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**COMMISSION**

**Twentieth Regular Session**

4-8 December 2023

Rarotonga, Cook Islands (Hybrid)

**Update - Audit Points Development and Adoption**

**WCPFC20-2023-WP23\_Rev01**

**6 December 2023**

**Paper prepared by CMS-IWG Audit Points Lead**

1. The CMS-IWG Audit Points lead submitted a working paper to WCPFC20: A*udit Points Development and Adoption* (WCPFC20-2023-23). That working paper outlined the CMS IWG’s progress to finalise audit points, or agree on an approach, for 120 obligations.
2. This update is provided to support the upcoming small working group discussion on audit points (scheduled for 8am, 7 December 2023). Noting the limited time available at WCPFC20, this update seeks to achieve agreement on the final remaining audit points requiring CCM/IWG participant discussion. This document only covers the draft audit points that were in orange the previous working paper i.e. obligations where the CMS-IWG is yet to agree on draft AP, or a CCM has proposed an edit requiring review.
3. All comments received prior to, and during, WCPFC20 have been reflected. There are only three audit points with proposed edits (#71, #89, #92). These three obligations all have new draft Reporting (RP) audit point, instead of Implementation (IM).
4. In addition, the paper seeks to finalise CMS-IWG recommendations for adoption by WCPFC20. These recommendations provide proposed guidance and context to the Commission (and TCC or SC) regarding current and future audit point work. Proposed recommendations 7, 8 and 9 are new and were not contained in the initial version of Working Paper 23.
5. During the SWG session, the lead will run the session as follows:
   1. Review the audit points where comments or concerns have been raised, or new text proposed (currently this is only audit points #71, #89 and #92).
   2. Review the draft CMS IWG recommendations.

Proposed CMS-IWG recommendations

***The CMS-IWG recommends that:***

***1. TCC, as a standing agenda item relating to the Special Requirements of Developing States, review and assess the Commission’s implementation of, and compliance with, CMM 2013-06 for the previous calendar year.***

***2. The Commission considers the obligation outlined in paragraph 1, CMM 2013-06 and whether it is fit for purpose, including whether it requires CCMs to report information already reported in other CMMs or obligations.***

***3. TCC20 consider whether any amendments are required to VMS SSPs 7.2.4 to provide clearer language in relation to this reporting requirement (i.e. protocol for inspecting States to inspect ALCs/MTU of other CCMs vessels at sea, includes reporting requirements for inspecting States).***

***4. SC20 and TCC20 review the SciData requirements to capture turtle interaction reporting requirements under CMM 2018-04, paragraphs 5c and 7e.***

***5. TCC20 consider whether any adopted audit points for Quantitative Limit obligations require additional verification sources or processes to better facilitate compliance assessments.***

***6. TCC20 prepare new audit points for the revised catch and effort reporting CMM (CMM 2022-06), noting it enters into force on 1 January 2024.***

***7. The Commission task TCC to annually prepare a provisional list of obligations to be assessed in the following year’s Compliance Monitoring Scheme (CMS). This will allow the Secretariat and TCC chair sufficient time to determine whether the Commission will need to adopt any additional audit points to inform the CMS process.***

***8. The Commission reminds CCMs to use the audit point checklist adopted by WCPFC19 for any proposed new or amended obligations (Attachment R, WCPFC19 Summary Report). CCMs’ use of this checklist will ensure that the development of audit points is embedded within the Commission’s consideration of new proposals.***

**9. The Commission will apply the following general approach when determining the particular category of obligations (i.e. implementation or reporting) and developing associated audit points:**

**a) obligations that require specific action from a national authority or its officers (e.g. inspectors) are best treated as reporting obligations rather than implementation obligations. This is because CCMs do not generally have national binding measures requiring their national authority or officials to take specific action, and instead they implement or require such action as part of national procedures or policies.**

**b) obligations that require CCMs to complete an action (e.g. ‘CCMs shall…’) but provide some qualification (e.g. ‘to the extent practicable’ or ‘where possible’) are best treated as reporting obligations. This is because a CCM still has a binding obligation to take a particular action but has some discretion in light of particular circumstances.**

**c) obligations that require CCMs to take particular control or action over its vessels, operators, masters or crew (e.g. ‘CCMs shall ensure that its flagged vessels…’) are best treated as implementation obligations. This is because these obligations require CCMs to exercise control over its vessels, masters or crew – and require national binding measures to enable it to do so, along with appropriate monitoring controls.**

**d) obligations requiring CCMs to cooperate are best treated as reporting obligations.**

**e) obligations may be categorised as both implementation and reporting obligations.**

**e) no audit points are required for:**

**a. Convention obligations that are covered by specific CMMs or which are general in nature; and**

**b. non-binding obligations.**

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| 18. | Cetaceans  2011-03 ~~02-~~03  Category: ~~Implementation (IM)~~ Report (RP) |  | |  |  |
|  | **WCPFC Secretariat Criteria** | **Draft Audit Point for consideration** | | **CMM Paragraph** | **Decision Points/Comments** |
|  | \*2011-03 \*02 and 03  1. AR Pt 2 should include a statement that confirms the adoption by a flag CCM, in accordance with its own national policies and procedures, of binding measures that implement the two requirements in the event of unintentional encircling of cetaceans in the purse seine net, including taking of reasonable steps to ensure safe release and incident reporting requirements as per (CMM 2011-03) PROTECTION OF CETACEANS  2. CCMs should also provide information showing that it has a system to monitor and ensure compliance with this obligation and has taken action in response to any potential infringements | [RP – paragraph 3]  The Secretariat confirms that the CCM provided information on how it requires the master of its flagged vessels to follow WCPFC guidelines in relation to the safe release of cetaceans.  *[Previous draft IM AP (covering both paras 2 and 3)]*  ~~CCM submitted a statement in AR Pt 2 that:~~  ~~a. confirms CCM’s implementation through adoption of a national binding measure that requires vessel masters of CCM flagged PS vessels to take reasonable steps to ensure safe release (in accordance with WCPFC guidelines), including stopping the net roll and not resuming fishing operation until the animal has been released and is no longer at risk of capture.~~  ~~b. describes how CCM is monitoring and ensuring that in the event a cetacean is unintentionally encircled in the purse seine net, the vessel masters of CCM flagged PS vessels take reasonable steps to ensure safe release, including stopping the net roll and not resuming fishing operation until the animal has been released and is no longer at risk of capture, and how CCM responds to potential infringements or instances of non-compliance with this requirement~~. | | 3. In taking steps to ensure the safe release of the cetacean as required under paragraph 2(a), CCMs shall require the master of the vessel to follow any guidelines adopted by the Commission for the purpose of this measure. | AP for CMM 2011-03 02 (IM) adopted.  Paragraphs 2 and 3 obligations overlap, therefore discussion as to whether to combine APs to cover both paras 2 and 3.  JP prefer to maintain para 2 IM AP (already adopted) and adopt a RP AP for para 3.  **Proposed approach (in line with JP suggestion):**   * Maintain existing IM AP for para 2; and * Adopt new RP AP for para 3 in relation to use of guidelines (see draft) |
| 38. | VMS  **2014-02 9a VMS SSPs 7.2.5**  **Category:** Report (RP) |  | |  |  |
|  | **WCPFC Sec Criteria** | **Draft Audit Point for consideration** | | **CMM Paragraph** | **Decision Points/Comments** |
|  | Report to Secretariat any ALC/MTU, and associated details, that appear to not be in compliance with applicable CMMs related to VMS reporting  1. AR Pt 2 should include a statement that confirms the adoption by a flag CCM, in accordance with its own national policies and procedures, of binding measures that implement the requirement that CCMs report to Secretariat within 5 days of detection of any ALC/MTU, and its associated details, that appear to not be in compliance with applicable CMMs related to VMS reporting | The Secretariat confirms that the flag CCM ~~of the boarded vessel~~ submitted ~~responsive~~ information on any ALC/MTU on its flagged vessels that appear to not be in compliance with the Commission VMS requirements (including CMM 2014-02, VMS SSPs) within 5 days of the flag CCM ~~of the boarded vessel~~ becoming aware of any such compliance issues. | | 7.2.5 [CCMs] To report, by e-mail, facsimile or data entry procedures established by the Commission to the Secretariat within a period of 5 days any registered ALC, including connections and antennas, associated vessels (by name and flag) and vessel masters that appear to not be in compliance with CMM-20014-02 (or its successor measure) and/or specifications and procedures agreed by the Commission as well as the details of the non-compliance. The Secretariat will issue an acknowledgement of reception of each report and, in the absence of this acknowledgement within 72 hours of transmission, the CCM is required to retransmit any unacknowledged report. | Comments received querying inclusion of ‘of the boarded vessel’ noting that identification of non-compliant ALCs may result from different situations.  Proposed edits to align with obligation.  **Consider draft AP** |
| 40. | Port State Measures  **2017-02 05**  **Category:** Implementation (IM) |  | |  |  |
|  | **WCPFC Sec Criteria** | **Draft Audit Point for consideration** | | **CMM Paragraph** | **Decision Points/Comments** |
|  | Applicable Flag CCMs are to confirm whether obligation was implemented.  Provide additional information / details that confirms the adoption by a flag CCM, in accordance with its own national policies and procedures, of binding measures that implement the requirement for its flagged vessels CCMs should also provide information showing that it has a system to monitor and ensure compliance with this obligation and has taken action in response to any potential infringements | ~~CCM submitted a statement in ARPt2 that:~~  ~~a. confirms CCM’s implementation through adoption of a national binding measure that requires its flagged vessels to cooperate with any CCM port that is implementing port State measures under the WCPF Convention and CMM, when in that CCM’s port~~  ~~b. describes how CCM is monitoring and ensuring that its flagged vessels cooperate with any CCM port that is implementing WCPFC port state measures when in that CCM’s port, and how the CCM responds to potential infringement or instances of non-compliance with this requirement.~~ | | General rights and obligations 5. Each flag CCM shall require its flagged vessels to cooperate with any port CCM that is implementing any port State measures under the WCPF Convention, and this CMM. | EU’s view is that this obligation does not require an AP since port States have sovereignty regarding its ports and flagged vessels already submit to the port State jurisdiction and are required to cooperate**.**  **Proposed approach:**  **No AP required** |
| 42. | Port State Measures  **2017-02 09 and 10**  **Category:** ~~Implementation (IM)~~ Report (RP) |  |  | |  |
|  | **WCPFC Sec Criteria** | **Draft Audit Point for consideration** | **CMM Paragraph** | | **Decision Points/Comments** |
|  | Applicable Port CCMs (those CCMs that have notified the WCPFC in accordance with para 6) are to confirm whether obligation was implemented.    Provide additional information / details that confirms the adoption by certain Port CCMs, in accordance with its own national policies and procedures, of binding measures that implement the requirement | [RP]  The Secretariat confirms that port CCMs, that have designated ports in accordance with CMM 2017-02, have submitted a statement confirming that it has conducted port inspections of:  a) any foreign longline, purse seine and carrier vessel that enters their designated port and is not listed on the RFV, unless the vessel is authorized with another RFMO that the port CCM is a Party to, as practicable; and  b) vessels that appear on the IUU list of an RFMO.  [IM]  ~~CCM submitted a statement in AR Pt2 that:~~  ~~a. confirms CCM’s implementation through adoption of a national binding measure that requires port inspections of a) any foreign longline, purse seine and carrier vessel that enters their~~ *~~designated port~~* ~~and is not listed on the RFV, unless other than in cases where the vessel is authorized with another RFMO that the port CCM is a Party to, as practicable, and b) vessels that appear on the IUU list of an RFMO~~  ~~b. describes how CCM is monitoring and ensuring that port inspections are being carried out for a) any foreign longline, purse seine and carrier vessel that enters their~~ *~~designated port~~* ~~and is not listed on the RFV, other than in cases where the vessel is authorized with another RFMO that the port CCM is a Party to, as practicable, and b) vessels that appear on the IUU list of an RFMO, and how CCM responds to potential infringements or instances of non-compliance with this requirement.~~ | Inspection requirements 9. Port CCMs shall carry out inspections on at least the following vessels:  a) on any foreign longline, purse seine and carrier vessel that enters their designated port and is not listed on the WCPFC Record of Fishing Vessels, other than in cases where the vessel is authorized with another RFMO that the port CCM is a Party to, as practicable;  b) vessels that appear on the IUU list of an RFMO.  10. A port CCM shall give particular consideration to inspecting those vessels suspected of undertaking IUU fishing activities, including if identified by non-CCMs or other RFMOs, particularly where evidence of IUU fishing or fishing related activities in support of IUU fishing has been provided. | | JP and CT consider this obligation more appropriate as RP (because requires action from national authority). This approach is consistent with CMS IWG approach to similar obligations to date.  **Consider draft RP AP** |
| 43. | Port State Measures  **2017-02 15**  **Category:** Implementation (IM) |  |  | |  |
|  | **WCPFC Sec Criteria** | **Draft Audit Point for consideration** | **CMM Paragraph** | | **Decision Points/Comments** |
|  | [No criteria as RP obligation] | [RP]  The Secretariat confirms that flag CCMs that received an inspection report in accordance with paragraph 13 submitted information that confirms that it immediately and fully investigated the potential infringements in accordance with Article 25 of the Convention. | Inspection Procedures  15. Where, following a port inspection, a flag CCM receives an inspection report, as referred to in paragraph 13, indicating that there are clear grounds to believe that its flagged vessel has engaged in IUU fishing or fishing related activities in support of IUU fishing, it shall immediately and fully investigate the matter in accordance with Article 25 of the Convention. | | Some support this as RP obligation, with others querying whether an AP is needed at all (is a general obligation, plus Art 25(2) cases already captured by the Compliance Case File System – so no added value having an AP).  **Proposed approach: No AP required** |
| 44. | Port State Measures  **2017-02 17**  **Category:** ~~Implementation (IM)~~ Report (RP) |  |  | |  |
|  | **WCPFC Sec Criteria** | **Draft Audit Point for consideration** | **CMM Paragraph** | | **Decision Points/Comments** |
|  | Applicable Port CCMs (those CCMs that have notified the WCPFC in accordance with para 6) are to confirm whether obligation was implemented.    Provide additional information / details that confirms the adoption by a flag CCM, in accordance with its own national policies and procedures, of binding measures that implement the requirement    CCMs should also provide information showing that it has a system to monitor and ensure compliance with this obligation and has taken action in response to any potential infringements | [RP]  The Secretariat confirms that port CCMs, that have designated ports in accordance with CMM 2017-02, have submitted a statement confirming that it only provided authorized port entry to vessels that have committed IUU fishing, or fishing related activities in support of IUU fishing, or is on a RFMO IUU list, for inspection and investigation purposes, and prohibited any activities by such vessels that support fishing operations, including landing, transhipment, and re-provisioning.  [IM]  ~~CCM submitted a statement in AR Pt2 that:~~  ~~a. confirms CCM’s implementation through adoption of a national binding measure that requires the CCM to only provide authorized entry to vessels that have committed IUU fishing, or fishing related activities in support of IUU fishing, or is on a RFMO IUU list, for inspection and investigation purposes, and prohibit any activities by such vessels that support fishing operations, including landing, transshipment, and re-provisioning.~~  ~~b. describes how CCM is monitoring and ensuring that it is only providing authorized entry to vessels that have committed IUU fishing, or fishing related activities in support of IUU fishing, or is on a RFMO IUU list, for inspection and investigation purposes, and prohibiting any activities by such vessels that support fishing operations, including landing, transshipment, and reprovisioning, and how CCM responds to potential infringements or instances of non-compliance with this requirement.~~ | Inspection Procedures  17. In cases where there is sufficient evidence indicating that a vessel has committed IUU fishing, or fishing related activities in support of IUU fishing, or is on a RFMO IUU list, port CCMs shall only provide such a vessel authorisation to enter its designated port for inspection and investigation purposes. Activities that support fishing operations inter alia, landing, transshipment, and re-provisioning shall be prohibited. | | JP and CT consider this more appropriate as RP because it is a requirement on national authorities most commonly implemented via national procedures.  **Proposed IM approach:**  **No IM required, consider draft RP obligation.** |
| 46. | \*Rev – Observer Safety  **2017-03 03-06**  **Category:** ~~Implementation (IM)~~ Report (RP) |  |  | |  |
|  | **WCPFC Sec Criteria** | **Draft Audit Point for consideration** | **CMM Paragraph** | | **Decision Points/Comments** |
|  | Applicable Flag CCMs are to confirm whether obligation was implemented.    Provide additional information / details that confirms the adoption by a flag CCM, in accordance with its own national policies and procedures, of binding measures that implement the requirement for its flagged vessels.  CCMs should also provide information showing that it has a system to monitor and ensure compliance with this obligation and has taken action in response to any potential infringements. | [RP]  The Secretariat confirms that CCM submitted in AR Pt2 a statement confirming that it required its flagged vessel operators:   1. in the event an observer dies, is missing, or presumed fallen overboard, to meet the requirements in paragraph 3a to 3h, and to notify the Maritime Rescue Coordination Center, the CCM observer provider, and the Secretariat; 2. if an observer dies, to ensure that the body is well-preserved for the purposes of an autopsy and investigation; and 3. in the event an observer experiences serious illness of injury, to meet the requirements in paragraph 5a to 5e.   ~~CCM submitted a statement in AR Pt2 that:~~  ~~a. confirms CCM’s implementation through adoption of a national binding measure that requires its flagged vessel operators, in the event an observer dies, is missing, or presumed fallen overboard, to meet the requirements in paragraph 3a to 3h, to notify the Maritime Rescue Coordination Center, the CCM observer provider, and the Secretariat; and, if an observer dies, to ensure that the body is well-preserved for the purposes of an autopsy and investigation.~~  ~~b. confirms CCM’s implementation through adoption of a national binding measure that requires its flagged vessel operators, in the event an observer experiences serious illness of injury, to meet the requirements in paragraph 5a to 5e.~~  ~~c. describes how CCM is monitoring and ensuring that its flagged vessel operators meet the requirements of paragraphs 3 to 5 in the event an observer dies, is missing, or presumed fallen overboard, or experiences serious illness or injury; notifies/d the Maritime Rescue Coordination Center, the CCM observer provider, and the Secretariat; and how the CCM responds to potential infringements or instances of non-compliance with this requirement.~~ | 3. In the event that a WCPFC ROP observer dies, is missing or presumed fallen overboard, the CCM to which the fishing vessel is flagged shall ensure that the fishing vessel:  a. immediately ceases all fishing operations;  b. immediately commences search and rescue if the observer is missing or presumed fallen overboard, and searches for at least 72 hours, unless the observer is found sooner, or unless instructed by the flag CCM to continue searching2;  c. immediately notifies the flag CCM;  d. immediately alerts other vessels in the vicinity by using all available means of communication;  e. cooperates fully in any search and rescue operation  f. whether or not the search is successful, return the vessels for further investigation to the nearest port, as agreed by the flag CCM and the observer provider;  g. provides the report to the observer provider and appropriate authorities on the incident; &  h. cooperates fully in any and all official investigations, and preserves any potential evidence and the personal effects and quarters of the deceased or missing observer.  4. Paragraphs 3(a), (c) and (h) apply in the event that an observer dies. In addition, the flag CCM shall require that the fishing vessel ensure that the body is well-preserved for the purposes of an autopsy and investigation.  5. In the event that a WCPFC ROP observer suffers from a serious illness or injury that threatens his or her health or safety, the CCM to which the fishing vessel is flagged shall ensure that the fishing vessel:  a. immediately ceases fishing operations;  b. immediately notifies the flag CCM  c. takes all reasonable actions to care for the observer and provide any medical treatment available and possible on board the vessel;  d. where directed by the observer provider, if not already directed by the flag CCM, facilitates the disembarkation and transport of the observer to a medical facility equipped to provide the required care, as soon as practicable; and  e. cooperates fully in any and all official investigations into the cause of the illness or injury.  6. For the purposes of paragraphs 3 through 5, the flag CCM shall ensure that the appropriate Maritime Rescue Coordination Centre, observer provider and Secretariat are immediately notified.  2 In the event of force majeure, flag CCMs may allow their vessels to cease search and rescue operations before 72 hours have elapsed. | | General support for this obligation to be RP as the required action is triggered by an event. This approach supports others’ comments that the ‘monitoring’ element is difficult to include as it relates to a reportable event.  **Consider draft AP (RP).** |
| 48. | \*Rev – Observer Safety  **2017-03 09**  **Category:** ~~Implementation (I)~~ Report (RP) |  |  | |  |
|  | **WCPFC Sec Criteria** | **Draft Audit Point for consideration** | **CMM Paragraph** | | **Decision Points/Comments** |
|  | Applicable Port CCMs are to confirm whether obligation was implemented?     Provide additional information / details that confirms the adoption by a Port CCM, in accordance with its own national policies and procedures, of binding measures that implement the requirement | [RP]  The Secretariat confirms that port CCMs submitted a statement in AR Pt2 that confirms, in the event that any observer safety issues outlined in paragraphs 3 to 7 occurred, it facilitated port entry for fishing vessels carrying WCPFC ROP observers and facilitated safe disembarkation of WCPFC ROP observers.  ~~CCM submitted a statement in AR Pt2 that:~~  ~~a. confirms port CCM’s implementation through adoption of a national binding measure that ensures it is facilitating port entry for fishing vessels and facilitating safe disembarkation of a WCPFC ROP observer for reasons relating to the observer’s safety or well-being.~~  ~~b. describes how port CCM is monitoring and ensuring that vessels entering CCM ports for the purpose of safe disembarkation of a WCPFC ROP observer are being facilitated, and how CCM responds to potential infringements or instances of non-compliance with this requirement.~~ | 9. If any of the events in paragraphs 3 – 7 occur, port CCMs, shall facilitate entry of the fishing vessel to allow disembarkation of the WCPFC ROP observer and, to the extent possible, assist in any investigations if so requested by the flag CCM. | | Comments received support this as RP obligation.  **Consider draft RP AP.** |
| 50. | \*Rev – Observer Safety  **2017-03 11**  **Category:** ~~Implementation (IM)~~ Report (RP) |  |  | |  |
|  | **WCPFC Sec Criteria** | **Draft Audit Point for consideration** | **CMM Paragraph** | | **Decision Points/Comments** |
|  | Applicable CCMs are to confirm whether obligation was implemented.  Provide additional information / details that confirms the adoption by a CCM, in accordance with its own national policies and procedures, of binding measures that implement the requirement. | [RP]  The Secretariat confirms that CCMs, that are providers of WCPFC ROP observers, submitted a statement outlining how its national provider implements the requirements of paragraph 11 a – f.  ~~[IM]~~  ~~CCMs, that are providers of WCPFC ROP observers, submitted a statement in AR Pt 2 that:~~  ~~a. confirms CCM’s implementation through adoption of a national binding measure that its national authority responsible for provision of ROP observers will notify the relevant flag CCM in the event that an observer dies, is missing, or presumed fallen overboard during the course of observer duties, will cooperate fully in any search and rescue operations, will cooperate fully in investigations, and where required, will facilitate the safe disembarkation of observers, and provide the flag CCM with a copy of the observer report upon request in accordance with the 2009 MCS Data Rules.~~  ~~b. describes how CCM is monitoring and ensuring that its national authority responsible for the provision of ROP observers is fulfilling its obligations in the event that an observer dies, is missing, or presumed fallen overboard during the course of observer duties, and how CCM responds to potential infringements or instances of non-compliance with this requirement.~~ | 11. CCMs shall ensure that their national observer providers:  a. immediately notify the flag CCM in the event that a WCPFC ROP observer dies, is missing or presumed fallen overboard in the course of observer duties;  b. cooperate fully in any search and rescue operation;  c. cooperate fully in any and all official investigations into any incident involving an WCPFC ROP observer;  d. facilitate the disembarkation and replacement of a WCPFC ROP observer in a situation involving the serious illness or injury of that observer as soon as possible;  e. facilitate the disembarkation of a WCPFC ROP observer in any situation involving the assault, intimidation, threats to, or harassment of that observer to such an extent that the observer wishes to be removed from the vessel, as soon as possible; and  f. provide the flag CCM with a copy of the observer report on alleged violations involving that provider’s observer upon request, pursuant to the WCPFC Rules and Procedures for Protection, Access to, and Dissemination of Data Compiled by the Commission and Rules and Procedures for the Protection, Access to, and Dissemination of High Seas Non-Public Domain Data and Information Compiled by the Commission for the Purpose of MCS Activities and the Access to and Dissemination of High Seas VMS Data for Scientific Purposes. | | JP and EU consider this better treated as RP obligation, consistent with past practice on obligations requiring national authorities/providers to take action.  **Consider draft RP AP** |
| 58. | Sea Turtles  **2018-04 04**  **Category:** ~~Implementation (IM)~~ Report (RP) |  |  | |  |
|  | **WCPFC Sec Criteria** | **Draft Audit Point for consideration** | **CMM Paragraph** | | **Decision Points/Comments** |
|  | CCMs to ensure fishermen use proper mitigation and handling techniques and foster the recovery of any turtles that are incidentally captured  **Theme**: Mitigating impacts of fishing on species of special interest  **Sub Theme**: Sea turtle mitigation  **Supersedes**: CMM 2008-03 04  1. AR Pt 2 should include a statement that confirms the adoption by a flag CCM, in accordance with its own national policies and procedures, of binding measures that implement the requirement that CCMs ensure fishermen use proper mitigation and handling techniques and foster the recovery of any turtles that are incidentally captured as per (CMM 2018-04)  2. CCMs should also provide information showing that it has a system to monitor and ensure compliance with this obligation and has taken action in response to any potential infringements | [RP]  The Secretariat confirms receipt from the CCM of a statement that describes how the CCM:   1. requires fishers on its flagged vessels to bring aboard, if practicable, any captured hard-shell sea turtle that is comatose or inactive as soon as possible and foster its recovery, including giving it resuscitation, before returning it to the water; and 2. ensures that fishers on its flagged vessels are aware of and use proper mitigation and handling techniques as described in WCPFC guidelines.   ~~CCM submitted a statement in AR Pt2 that:~~  ~~a. confirms CCM’s implementation through adoption of a national binding measure that ensures fishers on its flagged vessels use proper mitigation and handling techniques and foster the recovery of any turtles that are incidentally captured as per CMM 2018-04.~~  ~~b. describes how CCM is monitoring and ensuring that fishers on its flagged vessels are using proper mitigation and handling techniques and foster the recovery of any turtles that are incidentally captured as per CMM 2018-04, and how CCM responds to instances of potential infringement or instances of non-compliance with this requirement.~~ | 4. CCMs shall require fishermen on vessels targeting species covered by the Convention to bring aboard, if practicable, any captured hard-shell sea turtle that is comatose or inactive as soon as possible and foster its recovery, including giving it resuscitation, before returning it to the water. CCMs shall ensure that fishermen are aware of and use proper mitigation and handling techniques, as described in WCPFC guidelines. | | JP and EU prefer treatment as RP obligation because of ‘if practicable’ and the fact it relates to use of guidelines.  **Consider draft RP AP.** |
| 71. | Regional Observer Program  **2018-05 15(g)**  **Category:** Implementation (IM) |  |  | |  |
|  | **WCPFC Sec Criteria** | **Draft Audit Point for consideration** | **CMM Paragraph** | | **Decision Points/Comments** |
|  | 1. AR Pt 2 should include a statement that confirms the adoption by a flag CCM, in accordance with its own national policies and procedures, of binding measures that implement the requirement that CCMs are to ensure vessel operators comply with the "Guidelines for the rights and responsibilities of vessel operators, captains and crew" (Attachment K Annex B to (CMM 2018-05)  2. CCMs should also provide information showing that it has a system to monitor and ensure compliance with this obligation and has taken action in response to any potential infringements (there may be relevant information in the Online Compliance Case Observer Obstruction Alleged Infringements list) | CCM submitted a statement in AR Pt2 that:  a. confirms CCM’s implementation through adoption of a national binding measure that requires its vessel operators to comply with the Guidelines for the Rights and Responsibilities of Vessel Operators, Captains, and Crew (Annex B of CMM 2018-05)  b. describes how CCM is monitoring and ensuring that its vessel operators comply with the Guidelines for the Rights and Responsibilities of Vessel Operators, Captains, and Crew (Annex B of CMM 2018-05), and how CCM responds to potential infringements or instances of noncompliance with this requirement.  [RP]  The Secretariat confirms that CCMs submitted a statement in its AR Pt2 that confirms how it ensured that vessel operators complied with the Guidelines in Annex B — Guidelines for the Rights and Responsibilities of Vessel Operators, Captains and Crew. | Guiding principles for operation of the Commission ROP  15. The Commission ROP shall operate in accordance with the following principles:  g) The Commission ROP shall be operated to ensure that observers shall not be unduly obstructed in the discharge of their duties. To this extent, CCMs of the Commission shall ensure that vessel operators comply with the Guidelines in Annex B — Guidelines for the Rights and Responsibilities of Vessel Operators, Captains and Crew. | | JP consider this more appropriate as RP due to the fact the obligation relates to guidelines.  **Lead comment:** While the first part of para 15(g) relates broadly to the Commission ROP, the second part provides a binding obligation on CCMs (i.e. *CCMs of the Commission shall ensure that vessel operators comply with the Guidelines..*’). Noting that, suggest retain as IM in line with past practice.  **Consider draft AP** |
| 76. | Regional Observer Program  **2018-05 Annex C 06**  **Category:** Report (RP) |  |  | |  |
|  | **WCPFC Sec Criteria** | **Draft Audit Point for consideration** | **CMM Paragraph** | | **Decision Points/Comments** |
|  |  | The Secretariat confirms receipt by the CCM in AR P1 of the required information contained in WCPFC11 reporting procedure of previous year longline observer coverage achieved using the chosen metric and in the agreed format.  The Secretariat can verify, through ROP data received by WCPFC, that the CCM did meet the minimum observer coverage rate of 5% for its flagged, non-PS vessels | Implementation programme for the Regional Observer Programme  No later than 30 June 2012, CCMs shall achieve 5% coverage of the effort in each fishery under the jurisdiction of the Commission (except for vessels provided for in paras 9 and 10). In order to facilitate the placement of observers the logistics may dictate that this be done on the basis of trips. | | Support for treatment as RP obligation not IM (see above)  **Consider draft AP** (with included Secretariat verification step for clarity) |
| 85. | Record of Fishing Vessels  **2018-06 17**  **Category:** Implementation (IM) |  |  | |  |
|  | **WCPFC Sec Criteria** | **Draft Audit Point for consideration** | **CMM Paragraph** | | **Decision Points/Comments** |
|  | 1. AR Pt 2 should include a statement that confirms the adoption by a flag CCM, in accordance with its own national policies and procedures, of binding measures that implement the requirement to ensure its FVs have been placed on the RFV is accordance with CMM 2018-06  Vessels not on RFV shall be deemed not to be authorized to fish for, retain on board, transship or land HMFS in the Convention Area beyond the national jurisdiction of its flag State  2. CCMs should also provide information showing that it has a system to monitor and ensure compliance with this obligation and has taken action in response to any potential infringements. | CCM submitted a statement in ARPt2 that:  a. confirms CCM’s implementation through adoption of a national binding measure that  i. deems any vessels flying CCM flag and not on the RFV to be unauthorized to fish for, retain on board, tranship, or land highly migratory fish stocks caught in the Convention Area beyond CCM’s national jurisdiction  ii. prohibits any vessels flying CCM flag to fish for, retain on board, tranship, or land highly migratory fish stocks caught in the Convention Area beyond CCM’s national jurisdiction, that is not included on the RFV  b. describes how CCM is ensuring that its authorized vessels are placed on the RFV in accordance with the CMM and that CCM vessels not authorized through placement on the RFV are not fishing for, retaining on board, transhipping, or landing HMFS in the Convention Area beyond CCM’s national jurisdiction, and how CCM is responding to potential infringements or instances of non-compliance with this requirement.  [RP]  The Secretariat confirms that the CCM submitted a statement in its ARPt2 that confirms it has ensured that its fishing vessels have been placed on the RFV in accordance with CMM 2018-06 | C. WCPFC Record of Fishing Vessels  17. It is the responsibility of each member of the Commission to ensure that its fishing vessels have been placed on the WCPFC Record of Fishing Vessels in accordance with the requirements of this measure, and any vessel not included in the WCPFC Record of Fishing Vessels shall be deemed not to be authorized to fish for, retain on board, transship or land highly migratory fish stocks in the Convention Area beyond the national jurisdiction of its flag State. Each member of the Commission shall prohibit such activities by any vessel entitled to fly its flag that is not included on the Record and shall treat a violation of this prohibition as a serious violation. Such vessels shall be eligible to be considered for IUU  listing.5  5This revision is to correct an omission in an amendment to this paragraph under CMM 2004-01 that was approved in WCPFC6, but not included in the new CMM 2009-01 | | CT supports RP obligation. EU queried which parts of para 17 need to be captured in an AP (to avoid duplication.  **Proposed approach:**   * Keep IM - focused on CCMs’ prohibition requirement for unauthorized vessels – a critical element of the RFV and flag State control. However, remove separate elements to respond to CT and EU concerns. * Include addition RP obligation to capture requirement on national authority.   **Consider draft AP** |
| 89. | Sharks  **2022-04 20**  **Category:** Implementation (IM) |  |  | |  |
|  | **WCPFC Sec Criteria** | **Draft Audit Point for consideration** | **CMM Paragraph** | | **Decision Points/Comments** |
|  | Requirement for longline vessels to release sharks that are not to be retained asap, and required guidelines for safe release of sharks (effective from 1 Jan 2024)  Theme: Mitigating impacts of fishing on species of special interest  Sub Theme: Shark mitigation and fishery management  None | CCM submitted a statement in ARPt2 that:  a. confirms CCM’s implementation through adoption of a national binding measure that requires its flagged longline vessels that catch sharks which are not retained to release sharks as soon as possible, taking into consideration the safety of the crew and observer and the guidelines in paragraph 20.  b. describes how the CCM is monitoring its flagged vessels to ensure the requirements are met and how its responds to potential infringements or instances of non-compliance with this requirement.  [RP]  The Secretariat confirms that the CCM submitted a statement in its ARPt2 that confirms it has required its longline fishing  vessels to release any caught sharks that are not retained as soon as possible, taking into consideration the safety of the crew and observer, using the following guidelines:  (1) Leave the shark in the water, where possible; and  (2) Use a line cutter to cut the branchline as close to the hook as possible. | 20. Beginning on January 1, 2024, for sharks that are caught by longline vessels and are not retained, CCMs shall require their fishing vessels to release these sharks as soon as possible, taking into consideration the safety of the crew and observer, using the following guidelines:  (1) Leave the shark in the water, where possible; and  (2) Use a line cutter to cut the branchline as close to the hook as possible. | | JP consider this better treated as RP obligation.  **Lead note:** there is still a binding obligation on CCMs to require vessels to release sharks as soon as possible and, in doing so, to consider crew/obs safety and the guidelines. Propose retain IM consistent with past approach to similarly drafted obligations – and note that the AP mirrors the wording of the obligation.  **Consider draft AP** |
| 92. | IUU Vessel List  **2019-07 22**  **Category:** Implementation (IM) |  |  | |  |
|  | **WCPFC Sec Criteria** | **Draft Audit Point for consideration** | **CMM Paragraph** | | **Decision Points/Comments** |
|  | CCMs shall take all necessary non-discriminatory measures, including under their applicable legislation, to take certain actions in respect of vessels listed on the IUU Vessel List  **Theme**: Activity related requirement  **Sub Theme**: Response to alleged violations  **Supersedes**: CMM 2010-06 22  1. AR Pt 2 should include a statement that confirms the adoption by a flag CCM, in accordance with its own national policies and procedures, of binding measures that implement the requirement that CCMs  take necessary non-discriminatory measures, including under their applicable legislation, in respect of vessels that are listed on the WCPFC IUU Vessel List.  A list of actions to be taken in respect of respect of vessels that are listed on the WCPFC IUU Vessel List, is provided in paragraph 22. | CCM submitted a statement in AR Pt2 that:  a. confirms CCM’s implementation through adoption of a national binding measure that requires it to take all necessary non-discriminatory measures to ensure that the requirements of paragraph 22(a) to (g) are met with respect to its flagged vessels and vessels on the WCPFC IUU Vessel list.  b. describes how the CCM is monitoring and ensuring that the requirements of paragraph 22(a) to (g) are met with respect to its flagged vessels and vessels on the WCPFC IUU Vessel list, and how the CCM responds to potential infringements or instances of non-compliance with these requirements.  [RP]  The Secretariat confirms that the CCM submitted a statement in its ARPt2 that confirms any necessary non-discriminatory measures it has taken under their applicable legislation, international law and each CCMs’ international obligations, and pursuant to paras 56 and 66 of IPOA-IUU to, to implement CMM 2019-07 paragraph 22 a to g. | 22. CCMs shall take all necessary non-discriminatory measures under their applicable legislation, international law and each CCMs’ international obligations, and pursuant to paras 56 and 66 of IPOA-IUU to:  a. ensure that fishing vessels, support vessels, mother ships or cargo vessels flying their flag do not participate in any transshipment or joint fishing operations with, support or re-supply vessels on the WCPFC IUU Vessel List;  b. ensure that vessels on the WCPFC IUU Vessel List that enter ports voluntarily are not authorized to land, tranship, refuel or re-supply therein but are inspected upon entry;  c. prohibit the chartering of a vessel on the WCPFC IUU Vessel List;  d. refuse to grant their flag to vessels on the WCPFC IUU Vessel List in accordance with para 1f, Section A, in CMM 2018-06 or its replacement measure;  e. prohibit commercial transactions, imports, landings and/or transshipment of species covered by the WCPFC Convention from vessels on the WCPFC IUU Vessel List;  f. encourage traders, importers, transporters and others involved, to refrain from transactions in, and transshipment of, species covered by the WCPFC Convention caught by vessels on WCPFC IUU Vessel List;  g. collect, and exchange with other CCMs, any appropriate information with the aim of searching for, controlling and preventing false import/export certificates for species covered by the WCPFC Convention from vessels on the WCPFC IUU Vessel List. | | JP considers this be treated as RP because the obligation is implemented via CCM legislation and/or different national binding measures.  **Lead note:** JP notes that CCMs may implement this obligation differently. However, there is still a binding requirement to have applicable legislation. For this reason, and the wording of the obligation, the lead proposes this remain IM.  **Consider draft AP.** |
| 94. | Tropical Tuna  **2021-01 17**  **Category:** Report (RP) OR Implementation (IM) |  |  | |  |
|  | **WCPFC Sec Criteria** | **Draft Audit Point for consideration** | **CMM Paragraph** | | **Decision Points/Comments** |
|  | Each purse seine vessel is limited to no more than 350 FADs with activated instrumented buoys  **Theme**: Additional measures for tropical tunas  **Sub Theme**: Purse seine fishery FAD set management  **Supersedes**: CMM 2020-01 23  {INAUGURAL REPORT DETAILING STEPS TAKEN TO IMPLEMENT THE NEW OBLIGATION FROM 1 JAN 2024}  1. AR Pt 2 should include a statement that confirms the adoption by a flag CCM, in accordance with its own national policies and procedures, of binding measures that implement the requirement that CCMs to ensure that the design and construction of any FAD to be deployed in, or that drifts into, the Convention Area shall comply with the following specifications:  • The use of mesh net shall be prohibited for any part of a FAD.  • If raft is covered, only non-entangling material and designs shall be used.  • The subsurface structure shall only be made using non-entangling materials.  2. CCMs should also provide information showing that it has a system to monitor and ensure compliance with this obligation and has taken action in response to any potential infringements | ~~[RP] The Secretariat confirms that the CCM submitted information on its implementation of the requirement to ensure that the design and construction of any FAD to be deployed in, or that drifts into, the Convention Area comply with the following specifications~~  ~~(a) The use of mesh net shall be prohibited for any part of a FAD.~~  ~~(b) If the raft is covered, only non-entangling material and designs shall be used.~~  ~~(c) The subsurface structure shall only be made using non-entangling materials.~~  ~~OR~~  [IM] CCM submitted a statement in AR Pt2 that:  a. confirms CCM’s implementation through adoption of a national binding measure that requires it to ensure that the design and construction of any FAD to be deployed in, or that drifts into, the Convention Area shall comply with the following specifications:  • The use of mesh net shall be prohibited for any part of a FAD.  • If raft is covered, only non-entangling material and designs shall be used.  • The subsurface structure shall only be made using non-entangling materials.  b. describes how the CCM is monitoring and ensuring that the requirements are met with respect to its flagged vessels, and how the CCM responds to potential infringements or instances of non-compliance with these requirements. | 17. To reduce the risk of entanglement of sharks, sea turtles or any other species, as from 1st January 2024,2 CCMs shall ensure that the design and construction of any FAD to be deployed in, or that drifts into, the WCPFC Convention Area shall comply with the following specifications:  (a) The use of mesh net shall be prohibited for any part of a FAD.  (b) If the raft is covered, only non-entangling material and designs shall be used.  (c) The subsurface structure shall only be made using non-entangling materials. | | CT supports as RP obligation but it should be reviewed after the TT measure revision.  JP and EU support this as IM obligation.  **Consider whether should be RP or IM.**  **Lead note:** CMS IWG approach to date is to treat obligations drafted like this as IM obligation. Note, this obligation does apply to current reporting year (even if TT measure revised)  **Proposed approach: Consider and agree IM AP.** |
| 104. | \*Rev – Tropical Tuna  **2021-01 33**  **Category:** Implementation (IM) |  |  | |  |
|  | **WCPFC Sec Criteria** | **Draft Audit Point for consideration** | **CMM Paragraph** | | **Decision Points/Comments** |
|  | Applicable Flag CCMs are to confirm whether obligation was implemented?  Provide additional information / details that confirms the adoption by a flag CCM, in accordance with its own national policies and procedures, of binding measures that implement the requirement for 100% purse seine coverage (between 20N and 20S), specifically the rules that flag CCMs are to implement for vessels operating exclusively in areas under its national jurisdiction.  CCMs should also provide information showing that it has a system to monitor and ensure compliance with this obligation and has taken action in response to any potential infringements | CCM submitted a statement in AR Pt2 that:  a. confirms CCM’s implementation through adoption of a national binding measure of the requirement for ~~all~~ CCM flagged purse seine vessels to carry an observer if they are operating solely within the CCM's national jurisdiction within 20N and 20S.  b. describes how CCM is monitoring and ensuring that each of its flagged PS vessels that is operating solely within its national jurisdiction is carrying an observer, and how CCM responds to potential infringements or instances of non-compliance with this requirement. | Monitoring and Control: Purse Seine Fishery  33. Each CCM shall ensure that all purse seine vessels fishing solely within its national jurisdiction within the area bounded by 20°N and 20°S carry an observer. These CCMs are encouraged to provide the data gathered by the observers for use in the various analyses conducted by the Commission, including stock assessments, in such a manner that protects the ownership and confidentiality of the data. | | JP and CT support this as RP obligation.  EU and FFA Members support IM.  **Lead note:** Obligation is drafted as requirement for CCMs to ensure their PS vessels complete an action (i.e. carry observers). Therefore **proposed approach** is to keep as IM consistent with past practice.  **Seek views whether should be IM or RP, and on draft APs.** |
| 112. | Pacific Bluefin tuna  **2021-02 11**  **Category:**  ~~Implementation (IM)~~ Report (RP) |  |  | |  |
|  | **WCPFC Sec Criteria** | **Draft Audit Point for consideration** | **CMM Paragraph** | | **Decision Points/Comments** |
|  | Requirement to take measures necessary to prevent commercial transaction of BFT and its products that undermine the effectiveness of this CMM  **Theme:** Additional measures for BFT  **Sub Theme:** Response to alleged violations  1. AR Pt 2 should include a statement that confirms the adoption by a flag CCM, in accordance with its own national policies and procedures, of binding measures that implement the requirement that CCMs take measures necessary to prevent commercial transaction of BFT and its products that undermine the effectiveness of CMM for BFT  2. CCMs should also provide information showing that it has a system to monitor and ensure compliance with this obligation and has taken action in response to any potential infringements | The Secretariat confirms receipt of a statement in AR Pt2 that confirms what measures the CCM took, to the extent possible, necessary to prevent commercial transaction of Pacific bluefin tuna and its products that undermine the effectiveness of CMM 2021-02 11.  ~~CCM submitted a statement in AR Pt2 that:~~  ~~a. confirms CCM’s implementation through adoption of a national binding measure that requires CCMs to take measures necessary to prevent commercial transaction of Pacific bluefin tuna and its products that undermine the effectiveness of CMM 2021-02.~~  ~~b. describes how it is monitoring and ensuring it is taking measures necessary to prevent commercial transaction of Pacific bluefin tuna and its products that undermine the effectiveness of CMM 2021-02.~~ | 11. Consistent with their rights and obligations under international law, and in accordance with domestic laws and regulations, CCMs shall, to the extent possible, take measures necessary to prevent commercial transaction of Pacific bluefin tuna and its products that undermine the effectiveness of this CMM, especially measures prescribed in the paragraph 3 above. CCMs shall cooperate for this purpose. | | JP highlight difficulty of AP due to ‘to the extent possible’ wording.  **Lead note:** Consistent with past practice, treatment as RP most appropriate (i.e. is still a binding obligation). CCMs then will be required to report on what measures were possible to take.  **Consider draft AP (RP)** |