

**TO ALL COMMISSION MEMBERS, COOPERATING NON-MEMBERS,
PARTICIPATING TERRITORIES AND OBSERVERS**

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**Guidelines for Participation of Observers in Closed Meetings of the Commission and its
Subsidiary Bodies which Consider the Compliance Monitoring Report**

Dear All,

As you recall, the Commission at WCPFC13 in Nadi, Fiji agreed to develop and adopt intersessionally, in time for use at TCC13, guidelines to enable the participation of NGO observers at closed meetings of the Commission and its subsidiary bodies. The United States led this intersessional work in consultation with and input from CCMs and Observers. As an outcome of that process is the enclosed Guidelines for Participation of Observers in Closed Meetings of the Commission and its Subsidiary Bodies which Consider the Compliance Monitoring Report.

The Draft Guidelines were presented to the Commission Chair. In passing the Draft Guidelines to the Chair, the United States noted the following points:

“The draft attempts to address and reflect the positions and comments of CCMs who provided substantive comments and edits on the draft guidelines. They include Japan, Chinese Taipei and Australia, as well as the United States.

The draft also reflects feedback and comments received from the WCPFC Secretariat.

Four CCMs have indicated that they do not support the guidelines in their entirety, at this stage - Cook Islands, Fiji, Kiribati, and Marshall Islands. These CCMs did not provide specific edits on the draft, but rather indicated a lack of agreement with moving forward with the guidelines.

Comments were also received from two Observers - ISSF and Pew who both expressed concern with some aspects of the current versions of the draft guidelines. The draft does not resolve those comments as they were in opposition to comments received from CCMs or positions previously taken by CCMs”.

The Chair has considered the Guidelines and in consultation with the Vice Chair has determined that the Draft Guidelines should be presented to the Commission members for an intersessional decision as a matter of substance pursuant to rule 30 of the Rules of Procedure. Accordingly, and on behalf of the Chair, may I request members only to consider the Draft Guidelines and to indicate by email to the Executive Director at feleti.teo@wcpfc.int their preference whether they support or not support the Guidelines by close of business in Pohnpei,

Federated States of Micronesia on **Tuesday 18th July, 2017**. Members who may not respond within that due date will be deemed to have abstained.

As required by rule 30, members are also requested to acknowledge receipt of this circular.

Any query relating to this circular may be directed to the Executive Director.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Feleti Penitala Teo', with a stylized, cursive script.

Feleti Penitala Teo, **OBE**
EXECUTIVE DIRECTOR

GUIDELINES FOR PARTICIPATION OF OBSERVERS IN CLOSED MEETINGS OF THE COMMISSION AND ITS SUBSIDIARY BODIES WHICH CONSIDER THE COMPLIANCE MONITORING REPORT

The following guidelines will govern the participation of observers in any closed meetings of TCC or the annual Commission which consider the Compliance Monitoring Report (CMR). The Commission agrees that NGO observers¹ (not including any observers specifically addressed or covered by the Compliance Monitoring Scheme (CMM 2015-07, paragraph 21)², which are not covered by these guidelines) may participate in the closed meetings on the CMR at TCC and annual Commission meetings, pursuant to the following requirements:

1. Any observer may, at the time of registration to attend TCC or a Commission meeting, request to attend any closed meeting of that session that considers the CMR. Observers who failed to submit such a request are not able to attend the closed meetings that consider the CMR. Only 1 individual from each observer organization will be permitted to attend the CMS working group.
2. Each observer representative who registers for and attends a closed meeting on the CMR is required to sign and abide by a confidentiality agreement (see attachment A).
3. Each observer representative who attends a closed meeting on the CMR, other members of the organization represented, and the observer organization itself, is prohibited from:
 - a. disclosing any information obtained during the closed meeting on the CMR;
 - b. using information learned during a closed meeting on the CMR for any purpose other than participation in the closed meeting on the CMR;
 - c. making public comments, including, but not limited to, issuing press releases, releasing information to the media, or posting on social media, on any matters which are discussed in the closed meeting on the CMR; or
 - d. retaining or possessing a copy outside a closed meeting on the CMR of any draft or provisional Compliance Monitoring Reports or any supporting non-public domain data, to which access has been provided.
4. All observers admitted to a closed meeting on the CMR shall comply with all existing rules and procedures applicable to their attendance in the meeting. Failure to comply with those existing rules and procedures, or with these guidelines, may result in the withdrawal of permission to attend the meeting by the presiding Chair of the meeting.

¹ The term “NGO observers” includes all accredited non-governmental organizations, regardless of whether they represent civil society or industry.

² See CMM 2015-07, para 21(i), which recognizes that special needs of SIDS and provides that the Commission will ensure “that inter-governmental sub-regional agencies which provide advice and assistance to these CCMs are able to participate in the processes established under the CMS, including by attending any working groups as observers and participating in accordance with Rule 36 of the Commission’s Rules of Procedure, and having access to all relevant documents.” These guidelines do not apply to Cooperating Non-Members, as they may fully participate in CMR discussions.

5. If the presiding Chair of the meeting, in consultation with the Executive Director, determines there has been a breach of the confidentiality agreement or the terms of these guidelines, by either the individual who signed the agreement, other members of the organization represented, or the organization itself, that individual and the organization represented may not be permitted to attend any further closed meetings on the CMR in the current year and the following year. In the event of a second or subsequent breach of the confidentiality agreement or the terms of these guidelines, by either the individual who signed the agreement, other members of the organization represented, or the organization itself, that individual and the organization represented may not be permitted to attend any further closed meetings on the CMR for three years.
6. In the event of a situation addressed in paragraphs 4 or 5, CCMs may request that the Commission consider whether to rescind its invitation to the observer organization to attend future sessions of the Commission and its subsidiary bodies.
7. Except as specifically provided in these guidelines, meetings which consider the CMR will be closed.

**Confidentiality Agreement for Observer Participation
In Closed Meetings on the Compliance Monitoring Report**

Applicant name: _____
Address: _____
Phone Number: _____
Email Address: _____

Full name of Observer Institution, address and contact details:

Meeting to which the Confidentiality Agreement applies:

On behalf of [name of organization], I agree to the following:

1. To abide by the GUIDELINES FOR PARTICIPATION OF OBSERVERS IN CLOSED MEETINGS OF THE COMMISSION AND ITS SUBSIDIARY BODIES WHICH CONSIDER THE COMPLIANCE MONITORING REPORT (Observer CMR Guidelines) adopted by the Commission.
2. To not:
 - a. disclose any information obtained during the closed meeting on the Compliance Monitoring Report (CMR);
 - b. use information learned during the CMS working group session for any purpose other than participation in the closed meeting on the CMR;
 - c. make public comments, including, but not limited to, issuing press releases, releasing information to the media, or posting on social media, on any matters which are discussed in the closed meeting on the CMR; or
 - d. retain or possess a copy outside a closed meeting on the CMR of any draft or provisional Compliance Monitoring Reports or any supporting non-public domain data.
3. To comply with all existing rules and procedures applicable to my attendance in the meeting.
4. In the event of a breach of this confidentiality agreement or the Observer CMR Guidelines, by either the individual who signed this agreement, other individuals from the same organization or the organization itself, the individual who signed this agreement and the organization represented will not be permitted to attend any further closed meetings on the CMR in the current year and the following year. In the event of a second or subsequent breach of this confidentiality agreement or the terms of the Observer CMR guidelines, by either the individual

ATTACHMENT A

who signed this agreement, other individuals from the same organization or the organization itself, the individual who signed this agreement and the organization represented will not be permitted to attend any further closed meetings on the CMR for three years.

Signature of applicant

Date