



**OFFICE OF THE PUBLIC AUDITOR
REPUBLIC OF PALAU**

PERFORMANCE AUDIT REPORT

ON

**MANAGING SUSTAINABLE FISHERIES
(TUNA)**



**BUREAU OF OCEANIC FISHERY MANAGEMENT
&
BUREAU OF MARINE RESOURCES
MINISTRY OF NATURAL RESOURCES, ENVIRONMENT & TOURISM
REPUBLIC OF PALAU**

FOR THE PERIOD OF OCTOBER 1, 2007 THROUGH SEPTEMBER 30, 2011

MNRET-MSF-08-11P*03-25



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Office of the Public Auditor

February 14, 2013
Serial#: opa13-045au

Honorable Fleming U. Sengebau
Minister
Ministry of Natural Resources, Environment & Tourism
Office of the Minister
Koror, Republic of Palau 96940

Subject: Final Audit Report of Cooperative Performance Audit on Managing Sustainable Fisheries for period of October 1, 2007 through September 30, 2011

Dear Minister Sengebau:

This report presents the results of the Office of the Public Auditor's Cooperative Performance Audit on Managing Sustainable Fisheries for the period from October 1, 2007 through September 30, 2011.

The Office of the Public Auditor (OPA) received a response from the Bureau of Oceanic Fishery Management (BOFM), while the Bureau of Marine of Resources did not submit a response to the Draft Report. In addition, the Division of Marine Law Enforcement, under the Ministry of Justice, also did not respond to the draft audit report. The BOFM's response has been incorporated and published in the final audit report.


The OPA has established an Audit Recommendation Tracking System (ARTS) to keep track of the status of recommendations issued in this report. Accordingly, the OPA will conduct follow up inspections on your responses and corrective action measures to assess their implementation and operation. On a semi-annual basis, June 30 and December 31 each year, the OPA will report the status of the recommendations to the Office of the President and Presiding Officers of the Olbil Era Kelulau for their information and disposition.

Office of the Public Auditor

Minister Sengebau
February 14, 2013
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If you have any questions regarding matters of audit findings and recommendations, the OPA will be available to discuss such matters at your request.

Sincerely,



Satrunino Tewid
Acting Public Auditor
Republic of Palau

*cc: Honorable Antonio Bells, VP/Minister of Justice
Ms. Nannette Malsol, Director, BOFM, MNRET
Mr. David Orrukem, Director, BMR, MNRET
Mr. Thomas Tutii, Acting Chief, DMLE, MOJ*

MANAGING SUSTAINABLE FISHERIES

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GLOSSARY AND ABBREVIATION

Based on definitions developed by Fisheries Division of the Food and Agricultural Organization (FAO) and supplemented by the Scientific Committee of the Western and Central Pacific Fisheries Commission (WCPFC)

Term	Definition
Exclusive Economic Zone (EEZ)	A zone under national jurisdiction (up to 200-nautical miles wide) declared in line with the provisions of 1982 United Nations Convention of the Law of the Sea, within which the coastal State has the right to explore and exploit, and the responsibility to conserve and manage, the living and non-living resources.
Fishery	Generally, a fishery is an activity leading to harvesting of fish. It may involve capture of wild fish or raising of fish through aquaculture.
Fisheries management	The integrated process of information gathering, analysis, planning, decision making, allocation of resources and formulation and enforcement of fishery regulations by which the fisheries management authority controls the present and future behaviours of the interested parties in the fishery, in order to ensure the continued productivity and sustainability of the living resources.
Fishery management plan	A fisheries management plan is a formal or informal arrangement between a fishery management authority and interested parties which identifies the partners in the fishery and their respective roles, details the agreed objectives for the fishery and specifies the management rules and regulations which apply to it and provides other details about the fishery which are relevant to the task of the management authority.
Fishing vessel	Any vessel, boat, ship, or other craft that is equipped and used for fishing or in support of such activity. For management purpose, particularly for monitoring and surveillance, may be considered to include any vessel aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing (e.g. mother ships).
Illegal, Unregulated and Unreported (IUU) fishing	Fishing which does not comply with obligations at the following levels: national, regional, global fisheries conservation, and management. IUU fishing can occur within zones of national jurisdiction, within areas of control of regional fisheries bodies, or on the high seas. With increasing demand for fishery products and the decline of fishery resources, the increasing incidence of IUU fishing has been of great concern to responsible fishing nations.
Logbook	A detailed, usually official record of a vessel's fishing activity registered systematically on board the fishing vessel, usually including information on catch and its species composition, the corresponding fishing effort and location. Completion of logbooks may be a compulsory requirement for a fishing licence.
Longline	A fishing gear in which short lines carrying hooks are attached to a longer main line at regular intervals. Longlines are laid on the bottom or suspended horizontally at a predetermined depth with the help of surface floats. The main lines can be as long as 150 km and have several thousand hooks (e.g. in tuna fisheries).

Monitoring, Control and Surveillance (MCS)	MCS is a key component of the fisheries management process. International instruments which have been adopted during the past decade have stressed the importance of increased cooperation among nations to combat illegal fishing. MCS is the mechanism for implementation of agreed policies, plans or strategies for oceans and fisheries management. MCS is key to the successful implementation of any planning strategy. Conventional MCS activities include aerial surveillance, boarding and inspection, documentary investigation and observer programs.
	Monitoring: The collection, measurement and analysis of fishing activity including: catch, species composition, fishing effort, by-catch, discards, area of operations, etc. This information is primary data that fisheries managers use to arrive at management decisions.
	Control: Involves the specification of the terms and conditions under which resources can be harvested. These specifications are normally contained in national fisheries legislation and other arrangements that might be nationally, sub-regionally, or regionally agreed.
	Surveillance: involves the regulation and supervision of fishing activity to ensure that national legislation and terms, conditions of access, and management measures are observed.
Observer	A certified person on-board fishing vessels that collect scientific and technical information on the fishing operations and the catch for the Management Authority. Observer programs can be used for monitoring fishing operations (e.g. areas fished, fishing effort deployed, gear characteristics, catches and species caught, discards, collecting tag returns, etc.). Observers may or may not have legal coercion powers and their data may or may not be used for non-scientific purposes (e.g. enforcement) depending on the situations.
Offshore	Waters located well beyond the shores (beyond the edge of the nearshore or inshore waters), and which are part of the oceanic environment.
Pole and line	A fishing technique in which surface schooling fish are attracted to the vessel and driven into very active feeding behaviour by throwing live or dead bait into the water and spraying water onto the sea surface to simulate the escape behaviour of small preys. The fish lured with a line and a hook attached to a pole and pulled off the water by manual or powered devices. This fishing method is used worldwide to capture surface-swimming tuna such as yellowfin and skipjack.
Purse seine	Nets characterised by the use of a purse line at the bottom of the net. The purse line enables the net to be closed like a purse and thus retain all the fish caught. The purse seines, which may be very large, are operated by one or two boats. The most usual case is a purse seine operated by a single boat, with or without an auxiliary skiff.
Stock assessment	The process of collecting and analysing biological and statistical information to determine the changes in the abundance of fishery stocks in response to fishing, and, to the extent possible, to predict future trends of stock abundance. Stock assessments are based on resource surveys; knowledge of the habitat requirements, life history, and behaviour of the species; the use of

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	environmental indices to determine impacts on stocks; and catch statistics. Stock assessments are used as a basis to assess and specify the present and probable future condition of a fishery
Total Allowable Catch (TAC)	A TAC represents the amount of fish of a particular species that can be taken from a fishery in a prescribed period.
Vessel Monitoring System (VMS)	As part of modern Monitoring, Control and Surveillance systems (MCS) the VMS is a vessel tracking system (usually satellite-based) which provides management authorities with accurate information on fishing vessels position, course and speed at time intervals. Detail of VMS approved equipment and operational use will vary with the requirements of the nation of the vessel's registry, and the regional or national water in which the vessel is operating. VMS are a complement to conventional MCS activities (aerial surveillance, boarding and inspection, documentary investigation) which are often triggered by the VMS observations.
ALC	Automatic Locator Communicator; means a Forum Fisheries Agency approved device placed on a fishing vessel that transmits, either in conjunction with another device or devices or independently, information or data concerning the position, fishing and such other activities of the vessel as may be required.
BMR-OFM	Bureau of Marine Resource-Oceanic Fisheries Management
DMLE	Division of Marine Law Enforcement
FFA	Forum Fisheries Agency
FFAJ	Four Fisheries Associations of Japan Agreement
FSM	Federated States of Micronesia
MNRET	Ministry of Natural Resources, Environment and Tourism
OEK	Olbiil Er a Kelulau; Palau's legislative body
OPA	Office of the Public Auditor
PAE	Party Allowable Effort- means the total number of fishing days for a Management Year allocated to that Party calculated and presented to the parties each year
PASAI	Pacific Association of Supreme Audit Institutions
PNCA	Palau National Code Annotated
PTMP	Palau Tuna Management Plan
RPPL	Republic of Palau Public Law
SPC	Secretariat of the Pacific Community
TUFMAN	Tuna Fisheries Database Management System
ULA	Uniform Longlining Agreement
WCPFC	Western and Central Pacific Fisheries Commission



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1.0 Executive Summary

February 14, 2013

Honorable Fleming U. Sengebau
Minister
Ministry of Natural Resources, Environment and Tourism
Office of the Minister
Ngerulmud, Republic of Palau 96939

Dear Minister Sengebau:

This audit report presents the results of our performance audit on managing sustainable fisheries, Tuna Fishery in particular, which is managed by the Bureau of Marine Resources-Oceanic Fisheries Management (BMR-OFM) under the Ministry of Natural Resources, Environment and Tourism (MNRET), and the monitoring and surveillance of Tuna Fisheries which is managed by the Division of Marine Law Enforcement (DMLE) under the Ministry of Justice.

The audit scope covered the period of October 1, 2007 through September 30, 2011.

Our audit objective was to assess the effectiveness of the management of off-shore fisheries by Palau fisheries authorities in accordance with national fisheries policies and frameworks by auditing whether;

- *key aspects of management of offshore fisheries are identified and planned;*
- *economic returns from offshore fishery licenses and access agreements are appropriate; and*
- *decision-making concerning offshore fisheries is informed by accurate assessments of the fishery; and changes in the status of the fishery are monitored and reported.*

The audit report disclosed significant findings and recommendations for the responsible agencies to improve in managing sustainable fisheries within the Republic.

Key Findings:

Key Aspects of management of offshore fisheries are not adequately identified and planned

1. The BMR-OFM has not promulgated regulations for the management of offshore fishing.
2. Fisheries governance arrangements are fragmented.
3. The Tuna management plan needs updating.
4. BMR-OFM did not comply with 27 PNCA Section 168 in the approval foreign fishing permits.
5. The DMLE does not use the inspection checklist during inspections of fishing vessels.
6. Palau failed to meet the observer's coverage requirement.
7. BMR-OFM officials did not conduct any inspections on fishing vessels upon unloading of catch.
8. Lack of uniform fines for unauthorized fishing vessels.

It is not clear that economic returns from offshore fishery licenses and access agreements are appropriate

1. No annual consultations as required within the fishing agreements.
2. License fees, export tax, and fishing agreements need to be reviewed and adjusted to take account of the economic value of tuna fisheries.
3. Funds received from the US multilateral treaty are not used to fund fishing activities.

Decision-Making concerning offshore fisheries is not informed by accurate assessments; and changes in the status of the fishery are not monitored and reported

1. Fishing (Tuna) activities are not properly recorded in the TUFMAN database.
2. Inaccurate log sheets
3. The Minister did not comply with the reporting requirements as required in 27 PNCA Section 125.
4. Regional Reporting needs improvement.

As a result, we are not able to provide assurance that the tuna fishery is being adequately managed, or that the people of Palau are realizing the full economic benefit of the tuna resource, or that decision-making is informed by good information about the status of the tuna fishery.

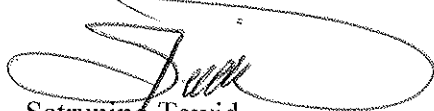
In light of the forgoing conditions, we recommend the Minister of the Natural Resources, Environment and Tourism collaborate and coordinate with the Bureau of Marine Resources-Oceanic Fisheries Management, the Division of Marine Law Enforcement, FFA, WCPFC, and FFA member countries to address and correct the deficiencies to improve the management of tuna fisheries.

Finally, we would like to extend our appreciation to the management and staff of Ministry of Natural Resources, Environment and Tourism, Bureau of Marine Resources-Oceanic Fisheries

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Management, and Division of Marine Law Enforcement for their cooperation and professional courtesy extended to us during the audit.

Sincerely,



Satrunino Tewid
Acting Public Auditor

2.0 Introduction

In August 2011 at the 14th PASAI Congress in Tonga, the public auditors/auditor generals from around the Pacific Rim resolved to conduct a cooperative performance audit on Managing Sustainable Fisheries focusing on tuna. The Supreme Audit Institutions participating in the audit include Solomon Islands, Federated States of Micronesia, Cook Islands, Fiji, Papua New Guinea, Samoa, Tonga, Kiribati, Nauru, and Republic of Palau. The participating members met in Fiji from August 22nd to 28th 2011 for a planning meeting. The planning meeting enabled each participating audit team to develop an audit work program for Managing Sustainable Fisheries of their respective country and to share and learn with other Supreme Audit Institutions audit teams.

The Republic of Palau is a small island State of 20,000 people bordering Indonesia and the Philippines and is in close proximity to the major fishing nations and fish markets of Japan and Taiwan. In terms of natural resources, Palau is blessed with a bountiful inshore marine environment and provides a home to highly prized migratory tuna resources. These factors however, combine to make the conservation and management of these fisheries resources, particularly the regionally-shared stocks of tuna, an extremely difficult one.¹

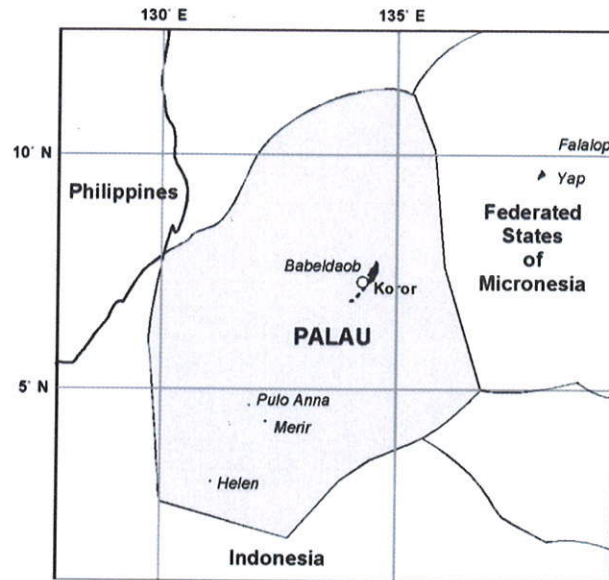


Protection of the marine ecosystem is a key issue for the Republic of Palau in its bid to ensure food security and to maximise benefits from the sustainable exploitation of marine resources. All fishing activity that degrades the marine environment and threatens the health of fish stocks in the Republic and the wider Pacific Ocean region is a threat to the health and livelihood of the Palauan people and to the supply of fish, particularly shared fish stocks, available to the Republic of Palau and the outside world.²

¹ Republic of Palau Draft National Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing, June 2007, Colin Brown, FAO, p. 4

² Ibid

Background



The Palau EEZ is relatively small (629,000 km²), bordering those of Indonesia to the south, Philippines to the west, and FSM to the east, with high seas areas to the north and south-east (the Palau-FSM-PNG corridor).³ Palau is a signatory to international, regional and sub-regional agreements. It is a signatory to the following regional agreements listed below:

UNITED STATES MULTILATERAL TREATY

The U.S. Multilateral Treaty on Fisheries is an agreement between Certain Governments of the Pacific Island States and the Government of the United States of America (commonly referred to as the "US Treaty"). The US Treaty first started in 1987 and it has been renewed on two occasions, with the last renewal in 2003 and to run for 10 years until 2013. The US Treaty enables US purse seine fishing vessels to fish in the waters of the 16 Pacific Island Parties which are: Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, Vanuatu.

³ Tuna Fisheries in the waters of the Republic of Palau, Kathy Sisor, Oceanic Fisheries Management Section, Bureau of Marine Resource Palau, July 2006

NAURU AGREEMENT CONCERNING COOPERATION IN THE MANAGEMENT OF FISHERIES OF COMMON INTEREST

The Nauru Agreement is a sub-regional agreement on terms and conditions for tuna purse seine fishing licenses in the region. The Parties to the Nauru Agreement (PNA) are Federated States of Micronesia, Kiribati, Marshall Islands, Nauru, Palau, Papua New Guinea, Solomon Islands and Tuvalu. The agreement is dated 11 February 1982. This Agreement has 3 Implementing Arrangements which set out specific rules for fishing in these countries.

THE FSM AGREEMENT FOR REGIONAL FISHERIES ACCESS:

The FSM Arrangement was developed as a mechanism for domestic vessels of the PNA to access the fishing resources of other parties. It was signed on the 30 November 1994 and came into force on the 23 September 1995. Signatories are Federated States of Micronesia, Marshall Islands, Nauru, Palau, Papua New Guinea, and Solomon Islands.

The FSM Arrangement aims to:

- Provide access for Domestic Vessels to parties' waters on terms no less favorable than those granted to distant water fishing nations;
- Secure maximum sustainable economic benefits from tuna resources;
- Promote greater participation by nationals of Parties in fisheries & assist in development of national fisheries industries; and
- Allow access to vessels on terms consistent with Palau Arrangement.

Fishing vessels are eligible, based on the following criteria: good standing on FFA Vessel Register, details of a vessel, Home-Party bilateral license for 1 year, sponsored by Home-Party and vessels must meet FSMA Eligibility Criteria with a minimum of 25 points.

PALAU ARRANGEMENT FOR THE MANAGEMENT OF THE WESTERN PACIFIC PURSE SEINE FISHERY

The Palau Arrangement for the Management of the Purse Seine Fishery in the Western and Central Pacific was developed by the Parties to the Nauru Agreement and entered into force in November 1995.

The Arrangement set a limit on the number of purse seine vessels that could be licensed by the Parties and allocated these licenses by fleet. Signatories to the Palau Arrangement are Federated States of Micronesia, Kiribati, Marshall Islands, Nauru, Papua New Guinea, Palau, Solomon Islands, and Tuvalu.

NIUE AGREEMENT ON COOPERATION IN FISHERIES SURVEILLANCE AND LAW ENFORCEMENT IN THE SOUTH PACIFIC REGION

The Niue Treaty is an agreement on cooperation between FFA members about monitoring, control and surveillance of fishing - it includes provisions on exchange of information (about where the position and speed of vessels at sea, which vessels are without licenses) plus procedures for cooperation in monitoring, prosecuting and penalizing illegal fishing vessels. It was signed on 9 July 1992.

FORUM FISHERIES AGENCY (FFA)

The Pacific Islands FFA strengthens national capacity and regional solidarity so its 17-member countries can manage, control and develop their tuna fisheries now and in the future.

Based in Honiara, Solomon Islands, FFA's 17 Pacific Island members are Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu and Vanuatu.

FFA was established to help countries sustainably manage their fishery resources that fall within their 200 mile EEZs. The FFA is an advisory body providing expertise, technical assistance and other support to its members who make sovereign decisions about their tuna resources and participate in regional decision-making on tuna management through agencies such as the WCPFC.

Since 1979, the FFA has facilitated regional cooperation so that all Pacific countries benefit from the sustainable use of tuna – worth over \$3 billion a year and important for many people's livelihoods in the Pacific. (www.ffa.int)

Vision Statement

The joint aim of members of the FFA is captured in its Vision Statement, which states:

“We, the Member Countries of the FFA, will enjoy the highest level of economic and social benefits that is compatible with sustainable use of our tuna resources.”

FFA'S Corporate Mission

For staff and management at FFA's regional headquarters, their work is guided by the Corporate Mission Statement, which states the mission of the organization is:

“To enable Member Countries to manage, conserve and use the tuna resources in their EEZ and beyond, through enhancing national capacity and strengthening regional solidarity.”
(www.ffa.int)

WESTERN and CENTRAL PACIFIC FISHERIES COMMISSION

The WCPFC is the central decision making body for management of tuna fishing in the Western and Central Pacific Ocean. Conservation and management measures of the Commission are legally binding and apply to all WCPFC members and the Convention area. Whereas members of FFA are from the Pacific Islands, members of WCPFC are FFA members and distant water fishing nations.

WCPFC's current members include Australia, China, Canada, Cook Islands, European Community, Federated States of Micronesia, Fiji, France, Japan, Kiribati, Korea, Republic of Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Philippines, Samoa, Solomon Islands, Chinese Taipei, Tonga, Tuvalu, United States of America and Vanuatu. Out of a total of 32 participating territories and members of WCPFC, over half (17) are FFA members, forming a significant voting bloc (although so far in the WCPFC's history decisions have been made by consensus). (www.ffa.int/wcpfc)

Legislations

The principal legislation governing the management of marine resources including off-shore fishing is Title 27 of the Palau National Code, which incorporates legislation to manage, conserve and regulate the harvesting of fish throughout their habitat both within the reef areas of islands and atolls and in other areas within the jurisdictional competence of the Republic.

Agreements

Four Fisheries Associations of Japan (FFAJ)

The Japanese agreement (The Association are the Federation of Japan Tuna Fisheries Cooperative Associations, the National Offshore Tuna Fisheries Association of Japan, the Japan Far Seas Purse Seine Fishing Association, and Federation of North Pacific District Purse Seine Fisheries Cooperative Associations of Japan) covers three types of tuna fishing by vessels based in Japan: long-line, pole-and-line, and purse seine. In its present form, the agreement has been in effect since 1992, with minor changes agreed by the parties. Although the agreement covers fishing by all three methods, pole and line fishing activities have been undertaken in Palau's EEZ since 1994. The number of vessels in the Japanese purse seine fleet in Palau waters has picked up since 1999.⁴

⁴ EAFM Report on the Tuna Fisheries of Palau, November 2006 Draft No.1, p.27

Domestic and Locally Based Foreign Fishing Development/Uniform Longlining Agreement (ULA)

The domestic tuna fishery in Palau primarily involves the activities of locally-based foreign long line fleets (Chinese, Korean, Belize, Japan and Taiwanese vessels) – the foreign vessels are on charter arrangements with three foreign domestically-based fishing companies in partnership with local investors. At present, the following fishing agreements covering the operation of locally-based foreign fishing are in place:

- Fishing Agreement between the Republic of Palau and Palau International Traders, Incorporated (PITI)
- Fishing Agreement between the Republic of Palau and Kuniyoshi Fishing Company (KFC)⁵
- Fishing Agreement between the Republic of Palau and KEIO Pacific Inc.

Fleet Structure

Tuna fishing in the Palau Exclusive Economic Zone is dominated by the offshore based longline and purse seine fleet of Japan and the locally based longline fleet of Chinese Taipei. Table 1 shows the break-down of vessels licensed to fish in Palau's EEZ by gear. Still, Chinese Taipei fleet has been the dominant one. Up to 100 vessels have operated within the EEZ in any one year, with the number of vessels fluctuating between 42 and 87 vessels since 2005 (Table 1).

Table 1. Shows the breakdown of domestic-based foreign vessels and off-shore-based foreign vessels licensed to fish in Palau water over the last five years. Chinese-Taipei fleet is still the dominant fleet over the years.

Table 1	Longliner									TOTAL	Pole & Line	Purse Seine
	Year	BZ	CN	FM	ID	JP	KI	TO	TW			
2006		3	2	6	25				168	234	1	29
2007				6	37				143	214		28
2008	1				28				104	166		22
2009					38		2	71		129	6	18
2010					38		2	71		129	0	18

**(BZ= Belize; CN= China; FM= FSM; ID= Indonesia; JP= Japan; KI=Kiribati; TO=Tonga; TW=Taiwan; VN= Vanuatu)
(Tuna Fisheries in the Waters of the Republic of Palau 2010 report provided by BMR-OFM)*

Currently, there is no processing industry in Palau for the fishing companies to process their catch. Therefore, the fishing companies export their catch mainly to Japan and other countries.

⁵ Ibid, p.28

3.0 Audit Objectives and Scope

The audit objective was to assess the effectiveness of the management of off-shore fisheries (in particular the tuna fishery) by Palau fisheries authorities in accordance with national fisheries policies and frameworks by auditing that

- (1) key aspects of management of offshore fisheries are identified and planned;*
- (2) economic returns from offshore fishery licenses and access agreements are appropriate; and*
- (3) decision-making concerning offshore fisheries is informed by accurate assessments of the fishery; and changes in the status of the fishery are monitored and reported.*

The scope of our audit covered the period of October 1, 2007 through September 30, 2011. The audit focused on Bureau of Marine Resources (BMR)-Oceanic Fisheries Management (OFM) and those agencies responsible for operating and monitoring offshore fisheries; in particular, the Division of Marine Law and Enforcement (DMLE), Ministry of Finance, and Bureau of Revenue, Customs and Taxation (BRC&T).

4.0 Audit Methodology

We conducted the performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The Public Auditing Act of 1985 empowers the Office of the Public Auditor (OPA) to specially act to prevent fraud, waste and abuse in the collection and expenditures of public funds. The Public Auditor may make recommendations on the prevention and/or detection of fraud, waste and abuse of public funds.

To accomplish our audit objective, we reviewed files and records at BMR-OFM, DMLE, Ministry of Finance, and BRC&T. In addition, we also conducted interviews with the key management and relevant staff and conducted site visits to relevant locations pertaining to our audit objective.

5.0 Prior Year Audit Coverage

BMR under MNRET and activities are included in the annual single audit of the National Government of the Republic of Palau. In addition, the OPA conducted a previous performance audit of BMR for the period covering February 2003 to December 31, 2006 on Declaration Fees.

Moreover, the OPA inquired of the BMR officials if BMR (the tuna fisheries in particular) has undergone a separate audit by a private accounting firm and, according to BMR, it has never undergone an audit by any private accounting firm on BMR-tuna fisheries.

6.0 Findings and Recommendations

6.1 Key aspects of management of off-shore fisheries are identified and planned

Finding 6.1.1 Legal and Policy Framework

National Fishery Laws

The national fishery laws and policy should be aligned with the international, regional, and sub-regional commitments and supported by the national fishery legislations.

Title 27 PNCA provides the legal framework for national fishery laws and is aligned with international obligations. In the management of foreign fishing activity, Title 27 provides the following mandate:

- Negotiate terms and conditions of fishing agreements with foreign fishing companies and locally-based foreign fishing industries;
- Participate in boundary delimitation with foreign governments whose boundaries overlap that of the Republic of Palau;
- Represent Palau in international and regional fisheries meetings;
- Issue fishing licenses to collect fees from foreign fishing vessels licensed to fish within the jurisdiction of the Republic;
- Monitor fishing activities and collect fisheries data to ensure fishing vessels comply with fisheries regulations; and
- Determine total allowable catch allocation to licensed vessels to conserve fishery resources of the Republic.⁶

In addition, the legal framework places responsibility for the management of Oceanic Resources with the MNRET and delegates the Oceanic Fishery Management under BMR as the agency responsible for the administration of Tuna fisheries management. However, there is no regulation

⁶ Republic of Palau Draft National Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing, June 2007, Colin Brown, FAO, p. 12 & 13

to establish the total allowable level of foreign fishing and catch limits to ensure the long-term sustainability of fish stocks within the EEZ of the Republic.

Furthermore, Palau is a member of FFA and party to International, Regional and Sub-Regional organizations which require management regulations on tuna fisheries.

Despite the lack of regulations, the minimum terms and conditions as required by the national, regional and sub-regional organizations are set and spelled out in the agreements with the fishing companies that conduct fishing within Palau's EEZ for tuna species.

However, without regulations, there are no set guidelines governing tuna management. As such, the Tuna industries may not have a clear understanding of their responsibilities and obligations.

Recommendation

We recommend the Ministry of Natural Resources, Environment and Tourism and the BMR-OFM seek advice and assistance to ensure that regulations are promulgated to supplement the framework for the management of offshore fishing. Such regulations should include, but not limited, to setting total allowable levels of foreign fishing and catch limits to ensure the long-term sustainability of fish stocks within Palau's EEZ.

Bureau of Oceanic Fishery Management (BOFM) Comments:

Key Aspects of management of offshore fisheries are not adequately identified and planned.

1. BMR-OFM has not promulgated regulations for the management of offshore fishing.

It has taken almost ten years to develop a single regulation for the management of fisheries in Palau. Palau requested assistance for a legislative review from the UN Food and Agriculture (FAO). Extensive consultations were held over the years and has resulted in Draft Living Marine Resources Act, which is attached for your review. This draft was submitted to the Office of the Attorney General in June 2010 and to date has not been acted upon.

In addition to the efforts made into the draft Act, the FFA has also provided assistance to the BOFM in drafting regulations (since 2009) on the implementation of the Parties to the Nauru Agreement (PNA) measures. A draft regulation is attached for your reference.

A suggestion that BOFM has consistently requested to the Office of the Minister of NRET is to retain a legal counsel to review, provide advice and assist the AG's office where needed in order to complete this long overdue work.

2. The above also addresses your finding (2) on fragmented fisheries governance.

(See Draft Living Marine Resources Act)

Finding 6.1.2 Fisheries Governance Arrangements are Fragmented and Incomplete

To provide assurance that the tuna fisheries in Palau EEZ are well managed, it is important that a sound governance structure is in place. This regime should include prescribing the roles and responsibilities of the respective agencies and the establishment of an overarching coordinating committee to provide policy advice to the government of the Republic.

Coordination Arrangements

Executive Order No. 265, issued in November 2009, established the Joint Task Force on Domestic Tuna Industry Development (JTF/DTID) to formulate and coordinate national fisheries policies, projects and programs for the conservation, management, and sustainable harvesting of tuna resources and other highly migratory fish stocks within the Republic of Palau's 200-mile EEZ in keeping with regionally-adopted harmonized fisheries policies, laws, regulations, terms and conditions of access, etc.

The life of the Task force was extended; however, it was unable to produce a report of its findings and recommendations.

- Executive Order No. 283, issued in 2010, was a directive to reorganize the Ministry of Natural Resources, Environment, and Tourism (MNRET) in the Executive Branch of the Government of the Republic of Palau. The MNRET shall be headed by a Minister responsible for managing and overseeing the duties and functions of the following entities, offices, bureaus and divisions:
 - Bureau of Marine Resources (BMR) that shall be headed by a Director responsible for managing marine and fisheries development, conservation, and related matters under the Executive Order including but not limited to:
 - Assist the Minister and the Palau Fisheries Advisory Committee (PFAC) in the development and implementation of a comprehensive fisheries policy and in the negotiation of multilateral, sub-regional, and bilateral fisheries agreements.
 - Coordinate the distribution of the money paid to the Palau National Government under the "Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United State of America" and certain Annexes thereto and labeled or set aside as the "Project Development Fund" (PDF).

- The Palau Fisheries Advisory Committee (PFAC) shall be under the direction of the MNRET and shall have the duties and responsibilities as set forth in Executive Orders Nos. 204 and 204A as follows:
 - **Powers and Duties of PFAC.** The PFAC shall advise the Minister and the President on the following:
 - a) The formulation and coordination of national fisheries policies and programs for the conservation, management and sustainable utilization of tuna resources within the Republic of Palau's EEZ;
 - b) The implementation of the Tuna Plan;
 - c) The implementation and enforcement of oceanic fisheries polices, laws, rules and regulations;
 - d) Negotiations with domestic and foreign fishing companies seeking to fish within Palau's EEZ, and the issuance of fishing licenses and permits;
 - e) Negotiations with other potential stakeholders interested in the development of offshore fisheries; and
 - f) In cooperation with the Minister of Justice, the coordination of maritime surveillance and enforcement of applicable fisheries laws, rules and regulations.

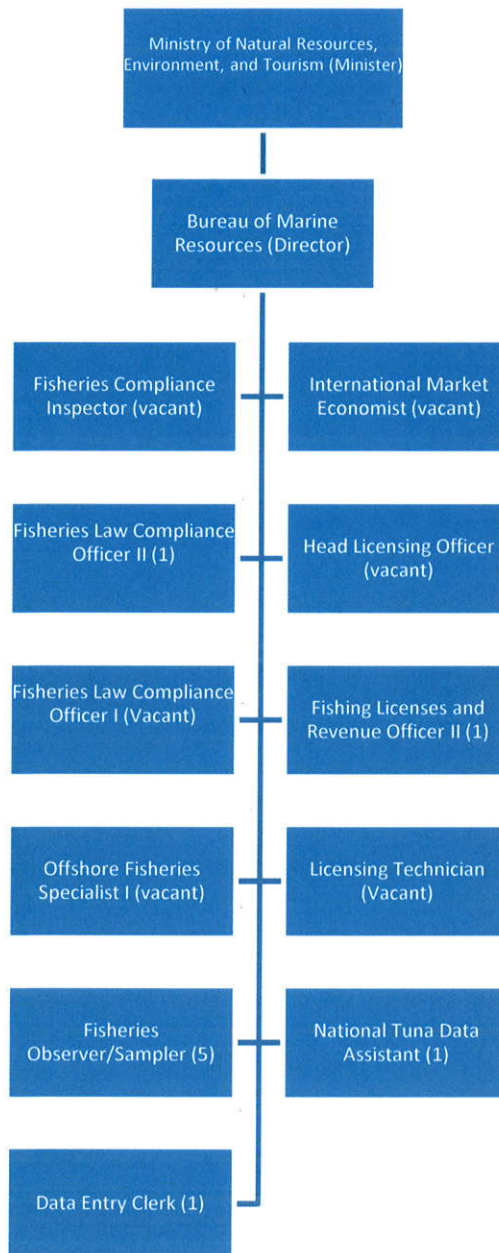
The establishment of PFAC was required to produce a road map for the promotion and development of domestic tuna fisheries but was unsuccessful in its task.

Recommendation

We recommend the Minister of the Ministry of Natural Resources, Environment and Tourism discuss with Palau Fisheries Advisory Committee (PFAC) its non-performance of its duties and responsibilities under Executive Orders 204 and 204A and either remedy or remove the barriers causing the non-performance or request the President to re-constitute the PFAC with qualified and motivated members.

Organizational Structure

A well defined and structured organizational structure is essential to provide a robust governance structure to properly manage tuna resources in the Republic of Palau. This structure includes, but not limited, to indentifying and defining each role or position, including duties and responsibilities. In addition, each position should be occupied by qualified and motivated persons to carry out the tasks required.



During the audit we were provided two different organizational charts for the Oceanic Fisheries Management, which we were unable to obtain assurance which organization chart was in effect. In addition, we found that there are high levels of vacancies within BMR-OFM, some of which have been vacant for over five (5) years.

Moreover, the DMLE manages compliance (i.e., vessel inspections) aspects of the tuna fisheries; however, it is located within the Ministry of Justice and there appears to be little coordination and collaboration with BMR-OFM. For example, a form entitled “Dockside Inspection Report”, as a policy, is to be used for vessel inspections; however, the DMLE does not use the form to conduct inspections and, due to lack of coordination and collaboration, the non-compliant manner of conducting vessel inspections has not been corrected.

Recommendation

We recommend the Minister of Ministry of Natural Resources, Environment and Tourism (MNRET) discuss with the Bureau of Marine Resources and Oceanic Fishery Management to determine or resolve which organization structure is in operation. In addition, the organization structure in operation should be communicated to employees to ensure they become familiar with the structure and the flow of work. Furthermore, Director of BMR and OFM should coordinate and collaborate their operations with DMLE to ensure that vessel inspections and other enforcement functions are properly carried out. Moreover, the Minister of MNRET, together with the Director BMR and OFM, should review the organization structure to determine which positions are still essential, prioritize the importance of each vacant position and seek funding from Congress to fill vacant positions with qualified staff in order to ensure that fisheries activities are properly carried out.

Finding 6.1.3 Tuna Management Plan Needs Updating

There should be a Tuna Management Plan, as required by the regional tuna management and development strategy 2009-2014 endorsed by regional Forum Fisheries Ministers in May 2009. This strategy identifies long term objectives with performance indicators to measure progress on the management of tuna fisheries on a regional basis.

The audit revealed that the existing Palau Tuna Management Plan (PTMP), developed in 2001, has the following objectives:

1. Conserve fishery resources by controlling harvesting within internationally- and regionally-recognized sustainable limits.
2. Establish an efficient government framework to harmonize the application of fisheries management policies and practices.

3. Minimize detrimental impacts of fishing on coastal and inshore environment.
4. Attain an optimum balance in relation to access to the resources between all stakeholders.
5. Enhance the overall economic balance between:
 - a. The necessity for government to generate revenue
 - b. Financial expectations of the commercial tuna fishery interests
 - c. The interests of other users of the resources
6. Promote Palauans in professional, administrative, research and development positions in the fishery and related industries and government agencies.
7. Adherence by Palau to regional and international marine resources agreements.

Although the above objectives were identified in the PTMP, there are no processes in place to measure the progress of the plan's implementation and accomplishments.

For example, Objective number (1) identifies the need for conserving fishery resources by controlling harvesting within internationally- and regionally-recognized sustainable limits. Palau has two fishing agreements: ULA and FFAJ. The audit revealed that with respect to the ULA, the fisheries authority has the ability to establish the limits on total allowable catch; however, the government of Palau has not established the total allowable catch limit to date. The catch limit problem is the same for the FFAJ agreement as well.

In addition, we also found that there was a "draft" Assessment Report on tuna fisheries produced in 2006 but it was not acted upon. Moreover, there has not been an evaluation conducted on the progress of the implementation of PTMP.

Recommendation

We recommend the Minister of MNRET seek support and advice from development partners to assist Palau in updating the PTMP, formulating performance indicators and measurements system, implementation of the Plan, and companion training to train relevant staff on conducting assessments of Palau's progress in implementing the PTMP so as to facilitate reporting to stakeholders on the progress of its implementation.

BOFM Comments:

3. Tuna Management Plan needs updating.

There have been several attempts to review and update the National Tuna Management Plan for Plan. In November 2006, BMR-OFM initiated a review of the National Tuna Management Plan through an Ecosystem Approach to Tuna Fisheries Management. Due to high concerns and disagreements amongst stakeholders, this EAFM to implement the Tuna Management Plan was not agreed to. In 2009, the BMR-OFM through the Office of the President requested and was able to establish a Joint Task Force on Domestic Tuna Industry Development. The Joint Task

Force reviewed the pending work on drafting legislations particularly those of the Living Marine Resources Act and held a National Tuna Fisheries Policy Reform Symposium on February 2010. The symposium included comprehensive tuna reports and presentations and was attended by both members of the Olbiil Era Kelulau and all relevant stakeholders of the tuna fisheries, including the general public, where they were all updated on the interests of Tuna Management.

I have attached BOFM's current assessment on the existing National Tuna Management Plan in requesting further review to the Plan, in addition to the Joint Task Force on Domestic Tuna Industry Development's Progress Report of 2009).

Licensing Process

A key aspect of the PTMP is the licensing process.

The fishing licensing process should be transparent and communicated to the stakeholders with conditions defined.

27 PNCA §168 (b) states “Upon receipt of an application, the Director or his designee shall transmit copies to each house of the Olbiil Era Kelulau, the Director of the Bureau of Marine Resources, the Chief of the Division of Marine Law Enforcement, and to any other person or organization that requests copies of such applications or the foreign fishing agreements to which they pertain”.

In addition, 27 PNCA §168 (c) states “The Bureau shall review the application, solicit views from appropriate persons in the Republic, hold a public hearing, and may approve the application on such terms and conditions and with such restrictions as the Bureau deems appropriate.”

The audit disclosed that there was no evidence to substantiate that efforts were made to transmit copies of fishing license applications to the appropriate agencies of the government or other institutions as required by law. Similarly, no proof was provided to show that views of appropriate government officials were solicited or that public hearings were held before fishing license applications were approved. Moreover, the foreign fishing permits were issued for multiple years but renewable every year, making the communication and transparency aspect of the licensing process even more critical.

The BMR-OFM did not comply with 27 PNCA §168 (b) and (c) in the approval of foreign fishing vessel permits.

Recommendation

We recommend the Bureau of Marine Resources-Oceanic Fisheries Management comply with 27 PNCA §168 (c) in the approval of foreign fishing vessel permits. In compliance with the requirements of the law set forth above, the Bureau should ensure that copies of foreign fishing

vessel permit applications are provided to the appropriate government agencies, views of appropriate government officials are solicited, and public hearings are held before approving vessel application for fishing permits. In addition, we recommend the Office of the Attorney General further investigate the foreign fishing vessel permitting process and take appropriate action for any circumvention of laws. Finally, we recommend the Minister of MNRET periodically review the foreign fishing vessel permitting process to ensure that the BMR-OFM is complying with the law in the approval of fishing permits.

BOFM Comments:

4. BMR-OFM did not comply with Section 168 in the approval of foreign fishing licenses.

Section 168 of 27 PNC sets out the permit process for foreign fishing vessels. However, the current practices of negotiations pursuant to §161, Foreign Fishing Agreements are negotiated between the Government of Palau and the Fishing companies where permit procedures are stipulated and agreed. The terms under the Uniform Foreign Fishing Agreements take effect as regulations pursuant to §122 and §123 (b) and (c).

Nevertheless, your assessments are noted and will be addressed during the next round of consultations for renewal of the fishing agreements this 2013.

OPA's Response: Any foreign fishing vessel issued a fishing permit must be registered with a company who has an approved foreign fishing agreement with the Republic. The permitting process for fishing vessels must comply with 27 PNCA § 168 regardless whether the process is stipulated in fishing agreements or otherwise; the law supersedes.

Regional Monitoring, Control and Surveillance Strategy 2010-2015

The primary purpose of this strategy is to support compliance with fisheries management frameworks and associated measures at national, regional, sub-regional, and WCPFC levels to ensure the long term sustainability of oceanic fish stocks and associated economic benefits flowing from them to Pacific Island Countries. Palau is signatory to the regional strategy.

The PTMP aligns with the regional approach through a key monitoring, control, and surveillance (MCS) management measure.

Monitoring, Control and Surveillance

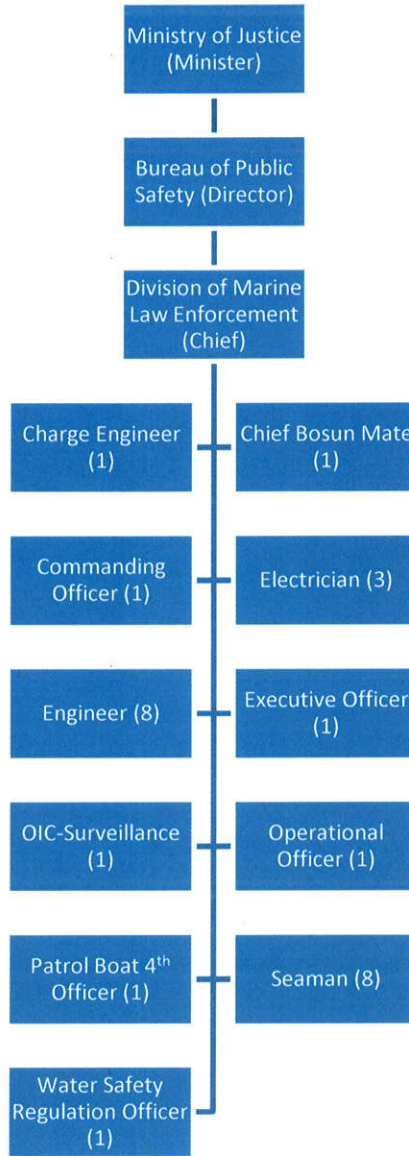
Monitoring of fishing activity and enforcement of fisheries management legislation relating to off-shore fishing is the responsibility of the Oceanic Fisheries Management Section and the DMLE.⁷

DMLE is a Division under the Bureau of Public Safety, Ministry of Justice, headed by a Chief and responsible for marine surveillance of the Republic's fisheries waters and the enforcement of laws and regulations including those relating to fishing, environmental protection, and illicit narcotic trafficking.⁸

⁷ Republic of Palau Draft National Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing, June 2007, Colin Brown, FAO, p. 15

⁸ Ibid

Illustrated Below is the Organizational Chart for the DMLE:



The surveillance approach includes requirements for a vessel satellite monitoring system, good standing with FFA registry, deployment of observers, and compliance with reporting requirements (e.g., logbooks, and identification of unauthorized fishing vessels).

Patrol Boat and Activities



Palau has only one patrol boat to monitor fishing activities in Palau's EEZ. The patrol boat is operated and managed by the DMLE to monitor and catch any illegal, unregulated, unreported (IUU) vessels within the EEZ. The DMLE's targeted patrol in the EEZ is once a month and takes about ten to fifteen days at sea. However, due to low budget, short staffing, and maintenance issues the DMLE is unable to meet its target approach.

Vessel Satellite Monitoring System

Palau also has been an active participant in cooperative initiatives such as the regional VMS and joint surveillance and enforcement operations and the establishment of the WCPFC, all strategies aimed to conserve and manage regional tuna stocks sustainability.

The VMS regulation requires an ALC, a FFA approved device, placed on a fishing vessel before it is licensed. Checking compliance with these requirements is the responsibility of the DMLE.

The audit revealed although a standard checklist exist for purposes of documenting inspections conducted, the form was not used by the DMLE to document the presence of an ALC and other requirements during inspections.

Good standing with FFA registry

Good standing with FFA registry is one of the requirements under the FFA. Thus, one of the requirements for fishing vessels to comply is to be registered with the FFA to have a valid

regional registration number and therefore be in good standing to be able to fish within a country that is a member to FFA.

Under the ULA, the fishing company shall provide the government with the fishing vessel's FFA regional registration number. It is the responsibility of the DMLE to ensure compliance with this requirement.

Although the DMLE has a dockside inspection checklist to check whether fishing vessels are registered or not, the audit revealed that the DMLE does not use the inspection checklist during inspections of fishing vessels.

Our audit found no similar requirements with the FFAJ agreement.

In addition, our audit revealed that during fiscal years 2008 through 2011, out of the thirty six (36) fishing vessels that we tested (Domestic fleets and Japan fleets), ninety two percent (92%) of the fishing vessels show that the fishing vessels FFA vessel registration period expires before the end of the fishing vessels fishing license. For example, one particular domestic fishing vessel was granted a fishing license valid for the period from February 1, 2011 to January 31, 2012, whereas, the fishing vessel's FFA registration period was from July 1, 2010 to June 30, 2011. Thus, there appears to be a period (7-month period) where the company holds a Palau fishing license; however, its FFA registration expired, denoting that Palau is not judiciously adhering to FFA regional requirements.

Deployment of Observers

Under the FFA requirement for the Observer Coverage, "Each licensing member shall make every effort to achieve twenty percent (20%) observer coverage of all fishing trips by foreign fishing vessels in the zone of a licensing member."

The audit revealed that Palau has not adopted the FFA requirement of twenty percent (20%) observer coverage of all fishing trips by foreign fishing vessels. In absence of the FFA's 20% requirement, Palau self-imposed a minimum five percent (5%) observer coverage requirement, which was done verbally, not by regulation. Even then, Palau failed to meet the 5% observer coverage.

The FFAJ agreement provides for Palau government authorized observers to be placed on board Japanese vessels, by mutual agreement between Palau government and FFAJ, and in accordance with mutually acceptable procedures.

However, the audit found that no observers are placed on board Japanese fishing vessels.

Vessel Logbooks

Under the ULA, every licensed vessel shall maintain and complete on-board a daily fishing logbook, in English, and shall certify that such information is true, complete, and accurate. The vessel logbook must record total catch, including total landings and discards.

In Palau, when a vessel docks, the captain's log sheet is given to the port sampler, who then uses a standardized "sampling form" to record the catch unloaded. Both reports (captain's log sheet and completed sampling form) are given to BMR-OFM management for comparative analysis. According to BMR, when there's a discrepancy between the captain's log sheet and the port sampler, the port sampler's log sheet is used.

Under the FFAJ, there is a requirement that every vessel shall maintain on board current fishing logs. A monthly summary should be provided to the government of Palau showing the weight and value of species landed.

The audit found that FFAJ provided an annual report summary, but not monthly reports, as required by the agreement.

Recommendation

We recommend the BMR-OFM and the DMLE be more vigilant in pursuing and protecting Palau's interest in the multiple fishing treaties that Palau is a party to by enforcing applicable membership regulations and terms and conditions of the treaties as follows:

- 1) The DMLE should use the standard inspection checklist to document compliance with the Vessel Monitoring System regulations when inspecting for presence of an Automatic Location Communicator,
- 2) The DMLE use the standard inspection checklist to document whether a vessel is FFA registered,
- 3) Palau adopts the FFA requirement of 20% observer coverage on fishing vessels and, in the interim, enforces the minimum 5% observer coverage, including placing observers on board FFAJ fishing vessels.
- 4) OFM should grant Palau fishing permits to fishing vessels the term (period of validity) of which coincide with the period of validity for the FFA registration to prevent overreaching expiration periods.
- 5) OFM enforce the terms and conditions set forth in the fishing agreements such as ULA and FFAJ by ensuring the fishing vessels comply with the fishing agreements (i.e., logbook requirements).

BOFM Comments:

5. The DMLE does not use the inspection checklist during inspections of fishing vessels.

Firstly, any Inspection Checklist should be developed by both agencies (BOFM & DMLE) in accordance with the FFA's Harmonized Minimum Terms and Conditions that is agreed regionally and those specified under the Uniform Foreign Fishing Agreements.

The BOFM recognizes the need to fully engage with the DMLE on the implementation of inspections of vessels and will continue to liaise with the DMLE on future processes.

Palau failed to meet the Observers coverage requirement.

The Palau National Observers Program was first developed in 1996 where it held its first Observers Training Workshop. Since then, a total of 34 Palauan (and one US citizen) have been trained and certified. Ten (10) officers of the DMLE were also trained and certified however, due to safety reasons they will no longer carry out observer trip. The low coverage is due to active participation of trips in the program. There are a total of five (5) active Palau National Observers covering national longline trips and regional programs such as the US Treaty and FSMA coverage.

Nonetheless, Palau has sought for a training to be held in Palau and we have received positively training in 2013.

Division of Marine Law Enforcement's (DMLE) Response: The DMLE did not submit a response to the Draft Audit Report.

Finding 6.1.4 Inspection of Vessels

Pursuant to the Uniform Longlining Agreement, Section 9.2 states in part: "The Company shall ensure that the officers and crew of licensed vessels will allow all properly identified employees of the BMR, the DMLE, and such...to board, search, and inspect the vessel and catch at any time while in port or in any waters within the jurisdiction of the Republic of Palau, and at any time in accordance with 27 PNCA." In addition, Section 9.5 further states: "Prior to all land-based boarding or inspection, the Palauan government official will present himself to a Company official or security guard, announcing that he has come to perform an inspection, and ask the company official or security guard to accompany him on the inspection. Should no company official or security guard be present or should they decline to accompany the official, the official will be free to perform the investigation unaccompanied."

In order to determine that applicable convention regulations and terms and conditions are adhered to and that no illegal fishing activities are being carried out by licensed fishing vessels, fisheries authority officials must board fishing vessels to conduct necessary inspections.

The audit revealed that BMR officials did not conduct any inspections on fishing vessels upon unloading of catch at port to ensure applicable convention regulations and terms and conditions are adhered to and that fish caught are authorized under Palau's laws.

Without the necessary inspections, Palau's regulators are unable to determine whether fishing vessels are operating in conformance with convention regulations and terms and conditions of applicable fishing treaties and fish caught are authorized by law. In addition, if the regulations and terms and conditions are not adhered to and illegal fishing activities are being carried out without the necessary inspections, the illegal activities will continue undeterred.

Recommendation

We recommend BMR officials comply with Section 9.2 and Section 9.5 of the Uniform Longlining Agreement by undertaking inspections to ensure that all fish caught are unloaded, and that no unauthorized or illegal fishing is taking place.

BOFM Comments:

- 6. BMR-OFM officials did not conduct any inspections on fishing vessels upon unloading of catch.***

BORM recognizes the need for inspections of fishing vessels. At this time, there is no Compliance Officer or Compliance Inspector trained to inspect fishing vessels and therefore, BOFM relies on the Div. of Customs, Bureau of Immigrations, and others to provide the pre-inspection of fishing vessel. The Port Samplers whom are at port collecting datas on all fish landed into domestic port are not trained nor are they authorized to inspect fishing vessels. BOFM would like to receive additional budget from the national government to hire a full-time Fisheries Compliance Inspector (or Officer).

Finding 6.1.5 Unauthorized Fishing Vessels

27 PNCA, Section 167 (a) states: "A foreign fishing vessel may engage in fishing in the exclusive or extended fishery zone of the Republic only if such vessel has on board a valid permit issued under this chapter for such vessel." In addition, Section 167 (b) states: Fishing permits may only be issued in accordance with a foreign fishing agreement approved by joint resolution of the Olbiil Era Kelulau.



DMLE Boat Patrol



Illegal Fishing Vessel

The DMLE does make an effort to arrest fishing vessels conducting illegal fishing in the Palau EEZ waters. When arrest is made, vessel owners negotiate an agreement with the Republic of Palau and, after an agreed settlement is reached, the fishing vessel is released to the home country.

Although fines were imposed and settled on these illegal fishing vessels, there was no uniform fine used by the court system of the Republic due to the absence of a Policy Framework covering illegal fishing in the Palau EEZ waters.

In addition, some of the fines imposed on these fishing vessels conducting illegal fishing are much less than the expenses incurred by the DMLE in making arrests.

Furthermore, low and lenient fines imposed on vessels conducting illegal fishing result in repeat arrests of vessels from the same company.

Moreover, 27 PNCA Section 185 states: “All revenues including fees collected pursuant to section 169 and all fines and proceeds of sale of all forfeitures shall be transmitted immediately upon collection to the National Treasury.”

The audit revealed that portions of settlement proceeds resulting from unauthorized fishing were paid directly to private companies instead of being deposited to National Treasury. According to the Chief of the DMLE, the money was paid directly to private vendors for fuel for future patrol boat operations and provisions for patrol boat crews.

However, this action circumvented national treasury laws which require that funds must first be deposited, and then appropriated by congress authorizing the expenditure of funds.

The table below shows vessels arrested for conducting illegal fishing in Palau EEZ waters and the resulting settlements from fiscal years 2009 through 2011:

Date of Arrest	Vessel Name/Company	President/ Owner	Settlement
1/26/11	F/B L/B King John 2 and FB Honey, CHL Fishing Industries, Inc.	Ms. Honey L. Lumayag	\$4,500 payable to IP&E (Patrol boat fuel) \$200 to Surangel & Sons (provisions for the crew)
8/15/11	KM Tarsius PM-15, Pt. Nutrindo Freshfood International	Dr. Hartono Tjandrason	Sale of the bait seized \$3,211.75, forfeited fishing main lines \$6,929.91 and \$39,858.34 cashier's check
10/25/11	Pt. Bintang Mandiri Bersaudara and F/V KM Nusantara Jaya 01	Hendrik Kosasih	\$35,000 and 5,000 pounds of the best quality of the catch
2/23/10	F/B, L/B San Felipe 102	Captain Antonio Plana	page 1 of the settlement agreement is missing (amount of settlement is unknown)
4/14/10	Atlantis Fishing Company, GenSan, Philippines	Allan Daclan	\$6,500
4/30/10	Nutrindo PM-8	Dr. Hartono Tjandrason, MSc	\$25,000 cash and \$12,331.75 from the sale of fish
6/22/10	FBCA JHAN REY	Reynaldo M. Ang	\$5,000
9/17/10	Rashell 104	Allan D. Daclan	\$10,000

10/14/10	Fbca KM Randemar – 01	Samuel and Flora Egano	\$3,000
8/5/09	F/V Shin Yu Fu 68	Wu Cheng Shan	\$15,000 cash bail, \$8,687.88 sale of fish, and \$76,312.12 remaining
4/29/09	FFV Sheng Jyi Huei 16	Fang Chi Rong	\$15,000

Recommendation

We recommend that a policy framework be established to regulate and provide guidelines for enforcement of tuna fisheries in the Republic. These regulations should be aligned with regional and sub-regional fishing treaties and include guidelines for uniform fines and penalties. The regulations should address requirements including, but not limited to, registration of fishing vessels with FFA, deployment of observers on fishing vessels, logbook for recording and reporting catch and discard, and uniform fines for fishing vessels conducting illegal fishing within the Palau EEZ waters. The fines should be set at the maximum that will minimize or eliminate illegal fishing and repeat offenders should be penalized with additional fines. In addition, all fines and proceeds of sale of all forfeitures should be deposited to the National Treasury of the Republic of Palau.

BOFM Comments: The BOFM did not respond to Finding 6.1.5, Unauthorized Fishing Vessels.

DMLE’s Response: *The DMLE did not submit a response to the Draft Audit Report.*

Finding 6.1.6 Annual Consultations

Under the ULA, Section 16.1 states: “The parties shall hold annual consultations on the status of this Agreement and shall discuss and may adopt amendments or modifications to the Agreement. Such consultations shall be held within thirty (30) days of each anniversary of the signing of this Agreement.”

During the audit, we found that BMR-OFM does not hold annual consultations with the fishing companies associated with the ULA. The BMR-OFM only holds consultations when the fishing companies request to have consultation. For example, BMR-OFM have not held consultations with any of the fishing companies associated with the ULA since the fishing agreement was signed, which was valid for five (5) years.

As a result, without the annual consultation, fishing companies may not adhere to the agreement and may not be in compliance with Palau regulations. In addition, without annual consultations, efforts required to protect and strengthen Palau's interests in the agreements are deprived of proper dialogue.

It appears that the cause of the above condition is that BMR-OFM is not taking the opportunity of annual consultations to protect and strengthen Palau's interest in the ULA agreements.

Recommendation

We recommend the BMR-OFM management conduct annual consultation as per the ULA agreement. The BMR-OFM should take opportunities of these annual consultations to propose measures to protect and strengthen Palau's interest in the agreements.

BOFM Comments: The BOFM did not respond to Finding 6.1.6, Annual Consultations

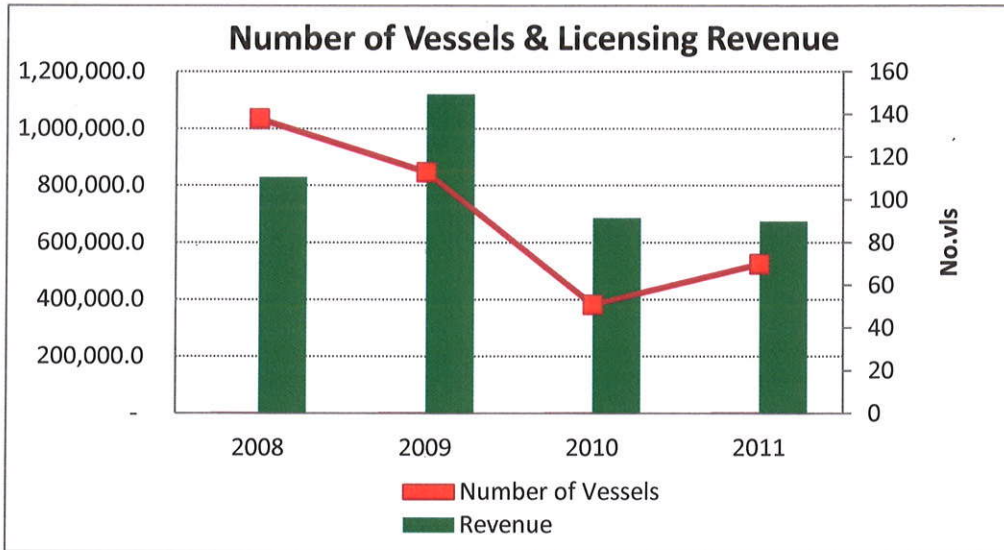
6.2 Economic returns from off-shore fishery licenses and access agreements are appropriate

Palau's economy highly depends on off-shore revenues derived from licensing/permitting and export tax for tuna. The government imposes a tax of \$0.35 per kilo of fish landed by longliners in Palau. All fresh, chilled sashimi-grade tuna, once offloaded and packed, is air freighted within twenty four hours to sashimi markets, with 95% going to Japan and the remainder to the US mainland and Taipei, Taiwan.

Licensing/Permit Fees and Export Tax Revenues

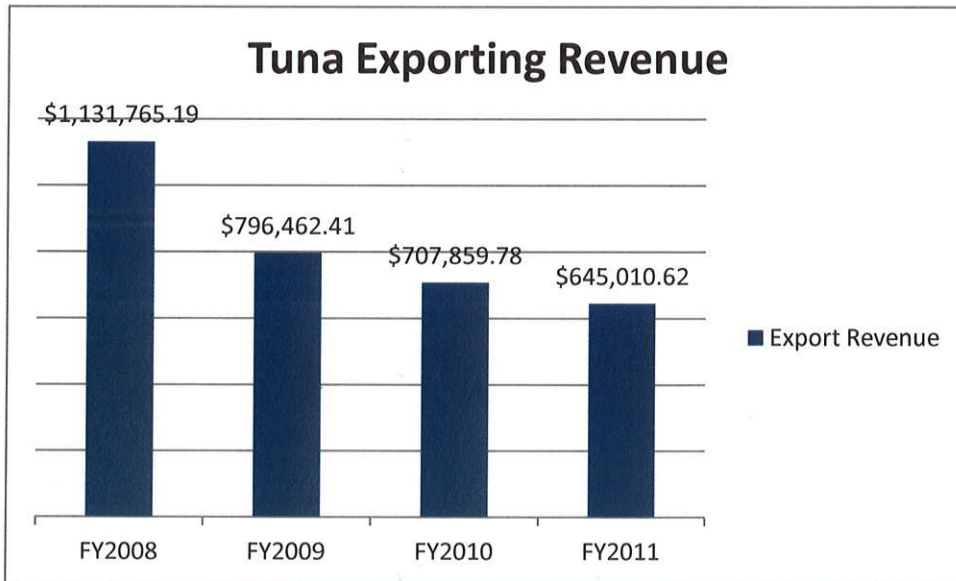
Licensing fees and export tax revenues have declined over the years during fiscal years 2008 through 2011. Although the revenues have declined, they are still a significant source of direct government revenue for Palau. See table 1 and 2 for details.

Table 1



Source: BMR-OFM

Table 2



Source of Revenues: Bureau of Customs and Taxation

Finding 6.2.1 Licensing Policy and Access Agreements

Proper management of fisheries resources dictate that the ULA and the FFAJ agreements include terms and conditions which set catch limit for sustainable fishing and with reasonable economic returns for the Republic of Palau.

Palau Arrangement for the Management of the Western Pacific Fishery, as Amended-Management Scheme (Purse Seine Vessel Day Scheme)

This Management Scheme is made pursuant to the Palau Arrangement. The objective of this Management Scheme is to enhance the management of purse seine fishing vessels effort in the waters of the Parties by encouraging collaboration between all Parties, and:

- i. Promoting optimal utilization and conservation of tuna resources;
- ii. Maximizing economic returns, employment generation and export earnings from sustainable harvesting of tuna resources;
- iii. Supporting the development of domestic locally-based purse seine fishing industries;
- iv. Promoting effective and efficient administration, management and compliance.⁹

Through this Management Scheme, the Parties shall seek to limit the level of fishing by purse seine vessels in their EEZs to the levels of total allowable effort agreed by the Parties to the Palau Arrangement.¹⁰

Through this Management Scheme, the parties shall be allocated to them Party Allowable Effort (PAE) which means the total number of fishing days for a Management Year allocated to that Party calculated and presented to the parties each year.

Therefore, any two parties may agree to a transfer between themselves all or part of their PAE for a Management Year provided that:

- i. A party may not agree to transfer to other Parties more than 100% of its PAE;
- ii. A Party may not agree to transfer any part of its PAE which that Party has already used at the time the request is made.¹¹

⁹ Palau Arrangement for the Management of the Western Pacific Fishery as Amended-Management Scheme (Purse Seine Vessel Day Scheme), p.4

¹⁰ Ibid, p.5

¹¹ Ibid, p.8

Office of the Public Auditor

The member parties to the Purse Seine Vessel Day Scheme are Federated States of Micronesia, Kiribati, Marshall Islands, Nauru, Papua New Guinea, Palau, Solomon Islands and Tuvalu.

Palau vessel days were allotted for the following years:

- FY2008-595 vessel days
- FY2009-608 vessel days
- FY2010-610 vessel days
- FY2011-514 vessel days

Through this Management Scheme, in 2011, Palau was able to transfer five hundred (500) of its fishing days to Papua New Guinea (PNG) at \$1,200 per day for a total of \$600,000 of economic returns to the government of Palau. In addition, PNG sold the fishing days and shared half of the revenues with Palau amounting to \$118,750.

FFAJ

The FFAJ agreement was created in 1992 between Palau and Four Japanese Fishing Associations. The agreement provides access for up to 290 vessels, with no limit on catch. While the agreement is renegotiated annually, it is in force until such time as either Palau or the four associations give six months notice of intent to terminate. Fees are set at five percent (5%) of the value of the 'catch per trip' permits and four percent (4%) for annual permits. A minimum fee is paid to Palau government each year, whether or not fishing occurs.

The audit found that while there was a calculation formula based on weighted average price per species, the Palau government has no capacity to validate the calculations because the Japanese vessels depart from Japan ports, fish in Palau's EEZ waters, and unload their catch in Japan ports. In addition, due to the high costs, there are no observers on board the fishing vessels. Moreover, for annual permits, the FFAJ estimates the permit fee for the forthcoming year and presents the estimate to the BMR-OFM for their approval, which the BMR-OFM does not conduct follow up calculations to verify the estimates.

The FFAJ does not provide any employment opportunities to the Palauan people.

Recommendation

We commend the MNRET and BMR management for taking the initiative to renew the FFAJ agreement during the Bilateral Consultation with the Japanese Government Officials and the Japanese Tuna Fishing Associations in January 28 to February 5, 2012. Issues that were discussed during consultations to be utilized under the bilateral agreement are as follows:

1. Purse Seine Access and Access Fees
 - a. The form of access to be granted
 - b. Price to be charged per day
 - c. Level of Access to be granted
2. Longline Access and Access Fees
 - a. The form of access to be granted
 - b. Rate of return to be sought
3. Length of Agreement
 - a. Japan Bilateral Agreement and allocation days for pure seine access are to be held every two years.

ULA

For the ULA there is a permit fee schedule based on the weight of the fishing vessel. Section 3.1.1 of the fishing agreement sets permit fees for fishing vessels as follows: 50 gross tons shall pay \$4,500, 75 gross tons pay \$5,250, 125 gross tons pay \$6,000 and over 125 gross tons pay \$6,750.

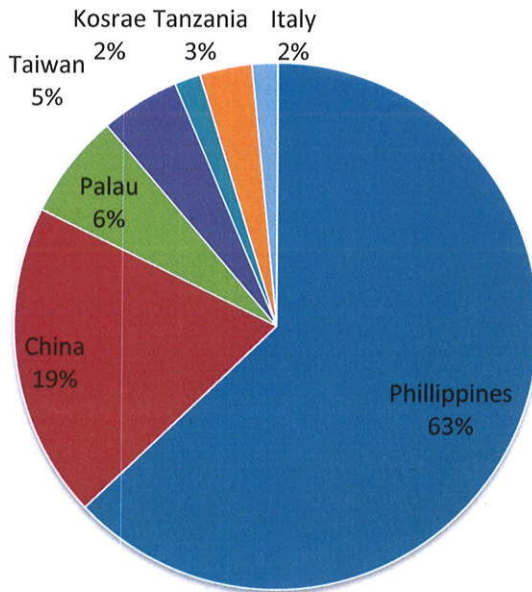
In addition, RPPL No. 7-37 Section 21 amended 40 PNC § 1406, effective January 1, 2008, which requires that every person exporting any species of tuna or any species of billfish in any form whatsoever for commercial purpose shall be assessed a tax of \$0.35 per kilogram of such tuna or billfish so exported. This is irrespective of whether the fish is fresh (exported for sashimi) or frozen (exported as rejects).

Based on the Minister's (MNRET) presentation report to the Pacific Tuna Forum's 3rd Oceanic Fisheries Management on September 2011, it proposes to increase tuna export tax to \$1.00 per kilogram.

We were not provided with the rationale or calculations to support the proposed increase in tuna export tax.

One of the objectives of the PTMP is to promote the employment of Palauans in the Tuna Industry.

Our audit revealed that only six percent (6%) of locals are employed in the Tuna fishing industry, as shown in the chart below:



Recommendation

Due to the structure, inefficiency, and ineffectiveness of the permit fee, export tax, and fishing agreements, in fulfilling the intent of the PTMP, we recommend that the entire fishing permit and access process, its components and economic benefit structure be reviewed and reconstructed to ensure that tuna resources provide a more equitable economic benefit to the people of Palau and to ensure the sustainability of the resources in the years to come.

BOFM Comments:

Economic Returns from offshore fishery licenses and access agreements

In recognizing the economic returns from offshore fishing, it is essential that all direct and indirect returns from the offshore fishery is accounted for, such as export taxes, provisioning of fuel and supplies, employment taxes as well as all other taxes that are imposed to the fishing industry, in order to gain a better understanding of the value and its return. Direct revenue from fishing license fees are deposited into the National Treasury and are subject to the Fishing Rights distribution formula before they are disseminated to national and state governments.

Finding 6.2.2 Multilateral Treaty between United States and Certain Pacific Island Countries

The Multilateral Treaty between the United States and Certain Pacific Island Countries enables US purse seine fishing vessels to fish in the waters of the 16 Pacific Island Parties which are: Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu. The United States Government pays access fees to the FFA members in return for the rights for US purse seine vessels to fish in the waters of these jurisdictions.

From a total of the US\$14 million cash payment by the United States Government pursuant to the agreement between the Government of the United States of America and FFA, and the US\$4 million industry payment pursuant to Annex II, Schedule 2 of the Principal Agreement -

- a. The Administrator shall deduct administrative costs in accordance with Article 7.2;
- b. The balance remaining, after deduction of administrative costs in accordance with sub-paragraph (a), shall be disbursed as follows –
 - 1) US\$1,777,999.95 shall be paid to a fund (hereinafter referred to as the “Project Development Fund”) administered by FFA in accordance with procedures agreed between the Pacific Island parties;
 - 2) Fifteen (15) percent of the balance remaining after deduction of the Project Development Fund shall be distributed equally among the Pacific Island parties; and
 - 3) Eighty-five (85) percent of the balance remaining after deduction of the Project Development Fund, including accrued interest thereon, shall be distributed according to the share of the volume of catches in the waters in the Licensing Area of the Principal Agreement reported by vessels fishing while licensed pursuant to the Principal Agreement.

All the Pacific Island parties shall have equal access to the sum of US\$1,777,999.95 set aside for the Project Development Fund.

During the audit, we found that the BMR-OFM is not vigilantly monitoring and enforcing the terms and conditions of multilateral fishing agreements and regional and sub-regional fishing treaties (i.e., vessel inspections, observers, logbooks, etc.) and carrying out operations in a manner that maximizes economic benefits from Palau tuna resources. As mentioned in item 3) above, Palau gets 85% distribution of the access fees paid by the United States to FFA based on the share of the volume of catches in its waters. As reported in Finding 6.3.1, the BMR-OFM is not properly recording the fishing activities (catches) into the TUFMAN database, a critical function that supports verification of Palau’s 85% share, complemented with vigilant

enforcement of vessel inspections, observers on fishing vessels, and vessel logbooks. These functions are critical in order for Palau to effectively monitor its share of access fees distribution and report accurate tuna fishing activities to various stakeholders. And although the Government of the Republic of Palau did receive funds from the FFA based on the 85% and 15% allocation noted above; BMR-OFM is unable to effectively verify the distribution due to lack of data and appropriate enforcement mechanisms.

Recommendation

We recommend that BMR-OFM monitor and enforce the terms and conditions of the multilateral fishing agreements and regional and sub-regional fishing treaties by being more vigilant in carrying out vessel inspections, enforcing maintenance of vessel logbooks, and placing observers on fishing vessels. In addition, the BMR-OFM should record all fishing activities to the TUFMAN database to support monitoring of Palau’s share of access fees.

BOFM’s Comments: BOFM did not respond to Finding 6.2.2

Finding 6.2.3 Project Development Fund (PDF)

The access fees paid to the Republic of Palau National Government under the “Multilateral Treaty between the United States Government and Certain Pacific Island Countries” includes payment of U.S. \$1,777,999.95 into a “Project Development Fund (PDF)” administered by FFA. All Pacific Island parties shall have equal access to the PDF. According to RPPL 7-43, Section 2, Subsection 121(d), states: “...PDF shall only be used for fishing, aquaculture and mariculture projects, and shall not be used for travel expenses.”

In addition, the Section further states: “...the Director of Marine Resources shall submit a yearly report to the Olbiil Era Kelulau (OEK) setting forth all the expenditures from the PDF.”

The Audit found that a total amount of \$604,870 of PDF was used to fund travel costs, meeting expenses, and other activities that are not related to fishing, aquaculture, and mariculture projects during fiscal years 2008 through 2011. See below for expenditures details:

Fiscal Years	Expenditures	Purpose
FY2008	\$ 139,660.77	Travel meetings; Sub regional meetings in Koror; Consultation Meetings in Koror (venue and food)
FY2009	\$ 48,039.22	Travel meetings; Office supplies

FY2010	\$ 340,998.14	Travel meetings; Budget support for hosting of PNA Leaders Summit; Funds for Study at University of Wollongong (UOW)- Sydney; Budget support for Micronesian Presidents Summit in Koror
FY2011	\$ 76,171.90	Travel meetings; Scholarship payment to UOW-Sydney
Total Expenditures	\$ 604,870.03	

Furthermore, the audit revealed that there have been no reports provided to OEK by the Director of Marine Resources setting forth the expenditures of the PDF from fiscal years 2008 through 2011.

Therefore, the Minister of MNRET and Director of Bureau Marine Resources did not comply with the RPPL 7-43.

As a result, the \$604,870 of PDF funds that were designated by law to fund fishing, aquaculture and mariculture projects were diverted to fund travel, hosting meeting, educational scholarships in violation of RPPL No. 7-43. In addition, the lack of reporting by the Director of BMR to OEK may have facilitated the perpetuation of illegal use of PDF funds.

Recommendation

We recommend the Minister of the MNRET and the Director of Bureau of Marine Resources comply with the intent of the RPPL 7-43. Specifically, funds designated for the Project Development Fund should be used only for fishing, aquaculture, or mariculture projects. In addition, the Director of Bureau of Marine Resources should report to the Olbiil Era Kelulau the expenditures of the PDF fund on an annual basis.

BOFM Comments:

Funds received from the US Treaty are not used to fund “fishing activities”.

Fishing Activities is a broad definition and must be used in the context of our needs and constraints, when it comes to managing sustainable tuna. Because highly migratory fish stocks relies on measures and decisions taken at the regional level, without Palau’s participation in regional meetings would be crucial in implementing tuna strategies. It has been recorded since 1993 to date, that the PDF funds were used to fund for travel to attend significant regional meetings where tuna management goals, MCS, and regional fishery management organizations were decided upon. In the early 2000, PDF supported four (4) Palauan students to complete their Bachelor’s Degrees at the University of the South Pacific in Suva, Fiji. In 2011, PDF

supported a Palauan national to complete her Masters Degree in International Fisheries Law in Australia. Palau, a small island adjacent to a high seas pocket, could not afford not participating in those crucial meetings. A complete and comprehensive report was provided to the OEK in 2012 on the use of PDF in funding for fishing related activities.

OPA Comments: The policy is set by law specifically prohibiting the use of PDF funds for travel and designating the funds for fishing, aquaculture, and mariculture projects. Whether by necessity or obligation that Palau has to attend these meetings, associated travel must be funded with other sources of funds and not with PDF, unless the law is amended to allow their use for travel. Furthermore, it may have been permissible since 1993 to use the PDF to fund travels; however, in 2008 RPPL No. 7-43 was enacted prohibiting this practice, which should have prompted government agencies and officials to seek other sources of funds to fund their travel needs. Moreover, educational scholarships and other financial assistance should be channeled through the proper government agency (i.e. Palau National Scholarship Board) with oversight responsibilities to ensure accountability, transparency, and equality in the allocation of resources. It is quite apparent that these activities have no relevancy to fishing, aquaculture, and mariculture projects.

6.3 Decision making concerning off-shore fisheries is informed by accurate assessments of the fishery; and changes in the status of the fishery are monitored and reported.

Regional and country decision making on sustainability of tuna stocks depends on the accuracy of the country reports. Palau sends its reports to the Secretariat of the Pacific Community (SPC) and the WCPFC to be assessed and analyzed as to the tuna stocks in Palau EEZ. Current and updated reporting is important for accurate reports.

Finding 6.3.1 Fishing (Tuna) Activities Not Properly Recorded in the TUFMAN Database

TUFMAN is a database tool developed for Pacific Island Countries to manage their tuna fishery data. It provides for data entry, data management, data quality control, administration, and reporting. The system is the same throughout the region but is highly customizable and setup specifically for the needs of each of the individual countries. It has been developed over many years and has evolved from a simple system to one that is becoming a comprehensive tuna data management tool.

The accuracy of data in TUFMAN is important as it provides information used for regional and individual country decision making and reporting.

The audit revealed that BMR-OFM employees were not properly recording the fishing activities during fiscal years 2008 to 2011. For instance, there were some fishing vessels activities that were not recorded, and some records were incomplete. In addition, BMR has not yet input data from the observers' reports into the database. Moreover, data management, quality control, and administration appear to be lacking.

Without essential data in the database, management cannot rely on the TUFMAN database to provide information and prepare comprehensive reports on fishing activities within Palau's EEZ. As a result, policy-making may not be based on complete and accurate information.

It appears the cause of the above condition is lack of employee training on data input, data management and quality control, and administration of the TUFMAN system.

Recommendation

We recommend the BMR-OFM management obtain the essential training for their staff on the TUFMAN database management system. The BMR-OFM management should conduct an assessment of its employees training needs and seek support from its development partners (i.e., FFA) to provide training for its employees on the administration of TUFMAN database system. In addition, management should periodically monitor the data management system to ensure that it is properly maintained and that the data and information are accurate, complete, and reliable.

BOFM Comments:

Decision-Making concerning offshore fisheries is not informed by accurate assessments; and changes in status of the fishery are not monitored and reported.

1. Fishing (Tuna) activities are not properly recorded in the TUFMAN database.

Currently, there are only three (3) staff providing entry and provide preliminary assessments of the TUFMAN database, a work that is intended for 10 personnel. Prior to 2010, there were only 2 staff. The SPC provided funding for an Assistant Tuna Data Coordinator to Palau to build upon its capacity in data entry due to the lack of budget support given to the Oceanic section. It is recommended that a full understanding of the TUFMAN Database be considered before drawing any conclusions. The TUFMAN database is a regional database that is now used widely. Before TUFMAN was made available to Palau, raw data and forms were being sent to the SPC for data entry and assessment. BMR-OFM has taken advantage of FFA and SPC opportunities by training its Licensing & Revenue Officer in data entry and stock assessments including the basic entry into the TUFMAN (due to limited staff capacity). More recently, BOFM was able to send its Asst. Tuna Data Coordinator to the introduction to TUFMAN database training.

BOFM has taken a big step into building its capacity by acquiring the skills and knowledge in using the database system when providing basic catch “estimates”. With a system that was originally created for regional data management, Palau can now use this system as a national database system in providing basic data management. The TUFMAN system reconciles all report entries and BOFM staffs are in constant communication with SPC Scientists and Information Technicians on the use of this database system. The TUFMAN database has continuously been updated and new versions are provided to member countries, if they so wish and are able to manage it with the capacity required. There are numerous forms and reports that are being collected and entered daily into the database and limited human resources to manage it.

In addition, your audit also reveals that that “employees were not properly recording fishing activities”. Again, this goes back to the reference of best catch “estimates”. Tuna data requires reliable source of data, such as Port Sampler forms and Observer data. Once these data forms are entered into the system, the reconciliation report shows that there were discrepancies of data. Currently, there is no full time compliance officer to address these non-compliance.

BOFM would like to receive additional budget in order to manage the TUFMAN database effectively.

Training Needs Identification

*In May 2010, the FFA Leaders adopted the Regional Monitoring Control and Surveillance Strategy 2010-2015). This strategy provides for an efficient and effective MCS framework in the Western and Central Pacific Ocean region which supports the sustainable management of tuna resources and maximizes the economic returns and social and developmental benefits, while minimizing the adverse environmental impacts to member countries. It further lays out an analysis which identifies the **Training Needs** and Palau was assessed in July 2012. See Country Specific Report attached.*

Finding 6.3.2 Inaccurate Log Sheets

The fishing authorities should compare the accuracy of fishing vessel log sheets/books with the observers’ and port sampler’s records and obtain explanations for any discrepancies.

The ULA under Section 7.1 states: “Every licensed vessel shall complete and maintain on-board daily fishing logs, in English, and shall certify that such information is true, complete, and accurate. The vessel must record its total catch including total landings and discards.



Company vessel unloading their catch

We examined the captain's log sheet, observer's log sheet and port sampler's log sheet for twenty (20) fishing trips of twenty (20) fishing vessels and noted discrepancies in the three log sheets as follows: vessels failed to report all fish caught, including total discards. For instance, one particular vessel recorded three (3) Big Eye Tuna and twenty one (21) yellow fin tuna while the observer, who was on board the vessel at the time, recorded five (5) big eye tuna and twenty eight (28) yellow fin tuna. In addition, the port sampler's records revealed that the vessel unloaded 24 yellow fin tuna, 1 big eye tuna, and 6 Blue Marlin. Furthermore, there were other species of fish and tuna-like species that were in the observer's report but were not reported in the vessel's log sheets.

It appears the cause of the above condition is that the BMR is not pursuing the fishing companies for true, complete, and accurate reporting pursuant to the terms of the fishing agreement. Furthermore, the BMR is not following up on the companies to compel them to reconcile their log books to the observer's reports. Moreover, the data on the captain's logbook, the observer, and the port sampler are not being reconciled.

As a result, fishing vessels and their companies are not complying with the ULA under Section 7.1. In addition, the BMR is not enforcing the terms and conditions of the ULA agreement and has not implemented a system for ensuring the accuracy and completeness of fishing vessel reports. To make matters worse, inaccurate reports leads to inaccurate data input, inaccurate database, and inaccurate information and reporting.

Recommendation

We recommend the BMR-OFM officials conduct comparative analysis of the fishing vessels log sheets with observer's log sheets and obtain appropriate explanations from the sources in order to reconcile any discrepancies in the reports. In addition, the vessels log sheets and observers' report need to be reconciled to the port sampler's reports. Finally, the BMR-OFM should strictly enforce the terms and conditions of the ULA fishing agreement to ensure that the information in the fishing vessel reports are certified to be true, complete, and accurate and that appropriate sanctions are levied for non-compliance.

BOFM Comments:

2. Inaccurate Log Sheets

Completion of log sheets is the responsibility of the fishing vessel captain and the company/agent. BOFM continues to collect these anomalies and are cross-checked with other forms to derive on the best estimated catch for any given month. The log sheets are reconciled with Port Sampling forms (completed by BOFM samplers), Unloading forms (completed by fishing company) and others such as Port Visit Logs. These are the main data collection required in order to determine the estimated catch data.

OPA's Response: Per the ULA every licensed vessel shall complete and maintain on-board daily fishing logs, in English, and shall certify that such information is true, complete, and accurate. The BOFM must be consistent and persistent in enforcing this requirement to ensure accurate and complete data for reporting and decision making purposes.

Country and Regional Reporting

TUFMAN has the capacity to develop reports to inform decision making at both country and regional levels.

Finding 6.3.3 Minister's Annual Report

Pursuant to 27 PNCA, Section 125 states: "The Minister shall report annually on all fishing activities to the presiding officers of the OEK and the President...The annual report shall disclose and report on all foreign fishing agreements, revenues derived by the Republic from foreign fishing activities, the amount and types of fish harvested during the previous year by each foreign party, efforts and plans to conserve fishery stocks, the sustainability of each stock of fish, etc...."

The audit found that there was no annual report for fiscal years 2008, 2009, 2010, and 2011.

We were unable to determine the reason for failure to provide an annual report for each of the above fiscal years. In addition, the apathetic attitude of the leadership in ignoring the reporting requirements may be causing the non-reporting.

The Minister of MNRET did not comply with 27 PNCA Section 125.

As a result, the presiding officers of the OEK as well as the President were not informed of the offshore fishing activities (Tuna in particular) within Palau's EEZ.

Recommendation

We recommend the Minister of the MNRET provide annual reports in accordance with 27 PNCA §125 to facilitate policy decisions regarding offshore fishing (Tuna in particular) in the Republic.

BOFM Comments:

- 3. The Minister did not comply with the reporting requirements as required in 27 PNCA Section 125.***

This reflects the failure of the responsible agency in providing reports. The BMR has the responsibility to report to the Minister on all Oceanic matters, prior to April 2012. Hence, I have attached a few samples of the BMR-OFM Performance Reports for 2009, 2010 and 2011 for your reference.

Finding 6.3.4 Regional Reporting Needs Improvement

Regional decision-making on sustainability of tuna stocks depends on the accuracy of individual country reports. The status of tuna stocks are considered on a regular basis by the scientific committee of the WCPFC.

The audit found that the only report Palau provided to WCPFC was in 2009.

Without annual reports to the WCPFC, Palau is unable to effectively monitor and assess its tuna stocks and make effective policy decisions regarding its sustainability.

Recommendation

To ensure that country and regional decision-making concerning offshore fisheries is informed by accurate assessments of the fishery, we recommend that BMR-OFM management provide accurate assessments and current reports.

BOFM Comments:

4. Regional Reporting needs improvement.

Palau, through the BOFM has met all its regional reporting requirements. It is unfortunate that your team was unable to locate these regional reports. Palau has received an "A" score as being a Compliant member of the Western and Central Pacific Fisheries Commission (WCPFC). I have also attached a few reports which were also sent to the WCPFC (Science and Technical & Compliance Reports) in accordance to management measures as agreed to.

OPA's Response: The reports were submitted late and therefore were not available during the fieldwork of the audit, as further evidenced in the e-mail communication.

7.0 CONCLUSION

Tuna is an important source of food for the people of Palau and the outside world. It also provides employment opportunities, financial benefits, and recreational activities. Protection and sustainability of the marine ecosystem and the highly migratory fish stocks, the tuna resource in particular, is a key issue for the Republic of Palau.

Although there have been significant improvements in the Tuna Fisheries management in Palau, the audit found areas requiring further attention by the leadership and responsible agencies. These areas include lack of implementation of a legal and policy framework for the tuna fisheries management; fishing agreements lacking mechanisms for sustainable fishing and reasonable economic returns; and management monitoring of the fishery is not regularly performed to ensure timely and accurate reporting. Therefore we propose recommendations in the following areas:

Legal and policy framework for Tuna Fisheries Management

It is important that the Ministry of Natural Resources, Environment and Tourism (MNRET) and the Bureau of Marine Resources-Oceanic Fishery Management (BMR-OFM) seek advice and assistance to ensure that regulations are promulgated to supplement the framework for the management of offshore fishing.

The policy framework including a set of regulations for tuna fisheries should be established. These regulations should include the vessel registration with FFA, deployment of observers, log book recording, and uniform fines for fishing vessels conducting illegal fishing within Palau EEZ waters. The fines should be set at maximum levels that will deter, minimize, or eliminate illegal fishing, and repeat offenders should be sanctioned with stiffer fines and penalties.

Fishing Agreements lack a framework for sustainable fishing and reasonable economic returns

The MNRET and BMR-OFM should review and align the fishing agreements to take better account of the economic value of tuna fisheries to the people of Palau. In addition, Palau received funds from the Multilateral fishing agreement between the United States and Certain Pacific Island Countries through the Forum Fisheries Agency (FFA) called Project Development Fund (PDF); however, these funds “shall only be used for fishing, aquaculture and mariculture projects and shall not be used for travel expenses.” Forty percent (40%) of the PDF was used for travel costs and other activities not involved with fishing, aquaculture and mariculture. Therefore, certain percentage of this funding should be resourced, earmarked and disbursed to fund and promote local fishing activities.

Management monitoring of the fishery is not regularly performed to ensure timely and accurate reporting

TUFMAN provides data entry, data management, data quality control, administration and reporting. The accuracy of data in TUFMAN is important as it provides information used for regional and individual country decision making and depends on the accuracy of log sheets of fishing vessels, observers and the port samplers, and which data could be used by the Minister to prepare annual as well as regional reports.

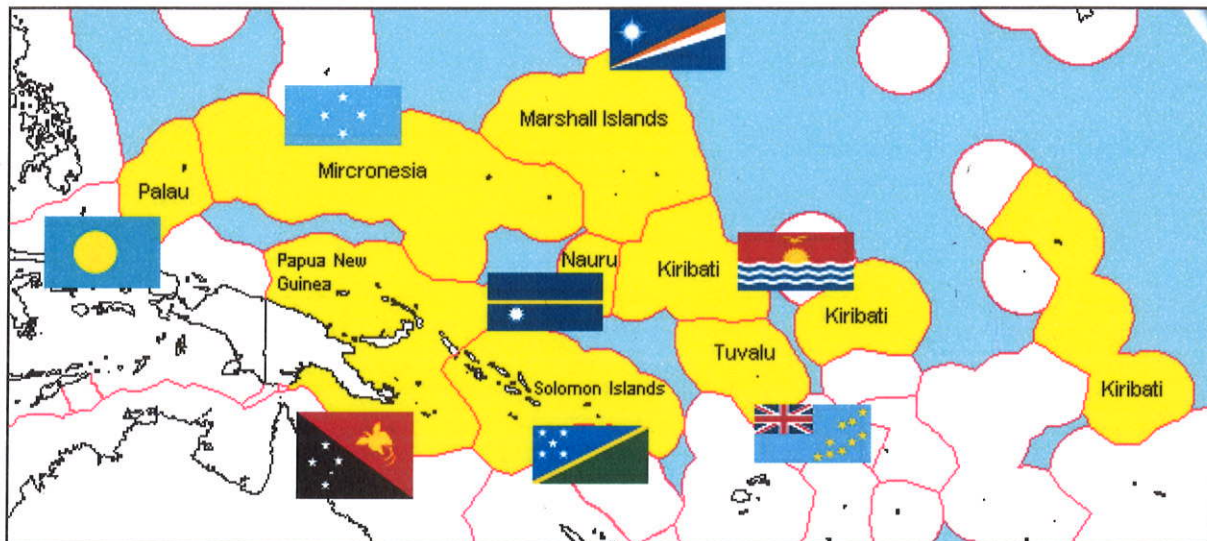
BMR-OFM management should obtain the essential training for the staff of BMR-OFM on the TUFMAN database management system. The management should conduct an assessment of its employees training needs and seek support from its development partners to provide training for its employees on the administration of TUFMAN database. In addition, BMR-OFM should record all fish catch into the TUFMAN system (i.e. captain log sheet, port sampler, and observer’s report) to provide accurate and comprehensive report.

Appendix I

PNA VESSEL DAY SCHEME (VDS)

PARTIES TO THE NAURU AGREEMENT (PNA) administer the Vessel Day Scheme, which is a Scheme mandated under the *Palau Arrangement for the Management of the Western Purse Seine Fishery*. The *Palau Arrangement* came into force in November 1995. Signatories include: Papua New Guinea, Kiribati, Federated States of Micronesia, Solomon Is, Nauru, Marshall Islands, Tuvalu and Palau. These countries have a combined EEZ area extending over 14.3 million square kms. Under the PNA, the purse seine fishing vessels of distant water fishing nations can be licensed to fish by PNA parties.

Figure 1: PNA member countries.



What is the purse seine method of fishing?

A purse seiner encircles a school of fish with a deep curtain of netting, then the bottom of the net is pursed (closed) underneath the school by hauling a wire running from the vessel through rings along the bottom of the net and then back to the vessel, preventing the fish from "sounding", or swimming down to escape the net.

What is the Vessel Day Scheme (VDS)?

The VDS establishes a system of tradable fishing days allocated to the Parties as Party Allowable Effort (PAE). The Arrangement was established to regulate the number of purse seine vessels to be licensed by

the Parties at any one time, in response to scientific advice of overfishing of yellow-fin tuna and the rapid influx of foreign purse seine vessels into the WCPO.¹²

Prior to the Palau Arrangement, the Parties to the Nauru Agreement (PNA) had already set in 1990 a provisional limit of 164 purse seine vessels to be licensed by the Parties. The license allocation limit under the Palau Arrangement in 1995 was for 205 purse seine vessels until the license allocation management scheme was replaced by the VDS in December 2007. The introduction of the VDS was the result of an external review commissioned by the Parties in 2000 to assess the effectiveness of the license allocation management scheme in achieving its objectives under the Palau Arrangement. The review Report recommended the adoption of the VDS to regulate the number of fishing days by purse seine vessels as a long term approach to the management of the purse seine fishery. The Parties adopted the VDS in 2006 and a trial operation of the VDS was conducted from 1 December 2006 to 30 November 2007 with the VDS becoming fully operational from 1 December 2007.

Key features of the VDS:

- a) Parties set the Total Allowable Effort in fishing days for each Management Year, Management years are now calendar years;
- b) A fishing day is defined as any day or part of a day in the waters of a Party outside archipelagic waters unless prior notice is given of a vessel not fishing, e.g. for transit;
- c) Allowances for the FSM Arrangement¹³ fleet effort and the US Treaty¹⁴ effort are deducted from the TAE;
- d) The adjusted TAE after accounting for the FSMA and US effort is allocated amongst the Parties as their Party Allowable Effort (PAE) for each Management Year based on the distribution of estimated biomass and historical effort;
- e) there are three Management years in a Management Period;
- f) Parties may transfer days freely between themselves (at a price) and between years within a Management Period, but transfers between Management Periods are limited;
- g) Each Party is required to take all necessary measures to ensure that the number of fishing days by purse seine vessels in its EEZ does not exceed that Party's PAE or Adjusted PAE in any Management Year; and

¹² During the period from the mid-1980s to 2003, the regional purse seine fleet expanded and the national composition of the fleet became more diverse to include other Asian fishing nations such as Taiwan, Korea, Philippines, followed by China and New Zealand. A more recent group of entrants to the fishery include the Latin fleets of Spain, El Salvador and Ecuador.

¹³ The FSM Arrangement aims to provide access for Domestic Vessels to the waters of PNA partners on terms no less favourable than those granted to distant water fishing nations.

¹⁴ Although a nominal allocation of days is determined for the US Treaty for each Management Year for the purpose of setting the Adjusted TAE [i.e. the TAE less the deduction of the UST seven (7) year average historical effort and FSMA (outside home Party waters) days], the US Treaty vessels days are exempted under the VDS and do not count against the PAEs of the Parties.

h) As a capacity adjustment, a fishing day of a small vessel (<50 metres length overall (LOA)) is counted as half of a fishing day, and large vessels (>80 metres LOA) one and a half fishing days. The VDS is overseen and reviewed by an Inter-Party VDS Committee, and reports on its operation are provided to the annual meeting of the Parties to the Palau Arrangement. The role of the VDSC is to have oversight on the operational aspects of the VDS and provide recommendations as appropriate to the plenary meetings of the Parties to the Palau Arrangement, unless mandated to decide on certain operational aspects of the VDS. The Committee has met 10 times since the VDS was adopted by the annual meeting of the Parties in May 2006.

A recent assessment, carried out by Moody Marine for the PNA-licensed Western and Central Pacific purse seine sets against the Marine Stewardship Council Principles and Criteria for sustainable fishing, concluded that the VDS had the following core strengths:

- binding agreement on allocations of fishing effort;
- mechanisms to account for effort creep;
- high-level political support in the PNA Leadership;
- a long history of cooperative PNA management efforts;
- an extensive consultative process with stakeholders directly involved;
- acceptance of the VDS by the WCPFC;
- centralized monitoring of effort by VMS;
- support from the FFA VMS and the Regional Observer Programme; and
- monitoring (logsheets) and scientific support from SPC.

The Moody assessment also identified the following weaknesses apparent in the VDS:

- the lack of a clear link between the PAE and scientific advice on stock status;
- PAE allocation has been unsettled, and difficulties have been addressed in part through increasing the TAE and individual PAEs through ad hoc adjustments;
- trading has been slow to develop;
- the ad hoc adjustments, lack of trading and high provisions for transfers between years resulted in high adjusted PAEs for 2010 and increased effort in 2010, including allowing the transfer, instead of removal, of effort from the closed high seas areas;
- some Parties have overrun their PAEs, and it is not clear that the sanctions in the Scheme for over-runs are being applied;
- limits have only been partially applied at national level;
- there are inconsistencies in the treatment of non-fishing days, with apparently high provisions for non-fishing days for one Party, while no provisions are made for other Parties;
- the Scheme does not apply to archipelagic waters, and effort has increased substantially in archipelagic waters of the Parties since 2004;
- the FSMA effort is capped at 3,907 days but this looks likely to have been exceeded in 2010;
- the need to bring US effort under the VDS.

In response to the early experience with the VDS, including any shortfalls in performance, PNA has reported amending the VDS Management Scheme to improve the Scheme including:

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- eliminating the rollover three year Management Periods in order to prevent the automatic carry-over of days between Management Periods;
- disallowing the transfer of days between Management Years and between Management Periods;
- disallowing the allocation of temporary allocations for special circumstances for Parties, effective Management Year 3; and
- requiring FSMA vessels to cease fishing once the cap for days outside home Party waters is exceeded in a Management Year;
- applying a hard limit of 28,469 days for 2011;
- improving VMS reporting; and
- upgrading administrative systems supporting the VDS.

In addition, PNA has advised that additional enhancements under consideration include:

- the Parties have initiated discussions with the US for the US Treaty vessels to operate and have their days limited under the VDS, if not in the current Treaty period which ends 14 June 2013, then in the Treaty extension after 14 June 2013, should there be an extension.

The VDS is providing an important means of accommodating the effects of El Niño-Southern Oscillation (ENSO) events on redistribution of tuna, both now and in the future. The VDS holds total fishing effort for PNA members constant, but allows them to trade fishing days when the fish are concentrated either in the west or east due to ENSO events. The VDS is designed to operate in a similar way to 'cap and trade' systems and ensures that all PNA members continue to receive some level of benefits, regardless of where tuna are concentrated. Allocation of effort among members will also need to be adjusted periodically, as provided for under the VDS, as tuna stocks move progressively east under the projected effects of climate change (Bell et al. 2011). Periodic adjustment will still allow the transfer of effort during ENSO events well into the future, but avoid the need for PNA members further to the east to continually purchase vessel days from those in the west, based on present-day catches.

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BUREAU OF OCEANIC FISHERY MANAGEMENT

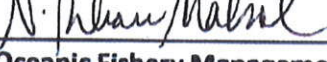
Ministry of Natural Resources, Environment & Tourism
Tel: 680-488-3125/2897 Email: tunapal@palaunet.com.

Date: January 2, 2013

To: Mr. Satrunino Tewid
Acting Public Auditor
Office of the Public Auditor
Republic of Palau

Office of the Public Auditor Received	
Date <u>01/02/13</u>	Time <u>3:15 PM</u>
Received By <u>mmr</u>	
No. OPA <u>13-019</u>	

Thru: Honorable Minister Harry R. Fritz 
Minister of Natural Resources, Environment & Tourism
Republic of Palau

From: Nannette D. Malsol 
Director, Bureau of Oceanic Fishery Management
Ministry of Natural Resources, Environment & Tourism
Republic of Palau

Alii and Happy New!

At the outset, let me thank you for your consideration in giving us an additional 10-days to respond to the Draft Audit Report. As you very well know, the end of the year is always a busy time in preparation for regional and international meetings, including submissions of our national reports. In addition, the Director for Bureau of Marine Resources (David Orrukem) has been on leave since September 2012 and is not expected to return until January 2013. Therefore, I submit these comments solely as the Bureau of Oceanic Fishery Management.

Institutional Strengthening (Governance)

Firstly, it is interesting to note the outcomes of the 14th PASAI Congress in August 2011 where it was resolved that a cooperative performance audit on Managing Sustainable Fisheries focusing on tuna be commenced. I congratulate your team for undertaking this performance audit as it has been long overdue and timely given the importance of the tuna fisheries as a source of income and revenue into the Palau national government and state governments in accordance with its objectives.

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The management of sustainable fisheries, particularly tuna, is broad, complex and technical and relies on regional and international management measures in order to sustainably manage a highly migratory fish stock. The Oceanic Bureau, which was only recently established through Executive Order 308 in April 2012, now becomes the primary agency in addressing the goals for tuna management. Prior to its establishment, all offshore and oceanic matters were merely dealt through a section within the Bureau of Marine Resources. In 2009, an Institutional Review of the Bureau of Marine Resources was undertaken where it was consistently repeated and recommended that the Bureau of Oceanic Fishery Management be restored in order to address jurisdictional matters, especially those found in the territorial waters with exclusive ownership rights such as reef fishes, aquaculture and those found in the Exclusive Economic Zone (EEZ). I have attached the 2009 BMR Institutional Review for your reference. The Oceanic Section subsequently requested the Pacific Islands Forum Fishery Agency (FFA) for an Institutional Strengthening review which commenced in July 2012. I have also attached hereto a copy of the draft report for your review and reference.

In order to effectively manage the oceanic living marine resources in Palau's EEZ, it is important that an institution be developed (the creation of BOFM) and strengthened to deliver the goals and objectives given the importance of the tuna fisheries industry in Palau.

Comments on your Draft Key Findings:

Key Aspects of management of offshore fisheries are not adequately identified and planned.

1. BMR-OFM has not promulgated regulations for the management of offshore fishing.

It has taken almost ten years to develop a single regulation for the management of fisheries in Palau. Palau requested assistance for a legislative review from the UN Food and Agriculture (FAO). Extensive consultations were held and over the years and has resulted in Draft Living Marine Resources Act, which is attached for your review. This draft was submitted to the Office of the Attorney General in June 2010 and to date has not been acted upon.

In addition to the efforts made into the draft Act, the FFA has also provided assistance to the BOFM in drafting regulations (since 2009) on the implementation of the Parties to the Nauru Agreement (PNA) measures. A draft regulation is attached for your reference.

A suggestion that BOFM has consistently requested to the Office of the Minister of NRET is to retain a legal counsel to review, provide advice and assist the AG's office where needed in order to complete this long overdue work.

2. The above also addresses your finding (2) on fragmented fisheries governance.

(See Draft Living Marine Resources Act)

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3. Tuna Management Plan needs updating.

There have been several attempts to review and update the National Tuna Management Plan for Plan. In November 2006, BMR-OFM initiated a review of the National Tuna Management Plan through an Ecosystem Approach to Tuna Fisheries Management. Due to high concerns and disagreements amongst stakeholders, this EAFM to implement the Tuna Management Plan was not agreed to. In 2009, the BMR-OFM through the Office of the President requested and was able to establish a Joint Task Force on Domestic Tuna Industry Development. The Joint Task Force reviewed the pending work on drafting legislations particularly those of the Living Marine Resources Act and held a National Tuna Fisheries Policy Reform Symposium on February 2010. The symposium included comprehensive tuna reports and presentations and was attended by both members of the Olbiil Era Kelulau and all relevant stakeholders of the tuna fisheries, including the general public, where they were all updated on the interests of Tuna Management.

I have attached BOFM's current assessment on the existing National Tuna Management Plan in requesting further review to the Plan, in addition to the Joint Task Force on Domestic Tuna Industry Development's Progress Report of 2009).

4. BMR-OFM did not comply with 27 PNCA Section 168 in the approval of foreign fishing licenses.

Section 168 of 27 PNC sets out the permit process for foreign fishing vessels. However, the current practices of negotiations pursuant to §161, Foreign Fishing Agreements are negotiated between the Government of Palau and the Fishing companies where permit procedures are stipulated and agreed. The terms under the Uniform Foreign Fishing Agreements take effect as regulations pursuant to §122 and §123(b) and (c).

Nevertheless, your assessments are noted and will be addressed during the next round of consultations for renewal of the fishing agreements this 2013.

5. The DMLE does not use the inspection checklist during inspections of fishing vessels.

Firstly, any Inspection Checklist should be developed by both agencies (BOFM & DMLE) in accordance with the FFA's Harmonized Minimum Terms and Conditions that is agreed regionally and those specified under the Uniform Foreign Fishing Agreements.

The BOFM recognizes the need to fully engage with the DMLE on the implementation of inspections of vessels and will continue to liaise with the DMLE on future processes.

Palau failed to meet the Observers coverage requirement.

The Palau National Observers Program was first developed in 1996 where it held its first Observers Training Workshop. Since then, a total of 34 Palauan (and one US citizen) have been

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trained and certified. Ten (10) officers of the DMLE were also trained and certified however, due to safety reasons they will no longer carry out observer trips. The low coverage is due to active participation of trips in the program. There are a total of five (5) active Palau National Observers covering national longline trips and regional programs such as the US Treaty and FSMA coverage.

Because an observer must be trained and certified by both the FFA and the SPC in order to meet basic standard requirements, it is difficult to get funding for an Observers Training in Palau.

Nonetheless, Palau has sought for a training to be held in Palau and we have received positively training in 2013.

6. BMR-OFM officials did not conduct any inspections on fishing vessels upon unloading of catch.

BORM recognizes the need for inspections of fishing vessels. At this time, there is no Compliance Officer or Compliance Inspector trained to inspect fishing vessels and therefore, BOFM relies on the Div. of Customs, Bureau of Immigrations, and others to provide the pre-inspection of fishing vessel. The Port Samplers whom are at port collecting datas on all fish landed into domestic port are not trained nor are they authorized to inspect fishing vessels. BOFM would like to receive additional budget from the national government to hire a full-time Fisheries Compliance Inspector (or Officer).

Economic Returns from offshore fishery licenses and access agreements

In recognizing the economic returns from offshore fishing, it is essential that all direct and indirect returns from the offshore fishery is accounted for, such as export taxes, provisioning of fuel and supplies, employment taxes as well as all other taxes that are imposed to the fishing industry, in order to gain a better understanding of the value and its return. Direct revenue from fishing license fees are deposited into the National Treasury and are subject to the Fishing Rights distribution formula before they are disseminated to national and state governments.

Funds received from the US Treaty are not used to fund "fishing activities".

Fishing Activities is a broad definition and must be used in the context of our needs and constraints, when it comes to managing sustainable tuna. Because highly migratory fish stocks relies on measures and decisions taken at the regional level, without Palau's participation in regional meetings would be crucial in implementing tuna strategies. It has been recorded since 1993 to date, that the PDF funds were used to fund for travel to attend significant regional meetings where tuna management goals, MCS, and regional fishery management organizations were decided upon. In the early 2000, PDF supported four (4) Palauan students to complete their Bachelor's Degrees at the University of the South Pacific in Suva, Fiji. In 2011, PDF supported a Palauan national to complete her Masters Degree in International Fisheries Law in

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Australia. Palau, a small island adjacent to a high seas pocket, could not afford not participating in those crucial meetings. A complete and comprehensive report was provided to the OEK in 2012 on the use of PDF in funding for fishing related activities.

Decision-Making concerning offshore fisheries is not informed by accurate assessments; and changes in status of the fishery are not monitored and reported.

1. Fishing (Tuna) activities are not properly recorded in the TUFMAN database.

Currently, there are only three (3) staff providing entry and provide preliminary assessments of the TUFMAN database, a work that is intended for 10 personnel. Prior to 2010, there were only 2 staff. The SPC provided funding for an Assistant Tuna Data Coordinator to Palau to build upon its capacity in data entry due to the lack of budget support given to the Oceanic section. It is recommended that a full understanding of the TUFMAN Database be considered before drawing any conclusions. The TUFMAN database is a regional database that is now used widely. Before TUFMAN was made available to Palau, raw data and forms were being sent to the SPC for data entry and assessment. BMR-OFM has taken advantage of FFA and SPC opportunities by training its Licensing & Revenues Officer in data entry and stock assessments including the basic entry into the TUFMAN (due to limited staff capacity). More recently, BOFM was able to send its Asst. Tuna Data Coordinator to the introduction to TUFMAN database training.

BOFM has taken a big step into building its capacity by acquiring the skills and knowledge in using the database system when providing basic catch "estimates". With a system that was originally created for regional data management, Palau can now use this system as a national database system in providing basic data management. The TUFMAN system reconciles all report entries and BOFM staffs are in constant communication with SPC Scientists and Information Technicians on the use of this database system. The TUFMAN database has continuously been updated and new versions are provided to member countries, if they so wish and are able to manage it with the capacity required. There are numerous forms and reports that are being collected and entered daily into the database and limited human resources to manage it.

In addition, your audit also reveals that that "employees were not properly recording fishing activities". Again, this goes back to the reference of best catch "estimates". Tuna data requires reliable source of data, such as Port Sampler forms and Observer data. Once these data forms are entered into the system, the reconciliation report shows that there were discrepancies of data. Currently, there is no full time compliance officer to address these non-compliance.

BOFM would like to receive additional budget in order to manage the TUFMAN database effectively.

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Training Needs Identification

In May 2010, the FFA Leaders adopted the Regional Monitoring Control and Surveillance Strategy 2010-2015). This strategy provides for an efficient and effective MCS framework in the Western and Central Pacific Ocean region which supports the sustainable management of tuna resources and maximizes the economic returns and social and developmental benefits, while minimizing the adverse environmental impacts to member countries. It further lays out an analysis which identifies the *Training Needs* and Palau was assessed in July 2012. See Country Specific Report attached.

2. Inaccurate Log Sheets

Completion of log sheets is the responsibility of the fishing vessel captain and the company/agent. BOFM continues to collect these anomalies and are cross-checked with other forms to derive on the best estimated catch for any given month. The log sheets are reconciled with Port Sampling forms (completed by BOFM samplers), Unloading forms (completed by fishing company) and others such as Port Visit Logs. These are the main data collection required in order to determine the estimated catch data.

3. The Minister did not comply with the reporting requirements as required in 27 PNCA Section 125.

This reflects the failure of the responsible agency in providing reports. The BMR has the responsibility to report to the Minister on all Oceanic matters, prior to April 2012. Hence, I have attached a few samples of the BMR-OFM Performance Reports for 2009, 2010 and 2011 for your reference.

4. Regional Reporting needs improvement.

Palau, through the BOFM has met all its regional reporting requirements. It is unfortunate that your team was unable to locate these regional reports. Palau has received an "A" score as being a *Compliant* member of the Western and Central Pacific Fisheries Commission (WCPFC). I have also attached a few reports which were also sent to the WCPFC (Science and Technical & Compliance Reports) in accordance to management measures as agreed to.

The BOFM takes this opportunity to thank you and your team for the Draft Audit Report and hope that the comments above are taken into account. Please do not hesitate to contact our office at 488-3125 or 488-4394 should you require further information or clarification.

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List of Attachments:

1. Institutional Review of the Bureau of Marine Resources (Nov. 2009).
2. Institutional Strengthening of Oceanic Fisheries Management in the Pacific-FFA (June-July 2012).
3. Draft Marine Living Resources Act (June 2010).
4. Draft Fisheries (PNA Third Implementing Arrangement) Regulations 2009.
5. Palau National Tuna Management Plan Assessment Paper.
6. Joint Tuna Task Force on Domestic Tuna Industry Development Progress Report (Oct.2009).
7. Monitoring, Control & Surveillance Training Needs Analysis-Country Specific Report for Palau (July 2012).
8. Bureau of Marine Resources Performance Report (2009).
9. Oceanic Fisheries Management Performance Report (2010-2011).
10. Provisional Compliance Monitoring Report (CMR) for the activities in 2011 Executive Summary-Final as agreed by TCC8 (Sept.2012).
11. Palau dCMR Summary (2010).
12. Palau Annual Part 1 Reports for 2011 and 2010.
13. Palau Annual Part 2 Reports (2009-2011) and onwards for 2012, 2011, and 2010.
14. Copy of Executive Order No. 308 (Amending Executive Order No. 283 to create a Bureau of Oceanic Fishery Management within the Ministry of Natural Resources, Environment & Tourism, and repealing Executive Orders Nos. 204 and 204-A).

**ILLEGAL OR WASTEFUL ACTIVITIES
SHOULD BE REPORTED TO:**

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**MONDAY THRU FRIDAY
7:30 a.m. - 4:30 p.m.**

(Closed on Legal Holidays)