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# 3<sup>rd</sup> WORKSHOP ON CONNECTING THE IOTC SCIENCE AND MANAGEMENT PROCESSES (SMWS03) The IOTC Process

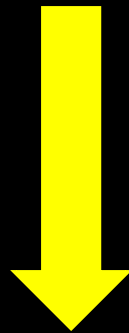
**INDIAN OCEAN TUNA COMMISSION**  
**Secretariat**

Presented by Rondolph Payet

[HTTP://WWW.IOTC.ORG](http://www.iotc.org)

# FOUNDATIONS OF THE IOTC

1958: The Convention on Fishing and Conservation of the Living Resources of the High Seas of 1958



UNCLOS - 1982

- Article 64: calls for the coastal State and the DWFS to cooperate, through appropriate international organizations, with the objective of ensuring the conservation and optimum utilization of these stocks **within, as well as beyond, the EEZ.**

# FOUNDATIONS OF THE IOTC

## UNCLOS - 1982

- Article 116 subjects this right to fish on the high seas to other treaty obligations, and **to the rights and duties as well as the interests of coastal states**
- Articles 117 and 118 provide for the **duty to cooperate** with other States whose nationals fish in the same area or for the same stocks in taking measures necessary for the conservation of those stocks. **This duty can be discharged by direct cooperation or by establishing an RFMO : [ *countries of the Indian Ocean/neighbours decided to cooperate* ]**

# FOUNDATIONS OF THE IOTC

## UNFSA - 1985

- Motivated by the concern about the status of **shared stocks**, the UNFSA reinforced UNCLOS provisions for these stocks
  - To seek effective and compatible conservation and management regimes both **inside and outside areas of national jurisdiction**
  - Conservation and management measures should be established on the basis of a **precautionary approach** and should use reference points for establishing the level of utilisation of stocks

# INDIAN OCEAN TUNA COMMISSION

1993

Following a lengthy consultation process, the IOTC Agreement to establish the IOTC was approved by the FAO Council.

## The Commission's core objectives

*The Commission shall promote cooperation among its Members with a view to ensuring, through appropriate management, the **conservation and optimum utilization of stocks** covered by this [IOTC] Agreement and encouraging sustainable development of fisheries based on such stocks. (Article V.1)*







# THE STRUCTURE AND FUNCTIONING OF THE IOTC

## Contracting Parties (Currently 32 Members):

- |                   |                  |
|-------------------|------------------|
| 1. Australia      | 17. Malaysia     |
| 2. Belize         | 18. Mauritius    |
| 3. China          | 19. Mozambique   |
| 4. Comoros        | 20. Oman         |
| 5. Eritrea        | 21. Pakistan     |
| 6. European Union | 22. Philippine   |
| 7. France         | 23. Seychelles   |
| 8. Guinea         | 24. Sierra Leone |
| 9. Iran           | 25. Somalia      |
| 10. India         | 26. Sri Lanka    |
| 11. Indonesia     | 27. Sudan        |
| 12. Japan         | 28. Tanzania     |
| 13. Kenya         | 29. Thailand     |
| 14. Korea         | 30. UK           |
| 15. Madagascar    | 31. Vanuatu      |
| 16. Maldives      | 32. Yemen        |

## Cooperating Non-Contracting Parties:

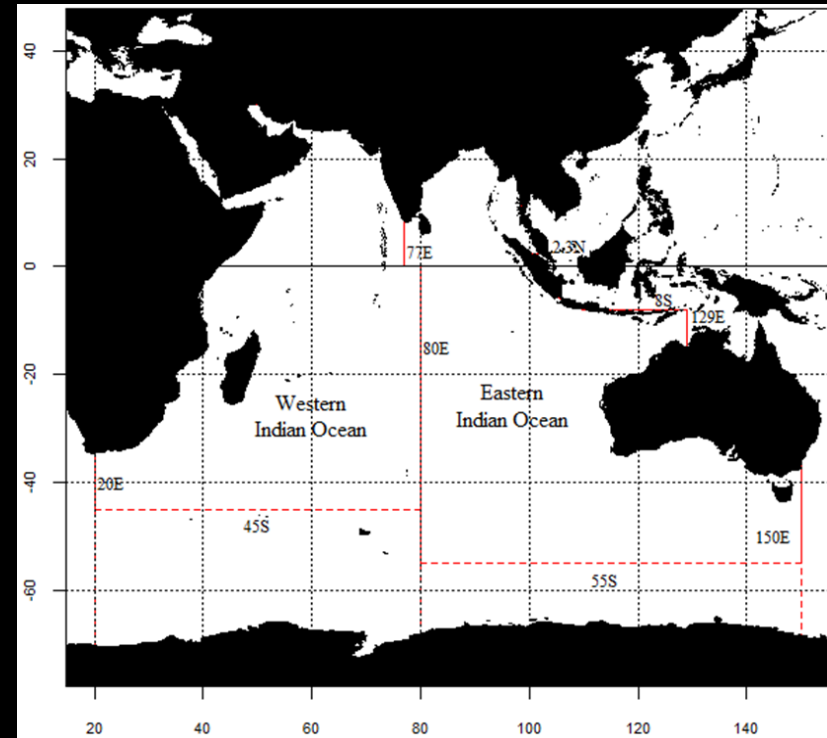
1. Djibouti
2. Senegal
3. South Africa

# AREA OF COMPETENCE

The Area of Competence of the IOTC, set out in Article II of the Agreement, is the Indian Ocean, coinciding with FAO statistical areas 51 and 57.

The Area also comprises adjacent seas north of the Antarctic Convergence to the extent that it is necessary to cover such areas to conserve and manage stocks that migrate into or out of the Indian Ocean.

The Area includes high seas and EEZs of coastal States, including non-Member coastal States





# THE STRUCTURE AND FUNCTIONING OF THE IOTC

- Fundamentally, the IOTC is a joint decision-making mechanism with actions taken at the individual country level via a three-step process:
  - Development of scientific advice
  - Decision making based on advice received
  - National implementation and compliance with decisions made
  - Objection and withdrawal of the objection.
- Requires effectiveness at all three stages for the IOTC to work effectively and, in particular, an effective implementation of the actions agreed for them to have any effect.
- The challenge continues to be how to maintain a constructive process and a dialogue in the midst of the diversity among individual CPCs.



## The Commission's core objectives (cont.)

*To adopt, in accordance with Article IX and **on the basis of scientific evidence**, conservation and management measures, to ensure the conservation of the stocks covered by this Agreement and to promote the objective of their optimum utilization throughout the Area.*

*(Article V.2.d)*



## The IOTC is essentially based on a three-step approach:

1. Collection of information on fisheries and scientific analysis to supply advice as needed.
2. Decision-making on the basis of the advice received.
3. Implementation and monitoring of compliance with the actions agreed.



## The Commission's core objectives (cont.)

*To adopt, in accordance with Article IX and **on the basis of scientific evidence**, conservation and management measures, to ensure the conservation of the stocks covered by this Agreement and to promote the objective of their optimum utilization throughout the Area.*

*(Article V.2.d)*



## Role of the Secretariat

Facilitate the implementation of the IOTC Agreement,  
including its objectives and any decisions of the  
Commission

Secretariat Strategy – 2014 – 2017





## QUESTIONS



## IOTC AGREEMENT

### Article IX. PROCEDURES CONCERNING CONSERVATION AND MANAGEMENT MEASURES

Para: 1. Subject to paragraph 2, the Commission may, by a two-thirds majority of its Members present and voting, adopt conservation and management measures **binding on Members** of the Commission in accordance with this Article. *[120 days from announcement]*



## IOTC AGREEMENT

### Article X. IMPLEMENTATION

Para. 1. Each Member of the Commission shall ensure that such **action is taken, under its national legislation**, including the imposition of **adequate penalties for violations**, as may be necessary to make effective the provisions of this Agreement and to implement conservation and management measures which become binding on it under paragraph 1 of Article IX.

## IOTC AGREEMENT

### Article X. IMPLEMENTATION

Para. 2. Each Member of the Commission shall transmit to the Commission an **annual statement of the actions** it has taken pursuant to paragraph 1. Such statement shall be sent to the Secretary of the Commission not later than 60 days before the date of the following regular session of the Commission.

## IOTC AGREEMENT

### Article X. IMPLEMENTATION

Para. 3. The Members of the Commission shall cooperate, through the Commission, in the establishment of an appropriate **system to keep under review the implementation of conservation and management measures** adopted under paragraph 1 of Article IX, taking into account appropriate and effective tools and techniques to monitor the fishing activities and to gather the scientific information required for the purposes of this Agreement.

# MEMBER OBLIGATIONS: IMPLEMENTATION

## IOTC AGREEMENT

### Article X. IMPLEMENTATION

Para. 4. The Members of the Commission shall cooperate in the **exchange of information** regarding any fishing for stocks covered by this Agreement by nationals of any State or entity which is not a Member of the Commission.

#### **CMMs:**

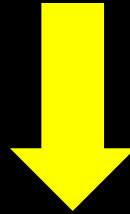
**Resolutions** contain all of the legally binding elements for Members to implement...

**Recommendation** contain other elements that Members may implement if desired.

# IMPLEMENTATION

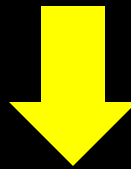
# IOTC DECISION MAKING PROCESSES POOR OR GOOD IMPLEMENTATION

- 1) Poorly drafted or negotiated CMMs lead to poor implementation



- 1) Poor implementation by CPCs in terms of domestic enforcement

For example, many Members have still not implemented or enforced regulations specified within IOTC Resolutions

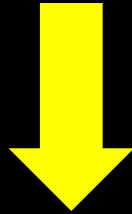


- 2) Lack of domestic political will is also responsible for failures to adopt IOTC Resolutions under national legislation.

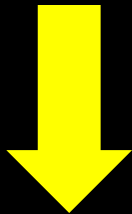


# IOTC DECISION MAKING PROCESSES IMPROVE IMPLEMENTATION

- 1) Clear CMMs based on scientific evidence to ensure improved implementation?



- 2) Understand the process (Science to decision makers to implementation and compliance)

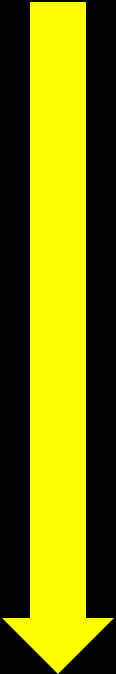


- 3) Know how to influence/communicate effectively

# IOTC DECISION MAKING PROCESSES & IMPLEMENTATION

## Leading up to the Commission

### Step I: The decision making process



Report of the Scientific Committee is circulated to all Members, who initiate a period of internal consultation with their scientists

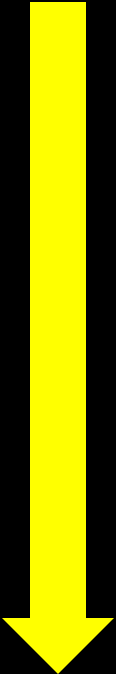
Recommendations are considered and translated, when necessary, to proposals for CMMs

**Briefings** are prepared by national administrations (internal consultation), to define the position of the delegations on various matters

# IOTC DECISION MAKING PROCESSES & IMPLEMENTATION

## Leading up to the Commission, and the Session

### Step II: The decision making process (cont.)



Necessity for action on other areas (e.g. Compliance, combat of IUU fishing) are also included in the briefings consolidating the position of the national delegations

At the Annual Session, matters are raised and negotiated seeking, when possible, consensus in the action

Binding Resolutions are adopted during the Session, as well as non-binding recommendations



# IOTC DECISION MAKING PROCESSES & IMPLEMENTATION

## Two Types of Decisions (Article IX)

**Recommendations** (voluntary and/or transitional)

**Resolutions** (binding) – after 120 days following the Executive Secretary's notification

## Approval Process

Consensus process or majority consensus approach

Voting Process – two thirds majority of those present and voting

Voting Process ( Rule IX of Rules of procedure)

show of hands

by roll call (requested by a member)

secret ballot ( requested by a member and seconded by another member)

# IOTC DECISION MAKING PROCESSES & IMPLEMENTATION

## Objection process (Article X)

Any member of the Commission may, within 120 days object to a management measure and shall not be bound by the measure.

Any other member may within 60 days from the expiry of the 120 days object to any management measure

If objections to a measure adopted under above is more than a 1/3, the other members shall not be bound but shall not preclude any other members from giving it effect.

Any member can withdraw its objection and be bound by the measure at anytime.

# IOTC DECISION MAKING PROCESSES & IMPLEMENTATION

## Post Commission

### Step III: implementation and compliance

Upon return from the Annual Session, each delegation briefs higher authorities on the outcomes

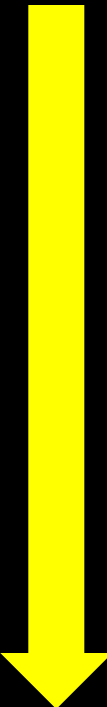
The need for changes in the domestic legislation arising from any agreed measure is evaluated, and action is taken to modify legislation as necessary

Contacts are established with other agencies and institutions that could be responsible for implementation of some of the actions (e.g. Port Authority, provincial authorities)



# IOTC DECISION MAKING PROCESSES & IMPLEMENTATION

## **Step III:** implementation and compliance (cont.)



Meeting with stakeholders are scheduled to brief them on the outcomes of the Commission Session and their consequences at the domestic level

Monitoring and reporting of activities to the IOTC Secretariat proceeds inter-sessionally according to the agreed schedule of reporting

Level of compliance is indicative of the effectiveness of the Commission



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# COMPLIANCE

## IOTC DECISION MAKING PROCESSES & IMPLEMENTATION COMPLIANCE

- Compliance is increasingly recognised as a key issue for international agreements. the creation of a compliance body capable of dealing with non-compliance issues.
- These bodies or committees may be authorised to assess instances of non-compliance and determine whether the breach of an agreement stems from negligence or insufficient capacity.
- For those countries lacking capacity, a compliance body may serve to facilitate or support that country in ongoing efforts to meet its obligations.

# IOTC DECISION MAKING PROCESSES & IMPLEMENTATION

## Compliance Process

Compliance Committee created in 2002 (Res 02/03 Terms of reference for the IOTC Compliance Committee - superseded in 2010 by Res 10/09

<http://www.iotc.org/cmms>

Compliance section created in 2008

Assess/review all compliance aspects related to the implementation of the IOTC Conservation and Management Measures

Provide support to CPCs in the implementation of MCS tools adopted by the IOTC Members

# IOTC DECISION MAKING PROCESSES & IMPLEMENTATION

## Compliance Process

### IOTC Compliance Committee

- Review all aspects of IOTC CPCs individual compliance with IOTC resolutions in the IOTC Area (Compliance country reports).
- Reports directly to the Commission on its deliberations and recommendations
- Commission issues Feedback letters to concerned CPCs based on the recommendations
- CPCs corrective actions to address the issues raise in the feedback letters (90 days before the Compliance Committee)

# IOTC DECISION MAKING PROCESSES & IMPLEMENTATION

## Compliance Process

### IOTC Secretariat Compliance Section

- Provide support to CPCs in the implementation of Monitoring, Control and Surveillance (MCS) tools adopted by the IOTC Members
- Capacity building (compliance support missions, PSM, Regional workshops on CMMs, data support missions)





## COMPLIANCE ASSESSMENT PROCESS IN IOTC

Questionnaire on Compliance – 4 months

Receipt of comments and answers from CPCs – 45  
days

Compilation of draft Compliance Report -  
secretariat

Circulation of comments and answers (draft  
Compliance Report) – 60 days

Chair of CoC, assisted by the Secretariat - Identify,  
select and transmit significant non-compliance  
issues – 30 days

Compliance Report considered at the CoC

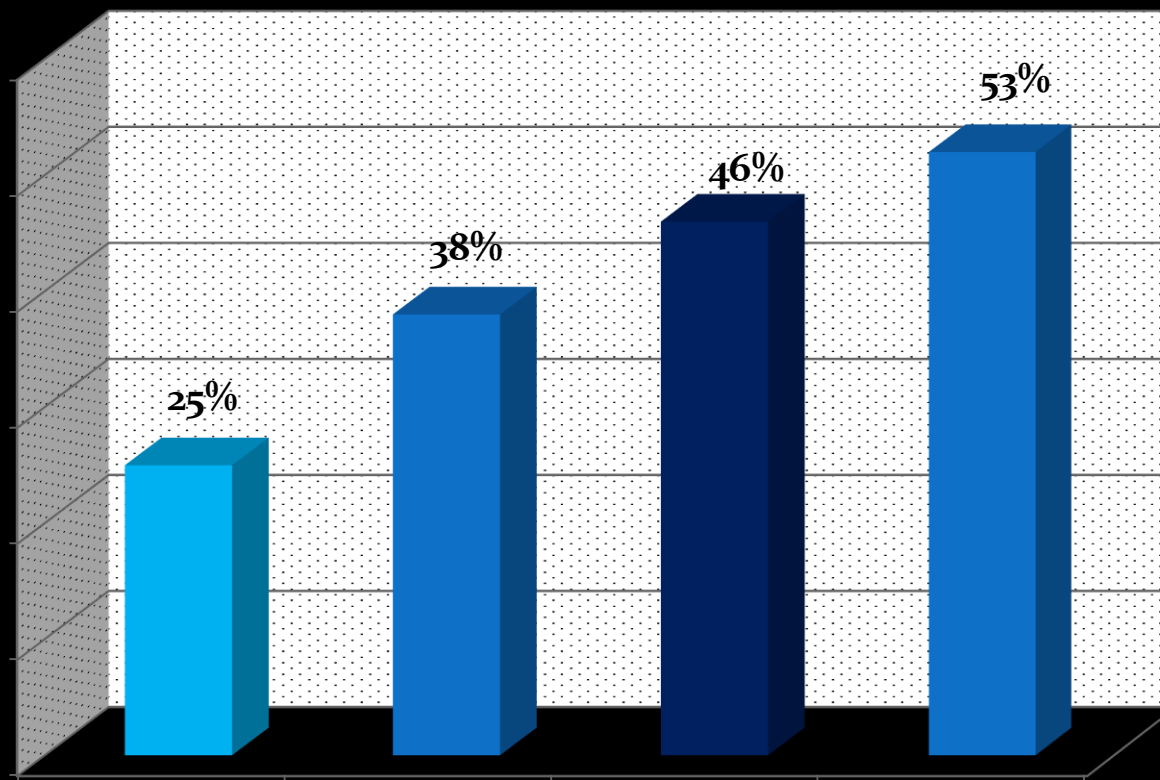
Issue its opinion on compliance status of each CPCs

Chair of Commission issue feedback letter

CPCs provide response to feedback letter – 60 days  
before next Annual Session

# COMPLIANCE – WHERE ARE WE?

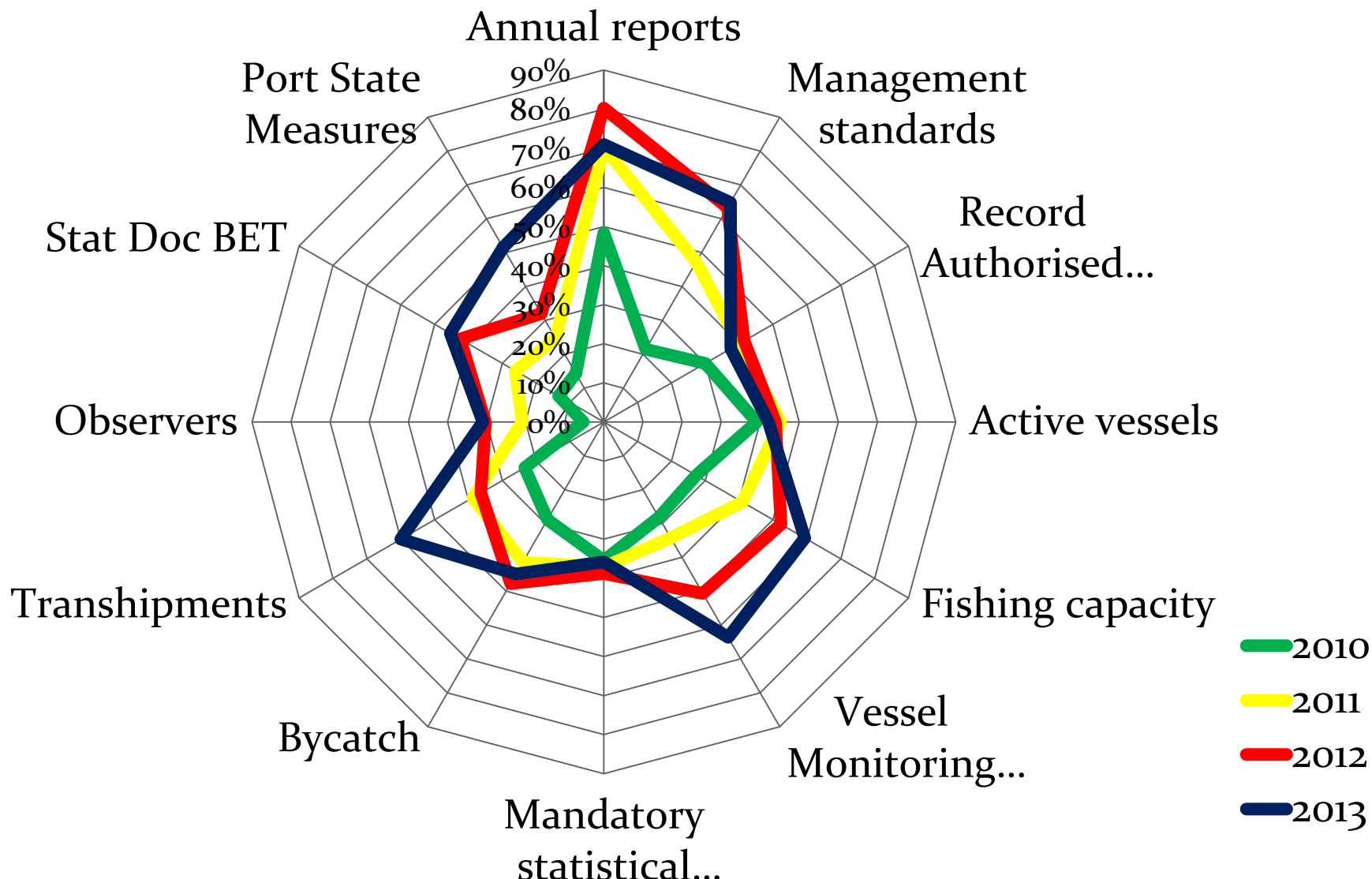
Implementing year	2010	2011	2012	2013
Compliance rate	25%	38%	46%	53%



Compliance  
Meter

Compliant
  Partially Compliant
  Not Compliant

## OVERALL COMPLIANCE – WHERE ARE WE?



## COMLIANCE - CHALLENGES

- Implementation capacity different among CPCs
- Poor link between the decision makers and those responsible for giving effect to these decisions
- Developing CPCs lack implementation capacity and face constraints at policy, legal, institutional, administrative, human resources and operational levels

# YOUR OPINIONS

The IOTC is only as good as how its members participate (*in full*)  
in these processes

**“Your thoughts”**

- 1) How effective is the IOTC Process?
- 2) Sanctions for Non – Compliance?
- 3) National processes and experience?



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# NEGOTIATING - IOTC

# IOTC DECISION MAKING PROCESSES

## NEGOTIATING IN A MULTILATERAL ENVIRONMENT

### Negotiations

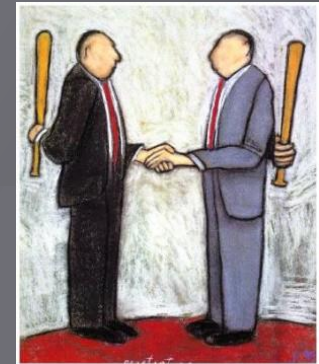
Relationship

Compromise

Dialogue

Agree

Results



## NEGOTIATIONS THE EIGHT STEPS

- **PREPARE**
- **ARGUE**
- **SIGNAL**
- **PROPOSE**
- **PACKAGE**
- **TRADE OFFS**
- **CLOSE**
- **AGREE**





# IOTC DECISION MAKING PROCESSES

## NEGOTIATING IN A MULTILATERAL ENVIRONMENT

### Negotiations

- Come CPCs view IOTC Resolutions too lightly or unimportant.
- There is no negotiation (or consultation) progress at national level.
- Ideally with the involvement of all relevant national stakeholders (including State or provincial governments, NGOs, private sector, etc. in the development of national positions).
- Create a forum for discussion and consultations before a national position is prepared.
- May include representatives from NGOs, private sector, or sub-national governmental bodies.
- Preparation of briefing notes on each draft of the resolutions.

# DISCUSSING RESOLUTIONS

## ASK YOURSELF WHAT?

### WHAT? – Theirs and Ours

What are the issues?

What are the concerns?

What are the strengths and weaknesses?

What are the consequences of not agreeing?

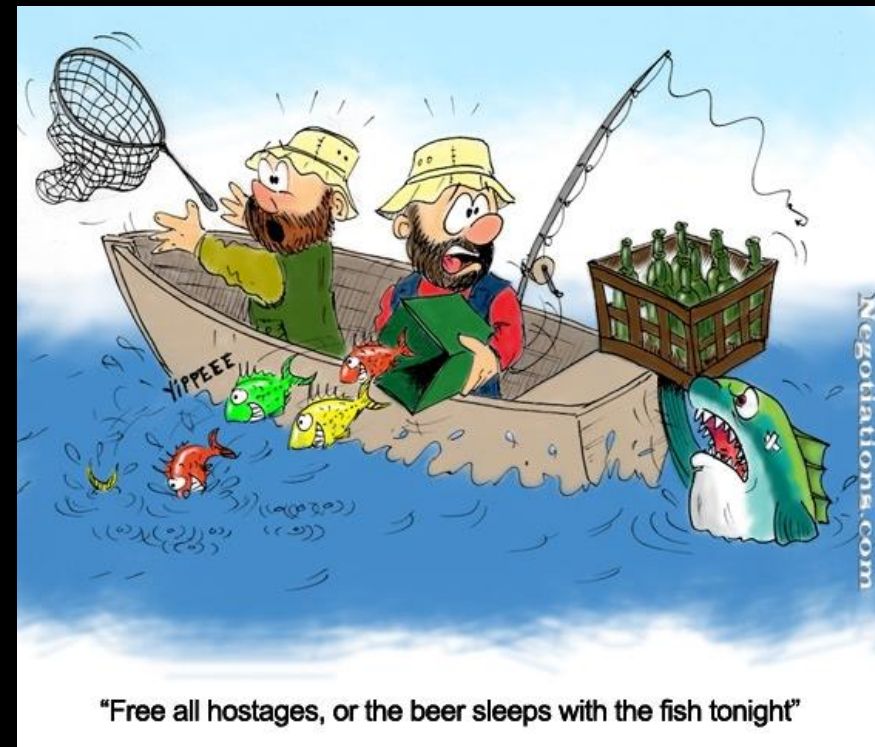
What are the interests of the party and inhibitions?

What are the hidden agendas?

What are the time constraints?

What peer pressures are they under?

What are the alternatives?





# DISCUSSING RESOLUTIONS

## ASK YOURSELF WHY?

- Why do they need that information?
- Why is that an issue?
- Why is that not an issue?
- Why won't they listen to our point of view?
- Why won't they give us that information?
- Why is that important?
- Why are they giving us a hard time?
- Why is our proposal unacceptable?
- Why are they resisting our proposal?
- Why are they being inflexible?
- Why does that give them a problem?
- Why won't they tell us their concerns?
- Why won't they tell us their priorities?
- Why do they feel threatened?
- Why is their perception different from ours?
- Why do I feel I have missed something?
- Why is it taking so long for them to agree?
- Why should we agree to that?

# ADJOURNMENTS

## WHEN TO TAKE THEM:

- When you feel that you may have to reconsider your objectives in the light of changing circumstances.
- When you discover new critical information which needs to be factored into your calculations.
- When your strategy has been overtaken by events or has proved to be inappropriate to the Circumstances.
- When you are stuck in circular argument.
- When you need to consult your colleagues.
- Whenever you feel either party needs time to consider a proposal, new information, deadlock, how to repackage a proposal, what price to put on a demand and so on.

## HOW TO TAKE THEM:

- Always summarise the position the negotiation has reached. Explain that you wish to consider certain points which have been raised.
- Try to withdraw to a private area where you can discuss matters freely with your colleagues.
- If you feel inhibited about asking for "time to think", then use naturally occurring breaks in the meeting: telephone interruptions, meal breaks, requests for some information or to calculate some figures.
- You may wish to give the other party issues for them to consider during the adjournment.
- In a formal adjournment you may need to agree how the meeting is going to be reconvened.



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# THANK YOU

Questions