Introduction
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This book analyses the legal and policy context for the conservation, management and exploitation of tuna fisheries in the Western and Central Pacific region. This is inherently a highly complicated and convoluted matter due to the trans-boundary nature of the migratory tuna stocks and the diverse number of flag, port and market States involved in the fishery. The book is split into two parts: Part One focuses on the impacts of global legal and policy trends on the conservation and management of the Western and Central Pacific tuna fisheries; Part Two focuses on the impacts of regional legal and policy trends on the conservation and management of the Western and Central Pacific tuna fisheries. Each chapter analyses and explores a key legal or policy issue within the context of the tuna fisheries.

The legal and policy context for these tuna fisheries varies significantly depending upon the location of the catch and the circumstances of the States involved. Some fishing effort occurs within territorial seas and archipelagic waters, some within exclusive economic zones (EEZs) and some on the high seas. Some participating States are party to the United Nations Fish Stocks Agreement (UNFSA) and the Western and Central Pacific Fisheries Commission (WCPFC), while others are not. These matters have significant ramifications for the conservation and management of the Western and Central Pacific tuna fisheries and are analysed and discussed in Chapters One and Ten. Chapter One by Quentin Hanich, Clive Schofield and Peter Cozens analyses maritime claims in the context of Pacific island interests and discusses the benefits of cooperation. Chapter Ten by Quentin Hanich builds on this overview, analyses historical activities to determine States that have participated in the Western and Central Pacific tuna fisheries, and discusses the participatory rights and responsibilities of the various flag States involved in these fisheries.

Unlike Atlantic, Indian and Eastern Pacific tuna fisheries, the majority of fishing effort in the Western and Central Pacific region occurs within the EEZs of the Pacific Island States, Indonesia and the Philippines. Most of this catch is taken by foreign owned vessels from outside the Pacific islands region. These foreign owned vessels may either be based within a Pacific Island State (due to licensing requirements) or operate from a distant home port. These vessels are mostly from distant water fishing nations (DWFN), notably China, Japan, Korea, the United States, Taiwan and increasingly, the European Union, who fish within Pacific Island EEZs or on the high seas. These vessels operate through access agreements or are directly licensed by the coastal States to fish
within their EEZ. The annual value of tuna caught by DWFN vessels is approximately four times that caught by domestic fishing vessels.¹

Domestic fishing vessels are generally smaller vessels that mostly fish for tuna within their own flag State’s EEZ. These vessels may be nationally owned and operated, or may be foreign owned and operated through domestic charters and/or joint ventures with local interests. Charter and/or joint venture arrangements generally specify local participation requirements in the venture and require that the vessel be located within the country. Most domestic vessels are longliners, but recently there has been an increase in Pacific Island flagged or domestic-based purse seiners.

Given the lack of resource alternatives, Pacific island States are heavily dependent upon the region’s oceanic and coastal fisheries. While coastal fisheries provide important sources of traditional food and income to artisanal communities, the oceanic tuna fisheries are the cornerstone upon which many Pacific island States depend for revenue and economic activity. Access fees from foreign fishing vessels deliver much-needed financial contributions to governments, while domestically-based fishing fleets and support industries pump hard currency into national economies. Fisheries resources have also, to a degree, motivated some distant water fishing nations (DWFNs) to build and maintain relationships throughout the region that include significant aid budgets.

Pacific island States hold strong aspirations to develop their fisheries and increase their benefits from the fisheries. In this light, Chapter Two by Vina Ram-Bidesi analyses ongoing fisheries subsidy negotiations under the World Trade Organisation and likely policy implications for Pacific island States. This includes some discussion on possible approaches that Pacific island States may consider when, or if, discussions on fisheries subsidies resume.

In order for the Pacific region to develop and maximise their benefits from the fisheries, they must be able to effectively control fishing activities. The following three chapters discuss global developments in monitoring and controlling fishing vessels. Chapter Three by Mary Ann Palma explores international developments in combating illegal, unreported and unregulated (IUU) fishing. Chapter Four by Gail Lugten analyses developments towards a FAO Global Record of Fishing Vessels and discusses its potential ramifications for FFA members. Chapter Five by Alexa Cole explores the use of vessel monitoring data in enforcement proceedings.

Until resolved, overfishing and overcapacity will continue to place significant pressure on the region’s fisheries and its cooperative frameworks. Addressing

these challenges will require strong cooperation between all relevant coastal, port and flag States – from within the FFA memberships and beyond. Given the diverse range of competing national and stakeholder interests, this will create significant negotiation challenges and fertile ground for dispute. In this context, Chapter Six by Martin Tsamenyi, Ben Milligan and Kwame Mfodwo analyses the fisheries dispute settlement provisions of the Convention on the Law of the Sea and explores current practice within the Western and Central Pacific region. Chapter Seven by Pio Manoa discusses the role of non-government organisations in the development and implementation of international fisheries instruments.

The second part of the book focuses specifically on regional issues and begins with a discussion of the status of the key tuna stocks. Shelton Harley and John Hampton establish the regional fisheries context in Chapter Eight and identify some of the key scientific challenges, particularly in regard to: data; research funding; establishment of reference points; and evaluation of conservation and management measures.

Subsequent chapters explore issues relating to regional cooperation and management of the Western and Central Pacific tuna fisheries. In 1979, the independent members of the Pacific Islands Forum (then named the South Pacific Forum) combined their resources and established the Pacific Islands Forum Fisheries Agency (FFA) to promote intra-regional cooperation and harmonisation of fisheries management policies. The mission of the FFA is to support and enable Pacific island States to achieve sustainable fisheries and maximise their social and economic benefits in harmony with the broader environment. The FFA supports the interests of the Pacific island States through facilitating regional cooperation in their favour and providing technical and policy advice. However, the limited coastal State membership of the FFA inevitably limited its effectiveness. Until recently, fishing effort targeting the same migratory stocks on the high seas and inside the neighbouring waters of Indonesia and the Philippines was essentially unregulated. In the early 1990s, FFA members recognised that a regional fora was required that engaged their DWFN partners and Indonesia and Philippines and enable management of migratory fisheries beyond their EEZs.

The Western and Central Pacific Fisheries Convention (WCPF Convention) entered into force in July 2004 with the objective of ensuring the long term conservation and sustainable use of WCPO straddling and highly migratory fish stocks in accordance with the 1982 United Nations Convention on the Law of the Sea (LOSC) and UNFSA. The WCPF Convention established the decision making WCPFC, which meets annually, and a secretariat which is headquartered in the Federated States of Micronesia. Chapter Nine by Sandra

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Tarte discusses the WCPF Convention and explores some of its key implementation challenges from a historical perspective.

Pacific island States are a critical membership bloc of the WCPFC and were a key driver behind its development. Other WCPFC members include (amongst others) Indonesia, Philippines and the DWFNs: Japan, Korea, China, Taiwan, USA and the European Community. The WCPFC closely follows the framework established by UNFSA and emphasises a precautionary and ecosystem based approach to fisheries management. Chapter Twelve by Les Clark and Chapter Thirteen by Samasoni Sauni explore these management approaches in the context of the WCPFC and implementation by Pacific island States.

A key challenge for the WCPFC relates to how the Commission allocates the benefits of the fishery, and who carries the costs involved in reducing catches to sustainable levels. Chapter Eleven by Hannah Parris and Alex Lee analyses potential allocation models for the WCPO tuna fisheries and their implications for Pacific island States.

Finally, while regional arrangements and institutions are inherently necessary due to the migratory nature of tuna stocks, effective implementation of conservation and management decisions ultimately falls to national governments. The book concludes with a chapter by William Edeson on future directions for the development of fisheries legislation in the Pacific islands.

The editors gratefully appreciate the vision of the FFA in supporting this book, and the efforts and expertise of the authors contained within. We welcome readers and hope that this book will contribute to the sustainable management of the WCPO tuna fisheries through its insights into the legal and policy context within which the fishery is managed.