
REVIEW OF THE INTER-SESSIONAL PROCESS AND RESPONSES TO THE LETTER OF FEEDBACK

Prepared by: IOTC Secretariat, 08 April, 2013

The IOTC Compliance Committee was established in 2002, in accordance to Article XII(5) of the Agreement creating the Indian Ocean Tuna Commission. The key role of the Committee is to review compliance with conservation and management measures adopted by the Commission.

For a number of years following the establishment of the Committee, the *modus operandi* was to review compliance on the basis of Resolutions adopted, thus failing to identify the compliance level of individual Members and Cooperating non-Contracting Parties (CPCs).

The terms of reference of the Compliance Committee were revised in 2010, with the unanimous support of the CPCs. This resulted in a departure from the way that the Committee had been conducting its business. The new process entails assimilating information received directly from CPCs about the actions that they have taken to give effect to the decisions of the Commission, and presenting the same in a format that would allow the Committee to assess the level of engagement of each CPC in the IOTC process. This process is meant to help CPCs identify areas where they face particular challenges in implementing the decisions of the Commission and it also presents an opportunity for the concerned CPCs to cooperate with other CPCs in helping them to overcome these challenges.

As three years have passed since this new process was introduced, it is now an appropriate time to assess its effectiveness.

1. Compliance Questionnaire

Article 4.1 (i-ii) of Resolution 10/09 provides the path for the Secretariat to prepare for the annual meeting of the Compliance Committee.

i) send each CPC, 4 months prior to the annual meeting, a standard questionnaire on compliance with the various IOTC resolutions governing conservation and management for receiving comments and answers from the concerned CPCs within 45 days
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The Secretariat has systematically provided CPCs with a standard questionnaire on compliance according to the required timeline. With each passing year, and taking into account new conservation and management measures (CMMs) adopted by the Commission, the questionnaire has evolved accordingly. The Secretariat has designed the questionnaire in such a way so as to facilitate its completion, and will continue to explore ways to facilitate the completion of future questionnaires. Table 1, below, provides a quick breakdown on how compliant CPCs have been in responding to the questionnaires, without going into the details of the adequacy of the responses.

Table 1 provides a clear indication that after the first year in which the new approach to assessment of compliance was introduced, CPCs became more responsive in the following year. For the current year, the number of returned questionnaires is marginally lower to the progress made in 2012.

Table 1. *Completed Compliance Questionnaires received over the 2011 – 2013 period.*

Year	2011	2012	2013
Number of CPCs	29	32	33
Response received	52%	75%	70%
Response received by the deadline	27%	46%	39%
Response received after the deadline	73%	54%	61%

However, it may be expected that some improvements may still take place for the current year, as some CPCs tend to submit their completed Compliance Questionnaire at the very last minute. This not only undermines the compliance assessment process as other CPCs do not have access to completed questionnaires until the very last minute, but it also prevents the updated information to be included into the Compliance Report for the concerned CPCs.

ii. circulate to all CPCs, 2 months prior the annual meeting, the comments and answers provided by each CPC in response to the questionnaire and invite comments and possible questions from all other CPCs

As per the requirement of Article 4 ii, of Resolution 10/09, the Secretariat compiles and forwards all completed compliance questionnaires to CPCs in line with the timeline provided in this Article. Over the last three years, only two CPCs have provided comments and questions based on the circulated responses to the questionnaire; based on the responses to the questionnaire circulated for the 9th Session of the Compliance Committee.

2. Opinion of the Compliance Committee

In line with the provision of Article 4.2 of Resolution 10/09, the Chair of the Compliance Committee, assisted by the Secretariat, have drawn up, over the last two years, a list of significant non-compliance issues for each concerned CPCs. These issues form the core of discussions when the Compliance Committee assesses the performance of each CPC in relation to their obligations to the Commission.

5. Opinion of the Compliance Committee

At the end of the meeting the Compliance Committee shall issue its opinion on the compliance status of each CPC.

In line with discussions, and explanations provided by the concerned CPCs, the issues of concerns are refined accordingly and presented to each of the concerned CPCs in the form a *Letter of Feedback*. While Resolution 10/09 does not provide guidance as to what actions CPCs are expected to undertake following the reception of the *Letter of Feedback*, it can only be logically expected that the concerned CPCs will take certain actions towards addressing the concerns identified by the Compliance Committee and report those actions back to the Chair of the Commission.

3. Letters of Feedback

Since the establishment of the new approach of compliance assessment, two sets of *Letters of Feedback* have been issued. For the 32 letters issued for the 2011 session, only thirteen CPCs provided a response. At the conclusion of the 2012 Session, 31 letters were issued and only ten CPCs provided a response.

As was observed with the returns of completed compliance questionnaires, after the first year of issuance of the *Letter of Feedback*, more CPCs provided a response compared to the second year.

4. Conclusions and Recommendation

This brief assessment indicates that the new process had an impact after the first year of its application. However, the early indication is that this process is easily undermined, if CPCs fail to fulfil the requirements of Resolution 10/09; that is, to provide a timely response to the compliance questionnaire and also to provide comments and questions, when the responses to the questionnaires are circulated.

As mentioned above, Resolution 10/09 does not provide guidance on the actions required to be instituted by CPCs once they have received their *Letter of Feedback*. This, therefore, complicates the result of the assessment of compliance with this part of the resolution.

To strengthen the compliance assessment process, the Compliance Committee is invited to agree on a deadline in which CPCs would be required to report back to the Chair of the Commission on what actions they have instituted to address the concerns identified in the *Letter of Feedback*. This will provide the Secretariat with the necessary leverage for following up with CPCs who fails to provide a response.