



**TECHNICAL AND COMPLIANCE COMMITTEE**  
**Seventeenth Regular Session**  
**Electronic Meeting**  
**22 – 28 September 2021**

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**TCC17 ONLINE DISCUSSION FORUM SUMMARY**

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**WCPFC-TCC17-2021-04**  
**23 September 2021**

**Introduction**

1. The Online Discussion Forum (ODF) was established to support the 17th Regular Session of the Technical and Compliance Committee (TCC17). The ODF facility provided the key platform for preparatory and supplementary work to enable TCC participants to best utilize the limited time available in the Zoom plenary. The ODF included both:

- a. Topics considered primarily through the ODF, with outstanding, high-priority issues to be resolved in plenary only if needed; and
- b. Topics presented in the ODF for preliminary discussion and exchange of views but with full consideration in plenary.

2. **WCPFC-TCC17-2021-ODF** contains the provisional list of ODF topics for TCC17. Each ODF topic was opened for discussions as the relevant papers were posted to the WCPFC e-Forum website commencing Monday 23 August 2021 (Pohnpei time). TCC17 ODF topics were initially scheduled for closure at 5 pm Monday 20 September 2021 (Pohnpei time), but this deadline was extended to close of business on 22 September 2021 (Pohnpei time) following discussion at the TCC Heads of Delegations meeting held on 21 September, 2021.

3. The purpose of this TCC17 ODF Summary paper is to serve as a background and reference document informing the relevant TCC17 plenary deliberations.

## Topic A: Annual Report of the Executive Director - overview report of the WCPFC MCS and Compliance Programmes

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### Background

**Supporting paper:** TCC17-2021-05. Secretariat. *Executive Directors Overview Report of the WCPFC MCS and Compliance Programmes*

**Purpose:** The paper presents for the information of TCC17 the Executive Director's Overview Report of the WCPFC Monitoring, Control and Surveillance (MCS) and Compliance Programmes for 2021.

**TCC17 Agenda Item:** 2

**Recommendations in supporting paper:** TCC17 is invited to note the report.

### Key Questions and Comments:

4. There was no discussion under this topic.

## Topic B: Cooperating Non-Member (CNM) Requests for 2022

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5. The ODF considered no issues under Topic B.

## Topic C: Enhancing the Compliance Monitoring Scheme (CMS)

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### Topic C1: Update on Initiatives to Streamline Annual Reporting

#### Background

**Supporting paper:** TCC17-2021-10. Secretariat and SPC-OFP. *Summary of Submissions of Annual Reports and Update on Initiatives to Streamline Annual Reporting*

**Purpose:** The paper presents updates on the two streamlining of annual reporting initiatives that were first implemented in 2020:

- i. the Annual Catch and Effort Estimates ([ACE](#)) Tables and Annual Report Part 1; and
- ii. the Annual Report Part 2 online report.

The paper also presents the Secretariat's thoughts on potential initiatives that could make future annual reporting processes more efficient and effective in supporting CMS work.

**TCC17 Agenda Item:** 5.3(a)

**Recommendations in supporting paper:** TCC17 is invited to note the paper.

### Key Questions and Comments:

6. There was no discussion under this topic.

## Topic C2: Update on Progress to Implement Proposed WCPFC online Compliance Case File System Enhancements

### Background

**Supporting paper:** TCC17-2021-12. Secretariat. *Update on progress to implement proposed WCPFC online Compliance Case File System enhancements*

**Purpose:** The paper provides an update to TCC17 on the progress on the implementation of the proposed Compliance Case File Systems (CCFS) enhancements as tasked by WCPFC17. The forecast of Secretariat work commitments for TCC in 2022-2023 (in TCC17-2021-17) considers the proposed CCFS enhancement workplan alongside other TCC-related tasks to the Secretariat.

**TCC17 Agenda Item:** 5.3(b)

**Recommendations in supporting paper:** TCC17 is invited to note the paper.

### Key Questions and Comments:

7. There was no discussion under this topic.

## Topic C3: Discussion Document on the Development of a Risk-Based Assessment Framework (RBAF) and RBAF Spreadsheet

### Background

**Supporting paper:** TCC17-2021-13B. RBAF Lead. *Compliance Monitoring Scheme: Risk-Based Assessment Framework*

**Purpose:** The paper follows up on Circular 2021/56 of 15 July 2021 regarding the work of the CMS IWG in relation to the Risk-Based Assessment Framework (RBAF). Constructive feedback was received regarding the high-level outline of a possible approach to the RBAF attached to the Circular. Paper TCC17-202-13B provides a Discussion Document on the development of a RBAF and also a RBAF spreadsheet. The RBAF spreadsheet lists current obligations, relevant compliance history, provides a “likelihood” of non-compliance rating for each obligation, and provides scope for CCMs to consider “consequence” of non-compliance for each obligation – and hence an overall risk rating. The aim is to use the RBAF as a tool to guide the development of a prioritised list of obligations for assessment in 2022 and a forward schedule of obligations to be reviewed in future years. It is anticipated that use of the RBAF will contribute to a more transparent and structured approach to this annual process.

**TCC17 Agenda Item:** 5.3 (c.)

**Recommendations in supporting paper:**

For CCMs

- **Provide feedback on TCC17-202-13B** via email (heather.ward@mpi.govt.nz) or the TCC ODF.
- **Discuss the RBAF in Plenary under Agenda Item 5.3 (c).**

For TCC

- **Establish a SWG TCC17 in the margins of TCC17 to begin the process of developing the list of obligations to be assessed through the CMS in 2022 (covering activities in 2021), which will need to be agreed by WCPFC18.** Ideally the SWG could have one session during TCC17, following the plenary discussion under Agenda Item 5 (3) (c), to agree on a process through to WCPFC18. The SWG will likely need to work intersessionally (largely by email) on this process between TCC17 and WCPFC18.

- Encourage CCMs to assess the “consequence” of non-compliance with each obligation, and a possible risk-rating for each obligation, and provide “consequence” ratings (by 1 November 2021 to Heather Ward: [heather.ward@mpi.govt.nz](mailto:heather.ward@mpi.govt.nz)).
- Task the SWG to develop a consolidated list of risk-rated obligations that it can use to “test drive” the RBAF.

### Key Questions and Comments:

8. The United States offered the following initial thoughts in response to the questions posed by the RBAF Lead in TCC17-2021-13B:

- The number of “Likelihood” categories should be reduced from 5 to 3: “Unlikely”, “Moderate”, and “Likely”
- Those obligations with no compliance history should be assigned a “moderate” likelihood until compliance history is generated
- New or amended obligations should be treated the same as those with no compliance history, and be assigned a “moderate” likelihood until compliance history is generated
- The number of “consequence” categories should be reduced from 5 to 2: “low” — presents minimal or no threat to the objective or purpose of the CMM; and “high” — will probably undermine the objective or purposes of the CMM.
- The number of “risk ratings” should be reduced from 4 to 3: “low”, “moderate” and “high”. “High risk” obligations could be reviewed every year, “moderate risk” obligations could be reviewed every two years, and “low risk” obligations could be reviewed every three years.

Regarding review of the RBAF spreadsheet and proposed risk ratings, the United States suggests that the RBAF spreadsheet be revised to reflect a reduced number of “likelihood” “consequence” and “risk rating” categories, as suggested in comments submitted to the RBAF Lead on July 30, 2021. A reduction in categories will simplify the risk rating process.

- **Reply:** The Lead for the RBAF thanked the USA for its comments and acknowledged the suggestion to simplify the likelihood and consequence categories, and therefore the resulting risk ratings. They noted that reducing the risk ratings to three categories may make it harder to prioritise the list of obligations and, therefore, to ensure that the list is a manageable size. As noted in TCC17-2021-13B there seems to be a reasonable spread of ratings across the current categories for both likelihood and consequence. They welcomed CCMs’ views on the suggestion and the possible implications for informing the prioritisation of obligations.

### Topic D: Update on improving the online Compliance Case File System

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9. The ODF considered no issues under Topic D.

### Topic E: Continuation of Compliance Monitoring Scheme Intersessional Working Group to progress the CMS Future Work tasks

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10. The ODF considered no issues under Topic E.

## Topic F: COVID-19 related Intersessional Decisions

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### Background

**Supporting papers:** TCC17-2021-14. Secretariat. *COVID-19 related Intersessional Decisions*

**Purpose:** WCPFC17 tasked the Secretariat to prepare a paper for TCC17 that summarizes the available information on the implementation of the COVID-19 Intersessional Decisions in 2020/21 (WCPFC17 Summary Report, para 120(iii)). This paper also provides background information on the situation with regard to COVID-19 in the region and potential options relating to the Intersessional Decisions relating to COVID-19. In summary, the paper suggests the adoption of a phased approach to lifting the suspension of certain obligations due to COVID-19. A phased approach could take into account the significance of the obligation being suspended, the implementation of the intersessional decisions, and the likely risk to the health and safety of observers and crew if the suspension of the obligation was lifted.

**TCC17 Agenda Item:** 6

**Recommendations in supporting paper:** TCC17 is invited to note and discuss the paper.

### Key Questions and Comments:

11. Birdlife International acknowledged the tremendous effort made by CCMs to maintain observers where possible and noted the intersessional work done by the Secretariat to prepare for recommencement of the Regional Observer Programme (ROP) as outlined in WCPFC-TCC17-2021-14. They commended the FFA for prioritising vaccinations for observers, which is an important step in recommencing observer coverage, which is essential to collect data on target and non-target species in the WCPO, and to provide livelihoods for observers and their families. Given that the challenges presented by COVID-19 will not be resolved for some time, Birdlife supported a phased approach by WCPFC to overcome impacts on data collection and compliance monitoring that is safe for observers and crew. Simultaneously, they emphasized that electronic monitoring (EM) is an even more critical tool that the WCPFC can use to collect fisheries data. Therefore, they encouraged TCC to incorporate EM into discussing the recommencement of data collection and importantly compliance monitoring during TCC17. They noted that although there are challenges to implementing EM fleet-wide, the benefits of EM are consistently demonstrated in trials including:

- Reduced workload for captains and crew
- Standardised data collection without spatial bias
- Reduced resource use from having human observers on board (accommodation, food, risk of covid transmission)
- Scalable (from small vessels to large)
- Flexibility in tools and data collection fields.
- Open source (free) software can be used.
- Reduced long-term financial costs.
- Verification of catch and methods to support certification in sustainable fisheries (e.g., MSC) which increases catch value.

Birdlife encouraged TCC to make recommendations to WCPFC18 that the Commission urgently take action to resolve compliance and monitoring of CMMs in WPCO fleets, in particular for the protection of seabirds within the areas of the WCPFCs purview.

12. The International Seafood Sustainability Foundation (ISSF) supported the comment by Birdlife on this topic and urged TCC17 to make clear recommendations to the Commission to accelerate progress on EM in 2021, including by adopting the Minimum Standards that have been advanced in the ER&EM WG and incorporating the use of EM by CCMs, while continuing efforts to safely resume the ROP so that

important data collection and compliance monitoring programs are not further impacted. ISSF also noted the outcomes of the initial study of the impacts of reduced observer coverage undertaken by SPC (summarized in **TCC17-2021-1**) that identifies potential impacts of reduced observer coverage due to COVID on the precision of tuna catch estimates, uncertainties and other scientific work.

## **Topic G: VMS SWG Report to TCC17**

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### **Background**

#### **Supporting papers:**

- TCC17-2021-15A. VMS SWG Co-Chairs. *VMS SWG Report to TCC17*
- TCC17-2021-15B. VMS SWG Co-Chairs. *Draft revisions to the VMS SOPs*

**Purpose:** WCPFC16 established the VMS SWG to develop recommendations for TCC16's consideration that "address VMS data gaps and improve the number of vessels reporting to the Commission VMS" (para 543, WCPFC16 Summary Report). The extension of the VMS SWG's work to TCC17 has allowed the VMS SWG participants the time to work through its issues to reach general support for specific recommendations to TCC17. These TCC17 recommendations are outlined below, seeking to fulfil the VMS SWG's tasking from WCPFC16.

#### **TCC17 Agenda Item: 7.1**

#### **Recommendations in supporting paper:**

##### **Issue 1: Disparity between CCM-held and Secretariat-held VMS data**

- *Recommendation 1.* TCC17 recommends that WCPFC18 task TCC18 to further consider future work to enable direct/simultaneous VMS reporting by vessels/ALCs reporting to the WCPFC VMS.
- *Recommendation 2.* TCC17 encourages any CCMs capable of utilising a direct/simultaneous reporting framework to consider doing so on a voluntary basis. Any such CCMs are requested to report their experiences to TCC in the future, particularly any information regarding changes in the number of discrepancies between CCM-held and Secretariat-held VMS data.

##### **Issue 2: Data gaps from VMS failure**

- *Recommendation 3.* TCC17 notes the Secretariat's progress, and recommends that WCPFC18 support the WCPFC Secretariat's continued work, including with interested CCMs on a trial basis\*\*, to facilitate automatic integration of VMS manual reports in to the Commission VMS within their existing budget. TCC17 recommends that WCPFC18 task the Secretariat to report on their further progress to TCC18.
- *Recommendation 4.* TCC17 recommends that potential incentives for non-binding measures, including 'VMS best practices' that CCMs may adopt to minimise data gaps from VMS failures be considered by TCC18.
- *Recommendation 5.* TCC17 recommends that WCPFC18 approve extension of the WCPFC9 adopted amendments to the VMS Standards, Specifications and Procedures (SSPs) that were previously extended (via attachment 1 of the SSPs) at WCPFC11, WCPFC13 & WCPFC15, through 1 March 2024, and that this remain in force thereafter unless the Commission directs otherwise. TCC17 also recommends that WCPFC18 task the Secretariat to update online references accordingly.

##### **Issue 3: CCM's use of the VMS Reporting Status Tool (VRST)**

- *Recommendation 6.* TCC17 recommends that WCPFC18 adopt the draft SOPs ([TCC17-2021-15B 1](#)) in order to accurately reflect recent changes in technology and technical processes. TCC17 also notes that the new SOPs are also expected to greatly benefit (and reflect) other VMS technical work undertaken by the Secretariat and VMS SWG to address VMS data gaps.

##### **Issue 4: ALC/MTU approval**

- *Recommendation 7.* TCC17 notes the successful steps taken by the Secretariat and CCMs to facilitate the reporting of ORBCOMM ST6100 and/or SKYWAVE IDP-690 MTU units to the Commission VMS. TCC17 encourages any other CCMs using either if these units to follow similar steps to ensure successful VMS reporting to the Commission.
- *Recommendation 8.* TCC17 notes that the Secretariat, in close coordination with the VMS SWG co-chairs, has developed and provided new draft VMS SOPs for consideration and adoption by WCPFC18. This document includes details on the standard processes used to assess the ability of an MTU/ALC and its communication / satellite service provider / gateway to successfully report to the Commission VMS.
- *Recommendation 9.* TCC17 notes that the draft VMS SOPs outline in detail how the VMS Manager will work with relevant vendors and CCMs to assess proposals for inclusion of additional MTU/ALC units and their communication / satellite service provider / gateway, against the new MTU/ALC type approval checklist. The VMS SOPs outline how the Secretariat shall provide this information to CCMs, along with any other documentation provided by the flag CCM or vendor, to better inform their consideration of any units proposed for listing or delisting.

**Issue 5: Assessing compliance with CMM 2014-02 para 9(a) VMS SSP 2.8**

- *Recommendation 10.* TCC17 recommends WCPFC18 task the Secretariat to provide a report to TCC18 with suggested options and, if practical, an estimated timeline and costs to facilitate electronic (online) submission and processing of new and updated VTAFs. Any process shall track progress transparently with the relevant flag CCM that provides the VTAF.
- *Recommendation 11.* TCC17 recommends that WCPFC18 approve the streamlined VMS reporting template below as Annex 2 of CMM 2014-02 for use in CCM’s Annual Part 2 Report submissions beginning with TCC18 until such time as the Commission’s work developing Audit Points (including for VMS) may be completed.

**Issue 6: Review of Commission VMS**

- *Recommendation 12.* TCC17 recommends that WCPFC18 task the Secretariat to provide further information in the VMS Annual Report to TCC18 on the status of implementing VMS SWG recommendations.

**Key Questions and Comments:**

13. FFA members sought further clarification from the Secretariat in regards to the proposed automatic integration of the VMS manual position reports into the Commission VMS. They stated their understanding that the VMS manual position report messages would be submitted to the Commission VMS via email in the NAF format to be integrated in the Commission VMS, and asked the Secretariat to clarify if the same manual position report messages will also be sent to the Commission Information Management System to be integrated into the VMS Manual Reporting database.

- Reply: The Secretariat stated that all manual reports will be sent only to WCPFC VMS via email in NAF format.
  - FFA posted a follow-up question, stating that the WCPFC standard format for manual reports includes the vessel activity field ‘Activity’, and that this field is missing in the proposed message syntax provided in VMS SWG Report 15A Annex B. FFA inquired whether the vessel activity field would be included as well.
    - Reply: The Secretariat stated that it has not included this field in the NAF formatted message as it is not clear if the VMS system can support it as it is not part of the regular VMS data stream, but if CCMs decide it is essential, the Secretariat can investigate further.

## **Topic H: Review Indonesia and Philippines delegation papers and provide advice to inform a Commission discussion on the application of para. 51 of CMM 2018-01 and CMM 2020-01**

### **Background**

**Supporting paper:** TCC17-2021-16. Secretariat. *An assessment of available information to address the WCPFC17 recommendation on the tropical tuna CMM para 51 (Other commercial fisheries)*

**Other relevant papers:**

- TCC17-2021-IP10. Philippines. *Estimates of annual catches of tropical tuna by the Philippines relevant to WCPFC CMM on Tropical Tunas “other commercial fisheries” (SC17-ST-IP08)*
- TCC17-2021-IP11. Indonesia. *Availability of Catch Estimates from the Other Commercial Fisheries in Indonesia - update 01 (SC17-ST-IP09)*

**Purpose:** To initiate preliminary discussion (full presentation and discussion will be held at plenary).

**TCC17 Agenda Item:** 7.2

**Recommendations in supporting paper:** TCC17 is invited to consider the updated information presented in the paper and the SC17 recommendations, and to provide advice to the Commission to facilitate a decision by WCPFC18 on the application of paragraph 51 of CMM 2018-01 and CMM 2020-01.

### **Key Questions and Comments:**

14. There was no discussion under this topic.

## **Topic I: Anticipated forecast of Secretariat work commitments for TCC**

### **Background**

**Supporting paper:** TCC17-2021-17. Secretariat. *Preliminary consideration of anticipated forecast of Secretariat work commitments for TCC (2022-2023)*

**Purpose:** The paper presents the outcomes of initial planning to forecast the work commitments of the Secretariat’s MCS and Compliance programme in 2022/23 in alignment with the Secretariat’s Corporate Plan 2020 – 2023 (specifically Corporate Plan Objectives 2.1, 3.1 and 3.2). This paper updates the paper of the same title presented to TCC16 in 2020.

**TCC17 Agenda Item:** 9.1

**Recommendations in supporting paper:**

1. TCC17 is invited to note the paper and the efforts of the Secretariat to map out the resource implications of future work commitments for the Secretariat’s MCS and Compliance programme.
2. TCC17 is invited to support, in principle and subject to resource availability, the Secretariat’s intention to submit to FAC15 a proposed plan that identifies the necessary upgrades to IMS and securing supplementary dedicated analytical capacity for the Secretariat in 2022 and 2023.
3. TCC17 is also invited to note the workload forecasted for the Secretariat to undertake in 2022 in support of the TCC workplan and TCC17 is invited to recommend that the Commission agrees to require CCMs in 2022 to submit their Annual Report Part 2, at least 100 days prior to TCC18 (which is a date in mid-June instead of 1 July).

### **Key Questions and Comments**

15. There was no discussion under this topic.



## Topic J: Update of TCC Workplan

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### Background

**Supporting paper: TCC17-2021-18.** *Draft TCC Workplan 2022-2024* (issued by TCC Vice-Chair for TCC17 participants' comments)

**TCC17 Agenda Item:** 9.2

**Note:** The last TCC Workplan was adopted by WCPFC15 in 2018 (TCC Workplan 2019-2021; WCPFC15 Summary Report Attachment R). The [draft TCC 2022-2024 workplan 2](#) includes updates and modifications proposed by the TCC Vice Chair based on work that has been undertaken since the plan was last updated in 2018. To assist participants with comparing to the existing TCC Workplan, a track change version has also been posted.

### Key Questions and Comments:

16. There was no discussion under this topic.

## Topic K: Other Topics

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### Topic K1: ROP Minimum Standard Data Fields for transshipment at sea (U.S. Proposal) (U.S. Proposal)

#### Background

**Supporting paper: TCC17-2021-DP01.** United States. *ROP Minimum Standard Data Fields for Transshipment at Sea*

**Purpose:** In light of the unprecedented loss of transshipment observer coverage due to the pandemic and in accord with Convention Article 28, CMM 2009-06, and the TCC Work Plan 2019-2021, TCC17 faces an opportune moment for strengthening regulation and monitoring of transshipment at sea.

**TCC17 Agenda Item:** 10

#### Recommendations in supporting paper:

- TCC17 recommends that WCPFC18 adopt specific data fields from the Forms FC1, FC2, and FC3 as ROP minimum standard data fields to be collected by ROP observers during transshipments at sea.
- TCC17 reminds its members and WCPFC18 of the ROP Minimum Standard specifying that that ROP data should be submitted to the Secretariat where possible within 120 days of the observer disembarking the receiving vessel.

### Key Questions and Comments:

17. The Ocean Foundation, The Pew Charitable Trusts, and WWF urged members' support for the USA proposal to recommend the Commission adopt the data fields in FC1, FC2, and FC3 as minimum standard data fields to be collected by observers during transshipments at sea. They stated that the ability of the Commission to independently monitor at-sea transshipment is currently limited because it has yet to adopt minimum data standards for observers on carrier vessels. This could lead to reports being submitted to flag States that characterize transshipment activity in various ways, thereby complicating comparisons of WCPO-wide activity should the reports be submitted to the Secretariat, which happens only infrequently. Without submitted observer reports, the Commission and SPC lack access to independent records that can verify transshipment activity. The FC1, FC2 and FC3 forms were developed as guidelines, but using them as the

basis for minimum standard data fields and sending reports to the Secretariat would strengthen the information available to understand this type of activity.

## **Topic K2: Observer reports for investigations (U.S. Proposal)**

### **Background**

**Supporting paper: TCC17-2021-DP02.** United States. *Observer reports for investigations*

**Purpose:** For several years at TCC, flag CCMs have reported a lack of progress on investigations into alleged infractions of the CMMs, often because the observer reports have not been provided to them by the ROP providers. The failure to provide information collected by observers to the flag CCMs with the obligation to investigate results in CMMs not being enforced. Based on other recommendations of the WG and TCC, the Commission has made minor changes to the ROP Minimum Standards aimed at better informing flag members about potential violations, allowing more targeted observer report requests. It also is looking into making it easier for CCMs to request observer reports and for ROP providers to provide them through the online Compliance Case File System (CCFS). WCPFC17 endorsed the TCC16 recommendation to have the Secretariat evaluate the possibility of using the CCFS to serve as a messaging tool for CCM observer report requests and ROP provider responses. Although this might be a helpful step towards providing greater clarity on observer report requests and ROP provider responses, it is not likely sufficient to substantially improve the flow of observer reports between ROP providers and flag CCMs. Additionally, this upgrade to the CCFS could take years.

Until this problem is addressed and CCMs have ready access to the observer reports needed to take enforcement actions, the Commission cannot rely on observers for compliance monitoring of the CMMs. Accordingly, the United States proposes that TCC17 make the following recommendation to the Commission.

**TCC17 Agenda Item: 10**

#### **Recommendations in supporting paper:**

- TCC17 notes that in accordance with CMM 2007-01 paragraph 11, CCMs shall cooperate in the exchange of observer information, including responding to, and facilitating the fulfilment of requests for, copies of observer reports in accordance with standards adopted by the Commission.
- TCC17 recommends that the Commission not adopt measures that depend on observers to ensure compliance until it has established effective mechanisms for the sharing of observer reports from ROP Providers to CCMs that need the reports for investigations.

### **Key Questions and Comments:**

18. Korea stated that it welcomes and supports the proposal from the United States, noting that alleged infringement cases reported without relevant observer reports significantly increase the workload of fishing companies, captains, crew members, observer providers, the WCPFC Secretariat, and flag State governments. More importantly, without the timely provision of observer reports, it would be very difficult for CCMs or the Commission to achieve the ultimate goal of the process, which is to improve the overall compliance status across the obligations in WCPFC CMMs. Ideally, alleged infringement cases should be reported along with the relevant observer reports and photographic evidence where possible. Korea stated it looks forward to seeing substantial improvements in the flow of observer reports and necessary upgrades to the CCFS in the near future.

### **Topic K3: DRAFT Guidelines for the voluntary submission of purse seine processor data by CCMs to the Commission (SPC-OFP paper/SC17 request)**

#### **Background**

**Supporting paper:** TCC17-2021-22. SPC-OFP. *DRAFT Guidelines for the voluntary submission of purse seine processor data by CCMs to the Commission*

**Purpose:** SC15 recommended that the WCPFC Science Service Provider (with assistance from the WCPFC Secretariat) investigate what Commission mechanisms could be used and/or updated to facilitate the voluntary submission, and ensure an appropriate level of confidentiality, of cannery data from other processors for future Commission work (Project 60). SC17 reviewed the latest version of the draft guidelines and provided a recommendation that includes recommending that TCC17 also consider the draft guidelines.

**TCC17 Agenda Item:** 10

**Recommendations in supporting paper:** TCC17 is invited to

- review the latest version of draft guidelines for voluntary submissions of processor (cannery) data to the Commission,
- acknowledge the requirement to add “Processor data” as non-public domain (HIGH risk classification) data to Table 1 of the WCPFC data rules,
- consider TCC17 endorsement of the draft guidelines, and
- agree to forward the draft guidelines to WCPFC18 for adoption.

#### **Key Questions and Comments:**

19. United States supported TCC17 endorsement of the draft guidelines for the voluntary submission of purse seine processor data by CCMs to the Commission and recommended that they be forwarded to WCPFC18 for consideration. The United States also supported revising Table 1 of the WCPFC data rules (Data-02) to add “Processor data” as non-public domain (HIGH risk classification) data.

20. ISSF strongly supported TCC endorsing the draft guidelines for the voluntary submission of purse seine processor data by CCMs and forwarding them to the Commission for its consideration and adoption in December 2021.

21. Nauru on behalf of the PNA and Tokelau supported the guidelines in principle, but not the proposed addition of a requirement for flag State consent, stating they do not see any basis for requiring a CCM to go through processes of consent from other CCMs for provision of data relating to processing in their territory, stating that this would seem to make the Guidelines impractical. In addition, if the flag State consent provision is retained:

- a) It should be limited only to catches from the high seas; and
- b) There will need to be provision for coastal State consent, relating to catches taken in coastal state waters (reflecting the primary responsibility of coastal states for oversight of fishing in their waters).

The PNA further noted that notwithstanding the text in the Guidelines on Dissemination, the data will be available to flag and coastal State CCMs to serve the purposes of the Convention, in accordance with the Commission’s Rules and Procedures for Access to, and Dissemination of Data, without the consent or authorisation of any other CCM. Noting these Rules, they proposed deleting the word “only” from the first line of the Guideline text under “Dissemination”.

22. New Zealand supported the proposed guidelines, stating these will benefit the Commission as a whole and will ultimately assist with any CDS that may be implemented in the region. In view of the issue

of data ownership and the role of the coastal State, New Zealand also supported the statement made by the PNA and Tokelau that flag State consent should not be required.

23. SPC thanked CCMs and observers for their comments and noted that these had been incorporated into a draft revision — WCPFC-TCC17-2021-22 (rev. 1) — which would be considered during the TCC17 Plenary session.

#### **Topic K4: DRAFT Best Practices for the Safe Handling and Release of Cetaceans (SC17 request)**

##### **Background**

**Supporting paper: TCC17-2021-23.** Secretariat. *DRAFT Best Practices for the Safe Handling and Release of Cetaceans*

**Purpose:** SC17 recommended the Draft Best Practices for the Safe Handling and Release of Cetaceans be forwarded to TCC17 and WCPFC18 for consideration.

**TCC17 Agenda Item:** 10

**Recommendations in supporting paper:** TCC17 is invited to review the latest version of the Draft Best Practices for the Safe Handling and Release of Cetaceans as recommended by SC17, and to make appropriate recommendations.

##### **Questions and Comments:**

24. The United States stated it has no technical or compliance-related concerns with the draft Best Practices for the Safe Handling and Release of Cetaceans, as forwarded by SC17. The United States further stated it has successfully implemented similar release requirements in its Hawaii longline fisheries since 2012, believes the adoption of safe release guidelines is an important step towards further protection of cetaceans in the WCPO, and looks forward to the development of a TCC17 recommendation on the draft.

25. WWF supported the submission in TCC17-2021-23, which draws substantially from established literature and best practice. They agreed with the USA that it is an important step towards further and better protection of cetaceans in the WCPO, but stated that more can and should be done to address the issue, and offered the following specific comments:

- (i) The primary objective should be to first avoid interaction with cetaceans where possible, such that handling and release is not a consideration to begin with. Previous studies have indicated that the use of circle hooks in the longline fisheries could achieve substantial benefits for multiple bycatch species, including cetaceans. For instance, Forney, et al (2011), noted that the most practical option for reducing bycatch of false killer whales was determined to be the use of small (14/0–16/0) circle hooks, which could result in an estimated 6% reduction in bycatch and a greater likelihood of releasing animals with non-serious injuries. Similar studies by Swimmer, et al (2020) documented similar benefits to marine turtles resulting from the use of large circle hooks. Furthermore, Li, et al (2011) demonstrated evidence that circle hooks reduce seabird bycatch as well.
- (ii) WCPFC should be looking carefully at bycatch mitigation and avoidance tools and methodologies as well, as part of a comprehensive approach to non-target marine species bycatch.
- (iii) While the guidelines provide a reasonable means of addressing avoidance and mitigation of cetacean interactions, it should be clearly stated that these guidelines are temporary, with a formal, binding CMM to be adopted in no less than 5 years. Guidelines, while helpful in informing conduct and practice, are just suggestions, inferring no obligation or responsibility, which is not appropriate when dealing with industrial level issues and consequential resource and ecosystem impacts. For those who might suggest voluntary guidelines are enough, WWF suggested CCMs consider

transitioning all tropical tuna measures to voluntary guidelines as well: compliance and consequences are tied to agreed rules under a formal CMM for a reason.

26. RMI, on behalf of the PNA and Tokelau, thanked the USA and the Secretariat for their ongoing work on these guidelines. They stated that in their view the guidelines are practical, but that they hope to see commitments to training observers and crew if the guidelines are to be accepted by the Commission.

27. The United States supported the comments made by WWF and the PNA and Tokelau. They noted that no technical or compliance issues had been raised on the ODF regarding the Draft Best Practices for the Safe Handling and Release of Cetaceans, and proposed the following TCC recommendations:

- TCC17 did not raise any technical or compliance issues with the Draft Best Practices for the Safe Handling and Release of Cetaceans, as forwarded by SC17.
- TCC17 recommends that WCPFC18 adopt the Best Practices for the Safe Handling and Release of Cetaceans.

28. Japan provided the following comments and looked forward to further discussion during TCC17.

**(i) GENERAL PROVISIONS: Suggested Equipment**

With regard to “long handled cutters”, suggest replacing it with “line cutters” to be consistent with other WCPFC guidelines. For example, in WCPFC Guidelines for the Handling of Sea Turtles, it is encouraged to use “line cutter” for the purpose of cutting the line as close to the hook practical. Because the expected functions of both “long handled cutters” and “line cutter” are same, Japan suggests using “line cutter” consistently in WCPFC documents in order to avoid any confusion.

**(ii) Annex I: FOR LARGE CETACEANS, paragraph 2**

In order to release cetaceans and other animals, it is sometimes technically indispensable to have crews in water for cutting nets or detangling nets from animals. In this context, Japan suggests deleting this paragraph, or adding a phrase, such as “to the extent possible” or “except for the cases where it is technically indispensable”, at the end of the paragraph.

**(iii) Annex II**

**(a) FOR LARGE CETACEANS, paragraph 2/FOR SMALL CETACEANS, Do’s**

There are several provisions in the Annex II which encourage to “manoeuvre vessel to minimize/reduce/maintain tension on the line”. As mentioned in the GENERAL PROVISIONS, “hooked or entangled cetaceans can be unpredictable”, and therefore, manoeuvring vessels in such a manner can be practically difficult in some situations. Therefore, Japan suggests adding a phrase, such as “as much as possible” or “to the extent possible”, at the end of each related paragraph.

**(b) “FOR SMALL CETACEANS”, Do’s**

In line with the comment on 1 above, Japan suggests replacing “long handled cutters” with “line cutters”.

## **Topic K5: Proposal for Amending CMM 2019-07 WCPFC IUU Vessel List (E.U. Proposal)**

### **Background**

**Supporting paper:** TCC17-2021-DP03. European Union. *Proposal for Amending CMM 2019-07 WCPFC IUU Vessel List*

**Purpose:** The revision of the CMM 2019-07 proposed by the EU seeks to improve the current provisions to fight IUU fishing by introducing a cross-listing procedure (new paragraphs 30 to 39). In 2019, based on a recommendation from TCC15, the EU tabled a proposal to WCPFC16 to introduce a cross listing procedure in WCPFC that did not gather enough support for adoption.

Building on the comments received, the EU submitted a delegation paper to WCPFC17 to collect the views, comments and inputs of the Members on a cross listing procedure, and further discussed intersessionally on this matter ahead of WCPFC18. The procedure proposed aims at providing a clear process, including a necessary distinction between the WCPFC IUU Vessels List and the IUU Vessels list of other organisations and at reducing the workload for CCMs and the Secretariat as much as possible. The EU received comments from several CCMs (USA, Chinese Taipei, FFA) and the WCPFC Secretariat. This version attempts to accommodate most of the comments received. The EU intends to work intersessionally with interested CCMs to progress on this specific matter.

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### **Key Questions and Comments:**

29. ISSF stated that it appreciates the work of the EU and other delegations to strengthen the WCPFC IUU Vessel List CMM and supports the proposal to add a cross-listing procedure to the CMM and that includes both tuna and non-tuna RFMOs with competence in the Pacific Ocean. Including the full range of RFMOs will ensure coverage of vessels, such as carriers, that operate between and in both tuna and non-tuna RFMO areas of jurisdiction. ISSF shared other recommendations to strengthen RFMO IUU Vessel Lists that may be of interest to CCMs: ISSF [RFMO Best Practice Snapshots](#) and ISSF [Technical and Meeting Reports](#).

30. Korea stated it appreciates the continuing effort of the European Union to improve the IUU Vessel List CMM. It supports the cross-listing procedure in principle as it would enable the port states and RFMOs across the world to take stronger actions against the IUU vessels more effectively. It noted that a number of other RFMOs have already adopted such a procedure. Korea stated it hopes the Commission will be in a position to adopt this proposal at WCPFC18 following minor refinement of the text if necessary.

## **Topic K6: DRAFT - Guidelines for Non-entangling and Biodegradable FAD Materials (from FAD Management Options IWG)**

### **Background**

**Supporting paper: TCC17-2021-19.** Secretariat and FAD Management Options IWG Chair. *DRAFT Guidelines for Non-entangling and Biodegradable FAD Materials (from FAD Management Options IWG)*

**Purpose:** The paper presents the draft Guidelines for Non-Entangling and Biodegradable FAD Materials for consideration by TCC17, seeking any input from TCC17 and any additional technical information on non-entangling and bio-degradable FADs.

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**Recommendations in supporting paper:** Based on the WCPFC17 tasking, TCC17 is requested to:

1. review the annexed DRAFT Guidelines for non-entangling and biodegradable FADs;
2. provide technical advice/input to the FAD-IWG to improve the DRAFT Guidelines for non-entangling and biodegradable FADs with regards to the following
  - design and materials used in the FAD structures (raft and/or tail),
  - format of the guidelines, including timeline for implementation,
  - other aspects that might be useful to develop practical and implementable Guidelines;and
3. support and endorse the DRAFT Guidelines for non-entangling and biodegradable FADs prepared by the FAD Management Options IWG, if no additional advice/input is provided by TCC17.

### **Key Questions and Comments:**

31. The United States supported the endorsement of the draft guidelines for non-entangling and biodegradable FAD materials. The draft guidelines highly encourage the use of non-entangling FAD materials and encourage that mesh not be used. The United States supports the move away from use of mesh netting in FAD design and construction. However, as the pandemic has significantly impacted shipping to American Samoa and thus restricted availability of materials for the American Samoa-based purse seine fleet, the United States stated it would only support a prohibition of mesh in FAD design if there was a delay in implementation. With this in mind, the United States shares the concern of other coastal states in that the American Samoa-based purse seine fleet may be disadvantaged by the availability and potential extra costs of shipping biodegradable materials to Pago Pago, and would like to see further consideration and research into the use of locally available materials for biodegradable and non-entangling FAD construction.

32. FFA Members supported the amendment to paragraph 19 of CMM 2020-01 to make the use of non-entangling material in the construction of FADs mandatory. This includes banning the use of mesh netting as it will reduce or eliminate entanglement on FADs. FFA Members stated that the text provided to the Commission in WCPFC15-2018-DP08 on what this ban should look like is still applicable. It includes the following measures:

- no netting shall be used;
- if the raft is covered, only non-entangling material shall be used; and
- the subsurface structure shall be made with ropes, canvas or nylon sheets or other non-entangling materials.

FFA Members also recommended that the IWG support further scientific studies into the development and application of appropriate biodegradable materials in FAD construction. This should include research on the use of local materials, where practicable. Such information will be critical in developing guidelines for the use of biodegradable materials on FADs.

33. ISSF stated it appreciates the work of the FAD IWG and CCMs in continuing to advance this important topic in the Commission. ISSF supported TCC endorsing the draft guidelines for non-entangling FADs and biodegradable FAD materials. Regarding, timeline and implementation, ISSF urged the WCPFC to set a clear timeframe for requiring FADs without nets and transitioning to FADs made primarily with biodegradable materials. The target for the Commission should be fully non-entangling FADs. ISSF encouraged CCMs to begin this transition as soon as possible. ISSF Bycatch Mitigation Conservation Measure 3.7 sets a deadline of 1 January 2024 for the use and deployment of only fully non-entangling FADs, without any netting in any components, including both the raft and the tail.

34. SPREP supported the FFA members' submission to make the use of non-entangling material in the construction of FADs mandatory, including banning the use of mesh netting to reduce the likelihood of entanglement of vulnerable marine species including cetaceans, sharks and marine turtles. They also supported the move to biodegradable materials to reduce long term impacts to the environment and support research into the development and use of locally grown materials that could potentially provide a source of income for Pacific communities. SPREP noted that one issue that does not appear to have been discussed is what length of time the fishing industry expects materials to remain viable for in the ocean to act as FADs and then how long after that time it takes before materials biodegrade to be environmentally acceptable, recognising that different materials will take varying amounts of time required to degrade. SPREP supported research on these issues. SPREP stated that a move to biodegradable materials should not reduce the responsibility of fishing companies who own the FADs to continue to retrieve them, noting that the deactivation of drifting FADs and their subsequent abandonment is likely to breach MARPOL regulations. They stated that it is also unknown if biodegradable FADs could also present a risk of entanglement to

marine species as they degrade, and recommended that research on this be conducted. SPREP stated that their concern arises from the high numbers and density of FADs that remain unretrieved, as discussed in SC17-MI-IP-04.

## **Topic K7: WCPFC Intersessional work on improving crew labour standards - Update**

### **Background**

**Supporting paper: TCC17-2021-DP05.** New Zealand and Indonesia. *WCPFC Intersessional work on improving crew labour standards - Update*

**Other relevant TCC17 papers:**

- **TCC17-2021-OP04 1** WWF. *Analysis of employment of Indonesian citizens in the distant water fleet tuna fisheries of the WCPO*
- **TCC17-2021-OP05** WWF. *Slavery at Sea: Forced Labour, Human Rights Abuses, and the Need for the Western and Central Pacific Fisheries Commission to Establish Labour Standards for Crew*

**Purpose:** New Zealand and Indonesia encouraged participants to use the TCC online discussion forum to exchange further views on the draft CMM, or to submit feedback directly to the working group co-chairs: Emma.Hodder@mfat.govt.nz and Putuh.Suadela@gmail.com.

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### **Key Questions and Comments:**

35. WWF, also on behalf of Advocates for Public Interest Law (APIL), Korean Federation of Environmental Movements, and the Global Law Alliance, supported the efforts of the WCPFC IWG on Crew Welfare to take steps toward improving crew labour standards. They stated that this work is extremely important and supported continued discussion and negotiation on the issue moving forward at pace. They submitted TCC17-2021-OP05 *Slavery at Sea: Forced Labour, Human Rights Abuses, and the Need for the Western and Central Pacific Fisheries Commission to Establish Labour Standards for Crew* in support of this effort. They also made the following points:

- (i) The International Labour Organization (ILO) has documented modern slavery and inhumane treatment which the international community has not appropriately addressed. In 2016, an estimated 24.9 million men, women, and children were victims of “forced labour,” with as many as 100,000 enslaved on fishing vessels. The UN Office on Drugs and Crime reports that many fishers are traded from vessel to vessel and, because they cannot escape, are “de facto prisoners.” Many of these prisoners are on vessels fishing within the WCPFC Convention Area. Additional human rights abuses to which fishers are subjected include inhumane work conditions, lack of proper accommodation, lack of proper food and water, withholding of wages, confiscation of their passports, denial of sleep, beatings, and being threatened with physical and sexual violence.
- (ii) WCPFC has the authority to remedy the situation by adopting labour standards for fishing crews. Fishing subject to human rights abuses constitutes illegal fishing, and IUU fishing is squarely within the competence of the WCPFC. As the FAO explains, “RFMOs have a central role to play in preventing, deterring and eliminating IUU fishing.”
- (iii) Article 10 of the WCPF Convention expressly authorizes the WCPFC to “adopt minimum standards for the responsible conduct of fishing operations.” The term “responsible conduct” is a clear reference to the FAO Code of Conduct for Responsible Fisheries, which specifically calls for States to “ensure responsible fishing” and emphasizes that “States should ensure that fisheries activities and equipment allow for safe, healthy and fair working and living conditions and meet



internationally agreed standards adopted by relevant international organizations.” It also asks States “to ensure that health and safety standards are adopted for everyone employed in fishing operations.” In other words, the use of the phrase “responsible conduct of fishing operations” in the WCPF Convention references the FAO Code of Conduct of Responsible Fisheries, which in turn explicitly recognizes the need to adopt labour standards for crew as a matter of fisheries policy. Further, the phrase “fishing operations” covers crew. Fishing operations in the context of WCPFC fishing includes a fishing vessel, gear, and crew. Fishing for tuna cannot occur without all three. If the WCPFC can adopt binding standards for vessels and gear, it can also do so for crew.

- (iv) The WCPFC has acknowledged it has authority to adopt labour standards by adopting binding standards for observers in CMM 2018-05 and non-binding standards for crew in Resolution 2018-01. The WCPF Convention (Article 28) specifies some aspects of the WCPFC’s ROP, but does not specify that the observer be provided with food, accommodation, and medical and sanitary facilities of a reasonable standard equivalent to those provided to an officer, but these are specified in CMM 2018-05. Given this, the WCPFC can also adopt binding standards for crew.
- (v) The existence of the ILO Work in Fishing Convention, 2007 does not preclude regulation by WCPFC. ILO Member states can regulate the activities of foreign vessels and adopt higher standards, and very few States have ratified the Work in Fishing Convention (only France among WCPFC members has ratified it). None of the five flag States responsible for 90% of all distant-water fishing effort—four of which are WCPFC members (China, Chinese Taipei, Japan, and the Republic of Korea)—are among the 18 ratifications. Other ILO labour-related conventions also have low ratification.
- (vi) A lack of authority on the part of WCPFC delegations to address labour standards in the WCPFC does not prevent the WCPFC from adopting binding labour standards; many international agreements include a mix of issues that require internal coordination among agencies. In addition the WCPFC has adopted CMMs for observers and has taken measures to ensure safe release of and minimize harm to sharks and cetaceans caught as bycatch. If it can take these actions it can also establish labour standards for the wellbeing of crew.
- (vii) The sooner that WCPFC recognizes the critical linkages described above and adopts binding labour standards, the sooner it can further prevent and deter IUU fishing, better manage the world’s most valuable tuna fishery, and sufficiently protect the lives of the men, women, and children who risk their lives and wellbeing to provide the world with tuna and other fisheries resources.

36. APIL supported the WCPFC IWG on Crew Welfare and encouraged the adoption of the proposed CMM on the Labour Standards for Crew on Fishing Vessels. They supported endorsement of the USA’s suggestion on clause 2 which refers to the ILO Work in Fishing Convention to set more specific standards such as minimum hours of rest. They expressed concern on the proposed change to the title, “Safety for Crew on Fishing Vessels”, which limits the responsibility of WCPFC in ensuring the fair working conditions of crew members. They noted that the close relationship between forced labour and IUU fishing has been widely recorded. The 2004 OECD publication *Fish Piracy: Combating Illegal, Unreported and Unregulated Fishing* notes in chapter 11 the social drivers behind IUU fishing such as the limited controls over working conditions and workers’ rights. The lack of regulation on the working conditions of fishers serves as an economic incentive for IUU fishing, the prevention of which is squarely within the WCPFC mandate. Further, as shown in TCC17-2021-OP05, WCPFC has the authority to establish a binding measure on the labour standards for fishing crew. In fact, CCMs that are parties to the International Covenant on Economic, Social and Cultural Rights are required by Article 2 of the Covenant to take steps through international co-operation and by all appropriate means to realize the rights recognized in the Covenant, such as the rights to just and favourable conditions of work, adequate safe and hygienic conditions, adequate food and drinking water and safe working conditions. APIL urged the WCPFC to recognize the critical link between IUU fishing and the labour conditions of crew and adopt the CMM to ensure the protection of those who are integral to the fishing operations in the WCPF Convention area.