



TECHNICAL AND COMPLIANCE COMMITTEE
Eleventh Regular Session
23 - 29 September 2015
Pohnpei, Federated States of Micronesia

**CONCEPT OF AN INDEPENDENT AUDIT OR INDEPENDENT REVIEW OF
THE WCPFC COMPLIANCE MONITORING SCHEME**

WCPFC-TCC11-2015-10
3 September 2015

Purpose

1. The paper provides some discussion points for the consideration of TCC11 in response to the WCPFC11 decision to undertake an audit of the Compliance Monitoring Scheme (CMS) at some point in the future and the cost implications of the audit.
2. TCC11 is invited to consider the paper and as appropriate, make recommendations to WCPFC12.

Background

3. At WCPFC11, FFA members tabled a delegation paper providing some comments on the Compliance Monitoring Process (WCPFC11-2014-DP10). Within that delegation paper was the following statement...

“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.”

4. The FFA proposal for an independent review and audit of the CMS was discussed at WCPFC11 (an excerpt from the WCPFC11 Summary Report is provided as Annex 1). There was a mixture of support and hesitation in the views which were expressed by WCPFC members in response to the FFA proposal. The main views expressed included:
 - The need to properly assess the likely cost implications of an audit alongside other priorities within the 2015 budget;
 - Allow more time for the Compliance Monitoring Scheme to operate before a review is undertaken, noting that a revised CMM will be developed in 2015; and
 - Undertake a review to make sure the Compliance Monitoring Scheme is meeting its objectives and making a positive contribution to the work of the TCC as it has been implemented for four years already.

5. The outcome from WCPFC11 was agreement “that there should be an audit of the CMS at some point. The Secretariat was tasked with preparing a paper for TCC11, which will include consideration of the costs of conducting an independent audit of the CMS.” (WCPFC11 Summary Report paragraph 674).

Scope of audit (review)

6. In reviewing the comments from the WCPFC11 discussions and the FFA proposal, there wasn't much in the way of direction in CCMs comments during WCPFC11 about the nature of the Terms of Reference for an Independent Review or Independent Audit of the Commission's CMS. Although during WCPFC11, most CCMs that spoke in favor of the FFA proposal had suggested that priorities for such an “audit or review” were to check implementation against the stated objectives for the Compliance Monitoring Scheme, and that the overall Compliance Monitoring Process was having the appropriate impacts and making a difference. The FFA proposal's stated purpose was 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.”

7. The purpose of the WCPFC Compliance Monitoring Scheme is described in paragraph 1 of CMM 2014-07, and it says:

“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 CMS 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 other Commission obligations;¹ and
- (v) monitor and resolve outstanding instances of non-compliance.

Footnote 1: In accordance with the process for identifying responses to non-compliance adopted by the Commission to complement the Scheme, as provided for in paragraph 24 of this measure.

8. At the core of the audit of the CMS will be an assessment of how the scheme has achieved its objectives / purposes. In addition to that basic assessment, will be consideration of such other matters as:

- a. the contribution of the CMS to the work of the TCC and WCPFC;
- b. refinements to the CMS to improve its efficiency and effectiveness;
- c. how user-friendly is the CMS report template;
- d. assessment of budgetary and resource implications;
- e. assess the TCC procedures in considering the draft CMR in light of requests for greater transparency; and
- f. a regular review process.

Consideration of possible costs

9. In the absence of a specific terms of reference or direct guidance in the WCPFC11 decision on the nature and scope of the audit or review the Secretariat has summarized in Table 1 as an indication of possible costs, the actual costs from recent WCPFC independent reviews and regular annual financial and security audits.

Table 1. Costings for WCPFC recently-undertaken Independent Reviews or Audits

Type of Review or Audit	Description	Total cost (USD)
Joint VMS review (2011) jointly undertaken by FFA and WCPFC	Consultants fees (x1) and some travel	46,000
Bigeye stock assessment peer review (2014/2013)	Consultants fees (x1) and travel	30,000
Independent review of WCPFC (2012)	Consultants fees (x3) and travel	80,000
Annual RFV/IMS and VMS security Audit (2014)	Cost including travel	7,300
Annual Financial Audit (2014)	Cost including travel	7,000

Discussion

10. The costs provided in Table 1 and the associated terms of reference for each activity do vary. For example the annual financial and annual security audits terms of reference tend to be more defined, and activities are focused on reviews to check the consistency of observed Secretariat practices with agreed standards and rules. Whereas, the terms of reference for the “reviews” tend to be more broad, and focused on review of processes and procedures, collation of views of CCMs, and recommendations on a range of areas for improvement including decisions and actions that should be taken by the Commission and practices that the Secretariat should employ.

11. Based on the initial concept proposed by FFA and CCM comments that were expressed at WCPFC11 in support, perhaps an independent review is the type of activity that the Commission may intend to conduct of the Compliance Monitoring Scheme at some point. If so, then the indicative costs of such an independent review are likely to depend more on factors such as the number of consultants (or consultant hours) that would undertake the review and the extent of any travel that is expected.

12. Obviously, a terms of reference will need to be developed for the audit or review but some guidance as to the scope, extent and timing of the audit or review will be required from TCC11. Some broad consideration of the likely elements of the terms of reference for the audit are suggested in paragraph 8.

13. It is therefore suggested that TCC11 review the WCPFC11 decision and provide guidance on how to progress the notion of an audit of the CMS and discuss possible elements for the terms of reference for such an audit.

Recommendation

14. TCC11 is invited to consider the paper and as appropriate, make recommendations to WCPFC12.

Annex 1: Excerpt from WCPFC11 Summary Report

iii. Conduct an independent audit and review of where the Commission stands in relation to delivering on the CMS objectives. The specific tasks could include an analysis of what impacts, if any, has the CMS had and what difference has it made in terms of any trends in compliance.

658. FFA members noted they are generally supportive of the current process used to undertake the CMR, but noted their belief that there is a need to task an independent review and audit of the CMS process to take stock of where the Commission stands in terms of its effectiveness and where efficiency gains can be made in meeting the CMS' objectives.

659. Responding to a query from one CCM, the Interim-Executive Director responded that she expected the proposed independent audit would have budget implications.

660. Several CCMs expressed the view that an independent look at the CMS will improve it.

661. The EU noted that the Commission budget was already increasing this year. An audit would require additional resources. This CCM asked the Secretariat for costings, suggesting a consultancy might cost USD50,000.

662. One CCM noted that the CMS was just a few years old and was still finding its feet. It may be premature to put it through such a review and perhaps when the Commission has a longer term CMS measure it might be more appropriate.

663. One CCM noted that the measure had been in place for four years and was getting some footing. The audit would do a stock take, to ensure it is meeting its objectives. This CCM noted that the TOR would look at impacts and any difference the scheme has made.

664. The Chair summarized that it was an excellent idea but as a logistical issue, the Commission is going to amend the measure and engaging a consultant while it is being amended does not necessarily make good sense. The Chair suggested going through the revised scheme at the next TCC and then have the analytical work done.

665. The Interim-Executive Director recognized the CMS was a scheme which is still being shaped. The Secretariat sees merit in advice being given on the CMS and whether the volume of information the CCMs and TCC are being asked to review each year in CMRs, is achieving what people are hoping the CMS will achieve. To assist the Commission's consideration the Secretariat offered to look at costing.

666. Reflecting on the comments, one CCM suggested it might be better to revisit the proposal next year.

667. One CCM cautioned that if the CMS process runs for too much longer without analysis, the Commission might get set in its ways, which risked only tinkering around the edges.

668. Some CCMs disagreed with the approach of independent audit of the measure. Japan stated that if there are difficulties with the measure, it is the members' responsibility to change it.

669. The Chair asked if an audit should be set in motion now, or after the Commission has amended the measure and it is applied at TCC.

670. EU observed that the Commission has not even tried the new process and, though not opposed to the audit, done at the right time it would be more meaningful and beneficial.

671. One CCM asked the Secretariat to provide some costings and asked for a commitment to agree a Workplan to do this in the near future.

672. The Chair noted costs should be prepared for inclusion in planning for the following year.

673. Reflecting on its capacity, one CCM preferred a process which would continue on a trial basis while CCMs work through deficiencies at a national level. This CCM was especially concerned about the sanction part of the process, which would present difficulties.

674. WCPFC11 agreed that there should be an audit of the CMS at some point. The Secretariat was tasked with preparing a paper for TCC11, which will include consideration of the costs of conducting an independent audit of the CMS.