



**Second Intersessional Working Group  
Regional Observer Programme**

7-10 July 2008  
Nadi, Fiji

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**[DRAFT] PRELIMINARY ANNOTATED AGENDA**

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**WCPFC-IWG ROP-2008- 04**

**1. OPENING OF THE MEETING**

The Chair will open the 2<sup>nd</sup> ROP meeting and will welcome participants.

**2. APPOINTMENT OF RAPPOTEURS**

Rapporteurs will be selected and the meeting documents will be adopted at the end of the meeting.

**3. ADOPTION OF AGENDA**

The group may propose any additional issues to be considered under Agenda Item 11 (Other Matters).

**4. CHAIRS OVERVIEW OF WCPFC4 DECISIONS**

Chair's Brief

WCPFC4 adopted CMM-2007-01 (Regional Observer Programme) which included annexes on the Rights and Responsibilities of Observers, Captains and Crew as well as an Implementation Plan for the ROP. WCPFC4 also approved the holding of a second IWG-ROP meeting (IWG-ROP2) early in 2008 and further recommended that discussion on the items contained in Agenda item 6 be carried out to try and come up with an agreed viewpoint/solution. These include the following:

- Costs / financing of the observer placements (taking into account what has been agreed upon as part of the "Hybrid Model")
- Integration with current national and sub regional observer programmes NSOP's (implementation plan Annex C of CMM-2007-01)
- Definitions of "Key Words"
- Vessel size - Coverage Limitations

- On Board Insurance and Legal Liability

## 5. EXAMINATION OF CMM FOR ROP 2007-01

### Background

A draft CMM for the Regional Observer Programme was forwarded to WCPFC4 from TCC3 with six (6) paragraphs either bracketed, or containing words or sentences bracketed for further discussion and clarification by WCPFC4.

Following discussion on the TCC3 version of this draft CMM, three (3) paragraphs with bracketed areas were retained as they were originally written, these being Para 9b, 10, 13(ii). With the square bracketed words in 13(ii) to be defined at the IWG-ROP2.

The wording was completely replaced in Para 9 while Para 13 (ix) was completely removed from the draft CMM. Annex A. Para 2 (i) had the wording in the brackets removed and an additional Annex C “Implementation of the ROP” was agreed upon and attached. With these changes agreed, WCPFC4 adopted CMM-2007-01 (Regional Observer Programme).

### Discussion

The group will be invited to specifically focus on some of the issues in the Annex C of the CMM-2007-01 that will not be covered in the agenda below. The group may identify any other issues for implementation of the ROP.

## 6. WCPFC4 PRIORITIES

Agenda 6 subject matter has been referred to the IWG-ROP2 by the WCPFC4 for discussion and direction.

### 6.1 INTEGRATION WITH CURRENT PROGRAMMES

#### **Phased implementation plan**

#### Discussion

As per the Implementation Plan adopted as Annex C of CMM-2007-01, the ROP will integrate with “national and sub regional observer programmes” (NSOP’s) wishing to participate in the ROP. The IWG-ROP2 is asked to come up with recommendations on how the phased implementation plan agreed upon in Annex C will commence. There are a number of issues to be resolved and the procedures and operations need to be agreed.

### 6.2 DEFINITIONS

- PRINCIPALLY**
- OCCASIONAL**
- ADJACENT**
- INDEPENDENT & IMPARTIAL**
- TRIP**

### Background

WCPFC 4 agreed to allow some of the words listed in 6.2 to be used in CMM-2007-01 (para 13(ii) and its footnote) and Annex C but directed the IWG-ROP 2 to come up with clear definitions of these words. There have been various interpretations placed on these words at different meetings by members and this has caused confusion and continuous misunderstanding on the intent of these key words in the CMM and the Convention.

### Discussion

The IWG-ROP 2 has been directed to come up with definitions of these words in the context of their use as part of the ROP. WCPFC/IWG-ROP2/2008-07 provides some interpretation of those words.

## **6.3 ON BOARD FISHERIES OBSERVER: “LEGAL LIABILITY AND INSURANCE”**

### Issues

Members at the TCC3 wished to have information regarding general liability of the observer on board vessels and also wished to know what the observer programmes and vessels responsibility were regarding the liability of the observer on a vessel if something happens to the observer. The question was also raised on who is liable if there is an observer on board and through their actions, they cause the vessel to lose valuable fishing time. TCC3 delegates sought a legal opinion on this matter. A Canadian-funded expert in Maritime Law, Professor Edgar Gold, provided an information paper to WCPFC4 (WCPFC4-2007/IP10) on this issue entitled “On board Fisheries Observer Legal Liability and Insurance”.

### Discussion

WCPFC4 directed that the paper and its implications be discussed at the IWG-ROP2. The paper is reproduced as an information paper for discussion WCPFC/IWG-ROP2/2008-08. To assist with this discussion members are encouraged to bring any information they can on any insurance schemes their vessels subscribe too, especially liability insurance, and particularly (P&I) Liability Insurance in the Maritime Sector if they participate in this form of insurance.

## **6.4 COSTS OF ROP OBSERVER PLACEMENTS**

### Background

There are differing opinions amongst CCMs on the source of funding for the placements and all associated travel costs for observers carrying out normal ROP duties. Many CCMs believe that the WCPFC had earlier agreed to accept the “Hybrid Model” as a model to use for the development of the ROP. Consistent with the acceptance of the hybrid approach it was understood that there would be no cost to the Commission for observer placements, and that each CCM flag State would assume full responsibility for the costs associated with using ROP observers on vessels flying its flag.

There are a several CCMs that disagree with this interpretation of the earlier decision by WCPFC and believe that all members of the Commission will benefit

from the ROP and therefore an equitable formula should be developed to determine fees and other associated costs with the placements of ROP observers; these costs should, be supported and distributed across all the members of the Commission.

#### Discussion

The first step will be to identify cost-related components for the observer placement. Then the group may discuss the source of payment for each component.

### **6.5 VESSEL SIZE LIMITATION**

#### Background

Discussion on the implementation plan at IWG-ROP, TCC3 and at WCPFC4, a few flag State CCM's were concerned about the small size of some of their vessels being incapable of carrying ROP observers, this was because of the limited working room, problems with accommodation, as well as general safety problems. A proposal that a vessel size limit be put in place where ROP observers would only be asked to carry out duties on vessels above the suggested vessel size limitation. During these discussions, there was a mention of various sizes of vessels, however one member's suggestion was to have vessels less than 24 metres in length exempted from carrying ROP observers.

Some members disagreed with this concept, indicating that on many occasions they had placed observers successfully on vessels far less than the 24m in size and had placed observers on vessels as small as 10 metres. These members indicated that there should be no vessel size limitation, and that ROP observers should be placed on any vessel that was capable of taking an observer in a safe and practical manner.

#### Discussion

The group may consider vessel size class by fishery, and will be invited to identify what elements (such as space, safety, cost, etc.) will be related to vessel size limitations, if any, once ROP is implemented.

### **6.6 TYPES OF VESSEL COVERAGE**

#### Issues

The types of coverage for the various gear types and fleets is still to be established, the coverage rate of 5% has been determined for the commencement of the ROP. The integration stage of the ROP implementation plan indicates "Vessel trips" is to be used for all gear types to determine coverage rates. However, using vessel trips for determining coverage rates is not always used for all gear types. Currently there is no determination what type of coverage should be used for the various gear types in the long term.

The implementation plan for the ROP as set out in para 6 of Annex C of CMM-2007-01 suggests that during the integration phase, vessel trips is to be used as the criteria in determining coverage rates " *(In order to facilitate the placement of observers the logistics may dictate that this be done on the basis of trips.)*" As some vessels have varying trip lengths, i.e. one day to one year, the definition of

a trip needs to be made clear to ensure the coverage rate is consistent (refer agenda item 6.2).

Many NSOP's have different methods for coverage; In general most observer programmes operate using:

- Purse Seiners - sea days or sets observed
- Long Liners - sea days, hook numbers or number of sets observed
- Other Vessels - sea days, fishing days or sets for most

#### Discussion

Based on paragraph 6 in the Annex 3 of the CMM for ROP, the group will be invited to refine the coverage rate by fishery and by types of fishing effort in a practical way. The group may consider various fishery types and patterns in the Pacific and identify a list of elements in relation to the paragraph 6 for practical application to current fishing behavior.

## **7. ROP MANUAL**

The intention of the ROP Manual is to produce a manual with all the procedures and processes for use by members. This manual should not be confused with the Observer Work Materials and Guides. The ROP Manual will include a number of operational and administrative matters helpful to NSOP's. These include, but should not be limited to, the agenda items in 6.0 and 7.0.

### **7.1 OBSERVER DATA MANAGEMENT AND STANDARDS**

- a. Data Fields (Scientific Committee)**
- b. Data Fields (Technical and Compliance Committee)**
- c. Data Standards and harmonised formats**

#### Issues

Observer data fields in the science and technical and monitoring level need to be decided. A paper with scientific data fields was produced at SC3, that was discussed and a number of fields were accepted, but many fields were square bracketed for further discussion.

A further paper was produced for the IWG-ROP 1 "Draft WCPFC Minimum Data Standards for Regional Observer Programme". This paper on technical and monitoring data fields to be collected by observers was not considered because of time limitations. It was to go to TCC for consideration but was also not considered here because of time limitations. It has been suggested by a few CCM's that to save time discussing data fields at full meetings, a small IWG-ROP sub-group could be formed to make recommendations to the Commission meetings where required.

#### Discussion

The group will be invited to further review these documents for adoption as minimum list of fields of scientific and technical & monitoring data to be collected by the ROP.

The SC data fields Attachment K, Appendix III of the Third Regular Session WCPFC Scientific Committee is reproduced and the additional monitoring data fields compiled for IWG-ROP 1 and TCC3 are included with brief explanations as IWG-ROP2-2008-11

## **7.2 DEVELOPMENT OF PROVIDER, TRAINING & OBSERVER CERTIFICATION**

- a. Provider certification**
- b. Observer training certification standards**
- c. Observer certification standards**

### Issues

Convention Article 28 (3) and 6(c) suggests there is a need for minimum standards to be developed and applied by the ROP to enable authorisation of NSOP's and that observers supplied to the ROP are trained to an acceptable minimum standard and hold ROP certification. A method of assessment of current NSOP's wishing to be part of the ROP, and to ensure that their standards are acceptable for ROP authorisation needs to be approved. There is a need to develop procedures for assessment of NSOP's periodically to ensure standards are being maintained.

### Discussion

The group will be invited to comment on Standards for Provider Certification, Observer Training and Observer Certification for the ROP.

Documents have been previously distributed on these matters by electronic means in 2007, WCPFC IWG-ROP2 2008-13 is a summary of these papers, each CCM are invited to provide to the Secretariat by 30 September 2008 their own preference on these issues for discussion at TCC4 [or WCPFC5 or IWG-ROP3].

## **7.3 OBSERVERS AT SEA**

- a. Code of Conduct**

### Background

An 'Observer Code of Conduct' is considered an essential item for all observer programmes; a draft Code of Conduct based on previous discussion of WCPFC and TCC was electronically distributed in 2007 as appendix I to the "Draft Strategic Plan for the Development of the Regional Observer Programme". This appendix is re-presented for discussion by the IWG-ROP2 as paper WCPFC IWG-ROP2 / 2008-09.

### Issues

There have been two options for a Code of Conduct discussed briefly in past meetings. One option; the Code of Conduct should be developed by the Commission and be a requirement of any ROP observer to follow;

the other option is to allow the different Codes of Conducts as administered by various NSOP's to be used by the observer from those countries when carrying out ROP duties.

Discussion

The group will be invited to consider the two options above and try to select an agreed approach to establish a standard for the Observer Code of Conduct.

**b. Safety of observers**

Background

A draft vessel safety check list based on previous discussion of WCPFC and TCC was electronically distributed in 2007 as an appendix to the draft programme documents. This appendix is re-presented for discussion by the IWG-ROP2 as paper WCPFC/IWG-ROP2 2008-10.

Issues

Procedures and protocols for checking of the status of vessel safety prior to a ROP observer boarding need to be determined. Opinions on this differ amongst some CCM's, with some saying that a mechanism for safety checks by the provider of the observer for vessels about to be boarded by observers to ensure that safety/life saving equipment and vessel surveys are current and that this check of vessel safety should be a requirement before an observer boards a vessel for a trip.

Other member's views on this matter do not agree that a vessel safety check is required by the provider of the observer or by the observer and regards the responsibility of the determination of the vessels safety at the time of the observers boarding should be determined by the flag State of the vessel.

Discussion

The group will be invited to consider the components related with vessel safety for observers and a check list. A compromise between the two opinions for the safety check will be the safety check by both the flag State representative and the provider (or the observer) together.

**7.4 MONITORING OF OBSERVERS**

**a. Coordination and performance of observers**

Issues

The IWG-ROP will need to develop procedures for *coordinating ROP observers* from different national programmes, there will be a need to apply a *performance assessment* on the observer's work against a criterion to be developed for acceptable performance of all duties and reporting by ROP observers.

Discussion

The group will be invited to discuss and identify the elements to be considered for the *coordination of ROP observers* and *performance assessment*. Such elements proposed will be compiled for consideration at next meeting.

**b. Database of observers**

Issues

As a subsequent step for future coordination of observers, a database of current and available ROP authorised observers will need to be developed.

Discussion

The group will consider data fields for the database of observers, security issues and any budgetary issues if required.

**7.5 PROGRAMME ADMINISTRATION,**

- a. Placement of observers,**
- b. Briefing and debriefing of observers,**
- c. equipment and materials**
- d. safety equipment & gear,**
- e. communications procedures**

Issues

Areas linked to the above items of the ROP that will need to have administrative procedures and protocols developed.

Discussion

These could be developed through the IWG-ROP meeting process. However, the group may consider, as suggested by some Commission members, that the Secretariat or a small group to the IWG advance the development of such programme administration, standards, protocols and procedures for the above items.

**8. SPECIAL REQUIRMENT COVERAGE AS DETERMINED BY CMM'S**

Issues

The IWG-ROP will need to consider special circumstances created by CMMs adopted by the Commission. Observers will be part of the process in collecting such special data and information to ensure the CMMs are being adhered too. Procedures for the development of a special "Cadre of Observers" from current observer programmes for special circumstances may be required to meet special circumstances as outlined in the CMMs or the directives of the Commission.

Discussion

The group will be invited to understand such special circumstances and consider how to address such requirements. The group may discuss several approaches, including the development of a special cadre of observers subject to issues requested or the imposition of additional duties to observers. Procedures and costs related to each approach will also be considered.



**9. PROCEDURES FOR RESOLVING DISPUTES IN RESPECT TO OBSERVERS CARRYING OUT THEIR DUTIES.**

Issues

Dispute resolution processes will need to be developed, and checked by legal personnel to ensure the process developed is legal, as well as ensuring that any dispute is resolved in a fair and equitable manner.

Discussion

The group will be invited to consider how to prepare the issue of dispute settlement. The group may commission the Secretariat to prepare a draft procedure for consideration at TCC4 & WCPFC5.

**10. ROP WEBSITE**

Issues

When the ROP is integrated and the ROP observers commence collecting information, there will be requirements that process and procedures agreed for the ROP are available to observers, NSOP's and CCMs. Items such as forms and instructions will be important to ensure a harmonised approach with the collection of information by the ROP. The development of a website will ensure that many items not readily available in printed form will be accessible to observers, providers, and members in the WCPFC convention area. The development of a website as an adjunct to the WCPFC website should be considered.

Discussion

The group will consider a list of items to be posted on the ROP website with security domain to be defined.

**11. OTHER MATTERS**

The group will consider any items proposed under Agenda Item 3.

**12. FUTURE IWG MEETINGS**

Given the problems in determining dates for the IWG-ROP2 meeting, the group will discuss whether future IWG meetings are required. If required, the group will discuss and determine meeting dates and a venue for the IWG-ROP3 to be endorsed by the WCPFC5.

**13. ADOPTION OF SUMMARY REPORT AND RECOMMENDATIONS FOR SC4- TCC4 AND WCPFC5**

The group will adopt meeting reports, including all recommendations to be considered by the SC4, TCC4 and WCPFC5.

**14. CLOSING OF THE MEETING**

The Meeting will close at 5:00pm, Thursday, 10 July 2008.