



Global Oceans Practice

WWF POSITION

16th Regular Session of the Western Central Pacific Fisheries Commission (WCPFC16): Port Moresby, Papua New Guinea – December 5-11, 2019

Introduction

The World Wide Fund for Nature (WWF) would like to again thank the Western and Central Pacific Fisheries Commission (WCPFC) for the opportunity to attend the 15th Regular Session 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.

WWF once again calls on members of the WCPFC to address the issues and recommendations raised at SC15, NC15, TCC15, and WCPFC15 as well as observe the experience of other RFMOs in their own efforts to achieve and maintain improved measures for monitoring and surveillance. WWF would like to note that this Position Statement is not comprehensive, but that fact does not mean that WWF does not believe that other issues are not important. WWF wishes to reiterate its position offered in Honolulu, Hawaii, in December 2018 (WCPFC15) and, taking into account the WCPFC-related meetings held since, the recommendations listed below as well as other documents submitted to the WCPFC for review as Observer Papers.

Reference Points, Harvest Control Rules, and Harvest Strategies

WWF remains supportive of the work of the WCPFC and subsidiary bodies in pursuing the implementation of a Harvest Strategy (HS) approach as agreed under CMM 2014-06 and Supplementary Information on Workplan (workplan) for the adoption of Harvest Strategies. Consistent with previous WWF position statements and recommendations, WWF continues to encourage WCPFC16 to further endorse and support the adoption of explicit Limit and Target Reference Points (LRP/TRP), Harvest Control Rules (HCRs), and HSs for all WCPO fishery stocks

under WCPFC authority. WWF further notes that the original agreed timelines have lapsed and there is now an urgent need to establish species specific harvest strategies consistent with the workplan.

WWF requests the WCPFC observe the importance of and strong support for these important management measures, specifically the adoption of TRPs and HCRs for the key target species, particularly from industry participants with Marine Stewardship Council (MSC) certification and many end markets. Therefore, WWF encourages WCPFC16 to maintain momentum on implementation of HS elements, and, where necessary, take steps to recover timelines under the workplan.

WWF recommends that the WCPFC:

- **Support and endorse further implementation of CMM 2014-06 on Establishing a Harvest Strategy for Key Tuna Species in the WCPO consistent with proposed timelines;**
- **Establish precautionary TRPs for bigeye (BET) and yellowfin (YFT);**
- **Adopt an HCR for the skipjack (SKJ) purse seine (PS) fishery and the South Pacific albacore (SP ALB) longline (LL) fishery that fluctuates around the established respective TRPs; and**
- **Endorse the continued development and implementation of LRPs and TRPs for proper management of *all stocks*, including sharks as a priority.**

Sharks and Rays

Sharks and Rays continue to make up a large percentage of annual bycatch¹ with many shark species in the WCPO remaining subject to high levels of fishing mortality that current stock assessment trends suggest is unsustainable.² Furthermore, WWF is increasingly concerned with shark conservation and sustainability in the WCPFC region as a whole and considers responsible management, trade, and consumption where shark mortality occurs in all fishing activities, not just in circumstances where tuna fishing is occurring. Therefore, WCPFC must also recognise the needs of coastal States in the WCPFC region to manage their shark populations.

WWF is extremely disappointed by the failure of the Inter-sessional Working Group to develop agreed recommendations for a Comprehensive Shark CMM in 2018. Greater urgency toward shark conservation is required in the face of declining shark populations, as evidenced by both the shortfin and longfin mako sharks being upgraded to Endangered globally in March this year, and the perilous state of the oceanic whitetip shark in the WCPO. SC15 concluded that the oceanic whitetip shark stock remains overfished and subject to overfishing, and faces possible extinction despite the prohibition on retention, reflecting poorly on WCPFC's current approaches to preventing the overfishing of sharks.

Therefore, WWF urges WCPFC16 to prioritize finalizing a Comprehensive Shark CMM that ensures key shark and ray species, including those prioritized by the Convention on the International Trade of Endangered Species (CITES), are effectively managed.³ WWF continues to support recommendations within the proposed CMM to include methods to eliminate finning and incorporate language to encourage CCMs to land sharks with their fins naturally attached to their bodies, as well as supporting recommendations.⁴

Equally urgent, is the need to introduce additional management measures as part of a recovery plan for the oceanic whitetip shark, which include addressing catch data quality issues that have arisen due to the prohibition on retention.

While WWF supports the action of the WCPFC to adopt the Best Handling Practices For The Safe Release Of Sharks (Other Than Whale Sharks And Mantas/Mobulids), we further recommend that additional requirements and procedures are necessary for non-retained shark species, including provisions to ensure species ID and removal of trailing gear. WWF also again asks the WCPFC16 to consider a prohibition to setting on or retention of manta rays (genus *Mobula* and *Manta*) and

support associated best practices for safe handling and release aboard purse seiners, consistent with previous action by the IATTC.

WWF recommends the WCPFC:

- **Adopt a Comprehensive Shark CMM that includes a new framework incorporating existing CMMs, but also providing for national contributions toward commonly agreed goals for shark stocks, including:**
 - **Mandate bycatch best practices consistent with those found in the Compendium of Best Practice of Conservation and Management Measures (CMMs) for the of Species Bycatch in Tuna RFMOs;**
 - **Establish Fins Naturally Attached (FNA) as the most effective means to address shark finning in the WCPO consistent with the best available science;**
 - **Implement the recommendations for bycatch that were endorsed at Kobe III and adopt an annually updated report card system against these recommendations for all of the WCPFC fisheries;**
 - **Require, through data collected from observer programs and other means, estimation of the number of captures and releases of all sharks and rays, including the status upon release (dead or alive), and reporting of this information to the WCPFC;**
 - **Amends CMM 2014-05 to prohibit vessels carrying wire trace and the use of wire trace branch lines;**
 - **Require, through observer programs, recording what gear is used in longline activities including the use of wire traces and any multi-monofilament traces in order to avoid bite-off by sharks; and**
 - **Enact recovery plans for the most depleted species;**
- **Take steps to introduce a recovery plan for the oceanic whitetip shark in the near term;**
- **Adopt the Draft Guidelines for Best Handling Practices for the Safe Release of Mantas and Mobulids;**
- **Adopt a retention prohibition for bigeye thresher shark, as the previous assessment indicates that management action is necessary for this vulnerable species;**
- **Encourage the development of harvest strategies, including associated reference points and control rules, for all shark and ray species, as envisaged under Articles 5 and 10 of the WCPF Convention; and**
- **Encourage CCMs to develop NPOAs with measures to report all shark and ray catches from domestic fleets operating in territorial and archipelagic waters to assist CCMs to meet obligations for shark and ray species incorporated under CITES Appendix II, including making any non-detriment finding publicly available.**

Regional Observer Programme

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.⁵ Furthermore, observers play an indispensable role in

monitoring and documenting compliance with very important CMMs in the WCPO.⁶ Therefore, the WCPFC must consider securing appropriate observer coverage a top priority.

All CCMs agreed to the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC Convention) text and other Commission obligations to ensure the *best scientific information or evidence available* is used in WCPFC decisions.⁷ 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.⁸ Any other interpretation would be absurd. Therefore, the WCPFC is obligated under the WCPFC Convention to put data collection processes in place that secure the production and use of the best available scientific evidence in the WCPFC decision making process.

Observer Safety and Security

WWF again commends the WCPFC's previous actions to address issues with observer safety and security through the adoption of the observer safety and security provisions as well as the flag and coastal state requirements. However, WWF continues to strongly believe that more needs to be done to fully address observer safety and security.

WWF remains concerned with reports that some CCMs are still not meeting their obligations to provide observers with the required safety and security equipment. It has been more than two years since CCMs agreed CMM 2017-03 Conservation and Management Measure for the Protection of WCPFC Regional Observer Programme Observers, so the requirements must be met post-haste.

Additionally, WWF maintains that there is a need for a full and transparent documentation and catalogue of observer incidents. One of the outstanding gaps in observer safety and security is represented by the lack of information available to address observer incidents through proper followup and documentation. A requirement for full and transparent reporting will allow for identification and understanding of potentially dangerous situations for future observers across all RFMOs. Until the WCPFC can fully understand the circumstances surrounding these incidents, it cannot hope to properly address them.

The ROP Annual Report as it currently exists does not provide the necessary level of detail to properly address these issues. Thus, WWF recommends establishing a required comprehensive and transparent reporting procedure for observers and observer programmes to report instances of threats, harassment, intimidation, assault, or death that national programmes and the ROP could then use to determine solutions to prevent future instances and share that information with other RFMOs. This procedure must include an annual, publicly available, consolidated, detailed, and fully transparent report of all infractions against observers.

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 2012.⁹ 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:¹⁰

- 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.¹¹ Furthermore, three CCMs are currently assessing their observer coverage based on “number of hooks,” hence it is practically feasible. Consequently, WWF recommends that the WCPFC 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 WCPFC 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%.¹² 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 management¹³ or compliance objectives.¹⁴

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.”¹⁵ 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.¹⁶

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 WCPFC:

- **Ensure the requirements of CMM 2017-03 have been met;**
- **Endorse further observer safety and security measures, including fully transparent documentation and catalogue of observer incidents and entities involved;**
- **Endorse 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” by 2025; 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.**

Transshipment Monitoring

Transshipment remains one of the most prominent weaknesses in catch documentation and verification that leads to Illegal, Unreported, and Unregulated (IUU) catch in the WCPO. WWF notes that the most simple, efficient, and effective solution to the challenges of transshipment-related IUU is to simply prohibit all at-sea transshipment and require all fishing vessels to either tranship or land their catch at the nearest available designated port in the WCPO following the conclusion of fishing activity. However, acknowledging that a prohibition on transshipment is politically unlikely at this time, WWF supports the establishment of the Transshipment Intersessional Working Group and associated review and revision of CMM 2009-06 to address deficiencies in the current measure.

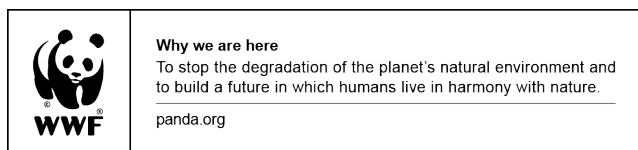
Some CCMs remain consistently non-compliant with CMM 2009-06. Reports presented at TCC15 indicate that the number of reported high seas transshipment events increased 155% between 2014 and 2018, with an increase of 29% between 2017 and 2018. These CCMs also continue to fail to meet their reporting obligations. Therefore, given the high risk of transshipment to facilitate IUU fishing and the ongoing non-compliance associated with the practice, the WCPFC must urgently address the deficiencies in CMM 2009-06.

WWF recommends the WCPFC:

- **Implement real time, or near real-time, reporting requirements for all components of transshipments, including electronic verification and validation tools;**
- **Review and revise CMM 2009-06, including replacing the ‘impracticability’ test and unfettered flag State authorization with clear criteria and a process for the WCPFC to review issued flag State authorizations against those criteria to ensure compliance;**
- **Include bunkering vessels in transshipment management arrangements; and**
- **Consider automatically including any vessel that breaches transshipment regulations on the draft IUU vessel list.**

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- ¹ Status of pelagic esasmobranchs (sharks and rays) of the Western and Central Pacific Ocean as prepared by the IUCN Shark Specialist Group at the New Zealand and Oceania Shark Red List Assessment Workshop, Auckland, (June 2017).
- ² Clarke, Shelley C., *et al.* (2013). Population Trends in Pacific Oceanic Sharks and the Utility of Regulations on Shark Finning. *Conservation Biology*, Volume 27, Issue 4, pages 197–209, February.
- ³ Report for Project 78-Analysis of Observer and Logbook Data Pertaining to Key Shark Species in the Western and Central Pacific Ocean, Joel Rice, WCPFC-SC14-2018/EB-WP-07.
- ⁴ Clarke, Shelley C. (2013). Towards an Integrated Shark Conservation and Management Measure for the Western and Central Pacific Ocean. WCPFC-SC9-2013/ EB-WP-08. WCPFC-SC, Pohnpei, Federated States of Micronesia, 6-14 August 2013.
- ⁵ 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.
- ⁶ *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.
- ⁷ 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>.
- ⁸ *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...").
- ⁹ 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]
- ¹⁰ WCPFC, Status Of Observer Data Management, WCPFC-TCC15-2019-IP04, at 20, Table 4 (Sept. 2, 2019)
- ¹¹ 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.")
- ¹² *Supra note 10* at 23-24, Tables 5 and 6. (Sept. 2, 2019).
- ¹³ 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 Billifsh, 9-18 August 2004, Majuro, Republic of Marshall Islands.
- ¹⁴ 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.
- ¹⁵ Gilman, Eric & Zimring, Mark. 2018. Meeting the objectives of fisheries observer programs through electronic monitoring. 10.13140/RG.2.2.28000.99846.
- ¹⁶ 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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