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POSITION STATEMENT TO TCC15

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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 15th Regular Session of the TCC (TCC15) 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. Unlike previous years, WWF has elected to offer a more discrete and targeted position specific to observer coverage this year. WWF wishes to reiterate its position offered in Honolulu, Hawaii, USA, in December 2018 (WCPFC15) and, taking into account the WCPFC-related meetings held since, offer the recommendations listed below.

Observer Coverage

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.[1] Furthermore, observers play an indispensable role in monitoring and documenting compliance with very important CMMs in the WCPO.[2] Therefore, the WCPFC must consider securing appropriate observer coverage a top priority.

All Cooperating Country Members (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.[3] By its plain reading, this obligation not only requires CCMs 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.[4] Any other interpretation would be absurd. Therefore, the WCPFC is obligated under the WCPF Convention to put data collection processes in place that secure the production and use of the best available scientific evidence for use in the WCPFC decision making process.

Calculation of Observer Coverage Metric

Over 12 years ago, the WCPFC established CMM 2007-01, which specified that fisheries observer 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.[5] Specifically, low observer coverage in the longline fishery was identified as a significant conservation risk. As indicated by the discussion at that time as well as discussion among CCMs at WCPFC forums since, the arbitrary benchmark established at 5% was considered a starting point for a stepwise progression toward appropriate observer coverage. 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, CCMs self report their longline observer coverage under four separate metrics including:[6]

- 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 undue burden on the scientific service provider to standardise data in such a way as to properly assess coverage. First, it forces the scientific service provider, and ultimately the WCPFC, to "compare apples with oranges" in a way that frustrates efficient analysis and, ultimately, timely and proper management. Second, by using a metric that is more susceptible measurement error, bias, and estimation error, it leads to greater uncertainty and the problem of "garbage in, garbage out" that leads to management failures. Moreover, because of the biases of the different metrics, it creates inequity among CCMs that places more of the conservation burden on those using a more accurate and precise metric that is less susceptible to bias and manipulation.

The best available scientific information 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.[7] Furthermore, three CCMs are currently assessing their observer coverage based on "number of hooks," hence it is practically feasible. Consequently, WWF recommends that the TCC confirm "number of hooks" as the best practice metric for all CCMs 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," the TCC should clearly define terms in advance and CCMs must calculate and report each metric in a way that is comparable to and consistent with "number of hooks."

Level of Observer Coverage

Recent efforts by the scientific service provider to standardise observer coverage data indicate that region-wide observer coverage could be at or slightly above 5%.[8] 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[9] or compliance objectives.[10]

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."[11] The higher the observer coverage rate, the lower the bias from an observer effect is, as 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 neither producing the quality nor quantity of data necessary to adequately manage fisheries under WCPFC authority.

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 improved certainty offered by better observer coverage is consistently rejected. In fact, at the recent 15th Meeting of the Scientific Committee (SC15) one member stated that, "they could not accept any requirement for observer coverage greater than 5%."

WWF concedes that different minimum levels of observer coverage may be appropriate 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 potential 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 or electronic observers, is acceptable.[12]

By continuing to fail to secure a scientifically or statistically valid level of observer coverage 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.

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"; and**
- **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 2025.**

References

[1] *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.
[2] *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.
[3] 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.
[4] *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…").
[5] WCPFC, *Conservation and Management Measure for the Regional Observer Programme*, at 34, CMM 2009–06 (Dec. 7-11, 2009), 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]
[6] WCPFC, Status Of Observer Data Management, WCPFC-TCC15-2019-IP04, at 20, Table 4 (Sept. 2, 2019)
[7] 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.")
[8] *Supra note 8* at 23-24, Tables 5 and 6. (Sept. 2, 2019).
[9] *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 Billifsh, 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.
[10] 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.
[11] Gilman, Eric & Zimring, Mark. 2018. Meeting the objectives of fisheries observer programs through electronic monitoring. 10.13140/RG.2.2.28000.99846.
[12] 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.

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