

Original: English/French/Spanish

## QUESTIONS AND ANSWERS ON CPCS COMPLIANCE MATTERS

In response to the letter from the Chair of the Compliance, the Secretariat received questions and comments from the European Union, Japan and the United States. Where possible, these questions have been sent in advance to the CPCs concerned, and those responses received to date are included here. Given the short time available to prepare responses, those CPCs which were unable to provide a written response in advance of the meeting may respond verbally or in writing at or before the Compliance Committee.

### General questions

#### *Failure to report dead discards and live releases of North Atlantic shortfin mako*

Many CPCs are not reporting dead discards and live releases of North Atlantic shortfin mako, despite the long-standing requirement to do so. Several CPCs with the largest historical catches are among those not reporting discards. This requirement will be especially important for developing an accurate picture of CPUE trends as the retention prohibitions of the *Recommendation by ICCAT on the conservation of the North Atlantic stock of shortfin mako caught in association with ICCAT fisheries* [Rec. 21-09] enter into effect and impact the 2022 landings data. In light of this widespread and ongoing data deficiency, the Commission may wish to address this as an individual compliance issue while requesting that the SCRS proceed with its efforts to quantify unreported discards and consider their potential impact on this overfished stock.

#### *Failure to submit dead discard estimation methodology*

There is broad lack of submission of the statistical methodology used to estimate dead and live discards to the SCRS in 2022, as required under Rec. 21-09. The SCRS noted that only five CPCs submitted this methodology and it expressed concerns with some of the methodologies reported. This situation is also concerning for the overfished stocks of blue marlin and white marlin; many of these fish are released in accordance with the *Recommendation by ICCAT to establish rebuilding programs for blue marlin and white marlin/roundscale spearfish* [Rec. 19-05]. Without estimating discards, it will be difficult to determine associated fishing mortality and its impact on the rebuilding plans for these stocks.

#### *Scientific observer programs*

This issue was designated for review during the 2022 Annual Meeting, according to the COC Strategic Plan discussed in 2021. One CPC would like to see a thorough review and discussion of the implementation of the *Recommendation by ICCAT to establish minimum standards for fishing vessel scientific observer programs* [Rec. 16-14] in COC.

#### *Capacity building*

One CPC would like to recognize that several developing coastal States have specifically requested technical assistance with meeting their data reporting obligations. We recognize that ICCAT's requirements are complex, and varying levels of capacity may impact some CPCs' ability to achieve compliance despite their desire to do so. This has been an intractable problem for many years. However, meeting these data collection and reporting activities is critical to support the stock assessments that inform ICCAT's management decisions. We suggest that the Compliance Committee devote some time to a discussion of various tools to advance capacity building efforts, in particular in light of the *Recommendation by ICCAT on compliance with statistical reporting obligations* [Rec. 05-09] and the *Recommendation by ICCAT to adopt additional measures against illegal, unreported and unregulated (IUU) fishing* [Rec. 03-16], and identify which CPCs are in need.

#### *Friends of the Chair*

Noting that the Chair has re-activated this group for the upcoming Annual Meeting, one CPC appreciates the work of the regional representatives, and look forward to considering the outcome of this assistance to the Chair this year.

**To The Secretariat:**

In the bigeye compliance table, initial catch limits for respective CPCs for 2021 and 2022 are adjusted by the Secretariat in accordance with the TAC decrease from 2020. However, since initial catch limits are defined separately from the TAC, such adjustments are not appropriate. The same initial catch limits in 2020 apply to 2021 and 2022.

*Response:* The Secretariat took into consideration the following assumptions, which were stated in the draft CP13 forms sent to each CPC and the COC-304/2022 documents:

<sup>(3)</sup> In accordance with the *Recommendation by ICCAT to replace the Recommendation 16-01 by ICCAT on a multi-annual conservation and management programme for tropical tunas* [Rec. 19-02] para 3 the bigeye TAC has decreased from 62,500 t in 2020 to 61,500 t in 2021, which represents a decrease of 1.6%. The Secretariat has applied this decrease to all the quotas/catch limits calculated for 2020 in order to obtain proportional values for 2021.

<sup>(4)</sup> In accordance with the *Recommendation by ICCAT replacing Recommendation 19-02 replacing Recommendation 16-01 on a multi-annual conservation and management programme for tropical tunas* [Rec. 21-01] para 3 the bigeye TAC has decreased from 62,500 t in 2020 to 62,000 t in 2022, which represents a decrease of 0.8%. The Secretariat has applied this decrease to all the quotas/catch limits calculated for 2020 in order to obtain the proportional values for 2022.

The Secretariat has decided to keep these modified bigeye quotas in 2021 and 2022 for every CPC with a fixed limit, according to Rec. 19-02, para 3 and Rec. 21-01, para 3, after consultation on this matter with the Conservation and Management Measures Compliance Committee (COC) Chair.

Please note that the COC Chair has requested that any CPC that wishes to pursue its concerns on this issue further, should do so in a written submission to the COC. This submission can be included as a COC document for the 2022 meeting.

**To Angola:***Evidence of marlin landings by Angola*

We have seen reliable information from the International Game Fish Association (IGFA), an accredited observer to ICCAT, concerning significant landings of blue marlin by Angola, which we understand will be shared with the Commission as an information document prior to the 2022 annual meeting. Such catches do not appear in the marlin catch tables for marlin in the 2022 SCRS report. We request that this matter be discussed, given that Angola remains prohibited from catching ICCAT species under the terms of Rec. 11-15 due to their continued failure to report Task 1 data.

**To Belize:**

One CPC notes that an investigation has been initiated and calls on Belize to share with ICCAT the outcome of this investigation – and any possible measures or sanctions taken on that basis – once concluded.

*Response:* We have been collaborating with our local competent authority involved in this case to finalize this investigation. While certain measures have been taken during the course of the investigation, we still have not finalized this matter or taken any measures. Once this has been completed we will provide the Commission with a full update.

**To Brazil:**

The catch of bigeye tuna by Brazil was 6499 tons in 2021, 6284 tons in 2020, 6249 tons in 2019 and 5096 tons in 2018. There is persistent overharvest of BET and no sign of measures taken by Brazil to address this situation.

Response:

Firstly, Brazil would like to share our appreciation for the work of the Chair of the Compliance Committee, and also, Brazil thanks the opportunity provided to clarify this question.

In accordance with Recommendation by ICCAT to replace Recommendation 16-01 by ICCAT on a multi-annual conservation and management programme for tropical tunas (Rec. 19-02) adopted by the Commission, Brazil was granted a catch limit of 6,043 tons.

Brazil is aware of the recent overharvest for bigeye and the lack of sufficient compliance over the final amount catch control. The main reason behind this gap is that during the year 2020 and 2021, Brazil was highly impacted by the COVID-19 pandemic.

Due to it, the capacity to gather the administrative records, which are mostly paper based, regarding the fourth quarterly catches of 2020 and 2021 years, and process the data, also were directly impacted, and raised the challenges to comply with management measures in a timely fashion.

We currently monitor the catch through logbooks, also the amount of catch landed on fishing industries and cross check the data. We have capacity to deliver IUU Certifications and it is mandatory the application of VMS even on small scale fleets.

As we widely shared in past meetings, Brazil has applied several measures over the fleet in terms of controlling the quantity of vessels authorized to fish, currently Brazil does not deploy FADs, transshipments, supporting vessels and foreign vessels entry in Brazilian ports.

It's worthy to highlight, that late 2022, Brazil is committed to implement the following course of actions:

- Promote the transition of paper-based logbooks for digital;
- Reduce the data entry period established for logbooks and fishing industry lands report in domestic law;
- Establish the mechanism for closing the fishing season for the target-specie according to the CPC catch limit through domestic law;

As a good practice, the Government led two meetings this year with the leaderships of the fishing sector and scientists to promote dialogue towards the overharvest control and clarify ICCAT regulations pursuant to revised domestic ordinances to be applied to control fleet fishing operations.

Despite the pandemic extraordinary impacts, it is possible to perceive that Brazil has been reporting tropical tuna catch data in good faith and we are committed to continue improving the domestic outstanding control measures, transparency and accountability in the monitoring of Brazilian fisheries, as the Brazilian communities are highly dependent on ICCAT fisheries.

We draw the attention that Brazil will clarify our monitoring and control measures implemented on the next yearly fishing plan.

**To China:**

The CPC also notes that the beneficial owner of the company in the case of Belize above would be a Chinese national and calls on China to investigate the matter and share the conclusions of this investigation with ICCAT.

**To Chinese Taipei:**

One CPC takes note of the investigations and subsequent sanctions taken against the national owning the IUU listed vessel Haleluya and would be grateful that an update is shared with ICCAT once the appeal lodged by the national concerned has been reviewed by the Court.

The same CPC also takes note of the information provided by Chinese Taipei on the vessel Sage, as well the commitment to provide further updates once the investigation is concluded.

*Response:* The delegation of Chinese Taipei will be pleased to answer any queries during the meeting, if necessary.

F/V SAGE, according to our latest contact with the Investigation Bureau, the vessel owner in the insurance policy is a company named Sovereign Trade Services LLC, which is not registered in Chinese Taipei. The policyholder is a national of Singapore who owns the YU CHEN OCEANIC, a company registered in Chinese Taipei. The investigation so far has not found our nationals involved, and we will provide updates once the investigation is concluded.

#### **To Costa Rica:**

A CPC would like to request Costa Rica to explain how Costa Rica will address the overharvests of blue marlin and northern swordfish (such as introduction of capacity limit, pay back plan of overharvest).

According to the international nomenclature, the fishing vessels operating in the Costa Rican Caribbean are small scale. The fisheries in this area are not developed; given that it is a small-scale fleet, it is evident that there are limitations on fishing. In the near future, there is interest in developing these fisheries. In Costa Rica, the catch of these species is historical. The statistical and compliance data have been submitted to ICCAT, as well as the scientific documents with the historical catch information (SCRS/2022/047 and SCRS/2022/161) for the purpose of transmitting the country's information and transparency of its fishery. In addition, this year, the country submitted to the Commission a North Atlantic swordfish management plan, through form CP41-NSWOPlan. To transition to the measures required by ICCAT, effective compliance is proposed through permanent dialogue with the fishers to ensure a reduction in the overage of these species as a mechanism to offset the overharvest that appears in the ICCAT data records and for the purpose of contributing to the international management and conservation of these species. Costa Rica will continue its efforts so that ICCAT recognises its historical participation rights, since the country has caught these species prior to becoming a Cooperating non-Contracting Party and hopes soon to become a Contracting Party by acceding to the Convention through the 2019 Accession Protocol, but we recognise that as a developing country we have some limitations in terms of staffing, fishery statistics data processing, budgetary limits, lack of instruction on the ICCAT data submission requirements and no onboard observers programme is in place on account of the characteristics of the national vessels. The Costa Rican fisheries in the Atlantic are not developed industrially, as mentioned above, it is a small-scale fleet. There are socioeconomic characteristics that must also be taken into account. It is therefore vital to establish a dialogue with the fishers. Moreover, in the Caribbean, there are two important factors: it is an economically depressed area, as is the case of the rest of the Central American region, and it is high risk due to international drugs trafficking, which is why regulated fishing activities in the Caribbean are part of our commitment, with the objective of preventing illicit or criminal activities that affect us nationally and internationally.

#### **To EU:**

Regarding PNC#9 and 20 identified by ROP-BFT (vessels), a CPC would like to request further information on the small fishing vessels that are alleged to have hindered the operation of PS vessels (e.g., why these small vessels hindered the purse seiners).

Regarding PNC#40, identified by ROP-BFT (traps and farms), no response was provided.

*Response:* As mentioned in the EU response to the PNC, once the information was received, the Italian Coast Guard successfully deployed a patrol vessel in the area.

The verifications of the authorities indicate that these small boats were not fishing vessels but pleasure boats below 10 metres, which are not subject to external marking obligations. In the deployment of the patrol vessel the Italian authorities did not find any non-compliance on the part of these small vessels.

The Italian authorities are of the opinion that in most cases these small vessels do not hinder the purse seiner's fishing operations and remain at a safe distance. No breach of any ICCAT rule is apparent in this case.

Regarding PNC#40, identified by ROP-BFT (traps and farms), no response was provided.

*Response:* The release order issued after caging was not emitted based on one of the reasons foreseen in *Recommendation by ICCAT amending the Recommendation 19-04 amending Recommendation 18-02 establishing a multi-annual management plan for bluefin tuna in the eastern Atlantic and the Mediterranean* [Rec. 21-08], Annex 10, point 2, a) and b). The release was based in the fact that it was not possible to accommodate the fish concerned (5 BFT, with a total live weight of 615 kg) within the sectoral quota allocated in 2022 to the Portuguese traps.

The Portuguese authorities expressed their dissatisfaction with this PNC, complaining that the Regional Observer present both at the caging and referred release operation never made any mention to a possible non-compliance. The observer signed/certified the ICCAT release report and departed without making any written or verbal reference to an eventual PNC.

#### *Miscoded marlin landings*

Last year, a CPC posed a question regarding 2020 Task 1 data reported by EU-Spain of black marlin (*Istiompax indica*), striped marlin (*Kajikia audax*), and shortbill spearfish (*Tetrapturus angustirostris*). During the 2021 Compliance Committee discussions, the EU acknowledged that these catches in the ICCAT Convention Area were erroneously assigned codes for Indo-Pacific species. This error has still not been resolved in the 2020 Task 1 data, and a similar error was made for 2021 Task 1 data. The amount of miscoded marlin catch, which we assume represents Atlantic billfish species, is not inconsequential in relation to landings limits specified in the marlin rebuilding plan (Rec. 19-05).

#### *Reported marlin landings by EU in excess of payback plan*

As noted in COC-308/2022 Annex 1, white marlin landings reported by the EU in the compliance tables for 2017 were 15 t, while Task 1 landings were 124 t, representing an overharvest of the EU landings limit of 50 t. Additionally, as noted in COC-304/2022, the EU was under payback plans in 2016-2020 for overharvests of white marlin that occurred in 2014-2016. Accounting appropriately for both those payback amounts and actual landings in 2017, it appears that the EU has not yet paid back white marlin overharvests that occurred in 2014-2017 and that the remaining quota reductions should be applied in 2023 and future years as needed.

*Response to the two questions above:* The difference between the white marlin data reported to Task 1 and in the compliance tables for 2017 is due to the fact that, as already indicated in previous years, scientific data is provided in Task 1, which consists of estimations based essentially on sampling data, while catches declared in the compliance table correspond to the official figures based on the professional fishermen's catch declarations, validated by EU Member States authorities. Scientific data is not the basis for quota uptake, especially where CPCs have a solid catch reporting system in place involving several types of data (e.g., logbook, landing declarations, sales notes, etc.) that are cross-checked to ensure reliability and consistency.

#### *Evidence of IUU fishing on eastern Atlantic bluefin tuna (EBFT)*

We appreciate the update provided by the EU on the Tarantelo investigation, which continues to be a concern given the potential magnitude of the overharvest and the fact that no payback has occurred under the terms of the EBFT measure. Additionally, we would appreciate an update on the EU's investigation of potential infringement by Croatia's bluefin tuna farms. This issue was discussed at a Panel 2 intersessional meeting and referred to the Compliance Committee. (See [2022 Panel 2 Intersessional Meeting Report \(1-3 March 2022\)](#), p. 4).

Further, from the 2022 SCRS report, we note a broader concern about ongoing IUU fishing activities in the EBFT fishery. Specifically, the SCRS report says, "*The Committee is aware of ongoing, unquantified, IUU catches that represents a serious impediment to being able to determine the productivity of the stock and to provide reliable TAC advice. In response, the Committee urges identification and quantification of IUU catches so that it can provide more accurate biomass-based catch advice and obtain more accurate scientific understanding of stock productivity.*" Such catches are a concern from both a compliance and scientific perspective and the issue should be discussed by both the Compliance Committee and Panel 2.

*Response:*

On the Tarantelo investigation: See COC-309-Annex 2/2022 for response on this issue.

On the infringement procedure for failures in the Croatian BFT control system:

The European Commission has sent a letter of formal notice to Croatia on 9 February 2022. This is the first step in the EU internal process whereby an EU Member State is challenged by the European Commission for possible lack of implementation of, or compliance with, EU rules. A letter of formal notice is a pre-litigation stage in a procedure which may end up with the European Commission taking an EU Member States to the Court of Justice of the European Union, the highest court of the European Union in matters of Union law, in case the implementation/compliance issues are confirmed, and the EU Member States concerned does not address them in the course of the procedure.

Unfortunately, for reasons of due process, details on ongoing infringement procedures of this kind, including on the facts and legal basis concerned, cannot be disclosed.

Following the Court of Justice of the European Union case law, the Member States of the European Union are entitled to expect the Commission to guarantee confidentiality of such infringement procedures. Therefore, only general information can be given out on the issues covered by such procedures.

The procedure concerned is still at the stage of the letter of formal notice. The replies by the Croatian authorities are currently being assessed before the Commission decides on next steps.

On the alleged ongoing, unquantified, IUU catches of bluefin tuna in the SCRS Report:

We are surprised that the question is addressed to the EU as we do not see any specific mention of the EU in this part of the SCRS Report.

If the question is related to problems encountered in previous years (Tarantelo), we have reported in detail in the document COC-309-Annex 2/2022 the many and far-reaching measures the EU has taken in this respect. However, the report seems to refer to recent IUU fishing activities, which would exclude the Tarantelo events.

If there are concrete facts or evidence substantiating these alleged illegal activities, we would be glad that they are shared with the EU to be able to investigate them and take appropriate measures, should they concern EU fishing activities. Should they not, such facts or evidence might be important for control and inspection purposes, e.g., to be factored into the implementation of the eBFT joint inspection scheme going forward.

#### **To The Gambia:**

It is noted that The Gambia is still not replying to the issues raised in Document COC-312A/2022. The EU has been trying since February 2022 to obtain information from The Gambia on the exact origin of the catches that were illegally exported. To date, the only information eventually received by the CPC in question is that these catches would have been imported "from Chile". The Gambia has not provided further details or supporting documents, and this lack of cooperation is raising serious concerns as to The Gambia's determination to cooperate in the fight against IUU fishing activities in the ICCAT area. In that respect, it is also noted that The Gambia has not replied to other requests in relation to the fishing vessel SAGE (investigation report in document COC-312A/2022<sup>1</sup>). This additional case of non-cooperation with other ICCAT CPCs adds to the concerns expressed in the previous paragraph.

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<sup>1</sup> "In the hope of obtaining more information to facilitate the investigation, the FA sent letters twice to The Gambia requesting cooperation. Though The Gambia replied that the letter had been forwarded to the authorities for their information and necessary attention, nothing has been received so far."

**To Ghana:**

Ghana applies option B of minimum size (i.e., 15kg/119 cm LJFL) for southern swordfish. No tolerance shall be allowed if this option is chosen, but Ghana reports 3% of its catch was under this minimum size. Therefore, a CPC would like to request Ghana to explain how it is implementing the zero-tolerance minimum size in its domestic regulation.

*Response:* In Ghana's domestic law (ACT625 of 2002), two fleets target the swordfish which are the large industrial purse seiners and the local artisanal canoes. Minimum mesh sizes for the industrial purse seiners are above 60mm which allows the species not to be caught and if caught released alive back into the sea. There are observers on-board all industrial purse seiners who help in monitoring the activities of all purse-seiners. However, the minimum mesh size for the artisanal fleet (canoes) is 25 mm mainly targeting the small pelagics with encircling gears. Other segments of the local fleet use small drifting nets often targeting the swordfish and others offshore.

A current revision of some portions of our domestic law and regulations is underway with the help of the FAO (sponsored by the EU) which seeks to improve the selectivity of especially the local artisanal gears among other port state measures. It is envisaged that meshes targeting the large pelagics from the artisanal fleet will be increased to enable the implementation of the zero-tolerance minimum size for these species.

Apart from Ghana taking steps to amend her domestic laws and regulations, education and sensitization campaigns are being carried out at the local fronts to encourage fishers not to use small meshes especially during the 4th quarter of the year where spawning is known to occur off the western coastline and to release all live juvenile fishes. These are the some of the steps being taken to implement the zero-tolerance minimum size for these species.

Ghana will be pleased to seek other means of help (technical measures) to enable us implement fully in the shortest possible time the zero-tolerance minimum size for these species to safeguard the fishery at large.

**To Guyana:**

It is noted that there is a significant overharvest of blue marlin (39-128 t against 10 t landing limit). In its response to the COC Chair letter, Guyana explains that it discontinued its fishery in August 2021. One CPC would like to know whether the fishery is still closed in 2022, or if not, how Guyana ensures the landing of blue marlin would be with its landing limit.

*Response:* Please be informed that the tuna fishery which was responsible for these catches is closed.

**To Libya:**

No response to PNC#6-7 identified by ROP-BFT (vessels) (see COC-305, Appendix 2). Regarding PNC#1-5 (BFT caught by a JFO without all participating vessels have ROP onboard), one CPC would like to have a confirmation that the release of BFT was observed by ROP.

*Response:* The missing responses from COC-305, Appendix 2 have been provided and published as COC-305\_APP\_2A/2022.

With regard to PNC#1-5, Libya confirms that the release of fish had been done under the observation of ICCAT ROP as it's clearly stated in his/her report in season debriefing. This was included in the report of the observer.

**To Namibia:**

1. Namibia caught more than 50 t of blue marlin until 2020 even though its landing limit is 10 t. The situation was improved in 2021 when its landing was decreased to 9.85 t. One CPC would like to know what measure was introduced to reduce by-catch of blue marlin from 2021.

## 2. Transshipment

At the 15th Meeting of the Integrated Monitoring Measure (IMM) Working Group, there were several requests for clarification on the *Recommendation by ICCAT on transshipment* [Rec. 21-15]. In particular, there was one unresolved question about implementation of the requirement for prior authorization of transshipments. It was noted that some CPCs may be providing year-round pre-approval for certain vessels. However, given that Rec. 21-15 paragraph 18 requires notification of the date, location of catch, and amount of fish being transshipped, it is maintained that this practice would be in violation of the measure and should be considered as such by the Compliance Committee. The IMM made note of this issue with respect to Namibia, specifically, and we would like to request an update.

- The attention of the CoC is drawn to the following developments in relation to the fishing vessel HALIFAX (IUU listed in 2020, former vessel MARIO 11, IMO number 8529533). At end of October 2022, Namibia requested from the competent EU services, the authorisation for the fishing vessel HALIFAX to export fishery products to the EU market (request rejected pursuant to EU regulations). In addition, the EU noticed that pursuant to information submitted by Namibia, this fishing vessel was licenced from 19 October until 31 December 2021 to operate in Namibian waters. Namibia was consequently requested to provide a comprehensive report on the activities carried out by the fishing vessel HALIFAX during the years 2021 and 2022, including detailed information on the catches made by the vessel, as well as information about their possible exportation to other countries. In its reply sent to ICCAT Secretariat (PWG\_405\_ADD\_1/2022)<sup>2</sup>, Namibia confirmed that the fishing vessel HALIFAX has been licenced from 19 October 2021 until 31st December 2022<sup>3</sup>, and that “118,981 mt of Tunas was caught by the Halifax and discharged in the port of Luderitz in the presence of ta fisheries Inspector. All catches has been exported to South Africa only”. This entails that the company Southern Wolf Trading (PTY) has been operating for tuna fishing activities in the ICCAT area a vessel that was not on the ICCAT Record of authorised vessels (and cannot be as IUU listed). This directly qualifies the vessel for an IUU listing under paragraph 1.a) of the *Recommendation by ICCAT amending Recommendation 18-08 on establishing a list of vessels presumed to have carried out illegal, unreported and unregulated fishing activities* [Rec. 21-13], and therefore the EU objects to the delisting of the vessel.

### To Senegal:

While Senegal states that is paid back a part of its overage in 2020 (1,377.77 t) in 2021, such overage shall be paid back in 2022 in accordance with para 10 of Rec. 19-02 (or para 10 of Rec. 21-01). Therefore, the correct compliance table for Senegal should be as follows:

<i>Stock: BET</i>	<i>Units: t</i>			
	<i>Year</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>
Limit		1322.73	1322.73	<b>1322.73</b>
Adjusted limit (A)			1322.73	<b>-55.04</b>
Catch (B)		2700.50	702.10	
Balance (A-B)		<b>-1377.77</b>	620.63	
Adjustment year**		2022	2023	

Regarding the potential overharvest of northern swordfish as indicated by the EU, Senegal explains that, in its response to the COC Chair’s letter, the export of swordfish is the result of illegal transshipment and there is no overharvest of northern swordfish. However, it is not clear why Senegal believes that the illegal catch of swordfish does not originate from Senegalese vessels.

<sup>2</sup> Also received in bilateral by the EU from Namibia.

<sup>3</sup> Namibia further indicates that: “all fishing operations of the vessel Halifax has been stopped since August 2022 until the process of removing the vessel from the ICCATIUU listing has been finalized. The vessel is currently in the port of Luderitz”.



Response:

- Overharvest bigeye catches: Adjustment year is 2022.
- The fraudulent export is the result of illegal transshipment and its products do not come from Senegalese vessels according to the available information.

### Additional to Senegal

One CPC notes that Senegal is still failing to provide comprehensive replies in relation to the non-compliance issues listed in the letter that the EU sent on 15 July 2022 (COC-312A/2022). Considering that some of these issues are now being discussed in the last two years, this casts major doubts on Senegal intention to fully cooperate with ICCAT on the matter.

The CPC specifically observes, for instance, that Senegal is still consistently failing to provide any information on the location and activities of the fishing vessel MARIO 7 in the first half of 2020<sup>4</sup>. This directly prevents determining whether the vessel engaged in IUU fishing activities during that period, and therefore whether it should be IUU listed.

For further clarity, the comments provided below follow the order of the reply received from Senegal (COC-312A/2022).

#### 1. *Exportation to the EU of quantities of swordfish that exceeded the quota allocated to Senegal and issuance of ICCAT Swordfish statistical documents for illegal catches*

a) Taking into account the fact that Senegal cannot retrieve the ICCAT statistical documents (SD) that its own services have issued, the EU has provided, in annex of this communication (Annex 1), the statistical documents that Senegal validated in 2020 for exportations of Northern swordfish to the EU (fishing vessel MAXIMUS). The EU requests further clarifications from Senegal in relation to the mechanisms it has established to ensure traceability and recording of the SDs issued by its services, as Senegal's inability to retrieve these documents and to provide the list of all SDs issued for exports of swordfish to the EU (request pending since December 2021) raises serious concerns on Senegal capacity to comply with its obligations pursuant to *the Recommendation by ICCAT establishing a swordfish statistical document program* [Rec. 01-22].

The EU also underlines that Senegal's statement that *"the VMS records for the vessel Maximus and other documents have been fully provided to the European Union"*, is incorrect. Senegal did provide the VMS track of the vessel MAXIMUS, but despite several requests, has repeatedly failed to provide to the EU the logbook data of the fishing vessel MAXIMUS for the period 1 – 30 June 2020 (which is the core part of the fishing trip mentioned in the ICCAT SDs that accompanied exports to the EU).

b) In relation to Senegal's statement that reference to catches of swordfish even after the illegal exports to the EU seriously deserves confirmation (as Senegal would have no information that could lead to this conclusion), Senegal's close attention is what is on the logbook extracts that Senegal itself sent to the EU in May 2022. Copies of these extracts are attached to this communication (Annex 2) and confirm that the vessel logbook clearly refers to catches of swordfish in August 2020<sup>5</sup>; *i.e.*, after the 311 tons of Northern swordfish had already been exported to the EU. The EU consequently requests Senegal to provide further explanations on the investigations carried out in relation to the vessel's activities, as this oversight clearly suggests that Senegal did not thoroughly analyse the logbook data of the vessel.

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<sup>4</sup> Information requested by the EU since 2020 in relation to that fishing vessel (Doc PWG-425/2020): *"Provide the same information for the fishing vessel MARIO 7 (date of the withdrawal of the fishing licence; deregistration certificate; activities and location from the moment the fishing authorisation was withdrawn to the completion of the deregistration process), since the EU understands that this vessel was in a similar situation [as vessel MARIO 11]"* (ICCAT Circular #3977/20).

<sup>5</sup> See for instance reference to a catch of 990 kg of SWO on 7 August 2020.

The EU also notes Senegal failure to provide the landing data of the fishing vessel MAXIMUS in 2020<sup>6</sup>. The withholding of this information certainly does not help in assessing the magnitude of the IUU fishing activities the vessel engaged in, while the seriousness of the situation would deserve a much more transparent approach from Senegal.

c) In relation to the sanctions adopted against the officials involved in these frauds, the EU observes that these sanctions are in the end very limited: a withdrawal from the list of officials entitled to validate export documents and a transfer to another service (“mutation”) are not truly deterrent and effective sanctions, but rather minimum ones.

d) As to the other vessels involved in this fraud, the EU takes note that Senegal is in contact with Chinese Taipei for the identification of the donor vessels. The EU underlines, though, that such investigation should have taken place already back in 2020, when clear alerts were raised in relation to the vessel activities and potential interactions with specific vessels. The EU would appreciate further clarifications on the reasons why this did not happen. The EU also recalls its request that Senegal shares with all CPCs the VMS data of the fishing vessel MAXIMUS: limiting the cooperation to Chinese Taipei would entail that Senegal has evidence that only vessels flagged to Chinese Taipei interacted with the vessel, and in such case Senegal should share this evidence with ICCAT.

e) As to the sanctions reported by Senegal, the EU can only repeat its previous observations: none of these sanctions seems to address the illegal benefits made by the company (which should first be properly assessed by Senegal, through a comprehensive investigation of the company’s activities over the previous years). The impact and meaningfulness of these sanctions is therefore very limited. The EU further notes, in that respect, that there seems to be no specific prohibitions imposed on the individuals involved in the management of the company. Actions taken by Senegal will thus be completely ineffective in preventing that the same activities are resumed or continued through another company (possibly set up with previous illegal benefits), and therefore cannot be considered as effective and deterrent ones.

The EU also notes that some of the information provided by Senegal does not seem to be in line with the information available from other sources. The EU specifically notes, as regards the statement that “*the vessel Diamalaye 1909 has not been issued a license in 2021 or in 2022 in Senegal*”, that the vessel was in the ICCAT Record of fishing vessels until August 2022 and that in COC-303/2022 Korea and Japan declared importations of swordfish caught by that fishing vessel. The EU consequently requests the ICCAT Secretariat to confirm until when the vessel was maintained as an authorized vessel in the ICCAT Record of fishing vessels and would be grateful that Korea and Japan clarifies whether any of the catches reported under Doc COC\_303/2022 were 2021 catches.

The EU is also puzzled by Senegal’s statement that no action can be taken against the vessel MAXIMUS as illegal transshipments could only be sanctioned if the vessels were caught in the act. If the catches cannot be considered as originating from illegal transshipments, they must then be considered as catches made by the vessel, which should consequently be sanctioned for directly overshooting quotas allocated to Senegal.

*Response :*

Senegal reiterates its will to fight against any form of IUU fishing. Moreover, in the course of its bilateral exchanges with the EU, during 2022, all the elements and information that Senegal possesses were transmitted to the EU. Moreover, and as promised in the Regular Meeting of ICCAT in November 2021, Senegal requested through the letter of 25 November 2022, that the European Union make available the statistical documents referred to at the 2021 annual meeting. This request was not followed up on.

We remind that the certificates and statistical documents in question were fraudulently issued and therefore there is no way that they could have been filed. Our country has no issue with the mechanisms implemented to ensure traceability and recording of statistical documents issued by its services and rejects outright the allegations of the EU on this matter.

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<sup>6</sup> Requested through the proposal to IUU list the fishing vessel MAXIMUS, PWG-405-REV/2022.

As regards the documents requested by the EU, the VMS data of the vessel *MAXIMUS* were provided, as acknowledged by the EU. The logbooks were not transmitted mainly due to their confidential nature in accordance with the Decision establishing the logbook at national level. For illustrative purposes, the fishing agreement protocol between Senegal and the EU, refers to the protection and confidentiality of this type of data (article 12 of the Senegal-EU fishing protocol).

Senegal recalls that it was the United States that informed on 24 July 2020 of potential unauthorised transshipments of the vessel *Maximus*. Subsequently, during the ICCAT Annual Meeting in November 2021, the EU informed of exports of swordfish which could originate from this vessel.

Investigations carried out by Senegal showed that the products were fraudulently certified and originated from the vessel *Maximus*, consolidating the suspicions of the unauthorised at-sea transshipment activities raised by the United States in July 2020.

Therefore, the catches after the period from 26 May to 30 June were taken in July and at the start of August, more or less, during the period when the suspicions were reported by the United States. As regards the penalties levied against the vessel owner, vessels and agents implicated, these are consistent with the regulations in force in our country.

Senegal has not limited its cooperation to a single CPC or entity but has opened itself to others, including the EU, and does not have evidence on the vessels that allegedly interacted with this vessel.

Senegal reaffirms that it is a victim in these events, and that its image has been tarnished. The products concerned were fraudulently certified and exported according to the enquiry carried out by the competent services. An alert by the EU would have enabled the operation to be halted and appropriate action to be taken.

Finally, it is important to highlight that all these circumstances took place during the COVID period which has strongly impacted the usual activities with the sanitary restrictions and a minimum in-person service implemented by the control services.

As to the other vessels referred to, Senegal does not have any further information to provide.

*2. Exportation to the EU of quantities of albacore tuna (*Thunnus alalunga*) that exceeded the quota allocated to Senegal*

Senegal "reiterates that exports of albacore to the EU show fraudulent practices by the same people as those called into question for swordfish" but does not provide any details on the outcome of its investigations, the amount of albacore tuna that was landed by the fishing vessel LISBOA and the potential donor vessels involved in this fraud. The EU calls on the CoC to request from Senegal a thorough and detailed reply in relation to this vessel's activities.

The EU also notes that while reporting that these exports relate to the same fraudulent practices by the same people as those called into question for swordfish, Senegal did not propose the fishing vessel LISBOA for IUU listing. The EU requests Senegal to clarify the reasons why such proposal was not made.

The EU also confirms that since its letter dated 15 July was sent to the ICCAT Secretariat and forwarded to Senegal, the VMS data of the vessel LISBOA has been received from Senegal. However, the logbook data is still missing, despite requests made by the EU.

*3. Failure to fulfill, in respect of the above-mentioned vessels, the requirements and responsibilities under the ICCAT Convention and its conservation and management measures*

The EU reiterates its concerns as regard the ability of Senegal to comply with its responsibilities and obligations under the ICCAT convention and its conservation and management measures. The issues identified in this correspondence and in the preceding ones point to systemic failures that start with the fact that vessels that had registration certificates expired since 2018 (fishing vessels MARIO 7 and 11) were nonetheless registered as authorised vessels in ICCAT during the entire following year.

Response: Moreover, the affirmations of the EU on Senegal's ability to meet its obligations under Recommendation 01-22 are not acceptable because that recommendation assigns responsibilities to importing as well as exporting CPCs. Usually, in case of suspicion of an export operation, requests are submitted by the importing country for verification, which has not been the case for these operations.

The EU strongly disagrees, therefore, with Senegal statement in Doc. COC-312A\_ADD\_2 /2022 that “*the system established by Senegal is in line with the requirements and responsibilities established under ICCAT Convention and managements measures and allow for the verification of compliance with these measures by authorized vessels*”. In that respect and in addition to the points already raised in the letter sent on 15 July (Appendix 3 of COC-312A/2022), the EU specifically draws the attention of the CoC to the additional information received from Thailand (addendum to PWG-405) and which demonstrates that Senegal received in 2019 clear information from Thailand on catches of albacore tuna by the fishing vessels MARIO 7, MARIO 11 and DIAMALAYE 1909, which were not on the list of vessels authorised to fish for that species. The information received from Thailand also points to a quota overshoot already in 2019. Yet vessels from the same fleet were able to engage in further illegal exports of albacore tuna in 2020, and in the 2020 annual meeting Senegal challenged the existence of evidence of illegal fishing for the vessel MARIO 11<sup>7</sup>. The EU requests Senegal to clarify how this coincides with the statement made in Doc. COC\_312A\_ADD\_2 /2022. Considering the seriousness of this additional information, the EU also invites Senegal to provide a comprehensive report on the activities (including catches) of vessels MARIO 7, MARIO 11, MAXIMUS, DIAMALAYE 1909, MAXIMUS and LISBOA in 2019 and 2020.

The EU cannot accept either the statement made by Senegal in Doc. COC\_312A\_ADD\_2 /2022 that “*Senegal is a victim in this case because the fishery products concerned were fraudulently certified and exported, and this was detected following the investigations carried out by the competent services*”. The illegal exports to the EU could only happen because Senegal ignored clear warning signals such as the information received from Thailand, and contrary to its statement did not carry out the necessary verifications or investigations in due time. The EU needs to recall, in that respect, that the illegal exports of swordfish and of albacore tuna to the EU were not detected following investigations by Senegal. They were detected by the EU, as illegal albacore catches of 2019 were detected by Thailand and as the MARIO 11 IUU activities were detected by the US.

#### *4. Possible failure to implement ICCAT Recommendations on Port State Measures in relation to vessels illegally operating in the Convention Area*

In relation to vessel SAGE, Senegal provides since 2020 the same statement without replying to the questions raised by the EU<sup>8</sup>. To date, no clarifications have been provided by Senegal on calls made by the vessel from 2017 to 2019, the type of authorisations it held from its flag State, the species it landed and whether Senegal confirmed that the vessel was on the ICCAT record of authorised vessels. Consequently, the EU reiterates its questions.

The fact is also underlined that vessel SAGE held in 2020 a fishing licence issued by The Gambia certainly did not exempt the vessel from the obligation to be on the ICCAT Record of authorised vessels, and Senegal from the obligation to deny the landing of this tuna since the vessel was not on the ICCAT Record of authorised vessels. Senegal's justification entails that any vessel that would not be on the ICCAT Record of authorised vessels but would hold a fishing licence issued by its Flag State can be authorised to land tuna in Dakar. This should be a serious concern for the CoC to review and act upon. It is also noted that the reply sent by Senegal does not provide any reply in relation to the IUU vessel ISRAR 1, which was authorised to call in Dakar under the name MARCO No. 21 with “*produits de mer*” on board whereas it was not on the ICCAT Record of authorised vessels. No information has been provided in relation to the grounds for acceptance of this port call.

Response: As regards the vessel Sage, Senegal reaffirms the previous explanations that were provided to the EU and indicates there were failures of the port monitoring mechanism with the complicity of some agents.

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<sup>7</sup> Doc. No. PWG-412 / 2020. Senegal challenged the existence of evidence of illegal fishing for 2020, and did not make any reference to the compliance issues detected for this vessel (as well as for MARIO 7 and DIAMALAYE 1909) in 2019.

<sup>8</sup> PWG-411A and PWG-416/20

**To South Africa:**

Pursuant to ICCAT Recommendation 21-13, “CPCs shall take all necessary measures, under their applicable legislation to [...] prohibit the import [...] of tuna and tuna-like species from vessels included in the IUU list”.

According to information provided by Namibia to the ICCAT Secretariat (PWG-405\_ADD\_1/2022), 59,121 tons of tuna caught by the IUU listed fishing vessel HALIFAX have been exported from Namibia to South Africa. Clarifications are requested from South Africa on the reasons why these importations were accepted by South Africa, and then measures that South Africa intends to take in relation to the company that made these imports.

**To Trinidad and Tobago:**

Note is taken of the information provided by Trinidad and Tobago regarding the vessel *SAGE* but is concerned by the absence of any reference to actions taken in relation to the company that organised port calls and landings by vessels that were not on the ICCAT Record of authorised vessels. One CPC would be grateful that Trinidad and Tobago clarifies actions taken in relation to that specific point.

*Response:* With respect to the company that organised port calls and landings by vessels that were not on the ICCAT Record of authorised vessels, under current fisheries management legislation, no action can be taken against the company. However, the new Fisheries Management legislation currently before the Parliament, once enacted will provide the legal basis to take action against any entity that supports IUU fishing. In the interim, Trinidad and Tobago has focused its efforts on strengthening the cooperation and coordination among national regulatory agencies with a role in fisheries management, the respective initiatives are outlined in Addendum 1 to Document COC-312A/2022. Currently the Fisheries Division is relying on the support and legal mandates of other regulatory agencies to deny vessels engaged in, or suspected of being engaged in IUU fishing, entry to its ports. Recently the Cabinet approved development of new Regulations – the Harbours (Reporting Formalities for Ships) Regulations which will include the requirements outlined in *Recommendation by ICCAT on port state measures to prevent, deter and eliminate illegal, unreported and unregulated fishing* [Rec. 18-09], para 13, to enable the Fisheries Division to conduct its due diligence checks on vessels engaged in fishing and fishing related activities to inform the decision-making regarding their entry to port in accordance with paras 16 to 20 of ICCAT Rec. 18-09.

**To Colombia:**

Note is taken of the information provided by Colombia in relation to the fishing vessel HALELUYA, based on which the vessel would have been idle in port while it was Stateless (27 June – 6 October 2019).

However, the reason for the IUU listing of the vessel was that the vessel “harvested tunas and tuna-like species in the Convention area and was not registered on the relevant ICCAT list of vessels authorized to fish for tuna and tuna-like species in the ICCAT Convention (Rec.18-08, para 1.a and Rec. 13-13, para 1)”.

The information provided by Colombia does not change this conclusion.

It is specifically recalled, in that respect, that the information provided by Colombia in Doc. No. COC\_307/2019 explicitly stated that the vessel “operate[d] in both Colombian waters and waters of other countries”, and that even after Colombia obtained cooperating status in ICCAT the vessel was not included in the ICCAT Record of authorised vessels.

One CPC will therefore oppose the removal of the vessel from the ICCAT IUU list. That CPC also recalls, on a complementary note, that Tanzanian authorities reported to the Environmental Justice Foundation that the vessel was never granted an authorisation to fish while under their flag (COC-312/2020).