

**TERMS OF REFERENCE OF THE INDIAN OCEAN TUNA COMMISSION WORKING PARTY ON COMPLIANCE (WPC)**

**SUBMITTED BY: MOZAMBIQUE AND CO-SPONSORED BY UK(OT), MALDIVES, 1 MAY 2014**

---

*Explanatory Memorandum*

The IOTC is an intergovernmental organisation established under article XIV of the FAO constitution. The IOTC agreement was concluded in 1993 and entered in force in 1998. The IOTC is mandated to manage tuna and tuna-like species in the Indian Ocean and adjacent seas with primary objective the conservation and optimum utilisation of the stocks for long term sustainability.

Since 1998, the members of the IOTC have dedicated most of their effort to the scientific works to manage the tuna and tuna-like resources. Since 2008, more emphasis has been dedicated to the compliance aspects of this RFMO. A Compliance Committee and a compliance section have been created to assess and review all compliance aspects related to the implementation of the IOTC Conservation and Management Measures (CMMs) with the objective to improve compliance by IOTC Members States with regards to implementation of IOTC CMMs.

Annually, CPCs meet at the Compliance Committee to assess progress in ensuring compliance with the IOTC Agreement and CMMs, development of new ideas and CMMs to enhance the sustainable management of the IOTC fisheries, as well as determining the actions to take regarding vessels that have allegedly conducted IUU fishing activities. The work of this Committee has become onerous for the CPCs in the time available to it. Consequently it is being proposed that a Working Party on Compliance (WPC), reporting to the Compliance Committee, could assist in addressing issues assigned to it with appropriate attention to detail and make final recommendations to the Committee and thus reduce the pressures and time constraints on said Committee.

This draft Resolution therefore proposes the formation of the WPC and includes the terms of reference for the operations of this Working Party.

**RESOLUTION 14/XX**

**TERMS OF REFERENCE OF THE INDIAN OCEAN TUNA COMMISSION WORKING PARTY ON COMPLIANCE (WPC)**

**The Indian Ocean Tuna Commission (IOTC),**

RECALLING the intent of the formation of the Indian Ocean Tuna Commission according to the preamble of the Agreement for the peaceful use of the seas and oceans, and the equitable and efficient utilisation and conservation of their living resources;

NOTING under Article V of the Agreement the objective ‘to adopt, in accordance with Article IX and on the basis of scientific evidence, Conservation and Management Measures, to ensure the conservation of the stocks covered by this Agreement and to promote the objective of their optimum utilisation throughout the Area’;

RECOGNISING the annual level of illegal, unreported and unregulated fishing in the IOTC area of competence is estimated to be of a value of several billions of dollars and the urgent need to protect the tuna and tuna-like stocks for sustainability of the resources, livelihoods and food security of those dependent and receiving benefits and sustenance from these resources;

ALSO RECOGNISING the decision of the Commission to establish a Compliance Committee in 2008 to monitor compliance by CPCs with the Agreement and the Commission’s Conservation and Management Measures, assist CPCs to enhance their compliance capacity and conserve the harvesting levels of tuna and tuna-like resources and their associated ecosystems at sustainable levels;

CONSIDERING the fact that the work of the Compliance Committee is rapidly expanding, not only in monitoring compliance, but also to enable CPCs to meet their compliance commitments to the Commission, there is an urgent need to expand the awareness and capacity of CPCs in the use of new compliance technologies to protect their socio-economic and resource futures;

FURTHER RECOGNISING the time constraints on representatives of CPCs to address these Conservation and Management Measures, and the subsequent need to find effective mechanisms to address and complete the growing tasks of the Compliance Committee;

ADOPTS in accordance with paragraph 1 of Article IX of the IOTC Agreement, that: there shall be a Working Party on Compliance to assist the Commission and the Compliance Committee to meet its growing workload in an effective and efficient manner with the following terms of reference:

1. Purpose of the Working Party:
  - a) The purpose of establishing the Working Party on Compliance (WPC) is to address, in a manner consistent with the Agreement and IOTC CMMs, issues associated with compliance of the CPCs in the implementation of IOTC Agreement and CMMs under the Compliance Committee;
  - b) In carrying out its tasks, with the objective to improve compliance of CPCs and ensure effective implementation of IOTC Conservation and Management Measures (CMMs), the WPC will:
    - i. Provide technical recommendations to the Compliance Committee on the implementation of CMMs and as well Monitoring, Control and Surveillance measures adopted under IOTC CMMs;
    - ii. Recommend Monitoring, Control and Surveillance (MCS) measures to the Compliance Committee based on the findings of the WPC. The MCS technical measures proposed could lead to the recommendations for modifications of already adopted CMMs and the development of new CMMs;

- iii. Take direction from the Compliance Committee and conduct its work in accordance with applicable international laws, such as the United Nations Convention on the Law of the Sea, the 1995 United Nations Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks, the FAO Compliance Agreement, the FAO Code of Conduct, and appropriate FAO International Plans of Action (IPOAs), for fisheries managed by IOTC.

2. The tasks of the Working Party shall include:

- a) Identification of the needs of the Commission in terms of CMMs and Monitoring, Control and Surveillance technical measures in order to strengthen the Commission's MCS scheme;
- b) Review and assess the reporting requirements related to the CMMs in order to facilitate reporting by CPCs, including making recommendations on the definition of terms used in the CMM, on the development of a web based Compliance Reporting System (e-CRS) and on the development of Compliance Scoreboard of CPC to facilitate monitoring of compliance with IOTC CMMs of CPCs;
- c) Develop and recommend a methodology of assessment of compliance, using approved base criteria and applied by the IOTC Secretariat for producing the Country Compliance Reports provided annually to the Compliance Committee and flag States;
- d) Review and assess the effectiveness and practical aspects of implementation of CMMs adopted by the Commission in order to identify deficiencies and implementation constraints faced by CPCs;
- e) Propose corrective actions and measures to address deficiencies and implementation constraints faced by CPCs;
- f) Development of recommendations for the incorporation of appropriate actions and measures into IOTC CMMs that will assist CPCs in combating IUU fishing;
- g) Development of, and make recommendations for common minimum regional standards for implementation of CMMs for all CPCs where they have not been adequately defined in the original CMM;
- h) Review and make recommendations when so requested by CPCs, for transposition of IOTC CMMs into national legislative frameworks and, if possible, harmonisation of legislations amongst CPCs for the implementation of IOTC CMMs;
- i) Monitor the development of, and recommend further actions for the IOTC list of vessels presumed to have engaged in illegal, unreported and unregulated (IUU) fishing activities, including where requested by the Compliance Committee or involved CPCs, a review of the evidence to be presented, where such evidence can be made available to the Working Party on Compliance in accordance with paragraph 5 below;
- j) Monitor the development of, and recommend further actions for the list of Large Scale Tuna Longline Vessels (LSTLVs)/carrier vessels presumed to have committed infractions of IOTC CMMs, as recorded by observers deployed under the at-sea transshipment programme;
- k) Monitor the implementation of the fleet development plans and report differences in the activation of these plans to the Compliance Committee;
- l) Provide recommendations on the risks and benefits for the establishment of a regional VMS (Commission Fisheries Monitoring Centres (FMC)/VMS) and if approved, develop the Standard Operating Procedures, enhance the current Commission security and confidentiality rules with respect to

access to, information sharing and data handling for high seas data; data handling for high seas and EEZ data for joint patrols; and actions in the case of violation of such procedures;

- m) Provide recommendations to the Compliance Committee to assist CPCs in the design and implementation of national MCS systems to improve the control of their vessels;
- n) Provide recommendations to the Compliance Committee to assist CPCs in the design and implementation of enforcement actions to ensure compliance of their vessels with IOTC CMMs;
- o) Development of regional capacity building mechanisms to assist CPCs to meet the regional minimum terms and conditions or standards for implementation of the CMMs including for access arrangements, port and sea inspections, vessel registrations, and implementation of general MCS operations;
- p) Provide recommendations for the strengthening of the implementation of CMMs and capacity building activities, including compliance support missions, regional/national training courses and workshops, to be funded under the special fund for capacity building established under Resolution 12/10 or extra budgetary contributions;
- q) Develop recommendations and guidelines for a schedule of sanctions for non-compliance with IOTC CMMs for consideration by the CPCs and the Commission.

### 3. Composition

- a) **Members:** The members of the WPC shall be comprised of representatives of the Fisheries/MCS Administrations of the CPCs. The representatives to serve on the Working Party shall be at the level of Head of the MCS Directorate/Department or equivalent. The CPCs are responsible to appoint one official to serve on the WPC on a permanent basis with provision for one alternative representative;
- b) **Invited MCS experts:** Upon request and/or proposal from a CPC, the WPC can invite compliance experts or international fisheries MCS experts to participate in the meeting of the Working Party;
- c) **Observers:** The WPC can invite observers attending IOTC meetings, the FAO, other RFMOs or regional fishery organisations (e.g. SADC, IOC) to participate in the meetings of this Working Party at their own expense.

4. **Reporting:** The WPC shall report annually to the Compliance Committee.

5. **Frequency of Meetings:** The WPC shall establish a work programme and a time schedule for the development of its activities, and will hold one meeting per year at least 90 days before the Compliance Committee meeting. The first WPC shall be held in 2015.

6. **Venue/Hosting:** The meeting of the WPC will be held in the country hosting the IOTC Secretariat or in any other CPC if a request for hosting the meeting is received by the Executive Secretary.

7. **Chair:** The first meeting of the WPC shall be chaired by the Chairperson of the Compliance Committee, whereupon the Chair of the WPC shall be selected from the participants. The Chair shall be elected for a period of two years with the possibility of renewal for another term of two years.

8. **Review of TORs:** These TORs shall be reviewed every two years by the WPC and as appropriate, amended and approved by the Commission following recommendation of the Compliance Committee.