**New Zealand comments on the CMS review**

Review of the WCPFC Compliance and Monitoring Scheme\_NZ comments final.docx

Kia ora Glen and Lara,

Thanks for your patience and for keeping the door open to us providing comments to you on the report by the independent reviewers on the Compliance Monitoring Scheme. The report provides a thorough overview of the workings of the CMS and does a good job in identifying issues and underlying reasons for these issues. We have considered the recommendations made by the reviewers and made an initial assessment, prioritising those we felt were key to resolving issues that are faced with the current CMS (1), useful but not a priority (2) and not necessary at this time or already business as usual (3). I’ve attached a table outlining our initial thoughts, recognising that as we move through the process and hear the perspectives of others that our views may change.

Our priority areas focus on seeking to ensure the new CMS:

\* provides for a consistent and fair process

\* reduces the time demand on CCMs,

\* balances the obligations for flag/coastal states

\* ensures CMMs take full account of 2013-06

\* makes obligations (audit points) clear and linked to the purpose of the CMMs

\* encourages improved compliance

We’re looking forward to being involved in the development of the new CMM for the CMS. As I noted in my early email, I’ll be the New Zealand point of contact for this. If you could also include Joanne Dow in any correspondence that would be much appreciated.

Kind regards

Megan

Megan Linwood | Senior Policy Analyst

International Fisheries Management | International Policy

Policy & Trade | Ministry for Primary Industries | Pastoral House, 25 The Terrace | PO Box 2526 | Wellington | New Zealand

Telephone: 64-4-830-1532 | mobile: 64-21830150 | Web: www.mpi.govt.nz

Email: megan.linwood@mpi.govt.nz

**Review of the WCPFC Compliance and Monitoring Scheme**

**Schematic for NZ feedback on recommendations**

|  |  |  |
| --- | --- | --- |
| **Recommendation** | **Priority**  **(1-3)** | **Comment** |
| **2. Background and role, pg 17** | | |
| a. Continue to research options for improving the presentation of CMS summaries that describe trends in compliance [Secretariat] | 2 | Need this research to understand where we’ve come from. Would be a good job for an intern. |
| b. Additional consolidated summaries for historical FSI information be included in FSI reporting [Secretariat] | 2 | Need this research to understand where we’ve come from. Would be a good job for an intern. |
| c. Additional consolidated summaries of historical capacity development information be included in capacity assistance reporting [Secretariat] | 2 | Need this research to understand where we’ve come from. Would be a good job for an intern. |
| **3. The CMS as a Compliance Tool, pg 23** | | |
| a. The Commission commit to a new process to develop and implement a response to non-compliance procedure [Commission] | 2 | We think this is important, but feel this could sit outside of the review of the CMS. It will take significant resource and time, and could considerably delay any new CMS CMM. For new measures there could be consideration of sanctions in the measure during drafting, but then there would be a lack of balance with older measures. |
| **4. The Effectiveness and Efficiency of existing CMS review procedures , pg 29** | | |
| a. key audit points associated with in each CMM are identified and described during drafting and prior to adoption of a CMM and that, in relation to individual SIDS, it is determined that capacity building is required to assist in achieving compliance [CCMs, TCC and the Commission] | 1 | It’s very important to agree the key audit points. It would be clearer from the outset what the compliance requirements are, and whether there may be capacity issues with meeting these requirements. Should also result in less time being spent working through the CMR. The Commission could also establish a process for collectively agreeing on the audit points from existing CMMs, including identifying priority points and then other points that could be taken ‘by exception’ during the TCC process. |
| b. maintaining a consolidated list of all CMM audit points for assessment, which should be updated and annotated each year for each fishery [Secretariat] ~~and the SIDS checklist (CMM 2013-06) should be more assiduously applied throughout the CMM drafting process and prior to CMM adoption [Secretariat]~~ | 1 | This is good practice, should be electronic. It will help people understand what their obligations are. |
| b. bis The SIDS checklist (CMM 2013-06) should be more assiduously applied throughout the CMM drafting process and prior to CMM adoption [Secretariat] | 1 | This should be a separate rec. Ensure there is clear and thorough consideration of the SIDS checklist, and that there is an automatic referral of any associated capacity building needs into the Strategic Investment Plan process |
| c. Handbooks should be developed (and then updated) listing, by subject, the various CMM requirements for each fishery [Secretariat] | 3 | This should be covered under 4b – the consolidated list of all CMM audit points. |
| d. Finalise the pCMR at TCC. [ CCMs to advise TCC additional information relating to their assessment will be provided in advance of the Commission meeting where a supplementary CMR would be adopted for those cases only [TCC and Commission]] | 1 | Finalising CMR at WCPFC is not fair as not all members’ relevant officials are in attendance at the pCMR discussion at WCPFC and it doesn’t get the same level of scrutiny that it gets at TCC. We don’t support the highlighted part of the recommendation. CCMs could provide additional information for appending to the report but it should not change the status of their assessment. |
| e. Consult with SPC to develop procedures to remove the requirement for duplicate data submissions [Secretariat] | 1 | The Secretariat could help identify where duplication exists |
| f. Develop, and implement, off-line data entry and batch submission systems for the IMS [Secretariat] | 1 | Agree this is a priority but don’t agree with the proposal that the Secretariat considers this as an extension of the planned work on e-reporting of transhipment declarations. Keep separate the work on transhipment declarations and the work on the batch submission of other audit point data. The transhipment issue is trickier, and could slow down developing a pragmatic fix for batch submitting other data to the IMS. |
| g. Implement improved IMS data submission systems utilizing iterative text, pre-population of data and auto-fill capabilities [Secretariat] | 2 | This would be useful but should be part of a planned update process. Not a top priority |
| h. The review period prior to adoption of CMMs should include a “legal scrub” of the proposed new CMMs in a Legal Screening Group, chaired by the WCPFC Legal Adviser during TCC, to ensure clarity and identify potential conflicts and inconsistencies. The Group would report to the full TCC [CCMs, TCC] | 2 | This could potentially be a lot of effort for little gain. If a legal scrub were to be introduced it would seem more appropriate to have this step occur in a SWG during the Commission meeting itself. This would avoid having to repeat the process as the CMM proposals are still subject to negotiation at the Commission meeting. |
| i. The review period prior to adoption of CMMs should also include a scientific review to reconcile objectives with forecast outcomes. This will require re-structuring of the Scientific Committee agenda and the establishment of a Scientific Committee Working Group on CMM appraisal. [Scientific Committee, TCC and the Commission] | 1 | This should be business as usual. It may require that SC is more structured in their approach to consideration of CMM proposals. |
| j. Each CMM should be formally reviewed after a fixed period of 3 years, to ensure its continuing relevance and adequacy, and whether it needs to be maintained or revised. This should happen even if has been subject to annual review in the TCC. This review could be done initially in the Friends of the Chair Group. | 2/3 | This could take up more time and create more work unnecessarily. CCMs can propose a review of CMMs when they consider this necessary. |
| k. The verbal presentation of supplementary information to address reporting gaps discussed in TCC should be discontinued [TCC]. | 1 | More transparent and efficient to avoid this practice. The system should ensure that countries with English as a second language are not disadvantaged in the CMS process. |
| **5. Effective participation of CCMs in the review process, pg 38** | | |
| a. Continue to develop, and expand the scope and nature of, training resources and learning aids for the IMS particularly when new elements are introduced [Secretariat]. | 2 | Nice to do. Would be useful to have a one stop shop on the WCPFC website where guidance and agreed standards etc can be easily accessed. |
| b. As SIDS CCMs are increasingly operating as flag States as well as coastal States, WCPFC should collaborate with regional agencies, such as FFA and PNA, to explore options for increasing advice and assistance with respect to flag State obligations and responsibilities. [Commission] | 3 | Not part of the CMS CMM development but ongoing capacity development by the WCPFC. |
| c. Facilitate increased use of small groups to negotiate and deal with discrete issues [TCC] | 1-2 | This might be helpful, but need rules of engagement to make sure views of key interested parties can be represented. |
| d. Fund two representatives from SIDS to TCC [Commission] | 1 | This will improve the fairness of the process. |
| e. Produce information, and facilitate knowledge transfer, for all CCMs, relating to the different nature of responsibilities associated with compliance [Secretariat] | 1 | Ensure all members agree and are clear about what these are. |
| f. Establish balance in the CMS by ensuring CMMs and CMS requirements are balanced across all fleets operating in the Convention Area [TCC and Commission]. | 1 | Potential for this to be discussed in EMER IWG. Increase reporting requirements for LL. Could require some work to determine what these requirements would be. |
| **6. Fairness of CMS review procedures , pg 44** | | |
| a. Draft model responses and preparation guidelines for FSI Reports [Secretariat] | 1 | NZ able to help here |
| b. Consider the appointment of an independent chair for the TCC or CMR negotiations [Commission] | 3 | This would be too costly |
| c. Alternatively, consider the appointment of co-chairs for the TCC or CMR negotiations [Commission] | 1 | May support comfort levels with decisions, and help avoid any appearance of conflict of interest. Good for succession planning. Has worked in the past. Could also include delegation of chairing responsibilities to SWG – also build capability for future chairs. |
| d. Establish an informal review process of TCC decisions for CCMs which are dissatisfied with the process or outcomes [Commission] | 2 | How would the Commission get the balance right on providing access to an appeal process without making it so accessible it gets over used? Need clear rules on when such a process can be used. |
| e. Adopt a phased process for Observers to participate in all CMS discussions [TCC and Commission] | 2 | Focus first on getting the CMS right, and then consider observer participation once the system is considered fair and equitable. |
| **7. Determining Compliance Status, pg 49** | | |
| a. Identify and describe requirements associated with key audit points in each CMM during drafting [CCMs, TCC and the Commission] | 1 (3) | Mixed response to some of the suggestions outlined in the report:  Good to restrict the number of audit point to those essential to the effective functioning of the Commission.  Don’t lose audit points that relate to ecosystems (i.e. don’t only focus on fish stock related audit points).  The rec may go too far in suggesting CMMs set criteria for CCMs to be assessed as compliant. |
| b. Additional consolidated summaries for historical FSI information be included in FSI reporting [Secretariat] | 2 | Something that an intern could do, not a must do. |
| c. Establish a Friends-of-the-Chair arrangement to reduce the demands on TCC to consider and address matters of an administrative and low-priority nature while identifying high priority issues/cases for consideration by the TCC as provided for in Chapter 9 [TCC and the Commission] | 3 | Nice idea but sounds like more work for CCMs. If a co-chair was established this could serve to pick up some of what is proposed in this rec. |
| **8. Technical Assistance and Capacity Building, pg 56** | | |
| a. establish a post of Capacity Development Assistance Officer to coordinate the WCPFC Secretariat’s support to CCMs-related capacity building and technical assistance. | 2 | Could apply the strategic investment plan for the next three years and then consider the need for what is recommended by the reviewers. |
| **9. The procedures and experience of other RFMOs and other multilateral bodies, pg63** | | |
| a. Establish a Friends-of-the-Chair arrangement to reduce the demands on TCC to consider and address matters of an administrative and low-priority nature and to prioritize issues cases for TCC review [TCC and the Commission] | 3 | Co-chair instead |
| b. Pilot a Quality Assurance Review procedure where there appear to be serious or systemic compliance issues for a CCM [Commission] | 2 | Review every three years should pick up systemic compliance issues. |
| **10. Follow through on compliance outcomes, pg 65** | | |
| a. Develop a capacity building and training support programme to strengthen the effectiveness of ROP information in the CMS [Commission] | 3 | Capacity building business as usual. Not part of the CMS? |
| b. Continue the practice of restricting pre-notified cases for TCC consideration to those involving observer interference and obstruction [TCC] | 1 |  |
| c. Commit to a new process to develop and implement a response to non-compliance procedure [Commission] | 2 | Not right now, it’s too distracting. Agree it’s needed but later down the track. Too hard to get people to agree, would delay producing a new CMS |
| d. Pilot a Quality Assurance Review procedure [Commission] | 2 |  |
| **11. Resource implications of the CMS, pg 74** | | |
| a. The Commission instruct TCC to prepare a multi-year strategic plan for the on-going development of the CMS [Commission and TCC] | 3 |  |
| b. That once adopted, the Commission commit to a 3-year funding cycle to support implementation of the CMS strategic plan [Commission] | 3 |  |
| c. The Commission request that the Secretariat present an annual report on the implementation of the CMS strategic plan [Commission and Secretariat] | 3 |  |
| d. The Commission instruct the TCC to consider options to mitigate the impacts of an unscheduled disruption to Secretariat services to the CMS [Commission] | 1 | Succession planning, a co-chair and small working groups with CCMs stepping up to chair these will help. |
| e. The Commission establish a post of CDP Officer and FSI Officer in the Secretariat [Commission] | 3 | See earlier. Part of ongoing capacity building BAU |
| **12. Regular Review Process of the CMS, pg 74** | | |
| a. Consider adopting an extended (18-month) negotiating time frame for CMM development, drafting and adoption ~~The CMS should be established for a period of five years [Commission]~~ | 3 | CMMs often take longer than 18 months anyway and are introduced over a longer period. Putting this requirement in place could stymie CMM development when these are needed, and able to be agreed upon, more quickly. |
| 1. Bis The CMS should be established for a period of five years [Commission] | 1 | Split out of previous rec. Once a CMM is agreed this would be useful. |
| b. A comprehensive, all-inclusive review, be undertaken during Year 5. The Review should be commenced well in advance of TCC of that year, so that an interim report is presented to the Commission and then a CMM, if required, is adopted for implementation in the following year [Commission] | 2 |  |
| c. The Secretariat be tasked with preparing a mid-term Implementation Report (to the Year 3 Commission meeting), reporting on trends, issues and challenges associated with the CMS. CCMs should be prepared to provide views and observations in association with that Implementation Report. The 5-year Review could be bought forward at that time if considered necessary [Commission, TCC and Secretariat]. | 1-2 | Difficult to do. |