



DECISION-MAKING

PREPARED BY: IOTC SECRETARIAT, 14 JANUARY 2015

REVIEW AREA: *Decision making and dispute settlement*

GENERAL CRITERION: *Decision-making*

DETAILED CRITERIA:

- 1) Extent to which RFMO has transparent and consistent decision-making procedures that facilitate the adoption of conservation and management measures in a timely and effective manner.

SUPPORTING INFORMATION

This criterion was interpreted as pertaining to the existence of procedures for transparent and consistent decision making, as opposed to making an assessment of whether the actual decisions made by the commission were transparent and consistent. The IOTC has in place a framework of formal procedures and practices to guide decision making.

1. *Extent to which RFMO has transparent and consistent decision-making procedures that facilitate the adoption of conservation and management measures in a timely and effective manner*

The IOTC Agreement describes procedures relating to the adoption of conservation and management measures

Article IX. PROCEDURES CONCERNING CONSERVATION AND MANAGEMENT MEASURES

1. *Subject to paragraph 2, the Commission may, by a two-thirds majority of its Members present and voting, adopt conservation and management measures binding on Members of the Commission in accordance with this Article.*
2. *Conservation and management measures for stocks for which a sub-commission has been established under paragraph 2 of Article XII, shall be adopted upon the proposal of the sub-commission concerned.*
3. *The Secretary shall, without undue delay, notify the Members of the Commission of any conservation and management measures adopted by the Commission.*
4. *Subject to paragraphs 5 and 6, conservation and management measures adopted by the Commission under paragraph 1, shall become binding on Members 120 days from the date specified in the Secretary's notification or on such other date as may be specified by the Commission.*
5. *Any Member of the Commission may, within 120 days from the date specified or within such other period as may be specified by the Commission under paragraph 4, object to a conservation and management measure adopted under paragraph 1. A Member of the Commission which has objected to a measure shall not be bound thereby. Any other Member of the Commission may similarly object within a further period of 60 days from the expiry of the 120-day period. A Member of the Commission may also withdraw its objection at any time and become bound by the measure immediately if the measure is already in effect or at such time as it may come into effect under this article.*
6. *If objections to a measure adopted under paragraph 1 are made by more than one-third of the Members of the Commission, the other Members shall not be bound by that measure; but this shall not preclude any or all of them from giving effect thereto.*
7. *The Secretary shall notify each Member of the Commission immediately upon receipt of each objection or withdrawal of objection.*
8. *The Commission may, by a simple majority of its Members present and voting, adopt recommendations concerning conservation and management of the stocks for furthering the objectives of this Agreement.*

Proposals for new or revised Conservation and Management Measure (CMMs) are required 30 days in advance of a Commission meeting

As some Commissioners are not mandated to agree on specific actions unless they have been examined by their relevant authorities in advance of a Session of the Commission, at its 15th Session held in 2011 and reiterated each year since (including 2014), the Commission agreed that only proposals received thirty (30) days before the Session, at the latest, would be considered.

“Paragraph 111 of the S18 report (2014), which states: “The Commission RECALLED its previous decision that the 30 day rule shall continue to be strictly applied for all future Sessions unless otherwise agreed. Specifically, no proposals for new or revised Conservation or Management Measures shall be accepted by the Secretariat for the Commission’s consideration, if received after the 30 day deadline.”

Proposals for Conservation and Management Measures are also made publically available on the IOTC website 30 days in advance of the Session.

Timeliness: the Commission may delay the decision on the adoption of particular proposal as it seeks advice

The Commission has, on occasion, asked for advice on a particular proposals for Conservation and Management Measures, from its committees (e.g. the Scientific Committee). This typically results in a decision on the adoption of the proposal being delayed until the next session.

The discussions on proposals for Conservation and Management Measures are recorded and may be described in the report of the Commission

For a management measure that is adopted, typically, little background on discussions is provided in the Commission Report as the Resolution itself is considered to represent the agreed outcomes of the discussions. The discussion on some proposals not adopted may be reported according to the wishes of the Commission. Discussions on other proposals not adopted may not be reported at all, again depending on the consensus of the Commission during adoption of the report text. Overall, however, an audio recording of each Commission meeting is made and archived, thus the deliberations on all proposals for Conservation and Management Measures are available if required.

Stakeholders are not excluded from observing the process

Observers, typically, are not excluded from the plenary discussions (that include Conservation and Management Measures).

Objection to Conservation and Management Measures

In 2013, a Member of the Commission objected to four Resolutions which was the first time in the history of the organisation. However, the IOTC Agreement does not provide a clear process by which the objection is validated and agreed by all Members, nor a process of review this objection. Compared to the other tRFMOs, the ICCAT has a similar objection procedure to the IOTC, while WCPFC has no objection procedure but a Member who has voted against a decision or was absent when a decision was taken may seek a review by a panel constituted as outlined in Annex II of their Convention. The results of the review panel determine whether or not the decision is re-visited at a subsequent Commission meeting. At the IATTC, decisions, resolutions, recommendations and publications are approved by consensus. There is no objection or opting out procedure.