

November 6, 2013

Professor Glenn Hurry  
Executive Director  
Western and Central Pacific Fisheries Commission  
Kaselehlie Street PO Box 2356  
Kolonias, Pohnpei State, 96941, Federated States of Micronesia

Dear Professor Hurry:

This letter is submitted on behalf of several of the non-governmental organizations that participate in the Western and Central Pacific Fisheries Commission (WCPFC) process as accredited observers. We are writing to bring to the attention of the Commission our views on what we see as a disturbing trend regarding the level of transparency and openness in WCPFC meetings and information sharing.

With respect to meetings, the WCPFC is more often following the practice of having closed sessions for discussions that exclude observer representatives. Regarding information and documents, we note with concern that an increasing number of documents and other information is posted only on the secure side of the WCPFC website, including information about upcoming meetings or working groups. In addition, draft meeting reports are circulated only to CCMs and not accredited observers that attended and contributed to the meetings, such as the recent TCC9 meeting. We believe that much of this information is unnecessarily limited in its distribution and too many discussions are inappropriately designated as confidential.

The WCPF Convention is one of the most modern of regional fisheries management treaties, and during its negotiation a significant effort was made to ensure the text incorporated the principles and norms set by the UN Straddling and Highly Migratory Fish Stocks Agreement (article 12). During the Multilateral High Level Conference and Preparatory Conferences, the transparency provisions of Article 21 and rule 36 of the Commission's Rules and Procedures were difficult to negotiate, but the resulting texts in the Convention and the Rules set a high standard for transparency among tuna RFMOs. This was a noteworthy achievement. As a result, the Commission is in a good position to demonstrate a high degree of openness.

However, in our view the practice of the Commission has not lived up to this high standard. And more concerning is that over the last several years, we have seen an erosion of transparency in the WCPFC. The Commission has, increasingly, seriously considered or held closed sessions for working groups that we strongly believe should have been open. At the 9<sup>th</sup> Technical and Compliance Committee (TCC) meeting, observers were excluded from almost half of the meeting due to the Compliance Monitoring Review being held in closed sessions. In fact, all of the compliance discussions in the WCPFC to date have been held in closed sessions. We understand and respect the need to maintain a secure provisional discussion of potentially sensitive issues, or in the consideration of data or reports that might be considered non-public

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domain information pursuant to the Commission's rules on data access. However, the Commission's Rules and Procedures on closed sessions (rule 15) states that the meetings of the Commission and its subsidiary bodies shall be open unless the Commission or the subsidiary body concerned decides *that exceptional circumstances require that meetings be held in closed session* (emphasis added). Further, we note that the 2007 data rules classify the Part 2 annual reports on compliance as low risk and yet the Commission keeps these reports confidential.

Again, we understand that certain negotiations and Heads of Delegation meetings need to be closed. However, we believe that accredited observer NGOs should be allowed to attend other Commission meetings and working groups. If deemed necessary, procedures could be developed to ensure that certain matters discussed in such meetings not be made public, which is the practice in some other tuna RFMOs.

We believe it is important to consider the transparency issues in the context of the practices of other RFMOs. The fact is that the WCPFC's use of closed sessions for discussion of CCM compliance with WCPFC obligations and conservation and management measures, and the lack of any detailed reports by WCPFC on the level of compliance, is not consistent with international best practices for RFMOs. Indeed, the Indian Ocean Tuna Commission (IOTC), the International Commission for the Conservation of Atlantic Tunas (ICCAT), the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) and Inter-American Tropical Tuna Commission (IATTC) all allow accredited observers to attend the compliance committees in their respective regions and make materials under discussion such as compliance reports publically available ahead of these sessions. We believe that the WCPFC should adhere to a standard at least commensurate with its sister organizations and consistent with international best practices and standards.

The WCPFC must maintain open and transparent procedures and operations to ensure the credibility and integrity of the process. Closed sessions, posting of information on the secure side of the WCPFC website, and limiting distribution of draft meeting reports to only CCMs should only be employed when there is a clearly defined need to ensure the confidentiality or security of information discussed in accordance with agreed rules and procedures. Moreover, closed sessions should be the rare exception, not the rule. Therefore, we respectfully request that the WCPFC Commission urgently reevaluate its policies and criteria for what information will be posted on the secure side of the WCPFC website or have limited circulation, as well as to make more transparent the compliance review process and ensure that other working group sessions are open to observers.

We kindly request your urgent attention to this very important issue.

Very Respectfully,

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