



# Standard for assessing transparency in information on compliance with obligations of regional fisheries management organizations: Validation through assessment of the Western and Central Pacific Fisheries Commission



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## ABSTRACT

We developed a standard against which to assess transparency in information on basic governance elements that provides the ability to determine compliance with obligations under regional fisheries management organizations (RFMOs). The performance of the Western and Central Pacific Fisheries Commission (WCPFC), one of five global tuna RFMOs, was made against the standard. RFMOs play a critical role in global fisheries governance by providing a formal mechanism for fishing States and States in whose jurisdiction straddling and highly migratory fishery resources occur to cooperate to pursue the implementation of agreed measures to achieve sustainable international fisheries. Transparency in information on elements of RFMO governance enables public evaluation of compliance by Members and Cooperating Non-members and their vessels, creating an incentive for compliance due to a desire to avoid adverse reputational and economic repercussions of non-compliance. The standard is comprised of criteria assessing open access to information on: (i) compliance with monitoring requirements, (ii) research-grade observer program data, (iii) domestic legislation and regulations to implement binding controls, (iv) surveillance, (v) identified infractions, (vi) enforcement actions, and (vii) outcomes of enforcement actions. The standard further assesses transparency in information on compliance with RFMO obligations of: (viii) payment of assessed financial obligations; (ix) observer data reporting; and (x) reporting information on national implementation and compliance. And, the standard assesses transparency in information on: (xi) RFMO employment of powers in response to Member and Cooperating Non-member non-compliance; and (xii) whether all States and entities conducting fishing activities under the RFMO's mandate are Members or Cooperating Non-members. WCPFC had a lack of transparency for 36% of the elements composing the standard, partial transparency for 36%, and full transparency for the remainder. The lack of a WCPFC process to respond to non-compliance by Members and Cooperating Non-members, a prohibition on States from using information on non-compliance with WCPFC obligations unilaterally, in combination with a substantial lack of transparency in information on compliance, including due to lax reporting, collectively are inadequate incentives for compliance. This new tool provides a standardized method to compare RFMO transparency in compliance information and to establish benchmarks against which to track changes in transparency.

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## 1. Introduction

Marine capture fisheries are a major contribution to food security and livelihoods, particularly in developing countries. They supply some of the most valuable globally traded commodities, and if

sustainably governed, have a high capacity to contribute to sustainably meeting growing human demand for animal protein relative to terrestrial sources (FAO, 2010; Godfray et al., 2010; Pereira et al., 2010; Pelletier et al., 2011). The aim of ecosystem-based fisheries management is to sustain both ecosystem integrity, from genetic diversity to broad ecosystem-level structure and function, and the capacity of marine ecosystems to provide services, including fisheries yields, while balancing often conflicting objectives by

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striving to achieve the equitable distribution of ecosystem benefits (Pikitch et al., 2004; FAO, 2003, 2006; Gilman et al., 2013).

Regional fisheries management organizations (RFMOs) are regional bodies with the competence to establish fisheries conservation and management measures (FAO, 2001; Gilman et al., 2007, 2013). RFMOs have played a critical role in global fisheries governance since the first was established in 1923, and while some spatial, fishery and taxonomic gaps remain, a large proportion of global marine fisheries that occur in areas beyond national jurisdiction are now managed by one or multiple RFMOs, and most of the high seas is now covered by at least one RFMO (Lodge et al., 2007; FAO, 2011). RFMOs provide a formal mechanism for fishing States and States in whose jurisdiction straddling and highly migratory fish stocks managed by an RFMO occur to cooperate to pursue their agreement and implementation of measures to sustainably govern international fisheries (FAO, 1995 [Article 7.1.5]). High seas ecosystems are less disturbed than coastal ecosystems (Jackson et al., 2001; Halpern et al., 2008). However, reported landings from the high seas has been accelerating since the mid-20th century, increasing from under two million tonnes in the 1950s to over ten million tonnes in 2008 (FAO, 2010). As most RFMO areas are primarily on the high seas, there is still an opportunity for RFMOs to provide for sustainable fishing operations in high seas ecosystems.

Here we established a criteria suite against which to assess transparency or public availability to information on elements of RFMO governance that enable a determination of compliance by Member and Cooperating Non-member States and entities with binding obligations. We then assessed WCPFC against the standard, representing the first comprehensive assessment of an RFMO's transparency in information on compliance. In addition to effective monitoring, controls, surveillance and enforcement, the efficacy of obligations established through RFMO Conventions and binding measures relies on compliance with these obligations. Transparency in information on RFMO governance elements enables public determination of compliance by Member and Cooperating Non-member States and their vessels and can deter non-compliance. This is consistent with international standards on transparency in decision-making on environmental issues, including for RFMOs to ensure transparency in fisheries management and decision-making (UNEP, 1992 [Principle 10]; FAO, 1995 [Articles 6.13, 7.1.9]; United Nations, 1995 [UNFSA Article 12], 2006a,b, 2010a,b). The WCPFC Convention also mandates the Commission to promote transparency in decision-making processes and providing open access to pertinent information in a timely manner, as permitted by WCPFC's rules of procedure (WCPFC, 2000 [Article 21]).

The Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, which entered into force on 19 June 2004, established the Western and Central Pacific Fisheries Commission (WCPFC) (Lugten, 2010; WCPFC, 2010a). The WCPFC Convention Area is defined in Article 3 of the Convention (WCPFC, 2000). There are currently 25 States, political and economic union of States, and fishing entity that are WCPFC Members, 7 Participating Territories, and 11 Cooperating Non-members (WCPFC, 2013). The convention applies to all species of highly migratory fish stocks (defined as all fish stocks of the species listed in Annex I of the 1982 Law of the Sea Convention occurring in the convention area and such other species of fish as the WCPFC may determine) within the Convention Area, except sauries (United Nations, 1982; Lugten, 2010). Main fisheries managed by WCPFC, listed in order of weight of tunas captured, are: (i) purse seine, (ii) pelagic longline, (iii) pole and line, (iv) troll, and (v) other small-scale tuna fishing methods, including artisanal methods (e.g., handline, small traps, set nets,

coastal gillnets, ring nets, small seiners) (Miyake et al., 2010; WCPFC, 2010a, 2011a).

In 2011, a panel of individuals external to WCPFC and Members of WCPFC Member States conducted a WCPFC performance review (WCPFC, 2012a). The assessment was conducted against an adaptation of a standardized suite of criteria developed by United Nations Fish Stocks Agreement for RFMO performance reviews (Fisheries Agency of Japan, 2007 [Appendix 14]; United Nations, 2007 [Annex II]). The review panel found that compliance with binding conservation and management measures, and in particular meeting data submission requirements and late submissions, was problematic (WCPFC, 2012a). The review assessed transparency in decision-making processes and other fisheries management activities, concluding that, "the public availability of relevant WCPFC document is, in general, adequate", and a vague recommendation encouraging the Commission to explore suitable methods, "to achieve maximal access to important information used for the decision making," (WCPFC, 2012a). However, the assessment did not explicitly assess the public availability of information on compliance (WCPFC, 2012a). Though, some assessment findings identify where gaps in information prevented the review panel from determining the level of compliance, of relevance to this current study, reviewed in the Discussion.

## 2. Methods

We developed a suite of criteria against which to assess RFMO transparency in information on compliance, and validated the standard through assessment of the WCPFC against each criterion. The selection and definition of criteria for inclusion in a suite composing the standard was made based, in part, from the identification of key information needed to assess RFMO governance, and a study that defined what elements were required to constitute 'substantial' compliance with RFMO obligations (Gilman et al., 2012, 2013; Koehler, 2013).

Information from publicly available materials from the WCPFC Secretariat website was first sought to assess WCPFC against the standard on transparency. Additional information was obtained from peer-reviewed and gray literature and through correspondence with regional experts, including WCPFC Secretariat staff.

## 3. Results

Table 1 defines a suite of 12 criteria composing a standard against which to assess RFMO transparency in information on compliance, and provides a rationale for the inclusion of each criterion. The standard includes criteria on six core regional fisheries governance elements of monitoring, controls through binding conservation and management measures, surveillance, enforcement, and outcomes (penalties and sanctions) resulting from enforcement actions (Gilman et al., 2012, 2013). Furthermore, the efficacy of the functioning of RFMO governance systems rely, in part, on members meeting their assessed financial obligations to the RFMO budget, observer data reporting, submission of annual national implementation and compliance reports (WCPFC Part 1 and Part 2 reports), RFMO employment of powers to address Member and Cooperating Non-member non-compliance, and whether all States and entities conducting fishing activities (capture sector and transshipment) covered by the RFMO Convention, excluding illegal, unreported, and unregulated (IUU) flag of convenience vessels, are Members or Cooperating Non-members (Gilman et al., 2012, 2013; Koehler, 2013). Therefore, the standard includes an assessment of transparency in these additional fundamental areas.

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