THE ROLE OF WESTERN AND CENTRAL PACIFIC FISHERIES COMMISSION TOWARD THE CONSERVATION AND MANAGEMENT OF HIGHLY MIGRATORY FISH IN INDONESIA

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INTERNATIONAL PROGRAM

DEPARTMENT OF INTERNATIONAL LAW

FACULTY OF LAW

UNIVERSITAS ISLAM INDONESIA

2018

THE ROLE OF WESTERN AND CENTRAL PACIFIC FISHERIES COMMISSION TOWARD THE CONSERVATION AND MANAGEMENT OF HIGHLY MIGRATORY FISH IN INDONESIA

A BACHELOR DEGEE THESIS

Presented as the Partial Fulfillment of the Requirements

To Obtain the Bachelor Degree at the Faculty of Law

Universitas Islam Indonesia

Yogyakarta

By :

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INTERNATIONAL PROGRAM

DEPARTMENT OF INTERNATIONAL LAW

FACULTY OF LAW

UNIVERSITAS ISLAM INDONESIA

2018

PAGE OF APPROVAL

بِسْمِ ٱللَّهِ ٱلرَّحْمَٰنِ ٱلرَّحِيمِ

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Has been proven and declared acceptable by the Thesis Content Advisor to be examined by the Board of Examiners at the Thesis Examination on

April 19th, 2018

Yogyakarta, April 19th 2018

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PAGE OF APPROVAL

بِسْمِ اللَّهِ الرَّحْمَٰنِ الرَّحِيمِ

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April 19th, 2018

Yogyakarta, March 12nd 2018

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PAGE OF APPROVAL

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

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THE ROLE OF WESTERN AND CENTRAL PACIFIC FISHERIES COMMISSION TOWARD THE CONSERVATION AND MANAGEMENT OF HIGHLY MIGRATORY FISH IN INDONESIA

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MOTTO

THE GREATEST JIHAD IS
TO BATTLE YOUR OWN SOUL AND TO FIGHT
THE EVIL WITHIN YOURSELF

Prophet Muhammad SAW

HONESTY IS THE CURRENCY
OF WHENEVER YOU ARE

Beloved Father Amsir Hamdani

JANGAN TAKUT UNTUK BERMIMPI.
KARENA MIMPI ADALAH TEMPAT MENANAM BENIH HARAPAN
DAN MEMETAKAN CITA-CITA

Luffy (One Piece)

DEDICATION

With all effort, this thesis is dedicated to:.

My Beloved Mother, Nilawati and Father, Amsir Hamdani. My beloved sisters Ananda Merinda Puri, Dini Merinda Putri and Hanny Merinda Duditya

FOREWORDS

بِسْمِ اللهِ الرَّحْمٰنِ الرَّحِيْمِ

Assalamualaikum Wr.Wb

First of all, *Alhamdulillahirabbil'alamin*, in the name of Allah, The Lord of the Universe. A very great thanks for His blessing, so the author able to finish this thesis with title The Role of Western and Central Pacific Commission to the Conservation Management of Highly Migratory Fish in Indonesia,.*Shalawat* and *Salam* to the messenger Muhammad SAW, that has guide us from Jahiliyah era into a time of enlightenment as we are enjoying in the present.

During the process of making this thesis, the author realizes that this thesis never finished without any contribution, assistance, guidance, and support from various parties. So, the author would like to extend gratitude to:

1. Mrs. Dra. Sri Wartini, SH., M.Hum., Ph.D, who gives me guidance, motivation, discussion, refferences, deadline then I could finish this thesis. Thank you very much and I do appologize for the inconvenience during my thesis process. You are like a mother to me. I am so grateful that you are my advisor.
2. Mr. Aunur Rahim Faqih, SH., M.Hum., as the Dean of Faculty of Law Islamic University of Indonesia, for the permission to write this thesis.
3. Mr. Dodik Setiawan Nur H, SH., MH., LL.M., Ph.D, as Secretary of International Program of Law Faculty, for the permission to write this thesis.
4. Mr. Drs. Agus Triyanta, M.A., M.H., PhD, who gives me guidance on the Islamic Perspective of my Thesis so it really help me to find the articles in the Quran, thank you very much sir.
5. Mrs. Esti Budiyarti SH., MH., who gives me guidance on the Mechanism, Role and Implementation of the WCPFC in Indonesia, thank you for your time and the discussion mam.
6. Ms. Ima Dyah Savitri., S.S., M.A., as the Language Advisor, whom with patient guide me every time I went for consultation

7. The lecturers of International Program Faculty of Law, Mr. Jawahir Thontowi, Mr. Nandang Sutrisno, Mr. Salman Luthan, Mr. Zainal Abidin, Mr. Mahrus Ali, Mr. Ari Wibowo, Mr. Budi Santoso, Mr. Budi Agus, Mr. Yusdani, Mr. Kurniata Tampubolon, Mr. Nasrullah, Mr. Khoiruddin Nasution, Mr. Agus Subroto, Mr. Eko Riyadi, Mr. Idul Rishan, (Alm) Mr. Masnur Marzuki, Mrs. Siti Anisah, Mrs. Aroma, Mrs. Sefriani, Mrs. Surach Winarni, for giving me knowledge and chances to get experience during my study.
8. Mr. Setiawan and Ms. Vera, thank you very much for the kindness, hospitality and sincerity in doing your duties to help in many academic things and always make it easier for all IP students
9. Fasya Addina SH, and Dina Khairunisa SH, you guys are my truly best friends, thank you for the friendship, listen to all my story and also for the time, guidance and incredible help me to find the refferences.
10. Fitria Salsabila SH, you are always be my unique one, thank you for supporting me, and always be there when I need you along with your jayus joke
11. IP FH 2012, Fasya, Nesya, Lintang, Ame, Meila, Fikri, Fifi, Windu, Sadan, Ryan, Hanif, Gandar, Gemi, Dion, Hanif, Uni, Dimas, Dika, Lukman, Reza, Mazi, I am so grateful to know them and being a part of them, they are my mentors, sisters, and my brothers
12. Meri Rosari, Ravika Domina Dosinta, Natalia Angelina Munda, Okta Solvia, Okta Dwi Fianty, Linda Asnasari S.Farm, you guys are one from million, thank you for the cook, thank you for the joke, thank you for the support, lives along with you guys make my days are truly colorful the joy that we share, you guys look after me like my mom, fighting with me like my sisters, cheers me up like my best friends, teach me like my lectures, thank you for giving me a family in Yogyakarta, wishful you guys can also graduate on time, except for the youngest one who already graduate, you are the inspiration, big love and big hug for you guys.

13. Everyone who I cannot mention one by one here. Thank you very much for all the support.

Last but not least, this thesis will never been finished without help of many parties, I do apologize for my fault. Hopefully this thesis will help anyone and give benefits for me and others. For the better purpose, the writer accepts any criticisms and/or suggestions.

Wassalamualaikum Wr. Wb.

Yogyakarta, March 12nd, 2018

Berna Merinda Febi

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ABSTRACT

In order to answer the problem of Global Fiheries Crisis, International Community start to establish Regional Fisheries Management Organizations, one of the Organization is Western and Central Pacific Fisheries Commission. This Regional Organization establish in 2004, Indonesia as an Archepilagic State that has a territory that cross border with this RFMOs territory consider has a urgency to get involve in it. In 2013 Indonesia through the Presidential Regulation Number 61 year of 2013 ratified the WCPFC Convention,become the member of this Organization, Indonesia has the access to the WCPFC territory, but with the lack of technology that can be exercise this area, Indonesia at 2016 only can exercise 525,633 tonnes, this is because of Indonesia only have 15 ships that comply to the Conservation Management Measures of WCPFC itself. The methodology used in this reseach is normative approach which relies on library study in gathering any appropriate legal sources, such as books, journals or any legal documents to find out the answer of the problem statements. The result of this research is that the lack of technology in Indonesia itself causes that we cannot exersice it optimaly. And the benefit of Indonesia itself with join this organization is Indonesia have an legal access to the WCPFC territory, also Indonesia have a right to get involve in the Conservation Management Measures determination.

Keyword: Regional Fisheries Management Organization, Western and Central Pacific Fisheries Commission, Conservation Management Measures, Conservation

CHAPTER I

INTRODUCTION

A. Context of Study

Over the last decade, the crisis in global fisheries has become a prominent environmental concern. The immense global demand for marine products has driven fish stocks in some parts of the world to completed depletion, and has left many subsistence fishing communities in the developing world with diminishing food sources.[1] The public perception of fisheries is that they are in crisis has been for some time. Numerous scientific and popular articles have shown to the failures of fisheries management that have caused this crisis. These are widely accepted to be overcapacity in fishing fleets, a failure to take ecosystem effects of fishing into account, and a failure to enforce unpalatable but necessary reductions in fishing effort on fishing fleets and communities.[2]

Essentially the marine ecosystems and biodiversity are not only to the healthy functioning of the Earth and its atmosphere, but also to the human life and development. Therefore, the regime of international law of the sea has acknowledged its emergence by virtue of the enactment of the Convention on the Conservation of the Living Resources of the High Seas in 1958. However the issuance of four conventions on the law of the sea in that respective year left an unresolved issue in regard with the natural phenomenon on the migrations of living resources, especially the marine species.The common interest and the habit of migratory make the international community establishing Regional Fisheries Management Organization (RFMO.

One of the example of RFMO is North Atlantic Fisheries Organization (NAFO) which is corporate institution dealing with the fisheries matter between

[1] Steenbergen, Dirk J, "The Role of Tourism in Addressing Illegal Fishing: The Case of a Dive Operator in Indonesia." Contemporary Southeast Asia, Vol. 35, No. 2, Singapore35.2 (Aug 2013): 188-214

[2] J.R. Beddington, D. J. Agnew, C. W. Clark, "Current Problems in the Management of Marine Fisherie" Science 22 Jun 2007:, Vol. 316, Issue 5832, pp. 1713-1716, DOI: 10.1126/science.1137362,

Canada and USA.

For the highly migratory fish such as tuna, there are many regional organizations involving many states all around the world such as in the East of Atlantic Ocean, Inter-America Tropical Tuna Commission (IATTC), that consist of United State of America and few of Latin America. In the Atlantic Ocean there is International Commision for the Conservation of Atlantic Tuna (ICCAT).In the centeral and west of Pasific Ocean which directly adjacent with Indonesia, the states in this area agree to establish Western and Central Pasific Fisheries Commission (WCPFC). Also in the Hindia Ocean, where Indonesia gets involve in it there is Indian Ocean Tuna Commission).

RFMO itself as the management fisheries organization among the states started developt around 1960.[3] In the 1990 there are conflicts among states related to this matter, for example the case that happend among USA, Uni Soviet and others states that exploited the fishes outside the Alaska and all around Bering Ocean, and conflict between Canada and the part of Northwest of European Union in the Atlantic Ocean.[4] The development of RFMO based on the nature of the highly migratory fish to imigrated and done the transboundary. This consent comes up when international society realize that fishering activities in some states might influence the others fish resources to the others states that also exploit the same species. If that situation going on there is posibility that the existance of those species become extinct.

Indonesia itself has an urgency to get involve in RFMOs because Indonesia itself considered as the highest state with the potentialy production of Tuna which is among 613.575 Ton per year and around 6.3 multy billion in rupiah per year. With the strategic location, which are between two ocean. Indonesia became an important state for the Tuna fisheries globally either in the biodiversity

[3] Satria A, Angraeni E dan Solihin A, Globalisasi Perikanan : Reposisi Indonesia?, Bogor. IPB PRESS. 2009

[4] de Fountaubert C and Lutchman I, Achieving Suistainable Fisheries: Implementing the New International Legal Regime, IUCN-The World conservation Union, Cambridge-UK, 2003

also the trading,[5] With being the member of RFMOs, Indonesia has a better bargaining position in the conservation and the exploiting the benefit of Tuna to the economic of Indonesia itself. Our previous minister of Marine Affair, Mr. Sharif stated "Get involve actively in the Regional Fisheries Management Organizations, will increase the involvement of Indonesian contrabution in the conservation of tuna in the regional,".[6]

Harmonization and synchronitzation regulation between the region in the field of sea to the central government and regional government become the challange that needs a fundamental solution.[7] Therefore to syncing the policies, it needs the law to regulate about the marine governance. Beside the data basis that has a potential data related to either the investation or business sector that used the sea as the important references to get the investor in the marine production.

There are three RFMOs that Indonesia gets involve, they are; Indian Ocean Tuna Comission (IOTC), The Commision for the Conservation of Southern Bluefin Tuna (CCSBT), Western and Central Pacific Fisheries Commission (WCPFC)

United Nations Convention on the Law of the Sea 1982 (UNCLOS) denoted rules on limitation of maritime zones, whereby the jurisdiction of coastal states in exploiting, utilising, and conserving its living resources now reached the distance of 200 nautical miles, measured from its baselines, and recognised to be the Exclusive Economic Zone (EEZ).

Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Sea, Stated in the Preambule of this agreement the purpose of this agreement is as the "Mindful that the practice of flagging or reflagging fishing vessels as a means of avoiding compliance with international conservation and management measures for living marine resources, and the failure of flag States to fulfil their responsibilities with

[5]The urgency of Indonesian to get involve in the RFMOs, http://m.antaranews.com/berita/435658/regulasi-dan-informasi-tantangan-ekonomi-kelautan, accesed on August 11, 2017 at 9:57

[6] The challange of Indonesia in the matter of RFMOs, http://m.kontan.co.id/news/kebijakan-sektor-kelautan-perlu-harmonisasi, accessed on August 18, 2017 at 12:29

[7] *Ibid*

respect to fishing vessels entitled to fly their flag, are among the factors that seriously undermine the effectiveness of such measures".[8]

United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 1995, The Convention is essentially aimed to revolutionize conservation and management of highly migratory fish stocks,[9] or as referred to the original wordings of the Convention. It has an objective to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks through effective implementation of the relevant provisions of the Convention.[10]

The Code of Conduct for Responsible Fisheries (CCRF 1995), this code itself purposed to the conservation of fishery resources, it mention in the article 1.2 of the agreement itself which is clearly stated that this code of conduct apply to the member and non-member of the agreement as follow,"The Code is global in scope, and is directed toward members and non-members of FAO, fishing entities, sub regional, regional and global organizations, whether governmental or non-governmental, and all persons concerned with the conservation of fishery resources and management and development of fisheries, such as fishers, those engaged in processing and marketing of fish and fishery products and other users of the aquatic environment in relation to fisheries"[11].

Indonesian Act Number 31 year of 2004 and Indonesian Act Number 45 year of 2009, In the article 10 stated that the way of fulfill the International

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[8] The FAO of the International Conservation and Management Measures by Fishing Vessels on the High Sea, http://www.fao.org/docrep/meeting/003/x3130m/X3130E00.HTM#b1, accessed in July 19, 2017 at 14.32

9 Giselle Vigneron, Compliance and International Environmental Agreements: A Case Study of the 1995 United Nations Straddling Fish Stocks Agreement, 1998, 10 GEO. INT'L ENVTL. L. REV., 581 at 586.

10 United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 1995, Art. 2. ['UNCM']

[11] The FAO of Code of Conduct for Responsible Fisheries 1995, http://www.fao.org/3/a-v9878e.pdf, accessed on July 19, 2017 at 19.09

relation with doing the corporation to the other states in the managing the conservation also get involve in the regional organisations related to the conservation.[12] This article showing that Indonesian Government dealing the matter of the conservation as the important matter, therefore in the matter of the highly migratory fish conservation Indonesian

Government regulation on the international organization based on the Government Regulation Number 7 year of 2005 about the Plan of developing in the middle term year of 2004-2009, chapter 8 about the International Politic overseas and the incresing Indonesian role in the International Relation and in creating the peaceful among the world also emphasizing the structural and economic regional relation and international to supporting the national development[13]

Nevertheless, the object of such provision, which is the marine species themselves are not bound by the rule, in the meaning that they could freely move from one place to another which would pass across more than two or more EEZs and high seas. They merely follow their instinct of necessity to grow up, feed, breed, and pass their adult life in wherever geographical location they please.

The conservation, management, and optimum utilisation of such migratory fish requires international cooperation since they come across continents or even oceans which render the involvement of states whose sea are passed through by these migratory species.

The purposes of the International law of the sea itself are stated in the preamble of the convention that state “Prompted by the desire to settle, in a spirit of mutual understanding and cooperation, all issues relating to the law of the sea and aware of the historic significance of this Convention as an important contribution to the maintenance of peace, justice and progress for all peoples of the world. Noting that developments since the United Nations Conferences on the Law of the Sea held at Geneva in 1958 and 1960, have accentuated the need for a

[12] See Law Number 31 year of 2004
[13] See the Perpres Number 7 year of 2005 chapter 8

new and generally acceptable Convention on the law of the sea, Conscious that the problems of ocean space are closely interrelated and need to be considered as a whole. Recognizing the desirability of establishing through this Convention, with due regard for the sovereignty of all States, a legal order for the seas and oceans which will facilitate international communication, and will promote the peaceful uses of the seas and oceans, the equitable and efficient utilization of their resources, the conservation of their living resources, and the study, protection and preservation of the marine environment".[14]

This thesis purposed was to look into regulation on the international law of the sea in the issues of the protection of these migratory species by first, understanding in conservation in the regional organization. Afterwards, the writer will specifically study the international conventions issued by the United Nations, the agreements dealing with this particular topic and the regional organization that have authority in maintaining the conservation. Therefore the writer interested to make a research on The role of Regional Organization toward the Conservation and Management of Higly Migratory Fish in Indonesia.

B. Problem statements

From those facts arrising two questions which are :

1. How are the roles of the Western and Central Pasific Fisheries Commission (WCPFC) toward the conservation and management of highly migratory fish in Indonesia based on International Law of the Sea?
2. What are the opportunities and the challenges of the Western and Central Pasific Fisheries Commission (WCPFC) to conserve the highly migratory fish?

C. Objective of Research

The object of the research is to analysis , how are the roles of the Western and Central Pasific Fisheries Commission (WCPFC) in the conservation of highly

[14] The purpose of International Law of the Sea due to the establishment of the UNCLOS convention stated in the preamble, http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf accessed on Saturday, July 15, 2017 at 13.49

migratory fish in Indonesia based on International Law of the Sea. And the second objective is to analysis the opportunities and the challenges of the Western and Central Pasific Fisheries Commission (WCPFC) to conserve the highly migratory fish.

D. Theoritical Frameworks

Based on the histories we know two doctrines related to the conception of the international law of the sea. The first doctrine is *Res Communis*, that stated sea is belong to all of the international society, because of that sea itself can not be posses or own by the states, and the second conception is *Res Nulius*, that stated sea has no owner, therefore it could be posses by the states[15]. These two conceptions become the root of the concept of the high sea itself, where the sources of the high sea might exploit by the world society freely.

Continuing the historical of the high sea itself the founder of the doctrine of the high sea itself is Hugo Grotius, which is *Mare Liberium* using the theory of possession. That possession should be trough the occupation, and occupation only can applicable to the solid things or have limitation, sea itself has no limitation, also the characteristic of water is has no solid form except the water put into some vessel. Therefore the claims over the sea based on the discovery, or possession can not be accepted. Although, Grotius recognize the seawater and rivers eventhough it also has no solid form but because it has boundaries on the edges it can catagorized as the solid form that coud be possess.[16]

Following the development of the International law of the sea at the end there are five maritime zones recognized under UNCLOS, which are.:

1. The territorial sea which is 12 nautical miles from the sea to the territory of a coastal State, including land territory and internal waters. And in the

[15] Hasyim Djalal, "Perjuangan Indonesia Di Bidang Hukum Laut" op.cit, pages 11
[16] Hasyim Djalal, "Perjuangan Indonesia Di Bidang Hukum Laut" op.cit, pages 15

case of an archipelagic State, its archipelagic waters and the sovereignty of a coastal State extends to its territorial sea.

2. The contiguous zone which is an area extending up to 24 nm from the territorial sea baseline, in this territory the coastal state may exercise the sovereignity.
3. The continental shelf, which comprises the seabed and subsoil of the submarine areas that extend beyond the territorial sea to a distance of up to 350 nm where the natural prolongation of the land territory extends up to or beyond that distance, or to 200 nm where the natural prolongation of the land territory does not extend to that distance. A coastal State exercises sovereign rights over the continental shelf for the purpose of exploring it and exploiting its natural resources. It is stated under Art. 76 (8) of UNCLOS.
4. An exclusive economic zone (EEZ) is a sea zone prescribed by UNCLOS over a sovereignity of the state that has special rights over the exploration and use of marine resources, including energy production from water and wind. This maritime boundary is designed to be used with other marine boundaries in order to help determine areas of trade, commerce and transportation.[17] Based on Indonesian law EEZ itself have a definition as follow "The Indonesian Exclusive Economic Zone, hereinafter referred to as ZEEI, is the outer lane and borders the Indonesian territorial sea as stipulated under applicable law on Indonesian waters covering the seabed, underneath, and water above it with the outer limit of 200 (two Hundred) nautical miles measured from the baseline of Indonesia's territorial sea."[18]
5. Beyond the EEZ continental shelf lie the high seas which are open for use by all States, except in respect of resources of the seabed of the ocean floor and subsoil there of, exploitation of which is to be managed by the

[17]The definition of EEZ and range of the area of the EEZ itself. https://www.arcgis.com/home/item.html?id=9c707fa7131b4462a08b8bf2e06bf4ad, accessed on Saturday, October 14 2017 at 22.18

[18] See Law Number 45 year of 2009

International Seabed Authority, set up under UNCLOS for the common benefit of man.[19] Or recognise as the high sea area.

High Seas according to the United Nations Convention on the High Seas Article 1 stated "The term "high seas" means all parts of the sea that are not included in the territorial sea or in the internal waters of a State."[20] Also in the article 2 stated "The high seas being open to all nations, no State may validly purport to subject any part of them to its sovereignty. Freedom of the high seas is exercised under the conditions laid down by these articles and by the other rules of international law. It comprises, inter alia, both for coastal and non-coastal States"[21]. Based on this understanding we known there is no owner of the high seas and mean everyone might exploit but the over exploitation threathen the existance of the fishes and it might cause the extinction of fishes, thats why we need to establish the regional organisations to maintaing the existance of biodervasity of the species itself.

Migratory species refer to the animals sharing a similar feature, namely the migratory behaviour.[22] Out of 1.5 million animal species known in the world, 8,000-10,000 regularly do the so-called migration.[23] These are species which perform cyclical or more or less precisely predictable movements between two distinct geographical areas, one of which is usually the area in which they breed.[24] While some species such as elephants or buffalos frequently cross a state border in ecosystems shared by two or more States, some others pass through larger numbers of States, such as birds and fish. Some are named highly migratory species due to their capability in covering considerable distances in the open sea.

These "world travellers" do their passage by following their instincts and

[19] SHI Jiuyong , Maritime Delimitation in the Jurisprudence of the International Court of Justice . Published by Oxford University Press. All rights reserved. doi: 10.1093/chinesejil/jmq018, 2010
[20] See The United Nations Convention on the High Seas 1958,
[21] *Ibid*
22 Alexander Proelß, Migratory Species, International Protection, 2009, Max Planck Institute for Comparative Public Law and International Law, Heidelberg and Oxford University Press, at 1.
23 *Ibid.*
24 Klemm, op cit. 3, 1994, at 935

needs.[25] For instance, 'Birds of the same species usually assemble after breeding in large flocks to migrate and then disperse again in suitable habitats, such as savannah or tropical forests, when they have reached their winter quarters.'[26] As a record-breaking example, the Arctic tern migrates from its Arctic breeding grounds to the oceans around Antartica and return every year.[27]

Fish is notorious for not respecting territorial limits. Many marine species perform migrations in their young life to the sea where they feed, grow, and later spend their adult life to breed in the river where they were born, namely anadromous species. Others do this on the contrary and are named catadromous.[28] Here, as it is specified in the title, the current work will only focus on the marine species or fish.

Same examples of such species areseals, sea-birds, sea-turtles which lay their eggs on sand beaches. One of the exceptional examples is sturgeons, sticklebacks, and several species of salmon who perform spawning migration from sea to fresh water.[29] They often do a long distance from the coast which is thousands of kilometres. 'They grow into adults at sea. When returning to spawn, the animals can recognize the river water in which they were born from its scent.'[30]

A regional fisheries management organisations (RFMOs), is an type of international organizations that dedicated to sustainable management of fishery resources in partcular region of international waters or of highly migratory species. RFMOs may focus on certain species of fish for example Indian Ocean Tuna Comission (IOTC), that focus on Tuna species, and other exmple is The

25 Nele Matz, "Chaos or Coherence? - Implementating and Enforcing the Conservation of Migratory Species through Various Legal Instruments", 2005, 65 ZaöRV, 197 at 197.
26 Klemm, op cit 3, 1994, at 67.
27 Proelß, op cit 1.
28 Environmental Issues, Dams and Fish Migration,. http://www.fao.org/docrep/004/Y2785E/y2785e03.htm, accessed on July 17, 2017 at 18:03
29 Fish Migration, <http://www.ecomare.nl/en/encyclopedia/organisms/animals/fish/fish-biology/fish-migration/> accessed on 16 July, 2017 at 15:13
30 Science Focus on the website describe the nature knowledge of the animal to do the migratory;http://www.sciencefocus.com/qa/how-do-animals-know-where-migrate. accessed on Sunday July 16, 2017 at 16:38

Commision for the Conservation of Southern Bluefin Tuna (CCSBT) that focus on the Bluefin Tuna species.

Regional fisheries management organizations (RFMOs), are international organisations formed by countries with fishing interests in an area. In The European Union they have 6 organizations that specially dealing with tuna and 11 others non-tuna organizations.[31] The organisations were opened both to states in the region and the states with interests in the fisheries concerned. This fact showing that actually regional organizations have important role in the matter of the conservation and management of the sharing benefit in the matter of migratory fish.

Western and Central Pacific Fisheries Commission is one of the RFMO that regulate about the management of highly migratory fish under the Western and Central Pacific Ocean. WCPFC establish based on the Convention on the Conservation and Management of the Highly Migratory Fish Stocks of the Western and Central Pacific Ocean that adopted since 5 September 2000 in Honolulu, and start into force since 19 June 2004, this convention as the answer of the implemetation of UNCLOS 1982 and UNFSA 1995.[32]

Multitude treaties regulating on the protection of endangered species have actually been existed, even if not specifically on the migratory fish. They are, among others, Convention on International Trade in Endangered Species of Wild Fauna and Flora of 3 March 1973 ('CITES')[33] and the Convention on Biological Diversity of 22 May 1992 ('CBD').[34]In the history of the law of the sea, UNCLOS plays an essential role in the development of the law of the sea among nations.[35]

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[31] Regional fisheries management organisations (RFMOs), in The European Union. https://ec.europa.eu/fisheries/cfp/international/rfmo_en accessed on July 17, 2017 at 12:03

[32] Esti Budiyarti, "Tinjauan Hukum Internasional Terhadap Pengelolaan dan Konservasi Jenis Ikan Beruya Jauh (Highly Migratory Species)(Studi Kasus Pengelolaan dan Konservasi Tuna Indonesia)", (Jakarta : UI 2013) pages 87

33 CITES is an agreement between governments, having aim to ensure that international trade in specimens of wild animals and plants does not threaten their survival.

34 CBD 'represents a dramatic step forward in the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising from the use of genetic resources.' <http://www.cbd.int/history/> accessed on July 16, 2017 at 17:04

35 Shaw, op cit 26, at 556.

Not only the development in terms of the enhancement of state practices by significant involvement of large number of states becoming the parties, but also by high success of the relevant Convention in replying almost all issues in the regime of law of the sea.[36]Many of the provisions in the Convention repeat principles enshrined in the earlier instruments[37] and others have since become customary rules, but many new rules were proposed. It covers issues such as limits of maritime zones, rights of passage and navigation, peace and security of ocean and seas, protection and preservation of the marine environment, marine scientific research, dispute settlement procedure, and not-to-mention conservation and management of marine living resources.[38]

In article 197 of UNCLOS at the Cooperation on a global or regional basis, stated that States shall cooperate on a global basis and, as appropriate, on a regional basis, directly or through competent international organizations, in formulating and elaborating international rules, standards and recommended practices and procedures consistent with this Convention, for the protection and preservation of the marine environment, taking into account characteristic regional features.[39]

In the article number 200 of UNCLOS 1982, stated Studies, research programmes and exchange of information and data States shall cooperate, directly or through competent international organizations, for the purpose of promoting studies, undertaking programmes of scientific research and encouraging the exchange of information and data acquired about pollution of the marine environment. Also explain importance of the involvement state in the global and regional organization, to maintaining the enviroment of the sea itself, the good enviroment of the sea also being the importance of the fish especilly the highly

36 Malcolm D. Evans, International Law, 1st ed., 2003, Oxford University Press, New York, at 624-5.

37 1958 Convention on the Territorial Sea and Contiguous Zone; 1958 Convention on the High Seas; 1958 Convention on the Continental Shelf; and 1958 Convention on the Conservation of the Living Resources of the High Seas.

38 UNCLOS at 30', supra note 20, at 3-7.

39 The coorperation of the global and regional basis, accessed on the website of http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf. accessed on Friday 17 November 2017, at 21.10

migratory fish, therefore both of those articles are importance for the living of highly migratory fish.

E. Research Procedure

1. Type of Research

The type of research in this study is using the examination toward the written law that applicable such as International Agreement and litterature support this research therefore this type of research is normative.

2. Object of Research

a. The role of regional organization in the conservation of highly migratory fish in Indonesia based on International Law of the Sea
b. The opportunities and the challenges of the Regional Organization to conserve the highly migratory fish specifically in Indonesia

3. Classification of Legal Material

This research used secondary data taken from the documents or archives related to the problem discussed in this research. The purpose of the search upon this data is to identify the data systematically in order to answer the problems. Secondary data are divided into**:**

a. Primary legal materials

Primary legal material itself means the actual laws and rules issued by governing bodies in the form of convention, agreement etc.

i. United Nations Convention on the Law of the Sea 1982
ii. Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessel on the High Seas (FAO Compliance Agreement 1993)

iii. Agreement for the Implementation of the Provision of the UNCLOS of December 1982 relating to Conservation and Management of Straddling Fish Stock 1995 (UNIA 1995)
iv. The Code of Conduct for Responsible Fisheries (CCRF 1995)
v. International Plan of Action to Deter, Prevent and Eliminate Illegal, Unreported and Unregulated Fishing on IUU Fishing 2001
vi. Western Pasific Central Commision Convention
vii. Law Number 31 year of 2004 about the Fisheries as amended by Law Number 45 year of 2009
viii. Government Regulation Number 60 year of 2007 about the Conservation of the Fish Stocks
ix. Ministerial Regulation Number 12 year of 2012 about The effort of Fishery on the High Seas
x. Ministerial Decree Number 10 year 2013 about the Vessel Monitoring System
xi. Ministerial Regulation Number 28 year of 2009 about the Catch Certificate

b. Secondary legal materials

Secondary legal material consist of sources that explain, criticize, discuss by the expert which is having a function to locating the primary law

i. Text books;
ii. Law Journals;
iii. Thesis;
iv. Website
v. Interview the Expert

c. Tertiary legal material

Tertiary legal material mean a source that have no law element but it help the writter to finish the research

i. Dictionary

4. Method of Data Collection

The method that the writer used in colleting legal materials is library studies. The data is gathered by examining the books, literatures that are related to the policy related to the role of the regional organization in the matter of conservation of highly migratory fish in the International law and Indonesian law.

5. Approach of Study

The methods of legal approach in this research are International agreement approach, conceptual approach, and historical approach; this method is examining the law and regulation related to the role of the regional organization in the matter of conservation and sharing benefit of highly migratory fish in the International law and Indonesian law.

6. Data Analysis

The method of analyzing the data is qualitative, meaning that the data achieved is not by number or statistic. Collected data are analyzed qualitatively and descriptively in order to answer the question structured in a descriptive analysis.

B. Structure of Writing

Chapter I contains introduction that encompasses these following parts: context of study, statement of problems, research objectives, theoretical frameworks, research procedure, and systematic of writing.

Chapter II contains of General Overview of UNCLOS 1982, Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessel on the High Seas (FAO Compliance Agreement 1993),

Agreement for the Implementation of the Provision of the UNCLOS of December 1982 relating to Conservation and Management of Straddling Fish Stock 1995 (UNIA 1995), The Code of Conduct for Responsible Fisheries (CCRF 1995), International Plan of Action to Deter, Prevent and Eliminate Illegal, Unreported and Unregulated Fishing on IUU Fishing 2001 and Islamic Perspective on the Regional Fisheries Management Organization in the Conservation.

Chapter III deals with The Role of Western Central Pacific Fisheries Commission to the Conservation of Highly Migratory Fish in Indonesia which are correlated with Law Number 31 year of 2004 about the Fisheries as amended by Law Number 45 year of 2009, Government Regulation Number 60 year of 2007 about the Conservation of the Fish Stocks, Ministerial Regulation Number 12 year of 2012 about The effort of Fishery on the High Seas, Ministerial Decree Number 10 year 2013 about the Vessel Monitoring System, Ministerial Decree Number 10 year 2013 about the Vessel Monitoring System, and Ministerial Regulation Number 28 year of 2009 about the Catch Certificate and analysis on the role, opportunities, and the challenges of the Western and Central Pasific Fisheries Commission (WCPFC) in the conservation of highly migratory fish in Indonesia based on International Law of the Sea

Chapter IV provides the conclusion and recommendation that are made based on the previous analysis that has been done.

Chapter II

General Overview International Law in

Conservation of Highly Migratory Fish

In this chapter the writer will provide the International instruments dealing the conservation of highly migratory fish, also related to the role of the Regional Fishery Management Organization, which is Western and Central Pasific Fisheries Commission (WCPFC) as the Regional Fisheries Management Organization as the authorize institution that dealing with the Highly migratory fish that being involve by Indonesia itself.

In the matter of the International law we recognize there are two types of the law itself which are Hard Laws and Soft Laws, here the writter provide both hard laws and soft laws dealing in the matter of conservation of highly migratory fish itself, here are the hard law that regulate about the conservation in International law.

A. United Nations Convention on the Law of the Sea 1982

In the chapter VII of Convention of Law of the Sea 1982 about the Management and Conservation of the Natural Resources in the High Sea, article 116 stated that gives right to the states giving permit to the fisherman of the states to exploit the fish in the high sea with certain condition which are (a) Duties that been set in the International Agreement that been made by them to the other states.[40]

Indeed that 1982 Convention does not particularly rule out on this issue but only deals with it by inserting one single Article, and the operational qualifications are not clearly specified, and therefore is not deemed to be fully comprehensive.[41] This is due to the nature of the Convention itself which is rather general yet complete. However, the United Nations afterwards issued subsequent

[40] See Unclos article 38

41 B.Kwiatowska,'The High Seas Fisheries Regime: At a Point of No Return?', 8 Int. J. of Marine and Coastal L., 1993, 327 at 327.

conventions for the more comprehensive implementation of this particular issue.

Here, the treatment of these species requires all State Parties to maintain their conservation and maximum utilization. The relevant provision are found in some articles they are :

A coastal state is given the sole and exclusive authority to control fishing within its EEZ. The coastal state determines the allowable catch of living resources in the zone. In addition, under UNCLOS III Article 63, nationals of other states fishing in the EEZ must comply with the laws and regulations enacted by the respective coastal state,[42] and article 63 section 2 that stated "Where the same stock or stocks of associated species occur both within the exclusive economic zone and in an area beyond and adjacent to the zone, the coastal State and the States fishing for such stocks in the adjacent area shall seek, either directly or through appropriate subregional or regional organizations, to agree upon the measures necessary for the conservation of these stocks in the adjacent area."[43]

Although the UNCLOS does not define a marine region, it calls for its implementation at a regional level in various ways, either through the adoption of specific measures or through regional coorperation in general terms. The UNCLOS endorses the regional approach with respect to protection of straits evironment, duty to render assistance, right of access to and from the sea and freedom of transit for land locked States, International sea bed authority, the conservation and management of living.[44] Article 64 that stated : "The coastal State and other States whose nationals fish in the region for the highly migratory species listed in Annex I shall cooperate directly or through appropriate international organizations with a view to ensuring conservation and promoting the objective of optimum utilization of such species throughout the region, both within and beyond the exclusive economic zone. In regions for which no

[42] Amy deGeneres Berret, "UNCLOS III: Pollution Control in The Exclusive Economic Zone", Volume 55, number 6, Louisiana Law Review, 1995, page : 1173-1174
[43] See Unclos article 63
[44] MD. Saiful Karim, "The UNCLOS and Regional Action For Protection of The Marine Environment : Perspective of The South Asian Seas Region", . (BIIS) Bangladesh Institute of International and Strategic Studies Journal (BIISS), 29(4), p. 415. page : 5

appropriate international organization exists, the coastal State and other States whose nationals harvest these species in the region shall cooperate to establish such an organization and participate in its work".[45]

Five maritime zones recognized under UNCLOS, which are.:

a. The territorial sea which is 12 nautical miles from the sea to the territory of a coastal State, including land territory and internal waters and, in the case of an archipelagic State, its archipelagic waters, the sovereignty of a coastal State extends to its territorial sea.
b. The contiguous zone which is an area extending up to 24 nm from the territorial sea baseline, in this territory the coastal state may exercise the sovereignity.
c. The continental shelf, which comprises the seabed and subsoil of the submarine areas that extend beyond the territorial sea to a distance of up to 350 nm where the natural prolongation of the land territory extends up to or beyond that distance, or to 200 nm where the natural prolongation of the land territory does not extend to that distance. A coastal State exercises sovereign rights over the continental shelf for the purpose of exploring it and exploiting its natural resources. It is stated under Art. 76 (8) of UNCLOS.
d. An exclusive economic zone (EEZ) is a sea zone prescribed by the United Nations Convention on the Law of the Sea over which a sovereign state has special rights over the exploration and use of marine resources, including energy production from water and wind. This maritime boundary is designed to be used with other marine boundaries in order to help determine areas of trade, commerce and transportation.[46] Based on Indonesian law EEZ itself have a definition as follow "The Indonesian Exclusive Economic Zone, hereinafter

[45] See Unclos article 64
[46] The definition of EEZ and range of the area of the EEZ itself. https://www.arcgis.com/home/item.html?id=9c707fa7131b4462a08b8bf2e06bf4ad, accessed on Saturday, October 14 2017 at 22.18

referred to as ZEEI, is the outer lane and borders the Indonesian territorial sea as stipulated under applicable law on Indonesian waters covering the seabed, underneath, and water above it with the outer limit of 200 (two Hundred) nautical miles measured from the baseline of Indonesia's territorial sea."[47]

e. Beyond the EEZ continental shelf lie the high seas which are open for use by all States, except in respect of resources of the seabed of the ocean floor and subsoil there of, exploitation of which is to be managed by the International Seabed Authority, set up under UNCLOS for the common benefit of man.[48] Or recognise as the high sea area. The effective management of fisheries has come a long way since the imprint left by Hugo Grotius on the law of fisheries on the high seas when writing his *De iure praedae commentarius* in 1604, where he argued: *"In tanto mari si quis usu promiscuo solum sibi imperium et dicionem exciperet, tamen immodicae dominationis affectator haberetur; si quis piscatu arceret alios, insanae cupiditatis notam non effugeret*."[49] that firstly published on 1609 about the freedom of the seas, this principle become the costumary law, and at the 1958 the International Law of the Sea codified for the first time, and legalize the freedom of the high seas into the International law regime area of freedom to exercise fish on the high seas.

And article 118 that mention about the conservation stated "States shall cooperate with each other in the conservation and management of living resources in the areas of the high seas. State whose nationals exploit identical living resources, or different living resources in the same area, shall enter into negotiations with a view to taking the measures necessary for the conservation of the living resources concerned. They shall, as appropriate, cooperate to establish

[47] See Law Number 45 year of 2009

[48] SHI Jiuyong , Maritime Delimitation in the Jurisprudence of the International Court of Justice . Published by Oxford University Press. All rights reserved. doi: 10.1093/chinesejil/jmq018, 2010

[49] Erik Franckx, "Cites as an Alternative for Effective Fisheries Management in the Asia-Pacific Region", 29 Chinese (Taiwan) Y.B. Int'l L. & Aff. 70 Chinese (Taiwan) Yearbook of International Law and Affairs 2011, page 1

subregional or regional fisheries organizations to this end."[50]

B. Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas 1993

The 1993 FAO Compliance Agreement is the unseparated part of the FAO Code of Conduct for Responsible Fisheries. The agreement that start enter into force since April 24, 2003, made to run the regulation of the UNCLOS 1982 related to the Monitoring, Control , and Surveillance system in flaging vessels which are operating in the high seas.[51]

Although the original impetus behind the Compliance Agreement was to deal with the problems of flag of convenience fishing, it grew into a tool delineating the duties of all flag states. It sets out three fundamental flag state responsibilities: each must take measures to ensure vessels flying its flag do not undermine the effectiveness of international conservation and management regimes; each must prevent its vessels from fishing on the high seas unless they have been authorized to do so; and each must ensure it can exercise effective control over vessels fishing under its flag on the high seas. .[52]

Based on the 1993 FAO in the article III stated the responsibility of the flag state in the matter of the conservation as follow :

a) Each Party shall take such measures as may be necessary to ensure that fishing vessels entitled to fly its flag do not engage in any activity that undermines the effectiveness of international conservation and management measures.

(b) In the event that a Party has, pursuant to paragraph 2 of Article II, granted an exemption for fishing vessels of less than 24 metres in length entitled

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[50] See United Nations Law of the Sea 1982

[51] CP. Flewwelling, Corman Culliman, David A. Balton, R.P. Sauter, and J.E. Reynolds, "Recent Trends in Monitoring, Control and Surveillance Systems for Capture Fisheries", FAO Fisheries Technical Paper No. 415, Rome : FAO, 2002 pages 17

[52] Melda Kamil Ariadno, "Kepentingan Indonesia dalam Pengelolaan Perikanan Laut Bebas", Jurnal Hukum Internasional, Vol 1 No. 2 2005, Lembaga Pengkajian Hukum Internasional, Fakultas Hukum Universitas Indonesia, pages 512-513

to fly its flag from the application of other provisions of this Agreement, such Party shall nevertheless take effective measures in respect of any such fishing vessel that undermines the effectiveness of international conservation and management measures. These measures shall be such as to ensure that the fishing vessel ceases to engage in activities that undermine the effectiveness of the international conservation and management measures.

In particular, no Party shall allow any fishing vessel entitled to fly its flag to be used for fishing on the high seas unless it has been authorized to be so used by the appropriate authority or authorities of that Party. A fishing vessel so authorized shall fish in accordance with the conditions of the authorization.

No Party shall authorize any fishing vessel entitled to fly its flag to be used for fishing on the high seas unless the Party is satisfied that it is able, taking into account the links that exist between it and the fishing vessel concerned, to exercise effectively its responsibilities under this Agreement in respect of that fishing vessel.

Where a fishing vessel that has been authorized to be used for fishing on the high seas by a Party ceases to be entitled to fly the flag of that Party, the authorization to fish on the high seas shall be deemed to have been cancelled.

No Party shall authorize any fishing vessel previously registered in the territory of another Party that has undermined the effectiveness of international conservation and management measures to be used for fishing on the high seas.[53]

C.United Nations Implementing Agreement/ UNIA 1995

In 1995, United Nations Conference on Straddling and Highly Migratory Fish Stocks (referred to more commonly as the Fish Stocks Agreement)[54] reached the completion of a new agreement for the specific issue on straddling and

[53] The FAO 1993 Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Sea, http://www.fao.org/docrep/MEETING/003/X3130m/X3130E00.HTM accessed on January 16, 2018 at 17.00

[54] Lawrence Juda, 'The United Nations Fish Stocks Agreement', 2001/01, Yearbook of International Co-operation on Environment and Development, 53 at 56.

migratory fish, namely United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 1995.

The Convention is essentially aimed to revolutionize conservation and management of highly migratory fish stocks,[55] or as referred to the original wordings of the Convention, it has an objective to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks through effective implementation of the relevant provisions of the Convention.[56] Ratifying this strengthening Indonesia commitment to prevent infringement and uncontrolled illegal fishing by foreign vessels in our EEZ zone which cause increasing high commercial value of fish stock that has been rife in Indonesia. It will then more easier for Indonesia to get data and information related to fisheries, by changing the information and data among contracting States. Indonesia has rights and duties to implement conservation and manage fish stock.[57] This agreement consist of 50 articles and two Annex, there are four main regulation that been discuss in this agreement, they are :

1. Regulation dealing with the conservation and the maintainance straddling fish stock and highly migratory straddling fish stock. State in some articles here are some articles that explain the regulation in the conservation and maitainance itself. Article 2 of the Agreement stated as follow The objective of this Agreement is to ensure the long-term conservation and sustainable use of straddling fish stocks and highly

[55] Giselle Vigneron, "Compliance and International Environmental Agreements: A Case Study of the 1995 United Nations Straddling Fish Stocks Agreement, 1998", 10 GEO. INT'L ENVTL. L. REV., 581 at 586.
[56] United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 1995, Art. 2. ['UNCM']
[57] Ema Septaria, "From Fisheries Conservation to Community Sustainability (Study on Bengkulu Government's Policy on Fisheries), The 3'd International Symposiurn for Sustainable Humanosphere (ISSB A Forum of Humanosphere Science School (HSS) Bengkulu, 17 -18 September 2013, pages: 3

migratory fish stocks through effective implementation of the relevant provisions of the Convention.[58]

2. Regulation dealing with the mechanism of the International relation on the conservation and the maintainance straddling fish stock and highly migratory straddling fish stock stated in the article 8 about the Coorperation for conservation and management as follow : *"Coastal States and States fishing on the high seas shall, in accordance with the Convention, pursue cooperation in relation to straddling fish stocks and highly migratory fish stocks either directly or through appropriate subregional or regional fisheries management organizations or arrangements, taking into account the specific characteristics of the subregion or region, to ensure effective conservation and management of such stocks."*[59]

3. Duties of the flag states, this matter stated in the article 18 as follow : *A State whose vessels fish on the high seas shall take such measures as may be necessary to ensure that vessels flying its flag comply with subregional and regional conservation and management measures and that such vessels do not engage in any activity which undermines the effectiveness of such measures.*[60]

4. Mechanism of the arrangement and law enforcer on the High seas, from article 19 and 21 of United Nations Implementing / UNIA 1995 stated that actually there are two conditions of flag states that can be legaly enforce in the High Seas, they are 1). Flag states, 2). Members of the Regional Fisheries Organization Management.

[58] See United Nations Conference On Straddling Fish Stock and Highly Migratory Fish Stock article 2
[59] See United Nations Conference On Straddling Fish Stock and Highly Migratory Fish Stock article 8
[60] See United Nations Conference On Straddling Fish Stock and Highly Migratory Fish Stock article 18

Here are the soft law that regulate in the conservation of the highly migratory fish, soft law it self mean although these instruments based on the voluntary, and non-binding but in fact these instruments effective in the matter of legal enforce, these instruments consider effective because the development of these instruments faster and following the need of the states, following the characteristic of the regional itself, there are two instruments that been succesfully draft by the FAO, these two instruments are Code of Conduct for Responsible Fisheries 1995 and International Plan of Action to Deter, Prevent, and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU) 2001, here bellow are these two instrument that regulate bout the conservation of the highly migratory fish.

A. Code of Conduct for Responsible Fisheries 1995

To maintaining the conservation in the long term and continuing, FAO issuing one instrument known as Code of Conduct for Responsible Fisheries 1995, here and after known as CCRF. The CCRF consist of guide line, principles and international standard on the conservation itself. The main purpose of CCRF is to guarantee the steps of the conservation and maintaining the stock of fish with considering the environment to conservation itself. Under the Code of Conduct, States should implement conservation and management measures to maintain the balance between fishing efforts and sustainable use of fishery resources. The Code of Conduct repeatedly requires all States (and fishing entities) to ensure that the level of fishing permitted should be commensurate with the state of fisheries resources. In other words, the limit on allowable fishing efforts depends on the state of resources. The situation where resources are threatened with depletion or actually depleted due to of overfishing or excess fishing capacity (overcapacity) has occurred.[61]

This instrument shall interpreted as the UNCLOS 1982, the FAO compliance Agreement 1993, also bout the UNIA Agreement 1995, this

[61] Michael Sheng-ti GAU, "Asia Perspectives on Fishery Subsidy Issues and Linkages with Environment", 1 Asian J. WTO & Int'l Health L. & Pol'y 189, Asian Journal of WTO & International Health Law & Policy, March, 2006, pages 10 & 11

conditions stated in the article 3 section 1 and 2 about the Relationship with other International Instrument that stated as follow, "3.1 The Code is to be interpreted and applied in conformity with the relevant rules of international law, as reflected in the United Nations Convention on the Law of the Sea, 1982. Nothing in this Code prejudices the rights, jurisdiction and duties of States under international law as reflected in the Convention. 3.2 The Code is also to be interpreted and applied: a. in a manner consistent with the relevant provisions of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.[62] Further, according to the article 1 section 2 of CCRF that this instrument from CCRF applies in global scope.[63] Not only the scope that applies globally it also applies toward members and non-members of the FAO, whether governmental or non governmenta, it clearly stated as follow, "1.2 The Code is global in scope, and is directed toward members and non-members of FAO, fishing entities, subregional, regional and global organizations, whether governmental or non-governmental, and all persons concerned with the conservation of fishery resources and management and development of fisheries, such as fishers, those engaged in processing and marketing of fish and fishery products and other users of the aquatic environment in relation to fisheries."[64]

Here also some general principles of CCRF that stated in the FAO are mention in the article 6 of the instrument itself, it stated as follow, 6.1 *States and users of living aquatic resources should conserve aquatic ecosystems. The right to fish carries with it the obligation to do so in a responsible manner so as to ensure effective conservation and management of the living aquatic resources*. 6.2 *Fisheries management should promote the maintenance of the quality, diversity and availability of fishery resources in sufficient quantities for present and future*

[62] See The FAO Code of Conduct for Responsible Fisheries Instrument
[63] Hasyim Djalal, "The Emergency of the Concept of Fishing Entities", Ocean Development and International Law, Vol.37, No.2, April-June 2006, page 119
[64] See The FAO Code of Conduct for Responsible Fisheries Instrument

generations in the context of food security, poverty alleviation and sustainable development. Management measures should not only ensure the conservation of target species but also of species belonging to the same ecosystem or associated with or dependent upon the target species. 6.3 *States should prevent overfishing and excess fishing capacity and should implement management measures to ensure that fishing effort is commensurate with the productive capacity of the fishery resources and their sustainable utilization. States should take measures to rehabilitate populations as far as possible and when appropriate*.[65]

With concerning the fact mention, can be conclude that CCRF made to run the regulation that stated in the UNCLOS 1982, the FAO compliance Agreement 1993, also the UNIA Agreement 1995, as the guidance to be responsible in the manner of fisheries, also the urgency of this instrument can be seen in the scope that applies globally toward the members and non-members of the CCRF itself, therefore, eventhough this instrument only a soft law, or non binding but this CCRF as the guidance to all the states in the matter of drafting the regulation to maintenance the conservation itself.

B. International Plan of Action to Deter, Prevent and Eliminate Illegal, Unreported and Unregulated Fishing on IUU Fishing 2001

These Guidelines have been produced to support implementation of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU). These Guidelines are addressed to decision-makers and policy-makers associated with the management of fisheries, but they should be of interest to fishing industries and other parties. The international community has experienced a growing incidence of fishing activity that does not respect applicable laws and regulations, including the standards set forth in recent international instruments. Examples of such activity include reflagging of fishing vessels to evade controls, fishing in areas of national

[65] *Ibid.*

jurisdiction without authorization by the coastal State, failure to report (or misreporting) catches, etc. Such irresponsible fishing activity directly undermines efforts to manage marine fisheries properly and impedes progress toward the goal of sustainable fisheries. The term "illegal, unreported and unregulated fishing" – or IUU fishing – has emerged to describe a wide range of such activity. The FAO Committee on Fisheries decided in 1999 to address this growing problem through the elaboration of an International Plan of Action. Over the course of the next two years, a significant effort unfolded, which culminated in the adoption of the IPOA-IUU in 2001.[66].

The urgency of these instruments stated in paragraph 10 of the FAO itself, it calls all states to develop and adopt these instruments, it stated as follow, "The IPOA-IUU calls upon all States to develop and adopt, as soon as possible but not later than 3 years after the adoption of the IPOA-IUU (i.e. by March 2004 at the latest), NPOAs to further achieve the objectives of the IPOAIUU and to give full effect to its provisions as an integral part of their fisheries management programs and budgets. A primary purpose of these guidelines is to provide suggestions to national governments on the development of these NPOAs."[67]

C. Regional Fisheries Management Organizations

Regional Fisheries management organization are established by the agreement between the states with a common interest in the high seas or particular species. Regional Fisheries Management Organizations (RFMOs) are "regional intergovernmental organizations" with jurisdiction to manage fish stocks in a particular region. [68] RFMOs are establishing institutional cooperative links for the primary purpose of exchanging information and knowledge.[69] RFMO itself as the

[66] See Abstract of the FAO IPOA-IUU, 2001
[67] *Ibid.*
[68] Kelsey Dick, Cameron Jefferies, "Food for Thought: Effecting Shark Conservation through Marine Proteced Areas and Enhanced Collaboration with International Organizations", 24 J. Env. L. & Prac. 223, Journal of Environmental Law and Practice, July, 2013, page 4
[69] Karen N Scott, "International Environmental Governance: Managing Fragmentation trough Institutional Connection", 12 Melb. J. Int'l L. 177, Melbourne Journal of International Law, June, 2011, page 9

management fisheries organization between the states start develop around 1960.[70] The establishment of the RFMOs itself to response the need of the states to coorparate in maintaining the fair fishery for the states with the common interest in certain territory. Based on IPOA for Illegal, Unreported, and Unregulated (IUU) Fishing define RFMOs as follow, "intergovernmental fisheries organisations or arrangements, as appropriate that have the competence to establish fisheries conservation and management measures".[71]

RFMOs operate under the principles of United Nations Convention of Law of the Sea, which is the freedom of high seas, implication of this principle that no states that have authority to the high seas, therefore there's no prohibition on the explotaion, but with RFMOs which mean the coorporating between the states with the common interest to maintaining the conservation the highly migratory fish, the existance of the fish might be preserve, therefore the political will of the members of the organization to conserve the fish stocks is become the key to the effectiveness of these organizations. Members of RFMOs are bound by a series of rules and measures, both substantive and procedural, aimed at conservation and management of fish stocks and at implementation of and compliance with those rules and measures.[72]

Here is the World Map of RFMOs, Indonesia has become a member of several RFMOs, including the IOTC, CCSBT and also WCPFC, to show it the picture as bellow.[73]

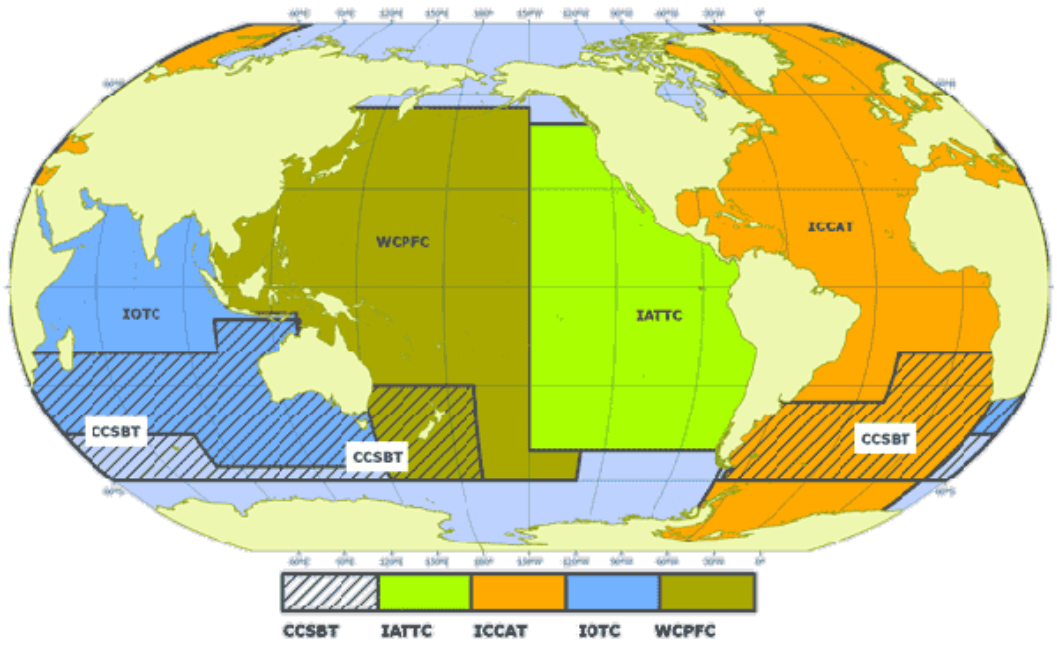
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[70] Satria A, Angraeni E dan Solihin A, Globalisasi Perikanan : Reposisi Indonesia?, Bogor. IPB PRESS. 2009

[71] Rachma Indriyani, "Otoritas International Dalam Konservasi dan Pengelolaan Sumber Daya Perikanan di Laut Lepas Melalui Forum Regional Fisheries Management Organization (RFMO) dan Implikasi Bagi Keanggotaan Indonesia" download at file:///C:/Users/acer/Downloads/1188331.pdf, page. 36

[72] Jaye Ellis, "Fisheries Conservation in an Anarchical System: A Comparison of Ration Choice and Constructivist Perspective", 3 J. Int'l L. & Int'l Rel. 1, Journal of International Law & International Relations, 2007, page 2

[73] World Map of RFMOs accesswd on http://firms.fao.org/firms/fishery/459/en, at 12 March 2018, 23:53



IUU fishing has been of international concern since the early 1990s and is today one of the main threats to effective fisheries management. IUU fishing manifests itself at many different stages of the fishing operation and is not restricted to the act of fishing itself. IUU operations rely upon a global network of business transactions and syndicates of ownership spread over many different countries to stay below the radar. Connections between the real beneficial owner of an IUU vessel and the vessel itself are often invisible, maintaining an appearance of legitimacy and allowing owners to continue to operate IUU vessels undetected.[74] RFMOs have been at the forefront in devising a variety of tools. Most typically, a catch quota is imposed, and then there is a focus on the monitoring and enforcement of these catch quotas to reduce the incidence of illegal, unregulated and unreported fishing. To examine some of the different measures imposed by RFMOs.[75]

[74] Elise Anne Clark, "Strengthening Regional Fisheries Management—An Analysis of the Duty to Cooperate", 9 N.Z. J. Pub. & Int'l L. 223, New Zealand Journal of Public and International Law, November, 2011, page 3

[75] Natalie Klein, "From Eco-Terrorism to Eco-Tourism: Assessing Effective Regulatory Tools and Regimes in Marine Management", 29 Chinese (Taiwan) Y.B. Int'l L. & Aff. 123, Chinese (Taiwan) Yearbook of International Law and Affairs, 2011, page 3

The Western and Central Pacific Fisheries Commission (WCPFC) was established by the Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPF Convention) which entered into force on 19 June 2004. The Convention was concluded after six years of negotiation, which commenced in 1994.[76] Further the explanation of the WCPFC itself will be provide in the next chapter.

D. Islamic Perspective in the Conservation of the Natural Resources

ظَهَرَ ٱلْفَسَادُ فِى ٱلْبَرِّ وَٱلْبَحْرِ بِمَا كَسَبَتْ أَيْدِى ٱلنَّاسِ
لِيُذِيقَهُم بَعْضَ ٱلَّذِى عَمِلُوا۟ لَعَلَّهُمْ يَرْجِعُونَ ﴿٤١﴾ قُلْ سِيرُوا۟
فِى ٱلْأَرْضِ فَٱنظُرُوا۟ كَيْفَ كَانَ عَـٰقِبَةُ ٱلَّذِينَ مِن قَبْلُ ۚ كَانَ
أَكْثَرُهُم مُّشْرِكِينَ ﴿٤٢﴾

Corruption has appeared throughout the land and sea by [reason of] what the hands of people have earned so He may let them taste part of [the consequence of] what they have done that perhaps they will return [to righteousness].[77]

Based on this verse, we know that actually the Lord have known that man kind will make a corruption to the land and sea, like this thesis explain that the over fishing is become the problem of man kind to keep the sustainability of the highly migratory fish and in this verse also mention that the Lord let us see the consequence, and with that we can learn to more conscious of our action. Islam highly recommend the conservation of the natural resources, in Islamic Perspective related to the cosmos itself having a lot of diversity, this diversity itself create by God with one putpose, so human being might utilize it, but in the

[76] Melda Kamil Ariando, "What Is The Indonesian Responsibility For High Seas Fisheries?" Lembaga Pengkajian Hukum Internasional (Center For International Law Studies) Fakultas Hukum Universitas Indonesia, 2011, page: 87
[77] Surah Ar-Rum, Verse 41, accessed at https://quran.com/30/41-51, on 4 March 23:02

manner of utilization of this resources need to pay attention on these two, they are:

1. Utilize it well not excesive, this stated in many of surah in quran, that actually God did not like the excesive action, the character of greedy shall be erased from the human being, here are three example of surah that content with prohibition of doing excesive action, they are stated in surah Al-Ma'Ida verse 77, Az-Zumar verse 53 and Al-An'am verse 141.

قُلْ يَٰٓأَهْلَ ٱلْكِتَٰبِ لَا تَغْلُوا۟ فِى دِينِكُمْ غَيْرَ ٱلْحَقِّ وَلَا
تَتَّبِعُوٓا۟ أَهْوَآءَ قَوْمٍ قَدْ ضَلُّوا۟ مِن قَبْلُ وَأَضَلُّوا۟ كَثِيرًا
وَضَلُّوا۟ عَن سَوَآءِ ٱلسَّبِيلِ ﴿٧٧﴾

Say, "O People of the Scripture, do not exceed limits in your religion beyond the truth and do not follow the inclinations of a people who had gone astray before and misled many and have strayed from the soundness of the way." (Al-Ma'Idah verse 77).[78]

۞ قُلْ يَٰعِبَادِىَ ٱلَّذِينَ أَسْرَفُوا۟ عَلَىٰٓ أَنفُسِهِمْ لَا تَقْنَطُوا۟ مِن رَّحْمَةِ
ٱللَّهِ ۚ إِنَّ ٱللَّهَ يَغْفِرُ ٱلذُّنُوبَ جَمِيعًا ۚ إِنَّهُۥ هُوَ ٱلْغَفُورُ ٱلرَّحِيمُ ﴿٥٣﴾

Say, "O My servants who have transgressed against themselves [by sinning], do not despair of the mercy of Allah . Indeed, Allah forgives all sins. Indeed, it is He who is the Forgiving, the Merciful." (Az-Zumar verse 53)[79]

[78] Surah Al-Mai'dah Verse 77 with the definition accessed on https://quran.com/5/77-87, at 7 March 2018, 02:21
[79] Surah Az-Zumar Verse 53 with the defiinition accessed on https://quran.com/39/53-63, at 7 March 2018, 02:23

۞وَهُوَ ٱلَّذِىٓ أَنشَأَ جَنَّٰتٍ مَّعۡرُوشَٰتٍ وَغَيۡرَ مَعۡرُوشَٰتٍ وَٱلنَّخۡلَ
وَٱلزَّرۡعَ مُخۡتَلِفًا أُكُلُهُۥ وَٱلزَّيۡتُونَ وَٱلرُّمَّانَ مُتَشَٰبِهًا وَغَيۡرَ
مُتَشَٰبِهٍۚ كُلُواْ مِن ثَمَرِهِۦٓ إِذَآ أَثۡمَرَ وَءَاتُواْ حَقَّهُۥ يَوۡمَ حَصَادِهِۦۖ
وَلَا تُسۡرِفُوٓاْۚ إِنَّهُۥ لَا يُحِبُّ ٱلۡمُسۡرِفِينَ ١٤١

And He it is who causes gardens to grow, [both] trellised and untrellised, and palm trees and crops of different [kinds of] food and olives and pomegranates, similar and dissimilar. Eat of [each of] its fruit when it yields and give its due [zakah] on the day of its harvest. And be not excessive. Indeed, He does not like those who commit excess. (Al-An'am verse 141)[80]

The character of Ghuluw (excesive) in Islam is an disgraceful manner and prohibit by Islam. This manner will not gives a beneficial to the perpetrator nor will produce a good results in all matter.[81] So basically from the explanation above we can conclude that actually Islam allow the human being to utilize the natural resources upon the certain limit, because God hate the excesive action.

2. Utilize it with Ihsan (well manner) is one of the conditions that need to pay attention by man kind, this mean that we cannot do the utilization without considering the effect to the natural resources itself, in this matter the writter took three example two are the surah and one is the Haditz from the Prophet, they are Ibrahim verse 32-33, al-Nahl verse 90 and from Syaddad bin Aus Radhiyallahu'anhu Haditz from Prohet Muhammad S.A.W.

[80] Surah Al-An'am Verse 141 with the defition accessed on https://quran.com/6/141-151, at 7 March 2018, 02:26

[81] Ustadz Abu Ihsan al-Atsari, "Fenomena Ghuluw (Melampaui Batas) Dalam Agama", accessed on https://almanhaj.or.id/3435-fenomena-ghuluw-melampaui-batas-dalam-agama.html, at 7 March 2018, at 02.00

ٱللَّهُ ٱلَّذِى خَلَقَ ٱلسَّمَـٰوَٰتِ وَٱلْأَرْضَ وَأَنزَلَ مِنَ ٱلسَّمَآءِ مَآءً فَأَخْرَجَ بِهِۦ
مِنَ ٱلثَّمَرَٰتِ رِزْقًا لَّكُمْ ۖ وَسَخَّرَ لَكُمُ ٱلْفُلْكَ لِتَجْرِىَ فِى ٱلْبَحْرِ بِأَمْرِهِۦ ۖ
وَسَخَّرَ لَكُمُ ٱلْأَنْهَـٰرَ ﴿٣٢﴾

وَسَخَّرَ لَكُمُ ٱلشَّمْسَ وَٱلْقَمَرَ دَآئِبَيْنِ ۖ وَسَخَّرَ لَكُمُ ٱلَّيْلَ وَٱلنَّهَارَ ﴿٣٣﴾

It is Allah who created the heavens and the earth and sent down rain from the sky and produced thereby some fruits as provision for you and subjected for you the ships to sail through the sea by His command and subjected for you the rivers. And He subjected for you the sun and the moon, continuous [in orbit], and subjected for you the night and the day.[82]

۞ إِنَّ ٱللَّهَ يَأْمُرُ بِٱلْعَدْلِ وَٱلْإِحْسَـٰنِ وَإِيتَآئِ ذِى ٱلْقُرْبَىٰ وَيَنْهَىٰ
عَنِ ٱلْفَحْشَآءِ وَٱلْمُنكَرِ وَٱلْبَغْىِ ۚ يَعِظُكُمْ لَعَلَّكُمْ
تَذَكَّرُونَ ﴿٩٠﴾

Indeed, Allah orders justice and good conduct and giving to relatives and forbids immorality and bad conduct and oppression. He admonishes you that perhaps you will be reminded.[83]

[82] Surah Ibrahim, Verse 32-33, accessed at https://quran.com/14/31-41, on 7 March 2018, 03:37
[83] Surah An-Nahl, Verse 90, accessed at https://quran.com/16/90-100, on 7 March 2018, 03:48

عَنْ أَبِي يَعْلَى شَدَّاد ابْنِ أَوْسٍ رَضِيَ اللهُ عَنْهُ عَنْ رَسُوْلِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ : إِنَّ اللهَ كَتَبَ الْإِحْسَانَ عَلَى كُلِّ شَيْءٍ، فَإِذَا قَتَلْتُمْ فَأَحْسِنُوا الْقِتْلَةَ وَإِذَا ذَبَحْتُمْ فَأَحْسِنُوا الذِّبْحَةَ وَلْيُحِدَّ أَحَدُكُمْ شَفْرَتَهُ وَلْيُرِحْ ذَبِيْحَتَهُ .[رواه مسلم]

Verily Allah has enjoined goodness to everything; so when you kill, kill in a good way and when you slaughter, slaughter in a good way. So every one of you should sharpen his knife, and let the slaughtered animal die comfortably**.”.**[84]

From the explanation above we can see that actually manner in the utilization o the natural resources is one of the important things, not only to we need to maintaing the natural resources but we also need to respect the lives of living creatures, eventhough the existance of the biodiversity are for man kind but we cannot be excesive and we also need to well mannered in the way of the utilizating itself, because God already mention it in the Holy Quran that the justice and good conduct is one of the human being responsibility in the manner of utilization, and if we corralating to explanation above actually that, the Regional Fisheries Management Organization is one of the prove that man kind start realize that what we do is wrong with doing the over fishing can make the sustainability of the nature become threatened, therefore based on these explanation, the activity of the RFMO is already right, because the purpose is to conserve the natural resources especially in the highly migratory fish.

[84] Klaudia Khan, “How Much Halal is Your Eid Qurban?” post at 31 August 2017, at 00.00, accessed on http://aboutislam.net/science/faith-science/halal-eid-qurban/, at 7 March 2018, 05:24

Chapter III

The Role of Western Central Pacific Fisheries Commission to the Conservation of Highly Migratory Fish in Indonesia

A. Histories of Establishment WCPFC

Western and Central Pasific Fisheries Commission here and after called as WCPFC, is one of the Regional Fisheres Management Organization. Before WCPFC establish, the region located on the Pasific Ocean made some forum, one of them was Forum Fisheries Agency (here in after called as FFA), that located in Honiara Solomon Islands, FFA established in 1979. FFA established to answer the challange of the development of the conservation and maintenance the fish stock in EEZ. Meanwhile in the same time there is a expanding operational of the fisheries group of distant water fishing nations (DWFNs) to the Pasific Oceans.[85]

The purpose of establishment FFA is to protect the common interest of the states around the Pasific Oceans. However actually FFA don't have any instruction to making some regulation in the manner of the conservation itself. FFA coorporate with Secretariat of Pasific Community (SPC) to facilitate in regional to supporting the maintenance and development if the Tuna.[86]

Realize that the standing position of FFA is weak in the matter of DWFNs, at 1982 FFA agreed to strengthen the position trough Nauru Agreement that has purpose to coordinating the maintenance of the fisheries in the Pasific Oceans. At 1983 parties to the Nauru Agreement limiting the foreign vessels, about 80% of the vessels using the purse seine.[87]

At 1992, Parties to the Nauru Agreement making Palau Agreement that purpose to maintenance the fisheries purse seine, at that time the amount of the fishing keep increasing that treathen the fish stock. Palau agreement has purpose to solving the problem of overfishing. However this effort that without involving

[85] Ady Candra, "Strategi Kebijakan Perikanan Tangkap Indonesia Dalam Kerjasama Perikanan Regional Pada West And Central Pacific Fisheries Commission (WCPFC)", (Bogor : IPB 2013), pages : 81
[86] *Ibid*
[87] *Ibid*, pages : 82

Indonesia and Philiphina consider not optimal because both Indonesia and Philiphine consider not maintaining the conservation of the Tuna as well. In 1990s FFA extand the coorporation with involving Indonesia, Philiphina and DWFNs. At 1997, the states around the Pacific Islands (Including Australia and Newzeland) and DWFNs in the west and central Pasific Oceans (Including China, France, Korea, Japan, Filipina, Taiwan, USA) start negoitation to establish the Western and Central Pasific Fisheries Commision to maintenance the highly migratory fish.[88]

It is worth noting here that the WCPFC is the first regional outcome of the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea relating to the Conservation and Management of Highly Migratory Fish Stocks, which specifically recommended the worldwide establishment of regional institutional arrangements between coastal states and harvesting states in the management of highly migratory fish stocks.[89]

B. About WCPFC

The Western and Central Pacific Fisheries Commission (WCPFC) was established by the Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPF Convention) which entered into force on 19 June 2004. The Convention was concluded after six years of negotiation which commenced in 1994. The period between the conclusion of the Convention and its entry into force were taken up by a series of Preparatory Conferences that laid the foundations for the Commission to commence its work.

The WCPF Convention draws on many of the provisions of the UN Fish Stocks Agreement [UNFSA] while, at the same time, reflecting the special political, socio-economic, geographical and environmental characteristics of the

[88]. *Ibid*, pages : 82

[89] Dr Laurence Cordonnery, "Implementing the Pacific Islands Regional Ocean Policy: How Difficult Is It Going to Be", 36 Vict. U. Wellington L. Rev. 723, Victoria University of Wellington Law Review, December, 2005, Law of the Sea - Symposium Editor - Joanna Mossop, page 2

western and central Pacific Ocean (WCPO) region. The WCPFC Convention seeks to address problems in the management of high seas fisheries resulting from unregulated fishing, over-capitalization, excessive fleet capacity, vessel re-flagging to escape controls, insufficiently selective gear, unreliable databases and insufficient multilateral cooperation in respect to conservation and management of highly migratory fish stocks. A framework for the participation of fishing entities in the Commission which legally binds fishing entities to the provisions of the Convention, participation by territories and possessions in the work of the Commission, recognition of special requirements of developing States, and cooperation with other Regional Fisheries Management Organizations (RFMO) whose respective areas of competence overlap with the WCPFC reflect the unique geo-political environment in which the Commission operates.[90]

C. Purpose and Function of WCPFC

Under Article 2, the objective of the Convention is to promote and effectively manage the long-term conservation and sustainable use of highly migratory fish stocks in the western and central Pacific Ocean. The basic purpose of this WCPFC to manage the conservation and sustainablity of the western and central pasific area.[91]

The functions of the WCPFC, according to Article 10 of the Convention, include:

- Determining, through defined criteria, the total allowable catch, or the total level of fishing effort, within the Convention Area for certain highly migratory fish stocks and adopt other Conservation and Management Measures (here and after call as CMMs) as needed in order to ensure the long-term sustainability of those fish stocks
- When necessary, adopting CMMs and other recommendations for non-target species and species that are associated with target stocks in order to

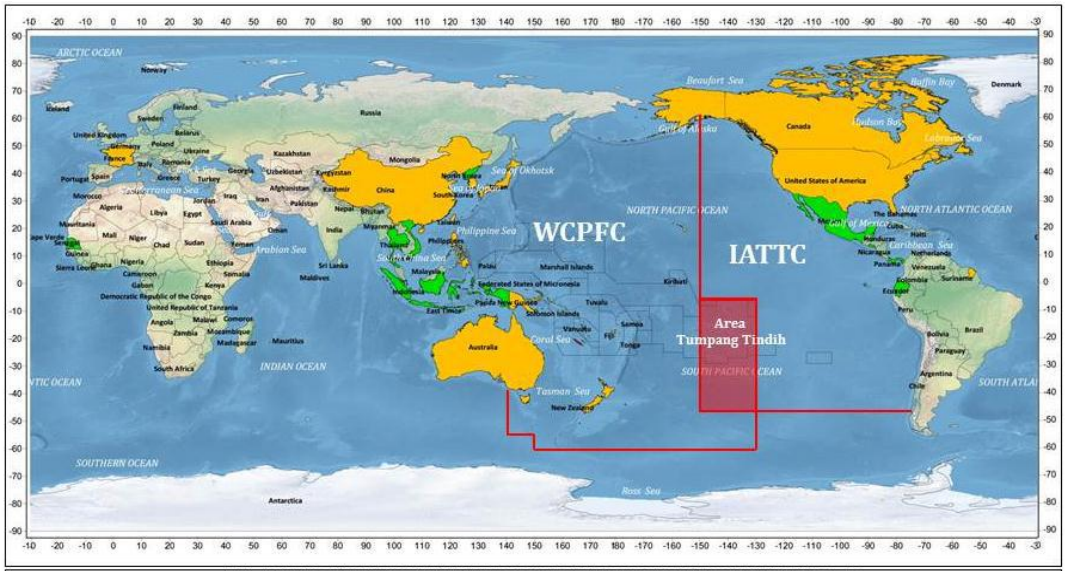
[90] WCPFC formal site in about the WCPFC accessed on https://www.wcpfc.int/about-wcpfc, on January 18, 2018, at 12.50

[91] See the WCPFC Convention accesed on https://www.wcpfc.int/system/files/text.pdf, on January 18, 2018 at 13.40

maintain or restore populations so that their reproduction do not become seriously threatened;

- Promoting cooperation and coordination between members of the Commission so that the CMMs for highly migratory fish stocks on the high seas are compatible with measures in areas under national jurisdiction;
- Encouraging scientific research and analyzing the relevant scientific advice, evaluating the status of the fish stocks, and compiling and disseminating relevant data (including statistical, economic, and other relevant fisheries-related data);
- Adopting international minimum standards that would apply to the responsible conduct of fishing operations; and
- Establishing cooperative systems for monitoring, control, surveillance and enforcement (such as a vessel monitoring system).[92]

D. Area Application of WCPFC



PETA WILAYAH KOVENSI WCPFC DAN TUMPANG TINDIH IATTC

[92] The function of WCPFC accessed on http://www.internationalwatersgovernance.com/western-and-central-pacific-fisheries-commission-wcpfc.html, on January 18, 2018

Source : WCPFC convention and Adi Candra Thesis.[93]

Under article 3 on Area of Application section 1 describing the area that become WCPFC maintenance it stated as follow "From the south coast of Australia due south along the 141° meridian of east longitude to its intersection with the 55° parallel of south latitude; thence due east along the 55° parallel of south latitude to its intersection with the 150° meridian of east longitude; thence due south along the 150° meridian of east longitude to its intersection with the 60° parallel of south latitude; thence due east along the 60° parallel of south latitude to its intersection with the 130° meridian of west longitude; thence due north along the 130° meridian of west longitude to its intersection with the 4° parallel of south latitude; thence due west along the 4° parallel of south latitude to its intersection with the 150° meridian of west longitude; thence due north along the 150° meridian of west longitude"[94].

E. Budget of Commision

It stated in article 18 of the WCPFC convention, it stated as followed "1. The Executive Director shall draft the proposed budget of the Commission and submit it to the Commission. The proposed budget shall indicate which of the administrative expenses of the Commission are to be financed from the assessed contributions referred to in article 17, paragraph 1 (a), and which such expenses are to be financed from funds received pursuant to article 17, paragraphs 1 (b), (c) and (d). The Commission shall adopt the budget by consensus. If the Commission is unable to adopt a decision on the budget, the level of contributions to the administrative budget of the Commission shall be determined in accordance with the budget for the preceding year for the purposes of meeting the administrative expenses of the Commission for the following year until such time as a new budget can be adopted by consensus. 2. The amount of the contribution to the budget shall be determined in accordance with a scheme which the Commission

[93] Ady Candra, pages : 58

[94] WCPFC convention accesed on https://www.wcpfc.int/system/files/text.pdf, on January 18, 2018 at 13.56

shall adopt, and amend as required, by consensus. In adopting the scheme, due consideration shall be given to each member being assessed an equal basic fee, a fee based upon national wealth, reflecting the state of development of the member concerned and its ability to pay, and a variable fee. The variable fee shall be based, inter alia, on the total catch taken within exclusive economic zones and in areas beyond national jurisdiction in the Convention Area of such species as may be specified by the Commission, provided that a discount factor shall be applied to the catch taken in the exclusive economic zone of a member of the Commission which is a developing State or territory by vessels flying the flag of that member. The scheme adopted by the Commission shall be set out in the financial regulations of the Commission. 3. If a contributor is in arrears in the payment of its financial contributions to the Commission it shall not participate in the taking of decisions by the Commission if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. Interest shall be payable on such unpaid contributions at such rate as may be determined by the Commission in its financial regulations. The Commission may, nevertheless, waive such interest payments and permit such a member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the member"[95].

F. Mechanism of Western Central Pasific Fisheries Commission

At the Regular Session of The Commission For The Conservation And Management Of Highly Migatory Fish Stocks In The Western And Central Pacific Ocean 12-16 December 2005 has been set the Nomenclature for Commission Decisions that consist of :

(1) Administrative Matters related to the financial matters and the budget of the staff and the work report also the program of the work will be agreed upon the annual meeting that held every year.

(2) Conservation and Management Measures (CMM) is the provisions that legally binding this is an implementation of the article 10 of the

[95] WCPFC convention accesed on https://www.wcpfc.int/system/files/text.pdf, on January 18, 2018 at 14.36

conservation related to the function of the commission that regulate about the conservation and management of the species target, species non-target and monitoring, control and surveillance

(3) Non Binding Statement/Recomendation is the provision that not legally binding that describe the statement and recomendation that addressed to the Member, Coorperation Non Member and Participating Territories. Eventhough the Resolution non binding but the implementation of the Resolution actually binding.[96]

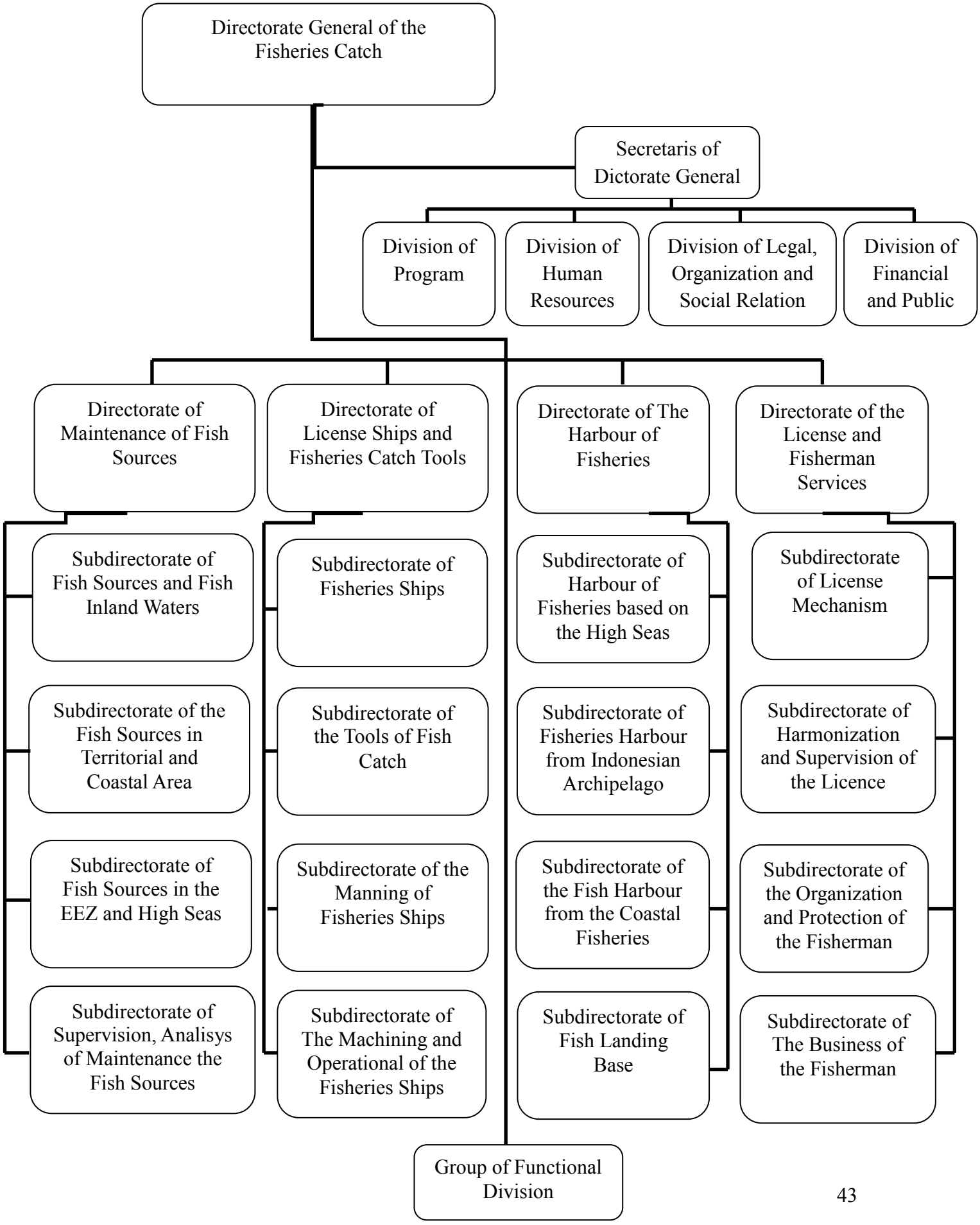
G. Mechanism of Western Central Pacific Fisheries Commission in Indonesian

The mechanism of the Role of Western Central Pacific Fisheries Commission in Indonesia is actually not strict handle by certain agency but mostly the agency that have communication is the Directorate General of the Fisheries Catch, eventhough the other agencies of the Minister might represent, but in the Implemenation found that the Directorate General of the Fisheries Catch is the usuall agency that handling this relation, because WCPFC itself is beyond of the structural, so the mechanism mostly trough the Minister and Minister decide which agencies will participating on the program that made by the WCPFC itself. And like the previous explanation, the agency that usually give mandate by Minister is the Directorate General of the Fisheries Catch, after that the Directorate General of the Fisheries Catch gives the mandate to Subdirectorate of Fish Sources in the EEZ and High Seas or to the Subdirectorate of Supervision, Analisys of Maintenance the Fish Sources to representing Indonesia in the program that made by the WCPFC, here bellow are the structure of Directorate General of the Fisheries Catch.[97]

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[96] Ady Candra, pages 59

[97] Organization Structure of Directorate General of the Fisheries Catch accessed on http://kkp.go.id/artikel/902-struktur-organisasi-direktorat-jenderal-perikanan-tangkap-tahun-2017, at March 09, 2018, 23:52


Directorate General of the Fisheries Catch
Secretaris of Dictorate General
Division of Program
Division of Human Resources
Division of Legal, Organization and Social Relation
Division of Financial and Public
Directorate of Maintenance of Fish Sources
Directorate of License Ships and Fisheries Catch Tools
Directorate of The Harbour of Fisheries
Directorate of the License and Fisherman Services
Subdirectorate of Fish Sources and Fish Inland Waters
Subdirectorate of the Fish Sources in Territorial and Coastal Area
Subdirectorate of Fish Sources in the EEZ and High Seas
Subdirectorate of Supervision, Analisys of Maintenance the Fish Sources
Subdirectorate of Fisheries Ships
Subdirectorate of the Tools of Fish Catch
Subdirectorate of the Manning of Fisheries Ships
Subdirectorate of The Machining and Operational of the Fisheries Ships
Subdirectorate of Harbour of Fisheries based on the High Seas
Subdirectorate of Fisheries Harbour from Indonesian Archipelago
Subdirectorate of the Fish Harbour from the Coastal Fisheries
Subdirectorate of Fish Landing Base
Subdirectorate of License Mechanism
Subdirectorate of Harmonization and Supervision of the Licence
Subdirectorate of the Organization and Protection of the Fisherman
Subdirectorate of The Business of the Fisherman
Group of Functional Division

For Indonesia, fisheries have an important role in the development of Indonesia as state itself. It because of some factors, one of the important factors is that many of fisherman in Indonesia depending on this fisheries activity. Development of Indonesian law related to the fisheries start at 1983 with issuing the Law number 5 year of 1983 about the EEZ. The extanding to implementing the law of EEZ and law number 31 year of 2004 about the fishries that also have correlation with the conservation and maintenance of the straddling fish stock. Here also other indonesian law related to the fishries are law number 45 year of 2009 about the change of law number 31 year of 2004, also the Government Regulation number 60 year of 2007 about the conservation, Ministrial Decree number 12 year of 2012 about the effort of fisheries on the high sea, Ministrial Decree number 10 year 2013 about the monitoring system on the fisheries vessles, and the last is Ministrial Decree number 28 year of 2009 about the certificate of the fishing.

a. Law Number 31 year of 2004 about the Fisheries as amended by Law Number 45 year of 2009

Law number 31 year of 2004 about Fishery issuing to amandement Law number 9 year of 1985 about the Fishery. Based on article 5 section 1 stated that Indonesian cultivation area, "The Indonesian fish cultivation territory for fish catching and/or breeding consists of: a. Indonesian waters; b. ZEEI; c. Rivers, lakes, water reservoirs, swamps and other watery areas, which can be operated and potential fish breeding area in the Indonesian territory."[98]. The cultivation outside the Indonesian territory shall operated based on laws, conditions and/or International standards.[99] Fish cultivation in the Indonesian fish cultivation territory shall be done for the achievement of optimal and constant benefit and guaranteed conservation of fish resources.[100]

[98] See Law Number 31 year of 2004
[99] *Ibid.*
[100] *Ibid.*

The instruments of CCRF become the guidance in drafting the articles of maintenance the resources of the fish stock. Conditions, and/or International standards in maintenance the fish stock ouside the national jurisdiction regulate in the UNCLOS 1982, United Nations Implementing Agreement/UNIA 1995, and CCRF. This Law of Fishery is applicable to a. Every person, either Indonesian or foreign citizen and Indonesian or foreign corporation operating fishery business in the Indonesian fish cultivation territory; b. Every fishing boat with Indonesian flag and fishing boat with foreign flag operating fishery business in the Indonesian fish cultivation territory; c. Every fishing boat with Indonesian flag catching fish outside the Indonesian fish cultivation territory; and d. Every fish boat with Indonesian flag catching fish, either individually or collectively, in the form of cooperation with foreign party.[101]

Further, in law number 45 year of 2009 about the Amandement of Law number 31 year 2004 about the Fishery stated in article 27 that (1)everyone that having and/or operating fishing boat with an Indonesian flag used to catch fish in the Indonesian Fish Cultivation Territory and/or the open seas must have SIPI. (2)Every person having and/or operating fishing boat with a foreign flag used to catch fish in the Indonesian Fish Cultivation Territory must have SIPI. (3) SIPI, as set forth in paragraph (1), is issued by the Minister. (4) Fishing boats with Indonesian flags catching fish within the jurisdiction of another country must obtain prior approval of the government[102].

Eventhough stated in article 27 that everyone and foreign flag used to catch fish in Indonesian territory, but basically that Fishery business within the Indonesian Fish Cultivation Territory shall only be operated by Indonesian citizens or Indonesian corporations.[103] The exceptions from the provision of paragraph (1) will be permitted for foreign individuals or corporations catching

[101] *Ibid.*
[102] *Ibid.*
[103] *Ibid*.

fish within ZEEI as far as it relates to the liabilities of Indonesia based on international agreement or provisions of the applicable international laws.[104]

The issuance of fishery business license to foreign individuals and/or corporations operating within ZEEI must be preceded with fishery agreement, access regulating, or any other consensus between the Indonesian government and the government of the ship's flag. Fishery agreement executed by and between the Indonesian government and the government of the country of-the ship's flag, as set forth in paragraph (1), must mention liabilities of the government of the country of the ship's flag on compliance responsibility of the individual or corporation of the country of the ship's flag to obey the fishery agreement.[105]

Considering the instruments above, can be conclude that Law of Fishery Number 31 year of 2004 and the Amandement which is Law Number 45 year of 2009 about the Fishery has been implementing the UNCLOS 1982, United Nations Implementing Agreement/ UNIA 1995 and CCRF.

Between 2002-2006, there were three memorandum between Indonesia, Thailand, Philipina and Republic of China about the join coorporation in the matter of cultivation and conservation of stock fish in Indonesia's EEZ. Based on those three memorandum, the fishing vessels from those three states get the permit to do the cultivation in the Indonesia's EEZ.[106]

Related to the conservation fish in the high seas, Indonesian Government gets involve actively in the regional organization to be hand in hand handling the problem that might occurs and also with the international community making the coorperation with the maintenance fisheries whether in regional or international.

To achieve those purposes, Indonesia become the member of three Regional Fisheries Management Organization, which are Indian Ocean Tuna

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[104] *Ibid.*
[105] *Ibid.*
[106] Dikdik Mohamad Sodik, "IUU Fishing and Indonesia's Legal Framework for Vessel Registration and Fishing Vessel Licensing", Ocean Development and International Law Vol.40. No.3, op.cit, page 150

Comission (IOTC) with Government Regulation Number 9 year 2007,[107] The Commision for the Conservation of Southern Bluefin Tuna (CCSBT) with Government Regulation Number 109 year of 2007,[108] and Western and Central Pacific Fisheries Commission (WCPFC) with Government Regulation Number 61 year of 2013.[109] Membership of those three organization gives many beneficial for Indonesia itself, the beneficial that Indonesia gets are as follow (a) Indonesia get qouta allocation toward the resources of the fish itself, (b) Fund and opportunity to making coorperation in the research of collecting data of the fisheries, (c) conservation of the fisheries itself

The basic of the conservation and maintenance the fish sources that regulate in Law number 45 year of 2009 about the amandement of Law number 31 year of 2004 stated in the article 7 as follow, In the context of supporting the policy on the management of fish resources, the Minister shall stipulate: a. fishery management plan; b. potential and allocation of fish resources in the fishery management zone of the State of the Republic oflndonesia; c. permissible amount of catch in the fishery management zone of the State of the Republic of Indonesia; d. potential and allocation offish cultivation area in the fishery management zone of the State of the Republic of Indonesia; e. potential and allocation of parents and seed/germ of certain fish in the fishery management zone of the State of the Republic of Indonesia; f. kind, amount, and measurement of fish catching equipments; g. kind, amount, measurement, and placement of fish catching auxiliary tools; h. area, lane, and time or season of fish catching; i. fish catching requirements or standard operating procedures; j. fishing ports; k. fishing ship monitoring system; I. kinds of new fish to be cultivated; m kinds of fish and areas of the spread of fish based on cultivation; n. cultivation of fish and its protection; o. prevention of pollution and damages to fish resources and its environment; p. rehabilitation and improvement of fish resources and its environment; q. minimum measurement or weight of kinds offish permissible to be caught; r.

[107] Check Government Regulation Number 9 year 2007
[108] Check Government Regulation Number 109 year of 2007
[109] Check Government Regulation Number 61 year of 2013

conservation water zones; s. plague and area of fish disease plague; t. kinds of fish prohibited to be traded, entered into, and exported from the territory of the State of the Republic of Indonesia; and u. kinds of protected fish.[110]

b. Government Regulation Number 60 year of 2007 about the Conservation of the Fish Stocks

To enforcing the article 13 of Law Number 31 year of 2004 about the Fishery, this Government Regulation has been established. The definition of conservation itself stated in this regulation in the article 1 section 1 that stated as follow, "Conservation of Fish Resources is efforts to protect, preserve and utilize fish resource, including the ecosystems, types and genetics to unsure the existence, availability and continuity by maintaining and increasing of quality of value and variety of fish resources"[111].

This conservation runs based on the principes of : a.) Precautionary; b.) Consideration of Scientific evidence; c). Consideration of local wisdom; d.) Management based on community; e.) Integration of Coastal area; f.) Prevention of Overfishing; g.) development of fishing method and cultivation; h.) Considerations of socio-economic conditions of the community; i.) suitanable used of biodiversity; j.) Protection ofprotection of the structure and function of dynamic natural aquatic ecosystem; k.) Protection of species and the quality of the genetic of the fish; and l.) adaptive management. ecosystems, species and genetics to ensure their existance, availability and sustainability while maintaining and enhancing the value and diversity of fish resources.[112]

The regulation above is already in line with the International instruments that applies related to the conservation as been regulated in the CCRF article 6. The lack of this law is there is no specific regulation related to the highly migratory fish that done the tranboundaries in the Indonesian territory.

[110] See article 7 of Law Number 31 year of 2004
[111] Government Regulation Number 60 year of 2007
[112] *Ibid*.

c. Ministerial Regulation Number 12 year of 2012 about The effort of Fishery on the High Seas

This Ministerial Regulation is issuing to implementing Law Number 31 year of 2004 about the Fishery, Law Number 21 year of 2009, Law Number 45 year of 2009 about the amandement of Law Number 31 year of 2004, Government Regulation Number 9 year of 2007, Government Regulation Number 109 year of 2007, and Government Regulation Number 61 year of 2013.

Based on article 2, this regulation applicable for :

a. Everyone that does the fishing and/or transporting in the High Seas; and
b. Every fishing vessels that uses Indonesian flag that do the fishing and/or transporting in the High Seas.[113]

Based on article 4 section 1 oblige to everyone that do the fishing and transporting to have the licence to fishing and cultivate the fish on the High Seas.[114] This regulation implementing the instruments related to the licencing of the cultivation and fishing in the High Seas according to the procedure that applicable in the regional and global. It is the consequences of Indonesia as a member on the Indian Ocean Tuna Comission (IOTC), The Commision for the Conservation of Southern Bluefin Tuna (CCSBT), and Western and Central Pacific Fisheries Commission (WCPFC) and United Nations Implementing Agreement UNIA 1995.

[113] Miniterial Regulation Number 12 year of 2012
[114] *Ibid*.

c. Ministerial Decree Number 10 year 2013 about the Vessel Monitoring System

To implementing article 7 section 1 word k of Law Number 31 year of 2004 about Fishery that amandement into Law Number 45 year of 2009, that stated "in the context of supporting the policy on the management of fish resources, the Minister shall stipulate: k.fishing ship monitoring system;"[115]. Ministry of the Marine Affairs and Fisheries issuing Ministerial Decree Number 10 year of 2013 about Vessel Monitoring System

VMS is a tool to support MCS systems. A vessel monitoring system (VMS) is a program for fisheries surveillance, in which equipment that is installed on fishing vessels provides information about the vessels' position and activity. This is different from traditional monitoring methods, such as using surface and aerial patrols, on-board observers, logbooks or dockside interviews. VMS can monitor the movement of ships with satellite-based technology. In implementation, VMS consists of several components, including satellite that transmits data from the vessel to the Fisheries Monitoring Center (FMC). VMS is an effective tool for the successful MCS of fisheries activities. VMS provides a fishery management agency with accurate and timely information about the location and activity of fishing vessels (FAO 2013).[116]

The installation and operations of the fishing vessel monitoring is done following this sequence:

1) Fishing boats are mounted device called Transmitter (Automatic Location Communications) consisting of the components of the signal from the satellite navigation receiver and sender component data to the satellite communications.

2) The ship's position received by the transmitter and sent automatically to

[115] Law Number 31 year of 2004.

[116] Suhendar, M. "Comparison of vessel monitoring system (VMS) between Iceland and Indonesia", final project, 2013, accessed on website http://www.unuftp.is/static/fellows/document/suhendar12prf.pdf, on January 19, 2018 at 01.14 page 8

the satellite communication.

3) From a communications satellite data sent to the ground station Fourth, through ground stations in data is sent to the control center at the headquarters of Jakarta, the Directorate General of Surveillance (DGS). The activities of fishing vessels are processed and analyzed.

4) Through website http://kkpvms.kkp.go.id/public/default.asp fishing boats firms can access information related to their own ship.[117]

The important rules that stated in this regulation is stated in article 11, that stated every ship size >30GT that operated in Indonesian maintenance of fisheries territory or in the high seas that purposing the cultivation of fish licence need to put the Transmitter online.

Based on the fact above might conclude that this regulation has been fullfil the requirement that been regulated in international instruments. It is as a consequences of Indonesia as a member on the Indian Ocean Tuna Comission (IOTC), The Commision for the Conservation of Southern Bluefin Tuna (CCSBT), and Western and Central Pacific Fisheries Commission (WCPFC) and United Nations Implementing Agreement UNIA 1995.

d. Ministerial Regulation Number 28 year of 2009 about the Catch Certificate

In IPOA-IUU states oblige to take some action to avoiding the fish marketing based on the fisheries activity, that consider under the authority of Regional Fisheries Management Organizations based on IUU fishing. According to this Indonesian Government make Ministerial Regulation Number 28 year of 2009 about the Catch Certificate. Of course this regulation made to supporting national effort in eradicating the IUU Fishing.

Definition of Catch Certificate is a letter that issuing by the Head of the fisheries harbour that appointed by the competent Authority that stated the fish

[117] *Ibid*. pages 10

that been cultivate not from the Illegal, Unreported, and Unregulated Fishing (IUU Fishing).[118] According to this ministerial regulation, Ministry of the Marine Affairs and Fisheries gives the authority to General Director of Fisheries to issuing the catch certificate.[119]

e. Analysis of the Role of WCPFC in Indonesia

The rights of member of WCPFC are, trading the export of Tuna safely, from the exploitation Tuna in the Western and Central Pacific area, voting in the commisions and having a vote right of the decision on the commision meeting, purposing and choosing by the consent as the chairman/vice chairman to the commision, participating in the establishment of the scientific activities in the committee and the institutions under the commissions, purposing drafting (or amendement) either the convention or the Conservation Management Measures, to the Commissions voluntaringly purposing to be the host on the activities.[120]

FAO-MCS Technical Guidelines 4.2.2 stated "There is also a need in any operation to ensure that there is one lead agency with the appropriate authority to make decisions. Although there are several ministries with interest in MCS and, consequently, there may be a need for a coordinating committee, there still needs to be one final authority for decisions on the deployment and priorities for MCS operations. Split operational "command and control", to use military phraseology, have not met with success in the past in military or civilian operations. It is recommended that the fisheries department be provided with the lead role and ultimate authority for ocean sector MCS activities, in consultation with other interested departments and ministries." Law number 31 year of 2004 concerning Fisheries as amended by Law number 45 year of 2009 stated as follow; Article 66 section 1 stated, "Fishery inspection shall be conducted by fishery inspector." Section 2 explain more as follow, "Fisheries Inspectors mandated to inspect to

[118] Ministerial Regulation Number 28 year of 2009 about the Catch Certificate
[119] *Ibid.*
[120] *Ibid* Esti Budiyarti, pages 78-79

compliance to the legislation concerning fisheries.". Further article 66A section 1 stated as follow, "Fishery Inspectors referred to article 66 shall be civil servant working in fisheries sector, appointed by relevant Minister of Officer appointed.". [121]. Based on this techical guidelines the independent of the institutions in the manner of making any action to eradicated the IUU is necessary and to answer that matter Indonesia stated in article 66 that the independency of monitoring system hold by ministy of marine affairs.

Article 23 of WCPFC Convention stated that "*Each member of the Commission shall promptly implement the provisions of this Convention and any conservation, management and other measures or matters which may be agreed pursuant to this Convention from time to time and shall cooperate in furthering the objective of this Convention"*[122].This article hold the main key of the role of WCPFC itself, every states shall promptly implement the provisions means that every action of the states that involving the WCPFC area will be on the monitor of this organization itself, the accurate statistic data and information will help the conservation and management itself.

In the matter of Conservation, the tools and the ships in the exploitation is become the main focus in this convention, because of that Indonesia have a great challenge to fulfill the requirement itself, with this conditions makes Indonesian government continuesly developt the technology of the fishing vessels an the tools itself.

To ensure Tuna population recovering, on the WPCFC on the meeting that located in Bali at 3-8 Desember 2015. 480 delegation from the WPCFC members including Indonesia, drafting the agreement in the manner of the maintenance and conservation Tuna on the Pasific Ocean and Central Pasific. Ministry of Marine Affairs Susi Pudjiastuti issuing Ministerial Government KP Number 4 year of 2015 about the prohibition catching the fish on the area of the conservation, which are located on Banda's Seas and Tolo's Bay. Those area are the breeding ground

[121] Ida Kusuma, "Indonesian Efforts In Combating IUU Fishing", Asean studies program, talking Asean on Asean Coorperatin on Fisheries Management, Jakarta, February, 2014
[122] See WCPFC Convention

and spawning ground of the Yelowfin Tuna.[123]

The delegation of scientific observer LP2T, Irwan Jatmiko, S.Pi, m.App.Sc and Abram Brata S.Pi, following the training from Regional Scientific Observes Program that held on the education hall and Fisheries Training of Airtembaga, Bitung, North Sulawesi. This taining that held on 11-16 March 2017 supervised by the Coordinator of ROP from WCPFC which is Karl Staisch. Beside of scientific observer LP2T this training also follow by the degelation of PSDI DJPT Pusriskan BPPL and SDI Plagis Besar research Instalation.[124]

According to the Addendum to Annual Report part 1, specific information to be provided in part 1 as required by CMMs year of 2015, here are the data of CMM that applicable or not for Indonesia.[125]

CMM 2005-03 (North Pacific Albacore), para 4	Not Applicable for Indonesia
CMM 2006-04 (South West striped Marlin), para 4	Not Applicable for Indonesia
CMM 2009-03 (Swordfish), para 8	Not Applicable for Indonesia. No Indonesia fishing vessels targeting swordfish
CMM 2009-06 (Transshipment), para 11 Annex II	No Indonesia flagged vessels involved in transhipment at sea within WCPO. Indonesia has issued Minister Regulation Number 57 year of 2004 on banning of transhipment at sea
CMM 2010-05 [South Pacific albacore], Para 4 Applies until Feb 2016 (see CMM 2015-02 below)	No Indonesia flagged vessels targeting South Pacific Albacore
CMM 2010-07 [Sharks], Para 4	Minister Regulation No. 12 year 2012

[123] Tri Listiyarini, http://www.beritasatu.com/kesra/329321-wwf-selamatkan-ikan-tuna-sebelum-terlambat.html, accessed on January 22, 2018 at 13.56

[124] The Role of WPCFC in Indonesia, see https://lp2t.kkp.go.id/baca-berita/59/www.ugm.ac.id, accessed on January 22, 2018 at 15.02

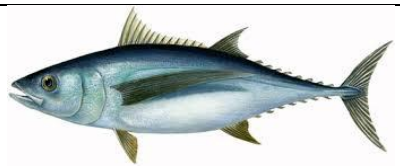
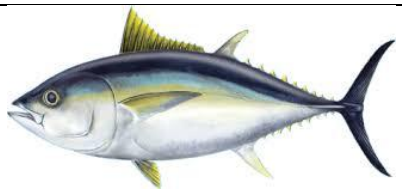
[125] Indonesian Annual Report to the Commision 2016, accessed on official website of WCPFC

	on Fishing in High Seas
CMM 2011-03 [Impact of PS fishing on cetaceans], Para 4	Indonesia already regulate the implementation of the CMM by issuance of Goverment Act no 7 year 1999 on protecting of ceataceans and stipulating the Minister Regulation No. 12 /2012 on Fishing Business in High Seas, Minister Regulation No. 30 year 2012 on Fishing Business in Fisheries Management Area of Republic of Indonesia, and Minister Regulation No. 26 year 2013 on Amended of Minister Regulation No. 30 year 2012 article 73 on Fishing
CMM 2011-04 [Oceanic whitetip sharks], Para 3	Minister regulation No 12/2012 , No 59/2014 as amended by minister Regualtion No 34/2015 particularly to prohibit landing of oceanic whitetip shark and hammer head shark
CMM 2012-04 [Whale sharks], Para 06	Minister Regulation No. 18 year 2013 concerning Prohibition on Landing of whale shark (Rhincodon typus)
CMM 2012-07 [Seabirds], Para 9 Applies until 1 Jan 2017 (see CMM 2015-03 below)	Indonesia has adopted CMM 2012-07 through Minister Regulation No. 12 year 2012 on Fishing in High Seas.
CMM 2013-08 [Silky sharks], Para 3	National legislation on this prohibition is being finalized
Observer coverage (WCPFC 11 decision – para 484(b)	No Indonesia logliners has been observed on 2015. Observer only deployed on pole and line vessels

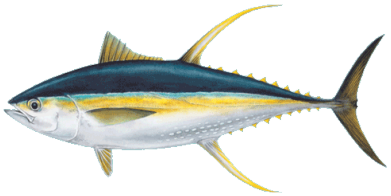
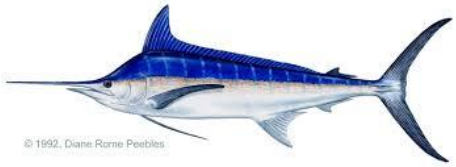
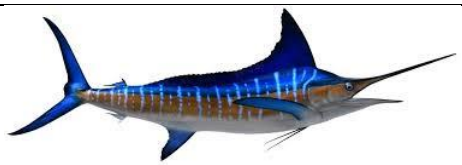
CDS and Mass Balance Reconciliation Trial (WCPFC 12 decision, para 532)	WCPFC12 Summary Report para 532 The Commission accepted TCC11's recommendations with the Secretariat's proposed modifications to the 2016 Mass Balance Reconciliation tasking and adopted the report of the CDS-IWG (WCPFC12-2015-19c) and the 2016 CDS-IWG work plan (Attachment T). Excerpt from WCPFC12 Summary Report Attachment T The CDS-IWG agreed to 1. Recommend that CCMs are encouraged to include in Annual Report Part 1, in standardized format, the information outlined in DP03 Table 1 and Table 2. For the purposes of the trial, CCMs are encouraged where available to include these tables (the information outlined in DP03 Table 1 and Table 2) related to the 2013 calendar year in their 2016 Annual Report Part 1 (so that there is at least one common year that can be the basis of the first trial MBR).
CMM 2015-02 [South Pacific Albacore] Para 4	No Indonesia flagged vessels targeting South Pacific Albacore
CMM 2015-03 [Seabirds] Para 9	Indonesia has adopted CMM 2012-07/CMM 2015-03 through Minister Regulation No. 12 year 2012 on Fishing

	in High Seas. No interactions was reported by observer on board on 2006 – 2012.

Based on the article 4 of the WCPFC Convention highly migratory fish reffered to the Annex I of UNCLOS 1982 which are "(1) *Albacore tuna* (*Thunnus alalunga*), (2) *Bluefin tuna* (*thunnus thynnus*), (3) *Bigeye tuna* (*Thunnus obesus*), (4) *Skipjack tuna* (*Katsuwo pelamis*), (5) *Yellowfin tuna* (*Thunnus albacores*), (6) *Blackfin tuna* (*Thunnus atlanticus*), (7) *Litle tuna* (*Euthynnus alleteratus* dan *E.affinis*), (8) *Southern bluefin tuna* (*Thunnus maccoyii*), (9) *Frigate mackerels* (*Auxis thazard* dan *A.rochei*). while the other group of tuna consisting of (1) marlin terdiri dari 8 spesies (*Teprapturus angustirostris, T. belone, T. pfluegeri, T.albidus, T.audax, T. georgei, Makaira indica, M.nigricans*), (2) *Sailfish,* terdiri dari 2 spesies (*Istiophorus platyphorus dan I. albicans*), dan (3) Swordfish (*Xiphias gladicus*).". and based on WCPFC itself there are 8 target species based on the WCPFC Convention, they are[126],

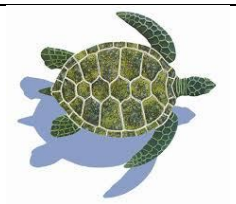
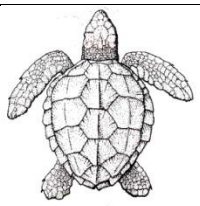
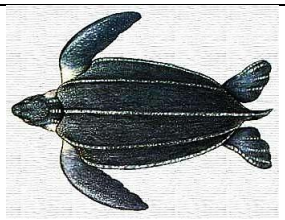
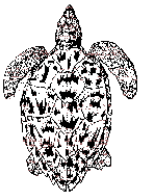
Species	Picture
Albacore Tuna Latin name : *Thunus Alalunga* (Bonnaterre, 1788) Lokal Name : Albakora	
Bigeye tuna Latin name : *Thunnus obesus* Lokal name : Tuna *Bigeye*, Bakurasi (Gorontalo), Tuna mata biasa (Jakarta), Pari (Mandar), Tongkol watang (Labuhan/Jaba) , Pari (Sangihetalaud)	
Skipjack tuna Latin name : *Katsuwo pelamis* Lokal name : Cakalang, Kausa (Bugis), Buju (Gorontalo), Cakalang, Tongkol Krai (Jakarta), Buanbee, Clorengan (Madura), Japal (Mandar),	

[126] *Ibid* Adi Chandra Thesis, page : 59

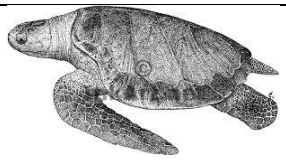
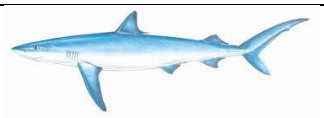
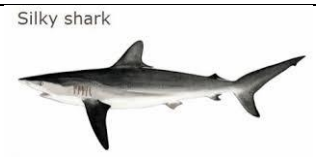
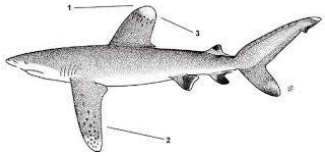
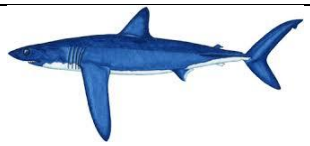
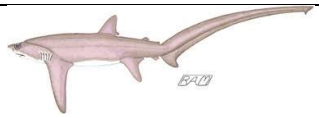
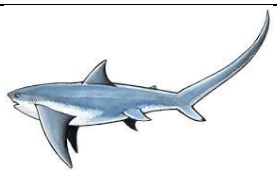
Cakalang (Makassar), Cahalang dolangan, Kausa, Hetung	
Yellowfin tuna Latin name : *Thunnus albacores* Lokal name : Madidihang, Sisik (Aceh), Madidihang (Ambon), Dandiku (Banda), Gattareng, baulang (Bugis), Bakuran (Buol), Aakan (Bajo), Balangkutisi (Dondo), Kurkuni (Gorontalo), Belakang kuning (Kupang), Kunyitan (Lombok), Bakulang, gattarangan (Makassar), Braso (Mandar), Madidikang (Menado), Jabrig (Pelabuhan Ratu), Maririhang (Sangihetalaud)	
Black Marlin Latin name : *Makaira indica* Lokal name : Setuhuk Hitam *Indo-Pasifik*	
Blue marlin Latin name : *Makaira nigricans* Lokal name : Setuhuk Biru, Krokot (Jawa), Krot-krot (Jakarta), Towoito (Madura), Ronga (Sulsel), Garut (Kalbar).	
Striped marlin Latin name: Tetrapturus audax Lokal name : Setuhuk Lorang	
Swordfish Latin name **:** *Xiphias gladius* Lokal name : Ikan Pedang	

Related to the bycatch, bycatch itself have definition as follow. In the BMIS, the term 'bycatch' mainly refers to the incidental capture of non-target species, including seabirds, sea turtles, sharks and rays, and marine mammals, in oceanic longline and purse-seine tuna and billfish fisheries. Sharks are always treated as bycatch for the purposes of the BMIS, although they may be targeted or treated as an associated catch in some tuna fisheries. These four species groups

are of special interest as they are characteristically highly migratory, with low reproductive rates (slow growth rates, late maturation, long gestation, low fecundity and long lives) As such, they may be may be more heavily impacted by high levels of incidental catch[127]. According to CMM, there are two species of bycatch, which are Sea Turtles and Sharks. CMM 2008-03 regulate about the sea turtles species conservation and management there 5 species that regulate in this CMM. While CMM 2010-07 regulate the sharks species on the conservation and management[128], there are 8 sharks species that been regulate. For the information look the table bellow

Species	Picture
Green Sea Turtle Latin name : *Chelonia mydas* Lokal name : Penyu Hijau	
Loggerhead Latin name : *Caretta carett* Lokal name : Penyu Tempayan	
Leatherback Latin name : Dermochelys coriacea Lokal name : Penyu Belimbing	
Hawksbill Latin name : Eretmochelys imbricata Lokal name : Penyu Sisik	

[127] Bycatch Management Information System accessed at, https://www.bmis-bycatch.org/about-bmis/what-is-bycatch, on 12 March 2018, 23:43
[128] *Ibid* Adi Chandra Thesis, page : 63

Olive ridley Latin name :*Lepidochelys olivacea* Lokal name : Penyu lekang	
Blue shark Latin name : *Prionace glauca*) Lokal name : Cucut lalaek (Pelabuhan Ratu), Cucut Selendang (Cilacap) Cucut Karet (Tg.Luar)	
Silky shark Latin name : *Carcharhinus falciformis*) Lokal name : Cucut Lajam (Pelabuhan Ratu)	
Oceanic whitetip shark Latin name :*Carcharhinus longimanus*) Lokal name : Cucut Koboi (Palabuhan Ratu)	
Longfin Mako Latin name : *Isurus paucus* Lokal name : Cucut Baster (Pelabuhan Ratu), Cucut Monas (Kedongan, Tg.Luar)	
Shortfin Mako Latin name : *Isurus oxyrinchus* Nama Lokal name : Cucut Anjing	
Bigeye Thresher Latin name : *Alopias supercilious* Lokal name : Cucut Lutung (Pelabuhan Ratu), Cucut Padi (Cilacap)	
Pelagic Thresher Latin name : *Alopias pelagicus* Lokal name : Cucut monyet (Pelabuhanratu), cucut tikus (Tg.Luar)	
Thresher Shark Latin name : *Alopias vulpinus* Lokal name: -	

From those fact above are the proven role of WCPFC in Indonesia not only the regulation of conservation that been implicated, but also in the sector of maintenance that been train by the WCPFC as the role of WCPFC to improve the conservation in the Indonesia territory.

f. Analysis of the Oppurtunities of WCPFC in Indonesia

Indonesia itself consider as the highest state with the potentialy production of Tuna which is among 613.575 Ton per year and around 6.3 multy billion in rupiah per year. With the strategical location which is between two ocean. Indonesia become the important state for the Tuna fisheries globally either in the biodiversity also the trading.[129] With being the member of RFMOs, Indonesia has a better bargain position in the conservation and the exploiting the benefit of Tuna to the economical of Indonesia itself. Our previous ministry Sharif stated "Get involve actively in the Regional Fisheries Management Organizations, will increasing the involvement of Indonesian contrabution in the conservation of tuna in the regional,".[130] Also from the statement of mr Sharif that "Indonesia is concerned to be a member of the WCPFC (Western and Central Pacific Fisheries Commission) as the contribution of Indonesia's tuna production data reaches 30 percent of all production of WCPFC countries".[131]Further ministry Sharif also stated that "Estimated economic benefits gained by Indonesia reached about USD 35.3 million of the big eye Tuna quotas for Indonesia in WCPFC of 5,889 tons with the assumption of 1 kg of tuna of export quality at Rp 60,000".[132]

AP2HI (Asosiasi Perikanan Pole and Line dan Handline Indonesia) said that "this related to the fisherman and Indonesian walfare. We can take any risk".

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[129] The urgency of Indonesian to get involve in the RFMOs, http://m.antaranews.com/berita/435658/regulasi-dan-informasi-tantangan-ekonomi-kelautan, accesed on 4 March 11, 2017 at 21:12

[130] *Ibid*

[131] Yudha Manggala P Putra, "30 Persen Tuna Dunia Berasal dari Indonesia", accessed at http://www.republika.co.id/berita/telkomsel/berbagi-untuk-negeri/11/01/05/internasional/global/14/03/20/n2p7z9-30-persen-tuna-dunia-berasal-dari-indonesia, upload at 20 March 2014, accessed on 4 March 2018, at 21:26

[132] Editorial, "Jadi Anggota WCPFC, Nilai Tawar Indonesia Meningkat", accessed at http://www.expostnews.com/ragam/industri-dan-perdagangan/item/478-jadi-anggota-wcpfc-nilai-tawar-indonesia-meningkat, upload at 21 March 2014, accessed on 4 March 2018, at 21:52

They also said that this is very beneficial for each country involved in this very large scale fisheries. Not only that, he said, this could generate long-term benefits for the fishing communities and minimize the risk of a failed fishery industry in the future.[133]

The tuna fishery in the WCPO in the record catches of 2007 major target species of almost two million tonnes annually. Catches are dominated by skipjack tuna (~1.2 million tonnes) and yellowfin tuna (400,000-500,000 tonnes), with smaller catches of bigeye tuna (~100,000 tonnes) and albacore tuna (55,000 tonnes in the South Pacific). The domestic fisheries in the Philippines and Indonesia catch large quantities of mainly juvenile tuna using a range of fishing methods.[134] The significant result of fisheries catches of Indonesian before and after join the Western and Central Pacific Fisheries Commission can be seen from the data that provide bellow, the significant result showing that with join this RFMO, Indonesia gaining benefit on the increasing the catches of highly migratory fish.

Data of the Skipjack catches (tonnes) by Indonesian domestic fisheries in 2007-2016.[135]

YEAR	POLE AND LINE	HANDLINE Large	HANDLINE Small	LONGLINE	PURSESEINE	OTHER	TOTAL
2007	**118,578**				**37,732**	**86,808**	**243,118**
2008	**124,710**				**37,326**	**93,881**	**255,917**
2009	**133,913**				**56,862**	**89,210**	**279,985**
2010	**134,697**				**59,098**	**79,842**	**273,637**
2011	**123,515**				**51,139**	**95,446**	**270,100**
2012	**100,857**				**69,058**	**109,732**	**279,647**
2013	**85,796**				**169,398**	**96,706**	**357,946**
2014	**79,749**				**120,860**	**122,232**	**322,841**

[133] Anonymus, "AP2HI Serukan Pengelolaan Tuna Lebih Berkelanjutan", accessed at http://www.mongabay.co.id/2015/11/27/ap2hi-serukan-pengelolaan-tuna-lebih-berkelanjutan/, upload at 27 November 2015, accessed on 4 March 2018, at 22.33

[134] 14th Annual Australian and New Zealand Society of International Law Conference: Pacific Perspectives on International Law Article Dr Transform Aqorau a1,'Challenges and Prospects for Effective Tuna Management in the Western and Central Pacific', 5 N.Z. J. Pub. & Int'l L. 2 New Zealand Journal of Public and International Law June, 2007 at page 3

[135] Western and Central Pacific Fisheries Commission Yearbook 2016 page : 109

2015	**78,838**				**42,256**	**92,387**	**263,319**
2016	**85,524**				**90,458**	**104,592**	**336,455**

Data of the Yellowfin catches (tonnes) by Indonesian domestic fisheries in 2007-2016.[136]

YEAR	POLE AND LINE	HANDLINE Large	HANDLINE Small	LONGLINE	PURSESEINE	OTHER	TOTAL
2007	**22,529**	**3,669**		**18,734**	**17,326**	**5,515**	**67,773**
2008	**18,800**	**3,505**		**20,651**	**14,083**	**6,016**	**63,055**
2009	**18,755**	**15,345**		**25,963**	**13,122**	**19,703**	**92,888**
2010	**15,482**	**10,692**		**23,245**	**6,793**	**17,634**	**73,846**
2011	**32,193**	**10,738**		**26,606**	**8,609**	**36,296**	**114,442**
2012	**30,631**	**14,269**		**18,863**	**25,755**	**55,227**	**144,745**
2013	**18,323**	**11,309**	**6,981**	**19,207**	**41,676**	**49,988**	**147,484**
2014	**20,291**	**23,157**	**15,438**	**28,423**	**22,040**	**26,860**	**136,209**
2015	**32,435**	**29,679**	**22,653**	**19,409**	**12,057**	**29,787**	**146,020**
2016	**19,884**	**20,650**	**23,583**	**14,659**	**33,328**	**48,314**	**160,418**

Data of the Bigeye catches (tonnes) by Indonesian domestic fisheries in 2007-2016.[137]

YEAR	POLE AND LINE	HANDLINE Large	HANDLINE Small	LONGLINE	PURSESEINE	OTHER	TOTAL
2007	**5,282**	**74**		**3,955**	**1,317**	**371**	**10,999**
2008	**7,598**	**106**		**5,447**	**2,125**	**337**	**15,613**
2009	**6,328**	**155**		**5,816**	**2,916**	**547**	**15,762**
2010	**4,645**	**218**		**3,380**	**2,038**	**490**	**10,771**
2011	**3,308**	**444**		**4,714**	**1,746**	**2,699**	**12,900**
2012	**1,817**	**1,231**		**5,371**	**1,940**	**8,565**	**18,924**
2013	**2,586**	**471**	**615**	**4,513**	**4,507**	**8,114**	**20,806**
2014	**2,053**	**2,079**	**1,386**	**7,194**	**2,054**	**9,101**	**23,867**
2015	**4,906**	**2,824**	**3,021**	**3,762**	**2,049**	**6,177**	**22,739**
2016	**2,919**	**1,886**	**3,145**	**4,954**	**3,178**	**12,678**	**28,760**

[136] *Ibid*, page : 110
[137] *Ibid*, page : 111

The total of Fisheries Catches in Indonesia from 2007-2016

YEAR	SKIPJACK	YELLOWFIN	BIGEYE	TOTAL
2007	**243,118**	**67,773**	**10,999**	**321,89**
2008	**255,917**	**63,055**	**15,613**	**334,585**
2009	**279,985**	**92,888**	**15,762**	**388,635**
2010	**273,637**	**73,846**	**10,771**	**358,254**
2011	**270,100**	**114,442**	**12,900**	**397,442**
2012	**279,647**	**144,745**	**18,924**	**443,316**
2013	**357,946**	**147,484**	**20,806**	**526,236**
2014	**322,841**	**136,209**	**23,867**	**482,917**
2015	**263,319**	**146,020**	**22,739**	**432,078**
2016	**336,455**	**160,418**	**28,760**	**525,633**

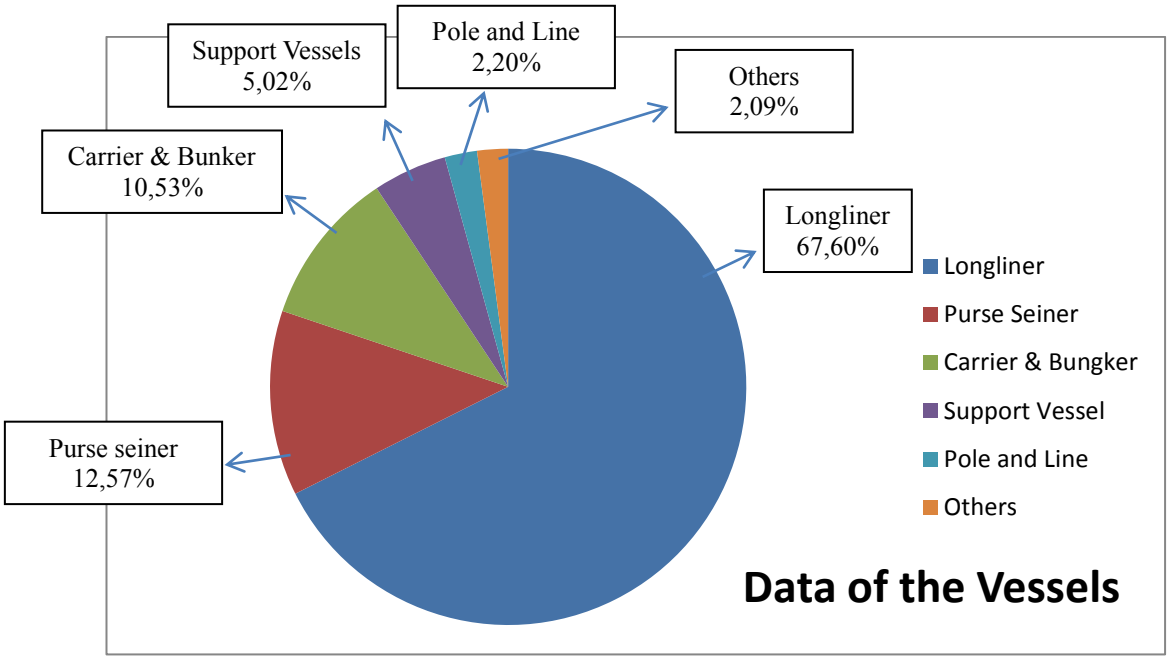
From the facts that arrising, we can conclude that the opportunities of WCPFC in Indonesia itself devide into two, first the opportunities of political position, with joining the WCPFC Indonesia have a bigger position in the bargain to the International society especially the states that also get involve in the WCPFC organization, second Indonesia get a bigger beneficial in the economic matters, as the state that gives 30 percentage of Tuna, it can reached about USD 35.3 million of the big eye Tuna,[138] in the matter of the export activity.

g. Analysis of the Challenges of WCPFC in Indonesia

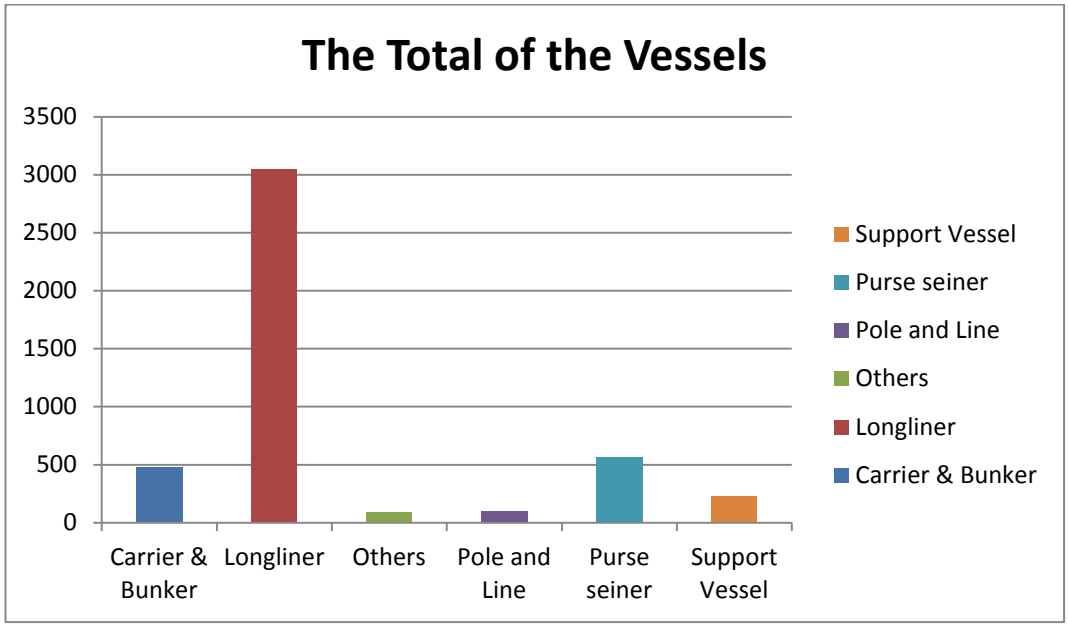
The WCPFC Convention seeks to address problems in the management of high seas fisheries resulting from unregulated fishing, over-capitalization, excessive fleet capacity, vessel re-flagging to escape controls, insufficiently

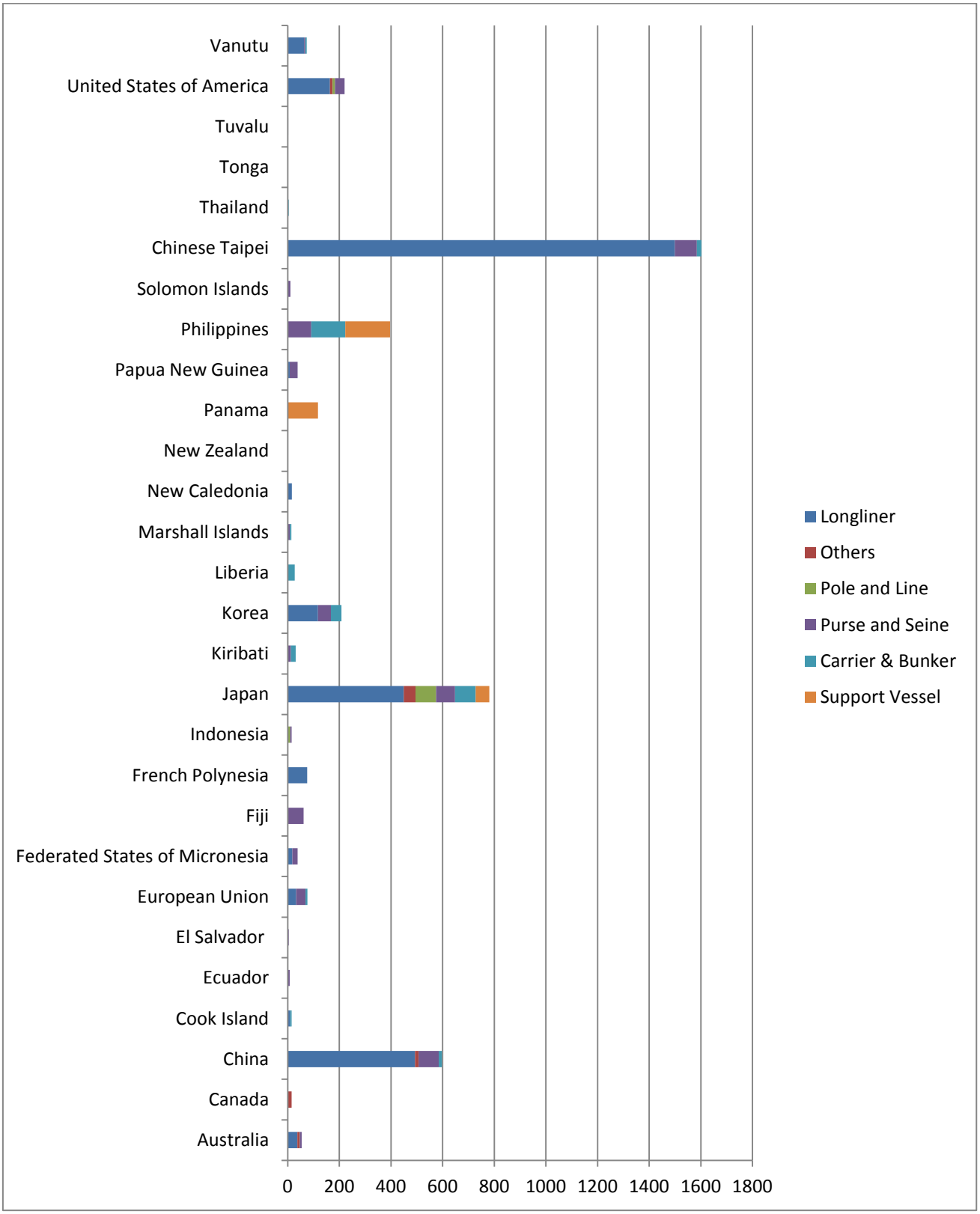
[138] *Ibid* the Editorial of Expost News

selective gear, unreliable databases and insufficient multilateral cooperation in respect to conservation and management of highly migratory fish stocks.[139]. and for Indonesia itself the main challenge of WCPFC in Indonesia is the lack of sources of the comply ships that could exersice the territory of WCPFC, here are the data of the vessels type, count of selected vessels on 9 March 2018, there are 4503 vessels that operating in this territory, see the diagram bellow,[140]



[139] See the official Website of WCPFC
[140] WCPFC official site, RFV by vessel type accessed on https://www.wcpfc.int.


The Total of the Vessels
3500
3000
2500
2000
1500
1000
500
0
Carrier & Bunker
Longliner
Others
Pole and Line
Purse seiner
Support Vessel
Support Vessel
Purse seiner
Pole and Line
Others
Longliner
Carrier & Bunker


Vanutu
United States of America
Tuvalu
Tonga
Thailand
Chinese Taipei
Solomon Islands
Philippines
Papua New Guinea
Panama
New Zealand
New Caledonia
Marshall Islands
Liberia
Korea
Kiribati
Japan
Indonesia
French Polynesia
Fiji
Federated States of Micronesia
European Union
El Salvador
Ecuador
Cook Island
China
Canada
Australia
0
200
400
600
800
1000
1200
1400
1600
1800
Longliner
Others
Pole and Line
Purse and Seine
Carrier & Bunker
Support Vessel

States	Longliner	Others	Pole and Line	Purse and Seine	Carrier & Bunker	Support Vessel
Australia	37	8	1	8		
Canada		15				
China	493	14		78	12	
Cook Island	9				6	
Ecuador				7		
El Salvador				4		
European Union	32			37	7	
Federated States of Micronesia	18			20		
Fiji				61		
French Polynesia	75					
Indonesia			9	6		
Japan	449	46	80	73	80	53
Kiribati				12	19	
Korea	117			50	41	
Liberia					27	
Marshall Islands				8	6	
New Caledonia	16					
New Zealand	1					
Panama						117
Papua New Guinea	7			31		
Philippines				91	132	173
Solomon Islands				10		
Chinese Taipei	1499			86	17	
Thailand					4	
Tonga	1					
Tuvalu				2		
United States of America	163	11	9	37		
Vanutu	63			5	5	

From the data we know that Indonesia itself only have 15 ships that comply to do the fisheries catches in the WCPFC territory, if we compare to the Chinese Taipei that have 1602 ships that operating in the WCPFC territory, we got less than 1% from Chinese Taipei, eventough Indonesia itself is the state that the territory itself are directly cross bordering with the WCPFC area, but the this conditions not making Indonesia have a more opportunities in excersing the natural resources in this area, this lack of technology make Indonesia not optimally used the advantage of the location itself.

Chapter IV

Closing

A. Conclusion

a. From all of the informations and analysis above, the conclusion is that the role of the Western and Central Pacific Fisheries Commission (WPCFC) in the conservation of highly migratory fish in Indonesia give a big impact to Indonesia. Based on these techical guidelines the independent of the institutions in the manner of making any action to eradicated the IUU is necessary and to answer that matter Indonesia, stated in article 66 that the independency of monitoring system held by Ministy of Marine Affairs. To ensure the recovering of Tuna population, the WPCFC on the meeting that located in Bali at 3-8 Desember 2015. There are 480 delegation from the WPCFC members including Indonesia, do the drafting to the agreement in the manner of the maintenance and conservation Tuna on the Pasific Ocean and Central Pasific.

   Ministry of Marine Affairs Susi Pudjiastuti is issuing Ministerial Government KP Number 4 year of 2015 about the prohibition catching the fish on the area of the conservation, which are located on Banda's Seas and Tolo's Bay. Those area are the breeding ground and spawning ground of the Yelowfin Tuna and the Fisheries Training in Airtembaga, Bitung, North Sulawesi. This taining that held on 11-16 March 2017 supervised by the Coordinator of ROP from WCPFC which is Karl Staisch. Beside of scientific observer LP2T this training also follow by the degelation of PSDI DJPT Pusriskan BPPL and SDI Plagis Besar research Instalation. Those fact above are the proven role of WCPFC in Indonesia not only the regulation of conservation that been implicated, but also in the sector of maintenance that been train by

the WCPFC as the role of WCPFC to improve the conservation in the Indonesia territory.

b. The opportunities and the challenges of the Western and Central Pasific Fisheries Commission (WCPFC) to conserve the highly migratory fish,

The significant result of fisheries catches of Indonesian before and after join the Western and Central Pacific Fisheries Commission can be seen from the data that provide, the significant result showing that with join this organization, Indonesia gaining benefit on the increasing the catches of highly migratory fish, with joining the WCPFC Indonesia have a bigger position in the bargain to the International society especially the states that also get involve in the WCPFC organization, second Indonesia get a bigger beneficial in the economic matters, as the state that gives 30 percentage of Tuna, it can reached about USD 35.3 million of the big eye Tuna,[141] in the matter of the export activity.

The main challenge of WCPFC in Indonesia is the lack of sources of the comply ships that could exersice the territory of WCPFC, From the data we know that Indonesia itself only have 15 ships that comply to do the fisheries catches in the WCPFC territory. If we compare to the Chinese Taipei that have 1602 ships that operating in the WCPFC territory, we got less than 1% from Chinese Taipei. Eventough Indonesia itself is the state that the territory itself are directly cross bordering with the WCPFC area, but the this conditions not making Indonesia have a more opportunities in excersing the natural resources in this area, this lack of technology make Indonesia not optimally used the advantage of the location itself.

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[141] *Ibid* the Editorial of Expost News

B. Recommendation

For the recommendation, the amount of the vessels that comply to the Western and Central Pacific Fisheries Commission standard need to improved, the Government need to pay attention on this matter, because eventhough Indonesia have a strategic location in the WCPFC area, but if we have no sufficience technology to exercise it, than the natural resources (highly migratory fish) will be exploit by the other states.

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Mahasiswa sebagaimana tertulis diatas telah melakukan wawancara sebagai bahan untuk menyusun Skripsi dengan judul *"The Role of Western and Central Pacific Fisheries Comission to the Conservation and Management of Highly Migratory Fish in Indonesia"* pada Sekretariat Direktorat Jenderal Penguatan Daya Saing Produk Kelautan dan Perikanan, Kementerian Kelautan dan Perikanan, pada tanggal 9 Maret 2018.

Demikian surat keterangan ini, kami susun supaya dapat digunakan dan dimanfaatkan sebagaimana mestinya.

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