

**MINISTRY OF AGRICULTURE AND RURAL DEVELOPMENT  
LEGAL DEPARTMENT AND DEPARTMENT OF CAPTURE FISHERIES &  
RESOURCES PROTECTION**

**REVIEW OF VIETNAM'S LEGAL, POLICY AND  
INSTITUTIONAL ARRANGEMENTS IN LIGHT OF WCPFC  
REQUIREMENTS**

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## **ACRONYMS**

CCMs: WCPFC Commission Members, Cooperating Non-Members, and Participating Territories

CMMs : Conservation and Management Measures

EEZ : Exclusive Economic Zone

FAO : Food Agriculture Organization of the United Nations

DECAFIREP : Department of Capture Fisheries and Resources Protection

IUU : Illegal Unreported and Unregulated

MARD : Ministry of Agriculture and Rural Development

MHLC: Multilateral High-Level Conference on the Conservation and Management of the Highly Migratory Fish Stocks in the Western and Central Pacific

MOFI : Ministry of Fisheries

RFMO : Regional Fisheries Management Organization

RIMF : Research Institute for Marine Fisheries

TAC : Total allowable catch

UNCLOS: United Nations Convention on the Law of the Sea

UNFSA : United Nations Fish Stocks Agreement

WCPFC : Western and Central Pacific Fisheries Commission

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## **PREFACE**

The objective of report is to provide an overview and analysis of Vietnam's legal and policy system for the management of tuna fisheries and other migratory fish species by comparing with provisions laid in United Nations Convention on the Law of the Sea (UNCLOS), United Nations Fish Stocks Agreement (UNFSA) and the Western and central Pacific Ocean Convention (WCPFC), and identify divergences and gaps, and make recommendations for the improvement of such a system for better management of capture fisheries and aquatic resource protection in general, and the fishing of tuna/migratory species in Vietnam in particular, in light of real practices and provisions of UNCLOS, UNFSA and most importantly WCPFC. The draft report was discussed for comments and suggested changes at the Workshop on Vietnam's Legal, Policy and Institutional Arrangements for Tuna Fisheries Management, held in Hanoi on 17 and 18 June 2010.

## **I. INTRODUCTION**

Tuna and other migratory species are precious aquatic resources in the world. In order to conserve, maintain and rational exploitation of this resource, international community has laid down the legal binding regulations for adoption of relevant Agreements and international treaties like UNFSA and the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPF Convention)

There is a need for the review of Vietnam legal system and compare them with international legislation on the conservation and management of highly migratory species including tuna to see any shortage in management/conservation regulations for tuna and other migratory species. It will be used as basis for proposal to promulgate legal normative documents on conservation and management of tuna and other migratory species in Vietnam as well as for Vietnam's accession to the Western and Central Pacific Fisheries Commission (WCPFC).

## **II. TUNA FISHERIES IN VIETNAM**

Fisheries are one of rapid and dynamic economic sector of Vietnam. In recent years, number of fishing vessels and total main engine capacity has been increased. During 1994- 2009, total of main engine was up from 1,443,950 HP to 6,120,000 HP, an increase of 4.24 times higher. As a result, the catch productivity was also up from 878,474 tons to 2,013,000 ton with an increase of 2.29 times. By March 2010, fisheries sector has invested 19,629 fishing vessels with the capacity of more than 90 HP contributing to the increase in offshore catch proportion and high-value productivity. More than 70,000 jobs were created in offshore fishing sector.

To date, though the number of offshore fishing fleet was remarkably increased, the equipment for fishing vessels, fishing gear and fishing technology is still backward so the catch efficiency is low.

### **1. Status on tuna exploitation in Vietnam**

#### ***1.1. Major tuna species***

Major tuna species that contribute to the high productivity in capture fisheries of Vietnam include:

- Small-size tuna: *Katsuwonus pelamis*, *Auxis thazard*, *Euthynnus affinis*, etc. Main fishing gear used for exploitation of these species is purse seine net.
- Big-sized tuna: yellowfin tuna (*Thunnus albacares*) and bigeye tuna (*Thunnus obesus*). Main fishing gear for exploitation of these species is long line.

#### ***1.2. Size of tuna fishing fleet***

By March 2010, the total number of fishing vessels was 129,420 nationwide with total capacity of 6.12 millions HP. The fleets which are more than 90 HP are 19,629 vessels accounting for 15% of total vessel nationwide. The fleets which are less than 90 HP are 109,966 vessels, accounting for 85% of total vessels nationwide. Of which, the vessels with capacity of less than 20 HP account for 50% of total vessels throughout the country. It can be said that capture fisheries of Vietnam is still at small-scale and operate mainly in coastal areas. The vessels of more than 90 HP capacities, including those for tuna fishing, may operate in offshore waters within Vietnam's EEZ.

Currently, tuna fisheries mainly include purse seiners and long liners. Number of purse seiners and long liners which are demarcated in accordance with sea areas and engine capacity is reflected in table 1.

**Table 1. Number of tuna purse seiners and long liners demarcated as per sea areas and engine capacity.**

No	Tuna fisheries	Tonkin Gulf		Central region		South eastern region		South western region		Total
		<90	>90	<90	>90	<90	>90	<90	>90	
1	Purse seiners without light use	40	150	289	107	0	9	51	116	762
	Proportion (%)	5,2	19,7	37,9	14,0	0.0	1.1	6,7	15,2	100.0
2	Purse seiners with light use	34	249	2065	418	53	598	4	104	3525
	Proportion (%)	1.0	7,1	58,6	11,8	1,5	17,0	0,1	2,9	100,0
3	Long liner	0	0	584	632	5	47	0	0	1268
	Proportion (%)	0.0	0.0	46,1	49,8	0,4	3,7	0.0	0.0	100,0
<b>Total</b>		<b>74</b>	<b>399</b>	<b>2938</b>	<b>1157</b>	<b>58</b>	<b>654</b>	<b>55</b>	<b>220</b>	<b>5555</b>

*Source: DECAFIREP– 2009*

### ***1.3. Structure and equipment of tuna fishing vessels***

#### ***1.3.1. Tuna purse seiners***

In Vietnam, purse seiners generally are small size with the length of less than 25m. Net is cast in side so the speed of net bound is slow so that it is not able to catch the freely migrated stocks. Most of purse seiners use the light and pen in fishing. Number of fishing vessels catching tuna which hide under the floating things at sea is limited (accounting for 17.7% of offshore purse seiners).

The size of net is not large. The normal length is less than 750m and the height of the net is normally above 80m.

Technical equipment for tuna purse seiners is simple and not much mechanized. Purse seiners often have one winch. Few of them has hydraulic-power winch. Fish search techniques are backward. There are not many vessels to be equipped with sonar. Equipment for tuna purse seiners is not satisfied the requirements.

Fish caught from purse seiners are mainly small tuna species such as immature skipjack, spotted tuna, yellowfin and bigeye tuna (3-4 kg/individual) and other small-sized pelagic species.

### *1.3.2. Tuna long liners*

Most of long liners are small-sized with the length of 14-16m and capacity of less than 150HP. There are many types of long liners but the most developed one is ocean tuna long liners (main species are yellowfin and bigeye tuna).

Ocean tuna fisheries have been strongly developed in central regions namely Binh Dinh, Phu Yen, Khanh Hoa. However, the well-equipped vessels are owned by fishing companies in the south eastern region.

Due to small-size vessels, tuna catch is preserved by using ice. The fishing trip lasts 20-25 days so the fish quality is reduced and trip revenue is reduced to 30-40% compared to the preservation of fish by using cool marine water. Long liners of fishers has the lines of 40 km, equivalent to around 700-800 hooks.

In contrary, commercial tuna fishing fleet has been fully equipped with advanced technology and good freezing system for product preservation. The fleet may operate in the windy and wavy conditions in offshore areas within Vietnam's EEZ; fishing trip often lasts for 30-40 days. Main engine of the vessel is from 200 to 800 HP. The line of these vessels reaches 80-100 km, equivalent to 1,600-2,000 hooks. In Vietnam, there are around 40 long liners of this type.

### *1.3.3. Gill net vessels*

Gill net vessels are operating at small-scale. Their main products are small pelagic and ground fish in coastal areas. Though number of gill net vessels is large, the number of vessels with capacity of less than 90 HP accounts for 96% of total gill net vessels. Number of vessels with capacity of more than 90 HP is 1,320 vessels. However, there are only 20% of them operating in distant water and may fish tuna. Data on tuna caught by gill net fisheries is not available.

## ***1.4. Tuna fishing capacity of main fishing gear***

### *+ Purse seiners without using light*

This kind of net is used to surrounds fish and the stock hidden under the floating things at sea (trees, timber). There are 762 vessels of this kind accounting for 17.8% of total tuna purse seiners.

Due to small size vessel and net, and not well-equipped, these purse seiners cannot pursue and surround the moving tuna stocks. Main fishing ground is offshore areas.

The catch in each trip (1 month) of these vessels is 4-15 tons of fish, including yellowfin and bigeye tuna at small size (2-4 kg/individual) accounting for 8-15% of total productivity. Tuna of all kinds account for 50-70% and remaining is other kind of fish.

+ *Purse seiners with light use*

This fishery uses the fishing aggregation device (FADs) to attract fish and surrounds the fish stocks. Main fishing ground is in coastal areas with the water depth of less than 50m.

Operational principle of these vessels is suitable with the current small-sized purse seiners of Vietnam so it is commonly found in all sea areas. There are 3,525 vessels of this kind accounting for 82.2% of total vessels.

The productivity of each trip is around 20-40 tons (for purse seiners of more than 350 HP), of which tuna accounts for 18- 35% of total catch, the remaining is other kind of fish. Yellowfin and bigeye tuna is scarcely caught in this fishery (except for vessels operating offshore in submerged mound).

+ *Tuna long line fisheries:*

Fishing ground of ocean tuna long line fisheries is distant water in the central and south eastern region. Depending on the capacity of vessels, the effectiveness will be different but on average the catch of each vessel reaches from 0.8 to 1.3 ton/vessel/trip (each trip lasts 14 - 24 days) and in particular, some vessels gain 2.5 - 3 tons/trip.

As the catch composition of tuna long line fisheries, yellowfin tuna accounts for 15% of total catch and bigeye tuna accounts for 10.5% and remaining is other kind of fish.

### ***1.5. Tuna catches in Vietnam***

Annual statistics in Vietnam just provided the pooled data for all kinds of fish. There is no data on catch classified by fish species, fishing gear and areas. As a result, annual tuna catch is not updated and this information is deficient.

Table 2 shows that tuna catch of all kinds and total catch of Vietnam fisheries during 2001-10/2004.

**Table 2. Tuna catch over years**

No	Year	Tuna catch (1)	Total catch (2)	Proportion %
1	2001	15,800	1,347,800	1.17
2	2002	30,900	1,434,800	2.15
3	2003	17,500	1,426,223	1.22
4	10 months of 2004	15,772	1,724,200	-

Unit: ton  
 Source: (1) FAO, 2003 (2) MOFI, 2004

Captured productivity of yellowfin and bigeye tuna during 1999- Jan to Apr/2005 is shown in table 3.

**Table 3. Ocean tuna catch (yellowfin and bigeye tuna) during 1999-4/2005.**

Year	1999	2000	2001	2002	2003	2004	1-4/2005
Ocean tuna catch	1,100	1,800	1,750	1,750	3,480	4,150	2,300

Tuna catch over years has reached 15.000 tons/year to 30.000 ton/year; accounting for 1.17-2.15 % of total fish productivity nationwide.

Relating to capture capacity, Vietnam purse seiners are of small scale and backward technology. Main fishing ground is coastal areas so the tuna productivity is low. Tuna resources were exploited under potential in EEZ of Vietnam.

### **1.6. Tuna resources**

The assessment of tuna resources has been conducted under some research programs but these programs are short-term and not consecutively done so the study results are only as initial stage. In the coming time, it is necessary to further study in order to assess the stock availability and capture capacity in more accurate manner.

In light of research results of RIMF in 2004, the availability of big pelagic stocks in the central and south eastern region in 2004 was estimated at 1,156,000 tons and sustainable exploitation potential was 405,000 tons, of which tuna species accounted for 65%.

Synthesized data on the survey on skipjack stocks in central and south eastern region in 2004 showed that the skipjack stocks were around 618,000 tons and maximum sustainable yield was 216,000 tons. Availability of yellowfin and bigeye tuna was 44,850 – 52,590 tons and the maximum sustainable yield is of 17,000 tons. These show that there is high potential in

skipjack exploitation. This confirms that though there is large number of purse seiners, it is still not able to catch skipjack stocks.

## **2. General comments**

- The number of tuna fishing vessels in Vietnam is of small scale with backward and low mechanized equipment that leads to limited fishing efficiency.
- Most of purse seiners operate in coastal areas (with a depth of less than 50m) so the exploitation is under potential, especially those catching skipjacks.
- Fishing technique of purse seiners and long liners is weak. In the future, it needs further improvement.
- Currently, petrol price is high that remarkably affects the economic effectiveness of tuna fishing fleet.
- Vietnam fisheries statistics system does not provide necessary information to serve the tuna management in particular and capture fisheries management in general.
- Offshore fisheries resources should be further surveyed to establish the fishing ground maps. Remote sensing techniques should be applied to predict tuna fishing grounds in order to increase the exploitation effectiveness and reduce the cost for exploration of fish, and in the mean time, determine catch limits for better utilization and conservation of resources.
- Offshore fleet should be modernized gradually. Advanced technology in offshore fishing should be applied by 2020 to modernize the offshore fleet.

## **III. OVERVIEW OF INTERNATIONAL INSTRUMENTS – UNCLOS AND UNFSA**

### **1. UN Convention on the Law of the Sea 1982 (UNCLOS)**

Vietnam ratified the Convention in 1994.

The Convention covers issues around living marine resources conservation and management of highly migratory species.

- Article 61 UNCLOS provides the conservation measures of aquatic resources including tuna and other migratory species that coastal States have to comply with, such as:

+ Designate the total allowable catch (TAC) volume of aquatic resources in respective EEZ.

- + Based on reliable data, carry out appropriate measures on conservation and management to maintain the aquatic resources in their EEZ that are not affected by overexploitation. Coastal States and competent international organizations, sub-regional organizations globally or regionally shall cooperate to pursue this objective. Those measures shall include ecological and economic factors, considering the fishing methods and interaction relations among stocks and minimum international regulations proposed at global, regional or sub-regional levels.
- + Disseminate and discuss scientific information, relevant data on the exploitation and fishing effort and other data related to the conservation of stocks with the competent international organizations, sub-regional or global organizations and if appropriate, conduct this with the participation of all relevant nations, especially nations which their nationals are allowed to fish in EEZ.
- Article 62 regulates the maximum exploitation of marine resources without prejudice to the conservation of these resources. Coastal State shall identify their capacity in the exploitation of marine resources in EEZ. If the fishing capacity is below the TAC, coastal State shall allow other nations to fish the remaining quota (by applying treaties or other arrangements and in accordance with modality, conditions and regulations of Convention of the Law of the Sea, especially it may regulate the issues stated from point i to k under paragraph 4 of this Article related to licensing, tax payment, allowable catch species, allowable catch of each vessel in certain period of time, fishing seasons, size and quantity of fishing methods, observer program, unloading of catch, cooperation modality, training and technological transfer of fishing techniques or promotion of fisheries development by coastal State and compliance measures). Coastal states shall inform the regulations and legislation related to conservation and management measures as per procedures.
- Article 63 provides for the stocks in the EEZs of several coastal states or are available at the same time in EEZ and areas adjacent to EEZ.
  - + When a stock or stocks are available in EEZs of several coastal states, these States shall try, directly or through intermediaries of regional or sub-regional organizations, to negotiate on the necessary measures to cooperate or ensure the conservation and development of such stocks.
  - + When a stock or stocks are available in EEZs and an areas adjacent to that areas, coastal State and other States which exploit these stocks in adjacent areas shall try,

directly or through intermediaries of regional or sub-regional organizations, to negotiate on necessary measures to conserve these stocks in adjacent areas.

- Article 64 on highly migratory species states that: coastal States and States which have their nationals fish in areas where the highly migratory species are available as stated in Annex I (including tuna) shall directly or through intermediaries to cooperate in order to ensure the conservation of these stocks and promote the maximum exploitation of those species in the region and in areas outside EEZ. In areas where the appropriate organization is available, coastal State and other States which have their nationals to fish these stocks shall cooperate with each other to set up an organization and to take part in this organization.

- Article 116 on the Fishing right in the high seas regulates that all States have rights to allow their national to fish in the high seas with conditions that:

+ They have to comply with obligations stated in the Convention.

+ They have to respect the rights and obligations and interests of Coastal States.

- Article 117 regulates the Obligations of States which have measures to conserve marine resources imposed on their nationals: All States shall have obligations that may be necessary to be applied to their nationals in order to ensure the conservation of marine resources or shall cooperate with other States in the establishment of such measures.

- Article 118 regulates the Cooperation of states in the conservation and management of marine resources. States shall cooperate in the conservation and management of marine resources in the high seas. States which have nationals to fish the different species in the same region or to fish the same marine resources shall negotiate on the necessary measures to conserve those resources. To this end, if appropriate, these States shall cooperate to establish regional or sub-regional fishing organizations.

- Article 119 regulates the Conservation of marine resources of the high seas

+ National issues shall be conducted where making regulation on the allowable catch and comply with other measures to conserve the marine resources such as they have to rely on the best scientific data with consideration of ecological and economic factors, fishing methods and interactive relations among stocks and minimum international regulations that are proposed in regional, sub-regional or global level, with due care of affect of these measures on the composition species with exploited stocks or dependant species.

+ Best scientific data, statistics related to the capture and fishing capacity and other relevant data related to conservation of fish stocks shall be disseminated and discussed regularly through intermediaries of international regional, sub-regional or global organizations with the participation of relevant States.

+ Relevant States shall take care that the conservation measures and the adoption of such measures shall not create any discrimination in legal or actual context on any fishers, irrespective of their nationality.

## **2. UN Fish Stocks Agreement (UNFSA)**

The agreement addresses the measures to comply with regulations of LOSC on conservation and management of highly migratory fish stocks, cooperation strengthening among States, settlement of overexploitation in some places, illegal fishing, over-capacity fleet, unregulated fishing gear use, unreliable data and the lack of cooperation among States. The agreement also identifies the need for technical and financial assistance to development States so that they could effectively manage, conserve and use the highly migratory stocks and straddling fish stocks in sustainable manner. Even though Vietnam is currently not a party to the Fish Stocks Agreement and has not yet signed the Agreement, it is nevertheless a party to UNCLOS. Therefore, Vietnam is still legally bound to the more general obligations in UNCLOS that relate to the management and conservation of highly migratory fish stock, including cooperation (Article 4). This Agreement is not only applied to the conservation and management of highly fish stocks and straddling fish stocks in the high seas but Articles 5, 6, 7 and part VII apply to the conservation and management of above stocks in the waters under jurisdiction of coastal States (Article 3).

- Article 5 regulates that coastal States and fishing nations at high seas shall be responsible for cooperation in accordance with UNCLOS in order to conserve and manage stocks, by adopting the best scientific measures to ensure the sustainability of fish stocks and best use of these stocks and to apply precautionary approach (stated in Article 6). They shall assess the impact of fishing activities and other factors related to the stocks, reduce of pollution, by-catch and abandoned gear, non-target species especially endangered species by using selective gear. They shall protect the biodiversity of the marine environment, carry out measures to avoid overexploitation and pay attention to the interest of artisanal fishers, shall collect and share data on fishing activities and national and international study programs to promote the technological and scientific development to serve the conservation and management of fisheries resources; shall control and inspect the compliance.

- Article 6. *Application of the precautionary approach*: States shall apply the precautionary approach widely to conservation, management and exploitation of fish stocks, namely.

- + Be more cautious when information is uncertain, unreliable or inadequate, but shall not fail to take conservation and management measures.

- + Improve decision-making for fishery resource conservation and management by obtaining and sharing the best scientific information available and implementing improved techniques for dealing with risk and uncertainty;

- + Take into account reference points for conservation and management objectives based on best scientific information available and actions to be taken when the stocks are overfished

- + For new fisheries, States shall adopt as soon as possible cautious conservation and management measures, including, inter alia, catch limits and effort limits. Such measures shall remain in force until there are sufficient data to allow assessment of the impact of the fisheries on the long-term sustainability of the stocks

- Article 7 addresses the requirement on the harmonization between conservation and management measures through cooperation among coastal States and fishing nations in the high seas (Article 8), assurance of the compatibility between conservation and management measures in the high seas and waters under national jurisdiction of coastal States considering the interaction between coastal States and high seas fishing nations. Coastal States shall regularly inform the high seas fishing nations at regional or sub-regional levels on the measures that the states apply to conserve and manage the fish stocks in the waters under national jurisdiction (directly or through RFMO). High seas fishing nations shall regularly inform other States related on their measures to cover the operations of their flag vessels in high seas.

- Part III of UNFSA provides for the international cooperation on highly migratory fish stocks and straddling fish stocks, covering from Article 8 to 16.

- + In Article 8 on cooperation in conservation and management: paragraph 3 states that coastal states and high sea fishing nations shall have duty to cooperate to become member of regional or sub-regional fisheries management organizations or arrangements, or shall agree to apply conservation and management measures which is laid down by these organizations or arrangements. Paragraph 4 regulates that only State members of these organizations or arrangements shall agree to apply the

conservation and management measures which were formulated by them that they have chance to have access to fisheries resources which were covered by these measures (paragraph 2 Article 17 provides more specific regulations).

+ Article 14 makes specific regulations on Collection and provision of information, cooperation in scientific research.

- Part V of UNFSA relates to the obligations of flag States in the control of their flag vessels at high seas to ensure that these vessels comply with conservation and management measures and to apply the management measures of these vessels by granting licenses, to prohibit these vessels to fish in the high sea or in other waters without license, to establish national register to allow high sea fishing, to conduct marking of vessel and gear in uniform and easily-recognized manner, logbook keeping and timely reporting of fishing data as per global, regional, sub-regional standards.

- Part VI of UNFSA regulates the compliance of the Agreement: Article 19 addresses that states should ensure the prompt inspection and treatment of their flag vessels which violates the regulations related to conservation and management of fish stocks. When the violation is committed in high sea, national legislation should provide regulations to prohibit violated vessels to fish in the high seas until the sanction measures have been fully applied. Article 20 and 21 address International, regional or sub-regional cooperation in order to ensure the compliance with conservation and management measures in region or sub-region. The applied measures by port States are stated in Article 20 of UNFSA. Inspection procedures are addressed in Article 22. Measures applied by port states are stated in Article 23.

- Part VII of UNFSA addresses Requirement of development states in the compliance of Agreement - (from Articles 24 to 26). This part covers the cooperation modality with development countries and the assistance provided to comply with the Agreement.

- Part VIII of UNFSA relates to Peaceful settlement of disputes and states that the dispute settlement shall be undertaken by peaceful measures (Article 27), dispute settlement procedure is undertaken according to Part XV of UNCLOS (Article 30).

- Part XI of UNFSA relates to Non-party States of the Agreement addresses in Article 33 that: State parties of the Agreement encourage non-member States to become member of the Agreement and shall issue legislation harmonized with regulations of Agreement. State members shall apply appropriate measures to deter the operations of vessels which fly the flags on non-member States that affect the compliance with the Agreement.

## **IV. ANALYSIS OF WCPF CONVENTION AND CONSERVATION AND MANAGEMENT MEASURES**

Presently there are 9 regional fisheries management organizations in the world which have duties to manage the highly migratory fish stocks which migrate from EEZ to high seas or straddling fish stocks. In consideration of its spatial scope of application, Vietnam has an immediate interest in the WCPF Convention. Under the Convention, the WCPFC was set up to conserve and manage the fisheries resources in this sea area. The Convention was effective in 19/6/2004. Vietnam is cooperating non-member (CNM) of WCPFC for 2010.

### **1. WCPF Convention**

- Highly migratory fish stocks covered by WCPFC are those stated in Annex I of UNCLOS and other species that may be identified by the Commission (point f Article 1).
- The Convention Area is specified in Article 3, which does not have an agreed Northern and Western boundary and that it is therefore not clear whether or not the South China Sea and Vietnam's EEZ zones are included. (This is the issue attracting the workshop participants' concerns when analyzing WCPFC requirements for members and cooperating non-members to apply within their EEZs that form a part of the Convention Area as stated in Articles 5 and 6). However, it was noted by the MHLC Chairman in his closing statement: "It is important to clarify in this regard that the Convention applies to the waters of the Pacific Ocean and in particular on the western side it is not intended to include the waters of the South China Sea as this would involve States which are not participants in this Conference."
- The objective of the Convention is to effectively manage, conserve and use of highly migratory fish stocks in Western Central Pacific in accordance with UNCLOS and UNFSA (Article 2 and 4).
- Principles and conservation and management measures (Article 5) and application of precautionary approach (Article 6) of WCPFC are set out in accordance with regulations stated under UNFSA.
- Article 7 of WCPFC reads that: coastal States shall apply principles and conservation and management measures stated in Article 5 within national jurisdiction waters in Convention Area for the purpose of exploration, exploitation, conservation and management of highly migratory fish stocks. The assistance need of developing coastal States shall be considered by members of Commission in the application of Articles 5 and 6.

- Article 8 regulates the management and conservation measures which were set up in the international sea and waters under jurisdiction of States shall be compatible with each other to conserve and manage highly migratory fish stocks. Coastal States shall ensure the measures adopted and approved by the States shall not reduce the effectiveness of the measures approved by WCPFC Commission related to the same fish stocks.
- Articles from 9 to 23 of Chapter III of WCPFC regulate the Committee for conservation and management of highly migratory fish stocks in Western Central Pacific.
- Article 24 of chapter IV of WCPFC regulates the Obligations of flag States that they shall have measures to ensure the compliance of their flag vessels with regulations provided for by WCPFC and conservation measures approved by WCPFC without prejudice to WCPFC measures. Members of the Committee shall only be authorized to use their flag vessels to fish in the Convention Area which stays outside the national jurisdiction when those members may effectively carry out their duties over those vessels as per UNCLOS, UNFSA and this Convention;...
- Chapter V of WCPFC regulates the Compliance issue: Article 25 specifically provides for the treatment duties of members of Committee over the flag vessels when they violate the regulations of WCPFC in Convention Area or take part in illegal fishing in waters under jurisdiction of member States of the Committee. Article 26 regulates the boarding and inspection in international waters within Convention Area. Article 27 laid down the measures applied by Port States to enhance the validity of conservation measures at regional, sub-regional and global levels.
- Article 29 Chapter VII related on Transshipment. It regulates that members of the Committee shall encourage their flag vessels to transship at the port designated by the Committee. The transshipment in the high seas shall be conducted in accordance with Article 4 of Annex III of the Convention and the transshipment of purse seiners is banned.
- Article 32 Chapter X related to non-parties of this Convention regulates that each member of the Committee shall adopt the uniform measures as per UNFSA and this Convention as well as international legislation to deter vessels which fly the flags of non-parties of this Convention to join the operations that reduce the effectiveness of the conservation and management measures which were adopted by the Committee. Non-parties of the Convention which have vessels fishing in Convention Area shall require those vessels to conduct the conservation and management measures adopted by the Committee. Non-parties members but cooperating ones shall enjoy the interests from the fishing that committed to the compliance

and dossiers acknowledging the compliance of conservation and management measures done by these States.

## **2. WCPFC Conservation and Management Measures (CMMs)**

Up to now, WCPFC adopted many Conservation and management Measures (CMMs) in Convention Area. Objective of the CMMs is to provide to CCMs guidelines for their fishing operations in the Convention Area to achieve the goal of the Convention. Some important CMMs are listed below for the reference to the Vietnamese fisheries.

+ CMM 2006-03: This measure is applied to striped marlin in south western Pacific. It restricts the number of fishing fleets to fish marlin fish in the Convention Area at S 15o latitude during 2000-2004.

+ CMM 2006-09: Conservation measures to set up the list of fishing vessels are considered to have taken part in IUU fishing in the Western Central Pacific. OF which, it identifies which IUU is such as: harvest of species stated in the Convention at the Convention Area and not listed in the records of WCPFC on the fishing vessels that are allowed to fish, or the fishing in the waters under national jurisdiction of one State without the permit granted by that State; not keeping logbook or misreport of fish caught in the Convention Area as required by WCPFC; receiving and landing of fish with smaller size than regulated by WCPFC; fishing in closed time as regulated by WCPFC; use of banned fishing gear as regulated by WCPFC; as well as the setting up of IUU vessels or deletion from IUU vessel list.

+ CMM 2006-02 (Conservation and management measure to mitigate the impact of fishing for highly migratory fish stocks on seabirds): Commission Members, Cooperating Non Members and participating Territories (CCMs) shall, to the extent possible, implement the International Plan of Action for Reducing Incidental Catches of Seabirds in Longline fisheries (IPOA-Seabirds) if they have not already done so. CCMs shall report to the Commission on their implementation of the IPOA-Seabirds plans, and are encouraged to ensure that seabirds captured alive during longlining are released.

+ CMM 2007-02: Noting the importance of the satellite-powered vessel monitoring system as a tool to effectively support the principles and measures for the conservation and management of highly migratory species within the Convention Area. From 1 January 2008, VMS system has commenced and applied to all vessels in access of 24m in length.

+ CMM 2007-03: Reiterating that FAO had adopted International Plan of Action to combat IUU fishing (IPOA-IUU).

- + CMM 2008-02: Cooperating non-members. Encouraging non-members that fish in the convention area to become CNMs and to adopt WCPFC CMMs, setting forth requirements to CNMs.
- + CMM 2008-04: Prohibiting the use large-scale drift nets (more than 2.5 km in length) on the high seas in the Convention Area; CCMs shall take all measures to prohibit their fishing vessels from using such nets the ghost-fishing by lost/discarded drift nets.
- + CMM 2009-02: Specifying the FAD closure in the high seas between 20<sup>0</sup>N and 20<sup>0</sup>S of the Convention Area to limit the negative impacts of purse seine.
- + CMM 2009-07 (Conservation and Management Measures for Pacific Bluefin Tuna): Aimed to temporarily ensure that the current level of fishing mortality rate is not increased in the Convention Area, by controlling over-fishing efforts. The Commission Members, Cooperating Non-Members and participating Territories shall take measures necessary to ensure that total fishing effort by their vessels fishing for northern Pacific bluefin tuna in the area north of the 20 degrees north shall not be increased from the 2002-2004 level for 2010, except for artisanal fisheries. In taking such measures, CCMs shall take account of the need to reduce the effort on juvenile (age 0-3) to the 2000-2004 level; take measures necessary to strengthen data collecting system for the northern Pacific bluefin tuna fisheries in order to improve the data quality and timeliness of data reporting, etc.
- + CCM 2008-06 (Conservation and Management of Sharks): Commission Members, Cooperating non-Members, and participating Territories (CCMs) shall implement, as appropriate, the FAO International Plan of Action for the Conservation and Management of Sharks; minimize waste and discards from shark catches, and encourage the live release of incidental catches of sharks; annually report to the Commission key shark species, annual catch, fishing effort by gear type; discarded catches; the Commission shall consider appropriate assistance to developing State Members and participating Territories for the implementation of the IPOA and collection of data on retained and discarded shark catches.
- + CCM 2008-01 (Conservation and management measure for bigeye and yellowfin tuna in the Western and Central Pacific Ocean): Aimed to achieve the target that over a three-year period commencing in 2009, a minimum of 30% reduction in bigeye tuna fishing mortality from the annual average during the period 2001-2004 or 2004; Ensure that there is no increase in fishing mortality for yellowfin tuna beyond the annual average during the period 2001-2004 average or 2004; specifying general measures and those (including for purse seine) for 2009. CCMs shall take measures to reduce the mortality of big-eye tuna juvenile in purse seine

fishery; purse seine operations are banned from use in the high seas between 20°N and 20°S; The purse seine fishery in EEZs in the area bounded by 20°N and 20°S shall be closed to fishing on FADs between 0000 hours on 1 August and 2400 hours on 30 September. During this period all purse seine vessels required to carry an observer from the Regional Observer Program on board, etc.

- + CMM 2008-03: Conservation and management of sea turtles;
- + CMM 2006-07: Regional monitoring program;
- + CMM 2006-08: WCPFC boarding and inspection procedures
- + Some other CMMs are attached in Annex 3 to this report.

## **V. REVIEW OF RELEVANT VIETNAMESE POLICIES, LAW AND REGULATIONS IN LIGHT OF WCPFC REQUIREMENTS**

### **1. Overview of Vietnamese policies, laws and regulations related to tuna fisheries within and beyond areas under Vietnam's jurisdiction**

Fisheries or related fisheries activities in general and tuna fisheries in particular are consisting of many components as pointed out on item 2, article 2 of Vietnamese Fisheries Law. In order to review and compare Vietnamese tuna fisheries legislation system with regional and international legal frameworks, as mentioned in Chapters III and IV of this Report, we will only limit the aspects of tuna fisheries in this report to: Exploitation, conservation and development of tuna resources; Tuna quality management and export.

Although there is not any specific legislation to tuna fisheries management in Vietnam, there are some sections in the legal frameworks for general fisheries management have been considering to the tuna fisheries management.

In the scope of present report we are going to review Vietnamese legal, policy and institutional arrangements to tuna fisheries management and these comparisons are totally based on Vietnamese fisheries laws as well as other related legislation documents. However, there is no need to review parts of the Vietnamese fisheries law that are already in compliance with regional and international legal frameworks.

The Fisheries Law in 2003 stipulated on exploitation and conservation of fisheries resources consisting of Chapter II stipulating about development and conservation of aquatic resources, Chapter III regulation on fisheries exploitation, Chapter V regulation on fishing boat and

fisheries logistical service management, Chapter VII stipulation about collaboration to develop fisheries sector. The above four chapters regulated specifically on habitat protection for aquatic species; Conservation, protection, renewal and development of aquatic resources; Planning and management of inland reserves, and marine protected areas; Funding resources for aquatic resource renewal; Principles for capture fishery; Offshore fishery; Inshore fishery; Survey and research on aquatic resources; Fishing area management; Fishing licenses; Conditions for granting fishing licenses; Revocation of fishing licenses; Fishery reporting and logbook keeping; Rights and obligations of fishing organisations and individuals; Prevention, combating and mitigation of natural disaster impacts on capture fishery; Development of fishing fleet; Building and repair of fishing vessels; Registry of fishing vessels; Registration of fishing vessels and crew members; Fish port, landing sites, typhoon shelters of fishing vessels; Fishing activities in the waters beyond Vietnam's jurisdiction; Foreign fishing vessels operating in Vietnam's marine waters; Prohibited acts in capture fishery and aquatic resource protection

The Fisheries Law applies to all fisheries and the related fisheries activities. The law comprise many policies and basic principles for general fisheries management and of those tuna fisheries are very important fisheries for national economic development strategies and thus they need to be regulated for sustainable development purposes and responsible fisheries. In the current system, specific provisions are expected to be issued in sub-law regulations.

### ***1.1. Scope and subjects of application of the Fisheries Law***

According to Article 1: *“This Law shall apply to fishery activities of Vietnamese organizations and individuals and foreign organizations and individuals on the land, islands, in the internal waters, the territorial sea, the exclusive economic zone and continental shelf of the Socialist Republic of Vietnam.*

*In cases where the international agreements which the Socialist Republic of Vietnam has signed or acceded to contain provisions different from those of this Law, the provisions of such international agreements shall apply.”*

Thus, article 1 is not obviously indicating whether or not the Fisheries Law applies and regulates Vietnam's organizations and individuals acting in areas beyond Vietnam's jurisdiction, namely the high seas and the maritime zones of other coastal States.

Meanwhile, Article 48 (2) states that *The Government shall perform the uniform management of Vietnamese fishing ships operating outside Vietnam's seas*. The Government has also issued Decree 33/2010/ND-CP regulating the operations of Vietnamese individuals and organisations in different sea waters (replacing Decree 123/2006/ND-CP), in which the scope of regulation in Article 1 is stated to cover both the waters within and outside Vietnam's jurisdiction. In this way, there is a clear inconsistency within the provisions of the Fisheries Law on its application scope.

Further, UNCLOS, UNFSA and WCPFC all regulate conservation and management measures for living marine resources (including highly migratory species) in the waters within and outside the national jurisdiction that Vietnam is obliged to take.

Therefore, it is necessary to adjust this item in order to make sure that the Fisheries Law can take into consideration on Vietnam's organizations and individuals operating not only in Vietnamese waters but also high seas and waters of other States' jurisdiction.

Article 1 does not also provide whether Vietnam has to comply to the obligations set forth in the international agreements to which Vietnam has not been a party. Paragraph 2 of Article 1, therefore, should be either omitted or fully supplemented.

## ***1.2. Definition of fishing vessel***

Item 9 of the Fisheries Law regulates that *the fishing vessels are vehicles that are used for purposes of exploitation, aquaculture and processing and preservation of fisheries products*. This definition does not include other types of vessels like carriers and logistical vessels. While WCPFC defined that the fishing vessels are vessels which are used and/or intended to use for purposes consisting of exploitation, transportation, carriers, and vessels that are indirectly or directly involved in fisheries activities.

The amendment of this definition should be based on WCPFC Article 1(e) that states *“fishing vessel” means any vessel used or intended for use for the purpose of fishing, including support ships, carrier vessels and any other vessel directly involved in such fishing operations”*

Further, the concept of “floating structure, which may be used for aquaculture purposes” indicated in the definition, should also reviewed to make it suitable for fishing vessel registration and technical inspection.

### ***1.3. Stipulation on ownership of aquatic resources***

Article 3 of the Fisheries Law states “aquatic resources constitute a natural resource under the ownership of the entire people and the uniform management by the State. Organizations and individuals shall have the right to exploit aquatic resources under the provisions of law.”

This provision is appropriate for the aquatic resources that occur in the terrestrial area, islands, internal waters, territorial sea, EEZ and continental shelf of Vietnam, but not suitable for the ownership of aquatic resources in the waters out of Vietnam’s jurisprudence, where the fishing activities are not primarily regulated by Vietnam’s legal system (see Article 116 UNCLOS on the fishing rights in the high seas).

### ***1.4. Principles of fishery activities***

- Article 4 provides three principles of fishery activities. Paragraph 1 states *”To ensure economic efficiency in association with the protection, reproduction and development of aquatic resources as well as bio-diversity; to protect the environment and natural landscapes. The development of different domains in fishery activities must comply with the national and local fishery sector development planning and plans.”*

This paragraph should be supplemented with the requirements to protect ecosystems, besides the combination of environment and bio-diversity conservation, especially vulnerable marine ecosystems (e.g. coral reefs, vegetation, etc.), to be compatible with:

+ UN General Assembly’s Resolution 61/105 that *“calls upon States to take action immediately, individually and through regional fisheries management organizations and arrangements, and consistent with the precautionary approach and ecosystem approaches, to sustainably manage fish stocks and protect vulnerable marine ecosystem... recognizing the immense importance and value of deep sea ecosystems and the biodiversity they contain”*

+ One of UNFSA’s objectives is *to avoid adverse impacts on marine environment, avoid adverse impacts on the marine environment, preserve biodiversity, maintain the integrity of marine ecosystems and minimize the risk of long-term or irreversible effects of fishing operations.* Its Article 5(g) provides that States have duties to cooperate in *protection of biodiversity in the marine environment.*

+ One of WCPFC objectives is *to avoid adverse impacts on the marine environment, preserve biodiversity, maintain the integrity of marine ecosystems and minimize the risk of long-term or irreversible effects of fishing operations.*

- Article 11 (Fisheries Law) specifies the principles of fishing operations as follows:

*“1. The fishing operations conducted at seas, in rivers, lakes, lagoons and other natural waters must not lead to the depletion of fisheries resources; shall be done in compliance with regulations relating to fishing seasons, fishing time, fishing grounds, permitted types and sizes, annual allowable catch and shall comply with the provisions stated in this Law and other relevant legislation.*

*2. The fishing gear and fishing vessels used shall have sizes suited to the permitted fish species.”*

+ Article 11(1) states that the fishing operations shall be done in compliance with regulations relating to fishing seasons, fishing time, fishing grounds, permitted types and sizes, annual allowable catch. TAC is a means to maintain the catches at reasonable level for preservation of aquatic species and sustainable development of fishing operations. Article 14(2) on Survey and Research of Fisheries Resources (see paragraph 1.12 of this report) gives mandate to the Ministry of Fisheries (now MARD) to determine TAC for different marine waters and fishing grounds. However, to date Vietnam has not piloted any model for granting TAC to any species. Other considerations to TAC application in fishing operations may include the relationship between TAC and 'reliable scientific advice' on resource capacity, TAC allocation for the number of permitted fishing vessels for specific fishery and species, differentiated quota for groups of fishing vessels, measure to prevent the disposal of low-value by-catches and discards when applying TAC, catch monitoring, catch logbook, sanctions imposed on over-quota fishing, roadmap for quota application.

Besides the application of quotas and limitation of inputs, technical provisions as prescribed in Article 8(3) of the Fisheries Law are important to promote responsible management. Technical requirements are crucial in minimizing adverse consequences to ecosystems and ensuring that fishing operations are species-effective. Those provided in Circulars 02/2006/TT-BTS and 62/2008/TT-NNN should be reviewed and improved with further specifications for tuna fishing.

+ It is apparent that the principles for fishing operations are a microcosm of overall fisheries principles for capture fisheries, so they should be amended to reflect the consistency with three major principles laid in Article 4, as paragraphs (1) and (2) of Article 11 only refers to specific provisions of fisheries resources protection and restoration principles.

### ***1.5. Sustainable fisheries development (Article 5)***

Article 5 shows that Vietnam has exerted special considerations to protection, effective utilisation and renewal of fisheries resources. Also, the State ensures the sustainable

development of fisheries sector through its strategies and master plans. It is fair to conclude that Article 5 of the Fisheries Law is in line with international instruments and those issued by WCPFC. However, specific regulations and guidance are needed for the conduct of resource survey, TAC development, and resource information sharing by cooperating with other countries in the region for protection of straddling and highly migratory species.

+ Relating to this Article, the Prime Minister has issued Decision 10/2006/QĐ-TTg approving the General Master-plan for Fisheries Development until 2010 and orientation to 2020, that aims to reach the target of 1.5-1.8 million tons of capture production and limits the number of fishing vessels by 2010 at 50,000.

+ The Prime Minister also issued Decision 150/2005/QĐ-TTg approving the National Masterplan for Structure Transformation of Agriculture, Forestry and Fisheries Production until 2010 and orientation to 2020.

### ***1.6. Prohibited activities and species (Article 6)***

Article 6 of the Fisheries Law provides the prohibited activities and species, including illegal exploitation and destruction of coastal ecosystems, coral reefs; exploitation of fish species in the prohibited list or in smaller size than regulated; encroachment or illegal intrusion of inland protected areas or marine parks; environmental pollution; use of destructive gears and methods, etc. However, this article does not provide for all illegal fishing operations with or without sanctions. Vietnamese vessels' operations in international waters should also be reflected in light of international and WCPFC's provisions.

### ***1.7. Habitat protection***

*Article 7 of the Fisheries Law states:*

#### ***“Article 7: Habitat protection***

- 1. Organizations and individuals shall be responsible for the protection of aquatic habitat.*
- 2. Organizations and individuals conducting fisheries activities and other activities that directly affect the aquatic habitat, migration, spawning of fish species shall comply with provisions as set out by this Law and other legislation dealing with environmental protection, water resources and other relevant legislation.*
- 3. Organizations and individuals while setting up, altering or destroying the constructions related to aquatic habitat, migration, spawning of fisheries resources shall conduct environment impact assessment as set out by legislation dealing with environmental protection.*

*4. Organizations and individuals while fishing by setting barriers, set nets in rivers, lakes, lagoons shall have to spend a corridor areas for the movement of fisheries resources as regulated by local People's Committees."*

As such, Article 7 prescribes in-depth the habitat protection for aquatic species, but it still needs specific regulations that reflect international agreements on:

- Prohibition of disposal of garbage, wastes and low-value fish to the sea.
- Prohibition of gear abandonment.
- Prohibition of operations of hazardous fishing gears and methods.

### ***1.8. Conservation, protection, rehabilitation and development of fisheries resources***

*Article 7 of the Fisheries Law states:*

*"Article 8: Conservation, protection, rehabilitation and development of fisheries resources*

*1. The State shall issue policies regarding the conservation and protection of fisheries resources, particularly of the endangered, rare and precious ones and ones that have economic value and scientific importance; shall encourage the scientific research for suitable measures to develop fisheries resources; shall invest in production of fish fry for releasing into their natural habitat and shall create artificial residence places in order to rehabilitate and develop fisheries resources.*

*2. Organizations and individuals shall be responsible for conservation, protection, rehabilitation and development of fisheries resources as set out by this Law and other relevant legislation.*

*3. Ministry of Fisheries shall periodically proclaim the followings:*

*a. The list of aquatic species which are named in the Red Book of Vietnam and other species prohibited to be fished; the list of aquatic species which are prohibited to be fished in time-limited manner and the closed time as well.*

*b. Fishing methods, types of fishery and fishing gear which are prohibited to be used or are restricted to be used;*

*c. Minimum size and type of aquatic species which are allowed to be fished and fishing seasons;*

*d. Closed areas and time-limited closed areas.*

*4. In case of necessity and with the acceptance of Ministry of Fisheries, the People's Committees of provinces and cities under central level (hereinafter referred to as "provincial People's Committee") shall proclaim the supplement to the regulations made in paragraph 3 of this Article to make it suitable with practical fishing operations in their provinces."*

- For implementation of Article 8 (1) relating to the issuance of State's policies:

+ The Prime Minister issued Decision 131/2004/QĐ-TTg approving the Program for Protection and Development of Fisheries Resources until 2010, that set forth specific policies for priority projects under the program as follows:

Encouraging domestic and foreign organisations and individuals to invest in the protection and development of fisheries resources;

Supporting fishermen to change their job practices of nearshore fishing to offshore operations or other alternatives by providing them with credit loans at preferable interest rates, vocational trainings; allocation of land and water areas for fishing households' providing financial aid in case of natural disasters and diseases, etc.;

Conducting research to formulate resource tax policies for specific industries and fishing gears, limited/encouraged fishing seasons;

Allocating central budget in support of: establishment and management of nationally and internationally valued marine protected areas; transfer of advanced technologies of high quality aquatic seeds; survey, study and assessment of fisheries resources; human resource development for the program implementation, etc.

Allocating provincial budget in support of: establishment and management of marine/inland protected areas of which the management competence is decentralised to local level; renewal, restoration and development of fisheries resources; restoration of environmental incidents; restoration of ecosystems; development and implementation of models for community-based management and protection of resources and habitats, etc.

+ Decree 27/2005/ND-CP instructing the implementation of some articles in the Fisheries Law speculates the establishment of Aquatic Resources Reproduction Fund (Article 7); cases of fund contribution exemption (Article 8); allocation and leasing of marine waters for aquaculture (Article 10); allocation and leasing of land for aquaculture (Article 11); limits in the area and duration of marine water allocation/lease (Article 12)

- + The Prime Minister issued Decision 485/2008/QD-TTg approving the scheme for “Protection of endangered and high value aquatic species until 2015 with vision to 2010.”
- + The Minister of Agriculture and Rural Development issued Decision. 82/2008/QD-BNN on the List of Endangered and High value Aquatic Species for Protection, Restoration and Development.
- Circular 02/2006/TT-BTS, as amended by Circular 62/2008/TT-BNN, regulates the implementation of Article 8(3) of the Fisheries Law. The minimum size in the Annex to Circular 62/2008/TT-BNN only refers to two tuna species, *Auxis thazard* and *Euthynnus affinis* (meanwhile in the Tonkin Gulf only there are 8 tuna species. The latter also bans the capture of following species: *Balaenoptera musculus*, *Chelonia mydas*, *Dermochelys coriacea*, *Lepidochelys olivacea* and *Eretmochelys imbricata*, six species under *Cetacea* family. There is also absence of specific regulations on prohibited tuna-fishing gears, methods, areas and periods, which should be compatible with WCPFC regulations.

### ***1.9. Planning and management of inland protected areas and marine parks***

#### ***“Article 9: Planning and management of inland protected areas and marine parks***

- 1. The inland protected areas and marine parks shall be classified as national parks, sanctuaries and aquatic habitat reserves based on the levels of typical biodiversity in accordance with national and international standards.*
- 2. The Government shall issue the standards to classify and proclaim the protected area; shall plan, establish, manage and decentralize the inland protected areas and marine parks; shall issue the management rules of protected areas which are of national and international significant importance.*

*Provincial People’s Committee shall issue the management rule of protected areas to be decentralized to the local authorities for management in accordance with guidance provided by Ministry of Fisheries.*

- 3. The State shall invest in conservation of genetic sources and biodiversity of aquatic resources ; shall issue policies to encourage the domestic and foreign organizations and individuals to establish and manage the protected areas; shall issue policies to support the job alternatives and the resettlement to ensure the interests of the residents living in protected areas.*

*4. The organizations and individuals shall be responsible for protection of inland protected areas and marine parks in accordance with management rule of protected areas.”*

Paragraphs 1 and 2 are supplemented by Decree 27/2005/ND-CP detailing and guiding the implementation of some articles of Fisheries Law (its Articles 2-5). The Prime Minister also issued Decision 1479/QD-TTg approving the master plan of inland protected areas until 2020.

### ***1.10. Offshore fishing (Article 12)***

#### ***“Article 12: Offshore fishing***

*1. The State shall issue integrated policies on investment, job training, establishment of communication system, assessment of fisheries resources, prediction of fishing grounds, logistic service, organization of proper production means in order to promote organizations and individuals to develop offshore fishing.*

*2. Organizations and individuals investing in offshore fishing shall be subject to Law on Domestic Investment Encouragement and shall enjoy other preferential policies of the State.*

*3. Organizations and individuals involved in offshore fishing shall have communication system and lifevest on board; shall comply with regulations on maritime legislation.*

*4. The owners of offshore fishing vessels shall be responsible for buying insurance for crewmembers. The State shall have promotion policies for the owners who are voluntary to buy the insurance for offshore fishing vessels.*

*The insurance conditions, premium, minimum insurance fees of the crewmembers shall be applied in accordance with legislation on insurance trade.“*

- In line with Article 12 (1), the State has issued:

+ PM’s Decision 393/2007/QD-TTg on the regulations for management and utilisation of credit funds allocated according to the State Plans for projects of building and renovating fishing vessels and service vessels for offshore fishing;

+ PM’s Decision 289/2008/QD-TTg, promulgating policies to support ethnic minorities, households in the State’s assistance list, poor, marginalised and fishing households. The Decision provides for the support amount for fishing household to buy or build fishing vessels with not less than 90 CV, or service vessels for fishing

- Regarding Article 12(2), the Domestic Investment Promotion Law provides that the offshore fishing should be given investment treatment (Article 15(4) and low corporate tax (Article 20), as well as opportunities of long/medium term credit loaning from the State's Investment Assistance Fund or financially supported in getting loans from other credit facilities (Article 28 (1)).

- In order to adapt with the precautionary approach as stated in the UNFSA and WCPFC, additions should be made to the Article 12 (1) of the Fisheries Law for encouragement of offshore fishing in sustainable and efficient manner for aquatic resource conservation purposes.

- Article 12 should also be amended to incorporate the compliance measures of international regulations on fishing vessels operating on the high seas and WCPFC Convention Area, in particular, IUU combating measures, licensing for fishing vessels on the high seas, profile-keeping of fishing vessels operating in the Convention Area; providing information on fishing vessels operations as required; complying with regulations on inspections at sea; complying with regulations on transshipment and unloading fish at ports, etc.

### ***1.11. Coastal fishing (Article 13)***

#### ***“Article 13: Coastal fishing***

*1. The State shall issue policies regarding the re-organization of production, job alternatives related to coastal fishing operations and job structure among capture fishery, aquaculture, fish processing, farming, plantation and services.*

*2. Organizations and individuals engaged in coastal fishing when transferring to offshore fishing shall be provided with guidance, training, capital support, allocation of land and marine areas for aquaculture in accordance with State policies.*

*3. Organizations and individuals engaged in coastal fishing shall have lifevest, weather forecast monitoring equipment; shall comply with legislation on inland water ways and maritime.”*

Decision 131/2004/QD-TTg approving the Program for Protection and Development of Fisheries Resources until 2010, set forth specific policies to support fishermen to change their job practices of nearshore fishing to offshore operations or other alternatives as mentioned in the earlier paragraphs, but this lacks feasible and consistent mechanisms for effective implementation to reduce the number of coastal fishing vessels as stipulated in Decision 10/2006/QD-TTg

### ***1.12. Survey and research of fisheries resources (Article 14)***

#### ***“Article 14: Survey and research of fisheries resources***

*1. The State shall invest in survey, research and assessment of fisheries resources and draw the maps on fisheries resources.*

*2. Ministry of Fisheries shall chair and in coordination with relevant Ministries and sectors and provincial People’s Committees to conduct the survey and assessment of fisheries resources in specific sea areas, fishing grounds, rivers and big lakes; shall proclaim fishing grounds and identify annual allowable catch in specific sea areas and fishing grounds.*

*Provincial People’s Committee shall have responsibility to conduct the assessment of fisheries resources within local jurisdiction in accordance with guidance of Ministry of Fisheries.”*

The survey, research and assessment of fisheries resources, proclamation of fishing grounds and setting annual TAC as specified in the Fisheries Law Article 14 but to date MARD has not issued specific regulations, so local authorities face enumerated difficulties in the implementation process.

The primary objective of survey and assessment of fisheries resources is to set TAC, ensure the sustainable development of fisheries resources and genetic sources, including valuable tuna species.

Article 14(2) of the Fisheries Law should be amended by adding provisions on the sampling of fisheries statistics to set up a database for resource assessment, cooperation with other states and international/regional bodies in necessary cases, in light of international law, to conduct fisheries resource research, survey and sampling.

### ***1.13. Management of fishing grounds (Article 15)***

#### ***“Article 15: Management of fishing grounds***

*1. Organizations and individuals engaged in fishing operations at seas, in rivers, lakes, lagoons and other natural waters shall comply with the regulations set out by this Law and other relevant legislation.*

*2. The Government shall have responsibility to demarcate sea areas and fishing routes, shall authorize powers to relevant Ministries and sectors and provinces to ensure the close and integrated coordination between fisheries inspection forces at seas and fishing routes.*

*3. The provincial People’s Committees shall have responsibility to issue rules of fishing grounds in rivers, lakes, lagoons and other natural waters under its jurisdiction in*

*accordance with guidance of Ministry of Fisheries; shall organize and promote the local residents to take part in monitoring, detection and prosecution of any violations committed to fisheries activities in fishing grounds.”*

The implementation of Article 15 (2) is instructed by Decree 33/2010/ND-CP on management of Vietnamese fishing operators (replacing Decree 123/2006/ND-CP ). The Decree Article 4 categorises three types of marine water: coastal, near-shore and off-shore; and provides the management responsibilities of marine waters (Articles 10 – 12). Its articles 5-8 detail Article 15(1) of the Fisheries Law.

#### ***1.14. Licensing and revocation of fishing licenses (Article 16-18)***

##### ***“Article 16: Fishing license***

- 1. Organizations and individuals engaged in fishing operations shall hold fishing licenses except the individuals fishing by fishing vessels with tonnage smaller than 0,5 tons or not using fishing vessels.*
- 2. The main content of fishing license shall include the followings:*
  - a. Types of fishery; type of fishing gear*
  - b. Allowable fishing grounds and routes.*
  - c. Fishing time;*
  - d. Duration of fishing license;*
  - e. Other necessary contents as provided for by legislation.*
- 3. The Government shall make regulations relating to process, procedures and competent agencies dealing with the granting and withdrawal of fishing licenses.*

##### ***Article 17: Conditions for granting fishing license***

*Organizations and individuals engaged in fishing operations shall be granted fishing licenses if following conditions are met:*

- 1. They shall register the fishing trade.*
- 2. They shall have registered and inspected fishing vessels.*
- 3. They shall have proper fishing gear and devices.*
- 4. The masters and operators on board shall possess proper degrees and certificates as set out by legislation.*

##### ***Article 18: Withdrawal of fishing license***

*Fishing licenses granted to organizations and individuals engaged in fishing shall be withdrawn in the circumstances as follows:*

- 1. They have not met the conditions as regulated in Article 17 of this Law.*
- 2. They have seriously violated the regulations stated in this Law regarding fishing operations or they were administratively punished more than three times within the valid duration of fishing licenses.*
- 3. They have corrected or erased the content set out in fishing license.*
- 4. They have committed to other violations that their fishing license shall be withdrawn as regulated by legislation.”*

- The implementation of Article 16 is guided by Articles 4 – 7 of Decree 59/2005/ ND-CP on the production and business conditions of some fisheries-related occupations and Circular 02/2006/TT-BTS.

- The implementation of Article 17 is guided by Articles 5 of Decree 59/2005/ ND-CP Circular 02/2006/TT-BTS.

- The current constraint lays in the licensing procedures related to registration and technical inspection of fishing vessels as well as the licensing competence

+ In Clause 1, Article 5, Decree 59/2005/ND-CP specified organizations and individuals who want to grant fishing license must have a certificate of registration of fishing vessel but in Clause 3, Article 11, Decree 66/2005/ND-CP the vessels registered certificates only granted for fishing vessels with total capacity of main engines of 20CV or more or the vessel length of 15m or more.

+ Article 2, Item 39 and Article 3, Item 40 of fisheries law regulated:

*”2. Ministry of fisheries organize and implement fishing vessel registration in nationwide; technical safety examination for fishing vessels with more than 20 m in length. Provincial People Committee (PPC) organizes and implements technical safety examination under guidelines of MOFI for fishing vessels of less than 20 m in length”. ”3. MOFI manages fishing vessel registration and crew registration; regulates crew responsibilities in nationwide; implement fishing vessel registration and crew registration for vessels owned by organization belonging to MOFI; army units operating fishing activities, Vietnamese fishing vessels operating outside Vietnam EEZ.”*

But Article 2, Item 11, Decree 66/2005/ND-CP dated May 19th 2005 of Vietnam's government regarding regulations on safety for fishing vessel and fishermen mentioned that *"Fishing vessels are only registered at valid authority where fishing vessel owners have base or in place where vessel owners registered addresses"*. Therefore, these regulations are inconsistent between fisheries law and these decrees. In fisheries law, implementation of registration of fishing vessels is decentralized to sub-DECAFIREP based on engine capacity and vessel length. Meanwhile, decree mentioned above regulates that implementation of fishing vessel registration is decentralized by administrative boundaries. Therefore, fishing vessel technical safety examination is implemented by the ministry but vessel registration is done by local government, and vice versa.

- Article 2, Item 7, Decree 59/2005/ND-CP regulates that Sub-DECAFIREPs issues fishing licenses for fishing vessels registered at province, but Circular 02/2006/TT-BTS guided that for provinces which have large number of fishing vessels, PPC might decentralize to lower local government to issue fishing licenses for small fishing boats. While decentralization for implementation of this duty must be taken by central government.

### ***1.15. Fishing reports, logbook keeping, fishing vessel/gear marking***

Article 19 of the Fisheries Law deals with the fishing report and logbook keeping

#### ***"Article 19: Fishing report and logbook***

- 1. Organizations and individuals who hold fishing licenses shall make fishing report to fisheries management agencies located in place where the fishing vessels are registered.*
- 2. Regarding the type of fishing vessels which requires the master degree, the master of that type of fishing vessel shall be responsible for recording a logbook while fishing.*
- 3. The Ministry of Fisheries shall issue the form and content of logbook and its management regime as well as the report regime and its content.*

*Provincial People's Committee shall be responsible for organizing the fishing report within local jurisdiction in accordance with guidance of Ministry of Fisheries."*

Article 8(4) of Decree 33/2010/ND-CP stipulates that when a fishing vessel operates in the Vietnamese waters, it must keep fishing logbook and report as regulated by MARD. However no such provision is available for Vietnamese fishing vessels operating in the waters beyond Vietnam's jurisdiction. This should be added to ease the State's management of fishing vessels and remain committed to international organisations and RFMOs.

Circular 63/2009/TT-BNN provides in detail logbook forms, management mechanism, information required in the logbook and fishing report. However, no details are available for fishing vessels operating in the waters beyond Vietnam's jurisdiction. In reality, for effective implementation of these provisions, a huge workload is required as each province has thousands of fishing vessels, each vessel may be engaged in 4-5 trips/month but fishermen's education is low. In some cases, interest conflicts make them conceal trip information by misstatement of fishing areas and routes, especially those in the ban list or fishing grounds of high productivity that may attract other competitive vessels. Moreover, current law and regulations do not set criteria to validate reported data or specific requirements of fishing logbook or reporting procedures. Also, the fisheries in Vietnam are artisanal, so the logbook keeping is difficult. In such a situation, there should be a roadmap for this matter, possibly it might be applicable first to offshore fishing vessels.

- Article 5(4) of Decree 33/2010/ND-CP states that "*Fishing vessels operating in nearshore and offshore waters shall be marked with visible signs. The Ministry of Agriculture and Rural Development shall issue regulations on the marks applicable to the fishing vessels operating in the nearshore and offshore waters*"

- According to Article 21 (4) of the Fisheries Law, fishing operators shall "*mark fishing gear which are being used in fishing grounds by easily-recognizable markings as regulated by Ministry of Fisheries*"

At present, MARD has not issued any regulation on the marking of fishing vessels operating in nearshore and offshore waters as well as fishing gears. UNFSA Part 5 provides for the obligations of Flag State in controlling its fishing vessels on the high seas by marking the vessels and fishing gears in internationally accepted uniform system.

This important issue has been clearly indicated in the UNFSA and FAO's instruments and should be taken into account for fisheries management, safety inspection of fishing vessels and reliable fisheries statistics in line with international rules, particularly those for tuna fishing activities.

### ***1.16. Fishing vessel management***

#### ***- Fishing vessel development (article 37)***

##### ***“Article 37: Development of fishing vessels***

*1. The development of fishing vessels shall be done in accordance with development master plan of fisheries sector.*

2. *The State shall issue policies to promote the development of fishing vessels in accordance with offshore fishing strategy.*
3. *Organizations and individuals importing fishing vessels shall comply with regulations made by the Government.”*

Input quota management, i.e. to limit the number of vessels engaged in fishing operations, is a suitable approach for artisanal fisheries in Vietnam. The Law should be revised to assign specific responsibilities to competent agencies in determining the quotas and regulating the number of vessels engaged in fishing operations on the basis of reliable scientific evidence.

Decision 10/2006/QD-TTg approving the Master Plan for Fisheries Sector Development until 2010 with orientation until 2020 has set the target of the fishing vessel number reduction to 50,000. However, to date MARD has not issued specific regulations on the roadmap and measures to reach such a target, so local authorities find it really difficult and by contrary, the number of fishing vessels has increased by 2,300 annually, mainly for coastal and offshore operations. Decision 02/2006/TT-BTS has some general provisions on the prohibition of development of motorized vessels less than 90 HP capacities engaged in trawling and those under 30 CV in other fisheries.

*- Building and renovating fishing vessels (Article 38)*

***“Article 38: Building and upgrade of fishing vessels***

1. *The organizations and individuals when building and upgrading fishing vessels subjected to inspection requirement shall be allowed and have vessel’s design approved by competent agencies. The newly-built and upgraded fishing vessels shall comply with standards on quality, technical safety and environmental protection.*

*Ministry of Fisheries shall allow and approve the design of fishing vessels to be built or upgraded with the length up to 20 meters. The State specialized fisheries agencies at provincial level shall allow and approve the design of fishing vessels to be built or upgraded with the length under 20 meters.*

2. *The units specialized in building and upgrading fishing vessels shall meet all trade conditions as provided for by the Government.*

*Ministry of Fisheries shall issue the standards on quality, technical safety and environmental protection applied to fishing vessels.”*

Feedback from local respondents shows that Article 37(1) requiring design profiles approved by MOFI (now MARD) is not appropriate, as in many places, the vessels are built with

traditional design and hence the Provincial sub-DEFICAREPs should be given competence to approve the design of vessels more than 20 m in length, as currently the provincial level has sufficient capacity to do this.

The Fisheries Law should be revised to clarify what agencies are eligible to limit the number of fishing vessels in the locality and marine waters, corresponding to resource base. This number would serve as a basis for MARD and provincial fisheries authorities to review and grant permits for vessel building, as currently the provincial level has sufficient capacity to do this.

At present, MARD has not issued technical specifications for quality assurance, technical safety and environment protection relevant to fishing vessels, to implement Article 37(3). The term "standards" in here should be amended as "technical specifications" to be compatible with the Law on Technical Standards and Specifications.

### ***1.17. Fishing ports, fish landing sites, and typhoon shelters of fishing vessels***

*"Article 41: Fishing ports, fish landing sites, storm-resistant places of fishing vessels*

- 1. The development of fishing ports, fish landing sites and storm-resistant places of fishing vessels shall be done in accordance with development master plan of fisheries sector.*
- 2. The State shall invest in infrastructure of fishing ports and storm-resistant places structures and shall support to invest in infrastructure of fish landing sites; shall promote organizations and individuals under all economic sectors to invest in construction served to production and trade activities of fishing ports, fish landing sites and storm-resistant places.*
- 3. Ministry of Fisheries shall chair the coordination with other relevant Ministries and provincial People's Committees to issue the standardized management rules of fishing ports, fish landing sites, storm-resistant places of fishing vessels; shall issue the technical standards of fishing ports and storm-resistant places.*
- 4. Provincial People's Committee shall be responsible for organization and delegation of powers relating to the management of fishing ports, fish landing sites and storm-resistant places of fishing vessels under the local jurisdiction."*

- The implementation of Article 4(1) is guided by PM's Decision 288/2005/QD-TTg approving the master plan for typhoon shelters until 2010 and orientation until 2020; Decision 346/2010QD-TTg approving the master plan for fishing ports and landing sites until 2020 and orientation until 2030

- The implementation of Article 41(3) is guided by Decision 27/2005/QĐ-BTS by MOFI (now MARD) regulating the criteria for the fishing vessel typhoon shelters and Decision 20/2006/QĐ-BTS on the regulations on management of fishing ports, landing sites, and typhoon shelters.
- Article 41 and other articles in the Fisheries Law as well as sub-law regulations have not provided for:
  - + Transshipment at sea, as an effective means to implement CMMs reflected in Article 18 of UNFSA and Article 29 of WCPFC
  - + Port State measures, as reflected in Article 23 of UNFSA (Port States may inspect documents, fishing gear and catch on board fishing vessels, when such vessels are voluntarily in its ports or at its offshore terminals; may adopt regulations empowering the relevant national authorities to prohibit landings and transshipments where it has been established that the catch has been taken in a manner which undermines the effectiveness of subregional, regional or global conservation and management measures on the high seas.)
  - + The documentation of catch statistics by some important species, fishing gear and vessel size; food hygiene and safety, and other relevant when fish are unloaded at port should also be added in this Article.

### ***1.18. Fishing in sea waters beyond the jurisdiction of Vietnam***

- Article 49 (1) states "*Vietnamese organizations and individuals engaged in fishing operations in international waters, sea areas under jurisdiction of other States shall be allowed by State competent agencies; shall comply with international treaties to which Socialist Republic of Vietnam signed or a party; shall comply with this Law and other relevant legislation of Vietnam and legislation of the States to which fishing vessels come to fish*".

In reality, when fishing in the high seas, Vietnam should abide by international agreements even when it is not a party, e.g. in case of WCPFC, when Vietnamese fishing vessels operate in the Convention Area without compliance to the Commission's regulations, the vessels may be arrested. Hence, we would like to suggest the paragraph be amended as "*Vietnamese organizations and individuals engaged in fishing operations in international waters, sea areas under jurisdiction of other States shall be allowed by State competent agencies; shall comply with international treaties to which Socialist Republic of Vietnam signs, accedes, cooperates or obliges to implement as required by international law; shall comply with this*

*Law and other relevant legislation of Vietnam and legislation of the States to which fishing vessels come to fish”*

- Article 49 (3) states *”The Government shall make regulations on agencies dealing with license granting, conditions, procedures to allow Vietnamese fishing vessels to fish in sea waters beyond the jurisdiction of Vietnam“*. The Government has in fact issued Decree 33/2010/ND-CP on management of Vietnamese fishing operators (replacing Decree 123/2006/ND-CP ). Article 6(3) of Decree 33 on the conditions for fishing operations in the waters beyond Vietnamese jurisdiction should be reviewed for addition of requirements to fishing vessels to be permitted to operate on the high seas under the management of an RFMO. For the high seas under the management of an RFMO that has adopted CMMs, Vietnam has to hold at least CNM status (if not full member) to be allowed by the RFMO to fish in those waters, otherwise Vietnamese fishing vessels would be included in the IUU vessel list.

#### ***1.19 . State management of fisheries activities.***

Article 51(8) stipulates that the State management includes *”performance of international cooperation on fisheries activities”*.

Such a provision is too general and vague and should be amended as

*”Performance of international cooperation in fisheries activities pursuant to the provisions of this Law and international agreements to which the Socialist Republic of Vietnam signs, accedes, cooperates or obliges to implement”*

#### ***1.20. Quality assurance, processing, exporting and importing of tuna***

Currently Vietnam is one of the potential exporters of tuna. For better competitiveness of its tuna products in the world market, Vietnam should improve its legal system for quality assurance, processing and exporting.

The standards for processing, exporting and importing of tuna products are reflected in the legal normative documents (i.e. Articles 43 – 46 of the Fisheries Law and sub-law regulations) on processing, exporting and importing of fisheries products in general.

However, to date no legal document has been made available on the technical norms and standards specifically for tuna quality assessment, while such norms exist for pangasius catfish and tiger shrimp. This is one of the factors that need to be taken into account to make sure that Vietnamese tuna products remain competitive to other countries’ similar products.

Traceability issues are important to ensure food safety and resource control. This forms a part of EU legislation on food safety and aquatic imports. This is also a means to cope with future IUU fishing, with the idea that the origins of fish products may be traced to each vessel and relevant TAC, to make sure that the fishing operations are in line with assigned TAC and national legislation. This system, however, has not been developed as it would be time consuming. However, it is important to learn that the catch certification system is being developed in EU and this would serve as the basis for similar principles, and for this reason, the Fisheries Law may need to be revised to include the competence of concerned agencies in application of traceability and catch certification regulations.

On 12 April 2009, MARD issued Decision 3477/QD-BNN-KTBVNL, promulgating regulations on the certification of fisheries products to be exported to EU market, in which there are provisions on illegal acts as evidence of certification refusal, e.g. fishing without license/report/logbook as required by the law, etc.

## **2. Inconsistencies and gaps between WCPFC regulations and Vietnam’s policies, law and regulations**

When comparing WCPFC regulations and Vietnam’s policies, laws and regulations, priority should be given first to the Fisheries Law. Article 1 of this Law says *”Provisions of this Law shall be applied unless the international treaties to which Vietnam signed or a party state otherwise”*. It is apparent that many of Vietnamese norms and regulations are not compatible or at least similar to those under WCPFC. However, with the objectives of effective utilisation of fisheries resources, sustainable development, rehabilitation of fisheries resources, etc., in the future Vietnam can definitely formulate and improve its law and regulations in light of international agreements in general and WCPFC regulations in particular.

The following sections provide more details related to provisions by WCPFC and Vietnam, and look at the compatibility of the two sets for recommendations accordingly.

### **2.1. Comparison with relevant WCPF Convention articles**

<b>WCPFC articles</b>	<b>Vietnamese regulations</b>	<b>Inconsistencies/gaps</b>	<b>Recommendations</b>
Article 2 (Objective): To ensure conservation and sustainable use of highly migratory fish stocks	FL Article 3: To ensure sustainable development of fisheries, appropriate utilisation and	None	None

	rehabilitation of fisheries resources		
Article 1e (definition of fishing vessel, including support ships and carrier vessels)	FL Article 1(8): fishing vessels only consist of fishing, aquaculture, preservation and processing vessels	The FL definition does not cover support ships and carrier vessels	Fishing vessel definition should be amended
Article 3 (Area of application, including waters under national jurisdiction and high seas)	FL Article 1: Scope of application only refers to EEZ and continental shelf of Vietnam. Decree 33/2010, Article 1: Regulating fishing operations in the waters both under and outside Vietnam's jurisdiction	FL Article 1 does not cover fishing operations in the high seas and waters under jurisdiction of other states	FL Article 1 should be amended
Article 5: Principles and measures for conservation and management: (a) adopt measures to ensure long-term sustainability of highly migratory fish stocks (b) ensure that such measures are based on the best scientific evidence (c) apply the precautionary approach in accordance with this Convention and relevant internationally agreed standards, practices and procedures; (d) assess the impacts of human activities on target stocks, (e) adopt measures conserve, if appropriate, species in the same ecosystem as target species; (g) minimize pollution, gear	Some compatible principles are reflected in FL articles: Article 6 (prohibited activities), Article 7 (habitat protection), Article 8 (Conservation, protection, rehabilitation and development of fisheries resources), Article 11 (principles of fishing operations – annual TAC compliance), Article 14 (2) (MARD responsible for survey, research of resources and TAC determination for marine waters and fishing grounds)	FL has no separate article on the general principles for protection and development of fisheries resources, and lacks some WCPFC-compatible principles such as precautionary approach, assessing impacts of human activities on fish stocks, conserving non-target species, protecting biodiversity in marine environment, combat over fishing and excessive fishing efforts, considerations to artisanal fishermen, collecting and sharing fishery data, effective monitoring and	FL should be supplemented with an article on the general principles for protection and rehabilitation of fisheries resources, with provisions compatible to WCPFC Article 5

abandonment, catch of non-target species or species at risk (f) protect biodiversity in the marine environment; (i) ....		surveillance of CMMs	
Article 6: <i>Application of the precautionary approach</i>			
- Determine, on the basis of the best scientific information available, stock-specific reference points and the action to be taken if they are exceeded		No compatible regulation is available	FL or Decrees guiding its implementation should be supplemented with an article on application of the precautionary approach in fisheries resource conservation and management
- develop data collection and research programmes for non-target species		No compatible regulation is available	
- be more cautious when information is uncertain or inadequate		No compatible regulation is available	
- take measures to ensure that, when reference points are approached, they will not be exceeded		No compatible regulation is available	
- for new or exploratory fisheries, adopt CMMs including, <i>inter alia</i> , catch limits and effort limits		No compatible regulation is available	
Article 24. <i>Flag state duties</i>			
Fishing vessels flying its flag comply with the provisions of this Convention	FL Article 9 (1): compliance with international agreements to which Vietnam signs or accedes	No regulation on the compliance with WCPFC even when Vietnam is a CNM	FL Article 49 (1) should be supplemented
Fishing vessels flying its flag do not conduct unauthorized fishing within areas under the national jurisdiction of any Contracting Party	FL Article 49 (1) and Decree 33/2010/ND-CP Article 6	No gap	Article 6 of Decree 33/2010/ND-CP should be supplemented with the condition that Vietnam is a member State of the RFMO.

Member states do not allow any fishing vessel entitled to fly its flag to be used for fishing for highly migratory fish stocks in the Convention Area beyond areas of national jurisdiction unless it has been authorized to do so by the appropriate authority or authorities of that member.	FL Article 49 (1) and Decree 33/2010/ND-CP Articles 6 and 7	Article 6 of Decree 33/2010/ND-CP does not provide conditions to grant fishing licence in the Convention Area	Decree 33/2010/ND-CP should be supplemented
- Conditions for granting licenses to fish in the areas under jurisdictions of other states or in the high seas (including those referred to in Annex III WCPFC), pursuant to national legislation and observation, transshipment, fishing report regulations	Article 6, Decree 33/2010/ND-CP		
Member States shall maintain a record of fishing vessels entitled to fly its flag and authorized to be used for fishing in the Convention Area beyond its area of national jurisdiction		No compatible regulation is available	Decree 33/2010/ND-CP should be supplemented
Member States shall provide annually to the Commission, in accordance with the Commission procedures, information on the vessels fishing in the waters beyond national jurisdiction and updates		No compatible regulation is available	Decree 33/2010/ND-CP should be supplemented
Fishing vessels that fish for highly migratory fish stocks on the high seas in the Convention Area are required to use near real-time satellite position-fixing transmitters in		No compatible regulation is available	Decree 33/2010/ND-CP should be supplemented

accordance with standards and specification set by the Commission			
Fishing vessels that fish in the Convention Area in areas under the national jurisdiction of another member are required to operate near real-time satellite position-fixing transmitters in accordance with the standards, specification and procedures to be determined by the coastal State.		No compatible regulation is available	Decree 33/2010/ND-CP should be supplemented
Member states shall cooperate to ensure compatibility between national and high seas vessel monitoring systems.		No compatible regulation is available	Decree 33/2010/ND-CP should be amended
<p>Article 25 <i>Compliance and enforcement:</i></p> <p>Member States shall:</p> <ul style="list-style-type: none"> <li>- Enforce the provisions of WCPFC and related CMMs</li> <li>- investigate fully any alleged violation by fishing vessels flying its flag of the provisions of WCPFC and related CMMs. A report on the progress of the investigation shall be provided to the Commission within two months of request.</li> <li>- refer the case to its authorities with a view to instituting proceedings without delay in accordance with its laws if there is sufficient evidence.</li> <li>- ensure that a fishing vessels flying its flag involved in the</li> </ul>	Decree 31/2010/ND-CP is only applicable to domestic/foreign administrative violators in the fisheries sector in Vietnam	Decree 31/2010 has no provision on the sanctions on fishing vessels violating WCPFC provisions and CMMs when they operate in the waters outside Vietnam's jurisdiction	Decree 31/2010 should be revised to apply to Vietnamese fishing vessels operating in the waters outside the jurisdiction of Vietnam, and include sanctions for WCPFC/CMMs violations

<p>serious violation of the provisions of this Convention or CMMs does not engage in such activities in the Convention Area until such time as all outstanding sanctions imposed by the flag State (serious violations are specified in Article 21 of UNFSA).</p> <p>- annually report to the Commission on the compliance measures including imposition of sanctions for violations.</p>			
<p>Article 26. <i>Boarding and inspection</i></p> <p>- All vessels used for boarding and inspection of fishing vessels on the high seas in the Convention Area shall be clearly marked and follow WCPFC provisions.</p> <p>- Member state shall ensure that fishing vessels flying its flag accept boarding by duly authorized inspectors;</p> <p>- Authorized inspectors shall comply with procedures for boarding and inspection</p>	<p>Articles 30 – 39 of Decree 31/2010/ND-CP provide for the power, procedures for handling and applying sanctions on the administrative violations in fisheries sector.</p> <p>Decision 16/2006/QD-BTS details the regulations on fisheries inspecting activities</p>	<p>No regulation compatible with WCPFC Article 28 (Convention Area) is available</p>	<p>Decree 31/2010/ND-CP should be supplemented with the provisions on boarding and WCPFC compatibility check for the Convention Area</p>
<p>Article 27. <i>Measures taken by a port State</i></p> <p>- inspect documents, fishing gear and catch on board fishing vessels of another member State voluntarily entering its ports.</p> <p>- Member States may adopt regulations empowering the</p>		<p>No regulation compatible with WCPFC Article 27 is available</p>	<p>FL Article 41 (Fish Port) should be supplemented with framework provisions compatible with WCPFC's Port State Measures (with clear mandates given to MARD)</p>

<p>relevant national authorities to prohibit landings and transshipments where it has been established that the catch has been taken in a manner which undermines the effectiveness of CMMs adopted by the Commission</p>			
<p>Article 28. <i>Regional observer programme</i></p> <ul style="list-style-type: none"> <li>- Each member of the Commission shall ensure that fishing vessels flying its flag in the Convention Area, except for vessels that operate exclusively within waters under the national jurisdiction of the flag State, are prepared to accept an observer from the regional observer programme,</li> <li>- This article also instructs how to implement the programme, in which Member States shall be entitled to have its nationals included in the programme as observers</li> </ul>		<p>No regulation compatible with WCPFC Article 28 is available</p>	<p>Chapter V of Decree 33/2010 should be supplemented with suitable provisions to implement WCPFC observer programme</p>
<p>Article 29. <i>Transshipment</i></p> <ul style="list-style-type: none"> <li>- Member states shall encourage their fishing vessels to conduct transshipment in port</li> <li>- A member may designate one or more of its ports as transshipment ports for the purposes of WCPFC</li> <li>- The Commission shall develop procedures to obtain and verify data on the quantity and species transshipped both in port and at sea in the</li> </ul>		<p>No regulation compatible with WCPFC Article 29 is available</p>	<p>Decree 33/2010 should be supplemented with suitable provisions on transshipment by Vietnamese fishing vessels operating in the waters within and beyond the jurisdiction of Vietnam</p>

Convention Area - The provision is applicable to transshipment in the waters outside national jurisdiction			
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## **2.2. Comparison with relevant WCPFC CMMs**

Inconsistencies and gaps between WCPFC CMMs and Vietnam’s policies, law and regulations, as attached in Annex 2, are drawn from the comments by the workshop participants.

## **3. Recommendations to address inconsistencies and gaps**

### **3.1. Legal reform related to post harvest and processing, fisheries export and import, in line with the overall legal system of Vietnam and international rules**

With regard to the Fisheries Law and the decrees guiding its implementation

#### *3.1.1. Subjects and scopes of Fisheries law*

Article 1 of the Fisheries Law needs to be adjusted to clearly define the scope of this law applied to all organizations and individuals operating fisheries activities in Vietnam’s jurisdiction, maritime zones of other States, and high seas.

#### *3.1.2. Definition of fishing vessel*

Definition of fishing vessel in item 9 Article 2 of Fisheries Law is inadequate and inappropriate which needs to include vessels buying catch at sea, transshipment vessels, logistical vessels for fishing vessels at sea and this change is compliance with WCPFC’s definition in its Article 1(e). The term “*other floating structures*“ should also be reviewed for practical application.

#### *3.1.3. Ownership of fisheries resources*

Article 3 of the Fisheries Law states “*Fisheries resources shall be subject to the ownership of the people and under the integrated management of the State. Organizations and individuals shall have rights to exploit the fisheries resources as provided for by legislation*“

This should be amended as: “*Fisheries resources from inland, islands, internal waters, EEZ or the continental shelf of the Socialist Republic of Vietnam, shall be subject to the ownership of the people and under the integrated management of the State. Organizations and individuals shall have rights to exploit the fisheries resources as provided for by legislation*”

#### *3.1.4. Principles in fisheries activities and fishing operations*

- Article 4(1) on the principles in fisheries activities should be amended as “*To ensure the economic effectiveness in accordance with the protection, rehabilitation and development of*

*fisheries resources and biodiversity; protection of ecosystems, shall protect environment and natural landscape. The development of fisheries activities in all aspects shall be done in accordance with the development master plan and plans of fisheries sector nationwide and in specific provinces”*

+ For the consistency between the principles in fishing operations and those in Article 4, Article 11 should be amended as *“Fishing operations shall comply with three general principles stated in Article 4 and other specific principles for protection and conservation of fisheries resources as follows:*

1. *The fishing operations conducted at seas, in rivers, lakes, lagoons and other natural waters shall be ensured not lead to the depletion of fisheries resources; shall be done in compliance with regulations relating to fishing seasons, fishing time, fishing grounds, permitted types and sizes, annual allowable catch and shall be complied with provisions stated in this Law and other relevant legislation.*
2. *The fishing gear and fishing vessels used shall be up to the standards regulated by the Ministry of Agriculture and Rural Development”*
3. A new article on *Principles in protection and conservation of fisheries resources* should be supplemented for the Fisheries Law. This article should reflect relevant provisions in Article 5 of WCPFC

4. A new article on *Application of precautionary approach in conservation and management of fisheries resources* should be supplemented for the Fisheries Law

5. In light of UNFSA and WCPFC provisions on precautionary approach in fisheries management, Article 12(1) should be supplemented with a phrase that says *encouragement of offshore fishing in sustainable and effective manner for better conservation of fisheries resources.*

#### *3.1.5. Concerning fishing reports, logbook keeping, fishing vessel/gear marking*

There need to be clear guidance on fishing reports, logbook keeping, fishing vessel/gear marking in line with international requirements.

Guiding the implementation of Article 19 of the Fisheries Law, Article 8(4) of Decree 33/2010/ND-CP stipulates that when a fishing vessel operates in the Vietnamese waters, it must keep fishing logbook and report as regulated by MARD. However no such provision is available for Vietnamese fishing vessels operating in the waters beyond Vietnam’s jurisdiction. This should be added to ease the State’s management of fishing vessels and implementation of Article 24(3) and Annex III of WCPFC.

### *3.1.6. Concerning survey and research of fisheries resources*

Article 14(2) of the Fisheries Law should be amended by adding provisions on the sampling of fisheries statistics to set up a database for resource assessment, cooperation with other states and international/regional bodies in necessary cases, in light of international law, to conduct fisheries resource research, survey and statistic sampling.

The survey and research of fisheries resources are mainly conducted by the State. The annual survey and assessment of fisheries resources, proclamation of fishing grounds and setting TAC should be well stated in the Law.

### *3.1.7. Management of fishing capacity:*

Article 38 should give detailed mandates to competent agencies in determining input quotas and regulating the number of vessels allowed for fishing based on reliable scientific evidence.

MARD should issue regulations on the roadmap and measures for size reduction of fishing fleet operating nearshore, as a means to implement the Master Plan for Fisheries Sector Development.

### *3.1.8. Licensing for fishing operations*

There should be consistent regulations on decentralisation of registration and technical inspection of fishing vessels as well as granting of fishing licence. The number of licenses should be decided based on reliable scientific evidence to determine input quotas.

### *3.1.9. Fishing in sea waters beyond the jurisdiction of Vietnam*

- Article 49 (1) should be amended as *"Vietnamese organizations and individuals engaged in fishing operations in international waters, sea areas under jurisdiction of other States shall be allowed by State competent agencies; shall comply with international treaties to which Socialist Republic of Vietnam signs, accedes, cooperates or obliges to implement as required by international law; shall comply with this Law and other relevant legislation of Vietnam and legislation of the States to which fishing vessels come to fish"*

- Article 6(3) of Decree 33 on the conditions for fishing operations in the waters beyond Vietnam's jurisdiction should be reviewed for addition of requirements to fishing vessels to be permitted to operate on the high seas under the management of an RFMO. For the high seas under the management of an RFMO that has adopted CMMs, Vietnam has to hold at least CNM status (if not full member) to be allowed by the RFMO to fish in those waters, otherwise Vietnamese fishing vessels would be included in the illegal vessel list.

Decree 31/2010/ND/CP should also be supplemented with sanctions for the violations of management principles related to offshore fishing vessels operating in the waters beyond Vietnamese EEZ.

Article 51(8) of the Fisheries Law should be amended as *”Performance of international cooperation in fisheries activities pursuant to the provisions of this Law and international agreements to which the Socialist Republic of Vietnam signs, accedes, cooperates or obliges to implement”*

The Fisheries Law should be supplemented with an article on the general principles for protection and rehabilitation of fisheries resources, with provisions compatible to WCPFC Article 5.

Decree 33/2010/ND-CP should be supplemented with compatible provisions on obligations of Flag State as provided in WCPFC Article 24.

Decree 31/2010 should be revised to apply to Vietnamese fishing vessels operating in the waters outside the jurisdiction of Vietnam, and include sanctions for WCPFC/CMMs violations

Decree 31/2010/ND-CP should be supplemented with the provisions on boarding and compatibility check as stipulated in WCPFC Article 26.

FL Article 41 (Fish Port) should be supplemented with framework provisions compatible with WCPFC Article 27 on Port State Measures (with clear mandates given to MARD)

Chapter V of Decree 33/2010 should be supplemented with provisions on Vietnamese state agencies participation in the regional observer programme to be compatible with WCPFC Article 28

Decree 33/2010 should be supplemented with suitable provisions on transshipment by Vietnamese fishing vessels operating in the waters within and beyond the jurisdiction of Vietnam, to be compatible with WCPFC Article 29.

### ***3.2. Development of ministerial level regulations on management of the fishing of tuna and other highly migratory fish stocks in light of WCPFC and related CMMs***

- 1) Develop and adopt tuna-specific standards and specifications for evaluation of tuna quality.
- 2) Develop and adopt regulations on conservation and management of highly migratory fish stocks, with priority on Vietnamese tuna, that are compatible with relevant WCPFC CMMs.

- 3) Develop and adopt regulations on monitoring, control and surveillance (MCS) of tuna fishing operations.
- 4) Develop and adopt regulations on IUU combating, including the cooperation with other states in implementation of management measures against IUU fishing.
- 5) Develop and adopt regulations and management measures for satellite-based Vessel Monitoring System applicable to fishing vessels operating offshore (with focus on tuna fishing)
- 6) Adopt further regulations on fisheries data gathering and statistics, which are very important for fisheries management and have not been given due consideration.
- 7) Develop and adopt other regulations as recommended in Annex 2 of this report, to be compatible with relevant WCPFC CMMs.

## **VI. INSTITUTIONAL ISSUES**

### **1. Vietnamese institutional structure of state management for fisheries activities**

*“Article 52. State management duties on fisheries activities*

- 1. The Government shall manage fisheries activities in a unified manner throughout the country.*
- 2. Ministry of Fisheries shall be responsible to the Government for the implementation of State management functions on fisheries activities throughout the country.*
- 3. Ministries of Agriculture and Rural Development, Natural Resources and Environment, Health, Public Security, National Defense and other ministerial-level agencies within their functions, duties and authorities shall coordinate with Ministry of Fisheries in exercising State management on fisheries activities as set out by this Law and other relevant legislation.*
- 4. People’s Committees at all its levels shall be responsible for the State management regarding fisheries activities in their locality in accordance with this Law and other relevant legislation.”*

### **2. Directorate of Fisheries**

- Article 1 of the Decision states *”Directorate of Fisheries shall implement the function of advising and assisting the Minister of Agriculture and Rural Development in state management and implementation of state management tasks related to fisheries; manage and lead the public service activities within the management scope of the Directorate”*.

- Article 2 states mandates and powers of the Directorate, including those related to state management of fisheries resources exploitation and protection as follows:

+ *Develop and submit to the Minister of Agriculture and Rural Development for subsequent adoption or submission to another competent agencies: a) Law projects, draft resolutions to be adopted by the National Assembly; ordinance projects, draft resolutions to be adopted by the Standing Committee of the National Assembly; draft Government decrees, Prime Minister's decisions on fisheries; b) Strategies, master plans, long-term, five-year and annual development plans, programs, schemes, proposals and fisheries works of national importance; c) National technical specifications, specialised and professional processes, technical rules and economic – technical cost norms for the fisheries sector.*

+ *Develop and submit national standards to the Minister of Agriculture and Rural Development for subsequent request to competent agencies for appraisal or announcement.*

+ *Raise awareness, disseminate information and provide trainings related to fisheries legislation.*

+ *Organize the implementation of legal documents, strategies, master plans, plans, programs, projects, schemes after they are approved or adopted,*

+ *Adopt normative documents specifying technical guidance, professional and skill requirements, internal rules and special provisions within the scope of assigned management mandates of the Directorate; appraise and announce sectoral basic standards.*

+ *Regarding the protection and development of fisheries resources: a) Guide and lead the survey, research, assessment and habitat protection of aquatic species; conservation and protection of fisheries resources; b) Develop and submit to the Minister of Agriculture and Rural Development for subsequent announcement of aquatic species as included in the Vietnam's Red List or prohibited from fishing, termed fishing bans; regulations on fishing methods, fisheries, gears, seasons, areas for better protection and development of fisheries resources; c) Develop and submit to the Minister of Agriculture and Rural Development draft standards for classification and announcement of protected areas; planning, establishment and management decentralisation of inland/marine protected areas; regulations on protected areas of international and national importance within MARD's management scope.*

+ *Regarding capture fishery: a) Guide and lead the reorganisation of production and structure transformation of coastal fishing industry; b) Lead and organise the survey, assessment of fisheries resources in each marine water, fishing ground, big river and lake;*

*forecast and announce fishing grounds/areas; setting annual TAC for each marine water and fishing ground; develop an information system for the management of capture fishery; promote the development of offshore fishing; c) Develop and submit to the Minister of Agriculture and Rural Development the plans for the demarcation of sea waters and fishing routes, management task assignment and decentralisation, regulations on fishing areas; guide the implementation of regulations on fishing areas; d) Develop and submit to the Minister of Agriculture and Rural Development for adoption of procedures, processes and decentralisation of granting/revoking fishing licenses; regulations on logbook formats/ filling instructions as well as procedures; filling instructions and procedures for fishing statements; e) Guide the prevention and mitigation of natural disasters in fishing operations:*

*+ Manage fishing vessels and service providers for fisheries activities: a) Guide and approve the designs of fishing vessels to be built or renovated, technical safety and quality standards; standards for environment protection as the law requires; b) Organize the implementation of technical inspection vis-a-vis fishing vessels that are under the jurisdiction of the Directorate; c) Develop and submit to the Minister of Agriculture and Rural Development for adoption of standard forms for the management regulations on fish ports, landing sites, typhoon shelters; technical standards of fish ports and typhoon shelters; standard forms for the management regulations on and technical standards of fish wholesale markets.*

*+ Lead the operations of safety assurance for fishing persons and vessels: a) Develop and submit to the Minister of Agriculture and Rural Development for adoption of normative documents on organization, operation, procedures, records, formats of technical inspection, registration of fishing vessels and their crew members; safety conditions for fishing persons and vessels; b) Cooperate with other ministries, line agencies, and Provincial People's Committees of coastal provinces in managing fishing vessels involved in fishing activities in sea waters and along fishing routes; organize, manage and guide the activities of communication, disaster prevention, rescue and salvage of fishing vessels at sea.*

*+ Regarding the law enforcement for exploitation and protection of fisheries resources: a) Organize the inspection of law enforcement, cooperate with line agencies and authorities at different levels in combating against violations of fisheries resources exploitation and protection as provided in the current legislation; b) Handle violations in the fisheries sector as provided in the current legislation; c) Host or coordinate to settle disputes around exploitation and protection of fisheries resources within its mandates; coordinate to handle the cases of illegal fishing by foreign vessels in Vietnamese waters; d) Organize and guide*

*operations and mobilize manpower for the enforcement of fisheries resources exploitation/protection as provided in the current legislation.*

*+ Organize the conduct of scientific studies and application of scientific and technological innovations in fisheries and extension, as decentralized by the Minister of Agriculture and Rural Development.*

*+ Implement international cooperation in fisheries, as decentralized by the Minister of Agriculture and Rural Development and other regulations.*

*+ Fulfill the tasks related to the standing role within China – Vietnam Committee for Fisheries Cooperation in the Gulf of Tonkin; represent the South East Asia Fisheries Development Centre (SEAFDEC) in Vietnam; Office of the Steering Committee for the Protection and Development of Fisheries Resources Program.*

*+ Article 3 of the Decision provides for the structure of the Directorate of Fisheries, namely:*

*“1. Department of Planning and Finance;*

*2. Department of Science, Technology and International Cooperation;*

*3. Department of Aquaculture;*

*4. Department of Capture Fisheries and Protection of Aquatic Resources;*

*5. Directorate Office (with Representative office in Ho Chi Minh city);*

*6. Inspectorate;*

*7. Institute of Fisheries Economics and Planning;*

*8. Centre for Aquaculture Testing, Experiment and Verification;*

*9. Centre for Fisheries Information”*

### **3. Provincial-level Departments of Agriculture and Rural Development (DARDs)**

DARDs as provided in Decree 13/2008/ND-CP on the organization of specialized bodies of provincial level People’s Committee.

- Mandates and powers of DARDs as related to exploitation and protection of aquatic resources are prescribed in Article 4 as follows:

*+ To submit to provincial-level People's Committees: a/ Draft decisions and directives; master-plans and long-term, five-year and annual plans; programs and measures to organize the performance of state administrative reform tasks in the branches or domains falling*

*within their respective assigned state management scope; b/ Draft legal documents defining the functions, tasks and powers of their attached sub-departments; c/ Draft legal documents specifying the conditions, criteria and titles applicable to heads and deputy-heads of units attached to the Departments; heads and deputy-heads of specialized sections of People's Committees of rural districts, urban districts, provincial towns or cities (below collectively referred to as district-level People's Committees) within the branches or domains under their respective management.*

*+ To organize the implementation of legal documents, plannings and plans after they are approved; to communicate, propagate, guide, disseminate and educate about law on the domains within their assigned state management scope.*

*+ To organize and take responsibility for the examination, registration and grant of permits, diplomas and certificates falling within the state management scope of provincial-level specialized bodies under the provisions of law and the assignment or authorization of provincial-level People's Committees.*

*+ To assist provincial-level People's Committees in performing the state management of enterprises, collective and private economic organizations, associations and non-governmental organizations falling under the management of specialized bodies according to law.*

*+ To enter into international cooperation in the domains falling under the Departments' management according to law and the assignment or authorization of provincial-level People's Committees.*

*+ To study and apply scientific and technical advances; to build information and archival systems in service of their assigned state management, profession and operation.*

*+ To examine and inspect according to their assigned branches or domains organizations and individuals in the implementation of legal provisions; to settle complaints and denunciations, to prevent and fight corruption according to law or the assignment of provincial-level People's Committees.*

*+ To periodically and extraordinarily notify and report on the performance of assigned tasks according to regulations of provincial-level People's Committees and ministries or ministerial-level agencies.*

*- Article 8(6) specifies: a/ To consolidate the Fisheries Department with the Agriculture and Rural Development Department into the Agriculture and Rural Development Department; b/*

*The Agriculture and Rural Development Department shall advise and assist the provincial-level People's Committee in performing the function of state management of agriculture; forestry; salt production; fisheries; irrigation and rural development; flood and storm prevention and combat; safe agricultural, forestry, fishery and salt products in the production-marketing process.*

- The structure of DARDs, as stated in Article 5, includes: 1. Office; 2. Inspectorate; 3. Specialized sections; 4. Sub-departments; 5. Non-business organizations

Currently, in the structure of DARD in coastal provinces often exists sub-DEFICAREP which is mandated to advise and assist DARD Directors in state management over fisheries sector.

#### **4. Conduct of fisheries resources survey and research**

The decentralization of survey and research as specified in Article 14 of the Fisheries Law is mentioned in previous paragraph 1.12 (Part V). The Provincial People's Committees should be responsible for the conduct of fisheries resources survey and research in their locality, under guidance by MARD.

#### **5. Decentralization and mandate assignment for sea water management**

Guiding the implementation of Article 15(2) of the Fisheries Law, Decree 33/2010/ND-CP states:

- MARD shall take lead and coordinate with other Ministries, line agencies and People's Committees of coastal provinces in managing fishing vessels operating in Vietnamese waters and the high seas; inspection, supervision and handling of violations.

- People's Committees of coastal provinces shall manage coastal and near shore fishing operations, decentralize to and guide district/commune People's Committees in developing community-based management models for coastal fisheries resources management; organize the supervision and control of fishing operations within assigned mandates; cooperate with MARD and relevant agencies in controlling fishing operations in the offshore waters and beyond Vietnam's jurisdiction.

#### **6. Decentralization for granting of fishing licenses**

Article 7, Decree 59/2005/ND-CP on the business conditions of some fisheries, stipulates:

- DECAFIREP shall issue fishing licenses for: a) Corporations and organizations under the Ministry of Fisheries; b) Corporations and organizations under other Ministries and central-level agencies; c) Corporations and economic organizations of armed forces.

- Sub-DECAFIREPs shall issue/revoke fishing licenses for fishing vessels registered in the province, except for those belonging to organizations to whom DECAFIREP issues fishing license(s).

Circular 02/2006/TT-BTS, that guides the implementation of Decree 50/2005/ND-CP, states that for provinces which have a large number of fishing vessels, PPC might decentralize to district-level to issue fishing licenses for small fishing boats. This decentralization, however, falls under the responsibility of the central government.

When reviewing the Fisheries Law for amendment, it is necessary to revise what agencies should take the responsibility of licensing. It would be better if local agencies are given more power, and MARD only issues licenses for individuals and organisations whose fishing vessels operate outside Vietnamese waters.

## **7. Decentralisation for registration of fishing vessels and their crew members**

Article 40 of the Fisheries Law states:

- The Ministry of Fisheries (now MARD), in unified manner, shall manage the registration of fishing vessels and its crew members, shall regulate the titles of crew members throughout the country; shall conduct the registration of fishing vessels and its crew members belonging to the units subordinate to Ministry of Fisheries, units belonging to the other Ministries and sectors, people's armed forces dealing with economic affairs, Vietnamese fishing vessels fishing in waters beyond the jurisdiction of Vietnam.

- Provincial People's Committee shall register local fishing vessels and its crew members in accordance with the guidance of Ministry of Fisheries, except for those not subjected to regulations stated in the above paragraph.

When reviewing the Fisheries Law for amendment, it is necessary to revise the provisions on decentralisation for registration of fishing vessels and their crew members. It would be better if local agencies are given more power, and MARD only issues registration certificates for fishing vessels that operate in the waters beyond Vietnam's jurisdiction, ships for fisheries superintendence or fisheries resources survey/research.

## **8. Decentralisation for technical inspection of fishing vessels**

Article 39 of the Fisheries Law states:

- Ministry of Fisheries, in the unified manner, shall organize the inspection of fishing vessels throughout the country; shall inspect the fishing vessels with the length up to 20 meters.
- Provincial People's Committee shall inspect fishing vessels with the length below 20 meters

When reviewing the Fisheries Law for amendment, it is necessary to revise the provisions on decentralisation for technical inspection of fishing vessels. It would be better if local agencies are given more power, and MARD only issues technical inspection certificates for fishing vessels that operate in the waters beyond Vietnam's jurisdiction, ships for fisheries superintendence or fisheries resources survey/research.

## **9. Sectoral inspectorate and fisheries superintendence**

As reported by DEFICAREP, by 2005, the Fisheries Resources Protection Inspectorate had been based at DEFICAREP and its sub-departments at provincial level. This force was relatively effective by taking advantage of available human, financial and technical resources for inspection and control of fisheries resource utilisation. The merge of fisheries inspectorate into MARD and DARD inspectorate (according to Decree 107/2005/ND-CP and guiding documents), together with the transfer of all equipment and facilities from DEFICAREP and sub-DEFICAREPs to agriculture sector inspectorate has led to limited efficiency in law enforcement of the authorities in charge of exploitation and protection of fisheries resources, and hence, generating influences on the sectoral management of these departments.

At present, the system consists of 48 sub-DECAFIREP and relevant Fisheries Centers. Among these, 28 coastal sub-DECAFIREPs, whose total number of staff is some 792 (including 257 inspectors), are responsible for monitoring and controlling fishing operations.

Fisheries inspection is not the same for all provinces: Some sub-department assigns the task of inspection to subordinate specialized divisions (e.g. Division for Resources Protection, Division of Fishing Vessel Registry, Technical Division, etc.); some others set up stations exclusively for this purpose but under different names (e.g. Station for Fisheries Superintendence, Fisheries Station, Station for Registration and Technical Inspection of Fishing Vessels, etc.)

The current system shows unclear functions of the inspectorate, which apparently does not have jurisdiction to supervise and apply sanctions for violations. In reality, the inspection and control tasks and functions differ from province to province, while such a control is a challenge to a fisheries sector of more than 130,000 fishing vessels in all waters of Vietnam.

The above mentioned constraints and shortcomings are urging matters to reorganize the enforcement personnel at sea to support fisheries authorities in fulfilling their functions. MARD is currently developing to submit to the Government a draft Decree on Fisheries Superintendence. The newly drafted Fisheries Law (amended) also contains a section on Fisheries Superintendence.

## **VII. CONCLUSIONS**

Fisheries in many countries including Vietnam are challenged with overfishing, excessive fishing efforts and depleting resources. The role of fisheries management is, therefore, very important to achieve sustainable development of fisheries sector.

In such a situation, FAO and RFMOs have adopted instruments and regulations for conservation and management of highly migratory fish stocks. Vietnam also seeks to better conserve and manage fisheries resources not only in its EEZ but also beyond, in order to comply with relevant international norms and rules.

In the past time, Vietnam has been issued many legislative documents on management and conservation of aquatic resources. However, the State has not issued any legal documents related to tuna resource management. There are only common legal normative documents related to the exploitation and protection of fisheries resources in general, including tuna species

This report aims to present, review and analyse the compatibility and gaps between Vietnam's legislation and WCPFC requirements to provide a basis for Vietnam's future accession to WCPFC, and to make recommendations to address or change current provisions in Vietnam's legislation so that they are more and more consistent and adaptive to international agreements and rules. These changes will surely need time but they are apparently appropriate to Vietnam's wishes and international requirements.

## **LIST OF REFERENCES**

- 1) The annual statistic data of Department of Capture Fisheries & Resources Protection..
- 2) The annual statistic data of FAO.
- 3) Nguyen Long; 1999; Study for defining types of fishing gears which have high economic effect and suitable with offshore fishing. Report of Research Institute for Marine Fisheries.
- 4) Nguyen Long; 2003; The study for applying the modern tuna purse seine fisheries in Vietnam. Report of Research Institute for Marine Fisheries.

- 5) Nguyen Long; 2006; The study for improving and applying new technology for tuna longline fisheries in Central and South-east sea of Vietnam.
- 6) Dao Manh Son; 2005; Report of project “Study the aquatic resources and total allowable catch of pelagic resources (mainly are yellowfin tuna and bigeye tuna) and status of fisheries structure in offshore area of Central and South-east sea of Vietnam”. Report of Research Institute for Marine Fisheries
- 7) United Nations Convention on the Law of the Sea (UNCLOS),.
- 8) United Nations Fish Stocks Agreement (UNFSA).
- 9) Western and central Pacific Ocean Convention (WCPFC).
- 10) Jan Pieter Groenhof; 2009; International obligations and fisheries law of Vietnam.
- 11) Gunnar Frogner Dahl;2009; Summary of status of legal development in some countries and recommendations on legal reform in Vietnam.
- 12) West Pacific East Asia Oceanic Fisheries Management Project document
- 13) List of Vietnam’s legal normative documents on capture fishery in Annex 1
- 14) List of WCPFC CMMs and Resolutions in Annex 3.

## APPENDIXES

### Annex 1. List of Vietnam’s legal normative documents on capture fishery

#### 1. Laws

No	Ref. Code	Date	Title
1	17/2003/QH11	26/11/2003	Fisheries Law

#### 2. Government’s decrees

No	Ref. Code	Date	Title
1	59/2005/ND-CP	05/04/05	Conditions for production and business of some fisheries-related occupations
2	66/2005/ND-CP	19/5/2005	Safety assurance for humans and vessels engaged in fisheries activities
3	57/2008/ND-CP	03/01/08	Regulations on MPAs of national and international importance
4	01/2008/ND-CP	03/01/08	Prescribing functions, mandates, power and organizational structure of the Ministry of Agriculture and Rural Development
5	14/2009/ND-CP	13/02/2009	Amending and supplementing some articles of Government Decree 59/2005/ND-CP on the production and business conditions of some fisheries-related occupations
6	75/2009/ND-CP	10/9/2009	Amending Article 3 of Government Decree

			01/2008/ND-CP on the functions, mandates, power and organizational structure of the Ministry of Agriculture and Rural Development
7	31/2010/ND-CP	29/3/2010	Application of sanctions on administrative law violations in fisheries sector
8	32/2010/ND-CP	30/3/2010	On the management of fishing operations by foreign fishing vessels in Vietnamese waters
9	33/2010/ND-CP	31/3/2010	On the management of fishing operations by Vietnamese individuals and organisations in sea waters

### ***3. Prime Minister's Decisions***

<b>No</b>	<b>Ref. Code</b>	<b>Date</b>	<b>Title</b>
1	131/2004/QD-TTg	16/7/2004	Approving the Program for Protection and Development of Fisheries Resources until 2010
3	150/2005/QD-TTg	20/6/2005	Approving the master plan for national structure transformation of agriculture, forestry and fisheries production until 2010, with a vision to 2020
4	288/2005/QD-TTg	08/11/05	Approving the revised master plan for typhoon shelters for fishing vessels until 2010, with a vision to 2020
5	10/2006/QD-TTg	11/10/06	Approving the Master Plan for Fisheries Sector Development until 2010 with an orientation to 2020
6	29/2007/QD-TTg	28/02/2007	Establishment and organisation for implementation of Vietnam Fund for Aquatic Resources Reproduction
7	149/2008/QD-TTg	20/11/2008	Prescribing the regime of providing incentives for Agriculture and Rural Development inspectors, inspecting collaborators, officials and workers on board fisheries superintendence ships when taking journeys at sea
8	289/QD-TTg	18/3/2008	Promulgating policies to support ethnic minorities, households in the State's assistance list, poor, marginalised and fishing households
9	485/QD-TTg	02/5/2008	Approving the scheme for "Protection of endangered and high value aquatic species until 2015 with vision to 2010."
10	965/QD-TTg	21/7/2008	Amending and supplementing PM's Decision 289/QD-TTg dated 18/3/2008 promulgating policies to support ethnic minorities, households in the State's assistance list, poor, marginalised and fishing households; Decision 602/QD-TTg dated 22/5/2008 amending and supplementing Decision 201/QD-TTg dated 19/2/2008 and Decision 289/QD-TTg dated 18/3/2008 by the Prime Minister
	1479/QD-TTg	13/10/2008	Approving the Master Plan for Inland Water Protected Area System until 2020
11	05/2010/QD-TTg	25/01/2010	Prescribing functions, mandates, powers and organisational structure of the Directorate of Fisheries under MARD
12	346/QD-TTg	15/03/2010	Approving the Master Plan for the System of Fish Ports and Landing Sites until 2020, with orientations to 2030

#### 4. Prime Minister's Directives

No	Ref. Code	Date	Title
1	22/2006/CT-TTg	30/6/2006	On strengthening the safety assurance for fishing activities in sea waters, especially offshore capture fishery

#### 5. Ministerial level documents

##### 5.1. Decisions

No	Ref. Code	Date	Title
1	23/2008/QD-BNN	28/01/08	Prescribing functions, mandates, powers and organizational structure of DEFICAREP
2	592/2000/QD-BTS	07/07/2000	Promulgating regulations on operations of the Steering Committee for combating the use of explosives, electricity and toxic substances in fishing
3	16/2002/QD-BTS	17/5/2002	Promulgating standards for titles of civil servants working on board fisheries vessels
4	13/2004/QD-BTS	31/5/2004	Promulgating standards for titles of civil servants working on board fisheries superintendence ships
5	27/2005/QD-BTS	09/01/05	Prescribing criteria for typhoon shelters for fishing vessels
6	04/2006/QD-BTS	16/1/2006	Promulgating regulations on operations of the Steering Committee for Fisheries Resources Protection and Development Program
7	16/2006/QD-BTS	14/9/2006	Promulgating regulations on operations of Fisheries Inspectorate
8	20/2006/QD-BTS	29/12/2006	Promulgating regulations on management of fish ports, landing sites, and typhoon shelters for fishing vessels
9	27/2006/QD-BTS	29/12/2006	Promulgating ( <i>ad interim</i> ) uniforms, stripes, badges, pennants, flags and technical facilities for Fisheries Inspectorate
10	05/2006/QD-BTS	06/02/06	Promulgating the regulations on technical inspectors for fishing vessels
11	105/2007/QD-BNN	27/12/2007	Promulgating Constitution of Organisation and Operation of Vietnam Fund for Aquatic Resources Reproduction
12	77/2008/QD-BNN	30/06/2008	Promulgating the Regulations on Granting Incentives and Qualification Certificates for Fishing Vessel Masters, Chief Engineers, Technicians and Crewmembers
13	82/2008/QD-BNN	17/7/2008	Announcing the List of Endangered High-value Aquatic Species for Protection, Restoration and Development
14	10/2006/QD-BTS	3/7/2006	Promulgating the Regulations on Registration of Fishing Vessels and their Crew Members
15	96/2007/QD-BNN	30/6/2008	Promulgating the Regulations on Technical Inspection of Fishing Vessels

16	122/2008/QD-BNN	18/12/2008	Promulgating regulations on stamp format and procedures for technical and specialised stamps during technical inspection of fishing vessels
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## 5.2. Circulars

No	Ref. Code	Date	Title
1	27/2003/TTLT-BTS-BQP	31/3/2003	Guiding the coordination in State management between the Ministry of Defence and Ministry of Fisheries, as related to the activities of Marine Police Force, and coordination between the Marine Police and concerned bodies under the Ministry of Fisheries for the activities in the sea waters and continental shelf of the Socialist Republic of Vietnam
2	01/2001/TT-BTS	06/08/01	Amending item 6(a) in Joint Circular 04/1998/TTLT-TS-KHDT-BTC-NHNNVN guiding the management and utilisation of credit loans allocated in accordance with the State Plan for the projects of building/renovating fishing vessels and service provision for offshore fishing
3	70/2003/TTLT/BTC-BTS- NHNN	29/4/2003	Guiding the handling of credit loan debts for building and renovating offshore fishing vessels as specified in PM's Decision 89/2003/QD-TTg dated 8/5/2003
4	02/2007/TT-BTS	13/7/2007	Guiding the implementation of Decree 66/2005/ND-CP dated 19/5/2005 on safety assurance for persons and vessels involved in fishing operations
5	62/2008/TT-BNN	20/3/2008	Amending, supplementing some provisions of the Ministry of Fisheries' Circular 02/2006/TT-BTS dated 20/3/2006 guiding the implementation of Decree 59/2005/ND-CP dated 4/5/2005 on the business and production conditions of some fisheries-related occupations
6	61/2008/TTLT- BNN-BNV	15/5/2008	Joint Circular between MARD and the Ministry of Home Affairs, guiding the implementation of functions, mandates, powers and organisational structure of specialised bodies under the Provincial- and District-level People's Committees, and the State Management tasks of Commune-level People's Committee related to Agriculture and Rural Development
7	101/2008/TT-BNN	15/10/2008	Guiding the implementation of PM's Decision 459 dated 28/4/2008 on the trial of về việc thí điểm trang bị máy thu trực ảnh cho ngư dân
8	53/2009/TT-BNN	21/8/2009	Prescribing the management of exotic aquatic species in Vietnam
9	63/2009/TT-BNN	25/9/2009	Prescribing the implementation of Government Decree 123/2006/ND-CP dated 27/10/2006 on the management of fishing operations by Vietnamese individuals and organisations in different sea waters

### 5.3. Directives

No	Ref. Code	Date	Title
1	04/2003/CT-BTS	09/03/2003	On the investigation of fishing vessels and their crew members
2	08/2005/CT-BTS	25/8/2005	On the conduct of statistic sampling for baseline data on fisheries
3	10/2005/CT-BTS	12/08/2005	On the combat against illegal fishing activities in coastal and nearshore waters
4	03/2006/CT-BTS	27/3/2006	On strengthening the management of fishing operations in Vietnamese waters
5	05/2007/CT-BTS	29/06/2007	On strengthening the organisation and operations of Fisheries Inspectorate
6	02/2007/CT-BTS	15/6/2007	On strengthening the management of inland fisheries
7	54/2008/CT-BNN	21/4/2008	On strengthening the management of fishing vessels and dealing with the situation of unregistered fishing vessels operating in different waters

**Annex 2. A checklist of Vietnamese fisheries regulations in light of WCPFC requirements, including recommendations to address the inconsistency**

CMM-WCPFC	Vietnam Regulations	Address Gaps	Recommendations
1. BE Tuna and YF Tuna (2008-01)  -reduction fishing mortality/fe on BE tuna in purse seine fishery (also in member's EEZ)	- Circular 02 and supplementary Circular 62 regulated mesh size and minimum length at capture for two tuna species (Frigate tuna and spot tuna) - Fisheries Law - Decree 59 Decision 10 - 2006	No specific regulation on BE and YF tuna	- Issue a circular to regulate for BE and YF tuna  - Increase tuna fisheries data collection activities  - Species identification
-closed to fishing on FAD's; reduce catch by weight of BE tuna (alternative) on the High Seas	- No regulation		- a need to regulate specification on closing FADs - Prohibit using FDA in the high sea - in the EEZ should monitor using FADs
-limit the capture of small BE tuna and YF tuna associated with fishing on FAD's on the High Seas	- Decree 02-2006 regulate that limitation of 15% of small size fishes in the catch	- no specific regulation for BE and YF	- Regulate minimum fish size at capture for BE and YF - Closing fishing two this species by season and areas - mesh size regulations
- retention on board bigeye, skipjack and yellowfin tuna (with exception) between 20 <sup>0</sup> N and 20 <sup>0</sup> S (purse seine)	No		- regulate this on legal framework
-carry ROP on the High Seas	- Decree 32-2010 regulate on the EEZ	No specific regulation for the high sea	- Conduct a regular OP for the high sea
-catch limit for BE tuna (LL) on the High Seas and YF for EEZ	No regulation		- Need to be regulated and implemented
-monitoring at landing and transshipping ports on the High Seas	- Directive 08-2004 - Circular no 61 - 2008		Sufficient

CMM-WCPFC	Vietnam Regulations	Address Gaps
2. South Pacific Alb (2005-02) -not increase number of FV -cooperation and collaboration on research of its stocks	No this species distribute in 's EEZ	

CMM-WCPFC	Vietnam Regulations	Address Gaps
3. North Pacific Alb (2005-03) -not increase fishing effort -data of catches and fishing effort	No this species distribute in 's EEZ	

CMM-WCPFC	Vietnam Regulations	Address Gaps	Recommendation
4. Resolution-2005-02 Resolution on reduction of overcapacity	- Master plan for fisheries sector to (QD 10/TTg/2006) reduction number of FV to 50.000 units, - Decree 02 – 2006 not allow to FV less than 30 HP, prohibit trawl fisheries less than 90 HP fishing at coastal areas, regulate fishing area by fisheries		Sufficient

CMM-WCPFC	Vietnam Regulations	Address Gaps
4. Pacific BF Tuna (2009-07) -not increase fishing effort -strengthen data collecting system	No this fisheries	

CMM-WCPFC	Vietnam Regulations	Address Gaps
5. Seabirds (2007-04) -implement IPOA-Seabirds - NPOA -use at least two mitigation measure for the long line vessel (tori lines; weighted banch lines; blue dyed bait) -release seabirds captured alive during longlining	Branch line are long with 50-60m and therefore seabird never caught in by longliner in Vietnamese waters	

CMM-WCPFC	Vietnam Regulations	Address Gaps
6. Swordfish (2009-03) -limiting number of FV -number of FV, catch of swordfish -reduction catch if catch limit has been exceeded	No regulation	<b>Recommendation:</b> <ul style="list-style-type: none"> <li>Improving data collection programme</li> <li>Implementing log book</li> </ul>

CMM-WCPFC	Vietnam Regulations	Address Gaps
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7. Striped Marlin (2006-04) -limiting number of FV- High seas -number of FV, catch of marlin (as target and non-target) – High Seas	-No regulation	<b>Recommendation:</b> <ul style="list-style-type: none"> <li>• Improving data collection</li> <li>• Implementing log book</li> </ul>
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CMM-WCPFC	Vietnam Regulations	Address Gaps	Recommendation
8. Sharks (2009-04) -implement IPOA-Sharks / NPOA -collection data on retained (key shark species)and discarded of shark catches -release of live sharks (fisheries for tunas)	NPOA have been prepared but not issued. There has been a project to collect shark fisheries data (SEAFDEC project)		Should implement NPOA Data collection Logsheet

CMM-WCPFC	Vietnam Regulations	Address Gaps
9. Sea turtles (2008-03) -implement FAO Guidelines to Reduce Sea Turtle Mortality in Fishing -safe release sea turtle on purse seine and long line fishery -long line for swordfish use large circle hooks, whole finfish for bait	- Many studies on turtle. – - There is MPAs for turtle in (11 MPAs established), - investigate on using TED and have been applied. - Investigate on using circle hooks to J hook. - List of threaten and endanger species (Decree no 2 – 2006) NPOA to sea turtle conservation	<b>Adequate</b>

CMM-WCPFC	Vietnam Regulations	Address Gaps
10. VMS (2007-02) -apply to all FV that fish HMS on the high seas -cooperate for compatibility of national and high seas VMS	- Decree 66-2005 to regulate setting VMS on board - A center for VMS established - There have been a project to equip the VMS system in offshore vessels	Establish policies for setting up VMS system (enforcement)

CMM-WCPFC	Vietnam Regulations	Address Gaps	Recommendation
11. Regional Observer Program (2007-01) on the High Seas -scope of ROP -accept an observer -rights and responsibilities of: observer, vessel operator, captain, crew	No regulation for Vietnam's Decrees 59/66 (ship owner's responsibilities)	Gap: Selection/appointment process for observers and observation schedule	Set up a roadmap/ process to join ROP

CMM-WCPFC	Vietnam Regulations	Address Gaps	Recommendations
12. Boarding and Inspection (2006-08) on the high seas -vessel carrying member's flag accept boarding and inspection	Decrees 107 and 59 (ship owner's responsibilities) Decree 31 (2010) on administrative penalties against violators intervening inspectors'	No regulations for high seas	Need regulations for high seas

-priority for boarding and inspection (not on the WCPFC record; large scale tuna vessel -without observer -inspection procedures -matters to inspect -history of violation	activities		
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CMM-WCPFC	Vietnam Regulations	Address Gaps	Recommendations
13. Charter (2009-08) on the high seas -information of chartered vessel -eligible vessel for charter	No regulations (possibly Decree 191 on bareboat charter of vessels operating in Vietnam's maritime zones)	No regulations on charter of vessels operating in the waters outside Vietnam's jurisdiction	Issue/ develop regulations for the high seas

CMM-WCPFC	Vietnam Regulations	Address Gaps	Recommendations
14. Monitor Landing of Purse Seiner (2009-10) for canneries from non member of WCPFC fishing on the Convention Area -collection species and size composition data	There exist statistical data, Decision 3477 (2009) on traceability certification of export fish products		Issue regulations on canneries' landing site data collection (re species and size composition)

CMM-WCPFC	Vietnam Regulations	Address Gaps	Recommendations
15. IUU Fishing (2007-03) -adopt IPOA—IUU Fishing -criteria of IUU activities -IUU vessel list	Fisheries law (2003) NPOA on IUU has been prepared	NPOA is not yet approved	Need to be issued and implemented

CMM-WCPFC	Vietnam Regulations	Address Gaps	Recommendations
16. Record of FV and Authorization to Fish (2009-01) -member authorize vessels to fish -appropriate license -record of FV (fly its flag, authorized to fish) -WCPFC record of FV -WCPFC interim register	- Decree 59, Circular 02, Fisheries Law (provisions on FV licensing and registry) - Fisheries Law, Decree 31 (2010), Decree 32 (foreign vessel license revocation), Decree 59 and Decree 107 (revocation of fishing license)	Adequate	None

CMM-WCPFC	Vietnam Regulations	Address Gaps	Recommendations
17. Transshipment (2009-	- Traceability (Decision No.	compliance	None

06) -compatibility laws, designated fishing port -prohibit for PS -transshipment declaration -observer mobilization	3477-2009) - Regulation on fishing port and landing sites (20/2006/QD-BTS)		
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CMM-WCPFC	Vietnam Regulations	Address Gaps	Recommendations
18. Vessel without Nationality (2009-09)  -reported  -without nationality constitute violation	No		- establishing regulations in order for compliance with WCPFC's requirements

CMM-WCPFC	Vietnam Regulations	Address Gaps	Recommendations
19. Marking and Identification of FV (2004-03) -International Telecommunication Union Radio Call Signs (IRCS) – WCPFC Identification Number (WIN) -display the WIN on the vessel 's hull as defined	- Fisheries law - Decree 33/210 on foreign vessels  NO  no	Compliance	- need to regulate if VN vessels go fishing in WCPFC areas

CMM-WCPFC	Vietnam Regulations	Address Gaps	Recommendations
20. Large Scale Driftnet (2008-04) on the high seas - prohibited FG (L 2,500M) -MCS	- No regulation		- establishing regulations in order for compliance with WCPFC's requirements

CMM-WCPFC	Vietnam Regulations	Address Gaps	Recommendation
21. FAD (2009-02) for high seas purse seiner -FAD closure -catch retention (not be retained on board: size, marketability, species composition, unfit for human) -reporting	No regulation		Implement FAD regulation to comply the CMM based on domestic nature of FAD fishing

CMM-WCPFC	Vietnam Regulations	Address Gaps	Recommendation
22. Data Buoys (2009-05) -prohibit fishing with 1 nm -avoid fishing gear interacting with data buoys	There is some regulations on this issue on maritime laws but no regulation for fisheries		- Consider to regulate based on domestic interest - Should be considered into fisheries

CMM-WCPFC	Vietnam Regulations	Address Gaps	<b>Recommendation</b>
23. CMMs (2009-11) -request for CNM	Decision 1408/2009 to establish a working group in order for dealing with Vietnam's participation on WCPFC and related issues		Need to establish a legal, policy framework - Need to refer scientific advises on reports in order to submit to WCPFC

### Annex 3. List of WCPFC CMMs, and Resolutions

#### 1. RESOLUTIONS OF THE WESTERN AND CENTRAL PACIFIC FISHERIES COMMISSION

Resolution-2005-01	Resolution on the incidental catch of seabirds [repealed and replaced by CMM-2006-02]
Resolution-2005-02	Resolution on reduction of overcapacity
Resolution-2005-03	Resolution on non-target fish species
Resolution-2005-04	Resolution to mitigate the impact of fishing for highly migratory fish species on sea turtles
Resolution-2008-01	Resolution on Aspirations of Small Island Developing States and Territories

#### 2. CONSERVATION AND MANAGEMENT MEASURES OF THE WESTERN AND CENTRAL PACIFIC FISHERIES COMMISSION

CMM-2004-01 (WCPFC/PrepCon/46)	Record of fishing vessels and authorization to fish ( Replaced by CMM 2009-02)
CMM-2004-02 (WCPFC/PrepCon/46)	Cooperating non-members [replaced by CMM-2008-02]
CMM-2004-03 (WCPFC/PrepCon/47)	Specifications for the marking and identification of fishing vessels
CMM-2004-04	Resolution on conservation and management measures
CMM-2005-01	Conservation and management measures for bigeye and yellowfin tuna in the western and central Pacific Ocean [Replace by CMM-2008-01]
CMM-2005-02	Conservation and management measure for south Pacific albacore
CMM-2005-03	Conservation and management measure for north Pacific albacore
CMM-2006-01	Conservation and management measures for bigeye and yellowfin tuna in the western and central Pacific Ocean [Replace by CMM-2008-01]
CMM-2006-02	Conservation and management measure to mitigate the impact of fishing for highly migratory fish stocks on seabirds [Revised and repolaced by CMM-2007-04]
CMM-2006-03	Conservation and management measure for swordfish in the south west Pacific [Replaced by CMM-2008-05]
CMM-2006-04	Conservation and management measure for striped marlin in the southwest Pacific
CMM-2006-05	Conservation and management measure for sharks in the western and central Pacific Ocean [Replaced by CMM-2008-06]
CMM-2006-06	Commission Vessel Monitoring System [Revised and replaced by CMM-2007-02]
CMM-2006-07	Conservation and management measure for the Regional Observer Programme
CMM-2006-08	Western and Central Pacific Fisheries Commission boarding and inspection procedures
CMM-2006-09	Conservation measure to establish a list of vessels presumed to have carried out illegal, unreported and unregulated fishing activities in the western and central Pacific Ocean (IUU vessel list) [Revised and replaced by CMM-2007-03]
CMM-2007-01	Conservation and management measure for the Regional Observer Programme
CMM-2007-02	Commission Vessel Monitoring System
CMM-2007-03	Conservation measure to establish a list of vessels presumed to have carried out illegal, unreported and unregulated fishing activities in the western and central Pacific Ocean (IUU vessel list)
CMM-2007-04	Conservation and management measure to mitigate the impact of fishing for highly migratory fish stocks on seabirds

CMM-2008-01	Conservation and Management Measure for Bigeye and Yellowfin Tuna in the Western and Central Pacific Ocean
CMM-2008-02	Cooperating Non Members (Replaced by CMM 2009-11)
CMM-2008-03	Conservation and Management for Sea Turtles
CMM-2008-04	Conservation and Management Measure to Prohibit the Use of Large Scale Driftnets on the High Seas in the Convention Area
CMM-2008-05	Conservation and Management of Swordfish (Replaced by CMM 2009-03)
CMM-2008-06	Conservation and Management of Sharks (Replaced by CMM 2009-04)
CMM-2009-01	WCPFC record of fishing vessels and authorization to fish (Revised)
CMM-2009-02	CMM on the application of high seas FAD closure and catch retention
CMM-2009-03	Conservation and Management for Swordfish
CMM-2009-04	Conservation and Management for Sharks
CMM-2009-05	CMM prohibiting fishing on data buoys
CMM-2009-06	CMM on the regulation of transshipment
CMM-2009-07	CMM for Pacific bluefin tuna
CMM-2009-08	Charter notification scheme
CMM-2009-09	CMM for vessels without nationality
CMM-2009-10	CMM to monitor landings of purse seine vessels at ports so as to ensure reliable catch data by species
CMM-2009-11	Cooperating non-members

## Resolutions and Measures by Category

<b>Fisheries Measures</b>	
Resolution-2005-02	Resolution on reduction of overcapacity
Resolution-2005-03	Resolution on non-target fish species
CMM-2004-04	Resolution on conservation and management measures
CMM-2005-02	Conservation and management measure for south Pacific albacore
CMM-2005-03	Conservation and management measure for north Pacific albacore
CMM-2006-04	Conservation and management measure for striped marlin in the southwest Pacific
CMM-2007-04	Conservation and management measure to mitigate the impact of fishing for highly migratory fish stocks on seabirds
CMM-2008-01	Conservation and Management Measure for Bigeye and Yellowfin Tuna in the Western and Central Pacific Ocean
CMM-2009-02	CMM on the application of high seas FAD closure and catch retention
CMM-2009-03	Conservation and Management for Swordfish
CMM-2009-04	Conservation and Management for Sharks
CMM-2009-07	CMM for Pacific bluefin tuna
CMM-2009-08	Charter notification scheme
CMM-2009-09	CMM for vessels without nationality
CMM-2009-10	CMM to monitor landings of purse seine vessels at ports so as to ensure reliable catch data by species
CMM-2009-11	Cooperating non-members
<b>MCS Measures</b>	
CMM-2004-03 (WCPFC/PrepCon/47)	Specifications for the marking and identification of fishing vessels
CMM-2006-08	Western and Central Pacific Fisheries Commission boarding and inspection procedures
CMM-2007-01	Conservation and management measure for the Regional Observer Programme
CMM-2007-02	Commission Vessel Monitoring System
CMM-2007-03	Conservation measure to establish a list of vessels presumed to have carried out illegal, unreported and unregulated fishing activities in the western and central Pacific Ocean (IUU vessel list)
CMM-2008-04	Conservation and Management Measure to Prohibit the Use of Large Scale

	Driftnets on the High Seas in the Convention Area
CMM-2009-01	WCPFC record of fishing vessels and authorization to fish (Revised)
CMM-2009-05	CMM prohibiting fishing on data buoys
CMM-2009-06	CMM on the regulation of transshipment
<a href="#">Measures on Special Consideration to Developing States</a>	
Resolution-2008-01	Resolution on Aspirations of Small Island Developing States and Territories