F.R part 665 and 50 C.F.R part 300.

121. Concern was expressed as to not having had time to have thorough discussions internally on the draft proposal as well as the proper timing of such a proposal.

122. It was expressed that this may be considered a step towards a FAD management plan and how this should be done carefully and consistent with other CCMs efforts in the same direction. This idea was also questioned as to how something like requiring FAD marking would be enforced.

123. Concern was also expressed as to having the measures be applied throughout the range of the stocks and keeping this standardized.

124. NOAA clarified that the idea of gear marking was still in the preliminary stages and that the intent was to obtain feedback from the PAC. The proposal was very preliminary and had not been reviewed by other U.S. Government entities such as enforcement – NOAA staff were trying to get some general direction on this initiative.

125. Various opinions were voiced on the issue of a gear marking proposal - from the proposal slowly moving forward and that the PAC be kept closely informed on its progress to a strong support for the concept - given lost fishing gear is something that must be accounted for and that countries should take responsibility for. The ideas of consistency, accountability and keeping the final output as something uniform throughout Convention Area were stressed by several PAC members.

126. NOAA staff clarified that there was a 2009 FFA proposal to TCC and this draft draws some concepts from the FFA proposal. One PAC member noted that two other RFMOs have measures related to gear markings: Commission for the Conservation of Antarctic Marine Living Resources and the Northeast Atlantic Fisheries Commission and it might be useful to look at these measures for additional thoughts. Another PAC member commented that the RFMOs with gear marking measures were not tuna RFMOs. The chair pointed out that early review of proposals by fishermen being regulated had proven quite advantageous in constructing practical and well understood regulations.

H. Port State Measures (see ppt. presentation 10 and 133-137 in briefing document)

127. NOAA staff presented a brief history on the issue of Port State Measures (PSM) and the relevant actions at WCPFC. It was noted that domestic legislation and regulations are being developed to implement the FAO PSM agreement.

128. NOAA staff clarified that the U.S. had commented on the proposal tabled by the EU and had expressed concerns over verbatim adoption as the WCPO region is considered different from other RFMO regions that have implemented the PSM FAO agreement with limited debate or adjustment to suit regional concerns. In the WCPO there are implementation issues that need to be fully considered.
129. Concern was expressed as to how this would affect the territories and their communities as well as the need for resources and capacity building efforts to ensure orderly implementation. It was noted that there were potentially serious economic issues [disadvantages] depending on how a PSM is implemented.
130. NOAA staff explained that the concerns voiced by the PAC were similar to those expressed by the U.S. Government thus far, and that the process for both agreement on a measure as well as implementation would be very resource intensive—for not only the U.S. territories but all concerned.
131. General support was provided for the concept of PSM in the WCPFC, and how this is important but caution was expressed as how it should be tailored to suit WCPO needs and situations. The chair opined that port state measures, catch documentation schemes, closing areas of the high seas, etc, were all measures which have been justified as reducing or eliminating IUU fishing. The chair further stated that these measures merely place increasing burdens on those fishermen fishing legally and that the real solution to the IUU problem is for more money to be spent on surveillance and enforcement by countries so as to combat IUU vessels.

Agenda Item VII – WCPFC/IATTC Overlap Area

132. NOAA staff presented the current status regarding the WCPFC/IATTC overlap area including a brief history of the subject and on how the WCPFC7 directed the WCPFC Executive Director to meet with IATTC to develop draft terms of reference for a joint management scheme proposal, which had yet to be accomplished. NOAA staff provided a summary of what TCC7 recommended, which was similar to that of WCPFC7.
133. NOAA staff provided a further update regarding a meeting between the WCPFC and the IATTC Executive Directors to develop an agenda to deal with matters related to the overlap area.
134. It was expressed that one approach may be to have a moratorium on enforcement in the area to allow time to work out matters between the two Commissions- as the current cooperation on the matter appeared limited. The chair commented that if the two RFMOs were unable to resolve the matter quickly it was possible that international ENGOs would suggest that the area be closed to all fishing.
135. Overall there was strong support and encouragement by the PAC to facilitate development of the overlap issues so that these could be resolved as soon as possible. The current situation is perceived as detrimental to U.S. fishing interests. The chair expressed how the present OLE policy of subjecting vessels to the constraints of both RFMOs, while perhaps technically correct, is a debilitating burden on U.S. flag vessels.

Agenda Item VIII – Cooperating Non-Members (see ppt. presentation 11 and 138-144 in briefing document)

136. NOAA staff presented on Cooperating Non-Members (CNM) including explaining the application process, how these applications were reviewed and discussed at TCC and recommendations formulated for final approval, or not, at the annual meeting. The presentation included issues the U.S. continues to struggle with such as evaluating applicants with data submission deficiencies and IUU listed vessels. There is a need in some instances to strike the appropriate balance regarding a CNM's application and its participatory rights, such as in the overlap area.
137. Clarification was sought as to how to be better informed regarding the regulations in the overlap area both at an international level and domestically. Clarification was also requested regarding if CNM vessels could be considered IUU vessels.
138. NOAA staff clarified that there should be communication between fleets and the regional offices when issues related to implementation of regulations are in question. NOAA staff also clarified that it has been a long held position of the U.S. that if a country is not a participating member (at some level) of an RMFO, then they are not bound to the CMMs of that RFMO. However, the issue of the country's status with regard to the United Nations Implementing Agreement also comes into play on this matter. As is the case with many of these sorts of questions, the answers may not be straight forward.

Agenda Item IX – Territories

139. The representative from Guam indicated that the following issues are important issues or will have significant impact to the territories: the potential effect of port state measures; concerns about implementing a gear marking measure; and that the territories had a strong interest in the draft proposal as derelict gear is a major concern in those areas; support for IATTC management of longline vessels under 24 meters; and for WCPFC to work with IATTC on the issue that there is a need for compatible measures; , no support for the revision of CMM 2010-07 on sharks as well as the proposed CMM for Oceanic white tip sharks as there was no belief that these species were being negatively impacted and that Guam in particular supports the conservation of sharks by being part of the largest shark sanctuary in the world; support for the reopening of high seas pockets; and support for the base year to be set at 2010 levels for the purse seine fishery but maintaining a 2% harvest level on bigeye tuna in that fishery.
140. The representative of the Commonwealth of the Northern Marianas voiced that it is important that actions by the Commission be maintained regarding the SIDS given the unique challenges for these areas that do not have the capacity to implement measures that the large fishing States possess. There was expression for the need to sustain themselves and grow and develop at their own pace, as well as the need to develop their economy by building their fisheries.
141. The representative of American Samoa indicated that as well as being a U.S. territory, they are also a south pacific island and that their community was heavily dependent on the ocean for food. It was expressed that the closing of one of the tuna canneries on the island was having a great impact to the community and there was a need to improve the livelihood of American Samoans. Support was expressed for a vessel chartering arrangement that allowed their local industry to develop. It was also requested that American Samoa as a Polynesian culture be able to become actively involved with the recently formed group Ta Vaka Moana.

142. Concern was expressed regarding the marine debris situation in the territories and the effect of FADs and drifting nets on local marine life and reefs. It was stated that there is a need to see the Commission start talking about the nature of FAD construction, an initiative to establish ownership of the FADs /fishing gear and it was urged for the U.S. delegation to take some initiative to address these issues. It was noted that Southeast Atlantic Fisheries Organization has done studies of FADs and accountability.
143. A statement was made on behalf of the small-scale fishing fleet in Hawaii composed of the troll, handline, and ice boats who are limited by vessel size and trip duration. The view was expressed that these fleets should be considered artisanal as opposed to recreational. For many they have direct links to the culture and are a significant part of many Hawaii communities. It was questioned if this small boat fishery has an impact on the other fisheries and how is fishing capacity defined for small boats. It was expressed that these boats typically fish opportunistically, are an active component of the region's fisheries and are vital to many parts of the culture. The speaker wanted to remind the government that this community of fishers continues to be active and how they are not unlike the SIDS and territories, in terms of the way they should be treated.
144. It was expressed that what deserves more attention is the definition of artisanal fisheries, the importance of the cultural value as the fish flow into a community and how this is socially very important, and how hard it is to measure the economic value of these aspects.
145. It was also voiced that from the large fleet perspective, there is sympathy regarding SIDS and island territories. These meetings tend to focus on bigger issues, yet the intent is not to disadvantage regional artisanal fisheries.
146. Paul Dalzell of the Western Pacific Regional Fisheries Management Council gave a synopsis of the new modeling tool entitled TUMAS and its possible application to spatial management and the Hawaii longline fishery.

Agenda Item X – Other Issues

147. A DoS representative presented a history of the WCPFC Finance Administration Committee (FAC), a Committee intended to discuss financial matters of the Commissions and to make recommendations to the Commission on financial and administrative matters.
148. Clarification was sought regarding last year's Commission budget and the issue of non-payment from CCMs and how Commission money was reportedly being expended faster than it was coming in and if this situation was still currently occurring.
149. The DoS representative explained that although that did occur during a portion of the previous year, by the end of the year that was not the case and most had paid their obligations in full. The DoS representative further clarified that there is a provision in the FAC that one can lose voting rights for non-payment and that most countries pay over the first six months of the calendar year and keep WCPFC solvent and that the money tends to drip in over the last six months.
150. Clarification was also sought regarding how in the past there have been issues with U.S. Congress funding the Commission and if this was currently occurring.

151. The DoS representative explained that the administration had made the request to Congress for the U.S. obligation and that at this point were unsure of the status regarding confirmation of the approval of funds (noting that no other State, Commerce, Justice Departments spending measures were agreed to as of this writing).
152. It was requested that the PAC be kept informed on the budgetary issues and on the FAC outcomes. It was questioned as to what percentages of the budget are being allocated to each project and if there was any likelihood of any discussion of the Commission having a bigger budget.
153. The DoS representative explained that there is an effort to look at cost recovery and exploring ways to bring down various Commission costs. The U.S. has regularly requested reporting in more detail on the utility of very expensive programs, such as VMS. The U.S. would rather see a balanced approach with some money go towards other programs such as the observer program—as opposed to the current all or nothing methods employed. The DoS representative further clarified that what the U.S. provides in funds other than its membership obligation varies from year to year.
154. NOAA staff clarified the process to be part of the U.S. delegations to the WCPFC meetings and logistical issues for the upcoming meeting in Palau. The PAC was informed that the U.S. government already solicited for participation to the delegation for the WCPFC8 and that a decision on participation will be made in the following weeks.
155. Clarification was sought as to the size of the delegation and if this would pose any problems.
156. The representative DoS clarified that last years' delegation size was extra large because the meeting was held in Hawaii and should not be considered the standard. There is a defined internal process to get a delegation accredited through the White House, the process needs to begin very soon and has limits on overall size and participation. It was also explained that this year there would have to be additional limitations imposed, because of space limitations of the meeting hall in Palau. The delegation requires official accreditation and how without the accreditation there is no authority to make decisions on behalf of the United States.

Agenda Item XI. Executive Session

Development of recommendations

157. (This agenda item was discussed both in and out of executive session; only minutes of the non-executive session are included here.)
158. The vice-Chair led this session in the temporary absence of the Chair.
159. The PAC discussed how best to express the outcomes of the meeting, such as whether it would make consensus recommendations or individual comments. It was generally recognized that where there is a consensus, that would be reflected in the minutes of the meeting, and where no consensus is reached, the minutes would reflect the various views of participants.
160. This session involved discussion of a series of specific proposals on the topics identified below, which were offered or referred by one or more members of the PAC.

Skipjack tuna conservation

161. The PAC discussed the element of the WCPFC Chair's strawman also known as CMM 2011/01; (Version 7 Final Thurs Sept 15): to establish an interim catch limit for skipjack tuna that is no more than the level of catch in 2010, 1.556 million mt [editor's note: the PAC discussion was in reference to a proposed "Total Allowable Catch (TAC)" of 1.55 million mt; the WCPFC Chair's CMM 2011/01; (Version 7 Final Thurs Sept 15) describes its proposed catch limits as "indicative high levels catch limits only and not to be seen as an attempt to set a Convention area TAC"].

162. Some support was given for at least for establishing more directed management objectives for skipjack tuna, but no PAC members supported the specific proposed level of 1.55 million mt, while several PAC members expressed concern with the concept and the actual proposed limit. It was suggested that in lieu of a TAC, a benchmark could be established for the purpose of tracking the performance of the CMM. It was opined that in formulating management measures for skipjack tuna, consideration should be given to the social, economic and cultural values of skipjack tuna to the U.S. islands and territories. The idea was expressed that management should be based on the best available science, and there was general support for the idea that the United States should work with the WCPFC science provider to obtain information pertinent to establishing an appropriate TAC or benchmark.

Base year for the measure

Longline catch baselines

163. The PAC discussed a proposal for WCPFC CCMs to limit their longline catches in each of 2012, 2013 and 2014 to their respective 2010 levels, except for CCMs that caught less than 5,000 mt in 2010, which would have to limit their catches in each of those years to 5,000 mt. Under this approach, the fresh-fish longline provisions of CMM 2008-01 would not need to be carried forward.

164. The PAC discussed this proposal in terms of the scientific recommendations to limit total catches to particular levels and the need to allocate total allowable catches among WCPFC CCMs. It was opined that the scientific advice shows that the overall 2001-2004 catch and effort levels were not sufficient to meet the objectives of CMM 2008-01, and that advice is essentially unquestioned, and that it is not for any country to say it is wrong; thus, it is only a question of how to allocate the needed limits. Other PAC members responded that the proposal does not intend to reject the scientific advice, and any negotiating positions of the United States would fall within the scope of that advice. Rather, the proposal seeks to rectify the allocation under CMM 2008-01, which is in many ways unfair to the United States. Several PAC members noted that the WCPFC's longline fisheries collectively met the objectives established by the WCPFC in CMM 2008-01. One PAC member stated that the intent of the proposal tabled here (of the 5,000 per CCM) is for the United States to get a better deal, and the proposal is justifiable. One PAC member pointed out that the proposed limits are more conservative than those under CMM 2008-01, since the 5,000 mt limits would apply to all CCMs. One PAC member supported the notion that we should follow scientific advice, and stated that if there are allocation issues, they are secondary and positions of the United States on allocation are okay as long as they are consistent with the scientific advice.

165. One PAC member pointed out the difficulties in keeping track of the expected conservation effects of a given proposed CMM as it is being negotiated and as its elements evolve, and

suggested that the U.S. delegation work with its scientific advisers during the course of negotiations to try to explain the conservation benefits..

166. There was discussion about whether the proposal seeks to limit catches to the actual levels of catch in 2010 or to the levels to which catches are to be limited under the existing CMM, and it was resolved that the intent was the former. It was also resolved that the intent of the proposal is to limit catches to those levels in the longline fisheries of all CCMs, not just in the Hawaii longline fishery.

167. In response to a question of whether the Scientific Committee recommended further reductions in longline catch, a PAC member responded that the impact borne by the longline fisheries collectively would not preclude small increases in one or more longline fisheries, and that a small increase in the Hawaii longline fishery would not be detrimental or counter to the scientific advice.

168. A PAC member noted that other WCPFC CCMs have been able to exempt their artisanal fisheries and asked why the Hawaii fishery, which produces fresh fish for Hawaii, could not do the same. The same member also stated that setting longline catch limitations only for vessels larger than 24m (as in the IATTC measure) needs to be examined in some detail if we are to better coordinate with the IATTC measures. Another PAC member opined that the fresh fish provision in CMM 2008-01, although viewed as an exemption by some, was not intended as one, but rather is a provision that recognizes the special characteristics of the Hawaii fishery. Reformulating the measure to provide for 5,000 mt catch limits would be a practical way to get rid of what might be viewed by some CCMs as an unpalatable exemption to the measure.

169. It was noted that false killer whale issues might lead to the establishment of a no-fishing zone south of Hawaii, which might have the effect of keeping the fishery from reaching the currently imposed limit.

170. There was a brief discussion of spatial management approaches, particularly an approach that takes into account the relatively low fishery impact on the bigeye tuna stock in region 2. One PAC member stated that this approach should be raised at the Commission meeting. Another PAC member, agreeing that it should be considered, expressed concern with closing areas to fishing, which would be closing, not managing, the fishery.

171. There was general agreement with the proposal as long as it does not override or contradict scientific advice.

Purse seine effort baselines

172. The PAC discussed a proposal to limit fishing effort in the purse seine fishery to 2010 levels, provided that effort limits be augmented by other measures that effectively limit the impact of the fishery on the skipjack tuna and yellowfin tuna stocks and reduce the impact on the bigeye tuna stocks.

173. A PAC member stated that the WCPFC science provider does not seem to be against this proposed baseline, that skipjack tuna does not seem to have a problem, and that the FAD closures have been working for bigeye tuna. The member further stated that obtaining a sufficient amount of fishing effort is a crucial element for the United States to be able to conclude the on-going South Pacific Tuna Treaty renegotiations, and that if the United States does not get enough fishing effort, we will not have a Treaty. Another PAC member, noting

“their” sensitivity to purse seine fishing effort, supported the proposal, noted that the 2010 level is better than the 2009 level, and that the 100% observer coverage requirement is good.

174. In response to a question of whether the proposal was intended to limit only total fishing effort in purse seine fisheries collectively or to also allocate the limit among CCMs, a proponent responded that the second aspect had not been addressed in the proposal.

175. Regarding the total allowable fishing effort, one PAC member stated that the status of bigeye tuna is less than optimal, that it is not the place of non-scientists to say how big the total allowable level should be, and that if the exploitation rate is brought back to the MSY level, the size of the pie will get bigger. A proponent agreed, suggested that the proposal include a caveat that it be within the bounds of the scientific advice, and noted that the science providers have already indicated that the proposed level is okay.

FAD closure versus seasonal closure(s)

176. The PAC discussed a proposal to establish seasonal closures on all purse seine fisheries instead of FAD closures, because full closures would promote greater compliance than FAD closures.

177. A proponent argued that a full seasonal closure would be much more effective than a FAD closure, and noted that use of the IATTC model, in which two alternative closed periods are available, would mean that there is no period during which the fishery would be completely closed. The PAC member stated that there would also be conservation benefits for skipjack tuna and yellowfin tuna.

178. A PAC member expressed support for a full seasonal closure but expressed concern about the impacts on the American Samoa canneries, stating that the main need is to keep the canneries alive. The member also questioned whether the IATTC closures would be followed. A PAC member responded that there have been seasonal closures in the EPO for a number of years, and that processors manage around them and that there has never been an issue of not having fish, and it is not difficult to manage around the closures, especially if there are two alternative closures. The member added that taking out a number of available fishing days through the seasonal closures helps in the context of the constraints of the Vessel Day Scheme.

179. It was noted that the WCPFC science provider has not fully evaluated the closure option as requested by the United States. Several PAC members agreed that the United States should continue to press the WCPFC science provider to do so, and one PAC member emphasized that because the primary goal is to reduce impacts on bigeye tuna juveniles, the important question is how much benefit to bigeye tuna a seasonal closure would have relative to a FAD closure.

180. The issue of compliance was discussed. A PAC member stated the view that U.S. fishermen are the only ones that comply fully, and that the others, whether small or not, do not; and that only U.S. fishermen face consequences of non-compliance (for example, only the United States has complied with the full retention requirement). Another PAC member agreed that compliance is a serious issue that will always need attention, and the United States should address compliance issues across the board.

High seas pocket closures

181. The PAC discussed a proposal that the successor CMM to 2008-01 not include any high seas pocket closures because fishing effort would shift to adjacent EEZs, and that a notification scheme modeled on that used by the WCPFC for the Eastern High Seas Pockets would be inconsistent with the United Nations Law of the Sea.

182. A PAC member opined that the WCPFC should manage resources, that closing the high seas pockets does not accomplish anything, and that the approach used for the Eastern High Seas Pockets, which would enhance monitoring, control and surveillance on the high seas, is better than closing the high seas pockets. Another PAC member expressed concern with opening the high seas pockets, but stated that if strong management and enforcement tools can be established in lieu of the closures in order to ensure that fishing in the pockets does not have adverse impacts – and increasing observer coverage is one thing that should be addressed – then the possibility of opening the high seas pockets could be examined. Another member questioned why the high seas pockets should be considered to be more important than other areas, and stated that management measures should be based on science. Another member stressed the need for transparency from the PICs and how observer coverage needed to be further discussed as it could be a strong tool if a strong management program is put in place. Another PAC member agreed that establishing an SMA was a way to establish a program to monitor the fleets and opening SMAs would enhance the monitoring and surveillance on the high seas. Another member stated that closing areas is a legitimate management method and that areas can be closed for a variety of reasons – it depends on the goals. Another PAC member reminded the PAC about the suggestion made yesterday – that the area of overlap between the WCPFC and IATTC could be an area that is not heavily regulated until there is a cooperative agreement between the two RFMOs.

183. The session chair summed up his understanding that there is general agreement that if there is no conservation reason for the closures, there is good reason to open the areas, provided there are suitable controls in place to ensure that IUU fishing does not occur.

184. NOAA staff reminded the PAC that the issue of including national EEZs in the WCPFC VMS, which would provide an additional tool to address IUU fishing, is on the agenda for this year's WCPFC meeting.

Catch retention

185. The PAC discussed full catch retention for all species on longline and purse seine vessels.

186. A PAC member opined that this issue needs further consideration and asked whether the requirement to retain all tuna is meaningful, given the way that the rules are written. Another PAC member agreed that there are loopholes allowing fish to be dumped, but commented that the purse seine vessels believe there is no point in fighting this battle. However, the issue of retaining all species, not just tuna, is a different matter. Such a measure would be contrary to some RFMO conservation measures requiring release of species, and would be economically burdensome to vessels.

187. NOAA staff clarified that although WCPFC full retention performance for purse seine has not been reviewed, the IATTC's retention policy has been reviewed and it was found that it was difficult to quantify conservation benefits.

188. A PAC member opined that with respect to longline, it is unsuitable to require retention of all fish. It seems especially contrary to the intent of conservation of sharks since about 95% of

sharks are released alive in the Hawaii fishery. To require retention of sharks would be economically not beneficial and wasteful. Another PAC member agreed and explained that usually longline vessels also release small marlin that are alive.

Total hard catch limits

189. The PAC discussed the inclusion of hard catch limits for longline vessels and associated catch limit transferability in the new CMM as well as how allocation should be accounted for.

190. A PAC member expressed that the strength of support for hard catch limits would vary depending on whether there is agreement on how the hard catch limits were determined as well as whether there would be catch limit transferability allowing for a CMM to obtain an increase in its allocation of bigeye catch, subject to the constraints of science. If the Commission were to set a very low overall catch limit, then there would be a greater need for an option with transferability. The member stressed that transferability could be a very useful tool and conceptually, as the PNAs Vessel Day Scheme (VDS) allows, which is allowing a transfer of days, transfers of quota would be analogous to the VDS.

191. Regarding the VDS, a Commissioner questioned if the Commission managed the infrastructure and if this proposal would mean that the Commission would take on the workload of tracking transfers.

192. NOAA staff clarified that the VDS is managed by the PNA office in Majuro and that not all the details are transparent. Regarding the longline component, most likely it would be part of the Commission and would be a 'burden' in a way but the VDS is a separate issue.

193. A PAC member stressed that if catch limits are set, then there should be transferability of these, and expressed a strong support for transferability. Another member also expressed moving toward catch limits and hard caps but with the premise that enforcement be carried out and that although they supported the direction, they were still not sure the issue of transferability was ripe yet, because of other compliance concerns, such as observers. Another PAC member opined that if catch is not utilized in a year it is lost and not carried over and so is a benefit for the environment. Another member expressed support of hard catch limits, transferability and that if an allocation is not utilized in a given year it is lost and not transferred over and that transferability provides an opportunity for the territories in terms of training and building their own capacity.

Other fisheries

194. The PAC discussed whether the capacity limit for bigeye should apply to other fisheries that catch more than 2,000 mt of bigeye.

195. A PAC member opined that other fisheries are within the grand scheme of things and that there should be a sensitivity to this. The member urged caution and to be mindful of other fisheries.

196. The session chair explained that the point of discussion was that small scale fisheries might not be having a significant impact on the stocks, and from the management perspective, there might be no need to curtail these fisheries; management of these fisheries would not impact the effectiveness of the CMM.

197. A PAC member opined that maybe small scale fisheries should be exempted but noted the need for clarification as to the term of “other fisheries” and what it meant in the context of WCPFC conservation and management. Another member agreed. Another PAC member expressed concern regarding when a CMM is being created and how there is need to stick to the subject matter and that this actually pertains to non domestic fisheries. Another member agreed that totally excluding artisanal fisheries and those taking less than 2,000 mt of bigeye and yellowfin was a good idea, and noted that para. 39 of CMM 2008-01 excludes artisanal fisheries though without a definition. The PAC member questioned if Indonesia and the Philippines were in this provision and/or whether these fisheries were being addressed.
198. NOAA staff clarified that para. 39 also pertains to the Philippino ringnets and Indonesian and Japanese artisanal fisheries.
199. A PAC member opined that another way to read para. 39 may be to consider those fisheries that take less than under 2,000 mt of bigeye as exemptions. A member expressed concern regarding the other species of concern and their impact to the communities and wanted to include a caveat that artisanal and coastal fisheries are exempt.
200. The session chair summed up the discussion by suggesting that there was some agreement that any fisheries that take less than 2000 mt should be exempt, i.e., should be considered as covered by the language of para. 39.

Compliance monitoring scheme

201. The PAC discussed moving the review of CCM compliance out of the non-public domain category.
202. A PAC member strongly supported this and stressed that there were consequences for non-compliance and wanted this overall for all CCMs. The member also expressed interest in wanting to see the U.S. government pursue potential consequences for non-compliance as this was a critical part. A PAC member thought that it was reasonable to say reports can remain confidential through the editing process, but once completed and countries have accepted that the information is accurate; at that point these reports should be put in the public domain such as the public side of TCC meeting web pages. Another member supported this and thought it was a shame that this was not a more powerful motivator for people from the PICs. Another PAC member expressed that compliance is a major concern and that if the U.S. is going to be put to the highest standards, then others should as well.

Whale sharks and cetaceans

203. The PAC discussed the development of CMMs regarding whale sharks and cetaceans.
204. A PAC member opined that it was important to think about how to achieve the goal overall and to be more specific as to what the measures should include. Another member expressed wanting to separate these into two measures, because sharks and marine mammals are different. Another PAC member expressed support for language to ban setting on whales and to ban on the intentional setting on whale sharks. A member expressed concern regarding using “intentional” as this could pose enforcement problems such as a captain not seeing a whale yet an observer seeing one and writing it in a report. A PAC member suggested language to ban the “intentional” setting on whale sharks, with guidelines for handling and release of incidental catches, and agreed that there was a need for clear guidance on distinguishing intentional sets

on whale sharks from unintentional sets. Another member agreed that intentional is an enforcement issue and that whale sharks are difficult to deal with in terms of enforcement and that language should be looked at in more detail.

205. A PAC member explained that because whale sharks spend less time at the surface than cetaceans it might be useful for observer records to identify if they see something on the surface and that maybe it would be useful to collect this information. A PAC member opined that whale sharks are sometimes targeted for setting and urged for language to include mandatory and safe release.

206. David Itano was asked to briefly explain the background regarding the discussion at the SC.

207. NOAA staff clarified that nothing had been developed in terms of policy and that so far everything being done was to compile information from the American Tuna Association. Discussions were not all consistent with draft guidelines circulated by ISSF, and the United States eventually will develop a strategy and then a policy. NOAA staff also clarified that little science was provided by SC7 regarding the species and that the working group also had very little information to offer thus far.

208. A PAC member requested clarification as to how frequently setting on whale sharks occurred, and how maybe it would be useful to develop language for observers regarding distinguishing between intentionally setting versus not.

209. The session chair summed that there was general support to get a CMM to protect the species. Overall there were mixed views regarding support for guidelines for safe release and handling including consideration of crew safety, and support for amending observer protocols or making them more complete to include reporting on large animals at sea.

Sharks

210. The PAC discussed the development of future conservation measures for sharks.

211. A PAC member questioned the species being considered and the number of key species and sought clarification as to whether the measure is just about reporting of catches or whether there were restrictions on those species.

212. NOAA staff clarified that this would only entail reporting requirements and that once a shark is listed as a key shark species data would ultimately be available for assessment so once on the list they do have an enhanced status. NOAA staff further clarified there were eight types and 13 species which had some sort of mandatory reporting requirements.

213. A PAC member expressed support for adding five species to the list of key species, urged that regulations regarding sharks be tightened, expressed strong support for the fins remaining attached as a provision in the CMM, and supported an evaluation of wire leaders versus monofilament leaders. A member disagreed and expressed that there be no need to further investigate the leader issue. Another member opined that maybe there was a need to investigate bait type and put an emphasis on squid bait rather than leaders.

Charter notification scheme

214. The PAC discussed CMM 2009-08 on Charter Notification Schemes and how this measure requires CCMs to report to the Commission that a charter is underway, but there are a lot of ambiguities that are not resolved.

215. A PAC member supported the recommendation for tightening the charter notification rules and requirements, but wanted clarification as to how this applied to U.S. territories and if chartering would allow other boats into U.S. waters and have this attributed to U.S. catch. Another member expressed that there was an understanding that the Western Pacific Fisheries Management Council was working on an amendment to resolve issues as to the territories (which cannot now do so) could enter into charters with U.S. or foreign vessels. Another PAC member expressed concern regarding the responsibility of the Commission and the need for this CMM to be fixed; it should specify reporting requirements, any requirements with respect to where and when fishing could be done or for landing in domestic ports, the attribution of catch to each side etc. A PAC member agreed and expressed support for a discussion on the definition of “integral” and added that chartered vessels still have a general nexus with the flag state under international law.

216. A PAC member opined that the catch needs to be attributed to someone’s limit and needs to be reported to the Commission accordingly. Another PAC member expressed confusion as to who is considered the charterer and how this needed to be made clear. ICCAT Recommendation from 2002 was identified as a possibility regarding the terms chartering contracting party and flag chartering party. Discussion took place as to who a charterer was versus a charterer. Another PAC member expressed that for a number of PIPs the vessel flag state has no say in the chartering because it is run by a private company so, to include the vessel flag state as a charterer, may not be accurate. Another PAC member expressed that the main point is how catch is attributed.

Gear marking

217. The PAC discussed the draft gear marking proposal introduced at the PAC meeting and how the government should continue working with both the longline and purse seine fleets on refining the proposal.

218. A PAC member explained that both the Northwest Atlantic Fisheries Organization and the Northeast Atlantic Fisheries Commission have specific language regarding gear markings and there is need for reporting and tracking. Another PAC member opined that, in going down this road, it would be important that gear marking requirements be consistent in all areas, and that while it would be useful to see what other RFMOs have done, it needs to be kept in mind that no tuna RFMOs have developed any FAD or other gear marking requirements. Another PAC member explained how not all vessels have the ability to retrieve derelict gear, such as albacore troll boats, or to retrieve FADs that no longer have their transmitter attached.

219. The session chair clarified that the previous suggestions were that a protocol be developed and not a requirement.

220. A PAC member indicated no objection to the idea and that the main interest at this point was not to rush ahead at the next WCPFC meeting and recommend a binding measure because details needed to be worked out. Another PAC member agreed. Another PAC member agreed this was a good foundation and a good move towards FAD management plans.

221. A PAC member clarified that the gear marking draft proposal came from the Western Pacific Fisheries Management Council and thanked NOAA staff for bringing this forward. The member clarified that the marking requirement has been in the books for longline fisheries in this region for decades and that there is strong support for this proposal because it would help with enforcement and marine debris issues. The member also reiterated that this issue had been discussed in the prep con process and so there was already previous context on this issue in the WCPFC area.

222. The session chair requested that it would be helpful to the PAC if NOAA staff would prepare a summary of what that history has been and maybe PEW could enlighten the PAC as to what other organizations have dealt with similar issues as it is recognized that there are concerns and that this is a work in progress.

Port state measures

223. The PAC discussed the need for the U.S. to continue working on port state measures that are appropriate for the WCPFC and recognized the support needed by Pacific Islands, including the U.S. territories.

224. A PAC member appreciated the intent of the EU measure but expressed concerns regarding the process and the need to see improvements to the measure to make it more WCPFC-specific to alleviate some of the concerns that were raised.

WCPFC/IATTC overlap area

225. The PAC discussed how the U.S. should work to resolve issues in the overlap area and how the two organizations should be coordinating where appropriate.

226. The session chair summed up that overall this was an urgent problem to be solved and that there was agreement that the U.S. should push and do what needs to be done so that the issues in this area are resolved as soon as possible.

Other issues – observers

227. A PAC member stated that there was broad agreement around room to level the playing field and continue to try to increase observer coverage in foreign longline and purse seine fleets. Another PAC member agreed and expressed that how the data is collected should be standardized. Another PAC member opined on the importance of debriefing. A member expressed the importance of using observer data. A PAC member expressed concerns about putting observers on board because of safety and space and suggested that another tool to consider would be video monitoring. The Commission should look at that as an additional tool as well as the need to give more credence to observer data, perhaps in lieu of VMS data.

Other issues

228. A PAC member expressed concern about having the WCPFC as an RFMO lose control in the sense that the PICs were gaining more control and influence has been shifting to the PNA parties, and with that, there was no fair play..

229. Another PAC member urged the U.S. to take a robust role in promoting action to establish target limit reference points, as this should be the basis for setting responsible catch limits.

230. A PAC member expressed growing concern as to national waters and the tendency of PICs to treat their waters as national waters exempt from Commission controls. The session chair agreed and presumed the U.S. would continue to push that position.

231. A member expressed concerns about some positions the U.S. had taken in the past for expediency/pragmatic reasons and stressed the need to reiterate the overlap issue between the IATTC and WCPFC.

232. The session chair concluded discussion of the issues. The chair and vice-chair thanked NMFS for all the hard work setting up the meeting and preparing the briefing documents and presentations. Russell Smith, U.S. Commissioner, also made concluding remarks including an indication that he looked forward to working with the PAC in further development of U.S. positions prior to and at the WCPFC meeting.

PERMANENT ADVISORY COMMITTEE

to the

UNITED STATES SECTION

to the

WESTERN AND CENTRAL PACIFIC FISHERIES COMMISSION

**STATEMENT OF ORGANIZATION, PRACTICES AND
PROCEDURES**

(Adopted October 25, 2011)

I. AUTHORITY

The Permanent Advisory Committee (hereinafter referred to as the Advisory Committee) to the U.S. Section to the Western and Central Pacific Fisheries Commission (hereinafter referred to as the WCPFC) is established under authority of the Western and Central Pacific Fisheries Convention Implementation Act, 16 U.S.C. §§ 6901 et seq.

II. ADVISORY COMMITTEE ORGANIZATION

A. PURPOSE

The purpose of the Advisory Committee is to serve in an advisory capacity on the development of U.S. policies, positions and negotiating strategies to the U.S. Section to the WCPFC with respect to U.S. participation in the WCPFC. The U.S. Section is comprised of the U.S. Commissioners to the WCPFC and representatives of the Department of State, if the Department of State does not have an appointed Commissioner.

B. SUPPORT SERVICES

The National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, shall provide to the Advisory Committee such administrative and technical support services as are necessary for the Advisory Committee's effective functioning. An Executive Secretary to the Advisory Committee shall be appointed and provided by NOAA to carry out such functions. To the extent practicable, relevant materials should be distributed to members at least 10 days in advance of meetings.

C. ADVISORY COMMITTEE MEMBERSHIP, TERMS AND PRIVILEGES

1. Composition. The Advisory Committee shall be composed of:

- a. Not less than 15 nor more than 20 individuals appointed by the Secretary of Commerce in consultation with the United States Commissioners, who shall select such individuals from the various groups concerned with the fisheries covered by the Western and Central Pacific Fisheries Convention, providing, to the maximum extent practicable, an equitable balance among such groups.
- b. The chair of the Western Pacific Fishery Management Council's Advisory Committee or the chair's designee; and
- c. Officials of the fisheries management authorities of American Samoa, Guam, and the Northern Mariana Islands (or their designees).
- d. The Pacific and Western Pacific Council shall be afforded one seat each as ex-officio members.

2. Appointment Terms. Each member appointed under II. C. 1a of the Advisory Committee appointed under paragraph 1 of this section shall serve for a term of two years and shall be eligible for reappointment. Advisory Committee members will continue to serve in their term until a reappointment for them is finalized.

3. Compensation. Members of the Advisory Committee shall serve without pay, except they shall be allowed travel expenses to attend Advisory Committee meetings, if such service is conducted while away from their homes or regular places of business. In addition to travel expenses, members shall also be allowed per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

III. OFFICERS AND TERMS OF OFFICE

1. General. Every two years, the attending members of the Advisory Committee shall elect a Chair from among Advisory Committee members. The Chair shall serve for a period of two years and may succeed her/himself. A position of Vice-Chair shall also be established. The terms of office for a Vice-Chair would be the same as for the Chair and the Vice-Chair shall be elected in the same manner as the Chair.

2. Elections. The election of a Chair will be held first, followed by the election for Vice-Chair. The election shall be by written secret ballot. If there are two or more candidates, the election shall be by written secret ballot with the votes tabulated by the Executive Secretary. The Executive Secretary shall use the following rules to determine the winning candidate:

- a. To win, a candidate must receive a majority of the votes cast by members present and those voting by proxy.
- b. If no candidate receives a majority of the votes, the Executive Secretary shall declare no election. If there are more than two candidates, the candidate receiving the lowest number of votes shall be dropped from consideration and a vote will be taken by secret ballot for the remaining candidates. This process will continue until a candidate receives a majority of the votes cast.

- c. Those preferring not to vote for any candidate shall write or check “ABSTAIN” on the ballot.
 - d. The number of ballots cast for an individual shall be announced, upon request by a member of the Advisory Committee. Any Advisory Committee member who questions the result may review the ballots. The vote of any Advisory Committee member shall not be identified nor made public in any respect.
3. Special Elections. In the event that the Chair cannot fulfill the Chair’s obligations for the balance of the Chair’s term, a special election will be held at the next scheduled Advisory Committee meeting to fill the position of Chair. In the event that the Vice-Chair cannot fulfill the Vice-Chair’s obligations for the balance of the Vice-Chair’s term, a special election will be held at the next scheduled Advisory Committee meeting to fill the position of Vice-Chair. The procedures for nominations and elections set forth above will be followed for special elections.
4. Authority of the Chair and Vice-Chair.
- a. Subject to the authority of the Advisory Committee, the Chair shall have general charge, supervision over, and responsibility for the business and affairs of the Advisory Committee.
 - b. The Vice-Chair, at the direction of the Chair, shall assist the Chair in performing his/her duties, and carry out the duties of the Chair during such time as the Chair is unable to perform them.

5. Subcommittees and Working Groups.

The Advisory Committee shall have the authority to establish Subcommittees of Advisory Committee members and Working Groups, which may include non-Advisory Committee members as participants, and specify their functions, composition, duties, and responsibilities consistent with this Statement of Organization, Practices and Procedures, the Act, and other applicable law.

IV. ADMINISTRATIVE MATTERS

A. MEETINGS

1. All meetings of the Advisory Committee and any Subcommittees or Working Groups that the Advisory Committee establishes shall be open to the public, except when in executive session, which shall be closed to the public.
2. The Department of Commerce shall be responsible for providing notice of meetings to the public in a timely fashion and the Advisory Committee shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).
3. A majority of all current members of the Advisory Committee shall constitute a quorum.

4. Subject to governmental restrictions on the use of confidential information, the Advisory Committee may receive, compile, or discuss data or reports showing the current or projected commercial operations of identified business enterprises.
5. The agendas for Advisory Committee meetings will be drawn up by the Chair and the Vice-Chair, with the concurrence of the Commissioner from the Department of Commerce (hereinafter referred to as Government Commissioner) or his or her representative. Members may submit items for the agenda up to two weeks prior to the next meeting, and the Executive Secretary shall circulate the agenda prior to the meeting. The agenda for the meeting may be amended by a decision of the Advisory Committee.
6. The Executive Secretary shall prepare the minutes of each meeting, which shall at a minimum contain: a record of all persons present; the names of persons from the public who attended the meeting and their interests or affiliations; a description of matters and materials discussed and conclusions reached and the rationale for same, a summary of the views expressed attributable to a member only with that members specific permission; and copies of all reports and other communications received, issued, or approved by the Advisory Committee. The minutes shall be reviewed and approved by the Advisory Committee.
7. Roberts Rules of Order shall apply on matters of procedure.
8. Confidential information, including discussion of the U.S. negotiating position for upcoming WCPFC meetings, other than input from the public, shall not be discussed during the public session.

B. CLOSED MEETINGS

1. Executive sessions of the Advisory Committee shall be closed to the public and all discussion occurring in these sessions shall be kept confidential unless otherwise specified by an appropriate U.S. Government official. Executive sessions can include:
 - a. When the Advisory Committee is considering the U.S. negotiating position prior to or subsequent to international meetings;
 - b. When the Advisory Committee is being briefed on litigation in which the Advisory Committee is interested;
 - c. When the Advisory Committee is discussing internal operational matters;
 - d. At such other times as requested by the Department of Commerce or the Department of State in order to protect classified, sensitive or confidential information; and
 - e. Any other matters as determined by the majority of the Advisory Committee, consistent with applicable law.
2. To the extent practicable, notice of closed sessions on matters of substance should be included in the Federal Register notice announcing the Advisory Committee meeting.

C. MEETING FREQUENCY

1. The Advisory Committee, including meetings of any Subcommittees or Working Groups shall meet at appropriate times and places, at least once a year, subject to available funding, at the call of the Chair of the Advisory Committee or upon request of the U.S. Commissioners, the Secretary of Commerce, or the Secretary of State.
2. If a lack of funding or other factors preclude the convening of an in person meeting of the Advisory Committee, Subcommittees or Working Groups, every effort will be made to organize a teleconference, recognizing time zone differences.

V. VOTING AND DEVELOPING ADVICE

1. Procedural Matters. Decisions of the Advisory Committee on matters of procedure shall be taken by a majority of those members present and voting.
2. Substantive Matters. The Advisory Committee shall report the full range of views expressed to the U.S. Section. Any member may separately submit comments to the U.S. Section, indicating the reasons for his/her views.
3. Amendment of SOPPs. This Statement of Organization, Practices, and Procedures may be amended from time to time by a three-fourths majority vote of the present and voting Advisory Committee members, provided the specified proposed change has been sent in writing to the Executive Secretary to circulate to all members of the Advisory Committee at least ten (10) days in advance of the meeting in which the matter shall be presented. Notice provisions of this section, however, may be waived by the Advisory Committee.

Draft Recommendations¹
Permanent Advisory Committee to the U.S. Section to the
Western and Central Pacific Fisheries Commission
25-27 October, 2011
Honolulu, Hawaii

Skipjack conservation

We does not support the proposed 1.55 million mt skipjack TAC as it is unclear how the proposed TAC relates to skipjack MSY and current and future Purse Seine capacity levels. We recognize that distribution of the WCPO skipjack stock range may have contracted which has affected the small scale fisheries in Guam and Hawaii. Therefore, we recommend the US work with the WCPFC Science Provider and other CCMs to explore measures that could be beneficial to the skipjack stock.

Base year

Longline catch baselines

1. We recommend that no further reductions in longline catch from the 2010 levels be required in the new CMM.
2. We recommend that the following paragraphs be included in the new CMM.
Each member that caught less than 5,000 mt of bigeye in 2010 shall ensure that their catch does not exceed 5,000 mt in each of the next 3 years (2012, 2013 and 2014).

Each member that caught more than 5,000 mt of bigeye in 2010 shall ensure that their catch does not exceed their respective 2010 catch levels in each of the next 3 years (2012, 2013 and 2014).

If the above is included in the next CMM, the provisions related to fresh fish fisheries in 2008-01 need not be carried forward in a new conservation and management measure.

Purse Seine effort baselines

3. We recommend that effort in the Purse Seine fishery be limited to 2010 levels, but recognizes that effort limits must be augmented by other effective management measures that limit the impact of the Purse Seine fishery on skipjack and yellowfin, and reduce the impact on bigeye stocks.

¹ These draft recommendations were agreed to by PAC members representing the Hawaii longline fishery, U.S. Pacific Territories, and US purse seine industry and brought forth to the PAC for consideration on October 27, 2011.

FAD closure vs seasonal closure(s)

4. We recommend a total Purse Seine seasonal closure, mainly because it promotes greater compliance than a FAD closure.

High seas pocket closures

5. We recommend that no high seas pocket closures be included in the new CMM as effort will simply shift to adjacent EEZs, and further that a potential notification scheme modeled after the existing Resolution, appears inconsistent with the UNCLOS.

Catch retention

6. We do not support full catch retention for all species on longline and purse seine vessels as this would likely be inconsistent with MSA, ESA, and MMPA and/or have negative economic impacts without demonstrable conservation benefits.

Total hard catch limit

All have limits, transfers, over/under?

7. We support the inclusion of hard catch limits for longline vessels and associated catch limit transferability in the new CMM and recognizes that these measures may reduce the ambiguities related to catch attribution. We support incorporating into a resolution the concept that if an allocation is not utilized in given year it is lost, and should not be carried over into the subsequent year.

Other fisheries

8. We recommend that the (capacity limit) (bigeye catch limit?) should apply to other fisheries that catch more than 2,000 mt of bigeye.

Compliance Monitoring Scheme

9. We recommend that the US work to move the review of CCM compliance out of the non-public domain category as the public has significant interest in how individual CCMs are complying with WCPFC measures.

Whale Sharks and Cetaceans

10. We recommend that separate conservation and management measures be developed for whale sharks and whales, to include a ban on setting on whales and guidelines for safe release of whale sharks.

Sharks

11. We support development of future conservation measures for sharks and request that the US analyze the implications of potential gear modifications on US longline fisheries.

Charter notification scheme

12. We support the development of a measure to require that catches of vessels under charter are attributed to the chartering flag State to reduce the current ambiguities related to catch attribution under charter and similar arrangements.

Gear Marking

13. We recommend that the US further develop the gear marking proposal and work with US longline and purse seine fishermen and industry representatives on refining the proposal. Whatever is agreed on this matter must be enforceable and transparent.

Port State Measures and Catch Documentation Scheme

14. We recommend that the US continue to work on port state measures that are appropriate for the WCPFC and recognize the support needed by Pacific Islands, including the US participating territories, for the resources to implement the measure, and consider potential implications for US fisheries and single port operations in the region that may result in unanticipated negative economic impacts.

The US should continue to work on the CDS scheme, being mindful of avoiding heavy paperwork burdens and potentially unworkable commitments, such as having the scheme apply to fish destined for canneries.

WCPFC/IATTC Overlap Area

15. We recommend the US work to resolve issues in the overlap area as the status quo is unacceptable for several reasons, including that it is disadvantageous to US vessels.



December 6, 2011

Mr. Mike Tosatto
Regional Administrator
NMFS Pacific Islands Regional Office
1601 Kapiolani Blvd., Suite 1110
Honolulu, HI 96814

Dear Mike:

We are writing to express our concerns about the recent meeting of the Permanent Advisory Committee (PAC) for the US delegation to the Western and Central Pacific Fisheries Commission (WCPFC). We appreciate that this was the first meeting of the PAC and as such it is only realistic to expect that refinements and improvement will evolve over time towards a higher level of operational success. Please accept these comments and recommendations in the constructive spirit that they are intended.

Among our primary concerns is the nature and substance of the PAC report to US Commissioners and members of the US delegation, and that the PAC minutes were finalized without adequate review and approval of the committee.

The PAC report should go beyond a detailed record of the meeting and should highlight specific points of advice, in accordance with the designated purpose of the PAC. The current version of the report simply reads as a narrative and does not indicate the conclusions reached (as specified in the Statement of Organization, Practices and Procedures (SOPP) paragraph IV A. 6), or where there was consensus view by PAC members, or a majority opinion. As such, we believe the document does not fulfill its objective to clearly advise the US Commissioners to the WCPFC PAC positions related to the issues they will confront at the next Commission meeting.

We recognize that there were differing opinions around the table at the PAC meeting, and that the PAC decided not to vote on recommendations, but there were items on which there was a consensus and this should be reflected more strongly in the report. Even where there were differing opinions, if there was a majority view this should be indicated, with dissenting views noted. The report is drafted as a broad summation, with no sense of clarity when the majority of PAC members thought there was a best response to particular issues. While SOPP Section V does call for reporting the full range of views, it does not prohibit the reporting of consensus recommendations; we believe highlighting consensus of the PAC can be very useful to the US Commissioners in developing final US positions.

Moreover, there was an agenda item within the Executive Session for the development of recommendations. We recognize that the Executive Session was spent deliberating on whether the Executive Session should be a closed session only for PAC members but the development of recommendations as outlined in the agenda did not take place. A list of draft recommendations

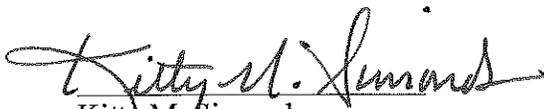
were generated by some PAC members to provide the basis for providing advice to the US Commissioners but these were not used as intended. In the future, we think that this approach should be considered since it would provide more succinct advice to the US Commissioners and Delegation. Further, in the case where there is a majority opinion of then PAC, but some differing views, these can still be captured in the recommendation text and/or minutes.

The review of the draft report and its finalization process was inadequate and should be reconsidered. A draft report was first circulated late on November 28, about a month after the meeting, with comments due three days later for proposed finalization. While we hope a more timely release of a draft can occur in the future, as discussed below, such an abbreviated review time is inadequate. Further, we understand that review comments from PAC members were not able to be sent by the short deadline and consent to finalize may not have even included a majority of PAC members. We note the SOPP under paragraph IV A. 6 states that "the minutes shall be reviewed and approved by the Advisory Committee". Given that the WCPFC8 meeting has been postponed, we recommend that final status of this report be retracted and additional time given to review the report, provided possible corrections, and include improvements, such as highlighted consensus recommendations.

We are also concerned about the timing of the PAC meeting and the release of a meeting report. This year, the PAC meeting was convened in the last week in October, but the report appeared on the December 5th, the same week as the now postponed eighth meeting of the WCPFC. Section V.B.1 of the MOU between the Regional Councils and the Commerce and State Departments calls for a meeting in advance of the WCPFC annual meetings for the purpose of developing US positions. As future meetings are planned, we recommend consideration be given to a mid-October PAC meeting soon after completion of the Technical and Compliance Meeting and a quick turnaround of a draft report for PAC review and approval, such that a final report can be considered in the referenced consultation.

Again, we acknowledge that this was the first regular meeting of the PAC, that roughness of approach is to be expected, and that operational functioning will likely improve over time. We offer these comments in the spirit of facilitating this improvement in subsequent PAC meetings.

Sincerely,


Kitty M. Simonds
Executive Director,
WPRFMC


Donald O. McIsaac
Executive Director,
PFMC

Copies: PAC Members
Russell Smith III