



## TECHNICAL AND COMPLIANCE COMMITTEE

### Twentieth Regular Session

25 September to 1 October 2024

Pohnpei, Federated States of Micronesia (Hybrid)

---

#### Matters related to the issue of CCFS cases older than 24 months

---

WCPFC-TCC20-2024-10

6 September 2024

#### Submitted by the Secretariat

#### Purpose

1. The purpose of this paper is to provide information to assist the Technical and Compliance Committee (TCC) to review processes and factors affecting Compliance Case File System (CCFS) cases that are older than 24 months. Updates on tasks from TCC19 are also provided.

#### Background

2. One purpose of the Compliance Monitoring Scheme (CMS) is to assess flag CCM action in relation to alleged violations by its vessels (at the aggregated level), not to assess compliance by individual vessels<sup>1</sup> (). To support this purpose, the Secretariat is directed to maintain WCPFC's online CCFS as a "...secure, searchable system to store, manage and make available information to assist CCMs with tracking alleged violations by their flagged vessels."<sup>2</sup>. The CCFS was first launched in 2016 and an upgraded CCFS released in 2022 aimed to improve the ease of use of the system.<sup>3</sup>
3. The CMS measure also guides the content of aggregated summary tables generated from the CCFS, to be reviewed by TCC, and what information flag CCMs are to provide in response to each case related to their vessels. TCC is to consider CCFS cases that remain open, are older than two or more years, and are not subject to an implementation challenge identified by a CCM. TCC shall, in consultation with the CCM<sup>4</sup>:
  - a. Identify what is needed to progress or resolve these cases;
  - b. Determine a timeframe for resolution of the cases; and
  - c. Report to the Commission on how that CCM will be able to satisfactorily meet its obligation.
4. TCC's consideration of the aggregated summary tables in 2023 is recorded in the Final CMR adopted at WCPFC20 (see Annex 1 for an excerpt). The TCC19 Summary Report and Final CMR

---

<sup>1</sup> [CMM 2023-04](#) Conservation and Management Measure on the Compliance Monitoring Scheme, paragraph 1

<sup>2</sup> [CMM 2023-04](#) paragraph 10

<sup>3</sup> Further detail on the background to the CCFS may be found in [TCC20 Working Paper 09](#) Use of ROP data in the CMS (see pages 3 – 4).

<sup>4</sup> [CMM 2023-04](#), paragraph 35

record five recommendations intended to address the circumstance of outstanding CCFS cases through a combination of tasks to the Secretariat, requests to CCMs, and policy guidance to the Commission.

170. *TCC19 thanked the Secretariat for the comprehensive information in the Aggregated Tables. TCC19 recommended to WCPFC20 that:*
- a. *an additional column be included in the Aggregated Tables to indicate whether the observer report had been requested, and whether it had been received;*
  - b. *the Commission request CCMs to provide to the Secretariat information on the domestic statute of limitations, the allowable period to bring a prosecution, for various types of cases: fisheries offences and criminal offences;*
  - c. *the Secretariat include the following information about Article 25(2) cases when developing the aggregated tables for TCC20 a) whether the infringement occurred in the high seas or in zone; and b) a breakdown of case subcategories by type of infringement;*
  - d. *the issue of cases older than 24 months in the CCFS be addressed by the Commission in a systematic way, not through automatic close-out of old cases, but with CCMs providing explanation as to why the case needs to be closed before completing the investigation, noting the requirement for flag CCMs to take action in response to alleged violations;*
  - e. *it consider ways in which to rationalize and streamline data flows so that only genuine cases were included in the CCFS.*

5. Updates on the progress related to these obligations is presented later in this paper.

#### Ongoing cases in 2024

6. Figure 1, Table 1, and Table 2 below show the scale of cases that remain ongoing, with Figure 1 and Table 1 providing information about cases which are ongoing and older than 104 weeks. The scale of difference between CCM-initiated cases and Observer-initiated cases is clear.
7. Figure 2 provides additional details at the level of different case types per year, which shows the spread of weeks between an event and the notification of a case to a CCM.
- a. For Observer initiated cases (FAI, OAI, SHK, POL, CWS and PAI), the issue of the ROP data process and CCFS case creation process is evident (Figure 2, left side plots). There are usually delays of 1-2 years from when an observer reports data, to when a case is notified in the CCFS. The lower numbers in 2021 reflect reduced observer coverage rates due to COVID and potentially incomplete data at the time of preparing this report.
  - b. For CCM initiated case types (HSBI, AIR, PORT, VMS and OTH) these clearly show very short timeframes in weeks from when an event takes place compared to the time a case is notified, generally in the scale of weeks-months (Figure 2, right side plots). There are some "OTH" cases where there was more delay.

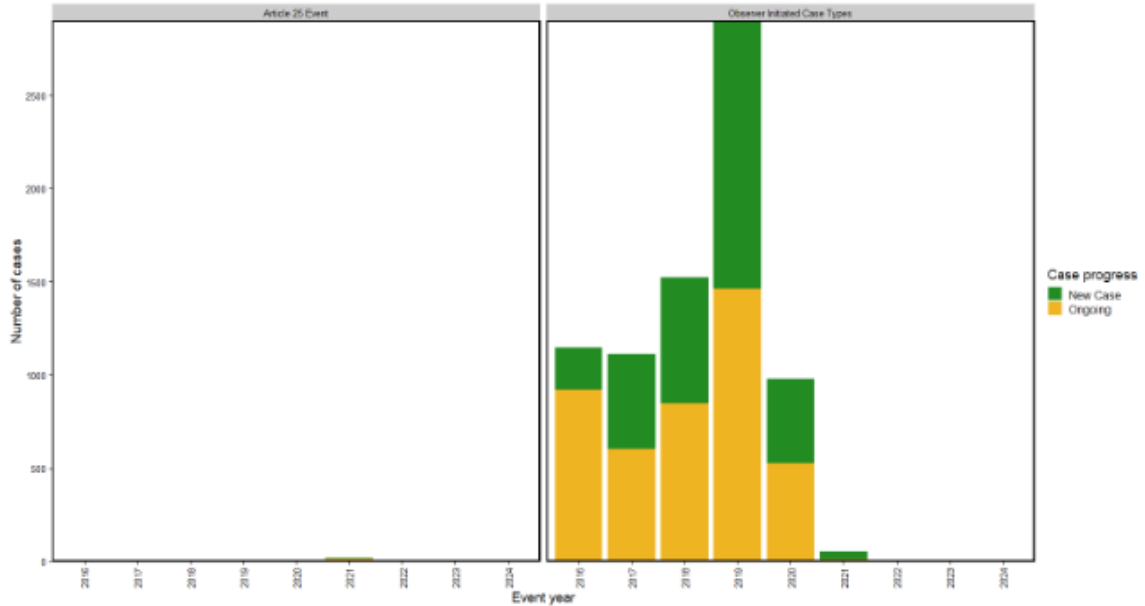


Figure 1. The number of CCM-initiated cases and observer-initiated cases that have not been completed and are older than 104 weeks

Table 1. The breakdown in CCM-initiated cases and observer-initiated cases that have not been completed that are older than 104 weeks

Case type		2016	2017	2018	2019	2020	2021
Article 25 (2)	AIR	0	0	0	0	0	0
	HSBI	0	1	2	2	1	0
	PORT	0	0	0	0	0	1
	VMS	0	0	1	0	0	0
	OTH	0	0	0	0	2	0
	<b>Total</b>	<b>0</b>	<b>1</b>	<b>3</b>	<b>2</b>	<b>3</b>	<b>1</b>
Observer Initiated Case	FAI	2	19	27	33	33	5
	OAI	37	34	17	35	51	16
	SHK	47	107	21	20	21	3
	POL	0	0	0	8	243	72
	<b>Sub-total</b>	<b>86</b>	<b>160</b>	<b>65</b>	<b>96</b>	<b>348</b>	<b>96</b>
	CWS	0	37	362	412	772	277
	PAI	0	644	649	1,146	952	264
<b>Sub-total</b>	<b>0</b>	<b>681</b>	<b>1,011</b>	<b>1,558</b>	<b>1,724</b>	<b>541</b>	

Table 2. The number of observer-initiated cases and the number of ROP reports received (value in parentheses)

Status	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
New Case	0	0	6 (0)	228 (54)	513 (82)	871 (89)	1491 (155)	499 (54)	151 (2)	80 (6)	0	0
Investigation in Progress	0	0	193 (7)	919 (175)	601 (108)	961 (212)	1467 (298)	533 (137)	56 (2)	22 (7)	0	0
No infraction	0	0	324 (112)	530 (315)	783 (278)	277 (259)	333 (179)	48 (48)	2 (0)	0	0	0
Infraction - no sanction	0	0	13 (13)	2 (2)	1 (1)	1 (1)	2 (2)	0	0	1 (0)	0	0
Infraction - warning	0	0	12 (12)	10 (10)	21 (21)	9 (9)	9 (8)	0	0	0	0	0
Infraction - sanction	0	0	49 (49)	33 (33)	26 (26)	43 (43)	29 (27)	2 (2)	0	0	0	0

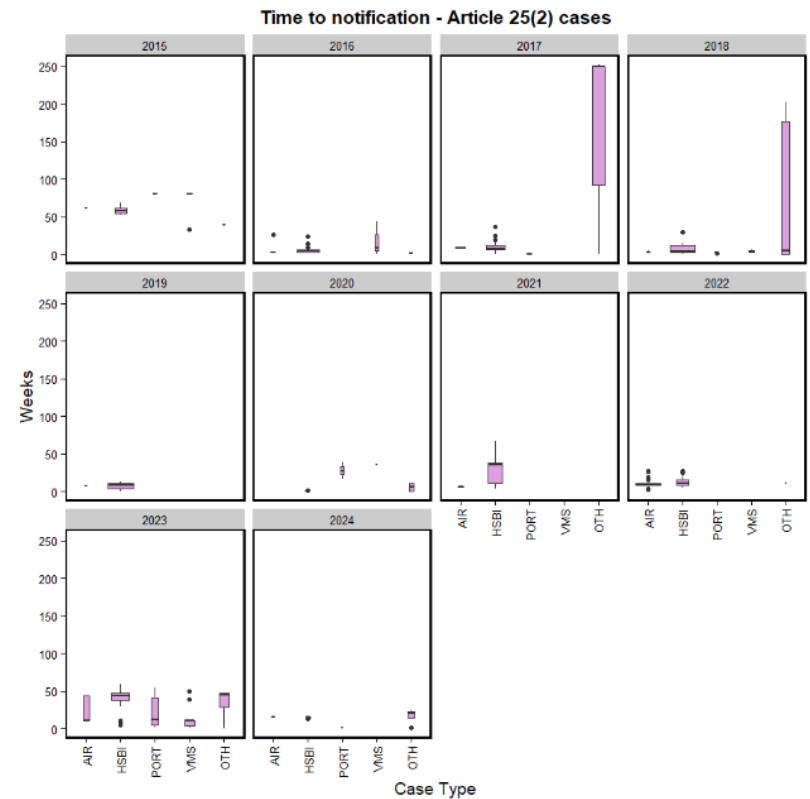
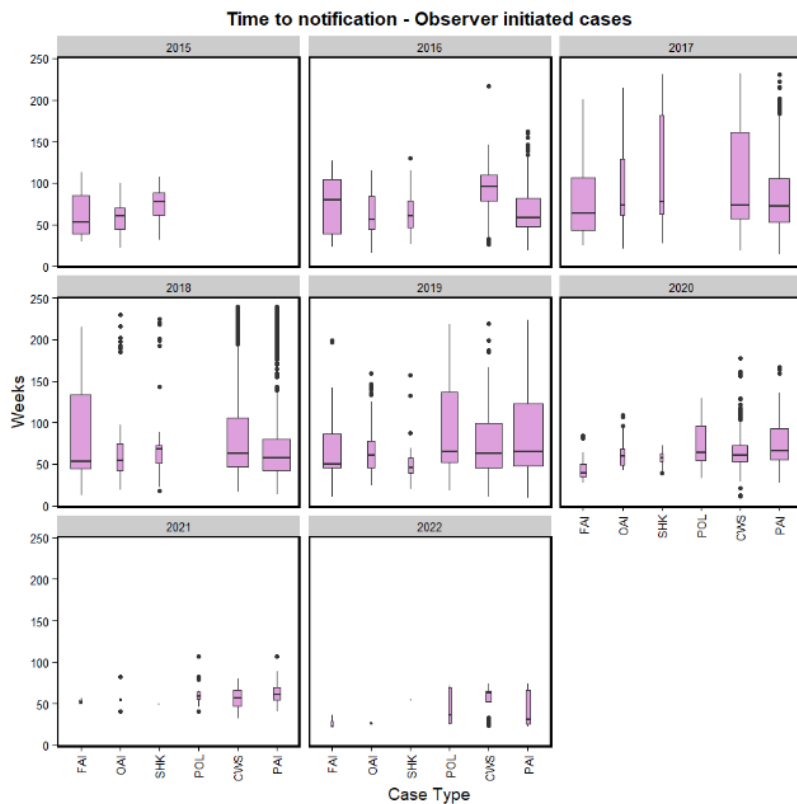


Figure 2. Time to notification by year by case type for different groupings of CCFS cases. The plots on the left side are Observer-initiated cases (2015 – 2022) and the plots on the right side are CCM initiated cases (2015 – 2024)

**FAI:** FAD set alleged Infringements)  
**OAI:** Observer Obstruction Alleged Infringements  
**SHK:** Shark Catch Alleged Infringements  
**POL:** Marine Pollution Infringements  
**CWS:** Cetacean and Whale Shark Interactions  
**PAI:** ROP Pre-Notification of those data elements (other than alleged observer obstruction incidents and marine pollution incidents)

**AIR:** Aerial Surveillance  
**HSBI:** HSBI outcomes  
**PORT:** Port Inspection Outcomes  
**VMS:** VMS-related query  
**OTH:** Investigation through other means

## Updates on TCC19/WCPFC20 tasks

8. There were two tasks from TCC19 to the Secretariat that relate to CCFS and aggregated summary table enhancements.
  - an additional column be included in the Aggregated Tables to indicate whether the observer report had been requested, and whether it had been received (*sub paragraph a*); and
  - the Secretariat include the following information about Article 25(2) cases when developing the aggregated tables for TCC20 a) whether the infringement occurred in the high seas or in zone; and b) a breakdown of case subcategories by type of infringement (*sub paragraph c*).These tasks were delivered through upgrades to the CCFS in late 2023, and since 2024 the Secretariat has been progressively working through the cases to update them accordingly.
9. TCC19 confirmed that the issue of cases older than 24 months in the CCFS should be addressed by the Commission in a systematic way, not through automatic close-out of old cases, but with CCMs providing explanation as to why the case needs to be closed before completing the investigation, noting the requirement for flag CCMs to take action in response to alleged violations (*sub paragraph d*). In consideration of this TCC19 outcome, in 2024 the Secretariat introduced an enhancement to the CCFS allowing an additional Secretariat notation alongside relevant cases to record the reason a flag CCM notifies that it is unable to complete an investigation and/or to take action in response to alleged violations.  
**Suggested way forward:** The Secretariat is currently reviewing and updating existing CCFS cases and will provide an update of this paper in 2025 with additional details to support TCCs consideration.
10. On the matter of the request for information from CCMs on their domestic statute of limitations (*sub paragraph b*), the Secretariat confirms receipt of a submission from one CCM.  
**Suggested way forward:** With a view to supporting TCC20's further consideration of the ongoing CCFS case matters, it is suggested that each flag CCM consider submitting into the TCC20 Online Discussion Forum, summary information on their domestic statute of limitations, the allowable period to bring a prosecution, for various types of cases: fisheries offences and criminal offences.
11. In respect of *sub paragraph e*, the [IWG-ROP](#), has a forward looking workplan that prioritizes the review and development of draft recommended modifications to future ROP data fields including the pre-notification (GEN-3) data fields and debriefing processes, with the intention of supporting more useful consideration of ROP data in the CCFS and in the Compliance Monitoring Scheme processes ([TCC20 Working Paper 19](#)). The workplan includes consideration of refinements to the ROP data fields for seabirds, turtles, cetaceans, sharks and mobulids interactions, and the aim is to ensure that observer data more effectively differentiates between interactions with species of special interest and potential violations due to non-compliance with required mitigation measures and safe handling techniques. Until the work to adopt and implement refinements to ROP data fields is completed and implemented, it is expected that there will continue to be some cases that will be created in the CCFS which are not alleged violations. Further information on the issues with cetacean and whale shark (CWS) interactions and some pre-notification (PAI) cases may be found in [TCC20 Working Paper 09 Use of ROP data in the CMS](#).
12. TCC20 should note that the Secretariat expects to provide updated information to TCC21 that considers the updates outlined in paragraphs 9 and 10 of this paper.

**Excerpt of discussions related to aggregated summary tables in Final CMR covering 2022 and 2023 activities adopted at WCPFC20<sup>5</sup> (December 2023)**

42. CCMs considered that the provision of information on tracking of observer reports was a good initiative. However, TCC19 agreed that it was important to have information on the number of observer reports requested by CCMs and the number of observer reports received by these CCMs.

43. The delay in receiving observer reports also led to other issues in that vessel may be scrapped, entities may go out of business and the master and crew may move out of the tuna fishing industry. It was therefore difficult to identify those responsible for an alleged violation and difficult to investigate the alleged violation. This, together with issues relating to the investigative and prosecutorial resources, especially in small island developing States, may also cause delays in investigations and prosecutions.

44. Some CCMs noted challenges in resolving outstanding cases due to the domestic statute of limitations. TCC19 agreed that it would be useful for TCC to have information on the domestic statute of limitations for various types of cases: fisheries offences and criminal offences.

45. TCC19 discussed whether there should be a process for closing off cases in the CCFS where no progress could be made. TCC19 agreed that it was not appropriate to have a generic rule, or an automatic cut-off date for the closing of cases, especially given the differences between CCMs and their national investigative and prosecutorial processes. Some CCMs considered that national statutes of limitations were only one factor in deciding whether to close off old cases. TCC19 agreed that CCMs should provide an explanation as to why the case needs to be closed before completing the investigation.

Some CCMs noted that they placed priority on resolving recent cases, due to the difficulty of prosecuting old cases. TCC19 agreed that the issue of old cases in the CCFS be addressed by the Commission in a systematic way, but not in a way that undermined the requirement for flag CCMs to take action in response to alleged violations.

47. TCC acknowledged that when the concept of Aggregated Tables was raised, it was seen as a mechanism to facilitate general discussion on lingering cases in the CCFS, without going into detail of a case-by-case discussion on individual vessels cases. The process had helped to move the investigations along, assisted by the comprehensive information provided by the Secretariat. TCC19 agreed that there would be value in rationalizing and streamlining data flows so that only genuine cases were included in the CCFS. Another CCM noted the need to further rationalize data flows when ER&EM came online. TCC19 agreed that this was a useful process and should be continued and refined further.

**48. TCC19 thanked the Secretariat for the comprehensive information in the Aggregated Tables, TCC19 recommended to WCPFC20 that:**

---

<sup>5</sup> See Attachment 11 of [WCPFC20 Summary Report Rev01](#).

- an additional column be included in the Aggregated Tables to indicate whether the observer report had been requested, and whether it had been received.
- the Commission request CCMs to provide to the Secretariat information on the domestic statute of limitations, the allowable period to bring a prosecution, for various types of cases: fisheries offences and criminal offences.
- the Secretariat include the following information about Article 25(2) cases when developing the aggregated tables for TCC20 a) whether the infringement occurred in the high seas or in zone; and b) a breakdown of case subcategories by type of infringement.
- the issue of cases older than 24 months in the CCFS be addressed by the Commission in a systematic way, not through automatic close-out of old cases, but with CCMs providing explanation as to why the case needs to be closed before completing the investigation, noting the requirement or flag CCMs to take action in response to alleged violations.
- it consider ways in which to rationalize and streamline data flows so that only genuine cases were included in the CCFS.