

# TUNA RFMO COMPLIANCE ASSESSMENT PROCESSES: A Comparative Analysis to Identify Best Practices



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# Abstract

Each of the five international Regional Fisheries Management Organizations responsible for highly migratory species (“tuna RFMOs”) has an annual mechanism to monitor and assess the compliance of members, and in some cases cooperating non-members (CNMs), with their obligations under the RFMO convention and its conservation and management measures.

This technical report examines each of these tuna RFMO compliance mechanisms with respect to the range of obligations and commitments that are assessed, the current operational conditions of each compliance assessment process, what tools are available to respond to instances of non-compliance, and the public availability of information about the level of compliance of RFMO members or CNMs and their actions to address areas of identified non-compliance. The recommendations of each of the most recent tuna RFMO Performance Review Panels with respect to compliance are reviewed, and cross-cutting themes are identified.

This report also considers whether RFMO compliance assessment processes incentivize improvement in member compliance and in the performance of the RFMO as an institution. It also explores other aspects of designing or ensuring an effective RFMO compliance assessment system. In the final section, a set of best practices for monitoring, assessing, and addressing non-compliance in RFMOs is identified.

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The International Seafood Sustainability Foundation (ISSF) — a global coalition of seafood companies, fisheries experts, scientific and environmental organizations, and the vessel community — promotes science-based initiatives for long-term tuna conservation, FAD management, bycatch mitigation, marine ecosystem health, capacity management, and illegal fishing prevention. Helping global tuna fisheries meet and maintain sustainability criteria to achieve the Marine Stewardship Council certification standard is ISSF’s ultimate objective. To learn more, visit [issf-foundation.org](https://issf-foundation.org), and follow ISSF on Facebook, Twitter, Instagram, YouTube, and LinkedIn.

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# Executive Summary

Each of the five international Regional Fisheries Management Organizations responsible for highly migratory species (“tuna RFMOs”) has an annual mechanism to monitor and assess the compliance of members, and in some cases cooperating non-members (CNMs), with their obligations and commitments under the RFMO convention and its conservation and management measures.

This technical report examines each of these tuna RFMO compliance mechanisms with respect to the range of obligations and commitments that are assessed, the current operational conditions of each compliance assessment process, what tools are available to respond to instances of non-compliance, and the public availability of information about the level of compliance of RFMO members or CNMs and their actions to address areas of identified non-compliance.

The recommendations of each of the most recent tuna RFMO Performance Review Panels with respect to compliance are reviewed, and cross-cutting themes are identified. This report also considers whether RFMO compliance assessment processes incentivize improvement in member compliance and in the performance of the RFMO as an institution. It also explores other aspects of designing or ensuring an effective RFMO compliance assessment system. In the final section, a set of Best Practices for monitoring, assessing, and addressing non-compliance in RFMOs is identified.

All RFMO compliance mechanisms share the following core components, and their processes are broadly composed of three steps (Figure 1):

- a. Information gathering
- b. Review and assessment
- c. Feedback and/or application of corrective remedies by the RFMO and/or through its member States, and flag State action and follow up

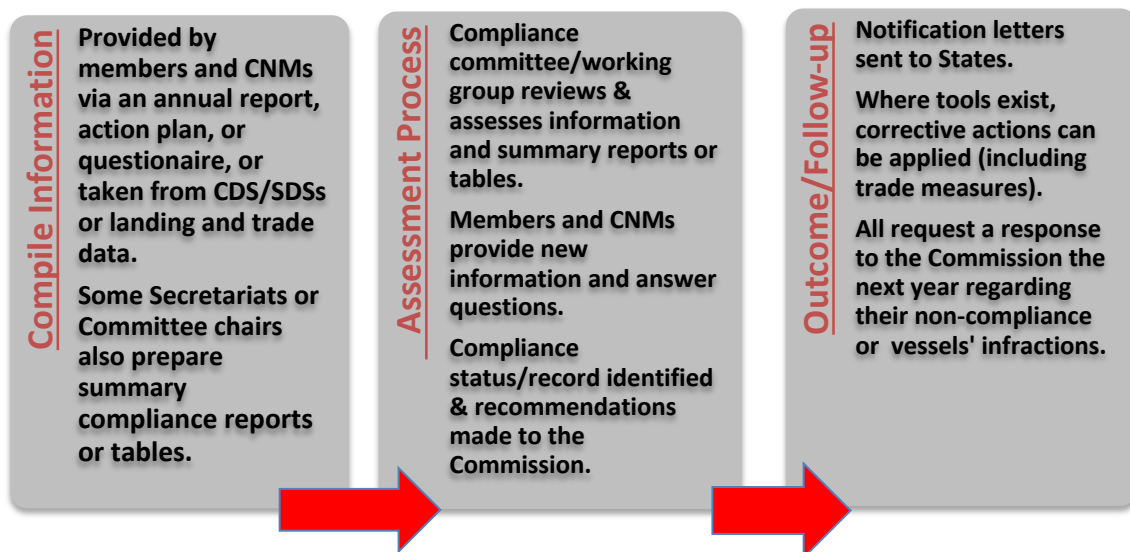


Figure 1. Schematic summarizing the core steps in RFMO compliance processes

However, the five tuna RFMO compliance monitoring processes vary in how they review and assess member and CNM implementation of and compliance with their obligations and commitments, what information is used by the compliance committees or working groups, what information is publicly available and at what level of detail, whether the RFMO has tools to address non-compliance and uses those tools (such as capacity building or application of sanctions), and the degree to which the RFMO follows up on the previously identified non-compliance.

Using the most recent publicly available meeting reports and other documentation, in general, across the tuna RFMOs revealed that a considerable number of States are not, either at all or in a timely manner:

1. Providing required catch-and-effort data or reporting on bycatch interactions or shark catches
2. Submitting annual national implementation reports or other compliance information, such as reports of investigations
3. Paying their assessed contributions to the budget

## Key Findings:

- 1 All five of the tuna RFMOs have compliance assessment processes.**
- 2 Only IOTC and ICCAT have the ability to take non-discriminatory trade restrictive measures, although they rarely do so.**
- 3 Only CCSBT and ICCAT have schemes of responses to non-compliance used to guide in addressing gaps in implementation by members. WCPFC has established a working group to develop such responses and IATTC has included the item for future discussion.**
- 4 WCPFC is the only tuna RFMO with a compliance assessment process that is currently closed to observers from accredited non-governmental organizations.**
- 5 There are a number of procedural and institutional changes, as well as governance reforms, which could improve and strengthen the functioning and effectiveness of existing RFMO compliance processes.**

Further, over-catches of quotas or violations of time/area closures and shortfalls in effective implementation of or participation in RFMO or national observer programs, vessel monitoring systems (VMS), statistical documentation or catch documentation programs or transshipment monitoring schemes are consistently highlighted. The impact of such pervasive member and CNM non-compliance on effective RFMO functioning and achieving sustainable tuna fisheries can be significant.

A review of the compliance-related recommendations of the Performance Reviews that have been conducted to date reveal similar shortcomings in this area across tuna RFMOs.

However, all five tuna RFMOs reviewed in this paper, within the last several years, have revised the mandates and procedures of their existing compliance committees. In addition, all of the tuna RFMOs have either added further tools, or are taking steps to develop such tools, to strengthen the ability of the organization to improve member and CNM implementation and compliance with, their obligations in relation to the RFMO conventions and conservation and management measures.

Further, several tuna RFMOs have made notable strides in responding to a number of their Performance Review Panel recommendations, and some have embarked on a second Performance Review.

Nonetheless, the information reviewed in this study makes it clear that more work is needed at the RFMO and national government levels to improve member compliance with their RFMO obligations and conservation and management measures, as well as transparency in the assessments and how RFMO members are addressing gaps in their implementation.

A set of Best Practices with regard to monitoring, assessing and addressing non-compliance in RFMOs is identified and presented with respect to three areas:

1. The information used by RFMOs
2. The structure and functioning of the RFMO compliance review process itself
3. The resulting outcomes and follow-up

A set of best practice recommendations is also presented with regard to creating an effective RFMO compliance assessment system and addressing procedural, institutional or organizational challenges based on interviews with more than two dozen RFMO compliance experts. A companion paper to this technical report compares the progress of all five tuna RFMOs with respect to these to best practices. This RFMO compliance process best practice snapshot paper is available on the ISSF Website.

The recommendations in this report were among the background material and resources used in recent collaborative, international convenings on this topic. The Pew Charitable Trusts (Pew), in collaboration with the International Seafood Sustainability Foundation (ISSF), convened three Virtual Expert Workshops in 2020-2021, which brought together over 60 experts including compliance officers from the RFMO secretariats, chairs of RFMO compliance committees, representatives from international organizations, non-governmental organizations (NGOs), academia and civil society. The workshops provided a forum to identify and discuss key challenges in the current RFMO compliance assessment processes and explore potential solutions to strengthen and enhance these processes. These workshop reports have been provided to tuna RFMOs and their compliance committees and are available on the ISSF site.

In 2022, a small group of internationally recognized experts<sup>1</sup> was convened and tasked with reviewing the collection of workshop recommendations and findings and preparing a compliance assessment model to strengthen and enhance the RFMO compliance assessment processes. This Experts Review Group prepared a document “Recommended Approaches and Tools to Evaluate and Strengthen RFMO Compliance Processes and Performance.” In 2022, the recommendations from this document were presented by members of the Expert Panel to IATTC, WCPFC TCC, CCSBT, and ICCAT (available [here](#)). The recommendations in this report complement and reinforce the recommended approaches and tools prepared by the Experts Review Group.

Further modification of existing tuna RFMO compliance mechanisms to incorporate and apply the recommended best practices presented by this report and the Toolkit to Evaluate and Improve RFMO Compliance Process would strengthen the ability of an RFMO to:

- Assess the degree to which its measures are being implemented and complied with
- Reward members abiding by the rules
- Provide assistance to nations that need it
- Identify those undermining the effectiveness of RFMO conventions and conservation and management measures, and incentivize them to improve
- Promote clarity regarding RFMO obligations and measures and what must be done to fully implement them
- Improve trust, fairness and transparency in the system
- Enhance RFMO performance in meeting its mandate

Additionally, greater transparency into the level of compliance of each member and CNM, and the steps they are taking to

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<sup>1</sup> Mr. Duncan Currie, Mr. Robert Day, Ms. Jung-re Riley Kim, Ms. Holly Koehler, Ms. Sarah Lenel, Mr. Masa Miyahara, Ms. Penelope Ridings and Mr. Gerald Leape. All of these experts participated in the Review Group in their personal capacities.

rectify implementation deficiencies or breaches of conservation measures, will promote system legitimacy, reduce perceptions of unfairness, and contribute to public and market confidence in the sustainable international management of global tuna fisheries through RFMOs.

# Research Questions

These research questions are for readers to begin to examine how aspects of our best-practice recommendations for compliance processes may help them in their work. The questions are not intended to be comprehensive or represent every recommendation in the report. They are designed to assist users in identifying how to use these best practices. We have organized these questions around the key themes covered in the report.

- **To what extent do RFMOs examine and assess members' level of compliance with RFMO conservation measures and obligations? Is this necessary?**
  
- **What is the process RFMOs use to assess member compliance?**
  
- **How are the results of such compliance processes used and shared?**
  
- **Do these processes incentivize improvements in implementation and RFMO performance?**
  
- **How effective are these processes, what are some of the weaknesses and how can they be improved?**

# Introduction

This technical report is a comprehensive survey of the current operational conditions and processes of tuna RFMO compliance processes, as well as perceptions of the effectiveness of RFMO compliance processes from within and outside RFMOs, with ideas for improvements. This paper is concerned with States' implementation of their RFMO obligations and commitments as members or CNMs, and not the compliance of individual vessels that are flagged to members or CNMs.

Five RFMOs are responsible for ensuring, through effective and cooperative management, the long-term conservation and sustainable use of highly migratory fish stocks ("tuna RFMOs").<sup>2</sup> All of these tuna RFMOs have adopted, over the years, measures to limit catch or effort, control or manage fishing capacity, mitigate bycatch of non-target species, require data reporting, and establish monitoring, control and surveillance tools and programs. However, these measures and tools are only effective to the degree they are appropriately designed and clear with respect to what is expected of members. Measures also must be effectively implemented and enforced by those States responsible for either the vessels that harvest, transport, tranship, and/or land tuna resources or the ports where those resources are landed and/or imported.

Further, tuna RFMOs cannot design effective science-based conservation harvest control measures or capacity controls without timely and accurate data, particularly catch and effort data, from all those participating in the fishery. In addition, RFMOs also require sufficient financial resources to support their Secretariats and science providers, ensuring the delivery of programs and services. Tuna RFMO budgets are resourced nearly exclusively from dues assessed to members and, in some cases, voluntary contributions provided by CNMs. If members and, where applicable, CNMs do not pay their dues promptly and in full, or will not agree to increases in certain budget items (such as for scientific research or new staff), tuna RFMO Secretariats face cash shortfalls and insufficient human resources that impact their ability to deliver services, manage programs, and perform work requested by their memberships.

Lastly, all States that are harvesting and/or landing or importing highly migratory fish should participate in the work of the relevant tuna RFMOs by attending the annual meetings of those Commissions and their subsidiary bodies, particularly the science and compliance committees. Failure to participate in these meetings can result in (1) the inability of the organization or committee to take decisions (lack of a quorum); (2) after-the-fact objections to agreed measures or recommendations, which can cause the measure being objected to from coming into effect<sup>3</sup>; and/or (3) inefficient use of meeting time when previously discussed items must be reviewed or are reopened. Such circumstances compromise the effective functioning of the organization, as well as erode the political buy-in from those States that did participate in the meeting and took part in developing the conservation and management measures.

This technical report has five content sections:

- In the first section, we survey the current compliance structures and processes in the five tuna RFMOs and identifies the overall landscape of obligations and commitments that a RFMO member or CNM is to implement.

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<sup>2</sup> The Inter-American Tropical Tuna Commission (IATTC), The Western and Central Pacific Fisheries Commission (WCPFC), The Commission for the Conservation of Southern Bluefin Tuna (CCSBT), The Indian Ocean Tuna Commission (IOTC) and The International Commission for the Conservation of Atlantic Tunas (ICCAT). These regional commissions are established by a treaty or other international instrument that prescribes, among other things, the geographic coverage and competence for the RFMO, the objective and functions of the commission, and any subsidiary bodies, as well as the duties and obligations of members. States join these organizations by ratifying or acceding to the parent treaties. The commissions are composed of the States that are party to the treaty, and many provide avenues for participation for non-parties through some type of cooperating non-party status. These States also employ an executive director and staff to conduct administrative, technical and scientific activities and to coordinate among the member States and to advise them. The Secretariat staff is funded by annual financial contributions assessed to members.

<sup>3</sup> This is the case with the IATTC; see Article IX of the Antigua Convention.

- We also identify, where possible, those obligations and commitments that are currently assessed as part of each RFMO's compliance review process. Further, we examine the transparency of the RFMO compliance structure to identify the extent to which the public has visibility into the compliance assessment process and its outcomes.
- In the next section, we survey the range of available RFMO responses to non-compliance.
  - Then we summarize observations of how RFMO compliance processes function in practice and offers ideas for improvements generated from surveys and interviews with tuna and non-tuna RFMO compliance officers, NGOs, compliance committee chairs, legal experts, and RFMO member delegates.
  - We then discuss tuna RFMO Performance Reviews with respect to monitoring, control and surveillance (MCS) and compliance.
  - Finally, we outline a set of Best Practices for improving RFMO compliance processes.

Only publicly available sources of information were consulted and used for the first, second, and fourth section of this report. This includes the conventions; resolutions; conservation and management measures; rules and procedures; and other reports, documents and data that are posted on the websites for the five tuna RFMOs or on [www.tuna-org.org](http://www.tuna-org.org), a joint website for the five tuna RFMOs.

As noted in the third section, more than two dozen experts were interviewed on how the various compliance processes function in practice, how they are evolving, potential operational or institutional challenges, and ideas for strengthening these processes. These experts were also consulted, when necessary, to seek clarifying information when publicly available information was not yet available or unclear or silent on an issue. The information provided has been anonymized.

**RFMO measures and tools are only effective to the degree they are appropriately designed, clear with respect to what is expected of members, and effectively implemented and enforced by those States responsible for either the vessels that harvest, transport, transship, and/or land tuna resources or the ports where those resources are landed and/or imported.**

In addition, as noted above, the recommendations were among the background material and resources used in the Pew-ISSF RFMO Compliance Workshops and complement and reinforce the recommended approaches and tools prepared by the Experts Review Group (available [here](#)).

Finally, eight international subject matter experts with decades of experience in all five of the tuna RFMOs reviewed earlier versions of this technical background paper.

# Compliance Processes Currently in Use in Tuna RFMOs

As shown in Table 1, tuna RFMO compliance processes vary in (1) how they review and assess member and CNM implementation of and compliance with their obligations, (2) what information is used by the committees (and how it is compiled and what sources are used), (3) what information is publicly available and at what level of detail, (4) whether the RFMO has tools to address non-compliance and uses those tools (such as by capacity building or application of sanctions or penalties), and (5) the degree to which the RFMO follows up on the previously identified non-compliance.

In addition, some tuna RFMOs continue to evolve processes and develop new tools (WCPFC, ICCAT and IATTC) or have begun to implement revised committee mandates and/or compliance review processes, guidelines and tools (IATTC, WCPFC, ICCAT and IOTC). However, all five tuna RFMOs' compliance processes do share core due-process components and, in some cases, standards for distinguishing between minor and serious non-compliance and the types of corrective action tools that are available. Figure 1 outlines the basic steps in RFMO compliance processes that are, for the most part, shared among the five tuna RFMOs.

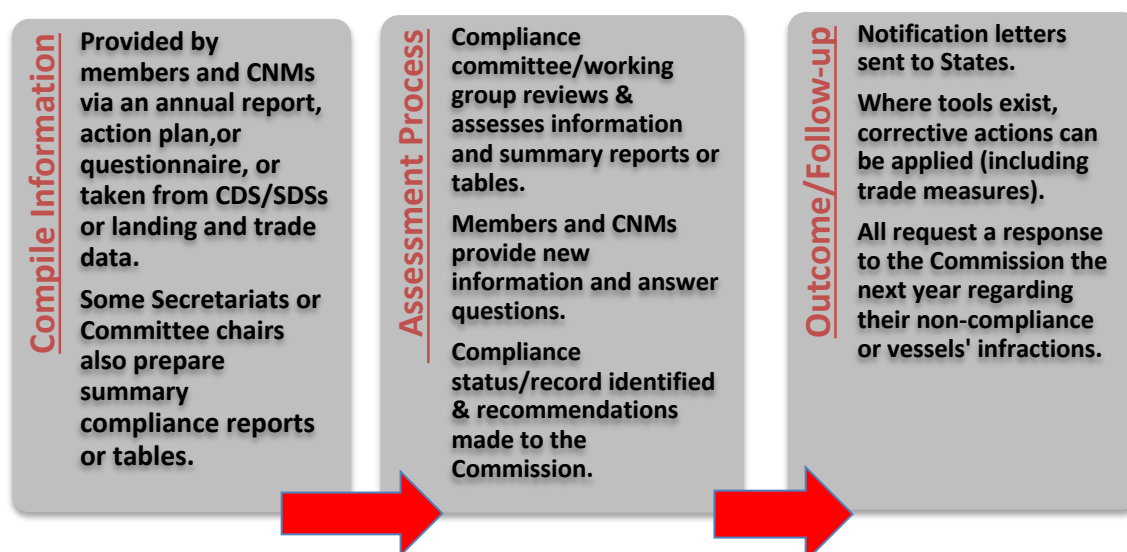


Figure 1. Schematic summarizing the core steps in RFMO compliance processes

## IATTC

The mandate, functions and procedures for the Committee for the Review of Implementation of Measures adopted by the Commission are elaborated in Article X and Annex 3 of the Antigua Convention. The provisions of Annex 3 were further articulated in 2011 (via Resolution C-11-07) with the aim of improving compliance with measures adopted by the IATTC. This Resolution was further enhanced in 2022, through adoption of a number of improvements, including providing a better structure for the Committee's discussions, formalizing the adoption by the Commission of a compliance report and to facilitate the follow-up of cases of non-compliance and related matters (C-22-02).

**Compliance Assessment Process.** The IATTC has a standard questionnaire on compliance with IATTC resolutions that is sent to CPCs three months before the Review Committee Meeting. The IATTC Director also compiles information on possible non-compliance with IATTC resolutions using data from the observer programs for purse-seine fishing vessels, at-sea transshipment, and longliners as well as other available sources, and this information as related to the fishing vessels flagged to an individual CPC is sent to each CPC, three months prior to the Committee meeting.

CPCs are to complete the questionnaire three months in advance of Committee meeting. Each CPC is to investigate the possible non-compliance cases identified and report the results of the investigation back to the IATTC Director two months prior to the Review Committee meeting. Then the IATTC Director circulates the filled-in questionnaires and the list of names and flags of the fishing vessels involved in the possible non-compliance cases, as well as the response of the flag CPCs to such cases, to all CPCs one month prior to the Review Committee meeting.

The Review Committee reviews each CPC's compliance and enforcement of IATTC resolutions using the filled-in questionnaires, the compliance report provided by the Director, and information on possible non-compliance cases with IATTC resolutions. The IATTC Secretariat is to include in the IATTC compliance summary report figures and charts on overall compliance, including the number of reported infractions versus the total number of sets or the number of trips, or the number of vessels in a given year. The Secretariat also reports on responses by CPCs to the questionnaire or identified areas of potential non-compliance. The Secretariat is also to provide information on compliance with data submissions or reports for previous years so patterns can be identified.

The Committee also discusses non-submission or late submission of questionnaires and repeated absences at Committee meetings. The Committee is to identify, for each CPC, the compliance record and areas of possible improvement as well as any recommended actions for consideration of the Commission based on the results of the review. Such identifications and recommendations are recorded in a Provisional Compliance report and sent to the Commission.

The Commission adopts the Final Compliance Report. Following the Commission Meeting, the Chair of the Review Committee is to send a letter to each CPC informing the CPC of its compliance status. Each CPC is then to respond to the Commission in writing at least two months prior to the subsequent annual meeting of the Commission (in a format to be developed by the Secretariat) to inform the Commission of steps it has taken or plans to address the identified compliance issues.

**Obligations Assessed.** The IATTC compliance process reviews implementation of specific obligations prescribed in IATTC measures that are in force and involve compliance by vessels and CPCs. The review typically took place CPC by CPC. However, in 2022, the Committee decided to proceed with a resolution-by-resolution review, giving each CPC the opportunity to respond to possible non-compliances and clarify what actions it had taken in this regard. It does not review compliance with obligations of the Convention overall, with the exception of Article XVIII on Implementation, Compliance and Enforcement.<sup>4</sup>

**Transparency.** The IATTC Review Committee is open to accredited observers and observers may view the material that is presented in the meeting, but documents are circulated only to CPCs.

**Outcomes.** The IATTC compliance process does prescribe a compliance status for CPCs, which is contained in Annex 2 of C-22-02. The status designations each have criteria and suggested actions by CPCs. The status categories are: Resolved; Not Resolved; Additional Information Required; Need of Interpretation or Clarification by Committee/Commission; No Compliance Status Assigned; and No Consensus Reached. The IATTC process has not had a standard for distinguishing between non-compliance of a minor or technical nature and serious non-compliance that, for instance, undermines the effectiveness of the Antigua Convention or resolutions adopted by the Commission. However, as part of the ongoing work to strengthen the compliance process, future assessments may include more objective assessments of the relative magnitude of possible non-compliances. The Provisional Compliance Report that is provided to the Commission is to identify, for each CPC, the compliance record, areas of possible improvement as well as any

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<sup>4</sup> Article XVIII, paragraph 3: *Each Party shall promptly, through the Director, inform the Committee for the Review of Implementation of Measures Adopted by the Commission established pursuant to the provisions of Article X of this Convention of: (a) legal and administrative provisions, including those regarding infractions and sanctions, applicable to compliance with conservation and management measures adopted by the Commission; (b) actions taken to ensure compliance with conservation and management measures adopted by the Commission, including, if appropriate, an analysis of individual cases and the final decision taken.*

recommended actions for consideration of the Commission. As noted, Annex 2 of C-22-02 also includes suggested actions that are to guide the development of these recommendations. C-22-02 also states that the Commission may consider capacity-building support measures and technical assistance, or other possible actions to raise awareness of IATTC obligations, including missions to be undertaken by the IATTC Secretariat.

In 2022, the Commission also agreed to a number of other recommendations to continue strengthening its compliance process, including adding a standing item on this topic on the agenda of the IATTC Review Committee, improvements in the presentation of compliance information compiled by the Secretariat, the creation of reporting templates or online systems, and the development of scheme of sanctions and incentives and a mechanism for their application to improve compliance by CPCs. With some exceptions, all decisions of the IATTC are taken by a consensus of those present.<sup>5</sup>

## WCPFC

The WCPFC adopted a Compliance Monitoring Scheme (CMS) in 2010 and it has been revised and/or extended nearly every year since. The effectiveness of the CMS was reviewed by an independent expert panel in 2017.

**Compliance Assessment Process.** In brief, the WCPFC CMS comprises three stages. First, the Secretariat prepares a draft compliance monitoring report (dCMR) from submitted Part I and Part II Annual Reports<sup>6</sup> and other available data submitted to the Secretariat in fulfillment of obligations with other CMMs. The dCMRs are then provided to each member or CNM for their review and comment. Prior to the Technical and Compliance Committee (TCC) meeting, the dCMRs are made available to CCM along with any information or comments provided by them. Second, a working group comprised of CCMs and certain regional secretariats is convened during the TCC to review the dCMRs, highlight any potential compliance issues with respect to each CCM, and consider any other information provided and to make a provisional assessment of each CCM's compliance status. The TCC then develops a provisional Compliance Report (pCMR) that contains the provisional compliance assessment and recommendations for any corrective action needed, based on the potential compliance issues identified, and using the criteria and considerations for determining Compliance Status set out in Annex 1 of the CMS measure. Third, at its annual meeting, the Commission reviews the pCMR, and any information provided by CCMs, including any steps taken to address potential compliance issues identified, and is to adopt its final Compliance Monitoring Report with a compliance status for each CCM and recommendations for any corrective action needed. Each CCM is to include, in its Part 2 Annual Report for the next year, any actions it has taken to address its identified non-compliance in the previous year.

The WCPFC CMS is supported by the WCPFC online reporting systems that are used for CCMs to submit their Part II Annual Reports to WCPFC, and for the development, review and finalization of the Compliance Monitoring Report through the three stages of the CMS process. In 2016, the WCPFC expanded its online systems to include a secure, searchable online compliance case file system. The current CMS CMM lists the information that flag CCMs are to provide for each case in the online systems, including whether an investigation has been started, its status, whether the alleged violation arose from an observer report, the outcome of the investigation, whether a violation was found and/or charged, and other data relating to support CCMs in the tracking of alleged violations by their vessels. The compliance case file system supports the notification to the relevant flag CCM of alleged violations by their vessels and tracks the progress of investigations by flag CCMs for individual alleged violations, up until the conclusion of the investigations by the relevant flag CCM. The online compliance case file system includes notification of alleged infringements detected through high seas boarding and inspections, port inspections, aerial surveillance or observer reports where one CPC has notified the

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<sup>5</sup> See article IX of the Antigua Convention.

<sup>6</sup> Part I is to provide to the Commission information on fisheries, research and statistics during the preceding calendar year. Part II is to provide information on management and compliance with all binding CMMs, as well as reporting on inspection and surveillance activities including frequency, and on outcomes of investigations including prosecutions, since the previous report. Part II Reports are not public.

WCPFC and requested another flag State conduct an investigation in accordance with Article 25(2) of the Convention. The WCPFC online systems assist the Secretariat and CCMs with the review of key WCPFC CMM requirements through the CMS process. In advance of the TCC, when its dCMR is transmitted to a CCM, the Secretariat draws on the online case file system and also transmits to each flag CCM the infringement identification related to alleged violations by its vessels for the previous year. CCMs are to review this information with their dCMR. In addition, using the online case file system, the Secretariat also transmits to all CCMs aggregated information across all fleets based on the information reported by CCMs for the last five years. This aggregated information is to provide an indicator or potential inconsistencies in the implementation of obligations to identify potential challenges in implementation and potential systematic issues. The TCC is to review this aggregated information along with the dCMR. If there are cases that have been in the online system for two or more years that remain open, the TCC is to consult with the flag CCM and identify what is needed to resolve the cases, identify a timeframe for resolution and then report to the Commission.

**Special Provisions.** The WCPFC CMS includes provisions for capacity development plans<sup>7</sup>. In brief, these provide that if a small island developing State, Participating Territory, or Indonesia or the Philippines cannot meet a particular obligation that is being assessed, due to a lack of capacity, that CCM shall provide a Capacity Development Plan to the Secretariat with their dCMR.<sup>8</sup> If the capacity assistance need is recognized by the TCC, then the affected CPC will be assessed as “Capacity Assistance Needed” for the obligation(s). They are to report annually on its progress under the Plan until its timeframe has elapsed. When the TCC recognizes the commencement of an investigation of an alleged infraction the CCM is assessed as “Flag State Investigation” for the obligation(s). CCMs are to report annually through the WCPFC’s online compliance case file system on the progress of its investigation(s), including any actions taken.

**Obligations Assessed.** The current WCPFC CMS outlines how the annual assessment of compliance by CCMs with priority obligations during the previous calendar year will be identified using, as a guide, a risk-based assessment framework (RBAF) that was adopted in 2022.<sup>9</sup> The CMS CMM<sup>10</sup> also established a list of factors to be considered regarding which obligations are to be assessed in the next year. The CMS CMM also provides the criteria for how to assess specific obligations<sup>11</sup>: (1) for CCM-level quantitative limits — or collective CCM quantitative limits — such as a limit on fishing capacity, fishing effort, or catch, there must be verifiable data indicating that the limit has not been exceeded; (2) For “implementation” obligations, the CCM is to provide information showing that it has adopted, in accordance with its own national policies and procedures, binding measures that implement that obligation; and (3) for monitoring and ensuring compliance, CCMs are to provide information showing they have 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 infractions.

The Commission is also to evaluate the level of compliance by CCMs with collective obligations arising from the Convention of conservation measures related to fishing activities managed under the WCPFC. Each year the Commission is to identify whether additional obligations should be considered annually or in another specified time period. The current WCPFC CMS has a set of interim criteria and considerations that has guided a compliance status rating that does include a standard for a score of “non-compliant” and a higher standard for a score of “priority non-

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<sup>7</sup> See paragraphs 14-21 of CMM 2019-06.

<sup>8</sup> A Capacity Development Plan is one that: (i) clearly identifies and explains what is preventing that CCM from meeting that obligation; (ii) identifies the capacity building assistance needed to allow that CCM to meet that obligation; (iii) estimates the costs and/or technical resources associated with such assistance, including, if possible, funding and technical assistance sources where necessary; and (iv) sets out an anticipated timeframe in which, if the identified assistance needs are provided, that CCM will be able to meet that obligation.

<sup>9</sup> See: <https://www.wcpfc.int/compliance-monitoring>

<sup>10</sup> CMM 2019-06

<sup>11</sup> See para. 7 of CMM 2019-06.

compliant.” However, with the adoption of formal Audit Points for WCPFC obligations and an Audit Point Checklist by the Commission in 2022, it is expected that these audit points will be used as the primary tool in the CMS for assessing compliance. The CMS Compliance Status Table also outlines the response a CPC must take once assessed in that status.

**Transparency.** The WCPFC’s CMS process is unique among the five tuna RFMOs in that it is opaque to accredited observers to the RFMO and the public.<sup>12</sup> The WCPFC compliance review process is not transparent in that the Part II Annual Reports, the dCMRs and pCMR, the TCC’s provisional compliance score or assessment, Capacity Development Plans or CPC’s annual reports under these plans, or the responses in either their dCMRs or the final CMR are not publicly available. Further, the CMS working groups convened during the TCC and Commission meetings are closed to observers (except for the Secretariats of SPC, Forum Fisheries Agency and the Parties to the Nauru Agreement), in contrast to the practices of ICCAT, IATTC, IOTC and CCSBT. The current WCPFC CMS measure does, however, explicitly allow for non-governmental organizations to provide suitably documented information to be included in the dCMRs and to be considered by the TCC, even though such organizations are not allowed to observe the CMS working group deliberations or review any of the documents produced by the Secretariat, TCC or CPCs. The current CMS CMM does include the development of guidelines for the participation of observers in closed meetings related to the CMR as part of a future work plan.

**Outcomes.** The final CMR includes the specific area of non-compliance by CPC, as well as whether the non-compliance has been noted for more than one year. But it does not yet include any recommendations for any corrective action needed, based on non-compliance identified with respect to CPC. The WCPFC established an Intersessional Working Group in 2023 tasked with developing responses to non-compliance that would be applied through, and complement, the CMS, and that would include cooperative capacity-building initiatives and, as appropriate, such penalties and other actions as may be necessary to promote compliance.<sup>13</sup> Finally, although a chambered voting process<sup>14</sup> can be used for decision-making in the WCPFC, to date all decisions have been taken by consensus. Further, the current CMS CMM specifies that the provisional assessment of each CCM’s Compliance Status will be decided by consensus. However, if every effort to achieve consensus regarding a particular CCM’s compliance with an individual obligation has failed, the Provisional CMR Report will note the majority and minority views. In this case, the provisional assessment will reflect the majority view and the minority view will also be recorded. The current CMS measures also states that a CCM shall not block its own compliance assessment if all other CCMs present have concurred with the assessment. However, if the assessed CCM disagrees with the assessment, its view will be reflected in the Provisional Report or the final Compliance Monitoring Report.

## ICCAT

ICCAT established the terms of reference for its Conservation and Management Measures Compliance Committee in 1995 (Rec. 95-15). These terms of reference were revised in 2011 (Rec. 11-24). The Compliance Committee is now responsible for reviewing all aspects of compliance and cooperation with ICCAT conservation and management measures, including monitoring, control and surveillance measures. In brief, the ICCAT compliance process is composed of three stages, some of which can be and are repeated depending on the circumstances and responses from the

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<sup>12</sup> In 2021, the WCPFC adopted CMM 2021-03 that amended CMM 2019-06, which includes finalizing the guidelines for observer participation in 2022.

<sup>13</sup> In 2021, the WCPFC adopted CMM 2021-03 that amended CMM 2019-06, which includes progressing the CMS Future Work components. One of these components is the development of corrective actions to encourage and incentivize CCMs’ compliance with the Commission’s obligations, where non-compliance is identified.

<sup>14</sup> See article 20 of the WCPF Convention.

concerned CPC or non-party without cooperating status.<sup>15</sup> In 2018, ICCAT adopted some amendments to several recommendations to improve the compliance review of those recommendations (Rec. 18-05; Rec. 18-06; and Rec. 18-07).

**Compliance Assessment Process.** The Compliance Committee Chair, assisted in practice by a Friends of the Chair Group made up of representatives of each of the geographic regions among the ICCAT membership, reviews the report of compiled compliance information that was prepared by the Secretariat, which covers compliance-related information for CPCs. This group also reviews any input by CPCs, and fishery-related information of non-parties without cooperating status, to identify and highlight serious issues. In the second stage, the Chair of the Compliance Committee presents the identified compliance issues to the Committee. The Committee discusses apparent issues of non-compliance with a focus on more serious matters, and individual Parties may raise issues of concern during sessions and seek explanations from others that are present. The Chair of the Committee, in consultation with the Friends of the Chair Group, then develops recommendations for specific actions to address non-compliance/encourage cooperation.

Several ICCAT instruments guide these recommendations:

- ICCAT's Recommendation on Trade Measures (Rec. 06-13)
- ICCAT's quota compliance rules
- ICCAT's Recommendation on Compliance with Statistical Reporting Obligations (Rec. 05-09)
- Specific penalty provisions in species recommendations (such as for silky and shortfin mako sharks as well as the eastern Atlantic and Mediterranean bluefin tuna recommendation)
- ICCAT's Recommendation on "Penalties Applicable in Case of Non-fulfillment of Reporting Obligations" (Rec. 11-15), which prohibits members and CNMs from retaining ICCAT-managed species until they are in compliance with their catch-and-effort reporting obligations
- ICCAT's Resolution Establishing Guidelines for the Implementation of the Recommendation 11-15 by ICCAT on Penalties Applicable in the Case of Non-Fulfillment of Reporting Obligations (Res. 15-09)
- ICCAT's Resolution Establishing an ICCAT Schedule of Actions to Improve Compliance and Cooperation with ICCAT Measures (Res. 16-17)
- ICCAT's Schedule of Compliance Issues and Corresponding Actions (Ref. 22-18)

In addition, information on cooperation by parties without cooperating status is presented in a separate document, the "Secretariat's Report to the Compliance Committee."

**Obligations Assessed.** The ICCAT Compliance Committee reviews implementation of obligations prescribed in ICCAT conservation and management measures that are in force and involve compliance by vessels, members and CNMs. It does not review compliance with obligations of the Convention more broadly. The ICCAT compliance process does assess the status of each member's implementation of and compliance with ICCAT conservation and management measures, including MCS measures, as well as the level of cooperation by CNMs with ICCAT. The Compliance Committee also distinguishes between non-compliance of a minor or technical nature and serious non-compliance that undermines the effectiveness of ICCAT conservation and management measures. In general, serious cases of non-compliance result in identification under the ICCAT Trade Measures Recommendation and minor or technical cases are outlined in letters of concern. The ICCAT Compliance Committee considers the history, nature, circumstances, extent,

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<sup>15</sup> ICCAT uses Contracting Parties and Cooperating non-Contracting Parties, Entities and Fishing Entities (CPCs) and non-members without cooperating status (non-CPCs) to encompass the universe of States that are reviewed, but for simplicity sake, this paper will use the same nomenclature (members, CNMs) throughout.

and gravity of the act or omission that may have diminished the effectiveness of ICCAT measures when reviewing and assessing compliance and deciding whether to make an identification under the Trade Measures Recommendation.

**Transparency.** The ICCAT Compliance Committee is open to accredited observers. The Secretariat posts meeting documents, including compliance-related papers, on the ICCAT website for the annual meeting, and ensures that accredited observers are notified of these documents prior to the meeting.

**Outcomes.** ICCAT Resolution 16-17 outlines a set of guidelines for an ICCAT schedule of actions that applies when determining non-compliance and appropriate responses.<sup>16</sup> In 2022, the Commission adopted a Schedule of Compliance Issues and Corresponding Actions,<sup>17</sup> also called “a severity table” of actions to be taken depending on the type and level of severity of the potential non-compliance issue, which are categorized as “A”, “B” and “C” non-compliances. Category A non-compliances relate to failures to implement catch, effort or gear restrictions, safe handling or release requirements, etc. Category B non-compliances relate to failures or delays in reporting required data or reports, etc. Category C non-compliances relate to failures to implement MCS measures, catch or trade documentation programs, etc. This Schedule also outlines the action to be recommended by the Compliance Committee and mitigating and aggravating circumstances.

With the adoption of the new Schedule, the process for using it will occur for the first time in 2023. Based on past practices, the Committee will first determine that non-compliance has occurred, and then determine what further action is warranted, using both the guidelines and the new Schedule. The Committee can then recommend an action/actions as outlined in Schedule and guidelines, which can include Letters of Concern, Identification, loss or limitations on the right to implement certain ICCAT Recommendations, action under Rec. 06-13, and capacity-building and technical assistance options. The Committee gives those present at the meeting an opportunity to provide additional information or explanations before developing final recommendations. Finally, the Commission will then take a decision on the Committee’s recommendations and sends a letter to each CPC conveying its decision, asking that the identified issues be rectified (or quotas paid back) and requesting a written reply 30 days in advance of the next Commission meeting. At the next Commission meeting, the Compliance Committee again reviews compliance information, and considers any responses to the ICCAT letters as well as any new information.

In cases of previously identified States, the Committee may recommend that the Commission take one of the following actions pursuant to the Recommendation 06-13 on Trade Measures:

- i. Lift the identification; maintain the identification; impose penalties, including non-discriminatory trade restrictive measures; or
- ii. Lift previously agreed trade restrictions (with the additional possibility of re-identification if circumstances so warrant).

The ICCAT trade measures instrument provides that other types of penalties should be implemented, such as reduction of quotas or catch limits, before trade restrictive measures are considered. It is also possible for additional letters of concern to be sent. Depending on the circumstances, such letters may or may not precede an identification decision. However, with the adoption of Recommendation 11-15 and Resolution 15-09, for reporting obligations, if the Compliance Committee determines that a CPC has not submitted the required data, the CPC will be prohibited from retaining the concerned species/stock from the relevant fishery as of the following year unless and until the data are provided to the Secretariat. The Committee also considers if any other actions in accordance with Recommendations 05-09 and/or 06-13

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<sup>16</sup> See Doc No.307\_/2021

<sup>17</sup> <https://www.iccat.int/Documents/Recs/compendiopdf-e/2022-18-e.pdf>

should be recommended. Decisions of the Commission are usually taken by consensus but can be taken by a majority vote of Contracting Parties.<sup>18</sup>

## IOTC

IOTC established the terms of reference for its Compliance Committee in 2002. In 2010, the IOTC revised the terms of reference (TORs) of the Committee, at least in part, in response to the results of the first IOTC Performance Review and the Panel's recommendations to strengthen the ability of the Committee to monitor non-compliance and advise the Commission on actions which might be taken in response to non-compliance. The revised terms of reference also provide that sanctioning mechanisms for non-compliance and provisions for following-up on infringements be developed. In 2016, the IOTC adopted Resolution 16/10 - To Promote Implementation of the IOTC Conservation and Management Measures, which establishes a special capacity-building fund to improve data collection by developing State members and to develop the capacity for implementation of CMMs from 2017-2021. IOTC has also established a Working Party on the Implementation of Conservation and Management Measures (WPICMM), which will serve as an advisory body to the Commission via the Compliance Committee.<sup>19</sup> In 2023, the IOTC adopted amendments to Appendix V (Compliance Committee TORs and rules of procedure) of the IOTC Rules of Procedure to make improvements to aspects of the operation of the IOTC Compliance Committee and the compliance assessment process.

**Compliance Assessment Process.** The IOTC compliance assessment is as follows:

- i) Four months prior to the annual meeting, the Secretariat provides each CPC a standard questionnaire on compliance with the various binding applicable IOTC Conservation and Management Measures covering the previous calendar year. This questionnaire requests information on any follow-up actions by CPCs in response to the previous year's Final Compliance Report. CPCs are to provide comments and answers no later than 80 days before the Commission meeting.
- ii) The Secretariat compiles the responses to develop a draft IOTC Compliance Report and include a suggested compliance status based on Annex A to the TORs (compliant, partially compliant, non-compliant category 1, non-compliant category 2, capacity building needed or not applicable) as well as information on compliance with the annual report. The draft IOTC Compliance Report is then provided to the relevant CPC no later than 70 days before the Commission meeting. CPCs may reply to the IOTC Secretariat no later than 30 days before the Commission meeting to provide additional information, identify difficulties regarding implementation, identify technical or capacity building that is needed, or propose a change to the suggested compliance status.
- iii) The Secretariat then prepares the IOTC Summary Compliance Report based on the draft Compliance Report of each CPC. This Summary Compliance Report forms the basis of the compliance assessment process in the Committee. This Summary Report is made public on the IOTC website in advance of the Commission meeting.
- iv) At the Compliance Committee meeting, the Committee reviews the Summary Compliance Report, and any additional information provided prior to the meeting, CPC by CPC as well as measure by measure or obligation by obligation, as needed. Assessment of category 2 non-compliance and recurring issues are given priority. The Compliance Committee then recommends a Provisional Compliance Report that records the identified compliance issues; compliance statuses; suggested follow-up actions outlined in Annex A of the TORs, including timeframes for implementing these actions; and recommendations to the Commission regarding: (a) any remedial action taken, or proposed to be taken, by the CPC; (b) the priority obligations to be reviewed for the next compliance assessment; and (c) other actions, including incentives.

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<sup>18</sup> See article III of the ICCAT Convention.

<sup>19</sup> Resolution 16/12 Working Party on the Implementation of the Conservation and Management Measures

- v) Finally, the Commission reviews the Provisional Compliance Report and any additional information and adopts the Final Compliance Report.

**Obligations Assessed.** The IOTC Compliance Committee assesses individual CPC compliance with their obligations. In so doing, the IOTC Compliance Committee reviews compliance with obligations of the IOTC Agreement and with applicable IOTC CMMs.

**Transparency.** The IOTC Compliance Committee meeting is open to accredited observers, and CPC implementation reports and completed compliance questionnaires, the summary report on the level of compliance prepared by the Secretariat and compliance report tables prepared by the Chair of the Compliance Committee, and other meeting documents are publicly available online prior to, during and after the meeting.

**Outcomes.** The IOTC compliance process does assess the status of each CPC's implementation of and compliance with obligations under the IOTC Agreement, data reporting requirements and applicable IOTC Resolutions. The 2023 revisions to the Compliance Committee TORs and rules of procedure identified in Annex A of Appendix V possible follow-up actions for each compliance status category. These include: no action; the provision of additional information; capacity assistance addressing the non-compliance within a timeframe, which can include completing of an investigation and reporting back to the Committee; enhancing monitoring of the fleet; amendments to domestic regulations or policies to include penalties; or other actions. The terms of reference also task the Compliance Committee to develop a scheme of incentives and, where appropriate, other follow-up actions and a mechanism for their application to encourage compliance. The IOTC has Resolution 10/10 Concerning Market Related Measures, which is very similar to ICCAT's Recommendation on Trade Measures (Rec. 11-15). The IOTC Compliance Committee has not yet made any identifications under this resolution, however. The IOTC also has Resolution 16/06 On Measures Applicable in Case of Non Fulfilment of Reporting Obligations in the IOTC, which is similar to ICCAT Resolution 15-09. Under Resolution 16/06, following the review by the Compliance Committee, the Commission may prohibit a CPC that did not report nominal catch data for one or more species for a given year from retaining the concerned species as of the following year unless and until the data are provided to the Secretariat. Decisions of the Commission are usually taken by consensus but can be taken by a two-thirds majority vote of its members present and voting.<sup>20</sup> The IOTC Agreement also allows for CPCs to object to decisions.

## CCSBT

The CCSBT Compliance Committee is, among other things, to monitor, review and assess compliance with all conservation and management measures adopted by the Extended Commission and to monitor, review and assess the quality of data (both accuracy and timeliness) submitted.

**Compliance Assessment Process.** Using national reports and compliance action plans submitted by CPCs, the CCSBT compliance committee reviews CPC implementation.

**Obligations Assessed.** The Committee reviews CPC implementation of specific obligations prescribed in CCSBT conservation and management measures that are in force. It does not review compliance with obligations of the Convention more broadly.

**Transparency.** The CCSBT Compliance Committee is open to accredited observers, but member reports or other meeting documents are not publicly available online until after the associated annual meeting. However, once observers register to attend meetings of the CCSBT, they are granted access to the documents for that specific meeting only.

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<sup>20</sup> See article IX of the IOTC Agreement.

Once observers register to attend meetings of the CCSBT, they are granted access to the documents for that specific meeting only. Observers are also advised that they are required to follow the CCSBT's confidentiality requirements in relation to those documents.

**Outcomes.** The CCSBT compliance process does not prescribe a compliance status for each CPC; rather, the Committee identifies areas of possible non-compliance or discrepancies (such as between the reported catch and the catch estimated by the Secretariat) and seeks information and explanations from the CPC present. At present, the CCSBT compliance process also does not appear to have a standard for distinguishing between non-compliance of a minor or technical nature and serious non-compliance. However, its Corrective Actions Policy (described below) outlines specific kinds of corrective actions that may be recommended by the Compliance Committee that are graduated to specific degrees of non-compliance (i.e., moving from capacity building/training to trade or market restrictions). However, the Corrective Actions Policy is limited in addressing types of non-compliance other than over-catches of quota. In 2022, the CCSBT Compliance Committee identified developing additional new tools as future area of work.<sup>21</sup> Decisions of the CCSBT are taken by a unanimous vote of the Members present at the Commission meeting.<sup>22</sup>

The CCSBT has a Compliance Plan to improve compliance, so that, over time, the Commission, members and CNMs will work towards achieving full compliance with their obligations under CCSBT conservation and management measures. The Compliance Plan also includes a Three-Year Action Plan to address priority compliance risks, which is reviewed and updated triennially. The Compliance Plan prescribes tasks for the Compliance Committee, such as with respect to monitoring CPC performance in meeting their obligations, improving compliance and considering corrective actions and remedies.

In addition, the CCSBT has three non-binding Compliance Policy Guidelines to facilitate implementation of the Compliance Plan:

1. Minimum performance requirements to meet CCSBT obligations
2. A corrective actions policy
3. MCS information collection and sharing

With these three Compliance Policy Guidelines, the Compliance Committee carries out its expanded mandate using the Guidelines, including recommending investigations of alleged serious non-compliance and, if necessary, recommending to the Commission corrective actions or remedies; recommending additions or changes to CCSBT obligations to address compliance risks; and carrying out an annual compliance assessment.

The Compliance Committee's current set of minimum performance requirements includes national catch allocations, compliance action plans, transshipment monitoring, records of authorized farms and vessels, MCS measures and decisions (CDS, VMS), scientific observer program, reporting obligations (to the Commission, the science and compliance committees and the ecologically related species working group), and ecologically related species measures.

The CCSBT also has an independent Quality Assurance Review (QAR) program where existing CPC systems and processes are audited against selected sections of the minimum performance requirements guidelines.

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<sup>21</sup> See: [https://www.ccsbt.org/sites/default/files/userfiles/file/docs\\_english/meetings/meeting\\_reports/ccsbt\\_29/report\\_of\\_CC17.pdf](https://www.ccsbt.org/sites/default/files/userfiles/file/docs_english/meetings/meeting_reports/ccsbt_29/report_of_CC17.pdf)

<sup>22</sup> See article 7 of the CCSBT Convention and rule 6 of the CCSBT Rules and Procedure.

## Other tools in use in tuna RFMOs that perform compliance monitoring and sanction functions

All five tuna RFMOs have IUU vessel lists, and most compliance committees<sup>23</sup> also have the responsibility to review nominated vessels for listing and consider new information or requests to delist vessels from the current IUU vessel list. However, the relationship between RFMO compliance processes and placing vessels on an RFMO IUU vessel list is ill-defined in many RFMOs. For example, when IUU-listed vessels or vessels that have been proposed to be listed are from a member or CNM, the IUU vessel list is being used as a kind of litmus test for flag State performance of or cooperation with RFMO rules and regarding their duties and obligations as flag States under international law. But when is listing such a vessel the appropriate response as opposed to bringing the issue into the compliance process and allowing the flag State to investigate and report back? An issue that was identified in the interviews/surveys is that there is often confusion regarding how violations committed at the vessel level are related to or causative of non-compliance at the flag State level. In RFMOs, States are bound to the treaty obligations and measures adopted via the RFMO governance process. It is then the responsibility of those States to exercise effective control over vessels flying its flag that operate within the RFMO area of competence, and enforce the RFMO requirements. RFMOs as institutions do not supplant flag State authority in terms of control and enforcement at the vessel level.

While the current tuna RFMO IUU vessel lists differ in some ways on procedures and criteria, in all cases flag States with vessels listed or nominated for listing have an opportunity to provide information to prevent the vessel from being listed or as part of its request to have a vessel de-listed. Also, to prevent a nominated vessel from being listed, a flag State must demonstrate that its vessel(s) did not take part in IUU fishing activities or report that effective action was taken in response to the alleged infractions, including investigation, prosecution and imposition of penalties of adequate severity. Similarly, to get its vessel delisted from an IUU vessel list, in most RFMOs, a flag State must satisfy one or more conditions, including demonstrating that (1) it has adopted measures to implement effectively its flag State duties so that its vessels comply with the RFMO measures and it can monitor and control the vessel's activities in the RFMO convention area; (2) it has taken effective action in response to the IUU activities that resulted in the vessel's listing, including investigation, prosecution and imposition of penalties; and/or (3) the vessel has changed ownership.

RFMO IUU vessel lists are tools designed primarily to combat IUU activities at the vessel level through removing the economic benefits of IUU fishing. And while vessel level infractions may be an indicator of flag State non-compliance of its obligations at the RFMO level, that is not uniformly true, nor can that be the automatic assumption. Well-designed RFMO compliance processes that promote a deeper examination of actions taken or not taken by States should reveal if there are systematic flag State control issues, a lack of understanding of the measures or obligations, a legitimate issue of diverse interpretations in a measure, capacity-building needs, etc.

Using, or attempting to use, an IUU vessel list to penalize flag States for relatively minor or technical infractions has been the cause for some concern among members in some tuna RFMOs since the consequences to the vessel owner of being on an IUU vessel list are severe (e.g., commercial transactions of highly migratory species and refueling, resupply and transshipment activities with the IUU listed vessels are prohibited, as is flagging or chartering an IUU listed vessel). Further, if a tuna RFMO incorporates other tuna RFMOs' IUU vessel lists into theirs, this increases the global impact of such a sanction for the vessel concerned. It also has implications for the flag State given the rise in national measures to combat IUU fishing (such as the EU IUU Regulation and the United States' identification and certification process under Section 609 of the High Seas Driftnet Fishing Moratorium Protection Act).

Schemes of corrective actions that some RFMOs are using outline a range of responses to degrees of non-compliance by States that are progressive in severity. In these schemes, the trade and commercial restrictive measures that would apply

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<sup>23</sup> In ICCAT, the PWG is responsible for the IUU Vessel List.

to vessels when listed on IUU vessel lists are among the range of sanctions that could be applied to States for other kinds of infractions under these schemes. However, these types of sanctions are generally reserved for significant, and often persistent, cases of egregious non-compliance.<sup>24</sup> Therefore, it is important that RFMOs have both an IUU vessel list and a compliance assessment process with the ability to apply corrective measures in order to address well-defined IUU fishing activities at the vessel level and non-compliance with RFMO measures and obligations at the member/flag State level.

## **Obligations and commitments currently assessed in tuna RFMO compliance structure**

For the five tuna RFMOs, it appears that member and CNM implementation of all measures that are currently in force are to be reviewed as part of their compliance processes, either annually or according to a schedule. Some tuna RFMOs also consider implementation of member obligations under certain articles of their parent conventions. Roughly, the categories of obligations that are reviewed break down into five categories:

1. Reporting timely and accurate catch and effort data
2. Adherence to conservation and management measures such as quota allocations, catch or effort limits, time/area closures or gear restrictions, and capacity limits (where applicable)
3. Implementation of MCS measures (port control measures, VMS, CDS, transshipment monitoring or observer programs)
4. Implementation of bycatch measures and non-target species reporting requirements
5. Implementation of vessel authorization measures

Based on a review of available compliance committee reports that contain enough detail to identify the specific obligations and measures that were assessed, the committees' focus in all five tuna RFMOs was largely on the following:

1. Reporting required catch-and-effort data, including estimates of mortality from all sources, and for non-target species, or for farming operations (bluefin tuna only)
2. Complying with quota allocations, closed seasons/areas, or catch-and-effort limits and/or capacity management measures
3. Implementation of MCS measures (VMS, observer programs, transshipment monitoring, submission of or validation of statistical or catch document schemes), including reporting on actions taken to address alleged violations
4. Vessels not being on the record of authorized vessels, or flag States not reporting their list of active vessels or not reporting on chartering arrangements

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<sup>24</sup> ICCAT and IOTC have each adopted a separate measure that allows for the application of trade restrictive measures. However, these tuna RFMOs have not, as of yet, developed or adopted formally a scheme of responses to non-compliance, which would include tools to improve implementation and address the broader spectrum of types of non-compliance.

# Available RFMO Responses to Non-compliance and Determining the Level of Compliance

RFMO compliance processes have three basic steps (see Figure 1):

1. Information gathering
2. Review and assessment
3. Feedback and/or application of corrective remedies by the RFMO and/or through its member States, flag State action and follow-up

The application of corrective remedies by tuna RFMOs is a challenging and complex undertaking. Governments vary in their willingness to have their actions, and those of vessels flying their flag, examined by third parties, or for information about infractions to be made public and for sanctions to be imposed in a multilateral setting. Domestic legal processes for investigating alleged infractions and the types of penalties that can be imposed also vary among States. Regular reviews in a multilateral setting that include follow-up to see how members and CNMs are doing to correct any issues or provide missing information do provide powerful political incentives for the State to address any infractions or deficiencies. Such reviews, even if there are no multilateral penalties available, have considerable weight and value in providing oversight and a public accounting of how RFMO measures and member/CNM obligations are being implemented. However, the processes that are the most likely to result in improvements in overall compliance over time will be those that also have the tools to apply multilateral corrective actions, both positive and negative, such as capacity building or data management assistance or reductions in fishing opportunities, increased monitoring, or trade restrictive measures.

Of the five tuna RFMOs, three have schemes or policies for responding to non-compliance by members and CNMs or other tools (i.e., trade measures instruments) that can be used to apply sanctions, such as to non-cooperating States: ICCAT, IOTC and CCSBT. As described in Part I, while IOTC has a 2010 resolution that provides a framework for applying trade restrictive measures, this mechanism has not yet been implemented, and IATTC adopted a trade measures resolution in 2006 but allowed it to lapse in 2008.

ICCAT has had measures that provide for the imposition of trade restrictive measures since the late 1990s<sup>25</sup> and has imposed such measures on Contracting Parties and non-Parties when these States were determined to have failed to discharge their obligations under the ICCAT Convention or under international law to cooperate with ICCAT. ICCAT's recommendation on Trade Measures (Rec. 06-13), specific penalty provisions in species recommendations (such as for the eastern Atlantic and Mediterranean bluefin tuna) and recommendations on compliance with quotas and/or catch limits are used most frequently and applied to members and CNMs by the Compliance Committee. In 2016, ICCAT adopted Resolution 16-17 that outlines a set of guidelines for an ICCAT schedule of actions that applies when determining non-compliance and appropriate responses. The Committee will first determine that non-compliance has occurred, and that further action is warranted, per the guidelines. The Committee will then recommend an action from one of the categories.

As described in Part I, the CCSBT has a Corrective Actions Policy as part of a suite of guidelines and policies to strengthen the CCSBT compliance review component. In 2012, the Compliance Committee recommended that where over-catch by a member or CNM had been established, the Corrective Actions Policy should be applied.

Externally determining an overall level of compliance in tuna RFMOs given the limited public information that is available in some RFMOs is challenging. However, in looking at the publicly available compliance data and meeting documents,

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<sup>25</sup> 1996 Recommendation Regarding Compliance in the Bluefin Tuna and North Atlantic Swordfish Fisheries (96-14) and the 1998 Resolution Concerning the Unreported and Unregulated Catches of Tuna by Large-scale Longline Vessels in the Convention Area (98-18). The 1996 recommendation is still active.

implementation reports and compliance letters, in general, across four of the tuna RFMOs reviewed, a considerable number of States are not, either at all, or on time in:

1. Providing required catch-and-effort data or reporting on bycatch interactions or shark catches
2. Submitting annual national implementation reports or other compliance information, such as reports of investigations
3. Paying their assessed contributions to the budget

Further, (i) over-catches of quotas or violating time/area closures, (ii) shortfalls in effective implementation of or participation in RFMO or national observer programs, or meeting required coverage levels, or (iii) failing to implement VMS systems, statistical or catch documentation schemes, or transshipment monitoring programs are consistently highlighted. The impact on RFMOs and sustainable tuna fisheries are as follows:

- Failure to provide timely and accurate statistical data or participate in observer programs compromises stock assessments and thus the provision of scientific advice based on the most recent information, as well as scientific analyses of the status of bycatch species or the effectiveness of certain mitigation measures.
- Lax submissions of national reports or compliance questionnaires or participation in trade or vessel monitoring schemes or observer programs undermine the ability of the organization, and the public, to understand and assess the degree of implementation of and compliance with conservation and management measures and decisions, as well as identify new measures that may need to be adopted or those that should be reviewed because they are vague or subject to different interpretations.
- Failure to provide financial resources to the RFMO through the payment of assessed contributions compromises the ability of the organization to effectively carry out its work and deliver services, recruit and retain staff, maintain facilities and invest in new infrastructure or technologies, and so on.
- A lack of compliance with catch-and-effort limits, gear restrictions, or time/area closures, which are designed to maintain catches at sustainable levels or rebuild stocks, directly impacts and erodes the sustainability of the fisheries and conservation efforts of those nations and fleets that do abide by the rules.

# How RFMO Compliance Processes Function in Practice and Ideas for Improvements

Interviews were conducted (either in person or through written responses using a standardized questionnaire of six questions) with more than two dozen individuals, including the (1) current and former compliance committee chairs or vice chairs of four of the five tuna RFMOs and two non-tuna RFMOs; (2) compliance officers for four of the five tuna RFMOs and one non-tuna RFMO; (3) international legal experts and current or former legal advisors to RFMOs, (4) academics that study RFMOs and international governance issues, and (5) NGOs active in RFMOs, including those that are part of national delegations. In total, 28 interviews or survey responses were conducted/received.

Through an analysis of the data gathered through the interviews and surveys, the following observations about RFMO compliance processes were identified:

- The large number of obligations/measures in RFMOs and their inter-relatedness and often lack of clarity make compliance assessments complex and time-consuming.
- Following up in subsequent years on RFMO members' actions taken regarding identified areas of non-compliance is not systematic or consistently undertaken.
- Information is not typically available or provided regarding how RFMO members are implementing or enforcing RFMO measures/obligations through their national laws.
- The evolving and growing sets of measures, or due to variations in what measures are assessed from year to year, make it difficult to develop a broader picture of compliance/implementation gaps or improvements over time.
- The depth of compliance reviews is highly dependent on the quality and quantity of data sources available to the committee or Secretariat.
- Ensuring that an objective of assessment processes is for improving and strengthening the overall *performance* of RFMOs ("institutional effectiveness") and addressing and promoting implementation, rather than only for punitive "compliance" purposes, is more effective and more in line with the mandate of RFMOs as collaborative international bodies for the sustainable management of shared natural resources.

In addition, those interviewed were asked if they thought the current RFMO compliance processes assessed the correct obligations and measures well. The responses were categorized into two groups: those *outside* of the RFMO governance structure (i.e., NGOs and academic or legal experts) and those *inside* the RFMO structure (i.e., committee chairs, national delegation members or compliance officers). For both categories, the responses were similar regarding if they thought the current RFMO compliance processes assessed the correct obligations and measures. A majority of the respondents answered "mixed," meaning that the RFMOs they have experience with are somewhere in the middle with regard to assessing what are perceived as the right obligations or commitments. The interviewees were also asked their opinion of whether current RFMO compliance processes review primarily procedural obligations (e.g., submission of data, reports) or also review substantial obligations (e.g., not fishing during a closure, respecting catch limits or carrying an observer when required, etc.). Regarding how well RFMOs' compliance processes assess member compliance/implementation of their obligations, there was a significant difference between those *outside* of the RFMO governance structure and those *inside*. More than 50% of those outside the RFMO structure responded that RFMO assessment processes "poorly" assessed RFMO member obligations and commitments. More than 90% of the those inside the RFMO structure responded that the compliance assessment processes functioned "somewhat well."

In many cases, responses to these three questions identified that key challenges for effective compliance assessments include (1) the large number of RFMO measures or obligations that need to be assessed, (2) a lack of independent data

sources to verify self-reported data by RFMO members and (3) limited or absent data from some fleets with low or no levels of observer coverage, which is particularly important for assessing compliance with bycatch mitigation measures. With such a large number of measures, and a reliance on self-reported data, respondents explained that the compliance reviews tended to focus on more procedural obligations that are easier to assess. Therefore, obligations that affect the conservation of the managed stocks are given less or limited attention. Alternatively, respondents noted that some reviews focused only on catch limits for certain species that are the subject of detailed and complicated conservation measures (and highly political), leaving little time for assessing other operational, reporting, monitoring, control and surveillance (MCS), or bycatch-related measures.

Respondents also noted a lack of clarity regarding what was expected for each measure (i.e., what the explicit obligations are), how those obligations are to be measured, and what information needs to be provided. It was also noted often that a lack of weighting or prioritization of obligations or measures to triage the volume of items that the process must consider posed a time-management and managerial challenge. This lack of clarity and prioritization can and has resulted in interpretation issues (which cause differences of view over compliance vs. non-compliance among members over certain obligations) and for members in the same situation to be treated differently because the evaluation becomes more subjective than objective.

Finally, interviewees were asked if they thought RFMO compliance processes serve as an incentive to improve the compliance/implementation of members' obligations and commitments. Here again, for both categories of respondents, the responses were similar. A majority of the respondents in both categories (inside vs. outside the RFMO governance structure) answered "mixed," meaning that the RFMO compliance processes with which they have experience serve in some ways as an incentive for improvement, but this incentive structure could be enhanced/better designed.

A number of responses to this question agreed that RFMO compliance processes – even without any threat of sanction – do serve to incentivize improvement. There is power in collective moral suasion, and the prospect of political embarrassment serves to encourage implementation improvements once lapses are identified. Many responses also indicated that RFMO compliance processes need to institutionalize better follow up and reporting on identified areas on non-compliance from year to year. For instance, without such hard-wired follow-up mechanisms, areas of non-compliance can persist from year to year, or patterns go unnoticed, and it becomes difficult to tell if there are actual improvements in implementation or if member reporting is adapting or repeating previous statements with no update on progress. Respondents also highlighted that RFMO members need to provide more detail on how they are giving effect to their flag State duties and exercising flag State control through national regulations, enforcement authorities and legal mechanisms to institute penalties, when needed, on vessels flying their flag when there are infractions. Finally, the need for RFMOs to develop schemes of responses to address persistent and serious cases of non-compliance was repeatedly noted.

A set of recommended best practices for strengthening/reforming RFMO compliance assessment processes from an institutional, governance, and procedural standpoint, is provided in Part V.

# RFMO Performance Reviews: Recommendations Related to Compliance and Enforcement

All five tuna RFMOs have undergone performance reviews thus far, and all of the performance review panels provided detailed recommendations for strengthening compliance and enforcement. Compliance and enforcement is a cross-cutting concept; as a result, compliance issues were raised in a number of different areas reviewed by the various panels, such as (1) submitting data and information to meet reporting requirements; (2) implementation of monitoring, control and surveillance measures (MCS); (3) use of trade-related measures and IUU vessel lists; (4) institutional measures to review, assess and address non-compliance; and (5) national implementation and enforcement of RFMO measures and the performance of flag States' of their duties under international law.

In brief, across the tuna RFMO performance reviews, the following areas were highlighted:

- Poor reporting of data and other required information (i.e., late, missing, inaccurate, wrong formats)
- Lack of any sanction or penalty regimes for non-compliance, including for statistical data reporting or provision of other required reports
- Lack of procedures for following up on identified infractions
- Inadequate or irregular compliance review and assessment processes
- Lack of trade or market-based measures
- Deficient suites of MCS measures (e.g., VMS, observer programs, statistical document or catch documentation schemes, port State measures, transshipment monitoring requirements)
- Poor implementation of existing MCS tools or regimes to sanction continued non-compliance

One study has used an analytical approach to assess the performance of 13 RFMOs in addressing bycatch and discards (Gilman et al., 2012). This study establishes an ideal standard of RFMO governance for bycatch and discards, and then assesses each RFMO against that standard. One of the set of criteria used was surveillance and enforcement, which the authors generalized to mean RFMO MCS programs, national enforcement action and surveillance activities, RFMO compliance review processes, and available sanctions or remedies for non-compliance. Similar to this technical background paper, Gilman et al. found large variability in performance among the 13 RFMOs in this area. In particular, none of the 13 RFMOs assessed met all three of the elements they identified as fundamental to effective surveillance and enforcement, which were: (i) member reporting on identified infractions, their enforcement actions and the conclusions of those enforcement actions; (ii) information is made publicly available by RFMOs on detected infractions and outcomes; and (iii) detected infractions of binding bycatch measures regularly result in sanctions (Gilman et al., 2012, pp. 54).

An issue that is discussed or highlighted through some of the RFMO performance reviews is vessel chartering. Chartering is an important facet of the prosecution of tuna fisheries throughout the world. Particularly for developing States, chartering arrangements provide important opportunities for nations to develop their domestic tuna fisheries through agreements with other States or directly with commercial fishing companies. There is tremendous variety in chartering arrangements, and often their terms and conditions are not made public. As a result, discussions in RFMOs have revolved around the need for clarity on several key issues regarding vessels operating under chartering arrangements:

1. The responsible party for statistical data reporting
2. Catch attribution for purposes of data collection and compliance with applicable quotas or limits

### 3. The compliance and enforcement responsibilities of the relevant parties engaged in charters

Given that these three areas are of fundamental importance to gauging a nation's degree of compliance with its obligations and commitments as a member or CNM of an RFMO, lack of clarity could create challenges in the implementation of compliance assessment processes. It should be noted that all five RFMOs have adopted measures or have specific provisions for chartered vessels on some or all of these key issues or with respect to obligations for the provision of scientific data from vessels operating under chartering arrangements.

# Best Practice Recommendations

After examining the existing compliance processes in the five tuna RFMOs, and analyzing the information gathered through the interviews and surveys, a set of recommended best practices for RFMO compliance processes has been identified.

RFMOs that exemplify many of these best practices still exhibit compliance shortfalls (as discussed in the previous section of this report), which is understandable because RFMOs cannot be expected to completely prevent or eliminate infractions by its members and CNMs (e.g., their vessels, or as flag States, coastal States or port States, etc.) any more than a national government could be expected to prevent any of its citizens from ever breaking federal or state or provincial law. Further, most of the tuna RFMOs surveyed in this paper continue to refine the design and implementation of their compliance monitoring and assessment processes.

RFMOs should continue to create and implement robust and transparent multilateral assessment processes that can provide the mix of forum and incentives (both positive and negative) to motivate States to meet their obligations and improve and strengthening the overall *performance* of RFMOs as collaborative international institutions for the sustainable management of shared resources.

## **Operational and Structural Recommendations for Improving RFMO Compliance Processes**

### **Recommendation 1: Information Used and Items Assessed**

- RFMOs should use a diversity of information sources, which should also be used to verify national self-reporting.
  - Self-reporting by States should be coupled with other independent sources of information to verify compliance. For example, national reports should be combined and cross-checked with a compliance report prepared by the Secretariat and/or compliance committee/working group using other sources of verifiable information (e.g., observer programs, transshipment declarations or catch documentation scheme certificates, VMS data, landing and trade information, unloading data etc.).
- RFMOs should also review whether required statistical data and national implementation reports have been provided, and whether assessed contributions have been paid, as part of the compliance assessment.

### **Recommendation 2: The Assessment Process**

- RFMOs should review both member and CNM compliance either State by State or obligation by obligation.
- RFMOs should have a dedicated compliance committee or working group, supported by the Secretariat, with a period of time set aside each year for it to meet.
  - The committee or working group should conduct a review of the available information for each member and CNM and identify the possible instances of non-compliance. The committee or working group has an open process whereby States may ask questions of the member or CNM concerned, and the member or CNM concerned has an opportunity to provide information, explanations, and/or reports on any actions it has or is taking to address the identified infractions or deficiencies.
  - The compliance committees or working groups should be open to accredited observers, and compliance reports (both those provided by States and what is prepared by the Secretariat or committee) and the responses by States to previously identified areas of non-compliance should be available to observers.

- The final compliance tables or annexes that identify the areas of non-compliance and recommended actions are publicly available.

### **Recommendation 3: Follow Up and Outcomes**

- Responses by States to areas of previously identified non-compliance are required and individually reviewed annually by the compliance committee or working group.
- Failure to report on actions taken is considered a serious type of non-compliance as is successive and repeated non-compliance on the same obligation.
- The committee or working group should form its recommendations for addressing the full range of issues identified through a fair, consistent and transparent application of a pre-agreed scheme of responses to non-compliance. Such a scheme contains both positive (such as financial or technical assistance and capacity-building to developing States) and negative (such as automatic quota reductions, loss of fishing opportunities, enhanced monitoring, non-discriminatory trade measures) responses, and takes into account the history, circumstances, extent, and gravity of the act or omission.
- The RFMO Commission considers recommendations by the committee or working group, and decisions on any penalties can be taken by a vote, if necessary.

## **Institutional and Governance Recommendations for Improving RFMO Compliance Processes**

**Recommendation 4:** Develop audit points or performance metrics for all conservation measures (ideally as they are being developed) to ensure clarity in the obligations, and what must be complied with. Such audit points can reduce (1) the potential for misinterpretation, (2) confusion over what is to be reported or what obligations apply, and (3) perceptions of unfairness that can result when assessments between members vary due to (1) and (2).

**Recommendation 5:** Develop schemes of responses to non-compliance that provide for more automatic responses to “procedural” obligations (i.e., submitting data or reports on time). Designing schemes that will address procedural obligations via a separate process from the formal compliance committee meetings will allow more time to be devoted to analyzing the implementation of substantive obligations (e.g., quotas, closures and MSC measures) and for members to present information on their actions. However, if persistent non-compliance is identified for any procedural obligations, the system should have a mechanism for bringing these items to the attention of the formal committee (this is linked to trend tracking; see recommendation 8).

**Recommendation 6:** Develop mandates and systems for promoting effective information exchange between compliance committees and the Commission (including its subsidiary bodies or panels, where relevant) regarding changes in conservation measures to address provisions where there is lack of clarity regarding the obligations and/or reporting requirements that have been identified by the committee.

**Recommendation 7:** Ensure there is a disciplined process for following up annually on the actions taken by RFMO members to identified areas of non-compliance, and strengthen the requirements for members to report on how they are domestically implementing their RFMO obligations (e.g., reporting on the national laws or regulations that are in place).

**Recommendation 8:** Develop mechanisms to track trends in compliance, by member and obligation, over time so performance improvements or gaps can be measured and assessed.

**Recommendation 9:** Strengthen transparency by allowing accredited observers to attend meetings and by making public detailed information on the identified areas of non-compliance, by member and obligation, and on the actions taken by members to address implementation gaps, including over time (e.g., the compliance reports should track several years of assessments and actions so trends in performance can be evaluated).

**Recommendation 10:** Ensure assessment processes are framed to improve/ strengthen the overall *performance* of RFMOs, rather than only in punitive “compliant” vs. “non-compliant” terms. The foundational measures establishing the objectives, process, information sources, and other procedures should clearly articulate that effective implementation of RFMO measures and the normative obligations of the RFMO treaty is essential to a high-performing and well-functioning RFMO. Assessments of compliance or levels of implementation by members and CNMs is a necessary part of this process to identify gaps/lack of clarity in measures and capacity-building needs, and also to maintain a sense of fairness and integrity regarding all members playing by the rules. However, the process should be focused on the fact that a high-performing and effective RFMO has a well-structured and fair process to ensure measures are being implemented — and if not, why not — and it is empowered to take steps to improve and has governance/incentive tools to address non-compliance.

Table 1: Summary of RFMO Compliance Processes

	Structure	Information used & how compiled	Process & criteria, if any, used	Transparency	Availability of information to public
IATTC	<p>Permanent committee with elected chairperson.</p> <p>Meets immediately prior to annual Commission meeting.</p>	<p>In advance of the meeting, members complete a standard questionnaire on compliance with IATTC resolutions.</p> <p>The Secretariat identifies possible infractions, using observer reports (for purse seine and at-sea transshipment), of vessels flagged to a member.</p> <p>Members are to provide a response regarding its investigation of such possible infractions.</p> <p>Secretariat circulates all completed questionnaires, a list of vessels involved in possible violations and the flag State response to all members.</p>	<p>The Review Committee reviews each member's questionnaires, the compliance report provided by the Director, and information on possible non-compliance cases.</p> <p>The Committee also discusses non-submission or late submission of questionnaires and repeated absences at Committee meetings.</p> <p>The Committee identifies in the Provisional Compliance Report, for each member, the compliance record (using the criteria and compliance statuses identified), areas of possible improvement, and recommended actions for consideration of the Commission.</p> <p>The Commission adopts the Final Compliance Report. Following the Commission Meeting, the Chair of the Review Committee is to send a letter to each CPC informing the CPC of its compliance status.</p> <p>CPC are to respond to the Commission in writing at least two months prior to the subsequent annual meeting of the Commission to inform the Commission of steps it has taken or plans to address the identified compliance issues.</p>	<p>Accredited observers may attend compliance committee meetings, and Annex 3 of the Antigua Convention provides that observers can be invited to speak and can submit documents.</p> <p>The Final Compliance Report contains for each member, the compliance record, areas of possible improvement, and recommended action.</p>	<p>Reviewed Committee documents are circulated in advance of the meeting to members, CNMs and accredited observers. These documents used to be made available online in previous meetings, but no longer.</p>
IOTC	<p>Permanent compliance committee with elected chairperson.</p> <p>Meets immediately prior to annual</p>	<p>In advance of the meeting, members/CNMs complete a questionnaire on compliance with obligations and IOTC measures and provide information on follow-up actions</p>	<p>The Committee reviews compliance using the Summary Compliance Reports and responses, and other summary reports or information provided by the Secretariat regarding possible non-compliance.</p> <p>The Committee identifies for each</p>	<p>Accredited observers may attend Compliance Committee meetings.</p> <p>The rules of procedure are</p>	<p>Compliance Committee documents, including national reports, the Summary Compliance Report, and Secretariat summaries, are publicly available in</p>

	Structure	Information used & how compiled	Process & criteria, if any, used	Transparency	Availability of information to public
IOTC (cont.)	Commission meeting for at least three days.	<p>in response to the previous year's Compliance Report and provide annual national reports of implementation.</p> <p>A summary compliance report with provisional compliance status designations is prepared by the Secretariat based on the questionnaire, comments from members/CNMs and the member's responses to previous identified areas of non-compliance.</p> <p>Summary reports of possible infractions observed under the regional observer program, or other IOTC programs, or reported IUU activities in the Convention Area prepared by the Secretariat.</p> <p>Secretariat summary report of the level of compliance with some of the more prominent IOTC resolutions. Except for the Record of Authorized Vessels, this summary does not identify members or CNMs by name.</p>	<p>member their compliance status and areas of outstanding non-compliance and makes recommendations on follow-up actions, which are included in the Provisional Compliance Report.</p> <p>On certain matters, members and CNMs are requested to report on actions taken to investigate possible non-compliance or IUU activities by their flagged vessels within three months of the end of the annual Commission meeting.</p>	silent on whether NGO observers can be invited to speak or submit information documents.	advance of the meeting.

	Structure	Information used & how compiled	Process & criteria, if any, used	Transparency	Availability of information to public
ICCAT (cont.)	<p>Standing compliance committee (COC) with elected chairperson.</p> <p>Meets during the annual Commission and periodically for 2-3 days in advance (every other year usually).</p>	<p>Annual and other reports; catch, effort, landing, and trade data, including from SDPs, CDS, and observer programs; reports from inspection and surveillance activities (including VMS, observer programs, in port and at sea inspection programs); and suitably documented information provided by NGOs.</p> <p>The COC Chair, with support from the Secretariat, compiles compliance information and provides it to the COC in the form of an “action tracker.” Members and CNMs may provide corrections or other input to this document before it is discussed on the floor.</p> <p>COC Chair, with help of a small Friends of Chair group, reviews the compiled compliance information and highlights serious issues of non-compliance.</p> <p>The Chair may seek clarification of</p>	<p>COC Chair develops (in consultation with the Friends of the Chair) proposed actions to address non-compliance issues, taking into account relevant ICCAT instruments and the guidelines and severity table.</p> <p>The Committee reviews the summary compliance information and the Chairs proposals for action. Members and CNMs may also raise issues and ask questions. Any concerns about fishery related activities by non-cooperating non-members are also presented and discussed.</p> <p>Before making final recommendations to the Commission, States have an opportunity to provide additional information or explanations of their compliance situation.</p> <p>Self-implementing provisions of some ICCAT Recommendations do not require specific decision by the Commission, such as 100% payback of quota overharvests or prohibitions on retention of species for which required data are not submitted. These are reflected in the meeting proceedings and, regarding adjusted quota limits, the compliance annex to the COC report.</p> <p>For other instruments, the COC must make specific recommendations to the Commission for decision, as outlined in the severity table.</p>	<p>Accredited observers to ICCAT:</p> <p>(1) May attend subsidiary bodies, including the COC;</p> <p>(2) Have the possibility of speaking during COC sessions; and</p> <p>(3) May present compliance related information in accordance with agreed procedures.</p>	<p>The ICCAT Compliance Committee is open to accredited observers. Observers have access to all CoC meeting documents that are posted on the meeting website.</p> <p>The COC report, which includes the summary of actions and the compliance annex, is publicly available online after it is adopted.</p>

	Structure	Information used & how compiled	Process & criteria, if any, used	Transparency	Availability of information to public
ICCAT (cont.)		possible non-compliance through informal means.			
WCPFC	No dedicated committee with set meeting period. Small working group convened during the TCC and annual Commission meeting, convened ad hoc.	Part I and II Annual Reports; other data that are to be reported to Commission or SPC; transshipment notifications and declarations; ROP and VMS data; and suitably documented data provided by NGOs.  Draft Compliance Monitoring Reports (dCMRs) compiled by Secretariat.	dCMRs are reviewed by members/CNMs before TCC; the small (closed) working group held during the TCC reviews revised dCMRs and prepares a provisional CMR (pCMR) with a compliance status for each member/CNM; the Commission reviews the pCMR and adopts final CMR with a compliance status for each member/CNM.  Members/CNMs to report in their (non-public) Part II annual report steps taken to address any non-compliance.  Annex I of the CMS includes a set of criteria and considerations that are to guide determining a compliance status rating; these criteria include a standard for distinguishing between non-compliance of a minor or technical nature and serious non-compliance that undermines the effectiveness of the Convention or measures adopted by the Commission.  The CMS will also begin to use the adopted Audit Points for assessing obligations and be guided by a Risk Based Assessment Framework in 2023.	NGOs may submit information in advance, but the working group meetings are closed to observers (except SPC, FFA and PNA Secretariats).  Part II Annual reports (MCS data), dCMRs, dCMRs summaries, the pCMR and the executive summary of the pCMR are not publicly available.	Only the Final CMR is publicly available after adoption at the annual Commission meeting.

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