

**6th Meeting of the Commission
Lima, Peru, 30 January to 3 February 2018**

**COMM6-Report Annex 7f: CMM 16-2018 (Observer Programme)
(COMM6-Prop02, Revision 6, Adopted 19:00, 3 February 2018)**

CMM 16-2018

**Conservation and Management Measure for
the SPRFMO Observer Programme**

The Commission of the South Pacific Regional Fisheries Management Organisation,

RECOGNISING the United Nations General Assembly Sustainable Fisheries Resolution 71/123, that encourages the development of observer programmes by Regional Fisheries Management Organisations and arrangements to improve data collection;

RECALLING that Article 28 of the Convention calls for the establishment of an observer programme to collect verified catch and effort data, other scientific data and additional information related to the fishing activity and its impacts on the marine environment;

NOTING that Article 28 sets out the functions of the observer programme and that the observer programme shall be coordinated by the Secretariat of the Commission in a flexible manner to take account of the nature of the fisheries resources and other relevant factors;

NOTING that the primary function of observers onboard fishing vessels is the collection of scientific information and that observers are not enforcement officials but that Article 28 specifies that the information collected by the observer programme shall, as appropriate, also be used to support the functions of the Commission and its subsidiary bodies, including the Compliance and Technical Committee;

ACKNOWLEDGING that high quality data is essential for the Commission to adopt effective and timely conservation and management measures (CMMs);

DETERMINED to ensure the collection of data that can be used for effective assessment and management of SPRFMO fisheries resources, including both target species and bycatch, and interaction of fishing activities with the environment and species occurring in the SPRFMO area, to improve the certainty of future scientific advice while taking into account ecosystem considerations;

RECOGNISING the international nature of the fishing activity and management of SPRFMO species and the consequent need to deploy well-trained and accredited observers to safeguard the collection of the relevant data, in terms of its consistency, quality and impartiality;

RECOGNISING the nature of the observer's work at sea and that the collection of information needs to be coupled with safe conditions for observers while on board.

RECOGNISING that observer programmes are used at both the national and Regional Fisheries Management Organization (RFMO) levels for the purpose of collecting scientific and environmental data and that coordination with these programmes shall be pursued to the maximum extent possible;

ACKNOWLEDGING that electronic monitoring systems, study fleets and self-sampling have been successfully tested in some fisheries and that the Commission, with the advice of the Scientific Committee, could explore minimum standards for their implementation, as practical and appropriate;

ADOPTS the following CMM in accordance with Articles 8 and 28 of the Convention:

SCOPE

1. The SPRFMO Observer Programme (SPRFMO OP) shall apply to fishing vessels flying the flag of a Member or CNCP and fishing for fisheries resources in the Convention Area for which a minimum level of observer coverage applies in the CMMs in force.
2. The SPRFMO OP shall utilise independent and impartial observers sourced from national observer programmes or service providers accredited by the Commission, for the collection of the information specified in Paragraph 24 of this CMM. The SPRFMO OP, without compromising the quality and confidentiality of the collected information, shall share information with other regional and national observer programmes, as appropriate.
3. The Commission, based on the advice of the Scientific Committee (SC), may explore and, where feasible, implement other means of collecting data and information. This can include using other means of collecting data in conjunction with human observers.
4. Consistent with Article 28(1) of the Convention, the SPRFMO OP shall be coordinated by the Secretariat of the Commission and operated in accordance with the standards, rules and procedures detailed in this CMM and its annexes.
5. Members and CNCPs shall only use national observer programmes or service providers accredited in accordance with the minimum standards for accreditation detailed in Annex A for fishing vessels flying their flag operating in the Convention Area.
6. In accordance with this paragraph, each Member and CNCP has the ability to choose particular observers, providing the observer is sourced from an accredited national observer programme or service provider. Observers from the national observer programme of a Member or CNCP shall only be made available for use on vessels flagged to another Member or CNCP with the consent of both Members or CNCPs involved. Individual observers may refuse to participate on a particular fishing vessel covered by this CMM and must clearly document the reason for refusal.

LEVELS OF COVERAGE

7. Members and CNCPs shall ensure that all applicable fishing vessels flying their flag carry observers from a national observer programme or service provider accredited under the SPRFMO OP to meet the minimum level of observer coverage consistent with the CMMs in force while operating in the Convention Area and follow the requirements established in the annexes of this CMM.
8. For fisheries where 100 percent observer coverage is not in effect, Members and CNCPs shall ensure that method of observer coverage is representative of the fishery, subject to practical constraints relating to Members and CNCPs with a small number of vessels or trips.
9. Members and CNCPs are encouraged to document the method used for the observer placements on fishing vessels flying their flag and provide this information in its annual report to the SC. The SC shall review the method used by each Member or CNCP and provide recommendations for improvement, as needed.

ACCREDITATION

10. The Commission shall develop the minimum standards for accreditation by national observer programmes or service providers.
11. By 1 September 2019, Members and CNCPs shall provide the SPRFMO Secretariat with the name and contact details of the national observer programme or service provider coordinator and send an official letter requesting accreditation under the SPRFMO OP of any national observer programme or service provider they wish to nominate for accreditation.
12. All national observer programmes or service providers that have been nominated for accreditation by 1 September 2019 may be used to meet existing observer coverage

requirements for a period of two years after nomination or until receiving accreditation, unless otherwise decided by the Commission.

13. A Member or CNCP may nominate additional national observer programmes or service providers for accreditation by submitting the information required in Paragraph 11. However, national observer programmes or service providers nominated after 1 September 2019 may not be used to meet observer coverage requirements until receiving accreditation.
14. *COMMENT by Secretariat: Placeholder to preserve references to subsequent paragraphs – awaiting technical editing*
15. After accreditation is received under the processes described in Paragraph 11, Paragraph 13, [~~or Paragraph 14~~], each national observer programme or service provider shall be evaluated for continued participation in the SPRFMO OP every five years, for compliance with the standards contained in Annex A and the performance by the national observer programmes or service providers in ensuring the implementation of the procedures established in Annexes B and C.
16. *COMMENT by Secretariat: Placeholder to preserve references to subsequent paragraphs – awaiting technical editing*
17. Members and CNCPs shall ensure that accredited national observer programme or service provider operations are conducted by independent and impartial observers. This means that both the national observer programme or service provider and individual observers may have no direct financial interest, ownership or business links with vessels, processors, agents and retailers involved in the catching, taking, harvesting, transporting, processing or selling of fish or fish product. In particular, Members and CNCPs shall ensure that the programme, provider, and observers:
 - a) may not have a direct financial interest, other than the provision of observer services, in the fishery under the purview of the Commission, including, but not limited to: i) any ownership, mortgage holder, or other secured interest in a vessel or processor involved in the catching, taking, harvesting or processing of fish; ii) any business selling supplies or services to any vessel or processor in the fishery; iii) any business purchasing raw or processed products from any vessel or processor in the fishery;
 - b) may not solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, inordinate accommodation, loan or anything of monetary value from anyone who either conducts activities that are regulated by a Member or CNCP connected with its services or the Commission, or has interests that may be substantially affected by the performance or nonperformance of the observer's official duties;
 - c) may not serve as an observer on any vessel or at any processors owned or operated by a person who previously employed the observer in another capacity within the last three years (e.g., as a crew member); and,
 - d) may not solicit or accept employment as a crew member or an employee of a vessel or processor while employed by an observer provider.
18. The Chairperson of the Commission shall develop a proposal detailing procedures for carrying out the accreditation process in consultation with Members and the Scientific Committee, as appropriate. The SC shall review this proposal at its 2018 meeting and provide relevant advice to the Chairperson of the Commission. A revised proposal will be presented by the Chairperson of the Commission to the 2019 SPRFMO Annual Meeting.
19. *COMMENT by Secretariat: Placeholder to preserve references to subsequent paragraphs – awaiting technical editing*
20. After a successful evaluation, the Secretariat shall provide a letter of accreditation to the nominating member or CNCP and the national observer programme or service provider. The Secretariat will include a listing of all national observer programmes or service

providers accredited in the SPRFMO OP in the annual “Observer Programme Implementation Report” described in Paragraph 28.

STANDARDS FOR OBSERVERS, VESSEL OPERATORS AND CREW

21. Members and CNCPs shall ensure that observers on vessels flying their flag are not unduly obstructed in the execution of their duties unless there is a safety issue that requires intervention.
22. Members and CNCPs shall ensure that observers on a vessel flying their flag comply with the standards for accreditation once developed by the Commission and perform their duties in a manner that does not unduly interfere with the operations of the vessel and while carrying out their functions, giving due consideration to the operational requirements of the vessel and communicating regularly with the captain or master of the vessel.
23. *COMMENT by Secretariat: Placeholder to preserve references to subsequent paragraphs – awaiting technical editing*

DATA COLLECTION

24. Members and CNCPs shall ensure their observers collect and provide the information specified in Annex 7 of CMM 02-YR (Data Standards) in the manner set forth in that CMM and shall also provide relevant observer information required under any other CMM.
25. Members and CNCPs shall ensure that data collected by their observers for the SPRFMO OP undergo a data validation process before submission to the Secretariat, which will be reviewed by the Commission as part of the SPRFMO OP accreditation and review process.
26. Nothing in this CMM shall prevent flag States from taking additional measures compatible with this measure in relation to data collection.

REPORTING

27. Members and CNCPs shall include a brief overview of the national observer programmes or service providers covering its fisheries as a component of the Annual Reports submitted by Members and CNCPs to the SC and developed in accordance with the “Guidelines for Annual Reports to the SPRFMO Scientific Committee”.
28. The Secretariat shall prepare a report, “The Observer Programme Implementation Report,” using information from Annual Reports, observer data, and all other suitably documented relevant information, on the implementation of the SPRFMO OP for presentation at each annual meeting of the CTC that shall be distributed to members and CNCPs 30 days prior to each meeting, including but not limited to: (1) information on problems that have been encountered; (2) recommendations for improving current standards and practices; (3) developments in observer and observational methods; and (4) constraints to implementation/accreditation/objectives.
29. The CTC shall review the recommendations produced by the Secretariat’s implementation report and provide advice to the Commission thereon, including in relation to any proposed actions to be taken.
30. The Secretariat shall make available the most recent year’s observer data holdings to the SC, at its request, to ensure that the best scientific information is available. Data confidentiality shall be maintained as set forth in procedures specified in Paragraph 7 of CMM 02-YR and in any other data confidentiality procedures that may be adopted by the Commission.

REVIEW

31. The CTC shall review the implementation of this measure at least every five years, including the development of additional observer safety requirements.

32. The SC shall periodically review and provide advice on the appropriate level of observer coverage deemed to meet priority objectives set out by the Commission. Should the SC indicate that a change in coverage for specific fisheries is needed, the revised coverage levels, if adopted by the Commission, will be specified in the relevant fishery CMMs.
33. The SC shall explore other means of collecting data and information which may contribute to increase the coverage of a given observer programme.

ENTRY INTO FORCE

34. This CMM shall enter into force 90 days after the conclusion of the Commission's 2019 Annual Meeting.