

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

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Commencing the CMS-IWG work on Corrective Actions

Dear All,

Please find attached a communication from the CMS-IWG WCPFC Lead on the Development of Corrective Actions circulating a draft terms of reference for your review and comments.

The requested date for comments and feedback is **Friday May 5, 2023** to the WCPFC Lead on Corrective Actions elizabeth.osullivan@noaa.gov (cc: TCC Vice Chair ikna@korea.kr and the Compliance Manager Lara.Manarangi-Trott@wcpfc.int).

Yours sincerely,



Rhea Moss-Christian
EXECUTIVE DIRECTOR

Compliance Monitoring Scheme Intersessional Working Group – Draft Terms of Reference for the Development of Corrective Actions

Dear Colleagues,

As you will recall, at WCPFC19 the Commission identified a lead to work through the CMS IWG on the development of corrective actions. As indicated in the WCPFC19 Summary report (paragraph 386):

386. WCPFC19 welcomed the nomination by the United States for Ms. Elizabeth O’Sullivan to lead work through the CMS IWG to develop corrective actions to encourage and incentivize CCM’s compliance with the Commission’s obligations, where non-compliance is identified, and encourages CCMs to participate in this work.

Additionally, some members requested the development of terms of reference (TOR) to guide the scope of this work.

To assist us in preparing for the work ahead of us in the development of corrective actions, I am circulating a draft Terms of Reference for review and comment by the CMS IWG. In order to begin this work well in advance of TCC19, please send all comments and feedback regarding these proposed TOR to the lead on corrective action at elizabeth.osullivan@noaa.gov (cc: TCC Vice Chair Mr Ilkang Na ikna@korea.kr the Compliance Manager Lara.Manarangi-Trott@wcpfc.int) before May 5, 2023.

Once the TOR are finalized, I will work with the Secretariat to review information from other RFMOs on this topic. I hope to have some proposals for WCPFC corrective actions based on this review circulated to the CMS-IWG in the following months. Then I will set up a time to meet electronically and discuss a path forward for the development of WCPFC corrective actions.

As a reminder, the Secretariat has developed a dedicated webpage to support the organization and work of the CMS-IWG on the WCPFC website, available at https://www.wcpfc.int/cms-iwg_2020. All papers related to the work of the CMS-IWG, including this draft TOR will be made available on the CMS-IWG webpage.

Kindest Regards,

Elizabeth O’Sullivan
WCPFC Lead on the Development of Corrective Actions

DRAFT: Terms of Reference for the Development of Corrective Actions

Background

1. Acting on the advice of TCC18, WCPFC19 identified a lead to work through the Compliance Monitoring Scheme Intersessional Working Group (CMS IWG) to develop corrective actions to encourage and incentivize CCMs' compliance with the Commission's obligations. The WCPFC19 Summary Report states:

386. WCPFC19 welcomed the nomination by the United States for Ms. Elizabeth O'Sullivan to lead work through the CMS IWG to develop corrective actions to encourage and incentivize CCM's compliance with the Commission's obligations, where non-compliance is identified, and encourages CCMs to participate in this work.

2. The development of corrective actions is a part of the future work identified in the CMS CMM 2021-03, which states:

2. The CMS is designed to:

(iv) respond to non-compliance by CCMs through remedial and/or preventative options that include a range of possible responses that take account of the reason for and degree, the severity, consequences and frequency of non-compliance, as may be necessary and appropriate to promote compliance with CMMs and other Commission obligations; and

46. The Commission hereby commits to a multi-year workplan of tasks to enhance the CMS, with the aim of making it more efficient and effective by streamlining processes. This workplan should include the development of guidelines and operating procedures to support the implementation of the Compliance Monitoring Scheme, and shall include inter alia:

(iv) the development of corrective actions to encourage and incentivize CCMs' compliance with the Commission's obligations, where non-compliance is identified;

3. At WCPFC19, some CCMs requested the development of terms of reference (TOR) to ensure the scope of the work undertaken on corrective actions was clear.

385. Samoa on behalf of FFA Members stated that they wanted to ensure that the scope of work on the issue was clear, and recommended that the first task for CCMs was to develop a clear TOR to guide the work. FFA members advocated looking first at the use of cooperative and supportive actions as opposed to corrective actions, and stated they would be prepared to consider corrective actions once the current imbalance and bias in the CMS was addressed. They stated that this was in line with the principle of cooperation towards compliance, as stated in paragraph 3 of the CMS measure, to promote a supportive, collaborative, and non-adversarial approach where possible, with the aim of ensuring long-term compliance, including considering capacity assistance needs or other quality improvement and corrective actions.

4. These TOR define the objectives, process, tasks and timeframe for the development of corrective actions through the CMS IWG.

Objective

The CMS IWG and the corrective actions lead will:

5. Identify corrective actions to non-compliance that will incentivize and encourage CCMs compliance with the obligations of the Commission thus making the WCPFC CMS more effective.

6. Recommend to TCC and the Commission the adoption of such corrective actions.

Process

7. The CMS IWG and the corrective actions lead will:

a. Compile, review and analyze information about how other RFMOs have addressed non-compliance with RFMO obligations by their members;

b. Develop corrective actions that are designed to incentivize compliance by CCMs with WCPFC obligations; and

c. Propose recommended corrective actions for the Commission, with the advice and recommendation of TCC.

8. The work to develop corrective actions is open to all participants of the CMS-IWG, including any interested WCPFC observers. The CMS IWG will conduct its work to develop corrective actions electronically, though it may request time to meet during TCC.

Tasks

9. Information referenced in paragraph 7 will be compiled by the corrective actions lead with the assistance of the Secretariat.

10. A summary of this information and some potential paths forward on the deployment of WCPFC corrective actions will be circulated to the CMS IWG for discussion.

11. A virtual meeting will be held to discuss the options for corrective actions that are most appropriate to incentive compliance with CMMs. The CMS IWG will consider any relevant information to the development of effective corrective actions.

12. The CMS IWG and the corrective actions lead shall report to TCC as appropriate and seek advice and recommendations.

13. The CMS IWG and the corrective actions lead shall develop recommendations for corrective action in WCPFC to the Commission for adoption.

Timeframe

14. Progress towards the development of corrective actions will be reviewed at WCPFC20.
