

**REPORT OF THE 1st MEETING OF THE
WORKING GROUP ON CONVENTION AMENDMENT
(Sapporo, Japan – July 10 to 12, 2013)**

1. Opening of the meeting

The Chair of the Commission, Mr Masanori Miyahara (Japan), opened the meeting and welcomed the delegations to the First Meeting of the Working Group on the ICCAT Convention Amendment.

2. Election of Chair

The Chair of the Commission made reference to his communication circulated by the Secretariat ahead of this meeting and proposed that Mrs. Deirdre Warner-Kramer (USA) be appointed as Chair of the Working Group. This motion was supported by the Working Group.

3. Adoption of Agenda and meeting arrangements

At the request of Japan, seconded by other CPCs, the Agenda was modified in order to discuss items listed in Annex I of Recommendation 12-10 before those listed in Annex II. The revised Agenda is attached as **Appendix 1** [CONV-001A].

The Executive Secretary introduced the following 21 Contracting Parties that attended the meeting: Algeria, Belize, Brazil, Canada, China, Côte d'Ivoire, European Union, Guinea Republic, Honduras, Japan, Korea (Rep.), Libya, Morocco, Namibia, Norway, Sao Tome and Principe, Senegal, St. Vincent & the Grenadines, Tunisia, Turkey, and United States of America. The List of Participants is attached as **Appendix 2** [CONV-014].

The Executive Secretary also introduced Chinese Taipei that attended the meeting as a Cooperating non-Contracting Party, Entity or Fishing Entity.

The following non-governmental organisations were admitted as observers: International Seafood Sustainability Foundation (ISSF) and the Pew Environment Group.

4. Nomination of the Rapporteur

Mr. Marco D'Ambrosio (EU) was appointed as rapporteur.

5. Process for advancing the Work Plan in accordance with the Terms of Reference

The Chair recalled the main steps which led to this working group. In particular she mentioned the results of the 2008 Performance Review and, based on that, the creation of the Working Group on the Future of ICCAT (WGFI) which met three times, in 2009, 2011 and 2012. Based on the recommendations of that Working Group, the Commission adopted Recommendation 12-10 (**Appendix 3**) [CONV-003] at the 2012 Meeting in Agadir, Morocco, detailing the terms of reference and work plan of this Working Group.

The Working Group agreed that CPCs should work to develop and circulate additional proposals and papers related to the issues under agenda items 6 and 7 following the conclusion of this meeting. Consistent with the deadlines established by the Chair of the Commission, any proposals circulated no later than one month before the beginning of the Commission meeting could be considered at the Commission meeting in addition to the results of this Working Group meeting. The Chair encouraged CPCs to submit concrete text proposals in order to begin the drafting exercise in addition to those already submitted.

6. Consideration of proposed amendments to the Convention

Annex I of Rec. 12-10 lists a number of topics for which CPCs have expressed the need and intention to adopt Convention amendments. In order to facilitate discussion, the United States (**Appendix 4**) [CONV-004A] the

European Union (**Appendix 5**) [CONV-006A] and Japan (**Appendix 6**) [CONV-007] submitted papers ahead of the meeting outlining their views on the issues to be discussed or suggesting text proposals for the Convention change. Norway also reminded the Group that its paper (**Appendix 7**) [CONV-008] submitted for the Third Meeting of the Working Group on the Future of ICCAT in 2012 was still on the table. Chinese Taipei also presented a statement setting out its views (**Appendix 10**) [CONV-012].

6.a Scope of the Convention, in particular shark conservation and management

Discussions on this issue took place also with reference to the papers submitted. There was a general consensus that ICCAT mandate to regulate certain shark fisheries both as a target and non-targeted activity should be clarified. To this extent, it was proposed that such shark species should obtain in the Convention an equal status to that currently granted to tuna and tuna-like species.

CPCs considered whether to include an exhaustive list of sharks to be regulated. It was noted, on the one hand, that the current Convention does not contain a comparable list of species of tuna and, on the other hand, that such approach may not grant enough flexibility to the Commission to adapt to future unexpected scenarios. In this regard, Brazil suggested including oceanic pelagic and highly migratory sharks, whereas Japan proposed to refer to Annex I, paragraph 16, of UNCLOS. The Working Group agreed that the SCRS could provide advice on this issue.

The Working Group noted the importance of cooperation between ICCAT and those other RFMOs operating in its Convention Area, including NAFO, NEAFC, SEAFO, and GFCM, both to be sure to fill any regulatory gaps and to avoid possible overlaps. On this matter, the Chair of the Commission, Mr. Masanori Miyahara informed the Working Group on the meeting which took place in February in Copenhagen between NEAFC and ICCAT Chairs to discuss ways to improve scientific and management cooperation for sharks. The minutes of that meeting, which had previously been circulated as Circular 3732/13 are annexed to this report (**Appendix 8**) [CONV-009].

Some CPCs noted that cooperation mechanisms between RFMOs are, in principle, foreseen in the Convention but may have to be detailed further for the purpose of regulating sharks.

Some CPCs also recognized the need to clarify the Commission's mandate to cover the management of other highly-migratory fish species.

There was broad support that sharks species found in the EEZ of only one CPC should be excluded from the scope of the Convention. Some CPCs, however, supported ICCAT regulating fisheries on highly migratory sharks that populate the EEZ of more than one ICCAT CPC.

6.b Decision-making processes and procedures

6.b.1 Entry in force

There was general agreement that the current delays of entry into force of measures were long and not flexible enough.

The EU proposed shortening the delay for entry into force from six to three months with the possibility to adopt more flexible periods depending on the degree of complexity of the concerned measure. There was broad support for this as a general approach, though a number of CPCs noted the need to give more consideration to the most appropriate time period and how the concept of flexibility would be included. Some CPCs noted that any provision for flexibility should still establish a firm minimum time for entry into force of measures.

6.b.2 Voting procedures

There was general agreement on the EU proposal that the majority should be calculated on the basis of CPCs present and casting affirmative or negative votes to avoid abstentions and absences from having an undue effect on the result. Brazil also suggested that there might be a need to lower the quorum of two thirds currently required to consider a vote valid since it risks hampering the effective decision-making of the Commission (e.g., two-thirds of Contracting Party delegations registered at a given meeting instead of two-thirds of Contracting Parties). However, lowering the quorum did not meet support of other CPCs who felt that the current quorum should be maintained in order to ensure that decisions adopted have the necessary legitimacy and broad support

from CPCs. The Working Group discussed possible ways to clarify how such quorum should be calculated, such as the count of the quorum should be based on the Contracting Parties having registered to the meeting or those present at the moment of vote. Some CPCs proposed that the Convention could address this, while others raised other means, including the Rules of Procedure.

Canada made reference to the paper it tabled at the 2012 Working Group and in particular on how quorum is calculated in inter-sessional voting. In particular, it was said that quorum should be calculated counting affirmative, negative votes, as well as abstentions. The mere fact of sending out written requests to Contracting Parties, even if through diplomatic channels, should not be considered as sufficient for Contracting Parties to be included in quorum.

The Working Group generally agreed that the use of voting should remain a last resort measure and that the Commission should rather continue working on the basis of consensus as much as possible. A number of CPCs expressed their willingness to add some language in the Convention to reflect such principle.

6.b.3 Objection procedure

Extensive discussions took place on the objection procedure. The Working Group agreed that the right to objection should be maintained and that the delays currently applicable should be substantially reduced; there was no agreement on other modalities. The Working Group considered whether the current Convention leaves room for lodging objections to part of a Recommendation or only the whole of it, but there was no agreement on this point.

Additionally, Norway noted the need to amend the current provision that limits the ability to lodge an objection only to members of a given panel. CPCs considered the implications of such a change, but there was no agreement on this point.

There was broad support that objections should only bring effects to the concerned objecting CPCs rather than delaying the entry into force of a Recommendation for the whole Commission.

Several CPCs supported modifying the objection procedure in order to add some new elements which reflect some already established practices in other RFMOs, including the need for an objecting CPC to explain the basis on which an objection is lodged and what alternative measures are taken in order to comply with the objectives of the measure. The Working Group noted that ICCAT adopted Resolution 12-11, which addresses many of these issues. Some CPCs noted that these measures should be given time to work before considering whether additional changes to the Convention were necessary.

6.b.4 Dispute settlement

There was general support for including some provisions on dispute settlement in the Convention, and the Working Group noted a range of models in other international agreements, with a general preference for a process that was concise and simple. Some CPCs underlined the clear link between the lack of a dispute settlement procedure and the use of the objection procedure.

Based on such discussions, Brazil, Canada, EU, Norway and the United States tabled a proposal (**Appendix 9**) [CONV-011-A] in order to establish such a mechanism. Although many CPCs noted that they needed more time to consult with their legal experts before considering the proposal in detail, there was broad support that it could form a starting point for discussions. While some CPCs noted that additional specifications on the application of dispute settlement procedures would be useful, several CPCs expressed a preference to have them in the rules of procedure in order to keep the Convention article as concise as possible. One CPC alternatively proposed that the related provisions of the FAO Port States Measures Agreement be utilized.

Chinese Taipei noted that the dispute settlement mechanism to be developed should also include Fishing Entities in such mechanism.

6.c Non-party participation

The Chair recalled that ICCAT was one of the first RFMOs establishing the status of Cooperating non-Contracting Party, Entity or Fishing Entity in order to enhance the participation of non-members to the work of the Organization. Several CPCs noted the importance of ensuring that all participants in ICCAT fisheries were

bound to implement ICCAT conservation and management measures, but that this obligation was closely linked to the ability to fully participate in the decision-making related to these measures.

Many CPCs supported developing a new mechanism to enhance the participation of such Cooperating Parties non-Contracting Parties, Entities or Fishing Entities with special focus on Fishing Entities. Although no specific text was submitted, reference was made to existing mechanisms in other RFMOs, such as WCPFC and IATTC and also NPFC and SPRFMO.

Some CPCs noted that the issue required additional time to consider and consult with other parts of their governments. The Working Group agreed to continue discussions on this issue with a view to eventually considering specific text.

[...]

The Republic of Guinea informed that at the 19th Regular Meeting of the Conference of Ministers held in Conakry on 20 and 21 December 2012, the sub-regional Commission on fisheries decided to establish and develop cooperation with RFMOs, notably ICCAT.

6.d Entry into force of Recommendations to which partial objection has been lodged

This item was discussed under point 6.b.

6.e Issues from item 7 for which it has been determined that Recommendations cannot address

Following discussions under agenda item 7, there was no consensus whether to include the Precautionary Approach, ecosystem considerations, capacity building and assistance to developing countries, and transparency in the Convention.

Some CPCs stressed that the issues listed in Annex II of Rec 12-10 are fundamental and ICCAT has already made considerable progress on each. In their view, further action does not necessarily require a change in the Convention, and ICCAT should continue acting through the means which are already available. These CPCs highlighted the long time expected to finalize amendments to the Convention and have them enter into force, and stated that addressing these issues through the Convention would not be a time-effective solution. Furthermore, it was said that all the necessary tools are already there and they simply need to be used.

Other CPCs noted that amending the Convention to reference these issues would not prevent ICCAT from continuing the work done in these fields pending the entry into force of the amended Convention. These CPCs agreed that it was necessary to inscribe such principles in the Convention to solidify the legal basis for the Commission's work. Furthermore, these CPCs noted that inclusion of these sorts of guiding principles in the Convention sent a strong signal of the importance to these issues to ICCAT and its CPCs.

To facilitate these considerations, Brazil, Norway and the United States submitted a document [CONV-013] proposing some wording to be included in the Convention and establishing general guiding principles on most of the issues included in Annex II of Recommendation 12-10 (**Appendix 11**).

Some CPCs noted it was premature to consider this document, as priority should be given to the items in Annex 1 of Rec. 12-10 and emphasized their views that it had not been determined that Recommendations cannot address items in Annex II in accordance with the terms of reference adopted at the Commission meeting. At the same time some CPCs also supported this document.

The Chair noted that this agenda item would remain open for future discussions in accordance with the Terms of Reference.

7. Consideration of issues which may be resolved through the adoption of Recommendations, and review of proposals, as applicable

Under this agenda point, the Chair reminded the Working Group that the purpose of the discussions was to consider the development of additional measures, such as draft Recommendations, Resolutions, or changes to the Rules of Procedure, for tackling these issues.

In the context of the Precautionary Approach, one CPC highlighted the importance for the Commission to develop clear Harvest Control Rules for the stocks managed by it. There was broad support for the Commission to consider this matter at the upcoming annual meeting.

Canada noted its intention to develop a draft recommendation addressing the implementation of the Precautionary Approach and Ecosystem Approach, and to present this for consideration at the next annual meeting.

On the issue of capacity building and assistance to developing countries, the Working Group noted that efforts should not be limited to assisting developing CPCs to attend ICCAT meetings, but furthermore to enhancing the capacity of developing CPCs to comply with ICCAT measures. The Working Group suggested that it would be useful to have both a mapping and an assessment of all existing ICCAT programs as well, and clear indications where there may be gaps. Morocco also proposed that an audit process be developed to audit the results and efficacy of ICCAT-supported assistance projects.

CPCs discussed the benefits and disadvantages of establishing more structured ways to finance capacity building, rather than relying on ad hoc contributions or the Working Capital Fund. The Secretariat stressed the need to find more structured ways to finance capacity building and assistance in order to avoid budgetary risks that might result in excessive use of the Working Capital Fund. Some CPCs expressed a concern that establishing rigid principles in this sense might become counterproductive since they might dissuade, or even impede, some CPCs from making voluntary contributions.

Several CPCs recalled the lengthy negotiations which led to the development of the ICCAT *Criteria for the Allocation of Fishing Possibilities* [Ref. 01-25]. CPCs noted that this process had highlighted the difficulty of establishing a specific formula or quantitative weighting of criteria. Several CPCs stated that allocation decisions should continue to be made on a stock-by-stock basis, and application of the allocation criteria was in the end fundamentally a matter of negotiation.

Several CPCs acknowledged the difficulty of including such technical and complex text in the Convention. Some other CPCs recognized the need to address this issue by updating and adopting a Recommendation.

Bearing all the above in mind, there was general agreement that any efforts to address concerns related to the allocation of fishing possibilities should focus on improving transparency and building off of the existing allocation criteria rather than through Convention amendment.

To this end, Turkey and Korea submitted a draft proposal [CONV-010] amending the ICCAT *Criteria for the Allocation of Fishing Possibilities* [Ref. 01-25] (**Appendix 12**), as a starting point. There was no consensus on the proposal, but it was agreed that discussions of this issue would continue.

8. Other matters

There were no other matters discussed by the Working Group under this Agenda item.

9. Adoption of the report

The report was adopted at the meeting.

10. Adjournment

The First Meeting of the Working Group on Convention Amendment was adjourned on Friday, 12 July 2013.

Appendix 1

Agenda [CONV-001A]

1. Opening of the meeting
2. Election of Chair
3. Adoption of agenda and meeting arrangements
4. Nomination of rapporteur
5. Process for advancing the Work Plan in accordance with the Terms of Reference
6. Consideration of proposed amendments to the Convention
 - Scope of the Convention, in particular shark conservation and management
 - Decision-making processes and procedures
 - Non-party participation
 - Entry into force of Recommendations to which partial objection has been lodged
 - Issues from item 7 for which it has been determined that recommendations cannot address
7. Consideration of issues which may be resolved through the adoption of Recommendations, and review of proposals, as applicable:
 - Precautionary Approach
 - Ecosystem considerations
 - Capacity building and assistance
 - Allocation of fishing possibilities
 - Transparency
8. Other matters
9. Adoption of Report and adjournment

Appendix 2

LIST OF PARTICIPANTS [CONV-014]

CONTRACTING PARTIES

ALGERIA

Kaddour, Omar

Directeur des Pêches Maritimes et Océaniques, Ministère de la Pêche et des Ressources Halieutiques, Rue des Quatre Canons, Alger
Tel: + 002 1321 433197, E-Mail: dpmo@mpeche.gov.dz;kaddour_omar@yahoo.fr

BELIZE

Cruz, Felicia

Ministry of Forestry, Fisheries & Sustainable Development, Belize Fisheries Depart. P.O. Box 148, Belize City
Tel: + 501 224 4552; Fax: +501 223 2986; E-Mail: feliciacruzgz@gmail.com

BRAZIL

Hazin, Fabio H.V. *

Universidade Federal Rural de Pernambuco - UFRPE / Departamento de Pesca e Aqüicultura - DEPAq, Rua Desembargador Célio de Castro Montenegro, 32 - Apto 1702, Monteiro Recife Pernambuco
Tel: +55 81 3320 6500, Fax: +55 81 3320 6512, E-Mail: fabio.hazin@depaq.ufrpe.br;fhvhazin@terra.com.br

Bruning Canton, Leticia

Assistant at Department of International Affairs, Ministry of Fisheries and Aquaculture, SBS, Quadra 02 Lote 10 Bloco "J", Ed. Carlton Tower - 3º Andar, CEP: 70070-120 Brasília, DF. Tel: +55 61 2023 3588, Fax: +55 61 2023 3916, E-Mail: leticia.canton@mpa.gov.br

* Head Delegate.

Camilo, Camila

Chief of Division of the General Coordination of Planning and Management of Oceanic Industrial Fisheries, Secretariat of Planning and Management of Fisheries, Ministry of Fisheries and Aquaculture, SBS, Quadra 02 Lote 10 Bloco "J", Ed. Carlton Tower - 5º Andar, CEP: 70070-120 Brasilia, DF. Tel: +55 61 2023 3389, Fax: +55 61 2023 3907, E-Mail: camila.camilo@mpa.gov.br

CANADA

Lapointe, Sylvie*

Associate Director General, International Affairs Directorate, Department of Fisheries & Oceans 200 Kent Street, Ottawa Ontario K1A 0E6
Tel: +1 613 993 6853, Fax: +1 613 993 5995, E-Mail: sylvie.lapointe@dfo-mpo.gc.ca

Anderson, Lorraine

Legal Officer, Oceans and Environmental Law Division, Foreign Affairs, International Trade and Development Canada, 125 Sussex Drive, Ottawa Ontario K1A 0G2
Tel: +1 613 944 0747, Fax: +1 613 992 6483, E-Mail: lorraine.Anderson@international.gc.ca

Norton, Brett

International Fisheries Advisor, International Affairs Directorate, Fisheries and Oceans Canada, 200 rue Kent St., Ottawa K1A 0E6
Tel: +1 613 993 1860, Fax: +1 613 993 5995, E-Mail: Brett.Norton@dfo-mpo.gc.ca

CHINA, P.R.

Liu, Xiaobing *

Director, Ministry of Agriculture, Division of International Cooperation Bureau of Fisheries N° 11 Nongzhanguan Nanli, Chaoyang District, 100125 Beijing
Tel: +86 10 591 92928, Fax: +86 10 59192951, E-Mail: inter-coop@agri.gov.cn; Xiaobing.Liu@hotmail.com

Liu, Yi

E-Mail: Liu-Yi@mfa.gov.cn

Wu, Yueran

Zhang, Yun Bo

Assistant to Secretary-General, China Overseas Fisheries Association, Room 1216, JingChao Mansion, No 5 Nongzhanguan Nanlu, Chaoyang District, 100125 Beijing
Tel: +86 10 6585 0667, Fax: +86 10 6585 0551, E-Mail: admin@tuna.org.cn

CÔTE D'IVOIRE

Fofana, Bina

Sous-directeur des Pêches Maritime et Lagunaire, Ministère des Ressources Animales et Halieutiques de la République de Côte d'Ivoire, BP V19, Abidjan
Tel: +225 07 655 102; +225 21 356 315, Fax: +225 21 356315, E-Mail: binafof@yahoo.fr

EUROPEAN UNION

Depypere, Stefaan *

Director of International Affairs and Markets, European Commission, DG Maritime Affairs and Fisheries, Rue Joseph II-99 03/10, 1049 Brussels, Belgium
Tel: +322 299 07 13, Fax: +322 296 59512; E-Mail: steffan.depypere@ec.europa.eu

D'Ambrosio, Marco

European Commission, DG MARE-B1, Rue Joseph II - 99; 03/66, 1049 Brussels, Belgium
Tel: +322 299 3765, Fax: +322 295 5700, E-Mail: Marco.DAMBROSIO@ec.europa.eu

Barbat, Marie

Direction des Pêches Maritimes et de l'aquaculture, 3, Place de Fontenoy, 75007 Paris, France
Tel: +33 1 49 558 285; +33 670 479 224, Fax: E-Mail: Marie.Barbat@developpement-durable.gouv.fr

Mc Caffrey, Lesley Ann

Sea Fisheries Protection Authority, Park Road, Clogheen, Clonakilty, Co. Cork, Ireland
Tel: +353 87 692 4142, Fax: +353 23 885 9720, E-Mail: lesley.mccaffrey@sfpa.ie

Debieuvre, Marie

European Commission, DG Maritime Affairs and Fisheries, DG MARE B1, Rue Joseph II, 99/03/62, 1049 Bruxelles, Belgium
Tel: +322 296 2184, Fax: +322 295 5700, E-Mail: Marie.Debieuvre@ec.europa.eu

Elices López, Juan Manuel

Jefe de Sección Técnica, S.G. Acuerdos y Organizaciones Regionales de Pesca, D.G. Recursos Pesqueros y Acuicultura, Secretaría General de Pesca, C/ Velázquez, 144 - 2ª planta, 28006 Madrid, Spain
Tel: +34 91 347 18 82, Fax: +34 91 347 60 42, E-Mail: jmelices@magrama.es

HONDURAS

Suazo Cervantes, José Julián

Secretaría de Agricultura y Ganadería, Avenida la FAO, Colonia Loma Linda Norte, Contiguo a Injupe Tegucigalpa
Tel: +504 223 25007; Fax: +504 999 06406; E-Mail: jsuazo25@yahoo.es

GUINEA, REP.

Tall, Hassimiou *

Directeur National de la Pêche Maritime, Ministère de la Pêche et de l'Aquaculture, Av. De la République, Commune de Kaloum, BP 307, Conakry
Tel: 00 224 622 09 58 93, Fax: +224 3045 1926, E-Mail: tallhassimiou@yahoo.fr

JAPAN

Miyahara, Masanori *

Deputy Director-General, Fisheries Agency, Ministry of Agriculture, Forestry and Fisheries 1-2-1 Kasumigaseki, Chiyoda-Ku, Tokyo 100-8907
Tel: +81 3 3591 2045, Fax: +81 3 3502 0571, E-Mail: masanori_miyahara1@nm.maff.go.jp

Hiwatari, Kimiyoshi

International Affairs Division, Fisheries Agency of Japan, 1-2-1 Kasumigaseki, Chiyoda-Ku, Tokyo 100-8907
Tel: +81 3 3502 8460, E-Mail: kimiyoshi_hiwatari@nm.maff.go.jp

Kaneko, Morio

Assistant Director, International Affairs Division, Fisheries Agency, Ministry of Agriculture, Forestry and Fisheries 1-2-1 Kasumigaseki, Chiyoda-ku, Tokyo 100-8907
Tel: +81 3 3502 8460, Fax: +81 3 3504 2649, E-Mail: morio_kaneko@nm.maff.go.jp

Kodo, Takeshi

Assistant Director, Fisheries Division, Economic Affairs Bureau, Ministry of Foreign Affairs, 2-2-1 Kasumigaseki, Chiyoda-Ku, Tokyo 100-8919
Tel: +81 3 5501 8338, Fax: +81 3 5501 8332, E-Mail: takeshi.kodo@mofa.go.jp

Motooka, Tsunehiko

International Affairs Division, Fisheries Agency of Japan 1-2-1 Kasumigaseki, Chiyoda-Ku, Tokyo 100-8907, N
Tel: +81 3 3502 8460, E-Mail: tsunehiko_motooka@nm.maff.go.jp

Ota, Shingo

Director of Ecosystem Conservation Office, Resources and Environment Research Division, Fisheries Agency, Ministry of Agriculture, Forestry and Fisheries 1-2-1 Kasumigaseki, Chiyoda-Ku, Tokyo 100-8907
Tel: +81 3 3502 0736, Fax: +81 3 3502 1682, E-Mail: shingo_oota@nm.maff.go.jp

Shimizu, Michio

National Ocean Tuna fishery Association, 1-1-12 Uchikanda, Chiyoda-ku, Tokyo
Tel: +81-3-3294-9634, Fax: +81-3-3294-9607, E-Mail: ms-shimizu@zengyoren.jf-net.ne.jp

Wada, Masato

Assistant Director, Fisheries Management Division, Fisheries Agency, Ministry of Agriculture, forestry and Fisheries 1-2-1 Kasumigaseki, Tokyo Chiyoda-Ku 100-8907

Tel: +81 3 3502 8204, Fax: +81 3 3591 5824, E-Mail: masato_wada@nm.maff.go.jp

KOREA, REP.

Park, Jeong Seok

Fisheries Negotiator, Ministry of Oceans and Fisheries, Distant Water Fisheries Division, Government Complex Sejong 94, Daejeon 339-012 Sejong-City

Tel: +82 44 200 5372, Fax: +82 44 200 5379, E-Mail: jeongseok.korea@gmail.com; icdmomaf@chol.com

LIBYA

Khattali, Aribi Omar

General Authority of Marine Wealth, Ministry of Agriculture, Livestock and Fisheries, Dahra

Tel: +218 21 3340932, Fax: +218 21 3330666, E-Mail: Arebi57@gmail.com

Ettorjmani, Elhadi Mohamed

General Authority of Marine Wealth, Tech. Cooperation Office, P.O. Box 10765, Tripoli

Tel: +218 213 340 932, Fax: +218 21 3330666, E-Mail: torgmani_hadi@yahoo.co.uk

Al Meghrbi, Aiad Hussen KH

General Authority of Marine Wealth, Tech. Cooperation Office, P.O. Box 10765, Tripoli

Tel: +218 213 340 932, Fax: +218 21 3330666, E-Mail: Ayady59@yahoo.com

MOROCCO

El Ktiri, Taoufik *

Directeur des Pêches Maritimes et de l'Aquaculture, Direction des Pêches Maritimes et de l'Aquaculture, Ministère de l'Agriculture et de la Pêche Maritime, Département de la Pêche Maritime. Nouveau Quartier Administratif, BP 476, Haut Agdal Rabat

Tel: +212 5 37 68 81 21, Fax: +212 5 37 68 8089, E-Mail: elktiri@mpm.gov.ma

Ben Bari, Mohamed

Chef du Service des inspections et contrôles des navires de pêche, DPMA, Nouveau Quartier Administratif, BP 476, Haut Agdal

Tel: +212 537 688210, Fax: +212 5 3768 8245, E-Mail: benbari@mpm.gov.ma

NAMIBIA

Bester, Desmond R. *

Chief Control Officer Operations, Ministry of Fisheries and Marine Resources, Private Bag 394, 9000 Luderitz

Tel: +264 63 20 2912, Fax: +264 6320 3337, E-Mail: dbester@mfmr.gov.na; desmondbester@yahoo.com

Johannes, Shimbilinga

Ministry of Fisheries & Marine Resources, P.O. Box 2619, Walvis Bay

Tel: +064 201 6111, Fax: +064 201 6228, E-Mail: jshimbilinga@mfmr.gov.na

NORWAY

Holst, Sigrun M. *

Deputy Director General, Ministry of Fisheries and Coastal Affairs, P.O. Box 8118 Dep, 0032 Oslo

Tel: +47 918 98733, Fax: +47 22 24 26 67, E-Mail: sigrun.holst@fkf.dep.no

Vikanes, Ingrid

Ministry of Fisheries and Coastal Affairs, P.O. Box 8118 Dep, 0032 Oslo

Tel: +47 222 46453, Fax: +47 222 49585, E-Mail: ingrid.vikanes@fkf.dep.no

SAO TOME & PRINCIPE

Aurélino, José Eva

Director das Pescas, Direcção das Pescas, C.P. 59, Sao Tomé

Tel: +239 991 6577, E-Mail: aurelioeva57@yahoo.com.br; dirpesca1@cstome.net

SENEGAL

Faye, Adama

Direction Protection et Surveillance des Pêches, Cite Fenêtre Mermoz, Dakar, Corniche Ouest

E-Mail: adafaye2000@yahoo.fr

ST. VINCENT & THE GRENADINES

Sobodu, Olukemi

Ministry of Agriculture, Forestry and Fisheries, Kingstown, St. Vincent & the Grenadines

Tel: +1 784 456 2738, E-mail: KemiSobodu@gmail.com

TUNISIA

Hmani, Mohamed

Directeur de la Conservation des Ressources Halieutiques, Ministère de l'Agriculture, des Ressources

Hydrauliques et de la Pêche, Direction Générale de la Pêche et de l'Aquaculture. 30 Rue Alain Savary, 1002

Tunis Tel: +216 71 890 784, Fax: +216 71 892 799, E-Mail: m.hmani09@yahoo.fr

TURKEY

Türkyilmaz, Turgay *

Head of Fisheries and Control Department, Ministry of Food, Agriculture and Livestock, General Directorate of Fisheries and Aquaculture Gıda Tarım ve Hayvancılık Bakanlığı, Balıkçılık ve Su Ürünleri Genel Müdürlüğü

Eskişehir yolu 9, km, 06100 Lodumlu, Ankara

Tel: +90 312 286 4675, Fax: +90 312 286 5123, E-Mail: turgay.turkyilmaz@tarim.gov.tr

Elekon, Hasan Alper

Ministry of Food, Agriculture & Livestock, General Directorate of Protection & Control, Department of Fisheries, Gıda Tarım ve Hayvancılık Bakanlığı, Balıkçılık ve Su Ürünleri Genel Müdürlüğü Eskişehir yolu 9. km, Lodumlu, Ankara

Tel: +90 312 417 4176/3013, Fax: +90 312 418 5834, E-Mail: hasanalper@kkgm.gov.tr;

hasanalper@gmail.com; hasanalper@tarim.gov.tr

UNITED STATES

Gibbons-Fly, William *

Office of Marine Conservation, U.S. Department of State, Washington, DC

Smith, Russell

Deputy Assistant Secretary for International Fisheries, Office of the Under Secretary, Room 61013, National Oceanic and Atmospheric Administration; U.S. Department of Commerce 14th and Constitution Avenue, N.W., Washington, DC 20503

Tel: +1 202 482 5682, Fax: +1 202 482 4307, E-Mail: russell.smith@noaa.gov

Blankenbeker, Kimberly

Foreign Affairs Specialist, Office of International Affairs (F/IA1), National Marine Fisheries Service 1315 East West Highway, Silver Spring, Maryland 20910

Tel: +1 301 427 8357, Fax: +1 301 713 2313, E-Mail: kimberly.blankenbeker@noaa.gov

Brown, Craig A.

Chief, Highly Migratory Species Branch, Sustainable Fisheries Division, Southeast Fisheries Science Center, NOAA Fisheries, 75 Virginia Beach Drive, Miami, Florida 33149

Tel: +1 305 361 4590, Fax: +1 305 361 4562, E-Mail: Craig.brown@noaa.gov

Campbell, Derek

Attorney Advisor, Office of General Counsel - International Law, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1401 Constitution Avenue, N.W. HCHB Room 7837, Washington, DC 20031

Tel: +1 202 482 0031, Fax: +1 202 371 0926, E-Mail: derek.campbell@noaa.gov

Carlsen, Erika

Office of International Affairs (F/IA1), National Marine Fisheries Services, National Oceanic Atmospheric Administration 1315 East West Hwy, Room 12606, Silver Spring, Maryland, Maryland 20910

Tel: +1 301 427 8358, Fax: +1 301 713 2313, E-Mail: erika.carlsen@noaa.gov

Kramer, Diana

United States Department of State, 2201 C St. NW, Washington, DC 20037
Tel: +202 647 6323, E-Mail: KramerD1@state.gov

Pearsall, Patrick W.

United States Department of State, 2201 C Street, NW, Washington, DC 20037
Tel: +1 202 647 0835, Fax: E-Mail: pearsallpw@state.gov

Southward-Hogan, LeAnn

Fisheries Management Specialist, Highly Migratory Species Management Division, National Marine Fisheries Service, 1315 East-West Highway, SSMC3-SF1, Silver Spring, Maryland 20910
Tel: +1 301 713 428503, Fax: +1 301 713 1917, E-Mail: LeAnn.Southward-Hogan@noaa.gov

Walline, Megan J.

Attorney Advisor, Office of the General Counsel for Fisheries, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1315 East-West Highway, SSMC-III, Silver Spring, Maryland 20910
Tel: +301 713 9695, Fax: +1 301 713 0658, E-Mail: megan.walline@noaa.gov

Warner-Kramer, Deirdre

Senior Foreign Affairs Officer, Office of Marine Conservation (OES/OMC), U.S. Department of State, Rm. 2758, 2201 C Street, NW, Washington, DC 20520-7878
Tel: +1 202 647 2883, Fax: +1 202 736 7350, E-Mail: warner-kramerdm@state.gov

OBSERVERS FROM COOPERATING NON-CONTRACTING PARTIES, ENTITIES, FISHING ENTITIES

CHINESE TAIPEI

Chou, Shih-Chin *

Section Chief, International Economics and Trade Section, Deep Sea Fisheries Division, Fisheries Agency, Council of Agriculture, 70-1, Sec. 1 Jinshan S. Rd., Taipei
Tel: +886 2 3343 6175, Fax: +886 2 3343 6097, E-Mail: shihcin@msl.f.a.gov.tw

Chien, Mu-hsien

Department of International Organizations, 2 Kaitakelan Blvd., 10048 Taipei
Tel: +886 2 2348 2528, Fax: +886 2 2361 7694, E-Mail: mhchien@mofa.gov.tw

Hsia, Tsui-Feng

Specialist, OFDC - Overseas Fisheries Development Council, No. 19, Lane 113, Sec.4 Roosevelt Road, 106 Taipei
Tel: +886 2 2738 1522; Ext 111, Fax: +886 2 2738 4329, E-Mail: tracy@ofdc.org.tw

Hu, Nien-Tsu Alfred

The Center for Marine Policy Studies, National Sun Yat-sen University, 70, Lien-Hai Rd., 80424 Kaohsiung
Tel: +886 7 525 5799, Fax: +886 7 525 6126, E-Mail: omps@faculty.nsysu.edu.tw

Kao, Shih-Ming

National Taiwan Ocean University, 2 Pei-Ning Rd., Keelung
Tel: +886 224 622 192 (Ext. 5030), E-Mail: kaosm@mail.ntou.edu.tw

Lee, Guann-Der

Section Chief, Department of International Organizations, 2 Kaitakelan Blvd., 10048 Taipei
Tel: +886 2 2348 2526, Fax: +886 2 2361 7694, E-Mail: gdllee@mofa.gov.tw

Lin, Yu-Ling Emma

The Center for Marine Policy Studies, National Sun Yat-sen University, 70, Lien-Hai Rd., 80424 Kaohsiung City
Tel: +886 7 525 5799, Fax: +886 7 525 6126, E-Mail: lemma@mail.nsysu.edu.tw

Pu, Kuo-Ching

Director, Department of Treaty and Legal Affairs, 2 Kaitakelan Blvd, 10048 Taipei
Tel: +886 2 2348 2222, Fax: +886 2 2312 1161, E-Mail: kcpu@mofa.gov.tw

Wang, Hsin-Chen

Assistant, Fisheries Agency; Council of Agriculture, No. 70-1, Sec. 1, Jinshan S. Rd., 100 Taipei
Tel: +886 2 3343 6055, Fax: +886 2 3343 6097, E-Mail: hsinchen@ms1.f.a.gov.tw

OBSERVERS FROM NON-GOVERNMENTAL ORGANIZATIONS

International Seafood Sustainability Foundation (ISSF)

Restrepo, Victor

Chair of the ISSF Scientific Advisory Committee, ISS-Foundation, 805 15th Street N.W. Suite 650, Washington, DC 20005, United States

Tel: + 946 572 555, E-Mail: vrestrepo@iss-foundation.org; vrestrepo@mail.com

The PEW Environment Group

Lieberman, Susan

Senior Director, International Policy, Pew Environment Group, 901 E Street, 7th floor, Washington, DC 20004 United States

Tel: +1 202 725 7014, Fax: +1 202 552 2299, E-Mail: slieberman@pewtrusts.org

ICCAT SECRETARIAT

C/ Corazón de María, 8 - 6 Planta, 28002 Madrid, Spain

Tel: + 34 91 416 5600, Fax: +34 91 415 2612, E-Mail: info@iccat.int

Meski, Driss

de Andrés, Marisa

Ochoa de Michelena, Carmen

Pinet, Dorothee

Seidita, Philomena

ICCAT Interpreters

Baena Jiménez, Eva J.

Faillace, Linda

Liberas, Christine

Meunier, Isabelle

Sánchez del Villar, Lucia

Tedjini Roemmele, Claire

Appendix 3

12-10

TOR

**RECOMMENDATION BY ICCAT TO ESTABLISH A WORKING GROUP
TO DEVELOP AMENDMENTS TO THE ICCAT CONVENTION [CONV-003]**

RECALLING that, further to the 2005 *Resolution by ICCAT to Strengthen ICCAT* [Res. 05-10], the Commission should review ICCAT's conservation and management program and develop a work plan to address the strengthening of the organization;

RECOGNIZING the results of the Independent Performance Review of ICCAT;

RECALLING the discussions held during the meetings of the Working Group on the Future of ICCAT pursuant to the *Resolution by ICCAT to Strengthen ICCAT* [Res. 06-18];

TAKING INTO ACCOUNT developments in relevant international fisheries governance since the signature of the Convention;

FURTHER TAKING INTO ACCOUNT the outcome of the 2012 meeting of the Working Group on the Future of ICCAT acknowledging that to address certain issues, amendments to the ICCAT Convention are necessary;

THE INTERNATIONAL COMMISSION FOR THE CONSERVATION OF
ATLANTIC TUNAS (ICCAT) RECOMMENDS AS FOLLOWS:

A Working Group is established with the following Terms of Reference:

- a) Develop proposed amendments to the Convention with respect to the items identified in the **Annex 1** and produce draft recommendations or amendments to the Convention, if the draft recommendations cannot address the issue, with respect to the items identified in the **Annex 2**, in order to further strengthen ICCAT to ensure it can fully meet current and future challenges.
- b) In developing proposed amendments and producing draft recommendations, take into account the input of ICCAT Contracting Parties, Cooperating non-Contracting Parties, Entities or Fishing Entities (CPCs), including proposals considered during the Future of ICCAT Working Group process.
- c) The Working Group will carry out its work in accordance with the following work plan:

<i>2013</i>	<i>2014</i>	<i>2015</i>
Meet intersessionally to discuss proposed amendments to the Convention, including draft text, and to produce draft recommendations for their possible adoption at the 2013 Commission meeting.	Meet intersessionally to continue discussion of proposed amendments to the Convention, and develop a consolidated draft of proposed amendments that will serve as a negotiating text for future meeting(s).	Meet intersessionally to finalize, if possible, proposed amendments to the Convention. Present the final proposed Convention amendment text for adoption.

- d) The Working Group should seek to advance issues electronically, where possible.
- e) All CPCs should participate in the Working Group.
- f) Pursuant to Article 13 of the Convention, only Contracting Parties may propose amendments to the Convention and have the decision-making power on the adoption of the amendments to the Convention.
- g) A special Working Group Meeting Fund financed through voluntary contributions and, if necessary, the ICCAT Working Capital Fund is established to assist with the cost of participation of up to two representatives from each of those ICCAT Contracting Parties which are developing States.
- h) In carrying out this exercise, principles related to monitoring, control, and surveillance measures (MSC), *force majeure*, and responsible international trade should be duly taken into account.

Annex 1

(not in priority order)

Convention scope, in particular shark conservation and management

Decision-making processes and procedures:

- Entry into force provisions for recommendations
- Voting rules/quorum
- Objection procedures
- Dispute resolution

Non-party participation

Annex 2

Precautionary Approach
Ecosystem considerations
Capacity building and assistance
Allocation of fishing possibilities
Transparency

Appendix 4

**VIEWS OF THE UNITED STATES ON ISSUES TO BE CONSIDERED BY THE
ICCAT WORKING GROUP ON CONVENTION AMENDMENT [CONV-004A]**

Mr. Masanori Miyahara, Chairman
International Commission for the Conservation of Atlantic Tunas
Corazón de María, 8-6th floor
28002 Madrid, Spain

June 27, 2013

Dear Mr. Miyahara:

The United States would like to offer some views in advance of the first meeting of the ICCAT Convention Working Group to be held July 10-12, 2013, in Sapporo, Japan. We hope the views expressed in the attached document will help facilitate discussion on the issues to be discussed by the Working Group.

I would also like to announce that Mr. William Gibbons-Fly, Director, Office of Marine Conservation, U.S. Department of State, will lead the U.S. delegation to the Convention Working Group. As U.S. Government Commissioner to ICCAT, I will attend the meeting in Sapporo and will be fully engaged in the Convention amendment process.

The United States looks forward to hearing the views of other ICCAT Contracting Parties and Non-Contracting Parties, Entities, and Fishing Entities (CPCs) in advance of and during the Convention Working Group meeting. I ask that this letter and the enclosure be translated and circulated to all CPCs prior to that meeting. I would like to thank other CPCs for considering these views, and invite them to contact me or Mr. Gibbons-Fly with any questions.

Best regards,
(signed)

Russel F. Smith III
U.S. Commissioner to ICCAT

Cc: Mr. Driss Meski
Ms. Deidre Warner-Kramer
Mr. William Gibbons-Fly

Enclosure: Views of the United States on Issues to be considered by the ICCAT Working Group on Convention Amendment

**VIEWS OF THE UNITED STATES ON ISSUES TO BE CONSIDERED BY THE
ICCAT WORKING GROUP ON CONVENTION AMENDMENT**

The United States presents the following views for consideration by the ICCAT Working Group on Convention Amendment in advance of the first meeting of the Working Group, July 10-12 in Sapporo, Japan. This paper builds on many of the concepts and ideas put forward in the paper submitted by the United States to the third session of the Working Group on the Future of ICCAT (included as Appendix 4 of the Report of that meeting). As in that paper, these comments focus on key issues of importance to the United States, but are not exhaustive.

The United States looks forward to the upcoming meeting to discuss these and other matters and to working with all delegations to achieve agreement on amendments to the text of the current Convention.

Scope of the Convention. A key goal of the Convention Amendment process is to clarify ICCAT's scope and authority to conserve and manage highly migratory fish stocks in the Convention Area beyond the "tuna and tuna-like fishes" to which the Convention makes reference. In our view, this scope and authority must be clarified in at least two important ways.

The first is to clarify ICCAT's authority with respect to the management of highly migratory species other than tunas in the Convention Area including, *inter alia*, relevant shark species. The second is to clarify ICCAT's authority with respect to associated and dependent species and species belonging to the same ecosystem as the target stocks in ICCAT-managed fisheries.

In other tuna RFMOs, in particular WCPFC and IATTC, these aspects are addressed through a combination of the articles on "Definitions" and "Functions of the Commission." The current Convention does not have a section on definitions and adding one at this point would be cumbersome and potentially confusing, so we do not advocate this approach. However, we do see merit in the addition of a new article on Functions of the Commission that would spell out ICCAT's mandate with greater detail and clarity. Such articles are commonplace in multilateral fisheries conventions and add clarity to the commissions' mandate and authority on a wide range of issues, including the conservation and management of fish stocks. In the absence of a definition of the fish stocks covered by the Convention, the article on Functions should contain language to clarify the scope of the stocks covered.

Convention Objective and General Principles. In addition to a new article on Functions of the Commission, suggested above, the Working Group should consider amendments to clearly articulate the Commission's objective and to outline guiding principles. Most if not all other conventions for highly migratory species and straddling stocks have a separate article or paragraph on the Objective of the Commission in the operative text. All such agreements negotiated since the adoption of the UN Fish Stocks Agreement have articles on General Principles. As a result, we urge the Working Group to consider such articles for inclusion in the Convention text. An article on General Principles should include, *inter alia*, elements such as the adoption of conservation and management measures to achieve maximum sustainable yield (or other appropriate standard); incorporation of the best available science; application of the precautionary approach; incorporation of ecosystem considerations; and other well-accepted tenets of international fisheries management. In addition, it should specify that deliberations of the Commission, including decision making, should be carried out in a fair and transparent manner; and that the work of the Commission should take into account the needs and special circumstances of developing coastal states.

The inclusion of such new articles on Objective, Functions of the Commission, and General Principles would be an effective and efficient way of incorporating these ideas and concepts into the Convention text, as opposed to trying to amend or modify existing articles in ways that would be cumbersome and could leave these concepts unclear or lacking sufficient context.

Decision-Making and Related Issues. The issues related to decision-making fall into four general categories: voting rules, objection procedures, timing of entry into force of decisions, and dispute settlement.

Voting Rules. Voting rules in the Commission are confusing and often less effective than they could be. For example, although there is a commonly understood interpretation of how Article VIII, paragraph 1 (on the adoption of recommendations) should apply, it is not self-evident, and clarification on the process will help avoid potential conflicts based on differing interpretations. In addition, the requirement that decisions be made by a majority of the members means that both abstentions and absentees effectively count as negative votes. The Working Group should give priority to establishing clear voting rules that promote efficient and effective decision-making in line with established international practice.

In this regard, a first step should be to enshrine the current practice that, whenever possible, decisions are to be taken by consensus. When all efforts to reach a consensus have been exhausted, the Commission may move to a vote.

In voting, decisions of the Commission should be based on the votes of members "present" and casting affirmative or negative votes. Abstentions and absentees should not count automatically as a "No" vote.

The Working Group should also consider whether or not the current thresholds for taking decisions are appropriate. The Convention and Rules of Procedure provide that decisions of the Commission shall be taken by a majority of the members of the Commission except as provided in Article VIII, paragraph 1(b)(i) and Article X, paragraph 2(c) of the Convention. In the latter case, decisions on aspects of the budget are adopted by agreement of all Contracting Parties present and voting. In the case of Article VIII, paragraph 1(b)(i), a two-thirds majority of the Commission is required for approval of a recommendation. The distinction in Article VIII with respect to the operative voting threshold, based on whether or not a proposal originates in a panel, is confusing and should be clarified.

An additional question is whether to differentiate between decisions on matters of procedure and decisions on matters of substance. A number of RFMOs make this distinction, often with matters of procedure decided by simple majority and matters of substance decided by super-majority, most often two-thirds or three-fourths. We see merit in introducing this concept into the ICCAT Convention and, more generally, to streamlining and simplifying ICCAT's voting rules to the degree possible.

Objection Procedures. The objection procedures contained in Article VIII, paragraph 3, reflect a time when international communications were slow and cumbersome. They should be revised to reflect current standards and practice with respect to both efficiency and transparency of the process. In this regard, revised objection procedures should include a number of key elements.

First, the procedures should establish criteria to serve as the basis for any objection. In particular, objections should focus on situations where a measure discriminates in form or in fact against a member or members of the Commission, or when a measure is inconsistent with customary international law including, where appropriate, as reflected in the Law of Sea Convention, the UN Fish Stocks Agreement, or other relevant and accepted international instruments. In such cases, an objecting member should be required to take and report on alternative measures in order to achieve the same or a similar conservation objective.

Second, the objection procedures should not delay the entry into force of Commission measures for members that do not object to the measures. An exception could be made in the case where a number of members object to the same measure, with consideration given to the appropriate threshold and timeframe.

Third, the objection procedures should specify, consistent with the current Convention, that an objection to any Article VIII recommendation is an objection to the measure as a whole. Commission members should not be able to determine which aspects of specific measures they will and will not accept, but must decide whether, on balance, a measure is acceptable or not.

A number of conventions provide useful models for an acceptable objection procedure.

Entry into Force of Commission Measures. Article VIII of the Convention specifies that Commission recommendations become effective six months from the date they are transmitted to the members. Here again, this provision reflects a time when communications were much slower and more cumbersome. Reconsideration of the entry into force provisions is needed to allow more timely and effective entry into force of Commission recommendations. Clearly, tuna RFMOs can act to implement measures in less than the six-month period specified in the current Convention. For example, WCPFC, which meets in December, after ICCAT, provides for entry into force of measures 60 days after their adoption. IATTC, which meets in June of the year in which the measures are to become effective, provides 45 days after the transmittal of the measures to the members. Although these timeframes may not be the right ones in the ICCAT context, consideration should be given to improving ICCAT's entry into force provisions. Among other things, the Convention should be clear that the Commission, when adopting any specific recommendation, may specify a time period for entry into force for that recommendation that is either shorter or longer than that the general rule established in the Convention.

Dispute Settlement. The Convention currently has no provisions related to the settlement of disputes between members. These should be included in the revised Convention. As a first step, the Convention should establish that members should seek to resolve any disputes between themselves in a peaceful manner of their own choosing. If they are unable to do so, one or both parties to the dispute should be able to avail themselves of other options of either a binding or non-binding nature. A number of useful and well-accepted models exist for this purpose.

Participation by Fishing Entities Every RFMO-related convention negotiated since 2000 (including WCPFC, Antigua/IATTC, NPFC, and SPRFMO) has included provisions to ensure full participation by fishing entities as Members of the Commission, including participation in decision-making on conservation and management measures and other matters that affect such fishing entities, such as the budget. Similar provisions must be included in amendments to the Convention both to ensure that fishing entities are afforded full participatory rights, and to ensure that fishing entities are bound by the decisions of the Commission. As noted above, a number of models have been established to achieve this and the Working Group should decide the preferred model rather than trying to create new or different provisions on this matter.

Appendix 5

DRAFTING SUGGESTIONS [CONV-006A]

(Submitted by the European Union)

1. Convention scope

Objective: - Create consistency between Article IV and Article VIII.

- Expand the Convention's scope in order to include sharks under the species regulated by ICCAT, be it as targeted or as by-catch species, together with associated species.

Article IV

1. In order to carry out the objectives of this Convention the Commission shall be responsible for the study of the populations of tuna, tuna-like fishes (the Scombriformes with the exception of the families Trichiuridae and Gempylidae and the genus *Scomber*) and oceanic, pelagic and highly migratory sharks, as well as such other species caught in tuna or shark fishing in the Convention area as are not under investigation by another international fishery organization.

Article VIII

1. (a) The Commission may, on the basis of scientific evidence, make recommendations designed to ensure in the Convention area the long-term conservation and sustainable use of fishery resources and associated species defined in Article IV. These recommendations shall be applicable to the Contracting Parties under the conditions laid down in paragraphs 2 and 3 of this Article.

2. Decision-making

a. Voting rules

Objective: avoid that abstentions are counted as negative votes. This will also require the modification of current rules of procedure concerning the vote by correspondence.

Article III

3. Except as may otherwise be provided in this Convention, decisions of the Commission shall be taken by consensus. If consensus cannot be achieved, decisions shall be made by a majority of the Contracting Parties present at the meeting and casting affirmative or negative votes, each Contracting Party having one vote. Two-thirds of the Contracting Parties shall constitute a quorum except for intersessional vote by correspondence or electronic means. Detailed provisions for the establishment of the quorum are set out in the Rules of Procedure.

b. Entry into force of recommendations

Objective: quicker entry into force coupled with more flexibility depending on the measures concerned.

Article VIII

2. Each recommendation made under paragraph 1 of this Article shall become effective for all Contracting Parties three months after the date of the notification from the Commission transmitting the recommendation to the Contracting Parties, unless otherwise specified in the recommendation or as provided in paragraph 3 of this Article.

c. Objection procedure

Objective: shorten the delays entailed by the objection procedure

Article VIII

3. (a) If any Contracting Party in the case of a recommendation made under paragraph 1(b)(i) above, or any Contracting Party member of a Panel concerned in the case of a recommendation made under paragraph 1(b)(ii) or (iii) above, presents to the Commission an objection to such recommendation within the period provided for in paragraph 2 above, the recommendation shall not become effective for an additional thirty days.

[Two options: specification of acceptable grounds in the Convention or as a Recommendation]

(b) Thereupon any other Contracting Party may present an objection prior to the expiration of the additional thirty days period, or within fifteen days of the date of the notification of an objection made by another Contracting Party within such additional thirty days, whichever date shall be the later.

(c) The recommendation shall become effective at the end of the extended period or periods for objection, except for those Contracting Parties that have presented an objection.

(d) However, if a recommendation has met with an objection presented by only one or less than one-fourth of the Contracting Parties, in accordance with sub-paragraphs (a) and (b) above, the Commission shall immediately notify the Contracting Party or Parties having presented such objection that it is to be considered as having no effect.

(e) In the case referred to in sub-paragraph (d) above the Contracting Party or Parties concerned shall have an additional period of thirty days from the date of said notification in which to reaffirm their objection. On the expiry of this period the recommendation shall become effective, except with respect to any Contracting Party having presented an objection and reaffirmed it within the delay provided for.

(f) If a recommendation has met with objection from more than one-fourth but less than the majority of the Contracting Parties, in accordance with sub-paragraphs (a) and (b) above, the recommendation shall not become effective for the Contracting Parties that have presented an objection thereto.

(g) If objections have been presented by a majority of the Contracting Parties the recommendation shall not become effective.

Appendix 6

**CONCEPT ON POSSIBLE AMENDMENT
TO ICCAT CONVENTION ON SHARKS [CONV-007]**

(Submitted by Japan)

1. In response to the growing international concern on conservation and management of sharks, ICCAT has adopted various kinds of binding conservation and management measures, including prohibition of retention of several sharks caught in association with ICCAT fisheries.
2. However, two fundamental questions have arisen in these actions. First, the meaning of “sharks caught in association with ICCAT fisheries” is not necessarily clear. It is clear that a bottom longline fishery targeting demersal fish species is not an ICCAT fishery. However, if fishermen use a pelagic longline targeting sharks, is this an ICCAT fishery? Some people may say that this is not an ICCAT fishery since ICCAT manages tuna and tuna-like species, while some people may say that this is an ICCAT fishery as long as the fishing gear is a pelagic longline, which is highly likely to catch tuna and tuna-like species. A more complicated question is: What if a surface fishery targeting pelagic fish species other than tuna and tuna-like species incidentally takes sharks?
3. Second, fisheries other than ICCAT fisheries also catch the same species subject to the ICCAT measures. Any measure adopted by ICCAT would be ineffective if non-ICCAT fisheries continue to catch the same shark species without having similar measures.

4. Japan supports conservation and management of sharks with a view to utilizing shark resources in a sustainable manner. If ICCAT amends the scope of the Convention, this notion should be incorporated with clear ideas on what shark species and what fishing gears should be actually covered.
5. The first question is what shark species should be covered. ICCAT is an international organization whose actions are based on cooperation among members. Sharks to be covered should be those whose conservation and management requires international cooperation. In this regard, oceanic sharks provided in Annex I (Highly Migratory Species) of the United Nations Convention on the Law of the Sea (UNCLOS) (see Attachment) should be included since their conservation and optimum utilization requires cooperation among all the countries including coastal countries and high seas fishing countries as stipulated in Article 64 of UNCLOS.
6. The second question is what fisheries should be covered. ICCAT is basically an organization dealing with pelagic species, and there are other regional fisheries management organizations dealing with bottom fish species such as NAFO, NEAFC and SEAFO. Therefore, Japan would like to propose that any fishing gear other than bottom fishing gears should be covered. The definition of “bottom fishing gears” is “the fishing gear is likely to contact the seafloor during the normal course of fishing operations” taken from paragraph 8 of the FAO International Guidelines for the Management of Deep-Sea Fisheries in the High Seas.
7. The third question is how to enhance cooperation with other relevant international organizations for conservation and management of sharks identified in paragraph 5 and 6 above. Japan considers that Article 11.2 has already addressed this issue and therefore no amendment to the Convention is necessary.

Attachment

Paragraph 16 of Annex I (Highly Migratory Species) of UNCLOS is:

Oceanic sharks: *Hexanchus griseus*; *Cetorhinus maximus*; Family *Alopiidae*; *Rhincodon typus*; Family *Carcharhinidae*; Family *Sphyrnidae*; Family *Isurida* (Note: Family *Isurida* is now Family *Lamnidae*).

Out of the sharks included in Annex I of UNCLOS, the following species are found in the ICCAT Convention area and have ICCAT Species codes.

<i>Family</i>	<i>Scientific Name</i>	<i>English Name</i>	<i>ICCAT Species Code</i>
	<i>Hexanchus griseus</i>	Bluntnose Sixgill shark	SBL
	<i>Cetorhinus maximus</i>	Basking shark	BSK
Alopiidae	<i>Alopias vulpinus</i>	Thresher shark	ALV
	<i>Alopias pelagicus</i>	Pelagic thresher shark	PTH
	<i>Alopias superciliosus</i>	Bigeye thresher shark	BTH
	<i>Rhincodon typus</i>	Whale shark	RHN
Carcharhinidae	<i>Prionace glauca</i>	Blue shark	BSH
	<i>Carcharias taurus</i>	Sand tiger shark	CCT
	<i>Carcharhinus plumbeus</i>	Sandbar shark	CCP
	<i>Carcharhinus limbatus</i>	Blacktip shark	CCL
	<i>Carcharhinus acronotus</i>	Blacknose shark	CCN
	<i>Carcharhinus longimanus</i>	Oceanic whitetip shark	OCS
	<i>Carcharhinus porosus</i>	Smalltail shark	CCR
	<i>Carcharhinus obscurus</i>	Dusky shark	DUS
	<i>Carcharhinus falciformis</i>	Silky shark	FAL
	<i>Carcharhinus leucas</i>	Bull shark	CCE
	<i>Carcharhinus albimarginatus</i>	Silvertip shark	ALS
	<i>Carcharhinus brachyurus</i>	Copper shark	BRO
	<i>Carcharhinus brevipinna</i>	Spinner shark	CCB
	<i>Carcharhinus signatus</i>	Night shark	CCS
	<i>Carcharhinus isodon</i>	Finetooth shark	CCO
	<i>Carcharhinus altimus</i>	Bignose shark	CCA
	<i>Galeocerdo cuvier</i>	Tiger shark	TIG
	<i>Negaprion brevirostris</i>	Lemon shark	NGB

	Rhizoprionodon terraenovae	Atlantic sharpnose shark	RHT
Sphyrnidae	Sphyrna zygaena	Smooth hammerhead	SPZ
	Sphyrna lewini	Scalloped hammerhead	SPL
	Sphyrna tiburo	Bonnethead	SPJ
	Sphyrna mokarran	Great hammerhead	SPK
Lamnidae	Isurus oxyrinchus	Shortfin mako	SMA
	Isurus paucus	Longfin mako	LMA
	Lamna nasus	Porbeagle shark	POR
	Carcharodon carcharias	Great white shark	WSH

The following sharks are included in Annex I of UNCLOS and found in the Convention area but have no ICCAT Species Code.

<i>Family</i>	<i>Scientific Name</i>	<i>English Name</i>
Carcharhinidae	Carcharhinus amboinensis	Pigeye shark
	Carcharhinus galapagensis	Galapagos shark
	Carcharhinus perezii	Caribbean reef shark
	Rhizoprionodon acutus	Milk shark
	Rhizoprionodon lalandii	Brazilian sharpnose shark
	Rhizoprionodon porosus	Caribbean sharpnose shark
	Isogomphodon oxyrinchus	Daggernose shark

Appendix 7

ISSUES FOR DISCUSSION AT THE WORKING GROUP ON THE FUTURE OF ICCAT [CONV-008]

(Submitted by Norway)

In response to ICCAT Circular #5000/2011, requesting CPCs to indicate which issues they intend to work on in 2012 in the framework of the Working Group on the Future of ICCAT, Norway informed by letter of 19 December 2011 that we would like to address the following issues:

- Application of Ecosystem Considerations and reference to the Precautionary Approach in the ICCAT Convention
- Amendments to the Objection Procedures and application of Provisions on Transparency in the decision-making process.

According to Resolution 11-25, Annex 1 paragraph 3, CPCs should, at least 45 days in advance of the meeting of the WGFI, submit to the Secretariat proposals addressing:

- Objectives and desired outcomes of a proposed initiative to address a particular priority issue;
- Mechanisms envisaged for the proposed initiative (modifying Basic Texts, decisions of the Commission or both),
- Potential legal, management and policy implications associated with the proposal; and
- Possible drafting suggestions for eventual amendments to Basic Texts or for decisions of the Commission, as appropriate.

In line with this, Norway would propose the following:

Precautionary Approach

Some provisions of the ICCAT Convention might be considered to touch upon elements of the precautionary approach, and this principle has increasingly been reflected in ICCAT conservation and management measures. Nevertheless, it is fundamental that the precautionary approach is applied throughout the work of ICCAT. To ensure compliance with relevant international rules, an obligation to apply the precautionary approach should be explicitly expressed in the Convention. Norway would therefore propose to include in Article VIII.1 (a) an obligation for the ICCAT Commission to apply the precautionary approach as a basic principle for recommendations pertaining to conservation and management.

Proposed amendments to Article VIII.1 (a) (i):

Article VIII

1.(a) The Commission may, on the basis of scientific evidence, make recommendations designed to maintain the populations of tuna and tuna-like fishes that may be taken in the Convention area at levels which will permit the maximum sustainable ~~catch~~ yield. When making such recommendations the Commission shall, in accordance with relevant international instruments:

(i) apply the precautionary approach;

Article VIII in its entirety, with all amendments proposed is to be found below.

Ecosystem considerations

In recent years ICCAT has adopted a wide variety of measures which takes into account the impact of ICCAT fisheries on ecosystems. According to the Convention, the mandate of ICCAT is to cooperate to maintain the populations of tuna and tuna-like fishes. Article IV.1 of the Convention tasks the Commission with the study of these fish as well as “such other species of fishes exploited in tuna fishing in the Convention area as are not under investigation by another international fishery organization”. There is, however, no explicit link between these studies and the adoption of recommendations under Article VIII. Furthermore, there are no other specific provisions in the ICCAT Convention relating to ecosystem considerations. Hence, it should be clearly expressed in the Convention that recommendations shall be based on ecosystem considerations. Norway therefore suggests that this be reflected in general terms in the Convention as follows:

Article VIII

1.(a) The Commission may, on the basis of scientific evidence, make recommendations designed to maintain the populations of tuna and tuna-like fishes that may be taken in the Convention area at levels which will permit the maximum sustainable ~~catch~~ yield. When making such recommendations the Commission shall, in accordance with relevant international instruments:

(i) apply the precautionary approach;

(ii) take ecosystem considerations;

(iii) take due account of the need to conserve marine biological diversity.

Article VIII in its entirety, with all amendments proposed is to be found below.

In addition, to the amendments above, it would be appropriate to add an Article to the Convention stating the objective of the Convention. Norway would propose a new Article II as follows:

Article II

The objective of this Convention is to ensure the long term conservation and sustainable use of tuna and tuna-like fishes in the Convention Area and, in doing so, to safeguard the marine ecosystems in which these resources are found.

Objection procedures

All ICCAT Recommendations are binding for all ICCAT CPCs. However, Article VIII.3 of the ICCAT Convention grants all Contracting Parties the right to object to a recommendation before its entry into force, with the exception of objections to recommendations that originated within a Panel. Such objections may only be lodged by the members of that Panel, or by other non-Panel members if a member of the relevant Panel has lodged an objection, c.f. Article VIII.3 (a) and VIII.1 b) (ii) and (iii). This means that CPCs have to be members of all Panels in order to ensure the right to object to all recommendations. However, all Panels may propose recommendations of principle nature which may have bearings on CPCs not member of the relevant Panel. Becoming member of all Panels could represent an economic obstacle. Hence, these objection procedures could be perceived as discriminatory.

The right to object is of fundamental importance and in order to allow all Contracting Parties to object to recommendations, including those originating within a Panel to which it is not a member, the Convention should be amended accordingly.

It might be argued that such an amendment could lead to an increase in the number of objections. This could be avoided by introducing requirements for Contracting Parties to specify the reasons for their objections.

The right to object is already explicitly set out in the Convention. Hence, amendments to the objection procedures can only be accomplished by amending Article VIII.3.

Amendments to the objection procedures must also be seen in connection with the rules regarding entry into force of recommendations. These rules need to be amended to shorten the period for entry into force.

Proposal for amendments to Article VIII.3 (a):

3. (a) *If any Contracting Party in the case of a recommendation made under paragraph 1 (b)(i) above or any Contracting Party member of a Panel concerned in the case of a recommendation made under paragraph 1(b)(ii) or (iii) above presents to the Commission an objection to such recommendation within the ~~six~~ XX months period provided for in paragraph 2 above, the recommendation shall not become effective for an additional ~~sixty~~ XX days.*

Article VIII in its entirety, with all amendments proposed is to be found below.

Transparency

The ICCAT Convention does not include any provisions requiring transparency in the Commissions decision-making processes. There are, however, some requirements in Rule 8 of the Rules of Procedure, and policies have been instituted to improve the ability of CPCs to undertake a timely review of proposals.

Lack of transparency within the Commission in its decision-making processes has represented a problem in ICCAT. Late distribution of documents and incomplete explanation of proposed recommendations are important parts of this problem. In order to ensure transparency in the decision-making processes it is necessary to amend the Convention accordingly. Such an amendment could be implemented in form of a new Article VIII bis or possibly by a preambular provision.

Proposal for a new Article VIII bis or a new preambular provision:

The Commission shall promote transparency in the implementation of this Convention, in its decision-making processes and in other activities.

Drafting suggestions

– Article II

The objective of this Convention is to ensure the long term conservation and sustainable use of tuna and tuna-like fishes in the Convention Area and, in doing so, to safeguard the marine ecosystems in which these resources are found.

– Article VIII

1.(a) The Commission may, on the basis of scientific evidence, make recommendations designed to maintain the populations of tuna and tuna-like fishes that may be taken in the Convention area at levels which will permit the maximum sustainable ~~catch~~ yield. When making such recommendations the Commission shall in particular:

- (i) apply the precautionary approach;*
- (ii) take ecosystem considerations;*
- (iii) take due account of the need to conserve marine biological diversity.*

These recommendations shall be applicable to the Contracting Parties under the conditions laid down in paragraphs 2 and 3 of this Article.

(b) The recommendations referred to above shall be made:

- (i) at the initiative of the Commission if an appropriate Panel has not been established or with the approval of at least two-thirds of all the Contracting Parties if an appropriate Panel has been established;*
- (ii) on the proposal of an appropriate Panel if such a Panel has been established;*

(iii) on the proposal of the appropriate Panels if the recommendation in question relates to more than one geographic area, species or group of species.

2. Each recommendation made under paragraph 1 of this Article shall become effective for all Contracting Parties ~~six~~ XX months after the date of the notification from the Commission transmitting the recommendation to the Contracting Parties, except as provided in paragraph 3 of this Article.

3. (a) If any Contracting Party in the case of a recommendation made under paragraph 1(b)(i) above ~~or any Contracting Party member of a Panel concerned in the case of a recommendation made under paragraph 1(b)(ii) above~~, presents to the Commission an objection to such recommendation within the ~~six~~ XX months period provided for in paragraph 2 above, the recommendation shall not become effective for an additional ~~sixty~~ XX days.

(b) Thereupon any other Contracting Party may present an objection prior to the expiration of the additional ~~sixty~~ XX days period, or within ~~forty five~~ XX days of the date of the notification of an objection made by another Contracting Party within such additional ~~sixty~~ XX days, whichever date shall be the later.

(c) The recommendation shall become effective at the end of the extended period or periods for objection, except for those Contracting Parties that have presented an objection.

(d) However, if a recommendation has met with an objection presented by only one or less than one-fourth of the Contracting Parties, in accordance with sub-paragraphs (a) and (b) above, the Commission shall immediately notify the Contracting Party or Parties having presented such objection that it is to be considered as having no effect.

(e) In the case referred to in sub-paragraph (d) above the Contracting Party or Parties concerned shall have an additional period of ~~sixty~~ XX days from the date of said notification in which to reaffirm their objection. On the expiry of this period the recommendation shall become effective, except with respect to any Contracting Party having presented an objection and reaffirmed it within the delay provided for.

(f) If a recommendation has met with objection from more than one-fourth but less than the majority of the Contracting Parties, in accordance with sub-paragraphs (a) and (b) above, the recommendation shall become effective for the Contracting Parties that have not presented an objection thereto.

(g) If objections have been presented by a majority of the Contracting Parties the recommendation shall not become effective.

4. Any Contracting Party objecting to a recommendation may at any time withdraw that objection, and the recommendation shall become effective with respect to such Contracting Party immediately if the recommendation is already in effect, or at such time as it may become effective under the terms of this Article.

5. The Commission shall notify each Contracting Party immediately upon receipt of each objection and of each withdrawal of an objection, and of the entry into force of any recommendation.

– Article VIII bis or preambular provision

The Commission shall promote transparency in the implementation of this Convention, in its decision-making processes and in other activities.

Appendix 8

OVERVIEW OF NEAFC AND ICCAT MANAGEMENT MEASURES REGARDING SHARKS [CONV-009]

(A joint note by the NEAFC and ICCAT Secretariats)

Introduction and background

The President of NEAFC, Johán H. Williams, Norway, and the Chair of ICCAT, Masanori Miyahara, Japan, met in February 2013 to discuss the issue of shark management. The background to the meeting, which was initiated by the President of NEAFC, is that both NEAFC and ICCAT set management measures for sharks, and there is a need to ensure compatibility between those measures. The intention was to use this meeting to initiate a dialogue between the two organisations on this issue.

There was agreement on the need to ensure compatibility and to avoid a situation where measures adopted by one organisation undermine the measures adopted by the other. Further cooperation between the organisations should be encouraged in this context.

It was agreed that ICES, which is NEAFC's scientific adviser and cooperates with the SCRS, scientific committee of ICCAT, should be contacted in an effort to gather the already available information on the areas of distribution of relevant shark species, and their migratory nature. NEAFC undertook to be in contact with ICES in this context, and inform ICCAT of any outcome.

The Secretaries of the two organisations, who were present at the meeting, were also asked to formulate a joint document explaining the management measures adopted by the two organisations regarding sharks. The purpose of this document would be to provide an overview over what NEAFC and ICCAT are doing in the context of management measures regarding sharks, and thereby clarifying the current situation for the respective Contracting Parties.

NEAFC management measures regarding sharks

The NEAFC Convention defines the fishery resources that NEAFC deals with as “fish, molluscs, crustaceans and including sedentary species, excluding, in so far as they are dealt with by other international agreements, highly migratory species listed in Annex I of the United Nations Convention on the Law of the Sea of 10 December 1982, and anadromous stocks”.

The management measures adopted by NEAFC are primarily measures prohibiting fisheries directed at specific shark species. A total of 17 deep-sea shark species and 3 other species, basking shark (*Cetorhinus maximus*), spurdog (*Squalus acanthias*) and porbeagle (*Lamna nasus*), are covered by this prohibition. For basking shark, the prohibition applies to the whole NEAFC Convention Area, but for all the other species it is limited to the NEAFC Regulatory Area (i.e. the high seas).

ICES started in 2012 applying a new approach to producing advice for data limited stocks, which has resulted in quantitative advice to NEAFC on a much higher number of deep-sea fish stocks than before. ICES and NEAFC are cooperating in ensuring that this new approach is as usable as possible for management purposes. It is possible that in the near future, NEAFC will with the application of this new approach get quantitative advice from ICES for more individual stocks of deep-sea sharks, and this would possibly result in NEAFC reassessing its management measures for deep-sea sharks.

NEAFC already has experience of setting management measures for fish stocks in cooperation with another regional fisheries management organisation. A stock of pelagic redfish occurs within the Convention Areas of both NEAFC and NAFO, and both organisations set management measures for the stock. In practice, NAFO has set measures with a direct reference to the measures that are set by NEAFC.

ICCAT management measures regarding sharks

The Convention area of ICCAT is the entire Atlantic Ocean and the Mediterranean Sea, and its Parties involve almost all the coastal states and fishing states of the Convention area. The ICCAT Convention predates the UN conference that formulated the UN Convention on the Law of the Sea, and therefore does not contain any references to that Convention and does not have consistency with it in the use of terms. The ICCAT Convention applies to “tuna and tuna-like species” but does not explicitly refer to “highly migratory species”. In the context of scientific and statistical study, the ICCAT Convention states that the species to be considered are “tuna and tuna-like fishes (the Scombriformes with the exception of the families Trichiuridae and Gempylidae and the genus *Scomber*) and such other species of fishes exploited in tuna fishing in the Convention area as are not under investigation by another international fishery organization.” A process has been initiated to review the ICCAT Convention, which starts this year and is expected to last for 4-5 years.

The current ICCAT measures apply to bycatches of specific shark species to the extent they are taken in fishing for tuna and tuna-like species. ICCAT has a dedicated species group on sharks which was created in 1995. Since then, the statistics of sharks are included in the ICCAT general statistics request (Task I and Task II). In addition, ICCAT has conducted stock assessments of Atlantic blue shark and shortfin mako as well as a joint ICCAT-ICES stock assessment of porbeagle. In 2012 a level- 3 quantitative ecological risk assessment (ERA) was conducted. This expanded and updated a previous ERA conducted in 2008. The new ERA was conducted on sixteen species (15 sharks and 1 ray) or 20 stocks of pelagic elasmobranchs to assess their vulnerability to

pelagic longline fisheries in the Atlantic Ocean in 2012. In 2013, the shark species group also elaborated a Shark Research and Data Collection Program (SRDCP) focused on the reduction of the main sources of uncertainty in the formulation of scientific advice including the improvement of data collection and reporting procedures for shark species impacted on by ICCAT fisheries.

The current ICCAT measures relate to the prohibition of retaining on board fishing vessels bycatches of bigeye thresher (*Alopias superciliosus*), oceanic whitetip (*Carcharhinus Longimanus*), hammerhead (family *sphyrnidae*) and silky sharks (*Carcharhinus falciformis*). In all cases, there are some exceptions to the prohibition. Furthermore, there are measures to lower the fishing mortality in fisheries targeting porbeagle (*Lamna nasus*) and North Atlantic shortfin mako sharks (*Isurus oxyrinchus*). Finally, there are measures on the reporting of catches of various shark species and on submitting to the ICCAT Secretariat in advance of the 2013 annual meeting details of implementation of and compliance with ICCAT's shark conservation and management measures.

Lists of NEAFC and ICCAT Recommendations regarding sharks

NEAFC

Recommendation 7:2013 on conservation and management measures for deep-sea sharks in the NEAFC Regulatory Area from 2013 (http://neaft.org/system/files/Rec7_Deep-sea_sharks_eudoc.pdf).

Recommendation 4:2012 on conservation and management measures for basking shark (*cetorhinus maximus*) in the NEAFC Convention Area from 2012 to 2014 (http://neaft.org/system/files/Rec_4_Recommendation_basking_shark-rev1.pdf).

Recommendation 5:2012 on conservation and management measures for spurdog (*squalus acanthias*) in the NEAFC Regulatory Area from 2012 to 2014 (http://neaft.org/system/files/Rec_5_Recommendation_spurdog.pdf).

Recommendation 6:2012 on conservation and management measures for porbeagle (*lamna nasus*) in the NEAFC Regulatory Area from 2012 to 2014 (http://neaft.org/system/files/Rec_6_Recommendation_porbeagle.pdf).

Recommendation from 2006 on prohibiting shark finning from 2007.

ICCAT

Recommendation 12-05 on Compliance with existing measures on shark conservation and management (<http://iccat.es/Documents/Recs/compendiopdf-e/2012-05-e.pdf>).

Recommendation 11-08 on the conservation of silky sharks caught in association with ICCAT fisheries (<http://iccat.es/Documents/Recs/compendiopdf-e/2011-08-e.pdf>).

Recommendation 10-08 on hammerhead sharks (family *sphyrnidae*) caught in association with fisheries managed by ICCAT (<http://iccat.es/Documents/Recs/compendiopdf-e/2010-08-e.pdf>).

Recommendation 10-07 on the conservation of oceanic whitetip shark caught in association with fisheries in the ICCAT Convention area (<http://iccat.es/Documents/Recs/compendiopdf-e/2010-07-e.pdf>).

Recommendation 10-06 on Atlantic shortfin mako sharks caught in association with ICCAT fisheries (<http://iccat.es/Documents/Recs/compendiopdf-e/2010-06-e.pdf>).

Recommendation 09-07 on the conservation of thresher sharks caught in association with fisheries in the ICCAT Convention area (<http://iccat.es/Documents/Recs/compendiopdf-e/2009-07-e.pdf>).

Recommendation 07-06, a supplemental Recommendation concerning sharks (<http://iccat.es/Documents/Recs/compendiopdf-e/2007-06-e.pdf>).

Recommendation 06-10, a supplemental Recommendation concerning the conservation of sharks caught in association with fisheries managed by ICCAT (<http://iccat.es/Documents/Recs/compendiopdf-e/2006-10-e.pdf>).

Recommendation 05-05 to amend Recommendation [REC. 04-10] concerning the conservation of sharks caught in association with fisheries managed by ICCAT (<http://iccat.es/Documents/Recs/compendiopdf-e/2005-05-e.pdf>).

Recommendation 04-10 concerning the conservation of sharks caught in association with fisheries managed by ICCAT (<http://iccat.es/Documents/Recs/compendiopdf-e/2004-10-e.pdf>).

Appendix 9

PEACEFUL SETTLEMENT OF DISPUTES [CONV-011A]

(Proposal of Canada, Brazil, European Union, Norway, United States)

1. Members of the Commission shall cooperate in order to prevent disputes and shall consult among themselves in order to settle disputes by amicable means.
2. In any case where a dispute is not resolved through the means set out in paragraph 1, the provisions relating to the settlement of disputes set out in Part VIII of the 1995 Agreement shall apply, *mutatis mutandis*, to any dispute between the members of the Commission, whether or not they are also Parties to the 1995 Agreement. [Source: SPRFMO, WCPFC]
3. Paragraph 2 shall not affect the status of any member of the Commission in relation to the 1995 Agreement or the 1982 Convention. [Source: SPRFMO]

Appendix 10

VIEWS OF CHINESE TAIPEI CONCERNING POSSIBLE APPROACHES TO THE ICCAT CONVENTION AMENDMENT AT THE FIRST MEETING OF THE WORKING GROUP ON CONVENTION AMENDMENT [CONV-012]

At the very outset of the journey that this Working Group is going to take for the amendment of ICCAT Convention, we would like to share some views on the possible approaches to the ICCAT Convention amendment with other CPCs.

First, if the spirit and letters of the United Nations Fish Stocks Agreement can be seen as a modern, comprehensive fisheries conservation and management paradigm and, can be broadly or generally accepted by all CPCs here in the ICCAT family, then it could well serve as a benchmark for the development of possible amendments to the Convention. Furthermore, while the Annex 1 and Annex 2 of the Terms of Reference of this Working Group already specified the scope of issues that would be addressed in the Working Group for the development of proposed amendments to the Convention, we still hold the view that an open-minded approach should be taken in facing the issues emerging during this consultation process so that we could obtain a more comprehensive and effective Convention at the end.

Second, amending an existing multilateral international convention is a matter of “once in a life or career life time.” We, the family of ICCAT, should take this opportunity to achieve a well-structured, well-spelled out amended Convention that will not let us feel regretful at a later time. Thus, we should “aim high” but, at the same time, find solutions or compromises that are legally sound, practically feasible and politically acceptable to every one of us. In this process, no CPCs should be discriminated in form and in fact, and the end product should be inclusive in its nature.

Third, some RFMOs’ constitutive agreements have been either newly concluded or substantively amended within last 15 years. Some are made for the conservation and management of highly migratory species, and some for non-highly migratory and bottom fisheries. They may serve as existing “models” for our reference. However, our view is that we here at the ICCAT should seek for the “best practices,” or a set of “best practices,” rather than certain “models” in our pursuit for a modernized ICCAT Convention. In other words, the amended ICCAT Convention should reflect and contain the “best practices” of modern fisheries conservation and management

regime.

At this juncture, we would like to recall what we once said in the opening statement at the second meeting of the Multilateral High-Level Conference on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific, or the MHLC2 meeting, held at Majuro, the Republic of the Marshall Islands, in 1997, that “[a]s an active fishing nation in the region, we see ourselves as a constructive force in the formulation of any possible regional arrangement which satisfies the mutual interests of both coastal and fishing nations. We intend to collaborate with all parties concerned on a basis of equality, full participation and full membership to work out a regional arrangement which reflects and embodies the spirit and letter of the 1982 United Nations Law of the Sea Convention and the 1995 UNIA.”

As what we said before in another forum, we intend to collaborate with all the CPCs here in ICCAT to pursue for an effective and efficient amended ICCAT Convention which will be in line with the modern ethos, principles, and practices of international fisheries conservation and management regimes in international (fisheries) law.

Appendix 11

TEXT OF POSSIBLE NEW CONVENTION ARTICLE ON GENERAL PRINCIPLES [CONV-013]

(Submitted by Brazil, Norway and United States)

Draft text for possible inclusion in a new Convention Article on general principles.

The Commission and its Members, in conducting work under the Convention, shall act to:

- a. apply the precautionary approach in accordance with relevant internationally agreed standards and recommended practices and procedures;
- b. use the best scientific evidence available;
- c. protect biodiversity in the marine environment;
- d. consider the impacts of fishing, other relevant human activities, and environmental factors on target stocks, non-target species, and species belonging to the same ecosystem or dependent upon or associated with the target stocks within the Convention area;
- e. promote transparency in decision making processes and other activities; and
- f. give due regard to the circumstances and requirements of developing Members of the Commission.

Appendix 12

PROPOSAL FOR AMENDMENT OF THE ICCAT CRITERIA FOR THE ALLOCATION OF FISHING POSSIBILITIES [Ref. 01-25] [CONV-010]

(Proposed by Korea and Turkey)

It is proposed that paragraph 19 of the *ICCAT Criteria for the Allocation of Fishing Possibilities* [Ref. 01-25] be amended as follows:

“19. The allocation criteria should be applied in a fair, equitable and transparent manner with the goal of ensuring opportunities for all qualifying participants. The allocation of fishing possibilities shall take into account the criteria listed under Title III of this reference. For that purpose, Panels shall endeavor to develop and use indicators that quantify each of the allocation criteria on a stock by stock basis.”