



FOLLOW-UP ON INFRINGEMENTS

PREPARED BY: IOTC SECRETARIAT, 15 JANUARY 2015

REVIEW AREA: *Compliance and enforcement*

GENERAL CRITERION: *Follow-up on infringements*

DETAILED CRITERIA:

- 1) Extent to which the RFMO, its members and cooperating non-members follow up on infringements to management measures.

SUPPORTING INFORMATION

1. *Extent to which the RFMO, its members and cooperating non-members follow up on infringements to management measures.*

IOTC Contracting Parties are obliged to report information on matters pertaining to the following up of infringements through the IOTC Agreement (Art X) and various Conservation and Management Measures (CMMs). Through the implementation of port State measures, some CPCs have informed the Commission on vessels that have been denied access to port or port services because of infringements of IOTC CMMs. In cases where licences have been denied to foreign vessels, this information has also been provided to the Commission.

The Commission can demonstrate that it follows up on those infringements that lead to vessels being placed in the IOTC IUU Vessels List.

Information on follow-ups is requested under the IOTC Agreement and various management measures.

Article X of the IOTC Agreement IMPLEMENTATION states:

1. *Each Member of the Commission shall ensure that such action is taken, under its national legislation, including the imposition of adequate penalties for violations, as may be necessary to make effective the provisions of this Agreement and to implement conservation and management measures, which become binding on it under paragraph 1 of Article IX.*
2. *Each Member of the Commission shall transmit to the Commission an annual statement of the actions it has taken pursuant to paragraph 1. Such statement shall be sent to the Secretary of the Commission not later than 60 days before the date of the following regular session of the Commission.*
3. *The Members of the Commission shall cooperate, through the Commission, in the establishment of an appropriate system to keep under review the implementation of conservation and management measures adopted under paragraph 1 of Article IX, taking into account appropriate and effective tools and techniques to monitor the fishing activities and to gather the scientific information required for the purposes of this Agreement.*
4. *The Members of the Commission shall cooperate in the exchange of information regarding any fishing for stocks covered by this Agreement by nationals of any State or entity which is not a Member of the Commission.*

IOTC has adopted a range of management measures that require CPC's to provide information on matters pertaining to following up on infringements (see below).

<p>Resolution 14/04 <i>Concerning the IOTC record of vessels authorised to operate in the IOTC area of competence</i></p> <p>Active</p>	<p>Para 8. CPCs shall review their own internal actions and measures taken pursuant to paragraph 7, including punitive actions and sanctions and, in a manner consistent with domestic law as regards disclosure, report the results of the review to the Commission annually. In consideration of the results of such review, the Commission shall, if appropriate, request the flag CPCs of AFVs on the IOTC Record to take further action to enhance compliance by those vessels with IOTC Conservation and Management Measures.</p> <p>Para 10. Each CPC shall notify the IOTC Executive Secretary of any factual</p>
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	information showing that there are reasonable grounds for suspecting vessels not on the IOTC Record to be engaged in fishing for and/or transshipment of tuna and tuna-like species in the IOTC area of competence.
<p>Resolution 14/05 <i>Concerning a record of licensed foreign vessels fishing for IOTC species in the IOTC area of competence and access agreement information</i></p> <p>Active</p>	<p>Para 6. The CPCs shall notify the ship owner and flag State concerning foreign flagged fishing vessels that requested a license under a private access agreement or under a government to government access agreement and for which the request of license was denied. If the reason for denial is related to an infringement of IOTC CMMs, the IOTC Compliance Committee shall address the issue at the next session accordingly.</p>
<p>Resolution 07/01 <i>To promote compliance by nationals of contracting parties and cooperating non-contracting parties with IOTC conservation and management measures</i></p> <p>Active</p>	<p>Para 1. Without prejudice to the primacy of the responsibility of the flag State, the CPCs shall take appropriate measures, subject to and in accordance with their applicable laws and regulations:</p> <p>(i) to investigate allegations and/or reports concerning the engagement of any natural or legal persons subject to their jurisdiction in the activities described, <i>inter alia</i>, in paragraph 1 of the <i>Resolution 06/01 on Establishing a List of Vessels Presumed to Have Carried Out Illegal, Unreported and Unregulated Fishing in the IOTC Area</i>;</p> <p>(ii) to take actions in response to any verified activities referred to in paragraph 1(i); and</p> <p>(iii) to cooperate for the purpose of implementing the measures and actions referred to in paragraph 1(i).</p> <p>To this end, relevant agencies of CPCs should cooperate to implement IOTC conservation and management measures and CPCs shall seek the cooperation of the industries within their jurisdiction.</p> <p>Para 2. To assist with the implementation of this Resolution, CPCs shall submit reports subject to the national laws of confidentiality to the IOTC Secretariat and other CPCs on the actions and measures taken in accordance with paragraph 1, in a timely fashion.</p>
<p>Resolution 05/03 <i>Relating to the establishment of an IOTC programme of inspection in port</i></p> <p>Active</p>	<p>Para 5. In the event that a Port State considers that there has been evidence of a violation by a Contracting Party or a Non-Contracting Party vessel of a conservation and management measure adopted by the Commission, the Port State shall draw this to the attention of the Flag State concerned and, as appropriate, the Commission. The Port State shall provide the Flag State and the Commission with full documentation of the matter, including any record of inspection. In such cases, the Flag State shall transmit to the Commission details of actions it has taken in respect of the matter.</p>
<p>Resolution 01/03 <i>Establishing a Scheme to promote compliance by Non-Contracting Party vessels with resolutions established by IOTC</i></p> <p>Active</p>	<p>Para 5. Information on the results of all inspections of vessels of non-Contracting Parties, Entities or fishing Entities, conducted in the ports of Contracting Parties, and any subsequent action, shall be transmitted immediately to the Commission. The Secretariat shall transmit this information to all Contracting Parties and to the relevant flag-State(s)</p>

In addressing the IOTC IUU Vessels List, the Commission demonstrates that it is following up on infringements.

In 2002, the IOTC adopted Resolution 02/04 *On establishing a list of vessels presumed to have carried out illegal, unregulated and unreported fishing in the IOTC Area*. This was superseded by Resolution 06/01 (in 2006) and 11/03 (in 2011). These resolutions define IUU activities and outlined the process to be used for handling IUU cases (leading to listing on the IUU Vessels List).

These Resolutions prescribe the process that leads to a vessels being placed on the IUU list, starting with evidence of IUU activities being considered by the Compliance Committee, which provides its recommendation to the Commission on whether a vessel should be placed on the IUU Vessels List or not. The first IUU List was adopted in 2005 and included 12 vessels. In 2014, the list included 30 vessels, compared to six vessels in 2013. There is however a need to review the process for keeping vessels on the IUU provisional list.