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CHINA, EUROPEAN UNION, JAPAN, KOREA, CHINESE TAIPEI PROPOSAL ON ENSURING THE OPPORTUNITY FOR VESSEL CAPTAINS/OPERATORS TO REVIEW AND COMMENT ON THE COMMISSION'S ROP REPORT

**WCPFC8-2011-DP/36
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The Commission's Regional Observer Programme (ROP) that commenced in 2009 is rapidly becoming a key Commissions programme, with the objectives to collect verified catch data, other scientific data and additional information related to the fishery, as well as to monitor the implementation of the conservation and management measures adopted by the Commission. The program is entering its full-fledged operation, led by the 100% ROP for purse seiners operating in the area bounded 20N and 20S started at the beginning of 2010.

An important part of this programme is the report to be promptly written and submitted by the observer at the end of the trip (para 2 (1) of Annex A). The data in this report can serve, among other, for the monitoring of compliance with CMMs (para 6 of CMM 2007-01). For example, the information about eventual infringements contained in the report can be used by the Flag State for corrective actions against vessel operators. It is therefore essential that CMM 2007-01 provisions on the observer's obligation to draft such a report are strengthened.

Furthermore, Para 1 c) of Annex B, CMM 2007-01 clearly defines the rights of vessel operators/captains to be notified by the observer providers on completion of the observer's trip of any comments regarding the vessel operations, as well as to have the opportunity to review and comment on the observer's report, and shall have the right to include additional information deemed relevant or a personal statement. However, in most cases, so far, the rights of vessel operators/captains have not been fulfilled due to failures of provision by observer providers.

In addition, the low level of observer data submission is of a great concern to the Commission members. The annual report on ROP by the Secretariat (WCPFC8 2011/24) reports that 1/3 of observer trip data are yet to be submitted. Furthermore, there is still a backlog of 2010 data submitted but not entered by SPC.

For the purpose of ensuring the defined procedure in Para 1 c) of Annex B, CMM 2007-01, China, EU, Japan, Korea and Chinese Taipei propose the following new paragraph be added to clarify the responsibilities of observer providers in Attachment K of Annex A of CMM 2007-01 as well as modification of paragraph 1(a) of the same attachment concerning the rights of observers.

1. The rights of observers shall include

a) Full access to and use of all facilities and equipment, respecting all rules of procedure and operation of the equipments, of the vessel which the observer may determine is necessary to carry out his or her duties, including full access to the bridge, fish on board, and areas which may be used to hold, process, weight, and store fish.

“3. The responsibilities of observer providers shall include:

The observer provider shall ensure timely provision of preliminary observer reports to vessel operators/captains as well as to the competent authority in the flag CCM upon completion of their observer trips and ensure the opportunity for vessel operators/captains to review and comment on the observer reports under paragraph 1.c), Annex B.” The preliminary observer reports shall contain all non-compliance findings, if any, to be reported by the observer in the final report. The preliminary report shall be delivered to the vessel operator/captain for review and eventual comments upon arrival of the vessel in port. The observer provider shall also ensure prompt submission of the final observer report to the Commission and the competent authority of the flag CCM.

Attachment K, Annex A

Guidelines on the Rights and Responsibilities of Observers

In accordance with Annex III Article 3, and article 28 of the Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific. The following guidelines for the Rights and Responsibilities of Observers shall apply to observers placed on a vessel under the Commission ROP.

1. The rights of observers shall include:

a) Full access to and use of all facilities and equipment, respecting all rules of procedure and operation of the equipments, of the vessel which the observer may of the vessel which the observer may determine is necessary to carry out his or her duties, including full access to the bridge, fish on board, and areas which may be used to hold, process, weight, and store fish.

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i) Freedom to carry out their duties without being assaulted, obstructed, resisted, delayed, intimidated or interfered with in the performance of their duties.

2. The responsibilities of observers shall include:

a) Being capable of performing the duties set out by the Commission.

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l) Promptly writing and submitting reports to the Commission or national programme in accordance with procedures adopted by the Commission.

3. The responsibilities of observer providers shall include:

The observer provider shall ensure timely provision of preliminary observer reports to vessel operators/captains as well as to the competent authority in the flag CCM upon completion of their observer trips and ensure the opportunity for vessel operators/captains to review and comment on the observer reports under paragraph 1.c), Annex B.” The preliminary observer reports shall contain all non-compliance findings, if any, to be reported by the observer in the final report. The

preliminary report shall be delivered to the vessel operator/captain for review and eventual comments upon arrival of the vessel in port. The observer provider shall also ensure prompt submission of the final observer report to the Commission and the competent authority of the flag CCM.