

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

**Circular No.: 2017/36**

**Date: 22 May 2017**

**No. pages: 5**

**Draft Guidelines to Govern the Participation of Observers in Closed Commission Meetings to Consider the Compliance Monitoring Report**

Dear All,

Further to Circular no. 2017/24, please find enclosed the Revised Draft Guidelines to Govern the Participation of Observers in Commission Meetings that Consider the Compliance Monitoring Report.

The Revised Draft Guidelines take into consideration and reflect comments and suggested edits received from Japan, Chinese Taipei, ISSF and the WCPFC Secretariat. A letter from the Republic of the Marshall Islands on this subject matter was also received and circulated in Circular no. 2017/33.

In light of the tight timelines for taking an intersessional decision on these guidelines as agreed at WCPFC13 that can take effect in time for TCC13, it will be appreciated if any remaining comments on the Draft Guidelines can be provided to Ms Alexa Cole of the United States of America (at [Alexa.Cole@noaa.gov](mailto:Alexa.Cole@noaa.gov)) no later than **Tuesday May 30th**. CCMs and Observers that have not yet provided any comments or suggested edits are encouraged to provide their thoughts.

Yours sincerely,



**Feleti Penitala Teo, OBE  
EXECUTIVE DIRECTOR**

Enclosure: Guidelines for Participation of Observers in Closed Meetings of the Commission and Its Subsidiary Bodies which Consider the Compliance Monitoring Report

Article 21 of the Convention reflects the WCPFC's commitment to transparency in its decision-making and other activities, including through the participation of observers. Pursuant to that commitment, at WCPFC13, the Commission 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 under conditions which would ensure the confidentiality and non-disclosure of any information learned as a result of that participation, and sanctions for failure to comply with the rules and procedures relating to participation. The United States offered to work with interested parties to develop these guidelines. We have used the criteria provided in paragraph 59 of paper WCPFC13-2016-33, prepared by the Secretariat, as the starting point for the proposed guidelines below.

We propose the following guidelines for intersessional adoption:

### **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 Commission which consider the Compliance Monitoring Report (CMR). The Commission agrees that NGO observers<sup>1</sup>, in addition to any observers not specifically addressed or covered by the Compliance Monitoring Scheme (CMM 2015-07)<sup>2</sup>, 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 fail to submit such a request are not able to attend the closed meetings that consider the CMR. Only [1][2] individuals 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;

<sup>1</sup> The term "NGO observers" includes all accredited non-governmental organizations, regardless of whether they represent civil society or industry.

<sup>2</sup> 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.

**Deleted:** CMS WORKING GROUP SESSIONS

**Deleted:** Compliance Monitoring Scheme working group sessions at

**Deleted:** and

**Deleted:** annual or the

**Deleted:** sessions

**Deleted:** Compliance Monitoring Scheme working group sessions

**Deleted:** sessions

**Deleted:** meeting

**Deleted:** a

**Deleted:** Compliance Monitoring Scheme working group

**Deleted:** at TCC or annual sessions which

**Deleted:** draft Compliance Monitoring Report and develops the provisional Compliance Monitoring Report (hereinafter referred to collectively as "CMS working group")

**Comment [Alexa1]:** One CCM suggested limiting it to 1 person. Seeking comments on whether to limit participation, and if so, to what number.

**Deleted:** a CMS working group session

**Deleted:** CMS working group session

**Deleted:** as well as

**Deleted:** they represent

**Deleted:** CMS working group sessions

- 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.

**Deleted:** the CMS working group session

**Deleted:** those outlined in CMM 2015-07 para 1 and to support the continued development and refinement of the CMS

**Deleted:** <sup>3</sup>

**Deleted:** or

**Deleted:** CMS working group sessions

**Deleted:** CMS working group session

**Comment [Alexa2]:** One CCM has suggested that access to the draft or provisional CMR should be limited to what can be seen on the screen in the closed session.

**Comment [Alexa3]:** Paragraph 4 was deleted as it was considered duplicative of paragraph 3(d).

**Deleted:** 4. . Observers that attend CMS working group sessions will be provided access to the draft and provisional Compliance Monitoring Reports during the sessions, but will not be permitted to retain copies of the information. ¶

**Deleted:** ¶  
5

**Deleted:** CMS working group session

**Deleted:** 6

**Deleted:** n the event of

**Deleted:** they represent

**Deleted:** they

**Deleted:** CMS working group sessions

**Deleted:** or

**Deleted:** they represent

**Deleted:** they

**Deleted:** CMS working group sessions

**Deleted:** [

**Comment [Alexa4]:** One CCM suggested changing this to five years. Seeking comment on the appropriate time period.

**Deleted:** ]

**Deleted:** 7

**Deleted:** 5

**Deleted:** 6

**Deleted:** 8

**Deleted:** CMS working group sessions

4. All observers admitted to a closed meeting on the CMR shall comply with any and 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, will result in the withdrawal of permission to attend the meeting by the presiding Chair of the meeting.

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 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 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 will 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. Other than as described in these guidelines, meetings which consider the CMR will be closed.

ATTACHMENT A

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

**Deleted:** CMS Working Group Sessions

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:

- disclose any information obtained during the closed meeting on the Compliance Monitoring Report (CMR);
- use information learned during the CMS working group session for any purpose other than participation in the closed meeting on the CMR;
- 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
- 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 any and 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 breach of this confidentiality agreement or the terms of these guidelines, by either the individual who signed this agreement,

**Deleted:** CMS WORKING GROUP SESSIONS

**Deleted:** S

**Formatted:** Indent: Left: 0.5", Hanging: 0.5"

**Deleted:** CMS working group sessions

**Deleted:** those outlined in CMM 2015-07 para 1 and to support the continued development and refinement of the CMS

**Deleted:** or

**Deleted:** CMS working group sessions

**Deleted:** CMS working group session

**Deleted:** To abide by the Commission's data security standards as specified in the Commission's Information Security Policy, the Rules and Procedures for Protection, Access to, and Dissemination of, Data Compiled by the Commission, and the Rules and Procedures for the Protection, Access to, and Dissemination of High Seas Non-Public Domain Data and Information Compiled by the Commission for the Purpose of Monitoring, Control or Surveillance (MCS) Activities and the Access to and Dissemination of High Seas VMS ¶ Data for Scientific Purposes.¶

**Deleted:** Applicant understands that inIn

**Deleted:** e

**Deleted:** S

**Deleted:** e

**Deleted:** they represent

**Deleted:** at

**Deleted:** they

**Deleted:** CMS working group sessions

**Deleted:** or

**Deleted:** e

**Deleted:** e

ATTACHMENT A

~~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

**Deleted:** they represent

**Deleted:** a

**Deleted:** t

**Deleted:** they

**Comment [Alexa1]:** Depends on final decision in the guidelines.

**Deleted:** CMS working group sessions

**Deleted:** 5. . In addition, in the event of breach of the confidentiality agreement or the CMS Guidelines 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.¶

**Deleted:** 6. . That this Agreement may be terminated by giving written notice to the other party.¶