
COOPERATIVE MECHANISMS TO DETECT AND DETER NON-COMPLIANCE

PREPARED BY: IOTC SECRETARIAT, 19 JANUARY 2015

REVIEW AREA: *Compliance and enforcement*

GENERAL CRITERION: *Cooperative mechanisms to detect and deter non-compliance*

DETAILED CRITERIA:

- Extent to which the IOTC has established adequate cooperative mechanisms to both monitor compliance and detect and deter non-compliance (e.g., compliance committees, vessel lists, sharing of information about non-compliance, joint patrols, common Minimum Terms and Conditions for access, harmonized regulatory mechanisms, boarding schemes, regional/compatible VMS equipment and operational criteria, observer schemes, with common training standards for inspectors and observers, intra-regional cooperation, etc.).
- Extent to which these mechanisms are being effectively utilised.
- Extent to which the IOTC has adopted new measures to foster (reward/penalise) compliance within IOTC and effectiveness of such measures.

Overview

1. *Extent to which the IOTC has established adequate cooperative mechanisms to both monitor compliance and detect and deter non-compliance (e.g., compliance committees, vessel lists, sharing of information about non-compliance, joint patrols, common Minimum Terms and Conditions for access, harmonized regulatory mechanisms, boarding schemes, regional/compatible VMS equipment and operational criteria, observer schemes, with common training standards for inspectors and observers, intra-regional cooperation, etc.).*

IOTC has a Compliance Committee to advise the Commission on matters of compliance. The Commission publishes various vessels lists (e.g. Authorised Vessels, Active Vessels and IUU Vessels) to assist members identify the status of vessels and IOTC has adopted a range of conservation and management measures that specifically call on members to provide information relating to a range of compliance matters to the Secretariat for dissemination.

2. *Extent to which these mechanisms are being effectively utilized*

The Compliance Committee meets annually. Members on a regular basis also consult the vessels list. Members appear to report possible illegal activities as they are encountered (as demonstrated in considerations relating to the IUU list). The Authorised vessels, Active vessels and IUU vessels lists are placed in the IOTC website and, as required are, shared with other Tuna RFMOs and the Regional Network of Secretariats. There is also an active informal network between the IOTC Secretariat, Members and the wider public in general for exchanging a range of compliance-related information on a case-by-case basis.

3. *Extent to which the IOTC has adopted new measures to foster (reward/penalise) compliance within IOTC and effectiveness of such measures.*

IOTC has adopted Resolution 10/10 *Concerning Market Related Measures*. This Resolution supersedes Recommendation 03/05 *Concerning trade Measures* and its non-binding nature. Resolution 10/10 provides the mechanism for the Commission to identify CPCs that fail to discharge their obligations under the IOTC Agreement in respect of IOTC Conservation and Management Measures, in particular, by not taking measures or exercising effective control to ensure compliance with IOTC Conservation and Management Measures by the vessels flying their flag.

1) *Extent to which the IOTC has established adequate cooperative mechanisms to both monitor compliance and detect and deter non-compliance (e.g., compliance committees, vessel lists, sharing of information about non-compliance, joint patrols, common Minimum Terms and Conditions for access, harmonized regulatory mechanisms, boarding schemes, regional/compatible VMS equipment and operational criteria, observer schemes, with common training standards for inspectors and observers, intra-regional cooperation, etc.).*

Compliance Committee

The IOTC Compliance Committee was established in 2002 (Resolution 02/03 *Terms of reference for the IOTC Compliance Committee*). This resolution was superseded in 2009 with the adoption of Resolution 10/09 *Concerning the Functions of the Compliance Committee*, which is now incorporated in the IOTC Rules and Procedure (2014) at Appendix V. The terms of reference are given in [Appendix I](#). The Committee inter alia reports to the Commission on the status of compliance by CPCs with a range of *Compliance and Enforcement* related management measures for example:

Resolution 14/04 on the IOTC record of authorised vessels
Resolution 14/05 on a record of licensed foreign vessels fishing for IOTC species
Resolution 10/08 on the IOTC list of active vessels
Resolution 14/06 on a programme for transshipment at sea
Resolution 10/11 on port State measures
Resolution 05/03 on port inspections
Resolution 01/06 concerning the IOTC bigeye tuna statistical document programme
Resolution 11/03: On establishing an IUU Vessels list.

2) *Extent to which these mechanisms are being effectively utilized*

Vessel Lists

The IOTC uses the following lists:

Vessels authorised to fish in the IOTC Area – available on the IOTC website

- used by Members to identify whether vessels are operating legally in the fishery and/or whether fish being landed or imported has been taken by a vessel that is authorised to fish.
- the IOTC Secretariat also maintains an offline list of vessels operating under the fleet of Taiwan, Province of China, from which information is shared on a case by case basis, on whether any vessels belonging to that fleet are authorised to operate in the IOTC Area.

IUU Vessels – available on the IOTC website

- used by CPCs and other RFMOs to identify and take action against IUU Vessels
- used by CPCs when considering applications for licences and notification to enter ports to ascertain vessel status

Active Vessels

- used by members to regulate the numbers and tonnages of vessels in their fleets in conformity with capacity limit related management measures.

Notes, these lists are also shared with other Tuna RFMOs on the website of the Regional Network of Secretariats (www.tuna-org.org).

Sharing of information about non-compliance

Various resolutions call on CPCs to provide information relating to a range of compliance matters to the Secretariat for dissemination. For example:

Resolution 01/03 Establishing a scheme to promote compliance by Non-Contracting Party vessels with resolutions established by IOTC.

- Notice of any vessel fishing contrary to IOTC conservation and management measures.

Resolution 14/04 Concerning the establishment of an IOTC record of vessels authorised to operate in the IOTC area.

- Provide factual information when there are reasonable grounds for suspecting that fishing vessel not on the IOTC List of Authorised Vessels is engaged in fishing or transshipment of tuna or tuna-like species in the IOTC Area.

Resolution 14/05 Concerning a record of licensed foreign vessels fishing for IOTC species in the IOTC area of competence and access agreement information.

- Information on any vessels not on the authorised vessels list, but known or presumed to be fishing for tropical tunas and swordfish in the Area

Resolution 10/11 On port state measures to prevent, deter and eliminate illegal, unreported and unregulated fishing

- Information on any vessels not on the authorised vessels list, but known or presumed to be fishing for tropical tunas and swordfish in the Area

Resolution 11/03 On establishing a list of vessels presumed to have carried out illegal, unregulated and unreported fishing in the IOTC area.

- List of vessels presumed to be carrying out IUU fishing activities in the IOTC Area, with supporting evidence – 70 days before the Annual Meeting.

3) *Extent to which the IOTC has adopted new measures to foster (reward/penalise) compliance within IOTC and effectiveness of such measures.*

Unlike Resolution 11/03, which targets individual fishing vessels, Resolution 10/10 directly target flag States. To date no flag State has been identified through this mechanism. Most CPCs are not reporting information required to be submitted by this resolution.

Through the Compliance Support Missions conducted by the staff members of the Secretariat, there is indication that the majority of CPCs with ports in the IOTC Area were under the impression that information being provided under Resolution 05/03 *Relating to the establishment of an IOTC programme for inspection in port* also responds to the reporting requirement of Resolution 10/10. There are also concerns, that the reporting requirements under Resolution 05/03 and Resolution 10/10, creates a duplication of reporting requirement.

APPENDIX I

(Appendix V of the IOTC Rules of Procedure 2014)

THE COMPLIANCE COMMITTEE – TERMS OF REFERENCE AND RULES OF PROCEDURE

1. Meeting of the Compliance Committee

The meetings of the Compliance Committee shall be held for a period of at least 2 days to assess individual IOTC Contracting Parties (Members) and Cooperating Non-Contracting Parties' (hereinafter referred together as "CPCs") compliance and enforcement with their obligations as Members and Cooperating Non-Contracting Parties of IOTC.

2. Mandate and Objectives of the Compliance Committee

- a) The Compliance Committee shall be responsible for reviewing all aspects of CPCs individual compliance with binding IOTC Conservation and Management Measures in the IOTC area of competence
- b) The Compliance Committee shall report directly to the Commission on its deliberations and recommendations
- c) The Compliance Committee shall cooperate closely with other IOTC subsidiary bodies in order to remain informed on all issues concerning compliance with binding IOTC Conservation and Management Measures
- d) The work of the Compliance Committee shall be guided by the following overall objectives:
 - i) To provide a structured forum for discussion of all problems related to effective implementation of, and compliance with, binding IOTC Conservation and Management Measures in the IOTC Area
 - ii) To gather and review information relevant to compliance with IOTC Conservation and Management Measures from IOTC subsidiary bodies, and from Reports of Implementation submitted by CPCs
 - iii) To identify and discuss problems related to the implementation of, and compliance with, binding IOTC Conservation and Management Measures, and to make recommendations to the Commission on how to address these problems.

3. The terms of reference of the Compliance Committee shall be to:

- a) Review each individual CPC's compliance with binding IOTC Conservation and Management Measures adopted by the Commission and make such recommendations to the Commission as may be necessary to ensure their effectiveness, notably in relation to:
 - i) The mandatory statistical requirements and all issues related to obligatory reporting and data providing, including non targeted species
 - ii) The level of CPC's conformity with binding IOTC Conservation and Management Measures
 - iii) The CPC's conformity with the resolutions concerning the limitation of the fishing capacity
 - iv) The status of implementation of resolutions for monitoring, control, surveillance and enforcement adopted by the Commission (e.g. Port inspections, VMS, follow-up on infringements and market related measures)
 - v) The reporting on authorised as well as active vessels in IOTC area of competence, in particular in relation to the IOTC Resolution on fishing effort limitation.
- b) The Compliance Committee shall also be tasked to:
 - i) Compile reports, with the help of the IOTC Secretariat, based on information submitted by CPCs in accordance to the various Resolutions adopted by the Commission and, which will form the basis for the compliance examination process
 - ii) Develop a structured, integrated approach to evaluate the compliance of each CPC against the IOTC Resolutions in force. The Chairman of the Compliance Committee, assisted by the IOTC Secretariat, will identify, select and transmit the significant non compliance issues to each CPC and submit them for discussion at the Compliance Committee meeting
 - iii) Issue its opinion on the compliance status of each CPC at the end of the meeting. Non compliance with the binding IOTC Conservation and Management Measures will lead to a declaration of non compliance by the Compliance Committee and recommend suitable actions for consideration of the Commission

- iv) Develop a scheme of incentives and sanctions and a mechanism for their application to encourage compliance by all CPCs
- v) Perform such other tasks as directed by the Commission.

4. IOTC Compliance Committee preparatory works:

4.1 In preparation for the meeting of the IOTC Compliance Committee the IOTC Secretariat will:

- 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;
- 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;
- iii) compile CPCs' initial replies to the questionnaire and comments and questions provided by other CPCs in the form of draft tables that will form the basis for the compliance examination process. The draft tables will present all available information relating to each CPC's implementation of obligations for review by the IOTC Compliance Committee. The draft tables will be provided to the relevant CPC on a secure section of the IOTC website [or emailed to the relevant authority]. Upon website posting [or emailing] of the relevant draft tables, each CPC may reply to the IOTC Secretariat within 15 days in order to (where appropriate):
 - a) provide additional information, clarifications, amendments or corrections to information contained in its draft report;
 - b) identify any particular difficulties with respect to implementation of any obligations; or
 - c) identify technical assistance or capacity building needed to assist the CPC with implementation of any obligations.
- iv) The IOTC Secretariat will then produce finalised tables for each CPC that will form the basis for the compliance examination process. These tables will be distributed to CPCs for discussion during the IOTC Compliance Committee session. This table could be updated up to one week prior to the commencement of the Compliance Committee.

4.2 The Chairperson of the IOTC Compliance Committee, assisted by the IOTC Secretariat, will identify, select and transmit the significant non-compliance issues to each concerned CPC and submit them for discussion in the IOTC Compliance Committee meeting at least 30 days in advance.

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.

- 1. The procedures of the Compliance Committee shall be governed *mutatis mutandis* by the Rules of Procedure of the Commission.