

**Expert Group Report**  
**Approaches to Evaluate and Strengthen RFMO Compliance Processes and Performance**  
*A Toolkit and Recommendations*  
*Summary*

## Introduction

Lack of sufficient compliance with RFMO obligations is a pervasive challenge that not only weakens the performance of individual members but also of the entire RFMO. Independent RFMO performance reviews have indicated the need to strengthen compliance review mechanisms and UN General Assembly Resolutions have requested international support for increased enforcement and compliance capabilities for RFMOs and members.

Several RFMOs are already taking important steps to strengthen their mechanisms to monitor, assess and support members' compliance with their obligations. They are implementing and developing a wide array of tools, while increasing the transparency of the process and bolstering the capacity needed for effective compliance review. However, much more needs to be done.

To identify some of the challenges in compliance review mechanisms and develop potential solutions to strengthen these processes, The Pew Charitable Trusts, in collaboration with the International Seafood Sustainability Foundation, and with the guidance of a specialist Steering Committee,<sup>1</sup> convened a series of expert workshops in 2020 and 2021. These workshops examined current practice in RFMOs and provided some key learnings on the principal drivers of compliance and non-compliance. These workshops were attended by highly qualified specialists in the field, including chairs of RFMO compliance committees and RFMO compliance officers, representing in total ten RFMOs, and experts from international organizations, academia and civil society. Proceedings of these workshops are reflected in three publicly available reports.<sup>2</sup> Initial findings from these workshops were reviewed and developed by a group of international experts in RFMO compliance.<sup>3</sup> As a result of its work, the Expert Review Group provided a set of principles and recommendations that offer guidance for the strengthening and effective implementation of compliance review processes, and a methodology to assist RFMOs assess the effectiveness of such processes. The outcome of its work is reflected in report concluded in July 2022.

This paper presents the principles and recommendations developed by the Expert Review Group. Recognizing that every RFMO has their own unique set of priorities, strengths, and weaknesses, these new recommendations will allow RFMOs to evaluate their respective compliance review processes to identify where changes should be implemented.

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<sup>1</sup> The Steering Committee was comprised of Adriana Fabra, Senior Advisor to The Pew Charitable Trusts; Holly Koehler, Vice President for Policy and Outreach, ISSF; Gerald Leape, Principal Officer, The Pew Charitable Trusts; Lara Manarangi-Trott, Compliance Manager, WCPFC; Osvaldo Urrutia, Senior Lecturer, Universidad Católica de Valparaíso, Chile; and Mark Young, Executive Director, International MCS Network.

<sup>2</sup> First Workshop Report, <https://www.pewtrusts.org/-/media/assets/2021/04/virtual-expert-workshop-on-best-practices-in-compliance-in-rfmos.pdf>;

Second Workshop Report,

[http://www.pewtrusts.org/-/media/assets/2021/07/pew\\_issf\\_secondcomplianceworkshopreport\\_july2021.pdf](http://www.pewtrusts.org/-/media/assets/2021/07/pew_issf_secondcomplianceworkshopreport_july2021.pdf);

Third Workshop Report, <https://www.pewtrusts.org/-/media/assets/2022/05/2021-third-workshop-report.pdf>

<sup>3</sup> The Expert Review Group included Duncan Currie, Director, Globelaw; Robert Day, International Fisheries Advisor and Consultant; Jung-re Riley Kim, Policy Officer/Negotiator, Ministry of Oceans and Fisheries, Korea; Holly Koehler, Vice President for Policy and Outreach, ISSF; Sarah Lenel, Fisheries Advisor and Consultant; Masa Miyahara, Advisor to the Ministry of Agriculture, Forestry and Fisheries, Japan, and Penelope Ridings, Legal Advisor, WCPFC, under the coordination of Gerald Leape, Principal Officer, The Pew Charitable Trusts.

## Principles

Workshop participants and the Expert Review Group identified challenges in current compliance review mechanisms and, to address these challenges, extracted underlying principles that should be followed to ensure robust and effective processes.<sup>4</sup> These processes should be:

1. *Fair and impartial.* They should be undertaken consistently, based on clear rules, and affording an equal opportunity to participate to all members, recognizing their differences in capacity.
2. *Legitimate.* They should aim at supporting the RFMO to achieve its objectives and not place the focus on individual penalties. They should be based on adequate consultation and good understanding among members.
3. *Transparent.* They should optimize transparency at all levels within the RFMO and with all actors involved, as it can increase fairness and impartiality and make processes more legitimate and eventually more effective.
4. *Targeted.* Considering the high volume of activity and information, they should prioritize the obligations to be assessed. Compliance responses should consider the severity of non-compliance.
5. *Effective.* They should result in improved compliance, through rigorous follow-up mechanisms in case of non-compliance and by monitoring compliance and implementation trends over time.
6. *Efficient.* They should minimize unnecessary administrative burden and costs to all involved, by relying, for example, on electronic/on-line platforms. This can promote fairness among RFMO members.
7. *Cooperative.* They should support and promote cooperation within the RFMO and among RFMOs and with other organizations to increase information exchange and work towards harmonization of certain criteria or processes.

## Recommendations

The Expert Review Group developed a menu of recommendations to support the effective implementation of the compliance review processes and ensure they achieve their purpose and operate along agreed principles. A summary of these recommendations is provided below, structured under the ten core elements of compliance review processes identified by the Group.<sup>5</sup>

1. *Establish the necessary institutional framework and governance rules.* Ensure these processes are established by clear and stand-alone instruments, supported by the RFMO overarching governance structure. They should ensure, among others, that RFMO secretariats have adequate mandates to effectively assist RFMO members in compliance review processes.
2. *Improve the quality and applicability of measures.* Review RFMO measures to prevent duplications and inconsistencies and improve their applicability by making them clearer and incorporating audit points and implementation guidance. Automatize some simple compliance assessment processes.
3. *Ensure that information used for compliance review is of the right quality and quantity.* Prioritize data that is necessary for assessments and ensure it is of high quality, timely, accurate and verifiable with third-party data.
4. *Improve the collation, analysis and presentation of data.* Review and adapt RFMO rules to facilitate the work of Secretariats and incorporate technological solutions to strengthen database management and the presentation of information. Provide information for compliance reviews in a manner that is easy to understand and use.

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<sup>4</sup> See Approaches report, section 2.3.

<sup>5</sup> See Approaches report, section 2.5 and section 3.

5. *Incorporate tools that render the compliance review process more effective, efficient and clearer.* Set hierarchies in obligations and infractions; focus on priority areas through risk assessment; adopt a compliance monitoring schedule and incorporate intersessional monitoring and assessment of less complex matters.
6. *Ensure decision-making rules do not prevent inaction or deadlocks.* The predominant rule of consensus should not prevent RFMO members from taking a decision applicable to a non-compliant member. For example, members whose compliance situation is being reviewed could not partake in making a decision concerning their own situation.
7. *Establish effective consequences of non-compliance and follow up actions.* Ensure that adequate and proportionate consequences of non-compliance are pre-established for the different types of infringements. Establish robust and transparent follow up mechanisms to report on action taken by members and the RFMO after the identification of a situation of non-compliance.
8. *Develop capacity-building assistance.* Increase capacity building initiatives that are targeted, engage recipient countries, are monitored, and their effectiveness assessed. Use capacity building as one of the possible responses to situations of non-compliance.
9. *Improve cooperation among RFMOs.* Share data to cross-verify information, centralize some data collection and publication systems, and harmonize reporting requirements and assessment criteria among RFMOs as much as possible. Establish the necessary memoranda of understanding between RFMOs and encourage informal sharing of information and knowledge among RFMOs' staff.
10. *Establish effective monitoring, evaluation and review mechanisms.* Track trends on the implementation of conservation measures and monitor follow-up actions to assess the effectiveness of compliance review processes. Carry out a "health check" of the RFMO; review measures, procedures, and priorities, and strategically improve the performance of the RFMO, also in the context of a performance review.

### **Looking ahead**

These principles and recommendations are a milestone in the work to ensure that management of the world's shared fisheries is effective and sustainable. They provide the means to efficiently assess and improve compliance review processes. All RFMOs can benefit from making the recommendations an integral part of their efforts to support and improve member compliance and as a result enhance the performance of the RFMO itself.