

7th MEETING OF THE COMPLIANCE AND TECHNICAL COMMITTEE (CTC)

Port Vila, Vanuatu, 10 to 12 February 2020

CTC 7 – Doc 16.2

Suitability of the audit point model in SPRFMO

Secretariat

1. Background

The report of the 1st SPRFMO Performance Review was discussed during the 6th meeting of the SPRFMO Compliance and Technical Committee (CTC6) and the 7th Commission meeting (COMM7) in January 2019. The Performance Review report contained two recommendations of direct relevance to the ongoing development of the Conservation and Management Measure for the Establishment of a Compliance and Monitoring Scheme in the SPRFMO Convention Area ([CMM 10-2019](#); [CMS](#)):

- 1) *202(f) Recommends the Commission convene an intersessional working group (electronic) to identify the audit points/implementation obligations for all existing measures, and that all new measures adopted by the Commission identify the audit points/implementation obligations;*
 - On this recommendation the Secretariat was tasked with:
 - (a) engaging with the WCPFC Secretariat to learn more about the similar process currently being undertaken in WCPFC, and
 - (b) presenting a paper to COMM8 on the suitability of the audit point model in SPRFMO.
 - CTC6 (2019) also recommended that the Commission request Members and CNCPs engaged in the WCPFC process to advise the SPRFMO Secretariat of this fact by 28 February 2019.

- 2) *252 (b) Encourages the Commission to focus on implementation of these MCS measures, rather than the adoption of new tools at this time.*
 - The Commission and CTC6 both endorsed the above recommendation.

This paper reports on the Secretariat's engagement with the WCPFC Secretariat and its assessment of the suitability of the audit point model for SPRFMO and specifically CMM 10-2019 (CMS).

2. Introduction to CMM 10-2019

The purpose of the Conservation and Management Measure for the Establishment of a Compliance and Monitoring Scheme in the SPRFMO Convention Area (CMM 10-2019; CMS) is described in paragraph 1 of the CMM:

"The purpose of the SPRFMO CMS is to provide a mechanism to monitor and improve implementation of, and compliance with, obligations arising under the Convention and CMMs by Members and Cooperating non-Contracting Parties (CNCPs)".

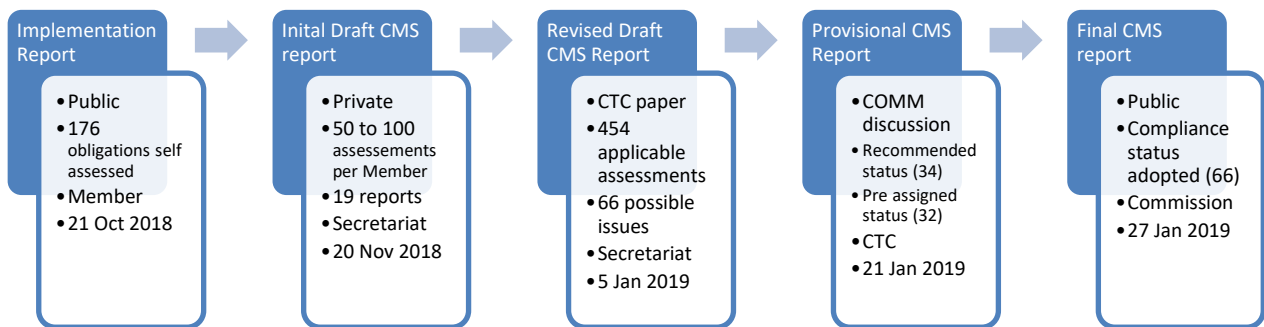
This process starts with the annual obligation to complete an Implementation report ([SPRFMO Convention Article 24\(2\)](#)). The Implementation reports indicate how each Member and CNCP has implemented the various CMMs and compliance and enforcement procedures adopted by the Commission. Those reports also provide additional (and often supplementary) information that the Secretariat uses to prepare the annual draft compliance report.



2.1. Summary of the Obligations assessed

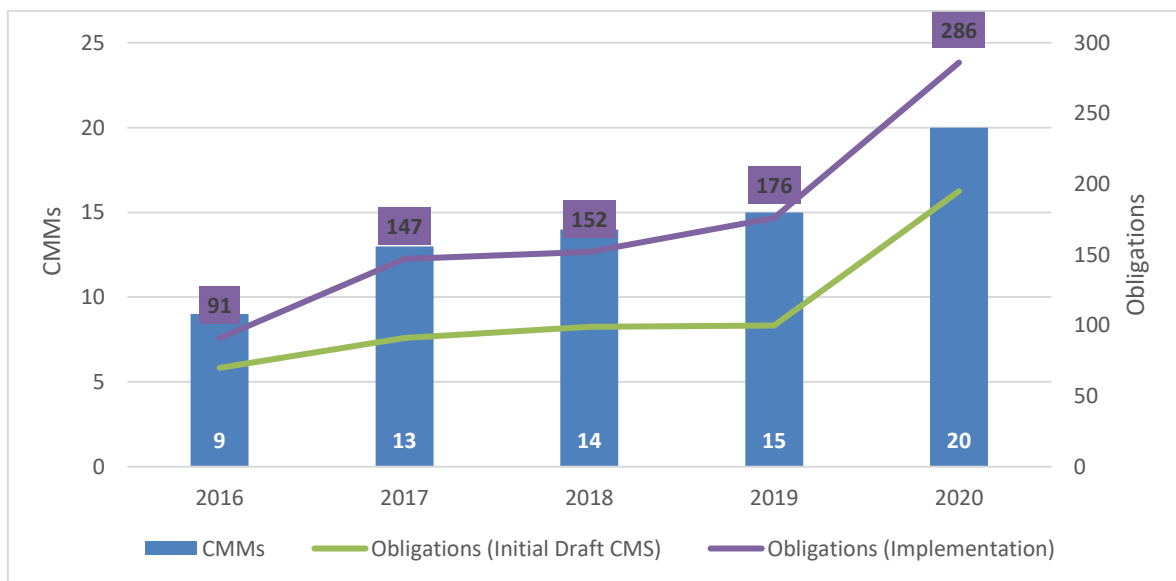
Historically the Secretariat has not attempted to assess the importance of each obligation within the CMMs but has simply identified each individual obligation (that is able to be assessed) and included it in the implementation report template in a straight forward and transparent way. These obligations are then carried forward into the Draft Compliance report as part of the overall CMS process (Figure 1).

Figure 1: SPRFMO CMM 10-2018 (CMS) process as applied in 2018/2019 showing authorship and due dates.



Over time, the total number of obligations being reported upon and ultimately assessed has increased. Last year, as shown in Figure 1, Members and CNCPs each reported on 176 obligations in their implementation reports across the 15 CMMs that were in force and subsequently the Secretariat assessed up to 100 obligations¹ per Member or CNCP. This year, these figures have risen to 286 implementation report obligations, 20 CMMs and 197 obligations assessed by the Secretariat (see Figure 2). These increasing trends are of concern, in particular because of the time required by the Secretariat to assess them and also the time to address infringements during the CTC annual meeting.

Figure 2: Number of CMMs and obligations assessed by year



¹ The variations are due to the different number of obligations being incurred by Members who actively fish the SPRFMO Area and the removal of unnecessary duplication of the same obligation in different CMMs.



3. The WCPFC audit point model

3.1. The development of the WCPFC audit point model

One of the recommendations coming out of the overall WCPFC process to Review its Compliance Monitoring Scheme was to develop audit points associated with each CMM. The initial ideas behind these audit points were described in the Final Report from the Independent Panel to review the (WCPFC) Compliance Monitoring Scheme ([WCPFC15-2018-26](#)) in the following sections:

Section 4.1 The views of members and observers:

“14. The Panel recommends that a checklist for agreed audit points for the CMS process should be embedded in each CMM to help ensure broad appreciation of the elements of the CMM that will be assessed by the CMS including, in relation to individual SIDS², if capacity building is required prior to assist in achieving compliance.”

“15. In addition to the Secretariat maintaining its service of producing a consolidated list of all CMM audit points for assessment, which should be updated and annotated each year for each fishery, the SIDS checklist (CMM 2013-06) should be more assiduously applied throughout the CMM drafting process and prior to CMM adoption.”

Section 7.1 The most appropriate method for determining compliance status:

“3. The Panel recommends that, during CMM drafting, a selection of substantive or key provisions (“audit points”) be identified for specific assessment in the CMS. The number of audit points may vary among CMMs but restricting the number to those that are essential to the effective functioning of the Commission will improve the efficiency and acceptability of the CMS process. It is essential that the application of audit points is clearly articulated and understood by all CMMs at the time of CMM formulation and prior to adoption at the Commission.”

“5. With respect to data reporting obligations associated with audit points, time frames, data elements, data formats and data quality should be clearly specified. The criterion for selecting an audit point should be based on the centrality of this information to assess stocks, to perform necessary scientific evaluations, to assess the effectiveness of the implementation of CMMs (e.g., gear restrictions, size limits, area closures, effort limits, fishing seasons) and the essential nature of the information to support decision-making in the Commission.”

These recommendations and suggestions received broad support from the WCPFC Members and have been further discussed in an Intersessional Working Group on the Review of the Compliance Monitoring Scheme ([TCC14-2018-10B](#)) and resulted in the following Future Work task (2019) being inserted into Section IX of the WCPFC [CMM 2018-07 \(CMS\)](#) (currently ongoing within WCPFC):

“the development of audit points to clarify the Commission obligations assessed under the CMS, as well as the development of a checklist to be used by the proponents of any proposal to include a list of potential audit points for the consideration of the Commission”.

The most recent WCPFC report from the Intersessional Working Group to develop CMS audit points ([WCPFC16-2019-IWG_CMSAuditPoints-01](#)) provides a proposed CMM Audit point checklist to be completed by proponents of new measures and attached to new proposals. The [16th WCPFC Commission meeting](#) noted these recommendations and set up another Intersessional Working Group to undertake the CMS Future Work including on audit points during 2020.

3.2. Secretariat engagement with self-identified Members and WCPFC

Both Australia and New Zealand advised the Secretariat of their involvement in the WCPFC process. The Secretariat separately held discussions with representatives from these Members in order to better understand the WCPFC initiative and its applicability to SPRFMO. The SPRFMO Data Manager also contacted

² Small Island Developing States



the WCPFC Compliance Manager (Dr. Lara Manarangi-Trott). Those three discussions indicated that many of the challenges that WCPFC was attempting to address were likely to occur in the SPRFMO setting including (*Inter alia*):

- interpretative issues associated with CMMs;
- complexity of the CMS process due to scope and the amount of duplication and fine detail;
- associated resource demands on the Secretariat, Members/CNCPs, and the CTC/Commission.

The discussions indicated that Australia, New Zealand and the WCPFC Secretariat were all supportive of finding appropriate ways to streamline the CMS to enable a more effective and efficient process.

4. Suitability for SPRFMO

The WCPFC Convention entered into force in 2004 and recently held their 16th annual meeting making them a very useful comparison with SPRFMO considering our upcoming 8th Commission meeting. The challenges being faced by WCPFC which resulted in the recommendations described above appear very likely to also arise in the SPRFMO setting, particularly as SPRFMO enters its second decade.

Clearly defined “audit points” for each CMM are likely to improve the understanding of SPRFMO Members and CNCPs and their ability to implement their obligations fully. In addition, any reduction in the number of items that are assessed would enable the CTC to focus more on consistency in interpretation, identified priority issues and associated follow-up actions or other important aspects where greater attention may be desired.

- The Secretariat therefore considers that an audit point model could be suitable for employing in SPRFMO.

4.1. Secretariat comments and possible next steps

Historically, new CMMs are often discussed and agreed within tight timeframes and with competing priorities within the annual CTC and Commission meetings. If audit points were being developed at the same time as CMMs it may substantially increase the amount of time required in the meetings for discussion. Rather than requiring agreement on audit points prior to adoption it may be therefore be worth considering finalising them one year after initial adoption. In this way they can have full discussion intersessionally, adoption of new CMMs is not impacted unduly and any first-year learnings can be incorporated into the CMMs final “audit points”.

This suggestion would also allow time for a CMM to become binding (90 days after the date of notification, paragraph 1b; Article 17, Convention) and for a further 6 months for national implementation procedures before assessment under the new audit point system began. The current CMS assessment period for SPRFMO (Oct-Sept for the year prior to the CTC meeting) would otherwise mean that assessment would be required on only 4 months of implementation in the first year. Finally, this suggestion gives the CTC the opportunity to discuss implementation and obligations arising from new CMMs prior to formally completing its compliance assessment of those CMMs.

Another consideration is at what point of the SPRFMO CMS would any proposed audit points take effect. One of the acknowledged drawbacks of the current Implementation Report is the requirement for a large amount of unnecessarily repeated information (e.g. reconfirming published catch limits, gross tonnage limits, description of the insertion of necessary provisions into national legislation etc). These questions do help to identify areas of confusion, but rarely lead to the identification of serious compliance issues. Using “audit points” instead of “obligations” in the Members Implementation reports could therefore have advantages.

However, if SPRFMO considers the Implementation report to be the Members/CNCPs public declaration of how the Organisation’s rules are being followed and ultimately enforced (as per Convention Article 24(2)) then it becomes far more important that the document is as complete as possible. If this line of reasoning was followed, then “audit points” would not be used in Implementation reports and would instead be used in the initial Draft CMS report and onwards.



In terms of next steps, the Secretariat has provided a possible example (Annex 1) of how the criteria suggested in the WCPFC Independent Panel Final Report could be applied to the current CMM 01-2019 (*T. murphyi*) Jack mackerel obligations to determine which might qualify as “audit points”.

As a suggested way forward, and for this process to be robust, the development of audit points needs to be conducted either by a panel of external experts (possibly including the CTC chairperson), or by an intersessional working group preferably prior to the next review date for CMM 10-2019 (CMS)³.

CTC7 is therefore asked to consider based on CTC7-Doc16.2:

- Whether an audit point system should be employed as part of the continual improvement of the SPRFMO CMS process.
- Form either a panel of experts with an identified lead or an intersessional working group to progress the identification of Audit Points for each SPRFMO CMM and determine the best way to incorporate Audit points into the existing SPRFMO CMS process.

³ Noting COMM8-Prop16 suggests that CMM10-2019 is next reviewed during the 2023 annual meeting.



Annex 1. DRAFT EXAMPLE of Applying WCPFC Audit Point Criteria⁴ to SPRFMO CMM 01-2019

CMM01-2019 Obligation	The criterion for selecting an audit point should be based on the:				Possible duplication
	Centrality of this information to assess stocks	Centrality of this information to perform necessary Scientific evaluations	Centrality of this information to assess the effectiveness of the implementation of CMMs	Essential nature of the information to support decision-making in the Commission	
Para 1: Do your flagged vessels fish for <i>T. murphyi</i> in, or adjacent to, the Convention Area?	2	3	3	4	Not assessed by Secretariat but reported on in Implementation report
Para 4: Gross tonnage limit	1	1	3	2	
Para 5: Individual catch limits	1	2	4	3	In Implementation report Assessed alongside Para 9
Para 7: Closure of fishery	2	3	4	4	
Para 8: Additional measures	3	3	2	2	Not assessed by Secretariat In Implementation report
Para 9: Individual catch limit w transfers	1	3	5	4	
Para 11: Monthly catch reports	4	4	4	3	
Para 13: Collect, verify and provide data	5	5	5	4	Assessed under CMM02
Para 15: VMS implementation	3	4	5	4	Assessed under CMM06
Para 16: Monthly list of active vessels	3	3	4	3	
Para 18: Annual national reports and observer data	5	5	5	3	
Para 19: CMS report	2	3	5	5	Assessed under CMM10
Para 20: Stock assessments/research	5	5	2	4	
Para 21: Ports access and verify catches	5	4	4	3	Assessed under CMM07
Para 22: Observer coverage	4	5	4	3	Duplication with CMM16
Para 22: Cooperation in respect of ANJ	2	2	3	3	Not assessed by Secretariat In Implementation report

⁴ As described in the WCPFC Independent Panel Final Report (Section 7.1, para 5), using ratings Rating: 1 = irrelevant, 2 = minimal, 3 = useful, 4 = important, 5 = critical/essential.