



TECHNICAL AND COMPLIANCE COMMITTEE

Fifteenth Regular Session

25 September – 1 October 2019

Pohnpei, Federated States of Micronesia

UPDATE ON DEVELOPMENT OF CMS AUDIT POINTS FOR TCC15

WCPFC-TCC15-2019-16

23 September 2019

Paper by Federated States of Micronesia

Update on Development of CMS Audit Points for TCC15

Submitted by FSM

Purpose

The purpose for developing audit points for each obligation is to clarify what actions CCMs must take in order to fully comply with any given obligation. This removes ambiguity and subjectivity during compliance reviews and assists CCMs by removing any confusion about how to implement their obligations. Clear audit points also contribute to development of responses to instances of non-compliance, by making determinations of non-compliance straightforward, transparent, and impartial.

Background

WCPFC15 adopted a revised CMS CMM which included a series of tasks contained in paragraph 46 of the CMM, aimed at enhancing the CMS over the 2019-2021 period. One of those tasks is the development of audit points, or evaluation criteria, to clarify the Commission obligations assessed under the CMS, as well as the development of a checklist to be used by the proponents of any proposal to include a list of potential audit points for the consideration of the Commission. WCPFC15 agreed that interested CCMs could work together, intersessionally, to progress the CMS enhancement work.

Approach to Intersessional Work

In June 2019, the FSM circulated a letter to CCMs, volunteering to lead intersessional work on CMS audit points on behalf of the FFA members and in its capacity as the current FFC Chair. In addition to FFA members, the CCMs and Observers participating in the intersessional work included Japan, European Union, the United States, Chinese Taipei, Canada, and ISSF.

FSM proposed the following approach to reviewing CMS audit points:

1. Focus initially on the list of obligations that WCPFC15 agreed would be assessed in the 2019 CMS, which comprises 83 total obligations from 13 CMMs and other requirements, divided into the following four categories: implementation (24), limit (16), report (24), and deadline (19);
2. Use the WCPFC Secretariat's current evaluation criteria for the 83 obligations as a basis for developing the audit points for those obligations.

For the second part of the task, which calls for the development of a checklist of audit points to be prepared by proponents of new measures, the FSM proposed that this simply become a new requirement through a decision by the Commission.

As of September 9, 2019, the FSM received comments from one participant in the intersessional group. Due to an oversight, one CCM was not included in the June 2019 invitation for comment.

Other Considerations

The comprehensive review of reporting requirements undertaken by the WCPFC Secretariat is partially linked to the work on CMS Audit Points, in that the agreed audit points to satisfy implementation of obligations will need to be considered against any streamlined reporting approaches to ensure that CCMs are providing the necessary information without unduly adding to existing reporting burdens. It is anticipated that the WCPFC Secretariat's proposed streamlined Annual Report Part 2 template will be adopted, but could contain a caveat that the reporting requirements will need to be revisited upon completion of the audit points work.

Comments Received (in summary)

The intersessional process to develop audit points was challenging to undertake electronically given the level of technical detail involved. Nevertheless, some useful feedback was provided on how implementation requirements of some obligations might be strengthened and clarified. These can be summarized as follows:

- *Implementation/report obligations, all documentation must specify how compliance with rules will be monitored, specify sanctions for any non-compliance detected, assign responsibility to a competent authority or authorities for implementing all aspects of the operating systems and processes, and include criteria and procedures to assess the effectiveness of the rules, systems & processes in achieving compliance with the obligations. This information would only need to be provided once and then updated only when there are changes to report in national policy, law, or regulation. [Note: this suggestion is consistent with the WCPFC Secretariat's comprehensive review of reporting requirements.]*
- *Quantitative limits: reporting requirements should also include whether the information provided in AR2 includes total catch information (specific to reporting on catch limits for North Pacific Striped Marlin).*
- *Report/deadlines: evaluation of compliance should include whether the report was submitted on time (when there is specified timeframe in the CMM, such as for transshipment declarations). For routine reporting deadlines, an elaboration of para 36 of CMM 2018-06 is suggested (RFV), in that missing routine reporting deadlines (and those required data had not been provided via other mechanisms) should not be included in TCC's review of the dCMR. Rather, such information should be collated by the Secretariat and circulated to TCC where a pre-agreed response to such "procedural" obligations would automatically apply. For example, the pre-agreed response to a missed deadline/late report (not that no report was submitted at all – that should be considered serious enough to be reviewed by the CMS working group) could be that the CCM is automatically "compliant" (as it appears to be the practice per para 36) but it also must provide a written report to the Commission regarding this missed deadline and the steps they are taking to correct this situation in the future. These reports could be made available in a CCM's AR Part 2 or some section of the existing online Case File System so other CCMs could review them if they wished. If a CCM begins to repeatedly miss the same deadlines, or does not provide the written report on the actions it*

will take to correct the situation, the Secretariat can bring this to the attention of the CMS working group so that it can recommend an appropriate response for the Final CMR (per para 43 of CMM 2018-07.)

- *Checklist of audit points for new proposals: the Commission should consider adopting a CMM (similar to CMM 2013-06) that establishes for new proposals, or revisions to existing proposals, the specific obligations (i.e., implementation, limit, report or deadline, etc.) in the text of the proposal. A model CCM with template text could be included as an Annex also to guide CCMs in developing their proposals.*

Proposed Next Steps

CCMs and Observers can continue to submit comments and feedback to the FSM until 31 October 2019, to allow time for a comprehensive report to be prepared for the consideration of WCPFC16. All comments received by the FSM for this exercise will be included as Appendices to the final report.

The FSM proposes that CCMs consider options for progressing this work in 2020 for the remaining obligations, noting the challenges in conducting detailed technical work intersessionally and electronically.