

## International Law on Tuna Fisheries Management

Is the Western and Central Pacific Fisheries Commission ready for the challenge?

Bearbeitet von  
Dr. Ingo Unterweger

1. Auflage 2015. Buch. 320 S. Kartoniert  
ISBN 978 3 8487 2286 0  
Gewicht: 476 g

[Recht > Europarecht , Internationales Recht, Recht des Auslands > Internationales  
Recht > Völkerrecht](#)

schnell und portofrei erhältlich bei

  
DIE FACHBUCHHANDLUNG

Die Online-Fachbuchhandlung [beck-shop.de](http://beck-shop.de) ist spezialisiert auf Fachbücher, insbesondere Recht, Steuern und Wirtschaft. Im Sortiment finden Sie alle Medien (Bücher, Zeitschriften, CDs, eBooks, etc.) aller Verlage. Ergänzt wird das Programm durch Services wie Neuerscheinungsdienst oder Zusammenstellungen von Büchern zu Sonderpreisen. Der Shop führt mehr als 8 Millionen Produkte.

Umweltrechtliche Studien  
Studies on Environmental Law

46

Ingo Unterweger

# International Law on Tuna Fisheries Management

Is the Western and Central Pacific Fisheries Commission  
ready for the challenge?



**Nomos**

Umweltrechtliche Studien  
Studies on Environmental Law

Herausgegeben von / edited by  
Professor Dr. Sabine Schlacke  
Professor Dr. Gerd Winter

Band 46  
Volume 46

Ingo Unterweger

# International Law on Tuna Fisheries Management

Is the Western and Central Pacific Fisheries Commission  
ready for the challenge?



**Nomos**

The doctoral thesis and the print were funded by the DFG International Research Training Group INTERCOAST.

**The Deutsche Nationalbibliothek** lists this publication in the Deutsche Nationalbibliografie; detailed bibliographic data are available on the Internet at <http://dnb.d-nb.de>

a.t.: University of Bremen & University of Waikato (Hamilton, New Zealand), Diss., 2014

ISBN 978-3-8487-2286-0 (Print)  
978-3-8452-6391-5 (ePDF)

**British Library Cataloguing-in-Publication Data**

A catalogue record for this book is available from the British Library.

ISBN 978-3-8487-2286-0 (Print)  
978-3-8452-6391-5 (ePDF)

**Library of Congress Cataloging-in-Publication Data**

Unterweger, Ingo

International Law on Tuna Fisheries Management

Is the Western and Central Pacific Fisheries Commission ready for the challenge?

Ingo Unterweger

320 p.

Includes bibliographic references.

ISBN 978-3-8487-2286-0 (Print)  
978-3-8452-6391-5 (ePDF)

1. Edition 2015

© Nomos Verlagsgesellschaft, Baden-Baden, Germany 2015. Printed and bound in Germany.

This work is subject to copyright. All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording, or any information storage or retrieval system, without prior permission in writing from the publishers. Under § 54 of the German Copyright Law where copies are made for other than private use a fee is payable to "Verwertungsgesellschaft Wort", Munich.

No responsibility for loss caused to any individual or organization acting on or refraining from action as a result of the material in this publication can be accepted by Nomos or the author.

## Contents

<b>Abbreviations</b>	13
<b>Figures and tables</b>	16
<b>Introduction</b>	17
<b>Research objectives and structure</b>	22
<b>Chapter I</b>	
<b>The international law on tuna fisheries management</b>	23
A. Introduction	23
B. Law of the Sea Convention	23
1. Zonal regulations	28
a) Internal waters and territorial sea	28
b) Archipelagic states	29
c) Exclusive Economic Zone	31
d) High seas	33
2. Regulations for specific stocks/species	35
a) Transboundary stocks	36
b) Straddling stocks	37
c) Highly migratory species	38
3. Compliance and enforcement	41
4. International obligations for the protection of the environment	43
5. Scientific research	45
6. Dispute settlement	46
C. Development after the adoption of the Convention on the Law of the Sea	47
1. United Nations Fish Stocks Agreement	48
a) Conservation and management	52
b) Compatibility of EEZ and the high seas measures	55
c) International cooperation	57
d) Compliance and enforcement	60
e) Dispute settlement	64
2. FAO Compliance Agreement	65
3. FAO Code of Conduct for Responsible Fisheries	68
4. FAO International Plans of Action	71
a) IPOA-Seabirds	71
b) IPOA-Sharks	73
c) IPOA-Capacity	74

d) IPOA-IUU	75
5. FAO Port State Measures Agreement	77
D. Summary	81

## **Chapter II**

### **International disputes regarding the sustainable exploitation of tuna and tuna-like species**

	85
A. Introduction	85
B. Dispute on Southern Bluefin Tuna	86
1. History of the dispute	86
2. Dispute settlement under the Convention of the CCSBT	87
3. Dispute settlement through the ITLOS	88
4. Dispute settlement through the Arbitral Tribunal	92
5. Progress after the decision of the Arbitral Tribunal	94
C. Dispute on Swordfish in the South-Eastern Pacific Ocean	95
1. History of the dispute	95
2. Dispute settlement under the GATT	96
3. Dispute settlement under the UNCLOS	98
D. Summary	101

## **Chapter III**

### **The five tuna RFMOs - Differences and Similarities**

	103
A. Introduction	103
B. Evolution of catches and stock status	105
1. Evolution of catches	105
2. Stock status	110
C. Legal framework	116
1. Areas of competence	116
2. Species coverage	120
3. Organizational structure	122
4. State participation in RFMOs	125
5. Accession	130
6. Decision making	132
a) Decision making procedure	133
b) Objections	134
7. Settlement of disputes	136
8. Regulation of total catch and fishing mortality	139
9. Allocation criteria	143
10. Application of the precautionary approach	146
11. Monitoring, compliance and enforcement	152
a) Vessel register	152
b) Vessel Monitoring System	154
c) Regional observer programmes	156

d)	Port state measures	159
e)	Trade-related measures	163
aa)	Catch and trade documentation schemes	164
bb)	Trade restrictive measures	167
D.	Summary	169

## **Chapter IV**

<b>Tuna fisheries management in the Western- and Central Pacific Ocean</b>	175	
A.	Introduction	175
B.	Sub-regional cooperation in the WCPO between the Pacific Island countries and territories	176
1.	Secretariat of the Pacific Community	180
2.	Pacific Islands Forum Fisheries Agency	183
3.	Nauru Agreement	186
4.	Palau Arrangement	189
5.	FSM Arrangement	193
6.	Niue Treaty	196
7.	Te Vaka Moana Arrangement	198
C.	Regional cooperation - The WCPFC	199
1.	Negotiation process towards the WCPFC	199
2.	Convention area	203
3.	Species covered by the Convention	206
4.	Governance	207
a)	Secretariat	207
b)	Commission	209
aa)	Composition	209
bb)	Tasks	211
c)	Subsidiary bodies of the Commission	212
aa)	Scientific Committee	212
bb)	Technical and Compliance Committee	216
cc)	Northern Committee	217
5.	Decision making	220
6.	Settlement of disputes	222
7.	Cooperating non-members	223
8.	Cooperation with other tuna RFMOs	224
9.	Allocation of catch and effort	226
10.	Precautionary approach	230
11.	Conservation and management of target species	232
a)	Bigeye, yellowfin and skipjack tuna	233
b)	South Pacific albacore tuna	238
c)	North Pacific albacore tuna	239
d)	Pacific bluefin tuna	240
e)	Swordfish	242

f) South Pacific striped marlin	243
g) North Pacific striped marlin	244
12. Conservation and management of non-target species	245
a) Sharks	246
b) Seabirds	247
c) Sea turtles	248
d) Cetaceans	249
13. Regulation for fishing gear/ area	250
a) Prohibition of large-scale drift nets on the high seas	250
b) High seas FAD closures and catch retention	251
c) Eastern High Seas Pocket Special Management Area	253
d) Prohibition of fishing on data buoys	254
14. Monitoring, compliance and enforcement	254
a) Marking and identification of fishing vessels	255
b) Record of fishing vessels and authorization to fish	256
c) Establishment of a list of IUU-vessels	258
d) Commission Vessel Monitoring System	259
e) Regional Observer Programme	262
f) Regulation of transshipment	264
g) Monitoring of landings of purse seiners at ports	266
h) Boarding and inspection procedures	267
i) Vessels without nationality	270
j) Charter Notification Scheme	271
k) Compliance Monitoring Scheme	272
D. Summary and challenges	275
<b>Chapter V</b>	
<b>Final conclusions</b>	279
<b>Legal documents</b>	285
<b>Reports</b>	298
<b>Bibliography</b>	302