

RESOLUTION BY ICCAT CONCERNING TRADE MEASURES

(Transmitted to Contracting Parties: **December 19, 2003**)

NOTING that the objective of ICCAT is to maintain the populations of tuna and tuna-like species in the Atlantic at levels which will permit harvesting at maximum sustainable yield;

CONSIDERING the need for action to ensure the effectiveness of the ICCAT objectives;

CONSIDERING the obligation of all Contracting Parties and Cooperating non-Contracting Parties, Entities or Fishing Entities (hereinafter referred to as CPCs) to respect the ICCAT conservation and management measures;

AWARE of the necessity for sustained efforts by CPCs to ensure the enforcement of ICCAT's conservation and management measures, and the need to encourage non-Contracting Parties, Entities or Fishing Entities (hereinafter referred to as NCPs) to abide by these measures;

NOTING that trade restrictive measures should be implemented only as a last resort, where other measures have proven unsuccessful to prevent, deter and eliminate any act or omission that diminishes the effectiveness of ICCAT conservation and management measures;

ALSO NOTING that trade restrictive measures should be adopted and implemented in accordance with international law, including principles, rights and obligations established in World Trade Organization (WTO) Agreements, and be implemented in a fair, transparent and non-discriminatory manner.

THE INTERNATIONAL COMMISSION FOR THE CONSERVATION
OF ATLANTIC TUNAS (ICCAT) RESOLVES THAT:

- 1 CPCs that import tuna and tuna-like fish products or in whose ports those products are landed, should collect and examine as much import or landing data and associated information as possible and submit the following information to the Commission each year:
 - a names of the vessels that caught and produced such tuna or tuna-like species products,
 - b flag of those vessels,
 - c species (of tuna and tuna-like species) of the products,
 - d areas of catch (Atlantic Ocean, Mediterranean Sea, or other area),
 - e product weight by product type,
 - f points of export,
 - g names and addresses of owners of the vessels,
 - h registration
- 2 a The Commission, through the Conservation and Management Measures Compliance Committee (hereinafter Compliance Committee) or the Permanent Working Group for the Improvement of ICCAT Statistics and Conservation Measures (hereinafter PWG), should identify each year:
 - i The CPCs that have failed to discharge their obligations under the ICCAT Convention in respect of ICCAT conservation and management measures, in particular, by not taking measures or exercising effective control to ensure compliance with ICCAT conservation and management measures by the vessels flying their flag; and/or
 - ii The NCPs that have failed to discharge their obligations under international law to co-operate with ICCAT in the conservation and management of tuna and tuna-like species, in particular, by not taking measures or exercising effective control to ensure that their vessels do not engage in any activity that undermines the effectiveness of ICCAT conservation and management measures.
- b These identifications should be based on a review of all information provided in accordance with paragraph 1 or, as appropriate, any other relevant information, such as: the catch data compiled by the

Commission; trade information on these species obtained from National Statistics; the ICCAT statistical document programs; the list of the IUU vessels adopted by ICCAT, as well as any other information obtained in the ports and on the fishing grounds.

- c In deciding whether to make identification, the Compliance Committee or the PWG should consider all relevant matters including the history, and the nature, circumstances, extent, and gravity of the act or omission that may have diminished the effectiveness of ICCAT conservation and management measures.
- 3 The Commission should request CPCs and NCPs concerned to rectify the act or omission identified under paragraph 2 so as not to diminish the effectiveness of the ICCAT conservation and management measures. The Commission should notify identified CPCs and NCPs of the following:
 - a the reason(s) for the identification with all available supporting evidence;
 - b the opportunity to respond to the Commission in writing at least 30 days prior to the annual meeting of the Commission with regard to the identification decision and other relevant information, for example, evidence refuting the identification or, where appropriate, a plan of action for improvement and the steps they have taken to rectify the situation; and
 - c in the case of a NCP, an invitation to participate as an observer at the annual meeting where the issue will be considered.
 - 4 CPCs are encouraged jointly and individually to request the CPC/NCPs concerned to rectify the act or omission identified under paragraph 2 so as not to diminish the effectiveness of the ICCAT conservation and management measures.
 - 5 The Executive Secretary should, by more than one means of communication, transmit the Commission's request to the identified CPC or NCP. The Executive Secretary should seek to obtain confirmation from the CPC or the NCP that it received the notification.
 - 6 The Compliance Committee or the PWG should evaluate the response of the CPCs or NCPs, together with any new information, and propose to the Commission to decide upon one of the following actions:
 - a the revocation of the identification;
 - b the continuation of the identification status of the CPC or NCP; or
 - c the adoption of non-discriminatory trade restrictive measures.

In the case of CPCs, actions such as the reduction of existing quotas or catch limits should be implemented to the extent possible before consideration is given to the application of trade restrictive measures. Trade measures should be considered only where such actions either have proven unsuccessful or would not be effective.

- 7 If the Commission decides upon the action described in paragraph 6 c), it should recommend to the Contracting Parties pursuant to Article VIII of the Convention to take non-discriminatory trade restrictive measures, consistent with their international obligations. The Commission should notify the CPCs and NCPs concerned of the decision and the underlying reasons in accordance with the procedures specified in paragraph 5.
- 8 CPCs should notify the Commission of any measures that they have taken for the implementation of the non-discriminatory trade restrictive measures adopted in accordance with paragraph 7.
- 9 In order for the Commission to recommend the lifting of trade restrictive measures, the Compliance Committee or the PWG should review each year all trade restrictive measures adopted in accordance with paragraph 7. Should this review show that the situation has been rectified, the Compliance Committee or PWG should recommend to the Commission the lifting of the non-discriminatory trade restrictive measures. Such decisions should also take into consideration whether the CPCs and/or NCPs concerned have taken concrete measures capable of achieving lasting improvement of the situation.
- 10 Where exceptional circumstances so warrant or where available information clearly shows that, despite the lifting of trade-restrictive measures, the CPC or NCP concerned continues to diminish the effectiveness of

ICCAT conservation and management measures, the Commission may immediately decide on action including, as appropriate, the imposition of trade-restrictive measures in accordance with paragraph 7. Before making such a decision, the Commission should request the CPC or NCP concerned to discontinue its wrongful conduct and should provide the CPC or NCP with a reasonable opportunity to respond.

- 11 The Commission should establish annually a list of CPCs and NCPs that have been subject to a trade-restrictive measure pursuant to paragraph 7 and, with respect to NCPs, are considered as non-Cooperating non-Contracting Parties to ICCAT.
- 12 The *Resolution by ICCAT Concerning an Action Plan to Ensure Effectiveness of the Conservation Program for Atlantic Bluefin Tuna* [94-3], the *Resolution by ICCAT Concerning an Action Plan to Ensure the Effectiveness of the Conservation Program for Atlantic Swordfish* [95-13] and the *Resolution by ICCAT Concerning the Unreported and Unregulated Catches of Tunas by Large-scale Longline Vessels in the Convention Area* [98-18] are replaced by the present Resolution. For the purposes of this paragraph, CPCs and NCPs that are under sanction pursuant to one or more of these three Resolutions are deemed to be sanctioned under the present Resolution, provided that this will not result in any greater level of sanction than that already imposed.