

Corrective actions policy

Compliance Policy 3

1. Introduction

This compliance policy provides direction and guidance to implement Strategy 9.1(ii)¹ of the CCSBT Strategic Plan:

Establish fair, transparent and non-discriminatory procedures for penalties (e.g. payback of overcatch, quota reduction) and incentives to promote compliance.

In this policy all references to the Commission include the Extended Commission, and all references to Members include Cooperating Non-Members (CNMs) of the Commission.

2. Purpose of policy

The purpose of this policy is to bring all Members into compliance with their CCSBT obligations in a way that maintains the stability and cohesion of the Commission. To this end, it sets out a framework to respond to evidence of non-compliance by a Member. The primary response focus is to assist Members to achieve capacity to effectively comply with CCSBT obligations.

3. Policy statement

Evidence of non-compliance will be dealt with in accordance with the principles, guidelines and decision-making process set out in this policy. The Commission will initiate any investigations and determine the response to non-compliance.

3.1 Principles

1. *Evidence-based:* Any assessment of non-compliance should be based on objective evidence, including voluntary disclosure by Members, analysis of scientific data, and findings from any audits, investigations, or market reviews.
2. *Cooperation:* All Members should cooperate with any inquiries or investigations into actual or potential non-compliance, and endeavour to resolve issues promptly and in a manner that enhances the integrity of the management regime for SBT.
3. *Fair process:* Any Member should be given a reasonable opportunity to:
 - a) review any third party evidence of non-compliance and provide a written response (which may challenge the evidence or explain the reasons for non-compliance); and

¹ This corresponds to Strategy 9.2 Corrective action and remedies in the draft Compliance Plan.

- b) develop a proposed remedy or corrective action consistent with the guidelines in this policy.
4. *Transparency:* All annual performance reports and any audit reports and Member responses, should be publicly available. Subject to Rule 10 of CCSBT Rules of Procedure, documents should be posted on the CCSBT website as soon as practicable after the annual meeting of the Commission.

3.2 Guidelines for corrective actions

Non-compliance with Members' obligations can arise due to three main sources²:

- administrative failings, including not fully implementing effective systems and processes to support obligations
- failure by Members to take action against non-compliance by fishers, farmers, processors, exporters or importers within their jurisdiction
- deliberate actions by Members to avoid meeting obligations.

The following guidelines will be used to determine the corrective action to be recommended where there is evidence of non-compliance:

1. Catch in excess of the Member's annual or multi-year national catch limit should, in the first instance, be repaid at a ratio of 1:1 over a time period specified by the Commission. Where there are specific aggravating factors a higher ratio of quota payback may be determined.
2. Administrative failings should, in the first instance, be addressed through an agreed programme to correct administrative deficiencies within a specified timeframe.
3. Corrective actions for administrative failings by a developing country Member should focus on capacity building programmes, provided this is effectively targeted at correcting the deficiencies.
4. Corrective actions should take into account relevant aggravating factors such as harm caused to other Members, ongoing non-compliance without good cause (including systematic under-reporting or over-catch over multiple years), or evidence of intent to avoid CCSBT obligations.

3.3 Decision-making process

Compliance Committee

The Compliance Committee will:

- assess initial evidence of non-compliance
- request the Member to investigate and report back

² Appendix 1 lists examples of non-compliance.

- if necessary (for instance, where the Member needs assistance or the Committee is not satisfied with the Member's investigation), recommend an independent investigation which may include an audit or market review
- review evidence of non-compliance on the basis of the reports received
- consider any remedies suggested by the Member
- prepare a report to Commission, setting out findings, any remedies already agreed with the Member, and any recommended further corrective actions based on the principles and guidelines in this Policy.

The Member will be provided with an opportunity to suggest corrective actions or remedies to improve their compliance with CCSBT obligations. Members will seek the support of the Compliance Committee for their suggested course of action.

Following consideration of the Member's suggestions, the Compliance Committee may agree to the Member's suggestion or recommend corrective actions for consideration by the Commission. The Compliance Committee report to the Commission may include majority and minority views.

Commission

The Commission will:

- consider the Compliance Committee report, and
- negotiate an outcome (corrective action) with the Member.

3.4 Corrective actions list

Depending on the particular circumstances and degree of non-compliance, corrective actions recommended by the Compliance Committee may include:

1. *Compliance assistance/capacity building programmes*
 - Skills training—e.g. for observers, compliance officers or validators
 - Systems development – e.g. technical or financial assistance to establish or improve operating systems and procedures
 - Analytical assistance – e.g. to improve monitoring of trade flow of SBT from catching phase to the market place
 - Technology purchase – e.g. VMS, data recording and transmission from fishing vessels
2. *Quota pay back*
3. *Quota reductions in national catch allocations*
4. *Increased monitoring requirements*
 - Placement of observers
 - Increased inspection requirements
 - Increased VMS reporting frequency
 - Restrictions on transshipment or landings
5. *Public disclosure*

6. Trade or market restrictions consistent with international law

4. Roles and responsibilities under this Policy

Who	Responsibility to:
Commission	<ul style="list-style-type: none"> • Approve policy • Consider Compliance Committee's recommendations • Initiate investigations • Determine corrective actions
Compliance Committee	<ul style="list-style-type: none"> • Monitor Member compliance • Assess evidence of non-compliance and consider Members' views • Consider Members' suggestions for corrective actions • If necessary, recommend: <ul style="list-style-type: none"> ○ independent investigation ○ quota payback timeframe ○ quota payback greater than 1:1 ○ corrective actions. • Review policy and recommend any revisions.
Secretariat	<ul style="list-style-type: none"> • Place policy and reports on website
Members	<ul style="list-style-type: none"> • Investigate evidence of national non-compliance • Respond to evidence of non-compliance from national or independent investigations

5. Policy review

This policy is to be reviewed every three years from the date of agreement. The Commission may direct a review at any earlier time. A Member may request an earlier review. The request, setting out the reasons for the review, must be submitted to the annual meeting of the Compliance Committee.

6. Approval

This policy was approved by the Commission:

Chair, Commission

Date

Review date: _____ (unless reviewed earlier)

Appendix 1. Examples of non-compliance

- Failure to effectively monitor and control activities of authorised vessels, farms, carriers
- Failure to keep catch within national catch limit
- Failure to meet standards for CDS documentation, including certification and validation
- Failure to achieve observer coverage
- Failure to implement effective VMS
- Failure to report to Commission or Committees
- Audit finding of failures or inadequacies in MCS systems
- Member misreporting of catch
- Member misreporting nature and effectiveness of their MCS systems
- Ongoing administrative failings without reasonable attempt to implement corrective actions