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Options for TCC's review of Annual Report Part 2 information on implementation of paragraphs 9-11 of CMM 2024-05

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Submitted by the TCC Chair

Purpose

1. This paper responds to the TCC21 tasking for the TCC Chair to prepare a paper to the Commission on how the review of the Annual Report Part 2 (AR Pt2) information related to CCMs implementation of alternative measures set out in paragraph 9 of [CMM 2024-05](#) (*Conservation and Management Measure for Sharks*) can be completed at future TCC meetings during plenary sessions.

Background

2. CMM 2024-05 establishes that in order to ensure full utilisation of retained sharks, sharks shall be landed with fins naturally attached. However, this CMM also provides that CCMs may authorise the use of one of two alternative measures specified in the measure, subject to implementation of enhanced monitoring.
3. CMM 2024-05 specifies that CCMs shall report in their AR Pt2, implementation of paragraph 8 (fins naturally attached) or paragraph 9 (use of alternative measures), with specific guidance on information required for CCMs electing to use alternative measures. The measure further specifies that CCMs shall report on any enforcement difficulties encountered in relation to the use of alternative measures. The reports on implementation provided in the AR Pt2 are to be compiled by the Secretariat for review and discussion by TCC each year.
4. In 2027, TCC23 is to consider the outcomes of these reviews and advise the Commission on the effectiveness of the alternative measures to inform the Commission's review of CMM 2024-05 that year.
5. One particular challenge in relation to the review of information provided on the implementation of alternative measures has been the inability for TCC to discuss this issue in plenary (open) session as

the information provided in the AR Pt2 is non-public domain (NPD) data.¹ In accordance with the Commission's data rules, NPD data can only be disclosed to non-CCMs (i.e. discussed in open session) with the consent of the relevant CCM. At TCC21, several CCMs expressed a view that it would be preferable to discuss the implementation of alternative measures in plenary. Hence TCC21 tasked the TCC Chair to provide options for how future TCCs could discuss the reporting required by paragraphs 10-12. This is seen as a high priority noting the importance of the review of CMM 2024-05 in 2027.

Options for discussion of AR Pt2 reporting on paragraph 10 of CMM 2024-05

6. The most straightforward option for future TCC discussions of reports on alternative measures is to **continue to discuss these reports in closed sessions of the TCC.**
 - a. This option does not require any change in practice for the Commission nor decision from CCMs to release NPD data.
 - b. The Secretariat will continue to compile a summary of relevant reporting for discussion in a closed session at TCC².
 - c. While this approach would allow ongoing TCC review of relevant reporting, this would not meet the stated desire of some CCMs to undertake this review in open session, with the full participation of all TCC participants. This approach also creates additional difficulty in providing advice to the Commission as information (including outcomes/recommendations) need to be carefully scrutinized to ensure that NPD data is not inadvertently released. Some CCMs have expressed a view that this may hamper the ability of TCC to effectively provide advice to inform the 2027 review of the measure.
 - d. Continuing to undertake the review in closed session does not preclude TCC also discussing the effectiveness of alternate measures in open session, however it means that such discussion must be generalized and not refer to specific CCMs implementation. While this can be useful (and has occurred in previous TCC meetings), it requires diligence on the part of CCMs and the TCC Chair to again avoid the inadvertent disclosure of NPD data, and it could be considered duplicative.
7. An alternative option would be for the Secretariat to compile the summary of AR Pt22 information and provide it to CCMs (as a secure document) ahead of TCC and for **CCMs to confirm prior to TCC if this information could be released and discussed in plenary at that TCC meeting.**
 - a. This could be a decision point for the TCC Chair to confirm in the pre-TCC Heads of Delegations meeting similar to the decision taken in relation to the CMR review.

¹ Section 4 of the [Rules and Procedures for the Protection, Access to, and Dissemination of Data Compiled by the Commission](#)

² Note that the TCC review of the draft Compliance Monitoring Report (CMR) is generally taken in closed session as the CMR is based on non-public domain data and to date CCMs have not been willing to release this data and hence allow an open session CMR review.

- b. This would add some administrative burden on the Chair and the Secretariat (an additional decision), and the need to adapt the TCC schedule accordingly, but this is relatively minor. This approach would also require the Secretariat to ensure that the compilation of AR Pt2 reports is prepared in advance of TCC such that CCMs had the opportunity to review and determine their position ahead of the meeting.
 - c. One drawback of this approach is that it would not provide certainty for all TCC participants on ability to participate in discussions related to the review of alternative measures.
- 8. The final option is that WCPFC take a decision to **reclassify the reports provided in the AR Pt2 in response to para 10 of CMM 2024-05 as public domain data**, therefore allowing discussion of these reports in open session.
 - a. This approach has previously been taken in response to reports against implementation of CMM 2013-07 (CMM on the Special Requirements of Small Island Developing States and Territories). WCPFC15 “agreed to make the reports against implementation of CMM 2013-07 (or its successor) contained in Part 2 Annual Reports public domain data” (WCPFC15 Report, para 156). This decision was taken by the Commission noting the importance of transparency and to facilitate more effective implementation of the Commission’s obligations to address the special requirements of SIDS.
 - b. WCPFC22 could take a similar decision in relation to the reports against paragraph 10 of CMM 2024-05. The compilation of reporting prepared by the Secretariat would then be able to be made available as a public document and discussed in open session at future TCCs.
 - c. This approach would provide certainty for future discussions on reviewing the effectiveness of alternative measures, and would ensure all TCC participants are able to participate in this discussion. This may lead to a more effective review by TCC of these reports leading into the review of the sharks measure in 2027.
 - d. CCMs would need to consider the implications of releasing their reports against para 10 of the sharks measure.
- 9. CCMs have more generally considered the use of closed sessions during TCC21 which resulted in a recommendation that *“WCPFC22 endorse the development of a paper for TCC22 that would evaluate Commission data rules and procedures used in the CMR to inform the development of guidelines for the participation of observers in the CMS, to be led by the United States in consultation with the Secretariat and other CCMs”*. ([TCC21 Summary Report](#), paragraph 232)

Recommendations

- 10. The Commission is invited to:
 - a. Discuss the options provided in relation to future TCC discussions on reviewing implementation of alternative measures; and
 - b. Determine which option is preferred and direct the TCC Chair and Secretariat accordingly.