



TECHNICAL AND COMPLIANCE COMMITTEE

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**Conservation Management Measure for the Protection of WCPFC Regional Observer
Programme Observers.**

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Prepared by USA,

Following Consultation with other CMMs.

CONSERVATION AND MANAGEMENT MEASURE FOR THE PROTECTION OF WCPFC REGIONAL OBSERVER PROGRAMME OBSERVERS

The Western and Central Pacific Fisheries Commission (WCPFC):

In accordance with the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (the Convention);

Recalling Article 28(7) of the WCPF Convention, which requires the Commission to develop procedures and guidelines for the operation of the Regional Observer Programme (ROP);

Further recalling that Annex III, article 3 of the Convention expressly requires that the vessel operator and each member of the crew shall allow and assist any person identified as an observer under the Regional Observer Programme to carry out all duties safely and that the operator or any crew member shall not assault, obstruct, resist, delay, refuse boarding to, intimidate or interfere with observers in the performance of their duties;

Committing to the implementation of conservation and management measure (CMM) 2007-01, which clearly states the rights of observers shall include, inter alia, the freedom to carry out their duties without being assaulted, obstructed, resisted, delayed, intimidated or interfered with in the performance of their duties;

Recognizing that observers play a critical role in supporting effective management outcomes and therefore it is critical that measures are in place to ensure their independence, impartiality, and safety while undertaking their duties;

Noting that CMM 2007-01 specifies that the responsibilities of vessel operators and captains shall include, inter alia, ensuring that ROP observers are not assaulted, obstructed, resisted, delayed, intimidated, interfered with, influenced, bribed or ~~is~~ attempted to be bribed in the performance of their duties;

Further Recognizing the commitments in Articles 98 and 146 of the United Nations Convention on the Law of the Sea (UNCLOS), to render assistance and protect human life, and the International Convention on Maritime Search and Rescue, as amended and overseen by the International Maritime Organization, which outlines the responsibilities of governments related to search procedures including the organization and coordination of actions, cooperation between States, and operating procedures for vessels operators and crew;

Further Noting the commitment in Article 94(7) of UNCLOS, regarding the duty of a flag State to cause an inquiry to be held ~~inquiries~~ into any losses of life or serious injuries to nationals of another State which has been caused by a marine casualty or incident of navigation and involved a ship flying its flag, and the United Nations Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA), including Article 3, which addresses crimes perpetrated at sea resulting in injury or death for ~~any~~ individuals;

Highlighting that those commitments ~~must~~ apply to WCPFC ROP-deployed fishery observers;

Adopts the following conservation and management measure in accordance with the Article 10 of the Convention:

1. This CMM applies to ROP observers on ROP fishing trips [anywhere] [in the WCPF Convention Area].

2. Commission Members, Cooperating Non-Members and Participating Territories (CCMs) shall ensure that all fishing vessels flying their flag, when ~~operating~~ carrying in the WCPF Convention Area WCPFC ROP observers, abide by all applicable international requirements, procedures and protocols.

~~1.3.~~ In the event that an ROP observer dies, is missing or presumed fallen overboard, the while embarked on their vessel. In addition, CCM to which the fishing vessel is flaggeds shall ensure that in such an event, the fishing vessels flying their flag shall:

- a. Immediately ceases all fishing operations;
- b. immediately commences search and rescue, and searches for at least 72 hours or as otherwise instructed by the flag CCM;
- c. immediately notifies the appropriate Maritime Rescue Coordination Centre,¹;
- ~~a-d.~~ as soon as possible notifies the flag CCMstate, the observer provider and the Secretariat of the incident ~~as soon as possible~~;
- ~~b-e.~~ cooperates fully in any search and rescue operation, including alerting other vessels in the vicinity;
- f. cooperates fully in any and all official investigations, and preserves any potential evidence and the personal effects and quarters of the deceased or missing observer.

~~2.4.~~ In the event that an ROP observer suffers from a serious illness or injury that threatens ~~their his or her~~ health or safety, the CCM to which the fishing vessel is flagged while on board a vessel flying their flag, when operating in the WCPF Convention Area, CCMs shall ensure that such the fishing vessels shall:

- a. Immediately ceases fishing operations;
- ~~a-b.~~ takes ~~any~~ all reasonable actions to care for the observer and provide any medical treatment available and possible on board the vessel;
- c. immediately notifies the appropriate Maritime Rescue Coordination Centre;
- d. as soon as possible notifies the flag stateCCM, the observer provider and the Secretariat of the situation ~~as soon as possible~~;
- e. as appropriate and as soon as practicable, facilitates the disembarkation and transport of the observer to a medical facility equipped to provide the required care; and
- f. cooperates fully in any and all official investigations into the cause of the illness or injury.

~~3-5.~~ In the event that an ROP observer is assaulted or harassed ~~while on board a vessel flying their flag, when operating in the WCPF Convention Area,~~ to such an extent that the observer or

¹ [refer to, or attach, list or map of Maritime Rescue Coordination Centres]

the observer provider indicates that they wish for the observer to be removed from the fishing vessel ~~prior to the conclusion of the fishing trip~~, the CCM to which the fishing vessel is flaggeds shall ensure that ~~such the fishing vessels shall~~:

- a. Immediately takes action to mitigate and resolve the situation on board ~~as soon as possible~~;
- b. notifies the flag ~~state~~ CCM and the observer provider of the situation as soon as possible;
- c. facilitates the disembarkation of the observer for any needed medical treatment for the observer and replacement of the observer as quickly as possible; and
- d. cooperates fully in any and all official investigations into the incident.

4.6. In the event that an ROP observer is, or is alleged to have been, assaulted or harassed ~~while on board a vessel flying their flag, when operating in the WCPF Convention Area~~, but neither the observer nor the observer provider, ~~does not seek~~ wishes that the observer be removed from the fishing vessel ~~prior to the conclusion of the fishing trip~~, the CCM to which the fishing vessel is flagged s shall ensure that ~~such the fishing vessels shall~~:

- a. Takes action to mitigate and resolve the situation on board as soon as possible;
- b. notifies the flag ~~state~~ CCM and observer provider of the situation as soon as possible; and
- c. cooperates fully in any and all official investigations into the incident.

7. If any of the events in paragraphs 2-5 occur, port CCMs, shall, to the extent possible, facilitate entry of the fishing vessel to allow disembarkation of the ROP observer and assist in any investigations.

5.8. In the event that, after disembarkation from a fishing vessel of an ROP observer, during the course of a debriefing of an observer, an observer provider ~~associated with a CCM's national observer program~~ identifies ~~—such as during the course of debriefing the observer—~~ a possible n alleged violation involving assault or harassment of the an ROP observer while on board the fishing vessel ~~occurred while on board a vessel flying its flag, when operating in the WCPF Convention Area~~, the observer provider ~~shall~~ notify the flag CCM and the Secretariat, and the flag CCM shall investigate ~~any such the~~ event and take any appropriate action in response to the results of the investigation. The flag CCM shall notify the observer provider and the Secretariat of the results of its investigation and any actions taken.

6.9. In the event ~~that~~, while an ROP observer is on board a fishing vessel, the flag a CCM identifies uncovers a possible n alleged violation involving assault or harassment of the an ROP observer while on board a vessel flying its flag, when operating in the WCPF Convention Area, or if the flag CCM is notified by the Secretariat or another party of such an alleged a possible violation, the flag CCM shall notify the observer provider and the Secretariat, and the flag CCM shall investigate ~~any such the~~ event and take appropriate action in response to the results of the investigation. The flag CCM shall notify the observer provider and the Secretariat of the results of its investigation and any actions taken.

7.10. CCMs shall ensure that any observer providers associated with their national observer program:

- a. Notify the appropriate Maritime Rescue Coordination Centre, the flag ~~state~~State, and the Secretariat as soon as possible in the event ~~of the death of an~~that an ROP observer ~~dies, if an observer~~ is missing or presumed fallen overboard in the course of his or her duties;
- b. cooperate fully in any search and rescue operation;
- c. cooperate fully in any and all official investigations into any incident involving an ROP observer;
- d. where appropriate, facilitate the disembarkation and replacement of an ROP observer in a situation involving the serious illness or injury of that observer as soon as practicable;
- e. facilitate the disembarkation and replacement of an ROP observer, as soon as possible, in any situation involving the assault or harassment of that observer to such an extent that the observer wishes to be removed from the vessel;
- f. notify the flag ~~state~~CCM as soon as possible in the event that during debriefing or a review of observer reports an alleged violation involving an observer is identified; and
- g. provide the flag ~~state~~CCM with a copy of the observer report in every event that involves an alleged violation involving an ROP observer.

11. CCMs shall ensure that any authorized High Seas Boarding and Inspection vessels flying their flag cooperate ~~in the course of a high seas boarding and inspection patrol~~, to the greatest extent possible, in any search and rescue operation involving an ~~WCPFC Regional Observer Programme authorized~~ROP observer. CCMs shall also encourage any other vessels flying their flag to participate, to the greatest extent possible, in any search and rescue operations involving an ROP observer.

12. Nothing in this measure will prejudice the rights of coastal States to enforce their laws with respect to the safety of vessel observers.

8.13. The Technical and Compliance Committee and the Commission will review this conservation and management measure no later than 2019 and periodically thereafter.