

## CMM 10-2020

### Conservation and Management Measure for the Establishment of a Compliance and Monitoring Scheme in the SPRFMO Convention Area

*(Supersedes CMM 10-2019)*

#### The Commission of the South Pacific Regional Fisheries Management Organisation;

*RECALLING* the relevant provisions of the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean, in particular Articles 24, 25 and 26;

*NOTING* that Article 24 of the Convention requires each Member of the Commission to implement any Conservation and Management Measures (CMMs) adopted by the Commission;

*MINDFUL* of the rights and obligations of Members of the Commission in promoting the effective implementation of CMMs adopted by the Commission;

*NOTING* that in accordance with international law, Members have responsibilities to exercise effective control over their flagged vessels and their nationals;

*RECOGNISING* the importance of introducing a robust compliance review mechanism by which the compliance of each Member is examined in depth on a yearly basis;

*ADOPTS* the following CMM to establish a SPRFMO Compliance and Monitoring Scheme (CMS):

#### Purpose

1. 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 (CNCs). The CMS is designed to:
  - a) Assess compliance by Members and CNCs with their obligations under the Convention and CMMs;
  - b) Identify areas in which technical assistance or capacity building may be needed to assist Members and CNCs to achieve compliance;
  - c) Identify aspects of CMMs which may require improvement or amendment to facilitate or advance their implementation. These findings and subsequent actions shall not necessarily replace any review procedure established in accordance with Article 30 of the Convention;
  - d) Take action against non-compliance through preventive and remedial options that should include a range of possible responses that take into account the reasons for and degree of non-compliance, as assigned in accordance with paragraph 16(a).

#### Scope and Application

2. At each annual meeting, with the assistance of the Compliance and Technical Committee (CTC), the Commission shall evaluate Members' and CNCs' compliance with their obligations arising from the Convention, in particular Articles 24, 25 and 26, CMMs adopted by the Commission included in Annex 2 of this measure as well as, where appropriate, any other suitably documented information received during the assessment period consistent with paragraph 6 and, where applicable, the relevant CMMs. The



evaluation shall cover the period from 1 October till 30 September of the year preceding the annual meeting.

3. The Commission shall also review Compliance Action Plans and other recommendations on compliance adopted by the Commission, in accordance with this CMM, in previous years' Final Compliance Reports in order to assess how they have been implemented by the concerned Members and CNCPs.
4. Each year, the Commission shall consider and identify whether compliance with additional CMMs should be evaluated annually or on another basis.

## Implementation Reports

5.
  - a) At least 90 days before the start of the CTC meeting, Members and CNCPs should provide the Secretariat with their Implementation Reports as required by Article 24 (2) of the Convention and any other relevant CMMs on the basis of the template at Annex 2.
  - b) Until the template referred to above is adopted, the provisional template in Annex 2 will be used. The Secretariat shall amend the template in Annex 2 as soon as practicable after the Commission meeting to incorporate obligations from new or amended CMMs adopted by the Commission.

## Draft Compliance Report

6. Prior to the annual meeting of the CTC, the Secretariat shall compile information received from Members and CNCPs including their Implementation Reports, data collection programmes of the Commission and, where appropriate, any suitably documented information provided by other relevant sources, and shall prepare the Draft Compliance Report using the template in Annex 3.
7. The Secretariat shall provide to each Member and CNCP its respective section of the Initial Draft Compliance Report no later than 60 days before the annual CTC meeting.
8. Each Member and CNCP shall comment on the Draft Compliance Report providing any additional information it deems suitable to the Secretariat no later than 30 days before the annual CTC meeting. This information shall, as appropriate:
  - a) provide additional information, clarifications, amendments or corrections necessary to address the potential compliance issues identified or respond to any other request for additional information;
  - b) identify any particular causes of the potential compliance issues or difficulties with respect to implementation of the obligation in question, or circumstances which may mitigate the potential compliance issues;
  - c) identify technical assistance or capacity building needed to assist Members and CNCPs to address potential compliance issues.
9. The Secretariat shall compile a revised Draft Compliance Report which shall include all information, clarifications and comments provided by Members and CNCPs in response to the initial Draft Compliance Report, as described in paragraph 8 above.
10. The Secretariat shall circulate to Members and CNCPs the revised Draft Compliance Report no later than 14 days before the annual CTC meeting, by making it available on the non-public section of the Commission website. As soon as practicable after posting it, the Secretariat shall notify Members and CNCPs of its availability.



11. For those cases in the Draft Compliance Report where a reporting deadline or timeframe had not been met, and where it is not a repeated case of non-compliance with that specific obligation by that Member or CNCP, the CTC Chairperson, with the assistance of the Secretariat, shall assign a status of “non-compliant” and “no further action” required if the obligation has been met before the circulation of the Draft Compliance Report in accordance with paragraph 10.

### Provisional Compliance Report

12. At its annual meeting, the CTC shall consider the Draft Compliance Report, and may take into account any additional information provided during the meeting of the CTC by Members, CNCPs and other observers, including non-governmental organisations and other organisations concerned with matters relevant to the implementation of the Convention. CTC shall identify any potential compliance issues for each Member and CNCP.
13. On the basis of the information provided, the CTC shall develop a Provisional Compliance Report, based on the issues identified in respect of that Member or CNCP and using the criteria and considerations for assessing compliance status set out in Annex 1. The Provisional Compliance Report shall include recommendations for the Commission for any follow-up corrective action needed and any preventive or remedial action taken, or proposed to be taken, by the Member or CNCP. Based on the status accorded, those recommendations may include the need for the Commission to undertake a Compliance Review, develop a Compliance Action Plan or identify a Compliance Remedy.
14. The Provisional Compliance Report will include an Executive Summary that includes recommendations regarding:
  - a) where appropriate, proposals to amend or improve existing CMMs;
  - b) identified obstacles to implementation including capacity building requirements;
  - c) provisions of CMMs and other Commission decisions that are a priority to be monitored and reviewed; and
  - d) other responsive action which may be considered by the Commission, as appropriate.
15. The Provisional Compliance Report shall be forwarded to the Commission for consideration at the annual meeting.

### Final Compliance Report

16. The Commission shall consider the Provisional Compliance Report provided by the CTC, and adopt a Final Compliance Report at its annual meeting, which shall include:
  - a) a compliance status for each Member and CNCP with respect to the implementation of their obligations under the Convention and CMMs, and recommendations for any corrective action needed, based on compliance issues identified with respect to that Member or CNCP;
  - b) suggestions for possible amendments or improvements to existing CMMs to address implementation or compliance difficulties experienced by Members and CNCPs;
  - c) obstacles to implementation identified by Members and CNCPs including capacity building requirements;
  - d) additional obligations that should be reviewed under the CMS;



- e) any other action the Commission shall deem appropriate to address non-compliance noted in the Final Compliance Report or to promote compliance with the Convention, CMMs and other obligations reviewed in the CMS.

17. The Final Compliance Report shall also contain an executive summary setting out any recommendations or observations from the Commission regarding the issues listed in paragraph 16 of this measure.

### Other rules

18. All the relevant information arising from the SPRFMO CMS procedure shall be subjected to the relevant applicable SPRFMO rules and procedures regarding the use of information and transparency. Therefore, the Draft and Provisional Compliance Reports shall not constitute public domain data, but the Final Compliance Report and the executive summary shall be public domain data.

19. The Commission shall take a graduated response to non-compliance, taking into account the type, severity, degree and cause of the non-compliance in question. The Commission should develop, as a matter of priority, a process to complement the CMS that identifies a range of specific responses to non-compliance events that may be applied by the Commission through the implementation of the CMS. This shall include penalties and any other actions as may be necessary to promote compliance with the Convention, CMMs and other obligations included in the CMS.

20. This CMM shall be reviewed at the regular meeting of the Commission in 2023.



## ANNEX 1

### Status of Compliance

For the purposes of this CMM, “compliance status” refers to Members’ and CNCPs’ compliance with their obligations arising from the Convention, in particular Articles 24, 25 and 26 and the CMMs listed in Annex 2 of this measure and takes account of Members’ and CNCPs’ responses and corrective actions to address compliance issues identified.

Compliance Status	Criteria	Follow up
<i>Compliant</i>	No compliance issues identified with respect to the relevant obligations.	None
<i>Non-Compliant</i>	Non-compliance may be due to: a) actions or omissions which constitute a minor infringement of relevant obligations; b) insufficient, unclear or incorrect data or information;	<i>Undertake a Compliance Review</i> to identify non-compliance of a minor or technical nature or obligations with respect to which further information is required in order to identify implementation gaps and improve compliance.
<i>Priority Non-Compliant</i>	Non-compliance may be due to: a) action or omissions that constitute a serious infringement of relevant obligations; b) non-compliance that undermines the effectiveness of the Convention or CMM; c) failure to comply with previous CMS recommendations adopted by the Commission, after sufficient time and assistance has been provided.	<i>Develop a compliance action plan</i> to assist Members and CNCPs to actively take steps to respond to and rectify non-compliance or improve implementation of relevant obligations, including through the provision of technical assistance or capacity building, where appropriate.
<i>Seriously/Persistently Non-Compliant</i>	Non-compliance may be due to: a) action or omissions that constitute a repeated serious infringement of relevant obligations; b) repeated non-compliance that undermines the effectiveness of the Convention or CMMs; c) repeated failure to comply with previous Compliance Action Plans after sufficient time and assistance has been provided.	<i>Identify a Compliance Remedy</i> to address instances of persistent non-compliance which have not been resolved even after sufficient time and assistance have been provided through a Compliance Action Plan.
<i>Not Assessed</i>	Proven ambiguity of relevant obligations	<i>Commission to clarify obligation and if necessary, amend relevant provisions</i>



## ANNEX 2

### Template for the Implementation Report of the SPRFMO Conservation and Management Measures

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*Annex 2 is currently being amended by the Secretariat as per paragraph 5b.*



## ANNEX 3

### Draft Compliance Report (2017/18 example)

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Reporting Member/CNCP: XXXXX

Reporting Period to which this report refers: 2017/18 (being 1 October 2017 – 30 September 2018)

Date report prepared: XXXXX

The Conservation and Management Measures which have been assessed include:

- CMM 01-2018 (*T. murphyi*)
- CMM 02-2018 (Data Standards)
- CMM 03-2018 (Bottom Fishing)
- CMM 04-2017 (IUU List)
- CMM 05-2016 (Record of Vessels)
- CMM 06-2018 (Commission VMS)
- CMM 07-2017 (Port Inspection)
- CMM 08-2013 (Gillnetting)
- CMM 09-2017 (Seabirds)
- CMM 10-2018 (Compliance & Monitoring Scheme)
- CMM 11-2015 (Boarding and Inspection)
- CMM 12-2018 (Transshipment)
- CMM 13-2016 (Exploratory Fisheries)
- CMM 14b-2016 (Exploratory Potting)
- CMM 15-2016 (Stateless Vessels)
- CMM 16-2018 (Observer Programme)

Note, all figures are preliminary, and assessments of possible compliance issues are made using the best information available at this time. Members and CNPs are invited to provide comments and additional information they deem suitable on any possible compliance issue. This information shall, as appropriate:

- a) provide additional information, clarifications, amendments or corrections necessary to address the potential compliance issues identified or respond to any other request for additional information;
- b) identify any particular causes of the potential compliance issues or difficulties with respect to implementation of the obligation in question, or circumstances which may mitigate the potential compliance issues.
- c) identify technical assistance or capacity building needed to assist Members and CNCPs to address potential compliance issues

Comments and/or additional information are due no later than XXXXX.



## CMM 01-2018 *Trachurus murphyi* (2017/18 example to be followed for all CMMs)

### Effort management

#### Paragraph 4

Relevant Members and CNCPs shall limit the total gross tonnage (GT) of vessels flying their flag and participating in the fishing activities described in Article 1, (1)(g)(i) and (ii) of the Convention in respect of the *Trachurus murphyi* fisheries in the Convention Area to the total tonnage of their flagged vessels that were engaged in such fishing activities in 2007 or 2008 or 2009 in the Convention Area and as set out in Table 1 of CMM 1.01 (*Trachurus murphyi*; 2013). Such Members and CNCPs may substitute their vessels as long as the total level of GT for each Member and CNCP does not exceed the level recorded in that Table.

Member/ CNCP	Assessed CMM requirement(s)	Gross Tonnage limit	2018 Active fishing Vessels	2016/17 Compliance Status	2017/18 Possible compliance issues?
XXXXX	CMM 01-2018 Para 4	0	0	Compliant	No

*Note: Tonnage is GT unless otherwise stated.*

### Secretariat Assessment of potential compliance issues

- No potential compliance issues.

### Member or CNCPs comments on Potential Compliance Issues

Member	Comment
XXXXX:	<i>In this section Members or CNCPs can comment on the secretariat's provisional assessment of their compliance status in relation to the CMM. This section should only be completed by a Member or CNCPs if they have any comments on the provisional compliance assessment or if there is any further information they wish to add for the CTC to consider.</i>

### Catch Management

#### Paragraph 7

In the event that a Member or CNCP reaches 70% of its catch limit set out in Table 1, the Executive Secretary shall inform that Member or CNCP of that fact, with a copy to all other Members and CNCPs. That Member or CNCP shall close the fishery for its flagged vessels when the total catch of its flagged vessels is equivalent to 100% of its catch limit. Such Member or CNCP shall notify promptly the Executive Secretary of the date of the closure.

#### Paragraph 9

By 31 December each year a Member or CNCP may transfer to another Member or CNCP all or part of its entitlement to catch up to the limit set out in Table 1, without prejudice to future agreements on the allocation of fishing opportunities, subject to the approval of the receiving Member or CNCP. When receiving fishing entitlement by transfer, a Member or CNCP may either allocate it on the basis of domestic legislation or endorse arrangements between owners participating in the transfer. Before the transferred fishing takes place, the transferring Member or CNCP shall notify the transfer to the Executive Secretary for circulation to Members and CNCPs without delay.





Member/ CNC	Assessed CMM requirement(s)	2018 Catch Limit	Effect of Catch Transfers	Preliminary 2018 Catch Total*	2016/17 Compliance Status	2017/18 Possible Compliance issues?
XXXXX	CMM 01-2018 Para's 7 & 9 Table 1	0	0	0	Compliant	No

\*Data only available up to and including [September 2018]

### Secretariat Assessment of potential compliance issues

- No potential compliance issues.

### Member or CNCs comments on Potential Compliance Issues

Member	Comment
XXXXX:	<i>In this section Members or CNCs can comment on the secretariat's provisional assessment of their compliance status in relation to the CMM. This section should only be completed by a Member or CNCs if they have any comments on the provisional compliance assessment or if there is any further information they wish to add for the CTC to consider.</i>

### Data Collection and Reporting

#### Paragraph 11

Members and CNCs participating in the *Trachurus murphyi* fishery shall report in an electronic format the monthly catches of their flagged vessels to the Secretariat within 20 days of the end of the month, in accordance with CMM 02-2018 (Data Standards) and using templates prepared by the Secretariat and available on the SPRFMO website.

#### Paragraph 16

Each Member and CNC participating in the *Trachurus murphyi* fishery shall provide the Executive Secretary a list of vessels (*Fishing vessels as defined in Article 1 (1)(h) of the Convention*) they have authorized to fish in the fishery in accordance with Article 25 of the Convention and CMM 05-2016 (Record of Vessels) and other relevant CMMs adopted by the Commission. They shall also notify the Executive Secretary of the vessels that are actively fishing or engaged in transshipment in the Convention Area within 20 days of the end of each month. The Executive Secretary shall maintain lists of the vessels so notified and will make them available on the SPRFMO website.

Member/ CNC	Assessed CMM requirement(s)	Number of reports	% received on-time	Active and transshipping vessels notified?	2016/17 Compliance Assessment	2017/18 Possible compliance issues?
XXXXX	CMM 01-2018 Para 11, 16	0	n/a	n/a	Compliant	No

### Secretariat Assessment of potential compliance issues

- No potential compliance issues.



### Member or CNCPs comments on Potential Compliance Issues

Member	Comment
XXXXX:	<i>In this section Members or CNCPs can comment on the secretariat's provisional assessment of their compliance status in relation to the CMM. This section should only be completed by a Member or CNCPs if they have any comments on the provisional compliance assessment or if there is any further information they wish to add for the CTC to consider.</i>

### Paragraph 13

Except as described in paragraph 11 above, each Member and CNCP participating in the *Trachurus murphyi* fishery shall collect, verify, and provide all required data to the Executive Secretary, in accordance with CMM 02-2018 (Data Standards) and the templates available on the SPRFMO website, including an annual catch report.

This paragraph is assessed below as part of the section on CMM 02-2018 (Data Standards).

### Paragraph 15

Members and CNCPs participating in the *Trachurus murphyi* fisheries shall implement a vessel monitoring system (VMS) in accordance with CMM 06-2018 (VMS) and other relevant CMMs adopted by the Commission.

This paragraph is assessed below as part of the section on CMM 02-2018 (Data Standards).

### Paragraph 18

In order to facilitate the work of the Scientific Committee, Members and CNCPs shall provide their annual national reports, in accordance with the existing guidelines for such reports, in advance of the 2018 Scientific Committee meeting. Members and CNCPs shall also provide observer data for the 2018 fishing season to the Scientific Committee to the maximum extent possible. The reports shall be submitted to the Executive Secretary at least one month before the 2018 Scientific Committee meeting in order to ensure that the Scientific Committee has an adequate opportunity to consider the reports in its deliberations.

Member/ CNCP	Assessed CMM requirement	2018 Annual report provided	Received 1 month prior to SC6	2018 observer data provided to SC6	2016/17 Compliance Assessment	2017/18 Possible compliance issues?
XXXXX	CMM 01- 2018 Para 18	Yes	Yes	n/a	Compliant	No

\*Observer data being length frequencies

### Secretariat Assessment of potential compliance issues

- No potential compliance issues.

### Member or CNCPs comments on Potential Compliance Issues

Member	Comment
XXXXX:	<i>In this section Members or CNCPs can comment on the secretariat's provisional assessment of their compliance status in relation to the CMM. This section should only be completed by a Member or CNCPs if they have any comments on the provisional compliance assessment or if there is any further information they wish to add for the CTC to consider.</i>



### Paragraph 19

In accordance with Article 24(2), all Members and CNCPs participating in the *Trachurus murphyi* fishery shall provide a report describing their implementation of this CMM in accordance with the timelines specified in CMM 10-2018 (Compliance Monitoring Scheme). On the basis of submissions received the CTC shall develop a template to facilitate future reporting. The implementation reports will be made available on the SPRFMO website.

This paragraph is assessed below as part of the section on CMM 10-2018 (Compliance Monitoring Scheme).

### Paragraph 20

The information collected under paragraphs 11, 13 and 18, and any stock assessments and research in respect of *Trachurus murphyi* fisheries shall be submitted for review to the Scientific Committee. The Scientific Committee will conduct the necessary analysis and assessment, in accordance with its SC Multiannual workplan (2018) agreed by the Commission, in order to provide updated advice on stock status and recovery.

Member/ CNCP	Assessed CMM requirement	CJM stock assessment provided to SC6	CJM research provided to SC6	2016/17 Compliance Assessment	2017/18 Possible compliance issues?
XXXXX	CMM 01-2018 Para 20	No	No	Compliant	No

### Secretariat Assessment of potential compliance issues

- No potential compliance issues.

### Member or CNCPs comments on Potential Compliance Issues

Member	Comment
XXXXX:	<i>In this section Members or CNCPs can comment on the secretariat's provisional assessment of their compliance status in relation to the CMM. This section should only be completed by a Member or CNCPs if they have any comments on the provisional compliance assessment or if there is any further information they wish to add for the CTC to consider.</i>

### Paragraph 21

Contracting Parties and CNCPs, as port States, shall, subject to their national laws, facilitate access to their ports on a case-by-case basis to reefer vessels, supply vessels and vessels fishing for *Trachurus murphyi* in accordance with this CMM. Contracting Parties and CNCPs shall implement measures to verify catches of *Trachurus murphyi* caught in the Convention Area that are landed or transhipped in its ports.

This paragraph is assessed below as part of the section on CMM 07-2017 (Port Inspections).

### Paragraph 22

Until the Commission adopts an Observer Programme in accordance with Article 28 of the Convention, all Members and CNCPs participating in the *Trachurus murphyi* fishery shall ensure a minimum of 10 % scientific observer coverage of trips for vessels flying their flag and ensure that such observers collect and report data as described in CMM 02-2018 (Data standards). In the case of the flagged vessels of a Member or CNCP undertaking no more than 2 trips in total, the 10% observer coverage shall be calculated by reference to active fishing days for trawlers and sets for purse seine vessels.



Member/ CNCP	Assessed requirement	CMM	Observer coverage %	2016/17 Compliance Assessment	2017/18 Possible compliance issues?
XXXXX	CMM Para 22	01-2018	n/a	Compliant	No

Secretariat Assessment of potential compliance issues

- No potential compliance issues

Member or CNCPs comments on Potential Compliance Issues

Member	Comment
XXXXX:	<i>In this section Members or CNCPs can comment on the secretariat's provisional assessment of their compliance status in relation to the CMM. This section should only be completed by a Member or CNCPs if they have any comments on the provisional compliance assessment or if there is any further information they wish to add for the CTC to consider.</i>