



**TECHNICAL AND COMPLIANCE COMMITTEE**

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**CMS-IWG PAPER IN RESPONSE TO TCC17 RECOMMENDATION ON WCPFC DATA  
RULES**

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**WCPFC-TCC18-2022-12**

**19 August 2022**

**Paper by the CMS-IWG Chair/TCC Vice-Chair & Secretariat**

## Introduction

1. In 2021, the Commission adopted a revised Conservation and Management Measure for a Compliance Monitoring Scheme (CMS) (CMM 2021-03), which included the following amendment:

*b) TCC18 shall focus on completing the development of audit points, a risk-based assessment framework **and the development of guidelines for observer participation in the CMS** and provide recommendations to WCPFC19 to support WCPFC19's adoption of these work areas.*

2. At TCC17, during discussions related to the ongoing work of the CMS Intersessional Working Group (CMS-IWG) to progress future work on the CMS, TCC made the following recommendation (TCC17 Summary Report, para. 115):

*115. TCC recommended that the CMS-IWG, with assistance from the Secretariat, develops intersessionally a working paper aiming at: i) clarifying the nature of the information and data that populate the excel file supporting the dCMR, based on the WCPFC Rules for protection, access and dissemination of data held by the Commission, ii) identifying instances (categories in this excel file that supports the dCMR) that are likely to include data that could be in breach of such rules and iii) formulating suggestions for addressing the risk of unintended release of non public domain data during the dCMR process.*

3. This recommendation relates to the following task in the CMS future workplan (CMM 2021-03, para. 46)

*(v) the development of the guidelines for participation of observers in closed meetings of the Commission and its subsidiary bodies which consider the Compliance Monitoring Report.*

4. The CMS IWG Chair, in consultation with the Secretariat, provides the following information for consideration by TCC18 in response to these tasks. The paper is structured as follows:
  - Background and Scope of the CMR 2011 – 2021
  - WCPFC Data Rules in Relation to Information included in the Compliance Monitoring Report (CMR)
  - Considering the nature of information and data currently presented in the dCMR
  - Considering the nature of information and data presented in the Aggregate Tables drawn from the online Compliance Case File System
  - Public and Non-Public Domain Data in the dCMR
  - Further Thoughts and Considerations
  - Suggestions for Addressing the Risk of Unintended Release of Non-Public Domain Data during the CMR Review Process
  - Recommendation

## Background and Scope of the CMR 2011 - 2021

5. One of the key inputs to the CMS since its implementation has been the Draft Compliance Monitoring Report (dCMR), which the Secretariat is tasked to prepare and issue each year in advance of TCC. In the early years of CMS implementation (2011 -2013), the scope of the dCMR was a compilation of information received through Part 1 and 2 Annual Reports, other reporting obligations, the transshipment program, the regional observer program, the Vessel Monitoring System, and any other data collection programs of the Commission.

6. Since 2019, the scope of the dCMR has been as follows:

*22. Prior to the annual meeting of the TCC, the Executive Director shall prepare a Draft Compliance Monitoring Report (the Draft Report) that consists of individual draft Compliance Monitoring Reports (dCMRs) concerning each CCM and a section concerning collective obligations arising from the Convention or CMMs related to fishing activities managed under the Convention.*

*3. Each dCMR shall reflect information relating to the relevant CCM's implementation of obligations as identified under paragraph 6 as well as any potential compliance issues, where appropriate. Such information shall be sourced from reports submitted by CCMs as required in CMMs and other Commission obligations, such as:*

*i. information available to the Commission through data collection programmes, including but not limited to, high seas transshipment reports, Regional Observer Programme data and information, Vessel Monitoring System information, High Seas Boarding and Inspection Scheme reports, and charter notifications;*

*ii. information contained in an Annual Report which is not available through other means; and*

*iii. where appropriate, any additional suitably documented information regarding compliance during the previous calendar year.*

*24. The Draft Report shall present all available information relating to each CCM's implementation of obligations for compliance review by TCC.*

7. Each year the TCC reviews the dCMR in order to develop the Provisional CMR (CMM 2021-03 paragraphs 32 – 39), which includes the following information:

- an executive summary,
- tables including summaries of aggregated data from the Compliance Case File System (CCFS) (based on Annex 3 of CMM 2021-03),
- recommendations and observations from TCC regarding CMMs or obligations that should be revised, capacity building assistance or other obstacles to implementation, and risk-based assessment of priority obligations, and
- a compliance status with respect to all applicable individual obligations as well as recommendations for any corrective actions(s) needed by the CCM or action(s) to be

taken by the Commission, based on potential compliance issues it has identified for that CCM and using the criteria set out in Annex I of CMM 2021-03.

8. In accordance with paragraph 42 of CMM 2021-03, the Commission considers the Provisional CMR recommended by TCC, and adopts a Final CMR. Paragraph 44 of CMM 2021-03 specifies that the Final CMR “*shall include a Compliance Status for each CCM against each assessed obligation and any corrective action needed, and also contain an executive summary setting out any recommendations or observations from the Commission regarding the issues listed in paragraph 38 of this measure, and include tables of aggregated data relating to the information provided in paragraph 10, as referenced in paragraph 38.*”

### **WCPFC Data Rules in Relation to Information included in the CMR**

9. The WCPFC Rules and Procedures for the Protection, Access to, and Dissemination of Data Compiled by the Commission (Data Rules) define non-public domain data in paragraphs 9, 10, 11 & 14, as follows:

*14. Subject to the decisions of the Commission, all types of data not described in paragraph 11 shall be referred to as Non-Public Domain data.*

*11. Except for data as described in Paragraphs 9 and 10, the types of data listed in Appendix 1 have been designated to be Public Domain data.*

*9. Data in the public domain shall not reveal the individual activities of any vessel, company or person and shall not contain private information. Catch and Effort data in the public domain shall be made up of observations from a minimum of three vessels.*

*10. Annual catch estimates and aggregated catch and effort data that can be used to identify the activities of any vessel, company or person are not in the public domain.*

10. The Data Rules also provide the following additional information to define non-public domain data (para. 15):

*15. A list of examples of Non-Public Domain data can be found in Appendix 2.*

11. Appendix 2 of the Data Rules specifies that “*Part 2 of the Annual Report to the Commission by CCMs*” (Annual Report Part 2 or AR2) should be considered non-public domain data. Appendix 1 of the Data Rules specifies that “*Part 1 of the Annual Report to the Commission by CCMs*” (Annual Report Part 1 or AR1) should be considered public domain data.

12. The Data Rules also classify data according to the risk of damage to the operations or credibility of the Commission as a consequence of its unauthorized disclosure and specify that data security controls implemented by the Commission should reflect those classifications. Data is classified as “High”, “Medium”, “Low”, or “Lowest”. The AR2 classification is “Low”, meaning that there is a low risk of damage to the operations or credibility of the Commission in the event of unauthorized disclosure of information from the AR2. The AR1 classification is “Lowest”.

13. CMM 2021-03 incorporates the Data Rules as follows (para. 8):

*8. The preparation, distribution and discussion of compliance information pursuant to the CMS shall be in accordance with all relevant rules and procedures relating to the protection and dissemination of, and access to, public and non-public domain data and information compiled by the Commission. In this regard, Draft and Provisional Compliance Monitoring Reports shall constitute non-public domain data, and the Final Compliance Monitoring Report shall constitute public domain data.*

14. Paragraph 32 of CMM 2021-03 further specifies:

*(ii) In the development of the Provisional [Compliance] Report, TCC shall not assess compliance by individual vessels.*

### **Considering the nature of information and data currently presented in the dCMR**

15. The dCMR provides information relating to CCM implementation of obligations as well as any potential compliance issues. Paragraph 23 of CMM 2021-03 specifies that information in the dCMR shall be sourced from:

*Reports submitted by CCMs as required in CMMs and other Commission obligations, such as:*

*i information available to the Commission through data collection programmes, including but not limited to, high seas transshipment reports, Regional Observer Programme data and information, Vessel Monitoring System information, High Seas Boarding and Inspection Scheme reports, and charter notifications;*

*ii information contained in an Annual Report which is not available through other means; and*

*iii where appropriate, any additional suitably documented information regarding compliance during the previous calendar year.*

16. The breadth and depth of analysis undertaken by the Secretariat in preparation of dCMRs has incrementally expanded over time in response to the specified scope of the CMS as described in the relevant CMM on CMS. The information that is presently used by the Secretariat to populate the dCMR each year is drawn from a number of data and information sources, including:

- AR1,
- AR2,
- Annual Catch and Effort Estimate (ACE) Tables (<https://www.wcpfc.int/ace-by-fleet>),
- Commission databases and records, including data reported in accordance with individual CMM reporting obligations or other WCPFC decisions .

17. The specific databases and records that the Secretariat will draw from to develop the dCMR each year will depend on the approved list of obligations agreed by the Commission to be reviewed through the CMS. Table 1 below provides a list of databases and records that the Secretariat may potentially draw from to develop the dCMR each year.

**Table 1: Summary of WCPFC non-scientific data holdings that the Secretariat may potentially draw from to develop the dCMR each year<sup>1</sup>**

<b>Data Holdings</b>	<b>Relevant CMMs that required this data/data holding</b>
WCPFC Record of Fishing Vessels (RFV) data and associated fished and did not fish reports	CMM 2018-06 (or its earlier versions)
List of Chartered Vessels	CMM 2021-04 (or its earlier versions)
Non-public domain data requests and associated correspondence	2007 Data RaP and 2009 MCS Data RaP
VMS related:	
• WCPFC VMS	CMM 2014-02
• Vessel MTU Register	VMS SSPs
• VMS Manual Reporting	VMS SSPs
• MTU Audit Inspections list	VMS SSPs
• List of approved ALCs	VMS SSPs
• “flick the switch” notifications	CMM 2014-02 6c
HSBI related:	
• Register of Inspection Vessels	CMM 2006-08
• HSBI event reporting	CMM 2006-08
• Authorities of fishing vessels	CMM 2006-08
• Authorities of inspection vessels	CMM 2006-08
Compliance Monitoring Report online system	
• Annual Report Part 2 (2012 onwards)	Various CMMs
• Compliance Monitoring Report (2012 onwards)	Various CMMs that are reviewed in the CMR
• Annual reporting against CCM limits in CMMs (2000 onwards)	Various CMMs that are reviewed in the CMR

<sup>1</sup> The Table is drawn from the summary list of WCPFC non-scientific data holdings which are annually reported to the TCC in the Annual Report on the Administration of the WCPFC data access rules and procedures available from this link (<https://www.wcpfc.int/administration-wcpfc-data-access-rules-and-procedures>).

<b>Data Holdings</b>	<b>Relevant CMMs that required this data/data holding</b>
ROP related:	
<ul style="list-style-type: none"> <li>• ROP coverage reporting and associated updates</li> </ul>	CMM 2007-01 08 / CMM 2018-05 08
<ul style="list-style-type: none"> <li>• ROP observer programmes and contact points</li> </ul>	CMM 2007-01 / CMM 2018-05
<ul style="list-style-type: none"> <li>• List of WCPFC/IATTC cross endorsed observers</li> </ul>	CMM 2007-01/ CMM 2018-05
<ul style="list-style-type: none"> <li>• List of ROP observers</li> </ul>	CMM 2007-01/ CMM 2018-05
<ul style="list-style-type: none"> <li>• ROP Audit reports</li> </ul>	CMM 2007-01 / CMM 2018-05
<ul style="list-style-type: none"> <li>• ROP database</li> </ul>	CMM 2007-01/ CMM 2018-05
Other databases:	
<ul style="list-style-type: none"> <li>• High Seas purse seine catch discard reporting</li> </ul>	CMM 2009-02 12
<ul style="list-style-type: none"> <li>• High seas transshipment event reporting</li> </ul>	CMM 2009-06 35 a (iii) and 35 a (iv)
<ul style="list-style-type: none"> <li>• SMA Zone Entry/Exit – EHSP-SMA</li> </ul>	CMM 2010-02 (2011-2016)
<ul style="list-style-type: none"> <li>• SMA Zone Entry/Exit – HSP-1</li> </ul>	CMM 2021-01 Attachment 2 (or its earlier versions)
Contact details:	
<ul style="list-style-type: none"> <li>• Authorized MCS Entities and Personnel</li> </ul>	2009 MCS Data RaP
<ul style="list-style-type: none"> <li>• Official contacts</li> </ul>	
<ul style="list-style-type: none"> <li>• Science contacts</li> </ul>	
Required reporting under Port State Minimum Standards	CMM 2017-02
CMM Reporting: reports on implementation, notification of catch and/or effort limits for EEZs; reporting against catch and effort limits, reporting on technical specifications; submission of management plans, application of exemptions; notifications regarding choice of Commission rules in overlap area. Annual Catch and Effort Tables (ACE tables)	Various direct reporting to Secretariat as a result of CMM or other WCPFC decision requirements

18. Table 2 below provides the template that is used to present the dCMR to TCC and to capture TCC’s assessment. Information from the AR2 is used to populate the “CCM Assessment”

and “CCM Implementation” columns in the dCMR. The Secretariat completes the “Applicability Checked” and “Potential Issue” and “Secretariat Explanation”.

**Table 2: Updated template for RY2021 draft Compliance Monitoring Report (based on CMM 2021-03 and WCPFC11 agreed template (WCPFC11 Summary Report, Att. W)**

<b>CCM</b>	
<b>CMR Section</b>	<i>Based on CMM 2021-03 paragraph 7 and Annex I (Implementation; Quantitative Limits CCM-level and Collective; Report; Report Deadline)</i>
<b>CMM Paragraph</b>	<i>The list of CMM paragraphs as agreed by WCPFC18 (WCPFC18 Summary Report Attachment S)</i>
<b>CCM Assessment</b>	<i>CCM advice in Annual Report part 2: * YES (fully implemented), * NO (not fully implemented) *N/A (not applicable)</i>
<b>Applicability Checked</b>	<i>WCPFC Secretariat indication of expected applicability of a CMM paragraph choice of: * Applicable; *Not Applicable.</i>
<b>CCM Implementation</b>	<i>May include as appropriate:  CCM explanation from Annual Report Part 2</i>
<b>Potential Issue</b>	<i>choice of: *no issues detected; *additional information; *potential compliance issue.</i>
<b>Secretariat Explanation</b>	<i>text explanation as the basis for the identification of a potential issue by WCPFC Secretariat</i>
<b>CCM Additional Information</b>	<i>The equivalent of para 28 of CMM 21-03</i>
<b>Capacity Building Requested</b>	<i>The equivalent of para 27(iii) of CMM 21-03</i>
<b>Capacity Development Plan</b>	<i>Applicable if CCM submitted a reply to draft CMR under heading of “Capacity Development Plan” (CMM 21-03 para 14 and 15)</i>
<b>Potential Issue – TCC Assessment</b>	<b>To be completed by TCC based on the equivalent of Annex I in CMM 2021-03</b>
<b>TCC Explanation</b>	<b>To be completed by TCC (and will include notation about whether additional information may be provided up to 21 days after TCC (CMM 21-03 para 40)</b>

19. The Secretariat has understood from past TCC guidance during the consideration of the dCMR, and specifically from the language of paragraph 1 of CMM 2021-03, that the dCMR



should not present information that identifies the activities of individual vessels. As noted above, paragraph 32 of CMM 2021-03 also specifies, “*TCC shall not assess compliance by individual vessels.*” Consequently, the Secretariat will usually populate the “Secretariat Explanation” column with text that provides annual summaries of catch and/or effort data, or annual summary counts of reports received and identified reporting gaps. However, because information from the AR2 is used to populate the “CCM Assessment” and “CCM Implementation” columns in the dCMR, the dCMR itself is considered non-public domain data.

**Considering the nature of information and data presented in the Aggregate Tables drawn from the online Compliance Case File System**

20. In 2016, the Secretariat developed the Compliance Case Files System (CCFS) to serve as a secure online tool to organize and store information related to individual vessel level alleged infringements, specific species interactions or other potential issues relevant to each CCM, which includes data from Regional Observer Programme reports and from MCS operations such as High Seas Boarding and Inspection reports. The CCFS contains all pertinent vessel level information related to alleged infringements. A list of the types of cases included in the CCFS is provided in Table 3 (below)

**Table 3: List of CCM online Compliance Case File System types of cases**

<b>Types of CCFS cases</b>	<b>Relevant CMMs, WCPF Convention Obligations and Commission Decisions</b>
<ul style="list-style-type: none"> <li>• Article 25(2) compliance cases (2013 onwards)               <ul style="list-style-type: none"> <li>○ Eg HSBI outcomes, Aerial Surveillance or Port Inspection Outcomes.</li> </ul> </li> </ul>	Convention Article 25 and Article 23(5)
<ul style="list-style-type: none"> <li>• Alleged infringements based on ROP observer reported data</li> </ul>	
<ul style="list-style-type: none"> <li>○ FAD Set alleged infringements (2015 to current)</li> </ul>	CMM 2020-01 (2018-01 or its earlier versions)
<ul style="list-style-type: none"> <li>○ Observer Obstruction alleged infringements (2015 to current)</li> </ul>	CMM 2018-05 15 (g) (or its earlier version) and WCPFC12 para 569 Att U
<ul style="list-style-type: none"> <li>○ Shark-catch alleged infringements (2015 to current)</li> </ul>	CMM 2019-04 (2010-07, 2011-04, 2013-08, 2014-05 and CMM 2010-07 or its earlier versions)
<ul style="list-style-type: none"> <li>○ ROP Pre-notification issues (2016 to current)</li> </ul>	WCPFC12 para 569 Att U
<ul style="list-style-type: none"> <li>○ Marine Pollution (2019 to current)</li> </ul>	CMM 2017-04
<ul style="list-style-type: none"> <li>○ Cetacean and Whale Shark interactions (2016 to current)</li> </ul>	CMM 2011-03 and CMM 2019-04 (2012-04 or its earlier version)

21. In 2018, the Secretariat was tasked with preparing a paper for TCC, which provided a summary of the status of investigations of alleged infringements, and Flag CCM responses as contained in the CCFS. The paper sought to trial an approach to summarize the range of cases and information held by the Secretariat in the CCFS to inform CCMs. At that time, the trial summary was considered to be non-public domain data.
22. In December 2018, the Commission adopted a revised CMS measure (CMM 2018-07) which officially incorporated the CCFS and the development and review of the aggregated summary tables into the CMS:

#### ***Section IV – WCPFC Online Compliance Case file system***

*9. The Secretariat shall maintain the WCPFC online compliance case file system as a secure, searchable system to store, manage and make available information to assist CCMs with tracking alleged violations by their flagged vessels.*

23. CMM 2018-07 also incorporated specific requirements as to how the information in the CCFS is to be used in relation to the dCMR and integrated into the compliance review process (paragraph 26:

*26. The Executive Director shall draw from the online case file system and transmit to:*

*(i) each flag CCM, the infringement identification relating to alleged violations by its flagged vessels on the online system for the previous year, for that CCM to review with its dCMR. Relevant CCMs, as described in paragraph 12, shall also be provided this same information; and*

*(ii) all CCMs, aggregated information across all fleets based on the information reported by CCMs pursuant to paragraph 10, for the previous 5 years. The templates attached as Annex II will serve as the basis for the data fields that will be included. This will be used to provide an indicator of potential anomalies in the implementation of obligations by a CCM, with a view towards identifying implementation challenges for that CCM and identifying systemic failures to take flag state action in relation to alleged violations. This information shall be considered by TCC alongside the Draft Compliance Monitoring Report.*

24. Since 2019, the Secretariat has been tasked with compiling information from the CCFS into an aggregated summary report to be reviewed by TCC each year alongside the dCMR. A template for the report is provided in Annex 2 to CMM 2021-03. The report is an aggregated summary of information across all fleets; no vessel level information is included in the report.
25. In practice, the Secretariat has cautiously maintained the classification from the 2018 trial approach and the aggregate summary tables drawing from the CCFS have been considered non-public domain data. In part, this maintains consistency with the current non-public domain classification of the dCMR, because TCC is tasked to consider the summary tables alongside the dCMR. Annex 2 of CMM 2021-03 provides a template for the aggregated summary report to be reviewed by TCC each year alongside the dCMR, which includes information for individual CCMs. A more “summarized” form of the summary report for all

CCMs combined is provided in Annex 3 for inclusion in the provisional and final CMR. This approach has taken into consideration that the process for reviewing the aggregated information drawn from the CCFS is under development. TCC18 is expected to continue to discuss and provide advice and recommendations on the process for reviewing the aggregated information referred to in CMM 2021-03 paragraph 26(ii).

26. To date, TCC has not discussed how the Data Rules should apply to the aggregate summary tables being drawn from the CCFS, and specifically if either the CMM 2021-03 Annex 2 or Annex 3 versions should be considered public domain or non-public domain data. However, per the Data Rules, if the information in the summary tables is presented in aggregated form with no vessel level information specified, the data could be considered as public domain data.

**Public and Non-Public Domain Data in the dCMR**

27. Annex 1 of this paper provides an overview of the data used to populate the dCMR in 2020 and 2021. The overview provides information on the resources used to populate the dCMR as well as an indication of whether data in the dCMR is available publicly through sources other than the AR2 (e.g. AR1 or ACE Tables). For the purpose of this analysis, where data is available through public sources outside of the AR2, that data is considered public domain data. Table 4 below gives a brief summary of the information included in Annex 1.

**Table 4: Summary overview of the data used to populate the dCMR in 2020 and 2021**

<b>Limit Obligations</b>	
Non-Public	0%
Public	89%
Partial Public	11%
<b>Implementation Obligations</b>	
Non-Public	66%
Public	13%
Partial Public	21%
<b>Report Obligations</b>	
Non-Public	17%
Public	77%
Partial Public	7%
<b>Total</b>	
Non-Public	34%
Public	52%
Partial Public	14%

28. As indicated in Table 4, a majority of the information used to populate the dCMR in 2020 and 2021 is publicly available through other sources, and as such fits within the definition of public domain data. Almost all data related to quantitative limits is considered public domain data (89% available through public sources; 11% partially available through public sources). Most of the data in the dCMR related to implementation of obligations is sourced from CCM reports in the AR2, which means it is considered non-public domain data. However, it should be noted

that the national management plans, implementation acts, regulations and other binding legal mechanisms, which are reported in the AR2 for implementation obligations, are often publicly available through national websites and other sources. For some implementation obligations (e.g. 2019-04), some CCMs have also included specific information in their AR1, which is publicly available.

29. The following additional observations were made regarding the information presented in the dCMR in 2020 and 2021:
  - The information on implementation of obligations reported in the AR2 and presented in the dCMR does not reveal individual activities of any vessel, company, or person and does not contain private information;
  - The information on limit obligations reported in the AR2 and presented in the dCMR includes only aggregated catch and effort data. It does not identify activities of any vessel, company, or person; and
  - The information included in the dCMR regarding report obligations is simply a verification of whether information has been reported as required. It does not reveal individual activities of any vessel and it does not identify activities of any vessel, company, or person.
30. This suggests that if these data were not included in the AR2 they could otherwise be considered public domain, as defined in paragraphs 9-11 of the Data Rules.

### **Further Thoughts and Considerations**

31. When the Commission developed the Data Rules in 2007, it was with the expectation and understanding that the AR2 would continue to include information on individual vessel level violations and infringements pending investigation or prosecution. Some aspects of the Data Rules may no longer accurately reflect recent changes to the AR2 or to the broader CMS process. Development and implementation of the online CCFS has eliminated the necessity for CCMs to report information on vessel level alleged violations through responses in the AR2. That data is now streamlined through the CCFS.
32. Since the implementation of the CMS, the Secretariat has also sought to expand the scope of online published content, both public and non-public for CCM authorized users. In recent years, the Secretariat developed two online tools to support and assist flag CCMs with routinely checking the compliance of their flagged vessels with VMS and high seas transshipment reporting. These were:
  - *WCPFC VMS Reporting Status Tool (VRST)* - an automated system that provides flag CCMs with secure access to the VMS reporting status of their flag vessels registered as submitted by their CCM on the RFV. This information is made available via a secure reporting server and is only accessible by WCPFC website users that have been assigned either the VMS Viewer or VMS Editor permissions by the Party Administrator.
  - *WCPFC Transshipment Electronic Reporting system (TSER)* - an electronic online system for entry of Transshipment event reports. The WCPFC Compliance Manager

has provided the necessary authorized logins keys to authorized CCMs representatives who have expressed an interest in testing direct e-reporting of high seas transshipment notifications and declarations. Access is to both a TEST environment for members as well as the live TSER system.

33. In the limited instances where it is not already available through online tools, the Secretariat will provide each individual flag CCM through their individual CCM portal page on the secure section of the WCPFC website with more detailed supporting files for the dCMR, these currently include:
  - CMM 2014-02 9a and 9a VMS SSPs 2.8 - for their individual vessel WCPFC VMS reporting counts and identified gaps,
  - CMM 2009-06 35 a (iii) and 35 a (iv) - a list of high seas transshipment events with identified reporting gaps and deadline issues,
  - CMM 2020-01/2018-01 Att 2 03 - high seas pocket one entry and exit identified reporting gaps.
34. With the development of online tools such as the CCFS and the VMS and transshipment reporting tools listed above, it is no longer necessary for CCMs to include vessel level information in the AR2 or to review vessel level information during review of the dCMR. Review of that information now largely takes place during review of the aggregated summary tables, which focus on broader implementation issues for CCMs and any potential systemic failures rather than individual instances of non-compliance. While members do occasionally include vessel level information in the AR2 or their responses to the dCMR, that information could be summarized in aggregated form by the Secretariat prior to review of the dCMR during the TCC.
35. In recent years, TCC has supported the Secretariats recommendations to streamline AR2 reporting through changes to the AR2 online system allowing for national statements of implementation to be held on file but annually editable by relevant CCMs, pre-populating of some “not applicable” answers in AR2, encouraging CCMs when submitting statements of compliance with applicable quantitative limits to include any CMM required reports and delivering a shorter list of specific reports in AR2 for the reporting year. The submission of catch and effort data has also been further streamlined in recent years. Catch and effort data that had previously been submitted by CCMs through AR1 and AR2 is now publicly available on the WCPFC website through ACE Tables, which are based on scientific data submissions and included in the AR1. Additional information on interactions with species of special interest (e.g. sharks, seabirds, sea turtles) have also been made publicly available through the AR1. (ref: [TCC17-2021-10](#))
36. The Commission has agreed to include certain portions of the AR2 in the public domain. In December 2018 (WCPFC15), the Commission agreed to make CCM reports regarding implementation of CMM 2013-07 (or its successor), which are contained in AR2, public domain data. The Secretariat was tasked to include past and future reports on the Implementation of Article 30 webpage on the WCPFC website (WCPFC15 Summary Report paragraph 156). The said AR2 information can be found at the bottom of the page at this link: <https://www.wcpfc.int/implementation-article-30-convention>.

37. It should also be noted that the ongoing work to further improve the CMS process, particularly as it relates to the development of audit points, will continue to create clarity around the information reviewed during the compliance review process. The audit points will provide a benchmark for details to be provided in the AR2 and will clarify the assessment of existing obligations under the CMS. The audit points process will also further clarify the nature of information that is to be presented in the dCMR.

**Suggestions for Addressing the Risk of Unintended Release of Non-Public Domain Data during the Compliance Monitoring Report Review Process**

38. Since 2012, each year during TCC members have agreed that the Compliance Monitoring Report Review will be held in closed session, excluding the participation of observers, because of concerns related to the potential release of non-public domain data that may be included in the dCMR.
39. As some members may recall, at WCPFC13, the Commission agreed to develop and adopt guidelines to enable the participation of observers during closed meetings of the Commission and its subsidiary bodies (WCPFC13 Summary Report, para. 658). The United States volunteered to develop a set of draft guidelines and an associated draft confidentiality agreement to be signed by observer representatives to allow for their participation in closed sessions that consider the CMR. Members provided comments on early versions of the draft guidelines in advance of TCC13; however, were unable agree on adoption of the proposed guidelines, citing the need to first consider the final report from the Independent Panel to review the Compliance Monitoring Scheme (Independent Review Panel) before making a final decision on the adoption of guidelines.
40. The final recommendations from the Independent Review Panel were circulated in March 2018 (WCPFC Circular 2018-15) and included a recommendation to adopt a phased process for observers to participate in all CMS discussions (Final Report from the Independent Panel to review the Compliance Monitoring Scheme, para. 34). A task to “*develop guidelines for the participation of observers in closed meetings of the Commission and its subsidiary bodies that consider the compliance monitoring report*” has also been included as part of the multi-year workplan to improve the CMS, which was adopted in 2018 (CMM 2018-07). The Commission could consider picking up the previous work to develop and adopt guidelines and a confidentiality agreement to be signed by observer representatives to allow for their participation in closed sessions that consider the CMR.
41. However, as highlighted above, much of the data that has populated the dCMR in recent years is now publicly available outside of the AR2. Information that is available exclusively in the AR2 is almost entirely related to CCM implementation of obligations, which would otherwise be considered public domain data, as defined by the Data Rules. Given the recent changes to the CMS process and the streamlining of data provided in the AR2 and presented in the dCMR, the Commission may also consider the potential benefits of revising the Data Rules to more accurately reflect the current compliance monitoring report review process. When the Data Rules were adopted in 2007, the AR2 risk classification was considered to be “Low”, meaning that there is a low risk of damage to the operations or credibility of the Commission in the event of unauthorized disclosure of information. With the further exclusion of vessel level

data from the AR2, that classification could be further reduced, which may also alleviate the necessity to include the AR2 in Annex 2, therefore refining the definition of non-public domain data. The Commission could also consider maintaining the AR2 in Annex 2 of the Data Rules, but defining the dCMR itself as public domain data by including it in Annex 1 of the Data Rules, with the requirement that no vessel level data be included.

### **Recommendation**

42. TCC18 is invited to consider the information and suggestions presented in this paper and provide recommendations to WCPFC19 regarding the participation of observers in closed meetings of the Commission and its subsidiary bodies which consider the CMR.
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