



Compliance and enforcement (flag State duties; monitoring, control and surveillance activities; port State measures; follow-up on infringements; cooperative mechanisms to detect and deter non-compliance; market-related measures)

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PURPOSE

To provide the PRIPHC02 with information regarding the Performance Review Criteria 4: *Compliance and enforcement (flag State duties; monitoring, control and surveillance activities; port State measures; follow-up on infringements; cooperative mechanisms to detect and deter non-compliance; market-related measures)*

BACKGROUND

Criteria 4: *Compliance and enforcement* (flag State duties; monitoring, control and surveillance activities; port State measures; follow-up on infringements; cooperative mechanisms to detect and deter non-compliance; market-related measures)

- i. Flag State duties
 - Extent to which IPHC Contracting Parties are fulfilling their duties as flag States under the Convention establishing the IPHC, pursuant to measures adopted by the IPHC, and under other international instruments, including, *inter alia*, the 1982 Law of the Sea Convention, and the UNFSA, as applicable.
- ii. Port State measures
 - Extent to which the IPHC has adopted measures relating to the exercise of the rights and duties of its members as port States, as reflected in UNFSA Article 23 and the Code of Conduct for Responsible Fisheries Article 8.3 and the FAO Port State Agreement.
 - Extent to which these measures are effectively implemented.
- iii. Monitoring, control and surveillance (MCS)
 - Extent to which the IPHC has adopted integrated MCS measures (e.g. required use of VMS, observers, catch documentation and trade tracking schemes, restrictions on transshipment, boarding and inspection schemes).
 - Extent to which these measures are effectively implemented.
- iv. Follow-up on infringements
 - Extent to which the IPHC Contracting Parties follow up on infringements to management measures.
- v. Cooperative mechanisms to detect and deter non-compliance
 - Extent to which the IPHC has established adequate cooperative mechanisms to both monitor compliance and detect and deter non-compliance (e.g. compliance committees, vessel lists, sharing of information about non-compliance, joint patrols, common Minimum Terms and Conditions for access, harmonised regulatory mechanisms, boarding schemes, regional/compatible VMS equipment and operational criteria, observer schemes, with common training standards for inspectors and observers, intra-regional cooperation, etc.).
 - Extent to which these mechanisms are being effectively utilised.

- Extent to which the IPHC has adopted new measures to foster (reward/penalise) compliance within IPHC and effectiveness of such measures.
- vi. Market-related measures
- Extent to which the IPHC has adopted measures relating to the exercise of the rights and duties of its Members as market States.
 - Extent to which these market-related measures are effectively implemented.

DISCUSSION

The information currently available relating to Performance Criteria 4 are provided at [Appendix A](#).

RECOMMENDATION

That the PRIPHC02 **NOTE** paper IPHC-2019-PRIPHC02-05 which provides information related to the Performance Review Criteria 4: Compliance and enforcement.

APPENDICES

[Appendix A](#): Performance Review Criteria 4: *Compliance and enforcement (flag State duties; monitoring, control and surveillance activities; port State measures; follow-up on infringements; cooperative mechanisms to detect and deter non-compliance; market-related measures)*

APPENDIX A

PERFORMANCE REVIEW CRITERIA 4: COMPLIANCE AND ENFORCEMENT (FLAG STATE DUTIES; MONITORING, CONTROL AND SURVEILLANCE ACTIVITIES; PORT STATE MEASURES; FOLLOW-UP ON INFRINGEMENTS; COOPERATIVE MECHANISMS TO DETECT AND DETER NON-COMPLIANCE; MARKET-RELATED MEASURES)

The following notes apply to all items in this Criteria:

- The two Contracting Parties adhere to all international instruments referred to in this Criteria, noting that they are each party to all of them except the 1982 Law of the Sea Convention, which has been ratified by Canada but not the USA. The USA nevertheless observes all elements of the 1982 Law of the Sea Convention with respect to fishing and fisheries. (For agreements that Canada is party to, please see https://www.treaty-accord.gc.ca/cts-rtc.aspx?lang=eng&_ga=2.24688890.1751537407.1559332545-484270127.1518652016, and for the USA please see <https://www.state.gov/treaties-in-force/>.)
 - 1982 Law of the Sea Convention
 - UNFSA
 - Code of Conduct for Responsible Fisheries
 - FAO Port State Agreement
- The Convention establishing the IPHC was most recently revised in 1979, pre-dating the international instruments referred to in this Criteria. (The Convention Between the United States of America and Canada for the Preservation of the [Pacific] Halibut Fishery of the Northern Pacific Ocean and Bering Sea: <https://www.iphc.int/uploads/pdf/basic-texts/iphc-1979-pacific-halibut-convention.pdf>)
- The IPHC convention area lies entirely within the exclusive economic zones (EEZ) of the two Contracting Parties. ([Convention](#), Article I)
- Each Contracting Party's Pacific halibut fisheries take place entirely within its own waters. ([Convention](#), Article I and Annex)
- Each year the IPHC reviews its Fishery Regulations and adopts new or revised regulations as necessary. (The IPHC Rules of Procedure [2019] describe the meeting process and administration: <https://www.iphc.int/uploads/pdf/basic-texts/iphc-2019-rules-of-procedure.pdf>. The records of the most recent Annual Meeting [the 95th Session of the IPHC Annual Meeting] are available at <https://www.iphc.int/venues/details/95th-session-of-the-iphc-annual-meeting-am095>.)
- The IPHC recommends its Fishery Regulations to the Contracting Parties for implementation, the only restriction on which is that they may not implement regulations less restrictive than those recommended by the IPHC. ([Convention](#), Article I)
- With one minor exception, the IPHC does not actively manage any of the Pacific halibut fisheries in the convention area.
 - This exception is the non-tribal directed commercial fishery in IPHC Regulatory Area 2A, and its management by the IPHC is a legacy from the early decades of the Convention when management throughout the convention area was carried out by the IPHC. (The current IPHC management measures for this fishery are included in [Pacific Halibut Fishery Regulations 2019](#), Sections 9, 12, and 13. Other aspects of this fishery, such as landing reports, are managed by the domestic authorities.)

- There is an effort currently underway among the relevant Contracting Party (USA) agencies to shift this fishery to domestic management ([Decision Summary Document, Pacific Fishery Management Council, April 11-16, 2019](#), page 7). It is expected that such a shift should occur in time for the 2021 fishing period.
- The IPHC does not actively enforce regulations, but relies on the enforcement mechanisms of the Contracting Parties. ([Convention](#), Article IV)
- The Contracting Parties provide extensive annual reports to the IPHC regarding their fishery management, catch monitoring and accounting, and enforcement activities. (See, for example, the “Contracting Party (by agency) Reports” prepared for the 95th Session of the IPHC Annual Meeting at <https://www.iphc.int/venues/details/95th-session-of-the-iphc-annual-meeting-am095>.)
 - i. Flag State duties
 - Extent to which IPHC Contracting Parties are fulfilling their duties as flag States under the Convention establishing the IPHC, pursuant to measures adopted by the IPHC, and under other international instruments, including, *inter alia*, the 1982 Law of the Sea Convention, and the UNFSA, as applicable.

Although not stated explicitly, the Convention effectively assigns the equivalent of Flag State duties to the Contracting Parties to carry out with respect to their fishing fleets.

- ii. Port State measures
 - Extent to which the IPHC has adopted measures relating to the exercise of the rights and duties of its members as port States, as reflected in UNFSA Article 23 and the Code of Conduct for Responsible Fisheries Article 8.3 and the FAO Port State Agreement.

The Pacific halibut fisheries occur entirely within the EEZs of the two Contracting Parties, and all Pacific halibut are landed in ports of the two countries. Landings are almost exclusively in ports of the same country as the fishing vessel, the primary exception being the IPHC’s own research catch, which may be landed in either country. Thus, although not stated explicitly, the Convention effectively assigns the equivalent of Port State duties to the Contracting Parties to carry out with respect to their ports.

- Extent to which these measures are effectively implemented.

See the “Contracting Party (by agency) Reports” prepared for the 95th Session of the IPHC Annual Meeting at <https://www.iphc.int/venues/details/95th-session-of-the-iphc-annual-meeting-am095>.

- iii. Monitoring, control and surveillance (MCS)
 - Extent to which the IPHC has adopted integrated MCS measures (e.g. required use of VMS, observers, catch documentation and trade tracking schemes, restrictions on transshipment, boarding and inspection schemes).

MCS measures are the responsibility of the IPHC Contracting Parties as part of their management of the fisheries and enforcement of regulations. A number of MCS measures are included in the IPHC [Pacific Halibut Fishery Regulations \(2019\)](#) at the request of the Contracting Parties for

purposes of their management and enforcement. (See, for example, Section 8 [Fishing in IPHC Regulatory Areas 4E and 4D], Section 16 [Vessel Clearance in IPHC Regulatory Area 4], Section 18 [Receipt and Possession of Pacific Halibut], Section 19 [Fishing Multiple Regulatory Areas], and Sections 26-29 [Sport Fishing...].)

- Extent to which these measures are effectively implemented.

See the “Contracting Party (by agency) Reports” prepared for the 95th Session of the IPHC Annual Meeting at <https://www.iphc.int/venues/details/95th-session-of-the-iphc-annual-meeting-am095>.

iv. Follow-up on infringements

- Extent to which the IPHC Contracting Parties follow up on infringements to management measures.

See the “Contracting Party (by agency) Reports” prepared for the 95th Session of the IPHC Annual Meeting at <https://www.iphc.int/venues/details/95th-session-of-the-iphc-annual-meeting-am095>.

v. Cooperative mechanisms to detect and deter non-compliance

- Extent to which the IPHC has established adequate cooperative mechanisms to both monitor compliance and detect and deter non-compliance (e.g. compliance committees, vessel lists, sharing of information about non-compliance, joint patrols, common Minimum Terms and Conditions for access, harmonised regulatory mechanisms, boarding schemes, regional/compatible VMS equipment and operational criteria, observer schemes, with common training standards for inspectors and observers, intra-regional cooperation, etc.).
- Extent to which these mechanisms are being effectively utilised.
- Extent to which the IPHC has adopted new measures to foster (reward/penalise) compliance within IPHC and effectiveness of such measures.

The IPHC relies on its Contracting Parties to detect and deter non-compliance as part of their management of the fishery and enforcement of regulations. This is generally carried out by each of the two Contracting Parties independently of the other because the fisheries they manage take place entirely within their own EEZs.

See the “Contracting Party (by agency) Reports” prepared for the 95th Session of the IPHC Annual Meeting at <https://www.iphc.int/venues/details/95th-session-of-the-iphc-annual-meeting-am095>.

vi. Market-related measures

- Extent to which the IPHC has adopted measures relating to the exercise of the rights and duties of its Members as market States.

The Pacific halibut fisheries occur entirely within the EEZs of the two Contracting Parties, and all Pacific halibut are landed in ports of the two countries. Landings are almost exclusively in ports of the same country as the fishing vessel, the primary exception being the IPHC’s own research catch, which may be landed in either country. Thus, although not stated explicitly, the Convention effectively assigns the equivalent of Market State duties to the Contracting Parties to carry out with respect to their ports.

- Extent to which these market-related measures are effectively implemented.

See the “Contracting Party (by agency) Reports” prepared for the 95th Session of the IPHC Annual Meeting at <https://www.iphc.int/venues/details/95th-session-of-the-iphc-annual-meeting-am095>.