



**COMMISSION
SIXTEENTH REGULAR SESSION**
Port Moresby, Papua New Guinea
5 – 11 December 2019

**PROPOSAL ON CMM 2018-07, SECTION IX: FUTURE WORK, PARAGRAPH 46(I):
DEVELOPMENT OF A PROCESS FOR ASSESSING CCM ACTIONS
IN ACCORDANCE WITH PARA 7(II)(B) TO REPLACE PARA 27**

**WCPFC16-2019-DP03
5 November 2019**

SUBMITTED BY FFA MEMBER CCMs



1 November 2019

Jung-Re Riley Kim
CHAIR
Western and Central Pacific Fisheries Commission
PO Box 2356, Kolonia
Federated States of Micronesia

Dear Riley,

**FFA Member Proposal on CMM 2018-07, Section IX: Future Work, paragraph 46(i):
*development of a process for assessing CCM actions
in accordance with para 7(ii)(b) to replace para 27.***

I write on behalf of the 17 members of the Pacific Islands Forum Fisheries Agency in my capacity as Chair of the Forum Fisheries Committee. The views expressed in this letter are without prejudice to the further development of positions and proposals by FFA members individually or collectively.

FFA members acknowledge the significant work that occurred throughout 2018 that culminated in a revised Compliance Monitoring Scheme (CMS) CMM 2018-07, which has resulted in a process that more accurately reflects the work of the Commission in its efforts to monitor compliance of CCMs in the implementation of their obligations. We see the CMS as fundamental to ensuring that the Commission is achieving its objective as set out in the Convention.

CMM 2018-07 calls for a series of enhancement tasks to take place from 2019-2021 that are intended to further refine and focus our compliance monitoring efforts. One of those tasks for 2019 is the “development of a process for assessing CCM actions in accordance with para 7(ii)(b) to replace para 27.” FFA members consider this tasking to be at the core of how the Commission monitors CCM’s compliance with their obligations.

We acknowledge the significant improvements in the WCPFC Secretariat’s information management system over the years and the improved quality of data that is available to CCMs, as a result. This progress includes the increasing value of the Secretariat’s online compliance case file system in supporting the Commission’s compliance monitoring efforts.

FFA members reiterate our previous views that the Compliance Monitoring Scheme must be effective, efficient, procedurally fair and produces fair outcomes, as well as promote and improve compliance. In addition, the CMS must continue to acknowledge the special requirements of SIDS by having streamlined processes and a mechanism to support the identification of capacity needs of SIDS in their implementation of Commission obligations.

As such, FFA members propose a new process (Attachment 1) to replace paragraph 27 in CMM 2018-07, in an effort to complete the tasking set out in paragraph 46(i) of the same measure. An evaluation of our proposal against the requirements of CMM 2013-06 in respect of impacts on SIDS, is also attached (Attachment 2).

Through you, we request the WCPFC Executive Director to include this proposal with the Delegation Papers and Proposals to WCPFC16 and invite comments and questions from other CCMs in advance of the meeting. CCMs can direct their feedback to me (eugene.pangelinan@norma.fm) or to FFA Secretariat (ffasec.wcpfc@ffa.int). We look forward to further discussions during WCPFC16.



Eugene Pangelinan, Chair
Forum Fisheries Committee

Attachment 1

FFA Member Proposal on a Process for assessing CCM actions in accordance with para 7(ii)(b) to replace para 27.

Background

The purpose of the CMS contained at paragraph 1 of CMM 2018-07 says:

The purpose of the WCPFC Compliance Monitoring Scheme (CMS) is to ensure that Members, Cooperating Non-Members and Participating Territories (CCMs) implement and comply with obligations arising under the Convention and conservation and management measures (CMMs) adopted by the Commission. The purpose of the CMS is also to assess flag CCM action in relation to alleged violations by its vessels, not to assess compliance by individual vessels.

The requirement for flag CCMs in respect of monitoring compliance with Commission obligations by their vessels and persons is contained in paragraph 7(ii)(b) of CMM 2018-07. CCMs report this information through AR Pt2, categorized as “Reporting requirements that are related to the steps a CCM has taken to implement obligations in CMMs or the Convention and the associated sub-category in AR Pt2.”

Verification of compliance by flag CCMs with these obligations is not revealed through alleged infringements by individual vessels arising out of various Commission data sources (e.g. ROP reports, VMS) that are entered into the WCPFC Secretariat’s online compliance case file system. Instead, this is solely an indicator of potential infringements by individual vessels.

Information on flag CCM vessels that are identified for alleged infringements through the online compliance case file system is reported through the dCMR and currently reviewed by TCC for compliance. Paragraph 26(ii) of CMM 2018-07 calls on the WCPFC Executive Director to compile a report based on information in the online compliance case file system, as follows:

...aggregated vessel level information across all fleets. This will be used to provide an indicator of potential anomalies in the implementation of obligations by a CCM, with a view towards identifying challenges for that CCM and providing targeted assistance. This information shall be considered by TCC alongside the Draft Compliance Monitoring Report.

The current process for monitoring CCM’s compliance with Commission obligations in 7(ii)(b) is contained in paragraph 27 of CMM 2018-07 (with a corresponding minimum information requirement contained in para 10), as follows:

In the review of the dCMR, flag CCMs with vessels identified through the CFS as having an alleged infringement are required to provide information contained in para 10, and where TCC recognizes that a CCM investigation of that vessel’s alleged infringement has

commenced and is ongoing, the CCM is assessed as “Flag State Investigation” under the CMS in respect of that obligation.

The current CMS process uses case-specific, vessel-by-vessel infringements identified in the online compliance case file system to assess a CCM’s overall implementation of its monitoring and enforcement obligations against its vessels and persons. This is not consistent with the purpose of the CMS, where the compliance review processes should be focused on CCM-level implementation of obligations, rather than on individual vessel’s activities.

Proposed Process to Replace Paragraph 27 of CMM 2018-07

1. The report provided by the WCPFC Executive Director pursuant to paragraph 26(ii) of CMM 2018-07 on the implementation of obligations in paragraph 7(ii)(b), with respect to how a CCM monitors and ensures compliance of its vessels and persons with binding Commission measures, shall be the used by CCMs during the review of the draft Compliance Monitoring Report to identify systemic issues with a CCM’s responsibility to monitor and enforce Commission obligations in respect of its vessels and persons. CCMs will look to ensure that relevant tables in the report are moved from the non-public to public domain for the purpose of allowing for related discussions to take place outside of closed sessions.
2. The CMS outcome on this approach is subject to the specific discussions and how CCMs respond to any issues identified in respect of their vessels in the paragraph 26(ii) report.
3. Individual vessel-level cases of non-compliance identified through the online compliance case file system shall not get assessed under the CMS. Instead, vessel-level cases identified through the online compliance case file system are resolved through existing, separate processes, i.e. by the relevant CCM parties for a specific case. The status of these cases will continue to be updated through the online compliance case file system and can also be provided for information in the CMS.

FFA Member's CMM 2013-06 Evaluation of FFA Member Proposal: *Proposed Process for assessing CCM actions in accordance with para 7(ii)(b) to replace para 27 (Section IX: Future Work of CMM 2018-07 on the Compliance Monitoring Scheme)*

a. Who is required to implement the proposal?

All CCMs will be required to implement this proposal through their participation in the Technical and Compliance Committee's review of the draft Compliance Monitoring Report. Implementation of this proposal by CCMs will be through their approach to discussions on information arising from the WCPFC Secretariat's online case file system, and using that information to inform compliance performance at a CCM level.

b. Which CCMs would this proposal impact and in what way(s) and what proportion?

All CCMs would be impacted by this proposal in that the way their information on compliance with obligations is viewed, will change. It will change by removing a vessel-level scrutiny of their flag CCM obligations by the CMS process and replacing it with a broader CCM-level view of their overall implementation of obligations. CCMs will still be obligated to resolve any alleged vessel-level infractions, but these will not be reviewed by the Commission in the context of assigning a compliance rating.

c. Are there linkages with other proposals or instruments in other regional fisheries management organizations or international organizations that reduce the burden of implementation?

No.

d. Does the proposal affect development opportunities for SIDS?

This is dependent on the nature and outcome of discussions on the report provided in paragraph 26(ii), but ultimately this proposal is intended to assist SIDS by removing vessel-level scrutiny from the CMS process and focusing instead on broad, implementation challenges where targeted assistance may be needed. Where any systemic implementation issues of SIDS are identified through the process outlined in the proposal, it is envisaged that these should be addressed through Article 30 of the Convention and other means available through the Commission.

e. Does the proposal affect SIDS domestic access to resources and development aspirations?

This is dependent on the nature and outcome of discussions on the report provided in paragraph 26(ii), but ultimately this proposal is intended to assist SIDS by removing vessel-level scrutiny from the CMS process and focusing instead on broad, implementation challenges where targeted assistance may be needed. Where any systemic implementation issues of SIDS are identified through the process outlined in the proposal, it is envisaged that these should be addressed through Article 30 of the Convention and other means available through the Commission.

f. What resources, including financial and human capacity, are needed by SIDS to implement the proposal?

It is envisaged that resources may be required in the enhancement of SIDS awareness and capacity to implement the proposal. This may include training on the CMS and the analysis of aggregated information in the ED's report.

g. What mitigation measures are included in the proposal?

The proposal mitigates additional burdens on SIDS that may have any flag vessels in the online compliance case file system by shifting the focus of the CMS process away from seeking compliance ratings in respect of those individual cases and focusing instead on a broader overview of SIDS experiences in implementing Commission obligations and identifying where areas of assistance may be needed.

h. What assistance mechanisms and associated timeframe, including training and financial support, are included in the proposal to avoid a disproportionate burden to SIDS?

Paragraph 26(ii) states that the report is provided with a view towards identifying challenges for that CCM and providing targeted assistance. If any systemic implementation issues are identified for SIDS in the report, these will be approached in the manner as stated in the paragraph. In addition, the CMS has provisions to support implementation challenges identified by SIDS through the development of Capacity Development Plans. The outcomes of Capacity Development Plans are specific areas identified in the final Compliance Monitoring Report as “Capacity Assistance Needs”. Capacity Assistance Needs are automatically included in the SIDS Strategic Investment Plan and matched with the relevant assistance to support that need.