

INTER-AMERICAN TROPICAL TUNA COMMISSION
COMMITTEE FOR THE REVIEW OF IMPLEMENTATION OF
MEASURES ADOPTED BY THE COMMISSION

13th MEETING

Phoenix, Arizona, USA
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REPORT OF THE WORKSHOP ON COMPLIANCE
(1-2 JUNE 2022)

AGENDA

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1. Opening of the workshop
 2. Current rules and procedural arrangements: overview of Resolution C-11-07 and IATTC practice
 3. Other relevant experiences and considerations on compliance
 4. Identification of problems and challenges in the current IATTC compliance review process and possible solutions
 5. Summary of conclusions and recommendations
 6. Closure
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The Workshop on Compliance was held by videoconference on 1 and 2 June 2022.

1. Opening of the workshop

The meeting was opened by the Chair of the Committee, Mr. David Hogan of the United States, who also assumed the chairmanship of the workshop. In his introductory remarks, he recalled that the main objective of the workshop was to identify the main problems and challenges faced by the Compliance Committee in carrying out its work, as well as possible solutions, based on a review of the rules adopted by the Commission, including the provisions of Resolution C-11-07, and its practice, as well as other relevant experiences. The conclusions and any recommendations will be submitted for the consideration of the 13th meeting of the Review Committee to be held presentially by the end of July 2022.

2. Current rules and procedural arrangements: overview of Resolution C-11-07 and IATTC practice

Mr. Ricardo Belmontes, Compliance and Policy Officer of the Commission, made a presentation on this agenda item, which is reproduced on the IATTC website (see [*Advances and challenges in the compliance committee*](#)).

In his presentation he noted that resolution C-11-07 on the process for better compliance with resolutions adopted by the Commission already provides in its paragraphs 1 to 7 tools with which to work on improving

both compliance and related procedures, including the functioning of the Committee. He noted in particular the following:

- Upon receiving the report from the Committee, the Commission will decide actions for improving compliance by each CPC,
- CPCs for which areas of possible improvement have been identified shall submit a plan of action for such improvement within three months of the end of the Commission's ordinary meeting.
- The Committee may consider development of a scheme of sanctions and incentives as well as a mechanism for their application to improve compliance by all CPCs to be submitted to the Commission.

He noted that over the more than 12 years of the Committee's work, it is possible to observe a considerable reduction in the number of cases of possible non-compliance and infractions related to the activities of the purse seine fleet. It can be assumed that there is a similar trend for the longline fleet, but more information would be needed to determine this precisely.

Despite these positive developments, there remain important areas for improvement, including, for example:

- A greater and better degree of attention and action by CPCs with regard to cases identified as possible infringements, shorter times in the investigation process and the effective imposition of sanctions where an infringement has been found to exist.
- Promptly address the issue of outstanding payments for financial contributions to the budget of the Commission.
- Promote capacity building and strengthening in developing country CPCs.

Particular and specific areas for improvement can also be identified, including tuna discards (Res. C6-20-06), interactions with oceanographic buoys (Res. C-11-03), inappropriate rescue and handling of sharks (Res. C-16-05), fishing during closures or in the "corralito"(Res. C-21-04), the implementation of measures relating to FADs (Res. C-21-04), the limitation on the maximum mesh size of nets on FADs (Res. C-19-01) and the issue of the minimum percentage of scientific observers on board longliners (Res. 19-08).

During the discussion that followed, participants generally agreed with that identification of the issues that should be addressed. Several made specific suggestions in this respect, among which:

- Japan stressed that the Director or the Chair of the Compliance Committee should send a communication to those CPCs that are already under the obligation of preparing and submitting a plan of action in compliance with Res. C-11-07; to this end, the United States highlighted the importance to identify the most serious cases of non-compliance as well as the existence of infractions patterns in order to single out those CPCs, suggestion which Venezuela also supported and reiterated.
- The European Union emphasized the issue of the excessive number of cases that have been identified in previous meetings of the Compliance Committee as possible infractions and that have not been resolved yet but remain still under investigation. The European Union called for a prompt decision on these cases, to confirm the respective existence or not of an infraction and Mexico concurred with the need to drastically reduce the number of cases for which the interested CPCs do not even provide a response on their status. Regarding these responses, Venezuela made emphasis on the need for CPCs to describe the reasons for which a specific case is considered as non-infraction, instead of merely stating that fact.

- El Salvador underscored the need to ensure that all resolutions are drafted in such a way as the text is clear and unambiguous, particularly when describing obligations related to the implementation of the measures that they establish.
- With regards to the review by the Compliance Committee of cases of possible non-compliance, El Salvador stressed the need to consider carefully if the oral reporting by the interested CPC is clear and complete enough for the Committee to reach a conclusion, or if the submission of a written report should be requested.

3. Other relevant experiences and considerations on compliance

Four presentations were made under this item of the agenda, two from representatives of tuna RFMOs (ICCAT and IOTC) and two from representatives of NGOs (the IMCS Network and The Pew Charitable Trusts).

- a) The **first presentation was made by Jenny Cheatle**, Compliance Manager in ICCAT (see [Overview of procedures to assess compliance in ICCAT](#) on the IATTC website).

Among the comments that were prompted by this presentation, the following should particularly be noted. El Salvador found in the experience of ICCAT a good example of the possibility of classifying the cases of possible non-compliance so as to focus the attention of the Compliance Committee on the most serious ones. Japan drew the attention of the participants on the process followed in ICCAT to ensure the follow-up of the manner in which action was taken by the concerned CPCs regarding identified infractions and compliance. An important difference with the procedure followed in IATTC is that, in ICCAT, all the letters sent by the Chair of the Compliance Committee are posted on the website, ensuring a greater transparency in the process, and allowing for a more thorough monitoring by all interested parties. As highlighted by Ms. Cheatle, if the situation does not improve in terms of corrective action and better compliance, ICCAT may adopt non-discriminatory trade sanctions against the CPC concerned.

- b) The **second presentation was made by Gerard Domingue**, Compliance Manager in IOTC (see [Compliance procedures in the Indian Ocean Tuna Commission](#) on the IATTC website).

In his presentation, Mr. Domingue highlighted the active and permanent support provided by the Secretariat to the Commission's Compliance Committee and CPCs, including through the development of general guidelines for national reports, the development of Implementation Manuals, as well as templates or formats to facilitate the elaboration and submission of implementation reports, and also with regard to the incorporation of Commission decisions into national legislation.

- c) The **third presentation was made by Dr. Davis**, from *The Pew Charitable Trusts* (see [Expert workshop on best practice in compliance in RFMOS](#) on the IATTC website).

In his presentation, Dr. Robin Davis referred to the initiative undertaken by *The Pew Charitable Trusts* in partnership with the *International Seafood Sustainability Foundation (ISSF)* to identify and disseminate best practices of RFMOs in the area of compliance, to identify existing challenges in relation to current compliance review mechanisms and procedures and to suggest solutions to address those challenges, in order to fully support RFMOs in this regard. He recalled that three workshops had already been held as part of this initiative, by videoconference, with the participation of IATTC representation (on those workshops, see Dr. Davis' presentation on the IATTC website).

- d) The fourth presentation was made by Dr. Mark Young, Director of the *IMCS Network* (see [International MCS Network activities](#) on the IATTC website).

Dr. Young reported that the objective of the International MCV Network is to promote and facilitate cooperation and coordination of Network members through information exchange, capacity building and joint work to achieve improved effectiveness of monitoring, control and surveillance (MCS) activities. Currently, the membership of the network comprises 71 States, four RFMOs, two RFBs and the EU, which includes eight organizations with observer status.

He took this opportunity to invite the IATTC to become a member of the Network, indicating that such participation did not imply any financial or legal commitments.

4. Identification of problems and challenges in the current IATTC compliance review process and possible solutions

During the discussion, the interventions of the participants allowed for the identification of several problems and challenges, as well as some possible solutions, taking up in some cases the considerations made previously under the first items of the agenda.

- **Improving the functioning of the Compliance Committee:** as El Salvador pointed out, the Committee should not limit itself to hearing explanations from CPCs on cases of possible non-compliance that they themselves identified or that were identified by the Secretariat on the basis of the observers' data, among others. The European Union proposed to improve the way this information is presented, for example by complementing it with an overall assessment of the level of compliance of each CPC, quantifying it. On the other hand, Japan was in favour of adopting a system of public communications similar to that of ICCAT, but not only from the Secretariat or the Chair of the Committee to the CPCs but vice versa, so that all could be aware and informed of the status of the corrective action and compliance process in relation to the cases identified and considered by the Committee. He suggested the possibility that this process could be done online, in an automated manner to streamline the process. In this way, as the United States pointed out, there could not and should not be cases identified as possible infractions with no response, as there are at present.
- **Capacity building and strengthening:** El Salvador, the European Union, the United States and Venezuela all emphasized the need for capacity building and strengthening as an essential element to facilitate and ensure compliance by CPCs with their obligations, including also those related to the elaboration of reports and reports and the provision of information and data in accordance with the provisions of the resolutions adopted by the Commission. Nicaragua expressed itself in the same sense and, specifically, requested that training workshops be held periodically at the national or sub-regional level, as was done in 2018 in Panama for the Central American countries.
- **Stratification of the obligations established by the Commission and cases of possible non-compliance or possible infringement:** somewhat similar to what the United States had pointed out under agenda item 2, Canada stressed the importance of tiering the different obligations established

by the Commission, and ranking them in such a way as to concentrate the attention of CPCs and the Compliance Committee on those that require the greatest effort for compliance or for which non-compliance would have the most serious consequences. Japan supported this scheme which would be tantamount to prioritizing the attention given to obligations and their compliance, as well as cases of possible non-compliance or possible infractions for review by the Committee. On this last point, Ecuador, in addition to agreeing on the need for prioritization among the cases of non-compliance or infraction, advocated an increase and streamlining of contacts and coordination between the IATTC Secretariat and the respective national administrations for the exchange of information on these cases and the process of their review. The European Union gave an example of prioritization, specifically mentioning as items deserving particular attention first the cases of non-compliance with catch limits or with temporal or spatial closures of fisheries, cases of delays in the submission of data or reports to the IATTC or the mere absence of such submission, and, finally cases identified as possible infractions, but which have not been resolved for some time, in particular those which have been reported as still under investigation.

- Processing of cases identified as possible infractions and subsequently classified by the competent authorities as non-infractions: that situation was singled out both by Venezuela and Ecuador as worthy of a special attention within the general effort of improving compliance and its monitoring. In a number of cases identified as possible non-compliance or possible infraction, at the end of the process the conclusion that is reached by the competent authorities is that there was no infraction at all. Venezuela provided a concrete precedent, as an example, that of manta rays reported as illegally retained on board, which resulted later, after investigation, to have fallen accidentally in the wells. Venezuela and Ecuador both insisted that the national reports reflect clearly and precisely such cases and the reasons for which that kind of conclusion was reached. It is also important that the information gathered on board, mainly through the observers' reports be also detailed, clear and precise enough to facilitate the task of the competent authorities afterwards as well as to screen out in advance the cases that can be qualified as possible non-compliance and those who cannot and should not.

5. Summary of conclusions and recommendations

While the workshop did not result in the formulation of conclusions and recommendations as such, from the discussions and interventions of the various participants, emerged a tentative list of actions that should be undertaken to improve both the functioning of the Compliance Committee and compliance and its monitoring. These actions include, not in order of priority

- Improve and expedite the processing by CPCs of possible infractions brought to their attention and in particular solve expeditiously the large number of cases that have long been under investigation;
- Promote capacity building and strengthening of developing CPCs and especially their administrations so that they can better ensure full compliance with the various obligations established in IATTC resolutions;
- With this particular in mind, organize and conduct periodic training workshops with a broad thematic agenda, at least every two to three years, as was done in 2018 in Panama;

- Apply in an effective manner the mechanisms already established in paragraphs 1 to 7 of Resolution C-11-07, in particular regarding the sending of letters to the CPCs involved in cases of non-compliance and requesting the elaboration of the corresponding improvement plans;
- Adopt and implement a scheme similar to that of ICCAT for the publication of these letters and the correspondence exchanged, so that all CPCs can be duly informed of the status of the corrective action and compliance improvement process in relation to the cases that are the subject of this exchange;
- Develop a system whereby this exchange, as well as the information on possible infractions and the correspondence exchanged in this regard, can be carried out online, in an automated manner;
- Seek to identify patterns of infractions and, in particular, take resolute action in the case of vessels that have been identified as committing the same infractions year after year without being duly sanctioned;
- Improve the format and content of the compliance reports, in particular to allow for an overall assessment of the level of compliance of each CPC, with a quantification of this level;
- Request that in these reports or in their responses to compliance questionnaires, CPCs clarify in a detailed and precise manner the reasons why, after their review, they concluded that certain cases should be considered as no infraction;
- Ensure that the information collected on board, primarily the observer reports, is sufficiently detailed, clear and precise to facilitate to the competent authorities and the Commission a more selective and accurate identification and review of the cases that can be considered as possible non-compliance or infraction.

6. Closure

The meeting was adjourned on 2 June 2022 at 6:00 p.m. San Diego, California, time.