

Review of a proposal of a methodology to conduct the assessment of the possible infractions detected under the Regional Observer Programme

PREPARED BY: IOTC SECRETARIAT¹, 15 JANUARY 2020

PURPOSE

To encourage participants at the Working Party on the Implementation of Conservation and Management Measures (WPICMM) to review the proposal of a methodology to conduct the assessment of the possible infractions detected under the Regional Observer Programme, as recorded by observers deployed under the at-sea transshipment programme.

BACKGROUND

The component 10, sub-component 10.1, of the work Plan of the WPICMM comprise the following activities:

10	Monitor the development of, and recommend 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
10.1	<i>List of possible infractions under the ROP</i>
10.1.1	Review of the evidence to be presented on vessels presumed to have committed the infractions
10.1.2	Request for further evidence from the CPCs on the list of vessels presumed to have committed infractions
10.1.3	Recommend actions for the CoC on the list of vessels presumed to have committed infractions
10.1.4	Monitor the development of recommended actions on the vessels that have committed infractions
10.1.5	Recommend that the list of possible infraction under the ROP is presented to the WPICMM

The Sixteenth Session of the Compliance Committee (CoC) made the following recommendation:

Notwithstanding the timing of the WPICMM meeting and the deadline for responses, the CoC RECOMMENDED that the responses to the possible infractions be analyse by the IOTC Secretariat, CoC16.08 (Para 31).

The terms of reference of the IOTC Working Party on the Implementation of Conservation and Management Measures (WPICMM) makes provision for this Working Party to monitor the development of, and recommend 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.

DISCUSSION

Due to the timing of the meeting of this Working Party (February/March) and the requirement to circulate the list of possible infractions, including the results of investigation conducted by the fleets (80 days prior to the CoC), this has prevented the WPICMM to conduct the review. The consequence is that the list of possible infractions is presented to the Compliance Committee without the requisite assessments and recommendations.

A proposal was sent in September to the fleets participating in the ROP outlining the procedure to be followed for assessing the response of the fleets to the possible infractions identified. Of the eight fleets participating in the programme in 2019, only two fleets provided comments; Japan and Taiwan, Province of China. These comments will be considered during the review of the process outlined in this document and are presented in this document: contribution from Japan are highlighted in **yellow**, contribution by Taiwan, Province of China, are highlighted in **green**.

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Therefore, in order to allow the WPICMM to discharge the above-mentioned responsibility, the IOTC Secretariat would like to propose the following procedures, which will respond to both, the above-referenced recommendation of the Compliance Committee and the implementation of component 10 of the WPICMM's Work Plan:

1. When providing observer reports to the fleets, the IOTC Secretariat shall also provide a "possible infraction form" for all recorded possible infractions noted in the observer report;

[Comment by Japan: Because the flag CPCs are obligated to investigate possible infractions and manage their flag vessels under paragraph 26 of the Resolution 18/06, the flag CPCs shall receive observer reports and "possible infraction form" instead of the vessels suspected of infraction.]

2. The possible infraction form shall be completed by the concerned fleets to provide their responses on the result of investigations to the IOTC Secretariat;

[Comment by Japan: Because the flag CPCs are obligated to investigate possible infractions and manage their flag vessels, the flag CPCs shall provide responses in the forms instead of the vessels suspected of infraction.]

3. The list of possible infractions shall consist of all incidents noted and received by 31st December each year and it shall be circulated in the following January;

[Edit by Japan: New paragraph to replace original paragraph 3: The list of possible infractions forms which completed by the flag CPCs shall consists of all incidents noted and received by 31st December each year and it shall be circulated in the following January;]

4. The fleets shall be given until 15th January every year to provide the results of investigation related to the possible infractions;

5. The IOTC Secretariat shall provide a working paper to the WPICMM each year, which shall contain the list of possible infractions and a preliminary assessment conducted by the IOTC Secretariat of the result of investigations, using the proposed forms, ,

[Comment by Japan: This seems too tight and unrealistic considering the expected schedule below. There is only app. 1 month for flag CPCs to make their responses and the Secretariat to prepare the preliminary assessment thereon, between the circulation in January and WPICMM.]

-Jan: Circulation of possible infractions to flag CPCs (Flag CPCs make their responses)

(Secretariat prepares the preliminary assessment) -Feb/Mar: WPICMM.]

6. The WPICMM shall then finalise the assessments and provide its recommendations for the consideration of the Compliance Committee.

Possible recommended actions from the assessment by the WPICMM:

- Not considered as a possible infraction -> no recommendation to the Compliance Committee.
- Appropriate action taken by fleet -> no recommendation to the Compliance Committee.

[Edit by Japan: New bullet point to replace original bullet point above: •Considered as possible infraction, but appropriate information is provided by action taken by flag CPCs -> report to the Compliance Committee with the information provided.]

[Comment by Japan: If appropriate actions are taken, information in infractions should be informed to the Compliance Committee.]

- Fleet requested to provide further evidence for discussion at the next Compliance Committee.

[Edit by Japan: New bullet point to replace original bullet point above: •No information or insufficient information -> Flag CPCs will (be) requested to provide further evidence for discussion at next the Compliance Committee.]

The assessment form provided below is proposed to the WPICMM.

ASSESSMENT FORM – POSSIBLE INFRACTION

TO BE COMPLETED BY THE SECRETARIAT

Fleet:	Type of possible infraction:	Name of vessel	Deployment number and name of carrier vessel:	Date sent to fleet	Date of response
Fleet name	<input type="checkbox"/> VMS <input type="checkbox"/> Logbook <input type="checkbox"/> ATF <input type="checkbox"/> Marking Others <input type="checkbox"/> :	SHING SHUN No.23	526 - Harima	01/11/19	15/11/19

[Comment by Japan: It is more preferable that all possible infraction will be treated in the same form with deletion of details in the section of "Actions the fleet taken", for avoidance of confusion.]

Inspection comment:	The vessel name was marked on the bow but was difficult to see clearly at a distance due to part of the name being fully worn way.				
Photograph(s) attached:	File name: 526 18	File name: 526 14	File name: 526 45		

TO BE COMPLETED BY THE FLEET

Result of investigation:	<i>INSERT TEXT OF THE RESULT OF THE INVESTIGATION AND ATTACHED SUPPORTING EVIDENCES TO THE EMAIL (e.g. DOCUMENTS, PHOTOGRAPHS, ETC)</i>
<i>Action(s) the fleet taken</i>	<i>JAPAN added one row [Comment by Japan: Because the flag CPCs are obligated to investigate possible infractions and manage their flag vessels, the flag CPCs shall provide responses in the forms instead of the vessels suspected of infraction.]</i>
<i>Punishment(s) or other action(s) the Flag CPC taken</i>	<i>JAPAN added one row [Comment by Japan: Details in the section of "Actions the fleet taken" should be deleted so that all possible infraction will be treated in the same form / I think information in "Actions the fleet taken" and "Punishments or other actions the flag CPC taken" will be provided by the flag CPC, so it is more appropriate that these items would be included in the flag CPC responses section rather than in the secretariat section.]</i>

ASSESSMENT OF THE RESULTS OF THE INVESTIGATION

Fleet has provided the following evidence(s) in its response:

Marking of the vessel has been corrected/repainted at sea.	<input type="checkbox"/>	Vessel instructed to correct/repaint the marking at next port call.	<input type="checkbox"/>	Vessel has been called to port.	<input type="checkbox"/>	Insert any other type of evidence	<input type="checkbox"/>
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ASSESSMENT FORM – POSSIBLE INFRACTION

Fishing logbook was onboard & bound & with consecutive number.	<input type="checkbox"/>	Fishing logbook was completed properly.	<input type="checkbox"/>	Fishing logbook match the template provided by the flag State (Resolution 15/01).	<input type="checkbox"/>		<input type="checkbox"/>
ATF was faxed to the vessel or provided after the inspection.	<input type="checkbox"/>	ATF was valid and signed by the fleet authorised officer (Resolution 19/04).	<input type="checkbox"/>	ATF match the template ATF provided to by the fleet (Resolution 19/04)	<input type="checkbox"/>		<input type="checkbox"/>
Record of positions (Lat/Long) of vessel demonstrating the VMS was functional.	<input type="checkbox"/>	Map displaying the vessel track demonstrating the VMS of the vessel was functional.	<input type="checkbox"/>	Manual reporting of the positions of the vessel in accordance with Resolution 15/03 demonstrating the reporting of the vessel.	<input type="checkbox"/>		<input type="checkbox"/>
<i>Insert any other type of evidence</i>	<input type="checkbox"/>	<i>Insert any other type of evidence</i>	<input type="checkbox"/>	<i>Insert any other type of evidence</i>	<input type="checkbox"/>		

Fleet action(s) taken according to national legislation:

Document describing sanction(s) imposed to the vessel/master/owner/operator.	<input type="checkbox"/>	Vessel ordered to port for the purpose of inspection / investigation.	<input type="checkbox"/>	Vessel/master/owner/operator has been given a warning.	<input type="checkbox"/>	
Any other fleet action(s) taken:	<input type="checkbox"/>	<i>Specify:</i>				

JAPAN proposed the above section [*Comment by Japan: I think information in “Actions the fleet taken” and “Punishments or other actions the flag CPC taken” will be provided by the flag CPC, so it is more appropriate that these items would be included in the flag CPC responses section rather than in the Secretariat’s section.*]

RESULTS OF THE ASSESSMENT

Recommendation from the assessment to the WPICMM

Appropriate action taken by fleet -> no recommendation to CoC.	<input type="checkbox"/>	Not considered as a possible infraction -> no recommendation to CoC.	<input type="checkbox"/>	Fleet requested to provide further evidence for discussion at next CoC.	<input type="checkbox"/>
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RECOMMENDATION

That the WPICMM03:

- 1) **NOTE** paper IOTC–2020–WPICMM03–09 regarding a proposal of a methodology to conduct the assessment of the possible infractions detected under the Regional Observer Programme.
- 2) **RECOMMEND** a methodology to the Compliance Committee for the Secretariat to conduct the assessments of possible infractions detected under the Regional Observer Programme.