

**2017 FINAL COMPLIANCE MONITORING REPORT  
(COVERING 2016 ACTIVITIES)  
Executive Summary**

**I. INTRODUCTION**

1. WCPFC14 undertook its seventh annual review of compliance by CCMs against an updated priority list of Commission obligations agreed to at WCPFC13 for 2016 – 2018. (Attachment I to WCPFC13 Summary Report)
2. WCPFC14 and TCC13 conducted its review in accordance with the revised Compliance Monitoring Scheme (CMS) adopted at WCPFC12 – CMM 2015-07.
3. Unlike past versions of the CMS, the current CMS does not require an overall assessment of each CCM, but only asks WCPFC to identify a compliance assessment for each specific obligation.
4. A number of CCMs provided additional information between TCC13 and WCPFC14. A small working group met in closed session during WCPFC14 to review and evaluate the additional information. The small working group considered all additional information, including for CCMs not present at the working group meetings.
5. After considering the additional information, the small working group was unable to assess five obligations for certain CCMs contained in the following measure and specified in further detail below: CMM 2009-03, para 2, CMM 2015-01, para 14, CMM 2014-02, paras 9a and SSPs 2.8, Convention Article 25(2), and SciData 03.
6. In accordance with Annex I of the CMS CMM, the following statuses were considered in making the assessments: Compliant, Non-Compliant, Priority Non-Compliant, Capacity Assistance Needed, Flag State Investigation and CMM Review.

**II. DEVELOPMENT OF THE PROVISIONAL COMPLIANCE MONITORING REPORT BY TCC13**

7. TCC13 reviewed the draft Compliance Monitoring Report (draft CMR) for thirty-seven (37) CCMs and one (1) collective group of Members in a closed working group session. The draft CMR is classified as non-public domain data and some CCMs were not able to agree to release their non-public domain data, therefore the decision was made to close the session. There continues to be interest among some CCMs and the Observers (who are not able to attend the closed session) in finding a way to address the confidentiality concerns of CCMs. It was noted that an effort to adopt guidelines to allow Observers to participate in the closed CMS working group session occurred intersessionally, but CCMs were not able to reach agreement on those guidelines.

**III. COMPLIANCE REVIEW PROCESS AND ASSESSMENTS**

8. TCC13 agreed to a CMR Review Process in advance of conducting its review (WCPFC-TCC13-2017-12). Once the review began, it became clear that adjustments were needed to the process for considering the reports on Flag State Investigations and Capacity Development Plans. Instead of taking a new assessment, as proposed in WCPFC-TCC13-2017-12, TCC13 agreed to hear the report back from CCMs, and then note whether the investigation or capacity development plan was complete or whether it remained ongoing. The outcome of the review of the Flag State Investigations is in the

table below. The outcome of the review of the Capacity Development Plan is included in the table in Section V below.

CMM	Flag State Investigation (CMR RY2015) Ongoing	Flag State Investigation (CMR RY2015) Completed
2007-01, para 14	China, Japan, Korea, Papua New Guinea, Philippines, Chinese Taipei	Federated States of Micronesia, United States, Vanuatu
2010-07, para 9	Korea	Papua New Guinea
2013-08, para 1	China, Japan, Korea, Philippines, Chinese Taipei	Papua New Guinea
2014-01, para 14	Chinese Taipei	Papua New Guinea, United States
2014-01, para 16		Papua New Guinea

9. Despite the significant discrepancies in the amount of information provided by different CCMs TCC13 noted that an increased number of CCMs provided very good, detailed information regarding ongoing and closed investigations; however, there is still a need for significant improvement in some reports. Some CCMs noted concern at the level of information being provided on ongoing and closed investigations.

**10. TCC13 recommends that WCPFC14 agree that the information that should be reported generally includes: 1) what is the current status of the investigation; 2) what steps were taken to investigate the alleged violation(s); 3) what is the outcome of the investigation; 4) if closed without any enforcement action, why was it closed; 5) if charged, how was it charged (e.g., verbal warning, written warning, penalty/fine, permit sanction, etc.) and what was the level of the sanction, if any; and 6) if ongoing, what is the anticipated timeline for completing the investigation. WCPFC14 requests the Secretariat to revise the Investigation Status Report (ISR) template to reflect this recommendation.**

11. TCC13 noted that there has been improvement in the ability of flag states to obtain observer reports relevant to investigate alleged violations, but there remains room for improvement. TCC13 urged flag states and observer providers to engage while here at TCC and in the margins of other meetings to facilitate the provision of observer reports.

12. TCC13 noted that as more detailed information is provided on investigations, it was difficult to track which case was relevant to each CMR obligation as TCC moved through the CMR process.

**13. TCC13 recommends that WCPFC14 agree that the Secretariat identify the cases by vessel name in the CMR report, so that flag states and other interested CCMs can more clearly identify which cases are being discussed and assessed.**

14. Some CCMs noted that TCC practice for assessment of some obligations was that where there were vessel breaches subsequent steps by flag states (including sanction) led to compliant assessments being given in some cases. Some CCMs consider that an additional record of where there has been vessel breaches/issues for particular obligations (even where compliant assessments were given) will give a more effective picture of compliance issues that may require Commission attention and that appropriate differentiation of obligations needs to occur if this assessment practice continues.

15. TCC13 noted that a significant portion of the time in the CMS process is spent addressing incomplete, missing or very late reports from a small number of CCMs through verbal provision of the missing information. Provision of timely and complete reports would significantly streamline the CMS process. In addition, TCC13 and the Secretariat noted that it would be helpful to the Secretariat,

and streamline the CMS process, if CCMs fill out all fields in their annual reports even when the response is zero or some other null response, in order to avoid the Secretariat noting this as a reporting gap.

**16. TCC13 recommends that WCPFC14 agree that in future CMS reviews, TCC limit the practice of allowing CCMs to provide additional information verbally to situations of clarifications. In making this recommendation, TCC13 notes that CCMs have several formal opportunities to provide the required information – through the submission of its Annual Reports Parts 1 and 2 and other required reports, in responding to the dCMR report provided by the Secretariat in late July, and again up to 30 days prior to the Commission meeting. In addition, the Secretariat makes great efforts to review and incorporate additional information provided outside these formal mechanisms.**

17. There were five obligations that WCPFC14 was not able to assess due to a lack of consensus as to the compliance status. Therefore, these obligations are noted as not assessed. However, the CMS small working group notes that all of these issues related to differences in interpretation of the obligation, and therefore recommends that consideration be given to clarifying these obligations.

- a. CMM 2009-03, para 2 – WCPFC14 took no assessment for China
- b. CMM 2015-01, para 14 – WCPFC14 took no assessment for China, Federated States of Micronesia, Kiribati, Marshall Islands, and Solomon. The difference of view related to the interpretation of footnote 2 of the measure.
- c. CMM 2014-02, paras 9a and SSPs 2.8 – WCPFC14 took no assessment for all CCMs because WCPFC14 could not agree on assessments that were consistent and fair to all CCMs.
- d. Convention Article 25(2) – WCPFC14 took no assessment for all CCMs as it did not lend itself easily to clear assessment, but it did assess CCMs against the reporting deadline.
- e. SciData 03 – WCPFC14 took no assessment for Chinese Taipei.

18. As noted in the paper on the CMR Review Process, WCPFC-TCC13-2017-12, there were a number of alleged violations from 2015 that were not included in last year’s CMS because the information came in after the CMS was completed. TCC13 reviewed the outstanding alleged violations from 2015. The table below reflects the status of that review. For those noted as Flag State Investigation (FSI), CCMs will report back on the status of those investigations during the 2018 review process.

CMM	Flag State Investigation (RY2015)	Completed
CMM 2007-01, para 14	China, Japan, Korea, Marshall Islands, Papua New Guinea, Philippines, Chinese Taipei,	Kiribati, United States
CMM 2010-07, para 9	China, Korea, Philippines	Kiribati
CMM 2015-01, para 14	Japan, Marshall Islands, Philippines, Chinese Taipei	China*, Federated States of Micronesia*, Kiribati*, Solomon Islands

*\* WCPFC14 was not able to reach consensus on the status of the Flag State Investigations for these CCMs. A majority of CCMs thought that these CCMs should be assessed as completed. Given that the difference of opinion related to the interpretation of footnote 2 of the measure, there will be no benefit to revisiting these investigations next year, so they are noted as completed.*

19. As noted in the paper outlining the TCC CMR process (WCPFC-TCC13-2017-12), WCPFC14 and TCC13 did not consider the information contained in the ROP Pre-notification List for the purpose of assessing any obligations for which it was relevant, with the exception of those cases

related to observer interference or obstruction. **TCC13 recommends that WCPFC14 agree that this process be followed in future years.**

20. Consistent with the Final Compliance Monitoring Reports from 2012 – 2016, CCMs evaluated as “non-compliant” for obligations are strongly encouraged to address their implementation issues even without a response procedure.

#### **IV. ISSUES RELATED TO SPECIFIC CMMs OR OTHER OBLIGATIONS**

21. For CMM 2005-03, para 2, the United States emphasized that CCMs need to report on how they are implementing their obligation to limit fishing effort including the measure of fishing effort used.

22. For CMM 2009-03, para 8, some CCMs noted the need to revise the measure to clarify that the reporting requirement applies not only to vessels that are targeting swordfish, but also to those that have caught swordfish as bycatch. In addition, the Secretariat noted that it would appreciate some additional guidance on applicability. **WCPFC14 agrees that the obligations relate to reporting against limits in para. 1 of the measure, which is specific to certain CCMs, and para.2 which applies to all CCMs particularly those that fish south of 20 south. The reporting requirements include CCMs to report any and all SWO catch, including bycatch.**

23. For CMM 2009-06, para 35, and CMM 2010-02, New Zealand noted that allowing reports to be provided at TCC does fill a reporting gap but does not meet the intent of the obligations which is focused on timely notification for MCS purposes.

24. For CMM 2010-07, there was a lengthy discussion regarding the operation of paragraphs 6 and 7 and whether or not they must be read together, but TCC13 was not able to reach a consensus opinion on this issue. Some CCMs request that TCC assess paragraph 7, in addition to paragraph 6, when TCC next assesses this measure. Other CCMs recommend considering this issue in the Small Working Group related to the comprehensive shark and rays CMM.

25. For CMM 2011-03, para 5 and CMM 2012-04, para 6, most CCMs had provided information based on observer collected data, but had not provided reports from the vessel operators.

26. For CMM 2012-07, the United States requests that TCC also assess paragraphs 1 and 2, in addition to paragraphs 4 and 9, when TCC next assesses this measure.

27. For CMM 2014-02, paras 9a and SSPs 2.8, some CCMs' position is that the requirement under paragraph 9a is not met solely by provision of the VTAFs, because provision of the VTAFs is assessed separately under para 2.8 of the VMS SSPs and these CCMs believe the onus lies on the flag state to ensure VMS is functioning before fishing takes place or that, if not functioning, appropriate manual reporting take place. Most CCMs recommend that in future assessments of CMM 2014-02, para.9(a) ALCs and SSPs 2.8 that unless CCMs' vessels on the RFV are capable of meeting the reporting requirements as stipulated under Annex 1 CMM 2014-02, then that CCM be assessed non-compliant.

28. For CMM 2014-03, as in past years, TCC took our assessments against this obligation as a block. TCC13 noted there are a large number of CCMs with some reporting gaps, and some CCMs felt this raised the question as to whether the measure needs to be revised or whether TCC needed to rethink our assessment of this obligation. Other CCMs noted that a number of the fields that are related to the reporting gaps are fields that are required by the Convention. The Secretariat noted that despite the large number of CCMs with reporting gaps, the actual volume of reporting gaps is much smaller

than in past years and they have noted significant improvement in implementation of this obligation.

29. For CMM 2014-05, some CCMs recommend that TCC also assess paragraph 1 of this measure when TCC next assesses this measure.

30. For CMM 2015-01, para 19(b), there was a discussion as to whether the required information can come in an aggregated form or needs to be on an individual vessel level. For this year’s assessment, TCC13 agreed that information provided in an aggregated form was acceptable.

31. For CMM 2015-01, para 49 and 50, the European Union noted that assessments against these two paragraphs should be done in conjunction.

32. For CMM 2015-04, para 6, some CCMs think that all CCMs should be reporting against this obligation even if the response is zero. Those CCMs requested that the Secretariat assess all CCMs against this obligation. Other CCMs disagreed and felt this would be burdensome on CCMs.

33. For CMMs with reporting deadlines of 31 July (eg CMM 2015-04), the Secretariat noted that this complicates the review by the Secretariat in preparation of draft CMRs.

34. For CMM 2015-05, New Zealand recommends that this measure needs review to address more specific apportionment of responsibility between the flag state and chartering state for Commission obligations.

35. For SciData 03 – TCC13 noted with pleasure that for the first time, all CCMs are providing some operational level catch and effort data. While some data gaps remain, this is a significant improvement from just three years ago.

## V. REQUESTS FOR ASSISTANCE AND CAPACITY BUILDING

36. Several areas were identified where targeted assistance is required to assist SIDS and other CCMs in implementing specific obligations. **WCPFC14 agrees that the table under para.36 Section V of the CMR Executive Summary is forwarded to FAC11, and incorporated in discussions regarding the Special Requirements Fund and the use of these funds to respond to the assistance needs arising from the CMS.**

CMM	Obligation	CMR section <sup>1</sup>	CCM	Capacity Assistance Needed CMR score
<b>CMM 2009-06 transshipment</b>	CMM 2009-06 11	ii	Vanuatu	
	CMM 2009-06 35 a (iii)	vii	Vanuatu	
	CMM 2009-06 35 a (iv)	vii	Vanuatu	

<sup>1</sup> CMM 2015-07 paragraph 3: (i) catch and effort limits for target species; (ii) catch and effort reporting for target species; (iii) reporting including with respect to implementation of measures for non-target species; (iv) spatial and temporal closures, and restrictions on the use of fish aggregating devices; (v) authorizations to fish and the Record of Fishing Vessels, observer, VMS coverage, transshipment and the High Seas Boarding and Inspection Scheme; (vi) provision of scientific data through the Part 1 Annual Report (and its addendum) and the Scientific Data to be provided to the Commission; and (vii) submission of the Part II Annual Report, including compliance with the obligations in paragraph 36, and compliance with other Commission reporting deadlines.

CMM	Obligation	CMR section <sup>1</sup>	CCM	Capacity Assistance Needed CMR score
<b>CMM 2010-06 IUU</b>	CMM 2010-06 22	v	Vanuatu	
<b>CMM 2010-07 Sharks</b>	CMM 2010-07 06	i	Vanuatu	
<b>CMM 2012-04 whale sharks</b>	CMM 2012-04 01	i	Federated States of Micronesia	
<b>CMM 2013-05 Daily catch and effort reporting</b>	CMM 2013-05 02	ii	Federated States of Micronesia	
<b>CMM 2014-02 VMS</b>	CMM 2014-02 9a VMS SSPs 7.2.2	v	Tuvalu	Tuvalu - Capacity assistance needed (CMR RY2015, CMR RY2016)
	Convention Article 24 (3)	v	Vanuatu	
	Convention Article 25 (2)	vii	Federated States of Micronesia	
<b>Scientific data provision</b>	Scidata 03	vi	Indonesia	Indonesia - Capacity Assistance needed (CMR RY 2016)