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FFA MEMBER COMMENTS ON THE COMPLIANCE MONITORING SCHEME

WCPFC11-2014-DP10
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Paper submitted by FFA Members



1st November 2014

Dr SungKwon Soh
Interim Executive Director
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Dear SungKwon,

Comments on the Compliance Monitoring Scheme

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

FFA Members have extensively discussed CMM 2013-02 and the comprehensive work undertaken to review and develop a Compliance Monitoring Report and make the following comments:

1. We are fully supportive of the CMS.
2. We are generally supportive of the current process used to undertake the CMR. However, we believe that there is a need to task an independent review and audit of this process to take stock of where we stand in terms of its effectiveness and where efficiency gains can be made in meeting the CMS' objectives.
3. The need to prioritise what obligations are critical and must be reviewed through risk assessments (both quantitative and qualitative) – this will also assist with the development of a graduated approach to sanctions to reflect the priority placed on certain obligations. Having said that, we are also mindful that this does not imply any lesser importance on the need to comply with other requirements. Furthermore this should help to rationalise the workload of the WCPFC Secretariat and CCMs throughout this process.
4. The need to raise high-level national awareness on the outcomes of individual CCM CMRs by developing an annual report card based on the final compliance monitoring report of each CCM's individual performance and sending to their official contacts.
5. We recognise the growing size of the dCMR and the significant pressure it places on CCMs, the Secretariat, TCC as well as the Commission to develop/finalise a Compliance Monitoring Report, and underline that the current practice is unsustainable. Hence, we make the following suggestions:
 - (i) In line with point 3 raised above, we strongly support the need to prioritise the obligations that get assessed annually using a risk based approach. We have taken an initial look at what these might be based on high levels of non-compliance and importance to the work of the Commission. Along this approach, we suggest the priority list below for review in 2015:

Reporting

- (a) Operational Data
- (b) Aggregated Data
- (c) Annual Reports

Catch and effort Limits

- (a) Bigeye
- (b) Purse seine (effort)
- (c) Bluefin
- (d) Swordfish
- (e) Northern Striped Marlin

ROP requirements and Observer coverage

- (a) Purse seine
- (b) Longline
- (c) Transshipment

VMS

FAD closure

Transshipment

RFV

HSBI

- (ii) inclusion of a clear deadline for provision of information to be assessed at TCC and not allow any information to be submitted post-TCC – the volume of information the Secretariat and CCMs were required to process this year, along with the short time frames between TCC and WCPFC to review additional information is burdensome and reduces the ability of all parties to effectively consider matters of substance.
 - (iii) the need to formally recognise the CMS as a core function of the TCC and dedicate specific time towards this work by convening the CMS WG for at least 2 days prior to TCC, before convening TCC proper for 3 days.
6. Specific to priority non-compliance, FFA Members reiterate the proposals we made at TCC10 that the following breaches are of significant importance to constitute priority non-compliance:
- **Failure to provide operational level data**
 - Repeat non-compliance
 - Violation during FAD closure period
 - Exceeding catch and effort limits
 - Provision of Annual Reports
7. FFA members consider initial options that could be used as responses to priority issues of non-compliance for priority issues, including:
- a. Exceeding catch/effort limits – payback schemes with increasing penalties for subsequent offences
 - b. non-provision of operational level data – application of para.7 of the 2009 data rules and, linking the provision of this data with allocation reductions, increasing observer coverage on longline fleets.
 - c. FAD management measures – application of national laws, managed in relation to IUU CMM, responses that reduce bigeye fishing mortality

- d. Persistent non-compliance – consideration of mechanisms that encourage voluntary compliance before heading in to more severe penalties, in line with the graduated response approach.

Further consideration could include the development of performance criteria to measure CCMs non-compliance against areas such as intent and causes of non-compliance. We look forward to further discussions on this issue.

8. Specific to SIDS:

- (i) where specific requirements for assistance have been highlighted in the CMR it is crucial that the Commission include a clear mechanism, financial or otherwise, that ensures assistance is delivered. This will seek to avoid a SIDS from being rated as repetitive or priority non-compliant from year to year and demonstrate the Commission's commitment to addressing the special requirements of SIDS.
- (ii) in adopting measures, along the lines of CMM 2013-02, where appropriate, we will need to consider the phased or delayed implementation by a SID of an obligation.

9. On the issue of observer participation in the CMS working group, we strongly support the need for greater transparency but have concerns about the susceptibility to abuse of data that has occurred in the past. We note the provisions in the Commission's data rules that would cater for observer participation, but will need to give this more careful thought on how this may be catered for.

10. Finally on refinements to the measure, FFA Members have mixed views on whether to have another trial year or multi-year/permanent measure with an annual review, and will give this further thought ahead of the Commission. In addition, we have set out below some proposed amendments to reflect our above positions:

- (i) cut-off date at TCC – deletion of para.19;
- (ii) prioritising obligations – amendment to para.5 of the measure to read as follows:

“Each year, the Commission shall consider and identify ~~whether additional obligations should~~ the obligations that shall be evaluated in the following year annually or in another specified time period, taking into account...”;

FFA members trust that the information herein will be useful for the processes being led by the US to prepare amendments to the current CMM and also to develop responses to non-compliance. We look forward to productive deliberations at WCPFC11.

Yours Sincerely



Feleti Tulafono
Chair
Forum Fisheries Committee

CC: Alexa Cole, United States