

Five Key Elements of an Effective Follow-Up Actions System

Overview

The rules that govern high seas fishing (including catch limits, types of fishing gear allowed, and where and when to fish) are set by 17 regional fisheries management organizations (RFMOs) that together cover 90% of the world's ocean and oversee fisheries worth billions of dollars a year. Enforcement of these rules is just as important for good governance as setting science-based, sustainable rules for fisheries. But unfortunately, many of the current RFMO systems include inconsistent, optional follow-up actions that undermine the effectiveness of these compliance processes. This can result in the same issues persisting for years, reducing the credibility of RFMO decisions, creating inequities among members, and weakening incentives to comply.

Most RFMOs carry out annual compliance reviews to help identify cases of noncompliance with their management measures and categorize the severity of those violations. However, in many cases they do not take the critical step of assigning follow-up actions. Also known as “corrective actions”, “corrective measures,” or “responses,” follow-up actions can range from requiring members to provide more detailed and accurate information to an RFMO, to creating a plan to correct the non-compliance in the future, to requesting help to build technical and management capacity. For cases of severe infractions, some RFMOs can require members to reduce or even stop fishing until non-compliance is corrected.

When implemented effectively, follow-up actions can be a fundamental tool to ensure that members correct existing non-compliance and prevent it in the future. **But a review of the follow-up actions in nine RFMOs shows that there is room for improvement across these management bodies¹.** The effectiveness of their compliance systems can be strengthened if their follow-up actions are required, time-bound, proportional, and applied automatically across the full range of noncompliance cases. These improvements would strengthen credibility, increase fairness among members, help deter future noncompliance, and ultimately lead to stronger management and more sustainable stocks.

Recommendations for RFMOs to Ensure an Effective System of Follow-Up Actions

While the review of the nine RFMOs' compliance review processes showed that each system was developed and operates in slightly different ways, there are five main elements related to follow-up action present across one or more of the RFMOs. To ensure those elements are in place and their follow-up action process is effective, all RFMOs should **1) agree to implement follow-up actions, 2) adopt a catalog of follow-up actions, 3) automatically assign follow-up actions based on the categories of non-compliance, 4) set timelines and require members to create an action plan, and then 5) monitor and assess members' responses.**

1. Agree to implement follow-up actions

RFMO members should first agree that their compliance review processes should include follow-up actions that would be implemented after the compliance assessment and the identification of cases of non-compliance. RFMOs can task their Compliance Committee to incorporate follow-up actions into their process, add the development of follow-up actions to the Commission workplan, and/or include language in the relevant Conservation and Management Measure.

2. Adopt a catalog of follow-up actions

RFMOs should then agree on a list of appropriate and acceptable actions that could be taken in response to cases of non-compliance. These catalogs of actions create uniformity, define the spectrum of appropriate corrective measures, and normalize the adoption of strong responses in cases of severe non-compliance. Follow-up actions can range from having members provide updated or additional information, to requiring enhanced monitoring, control, and surveillance, to providing capacity building assistance, and in the most extreme cases, to restricting fishing through reduced quotas or payback provisions. And as new types or categories of non-compliance are identified through the Commission process, additional relevant actions can be added to the list.

Of the nine RFMOs analyzed, four have adopted lists of specific follow-up actions that can be applied to cases of non-compliance. Those lists have been consolidated below:

Additional reporting and planning

- An investigation of the causes of the compliance issue and a report back to the Compliance Committee
- Data improvement and/or creation of action plans to improve reporting
- Additional reporting requirements, including more frequent catch reporting

Fishery restrictions

- Quota pay back
- Reduction in quota/effort allocation(s)
- Individual vessel quota requirements
- Bycatch retention limits
- Size class limitations
- Fleet capacity limits or reductions in line with specific recommendations
- Time and/or area restrictions
- Gear restrictions or requirements

Enhanced monitoring, control, and surveillance requirements:

- Increased observer requirements
- Increased inspection requirements
- Enhanced vessel monitoring system requirements (fleets covered or polling rate used)
- Restrictions on transshipment or landings
- Increased port sampling and/or inspection

Compliance assistance/capacity building programs

- Skills training - e.g. for observers, compliance officers or validators
- Systems development – e.g. technical or financial assistance to establish or improve operating systems and procedures
- Analytical assistance – e.g. to improve monitoring of trade flow from catching phase to the marketplace
- Technology purchase – e.g. VMS, data recording and transmission from fishing vessels
- Capacity development plan

Public disclosure

- A publicly available record of any instances of non-compliance and the follow-up action(s) taken by the relevant Member

Other actions

- Trade or market restrictions
- Amendments to domestic procedures, legislation or policy including penalties, where required

3. Automatically assign follow-up actions based on categories of non-compliance

RFMO members should agree to a system that categorizes non-compliance based on its severity and persistence, and then automatically assigns follow-up actions based on the categorization. This will ensure that the follow-up actions assigned by RFMOs are effective, proportionate, objective, and fair, which is particularly important in cases of serious or persistent noncompliance.

However, based on the analysis, many RFMOs do not currently mandate specific responses. Instead, they tend to “recommend” or “consider recommending” follow-up actions, which often leads to protracted discussions at Compliance Committee meetings and unequal application of sanctions. Instead, RFMOs should follow the lead of the handful of RFMOs that automate mandatory responses to noncompliance and adopt a system that implements pre-agreed follow-up actions, such as paying back catch following a quota overage.

4. Set timelines and require members to create an action plan

Most RFMOs link their compliance review processes and the assignment of follow-up actions to their annual compliance review process. This creates known timelines for when enhanced reporting and other responses must be completed. However, three of the analyzed RFMOs do not establish any timelines for setting or implementing such actions, and among those that do, the approaches vary.

Four RFMOs establish clear one-year deadlines for members to report on the implementation of follow-up actions and in most cases require members to address or fix a compliance issue by the next RFMO annual meeting. Two other RFMOs automatically increase the severity level of cases of non-compliance that have not been addressed in the previous year, but do not have clear deadlines for when follow-up actions need to be completed.

Four RFMOs require members to adopt action plans outlining how they will address instances of noncompliance. Three require the plans to be submitted within a year, while one RFMO requires the submission of the member's action plan within three months of the compliance committee identifying an infraction.

To standardize the process and ensure clear communication and expectations, RFMOs should agree on timelines for when cases of non-compliance must be addressed and should require that members submit an action plan within three months that details the actions they will take, including any automatically assigned follow-up actions, to address the situation of non-compliance by the assigned deadlines. RFMOs should also dedicate time for their compliance committees to review the plans submitted by Members to ensure the proposed actions are relevant and sufficient to address the noncompliance.

5. Monitor and assess members' responses

Even for instances of serious noncompliance, most RFMOs currently do not 1) have a defined process to actively monitor the implementation of members' action plans and follow-up responses or 2) safeguards to prevent members from remaining in a state of noncompliance for multiple years after the initial infraction. While members' compliance is sometimes mentioned in independent RFMO performance reviews, these reports are typically qualitative and not directly translated into specific management processes by the Commissions. The lack of an agreed-upon system to monitor and assess the implementation of follow-up

actions weakens the effectiveness of the compliance process and can allow for persistent non-compliance to go unchecked.

RFMOs should adopt a system to monitor and assess implementation of follow-up actions by their members, including by adding a specific step into the annual Compliance Review process. This would ensure compliance review processes achieve their intended goals to improve RFMOs' overall performance by correcting and deterring noncompliance.

Conclusion

Compliance review processes and implementation of follow-up actions are critical to the consistent and effective application of RFMO management measures. But across the board, RFMOs currently do not have all the right policies and procedures in place to ensure that noncompliance is addressed efficiently and successfully. By adopting a catalog of follow-up actions, assigning follow-up actions automatically, requiring clear deadlines and plans for implementation, and monitoring and assessing the results, RFMOs can vastly improve how they work with their members to ensure the effectiveness of their management measures and the sustainability of their fisheries.

GR Contact: Gerry Leape (gleape@pewtrusts.org)

Program Contact: Laura Eeles (leeles@pewtrusts.org)

¹ The nine RFMOs that were reviewed were the Commission for the Conservation of Southern Bluefin Tuna, the General Fisheries Commission for the Mediterranean, the Inter-American Tropical Tuna Commission, the International Commission for the Conservation of Atlantic Tunas, the Indian Ocean Tuna Commission, the North Pacific Fisheries Commission, the Southern Indian Ocean Fisheries Agreement, the South Pacific Regional Fisheries Management Organisation, and the Western and Central Pacific Fisheries Commission.