



TECHNICAL AND COMPLIANCE COMMITTEE

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COMPLIANCE MONITORING SCHEME AGGREGATE TABLES – DISCUSSION PAPER

WCPFC-TCC18-2022-13

15 September 2022

Paper by the TCC Chair

Aggregate Tables – Discussion Paper

Section 1 – Review of Tasking

1. The requirement for the development of aggregated summary tables of information drawn from the WCPFC online compliance case file system (CCFS) and for this information to be considered alongside the Draft Compliance Monitoring Report was established in CMM 2019-06, as follows:

26. At the same time, the Executive Director shall draw from the online case file system and transmit to:

(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.

2. Noting the challenges associated with virtual meetings, TCC16 in 2020 did not review the aggregated tables (though the tables were prepared by the Secretariat). Instead, the TCC Chair was tasked to develop a proposed process for reviewing the tables at TCC17 (2021). A trial review of the aggregated tables was undertaken at TCC17 (outlined in Section 2 below).

3. WCPFC18 agreed that CMM 2019-06 would continue in force for two years (CMM 2021-03), however the Compliance Monitoring Report (CMR) assessment review process, including the review of the aggregated tables would be deferred in 2022 to allow TCC to dedicate time to the ongoing CMS Future Work components (WCPFC18 Summary Report para 92i). As part of this, TCC18 is to consider “*the process for reviewing the aggregated information referred to in paragraph 26(ii)*”.

4. This paper summarises the process undertaken at TCC17, identifies a few key issues arising from that process, and provides several key questions that CCMs views are sought on, with a view to tasking the TCC Chair to develop further advice ahead of WCPFC19.

5. In considering the aggregated tables process, it is important to keep in mind that the development of an effective review process for the aggregated tables is interlinked with (and in some cases dependent on) a range of related bodies of work. These include: the development of Audit Points and a Risk-based Assessment Framework for the CMS; work to improve ROP data reporting; work to understand (and account for) differential ROP coverage levels across the fishery; and improvements to the functionality of the CCFS.

Section 2 – Process undertaken at TCC17

6. The review of the aggregated tables was undertaken for the first time at TCC17 (2021) following the process developed by the TCC Chair in consultation with CCMs outlined in [WCPFC-TCC17-2021-09](#). Key elements of this process were:

- A **dynamic version of the aggregated tables** was developed by the Secretariat and circulated to members ahead of TCC17.

- The development of the dynamic tables was based on feedback from CCMs who wished to be able to review data in different ways to the static tables presented in accordance with Annex 2 of CMM 2019-06
- **Identification of implementation challenges** based on para 33 of CMM 2019-06, via a **CCM-led process**.
 - The intention of this process was to allow the identification of implementation challenges identified in the dynamic aggregate tables and seek that CCMs provide advice on what assistance might be required to address the identified challenge and determine a timeframe for resolution.
- **Addressing outstanding cases in the CCFS** based on para 34 of CMM 2019-06.
 - In this process, a list of “Old CCFS cases (>24 months)” was published as part of the dynamic tables.
 - CCMs with cases identified were asked to identify what is needed to progress/resolve outstanding cases, and determine a timeframe for resolution of these cases.
- **The presentation of information arising from the review of the aggregate tables in the provisional Compliance Monitoring Report (pCMR)**, including summary tables of the para 33 and para 34 review processes in accordance with the templates in Annex 2 of CMM 2019-06.

7. In developing this process (and noting this was a pilot process), a few stipulations were established that were adhered to in the review process:

- The process for identifying implementation challenges allowed for both self-identification and identification by another CCM, however there were caveats regarding timing and consent for the latter to ensure procedural fairness.
- The review of outstanding cases in the CCFS excluded ROP pre-notifications (excluding observer obstruction incidents) in line with the broader approach taken in the CMR process for a number of years.
- The review of outstanding CCFS cases also excluded cases pertaining to cetacean and whale shark (CWS) interactions noting that the CCFS does not distinguish between CWS interactions where there is no alleged infringement and CWS interactions where an infringement may have taken place.
- Noting that this was a trial process, it was agreed that the consideration of the aggregate tables would not affect a CCM’s compliance score for 2020¹.

8. The implementation of the trial review of the aggregate tables yielded mixed results. Feedback on the dynamic tables was generally positive, although this format does make it somewhat difficult to envision the presentation of information in a way that is consistent for all CCMs in the room. The implementation of the para 34 process (outstanding CCFS cases) was smooth, however there were some issues identified through this process that need further consideration (see section 3). The implementation of the para 33 process (identification of implementation challenges) however did not result in any discussion or issues identified as no CCM raised issues for discussion and this needs further consideration (see Section 3).

¹ Although the possibility was left open for TCC17 to revise this following consideration of the Aggregate Tables, it did not do so.

Section 3 – Issues arising from TCC17 process

Presentation of information

9. As noted above, the feedback on the dynamic tables was largely positive and it is generally recommended that these continue to be produced ahead of TCC to facilitate effective review of the aggregated CCFS information.

- **It may be worth considering if “static tables” should also be developed and circulated to CCMs alongside the dynamic tables** to facilitate the presentation of information in the meeting, however this may be dependent on feasibility/workload for the Secretariat.

Implementation challenges

10. As noted in Section 2, no issues were raised by CCMs for under the para 33 process to identify implementation challenges/systemic issues. The result of this was that there was no discussion under this section of the aggregate tables review and no implementation challenges were recorded in the pCMR.

- It is unclear whether this was due to CCMs not having reviewed the tables, whether CCMs had reviewed the tables but elected not to raise issues, or whether the tables did not provide the insight expected to raise issues.
- This raises a key question of whether a future process to identify implementation challenges through review of the aggregated tables should be CCM-led or whether a more formal process should be developed.
 - If the former, consideration will need to be given to what can be put in place to support CCMs to identify and raise issues in this process.
 - If the latter, consideration will need to be given to what this process looks like, including who identifies issues for TCC consideration (the Chair or the Secretariat or other options?) as well as any guidance on prioritising issues.
 - It will be important to also consider the range of information that can inform the identification of implementation issues (e.g. prior years’ compliance reports, capacity development plans etc.).

Outstanding cases in the Online Compliance Case File System

11. In comparison to the para 33 process, the para 34 process to review outstanding cases in the CCFS was fairly straightforward and can likely continue to be implemented as per the trial. However, there are some important issues that were raised in the trial implementation that warrant consideration:

- Treatment of ROP pre-notifications and cetacean and whale shark issues
 - These were excluded from the aggregate tables review process trial for the reasons outlined in Section 2 (and in more detail in [WCPFC-TCC17-2021-09](#)), however TCC17 noted that it is of critical importance to resolve how to consider ROP pre-notifications and CWS cases in the aggregate tables review.
 - Work is underway to improve the ROP minimum standard data fields related to CWS interactions, which would facilitate more useful consideration of these in the CCFS and the CMS process (refer [WCPFC-TCC18-2022-17](#)). In particular, it is proposed that the IWG-ROP be reactivated to consider this and other relevant issues.
 - Consideration of how to handle ROP pre-notifications needs further consideration (potentially via a reactivated IWG-ROP) and guidance from the Commission.

- Hence, the treatment of pre-notifications and CWS issues in the review of aggregated tables at TCC19 is likely to be contingent on these processes.
- The overwhelming majority of CCM responses to outstanding cases identified in the aggregated tables review at TCC17 pointed to provision/lack thereof of observer reports.
 - As noted in [WCPFC-TCC18-2022-15](#), the updated CCFS includes a trial tool to track observer report requests and responses. Feedback from CCMs will be sought, however the Secretariat notes (in [WCPFC-TCC18-2022-17](#)) that there have been recent improvements in CCFS records of observer reports received in response to cases in the CCFS.
 - With these developments, there is potential that future para 34 review processes (at TCC19 and beyond) will demonstrate the desired improvement in clearing out old cases.
 - Consideration should be given to whether further follow-up actions should be stipulated where cases continue to be unresolved (including where this may indicate a systemic failure to respond to infringements or where there are technical barriers to resolution e.g. vessels have changed flag).
- “Aggregate of one” issues – there were some instances where a CCM only had one outstanding case in a given category, and this raised concerns related to addressing vessel-level infringements. TCC17 noted need for guidance on where there are categories with only one open investigation.
 - Discussions at TCC17 indicated that it is possible to report on cases without delving into vessel-level issues (including not reviewing investigations).
 - This process was designed to provide an incentive for CCMs to resolve cases, and to flag to the Committee where this isn’t happening.
 - Given this, it appears to be in line with both the principles of the CMS measure and the aggregated tables review process to consider CCFS cases with only one outstanding case.

Link with compliance status

12. As noted in Section 2, there was a decision to decouple review of the aggregated tables from the determination of a compliance score, given it was a pilot process. Consideration will need to be given to how a future aggregated tables process will be linked with the determination of a compliance score.

- At TCC17, this was only a relevant consideration for the para 34 Outstanding CCFS cases process (given no issues were raised in the para 33 process), but this is potentially applicable to the process to identify implementation challenges as well (note the potential relevance of the “Capacity Assistance Needed” status here).
- For the para 34 process, as noted above, consideration may be given to whether further responses or incentives are needed for resolution of outstanding cases, and the application of an adverse compliance score could provide this.

Disparity in available information for the aggregated tables

13. A key factor that needs to be considered in any future process for reviewing the aggregated tables is the heavy reliance of the CMS (including the aggregated tables) on data derived from the ROP, and the resultant high level of scrutiny applied to the purse seine fishery compared to the longline fishery stemming from the disparity in observer coverage.

14. It has previously been noted that the disparity in observer coverage between the purse seine and longline fisheries cannot be resolved via the Compliance Monitoring Scheme, and there are a range of efforts underway to address this issue and improve data availability across the whole fishery (including through the ERandEMWG). However, the quality and ability to verify data sources available to support CMR review processes is an important theme across all the aspects of the CMS Future Work and should be taken into consideration in the development of an aggregated table review process for 2023.

15. There are a number of areas of ongoing work that are relevant to this issue. The information provided by the SSP in [WCPFC-TCC18-2022-IP02](#) provides highly relevant information on ROP coverage in relation to effort (in both the purse seine and longline fisheries) that might provide some insight into the key question of whether observers are collecting data that allows for identification of compliance issues. The information presented in that paper may also assist the TCC in being able to document and present information that more clearly explains the representativeness of data used to develop ROP-data based cases in the CCFS. Similarly, the process to develop Audit Points has identified that it is critical to address the question of what data source(s) are available to determine whether an obligation has been met (including whether data is independently verifiable). Finally the TCC workplan, has scheduled work across multiple years to consider changes to the ROP minimum standard data fields, which would facilitate more useful consideration of these in the CCFS and the CMS process, e.g. [WCPFC-TCC18-2022-17](#) considers a process for improving ROP data fields for cetacean and whale shark interactions.

16. In considering what the aggregated table review process will look like next year and into the future, it may be possible to consider the element of risk when considering what issues arising from the aggregated tables should be raised to TCC's attention including in amplifying issues where identified non-compliance may be artificially low due to poor data availability (although this will need to be balanced with not ignoring issues that we are aware of). It is possible that the conclusion of the process to develop the risk-based assessment framework (along with the audit points) may provide some useful guidance for this.

Section 4 – Discussion Points

17. Section 3 identifies a range of issues arising from the trial aggregated tables review process that are relevant to the development of a revised process for next year. From this, a few key questions arise that CCM guidance is sought on to inform the development of advice to the Commission. It is important to note that these questions do not cover the full range of issues identified in this paper, and hence the full range of issues that will need to be considered in the development of a revised aggregated tables review process. Rather, these questions are aimed at identifying the general direction for the revised aggregated tables review process which can then be built on in consultation with CCMs.

Critical questions for TCC18 consideration:

For the Outstanding Cases:

- **Is the aggregate tables process providing adequate incentive for CCMs to resolve outstanding cases?**
- **Are the tools provided (and in development) supporting this?**

- Do the improvements to the CCFS (outlined in WP15) meet CCMs requirements for resolving outstanding cases?
- Do CCMs agree that categories with only one/a couple of outstanding cases can be treated “in the aggregate”?

For the identification of systemic issues/implementation challenges:

- Should the identification of systemic issues/implementation challenges be a member-led or Chair-led process (or a hybrid approach)?
- Should this process be focused/prioritised according to risk (potentially drawing on the risk-based assessment framework) or any other factors?

Section 5 – Next Steps

18. TCC Chair to develop a proposal for CCM consultation [and WCPFC19 consideration] on an aggregate tables process to be undertaken in 2023 as part of the Compliance Monitoring Review at TCC19, taking into account the guidance provided by TCC18 in response to the critical questions raised.