

BACKGROUND INFORMATION
DRAFT SCHEDULE OF COMPLIANCE ISSUES AND CORRESPONDING ACTIONS

(ICCAT Secretariat in consultation with COC Chair revised on the basis of comments received from CPCs)

Res. 16-17 stipulates that: *To facilitate CPCs' comprehensive understanding of what constitutes minor or significant non-compliance in the context of existing Recommendations, the COC will develop a reference document, including a simple summary or table that lists the level of severity of types of non-compliance with specific ICCAT provisions, understanding that mitigating and aggravating considerations will also be taken into account as specified above.*

No timeframe for the development of the above-mentioned document was indicated, and to date the COC has not yet done this.

In order to facilitate the drafting of the document, the Secretariat, in consultation with the COC Chair, has drawn up a brief "severity table" for consideration, which was discussed at the 2021 Annual Meeting and has since been revised on the basis of comments received from CPCs during the intersessional period and at the 2022 Annual meeting, as attached. While each case would need to be evaluated before final decision by the COC and the Commission, which retains discretion as to what actions to take, the schedule below is intended to provide some guidance to the COC and ensure coherence among cases and over time.

DRAFT SCHEDULE OF COMPLIANCE ISSUES AND CORRESPONDING ACTIONS

PNC = Potential Non-Compliance

Level of PNCs severity:

- Year 1 = Minor non-compliance – MI
- Year 2 = Considerable non-compliance – CO
- Year 3 = Significant non-compliance – SI
- Year 4 and subsequent years = Very significant non-compliance – VS

Determinations of severity take into account any mitigating or aggravating circumstances.

Mitigating circumstances: May reduce the severity by one level.

Aggravating circumstances: May increase severity by one level.

As from year 2/severity level CO, CPCs should submit action plans to address the non-compliance issue.
Implementation of such action plans may be considered a mitigating circumstance.

<u>Category A Non-Compliance</u>					
	Type of PNC issue	<u>Level of Severity</u>	Warranted Action by COC	Mitigating circumstances	Aggravating circumstances
[...]	Catches/landings exceed limits required by ICCAT (considering catch limits by stocks on an individual basis)	Year 1 = MI Year 2 = <u>CO</u> Year 3 = <u>SI</u> Year 4 = VS <u>Consider mitigating and aggravating circumstances</u>	MI = Letter of Concern - Ensure required payback is reflected in adopted compliance table; require that the CPC rectify the overage within 2 years, along with any penalty, consistent with the specific rules for each <u>stock</u> . <u>CO = Identification</u> <u>SI</u> = In coordination with relevant Panel, consider recommending adoption by ICCAT of additional fishery restrictions ¹ VS = If no rectification, consider whether to recommend ICCAT responsive actions in accordance with para 6 of <i>Recommendation by ICCAT Concerning Trade Measures (Rec. 06-13)</i> ^{2,3} <u>All levels of severity: consider capacity building and technical assistance options</u>	Degree of overharvest; demonstrated actions to prevent reoccurrence, including reduction in future years, monitoring and enforcement actions, strengthened laws and regulations, <u>the process of implementing in domestic law initiated but still pending</u> <u>Capacity building and technical assistance</u>	Continued failure to take corrective action; degree of overharvest; increasing level of overharvests. Recurrence of overharvest in another stock/year

¹ Fishery restrictions and/or enhanced MCS requirements may be appropriate, as specified in Res. 16-17.

² Rec. 06-13 para 6, in the pertinent part, provides "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 trade restrictive measures. Trade measures should be considered only where such actions either have proven unsuccessful or would not be effective."

³ If some progress is achieved, maintain identification. Lift an identification or trade restrictive measures after non-compliance has been rectified.

	Failure to adhere to fleet size, fishing effort or other capacity limitation required by ICCAT	<p>Year 1 = MI Year 2 = <u>CO</u> Year 3 = <u>SI</u> Year 4 = VS</p> <p>Consider mitigating and aggravating circumstances</p>	<p>MI = Letter of Concern requesting <u>rectification</u>.</p> <p><u>CO</u> = Identification</p> <p><u>SI</u> = <u>Identification and</u>, in coordination with relevant Panel, consider recommending adoption by ICCAT of additional fishery restrictions</p> <p>VS = If no rectification, consider whether to recommend ICCAT responsive actions in accordance with para 6 of <i>Recommendation by ICCAT Concerning Trade Measures (Rec. 06-13)</i>.</p>	Degree of overcapacity; demonstrated implementation of capacity reduction plan; no overharvest in related fisheries	Repeated or frequent; degree of overcapacity; overharvest of quotas in related fisheries
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	Failure to implement and/or enforce time/area closures	<p>Year 1 = MI Year 2 = <u>CO</u> Year 3 = <u>SI</u> Year 4 = VS</p> <p>Consider mitigating and aggravating circumstances</p>	<p>MI = Letter of Concern requesting <u>rectification</u></p> <p><u>CO = Identification</u></p> <p><u>SI = Identification and</u>, in coordination with relevant Panel, consider recommending adoption by ICCAT of additional fishery restrictions</p> <p>VS = Consider whether to recommend ICCAT responsive actions in accordance with para 6 of <i>Recommendation by ICCAT Concerning Trade Measures (Rec. 06-13)</i></p> <p>All <u>levels of severity</u>: consider capacity building and technical assistance <u>options</u></p>	Capacity building and technical assistance	Repeated or frequent
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	Failure to implement and/or enforce minimum size restrictions	<p>Year 1 = MI Year 2 = <u>CO</u> Year 3 = <u>SI</u> Year 4 = VS</p> <p><u>Consider mitigating and aggravating circumstances</u></p>	<p>MI = Letter of concern requesting rectification</p> <p><u>CO = Identification</u></p> <p><u>SI = Identification and</u>, in coordination with relevant Panel, consider recommending that ICCAT impose enhanced MCS requirements</p> <p>VS = Consider whether to recommend ICCAT responsive actions in accordance with para 6 of <i>Recommendation by ICCAT Concerning Trade Measures (Rec. 06- 13)</i></p>	<p><u>Strengthened laws and regulations, the process of implementing in domestic law initiated but still pending</u></p>	<p>Repeated or frequent and proportion of catch under minimum size.</p>
	Failure to implement and/or enforce gear restrictions/ requirements /limitations, and/or safe handling and release requirements	<p>Year 1 = MI Year 2 = <u>CO</u> Year 3 = <u>SI</u> Year 4 = VS</p> <p><u>Consider mitigating and aggravating circumstances</u></p>	<p>MI = Letter of Concern requesting rectification</p> <p><u>CO = Identification</u></p> <p><u>SI = Identification and</u>, in coordination with relevant Panel, consider imposing enhanced MCS requirements and/or temporary quota reductions</p> <p>VS = Consider whether to recommend ICCAT responsive actions in accordance with para 6 of <i>Recommendation by ICCAT Concerning Trade Measures (Rec. 06- 13)</i>.</p>	<p><u>Strengthened laws and regulations, the process of implementing in domestic law initiated but still pending</u></p>	<p>Repeated or frequent</p>

<u>Category B Non-Compliance</u>					
	<u>Type of PNC issue</u>	<u>Level of Severity</u>	<u>Warranted Action by COC</u>	<u>Mitigating circumstances</u>	<u>Aggravating circumstances</u>
[...]	<p>Failure to report statistical and other required data</p> <p>Note: Failure to report Task 1 data is subject to Rec. 11-15 resulting in retention automatically prohibited for affected species. Prohibition automatically lifted when Task 1 data are provided to the Secretariat.</p> <p>Fishing on FADs is automatically prohibited starting August 1, 2022, until historical FAD data are provided, per Rec. 21-01</p>	<p>Year 1 = MI Year 2 = <u>CO</u> Year 3 = <u>SI</u> Year 4 = VS</p> <p>Consider mitigating and aggravating circumstances</p>	<p>MI = Letter of Concern requesting rectification</p> <p><u>CO</u> = Identification; requirement to submit a data improvement and/or reporting plan with required reporting on implementation</p> <p><u>SI</u> = Identification and limitations on or loss of right to implement certain ICCAT recommendations, such as to charter or request ROP for transhipment at sea/farming, if these practices are causing the failure <u>to report</u>.</p> <p>VS = If no improvement, consider whether to recommend ICCAT responsive actions in accordance with para 6 of <i>Recommendation by ICCAT Concerning Trade Measures (Rec. 06-13)</i></p> <p><u>All levels of severity</u>: consider capacity building and technical assistance options</p>	<p>Advance notification of delay or inability to submit the report may be considered by COC. Request for technical assistance has been made but could not be met; minimal impact on the SCRS's or Commission's ability to carry out needed work</p> <p>Capacity building and technical assistance</p>	<p>Repeated or frequent no response to requests for data or COC Chair's letters; significant impact on the SCRS's or Commission's ability to carry out needed work or ensure intersessional compliance with measures</p>

	<p>Delay in reporting statistical and other required data</p>	<p>If delay is <u>minor</u> = MI</p> <p>If recurring over several years or delay is significant (e.g., information submitted during meeting) = <u>CO</u>, <u>SI</u></p> <p><u>Consider mitigating and aggravating circumstances</u></p>	<p>MI = Letter of Concern requesting rectification</p> <p><u>CO = Identification</u>; requirement to submit a data improvement and/or reporting plan with required reporting on implementation</p> <p><u>SI = Identification and</u> limitations on or loss of right to implement certain ICCAT recommendations, such as to charter or request ROP for transshipment at sea/farming, if these practices are causing the failure to report</p> <p><u>All levels of severity</u>: consider capacity building and technical assistance <u>options</u></p>	<p>Major problems in communication occurred due to <i>force majeure</i>. First instance of failure to correctly apply the requirement, due to confusion, particularly if reporting date has recently changed; minimal impact on the SCRS's or Commission's ability to carry out needed work</p>	<p>Repeated or frequent, <u>no</u> response to requests for data or COC Chair's letters; Significant impact on the SCRS's or Commission's ability to carry out needed work or ensure intersessional compliance with measure</p>
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	Failure to submit reports	<p>Severity will depend on type and number of reports not submitted. Annual Report = <u>CO</u>, <u>SI</u>, VS depending on recurrence</p> <p>Other reports may be MI unless recurring</p> <p><u>Consider mitigating and aggravating circumstances</u></p>	<p>MI = Letter of Concern requesting rectification</p> <p><u>CO = Identification</u>; requirement to submit a data improvement and/or reporting plan with required reporting on implementation</p> <p><u>SI = Identification and limitations</u> on or loss of right to implement certain ICCAT recommendations, such as to charter or request ROP for transshipment at sea/farming, if these practices are causing the failure to report.</p> <p>VS = If no improvement, consider whether to recommend ICCAT responsive actions in accordance with para 6 of <i>Recommendation by ICCAT Concerning Trade Measures</i> (Rec. 06-13)</p> <p><u>All levels of severity</u>: consider capacity building and technical assistance options</p>	Advance notification of delay or inability to submit the report may be considered by COC	Repeated or frequent <u>no</u> response to requests for data or COC Chair's letters; Significant impact on the SCRS's or Commission's ability to carry out needed work or ensure intersessional compliance with measures
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	<p>Delay in submitting reports</p>	<p>If delay is short = MI</p> <p>If recurring over several years or delay is significant (e.g., information submitted during meeting) = <u>CO</u>, <u>SI</u></p> <p><u>Consider mitigating and aggravating circumstances</u></p>	<p>MI = Request rectification</p> <p><u>CO</u> = Request to submit an action plan on improved reporting</p> <p><u>SI</u> = Possible identification, depending on gravity and extent of late reporting</p> <p>All <u>levels of severity</u>: consider capacity building and technical assistance options</p>	<p>Major problems in communication occurred due to <i>force majeure</i>. First instance of failure to correctly apply the requirement, due to confusion, particularly if reporting date has recently changed</p>	<p>Repeated or frequent <u>no</u> response to requests for data or COC Chair's letters; Significant impact on the SCRS's or Commission's ability to carry out needed work or ensure intersessional compliance with measures.</p>
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<u>Category C Non-Compliance</u>					
	<u>Type of PNC issue</u>	<u>Level of Severity</u>	<u>Warranted Action by COC</u>	<u>Mitigating circumstances</u>	<u>Aggravating circumstances</u>
[...]	Failure to implement MCS measures, including catch and trade documentation programs, observer programs, transshipment controls and VMS	Year 1 = MI Year 2 = <u>CO</u> Year 3 = <u>SI</u> Year 4 = VS <u>Consider mitigating and aggravating circumstances</u>	MI = Letter of Concern requesting rectification <u>CO = Identification</u> <u>SI = Identification and consideration of limitations on or loss of right to implement certain ICCAT Recommendations related to MSC measures.</u> VS = Consider whether to recommend ICCAT responsive actions in accordance with para 6 of <i>Recommendation by ICCAT Concerning Trade Measures (Rec. 06-13)</i> <u>All levels of severity: consider capacity building and technical assistance options</u>	The MCS measure requires major investment of resources or technology not available to the CPC Transparency regarding implementation challenges. Request for technical assistance has been made but could not be met <u>Strengthened laws and regulations, the process of implementing in domestic law initiated but still pending</u> <u>Capacity building and technical assistance</u>	Repeated or frequent <u>no</u> response to requests for data or COC Chair's letters. Lack of transparency regarding implementation challenges.

	<p>Failure to exercise port CPC controls</p>	<p>Year 1 = MI Year 2 = <u>CO</u> Year 3 = <u>SI</u> Year 4 = VS</p> <p>Consider mitigating and aggravating circumstances</p>	<p>MI = Letter of Concern requesting rectification</p> <p><u>CO = Identification.</u></p> <p><u>SI = Identification and request</u> submission of a plan of action to implement the provisions of the relevant Recommendation(s)</p> <p>VS = Consider whether to recommend ICCAT responsive actions in accordance with para 6 of <i>Recommendation by ICCAT Concerning Trade Measures</i> (Rec. 06-13)</p> <p><u>All levels of severity:</u> consider capacity building and technical assistance options</p>	<p>MCS measure requires major investment of resources or technology not available to the CPC.</p> <p>Transparency regarding implementation challenges.</p> <p>Capacity building <u>and technical assistance</u></p>	<p>Repeated or frequent <u>no</u> response to requests for data or COC Chair's letters. Lack of transparency regarding implementation challenges.</p>
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	<p>Failure to exercise flag CPC controls</p>	<p>Year 1 = MI Year 2 = <u>CO</u> Year 3 = <u>SI</u> Year 4 = VS</p> <p>Consider mitigating and aggravating circumstances</p>	<p>MI = Letter of Concern requesting rectification</p> <p><u>CO = Identification</u></p> <p><u>SI = Identification and</u> request submission of <u>an action plan</u> to implement the provisions of the relevant Recommendation(s) with the intent of rectifying the failure</p> <p>VS = Consider whether to recommend ICCAT responsive actions in accordance with para 6 of <i>Recommendation by ICCAT Concerning Trade Measures (Rec. 06-13)</i>.</p> <p><u>All levels of severity</u>: consider capacity building and technical assistance options</p>	<p><u>Capacity building and technical assistance</u></p>	<p>Repeated or frequent, systematic failure to control fleet, no response to requests for data or COC Chair's letters</p>
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