

**FINAL COMPLIANCE MONITORING REPORT
(COVERING 2012 ACTIVITIES)
Executive Summary**

I. INTRODUCTION

1. WCPFC10 undertook its third annual review of compliance by CCMs with Commission obligations. TCC9 developed a Provisional Compliance Monitoring Report covering all CCMs against obligations in five categories as per paragraph 3 of CMM 2012-02. The purpose of the Compliance Monitoring Scheme is contained at paragraph 1 of CMM 2012-02 as follows:

Section I - Purpose

1. The purpose of the WCPFC Compliance Monitoring Scheme (the Scheme) is to ensure that Members, Cooperating Non-Members and, where appropriate, Participating Territories (CCMs) implement and comply with obligations arising under the Convention and conservation and management measures (CMMs) adopted by the Commission. The Scheme is designed to:

- (i) assess CCMs' compliance with their obligations;
- (ii) identify areas in which technical assistance or capacity building may be needed to assist CCMs to attain compliance;
- (iii) identify aspects of conservation and management measures which may require refinement or amendment for effective implementation;
- (iv) respond to non-compliance through remedial options that include a range of possible responses that take account of the reason for and degree of non-compliance, and include cooperative capacity-building initiatives and, in case of serious non-compliance, such penalties and other actions as may be necessary and appropriate to promote compliance with CMMs; and
- (v) monitor and resolve outstanding instances of non-compliance.

2. A number of CCMs provided additional information between TCC9 and WCPFC10, therefore a compliance working group convened to review and evaluate the additional information. The Commission concluded that the following CCMs are considered to be "Compliant" under the provisions of CMM 2012-02: Australia, Canada, Cook Islands, El Salvador, French Polynesia, Nauru, New Caledonia, New Zealand, Niue, Palau, Samoa, Tokelau, Tonga, Thailand, and Vietnam.

3. The Commission concluded that the following CCMs are considered to be "Compliance Review" under the provisions of CMM 2012-02: Belize, China, Ecuador, European Union, Federated States of Micronesia, Fiji, Indonesia, Japan, Kiribati, Korea, Marshall Islands, Panama, Papua New Guinea, Philippines, Solomon Islands, St. Kitts and Nevis, Chinese Taipei, Tuvalu, United States, Vanuatu, and Wallis and Futuna.

4. The obligations reviewed by the Commission were "Not Applicable" to the following CCMs: Democratic Peoples Republic of Korea, Mexico, and Senegal.

II. DEVELOPMENT OF THE PROVISIONAL COMPLIANCE MONITORING REPORT BY TCC9

5. The TCC9 noted that the Compliance Monitoring Scheme is in its third trial year and agreed to

follow a new process for reviewing the Draft Compliance Monitoring Report (Draft Report). TCC9 reviewed the Draft Report for 39 CCMs in a closed Working Group session. This year's assessment focused on an assessment of CCMs' implementation of their obligations and highlighted issues related to our understanding of existing obligations. In addition, it highlighted the need for clarity in the Secretariat's role in preparing the Draft Report.

6. In reviewing compliance with paragraph 4 of CMM 2010-05, the WG was unable to make an assessment for one CCM due to a lack of agreement by that CCM on the requirement for implementation.

7. Some CCMs were uncomfortable giving "Compliant" assessments to CCMs that had provided information during the TCC or just prior to the TCC and the information had not been given at least a preliminary review by the Secretariat.¹ This related specifically to reviewing information submitted in accordance with paragraph 11 of CMM 2009-06. This situation can be in part addressed through establishing clear criteria on information submission deadlines.

8. The WG was unable to conduct an assessment of compliance with CMM 2007-01, Attachment K, Annex C, paragraph 4 due to a lack of clear understanding amongst CCMs of the obligation.

9. Although the WG did conduct an assessment of compliance with CMM 2007-01, Attachment K, Annex C, paragraph 6, CCMs noted the challenges in making the assessment without clear information from CCMs on the metric used to calculate the percentage of longline observer coverage. CCMs should identify in Annual Report Part 2 the metric used to calculate the percentage of longline observer coverage.

10. The WG did not conduct an assessment for any CCMs in Section 1 of Scientific Data to be Provided to the Commission on "Annual Catch Estimates" relating to discards due to lack of agreement on whether discard reporting is mandatory or encouraged.

11. The WG did not consider any information provided by CCMs in Section 1 of Scientific Data to be Provided to the Commission on "Annual Catch Estimates" relating to Sharks due to lack of agreement on whether the reporting provision was mandatory for 2012.

III. WCPFC10 ADOPTED THE FOLLOWING RECOMMENDATIONS CONTAINED THE TCC9 SUMMARY REPORT

12. TCC9 found that conducting the review of the Draft Report on an obligation-by-obligation basis proved useful and informative. TCC9 recommends that improvements to the process continue to be made taking into account the recommendations of this record.

13. TCC9 recommends a greater consultation between CCMs and the Secretariat in the preparation of the dCMRs noting that this is still a work in progress.

14. TCC9 recommends that the WG be given sufficient time in the Agenda to conduct its review of the Draft Report, noting that it took significant time during TCC9 to complete its review

15. TCC9 recommends that in the development of new CMMs, the Commission take into account

¹ At least one CCM expressed discomfort with this process.

the outcomes of the CMR process with respect to clarifying obligations.

16. TCC9 recommends that all CCMs make best efforts to provide any additional information to the Secretariat identified during the WG review at least 30 days prior to WCPFC10.

17. TCC9 reiterated the confidentiality of the Draft and Provisional Compliance Monitoring Report and also notes that the same level of confidentiality applies to the discussions and outcomes of the WG.

18. There is a need to distinguish between the obligation to submit information and the obligation to meet an agreed deadline and/or format. The TCC9 recommended that the CMS CMM be amended to ensure that reporting deadlines are assessed as part of the compliance review, and that this be done in addition to review of the implementation. This includes deadlines for submission of Annual Reports Part 1 and 2, Scientific Data, and “Fished/Did Not Fish” reports, among others.

19. Most CCMs reiterated that the process of the CMS and outcomes of the CMS must take into account the special requirements of SIDS and in particular Article 30 and Resolution 2008-01. This includes aspects of CMMs, conduct of assessments and the actions agreed to assist SIDS to resolve any implementation issues identified.

20. TCC9 recommends that the Commission clarify that for CMM 2005-03, the reporting responsibility lies with the flag State.

21. TCC9 recommends that the Commission clarify that CCMs identify in their 2014 Annual Report Part 2 which metric they used to calculate the percentage of longline observer coverage for 2013.

IV. ADDITIONAL OBSERVATIONS

22. Self-assessments pose challenges for verification and compliance assessment, due to lack of sufficient information available to verify implementation. It was noted that this situation would change over time with the improvements to reporting and data available for verification.

23. With respect to charter notifications under paragraph 3 of CMM 2011-05, notification to the flag State of any of its vessels operating under charter to another CCM is critical to avoid double counting by both the flag State and the chartering State reporting the same catch.

24. Some CCMs noted that there were a number of discrepancies in the data held by the CCM and that held by the Secretariat.

25. CCMs noted that the provision of “Size Composition Data” is a flag State responsibility. Where data is also available through coastal State reporting through other programs, the compliance assessment should be focused on flag States meeting their reporting obligations except for vessels operating under charter arrangement.

26. One CCM pointed out the practical difficulty of providing operational data noting the huge volume of information that would be required from a large fleet.

27. PNA advised that CMM 2011-01 noted PNA’s intention to use 2010 as the basis for the VDS TAE in 2012. This was not an obligation imposed by the Commission. SPC provided data to TCC9 that

PNA EEZ effort in 2010 was 43,832 days and effort in 2012 was 40,929 days. PNA therefore advised that its intention has been successfully achieved.

[28. There is a difference of interpretation as to whether the obligation contained in paragraph 03 (Operational level catch and effort data) of the Scientific Data to be Provided to the Commission is met by providing aggregated catch and effort data and size composition data, as described in paragraphs 04 and 05 of the Scientific Data to be Provided to the Commission.]

[28bis. Some members, including Japan, reserved the assessment because aggregated catch and effort data, as described in the rules of Section 4 of “Scientific Data to be provided to the Commission”, had been provided. Some members stated that this section recognizes certain members and cooperation non-members of the Commission may not be able to provide operational data because of domestic legal constraints and allows them to submit aggregated catch and effort data and size composition data instead until such constraints are overcome.]

29. The WG noted the importance of setting criteria at the beginning of its work.

30. Consistent with the 2012 Final Compliance Monitoring Report, CCMs evaluated as “compliance review” are strongly encouraged to address their implementation issues even without a response procedure.