



CCSBT-TCWG/2310/04

## Review of Compliance Risks & Proposed Action Items for Input into the Compliance Action Plan (CAP)

### 1. INTRODUCTION

The Seventeenth meeting of the Compliance Committee (CC 17) agreed to hold a TCWG meeting immediately prior to CC 18 to work on compliance risks and to provide input to the Compliance Action Plan (CAP).

This paper provides an opportunity for Members to:

- Review, identify, update, document and then potentially determine low, medium and high compliance risks using a simple risk assessment matrix; and
- Make recommendations to CC18 on a set of proposed CAP action items (for 2024 to 2028) which address the identified compliance risks, are consistent with CCSBT's draft Strategic Plan<sup>1</sup> agreed by SFMWG 6<sup>2</sup>/ the [2021 CCSBT Performance Review](#), and take into consideration actions identified in the CCSBT [Multi-Year Seabird Strategy](#) (2022).

Note that CCSBT's draft Strategic Plan specifically includes an item (number 5i) which is to, "*Update or revise the 2018-2020 Action Plan to the next five-year phase as a matter of urgency based on the recommendations from the Performance Review*", and goes on to specify a list of Performance Review Recommendations<sup>3</sup> which should be considered when developing the CAP.

### 2. BACKGROUND

CCSBT's Compliance Plan<sup>4</sup> provides a framework for the CCSBT Commission and Members to improve compliance, and over time, achieve full compliance with their CCSBT conservation and management measures. The Compliance Plan includes a now outdated Five-Year Action Plan (CAP)<sup>5</sup> to address priority compliance risks which needs to be updated.

#### 2.1 CCSBT Compliance Plan

Consideration of compliance risks through a risk management approach is an important part of planning future compliance-related work to be undertaken by the CCSBT and its Compliance Committee (CC).

This is recognised in the CCSBT Compliance Plan whose purpose articulates that:

*"The Compliance Plan includes a Five-Year Action Plan to address priority compliance risks"*.

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<sup>1</sup> Provided for reference as paper CCSBT-TCWG/2310/Info 02

<sup>2</sup> The 6<sup>th</sup> Strategy and Fisheries Management Working Group Meeting

<sup>3</sup> The draft Strategic Plan notes the CAP should incorporate PR-2021-30, PR-2021-36->54 and PR-2021-70; a list of these relevant recommendations is provided in **Attachment C**

<sup>4</sup> Provided for reference as paper CCSBT-TCWG/2310/Info 01

<sup>5</sup> Refer to Appendix 1 of the Compliance Plan – the CAP is for the period 2018 to 2020 inclusive

The above statement infers that identification and prioritisation of compliance risks is an important precursor and driver to determining appropriate action items to include in the five-year CAP.

In addition, the Compliance Plan includes the following items which highlight that identifying priority future compliance work should be under-pinned by a risk management and assessment process:

***Part 2 (Compliance Principles):***

*“Risk management: A risk management approach should be used to determine changes or additions to conservation and management measures, and the systems and processes to support those measures”.*

***8.2 Implement Compliance Plan:***

*“New measures may be needed to address emerging compliance risks or replace ineffective or inefficient measures. **The Compliance Committee will adopt a risk-management approach** when developing measures and obligations to recommend to the Commission.”*

***Part 3 (Roles and Responsibilities)*** tasks the CC to:

- *Carry out an annual compliance risk assessment.*
- *Review the Five-Year Action Plan (Appendix 1), based on identification of compliance risks, and recommend any updates.*
- *Recommend additions or changes to CCSBT obligations to address compliance risks.*

Despite the CCSBT Compliance Plan’s emphasis on a risk management approach, such an approach has to date not been well-defined in the CCSBT. TCWG 4 has an opportunity to add more structure to the approach by re-examining and updating the existing list of compliance risks and potentially completing a simple risk assessment matrix to identify lower to higher magnitude compliance risks. The results of this exercise together with consideration of the draft Strategic Plan and Multi-Year Seabird Strategy, could then be used to propose appropriate action items to include in the next CAP.

## **2.2. Risks and the Risk Management Process**

Risk management is a loose term for the general process of identifying, characterising and reacting to risk. Risk assessment is the first step of the risk management process and consists of the quantitative and/or qualitative estimate of risk. The risk assessment process is often recognised as consisting of three main steps which are described in more detail below:

- a) Risk definition;
- b) Risk analysis; and
- c) Risk evaluation.

### **a) Risk Definition**

In this first step, risks are identified and characterised. A risk is the possibility of adverse effects happening, noting that non-compliance events are considered to be risks. Examples of key adverse effects in the CCSBT context could include a decline in SBT stock status and/or the global SBT TAC.

### **b) Risk Analysis**

Risk analysis is where the probability of occurrence of adverse events (including non-compliances) and their consequences is assessed either through a quantitative and/or qualitative approach. The **likelihood** is the probability of occurrence of an adverse event. The **impact** provides a quantification of the severity of the consequences of an adverse event on the CCSBT’s objectives if it takes place.

If there are conflicting views on likelihood and impact, a precautionary approach could be taken.

### **c) Risk Evaluation**

After having estimated i) **impact** and ii) **likelihood**, it is then possible to estimate the risk which is a combination of these two parameters.

## **3. PROPOSED STEPS FOR TCWG4's WORK ON COMPLIANCE RISKS**

To follow the steps in the risk management and assessment process outlined in section 2 above, the Secretariat proposes that TCWG 4 consider undertaking the following work during its meeting.

### **a) Risk Definition**

TCWG's initial work could involve identifying and characterising compliance risks in the context of CCSBT.

The Secretariat proposes that this might most easily be done using the list of existing compliance risks in the outdated CAP as a base as well as the item raised by Australia at CC17<sup>6</sup> that the lack of observer data is a risk that needs to be discussed. This list is provided at **Attachment A** for Members' reference.

Members are requested to:

- Review the existing list of compliance risks in **Attachment A** and determine for each one:
  - Is the risk still relevant? If not, can the risk be removed?
  - If it is still relevant, is the risk clearly stated or does it need to be revised to provide better clarification?
  - Identify any missing or emerging risks and add them to the list.
- Produce a recommended revised list of compliance risks.

### **b) Risk Analysis & Evaluation**

This work could involve undertaking a simple risk analysis and evaluation using the matrix in **Attachment B** by:

- Estimating the *likelihood* and *impact* of each risk (low/ medium/ high/ very high) and placing each risk into the matching position in the risk evaluation matrix;
- Deriving a total risk score for each of the identified risks using the matrix;
- Using the score to classify each risk as high, medium or low; and
- Documenting the score next to each identified compliance risk.

The simple risk analysis and evaluation above could be used as an important tool for identifying areas which represent a greater magnitude of risk and so to help plan where the CCSBT and CC focus their future compliance work activities.

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<sup>6</sup> Paragraph 116 of the [Report of CC17](#)

#### **4. PROPOSED NEXT STEPS: DEVELOPMENT OF CAP ACTION ITEMS**

It is proposed that the next steps in TCWG's work would involve considering all the following key elements together to inform potential draft action items to include in a proposed draft Compliance Action Plan (CAP) for 2024 to 2028:

- The identified compliance risks and their risk matrix scores;
- The specific [Performance Review](#) Recommendations identified as needing to be incorporated into the CAP by SFMWG6<sup>3</sup> (**Attachment C**);
- Other relevant compliance-related items from the Action Plan and Ongoing Work Plans in CCSBT's draft Strategic Plan<sup>7</sup>; and
- Relevant actions items from the CCSBT [Multi-Year Seabird Strategy 2022](#) (**Attachment D**).

Note that **Attachment D** lists only the Multi-Year Seabird Strategy (2022) action items which included action by either the CC or the Secretariat.

#### **Template for Development of a CAP for 2024 to 2028**

The Secretariat has also provided **Attachment E**, which is a template for the development of a draft CAP. This template has been split into an Action Plan and Ongoing Workplan to match the structure of the Draft CCSBT Strategic Plan.

**Attachment E** includes a reference column where the key compliance risk(s) and/or Draft Strategic Plan or Seabird strategy action item being addressed in the CAP can be listed. Next there is a column for the action item itself, as well as columns to identify who will be responsible for undertaking the action and within what timeframe.

The Secretariat proposes that TCWG 4 use this template (or similar) to identify draft appropriate CAP action items for 2024 to 2028, which will address a combination of the four important elements listed in the four dot-points above.

#### **5. RECOMMENDED ACTIONS**

TCWG is invited to:

- Recommend a list of current compliance risks to CC18 including the perceived magnitude of each risk (high/medium/low); and
- Recommend a draft Compliance Action Plan (CAP) for 2024 to 2028 to CC18 using the template in **Attachment E** which:
  - Includes action items to address a combination of identified compliance risks, Performance Review Recommendations and/or Draft Strategic Plan or Seabird strategy action items;
  - Notes who will be responsible for undertaking each CAP action item; and
  - Notes the timeframe within which each CAP action item should be completed.

**Prepared by the Secretariat**

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<sup>7</sup> Provided for reference as paper CCSBT-TCWG/2310/Info 02

## List of Compliance Risks Identified in the 2018 – 2020 Three-Year Compliance Action Plan

The compliance risks are numbered for easy reference but are not listed in any particular order:

| Risk Item Number | Risk Description  | Risk Matrix Score <sup>1</sup> |
|------------------|---|--------------------------------|
| 1)               | Non-compliance or incomplete implementation of the CDS  |                                |
| 2)               | Members not fully implementing the agreed Conservation and Management Measures of the CCSBT   |                                |
| 3)               | Incomplete reporting of SBT mortalities and not fully attributing all SBT mortalities (such as recreational catch, artisanal catches, discards, farm sector catches, non-farm commercial sector catches) against national allocations   |                                |
| 4)               | Risks associated with transshipments (both in port and at-sea), including difficulties in tracking product, preventing unauthorised introduction of product and the limitations of transshipment observers detecting infringements (including identification of SBT) when product is transhipped at-sea |                                |
| 5)               | SBT being landed as other (non SBT) species   |                                |
| 6)               | Catches of SBT by Non-Cooperating Non-Members (NCNMs)   |                                |
| 7)               | Expansion of markets for SBT that are not cooperating with the provisions of the CCSBT's CDS  |                                |
| 8)               | Incomplete or inaccurate reporting of non-SBT bycatches, including sea birds  |                                |
| 9)               | Limited ability of some RFMOs to share relevant compliance information with each other due to confidentiality constraints and/or lack of relevant data exchange/ cooperation agreements   |                                |
| 10)              | Limited information regarding fleet compliance with respect to binding and recommendatory ERS measures  |                                |

### Additional Risk Identified by Australia in paragraph 116 of the of [Report of CC17](#):

|     |   |  |
|-----|---|--|
| 11) | Lack of observer data for reasons such as the COVID-19 pandemic |  |
|-----|---|--|

<sup>1</sup> The risk matrix score (refer to **Attachment B**) could be added after the risks have been reviewed and potentially updated and the risk analysis and evaluation exercise has been completed

### Risk Evaluation Matrix (Template)

The table below represents a simple risk evaluation matrix. TCWG participants could use this matrix to calculate a quantitative risk value for each identified compliance risk based on a combination of the perceived impact if it occurs (low to very high) and likelihood (low to very high) of the risk event occurring.

To do this risk evaluation, participants would need to place the number corresponding to each risk item into the table below. Depending on where in the table each risk is placed, it will automatically be associated with a predetermined score from 1 to 16.

The Secretariat has arbitrarily suggested these scores can more generally be classified into High, Medium or Low category compliance risks as follows:

- Low:** Combined Likelihood/Impact Score of 1 – 3 (green)
- Medium:** Combined Likelihood/Impact Score of 4 – 8 (orange)
- High:** Combined Likelihood/Impact Score of 9 – 16 (red)

|        |               | Likelihood |            |          |               |
|--------|---------------|------------|------------|----------|---------------|
|        |               | Low (1)    | Medium (2) | High (3) | Very High (4) |
| Impact | Low (1)       | 1          | 2          | 3        | 4             |
|        | Medium (2)    | 2          | 4          | 6        | 8             |
|        | High (3)      | 3          | 6          | 9        | 12            |
|        | Very High (4) | 4          | 8          | 12       | 16            |

## 2021 CCSBT Performance Review Recommendations Referred to in the Draft Strategic Plan for 2024 – 2028

| Performance Review Recommendation Number | Recommendation Description   |
|--|--|
| PR2021-30                                | Identify and analyse compatibility issues and risks associated with adopting resolutions from other RFMOs, especially in monitoring, compliance, and surveillance for ERS, and develop mitigation measures and strategies.   |
| PR2021-36                                | Update or revise the 2018-2020 Action Plan to the next five-year phase as a matter of urgency.   |
| PR2021-37                                | The CCSBT should continue to cooperate with the transshipment management measures of other relevant RFMOs to ensure compliance with the requirement of the Transshipment Resolution in the most effective and feasible manner.   |
| PR2021-38                                | Advocate for strengthened VMS measures in other RFMOs and decide whether the current VMS practice is sufficient for the purpose of the management of SBT and ERS, taking into account the overlapping areas and the compatibility of management measures with other RFMOs. |
| PR2021-39                                | Explore mechanisms to strengthen the observer program, including through the implementation of electronic monitoring.  |
| PR2021-40                                | Review existing standards for observer coverage to allow the use of electronic monitoring.   |
| PR2021-41                                | Establish a high sea boarding and inspection scheme that is cost-effective and feasible for SBT fisheries.   |
| PR2021-42                                | Establish mechanisms to make the full use of data collected through catch documentation scheme.  |
| PR2021-43                                | Continue implementation of the compliance processes according to the Compliance Plan to ensure that non-compliance is addressed, and effective punitive and corrective actions are applied.  |
| PR2021-44                                | Continue to formalize and strengthen the information sharing with other RFMO secretariats and alternative information sources.   |
| PR2021-45                                | Consider establishing a quality assurance review with a formal review and follow up process.   |
| PR2021-46                                | CCSBT should seek to strengthen mechanisms on following up on infringement other than over-catch   |
| PR2021-47                                | Strengthen the compliance assessment process, including its decision-making and corrective actions policy, and establish a formal follow-up process on infringements.  |
| PR2021-48                                | Continue to ensure that their [Members'] domestic management meets the international obligations set forth by the Convention and relevant CMMs.  |
| PR2021-49                                | Strengthen the CCSBT Port State Measures Resolution in conformity with the FAO Port State Measures Agreement.  |
| PR2021-50                                | Strengthen mechanisms to monitor compliance with the Port State Measures Resolution, including greater coordination with other RFMOs and timely reporting by Members.  |
| PR2021-51                                | Strengthen the implementation of the CDS Resolution.   |

| <b>Performance Review Recommendation Number</b> | <b>Recommendation Description</b>  |
|---|--|
| PR2021-52                                       | Establish mechanisms to address consistent non-compliance by Members.  |
| PR2021-53                                       | Prioritise the implementation of an eCDS.  |
| PR2021-54                                       | Review the reporting templates periodically.   |
| PR2021-70                                       | Improve the implementation compliance processes and observer schemes and support the introduction of an e-CDS. |



### Excerpt from Multi-year Seabird Strategy

#### *Objectives that mention action by the CC and/or Secretariat*

| <i>Objective 2: To ensure the collection of timely, reliable, representative data to support accurate regular estimations of total seabird mortality in SBT fisheries and its impact on seabird populations.</i> |  |                                       |  |
|--|--|---------------------------------------|--|
| No.  | Action   | Action by                             | Timeframe                                |
| 2B   | Report and disseminate annually numbers of incidentally caught seabirds by species according to agreed reporting standards, total and observed effort, and mitigation use, according to agreed formats and strata.   | CCSBT Members, Secretariat            | Annually                                 |
| 2C   | Explore options for the use of electronic monitoring systems by: <ol style="list-style-type: none"> <li>a. Including seabirds (and other ERS) in discussions and the development of electronic monitoring systems.</li> <li>b. Considering electronic monitoring systems that contribute to, among other things, the effective monitoring of the implementation of seabird mitigation measures, and seabird interaction levels, throughout SBT fisheries.</li> </ol> | ERSWG, CC, SC, ACAP, other tuna RFMOs | Within 3 years                           |
| 2H   | Review procedures and protocols to facilitate improved reporting of seabird interactions to species level by: <ol style="list-style-type: none"> <li>a. Consistent reporting of seabird interactions across SBT fishing fleets.</li> <li>b. Removing any ambiguity about species groupings.</li> </ol>   | ERSWG, CC, BirdLife International     | Within 2 years, after that every 5 years |
| 2I   | Consider options for the use of fishing vessel logbook records of seabird interactions by examining the potential for logbook records to supplement other seabird interaction information sources, where appropriate.  | ERSWG, CC, ACAP, other tuna RFMOs     | Within 3 years                           |

| <i>Objective 4: To develop and refine compliance approaches to ensure fleet-wide compliance with seabird bycatch mitigation measures required while conducting fishing for SBT.</i> |  |                            |  |
|---|--|----------------------------|--|
| No.   | Action   | Action by                  | Timeframe                                |
| 4A  | Collate information from compliance programs of CCSBT Members on implementation of seabird bycatch mitigation measures in SBT fisheries on a fleet-by-fleet basis.   | CCSBT Members, Secretariat | Annually                                 |
| 4B  | Review procedures and methods to improve compliance by SBT fishing operators with seabird CMMs and reporting requirements concerning seabird interactions by: <ul style="list-style-type: none"> <li>a. Reviewing existing procedures and methods, including for in-port and transshipment at-sea inspections, and when other monitoring and surveillance technologies and techniques are used.</li> <li>b. Considering implementation, where appropriate, of additional monitoring and surveillance technologies and techniques.</li> <li>c. Considering options for management responses concerning non-compliance.</li> <li>d. Considering the development of options to enable, particularly for high seas SBT fishing fleets, the timely reporting of non-compliance events.</li> </ul> | CC                         | Within 2 years                           |
| 4C  | Review data collection forms and procedures across tuna RFMOs regarding compliance with seabird CMMs by longline fishing operators and develop harmonised format to communicate and advocate across tuna RFMOs.  | CC                         | Within 2 years, after that every 5 years |

| <i>Objective 5: To enhance education and outreach programs highlighting the importance of mitigating seabird interactions while fishing, and advocating effective implementation of mitigation measures.</i> |  |                            |           |
|--|--|----------------------------|-----------|
| No.  | Action   | Action by                  | Timeframe |
| 5A   | Share documents, formats and procedures for observer and electronic monitoring, seabird bycatch data collection through a centralised portal, e.g. the Bycatch Mitigation Information System hosted by the Western and Central Pacific Fisheries Commission. | Secretariat, BMIS          | Ongoing   |
| 5B   | Pursue collaboration across tuna RFMOs in capacity building in seabird bycatch monitoring and analyses.  | CCSBT Members, Secretariat | Ongoing   |

**Compliance Action Plan (Template for 2024 to 2028 inclusive)**

**A. Action Plan**

| Action Item Ref. No. | Reference Information for Issue being Addressed<br><i>(these columns could be deleted from the finalised CAP)</i> |  | Action Required to Address Risk/ Draft Strategic Plan/ Seabird Strategy | Responsibility (Members and/or the Secretariat) | 2024 | 2025 | 2026 | 2027 | 2028 |
|----------------------|---|--|---|---|------|------|------|------|------|
|                      | Risk Item No. & Matrix Score (H/M/L)  | Draft Strategic Plan/ Seabird Strategy Ref No.<br><i>(if available/ relevant to the proposed action)</i> |   |   |      |      |      |      |      |
| 1                    |   |  |   |   |      |      |      |      |      |
| 2                    |   |  |   |   |      |      |      |      |      |
| 3                    |   |  |   |   |      |      |      |      |      |
| 4                    |   |  |   |   |      |      |      |      |      |
| 5                    |   |  |   |   |      |      |      |      |      |

..... etc.

**B. Ongoing Workplan**

| Action Item Ref. No. | Reference Information for Issue being Addressed<br><i>(these columns could be deleted from the finalised CAP)</i> |  | Action Required to Address Risk/ Draft Strategic Plan/ Seabird Strategy | Responsibility (Members and/or the Secretariat) | 2024 | 2025 | 2026 | 2027 | 2028 |
|----------------------|---|--|---|---|------|------|------|------|------|
|                      | Risk Item No. & Matrix Score (H/M/L)  | Draft Strategic Plan/ Seabird Strategy Ref No.<br><i>(if available/ relevant to the proposed action)</i> |   |   |      |      |      |      |      |
| 1                    |   |  |   |   |      |      |      |      |      |
| 2                    |   |  |   |   |      |      |      |      |      |
| 3                    |   |  |   |   |      |      |      |      |      |
| 4                    |   |  |   |   |      |      |      |      |      |
| 5                    |   |  |   |   |      |      |      |      |      |

..... etc.