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Pohnpei, Federated States of Micronesia

POSITION STATEMENT FOR TCC19

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World Wide Fund for Nature (WWF)



WWF POSITION

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19th Regular Session of the Technical and Compliance Committee (TCC) of the Western Central Pacific Fisheries Commission (WCPFC):

Pohnpei, Federated States of Micronesia – September 20 – 26, 2023

Introduction

The World Wide Fund for Nature (WWF) would like to again thank the Western and Central Pacific Fisheries Commission (WCPFC) Technical and Compliance Committee (TCC) for the opportunity to address the 19th Regular Session of the TCC (TCC19) as an observer and to address the critically important role that it plays in the proper management of the (Western Central Pacific Ocean) WCPO fisheries. The conservation and management of these important resources is dependent on the TCC's ability to consider, implement, assess, and monitor Conservation and Management Measures (CMMs). WWF supports the efforts of the TCC to forward recommendations for CMMs for consideration by the WCPFC as well as its role in ensuring compliance by member states with those measures.

WWF would like to offer the following position to the TCC. WWF wishes to reiterate its position offered during the previous meeting in December 2022 (WCPFC19) and, taking into account the WCPFC-related meetings held since, offer the recommendations listed below.

Shark Conservation Measure

WWF commends the recent decision of WCPFC19 to ban both shark lines *and* wire leaders to ensure the sustainability and survival of several shark species in the WCPO. This represents a significant step not only toward addressing the rapid depletion of several key shark species, but also the fact that oceanic whitetip sharks (OCS) remain overfished and are experiencing overfishing and silky sharks (FAL) continue to experience overfishing. However, WWF maintains substantial concerns with other provisions of the agreed measure. Specifically, we believe requirements to "stow" wire leads when "targeting tuna and tuna-like species" create more monitoring and enforcement challenges than simply not having wire leads on board. Low observer coverage in the longline fleet and low rates of high seas boarding and inspection renders the wire prohibition meaningless considering ambiguous requirements to stow wire leads. WWF believes that the prohibition on wire leads should be clear and unambiguous, with no provision for wire leads to be kept on board the vessel.

WWF would also like to raise the issue of continued shark finningⁱ in the WCPO longline fleet and the need to tighten requirements in CMM 2022-04 to ensure shark finning does not occur. We note that all sharks landed by all vessels licensed to fish within FFA members' waters and those flagged to FFA require all fins to be naturally attached, or finning is managed through alternative measures. We would

suggest that if any fleets are able to deliver sharks with fins naturally attached then all should be able to, leaving no need for alternative measures. The alternative measures in CMM 2022-04 create substantial loopholes preventing adequate monitoring and compliance. Any provision that allows fins to be separated from sharks in a way that requires counting or matching fins effectively frustrates efficient and effective enforcement. The most effective solution is to simply require fins naturally attached with, at most, an allowance for partial cut and fold of shark fins to reduce the potential for claimed injuries to crew. Our MCS professionals have enough to do and we should be making their jobs easier, not more difficult.

WWF recommends the TCC:

- **Revise the Conservation Management Measure for Sharks (CMM 2022-04), to explicitly prohibit carrying wire trace on board vessels operating in the WCPO and require fins naturally attached with no exceptions.**

Fisheries Observers

Because of the importance of this issue to monitoring and compliance, and the ongoing failure of the WCPFC to make significant progress, WWF has chosen to make this issue a standing position until such time as progress is made. It is unquestionable that information collected as part of a successful observer programme is critically important to the proper conservation and management of a fishery. Data collected by observers plays a central role in informing fisheries scientists and managers on everything ranging from stock assessments to non-target species impacts.ⁱⁱ Furthermore, observers play an indispensable role in monitoring and documenting compliance with very important CMMs in the WCPO.ⁱⁱⁱ Therefore, securing appropriate observer coverage must be considered a top priority and member states must make a concerted effort to achieve that coverage.

All CCMs agreed to the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPF Convention) text and other Commission obligations to ensure the *best scientific information or evidence available* is used in WCPFC decisions.^{iv} By its plain reading, this obligation not only requires members to actively *seek out* and *use* the best available scientific evidence, but also compels CCMs to ensure that measures taken result in the *generation* of the best available scientific evidence.^v Any other interpretation would be illogical. Therefore, the WCPFC is obligated under the WCPF Convention to put data collection processes, including observer coverage, in place that secures the production and use of the best available scientific evidence for use in the WCPFC decision making process.

Calculation of Observer Metric

Over 16 years ago, the WCPFC established CMM 2007-01, which specified that coverage is to be 5% of effort in each non-purse seine fishery under the jurisdiction of the Commission and shall be achieved no later than 30 June 2012.^{vi} Specifically, low observer coverage in the longline fishery was identified as a significant conservation risk. Moreover, as indicated by the discussion at that time as well as discussion among members at WCPFC forums since, the arbitrary benchmark established at 5% was considered a starting point for a stepwise progression to appropriate observer coverage, never a final target as implied by some CCMs. Unfortunately, not only has achieving the principal objective of CMM 2007-01 proven difficult, but even measuring how it is achieved remains unsettled.

At the moment members self-report their longline observer coverage under four separate metrics including:^{vii}

- Days at Sea - days observer is at sea compared to number of days fleet is at sea;
- Number of Trips - number of observer trips compared to trips by the fleet;
- Days Fished - observed fishing days compared to fleets fishing days; and
- Number of Hooks - number of hooks observed compared to fleet hooks used.

Because these metrics are each calculated differently and subject to different biases, it places an unnecessary burden on the scientific service provider to standardise data in such a way as to properly assess coverage. In effect, it forces the scientific services provider, and ultimately the WCPFC, to “compare apples with oranges” in a way that frustrates efficient analysis and, ultimately, timely and proper management. Moreover, because of the biases of the different metrics, it creates inequity among members that places more of the conservation and compliance burden on those using a more accurate and precise metric that is less susceptible to bias and manipulation.

The best scientific information available suggests that “number of hooks” represents the best method for achieving multiple objectives, including effectively calculating effort and accurately assessing rare events like seabird interactions.^{viii} Several member states are currently assessing their observer coverage based on “number of hooks,” proving it is practically feasible. Consequently, WWF recommends that the TCC confirm “number of hooks” as the best practice metric for all members calculating observer coverage on longline vessels and mandate a 5-year time frame to shift to use of this metric. If other metrics for calculating coverage are used in the transition toward “number of hooks,” terms must be very clearly defined in advance and each metric must be calculated and reported by members in a way to be comparable with “number of hooks” to the maximum extent possible.

Level of Observer Coverage

First, COVID-19 is no longer an acceptable excuse for observer coverage rates on the non-purse seine fleet to remain unacceptably low. Recent efforts by the Pacific Community to standardise observer coverage data indicate that region-wide observer coverage remains less than 5%.^{ix} However, the best available scientific evidence indicates that even a consistently applied level of 5% coverage is statistically and practically useless to effectively achieve most management^x or compliance objectives.^{xi}

Low observer coverage exacerbates bias as a result of fishers altering their fishing practices (e.g. discarding practices, handling and release practices, effort) and gear when an observer is present, which is a phenomenon known as the “observer effect.”^{xii} The higher the observer coverage rate, the lower the bias from an observer effect, while the larger the proportion of fishing effort that is observed, the more accurately the monitoring data characterize or represent the fishery. Notwithstanding the observer effect, at just 5%, current observer coverage is not producing the quality or quantity of data necessary to properly manage the WCPO non-purse seine tuna fisheries.

At present, a lack of sufficient data that is typically generated through adequate observer coverage represents the single largest obstacle to establishing appropriate management measures. Uncertainty is continually cited in the WCPFC process as a reason for inaction, while the certainty offered by improved observer coverage seems to be consistently rejected, deferred, and delayed.

WWF accepts that different minimum levels of observer coverage may be necessary for different management or compliance purposes, depending on specific identified objectives. However, data collected under less than 100% coverage may be biased and misrepresent the fishery overall, resulting

in management failures. Alternatively, 100% observer coverage, through human or electronic observers, would result in no bias from an observer effect. Thus, along with a consortium of other NGOs and with the support of prominent market partners, we have determined that because of conservation and compliance problems such as illegal fishing, misreported or unreported catch, and bycatch of endangered, threatened and protected species, that only an observer coverage rate of no less than 100%, through human observers or electronic monitoring, is acceptable.^{xiii}

By continuing to fail to secure a scientifically or statistically valid level of observer coverage, particularly on longline vessels, the WCPFC fails to meet the charge of the WCPF Convention to generate and use the best available scientific information. Therefore, the WCPFC must take action to improve observer coverage across all longline vessels operating in the WCPFC Convention Area.

Observer Health, Safety, and Welfare

WWF remains concerned that some CCMs are not meeting their obligations under CMMs 2017-03 and 2018-05 to ensure the safety and security of fisheries observers. Where observers may be deployed under the current protocols, CCMs must ensure appropriate precautions and provide the required safety equipment to observers upon deployment. WWF would also like to note that the observer coordinator's contact list has not been sufficiently updated, which could lead to failure in the adequate execution of efforts under an Emergency Action Plan (EAP).

WWF again calls for a transparent standardised process for reporting observer safety and security incidents, noting the lack of available information when, or even well after, incidents occur. As a matter of health and human safety that the WCPFC has clearly committed to address through the respective CMMs, CCMs must ensure that its commitments to the health, safety, and welfare of fisheries observers continue to be met.

WWF recommends the TCC:

- **Recognise the calculation of observer coverage on the basis of “number of hooks” as best practice and mandate a transition to calculation of observer coverage based on “number of hooks”;**
- **Establish a plan to increase observer coverage, by human observers or electronic monitoring, across all longline vessels operating in the WCPFC Convention Area on an annual basis to achieve 100% coverage by 2026; and**
- **Transparently and decisively address failures to meet obligations for observer safety and security, including updating the observer coordinator's contact list and developing standardised and transparent reporting on observer safety and security incidents.**

Transshipment Monitoring

Transshipment remains one of the most prominent weaknesses in catch documentation and verification that leads to Illegal, Unreported, and Unregulated (IUU) catch in the WCPO.^{xiv} WWF again notes that the most simple, efficient, and effective solution to the challenges of transshipment-related IUU is to simply prohibit all at-sea transshipment and require all fishing vessels to land their catch at the nearest available designated port in the WCPO following the conclusion of fishing activity. However, acknowledging that such a prohibition on transshipment is politically unlikely, WWF supports substantial reforms and improvements for all at-sea transshipments, including:

- 100% monitoring through human observers or EM on all delivering and receiving vessels;
- prompt advance notification of all transshipments;
- timely delivery of all transshipment reports to the WCPFC; and
- strong sanctions for non-compliance.

WWF would like to specifically note that the transshipment issue is an imminently solvable problem because a relatively small proportion of vessels and flags operating in the WCPO region represent a large proportion of the transshipment activity.^{xv} Globally, 130 carrier vessels are responsible for more than 70% of RFMO-related transshipment activities. Moreover, the vast majority of transshipments occur between China and Panama according to a recent study.^{xvi}

WWF also recommends that transshipment requirements be buttressed by verification and validation of transshipment activities through redundant systems such as the use of a vessel monitoring system (VMS) supplemented by an operating automated identification system (AIS). This should be complemented by proposed proximity alerts in the WCPFC VMS system. If, through investigation of suspected unreported transshipment activity, supporting procedures and technologies indicate that transshipment activity was conducted in violation of transshipment rules, the offending vessel should be subject to sanctions including removal from good standing, license revocation, and listing on the IUU vessel list.

WWF supports, where appropriate, the adaptation and adoption of the ROP observer data fields reflecting the TS-IWG recommendations. This approach ensures that observer data related to transshipment activities will start to become available in a timely way for use in monitoring and verification of transshipment events and of data reported on transshipment declarations. As a supplement to these efforts, WWF recommends TCC19 recommend prioritising and expediting implementation of the TSER, E-reporting system to support better transshipment verification and validation.

WWF would specifically like to address the previous decisions of the Commission to limit access by the WCPFC to receive some VMS data, including from vessels on the WCPFC Record of Fishing Vessels, which are transshipping WCPFC caught fish outside the Convention Area. These decisions were based on the costs of VMS position that are no longer relevant, so WWF strongly recommends that this exception for transmission of VMS data be eliminated.

WWF recommends the TCC:

- **Support 100% observer coverage on delivering and receiving vessels engaged in at-sea transshipment;**
- **Prioritise the development and application of EM for transshipment monitoring; and**
- **Support or endorse the use of technology to verify and validate transshipment activity.**

Crew Welfare

WWF fully supports the efforts of the WCPFC toward improving crew welfare in the WCPO, including the establishment of a binding CMM. We reference previous submissions by WWF and other participating NGOs supporting improvements in human and labour rights in all WCPO fisheries. We

agree strongly with the FFA members that improving crew labour standards and the passage of a binding CMM focussing on crew labour standards represents a key priority.

As a specific priority within the proposed CMM, WWF notes the need to fully understand and track the scope and scale of crew welfare across the fishing fleet operating in the WCPFC. Thus, WWF emphasizes the explicit need for a recordkeeping and reporting requirement maintained by the WCPFC Secretariat for all injuries and fatalities that occur on board fishing vessels subject to compliance oversight by the WCPFC.

WWF recommends the TCC:

- **Insist on the inclusion of a recordkeeping and reporting requirement for all crew injuries and fatalities that occur on board fishing vessels operating in the WCPFC; and**
- **Discuss and forward the draft CMM recommendations of the Intersessional Working Group to Improve Crew Labour Standards to WCPFC20 for decision this year.**

- ⁱ See A. Asnawi, Indonesian illegal shark and ray exports remain rampant amid poor monitoring, Mongabay.com (August 8, 2023), <https://news.mongabay.com/2023/08/indonesian-illegal-shark-and-ray-exports-remain-rampant-amid-poor-monitoring/>; See also Philip Jacobson & Basten Gokkon, Shark finning rampant across Chinese tuna firm's fleet, Mongabay.com (Nov. 1, 2022), <https://news.mongabay.com/2022/11/exclusive-shark-finning-rampant-across-chinese-tuna-firms-fleet/>.
- ⁱⁱ See e.g. Davies, S.L. 2003. Guidelines for Developing an at-Sea Fishery Observer Programme. FAO Fisheries Technical Paper 414, ISSN 0429-9345. Food and Agriculture Organization of The United Nations, Rome.
- ⁱⁱⁱ *Id* at 5. (Observers can register compliance with fisheries management laws, regulations and plans; record catch composition, prohibited species, by-catch, size limits, discarding, area and gear restrictions; validate vessel logbooks and the labelling of processed fish.); see also Palma, M.A.E. 2010. Promoting Sustainable Fisheries: The International Legal and Policy Framework to Combat Illegal, Unreported and Unregulated Fishing. Volume 6 of Legal Aspects of Sustainable Development, ISBN 9789004175754. Martinus Nijhoff Publishers, p. 142.
- ^{iv} The Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western Pacific Ocean (WCPF Convention) establishes the Western and Central Pacific Fisheries Commission (WCPFC). Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, Part II, Article 5, paragraph (b) ("...the members of the Commission shall...ensure that such measures are based on the best scientific evidence available..."), Sept. 5, 2000, 2275 U.N.T.S. 40532, <https://www.wcpfc.int/system/files/text.pdf>.
- ^v *Id* at Part III, Article 10, paragraph (1)(e) ("...the functions of the Commission shall be to...compile and disseminate accurate and complete statistical data to ensure that the best scientific information is available...").
- ^{vi} WCPFC, *Conservation and Management Measure for the Regional Observer Programme*, at 9, CMM 2007-01 (Dec. 2-7, 2007), <https://www.wcpfc.int/doc/cmm-2007-01/conservation-and-management-measure-regional-observer-programme> [Superseded by CMM 2018-05, which consolidated other observer related issues into a single measure]
- ^{vii} WCPFC, Status of Observer Data Management, SC17-ST-IP-02 Status of Observer Data Management_1, at 18, Table 4 (Sept. 2, 2021)
- ^{viii} Dietrich, K. *et al.* Best Practices for the Collection of Longline Data to Facilitate Research and Analysis to Reduce Bycatch of Protected Species, NOAA Technical Memorandum NMFS-OPR-35 March 2007. at 25, March 2007. ("Fishing effort can be derived from information collected on number of hooks deployed or retrieved. The number of hooks deployed was ranked as critical or preferred by 81% of data user[s]..."); see also IATTC, Scientific Advisory Committee, SAC-10-04 – Longline observer program reports, at 2 (13-17 May 2019) ("Number of hooks is considered a more accurate measure of longline effort."); see also IATTC, Scientific Advisory Committee, SAC-10 INF-H - Standardization of Reporting Formats and Effort Reporting for Longline Fisheries (Resolution C-11-08), at 3, (13-17 May 2019) ("...number of hooks is the most precise, and is the standard metric used both by the other tuna RFMOs and by the IATTC for scientific purposes.")
- ^{ix} *Supra* note 6 at 18-22, Tables 3, 4, and 5. (Sept. 2, 2022).
- ^x See Lawson, T. 2003. Observer coverage rates and the accuracy and reliability of estimates of CPUE for offshore longline fleets targeting South Pacific albacore. Working Paper SWG-4. Sixteenth Meeting of the Standing Committee on Tuna and Billfish, 9-16 July 2003, Mooloolaba, Queensland, Australia. Oceanic Fisheries Programme, Secretariat of the Pacific Community, Noumea, New Caledonia; See also Lawson, T. 2004. Observer coverage rates and reliability of CPUE estimates for offshore longliners in tropical waters of the Western and Central Pacific Ocean. Working Paper SWG-4, Seventeenth Meeting of the Standing Committee on Tuna and Billfish, 9-18 August 2004, Majuro, Republic of Marshall Islands.
- ^{xi} Benoit, H., Allard, J. 2009. Can the data from at-sea observer surveys be used to make general inferences about catch composition and discards? *Can. J. Fish. Aquat. Sci.* 66: 2025-2039.; Babcock, E.A., E.K. Pikitch, G. Hudson. 2003. How Much Observer Coverage is Enough to Adequately Estimate Bycatch? Pew Institute for Ocean Science, Miami, FL, and Oceana. Washington.
- ^{xii} Gilman, Eric & Zimring, Mark. 2018. Meeting the objectives of fisheries observer programs through electronic monitoring. 10.13140/RG.2.2.28000.99846.
- ^{xiii} Leading Environmental NGOs Stand Together to Call for 100% Observer Coverage on Industrial Tuna Fishing Vessels (June 29, 2019) *retrievable at* <https://www.prnewswire.com/news-releases/leading-environmental-ngos-stand-together-to-call-for-100-observer-coverage-on-industrial-tuna-fishing-vessels-300873686.html>.
- ^{xiv} See e.g. Boerder K., et al, Global hot spots of transshipment of fish catch at sea. *Science Advances* 25 Jul 2018: Vol. 4, no. 7, DOI: 10.1126/sciadv.aat7159.
- ^{xv} See e.g. G.A. Petrossian, B. Barthuly, and M.C. Sosnowski, "Identifying Central Carriers and Detecting Key Communities Within the Global Fish Transshipment Network" (2022), <https://doi.org/10.3389/fmars.2022.798893>; See also The Pew Charitable Trusts, "Most Global At-Sea Transshipment Involves a Small Group of Key Carriers," (2023), <https://www.pewtrusts.org/-/media/assets/2023/04/global-at-sea-transshipment.pdf>.
- ^{xvi} *Id.*

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