

Original: English

**PROPOSAL FOR AMENDMENT OF THE RULES AND PROCEDURES FOR THE PROTECTION, ACCESS TO, AND DISSEMINATION OF DATA COMPILED BY ICCAT**

This is an addendum to Annex 6 of the ICCAT Report for biennial period, 2010-2011, Part I (2010) – Vol. 1, “Rules and Procedures for the Protection, Access to, and Dissemination of Data Compiled by ICCAT”. This amendment aims to clarify the rules and procedures that apply to data collected by entities contracted under ICCAT research and data collection programmes. As ICCAT and the SCRS continue to promote Scientific Research of ICCAT species through the participation of CPCs, national scientist and Academic and Research Centres, it is important that rules and procedures be defined to ensure that data collected under these research programs are properly evaluated and effectively used for scientific advice.

ANNEX 6

**RULES AND PROCEDURES FOR THE PROTECTION, ACCESS TO,  
AND DISSEMINATION OF DATA COMPILED BY ICCAT**

**1. Basic principles relating to the dissemination of data by the ICCAT**

1. Data and information held by the ICCAT Commission or Secretariat, and by service providers or contractors acting on their behalf, shall only be released in accordance with these Rules and Procedures; which reflect the policies of confidentiality and security determined by the Commission.
2. Data may be disseminated if the CPC (Contracting Party or Cooperating non-Contracting Party, Entity or Fishing Entity) providing the data to the ICCAT authorizes its release.
3. Persons duly authorized by the Executive Secretary within the ICCAT Secretariat and service providers, who have read and signed the Commission’s confidentiality protocol, shall have access to the data necessary to perform their ICCAT duties.
4. Officers of the Commission and its subsidiary bodies shall have access to the data necessary to perform their ICCAT duties.
5. CPCs shall have access to data to serve the purposes of the Convention, including data:
  - a) covering vessels flying their flag in the ICCAT Convention area.
  - b) covering any vessels fishing in waters under their jurisdiction.
  - c) covering vessels applying to fish in their national waters, unloading in their ports or transshipping fish within waters under their jurisdiction.
  - d) for the purpose of compliance and enforcement activities on the high seas, consistent with the Convention and the conservation and management measures and other relevant decisions adopted by the Commission, subject to the rules and procedures for access and dissemination of such data that the Commission will adopt under paragraph 23.
  - e) for the purpose of scientific and other research, if the CPC that originally provided that data authorizes the Commission to release them. In cases where a CPC elects to provide an ongoing authorization for the release of such data, the CPC may at any time cancel this authorization by notifying the Secretariat that it has revised its earlier decision.
6. To the greatest extent practical, the ICCAT Commission, Secretariat and their service providers, should disseminate data in a timely manner.

**2. Risk classification and definition of confidentiality**

7. Data covered by these Rules and Procedures will be classified in accordance with the risk classification methodology included in **Table 1**, which reflects *inter alia* the damage that would be done to the operations or creditability of the Commission as a consequence of the unauthorized disclosure or modification of such information.

8. Data covered by these Rules and Procedures were determined to be either public domain or non-public domain data in accordance with the definition of confidentiality established in **Table 1**.

*8 (bis) Clarification for data arising from ICCAT Research and Data Collection Programmes*

Associated conventional tagging data: examples; Tag shedding and Tag seeding data are classified as no risk and thus fall under the public domain data category. Associated conventional tagging data includes species, seeding and recovery dates and positions, gear type, flag, and fish information where available. Associated conventional tagging data in this context does not include information identifying the fishing vessel that reported the tag, for example, which would otherwise alter its security classification.

Biological data resulting from ICCAT Research and Data Collection Programmes are classified as medium risk and thus fall under the non-public domain data category. This should include biological samples and initial results from the analyses of such samples; for ageing, genetic, maturity and reproductive studies, stock identification samples such as microconstituents, parasites, stomach content, muscle or any other biological tissue used for scientific analyses.

Fisheries independent indices including aerial surveys, larval sampling, acoustic sonar data, video recording, and sampling from scientific based observer programs are classified as medium risk and thus fall under the non-public domain data category.

All other data types follow the definitions and classification rules outlined in **Table 1 and 2**.

### 3. Dissemination of public domain data

9. Data in the public domain shall not reveal the individual activities of any vessel, company or person and shall not contain private information. Catch and effort data in the public domain shall be aggregated by flag, gear, month and 1° x 1° grid (for surface fisheries) or 5°x5° grid (for longline fisheries).
10. Annual catch estimates and aggregated catch and effort data that can be used to identify the activities of any vessel, company or person are not in the public domain.
11. Except for data as described in Paragraphs 9 and 10, the types of data listed in **Appendix 1 to ANNEX 6** have been designated to be public domain data.
12. Public Domain data shall be available to any persons for (a) downloading from the Commission's website and/or (b) release by the Commission on request.
13. The website should contain a statement describing the conditions associated with the viewing or downloading of public domain data (for example, that the source of the data must be acknowledged), and should require the person requesting the data to "Accept" these conditions before viewing or downloading can begin.

*13 (bis) Public domain data collected by entities contracted by ICCAT research and data collection programmes (e.g. conventional tagging) shall be quality controlled and uploaded to the ICCAT website by the Secretariat, on an annual basis. Immediate access to the most up to date quality-controlled data will be granted to respective SCRS working groups and participants of workshops organized by the research programme in question (e.g. capacity building workshops). Any other users wishing to access such data must follow the procedure outlined in section 17bis (c) below.*

### 4. Dissemination of non-public domain data

#### 4.1 Definition of non-public domain data

14. Subject to the decisions of the Commission, all types of data not described in paragraph 11 shall be referred to as non-public domain data.

15. A list of examples of non-public domain data can be found in **Appendix 2 to ANNEX 6**.

#### **4.2 General rules for dissemination of, and access to, non-public domain data**

16. Access to and dissemination of non-public domain data shall be authorized in accordance with these Rules and Procedures and the policies of confidentiality and security established in the Commission's Information Security Policy (ISP).

17. The ICCAT Secretariat shall log and report to the Commission all access and dissemination of non-public domain data, including the name and affiliation of the person, the type of data accessed or disseminated, the purpose for which the data were requested, the date when the data were requested, the date when the data were released and authorizations that may have been required.

#### **17 (bis) In the case data gathered within ICCAT Research and Data Collection Programmes:**

a) Data will be accessible, once checked by ICCAT staff for quality control, to related SCRS subsidiary body (e.g. Species group) and the research teams directly involved in data generation, authorizing their use for scientific purposes as stipulated by the terms of the contract related to the collection of these data.

b) Metadata relating to such data should be periodically updated on the ICCAT website.

c) Data requests may be submitted by any person(s) or institutions(s) using the form found in this Addendum. Each request will be considered by an evaluation committee (composed of the Chair and Vice Chair of the SCRS, Rapporteur of the respective Species Group, and programme Coordinator if still available) to guarantee adherence to the ICCAT Publication Policy and alignment with the respective research programme priorities. The Evaluation Committee will consult with the data provider(s) to decide whether to authorize the data request. If the data provider(s) confirm that there is no conflict of interest, the data will be released after signing the Confidentiality Agreement (**Attachment 2 to Appendix 3 of ANNEX 6**). Should the data provider(s) seek preferential use of the data, this request will be considered and granted up to a period of two years, or for the period of time specifically agreed in the contract. The Secretariat will be responsible for coordinating and facilitating this process. The Evaluation Committee will strive to return a decision within 30 days of the request. The Secretariat will provide to the SCRS Plenary meeting a list of data requests and decisions in the annual report of activities.

#### **4.3 Access to non-public domain data by the Staff of the Secretariat, the ICCAT service providers, and Officers of the Commission and its subsidiary bodies**

18. Persons duly authorized by the Executive Secretary, within the ICCAT Secretariat and service providers, including scientific experts within the SCRS, shall have access to the data necessary to perform their ICCAT duties. Officers of the Commission and its subsidiary bodies shall have access to the data necessary to perform their ICCAT duties. All such persons shall sign a Confidentiality Agreement with the Executive Secretary and maintain the data security standards of the Commission in respect of data to which they have access. The Executive Secretary shall maintain a register of all such persons (including the purpose for which they require access to the data) and make the register available to a CPC on written request.

#### **4.4 Access to non-public domain data by CPCs**

19. CPCs shall have access to non-public domain data to serve the purposes of the Convention, including data:

- a) Covering vessels flying their flag in the ICCAT Convention area
- b) Covering any vessels fishing in waters under their jurisdiction
- c) Covering vessels applying to fish in their national waters, unloading in their ports or transshipping fish within waters under their jurisdiction
- d) For the purpose of scientific and other research, if the CPC that originally provided that data authorizes the Commission to release them. In cases where a CPC elects to provide an ongoing authorization for the release of such data, the CPC may at any time cancel this authorization by notifying the Secretariat that it has revised its earlier decision.

20. CPCs shall notify the Secretariat of a small number of representatives (preferably only 2) authorized to receive non-public domain data. Such notification will include name, affiliation, and contact information (e.g. telephone, facsimile, email address). The ICCAT Secretariat will maintain a list of such authorized representatives. CPCs and the Secretariat shall ensure the list of CPC representatives is kept up to date and made available.
21. The authorized representative(s) of the CPCs are responsible for ensuring the confidentiality and security of the non-public domain data according to its risk classification and in a manner consistent with security standards established by the Commission for the ICCAT Secretariat.
22. The non-public domain data described in paragraph 19 will be made available by the Secretariat to authorized representatives of the CPCs for release by the Commission on request and, where appropriate, downloading from the Commission's website in accordance with the Commission's ISP.
23. For the purpose of compliance and enforcement activities on the high seas, non-public domain data will be made available subject to separate rules and procedures for the access and dissemination of such data, that the Commission will adopt for these purposes.
24. VMS data will be made available for scientific purposes, subject to the separate rules and procedures referred to in paragraph 23 above.
25. Access to non-public domain data by CPCs shall be administered by the Executive Secretary on the basis of these Rules and Procedures and the framework at **Appendix 3 to ANNEX 6**.
26. The Executive Secretary will implement the Framework and authorize access to and dissemination of non-public domain data.
27. Unless otherwise decided by the Member or CPC responsible for its external affairs, participating Territories shall have the same access rights to data as CPCs.
28. A CPC that has not fulfilled its obligations to provide data to the Commission for two consecutive years shall not be granted access to Non-Public Domain data until all such matters are rectified. A CPC whose representative, authorized in accordance with paragraphs 20 and 21 above, failed to observe the rules stipulated in these Rules and Procedures shall not be granted access to Non-Public Domain data until the appropriate actions have been taken.

#### ***4.5 Exchange of data with other regional fisheries management organizations***

29. If the Commission enters into agreements for the exchange of data with other regional fisheries management organizations (RFMOs) or other organizations, such agreements must include requirements that the other RFMO provides equivalent data on a reciprocal basis and maintains the data provided to them in a manner consistent with the security standards established by the Commission. The data that may be exchanged is specified in **Appendix 4 to ANNEX 6**. At each annual session the Executive Secretary will provide copies of data exchange agreements that exist with other RFMOs and a summary of the data exchanges that occurred during the previous 12 months under such agreements.

#### ***4.6 Disseminations of non-public domain data in other circumstances***

30. Non-Public Domain data will be made available by the Secretariat to any persons if the CPC that originally provided that data authorizes the Commission to release them. In cases where a CPC elects to provide an ongoing authorization for the release of such data, the CPC may at any time cancel this authorization by notifying the Secretariat that it has revised its earlier decision. Unless otherwise requested by the provider of the data:

Including universities, researchers, NGOs, media, consultants, industry, federations, etc.

- a) Persons that request non-public domain data shall complete and sign the Data Request Form and sign the Confidentiality Agreement and provide them to the Commission in advance of obtaining access to said data.
- b) The Data Request Form and Confidentiality Agreement shall then be forwarded to the CPC that originally provided the requested data and the provider shall be requested to authorize the Commission to release the data.
- c) Such persons shall also agree to maintain the data requested in a manner consistent with the security standards established by the Commission for the ICCAT Secretariat.

31. CPCs that have provided non-public domain data to the Commission shall notify the Secretariat regarding their representatives with the authority to authorize the release of non-public domain data by the Commission. Decisions whether to authorize the release of such data shall be made in a timely manner.

#### **4.7 Force majeure**

32. The Executive Secretary may authorize the release of Non-Public Domain data to rescue agencies in cases of *force majeure* in which the safety of life at sea is at risk.

#### **5. Periodic Review**

33. The Commission or its subsidiary bodies will periodically review these Rules and Procedures, and subsidiary documents, and the rules and procedures referred to in paragraphs 23 and 24 above, and amend these if necessary.

#### **6. Final Clause**

34. These Rules and Procedures do not prevent a CPC from authorizing the release of any data it has provided to the ICCAT.

**Table 1.** Types of information and confidentiality classification. Certain types of information such as Task I and Task II already have mandatory reporting and are publicly available through the ICCAT web site and the ICCAT *Statistical Bulletin*.

<i>Information Type</i>	<i>Risk Classification</i>
Operational level catch and effort data (e.g. set-by-set CPUE)	High
Annual catch estimates stratified by gear/flag and species for the ICCAT statistical areas (Task I)	mandatory reporting already in place
Aggregated catch and effort data stratified by gear/year/month, 5x5 (LL) or 1x1 (surface), and flag (Task II catch/effort)	mandatory reporting already in place
Records of vessel unloading and logbooks	Medium
Transshipment consignments by species	Medium
Biological data ( <u>after the period set in article 17bis c</u> )	mandatory reporting already in place
Conventional tagging data	No risk
Detailed electronic tagging data	Medium
ICCAT Record of Fishing Vessels (vessels authorized to fish; vessels authorized to transport; support vessels; carrier vessels)	mandatory reporting already in place
Vessel and gear attributes from other open sources	No risk
Oceanographic and meteorological data	No risk
Movements of fishing vessels recorded at a fine resolution/VMS vessel position, direction and speed	High
Boarding and Inspection Reports	High
Certified observer personnel	Medium
Certified inspection personnel	High
Catch Documentation Scheme	Medium
Port State Inspection Reports	Medium
Violations and infringements, detailed	High
Annual number of active vessels, by gear type and flag	mandatory reporting already in place
Economic data	[unassigned]
[Social data]	[unassigned]
Fisheries intelligence-sharing information	High
Weekly catch reports	High
Caging declarations	Medium

**Table 2.** Annotations on information types mentioned in **Table 1.**

<i>Information Type</i>	<i>Annotations</i>
Operational level Catch Effort data	Collected on fishing vessel logbooks and by observers.
Compliance-related observer data	Excludes operational catch and effort data, biological data and vessel and gear attributes.
Biological data	Biological data include size data, data on gender and maturity, genetic data, data on hard parts such as otoliths, stomach contents, and isotopic N15/C14 data collected by observers, port samplers and other sources. "Biological data" in this context does not include information identifying the fishing vessel, for example, which would otherwise alter its security classification.
Conventional tagging data	Conventional tagging data include species, release and recapture positions, lengths and dates. "Tagging data" in this context does not include information identifying the fishing vessel that recaptured the tagged tuna, for example, which would otherwise alter its security classification.
Electronic tagging data	Detailed electronic tagging data include detailed records from pop-up or archival tags such as date, time, depth, temperature, light intensity, etc.
ICCAT Record of Vessels	Covers vessels authorized to fish in the ICCAT Convention area also covers records of transport and other types of vessels
Vessel and gear attributes from other sources	Includes data collected by observers and port inspectors. Covers all vessels (i.e. includes vessels restricted to national jurisdiction-domestic fleets). Includes electronic equipment.
Oceanographic and meteorological data	"Oceanographic and meteorological data" in this context does not include information identifying the fishing vessel that collected the information, for example, which would otherwise alter its security classification.
Certified observer personnel	If identified by individual then risk classification would be assigned to HIGH.
Certified inspection personnel	If identified by individual then risk classification would be assigned to HIGH.
Violations and infringements, detailed	May cover individual violations and infringements pending investigation and/or prosecution. Summarized information included in Biannual ICCAT Report from CPCs. Includes compliance information collected by observers.
Economic data	Insufficient information currently available to determine Risk Classification.

### **Public Domain Data**

The following types of data are considered to be in the public domain:

1. Annual catch estimates (Task I) stratified by gear, flag and species for the ICCAT statistical area;
2. The annual numbers of vessels active in the ICCAT Convention area stratified by gear type and flag;
3. Catch and effort/data (Task II) aggregated by gear type, flag, year/month and, for longline, 5° latitude and 5° longitude, and, for surface gear types, 1° latitude and 1° longitude – and made up of observations from a minimum of three vessels;
4. Biological data (after the period set in article 17bis c);
5. Conventional tagging data;
6. The ICCAT Records of Fishing Vessels;
7. Information on vessel and gear attributes;
8. Any vessel record established for the purpose of the Commission's VMS;
9. Oceanographic and meteorological data;
10. [Social data].

### **Examples of Non-Public Domain Data**

The following are examples of types of data considered to be Non-Public Domain:

1. Operational level catch-effort data (detailed set-by-set information)
2. Records of vessel unloading
3. Transshipment consignments by species
4. Data describing (at a fine resolution) the movement of vessels including near- real time Commission VMS data (vessel position, direction and speed)
5. Boarding and Inspection Reports
6. Certified inspection personnel
7. Raw data from any Catch Documentation Scheme or Trade Documentation Scheme
8. Port State Inspection Reports
9. Violations and infringements, detailed
10. Economic data
11. Fisheries intelligence-sharing information
12. Detailed electronic tagging data
13. Data that reveal the individual activities of any vessel, company or person, including caging declarations and weekly catch reports.



**Framework for Access to Non-Public Domain Data**

1. In accordance with the policies for data protection, security and confidentiality established by the Commission's Information Security Policy (ISP), a Contracting Party or non-Contracting Cooperating Entity or Fishing Entity (CPC) shall have access to non-public domain data types covering describing the activities of any vessels:
  - a) covering vessels flying their flag in the ICCAT Convention area or;
  - b) covering any vessels fishing in waters under their national jurisdiction or;
  - c) covering vessels applying to fish in their national waters, unloading in their ports or transshipping fish within waters under their national jurisdiction;
  - d) for the purpose of scientific and other research, if the CPC that originally provided that data authorizes the Commission to release them. In cases where a CPC elects to provide an ongoing authorization for the release of such data, the CPC may at any time cancel this authorization by notifying the Secretariat that it has revised its earlier decision.
2. For the purposes of compliance and enforcement activities on the high seas, non-public domain data will be made available subject to separate rules and procedures for the access and dissemination of such data, that the Commission will adopt for these purposes. VMS data will be made available for scientific purposes, subject to these same separate rules and procedures.
3. In regard to paragraph 1:
  - a) CPCs shall provide a written request for access to such data to the Executive Secretary, specifying the purpose of the Convention by reference to the relevant article(s). In so doing, CPCs shall use the Commission Data Request Form (**Attachment 1 to Appendix 3 to ANNEX 6**).
  - b) The CPC shall undertake to only use such data for the purpose described in the written request. The CPC shall also complete and sign the Commission Confidentiality Agreement (**Attachment 2 to Appendix 3 to ANNEX 6**).
  - c) The Executive Secretary shall not authorize the release of more data than is necessary to achieve the purpose described in the written request.
4. The Executive Secretary shall not authorize access to non-public domain data by any CPC that has not fulfilled its obligations to provide data to the Commission for two consecutive years until all such matters are rectified. The Executive Secretary also shall not authorize access to a CPC whose authorized representative failed to observe the Rules and Procedures for the Protection, Access to and Dissemination of Data Compiled by the Commission until the CPC informs the Executive Secretary that appropriate actions have been taken.
5. The Executive Secretary may attach conditions appropriate for the access to such data (such as that the data be deleted upon achievement of the purpose for which it was released or by a pre-determined date, that a register of persons accessing the data be maintained and furnished to the Commission upon request, etc.)
6. Requests may be made for a standing authorization, such that CPCs may have multiple accesses to the requested data for the same purpose as of the original written request.
7. Dissatisfaction with the Executive Secretary's decisions in regard to access to non-public domain data by CPCs shall be resolved by the Commission Chairman.

**Data Request Form**

**To the Executive Secretary of the International Commission for the Conservation of Atlantic Tunas (ICCAT)**

I wish to submit the following request to receive and analyse data collected by ICCAT. I have read the above Data Policy, noting in particular, the matters relating to data confidentiality and usage specified in Annex 6 of the ICCAT REPORT for biennial period, 2010-2011, Part I (2010) – Vol. 1, “Rules and Procedures for the Protection, Access to, and Dissemination of Data Compiled By ICCAT”, and providing an appropriate acknowledgement in the case of any publications arising from the use of these data, and agree to all the conditions listed.

<b><u>Name of the person(s) or institution(s) requesting the data and contact details</u></b>
<b><u>Purpose/Project outline</u></b> <i>If non-public domain data are being requested, the use of the data shall be authorized only for the purpose described below.</i>
<b><u>Data requested</u></b> <i>If applicable, the specification of data being requested should refer to the type of data and any parameters relevant to the type of data, which may include, inter alia, the gear types, time periods, geographic areas and fishing nations covered, and the level of stratification of each parameter.</i>
<b><u>Name(s), job title(s) and affiliation(s) of the person(s) requesting access to the data; the use of the non-public domain data shall be authorized only for the person(s) listed.</u></b> <i>Note, the Secretariat expects to be informed of any changes to the data users list.</i>
<b><u>Intentions with respect to publication of the results of the proposed work</u></b>

Signature and date: \_\_\_\_\_

Name:

Position:

Organisation:

Approved / Not Approved

Signature and date:

### Confidentiality Agreement

Confidentiality Agreement for the Dissemination of Non-Public Domain Data by the International Commission for the Conservation of Atlantic Tunas (ICCAT).

Applicants name(s) and full contact details and signatures  
Full name Institution, address and  
Contact details  
Signature and Date

I/we agree to the following:

- To abide by any conditions attached to use of the data by the Executive Secretary;
- That the data shall be used only for the purpose for which the data are being requested, be accessed only by the individuals listed in Item 3 of the Data Request Form, and be destroyed upon completion of the usage for which the data are being requested;
- To make no unauthorized copies of the data requested. If a copy of all, or part, of the data requested is made by the applicant, all copies, or part thereof, will be registered with the Executive Secretary and will be destroyed upon completion of purpose for which the data was requested;
- To abide by the Commission's data security standards as specified in the Commission's Information Security Policy and the Rules and Procedures for Protection, Access to, and Dissemination of, Data Compiled by the Commission;
- That prior to the publication of any report of an analysis for which the requested data will be used, the report shall be provided to, and cleared by, the Executive Secretary of the ICCAT, who shall ensure that no non-public domain data will be published;
- To provide copies of all published reports of the results of the work undertaken using the data released shall be provided to the ICCAT Secretariat and to the relevant subsidiary body of ICCAT;
- Applicant(s) will not disclose, divulge, or transfer, either directly or indirectly, the confidential information to any third party without the written consent of the Executive Secretary;
- Applicant(s) shall promptly notify the Executive Secretary, in writing, of any unauthorized, negligent or inadvertent disclosure of confidential information of the ICCAT.
- Applicant(s) assume all liability, if any, in respect of a breach of this Confidentiality Agreement, once the data requested is released to the applicant(s).
- Pursuant to paragraph 28 of the Rules and Procedures for the Protection, Access to, and Dissemination of, Data Compiled by the Commission, CPC(s) shall not be granted access to non-public domain data until the appropriate actions have been taken to account for any disclosure in violation of the Agreement by the applicant or, *inter alia*, its affiliates, employees, attorneys, accountants, consultants, contractors, or other advisers or agents; and.
- That this Agreement may be terminated by giving written notice to the other party.

**Data that May be Disseminated to Other  
Regional Fisheries Management Organizations (RFMOs)**

***Operational level data***

1. Operational-level tuna fisheries data may be disseminated to other regional fisheries management organizations (RFMOs), subject to the terms of the agreement specified in paragraph 29 of these Rules and Procedures. Such data includes catch and effort (including by-catch of mammals, turtles, sharks and billfish), observer, unloading, transshipment and port inspection data.

***Aggregated data***

2. Aggregated catch and effort data may be disseminated to other RFMOs. Such data includes:
  - Data for long line gear aggregated by flag State by 5° latitude and by 5° longitude by month
  - Data for surface gear (including purse seine) aggregated by flag State by 1° latitude and by 1° degree longitude by month
  - Aggregated observer data (made up of observations from a minimum of three vessels).

***Other data***

3. Monitoring, control, surveillance, inspection and enforcement data may be disseminated to other RFMOs. Such data includes:
  - The names and other markings of 'Vessels of Interest' to each organization;
  - Transshipment verification reports for vessels transshipping in the Convention area of one RFMO but which have fished within the Convention area of the other.