COMMISSION
NINTH REGULAR SESSION
Manila, Philippines
2-6 December 2012

Association for Professional Observers (APO) Position Paper to WCPFC9

WCPFC9-2012-OP03
21 November 2012

P.O. Box 933
Eugene, Oregon 97440
United States
Tel: (541) 344-5503
Web: www.apo-observers.org
E-mail: apo@apo-observers.org

Association for Professional Observers (APO) Position Paper
Western and Central Pacific Fisheries Commission
Regional Observer Programme (ROP)
Manila, Philippines – 2-6 December 2012

Introduction

The Association for Professional Observers (APO) would like to thank the Western and Central Pacific Fisheries Commission (WCPFC) for the opportunity to address the 9th Regular Session of the WCPFC regarding the role of observers and some of the issues involving the Regional Observer Programme in the Western Central Pacific Ocean (WCPO). The APO is an international, non-profit, non-governmental organization with the mission to strengthen observer programmes through advocacy and education. Our goal is to provide a comprehensive source of information for observers, and the public, on issues related to fishery observer programmes. We also strive to facilitate the exchange of fisheries information while providing an important source of information regarding fisheries observer programme components and use of fisheries observer data. It is our intention that the results of our activities may encourage the recruitment and retention of professional observers and foster the best quality observer data for the purposes of conservation and the responsible management of marine living resources.

Globally, fisheries observer programmes continue to lack the human capital, organizational, relational and financial resources needed to ensure adequate data quality, objectivity, and data integrity.[i] APO emphatically agrees with the recent assessment of the WCPFC that observer programmes cannot operate successfully unless they have good practical administrative support, sufficient staff, and properly financed programmes.[ii] Information collected as part of an appropriate observer programme is critically important to the proper management of a fishery.

Observers play an indispensable role in monitoring and enforcing very important aspects of the WCPO tuna fisheries. The APO is pleased to see the current interest in development and expansion of the existing Regional Observer Programme (ROP), but sees certain areas that could be substantially improved. Thus, observer coverage must be considered a priority at the WCPFC and greater support must be provided to ensure that the capacity of the ROP is strengthened. As the largest observer programme with more than 600 observers, the WCPFC ROP must be persistent and vigilant at maintaining, developing, and enhancing its observer programme in order to ensure a high degree of integrity and reliability necessary for a fully functional fisheries management system.

APO possesses extensive knowledge and background in some of the most technically sophisticated observer programmes as well as some of the smaller, less sophisticated programmes around the world. We very much look forward to engaging with the WCPFC to assist in improving the ROP in the future.

APO would like to address 3 major issues of concern regarding the ROP at this meeting.

1. Improvements in Observer Health, Safety, and Welfare;
2. Fostering and Developing Observer Professionalism; and
3. The Appropriate Approach and Use of Electronic Monitoring (EM).

Discussion

Health, Safety, and Welfare

First and foremost, the APO remains very concerned regarding continued reports of threats, intimidation, harassment, and bribery of observers serving on vessels operating in the WCPFC Convention Area (CA).[iii] Observers must be allowed to collect unbiased scientific data aboard commercial fishing vessels, free from any kind of harassment, interference, and bribery. We are further disturbed by recent reports that have confirmed that some vessels legally allowed to fish in the WCPFC CA have engaged in human rights abuses toward crew employed on board those vessels.[iv] Additional documented[v] and anecdotal reports also cite instances that could represent human rights abuses toward crew and, potentially, observers. Most ominously, as recently as 2010, an observer serving in the WCPFC CA was tragically lost at sea in a suspected murder for which his activity as an observer allegedly provided the motive.[vi] To our best knowledge, the alleged perpetrators of this heinous crime were acquitted of all charges and released, resulting in a chilling effect on any other observers seeking to do their jobs. These represent serious threats to the health, safety, and welfare of observers that must be met with the greatest sense of urgency.

APO acknowledges that the WCPFC has attempted to address some observer health, safety, and welfare issues, such as through an effort to maintain minimum safety standards under the Vessel Safety Checklist[vii] and Certificate and Secretariat of the Pacific Community Offshore Fisheries Programme (SPC-OFP) Safety at Sea programmes.[viii] While we view this as a positive step, we understand that despite these measures the WCPFC continues to receive complaints from observers regarding

the lack of appropriate safety equipment on board vessels.[ix] More attention must also be given to the general welfare of observers on board vessels beyond just their basic safety. It is imperative that observers are not only provided with the best tools for doing their jobs but are also provided an environment where they are capable of performing their official duties safely and free from interference. To facilitate the collection of secure, accurate, and reliable data from the fisheries, observers must have, and be well informed of, well-established rights and protections.

The APO also joins the World Wide Fund for Nature (WWF) in support of stronger procedural measures to ensure the protection of observers working in the WCPO. When a vessel operator, owner, fish master, crewmember, or anyone else interferes with the official duties of an observer, they directly obstruct the collection of scientific data that will ultimately decide the sustainable management of their fishery. APO agrees with WWF that interference with an observer directly results in unreported data subject to sanctions under the UN FAO standards for Illegal, Unreported, and Unregulated (IUU) fishing.[x] Therefore, the APO joins WWF in urging not only that the WCPFC put in place discrete provisions to protect observers from interference, but also implement a well-defined and transparent administrative review procedure that ensures protection through an administrative process. Lastly, the APO also believes that any violation against an observer that is confirmed through the proposed administrative review should result in the offending vessel being placed on the IUU list.[xi]

Therefore, the APO strongly recommends establishing the following measures to address the serious concerns regarding observer health, safety and welfare:

1. **Develop and Implement an Observer Bill of Rights to be approved and agreed by the WCPFC and applicable to all observer programmes throughout the WCPFC CA;**[xii]
2. **Revise "Agreed Minimum Standards to the Regional Observer Programmes" to include roles and responsibilities of the Observer Provider to ensure the adherence of their observer employees to the Observer Code of Conduct and ensure the safety and welfare of the observer. This should include Observer Provider responsibility for ensuring travel and transportation arrangements to and from the vessel, accommodations and food allowances on and off the vessel, medical and life insurance (both on the vessel and in transit), and efficient treatment of any illness or injury. Observer Provider performance standards should be reviewed regularly and an implementation of a schedule of fines and/or sanctions for non-compliance be applicable throughout the WCPFC.**
3. **Develop and implement a strong set of Minimum Observer Health, Safety, and Welfare Standards to be applicable to all vessels operating throughout the WCPFC CA;**
4. **Develop guidelines, training and certification for captains and crew on WCPFC Conservation and Management Measures (CMMs) to ensure compliance with those measures;**

5. **Develop and implement a blacklist of captains or crew with a history of non-compliance, especially regarding issues of observer harassment, interference and assault;**
6. **Develop and implement a standardized administrative review system to address observer grievances that is empowered to impose sanctions and/or penalties on offending vessel owners, captains, masters, and/or crew, who engage in bribery, threats, intimidation, harassment or assault of any kind against an observer which would otherwise impede them from conducting their official duties; and**
7. **Implement a CMM stating that any finding from an administrative review that confirms an instance of bribery, threats, intimidation, harassment or assault of an observer constitutes an IUU violation resulting in the vessel on which the offense occurred being placed on the IUU list.**

Observer Professionalism

The APO continues to focus on Observer Professionalism issues through its projects, actions, and outputs in an effort to work towards ensuring the professional and equitable employment of observers. The APO would like to point out that many of the most successful fisheries professionals around the world got their start as observers, which offered them unparalleled experience in the fishing industry as well as biological research. Therefore, the APO strongly feels that Observer Professionalism should be fostered, in part, to help ensure a bright future for fisheries science and management. The APO believes that support for Observer Professionalism can involve many different aspects of observer employment, including, but not limited to:

- Trainings;
- Skills maintenance;
- Accessibility of resources and gear;
- Fairness of the standards and the delivery of employment;
- Emergency action planning;
- Enforcement strength and reliability;
- Avenues for feedback/evaluation delivery and reception;
- Professional advancement opportunities; and
- Any policy directives or actions that may affect the professional livelihood of an observer.

We encourage the further development of the observer training programmes in the WCPFC CA, with an additional emphasis on professional development. As part of the observer certification and training process, the APO recommends that the WCPFC advance the following themes in the training programmes under its authority:

- Observers are professionally supported regarding social discrimination or inequity (i.e. gender, race, ethnicity, class) during all stages of selection, training, and employment;
- Observers are professionally supported to be placed (at the location of their work – i.e. on a vessel) in an unbiased manner;
- Observers are remunerated in such a way as to not be financially dependent upon the vessel(s) or fishing industry they are tasked to monitor, which creates a clear conflict of interest;
- Observers are professionally supported against all conflicts of interest which may have an effect on how they perform their job;
- Observers are professionally supported to receive a competitive wage and benefit package (i.e. insurance separate from the vessels'), comparable to equivalent professions (with similar workloads, risks, and responsibilities) from within particular geographic regions of work;
- Observers are professionally supported during work contract negotiations;
- Observers, qualified and in good standing, are professionally supported to be retrained in the profession as their experience increases; and
- Observers are professionally supported to advance among their field.

The APO fully understands and appreciates the variations among the numerous national observer programmes in the WCPO. For instance, the issue of observer pay among states with different currencies and standards of living is complicated worldwide, but it is not irresolvable, and the WCPFC should seek existing and innovative solutions to those issues. Under any circumstance, the WCPFC bears an obligation to ensure that all observers are treated fairly and equitably in their service, reflecting the professional nature of their service and the importance of their role.

Therefore, the APO strongly recommends the WCPFC:

1. Develop and distribute a suite of well-defined Observer Professionalism Standards based on the themes and principles promoted by the APO to be implemented among all national observer programmes in the WCPFC CA.

Electronic Monitoring (EM)

The APO is dedicated to the interests of human observers. However, APO does recognize that EM can be used effectively under certain circumstances, depending on the goal of the observation and data collection programme. However, each application of EM must require a well-structured and analyzed design, comprehensive testing, and careful monitoring to ensure the technology is functioning as intended. It is also critical that resulting reports be regularly published in a transparent way. Even after over a decade of EM implementation in several fisheries, many questions and concerns regarding the technology remain unresolved or poorly analyzed including:

- What observer duties may be sacrificed or compromised by the implementation of EM as opposed to a human observer?

- How will issues of species identification be accounted for? EM is still typically poor at distinguishing species.
- How is data integrity maintained to ensure proper analysis and protections against unlawful tampering and what are the consequences for "technical failures"?
- How will the EM information be transferred to usable data?
- How is data shared and stored such that it ensures security while also offering access to stakeholders and transparency in the data used for fishery management decisions?

There are some things that EM simply cannot do, which require human observers such as otolith/scale/tooth sampling, length measurements, species identification, tissue/DNA sampling, fish tagging, tag recovery, sightings of suspected IUU boats, marine mammal/sea bird abundance, and environmental compliance monitoring. Furthermore, a camera cannot inform a captain or vessel master that an activity or proposed activity might result in them violating a law, leaving the camera to simply document the violation rather than potentially prevent the violation in the first place. EM can effectively supplement human observers in limited applications, but there will always be a need for human observers to perform their important scientific role in the collection of quality biological and fisheries data. Observer data and biological specimen collection generates a solid knowledge basis to enable member states to undertake conservation, management, and sustainable development of fisheries.

Thus, regarding Electronic Monitoring, the APO recommends the WCPFC:

1. **Carefully consider the implementation of EM in the fisheries within its jurisdiction; and**
2. **Conduct a comprehensive and transparent analysis of any proposed EM programme, ensuring that the purpose and need is clearly stated, the design is sound, and the targeted goal is consistent with the data needs conducive to proper conservation and management of the fishery.**

Conclusion

The APO would like to thank the WCPFC once again for the opportunity to address the WCPFC regarding the very important issues involving fisheries observers. As the vanguard of fisheries management through the science and service that they provide, observers must be provided the tools, environment, and treatment they deserve to ensure sustainable fisheries for our world. We would very much like to continue a dialogue with the WCPFC Secretariat, SPC, Forum Fisheries Agency, and any Members, Co-operating Non-Members, and Participating Territories of the WCPFC interested in improving their Observer Programmes. Please feel free to contact us.

Sincerely,

Elizabeth Mitchell, President
Association for Professional Observers

References

[i] International Fisheries Observer and Monitoring Conference. http://www.ifomc.com/

[ii] WCPFC Technical and Compliance Committee. (2011). Addressing Vessel Master and Observer Complaints to Enhance the Efficiency of the ROP. WCPFC-TCC7-2011/15 Rev 1. 16 September 2011, WCPFC-TCC, Koror, PALAU, 5-9 December 2011. p.1. http://www.wcpfc.int/node/3980

[iii] *Id* at 36. http://www.wcpfc.int/node/3980

[iv]: Stringer, C., Simmons, G., Coulston, D., "Not in New Zealand's waters, surely? Labour and human rights abuses aboard foreign fishing vessels." Working paper No 11-01, Auckland Business School, University of Auckland, New Zealand, September 2011. http://www.ungift.org/doc/knowledgehub/resource-centre/Stringer_et_al_2011_-_Not_in_NZs_waters_Working_Final.pdf

[v] *See* "Fisherman Guilty of Killing Chief Engineer", Fiji Times, April 23, 2012 (Crew reportedly forced to only eat bait.) http://www.fijitimes.com/story.aspx?id=199241

[vi] *See* Association of Professional Observers, "Charlie Lasisi - March 29th, 2010; F/V Dolores 838, Bismarck Sea. Charlie was an observer with the National Fisheries Authority of Papua New Guinea. He was allegedly murdered by six Filipino crew, the body was never recovered, the 6 Filipino crew are now free men with the charges against them been dismissed." http://www.apo-observers.org/misses

[vii] WCPFC. WCPFC ROP Vessel Safety Check Form. http://www.wcpfc.int/doc/wcpfc-rop-vessel-safety-check-form

[viii] SPC. PIRFO Certification and Training Standards. http://www.spc.int/OceanFish/en/certification-and-training-standards

[ix] WCPFC Technical and Compliance Committee. (2012). ROP - TAG Report to TCC8. WCPFC-TCC8-2012-14-ROP-TAG-Report-TCC8. WCPFC-TCC. 23 September 2012, Pohnpei, Federated States of Micronesia, 27 September - 3 October 2012. p.13. http://www.wcpfc.int/doc/WCPFC-TCC8-2012-14/ROP-TAG-Report-TCC8

[x] FAO. © 2010-2012. International Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing - Web site. International Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing. FI Institutional Websites. In: FAO Fisheries and Aquaculture Department [online]. Rome. Updated . [Cited 7 November 2012]. http://www.fao.org/fishery/ipoa-iuu/en.

[xi] FAO. International Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated fishing. Rome, FAO. 2001. 24p (II.3.2 Unreported fishing refers to fishing activities: (1) which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or (2) undertaken in the area of competence of a relevant regional fisheries management organization which have not been reported or have been misreported, in contravention of the reporting procedures of that organization. http://www.fao.org/docrep/003/y1224E/Y1224E00.HTM

[xii] *See* Draft Observer Bill of Rights, 2nd International Fisheries Observer and Monitoring Conference (IFOMC), St. John's, Newfoundland, Canada, June 2000, as modified for the 5th IFOMC Proceedings (2007). http://apo-observers.org/docs/ObserverBillofRights.pdf