

IOTC CIRCULAR 2023–54

Dear Sir/Madam,

REVISED COMPLIANCE ASSESSMENT CRITERIA – APPENDIX V, IOTC RULES OF PROCEDURE (2023)

At its 27th Session in May 2023, the Commission adopted a revised Rules of Procedure. One of the approved amendments in the newly adopted Rules of Procedure is Appendix V, which pertains to the work of the Compliance Committee.

As a result of the amendments to the procedures of the Compliance Committee, the Secretariat is proposing the attached document to assist CPCs to understand the effects of applying the new assessment criteria listed in Appendix V, including its Annex A. The primary purpose of preparing and disseminating the attached document is to inform CPCs about how compliance personnel will be objectively guided in their tasks of conducting compliance assessments. This will ultimately lead to the creation of CPCs' draft IOTC Compliance Reports.

Should any CPC require any further clarifications on the attached document, the Secretariat shall be happy to have a one-to-one virtual meeting with the concerned CPC, or a group virtual meeting if there is more than one CPC requesting further clarifications. To assist us in planning for this eventuality, I would request that CPCs contact the Secretariat as soon as possible (no later than 30 September 2023). This will allow the Secretariat to work with the concerned CPC(s) to decide on a date and time that would be convenient for all concerned parties for the virtual consultation(s).

I also wish to advise CPCs that the review of “Compliance Assessment Criteria”, as has been done in previous years, will not take place at the next Working Party on the Implementation of Conservation and Management Measures (WPICMM) meeting due to the urgent requirement for all concerned parties to be of the same understanding on the application of these assessment criteria.

Yours sincerely



Paul de Bruyn
Executive Secretary

Attachment: Assessment grid and assessment criteria.

Distribution

IOTC Contracting Parties: Australia, Bangladesh, China, Comoros, Eritrea, European Union, France (Territories), India, Indonesia, Iran (Islamic Rep of), Japan, Kenya, Rep. of Korea, Madagascar, Malaysia, Maldives, Mauritius, Mozambique, Oman, Pakistan, Philippines, Seychelles, Somalia, South Africa, Sri Lanka, Sudan, United Rep. of Tanzania, Thailand, United Kingdom, Yemen. **Cooperating Non-Contracting Parties:** Liberia. **Intergovernmental Organisations, Non-Governmental Organisations.** **Chairperson IOTC.** **Copy to:** FAO Headquarters, FAO Representatives to CPCs.

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The compliance status determination of a reporting requirement is, where applicable, grounded in the following main elements, as provided by the IOTC Rules of Procedure (2023), [Annex V](#):

- Transposition of Commission decisions - Legislation or administrative orders
- Provision of information on system or procedures to monitor and ensure compliance of vessels and persons
- Reporting deadline, and
- Reporting format – IOTC standard

Table 1. Assessment grid.

	Assessment			Remarks
	Met	Not met: =<15 days	Not met: > 15 days	
Submission deadline	Met	Not met: =<15 days	Not met: > 15 days	Where applicable
Legislation or administrative orders (reference/text)	Provided	Not provided		All requirements
Reporting format – IOTC standard	Met	Not met		Where applicable
System or procedures - Applicable to vessels or to the CPC:				
System or procedures - for vessels/persons: i to monitor compliance of vessels/persons ii to respond to non-compliance by vessels/persons iii action taken on non-compliance by vessels/persons	Provided or described <u>i-iii</u> <u>For i-iii</u>	Not provided or not described <u>If at least one of i-iii</u>	Not provided and not described for <u>i-iii</u> <u>Has no system or procedures</u>	All requirements
System or procedures – for reporting obligation: i) to implement the reporting obligation ii) to respond to non-compliance to implement the reporting obligation iii) action taken on non-compliance to implement the reporting obligation	Provided or described <u>For i-iii</u>	Not provided or not described <u>If at least one of i-iii</u>	Not provided & not described for <u>i-iii</u> <u>Has no system or procedures</u>	All requirements
Exceeding quantitative limit established by the Commission in two or more consecutive year	YES	NO		Resolution 21/01
Failure to respect a catch limit deduction resulting from an over-catch	YES	NO		Resolution 21/01
Failure to submit the standard questionnaire on compliance	YES	NO		Applicable to CQ
Failure to submit the implementation report	YES	NO		Applicable to IR
Failure to provide nominal catch data, including zero catches for one or more species for two or more consecutive year	YES	NO		Resolution 18/07
Failure to report back against follow-up actions agreed by the Commission for compliance issues	YES	NO		All requirements from CoC22
Failure to implement, monitor or ensure compliance with a non-retention ban on a species for two or more consecutive years	YES	NO		Non-retention ban on a species
Failure to provide nominal catch data in time for the conduct of stock assessment for one or more species for two or more consecutive years	YES	NO		Resolution 15/02
Failure to implement, monitor or ensure compliance with the same obligation for two or more consecutive years	YES	NO		All requirements from CoC22

Table 2a. Assessment criteria for Compliant status.

Status	Criteria	Conditions	Pathways	CR observation ¹
C	A CPC will be deemed Compliant where there are no compliance issues with an obligation, including the following (where applicable) have all been met:			
	a. reporting or submission deadlines;	a. - d. are met = C	IF a. 1 to 15 days after deadline = PC or IF a. > 16 days after deadline = NC1	Date received: <i>Date</i>
	b. implementation of obligations through national laws, regulations or administrative orders;		IF b. not provided = PC IF b. not provided for 2 or more consecutive years = NC2	<u>Legislation:</u> <i>Reference</i>
	c. submission of all mandatory information or data required, in the agreed format, as applicable.		IF c. not to agreed format (IOTC standard) = PC	<u>Standard:</u> <i>Yes</i>
	d. submission of information showing that it has a system or procedures to: i. monitor compliance; ii. monitor non-compliance, and iii. to take action in relation to potential non-compliance ² .		IF d. not provided/described = PC IF d. not provided/described for 2 or more consecutive years = NC2	<u>System/procedures:</u> <i>Yes, provided & described for i. – iii.</i>

¹ Additional observation(s) may be added under each sub-category, as appropriate.

² This criterion is introduced as a result of paragraph 5. c) ii) 2., of Appendix V of the RoP (2023).

Table 2b. Assessment criteria for Partially Compliant status.

Status	Criteria	Conditions	CR observation
P/C	A CPC will be deemed Partially Compliant with an obligation if any of the following have occurred, as applicable:		
	a. information or data for the obligation has been submitted or reported, but in a way that is incomplete or incorrect;	Any of a. - d. are met = P/C	<u>Standard:</u> <i>Missing Not to IOTC standard.</i>
	b. a CPC has failed to meet reporting or submission deadlines by less than 15 days		<u>Date received:</u> <i>X days after deadline.</i>
	c. has failed to implement, monitor or ³ ensure compliance with some but not all obligations specified in that CMM.		<u>Obligations:</u> <i>Failed to [implement and/or monitor and/or ensure compliance].</i>
d. a CPC has failed to provide information, for one or more of the following, showing that it has a system or procedures to: i. monitor compliance; ii. monitor non-compliance, and iii. to take action in relation to potential non-compliance ⁴ .	<u>System/procedures:</u> <i>Not provided or described for one or more of i. iii.</i>		

³ It is understood from Appendix V of the RoP (2023), paragraph 5. c) ii) that the requirement to provide information on “1. Implementation” and “2. Monitor and ensure compliance” are not mutually exclusive, whereas in Annex A the use of the term “or” present the requirements to “monitor/ensure compliance” as independent requirements over which a CPC may choose to report on one or the other.

⁴ See footnote 1.

Table 2c. Assessment criteria for Non-compliant category 1 status

Status	Criteria	Conditions	CR observation
NC1	A CPC will be deemed to be non-compliant category 1 if any of the following have occurred, as applicable:		
	a. the CPC has not submitted or reported information or data for the obligation;	Any of a. – d are met = NC1	<u>Submission:</u> <i>No information or data submitted.</i>
	b. the CPC has failed to meet a reporting or submission deadline by more than 15 days;		<u>Date received:</u> <i>Date. More than XX days after deadline.</i>
	c. the CPC has failed to implement, monitor or ensure compliance with an obligation.		<u>Obligations:</u> <i>Failed to [implement and/or monitor and/or ensure compliance].</i>
	d. a CPC has failed to provide any information showing that it has a system or procedures to: i. monitor compliance; ii. monitor non-compliance, and iii. to take action in relation to potential non-compliance ⁵ .		<u>System/procedures:</u> <i>Not provided or described for i. – iii.</i>

⁵ See footnote 1.

Table 2d. Assessment criteria for Non-compliant category 2 status

Status	Criteria	Conditions	CR observation
NC2	A CPC will be deemed to be non-compliant category 2 with an obligation if any of the following have occurred, as applicable:		
	a. exceeding quantitative limit established by the Commission in two or more consecutive years;	Any of a. - j. are met => NC2	<u>Observation:</u> <i>Exceeded limit in two or more consecutive years.</i>
	b. failure to respect a catch limit deduction resulting from an over-catch;		<u>Observation:</u> <i>Exceeded limit in two or more consecutive years.</i>
	c. failure to submit the standard questionnaire on compliance;		<u>Observation:</u> <i>CQ not submitted.</i>
	d. failure to submit the implementation report;		<u>Observation:</u> <i>IR not submitted.</i>
	e. failure to provide nominal catch data, including zero catches for one or more species for two or more consecutive year;		<u>Observation:</u> <i>Data not submitted for two or more consecutive years.</i>
	f. failure to report back against follow-up actions agreed by the Commission for compliance issues;		<u>Observation:</u> <i>No feedback on follow-up action(s).</i>
	g. failure to implement, monitor or ensure compliance with a non-retention ban on a species for two or more consecutive years;		<u>Observation:</u> <i>Failed to [implement and/or monitor and/or ensure compliance] for two or more consecutive years.</i> <u>Legislation:</u> <i>Not provided in two or more consecutive years.</i>
	h. failure to provide nominal catch data in time for the conduct of stock assessment for one or more species for two or more consecutive years;		<u>Observation:</u> <i>Failed to provide nominal catch data by the deadline for two or more consecutive years.</i>

	<p>i. failure to implement, monitor or ensure compliance with the same obligation for two or more consecutive years.</p>		<p><u>Observation:</u> <i>Failed to [implement and/or monitor and/or ensure compliance] of the same obligation for two or more consecutive years.</i> <u>Legislation:</u> <i>Not provided in two or more consecutive years.</i></p>
	<p>j. a CPC has failed to provide information showing that it has a system or procedures to: i. monitor compliance; ii. monitor non-compliance, and iii. to take action in relation to potential non-compliance in two or more consecutive years⁶.</p>		<p><u>System or procedures:</u> <i>Not provided or described for i. – iii, in two or more consecutive years.</i></p>

⁶ See footnote 1.

Table 2e. Assessment criteria for Capacity building in progress and Not applicable status.

Status	Criteria	Conditions	Status awarded by	CR observation
CB (Capacity building in progress)	A CPC will be assessed as “capacity building in progress” with an obligation if this CPC is benefiting from an IOTC capacity building activity intended to address the implementation with this obligation	Compliance Action Plan available to the CoC and/or Commission.	CoC and/or the Commission	<u>Observation:</u> <i>Status conferred by CoC and/or the Commission</i>
Status	Criteria	Conditions		CR observation
N/A	The measure does not apply to the CPC	The measure does not apply to the CPC		<u>Observation:</u> <i>NIL report / Not applicable.</i>