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Greenpeace welcomes the opportunity to attend the 13th meeting of the Western and Central Pacific Fisheries Commission (WCPFC) as an observer. In addition to this paper, Greenpeace asks the Commission to note the statement and recommendations made to SC12 in Bali this year.[1]

Building a skyscraper without foundations?

The Western and Central Pacific Ocean (WCPO) and those who depend on its fish face a growing crisis. The WCPFC is failing to deliver on its most basic objectives of ensuring fisheries for future generations. In the worst examples, key species have been fished down to critically low levels – just 2.6% of the Pacific bluefin tuna, 16% of bigeye tuna, and 12% of North Pacific striped marlin populations remain. There is little optimism for their recovery to healthy levels in a reasonable timeframe given the WCPFC's sustained track record of failing to agree adequate management plans and to ensure all Member and Co-operating Non-members States follow the rules. Unfortunately, it is clear from the positions adopted by many WCPFC Members that they show little interest in addressing these failures.

Getting back to basics

Managing the variety of tuna, billfish and shark fisheries taking place in such a vast ocean region as the WCPO is a complicated endeavour. As a result, WCPFC rules and the work carried out by the Commission are increasingly sophisticated and complex. The amount of analysis carried out by the different supporting institutions in the region is massive. This includes a heavy workload for scientists, managers and administrative staff.

However, in contrast to this increasing complexity and workload, the basic elements required for successful management of fisheries in the region are absent. Over the last few years fishing capacity and effort have continued to increase; the analysis carried out by WCPFC Scientific (SC) and Technical and Compliance Committees (TCC) are plagued with references to data gaps as basic requirements for data provision and observer coverage are not met; and there are clearly few, if any, deterrents for those who fail to comply with the rules. Any progress being made fades in comparison with the consequences of these failures.

Basic elements of sound fisheries management include:

- The availability of accurate and detailed **data** on the operations of fishing fleets;
- The mechanisms to ensure that fishing **capacity and effort** are managed effectively, including taking into account all factors which contribute to them;
- Clear rules on **biomass and fishing mortality limits** and actions to be taken when these limits are exceeded;
- Strict **compliance** with legal requirements, both under the Convention and International Law;

- Deterrent **consequences for the lack of compliance** with the above mentioned requirements;
- **Transparency** in the work of the Commission, allowing engagement of all stakeholders, and civil society in particular.

A lack of data undermines all levels of management

Year after year it is clear that key data to inform the work of the Commission is either not being collected, or not being reported. While improvements are being made, progress is slow.

Data gaps have three main causes:

1. **Data is not provided to the Commission despite existing obligations in that regard.** This includes operational catch and effort data,[2] transhipment practices,[3] observer coverage,[4] and data on shark catches.[5]
2. **Data is not provided, or provided in an inconsistent manner, due to unclear provisions.** This includes observer data[6] or data on certain important species.[7] Poor clarity on provisions critical to data collection also affects observer coverage itself (see below).
3. **Data is not provided because it is not mandatory to do so, even if such data are of critical importance to managing fisheries.** An example of this is the lack of complete information on the management of fishing capacity, where accurate data are not required on most factors essential to assessing the efficiency of fishing vessels.

All of this has obvious implications on the management of fish stocks under the purview of the Commission, and in its ability to evaluate the performance of agreed conservation and management measures for both target and bycatch species.

Undermining rules and data collection

Independent observers on board fishing vessels collect vital data for science, and detect non-compliance for managers. Conversely, **transhipment** at sea undermines oversight of fisheries, and facilitates human rights and labour violations in some of these fisheries.

The requirement for a minimum of 5% **observer coverage** on longliners has been in place since 2007, with a deadline of implementation on 2012.[8] However, even this low level is not being met[9] and there are issues with the way such coverage is defined, so that the levels reported by different fleets are inconsistent.[10] While observer coverage on purse seiners is 100% some reporting problems still need to be addressed.[11]

Even if the required 5% level was met, it is not considered high enough for the data collected to be statistically useful for assessing bycatch impacts – scientists recommend a minimum of 20% coverage.[12] More concerning is that electronic monitoring may now be seen as a way to reach 5% coverage, rather than a way to complement and enhance the current requirement to a much higher and more scientifically useful level.[13]

Finally, observer safety remains a problem in fisheries worldwide, including at WCPFC. Provisions agreed at WCPFC12 go some way to addressing concerns, but without the means and tools for observers to increase their safety, clarity on the responsibilities of flag States to deal with observer safety concerns, and transparency in how incidents of bribery, harassment, and violence are reported and dealt with, there remain considerable risks to observers and, therefore, the quality of data gathered by the observer programme.

Transhipment at sea continues to undermine the monitoring, control and surveillance of fishing operations in the region.[14] Despite the requirement for observers aboard transport vessels to monitor transhipment, reporting requirements for observer data for monitoring high seas transhipments have not been agreed, and some data are being submitted on a voluntary basis and in a range of different formats.[15] Existing data from transhipments indicate a failure to comply with the prohibition of shark-finning,[16] and while transhipment plays a role, inadequate reporting provisions can mask shark-finning practices.[17]

Although it seems to have been the intention of the Commission to restrict high seas transhipment,[18] it allows exceptions, and it is clear that particular members are determined to continue to make widespread use of this. With almost half of the vessels in the region authorised to tranship in the high seas, WCPFC should question to what extent an activity can be considered 'exceptional'.[19]

Transhipment also facilitates human rights and labour abuses by allowing vessels to remain at sea for long periods with little or no oversight or ability for crew to report concerns – an issue that receives increasing public scrutiny, but which WCPFC has not yet addressed.

Lack of transparency facilitates lack of compliance

Strict deterrent consequences for the lack of compliance by Members and Cooperating Non-Members and their vessels are required to ensure management measures are achieved. Furthermore, the availability of information on how compliance is monitored, on non-compliance reporting, and on the actions taken to deal with those responsible, enables public evaluation and creates an added incentive for compliance due to a desire to avoid the adverse reputational and economic repercussions of breaking the rules.

The WCPFC suffers from substantial transparency problems that prevent meaningful participation of the public and observers (non- and inter-governmental organisations) in its work, with resulting inadequate incentives for compliance.[20] This recurring problem, particularly with regard to closed sessions during TCC meetings, has triggered a series of interventions and joint letters from NGOs in the recent past. This goes against the transparency requirements detailed in the Convention[21] and Rules of Procedures,[22] in addition to well-established best practice at RFMOs,[23] other Regional Fisheries Bodies, and other international environmental agreements.[24]

Fishing capacity must be reduced

The ever-increasing level of fishing capacity and effort[25] in the region represents a fundamental failure to meet the Convention requirement to "*take measures to prevent or eliminate overfishing and excess fishing capacity and to ensure that levels of fishing effort do not exceed those commensurate with the sustainable use of fishery resources*."[26]

The increase in vessel numbers and other components of fishing capacity and effort in the region, such as FADs and their role in increasing catch rates, is a result of key decisions being left in the hands of private fishing companies. Recent analysis on the purse seine sector demonstrates that overcapacity is substantial.[27] Without detailed information on fishing capacity and effort it is hard to ensure that fishing is kept within sustainable limits.[28]

It is of great concern that after public commitments in 2009 by developed nations under the *Kobe process*[29] to freeze their fishing capacity (even though poorly defined as vessel numbers), the WCPO fleet has continued to increase in terms of both number of vessels and vessel size,[30] with

obvious implications in these fisheries.[31] In the WCPO, 131 of the purse seiners and 428 of the longliners on the WCPFC Registered Vessel List were built after 2009.[32] It is no less concerning that after such controversy over FADs, many basic facts on their numbers and use remain unknown.

Appropriate data must be collected to measure and manage fishing capacity. The purse seine industry has successfully opposed precautionary measures on FAD use with the excuse of the lack of information to determine suitable measures, introducing instead so-called FAD Management Plans that should, at a minimum, provide the information required for informed management in the future. The reality is that we still lack this data[33] due both to the poor design of FAD management plans and to their requirements not being met.[34]

The result: overfishing and ecosystem impacts

Pacific bluefin has been fished down to just 2.6% of its unfished population size[35] and bigeye tuna to 16%.[36] North Pacific striped marlin has been in a poor state for over 30 years (now at just 12%) with no action taken for recovery of the population.[37] Some other billfish populations are also significantly depleted. South Pacific albacore continues to decline,[38] and the persistently low and declining average catch rates are likely to continue to undermine vessel profitability and may force some operators out of the fishery.[39]

Again, and in contravention to the precautionary approach enshrined in the WCPFC convention,[40] insufficient data is often cited as an excuse for further delaying the already slow process of agreeing harvest strategies for target species, and often by members who are failing to meet their own data requirements. However, the continuing failure of the WCPFC to agree adequate measures without the pre-agreed goals and rules of harvest strategies means that further delaying this process is a continued threat to fish stocks.[41]

Oceanic whitetip shark[42] and silky shark[43] populations have been devastated by both longliners and purse seiners, and not enough data is available to assess other key shark species.[44] Meanwhile WCPFC parties continue to resist developing even the most basic Shark Management Plans. Threatened albatrosses, petrels, and sea turtles continue to be killed as best-practice bycatch mitigation measures are still not in place and, again, observer coverage and reporting requirements are not good enough to collect accurate data on these species.

WCPFC must address urgent data and compliance issues

The following list encompasses priorities that must be addressed to ensure that further work by the SC and TCC, and measures developed by WCPFC, will not continue to be undermined.

Greenpeace calls on the Commission to:

- **Strengthen mandatory reporting** requirements to ensure that fishing capacity and effort in all tuna, billfish, and shark fisheries are adequately measured and reported, so as to allow for the best performance of the SC and a sound basis for Conservation and Management Measures.
- **Impose deterrent sanctions for cases of non-compliance** to ensure that States comply with all their data reporting requirements, such as *No Data, No Fishing* measures of the type recently agreed at the Indian Ocean Tuna Commission (IOTC).[45]
- **Improve transparency and compliance** by removing barriers to NGO and IGO observer access to the compliance monitoring processes, and relevant documents and meetings.

- Require a clearly-defined, representative **20% observer coverage** on longline fleets. Where human on-board observers are not feasible for certain fleets or vessel sizes other alternatives, such as electronic monitoring systems, must be assessed and put in place subject to minimum technical requirements that ensure the reliability of the system. These must not prevent the much needed increase in human observer coverage, starting with ensuring that existing obligations are met.
- Ensure the **health and safety of all observers** by developing robust safety and security measures, and transparent reporting mechanisms for infractions and actions taken against any operators or crew members that harass, intimidate, harm, or in any way prevent observers from performing their duties.
- Improve and align **vessel databases** and the information fields they contain to ensure good data availability for capacity assessment.
- Phase out all **transhipment at sea**. In the interim, all transhipment must have observers on board both the fishing and carrier vessels. Any violation detected in transhipment must result in the loss of transhipment authorisation.
- Consider **FADs** in context of capacity management, and prioritise the collection of data on the number of FADs and the associated technology used, and abandoned or lost, by vessels, in order to assess effort creep associated with FAD use and their impacts on juvenile tuna and shark populations.
- Develop measures to improve the quality and quantity of data recorded and reported for all **sharks** caught (including mobula and manta rays), including details of the species, gear types used, and the condition of each animal on release (dead, injured, alive). This must include a requirement that all sharks are landed with their fins naturally attached. Failure to report on shark catches should result in a ban on using shark-specific gear and on retention of sharks.
- Adopt the tiered approach to the development of **shark management plans** by all States as recommended by the paper presented at SC and TCC.[46]

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Notes and References

1 Greenpeace statement to WCPFC-SC12. https://www.wcpfc.int/node/27590

2 Williams P (2016). Scientific Data Available to the Western and Central Pacific Commission. WCPFC-SC12-2016/GN-WP-01. https://www.wcpfc.int/node/27477

3 Gaps are identified based on **cross-checking between transhipment notifications and declarations** submitted by fishing and carrier vessels. See: WCPFC Secretariat (2016). Data available to the Commission to Address the Implementation and Effectiveness of CMM 2010-07 regarding Shark Finning. WCPFC-TCC12-2016-20. https://www.wcpfc.int/node/27847

4 **The 5% coverage required is not achieved for many fleets**. See: WCPFC Secretariat (2016). 8th Annual Report for the Regional Observer Programme. WCPFC-TCC12-2016-RP02 _rev21. https://www.wcpfc.int/node/27803

5 The **lack of any estimates** for key shark species remains the main gap for certain CCMs. See: Williams P (2016). Scientific Data Available to the Western and Central Pacific Commission. WCPFC-SC12-2016/GN-WP-01. https://www.wcpfc.int/node/27477

6 Reporting requirements for observer data for monitoring of high seas transhipments have not been agreed, and some data are being submitted by the relevant observer programmes **on a voluntary basis and in a range of different formats**. See: WCPFC Secretariat (2016). Data available to the Commission to Address the Implementation and Effectiveness of CMM 2010-07 regarding Shark Finning. WCPFC-TCC12-2016-20. https://www.wcpfc.int/node/27847

7 Reporting requirement for sharks is only for retained catches; **although discards "should" be reported, this is not mandatory**. See: Clarke S (2016). Elaboration of technical details regarding shark targeting and shark management plans for CMM 2014-05. WCPFC-TCC12-2016-19. https://www.wcpfc.int/node/27830

8 CMM 2007-01. Conservation and Management Measure for the Regional Observer Programme 2007-01. http://www.wcpfc.int/node/1470

9 WCPFC Secretariat (2016). 8th Annual Report for the Regional Observer Programme. WCPFC-TCC12-2016-RP02_rev21. https://www.wcpfc.int/node/27803

10 Metrics applied to measuring observer coverage **(**e.g. hooks, days fished, trips) **varies for each member**. See: WCPFC Secretariat (2016). Data available to the Commission to Address the Implementation and Effectiveness of CMM 2010-07 regarding Shark Finning. WCPFC-TCC12-2016-20. https://www.wcpfc.int/node/27847

11 E.g. There have been **no data on shark fin and carcass weights recorded** in the purse seine fishery. See: WCPFC Secretariat (2016). Data available to the Commission to Address the Implementation and Effectiveness of CMM 2010-07 regarding Shark Finning. WCPFC-TCC12-2016-20. https://www.wcpfc.int/node/27847

12 For a review of this issue and recommendations see: Debski I, Pierre J, Knowles K (2016). Observer coverage to monitor seabird captures in pelagic longline fisheries. WCPFC-SC12-2016/EB-IP-07. https://www.wcpfc.int/node/27463

13 "Work has been carried out on the potential of using Electronic Monitoring (EM) as a **mechanism to help attain the 5% observer coverage**." See: WCPFC Secretariat (2016). 8th Annual Report for the Regional Observer Programme. WCPFC-TCC12-2016-RP02 _rev21. https://www.wcpfc.int/node/27803

14 For example see: WCPFC Secretariat (2016). Data available to the Commission to Address the Implementation and Effectiveness of CMM 2010-07 regarding Shark Finning. WCPFC-TCC12-2016-20. https://www.wcpfc.int/node/27847

15 WCPFC Secretariat (2016). Data available to the Commission to Address the Implementation and Effectiveness of CMM 2010-07 regarding Shark Finning. WCPFC-TCC12-2016-20. https://www.wcpfc.int/node/27847

16 WCPFC Secretariat (2016). Data available to the Commission to Address the Implementation and Effectiveness of CMM 2010-07 regarding Shark Finning. WCPFC-TCC12-2016-20. https://www.wcpfc.int/node/27847

17 "Many transhipment declarations report species as 'Shark' and this **may include shark carcasses and/or fins**. It is also possible that shark products are being reported in some declarations within the **generic 'other species' category**." See: WCPFC Secretariat (2016). Data available to the Commission to Address the Implementation and Effectiveness of CMM 2010-07 regarding Shark Finning. WCPFC-TCC12-2016-20. https://www.wcpfc.int/node/27847

18 See Paragraph 34 of CMM 2009-06: "Transhipments at sea **are prohibited** on the high seas **except** where a member has determined that it is impracticable for certain vessels..." https://www.wcpfc.int/doc/cmm-2009-09/conservation-and-management-measure-vessels-without-nationality

19 2267 out of 4590 vessels (49.3%) flagged to 11 CCMs are **authorised to tranship** in the high seas. See: WCPFC Secretariat (2016). Annual Report on WCPFC transhipment reporting, with an emphasis on high seas activities. WCPFC-TCC12-2016-RP03_rev1. https://www.wcpfc.int/node/27804

20 "The **lack of a WCPFC process to respond to non-compliance** by Members and Cooperating Non-members, a prohibition on States from using information on non-compliance with WCPFC obligations unilaterally, in combination with a **substantial lack of transparency** in information on compliance, including due **to lax reporting**, collectively are **inadequate incentives for compliance**." Gilman E, Kingma E (2013). Standard for assessing transparency in information on compliance with obligations of regional fisheries management organizations: Validation through assessment of the Western and Central Pacific Fisheries Commission. Ocean & Coastal Management; 84:31–9. http://www.sciencedirect.com/science/article/pii/S0964569113001683

21 See Article 21 on Transparency: https://www.wcpfc.int/system/files/text.pdf

22 See Rule 15: https://www.wcpfc.int/doc/commission-01/rules-procedure

23 Other tuna **RFMOs allow accredited observers to attend their compliance committees**, including making appropriate materials under discussion available either in advance of or during these sessions.

24 Wold C, Mering L (2016). Transparency and Observer Participation in International Agreements. International Environmental Law Project. WCPFC13-2016-OP07. https://www.wcpfc.int/node/28533

25 The majority of indicators **have shown increases in effort over the recent period** within the WCPO when examined both within and outside PNA EEZs. See: Pilling G, Tidd A, the PNA Office, Norris W, Hampton J (2016). Examining indicators of effort creep in the WCPO purse seine fishery. WCPFC-SC12-2016/MI-WP-08. https://www.wcpfc.int/node/27459

26 See Article 5: https://www.wcpfc.int/system/files/text.pdf

27 Tidd A, Pilling G (2016). Preliminary capacity utilization of the WCPO purse seine fleet using Data Envelopment Analysis. WCPFC-SC12-2016/MI-IP-03. https://www.wcpfc.int/node/27425

28 **Adjustments are not made** to management systems to take into account the resulting **increases in fishing mortality per 'fishing day**', in which case **stock management targets would not be met**. See: Pilling G, Tidd A, the PNA Office, Norris W, Hampton J (2016). Examining indicators of effort creep in the WCPO purse seine fishery. WCPFC-SC12-2016/MI-WP-08. https://www.wcpfc.int/node/27459

29 See: Third Joint Meeting of the Tuna RFMOs. La Jolla, California. July 11-15, 2011. Recommendations of the Kobe II process. Extracts of the reports of the Kobe II meeting and workshops. http://bit.ly/1z9FBaZ

30 E.g. Fourteen out of **fifty vessels built during 2010-2015** were in the 79-80m range (28%), compared to 13% in this range for the period 2004-2009. See: Pilling G, Tidd A, the PNA Office, Norris W , Hampton J (2016). Examining indicators of effort creep in the WCPO purse seine fishery. WCPFC-SC12-2016/MI-WP-08. https://www.wcpfc.int/node/27459

31 Results indicate that vessels with **higher CPUEs** are larger (length and GRT), newer, and in contrast to the results of previous analyses on a restricted range of fleets, have **larger storage capacities**. See: Pilling G, Tidd A, the PNA Office, Norris W , Hampton J (2016). Examining indicators of effort creep in the WCPO purse seine fishery. WCPFC-SC12-2016/MI-WP-08. https://www.wcpfc.int/node/27459

32 Data for longine, tuna longline, purse seine and tuna purse seine for 2010-2016 from interactive graph on: https://www.wcpfc.int/vessels/charts/year_built

33 "Although we currently lack sufficient information to quantify its effects, the perception has been that this technology has significantly changed the way that vessels within the WCPO operate, and that it may contribute to catch increases. More detailed information on FAD deployments, FAD technology, the influence of the FAD closure period, and associated CPUE changes is needed. In particular, the **number of deployed and actively monitored FADs <u>could be</u>** a key vessel characteristic responsible for effort creep." See: Pilling G, Tidd A, the PNA Office, Norris W, Hampton J (2016). Examining indicators of effort creep in the WCPO purse seine fishery. WCPFC-SC12-2016/MI-WP-08. https://www.wcpfc.int/node/27459

34 "An updated gap analysis shows that as an information gathering tool, **FAD Management Plans have not been adequate. No CCM has met the minimum criteria for the plans**." See: Chair of the FAD Management Options Inter-sessional Working Group (2016). A discussion paper to inform FAD management options for the WCPFC. WCPFC-2015-FADMgmtOptionsIWG01-05. https://www.wcpfc.int/node/28356

35 ICS (2016). 2016 Pacific Bluefin Tuna Stock Assessment. Pacific Bluefin Tuna Working Group. International Scientific Committee for Tuna and Tuna-like Species in the North Pacific Ocean (ICS). (Presented at SC12-WCPFC as SA-WP-07). https://www.wcpfc.int/node/27559

36 WCPFC (2014). Summary Report. Scientific Committee Tenth Regular Session, 6–14 August 2014, Majuro, Republic of the Marshall Islands. Western and Central Pacific Fisheries Commission (WCPFC). https://www.wcpfc.int/node/19472

37 WCPFC (2015). Summary Report. Scientific Committee Eleventh Regular Session, 5–13 August 2015, Pohnpei, Federated States of Micronesia. Western and Central Pacific Fisheries Commission (WCPFC). https://www.wcpfc.int/node/26922

38 Pilling GM, Williams P, WCPFC Secretariat (2016). Trends in the south Pacific albacore longline and troll fisheries. WCPFC-SC12-2016/SA-WP-06. https://www.wcpfc.int/node/27444

39 Skirtun M, Reid C (2016). Analyses and projections of economic conditions in WCPO fisheries. WCPFC-SC12-2016/ST-WP-04. https://www.wcpfc.int/node/27426

40 See articles 5(c) and 6 of the WCPFC Convention. Article 6 paragraph 2 in particular reads "Members of the Commission **shall be more cautious when information is uncertain, unreliable or inadequate**. The absence of adequate scientific information shall not be used as a reason for postponing or failing to take conservation and management measures."

41 The process and agreements are outlined here: https://www.wcpfc.int/harvest-strategy

42 Rice J, Harley S (2012). Stock assessment of oceanic whitetip sharks in the western and central Pacific Ocean. WCPFC-SC8-2012/SA-WP-06. https://www.wcpfc.int/node/3235

43 Rice J, Harley S (2013). Updated Stock assessment of silky shark in the western and central Pacific Ocean. WCPFC-SC9-2013/SA-WP-03. https://www.wcpfc.int/node/3685

44 E.g. the **South Pacific blue shark assessment was unable to determine the stock status due to poor data** availability. See: Takeuchi Y, Tremblay-Boyer L, Pilling GM, Hampton J (2016). Assessment of blue shark in the southwestern Pacific. WCPFC-SC12-2016/SA-WP-08. https://www.wcpfc.int/node/27535

45 Resolution 16/06 On measures applicable in case of non-fulfilment of reporting obligations in the IOTC.

46 Clarke S (2016). Elaboration of technical details regarding shark targeting and shark management plans for CMM 2014-05. WCPFC-SC12-2016/EB-WP-05. https://www.wcpfc.int/node/27508