
ON AMENDING THE IOTC RULES OF PROCEDURES, APPENDIX V

SUBMITTED BY: EUROPEAN UNION

Explanatory Memorandum

The CoC21 RECOMMENDED that the Commission (S28) create an ad-hoc Working Group to improve the procedures outlined in the Rules of Procedures (Appendix V), notably paragraphs 4, 5 and 6. This ad-hoc Working Group should be convened virtually once or twice before the end of 2024, with the objective of presenting any clarifications and proposed changes to the RoP to the WPICMM for discussion. Based on the conclusions drawn from WPICMM's deliberations, a formal proposal for amending the RoP may be presented at the Commission annual session in 2025.

The ad hoc Working Group on Appendix V of the IOTC Rules of Procedure (WGAV) met three times in 2024 and agreed on a certain number of procedures and interpretations of the Appendix V of the IOTC Rules of Procedure.

It was agreed that a revision of the Appendix V of the IOTC Rules of Procedure regarding the terms of the reference of the Compliance Committee was necessary for at least one point:

The WGAV02 AGREED the need to amend Appendix V of the IOTC Rules of Procedure and modify the timeline for the provision of the Draft Compliance Report from 70 to 50 days before the Commission meeting.

The WGAV02 NOTED the offer of the participant from the European Union to submit a proposal to amend to the IOTC Rules of Procedure, Appendix V, that are agreed by the WGAV.

This amendment is captured under paragraph 4) a) iii).

Furthermore, there are two points of clarification that have been agreed by the WGAV that could benefit from being included in the Rules of Procedure directly to guide the secretariat in a more formal manner:

The WGAV02 CLARIFIED the following approach for identifying follow-up actions and reporting the results of such actions: After the Summary Compliance Report is provided, CPCs respond and provide their follow-up actions /remedial actions against their compliance issues on the Summary Compliance Report through eMARIS, in the column "Follow up/remedial actions"

The WGAV03 AGREED for the Compliance Questionnaire (CQ): a) Secretariat not to share all CQs in e-MARIS to other CPCs, but b) publish all CQs in the CoC meeting page

Those amendments are captured under paragraph 4) a) iv) and 4) a) i) respectively.

INDIAN OCEAN TUNA COMMISSION: RULES OF PROCEDURE (12May2023)**APPENDIX V****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 implementation 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 articles X.1, X.2 and XI.2 of the IOTC Agreement and applicable IOTC Conservation and Management Measures.
- 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 applicable 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 articles X.1, X.2 and XI.2 of the IOTC Agreement and applicable IOTC Conservation and Management Measures
 - ii) To gather and review information relevant to compliance with articles X.1, X.2 and XI.2 of the IOTC Agreement and applicable IOTC Conservation and Management Measures, and from documents submitted by CPCs (e.g. Reports of Implementation and standard questionnaires on compliance) or IOTC subsidiary bodies
 - iii) To identify and discuss problems related to the implementation of, and compliance with, articles X.1, X.2 and XI.2 of the IOTC Agreement and applicable IOTC Conservation and Management Measures, and to make recommendations to the Commission on how to address these problems, including considering all available responses to CPC non-compliance.
 - iv) To promote a positive compliance culture that focuses on improving CPCs overall compliance with the IOTC Agreement and applicable IOTC conservation and management measures.

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

- a) Review each individual CPC's compliance with articles X.1, X.2 and XI.2 of the IOTC Agreement and applicable IOTC Conservation and Management Measures 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 CPCs' conformity with articles X.1, X.2 and XI.2 of the IOTC Agreement and applicable IOTC Conservation and Management Measures;
 - iii) The level of CPCs' 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 with the various Resolutions adopted by the Commission and, which will form the basis for the compliance review process.
 - ii) Develop a structured, integrated approach to evaluate the compliance of each CPC against articles X.1, X.2 and XI.2 of the IOTC Agreement and applicable Conservation and Management Measures, as described in paragraphs 4, 5 and 6 below. The Chair 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 recommendation on the compliance status of each CPC at the end of the meeting, in accordance with the process described in paragraphs 4, 5 and 6 below.
 - iv) Develop a scheme of incentives and, where appropriate, other follow-up actions including 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:
- a) In preparation for the meeting of the IOTC Compliance Committee the IOTC Secretariat shall:
- i) Provide each CPC on a secure section of the IOTC website, and notified by email 4 months prior to the annual meeting, a standard questionnaire on compliance with the various binding applicable IOTC Conservation and Management Measures covering the previous calendar year. Such questionnaire shall also seek information on any follow-up actions by CPCs in response to the previous year's IOTC Final Compliance Report as stipulated in paragraph 6, for receiving comments and answers from the concerned CPCs no later than 80 days before the Commission meeting. The IOTC standard questionnaire as answered by CPC shall be made available to all CPCs on the IOTC website.
 - ii) Compile CPCs' initial replies to the questionnaire in the form of a draft IOTC Compliance Report. The draft IOTC Compliance Report shall summarise all available information relating to each CPC's implementation of and compliance with obligations for review by the IOTC Compliance Committee and shall include the suggested compliance status based on Annex A for each compliance issue identified. It shall also include relevant information regarding compliance with the submission of the annual report referred in articles X.1 and X.2 of the IOTC Agreement.
 - iii) The draft IOTC Compliance Report shall be provided to the relevant CPC on a secure section of the IOTC website and notified by email no later than ~~75~~⁷⁰ days before the Commission meeting. Upon website posting of the relevant draft report, each CPC may reply to the IOTC Secretariat no later than 30 days before the Commission meeting in order to (where appropriate):
 1. provide additional information, clarifications, amendments or corrections to information contained in its draft report;
 2. identify any particular difficulties with respect to implementation of any obligations;
 3. identify technical assistance or capacity building needed to assist the CPC with implementation of any obligations; and/or
 4. propose a change to any suggested compliance status based on justified grounds.
 - iv) The Secretariat shall then produce the IOTC Summary Compliance Report based on the draft Compliance Report of each CPC. Upon availability of the IOTC Summary Compliance Report, each CPC may reply to the IOTC Secretariat no later than 10 days before the Commission meeting in order to (where appropriate) provide follow-up/remedial actions to information contained in its IOTC

Commented [LM1]: Suggested by Secretariat. Agreed in the WG in any case

Commented [LM2]: Considering that the implementation report is provided 60 days before the Commission meeting, the secretariat has 10 days to integrate the IR into the draft CR.

Summary Compliance Report. The IOTC Summary Compliance Report shall form the basis for the compliance examination process described in paragraphs 5 and 6 and shall include, *inter alia*, a summary of each CPC's compliance with obligations, any compliance issues identified and a suggested preliminary compliance status by the Secretariat in accordance with Annex A.

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- v) The IOTC Summary Compliance Report shall be made available to all CPCs on the IOTC website no later than 25 days before the Commission meeting.

5. Provisional IOTC Compliance Report

- a) At each meeting, the IOTC Compliance Committee shall review the IOTC Summary Compliance Report, taking into account information contained in the report, as well as any further suitably documented information provided prior to or at the Compliance Committee meeting. The Compliance review process shall be undertaken CPCs by CPCs as well as measure by measure and obligation by obligation, as needed, and if required, prioritising non-compliance of category 2 and other recurring compliance issues. The Compliance Committee may request any CPCs that have relevant information to provide further details. The Compliance Committee shall also discuss non-submission or late submission of the questionnaire referred to in paragraph 4.a)i).
- b) On the basis of the information available, the Compliance Committee shall recommend a Provisional Compliance Report. The IOTC Provisional Compliance Report shall record any compliance issues identified, including an assessment of compliance status in accordance with Annex A. The IOTC Provisional Compliance Report shall record suggested follow-up actions in respect of compliance issues identified, in accordance with Annex A, including timeframes for implementation.
- c) For the purposes of the Provisional and Final IOTC Compliance Report, "Compliance Status" shall be based on the following information:
 - i) For a CPC-level quantitative limit or collective CPC quantitative limit, such as a limit on fishing capacity, fishing effort, or catch: verifiable data indicating that the limit has not been exceeded.
 - ii) For other obligations:
 1. Implementation – where an obligation applies, the CPC is required to inform and provide support documents, in national language if French and English are not available, that it has adopted, in accordance with its own national policies and procedures, binding measures that implement that obligation; and
 2. Monitor and ensure compliance – the CPC is required to provide information showing that it has a system or procedures to monitor compliance of vessels and persons with these binding measures, a system or procedures to respond to instances of non-compliance and has taken action in relation to potential infringements.
- d) The IOTC Provisional Compliance Report shall, where appropriate, also include recommendations to the Commission regarding:
 - i) any remedial action taken, or proposed to be taken, by the CPC;
 - ii) priority obligations to be reviewed for the next compliance assessment cycle, during the process described in paragraphs 4, 5 and 6; and
 - iii) other responsive action, including incentive measures which may be considered by the Commission as appropriate.

6. IOTC Final Compliance Report

The Commission shall consider the IOTC Provisional Compliance Report and any associated or other relevant information, including responses to compliance issues and follow-up actions recommended by the Compliance Committee and adopt it, with amendments as required, as the IOTC Final Compliance Report.

- 7. The process described in paragraphs 4, 5 and 6 shall be reviewed by the Compliance Committee after the compliance assessment process has been completed in full once. The Compliance Committee shall make

IOTC-2025-S29-06

recommendations to the Commission on future improvements to the process if necessary.

8. The Compliance Committee should take into consideration the capacity constraints and extenuating circumstances of developing coastal states. Nothing in this document shall contravene any obligation and special considerations provided for coastal fisheries in applicable IOTC Conservation and Management Measures.
9. The procedures of the Compliance Committee shall be governed *mutatis mutandis* by the Rules of Procedure of the Commission.

APPENDIX V – ANNEX A COMPLIANCE STATUS CATEGORIES

Compliance status	Criteria	Possible follow-up action
Compliant	<p>A CPC will be deemed Compliant where there are no compliance issues with an obligation, including the following (where applicable) have all been met:</p> <ol style="list-style-type: none"> a. reporting or submission deadlines; b. implementation of obligations through national laws, regulations or administrative orders; c. submission of all mandatory information or data required, in the agreed format, as applicable. 	No action required.
Partially compliant	<p>A CPC will be deemed Partially Compliant with an obligation if any of the following have occurred, as applicable:</p> <ol style="list-style-type: none"> a. information or data for the obligation has been submitted or reported, but in a way that is incomplete or incorrect; b. a CPC has failed to meet reporting or submission deadlines by less than 15 days; c. has failed to implement, monitor or ensure compliance with some but not all obligations specified in that CMM. 	<ul style="list-style-type: none"> • No further action: the CPC demonstrates that it has already taken appropriate action and no further action is required. • Follow-up action needed: the CPC shall provide additional information or address the compliance issue within a given period of time, and at the latest before the following annual meeting, unless otherwise decided by the Commission.
Non-compliant category 1	<p>A CPC will be deemed to be non-compliant category 1 if any of the following have occurred, as applicable:</p> <ol style="list-style-type: none"> a. the CPC has not submitted or reported information or data for the obligation; b. the CPC has failed to meet a reporting or submission deadline by more than 15 days; c. the CPC has failed to implement, monitor or ensure compliance with an obligation. 	<ul style="list-style-type: none"> • No further action: the CPC demonstrates that it has already taken appropriate action and no further action is required. • Follow-up action needed: the CPC shall address the compliance issue within a given period of time, and at the latest before the following annual meeting, unless otherwise decided by the Commission. <p>The follow-up action shall be appropriate to the relevant compliance issue and shall include one or more of, but are not limited to, the following responses, taking into account the history, circumstances, extent, and gravity of the compliance issue.</p>

		<p>Actions to be taken by the CPC</p> <ul style="list-style-type: none"> - actions proposed by the CPC and endorsed by the Commission; - the completion of an investigation by the CPC regarding a compliance issue and reporting back to the Compliance Committee, where required; - enhanced monitoring of the fleet; - amendments to domestic procedures, legislation or policy including penalties, where required; - other remedies. <p>Actions recommended by the Compliance Committee and endorsed by the Commission</p> <ul style="list-style-type: none"> - the provision of capacity building or technical assistance for a specified amount of time; - other remedies.
<p>Non-compliant category 2</p>	<p>A CPC will be deemed to be non-compliant category 2 with an obligation if any of the following have occurred, as applicable:</p> <ol style="list-style-type: none"> a. exceeding quantitative limit established by the Commission in two or more consecutive year; b. failure to respect a catch limit deduction resulting from an over-catch; c. failure to submit the standard questionnaire on compliance; d. failure to submit the implementation report; e. failure to provide nominal catch data, including zero catches for one or more species for two or more consecutive year; f. failure to report back against follow-up actions agreed by the Commission for compliance issues; g. failure to implement, monitor or ensure compliance with a non-retention ban on a species for two 	<ul style="list-style-type: none"> • No further action: the CPC demonstrates that it has already taken appropriate action and no further action is required; • Follow-up action needed: the CPC shall submit, within 3 months from the end of the Commission annual session, a detailed plan and timeline on how it intends to address the non-compliance of category 2 identified. <p>The follow-up actions and plan shall be appropriate to the relevant compliance issue and shall include one or more of, but are not limited to, the following responses, taking into account the history, circumstances, extent, and gravity of the compliance issue:</p> <p>Actions to be taken by the CPC</p> <ul style="list-style-type: none"> - submission of a detailed plan and timeline to address the non-compliance of category 2 identified;

	<p>or more consecutive years;</p> <p>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;</p> <p>i. failure to implement, monitor or ensure compliance with the same obligation for two or more consecutive years.</p>	<ul style="list-style-type: none"> - actions proposed by the CPC and endorsed by the Commission; - the completion of an investigation by the CPC regarding a compliance issue and reporting back to the Compliance Committee, where required; - enhanced monitoring of the fleet; - amendments to domestic procedures, legislation or policy including penalties, where required; - other remedies. <p>Actions recommended by the Compliance Committee and endorsed by the Commission</p> <ul style="list-style-type: none"> - the provision of capacity building or technical assistance for a specified amount of time; - other remedies.
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	
N/A	The measure does not apply to the CPC	