



Food and Agriculture
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Indian Ocean Tuna Commission
Commission des Thons de l'Océan Indien

IOTC Regional Observer Scheme

Observer Program Development & Logistic Coordination Workshop

Training Observer Debriefers

Follow up processes:

- Incidents and critical incidents
- Non-compliance
- Infringements

[IOTC ROS OLC TR 9.04]



CapMarine
Capricorn Marine Environmental

Incidents, critical incidents, non-compliance and infringements

Definitions

The following definitions on apply.

- ❖ **Incident:** *An incident is an event that disturbs observer or vessel normal operations but that does not involve the perception of a threat to life or includes elements of physical and emotional damage. E.g.: vessel entanglement with fixed fishing gear, observer minor illness or injury.*
- ❖ **Critical incident:** *A critical incident is an event out of the range of normal experience – one which is sudden and unexpected, involves the perception of a threat to life and can include elements of physical and emotional damage. E.g.: vessel fire, sinking; observer serious illness or injury, assault on the observer, observer missing at-sea or presumed fallen overboard, death.*

Often such events are sufficiently disturbing to overwhelm, or threaten to overwhelm, a person's coping capacity. Most people would be severely shaken by a critical incident but are likely to recover from its impact with appropriate support. By their nature, frontline staff like observers, are engaged in higher risk activities and are actively exposed to stresses in their line of work.

- ❖ **Non-compliance:** *The failure of a specific vessel (and therefore its Flag State) to comply with binding CMMs. E.g.: the refusal to release mobulid rays as stipulated in IOTC Res. 19/03, etc.*

Flag State action on compliance is primarily an “inward looking” exercise to determine the compliance of its vessels with CMMs of RFMOs in which they are members, therefore with its own rules. Compliance monitoring can be done by observers deployed on-board flagged vessels to verify that vessels honour the various aspects of CMM implementation. It is essential for flag States to have in place legislation that reflect the provisions of the IOTC resolutions in place, and that stipulate relevant sanctions for successive failure or refusal from flagged vessels to comply with IOTC resolutions in place.

- ❖ **Infringement:** *A breach or infraction to the applicable national and international legislation, that may lead to the application of sanctions that can go from fines to the removal of fishing licence, flag licence, or prosecution. E.g.: assault on the observer, shark finning, the use of steel-wire trace in longline (in some countries), or the use of drifting large-scale gillnets.*

Coastal States have the responsibility to ensure that foreign operators abide with applicable national and international legislation and CMMs when fishing in its EEZ. A flag State also has the responsibility to ensure that their own operators abide with this same legislation when they fish in its EEZ, on the high seas. Effective, proportionate and dissuasive sanctions, are generally included into legislation to ensure that the rules are respected.

Follow up processes

On Incidents and critical incidents

Observers play a critically important role in the fisheries management process, providing fundamental scientific information and playing an indispensable role in monitoring the compliance of CMMs, national fisheries laws, being the eyes and ears for their country and the region.

The safety and security of the observers is a high priority for IOTC CPC members. To do their job effectively, observers must be able to work in an environment that is free from, harassment, intimidation, assaults and other threats.

In June 2019, the Commission ENDORSED the IOTC Regional Observer Scheme (ROS) Standards (IOTC-2019-S23-10_Rev1[E]), by which CPCs observer programmes will be assessed against IOTC requirements to obtain authorisation to become part of the ROS.

These standards including a ‘Safety at sea’ standard that details minimum standard safety at-sea procedures and process to follow up on incidents and critical incidents.

Item Description	Standard Required
<p><u>Safety-at-sea</u></p> <p>Procedures established to guarantee that observers are deployed on safe/seaworthy vessels, and that at-sea observer emergencies and reports on issues of safety (including instances of harassment, intimidation, or assault) are immediately and effectively handled.</p>	<p>CPCs will ensure that all programmes have a vessel safety check form containing a list of minimum safety requirements in line with those of the Commission (<i>Guidelines for IOTC ROS</i>).</p>
	<p>CPCs will ensure that an “<u>Emergency Action Plan</u>” (EAP) is in place to accommodate any reported observer emergency and that it is included in any MoU established for the deployment of international observers in the context of the IOTC ROS.</p>
	<p>ROS expectation on Safety-at-sea</p> <p>A Vessel Safety Check (VSC), or equivalent, is conducted before each boarding and vessel safety conditions surveyed against the list of minimum safety requirements. A VSC form is filled out by observer/observer provider prior to embarkation to ensure that vessel safety conditions meet minimum safety requirements and that there is adequate safety equipment to cater for the extra observer on board. Observers have the right to refuse the boarding if the VSC highlights that the vessel does not comply with expected standards or if they consider a particular vessel to be un-safe.</p> <p>An EAP is in place to accommodate any reported observer emergency and it’s explained to observers and fully understood before observers depart on their trip.</p> <p>The EAP includes, as a minimum, the following agreed safety-at-sea standard procedures, detailed under <i>Guidelines for IOTC ROS</i>.</p> <ul style="list-style-type: none"> • Communications protocol and appropriate contact information: A communications protocol is established; designated personnel are assigned responsibility for maintaining a device capable of receiving a signal from the independent two-way satellite communication devices allocated to deployed observers. • Follow up responses: A procedure to initiate contact with the observer, the vessel, and, if necessary, the appropriate enforcement authority of Flag CPC and relevant Coastal CPCs is established. • Remedial action: Appropriate procedures for addressing

	<p>issues related to the safety of observers, including violations against observers, are established. These must include clear actions to be taken in the event of various emergencies.</p> <ul style="list-style-type: none"> • Completing the EAP protocols: Appropriate measures for addressing violations made against observers are established. Incidents involving observer reporting of Interference Harassment, Intimidation must be resolved through a legally or nationally recognized procedure. • Reporting to the IOTC: A procedure to report on incidents involving observers to the Secretariat is established.
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Observer programs managers, debriefers and observers should be fully aware of their NOP “Emergency Action Plan” (EAP), as well as of national legislation that addresses incidents or critical incidents that might threaten observer well-being, including procedures to follow and penalties incurred.

On non-compliance and infringements

Observer programs managers, debriefers and observers should be fully aware of national and international legislation of interest to observers.

Both debriefers and observers must understand the importance of reporting events of non-compliance and infringements accurately and of providing supporting information and evidence that may be used in follow-up actions.

Debriefers are to inform NOP managers of any case of infringements or non-compliance reported by observers.

NOP managers are to inform responsible institutions of non-compliance and infringements reported by observers, as internally agreed.

EXAMPLE

- NOP managers inform national organisation responsible for the fisheries monitoring, compliance and surveillance (MCS), for action to be taken upon reported infringement.
- NOP managers formally notify the IOTC, by reporting non-compliance cases to the IOTC Compliance Section.
- NOP managers compile and forward of non-compliance and infringement information to relevant national authorities that use it to decide upon the removal of fishing licences and/or flag rights to foreign and national vessels and to be included into CCP annual report on compliance for sharing with IOTC Compliance Committee.