



**Workshop on Risk-Based Assessment Framework for the Compliance  
Monitoring Scheme  
10 November 2021**

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**PROPOSED DEVELOPMENT OF A WCPFC RISK-BASED ASSESSMENT FRAMEWORK  
FOR THE COMPLIANCE MONITORING SCHEME**

**Discussion Document for consideration and feedback at workshop on 10 November 2021**

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**WCPFC-CMS-RBAF1-2021-02  
5 November 2021**

**Prepared by the Lead on Risk-Based Assessment Framework**

# Proposed Development of a WCPFC Risk-Based Assessment Framework for the Compliance Monitoring Scheme

Discussion Document for consideration and feedback at workshop on 10 November 2021

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Likelihood

<b>Question</b>	
In the absence of compliance history, should non-compliance with other similar or previous similar obligations be used?	<b>FFA:</b> New Obligations, or those which have not been previously assessed, should be scored according to the best available evidence (e.g. history of compliance with similar obligations under the CMS).
	<b>PNA + Tokelau:</b> Non-compliance with other similar or previous similar obligations seems a useful starting point.
	<b>US:</b> No
	<b>EU:</b> Except for recently adopted obligations, absence of compliance history in general might indicate that CCMs consider that non compliance with these obligations would probably have minor consequences. In our view, experience from other similar/previous obligations could be useful as proxy for likelihood of non-compliance until proper compliance history is generated.
	<b>ISSF:</b> Agree
<p><b>Possible Conclusion for consideration:</b></p> <ul style="list-style-type: none"> <li>If there is no compliance history for a particular obligation, then it is possible to use the compliance history (and therefore likelihood rating) of a similar obligation. This should be documented in the spreadsheet.</li> </ul>	
Should a “moderate” likelihood be assigned until compliance history is generated?	<b>FFA:</b> Where limited information exists to score likelihood for an obligation, scoring should be precautionary.
	<b>PNA + Tokelau:</b>
	<b>US:</b> Yes
	<b>EU:</b>
	<b>ISSF:</b> Agree
<p><b>Possible Conclusion for consideration:</b></p> <ul style="list-style-type: none"> <li>FFA and Philippines’ risk ratings have used “moderate” where there was no compliance history. This is a simpler default setting.</li> </ul>	
Should “consequence” be considered only, until compliance history is generated?	<b>FFA:</b>
	<b>PNA + Tokelau:</b>
	<b>US:</b> Yes
	<b>EU:</b>

Other options?	<b>ISSF:</b> Being precautionary and using “moderate” likelihood should also allow for a precautionary “consequence rating”. This precautionary consequence rating can also be informed by the ratings for other similar obligations.
<b>Possible Conclusion for consideration:</b> <ul style="list-style-type: none"> <li>As above – using “moderate” as a precautionary default setting appears to be the simplest approach.</li> </ul>	
Use the complete compliance history provided by WCPFC Secretariat as a trial while the RBAF beds in?	<p><b>FFA:</b> The primary data to score likelihood on non-compliance should be previous compliance history under CMS.</p> <p><b>PNA + Tokelau:</b> Yes, using the average of the most recent three year assessment for each obligation seems a good starting point.</p> <p><b>US:</b> No</p> <p><b>EU:</b> Given the evolution of the CMS our suggestion would be to use the average of recent (3-4 years) assessments for each obligation.</p> <p><b>ISSF:</b> It will be necessary to use the complete compliance history for now, especially given that there may be CMMs that have not been assessed in recent years and there are new CMMs that only have been assessed for 1 or two years (or none).</p>
<b>Possible Conclusion for consideration:</b> <ul style="list-style-type: none"> <li>The ratings in the spreadsheet have used the complete compliance history for completeness. It is proposed that future risk ratings use the average of the most recent three years compliance history (and default to “moderate” where that is not possible).</li> </ul>	
Move towards using the average of the most recent three year assessment for each obligation?	<p><b>FFA:</b> Generally, likelihood scores should be guided by the average of the most recent 3-4 assessments. Where assessments have been sporadic or inconsistent over time, greater emphasis may be placed on more recent assessments.</p> <p><b>PNA + Tokelau:</b></p> <p><b>US:</b> Yes</p> <p><b>EU:</b> Given the evolution of the CMS our suggestion would be to use the average of recent (3-4 years) assessments for each obligation.</p> <p><b>ISSF:</b> Yes, once the RBAF is more understood and regularized, a moving window of 2-4 years of assessments for each obligation sounds sensible.</p>

<p><b>Possible Conclusion for consideration:</b></p> <ul style="list-style-type: none"> <li>As above, the ratings in the spreadsheet have used the complete compliance history for completeness. It is proposed that future risk ratings use the average of the most recent three years compliance history (and default to “moderate” where that is not possible).</li> </ul>	
<p>Should new or amended obligations be automatically included in the next year’s list of obligations for assessment?</p>	<p><b>FFA:</b> New Obligations, or those which have not been previously assessed, should be scored according to the best available evidence (e.g. history of compliance with similar obligations under the CMS).</p>
	<p><b>PNA + Tokelau:</b> No, new or amended obligations should be subject to a similar though less formal consideration of likelihood and consequence as other obligations.</p>
	<p><b>US:</b> Implementation takes time and it would be best to allow for at least a full year of implementation before assessment. Accordingly, if a provision goes into effect in 2021, it shouldn’t automatically be assessed in the 2022 CMS.</p>
	<p><b>EU:</b> Concerning new/amended obligations, our preference would be to consider assessing them already within max 2 years following their <u>entry into force</u>.</p>
	<p><b>ISSF:</b> This may depend on the kind of obligations in a new or amended CMM. For example, if assessment of the obligations will require the submission of new or additional data or an increase in MCS, which may have phased implementation (e.g., by area, gear type, vessel size, etc). If so, then it would make sense for the Commission to decide upon adoption on when the obligation(s) should be assessed. Alternatively, if there is no such new/phased data collection/MCS, being automatically included in the assessment following the first full year of applicability of the CMM would make sense (as opposed to the “next year” as in the question posed).</p>
<p><b>Possible Conclusion for consideration:</b></p> <ul style="list-style-type: none"> <li>Appears to be agreement that new or amended obligations should not automatically be included in the following year’s list of obligations, given the need to generate relevant data relating to the obligation. It may depend on the nature of the obligation – this should be discussed at the time of adoption with a view to ensuring that the obligation is assessed at an appropriate juncture (e.g. within one or two years of adoption if appropriate).</li> </ul>	
<p>Should the WCPFC decide at the time of adoption of a CMM when the obligations</p>	<p><b>FFA:</b></p> <p><b>PNA + Tokelau:</b> No, because that would probably mean the Commission having to reprioritise other obligations to be removed from the List, at the same time to accommodate the new obligations – that is better done as a comprehensive exercise on establishing the List.</p>

should be assessed in the CMS?	<b>US:</b> Per the previous response. Yes – at least for the first assessment.
	<b>EU:</b> Concerning new/amended obligations, our preference would be to consider assessing them already within max 2 years following their <u>entry into force</u> .
	<b>ISSF:</b> See above
<b>Possible Conclusion for consideration:</b>	
<ul style="list-style-type: none"> <li>As above, it may depend on the nature of the obligation – this should be discussed at the time of adoption with a view to ensuring that the obligation is assessed at an appropriate juncture (e.g. within one or two years of adoption if appropriate).</li> </ul>	
Retain the above five categories for “likelihood”?	<b>FFA:</b> The likelihood of non-compliance with each obligation should be scored according to five categories (rare; unlikely; moderate; likely; almost certain).
	<b>PNA + Tokelau:</b> Yes, five categories seem a good starting point. Three is certainly too few to provide a sufficient degree of differentiation between obligations, and would likely leave a lot of work to be done to choose between a large number of obligations with the same risk assessment. Two other comments on likelihood: <ul style="list-style-type: none"> <li>a) The current likelihood estimates are biased against purse seine-related obligations and underestimate likelihoods for longline-related obligations because of the massive difference in observer coverage.</li> <li>b) The basis for the likelihood estimates will likely change when aggregated Tables are used in the assessment and the two streams of data on compliance history may not be consistent or compatible.</li> </ul>
	<b>US:</b> Yes
	<b>EU:</b> Concerning likelihood categories, we are flexible; therefore retaining five categories or reducing to four or three, for simplification and workload reduction, would be fine for us. The practice might show what is best.
	<b>ISSF:</b> If the data indicates these 5 categories are relevant, then they should remain. Also, if there are five consequence ratings it makes sense that they align.
<b>Possible Conclusion for consideration:</b>	
<ul style="list-style-type: none"> <li>There is agreement on the five categories for likelihood (rare; unlikely; moderate; likely; almost certain).</li> </ul>	
Adjust the categories or simplify them? If so, how?	<b>FFA:</b>
	<b>PNA + Tokelau:</b>
	<b>US:</b>

	<b>EU:</b> Concerning likelihood categories, we are flexible; therefore retaining five categories or reducing to four or three, for simplification and workload reduction, would be fine for us. The practice might show what is best.
	<b>ISSF:</b>
<b>Possible Conclusion for consideration:</b>	
<ul style="list-style-type: none"> <li>See above – not relevant – retain the five categories for likelihood.</li> </ul>	
Note that judgement and flexibility will be required, including in the circumstances where non-compliance is “likely” or “almost certain”.	<b>FFA:</b> The outcomes of the RBAF are intended to serve as a guide to decision-making, rather than a substitute for it.
	<b>PNA + Tokelau:</b>
	<b>US:</b>
	<b>EU:</b>
	<b>ISSF:</b> Suggest that the default is the likely or almost certain likelihood ratings result in a "high" risk rating, and that this be then brought to members attention in the CMS so they can determine if it is appropriate or not in that circumstance.
<b>Possible Conclusion for consideration:</b>	
<ul style="list-style-type: none"> <li>Agreement that the RBAF serves as a tool to guide the selection of obligations – but there will be a requirement for judgement and flexibility. Automatic ratings from the RBAF may not be appropriate in all cases.</li> </ul>	

## Consequence

Question	
Is it useful to establish an “objective” for each CMM to assist “consequence” rating? [Comments are welcome on proposed CMM objectives]	<b>FFA:</b> Where no objective or purpose statement is specified in the CMM, one may be inferred based on the measures included and/or the language of the preamble.
	<b>PNA + Tokelau:</b> Probably not, but that assessment can be made as the work proceeds. If the Objectives prove helpful, they should be retained. If they don’t, for example, if the process gets caught up in discussion on the Objectives, then they should be removed.
	<b>US:</b> Possibly. The objective for a CMM could be taken into account in considering the consequence, though it should not be the only way to determine consequence.
	<b>EU:</b> In our view, it might be useful to consider establishing an objective for each CMM, in particular when it is not self-explanatory.

	<p><b>ISSF:</b> If there is none, the inferred objective using the Implementation/reporting/limit etc categorization seems sensible. Suggest that for the future audit point work, if there are not clear objectives or clear ways to identify the obligations in a CMM, then it should be reviewed as part of the audit point work and revisions suggested to the Commission to ensure clarity going forward.</p>
<p><b>Possible Conclusion for consideration:</b></p> <ul style="list-style-type: none"> <li>• Agreement that establishing objectives for each CMM against which to measure “consequence” is useful. But in assessing “consequence” against a specific CMM’s objective, this should also take account the implications for achieving the objectives of the Convention.</li> <li>• The objectives for each CMM could also be considered in the context of Audit Points.</li> </ul>	
<p>Should the above four categories for “consequence” rating be retained?</p>	<p><b>FFA:</b> The consequence of non-compliance with each obligation should be scored according to one of the five consequence scoring categories (insignificant; minor; moderate; major; serious). [Note this position was provided by FFA in July 2021 – subsequently it has been proposed to remove the “insignificant” rating for “consequence”.]</p> <p><b>PNA + Tokelau:</b> Four seems a good starting point.</p> <p><b>US:</b> No</p> <p><b>EU:</b> Similarly to our views for the likelihood categories, we are flexible, assuming there are no major work load issues.</p> <p><b>ISSF:</b> The deletion of "insignificant" is good. The four other categories make sense.</p>
<p><b>Possible Conclusion for consideration:</b></p> <ul style="list-style-type: none"> <li>• Aside from the US, there is agreement on the four categories (minor; moderate; major; severe) for consequence ratings.</li> </ul>	
<p>Should they be simplified? If so, how and why?</p>	<p><b>FFA:</b></p> <p><b>PNA + Tokelau:</b> No, if anything, it seems that the current “consequence” ratings are oversimplified because they do not distinguish the consequences for key target stocks from non-target stocks.</p> <p><b>US:</b> Most of the "Consequences" categories may prove too subjective for agreement among CCMs and could be reduced to a binary assessment of obligations that are critical to the CMM itself and those that aren't. Accordingly, the United States recommends only keeping the following, more objective "Consequences" categories wherein the consequence of non-compliance:</p> <ul style="list-style-type: none"> <li>• presents minimal or no threat to the objective or purpose of the CMM</li> <li>• will probably undermine the objective or purposes of the CMM</li> </ul>

	<p><b>EU:</b> Similarly to our views for the likelihood categories, we are flexible, assuming there are no major work load issues.</p>
	<p><b>ISSF</b></p>
<p><b>Possible Conclusion for consideration:</b></p> <ul style="list-style-type: none"> <li>For discussion – different views on whether the “consequence” ratings should be simplified to a binary assessment (US) or retain the current four categories which would provide a means to differentiate and prioritise between obligations.</li> </ul>	
<p>How could criteria be incorporated to help measure “consequence”? Would that be helpful?</p>	<p><b>FFA:</b> Given the different types of obligations being assessed, consequence scoring may require discussion and agreement amongst members.</p> <p><b>PNA + Tokelau:</b> The issue of distinguishing between obligations relating primarily to target stocks and non-target stocks is an issue for further consideration. Two suggestions are provided below.</p> <p>Addressing this shift in balance might be addressed by:</p> <ol style="list-style-type: none"> <li>i) establishing some guidance on the relative assessment of “Consequence” for target and non-target stocks, perhaps by different weightings for different Thematic Groups; or</li> <li>ii) separately putting the Obligations for Quantitative Limits for the key target tuna stocks onto the List every year (14 Obligations)</li> </ol> <p><b>US:</b> Key criteria may be whether the consequences of failing the obligation undermine the objective or purpose of the CMM - otherwise, it may prove too difficult to secure agreement among CCMs.</p> <p><b>EU:</b> In our view, there might be an area that could deserve consideration in relation to “consequence”: in fact “consequence” categories seems to focus on informing how non-compliance with an obligation might affect the effectiveness of that CMM. We believe that the overall concept should capture also difference among various CMMs in terms of potential “consequence” from ineffectiveness.</p> <p><b>ISSF:</b> Developing criteria to parse "minor" impacts vs. "probable" vs. "Seriously" does seem important. For now, how will "minor impact" be determined? Examples would be important, at a minimum, to guide CCMs in assigning consequence ratings. However, if default consequence ratings are applied e.g., rare and unlikely = minor and "almost certain" = serious, then the focus to remove subjectively would fall for the middle 2 categories - which is where the bulk of the CMMs seem to fall according to bar chart at the end of this paper. Again, flexibility would need to be allowed for CCMs to evaluate default ratings (for instance if a measure really limited only a small set of CCMs, and they all were non-compliant but those CCMs represented &gt;5%, the likelihood could come up</p>

	as unlikely, but the consequence would be serious), but default ratings could help focus on the more potentially complex issues or even potentially systematic compliance issues/problems. with CMMs.
<b>Possible Conclusion for consideration:</b>	
<ul style="list-style-type: none"> <li>For discussion. Some guidance to assist members to understand “consequence” ratings may be useful. The Audit Points work may assist.</li> </ul>	

### Risk matrix and Schedule of Assessment for Obligations

Questions	
What approach should be taken to “severe” and “high” risk rated obligations?	<b>FFA:</b> Higher risk ratings should be assessed more frequently than those with lower risk ratings.
	<b>PNA + Tokelau:</b> These are not relevant considerations for the RBAF. They relate to how the RBAF is used to fit the List of Obligations available to the CMS schedule. These questions will need to be addressed to use the RBAF for determining a List of Obligations to be assessed but that is a separate issue.  The PNA and Tokelau do not support the view that the RBAF should ensure there is a regular assessment of <i>all</i> obligations within CMMs.
	<b>US:</b> Annual Review
	<b>EU:</b> The EU considers that all obligations related to three categories below, should be assessed each year: <ul style="list-style-type: none"> <li>Quantitative limits (e.g., catch, effort, capacity etc)</li> <li>Spatiotemporal limits</li> <li>Non retention related obligations.</li> </ul>
	<b>ISSF:</b> Agree that severe and high risks obligations should be assessed. However, if some of those obligations (as appears from the spreadsheet) have been assessed nearly every year since 2013, then it would seem these need to be put in a category of enhanced review by the Commission. Is it because the measures are not clear? Why is there such persistent non-compliance? Or is it because CCMs see no consequence to their non-compliance (why a schedule of responses is needed)?
<b>Possible Conclusion for consideration:</b>	
<ul style="list-style-type: none"> <li>For discussion. There appears to be a general view that those obligations rated “severe” or “high” risk deserve greater compliance attention. But also comments that decisions on the compilation of the list are a separate process. Also that other factors may need to be taken into account.</li> </ul>	

<p>What approach should be taken to “moderate” and “low” risk rated obligations?</p>	<p><b>FFA:</b> There should be a mix of severe, high, moderate and low risk-rated obligations in the annual list of obligations to be assessed.</p> <p><b>PNA + Tokelau:</b> These are not relevant considerations for the RBAF. They relate to how the RBAF is used to fit the List of Obligations available to the CMS schedule. These questions will need to be addressed to use the RBAF for determining a List of Obligations to be assessed but that is a separate issue.</p> <p><b>US:</b> The approach proposed below seems sound.</p> <p><b>EU:</b></p> <p><b>ISSF:</b></p>
<p><b>Possible Conclusion for consideration:</b></p> <ul style="list-style-type: none"> <li>For discussion. There appears to be a general view that a mix of risk-rated obligations should be considered in the list of obligations for CMS. But also comments that decisions on the compilation of the list are a separate process and that other factors may need to be taken into account. See also separate comments from FFA and PNA that the list should be limited to 60 obligations for the next CMS review given resource implications and time constraints.</li> </ul>	
<p>Does the formula of all severe and high risk obligations, ½ moderate and 1/3 of the low risk obligations seem workable?</p>	<p><b>FFA:</b> There should be a mix of severe, high, moderate and low risk-rated obligations in the annual list of obligations to be assessed.</p> <div data-bbox="517 884 1715 1161" style="border: 1px solid black; padding: 5px;"> <ul style="list-style-type: none"> <li>A key factor in determining the List to be assessed at a particular session is the priority in terms of time that CCMs are prepared to give to the CMS. Then it is a matter of agreeing on a List that fits that timeframe. Thus, there is a need to keep the total number of obligations in the list to be assessed under the CMS at a manageable level each year given resource implications and time constraints on CCMs, the WCPFC Secretariat, TCC and the Commission.</li> <li>The CMS review process at TCC17 ran over time and took over three days for the CMS review process and adoption of the draft provisional CMR, for a list of 70 obligations. We therefore suggest that the list is limited to a total of 60 obligations for the next CMS review.</li> </ul> </div> <p><b>PNA + Tokelau:</b> In terms of using the RBAF under the current virtual meeting setting and with the current inefficient CMS process, this formula is not workable. But in a more normal environment for meetings, if the effectiveness of the CMS is improved, and depending on the number of Obligations considered for assessment, this model or some variation of it, may be workable.</p>

PNA and Tokelau support the FFA view that a key element in determining the List is the priority that can be given to the CMS in terms of time within the TCC meeting. We consider that the timeframe set aside for work on the CMS within the TCC schedule at TCC17 is about right for a virtual session. A larger number of Obligations could be considered with the fuller programme available in face-to-face meetings.

PNA and Tokelau support the FFA proposal that the number of Obligations to be considered at the next session of the CMS should be 60.

The PNAO has looked at 3 different decision models using the RBAF to develop a List using 223 Obligations and the most recent FFA risk ratings. The decision models and the results are given below and compared with the model indicated in WP13B. The answer to the question above seems to be “probably not”. That model is not workable under current virtual meeting conditions and with the current inefficient CMS process in terms of meeting a limit of 60 obligations, or even the 70 limit used in 2020, with the number of Obligations and the ratings used in this analysis. That model, or some variation of it, might be workable with the additional time for the CMS that would be available in normal meetings, a smaller number of Obligations to be considered and an improvement in the effectiveness of the CMS.

		Model 1	Model 2	Model 3	WP 13B Model
Severe	20	Every year	Every 2nd year	Every year	Every year
High	71	Every 2nd year	Every 3rd year	Every 3rd year	Every year
Moderate	76	Every 3rd year	Every 4th year	Every 4th year	Every 2nd year
Low	28	Every 4th year	Every 5th year	Every 5th year	Every 3rd year
(blank)	28	Not included	Not included	Not included	Every 3rd year
	223	88	58	68	148

**US:** Yes

**EU:** The EU considers that all obligations related to three categories below, should be assessed each year:

- Quantitative limits (e.g., catch, effort, capacity etc)
- Spatiotemporal limits
- Non retention related obligations

For the selection of the remaining obligations to be assessed, the formula proposed under para 33 could be used.

	<p><b>ISSF:</b> Makes sense to divide these among years so to not overload the annual review in the CMS. How will the 1/2 and 1/3s be chosen annually? This might be best guided by the frequency of evaluation of each.</p>
<p><b>Possible Conclusion for consideration:</b></p> <ul style="list-style-type: none"> <li>For discussion. There appears to be a general view that a mix of risk-rated obligations should be considered in the list of obligations for CMS. But also comments that decisions on the compilation of the list are a separate process and that other factors may need to be taken into account. See also separate comments from FFA and PNA that the list should be limited to 60 obligations for the next CMS review. PNA note that a larger number of obligations could be considered in a face to face setting.</li> </ul>	

Options for rationalising the list of obligations for annual assessment?

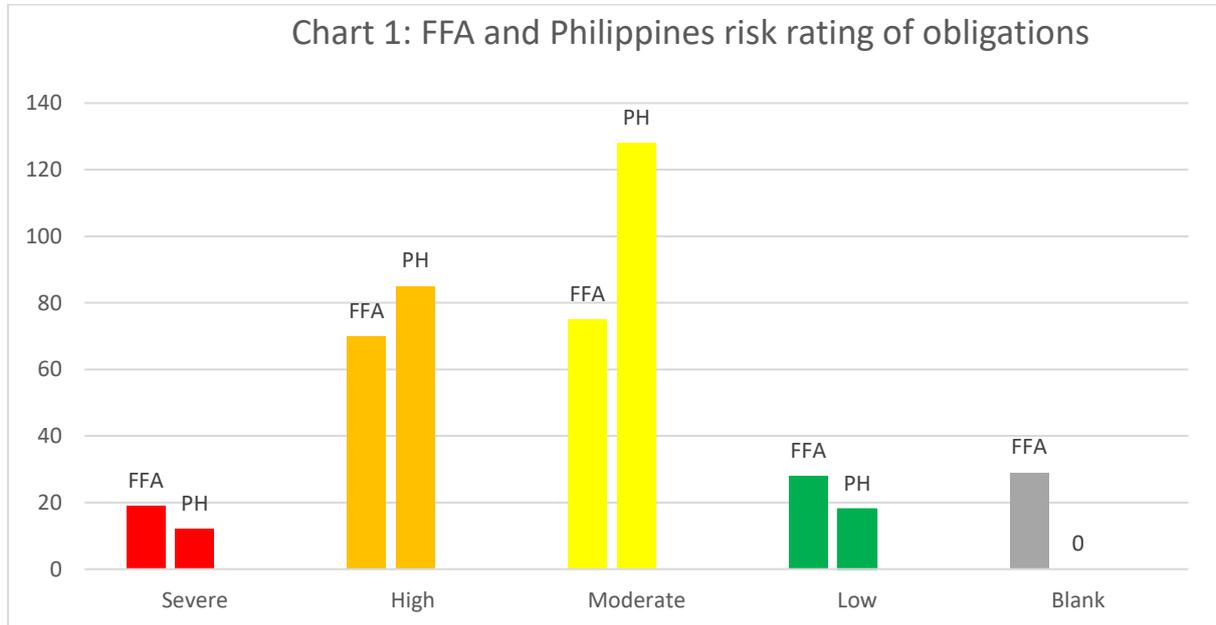
Questions	
Views on the potential to treat “implementation” obligations differently in the CMS process given the move to “hold on file”?	<p><b>FFA:</b> Consider treating “implementation” obligations differently in the CMS process, as suggested in the RBAF paper, particularly for those obligations which have “hold on file” responses.</p>
	<p><b>PNA + Tokelau:</b> PNA and Tokelau support the FFA position to consider treating implementation obligations held on file differently.</p>
	<p><b>US:</b> Focus review on CCMs which have not provided an implementation statement or have not provided an adequate implementation statement.</p>
	<p><b>EU:</b> “Implementation”-related obligations: except for new/amended obligations, could be moved to “hold on file” and would not need to be reviewed, unless they are changed/expire/amended.</p>
	<p><b>ISSF:</b> For some Implementation obligations, this makes sense. However, for others, such as the implementation of bycatch mitigation measures, accepting that a CCM has a national law etc. should not be sufficient to ensure actual implementation by vessels. Observer or other information should be used to verify (where possible) implementation. Recognizing that the CMS is not assessing individual vessel action, but it does identify where CCMs have implementation issues and they need to take action. So if there are observer reports, for example, that show that a LL vessel flagged to a CCM, for example, is not using the required seabird</p>

	mitigation measures, etc, then this should trigger an evaluation of this "implementation" obligation. So it would not be "held on file" but move into the (next year's?) CMS assessment.
<p><b>Possible Conclusion for consideration:</b></p> <ul style="list-style-type: none"> <li>For discussion – potential agreement that implementation “hold on file” obligations could be treated differently (i.e. focus on those obligations where there is insufficient evidence of implementation).</li> </ul>	
Thoughts on the scope to consolidate obligations through the Audit Points process (for example, combining report and deadline obligations where appropriate)?	<b>FFA:</b> We are mindful and cautious that we do not unintentionally remove any obligations that may need to be assessed through the CMS.
	<b>PNA + Tokelau:</b> Obligations should probably not be consolidated. That will make the RBAF less useful and more difficult to use.
	<b>US:</b> We are open to considering this approach, but do not think it will be an easy, one size fits all, process. For example, being late on some reporting requirements might not be consequential to the effectiveness of a measure, while a delay in a reporting requirement such as a transshipment notification, could serve to undermine the measure.
	<b>EU:</b> Report and deadline obligations: it is not clear what it is proposed, but it is an important area for further discussion, as in some cases it could make sense to merge report/deadline under a single obligation whereas in other cases it might not.
	<b>ISSF:</b> Seems sensible
<p><b>Possible Conclusion for consideration:</b></p> <ul style="list-style-type: none"> <li>For further discussion – mixed views. Recognition that any consolidation of obligations should not be automatic – and may depend on the nature of the obligation given that some reporting deadlines have substantive implications (e.g. transshipment notifications).</li> </ul>	
How could thematic grouping or clustering be used to streamline the CMS, including prioritisation of obligations?	<p><b>FFA:</b></p> <p><b>PNA + Tokelau:</b> It may be worth considering a thematic or clustering approach which focuses on say prioritised obligations for MCS measures one year, billfish and sharks in another year and SSIs in another year alongside obligations for key target stocks annually. In general, it will be more difficult to prioritise within these groups than between them and this approach would be more coherent and strategic in terms of the Commission’s broader Objectives.</p>
	<b>US:</b> We are open to hearing views of others on this point, but have some concerns that most groupings may be too artificial to provide meaningful feedback for prioritization. We do see some benefits, with the caveats noted above, to grouping some report and deadline obligations.

	<p><b>EU:</b> The EU considers that all obligations related to three categories below, should be assessed each year:</p> <ul style="list-style-type: none"> <li>• Quantitative limits (e.g., catch, effort, capacity etc)</li> <li>• Spatiotemporal limits</li> <li>• Non retention related obligations</li> </ul>
	<p><b>ISSF:</b> Such clusters could be used to streamline the CMS by focusing on those obligations that fell into thematic areas that, if the likelihood of such CMMs were not being complied with (moderate/likely), then the object and purpose of these measures and tools would be undermined and the risk to the c/m of the tuna resources/ecosystems/data/scientific work of the WCPFC would have a high risk of being compromised. This would apply to themes that cover quantitative limits, mitigation of impact of fishing, and MCS requirements (like VMS, observers or EMS both for monitoring and data collection tools).</p>
<p><b>Possible Conclusion for consideration:</b></p> <ul style="list-style-type: none"> <li>• For further discussion – some interest in exploring the possibility of using thematic groupings as an additional means to prioritise obligations for CMS assessment. One example could be the annual inclusion of all Quantitative Limits (as suggested by some) accompanied by obligations from a particular thematic group(s) (this could occur according to a schedule). The obligations from a thematic group could be risk-rated to further aid prioritisation.</li> </ul>	
<p>Any other comments on ways to rationalise the number of obligations assessed each year?</p>	<p><b>FFA:</b></p> <p><b>PNA + Tokelau:</b> The key is to improve the effectiveness of the CMS so that more Obligations can be considered within the time available.</p> <p><b>US:</b></p> <p><b>EU:</b></p> <p><b>ISSF:</b></p>
<p><b>Possible Conclusion for consideration:</b></p> <ul style="list-style-type: none"> <li>• Improving the effectiveness of the CMS as a whole, including through technological advances, may mean that it is possible to consider a greater number of obligations within the time available at TCC.</li> </ul>	

## Risk Rating of Obligations

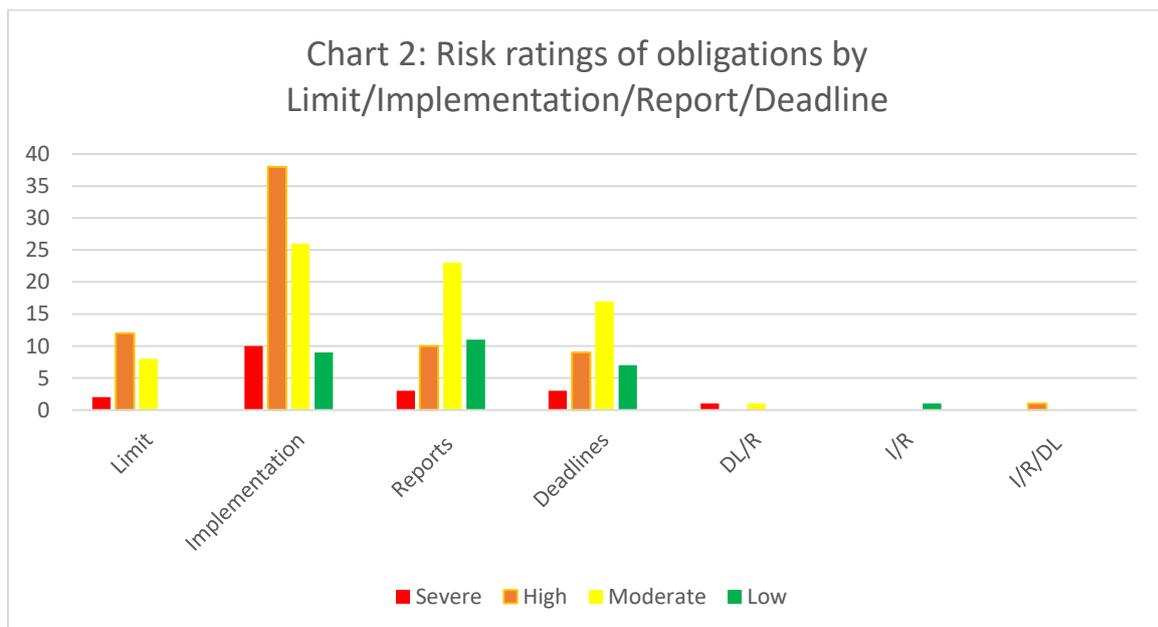
The following charts illustrate the risk rating results (sorted into severe, high, moderate, and low) as a result of the assessments done by both FFA members collectively and the Philippines.



Note that the Philippines has assessed 243 obligations (220 obligations + 5 non-binding obligations + 18 Convention obligations). The FFA has assessed 192 obligations (*excluding* 5 non-binding obligations + 28 obligations for further consideration + 18 Convention obligations).

As expected, the risks fall within a rough normal curve. For the FFA ratings of 192 obligations, 75% (145) of obligations are high or moderate risk; 46% (89) are severe and high risk.

Chart 2 below illustrates the risk rating of obligations (by FFA) across the categories of obligation (limits, implementation, reports and deadlines).



## Additional feedback

### Relationship between the RBAF and the decision process on the List of Obligations for assessment

As noted in para 10 of the Discussion Document (13 B-rev2), deciding which obligations have a lower risk and which have a higher risk could *guide* the prioritisation of the obligations in CMMs for assessment as part of the CMS, taking into account the needs and priorities of the Commission.

It is also noted that the RBAF is not a “silver bullet” for prioritising obligations for assessment. There are a range of variables that also need to be taken into account, including the lack of data in some cases (e.g. lack of compliance history or the lack of verified data), a degree of subjectivity in assessing qualitative information (particularly for rating “consequence”), and the need to consider resource implications for managing the CMS each year. [para 11]

Further it is noted that the RBAF should help in providing more structure to the selection of priority obligations – but inevitably there will be circumstances where some collective flexibility and judgement from members is required. [para 12]

Both FFA and PNA + Tokelau have emphasised these points. In particular, FFA note the need for a separate decision-making process on the list of obligations which should take into account other factors such as timing and resourcing. PNA + Tokelau consider the scope of the RBAF to be assessing risk associated with non-compliance, which is then used to inform a possible list of obligations.

In other words, the list of obligations is not automatically produced and adopted through the RBAF. Other broader factors must be taken into account in the decision-making process for the annual list of obligations. This is already reflected in paragraph 6 (i) of the existing CMM 2019-06.

Comments from FFA and PNA + Tokelau:

#### **FFA:**

Whilst the development of the RBAF would inform compliance assessments under the CMS, we reiterate that it is intended to be used as a guide to decision making on the development of the list of obligations, rather than generating the list automatically by application of the Framework. In that sense, it is separate from the wider decision-making process to determine the list of obligations for consideration at any particular session, which would need to take into account several factors such as timing and resourcing in addition to the RBAF.

**PNA + Tokelau:** The role of the RBAF, as the paper says, is a tool to aid the decision on the List of Obligations. In that sense, it is separate from the decision-making process or model which uses the RBAF to determine the List for any particular session. [para 4]

The issue of which obligations are assessed is a matter for the decision process on the List. The scope of the RBAF is the provision of an assessment of the risks associated with non-compliance to inform decisions on which obligations should be assessed. Whether all obligations are assessed over time is a matter of prioritisation. [para 5 (a)]

**Possible Conclusion for consideration:**

- The RBAF is a tool to help inform and prioritise the list of obligations for annual CMS assessment.
- The risk rating of obligations should not automatically dictate how obligations are treated in the CMS process.
- In developing the list of obligations for CMS assessment, other factors need to be taken into account, including the priorities and resources of the WCPFC and the broader objectives of the Convention.
- The list of obligations for annual CMS assessment must be adopted by the WCPFC at the annual meeting.

## Impact of the RBAF on the prioritisation of obligations

As suggested in para 11 of the Discussion Document (13B – rev2), in addition to a risk analysis, there are a range of variables that also need to be taken into account. This includes lack of data, a degree of subjectivity, and the need to consider resource implications.

## Purse seine vs Longline fishery obligations

Both FFA and PNA + Tokelau have highlighted the impact of the lack of observer data from the longline fishery on the ability of WCPFC to identify non-compliance, and accordingly, the lack of compliance history to inform the likelihood ratings for obligations related to the longline fishery. Comments from FFA and PNA + Tokelau:

**FFA:**

In addition, FFA Members have consistently raised in the past that the CMS, by default, is flawed because of the imbalance in the Commission's management framework with regards to the purse seine and the longline fisheries. The current RBAF analysis is likely also to result in a significant shift in the balance of the CMS from target to non-target stocks. We are concerned that this does not adequately reflect the social and economic consequences of impacts on target species.

- The imbalance between the purse seine and the longline fishery in the suite of obligations contained within the Commission's CMMs.

**PNA + Tokelau:**

- a) **Fishery-related bias in the RBAF:** the RBAF outcomes are biased by the huge difference in observer coverage between the longline and purse seine fisheries. It seems clear that if the longline observer coverage was 100%, there would be a greater level of non-compliance recorded in the longline fishery in the CMS and assessed in the RBAF. This would result in higher risks being assessed for longline fishery-related obligations than is reflected in the current analysis. This bias isn't a fault of the RBAF, it's a reflection of a systematic weakness in the Commission's overall management framework. However, it is a bias, and it needs to be taken into account in applying the RBAF results.

**Possible Conclusion for consideration:**

- In deciding on the list of obligations for CMS assessment, due consideration should be given to ensuring appropriate balance between the purse seine and longline fisheries, particularly given the relative lack of compliance history for the longline fishery.

## Target vs non-Target obligations

Both FFA and PNA + Tokelau have noted the potential for the RBAF to result in higher risk ratings for obligations relating to non-target species, compared with the risk ratings for more regularly assessed target tuna obligations.

Comments from PNA + Tokelau:

- b) **Target/non-Target stock Balance:** the current RBAF analysis is likely to result in a significant shift in the balance of the CMS from target to non-target stocks. As examples, some obligations relating to non-retention of oceanic whitetip and silky sharks are rated as “severe”, though they have only been assessed once or twice in the last 5 years, while obligations related to bigeye management (FAD closure and HS bigeye catch limits) and South Pacific albacore are rated as “high” although they have been assessed annually. This kind of change affects a large number of obligations and if the risk assessments are used to drive the List will lead to a large shift towards more assessment of obligations relating to non-target species and less assessment of obligations relating to target stocks compared to recent years. This shift might be considered reasonable since the target stocks are all healthy and some of the non-target stocks are not. However, it does not reflect the relative social and economic value of the key target tuna stocks, and it represents a substantial shift in prioritisation for the List compared to past practice. Addressing this shift in balance might be addressed by:
- i. establishing some guidance on the relative assessment of “Consequence” for target and non-target stocks, perhaps by different weightings for different Thematic Groups; or
  - ii. Separately putting the Obligations for Quantitative Limits for the key target tuna stocks onto the List every year (14 Obligations)

Based on the thematic groupings under development by the WCPFC Secretariat, there are 49 obligations in the category for “mitigating impacts of fishing on species of special interest” – of which 3 obligations are rated severe risk (2 relating to sharks and 1 to marine pollution) and 13 are high risk.

This is compared to 32 obligations in the category for “quantitative limits for tuna and billfish” – of which 2 obligations are rated severe risk (both related to purse seine fishing) and 14 are high risk. There are an additional 11 obligations in the category for “Additional Measures for Tropical Tuna”.

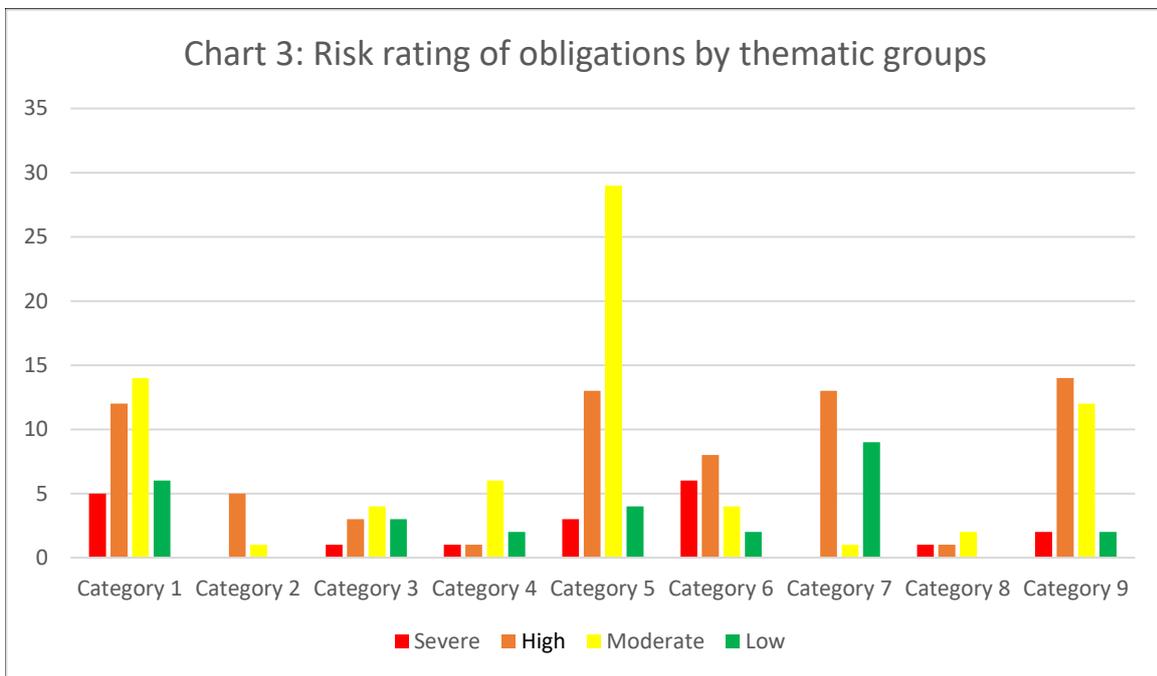
As seen in Table 1 and Chart 3 below, the greatest number of “severe” rated obligations are in the observer related category, followed by the annual fishing related activity category. Categories 9 (Quantitative limits for tuna and billfish), 7 (Operational Requirements for Fishing Vessels), 5

(Mitigating Impacts of fishing on species of special interest), and 1 (Annual Fishing Activity-related) have the highest “high” rated obligations – with 14, 13, 13 and 12 respectively.

<b>Table 1: Risk rating of obligations by thematic groups:</b>		
<b>Thematic Group</b>	<b>Number of Obligations</b>	<b>Rating of obligations</b>
1. Annual Fishing Activity Related	39	5 obligations CMM 2009 -06 11 CMM 2009 -06 35 (a) (iii) CMM 2009 -06 35 (a) (iii) CMM 2009 -06 35 (a) (iv) CMM 2019 -08 02
		12 obligations
		14 obligations
		6 obligations
2. Additional Measures for Pacific Bluefin Tuna	6	0 obligation
		5 obligations
		1 obligation
		0
3. Additional Measures for Tropical Tuna	11	1 obligation CMM 2018-01 Att 2 03
		3 obligations
		4 obligations
		3 obligations
4. Inspection Activity	26	1 obligation CMM 2017-03 12
		1 obligation
		6 obligations
		2 obligations
5. Mitigating Impacts of Fishing on species of special interest	49	3 obligations: CMM 2017-04 02 CMM 2019-04 20 (2) CMM 2019-04 21 (1-7)
		13 obligations
		29 obligations
		4 obligations
6. Observer Related	22	6 obligations
		8 obligations
		4 obligations
		2 obligations
7. Operational Requirements for Fishing Vessels	25	0 obligations
		13 obligations
		1 obligation
		9 obligations
8. Overarching Requirements	10	1 obligation CMM 2017-07 19

		1 obligation
		2 obligations
		0 obligations
9.Quantitative Limits for Tuna & Billfish	32	2 obligations CMM 2018-01 25 CMM 2018-01 26
		14 obligations
		12 obligations
		2 obligations
<b>TOTAL</b>	<b>220</b>	

Note: The risk ratings are based on the FFA assessment. The ratings may not always add up to the number of obligations because there are some gaps in ratings which require further consideration.



### Prioritising Quantitative Limits, Other Limits and Non-Retention Obligations

PNA have proposed that all Quantitative Limits (QL) for the main tuna species be included in the List of Obligations annually. This would include 8 QLs in the tropical tuna measure; 1 QL for south Pacific albacore; 1 QL for north Pacific albacore and 3 QLs for Pacific bluefin – a total of 13 QLs. [See Table 2 below]

The EU have proposed that all Quantitative Limits (e.g. catch, effort, capacity etc); all spatial/temporal limits; and all non-retention obligations be included in the List of Obligations annually. By my calculation, this amounts to 32 obligations as set out in Table 3 below: 13 QL for main tuna; 5 additional QL (billfish); 8 spatial or temporal limits; and 6 non-retention obligations. [See Table 3 below]

<b>Table 2: PNA + Tokelau proposal</b>	
<b>13 x Quantitative Limits for main tuna species</b>	
2015-02 01: South Pacific albacore: Limits no of vessels actively fishing for ALB S 20oS (2005 or 2002-2004 levels)	High
2019-03 02: North Pacific albacore: Not increase fishing effort for NP ALB beyond annual average 2002-04 levels	High
CMM 2018-01 25: TT: Restrict PS effort/catch within EEZ as notified in Table 1	Severe
CMM 2018-01 26: TT: Restrict high seas purse seine effort (20°N-20°S) - Table 2	Severe
CMM 2018-01 39: TT: Restrict LL BET catch to limits set in Table 3	High
CMM 2018-01 43: TT: CCMs not exceed 2,000t BET limit (if less 2,000t BET catch in 2004)	Moderate
CMM 2018-01 45: TT: CCMs not increase no of PS vessels > 24m capacity limits	Moderate
CMM 2018-01 47: TT: CCMs not increase no of LL freezer vessels targeting BET	Moderate
CMM 2018-01 48: TT: CCMs not increase no of LL ice-chilled vessels targeting BET	Moderate
CMM 2018-01 51: TT: Other commercial fisheries not exceed average 2001-2004/2004 catch	Moderate
2019/2020-02 02 (1): Pacific Bluefin: Limit effort for Pacific bluefin N 20oN < 2002-04 average levels	High
2019/2020-02 02 (2): Pacific Bluefin: Reduce catches of <30kg Pacific bluefin to 50% of 2002-04 levels	High
2019/2020-02 03: Pacific Bluefin: No increase in catch of >30kg Pacific bluefin from 2002-04 levels	High

<b>Table 3: A possible illustration of the EU proposal = 32 Obligations</b>	
<b>13 x Quantitative Limits for main tuna species (as for PNA + Tokelau proposal)</b>	
2015-02 01: South Pacific albacore: Limits no of vessels actively fishing for ALB S 20oS (2005 or 2002-2004 levels)	High
2019-03 02: North Pacific albacore: Not increase fishing effort for NP ALB beyond annual average 2002-04 levels	High
CMM 2018-01 25: TT: Restrict PS effort/catch within EEZ as notified in Table 1	Severe
CMM 2018-01 26: TT: Restrict high seas purse seine effort (20°N-20°S) - Table 2	Severe
CMM 2018-01 39: TT: Restrict LL BET catch to limits set in Table 3	High
CMM 2018-01 43: TT: CCMs not exceed 2,000t BET limit (if less 2,000t BET catch in 2004)	Moderate
CMM 2018-01 45: TT: CCMs not increase no of PS vessels > 24m capacity limits	Moderate
CMM 2018-01 47: TT: CCMs not increase no of LL freezer vessels targeting BET	Moderate
CMM 2018-01 48: TT: CCMs not increase no of LL ice-chilled vessels targeting BET	Moderate
CMM 2018-01 51: TT: Other commercial fisheries not exceed average 2001-2004/2004 catch	Moderate
2019/2020-02 02 (1): Pacific Bluefin: Limit effort for Pacific bluefin N 20oN < 2002-04 average levels	High
2019/2020-02 02 (2): Pacific Bluefin: Reduce catches of <30kg Pacific bluefin to 50% of 2002-04 levels	High
2019/2020-02 03: Pacific Bluefin: No increase in catch of >30kg Pacific bluefin from 2002-04 levels	High
<b>5 x Other Quantitative Limits</b>	
2006-04 01: Striped Marlin in SW Pacific: Limit number of vessels fishing for STM S 15oS to any one year in 2000-2004	High

2009-03 01: Swordfish: Limit vessels fishing for SWO S 20oS to # in any one year between 2000-2005	High
2009-03 02: Swordfish: Limit catch of SWO S 20oS to amount in any one year between 2000-2006	High
2009-03 03: Swordfish: No shift in effort N 20oS as a result of SWO CMM	High
2010-01 05: NP striped marlin: Limit catch of NP striped marlin to specified levels	High
<b>8 x Spatial or Temporal Limits</b>	
2011-03 01: Cetaceans: Prohibit PS vessels setting on tuna associated with a cetacean	Moderate
2009 -06 29: Transshipment: Limit on PS transshipment outside of port	Moderate
2009 -06 34: Transshipment: Ban on HS transshipment unless authorised	High
2016 -02 06: EHSP: Prohibition of T/S in the EHSP	Moderate
CMM 2018-06 03: RFV and Authorisation: Prohibit fishing beyond national jurisdiction without CCM authorisation	High
CMM 2018-01 16 3: TT: 3 month FAD closure for PS vessels in EEZ and HS	High
CMM 2018-01 17: TT: Additional 2-month FAD closure on high seas	High
CMM 2018-01 Att 2 03: TT: PH provide entry/exit reports for vessels in HSP1	High
<b>6 x Non-retention Obligations</b>	
2011-03 02: Cetaceans: Ensure safe release of cetacean if encircled in PS net	Moderate
2018 -04 05a: Sea Turtles: Ensure PS vessels avoid encircling sea turtles	Moderate
CMM 2019-04 12: Sharks: prevent retaining/transshipping/landing shark fins	High
CMM 2019-04 20 (1): Sharks: Prohibit retaining/transshipping/storing/landing oceanic whitetip & silky sharks	High
CMM 2019-04 21 (1-7): Sharks: Prohibit PS setting on whale sharks, retaining/transshipping/landing of whale sharks	Severe
CMM 2019-05 04-06, 08, 10: Mobulids: Prohibit retaining/transshipping/landing of mobulid rays	Moderate

#### Views?

- Should all Quantitative Limits relating to the main tuna species (13 obligations) be included in the annual List of Obligations for CMS?
- Should all Quantitative Limits (13 + 5) be included in the annual List of Obligations for CMS?
- Should all Spatial and Temporal Limits (8 obligations by my calculation) be included in the annual List of Obligations for CMS?
- Should all non-retention obligations (6 obligations by my calculation) be included in the annual List of Obligations for CMS?

#### Comments on particular Obligations

FFA have made the following comments about the inclusion of particular obligations in the CMS process. These obligations, including the obligations from the Convention, require further consideration.

Comments from FFA:

The WCPFC Secretariat in WCPFC-TCC17-2021-10 recommended that the CMS-IWG could, as part of development of the Audit Points and RBAF, consider recommending that certain obligations be removed from future Annual Report Part 2 and from the list of obligations for potential review through the CMS.

We are mindful and cautious that we do not unintentionally remove any obligations that may need to be assessed through the CMS, but we have identified some preliminary obligations that may warrant further discussion and considerations. These include:

- i. CMM 2009-09 01-05 Vessels without nationality – for further consideration on what and who would be assessed (note, there is a separate line/row in the spreadsheet for paragraph 5 on reporting of sightings)
- ii. CMM 2013-07 (Special requirements of SIDS) para 01-03; 04-05; 07; 09, 11, 18 – for future consideration alongside paragraph 19.
- iii. CMM 2017-02 Port State Measure – for further consideration recognizing that the measure is voluntary in that it encouraged port CCMs to declare ports.
- iv. CMM 2018-05 (ROP CMM) para 8 – requirement to meet the level of observer coverage. The 5% minimum observer coverage for non-purse seine fisheries has been assessed in the past under CMM 2018 -05 Annex C 06 and the 100% observer coverage requirement has been assessed under the tropical tuna measure.
- v. CMM 2018-05 14 – requirement to nominate a NOP Coordinator and keep the Secretariat informed of any change. There are two rows for this (one as implementation and another as report) – for consideration of the possibility of consolidating these under one category.
- vi. CMM 2019-04 22 – requirement to submit key shark species in accordance with the Scientific Data to be provided to the Commission. For further consideration given that the submission of the scientific data is evaluated.
- vii. Obligations from the Convention – for further discussion.