

Increasing Compliance with Conservation and Management Measures of the Indian Ocean Tuna Commission

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Acronyms

BFT	Atlantic bluefin tuna
CCSBT	Commission for the Conservation of Southern Bluefin Tuna
CMM	Conservation and management measure
CPC	Members and co-operating non-Members to the Commission
EU	European Union
FAO	Food and Agriculture Organisation of the United Nations
FIP	Fishery improvement project
IATTC	Inter-American Tropical Tuna Commission
ICCAT	International Commission for the Conservation of Atlantic Tunas
IOTC	Indian Ocean Tuna Commission
IPG	Improved performance goal
MCS	Monitoring, Control and Surveillance
MSRA	Magnuson-Stevens Reauthorization Act
NAFO	Northwest Atlantic Fisheries Organization
NCP	Non-cooperating non-Member to the Commission
RA	Regulatory Area
SDP	Statistical document program
SEAFO	South-East Atlantic Fisheries Organization
SIOTI	The Sustainable Indian Ocean Tuna Initiative
VMS	Vessel monitoring system
WCPFC	Western Central Pacific Fisheries Commission

Executive Summary

This position paper submitted by the Sustainable Indian Ocean Tuna Initiative (SIOTI) aims to contribute to the overall improvement of the Indian Ocean tuna purse seine fishery, by assessing the compliance situation in the domain of data collection and submission to IOTC, assessing how such work is achieved in other RFMOs, and making proposals as to what actions would be susceptible in improving the current situation.

The paper finds that the compliance mechanisms pursued by all tuna RFMOs are largely similar and equivalent – with few, but some notable differences. Overall, tuna RFMOs limit their compliance work to the monitoring of parties, rather than becoming directly involved in the monitoring and enforcement of fisheries operations, the latter being typically devolved almost entirely to parties themselves. The paper argues, that more direct involvement of the Commission in monitoring and enforcement is needed, through tools such as Commission VMS, direct near-real-time data collection and market-based tools (CDS and TREMs).

Implementation and compliance monitoring by the Commission is generally limited to questionnaire-based CPC self-monitoring and reporting, which is insufficient to provide an unbiased and transparent picture of where individual CPCs stand with regards to the honouring of their duties and responsibilities.

Trade-based sanctions – in the form of trade restrictive measures – may be adopted by the Commission on the basis of Resolution 10/10 on market-related measures, against parties failing to abide with their obligations (either as Members, Cooperating non-members, or non-cooperating non-members) under the IOTC Agreement or under International Law. The ICCAT experience has shown that TREMs are extremely effective in achieving required compliance. However, no single proposal for initiating such courses of action has ever been lodged at IOTC.

The action proposals submitted by SIOTI through this position paper for consideration at the 2018 IOTC General Assembly pursue the combined goals of; a) improving fishery data collection in domains critical to the advancement of IOTC scientific work, as well as, b) improving CPC compliance in the domain of data collection and submission to IOTC. These proposals respond to the hotspots identified under IPG18 of the *Scoping Document for a Tuna Fisheries Improvement Project in the Indian Ocean*, forming the basis of this document.

1. Introduction

The Sustainable Indian Ocean Tuna Initiative (SIOTI) - a large-scale Fisheries Improvement Project (FIP) – aims to contribute to the overall improvement of the Indian Ocean tuna purse seine fishery.

An Action Plan was adopted by SIOTI in May 2017, consisting of eighteen Improved Performance Goals (IPGs). IPG 18 addresses compliance improvements across the board, suggesting that initial efforts focus on timely and accurate provision of catch data to the IOTC (see Annex I). Overall, the aim of IPG 18 is to strengthen the compliance framework of IOTC, and to improve compliance rates of IOTC CPCs with all conservation and management measures (CMMs).

The object of the present position paper is to move forward from the general recommendations under IPG 18 in the Action Plan, and to outline options for improved measures that ensure compliance with CMMs by CPCs and their respective fleets in the Indian Ocean. The report focuses on areas most immediately related to the MSC pre-assessment work and the key weaknesses in need of addressing, covering the relevant compliance profiles and compliance areas of all state types (coastal, port, flag and market).

The report is divided into an assessment part (sections 2, 3 and 4), and a recommendations part (section 5). The assessment part weighs the past compliance profile of CPCs and their fleets, and identifies the most important shortcomings that ought to be addressed in a priority manner. In doing so, it assesses the broader reasons for non-compliance, and how compliance could be pushed to evolve more positively. Other RFMOs, and their experiences in same or similar domains are highlighted, in order to draw lessons from situations where similar challenges have been addressed and solved elsewhere.

The recommendations part – based on this assessment – provides a range of advocated action points and courses of action that ought to be undertaken through IOTC in order to improve particular and overall compliance situations. The report focuses in particular on sanctioning options directly pursued through the RFMO, and ways to substantially improve data collection.

2. The IOTC compliance framework

The Indian Ocean Tuna Commission (IOTC) assumes the mandate to manage the highly migratory, transboundary and straddling tuna and tuna-like resources of the Indian Ocean. It has been recognised over the course of the late 20th century, that fisheries management rules must come complete with enforcement regimes, providing guarantees that adopted management measures are complied with by operators participating in a fishery. In the case of international fisheries overseen and managed through multilateral instruments such as RFMOs, compliance by states with the regime is added to the compliance equation, and this fact substantially complicates matters. RFMOs, such as IOTC, have the difficult task of managing sets of fisheries for which the immediate responsibility of law enforcement lies with coastal, flag, port and market states in their respective roles and functions in the fisheries, while the role of oversight regarding compliance of Contracting Parties to the Convention (CPCs) with the RFMO framework of CMMs falls to the RFMO.

This dichotomy – or set of two layers (state and RFMO) – engenders some challenges regarding transparency and data availability on IUU fishing, which may hinder the development of a full understanding of what IUU fishing there is, and how it evolves over time. Section 3 will look at this question in more detail.

The first three sub-sections that follow elucidate how the IOTC compliance framework is organised with regards to; a) the MCS tools in place, b) the compliance monitoring that is undertaken in a recurrent manner, c) how compliance is fostered through training on one hand, and a sanctions framework on the other. The latter two are generally referred to as the “carrot and stick” approach to law enforcement.

2.1 IOTC compliance tools – MCS

IOTC has adopted an important range of MCS tools – some of which highly innovative – which underpin the management regimes in the various tuna and billfish fisheries. These tools cover a record of authorised fishing and transshipment vessels (RAV), mandatory VMS, logbooks, a regional observer scheme (ROS), an IUU vessel list, the IOTC Bigeye Tuna Statistical Document Programme (SDP), a list of designated ports and an electronic port state measures regime (e-PSM) that is in the process of being rolled out.

IOTC does not operate a commission VMS, limiting its potential to monitor compliance with VMS rules – and limiting its overall potential to monitor the tuna fisheries of the Indian Ocean. It is known that a number of CPCs with large fleets tolerate the operation of tuna fishing vessels not equipped with VMS. The current MCS setup does not allow the Commission or the Compliance Committee to monitor and enforce CPC-tolerated non-compliance in mandatory vessel monitoring practice.

The SDP for bigeye as a market-based tool to monitor trade flows has failed to produce relevant enforcement and compliance results, and has been superseded

in other tuna RFMOs by more powerful catch documentation schemes (CDS) – scoring high impacts in both domains of data submission and availability to the Commission, and compliance of the sector with the regulatory framework. Other tools, such as the ROS, remain to be implemented as intended.

On the other hand, IOTC's proactive stance on PSMA rules, and adopting these through a resolution before the Agreement proper entered into force (CMM 10/04), and the development of the e-PSM interface, are initiatives that have high potential to positively drive compliance in the future – and signal the onset of MCS practice in which the Commission is assuming a more active role in MCS – alongside CPCs, who do remain the main implementers of MCS in their individual capacities as coastal, flag, port and market states.

2.2 IOTC compliance monitoring of CPCs

The Compliance Committee (CoC) was created in 2002 through CMM 02/03 *Terms of reference for the IOTC Compliance Committee*. The elements of the resolution were included in Appendix V of the IOTC Rules of Procedure in 2014. The CoC is responsible for reviewing all aspects of CPCs individual compliance with IOTC conservation and management measures in the IOTC Area and reports directly to the Commission on its deliberations and recommendations.

The primary responsibility of the Compliance Committee is to monitor compliance with respect to implementation of IOTC Conservation and Management Measures by CPCs. The monitoring is conducted through the assessment of reports provided by CPCs.

Under the IOTC Agreement, Article X, and through Appendix V of the IOTC Rules of Procedure, CPCs are required to report on their progress of implementation of CMMs (Report of Implementation) and on compliance with CMMs (Compliance Questionnaire). Monitoring of compliance is also done through the assessment of data and other information reported to the Commission in pursuance to reporting requirements and deadlines enshrined in the various CMMs.

Compliance monitoring through both compliance and implementation questionnaires focuses on both CPC implementation and reporting obligations enshrined in CMMs, and very little on IUU fishing and measures taken in response to detected IUU fishing. This method of working was adopted in 2011, and the compliance questionnaire currently covers 83 reporting obligations.

Given the high workload of the CoC, a *Working Party on the Implementation of Conservation and Management Measures* (WPICMM) was created in 2017 through CMM 17/02. Its objective is to; a) alleviate the technical discussions, workload and time pressures on the CoC, allowing it to focus on higher level compliance implementation strategies in its work for the Commission; b) to enhance the technical capacity of Contracting Party (Member) and Cooperating Non-Contracting Party (CNCP) (collectively termed CPCs) to understand and implement IOTC CMMs; and c) to prioritise implementation issues and to develop operational standards for use by CPCs.

This latest development bestows the detailed work on compliance monitoring and CPC support to the WPICMM, leaving more time for the CoC to focus on higher order strategic compliance considerations.

2.3 Fostering CPC compliance – training & manuals

The Compliance Section currently provides support to CPCs in the implementation of MCS tools adopted by the Commission. A range of training materials have also been developed in the past, assisting CPCs in better apprehending the substance covered by the CMMs, and the reporting requirements flowing from these. Two major manuals first published in 2013, and updated twice since, cover all CMMs with reporting requirements.¹ So called implementation sheets (or “i-sheets”) are hosted on the IOTC website, and cover individual CMMs, listing reporting requirements and other obligations under the CMM in summary manner.²

The Compliance Section carries out compliance support missions (CSMs) to individual countries, and organises regional workshops, and the latest report covers the activities undertaken in the 2016-2017 period.³ These missions set out to improve the capacity of CPCs in complying with IOTC’s requirements, as laid out in CMMs, through capacity building activities. A number of these mission set out to improve capacity in the domain of national MCS frameworks – notably port state controls.

2.4 Performance review of IOTC compliance work

It is appropriate to assess how the latest IOTC performance review has appraised the performance of the RFMO in the domain of compliance and enforcement. This provides a parallel, independent and non-partisan account of the situation. The latest performance review was carried out in 2015, and may hence still be considered as recent, and thus highly relevant.

Under section 5 of the report, covering compliance and enforcement, the following seven proposals were made:

PRIOTC02.12 (para. 139) - Flag State duties

The PRIOTC02 RECOMMENDED that any amendment to or replacement of the IOTC Agreement should include specific provisions on Member's duties as flag States, drawing on the relevant provisions of the UNFSA and take due note of the FAO Guidelines on flag State performance.

PRIOTC02.13 (para. 144) - Port State measures

The PRIOTC02 RECOMMENDED that:

¹ [Implementation of IOTC Conservation and Management Measures - Part A](#) and [Implementation of IOTC Conservation and management measures - Part B](#)

² <http://www.iotc.org/compliance/capacity-building-compliance>

³ See: [Compliance Support Activities \(IOTC-2017-CoC14-09 Rev1 E\)](#)

a) since port State measures are critical for the control of fishing in the IOTC area and beyond, CPCs should take action to ratify the FAO Agreement on Port State Measures, and the Commission explore possible ways of including ports situated outside the IOTC area known to be receiving IOTC catches in applying port State measures established by the IOTC.

b) the Commission, through its port State measures training, support the implementation, including support from FAO and other donors, of the requirements of the FAO PSMA and the IOTC Resolution 10/11 [superseded by Resolution 16/11] On port state measures to prevent, deter and eliminate illegal, unreported and unregulated fishing.

PRIOTC02.14 (para. 149) - Monitoring, control and surveillance (MCS)

The PRIOTC02 RECOMMENDED that:

1. the IOTC should continue to develop a comprehensive monitoring, control and surveillance (MCS) system through the implementation of the measures already in force, and through the adoption of new measures and tools such as a possible catch documentation scheme, noting the process currently being undertaken within the FAO.

2. as a matter of priority review the IOTC monitoring, control and surveillance (MCS) measures, systems and processes, with the objective of providing advice and guidance on improving the integration of the different tools, identification of gaps and recommendations on how to move forward, taking into consideration the experiences of other RFMOs, and that the review should be used as a basis for strengthening MCS for the purpose of improving the ability of the Commission to deter non-compliance and IUU fishing.⁴

PRIOTC02.15 (para. 153) - Follow-up on infringements

The PRIOTC02 RECOMMENDED that:

a) the IOTC should establish a scheme of responses to non-compliance in relation to CPCs obligations, and task the Compliance Committee to further develop a structured approach for cases of infringement.

b) further develop an online reporting tool to facilitate reporting by CPCs and to support the IOTC Secretariat through the automation of identification of non-compliance.

c) reasons for the non-compliance should be identified, including whether it is related to the measure itself, a need for capacity assistance or whether it is wilful or repeated non-compliance, and that the Compliance Committee provide technical advice on obligations where there are high level of CPCs non-compliance.

⁴ Highlight by the author.

PRIOTC02.16 (para. 159) - Cooperative mechanisms to detect and deter non-compliance

The PRIOTC02 RECOMMENDED that the Commission considers strengthening the intersessional decision making processes in situations where CPCs have not transmitted a response such that a decision can be taken for effective operational cooperative mechanisms and that the Commission encourages the CPCs to be more involved in decision making and for the Commission to collaborate to the greatest extent possible with other RFMOs.

PRIOTC02.17 (para. 163) - Market-related measures

The PRIOTC02 RECOMMENDED that:

1. the Commission considers strengthening the market related measure (Resolution 10/10 Concerning market related measures) to make it more effective.
2. the Commission considers to invite key non-CPCs market States that are the main recipient of IOTC catches as observers to its meetings with the aim of entering into cooperative arrangements.

PRIOTC02.18 (para. 169) - Fishing capacity

The PRIOTC02 RECOMMENDED that the Commission consider non-compliance with fishing capacity related measures as a priority in the scheme of responses to non-compliance, in order to ensure the sustainable exploitation of the relevant IOTC species.

2.5 Compliance regimes in other tuna RFMOs

2.5.1 RFMO Compliance Committees

All tuna RFMOs operate some form of a Compliance Committee.

CCSBT operates a Compliance Committee. It is tasked with monitoring compliance of CPCs with CCSBT management and conservation rules. Specifically, its functions are to: a) Monitor, review and assess compliance with all conservation and management measures adopted by the Extended Commission; b) Monitor, review and assess the quality of data (in terms of both accuracy and timeliness) submitted to the Extended Commission; c) exchange information on Member and Co-operating Non-Member activities in relation to compliance activities by Members and Co-operating Non-Members of the Extended Commission; d) Report to the Extended Commission on the implementation of compliance measures by Members and Co-operating Non-Members; e) Make recommendations to the Extended Commission on new compliance measures, including measures to address non-compliance and measures to ensure that accurate and timely data is obtained on all fisheries; f) Make recommendations to the Extended Commission on cooperation in compliance activities and information exchange.

Under the *Minimum performance requirements to meet CCSBT Obligations* (updated in 2017), its tasks are to; a) recommend performance requirements (updates to Appendix 1 of the *Minimum performance requirements to meet CCSBT Obligations*); b) monitor Member compliance through review of annual reports; and c) review and recommend changes to the policy. Overall, the Compliance Committee bases its assessments around a Compliance Plan that provides a framework for the CCSBT, Members and Cooperating Non-Members to improve compliance, and over time, achieve full compliance with CCSBT's conservation and management measures. The Compliance Plan also includes a three-year Compliance Action Plan to address priority compliance risks. This Compliance Action Plan is reviewed, and confirmed or updated every year. The CoC is assisted by a compliance section based at the Secretariat.

In IATTC, the Committee dealing with CPC implementation and compliance is called the *Committee for the Review of Implementation of Measures Adopted by the Commission*. It has met for the 8th time on 21st July, 2017, and is the youngest such committee among all tuna RFMOs. One of the mandates of the Committee is to annually review the IUU vessel list, and to decide on the status of the vessels to be included in the list, or those to be removed. The Committee is otherwise tasked with formally assessing the progress of CPCs in implementing and complying with IATTC CMMs, and is assisted in this task by the Secretariat – through the persona of the Director.⁵ The recurrent compliance assessment is done on the basis of a questionnaire circulated to CPCs.

ICCAT operates a Compliance Committee (COC);⁶ its tasks are to; a) Gather and review information relevant to the assessment of compliance by Contracting Parties and Cooperating non-Contracting Parties, Entities, and Fishing Entities (CPCs) with ICCAT conservation and management measures, including information from ICCAT subsidiary bodies; Annual Reports submitted to the Commission; catch data compiled by the Commission and SCRS; trade information obtained through statistics of CPCs and non- Contracting Parties, Entities or Fishing Entities (NCPs), including from statistical and catch document programs; and other relevant information; b) pursuant to this review, assess the status of each CPC's implementation of and compliance with ICCAT conservation and management measures, including monitoring, control, and surveillance (MCS) measures; c) review available information to assess the cooperation of NCPs with ICCAT in the conservation and management of ICCAT species; d) review domestic measures for the implementation of the Commission's recommendations, as reported by CPCs, and, if available, NCPs; e) review and evaluate reports on inspection and surveillance activities carried out in accordance with ICCAT measures, including reports of activities in contravention of such measures as well as follow-up actions taken to address such activities; f)

⁵ See: [Resolution c-11-07 on the process for improved compliance of resolutions adopted by the commission.](#)

⁶ Re-defined under [CMM 2011-24](#).

develop and make recommendations to the Commission to address issues of non-compliance or lack of cooperation with ICCAT conservation and management measures, g) where needed, develop new or modify existing recommendations to the Commission designed to enhance compliance and cooperation with ICCAT conservation and management measures, such as rules on quota carryovers, or to address ambiguity with respect to the application of such measures; and h) review and make recommendations to the Commission regarding requests for cooperating status.

WCPFC operates a Technical and Compliance Committee (TCC), and is one out of only three subsidiary bodies of the Commission. the TCC's work is based on the annual results of the Compliance Monitoring Scheme (CMS),⁷ whose purpose is to; a) assess CCMs' compliance with their obligations; b) identify areas in which technical assistance or capacity building may be needed to assist CCMs to attain compliance; c) identify aspects of conservation and management measures which may require refinement or amendment for effective implementation; d) respond to non-compliance through remedial options that include a range of possible responses that take account of the reason for and degree of non-compliance, and include cooperative capacity-building initiatives and, in case of serious non-compliance, such penalties and other actions as may be necessary and appropriate to promote compliance with CMMs and other Commission obligations; and e) monitor and resolve outstanding instances of non-compliance.

2.5.2 Compliance Units at RFMO Secretariats

At CCSBT, a Compliance section is tasked with a variety of compliance related tasks, notably the collation of data resulting from its paper-based CDS. It also collects other data, and assists the CoC in preparing the annual compliance reviews on which to assess progress in meeting the goals of the Compliance Plan. Importantly, CCSBT implements a Quality Assurance Review (QAR) program to provide independent national reviews helping Members identify how well their management systems function with respect to their CCSBT obligations and to provide recommendations on areas where improvement is needed. It is further intended that QARs will: a) benefit the reviewed Member by giving them confidence in the integrity and robustness of their own monitoring and reporting systems, and; b) promote confidence among all Members as to the quality of individual Members' performance reporting.

At IATTC, there is no section tasked primarily with implementation and compliance questions. The work relating to implementation and compliance monitoring is assumed by the Secretariat in a general manner.

At ICCAT, the *Department of Compliance* is responsible to receive and collate information and data received from CPCs and to transmit it to the Commission. The Department is staffed by four people. The main tasks of this department are

⁷ Established under [CMM 2017-07](#).

to drafting compliance tables and compliance summaries; maintaining vessel records; implementing regional observer programmes; maintaining an inventory of vessel chartering; receiving BFT farming reports; data validation from Statistical Document and BFT Catch Documentation Programs; maintaining compendia of management regulations; responding to requests for cooperating status and requests for observer status; preparing annual reports; and responding to compliance queries.

At WCPFC, the Compliance section is tasked with implementing the Compliance Monitoring Scheme (CMS), and to reporting to the TCC. In addition to this, it is tasked with preparing and leading a number of initiatives, including the development of a WCPFC CDS – an initiative now over ten years in the making.

2.5.3 Tuna-RFMO RFMO MCS tools

MCS tools operated by the different tuna RFMOs have achieved different degrees of development. A ubiquitous MCS tool operated by all RFMOs is an IUU Vessel List, and whose update is on the agenda of every Compliance Committee Meeting.

The most important tool that can provide states and the RFMO Secretariat with a direct degree of oversight over fleet operations is VMS.

ICCAT is operating a Commission VMS in relation to the BFT fishery. In this fishery, VMS data are relayed in close to real-time from CPC FMCs to the Secretariat, allowing it to exercise direct monitoring in relation to the BFT management regime and the BFT Catch Documentation Programme. Commission VMS is an essential tool for a CDS to operate effectively. WCPFC is the other tuna RFMO operating a Commission VMS.

IOTC, IATTC, CCSBT and ICCAT (except for BFT) are not operating Commission VMS, and hence lack most direct monitoring capacity.

In general, it is safe to state that direct MCS involvement in the monitoring, data collection, policing and disciplining of tuna fishery operations globally is devolved and largely limited to CPCs in their capacities as coastal, flag and port states – with tuna RFMOs also having adopted few market-based tools in which market states also play an important role in terms of exercising oversight.⁸

2.5.4 Summary conclusions: tuna-RFMO compliance and MCS work

The active role of tuna RFMOs in the domain of compliance is invariably limited (to the largest extent) to monitoring compliance of CPCs with implementing and abiding with the tenets of active CMMs. This does include the abiding with MCS-related CMMs such as operating of VMS or implementing enacted and active port

⁸ Note that 2 out of 3 existing multilateral CDS and all SDPs – all market-based tools – have been implemented by tuna RFMOs. However, the two bluefin tuna CDS cover about 0.5% of global tuna catch, and only 2 out of at 7 major commercial tuna species. It is therefore correct to regard market-based tools as little developed.

state measures. Few Compliance Committees hold mandates that directly ask them to propose sanctions for repeated or seriously non-compliance, with ICCAT being the only tuna-RFMO having proposed and issued biting sanctions in the past.

At the level of MCS proper, implementation is devolved to the largest degree to CPCs in their roles as coastal, flag and port states – with little current involvement of market states, owing to the persisting infancy of trade-based management and enforcement tools.

However, the types of MCS tools that should be adopted and applied by members, and the distinct ways in which MCS should be executed and reported on is directed to a large degree by the RFMO through MCS-related CMMs.

Tuna RFMOs do little direct monitoring of VMS data, real-time catch, transshipment and landings reporting, and data cross-checking able to detect discrepancies and direct involved states in investigating such occurrences and ensuring fraud is detected, documented and sanctioned.⁹ With regards to this, the general compliance setup of the tuna RFMOs is a lot weaker than the setup of non-tuna RFMOs such as NEAFC or NAFO, which operate Commission VMS, collect and collate real-time entry/exit and harvest data, and cooperate operationally with joint inspections at-sea and CPC inspections in port. The direct involvement in MCS work of those RFMO Secretariats – under the supervision of the respective Commissions – is a lot more evolved, and opportunities for IUU fishing in the fisheries they oversee are generally understood to be much more limited.

The grip the above named non-tuna RFMO Secretariats (and through them, the Commission) have on trip, logbook, harvest and landings data is generally complete, it is often obtained in near-real time, and is of high quality. This owes to the fact that the quasi-sealed double layer communication and data exchange system *RFMO-state / state-operator* in place in the tuna-RFMOs has been perforated to a large degree, and RFMO's are the immediate recipients of a wide range of direct and mandatory data submissions from units operating in their regulatory areas.

This is the model that IOTC should gradually adopt in order to improve data submission, and monitoring and enforcement capacity.

2.6 Sanctioning regimes and IOTC options

Like compliance monitoring on one hand and operational MCS on the other, falling to RFMOs and states respectively, sanctioning functions are also split between the RFMO and the states. Tuna RFMOs have put in place a limited number of tools and options to monitor compliance and respond to serious CPC

⁹ Possibly the only exception to this broad statement is the monitoring and oversight of BFT harvests, transshipments and landings under the BFT e-CDS operated by ICCAT, and to a lesser extent by CCSBT under its paper-based CDS covering PBT.

non-compliance issues, while the lion's share of monitoring, law enforcement and sanctioning duties – as relating to the fisheries directly – falls to states.

2.6.1 IUU vessel lists

Typically, the tuna RFMOs operate a single sanctioning tool, which is the vessel IUU list. Any vessel that makes it onto this list is no longer authorised to fish in the RFMO's area of competence, and for vessels generally operating legally, such a listing will present serious problems. For vessels operating in total illegality anyways (*i.e.* as stateless vessels without authorisation), being listed or not listed often does not affect their operations much, and vessel IUU lists are not necessarily as important a tool for disciplining rogue states and operators as they are being made out to be.

Compliance committees invariably spend a lot of their time debating the inclusion or release of vessels from such lists, while Secretariats are tasked with collecting background information, evidence, and managing and collating correspondence with flag states, who have the general and shared uncanny trait of shielding their vessels from listing, as a listing is wrongly perceived as – and generally wrongly laid out as – a stain on flag state performance. IUU vessel lists are primarily interpreted as flag state performance score boards, instead of a simple sanctioning mechanism against rogue vessels.

Their other drawback is that vessels, instead of masters and beneficial owners are listed. The perpetrators of – often – serial fraud walk free, and escape most direct consequences, except the known and manageable hassle of renaming and reflagging listed fishing vessels.

Like all tuna-RFMOs, also IOTC also operates an IUU vessel list.¹⁰

2.6.2 Trade restrictive measures

The stiffest of sanctions that can be enacted at RFMO level are trade restrictive measures – or trade sanctions. These can be enacted by the Commission against specific states and specific (or all) tuna-related products a state seeks to export (directly through landing in foreign ports, or through trade). In such cases, CPCs are requested to stop importing all or specific species and/or types of tuna products from such "*identified*" states. Given that such sanctions have the potential to severely disrupt trade and have direct and important economic impacts in the sanctioned economy, their power of instilling compliance is phenomenal.

As with RFMO-based compliance monitoring, trade sanctions are not directed at specific fishing companies, units and individual infractions, but against states as a consequence to their established and persistent failure in complying with RFMO rules.

¹⁰ See: [IOTC IUU vessel list](#)

The only tuna RFMO that has enacted trade sanctions in the past is ICCAT. On the basis of its SDP, flag states were detected to operating illegally in the ICCAT area of competence. ICCAT members and non-members were identified, and after failing to address the issue, had trade restrictive measures levelled against them. The effect was immediate, and the sanctions were successful in eliminating the targeted IUU fishing almost entirely within the shortest period of time.¹¹

Given their power, few RFMOs overall have given themselves conventions or CMMs enabling the adoption of trade restrictive measures. And where their potential use has been adopted, their remit of application is often limited to non-members of the RFMO. Such provisions are generally understood as lacking in compatibility with WTO standards, since one-eyed approaches are discriminatory by definition. Membership in the club exempts a state from facing equally stiff sanctions for non-compliance equivalent to that of non-members. ICCAT's stance on this matter is the model to follow.

There are two resolutions at IOTC that do foresee trade restrictive measures. These are resolution 99/02 calling for actions against fishing activities by large scale flag of convenience longline vessels, and resolution 10/10 concerning market related measures. Resolution 99/02 is the oldest still active IOTC resolution. It limits the remit of punitive actions to *trade restrictive measures to prevent or eliminate FOC fishing activities* of large scale longliners. This resolution is discriminatory and incompatible with WTO norms in the following ways:

- it singles out large scale longliners as the only vessels targeted, hence excluding all others;
- it singles out flag states as the only state-type targeted, hence excluding all others;
- and it only applies to non-member flag states of the Commission, hence excluding CPCs from ever being targeted.

Resolution 10/10 concerning market related measures does provide for non-discriminatory market related measures to be leveraged against parties failing to implement and comply with IOTC resolutions in a repeated and serious manner. The key provision states as follows:

2. a) *The Commission, through the IOTC Compliance Committee should identify each year:*

i) *The CPCs who have repeatedly failed, as stated by the Commission in its annual Plenary, to discharge their obligations under the IOTC Agreement in respect of IOTC Conservation and Management Measures, in particular, by not taking measures or exercising effective control to ensure*

¹¹ For a detailed analysis, see: Hosch, G. (2016) [Trade Measures to Combat IUU Fishing: Comparative Analysis of Unilateral and Multilateral Approaches](#).

compliance with IOTC Conservation and Management Measures by the vessels flying their flag; and/or

ii) The NCPs who have failed to discharge their obligations under international law to co-operate with IOTC in the conservation and management of tuna and tuna-like species, in particular, by not taking measures or exercising effective control to ensure that their vessels do not engage in any activity that undermines the effectiveness of IOTC Conservation and Management Measures.

b) These identifications should be based on a review of all information provided in accordance with paragraph 1 or, as appropriate, any other relevant information, such as: the catch data compiled by the Commission; trade information on these species obtained from National Statistics; the IOTC statistical document programme; the list of the IUU vessels adopted by the IOTC, as well as any other information obtained in the ports and on the fishing grounds.

c) In deciding whether to make identification, the IOTC Compliance Committee should consider all relevant matters including the history, and the nature, circumstances, extent, and gravity of the act or omission that may have diminished the effectiveness of IOTC Conservation and Management Measures.

Paragraph 2. a) i) applies to all CPCs, which in the IOTC use of the term includes members and cooperating non-members, while paragraph 2. a) ii) applies to (non-cooperating) non-contracting parties. While paragraph 2. a) i) singles out CPC flag state duties in particular, it applies to all CPC state types and all compliance obligations of these.

Paragraph 5 specifies the possible courses of action following an identification as follows:

The IOTC Compliance Committee should evaluate the response of the CPCs or NCPs referred to in paragraph 3 b),¹² together with any new information, and propose to the Commission to decide upon one of the following actions:

a) the revocation of the identification;

¹² 3. The Commission should request CPCs and NCPs concerned to rectify the act or omission identified under paragraph 2 so as not to diminish the effectiveness of the IOTC conservation and management measures. The Commission should notify identified CPCs and NCPs of the following: [...]

b) the opportunity to respond to the Commission in writing at least 30 days prior to the annual meeting of the Commission with regard to the identification decision and other relevant information, for example, evidence refuting the identification or, where appropriate, a plan of action for improvement and the steps they have taken to rectify the situation; and [...]

- b) the continuation of the identification status of the CPC or NCP; or*
- c) the adoption of non-discriminatory WTO-consistent market related measures in accordance with Article IX paragraph 1¹³ of the IOTC Agreement.*

In the case of CPCs, actions such as the reduction of existing quotas or catch limits should be implemented to the extent possible before consideration is given to the application of market related measures referred to in subparagraph c). Market related measures should be considered only where such actions either have proven unsuccessful or would not be effective.

This entails that identification is equivalent to a yellow card, formally alerting the identified party that action is being demanded by the Commission, while the market related measures that are ultimately imposed (presumed to be trade-restrictive in nature – the resolution is silent on their specific nature, while it is explicit under resolution 99/02) equate to a red card – providing an analogy with the model adopted and tested by the USA under the MSRA, and the EU under the EU IUU Regulation.

This provides a functional and largely permitting regulatory basis for trade sanctions to be considered and adopted by the Commission. Given the fact that a two-step system, with an identification preceding the adoption of market-related sanctions against specific parties is provided, the use of this tool ought to be straight forward.

2.6.3 Other sanctioning mechanisms

Resolution 16/06 on measures applicable in case of non-fulfilment of reporting obligations in the IOTC establishes in its short three-paragraph text that:

- 1. CPCs shall include information in their Annual Reports (Report of Implementation) on actions taken to implement their reporting obligations for all IOTC fisheries, including shark species caught in association with IOTC fisheries, in particular the steps taken to improve their data collection for direct and incidental catches.*
- 2. Actions taken by CPCs, as described in paragraph 1, shall be reviewed annually by IOTC Compliance Committee.*

¹³ 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. Following the review carried out by the Compliance Committee, the Commission at its annual session, according to the guidelines attached (Annex I), and after having given due consideration to the relevant information provided by the concerned CPCs in these cases, may consider to prohibit CPCs that did not report nominal catch data (exclusively), including zero catches, for one or more species for a given year, in accordance with the Resolution 15/02, paragraph 2 (or any subsequent revision), from retaining such species as of the year following the lack or incomplete reporting until such data have been received by the IOTC Secretariat. Priority shall be given to situations of repeated non-compliance. Any CPC unable to meet these reporting obligations owing to engagement in civil conflict shall be exempt from this measure. The CPC concerned will work with the IOTC Secretariat to identify and implement possible alternative methods for data collection, using established FAO data collection methods.

This resolution can be interpreted as being in partial contradiction to resolution 10/10, since the reporting obligations introduced under the IOTC Agreement (article XI), and further detailed through resolutions 16/11, 15/02, 15/01, 14/05, 12/04, 11/04, 10/08 and 01/06 are actually to fall under a separate, and much more lenient compliance regime – which only potentially forfeits the right to retaining previously unreported total catches for given species.

It is unclear as to why the non-reporting of total catch data is exempted from the full brunt of potential trade measures provided for under resolution 10/10 – given the additional fact that resolution 10/10 provides for a similar more lenient first approach to sanctioning, providing that “*reduction of existing quotas or catch limits should be implemented to the extent possible before consideration is given to the application of market related measures [...]*”.

Given that total catch data are amongst the most important data subjected to mandatory reporting, feeding the work of the Scientific Committee, a major inconsistency arises in the compliance framework of the Commission at the level of this resolution. It is unclear what value resolution 16/06 adds to that already enshrined in resolution 10/10.

3. Compliance at IOTC

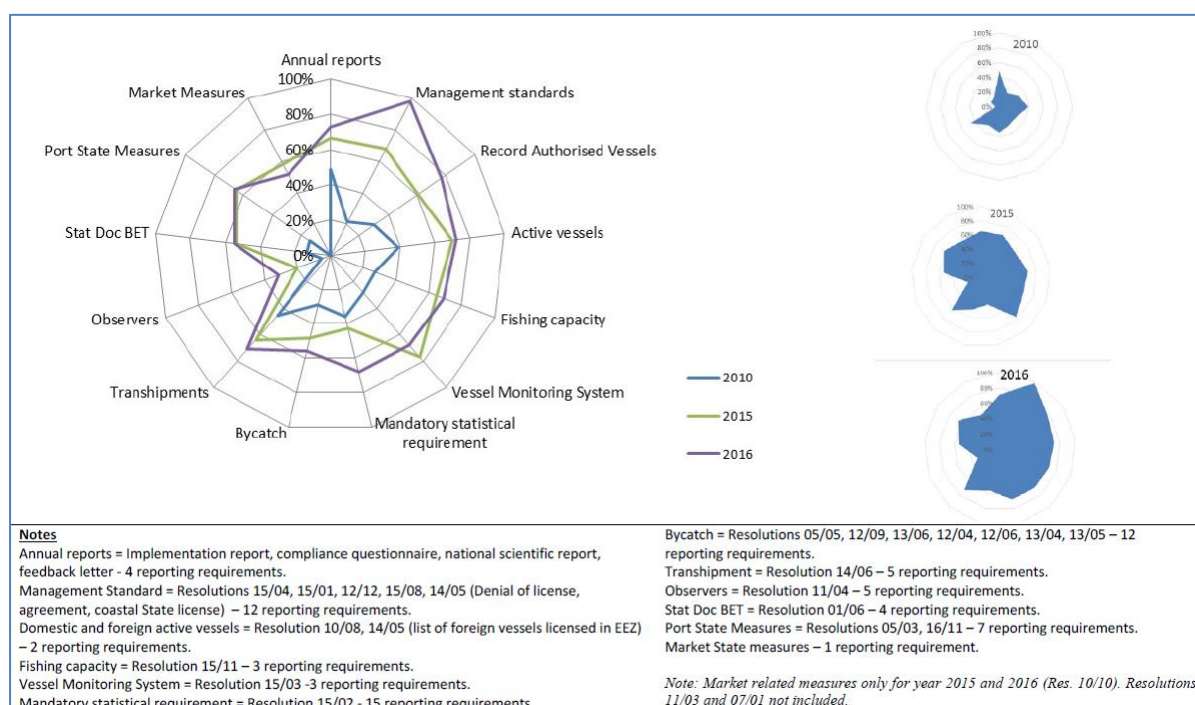
IOTC has been formally publishing compliance figures since 2010, *i.e.* for nine full annual cycles by the end of the current year, and the results for 2017 are to be presented and discussed at the Annual Meeting in Bangkok in May 2018.

3.1 Historic compliance levels and trends

Monitoring of CPC compliance with IOTC resolutions and data submission requirements covers a host of regulatory domains, and IOTC has produced overall figures and graphs in 2017 which provide a good overview of how compliance has evolved over time, and what degree of compliance is being achieved in individual domains.

Figure 1 shows the evolution of compliance regarding reporting requirements between 2010 and 2016, as reported on by IOTC in 2017.

Figure 1: Trends in compliance levels with the different fisheries management tools



(Source: IOTC-2017-CoC14-09_Rev1 [E])

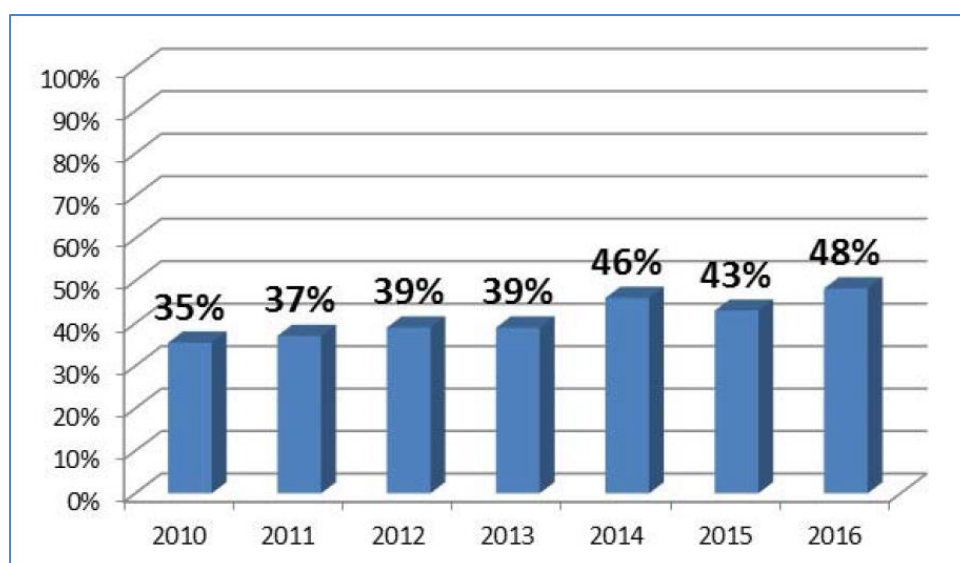
What can be seen in figure 1 is that compliance overall seems to have drastically improved between 2010 and 2015. Importantly, the statistical requirements under resolution 15/02, which improved little between 2010 and 2015, are shown to have progressed substantially between 2015 and 2016.

Other domains relating to critical data monitoring and reporting, and invariably having a data-for-science and data-for-compliance dimension, it can be seen that in the domains of bycatch, transhipment, observer, and bigeye SDP reporting, returns are largely unsatisfactory.

With regards to the mandatory statistical requirements, when looking at more precise figures presented by IOTC in its *Summary Report on the Level of Compliance*,¹⁴ a picture different to the one in figure 1 emerges.

Figures 2 and 3 provide a more detailed appraisal regarding mandatory data submissions by flag states, and are more conservative, because they only concern flag states that must comply, rather than the wider group of CPCs, of which several might be in default compliance, owing to the lack of reporting obligations as a flag state.

Figure 2: Trends in compliance to Resolution 15/02 (Flag state responsibilities), between 2010 and 2016



(Source: IOTC-2017-CoC14-03 [E])

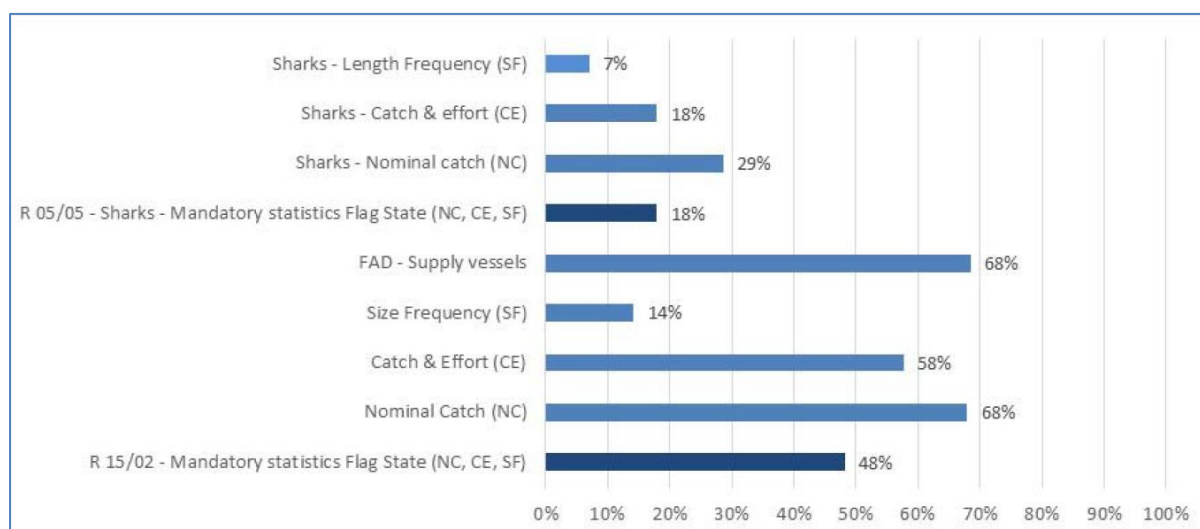
Figure 2 shows that trends in catch data submission across the seven first cycles of monitoring only improved slowly, and fail to reflect the trends conveyed in figure 1. Also, as shown in figure 3, some of the specific reporting requirements, such as the combined catch data for sharks,¹⁵ or the size-frequency data of tuna and tuna-like fishes, remain stuck under the 20% threshold, with over 4 out of 5 CPCs not honouring their mandatory requirements.

It should also be noted that the information flowing from observers were at 0% in 2015, and remained under the 10% threshold in 2016. Observer work, and the data flowing from this activity, could be instrumental to specifically addressing the gaps in length-frequency data, affecting the science work of both tuna and shark fisheries.

¹⁴ See: [IOTC-2017-CoC14-03 \[E\]](#)

¹⁵ These cover length-frequency, catch and effort, and nominal catch data.

Figure 3: Compliance level of Resolutions related to submission of mandatory statistics on IOTC Species and Sharks (Res. 05/05, 15/02)



(Source: IOTC-2017-CoC14-03 [E])

Overall compliance was 59% in 2014, up from 25% in 2010, marking a large increase. However, between 2014 and 2016, only 3.1% were added to that score, to reach 62.1%, meaning that compliance increases driven by a proactive secretariat and the compliance support work it undertakes, may be reaching a natural threshold. Data presented in figure 2 seem to support this same notion.

If such were the case, more coercive means, capable of achieving expected results, will have to be considered.

3.2 Barriers to compliance

The reasons for non-compliance are multifactorial and are system, country and item dependent. There is no single master-factor that would resolve non-compliance matters broadly, simply or swiftly.

3.2.1 RFMO-related factors

The first set of reasons relates – at least in part – to the overall weakness of IOTC with regards to its enforcement capacity. IOTC is limited to deciding on MCS tools that CPCs should adopt and implement. But IOTC does implement few tools directly. So there is little oversight, neither direct, nor indirect, over CPCs role as enforcers of IOTC CMMs – since compliance and implementation monitoring is largely based on self-reporting.

Hence, with the CPC assuming the quasi-sole position of “police”, and with the saying going: “*The police must obey the law while enforcing the law*”, who is monitoring the police, and disciplining it when failing to do its job? The short answer is that currently no independent oversight mechanism exists, and that CPC implementation (of CMMs) is largely based on good faith.

The absence of a coercive practical mechanism is the first factor that softens the stance of individual CPCs in applying the IOTC regulatory framework with

resolve. Conflicts of interest and political choices cloud the waters, and the more stringent CPCs are quickly perceived as holding their sectors and immediate economic interests to a higher standard than others – potentially leading to CPC internal conflicts.

3.2.2 Country-level factors

At the level of individual countries, the first important factor is capacity. The Indian Ocean is surrounded by coastal states, most of which are developing countries, and some of which are in the very low income group – such as Myanmar. For these countries, non-compliance is often rooted in genuine ignorance of international law, institutions, rules and mechanisms regarding compliance and enforcement.

Secondly, some countries, such as Indonesia, are structurally challenged through the possession of extremely long coastlines, boasting hundreds of tuna ports and jetties – many of which privately owned – and requiring fundamental overhauls of how the fisheries sector is organised, managed and monitored, before a position can be assumed that would allow the country and its administration to confidently apply the regulatory framework of the RFMO. These constraints imply that a country as a whole might be unable to account for an important fraction of its fishing vessel movements, for fleet operations, harvests and landings, and can only supply approximations with regards to mandatory data submissions – for instance.

Thirdly, there are capacity, skill and knowledge constraints, and the latter two are directly addressed by the IOTC support missions. Sampling programs in port for instance, scoring low compliance in terms of resulting tuna length frequency data supply to IOTC, are a result of both lacking capacity in terms of human resources, and lacking skills and knowledge of those human resources that are available.

Fourthly, the shared tuna fisheries resources of the Indian Ocean often come second in terms of national allocated management priorities, with national EEZ fisheries typically being allocated more resources. This is a natural choice, as the vast majority of coastal state fleets lack direct access to the high seas, and therefore coastal states may fail to perceive their direct interest in the transboundary management of the resource. On the other hand, coastal fisheries generally play a much more important social and economic part in food security and income generation (and for which IOTC has so far failed to collect data on in a structured manner), and therefore exact the lion's share of resources dedicated to the administration of fisheries.

Lastly, the impact of the dichotomy between flag states located outside of the Indian Ocean basin (including fleets flagged by Indian Ocean States, but hailing from beyond the Indian Ocean), and Indian Ocean coastal states is important to appreciate. Coastal states may wrongly assume that the high seas resources are theirs by extension, while the flag states may wrongly assume that they have

unfettered access to those resources as a function of their – often expanding – fleet capacities. This leads to political standoffs that rarely play in favour of rational resource management and/or compliance.

4. Planned SIOTI IPGs dependent on improved compliance

With regards to SIOTI, and the shortcomings established in the MSC pre-assessment of the Seychelles purse seine fishery, the shortcomings that are directly related to individual CPC performance, implementation of CMMs, and compliance with these, relate chiefly to shortcomings in mandatory data submissions. While the performance indicator *1.2.3 Information and monitoring* (addressed through IPG4) only failed for yellowfin under the Seychelles purse seine pre-assessment, WWF failed it for all three species (YFT, BET, SKJ) – and the pre-assessment team later agreed with this perspective in the SIOTI scoping document.

All other performance indicators (PI) relating to information under *Principle 2 – Ecosystem* (i.e. 2.1.3.1; 2.2.3.2; 2.3.3; 2.5.3), scrape through with a low conditional pass at 60 – with the exception of 2.3.3. These are addressed in IPGs 9, 10, 11 and 16. This entails that one or more fails (i.e. <60 score) for the same PIs in an upcoming re-assessment are a tangible possibility and must also be addressed. It is for this reason, that the submission of mandatory data by CPCs – especially as relating to fishing operations and harvests – plays a critical part in improvements sought through SIOTI in the future.

The other important part falls under *Principle 3 - Management* of the MSC assessment framework; while 7 performance indicators score >80 (a relatively comfortable pass), two domains in particular score 60-79. These are *3.1.1 Legal and customary framework* (addressed through IPG 17), and *3.2.3 Compliance and enforcement* (addressed through IPG18). This is the reason why the basis of compliance (i.e. IOTC rules), and compliance proper have been singled out under IPG18 as needing to be improved.

The other critical shortcomings (i.e. fails), not relating to information directly, established in the MSC pre-assessment relate to *Principle 1 – Stock* and *Principle 2 – Ecosystem*, since harvest control rules and harvest strategies are currently entirely absent. Those shortcomings relate to the work and the overall performance and capability of the Commission, and are not addressed through the proposals made in this position paper. However, some of the proposals made for improving the knowledge (data) and compliance base within IOTC will indirectly support progress in those domains also.

The short conclusion is that very important information gaps exist, owing to the sub-standard collection and submission of data by CPCs, that the current compliance and enforcement framework is not solid enough to address and remedy this situation effectively, and that the action points proposed in the next section also support the outcomes sought through IPGs 4, 9, 10, 11, 16, and 17. It is the improvement of mandatory CPC data submissions that is to be improved by making available better submission routines and developing able enforcement and sanctioning options for CPCs continuing not to meet the mark.

5. Actions for strengthening IOTC compliance & data reporting framework

The following set of six broad actions are identified and proposed to address some of the most important data submission issues – and resulting information gaps – within the IOTC framework. These gaps, and the flawed compliance framework allowing them to persist, have been identified as some of the immediate or proximate reasons for the failed Seychelles purse-seine MSC pre-assessment. It is important to acknowledge that a vastly improved data reporting framework will also substantially improve IOTC's capacity to develop harvest strategies and harvest control rules – the other fundamental set of performance indicators that did not meet the mark in the 2017 pre-assessment.

In essence, the proposals suggest the development of better reporting tools, a more active or direct involvement of the Commission in MCS (via the Secretariat) – including direct data collection from the sector, and the improvement and putting to use of enforcement and sanctioning powers that the Commission has adopted – but never actually put to use.

The six SIOTI advocated action proposals, to be driven by IOTC as action lead, are the following:

1. E-monitoring and direct reporting to the Commission
2. CDS or Port state control scheme
3. Targeted and results-oriented capacity building
4. Regional Observer Program
5. Third-party implementation and compliance audits
6. Trade restrictive measures

5.1 E-monitoring and direct reporting to the Commission

SIOTI Compliance & Enforcement (IPG18) Advocated Action 1	E-monitoring and direct reporting to the Commission	
Rationale	Action	Supported by
<p>A) Minimising burden of compliance with data reporting by both operators and CPCs through the provision of better electronic reporting tools and options.</p> <p>B) Providing direct and near-real-time IOTC access to key operational fleet data, serving both science/management and compliance/enforcement agendas.</p> <p>C) Immediate improvement of Commission access to operational data.</p>	<p>1) develop and install e-reporting interface and platform at IOTC (Secretariat) for daily reporting of catcher vessels and transshipment vessels; data received directly by IOTC;</p> <p>2) data to cover RA entry/exit reports, daily catch reports, transshipment reports, and Commission VMS;</p> <p>3) develop CMM establishing daily e-reporting duties for given fleets, starting with the purse seine fleet, and gradually expanding to other segments of the commercial high seas fleet.</p> <p>4) Provide for direct enforcement mechanisms for established compliance failures (e.g. automatic identification under CMM 10/10 if established reporting failure threshold by any fleet is reached);</p> <p>5) develop data monitoring, cross-checking and compliance routines.</p>	<p>PRIOTC02.14 (first and second paragraph)</p> <p>PRIOTC02.15 (paragraph b)</p>
Targeted outcome	Near-real-time operational / harvest data collection by IOTC	

5.2 CDS or Port state control scheme

SIOTI Compliance & Enforcement (IPG18) Advocated Action 2	Catch documentation scheme (or Port State Control Scheme)	
Rationale	Action	Supported by
<p>A) Capturing all transshipment and landings data of the commercial fleets.</p> <p>B) Providing a versatile and powerful compliance tool, allowing barring access to IUU-derived tuna catches to compliant port states and markets.</p> <p>C) Providing a tool capable of near-real-time Commission monitoring and enforcement of future output limits (TACs and quotas) – a likely ingredient of future harvest control rules.</p> <p>D) Direct sanctioning tool through mechanical non-validation of certificates for determined non-compliance scenarios.</p>	<p>1) consult with tuna-RFMOs (ICCAT, IATTC and WCPFC) regarding potential development of shared super-CDS platform, serving needs of all, covering species and catches globally for all harvests and trade;</p> <p>2) implement an IOTC Commission VMS;</p> <p>3) develop a catch documentation scheme for all major commercial species covered by IOTC;</p> <p>4) eliminate bigeye SDP following adoption;</p> <p style="text-align: center;"><i>--- in the event a CDS cannot be adopted ---</i></p> <p>1) implement a Commission VMS;</p> <p>2) develop a NAFO-style PSC scheme able to capture and directly report direct and indirect landings from IOTC's RA to the Commission – regardless of the port location inside or outside Indian Ocean;</p> <p>3) amend and expand CMM 16/11 to reflect this regime change;</p> <p>4) eliminate bigeye SDP following adoption.</p>	<p>Article XV of the IOTC Agreement</p> <p>PRIOTC02.14 (first and second paragraph)</p> <p>PRIOTC02.16</p> <p style="text-align: center;">---</p> <p>PRIOTC02.13 (specifically paragraph a)</p>
Targeted outcome	<p>Near-real-time harvest / landing data collection by IOTC</p> <p>Elimination of non-reported and/or IUU catch from trade</p> <p>Improved overall compliance of commercial fleets</p> <p>Preparing ground for HCR implementation</p>	

5.3 Targeted and results-oriented capacity building

SIOTI Compliance & Enforcement (IPG18) Advocated Action 3	Targeted and results-oriented capacity building	
Rationale	Action	Supported by
<p>A) Ensuring that given implementation and compliance routines at CPC level are managed confidently by well-trained staff</p> <p>B) Ensuring that capacity building resources and targeted actions contribute to immediate agreed and formally planned CPC compliance improvements</p>	<p>1) Limit IOTC capacity building efforts to situations where transfer of knowledge and skills are susceptible to improving CPC implementation and compliance;</p> <p>2) Formally tie IOTC capacity building services to expected and quantified CPC implementation & compliance improvements through a dedicated action plan, which CPC/IOTC formally work out ahead of any capacity building action;</p> <p>3) Formally monitor progress.</p>	PRIOTC02.15 (paragraph c)
Targeted outcome	<p>Improved CPC performance in data submission</p> <p>Improved cost/benefit profile of capacity building actions</p>	

5.4 Observer program

SIOTI Compliance & Enforcement (IPG18) Advocated Action 4	Regional Observer Program (ROS)	
Rationale	Action	Supported by
<p>A) Use ROS to address key data gaps difficult to address at CPC level.</p> <p>B) Radically improve data available to the Scientific Committee</p>	<p>1) Pursue consistent approach to achieving fully operational ROS (coordination unit, observer recruitment modalities, observer selection and training, e-communication system);</p> <p>2) Phased implementation, starting with the fleets of purse seine and transshipment vessels – 100% coverage;</p> <p>3) Focus on scientific observation and fisheries data collection – notably LF and bycatch data;</p> <p>4) Direct data submission to IOTC, with copy to relevant CPC-parties.</p>	<p>PRIOTC02.14</p> <p>(it is silent on needed ROS improvements in the recommendation, but discusses weaknesses of the ROS under the same heading, and its potential to address existing data gaps)</p>
Targeted outcome	Closing of critical biological data gaps (tuna and sharks)	

5.5 Third-party implementation and compliance audits

SIOTI Compliance & Enforcement (IPG18) Advocated Action 5	Third-party implementation & compliance audits	
Rationale	Action	Supported by
<p>A) Move away from CPC self-reporting on implementation and compliance, towards third party implementation and compliance auditing.</p> <p>B) Drive implementation and compliance improvements through formal, results-oriented, time-limited and monitored action plans.</p> <p>C) Create full transparency regarding CPC implementation and compliance, and actions to achieve expected standards.</p>	<p>1) Develop a third-party audit scheme for CPC implementation and compliance assessment;</p> <p>2) Limit recurrent questionnaire-based implementation and compliance monitoring to verifiable, fact-based questions;</p> <p>3) Audits to establish CPC implementation and compliance short-comings, and to work out time-bound action plan to addressing and resolving weaknesses;</p> <p>4) Audits to be run on recurrent basis (every three or four years), with formal interim CPC reporting on progress achieved.</p>	<p>Approach adopted successfully at CCSBT</p>
Targeted outcome	<p>Improved and transparent reporting on non-compliance</p> <p>Improved CPC compliance through action planning</p> <p>Improved sanctioning basis through transparency</p>	

5.6 Trade restrictive measures

SIOTI Compliance & Enforcement (IPG18) Advocated Action 6	Trade restrictive measures (TREMs)	
Rationale	Action	Supported by
<p>A) Discipline non-compliant CPCs through the issuing of trade-sanctions, via the stepwise mechanism provided in CMM 10/10.</p> <p>B) Achieve immediate and significant compliance improvements.</p>	<p>1) Revoke CMM 16/06, which contradicts and weakens the provisions of CMM 10/10;</p> <p>2) Amend and strengthen CMM 10/10, notably by defining nature and scope of “<i>market-related measures</i>” that may flow from confirmed identification (<i>i.e.</i> “<i>trade sanctions</i>”) – and types of infringements to which they may apply;</p> <p>3) CoC to develop structured approach, detailing the types and levels of non-compliance, and failure to adopt rectification measures, that will lead to identification of CPCs/NCPs under CMM 10/10;</p> <p>4) CoC to develop a formal and exhaustive procedure detailing how a CPC/NCP may avoid trade restrictive measures being imposed, following formal identification;</p> <p>5) Formally put the identification of non-compliant CPCs and NCPs on every CoC agenda – applying the procedure ;</p>	<p>PRIOTC02.15 (paragraph a)</p> <p>PRIOTC02.17 (first paragraph)</p>
Targeted outcome	<p>Improved CPC compliance</p> <p>Elimination of key non-compliance issues</p>	

Annex I – IPG 18

FISHERIES IMPROVEMENT PROJECT SCOPING DOCUMENT

3.3.11 Compliance and enforcement (3.2.3)

Non-critical IPG 18	Monitoring, control and surveillance mechanisms ensure the management measures in the fishery and enforced and complied with. By the end of Year 4, IOTC has begun to address issues of non-compliance with IOTC management measures through the use of sanctions. Initial efforts shall focus on members providing timely and accurate catch data to the IOTC.										
UoC	UoC 1: Free-school: ✓					UoC 2: Associated: ✓					
Target species	YFT: ✓	BET: ✓	SKJ: ✓	YFT: ✓	BET: ✓	SKJ: ✓					
Scoring Issue	Actions				Timescale / Milestones				Action lead	Action partners	Other stakeholders
(a) MCS implementation	Not applicable				• None						
(b) Sanctions	The IOTC considers proposals to strengthen compliance by commencing development of possible sanctions for instance where members repeatedly fall short in complying with IOTC management measures IOTC has recommended a process to (i) develop sanctions and (ii) provide more in depth and critical reporting of non-compliance. IOTC adopts sanctions for non-compliance and makes public an in depth summary of all non-compliance.				<ul style="list-style-type: none"> • End Y1: Formal proposals for a strengthen compliance regime presented and strategy agreed. • End Y2: Sanctions developed and non-compliance reporting systems enhanced. • End Y3: Sanctions in place. • End Y4: Public reposing of non-compliance levels and sanctions imposed as a result, if any. 				IOTC	FIP Country Partners	FIP External Partners
(c) Compliance	See IPG (b) above				• See IPG (b) above						
(d) Systematic non-compliance	See IPG (b) above				• See IPG (b) above						