
COMPLIANCE FACTORS TO BE CONSIDERED IN AN ALLOCATION REGIME

PREPARED BY: THE SECRETARIAT ON BEHALF OF THE TCAC, 30 APRIL 2021

PURPOSE

To advise the TCAC on a range of compliance factors to be considered in an allocation regime.

BACKGROUND

At TCAC05 (in 2019) a small working group was tasked with addressing how and to what extent compliance matters should be taken into account in allocation. The TCAC agreed that compliance matters are important elements of the allocation and that the advice of the Compliance Committee should be sought on a range of compliance factors (IOTC-2019-TCAC05-R, app 5).

The Compliance Committee did not physically meet in 2020 due to the COVID-19 pandemic and as a result its agenda was much reduced and the TCAC's request was not addressed.

The TCAC07 (in 2021) recalled that its questions had yet to be reviewed by the Compliance Committee, and therefore requested the Secretariat to facilitate the process needed to have the Compliance Committee review and respond to the below listed questions at its 2021 meeting and make this information available to TCAC08 (later in June 2021).

COMPLIANCE FACTORS TO BE CONSIDERED IN THE ALLOCATION SYSTEM

Advice is sought on the following (underlined) questions:

Penalties for over-catch

There is general support to include a provision for a quota over-catch penalty.

In the current G16 proposal, it is proposed a default deduction ratio of 1.2:1 for over-catch of an annual allocation to be applied to the following allocation period, or a deduction ratio of 1.5:1 if that deduction is deferred to the subsequent allocation period. It also proposed that a second or greater consecutive over-catch result in a deduction ratio of 2:1, and no deferral would be permitted (see para 20(b) of the G16 proposal).

1. The CoC should advise on whether this is considered an adequate mechanism to address over-catch.

In addition, there is a need to account for persistent or significant over-catch; and persistent or significant non-reporting. There is general support for the need to take a graduated approach. Noting the need to consider capacity and preserve equity in the system, CoC should advise on the following issues to be decided:

2. After what period of time should there be an additional consequence beyond the normal over catch penalties. A period of 3 years was discussed.
3. Whether, in addition to a temporal factor, a percentage or tonnage threshold should be applied.
4. What penalty in this circumstance should be applied, noting that the over-catch could also be a reflection of a capacity issue.

It is also recognised that there is a need to develop a mechanism to reconcile reported catch against CPC allocations. It is proposed that this be discussed by the Commission meeting in 2019.

If it is not possible to adopt such a mechanism prior to the allocation system being adopted, it was considered that there is a need for each CPC to be transparent about how reported data is being verified. The annual compliance questionnaire is one way to achieve this. It was also identified that there needs to be a mechanism to account for when over-catch is not discovered until a later point in time.

5. CoC should advise on the best way to achieve this.

Past compliance history

It is recognised that compliance with IOTC Resolutions is important, and that penalties could be applied to CPCs in the allocation system for various infringements as a way to incentivise compliance. It was also recognised that, at this stage, the ability to comprehensively consider past compliance history in this system is constrained in the absence of a robust compliance monitoring scheme (CMS), which is under development by the IOTC. It was also considered that, for fairness, only compliance which can be objectively assessed by the Secretariat should be part of the penalty regime – at least until a CMS is adopted. Therefore, it was considered that a two stage approach could be taken.

The Compliance Committee, with assistance from the Secretariat, should advise the TCAC on the following elements:

6. Identification of Resolutions which are relevant for this exercise and where compliance could be objectively assessed by the Secretariat, including the relevant paragraphs. For example, Resolution 15/02 was identified: data provision is crucial, and integral to a successful allocation system; but it is also simple for the Secretariat to determine whether requisite data has been received or not. Applying a penalty to a CPC with a vessel on the IUU Vessel List was also discussed, but only to vessels linked to the IOTC IUU Vessel list (not as a result of cross-listing), and further consideration would need to be given to situations where the flag State is in the process of taking effective action but the vessel has not yet been de-listed.
7. The extent of the penalty to be applied to the allocation system (deduction) as a percentage of the total allowable catch as well as the criteria for applying the penalty. It would need to be clear how far back compliance is considered (eg compliance with Resolutions for [x] years), and is relevant to the duration of the allocation period more generally. It would also need to be clear about the basis for the penalty – for example, it should be applied for no data submission, rather than simply late data submission in the relevant period.
8. The use of the non-attributed quota. It was suggested that if a penalty is applied, that quota should not be redistributed (as this leads to too much variability in allocations and fleets are not equipped to respond); but could be set aside as a conservation benefit.

The allocation system could also reflect that once the Commission has adopted a fit-for-purpose compliance monitoring scheme to assess compliance by each CPC, that the Commission may develop a different mechanism to appropriately adjust allocations in a way that incentivises compliance in IOTC.

RECOMMENDATION/S

That the Compliance Committee:

1. **REVIEW** the above 8 questions.
2. **PROVIDE** written advice to the TCAC as requested.