



**TWELFTH REGULAR SESSION**  
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**VIEWS ON COMPLIANCE MONITORING SCHEME**

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**WCPFC12-2015-DP08**  
**31 October 2015**

**Paper by FFA Members**



**FFA**

31 October 2015

Feleti P. Teo OBE  
Executive Director  
Western and Central Pacific Fisheries Commission  
PO Box 2356, Kolonia  
Federated States of Micronesia

Dear Feleti,

### **Compliance Monitoring Scheme**

I write on behalf of the 17 members of the Forum Fisheries Agency in my capacity as the Chair of the Forum Fisheries Committee.

In the past week, FFA Members have extensively discussed key areas related to the Compliance Monitoring Scheme, and take this opportunity to provide our comments on a number of related issues.

FFA Members remain firmly committed to the Compliance Monitoring Scheme. We continue to see this Scheme moving from strength to strength each year, and most notably the significant improvements in relation to the process of developing the Provisional Report and the timely submission of Annual Reports.

#### *1. Activities between TCC and the Commission Session*

Noting the workload at the Commission meeting, FFA Members continue to discuss the challenge posed by allowing additional information to be provided 30 days ahead of WCPFC, and whether this should only be allowed in limited circumstances where such information will directly address the next step highlighted for a CCM in the Provisional Report. We see this as a positive step which promotes and expedites compliance to occur sooner. At the same time, we are mindful that such additional information is not given the same level of scrutiny given to the draft Report by both CCMs and the Commission Secretariat before and at TCC.

#### *2. Reporting timeframes*

We fully support our previous discussions, including most recently at TCC that key reporting timeframes are brought forward to allow the Commission Secretariat sufficient time to undertake the task of compiling the draft Report. Along this line, we propose that the Annual Reports (Part I and Part II) are provided together by 15 June of each year. We agree that other timeframes related to the Draft Report which are set out in the measure need to also be brought forward, and would be guided by the Commission Secretariat as to what would best assist their work.

#### *3. Amendments to the CMS CMM*

FFA Members note that a lot of time has been spent each year for the last 5 years on amendments to the CMS measure. We recognise that this has been an artefact of a measure that been adopted a year at a time, as CCMs continue to improve, and gain confidence in, the Scheme. We greatly appreciate the efforts of the TCC Chair to coordinate suggested improvements to the CMS. Specifically, FFA members thank the Chair for including specific provisions reflecting our proposals last year for SIDS to prepare implementation plans to respond to issues where they have specific capacity needs to foster compliance.

FFA Members attach a revised Annex I for consideration. We have sought to set out the categories more clearly in a manner that addresses all concerns. FFA Members are also very conscious to ensure that any processes we put in place for the CMR takes into account existing processes used for other compliance tools, such as the IUU list; and at the very least does not prejudice or adversely affect those other processes.

FFA members have again given serious consideration to the longevity of the measure. We note that there are a number of uncertainties at present, including the proposed amendments to the CMM, the pending introduction of the SIDS Implementation Plan concept and the ongoing work towards responses to non-compliance. FFA members will continue to monitor these processes. In the meantime, we recommend that an independent review of the CMS be conducted in 2017 to ensure that it is fit for purpose and inform final development.

The process has also highlighted a number of CMMs where there is a lack of agreement or consistent understanding of what obligations mean and how they should be assessed. This is a positive outcome if it drives improvements in measures, but we are of the view that the CMS should not then be used to resolve those issues. Rather, the Commission must address them independently, and we have suggested a new category of "CMM Review" to deal with those issues.

We look forward to working further on these and other proposed amendments in Bali.

#### *4. List of obligations to be assessed*

In considering the list of obligations for prioritisation in the 2016 CMS assessments, FFA Members undertook an exercise to determine the relative priority and the potential frequency of assessments for each CMM/obligation, noting the importance to ensure that each obligation is assessed at least once every few years. The outcomes of this exercise are attached.

Noting the intention of prioritising obligations was to moderate the workload of the Commission in the CMS process, consideration will be needed to determine when assessments of specific obligations are undertaken. Obligations indicating assessment frequencies of either two or three years will need to be spread evenly across years to ensure the CMS workload is manageable.

While we provide this information for your consideration, we do recognise that the CMS process will identify areas the Commission may consider a priority from year to year, and need to revise these lists as appropriate.

Please distribute this letter to all CCMs and we welcome comments or queries about the proposed approaches outlined above, which should be directed to the FFA Secretariat ([pamela.maru@ffa.int](mailto:pamela.maru@ffa.int) and [manu.tupou-roosen@ffa.int](mailto:manu.tupou-roosen@ffa.int)).

Yours Sincerely



Samasoni Finikaso  
Chair  
Forum Fisheries Committee

***Suggested frequency of assessments for WCPFC obligations***

<b>CMM/Obligation</b>	<b>Title</b>	<b>Assessment Frequency (years)</b>
SciData	1 - 5 (catch est, active vessels, op data, agg data, size data)	1
Art. 23.2 (b) & (c)	Annual Report Part 1 and Part 2	1
2007-01	ROP	1
2013-05	Catch and effort reporting	1
2013-06	CMM Art.30 Criteria	1
2013-07	Special requirements SIDS	1
2014-01	Tropical Tuna	1
2014-02	VMS	1
2014-04	PBF (rebuilding plan)	1
Art. 25(2)	Alleged FV violations - investigations and reports	1
2009-06	Transshipment	1
2010-05	SP Albacore	1
2013-10	RFV	1
2009-02	FAD closure and catch retention	1
2010-02	EHSP	1
Art. 23 (5)	control of nationals - investigations and reports	2
2011-04	Oceanic Whitetip	2
2006-08	HSBI	2
2013-08	Silky Shark	2
2014-03	RFV SSPs	2
2010-07	sharks	2
2010-06	IUU	2
2012-03	ROP N20N	2
2014-05	sharks	2
2005-03	NP Albacore	2
2004-03	FV marking	2
2012-04	Whale Sharks	2
2010-01	NP Striped Marlin	2
2009-03	Swordfish	2
2009-11	CNMs	2
2013-04	UVI	3
2011-03	Cetaceans	3
2012-05	Charter Notification	3
2008-03	sea Turtles	3
2008-04	Driftnets	3
2012-07	Seabirds	3
2006-04	SW MLS	3
2009-05	Data buoys	3
2009-09	Stateless vessels	3

PROPOSED REVISION TO ANNEX 1 OF THE COMPLIANCE MONITORING SCHEME CMM

Annex 1

Compliance Status Table

Compliance Status	Criteria	Next Steps
Compliant	<p>A CCM will be deemed <i>compliant</i> with an obligation arising under the Convention;  <del>or</del> CMMs, <u>Rules</u> or obligations adopted by the Commission if the following criteria have all been met as applicable:</p> <ol style="list-style-type: none"> <li>a. Reporting or submission deadlines;</li> <li>b. Implementation of obligation through national laws or regulations;</li> <li>c. Any alleged violations have been investigated and resolved<sup>11</sup><del>by charging or appropriate resolutions</del>; and</li> <li>d. Submission of all mandatory information or data required in the agreed format</li> </ol>	None
Capacity Assistance Required	<p>A CCM <u>as defined in para.4bis</u> will be deemed Capacity Assistance Required if it is accepted that a genuine need exists for a particular obligation and an implementation plan has been submitted with the Part 2 report for the CMM(s) and/ or obligation(s) <del>for consideration by TCC</del>.</p>	<p>Follow the steps of the implementation plan. Resubmit new plan for consideration <del>after three years</del> if there are ongoing obligations requiring capacity assistance.</p>
Article 25 Investigation	<p>A CCM will be deemed as Article 25 <del>investigation</del> <del>xx</del> for an obligation if alleged incidents of noncompliance by a CCMs flagged vessel have been identified, and that CCM has provided information that an investigation has commenced, however there has not been time to complete the investigation in the same calendar year.</p>	<p>A CCM must complete the investigation, and take appropriate action in relation to the alleged violations by its vessels.</p> <p>The CCM is required to report back <del>to TCC</del> annually.</p> <p>Based on the CCM’s report, <del>the TTC will determine a</del> <u>determination will be made</u> whether there has been a genuine effort to progress the investigation.</p> <p>If <del>TCC determines a</del> <u>determination is made that</u> there has been a genuine effort, the CCM will remain in this category until the next TCC.</p>

<sup>11</sup> Pursuant to Article 25(7), sanctions applicable in respect of violations shall be adequate in severity to be effective in securing compliance and to discourage violations wherever they occur and shall deprive offenders of the benefits accruing from their illegal activities.

		If <del>TCC determines a</del> <u>determination is made that</u> there has not been a genuine effort, the flag State will move to Non-Compliant.
Non-Compliant	<p>A CCM will be deemed as being non-Compliant with an obligation if any of the following have occurred if:</p> <ul style="list-style-type: none"> <li>a. Alleged incidents of non-compliance by a CCMs flagged vessel have been identified, and that CCM has not provided satisfactory information that an investigation has commenced.</li> <li>b. A CCM has failed to comply with an obligation or category of obligations not specifically identified as priority non-compliant <u>status</u>;</li> <li><del>c.</del> <u>Information or data for the obligation has been submitted or reported in a way that is incomplete, incorrect, or wrongly formatted</u></li> <li><del>e.d.</del> <u>A CCM has failed to meet reporting or submission deadlines.</u></li> </ul>	<p>One or more of the following:</p> <ul style="list-style-type: none"> <li>a. A CCM must provide information that they have commenced an investigation to move into Article 25 status while the investigation is completed.</li> <li>b. A CCM must <del>undertake to</del> address the issue to gain compliance status.</li> </ul>
Priority Non-Compliant	<p>A CCM will be deemed Priority Non-Compliant with an obligation arising under the Convention <del>or</del> CMMs <u>Rules or obligations</u> adopted by the Commission if any of the following have occurred, as applicable:</p> <ul style="list-style-type: none"> <li>a. Exceeding catch and effort limits established by the Commission</li> <li>b. Non submission of Annual Reports</li> <li>c. Repeated non-compliance with an obligation for two or more years,</li> <li>d. Any other non-compliance identified as Priority Non-Compliant by the Commission.</li> </ul>	<p>CCMs must complete a Compliance Action Plan, to be submitted by _____, that details how the CCM is going to come into compliance with its obligation(s);</p> <p>and/or</p> <p>Other remedial action as determined by the Commission</p>
CMM review	There is a <del>misunderstanding of an obligation or a lack of consensus</del> <u>lack of clarity</u> on the requirements of an obligation.	The Commission shall review that obligation and clarify its requirements.