

DRAFT**WORKING PAPER ON DRAFT SCHEDULE OF ACTIONS:
SEVERITY OF TYPES OF NON-COMPLIANCE WITH SPECIFIC ICCAT PROVISIONS**

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 has since been revised on the basis of comments received from CPCs, as attached. The Compliance Committee may wish to consider additional actions, such as recommending priority for technical assistance or 'compliance missions'. While each case would need to be evaluated before final decision, the schedule below is intended to provide some guidance to the Committee and ensure coherence among cases and over time.

DRAFT SEVERITY SCHEDULE AND CORRESPONDING ACTIONS TO BE TAKEN

PNC = Potential Non-Compliance

Severity of PNCs:

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

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

Mitigating circumstances: [reduces] [May reduce] the severity by one degree

Aggravating circumstances: [Increases] [May increase] severity by one degree

[Significant non-compliance] [Seriously significant non-compliance] triggers a requirement for the CPC to produce an Action Plan as an Annex to their next Annual Report. Implementation of such Action Plans may be considered a mitigating circumstance.

	Type of PNC issue	Severity	Warranted Action by COC	Mitigating circumstances	Aggravating circumstances
Category A	Catches/landings exceed limits required by ICCAT (considering catch limits by stocks on an individual basis)	Year 1 = MI Year 2 = SI Year 3 = SS Year 4 = VS [Consider mitigating and aggravating circumstances]	MI - Letter of Concern - Ensure required payback is reflected in adopted compliance table; [request] [require] that the CPC rectify the overage within 2 years, along with any penalty, consistent with the specific rules for each stock; [and submission of action plan]. SI = Identification SS = 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 (06-13)</i> ²³ All years: consider capacity building and technical assistance options to recommend/facilitate	Degree of overharvest; demonstrated actions to prevent reoccurrence, including reduction in future years, monitoring and enforcement actions, strengthened laws and regulations Receiving capacity building and/or technical assistance to address the issues	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 Resolution 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.

	Type of PNC issue	Severity	Warranted Action by COC	Mitigating circumstances	Aggravating circumstances
	Failure to adhere to fleet size, fishing effort or other capacity limitation required by ICCAT	Year 1 = MI Year 2 = SI Year 3 = SS Year 4 = VS [Consider mitigating and aggravating circumstances]	MI = Letter of Concern requesting rectification. [and submission of action plan]. SI = Identification SS = In coordination with relevant Panel, consider recommending adoption by ICCAT of additional fishery restrictions VS = If no rectification consider whether to recommend ICCAT responsive actions in accordance with para 6 of <i>Recommendation by ICCAT Concerning Trade Measures (06-13)</i> .	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.
	Failure to implement and/or enforce time/area closures	Year 1 = MI Year 2 = SI Year 3 = SS Year 4 = VS Consider mitigating and aggravating circumstances	MI = Letter of Concern requesting rectification [and submission of action plan] SI = Identification SS = In coordination with relevant Panel, consider recommending adoption by ICCAT of additional fishery restrictions VS = Consider whether to recommend ICCAT responsive actions in accordance with para 6 of <i>Recommendation by ICCAT Concerning Trade Measures (06-13)</i> All [process] [years]: consider capacity building and technical assistance options to recommend/facilitate	Capacity building and technical assistance.	Repeated or frequent.
	Failure to implement and/or enforce minimum size restrictions	Year 1 = MI Year 2 = SI Year 3 = SS Year 4 = VS [Consider mitigating and aggravating circumstances]	MI = Letter of concern requesting rectification SI = Identification SS = In coordination with relevant Panel, consider recommending that ICCAT impose enhanced MCS requirements	None	Repeated or frequent and proportion of catch under minimum size.

	Type of PNC issue	Severity	Warranted Action by COC	Mitigating circumstances	Aggravating circumstances
			VS = Consider whether to recommend ICCAT responsive actions in accordance with para 6 of <i>Recommendation by ICCAT Concerning Trade Measures (06- 13)</i>		
	Failure to implement and/or enforce gear restrictions/ requirements /limitations, and/or safe handling and release requirements	Year 1 = MI Year 2 = SI Year 3 = SS Year 4 = VS [Consider mitigating and aggravating circumstances]	MI = Letter of Concern requesting rectification SI = Identification SS = In coordination with relevant Panel, consider imposing enhanced MCS requirements and/or temporary quota reductions VS = Consider whether to recommend ICCAT responsive actions in accordance with para 6 of <i>Recommendation by ICCAT Concerning Trade Measures (06- 13).</i>	None	Repeated or frequent.
Category B	Failure to report statistical and other required data 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. Fishing on FADs is automatically prohibited starting August 1, 2022, until historical FAD data are provided, per Rec. 21-01	Year 1 = MI Year 2 = SI Year 3 = SS Year 4 = VS Consider mitigating and aggravating circumstances	MI = Letter of Concern requesting rectification SI = Identification; requirement to submit a data improvement and/or reporting plan with required reporting on implementation SS = 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] [of reporting]. VS = If no improvement, consider whether to recommend ICCAT responsive actions in accordance with para 6 of <i>Recommendation by ICCAT Concerning Trade Measures (06- 13)</i> [5. All years: consider capacity building and technical assistance options to recommend/facilitate]	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 Capacity building and technical assistance.	Repeated or frequent, lack of corrective action, 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

	Type of PNC issue	Severity	Warranted Action by COC	Mitigating circumstances	Aggravating circumstances
	Delay in reporting statistical and other required data	<p>If delay is short = MI</p> <p>If recurring over several years or delay is significant (e.g. information submitted during meeting) = SI, SS</p>	<p>MI = Letter of Concern requesting rectification</p> <p>SI = Identification; requirement to submit a data improvement and/or reporting plan with required reporting on implementation</p> <p>SS = 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][of reporting].</p> <p>[5. All years: consider capacity building and technical assistance options to recommend/facilitate]</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, [lack of corrective action, 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 measure</p>
	Failure to submit reports	<p>Severity will depend on type and number of reports not submitted. Annual Report = SI, SS, VS depending on recurrence</p> <p>Other reports may be MI unless recurring</p>	<p>MI = Letter of Concern requesting rectification</p> <p>SI = Identification; requirement to submit a data improvement and/or reporting plan with required reporting on implementation</p> <p>SS = 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] [of reporting].</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> (06- 13)</p> <p>[All years: consider capacity building and technical assistance options to recommend/facilitate]</p>	<p>Advance notification of delay or inability to submit the report may be considered by COC</p>	<p>Repeated or frequent, [lack of corrective action, 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>

	Type of PNC issue	Severity	Warranted Action by COC	Mitigating circumstances	Aggravating circumstances
	Delay in submitting reports	<p>If delay is short = MI</p> <p>If recurring over several years or delay is significant (e.g., information submitted during meeting) = SI, SS</p>	<p>MI = Request rectification</p> <p>SI = Requirement to submit an action plan on improved reporting</p> <p>SS = Possible identification, depending on gravity and extent of late reporting</p> <p>[All years: consider capacity building and technical assistance options to recommend/facilitate]</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, [lack of corrective action, 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>
Category C	Failure to implement MCS measures, including catch and trade documentation programs, observer programs, transshipment controls and VMS	<p>Year 1 = MI Year 2 = SI Year 3 = SS Year 4 = VS</p> <p>[Consider mitigating and aggravating circumstances]</p>	<p>MI = Letter of Concern requesting rectification</p> <p>SI = Identification</p> <p>VS = Consideration of limitations on or loss of right to implement certain ICCAT Recommendations related to MSC measures.</p> <p>VS = Consider whether to recommend ICCAT responsive actions in accordance with para 6 of <i>Recommendation by ICCAT Concerning Trade Measures</i> (06-13) [All years: consider capacity building and technical assistance options to recommend/facilitate]</p>	<p>The MCS measure requires major investment of resources or technology not available to the CPC.</p> <p>Transparency regarding implementation challenges. Request for technical assistance has been made but could not be met</p> <p>[Implementation of action plans.] Investment in capacity building (human resources, means of inspection, technology, etc.)</p>	<p>Repeated or frequent, [lack of corrective action, no response to requests for data or COC Chair's letters.] Lack of transparency regarding implementation challenges.</p>

	Type of PNC issue	Severity	Warranted Action by COC	Mitigating circumstances	Aggravating circumstances
	Failure to exercise port CPC controls	Year 1 = MI Year 2 = SI Year 3 = SS Year 4 = VS [Consider mitigating and aggravating circumstances]	MI = Letter of Concern requesting rectification SI = Identification . SS = Request submission of a plan of action to implement the provisions of the relevant Recommendation(s) VS = Consider whether to recommend ICCAT responsive actions in accordance with para 6 of <i>Recommendation by ICCAT Concerning Trade Measures (06- 13)</i> [All years: consider capacity building and technical assistance options to recommend/facilitate]	MCS measure requires major investment of resources or technology not available to the CPC. Transparency regarding implementation challenges. [Implementation of action plans.] [Investment in capacity building (human resources, means of inspection, technology, etc.),]	Repeated or frequent, lack of corrective action, [no response to requests for data or COC Chair's letters.] Lack of transparency regarding implementation challenges.
	Failure to exercise flag CPC controls	Year 1 = MI Year 2 = SI Year 3 = SS Year 4 = VS [Consider mitigating and aggravating circumstances]	MI = Letter of Concern requesting rectification SI = Identification SS = [request submission of a plan of action] to implement the provisions of the relevant Recommendation(s) with the intent of rectifying the failure VS = Consider whether to recommend ICCAT responsive actions in accordance with para 6 of <i>Recommendation by ICCAT Concerning Trade Measures (06- 13)</i> [All years: consider capacity building and technical assistance options to recommend/facilitate]	None (CPCs should not authorize vessels to participate in ICCAT fisheries if they cannot fulfil their obligations as flag CPC) [Implementation of action plans.] [Investment in capacity building (human resources, means of inspection, technology, etc.),]	Repeated or frequent, systematic failure to control fleet, [lack of corrective action, no response to requests for data or COC Chair's letters]