



TECHNICAL AND COMPLIANCE COMMITTEE

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DRAFT COMPLIANCE MONITORING SCHEME FOR CCMM

WCPFC-TCC6-2010/21

3 September 2010

Paper prepared by Australia

Introduction:

1. At WCPFC6 in December 2009, the Commission approved Australia's proposal to convene discussions on the Compliance Monitoring Scheme through the Compliance with Conservation and Management Measures (CCMM) Working Group inter-sessionally, in accordance with the Terms of Reference set out in WCPFC6-2009/DP17.
2. Australia has developed a working paper (WCPFC-TCC6-2010/21), which is intended to provide a basis for discussion and development of the Compliance Monitoring Scheme by the CCMM Working Group and the Technical and Compliance Committee (TCC). The paper outlines options for a structure and process for the Compliance Monitoring Scheme, and options relating to the issues outlined in the Terms of Reference. It also proposes some options for progressing the work of the CCMM Working Group.
3. The working paper was distributed to all those who had expressed an interest in being members of the CCMM Working Group on 24 August 2010. Due to the short timeframe available, we have not yet received any comments or feedback on the paper.
4. CCMs are invited to consider the working paper, and provide any comments to Australia (Camille Goodman, camille.goodman@daff.gov.au and Laurena McBride, laurena.mcbride@daff.gov.au). We hope that this paper provides a helpful basis for the consideration and development of a compliance monitoring scheme, and look forward to discussing it with CCMs during TCC6, with a view to recommending options for progressing the work to WCPFC7.

TCC6 is invited to review, consider and provide comments on the paper for endorsement to the Commission.

**Working Paper on the Proposed Structure and Process for the Western and Central Pacific Fisheries
Commission Compliance Monitoring Scheme**
(Proposal by Australia)

Introduction

The Compliance Monitoring Scheme should be a positive process to encourage compliance. It should assist members, cooperating non-members and participating territories (CCMs)¹ to verify if they are taking all necessary steps to comply with conservation and management measures (CMMs) and other obligations, by identifying areas in which further work is needed and recommending actions to be taken to address non-compliance. It should also provide a basis for identifying areas in which technical assistance and capacity building are needed to assist CCMs to address compliance gaps. In addition, the Scheme should include procedures to address serious or persistent non-compliant behaviour, including options for the Commission to impose appropriate sanctions, and a follow-up mechanism for assessing and resolving outstanding instances of non-compliance.

2. To provide an effective regime for reviewing and monitoring compliance and instituting procedures to address non-compliance, the Scheme should be based on three underlying principles:
- (i) timely access to sufficient information to assess compliance;
 - (ii) a fair and transparent process for reviewing and assessing information and compliance; and
 - (iii) consistent and objective procedures for identifying and addressing instances of non-compliance.

Overview of the proposed structure and process

3. The proposed structure and process for the Compliance Monitoring Scheme is based on the framework for a Compliance Monitoring Scheme that was adopted by the Commission in 2006, and builds on existing structures and processes. The key elements of the framework are:
- (i) the Secretariat will collate relevant information from existing information sources and compile a report (the Draft Compliance Monitoring Report) for review each year by TCC;
 - (ii) TCC will review the Draft Compliance Monitoring Report and any supplementary information from CCMs, identify instances of non-compliance and recommend actions that should be taken to address them (the Provisional Compliance Monitoring Report);
 - (iii) the Commission will review the Provisional Compliance Monitoring Report, and adopt recommendations to address non-compliance, in accordance with agreed mechanisms and procedures (the Compliance Monitoring Report), and
 - (iv) CCMs will take necessary measures to implement the decisions of the Commission (including with respect to other CCMs), and report back to the Commission through TCC.²

Scope of the Compliance Monitoring Scheme

4. The Compliance Monitoring Scheme should enable the Commission to monitor compliance with all of the obligations with which CCMs are required to comply, which include those contained in: provisions of the WCPFC Convention; CMMs adopted by the Commission; and other decisions, rules, procedures and guidelines adopted by the Commission. The type and severity of the compliance issues likely to arise will depend on the type of obligation (for example: vessel identity obligations; vessel control obligations; reporting obligations; and monitoring, control and surveillance (MCS) obligations) and on the type of implementation required (for example: administrative or operational).³

¹ For ease of reference, the term 'CCM' is generally used throughout this report without distinguishing between the application of various aspects of the Compliance Monitoring Scheme to Members, Co-operating Non-Members, Participating Territories and other Non-Members. Please see the separate discussion on this issue in Attachment A.

² An outline of the structure and supporting processes for the Compliance Monitoring Scheme is shown at Attachment B.

³ An initial outline of the CMMs and other obligations which fall within these categories is provided at Attachment C.

5. The Scheme could provide for the Commission to identify compliance issues which are to be given priority. This could be done, for example, through a risk assessment process that assesses the severity of particular types of non-compliance. This would focus the operation of the Scheme on the needs and priorities of the Commission, and reduce the workload of the Secretariat and TCC in any particular year or work cycle.

Procedures for compiling and reviewing information

6. A large amount of information is already provided to the Commission by CCMs and their vessels, and could be used to support assessment of compliance under the Compliance Monitoring Scheme.⁴ This information could be compiled annually to produce a Compliance Monitoring Report summarising all available information relating to the implementation of CMMs and other obligations, in a form enabling the Commission to monitor and evaluate compliance. The Secretariat could be permanently tasked to compile a Draft Compliance Monitoring Report and circulate it in advance of the annual TCC meeting for consideration and response by CCMs (similarly to the procedure followed for the Draft IUU Vessel List).

7. If desired, the form and information fields of such a Report could be clearly prescribed, to ensure the Secretariat only provides factual information and does not undertake analysis or other assessment. However, given the large amount of information to be reviewed in order to assess compliance, another option would be to task the Secretariat with undertaking a preliminary review and analysis of the information in the Draft Report, in order to identify potential compliance issues raised in the Report. The Secretariat could then notify the CCMs concerned of any potential compliance issues at the time of circulating the Draft Compliance Monitoring Report in advance of TCC. CCMs could review the Draft Compliance Monitoring Report, and submit additional information, clarification or comments to the Secretariat.

8. The Draft Report prepared by the Secretariat would be an administrative document, synthesizing all available information regarding CCMs' implementation of CMMs and other obligations, in order to ensure that the Commission has timely access to sufficient information to assess compliance. If desired, it would identify potential compliance issues, but would not determine whether or not there is a case of non-compliance, or make any recommendations regarding response; these would be developed by TCC (or a working group reporting to TCC) following review and assessment of the information provided in the Draft Compliance Monitoring Report.

9. The procedures established to give effect to the Compliance Monitoring Scheme should recognise and be consistent with existing processes for sharing data. Depending on the type of compliance issues arising under the Scheme, and the information required to review and address them, it may be useful to consider whether any additional mechanisms are necessary to safeguard the confidential nature of some information.

10. It might be useful to develop a table showing all the obligations contained in the Convention, CMMs and other decisions, rules, procedures and guidelines with which CCMs must comply. Such a table could also set out the information available to the Secretariat through existing CMMs and any other reporting requirements in respect of the obligations identified, to determine whether it is sufficient to assess compliance. This would produce a 'gap' analysis showing whether and what additional information would be needed for the purposes of a Compliance Monitoring Scheme.

⁴ The information which is or may be available to support the Compliance Monitoring Scheme is outlined in Attachment D.

Categories of non-compliance

11. The Compliance Monitoring Scheme could include graduated categories of non-compliance, to allow the Commission⁵ to identify compliance issues according to their level of severity, and respond appropriately. The categories could include:

- (i) **'potential non-compliance'** - where information relating to compliance is insufficient, unclear or incorrect, or actions or omissions are identified as constituting minor violations of a CMM or other obligation
- (ii) **'non-compliance'** - where actions or omissions are determined to constitute a serious violation of a CMM or other obligation; non-compliance is assessed to have undermined the effectiveness of the Convention or the CMMs adopted by the Commission; or where CCMs have failed to effectively implement measures recommended in a previous Compliance Monitoring Report, and
- (iii) **'serious non-compliance'** - where there is particularly serious or repeated non-compliance, including where CCMs have failed to comply with the recommendations in a previous Compliance Monitoring Report after sufficient time and assistance has been provided.

12. These categories would provide a flexible framework for identifying, monitoring and resolving incidences of non-compliance, and ensure that CCMs have adequate opportunities to rectify non-compliance.

Options for responding to non-compliance

13. The Compliance Monitoring Scheme should provide a range of options enabling the Commission to respond appropriately to instances of non-compliance, taking into account the type, severity and cause of the non-compliance in question, and assisting CCMs to effectively address any obstacles to compliance.⁶ Options available to address non-compliance should include:

- engaging with a CCM to review or clarify issues or information
- requesting a CCM to cease non-compliant conduct, or directing a CCM to take specific action to rectify non-compliance
- co-operation and capacity building responses to address non-compliance
- specific remedial responses to address particular types of non-compliance, and
- institutional responses to address serious non-compliance.

14. The first step in the Compliance Monitoring Scheme is to review compliance information and identify actions or omissions which are potentially non-compliant, in order to identify implementation gaps and improve compliance by CCMs. Accordingly, where the Commission identifies a CCM as 'potentially non-compliant', options should be available to enable the Commission to engage with the CCM to review or clarify the issue. This may include: requesting additional information; clarifying existing information; specifying a particular question in relation to which information is needed; or seeking an explanation for the non-compliance or evidence that an issue has been rectified.

15. In addition, there should be a range of general and specific options through which the Commission can directly respond to or seek rectification of non-compliance. For example, the Commission may request the CCM to stop the non-compliant conduct, or rectify the non-compliance, providing a clear deadline by which time compliance is to be achieved and evidence provided to the Commission. Such a request may be general in nature, or may direct a CCM to take specific action to rectify the non-compliance (for example, recalling an IUU vessel to port or taking action to investigate a reported incident of IUU fishing). Depending on the specific type of obligation with which there has been non-compliance, specific remedial responses could be developed which address the particular cause of the issue.

⁵ References throughout the rest of the report are simply made to 'the Commission' (rather than to TCC or any working group which may be established under TCC), since any decisions to identify or address non-compliance would ultimately be taken by the Commission, taking into account any guidelines which are developed for their application.

⁶ Potential options for addressing non-compliance are outlined in more detail in Attachment E.

16. Where there is a need or opportunity, the Commission should also be able to engage and co-operate with non-compliant CCMs through the provision of capacity building or technical assistance. For example, non-compliance by a developing CCM may result from the CCM not being fully aware of the obligation in question, unable to comply with the obligation due to a lack of technical or physical capacity (including material, human or financial resources), or lacking sufficient legal and regulatory frameworks to give effect to the obligation. Where the Commission identifies that lack of capacity is the cause of non-compliance, or an obstacle to compliance, a range of options could be considered to assist the CCM to address the issue.

17. It will also be important to develop options which provide effective disincentives to non-compliance, including ‘institutional’ options limiting the CCM’s right to participate in the governance and decision-making of the Commission or access to resources managed by the Commission until the issue is addressed and resolved to the satisfaction of the Commission. The availability of such options would provide a significant practical disincentive to non-compliance. The Commission could also decide to notify other RFMOs that the CCM in question has been identified as seriously non-compliant, and provide details of the non-compliance.

18. Finally, it may be useful to provide positive incentives which the Commission may adopt in relation to CCMs which demonstrate good compliance with CMMs and other obligations. Such positive incentives would provide a counterbalance to the remedial options outlined above, encourage CCMs to strive to comply with CMMs and other obligations, and allow the Commission to positively identify those CCMs which are properly implementing their obligations.

Guidelines for applying the Compliance Monitoring Scheme

19. In order to ensure that the Compliance Monitoring Scheme is applied in an objective, transparent and non-discriminatory manner, clear and consistent procedures should be followed by the Commission in identifying the category and severity of non-compliance, and adopting measures to address it. In this regard, guidelines could be developed underneath the CMM establishing the Compliance Monitoring Scheme.

20. Guidelines developed under the Compliance Monitoring Scheme could indicate what types of non-compliance generally fall within which category. For example, ‘potential non-compliance’ may generally include minor failure to fully or accurately implement reporting requirements or comply with vessel identity or vessel control obligations or MCS obligations. ‘Non-compliance’ may generally include significant or widespread failure to fully or accurately implement reporting requirements, comply with vessel identity, vessel control or MCS obligations, or failure to rectify potential non-compliance in accordance with recommendations adopted in a Compliance Monitoring Report. ‘Serious non-compliance’ may generally include persistent or widespread non-compliance, or failure to rectify non-compliance in accordance with recommendations adopted by the Commission in a Compliance Monitoring Report.

21. Notwithstanding these general categorisations, the guidelines could also provide particular considerations which the Commission may take into account in assessing and categorising particular instances of non-compliance, such as its extent, duration, and cause, as well as any other mitigating circumstances. Relevant considerations may include things such as whether: the non-compliance resulted from legitimate difficulties, error or resource constraints; the CCM has attempted to implement or comply with the obligation or rectify the non-compliance; and the compliance record of the CCM in question.

22. Guidelines could also be developed to assist the Commission with selecting options to address non-compliance, taking into account the objectives of the Compliance Monitoring Scheme. These guidelines could recommend the types of options which would generally be appropriate to address particular categories of non-compliance.

Consultation and engagement with CCMs

23. It will be important for the Commission to engage with CCMs in reviewing the information in the Compliance Monitoring Report, identifying non-compliance, assessing its causes, and identifying any obstacles to

compliance. In this regard, CCMs will have the opportunity to provide information, clarification or evidence of compliance, or take steps to rectify potential non-compliance at all stages of the process including:

- when the Draft Compliance Monitoring Report is circulated by the Secretariat
- during TCC's review of the Draft Compliance Monitoring Report, and
- during the period after adoption of the Provisional Compliance Monitoring Report and before the annual Commission meeting where it will be considered and adopted by the Commission.

24. Notwithstanding the importance of engagement and consultation throughout the compliance process, the CCM which is the subject of a compliance decision should not be permitted to participate in taking the decision. However, in accordance with the consultation procedures outlined above, the views of that CCM would be sought and taken into account by the Commission during discussion of the issue.

Compatibility of the Scheme with other RFMO compliance schemes

25. Several RFMOs have adopted mechanisms to review and monitor compliance, and some have recently implemented terms of reference to implement such mechanisms to in the near future. These mechanisms generally establish committees, processes and procedures for reviewing compliance. However, the majority of these mechanisms are still evolving, and processes for addressing instances of non-compliance and imposing sanctions and penalties to deter future non-compliance are less developed in most RFMOs.

26. The Compliance Monitoring Scheme proposed in this report has similar characteristics to those of several other RFMOs, including particularly the International Commission for the Conservation of Atlantic Tunas (ICCAT), and is generally compatible with the principles and processes established in other RFMOs. Notable differences in this proposal for a WCPFC Compliance Monitoring Scheme include:

- a graduated approach to compliance, including escalating categories of non-compliance and response
- a focus on co-operative engagement and capacity building, and
- objective guidelines for determining categories of non-compliance and measures to address non-compliance.

Structures and resources necessary to support the Compliance Monitoring Scheme

27. The Compliance Monitoring Scheme should integrate and build on existing procedures for monitoring and reviewing compliance through TCC and the Commission. However, if considered necessary, a 'Compliance Monitoring Group' could be established under TCC, to carry out tasks assigned to it by TCC on a standing or *ad hoc* basis and report back. Consideration on whether such a structure is necessary to support the Compliance Monitoring Scheme could take into account such issues as:

- the potential timeframes available for compiling and reviewing the Compliance Monitoring Report before and during TCC
- the extent of the role or tasks assigned to the Secretariat, and
- the possibility of developing a risk assessment process to identify priority issues to be addressed under the Scheme.

28. It is anticipated that minimal additional cost would be associated with the Secretariat's preparation of the Draft Compliance Monitoring Report or TCC's consideration of the Report, as this would largely constitute an extension of existing activities. Were a Compliance Monitoring Group to be considered necessary, the cost of such a Group would not be significant since it could be minimised by working electronically or meeting in the margins of, or as part of, TCC or the Commission meeting where possible.

29. The majority of costs associated with the Scheme would be related to the recommendations adopted by the Commission. In particular, costs would be associated with the provision of activities to address capacity building and training needs to promote compliance with CMMs and other obligations. It will therefore be important for the Commission to consider the financial impact of recommendations, to ensure that a practical and reasonable response can be put forward to address non-compliance. Special attention should be given to recommendations related to non-compliance associated with resource and capacity constraints in Small Island Developing States and Territories. In this regard, the Compliance Monitoring Scheme could prove to be a useful

mechanism for implementing Article 30 of the WCPFC Convention and provide a process for delivering targeted assistance through the Special Requirements fund.

Recommendations to TCC: options for the future work of the CCMM Working Group

1. That the Secretariat be tasked to review:
 - (a) the obligations contained in the Convention, CMMs and other decisions, rules, procedures and guidelines adopted by the Commission
 - (b) the information currently provided by CCMs through existing CMMs and any other reporting requirements, and
 - (c) whether and what additional information would be needed to allow a determination to be made on compliance with those obligations for the purposes of a Compliance Monitoring Scheme.

2. That the CCMM Working Group continue to work inter-sessionally to develop a WCPFC Compliance Monitoring Scheme. The Working Group would develop and recommend to TCC7, in light of the direction provided by WCPFC7:
 - (i) a draft conservation and management measure establishing the processes and structures necessary to support a WCPFC Compliance Monitoring Scheme, and

 - (ii) processes to support the consistent and effective operation of the WCPFC Compliance Monitoring Scheme, including:
 - (a) guidelines for assessing the nature, severity and causes of non-compliance and considering any obstacles to rectifying it, and
 - (b) guidelines for selecting the most appropriate option to address it, including recommendations for any punitive actions to be taken, and
 - (c) a range of options that would enable the Commission to appropriately address non-compliance, including options:
 - to enable the Commission to engage with the CCM to review or clarify the issue of non-compliance
 - to respond to non-compliance
 - for remedial actions to address cases of serious non-compliance, and
 - for positive incentives for compliance.

Application of the Compliance Monitoring Scheme

The Commission may apply the procedures of the Compliance Monitoring Scheme to assess compliance by:

- Members of the Commission and Participating Territories
- Co-operating Non-Members (CNMs), and
- Non-Members (which are neither Members nor CNMs of the Commission).

However, the obligations with which compliance is assessed through the Compliance Monitoring Scheme, and the responses adopted by the Commission in cases of non-compliance, may differ between these categories.

Members and Participating Territories

Having accepted both the rights and the responsibilities established by the WCPF Convention, Members of the Commission and Participating Territories are required to comply with all the obligations arising under the Convention, CMMs adopted by the Commission, and other relevant rules, procedures and guidelines adopted by the Commission. As such, the Compliance Monitoring Scheme should enable the Commission to assess their compliance with all of these obligations, and take appropriate remedial action.

Co-operating Non-Members

Pursuant to CMM 2009-11, non-members seeking the status of CNM are required to indicate their commitment to cooperate fully in the implementation of CMMs, and ensure that their vessels and, to the greatest extent possible, their nationals, comply with the Convention and CMMs. If accorded CNM status, CNMs are required to

- comply with all CMMs adopted by the Commission
- provide all data that Commission members are required to submit, in a timely manner, in accordance with the format and standards adopted by the Commission
- inform the Commission annually of the measures it takes to ensure compliance by its vessels with CMMs, and
- respond in a timely manner to alleged violations of CMMs and any IUU activities of vessels flying its flag, as required by a member of the Commission or determined by the appropriate subsidiary bodies of the Commission.

In addition, CMM 2009-11 specifically requires the Commission to review the CNM's compliance with the Convention's objectives and requirements when considering whether or not to renew CNM status each year.

While many of the options to address non-compliance outlined in this report may be applicable in relation to a CNM, not all of the 'institutional' options will be relevant, since a CNM has limited rights in relation to the activities of the Commission (for example, CNMs do not participate in decision-making). However, others will still apply (for example, reduction of allowable fishing effort, or suspension or removal of vessels from the Active Vessel List). In addition, CMM 2009-11 provides that, in considering whether to renew CNM status, the Commission may prescribe other requirements with which the CNM must comply in order to ensure compliance with CMMs.

Non-Members

In contrast to CNMs, Non-Members have not specifically agreed to comply with the Convention and CMMs adopted by the Commission. Nonetheless, they have obligations to cooperate in the conservation and management of the living resources of the high seas and take the measures necessary for the conservation of living resources, including through regional fisheries management organisations established to this end. This includes not undermining the effectiveness of measures adopted by such regional fisheries management organisations. Article 32 of the WCPF Convention gives effect to these principles by requiring the Commission and Members of the Commission to take certain actions where the activities of Non-Party vessels or nationals affect the implementation of the objective of the Convention, or undermine the effectiveness of the CMMs

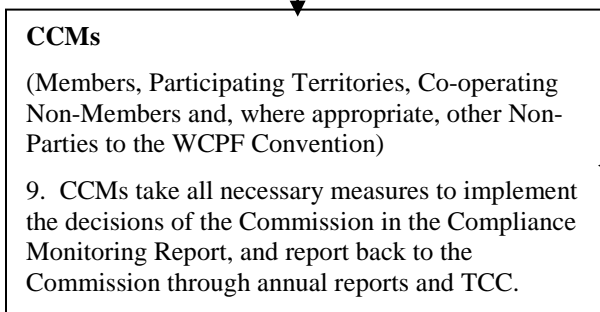
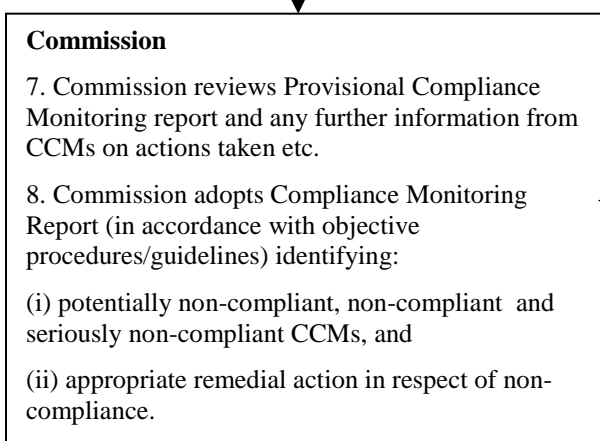
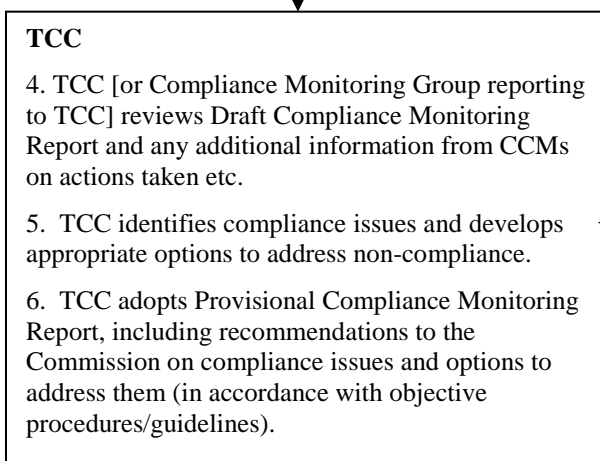
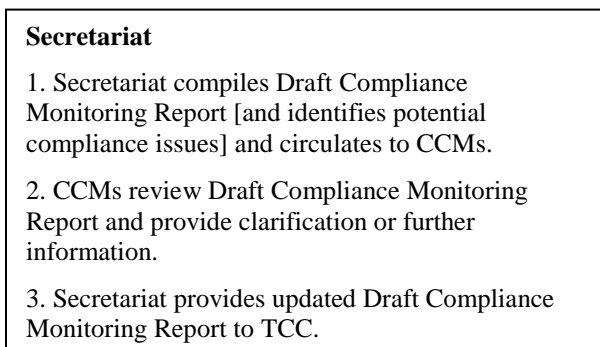
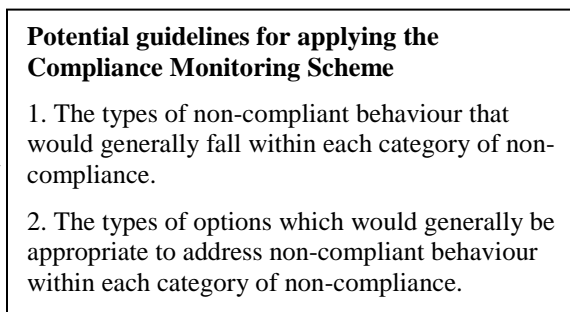
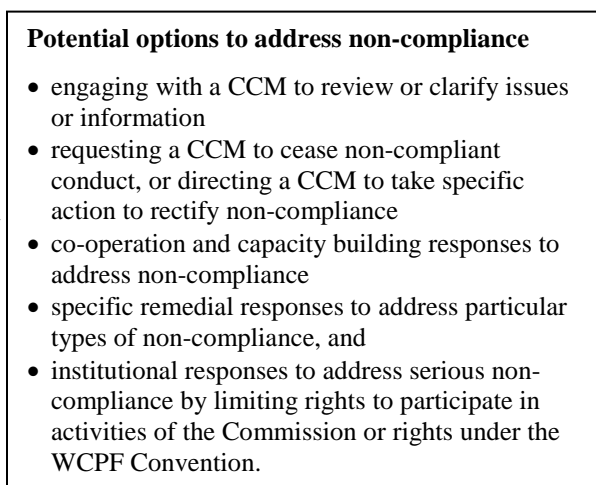
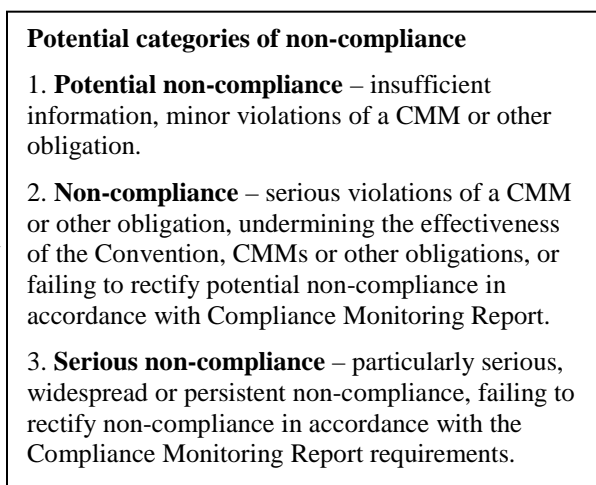
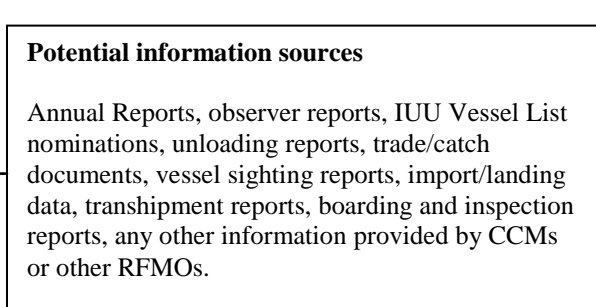
adopted by the Commission. Accordingly, the activities of Non-Members should also be monitored and reviewed through the Compliance Monitoring Scheme. This will provide the Commission and CMMs with an avenue to effectively fulfil the requirements of Article 32 of the WCPF Convention.

In accordance with Article 32, action taken by the Commission to address non-compliance by Non-Members should include:

- (i) drawing the attention of Non-Members to any activity undertaken by its nationals or vessels which affects the implementation of the objective of the Convention, and
- (ii) taking measures to deter the activities of vessels flagged to Non-Members which undermine the effectiveness of CMMs adopted by the Commission.

Many of the general and specific remedial options applicable to CCMs may also be applicable in relation to actions of Non-Members. Although the 'institutional' options will not be relevant, other options could be taken to address non-compliance by Non-Members (for example, IUU vessel listings, port state measures or non-discriminatory trade measures). Any measures taken with respect to a Non-Member should appropriately reflect their status as a Non-Member, and be consistent with international law.

Draft structure and supporting processes for the Compliance Monitoring Scheme

StructureSupporting processes

ATTACHMENT C

Overview of types of obligations arising under CMMs, the WCPF Convention and other Rules and Guidelines adopted by the Commission

Types of obligations	Elements of obligation	Relevant CMMs, WCPF Convention Provisions, Rules and Guidelines
Vessel identity obligations	<ul style="list-style-type: none"> - vessel details and authorisation - vessel marking - gear marking 	CMM 2009-01 <i>Record of Fishing Vessels and Authorization to Fish</i> CMM 2004-03 <i>Specifications for the Marking and Identification of Fishing Vessels</i> CMM 2009-08 <i>Charter Notification Scheme</i>
Vessel control obligations	- conduct of fishing operations	CMM 2009-06 <i>Regulation of transshipment</i> CMM 2007-02 <i>Commission Vessel Monitoring System</i> CMM 2008-04 <i>Driftnets</i> CMM 2009-02 <i>FAD Closure and catch retention</i> CMM 2009-05 <i>Data buoys</i>
	- bycatch requirements	CMM 2007-04 <i>Seabirds</i> CMM 2008-03 <i>Sea Turtles</i> CMM 2009-04 <i>Sharks</i>
	- fishing effort limits	CMM 2005-02 <i>South Pacific Albacore</i> CMM 2005-03 <i>North Pacific Albacore</i> CMM 2006-04 <i>Striped Marlin</i> CMM 2008-01 <i>Yellowfin and Bigeye</i> CMM 2009-03 <i>S P Swordfish</i> CMM 2009-07 <i>Pacific Bluefin</i>
MCS obligations	<ul style="list-style-type: none"> - observers - high seas boarding and inspection - observing IUU lists - stateless vessels - port state measures 	CMM 2007-01 <i>Regional Observer Program</i> CMM 2006-08 <i>High Seas Boarding and Inspection</i> CMM 2007-03 <i>IUU Vessel List</i> CMM 2009-09 <i>Conservation and Management Measure for Vessels without Nationality</i>
Actions for non-compliance	<ul style="list-style-type: none"> - domestic enforcement actions - observing IUU lists 	WCPF Convention Article 25 CMM 2007-03 <i>IUU Vessel List</i>
Reporting obligations	<ul style="list-style-type: none"> - annual reports - scientific data - boarding and inspection reports - observer reports - individual reporting obligations relating to vessel identity and control 	<i>Template for Annual Report Parts I and II</i> <i>Scientific data to be provided to the Commission</i> <i>CMMs relating to vessel identity and control</i>
CNM cooperation	- all of the above, adjusted in accordance with any conditions agreed in grant of CNM status	CMM 2009-11 <i>Cooperating Non-members</i>

Information available to assess non-compliance

Existing sources of information which could be used to compile the Compliance Monitoring Report include:

- fisheries and scientific data provided in the Part I Annual Report
- compliance and enforcement data provided in the Part II Annual Report
- observer reports from the Regional Observer Programme and national programs
- unloading reports
- VMS data
- high seas boarding and inspection reports
- reports from CNMs of measures taken to ensure compliance with CMMs in accordance
- charter notifications
- transshipment declarations, and
- discard reports.

In light of the work underway to develop CMMs for port State measures and a catch documentation scheme, additional information may also be provided through port inspection reports and CDS data in the future.

The Part 2 Annual Report provides information that would be particularly relevant to a Compliance Monitoring Scheme, since it requires CCMs to undertake a self-assessment of their compliance with CMMs and provide an explanation for any failure to fully implement them. In addition to this self-assessment of compliance, it may be useful to enable CCMs to provide unilateral compliance assessments, by reporting instances in which they are aware of non-compliance by other CCMs. Such a process is already used with respect to infringements by vessels, as a basis for developing the draft IUU Vessel List. However, this does not currently extend to direct and specific obligations of CCMs themselves.

The Commission could also consider providing an opportunity for non-governmental and inter-governmental organisations to contribute information for use in the compliance assessment process (as suggested by Canada and proposed for discussion at the 6th meeting of TCC).

The procedures established to give effect to the Compliance Monitoring Scheme should recognise and be consistent with existing processes for sharing data. If alleged instances of non-compliance cannot be verified except through confidential data, consideration could be given to developing additional procedures to appropriately safeguard the confidentiality of this data, and ensure that access to the data is only for the limited purpose of verifying compliance. The table suggested at paragraph 10 of this report would assist in identifying whether there are likely to be circumstances in which access to confidential data may be necessary to verify compliance.

Possible options for addressing specific types of non-compliance

Depending on the type or seriousness of the non-compliance in question, the Commission may decide to adopt a specific response which addresses the particular cause of the issue, or an institutional response which limits a CCM's ability to participate in the activities of the Commission or benefit from rights arising under the WCPFC Convention.

Specific responses to address types of non-compliance

CMMs and other sources of obligation could be divided into categories which characterise the type of obligation and identify the compliance issues likely to arise, including: vessel identity obligations; vessel control obligations; reporting obligations, and MCS obligations.

Vessel identity obligations include requirements relating to the verification and provision of vessel details and authorisations to fish, the identity of charter vessels, vessel marking and gear marking. If a CCM is found to be non-compliant with respect to vessel identity obligations, appropriate responses may include:

- requiring the CCM to recall a vessel to port for inspection, or
- requiring the CCM to verify compliance of a particular vessel (or all of their flagged vessels) with one or more CMMs or other obligations, and provide a report on their findings to TCC through the Compliance Monitoring Group.

Vessel control obligations include regulating the conduct of fishing operations (eg transshipment procedures, operation of VMS, FAD closure and catch retention requirements), ensuring compliance with bycatch requirements, and the implementation of agreed limits on fishing effort. If a CCM is found to be non-compliant with respect to its vessel control obligations, appropriate responses may include:

- requiring the CCM to recall a vessel to port
- requiring the CCM to conduct inspections or investigations, or undertake other enforcement activities, or
- requesting that the flag CCM give permission for another CCM to undertake enforcement action against a vessel or national of the flag CCM in relation to a breach of a CMM or other obligation.

Reporting obligations include those with respect to annual reports, scientific data, boarding and inspection activities, and observers. In addition, individual reporting obligations are also contained in CMMs regarding vessel control obligations. Minor or routine incidences of non-compliance with reporting obligations may be dealt with in the review stage of the Compliance Monitoring Scheme. However, in a case of serious non-compliance with reporting obligations, appropriate responses may include:

- requiring the CCM to provide an explanation regarding failure to meet reporting requirements, including the reasons underlying the identified data gaps, capacity challenges and plans for corrective action
- requiring the CCM to provide more frequent and detailed reports on their compliance with specified CMMs and other decisions to the Commission until the issue is resolved, or
- requesting TCC to institute a review or audit of all data or particular data provided by a CCM to verify accuracy of reporting.

MCS obligations include those relating to observers, high seas boarding and inspection, stateless vessels, and the operation and implementation of the IUU vessel list. Depending on the nature and severity of the non-compliance in question, appropriate responses to a failure to comply with MCS obligations may include:

- requiring the CCM to increase observer coverage, or use either non-national observers or observers from the Commission's cadre
- requiring the CCM to meet increased VMS reporting obligations
- suspending or restricting the CCM's access to WCPFC VMS data, or
- requiring that the vessels flagged to the CCM are subject to port inspection when making port calls at the ports of WCPFC CCMs.

Institutional responses to limit participation

A number of institutional options could be developed to limit a CCM's participation in the governance and decision-making of the Commission or access to resources managed by the Commission until the issue is addressed and resolved to the satisfaction of the Commission, including:

- withdrawal, suspension or reduction of allowable fishing effort for a specified period
- suspension or removal of vessels flagged to that CCM from the WCPFC Active Vessel List
- non-discriminatory trade-related measures
- withdrawal or suspension of Co-operating Non-Member status, or
- suspension of the CCM's right to participate in decision-making within the Commission.