



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

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Compliance Monitoring Scheme Intersessional Working Group

Dear Colleagues,

As you will recall, during WCPFC16, “*the Commission agreed to establish a Compliance Monitoring Scheme (CMS) Intersessional Working Group under the leadership of the Vice-Chair of TCC*”. It was further agreed that the CMS Intersessional Working Group (CMS IWG) would work virtually to undertake the CMS future work plan, as outlined in section IX of CMM 2019-06 (WCPFC16 Summary Report, paragraph 563).

In order to progress this important work, I respectfully request that CCMs and Observers interested in participating in the CMS IWG submit relevant contact information to emily.crigler@noaa.gov and to Lara.Manarangi-Trott@wcpfc.int, by **Friday 23 July 2021**.

As a reminder, at WCPFC17 the Commission prioritized the following four items for consideration by the CMS IWG in 2021 and 2022 (WCPFC Summary Report, paragraph 377):

The Commission noted in paragraph 129 of the TCC16 Summary Report that TCC16 had affirmed the importance of all the future work called for in section IX of CMM 2019-06 and supported the prioritisation of four streams of intersessional work for the CMS IWG in 2020/21 and recognised that some elements may extend until 2022:

- i. the development of a risk-based assessment framework to inform compliance assessments and ensure obligations are meeting the objectives of the Commission;*
- ii. the development of audit points to clarify the Commission obligations assessed under the CMS, as well as a checklist to be used by proponents of any proposal to include a list of potential audit points for the consideration of the Commission;*
- iii. the development of a process for TCC to consider the aggregated tables alongside the draft CMR (paragraph 33 and 34 of CMM 2019-06); and*
- iv. the development of guidance on the participation of observers in the CMS process as outlined in CMM 2019-06.*

The task of the CMS IWG will be to progress each of these four elements in the remainder of 2021 and 2022. The Secretariat has been kind enough to develop 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 those related to the four elements of the workplan listed above, will be made available on the CMS IWG webpage.

1. Risk-based Assessment Framework

The first element of the workplan that I would like to undertake in the CMS IWG is the development of a risk based assessment framework. The Commission endorsed the recommendation that Ms. Heather Ward (New Zealand) would lead this work (WCPFC17 Summary Report, paragraph 378).

Attached is a high-level outline of a possible approach to a risk-based assessment framework for your consideration. It will also be posted on the CMS IWG webpage. It would be appreciated if you could provide your comments on this outline to heather.ward@mpi.govt.nz by **Friday 30 July 2021**.

Based on responses, a risk-based assessment model and a template of obligations to be risk-rated will be circulated to members in early August. At this point, members may use the model to rate the risk of non-compliance with existing obligations. In the lead-up to TCC, during TCC and, as necessary, after TCC, there will be opportunities to engage on the resulting possible list of priority obligations, and a proposed forward schedule of obligations for assessment.

It is anticipated that as a result of this work, we will move towards a more methodical process for prioritizing the assessment of compliance with obligations that pose the greatest risk to Commission objectives, whilst ensuring that a broad range of obligations are regularly assessed.

2. Audit Points

The Commission endorsed the recommendation that Ms. Rhea Moss-Christian (RMI) would lead the work on Audit Points (WCPFC17 Summary Report, paragraph 378). Picking up on the work started by the FSM on behalf of FFA members in 2019, the FFA member CCMs have submitted a discussion paper for consideration by the CMS IWG, which will be posted on the CMS IWG webpage. Other CCMs are also invited and encouraged to submit papers or proposals to be considered by the CMS IWG. In considering the progress we would like to make this year on the development of a risk-based assessment framework and a process to review the aggregated tables, we do not intend to seek a recommendation on audit points during TCC17. However, mindful of the amount of work tasked to the CMS IWG and the need to make progress on the workplan, we may seek to have a brief discussion at TCC17 on the general approach to audit points development and their link to other CMS tasks. TCC17's guidance to the CMS IWG on how it can continue to advance this issue in the remainder of 2021 and 2022 will also be useful.

3. Aggregated Tables

Regarding the development of a process for review of the aggregated tables, the Commission tasked the TCC Chair to lead work to provide guidance on how TCC17 might consider the aggregated tables alongside the CMR (WCPFC17 Summary Report, paragraph 379).

The Secretariat has undertaken significant work on the presentation of the aggregated tables, based on broader refinements of the online compliance case file system and the views on the presentation of data expressed by members at TCC15 and TCC16. The TCC Chair is currently working with the Secretariat and myself to develop guidance for a trial process for considering the aggregated tables in line with paragraphs 26(ii), 33 and 34 of CMM 2019-06. The TCC Chair will provide CCMs with an update on this work in line with the preparations for the CMR review process in advance of TCC17.

4. Participation of Observers in the CMS process

Regarding the development of guidance for the participation of observers in the CMS process, the last discussion the Commission had on this issue was during WCPFC16 (See WCPFC16 Summary Report, paragraph 94-96). Recognizing the importance of this element of the work plan, and noting the good progress that has been made on this issue in past years, I would like to propose that the CMS IWG prioritize this work for 2022.

I would like to thank Heather, Rhea, the Secretariat and the TCC Chair for their contributions to this critical CMS work. If you are interested in participating in the CMS IWG, please submit relevant contact information to emily.crigler@noaa.gov and Lara.Manarangi-Trott@wcpfc.int, by **Friday 23 July 2021**.

I look forward to working with all of you as we continue to navigate the tasks ahead of us.

Kindest Regards,

Ms Emily Crigler¹
TCC VICE CHAIR and CHAIR OF THE CMS IWG

¹ Ms Crigler authorized distribution of this circular without her signature in an email dated 15 July 2021 to the Secretariat.

Development of a WCPFC Risk-Based Assessment Framework for the Compliance Monitoring Scheme

Proposal for WCPFC members' consideration and feedback

Introduction

The objective of a risk-based assessment framework for the Compliance Monitoring Scheme (CMS) is to:

- provide a **transparent and balanced process** to prioritise WCPFC's Conservation and Management Measures (CMMs) for compliance assessment each year;
- ensure that the CMS **prioritises assessment** of those CMMs for which non-compliance would undermine the objective of the CMM and be inconsistent with the principles and the broader context of the WCPFC Convention;
- ensure appropriate attention and resources is allocated to **addressing the most persistent, systematic or high impact issues of non-compliance**;
- deliver a process for ensuring **regular assessment of a broad range of CMMs** to ensure that the risk of non-compliance in certain areas is minimised and all CMMs are effective.

CMS context and workplan

The purpose of the WCPFC's Compliance Monitoring Scheme, as set out in **paragraph 1** of CMM 2019-06, is to ensure that Members, Cooperating Non-Members and Participating Territories (CCMs) implement and comply with obligations arising under the Convention and conservation and management measures (CMMs) adopted by the Commission. The purpose of the CMS is also to assess flag CCM action in relation to alleged violations by its vessels, not to assess compliance by individual vessels.

Paragraph 6 of CMM 2019-06 indicates that each year, the WCPFC will update what obligations shall be assessed using a risk-based approach. Until this risk-based approach is developed, in considering the obligations to be assessed in the following year, the WCPFC shall take into account:

- (i) the needs and priorities of the Commission, including those of its subsidiary bodies;
- (ii) evidence of high percentages of non-compliance or persistent non-compliance by CCMs with specific obligations for multiple years;
- (iii) additional areas identified through the risk-based approach to be developed; and
- (iv) the potential risks posed by non-compliance by CCMs with CMMs (or collective obligations arising from CMMs) to achieve the objectives of the Convention or specific measures adopted thereunder.

See also **paragraph 7** of CMM 2019-06 which provides criteria for the annual assessment of compliance by CCMs with priority obligations, and **Annex 1** of CMM 2019-06 which sets out criteria for the five levels of compliance status.

Under **paragraph 46** of the CMM 2019-06 on the Compliance Monitoring Scheme (CMS), the WCPFC committed to a multi-year workplan to enhance the CMS with the aim of making it more efficient and effective by streamlining processes. This includes the development, during 2020-21, of "a risk-based assessment framework to inform compliance assessments and ensure obligations are meeting the objectives of the Commission".

What might a Risk-Based Assessment Framework for CMS look like?

- Deciding which obligations have a lower risk and which have a higher risk to the WCPFC could *guide* the prioritisation of the obligations in CMMs for assessment as part of the CMS – taking into account the needs and priorities of the Commission [para 6 (i) of CMM 2019-06].
- With reference to ISO 31000 – 2018, risk is typically expressed as a function of likelihood and consequence:
 - Likelihood = the chance of an event happening
 - Consequence = the outcome of an event on objectives

Likelihood

- It is proposed that likelihood be rated based on data from previous compliance history under the Compliance Monitoring Scheme [reflecting para 6 (ii) of CMM 2019-06]. It could be scored as follows:

Likelihood	Description
Rare	Experience indicates that non-compliance amongst CCMs is rare (<1% of CCMs in recent assessments)
Unlikely	Experience indicates that non-compliance amongst CCMs is unlikely (1-5% of CCMs in recent assessments)
Moderate	Experience indicates that non-compliance amongst CCMs is moderate (6-20% of CCMs in recent assessments)
Likely	Experience indicates that non-compliance amongst CCMs is likely (21-50% of CCMs in recent assessments)
Almost certain	Experience indicates that non-compliance amongst CCMs is almost certain (51-100% of CCMs in recent assessments)

Consequence

- It is proposed that consequence be rated as the impact of non-compliance with an obligation on meeting the objective of the relevant CMM [reflecting para 6 (iv) of CMM 2019-06]. It could be scored as follows:

Consequence	Description
Insignificant	The consequence of non-compliance presents minimal or no threat to the objective or purpose of the CMM.
Minor	The consequence of non-compliance will have a minor impact on the objective or purpose of the CMM.
Moderate	The consequence of non-compliance may undermine the objective or purpose of the CMM.
Major	The consequence of non-compliance will probably undermine the objective or purpose of the CMM.
Serious	The consequence of non-compliance will seriously undermine the objective or purpose of the CMM.

Risk matrix

- The product of scores for both likelihood and consequence can be set out in a matrix. Those events with lower likelihood and lower consequence pose a lower risk, and vice versa. (see matrix below for example).

	<i>Consequence</i>				
<i>Likelihood</i>	Insignificant	Minor	Moderate	Major	Serious
Rare	Low	Low	Low	Moderate	High
Unlikely	Low	Low	Moderate	High	High
Moderate	Low	Moderate	Moderate	High	Severe
Likely	Moderate	Moderate	High	Severe	Severe
Almost certain	Moderate	High	Severe	Severe	Severe
