

EXPLANATORY NOTE ON DRAFT RECOMMENDATION BY ICCAT TO REPLACE RECOMMENDATION 06-14 TO PROMOTE COMPLIANCE BY NATIONALS OF CONTRACTING PARTIES, COOPERATING NON-CONTRACTING PARTIES, ENTITIES, OR FISHING ENTITIES WITH ICCAT CONSERVATION AND MANAGEMENT MEASURES

(submitted by the European Union, United Kingdom, Canada and the United States)

Building on the work of 2021 Annual Meeting, the European Union submits to the 2022 Annual Meeting a proposal to target natural and legal persons engaging in or supporting IUU fishing.

The purpose of the proposal tabled below is to target the natural and legal persons engaging in or supporting IUU fishing. Recommendation 06-14 only covers engagement in IUU fishing activities, leaving outside its scope an array of behaviours that support IUU fishing. Given the important role that these types of behaviours play in the fight against IUU fishing, as well as the need to align the different measures set out by the various RFMOs on the topic, it is imperative to revise Recommendation 06-14 to better reflect the real picture.

The proposal hereby submitted includes the following elements compared to the proposal submitted in 2021: (i) the inputs received from other CPCs in 2021, (ii) revised reference to Rec. 18-08 by replacing it with Rec. 21-13, adopted in 2021 (which replaces and repeals Rec. 18-08), and (iii) introduces a slight editorial revision in paragraph 1 of the body of the proposal to more clearly distinguish between persons directly involved in IUU (para 1 (i)) and those benefiting from IUU (under para 1(ii)).

In addition, this version includes some edits arising from the compromises achieved with the co-sponsoring CPCs and comments received from other CPCs during bilateral discussions.

DRAFT RECOMMENDATION BY ICCAT TO REPLACE RECOMMENDATION 06-14 TO PROMOTE COMPLIANCE BY NATIONALS OF CONTRACTING PARTIES, COOPERATING NON-CONTRACTING PARTIES, ENTITIES, OR FISHING ENTITIES WITH ICCAT CONSERVATION AND MANAGEMENT MEASURES

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CONVINCED that illegal, unreported and unregulated (IUU) fishing compromises the objectives of the Convention;

CONCERNED that some flag States do not comply with their obligations regarding jurisdiction and control according to international law in respect of fishing vessels entitled to fly their flag that carry out their activities in the Convention area, and that as a result these vessels are not under the effective control of such flag States;

AWARE that the lack of effective control facilitates fishing by these vessels in the Convention area in a manner that undermines the effectiveness of ICCAT conservation and management measures, and can lead to illegal, unreported and unregulated (IUU) fishing;

CONCERNED that vessels that carry out activities in the Convention area which do not comply with the ICCAT conservation and management measures are benefiting from the support provided by persons subject to the jurisdiction of Contracting Parties, Cooperating non-Contracting Parties, Entities or Fishing Entities (CPCs), including, *inter alia*, through participation in transshipment, transport and trade of illegally harvested catches or engagement on board or in the management of these vessels;

CONSCIOUS that, without prejudice to the primacy of the responsibility of the flag State, taking action in accordance with existing domestic law against individuals who engage in, or support, IUU fishing and fishing-related activities is essential to combat such activities;

MINDFUL of the fact that international corporate structures, insurance providers and other financial arrangements are often employed by IUU operators (including owners and beneficial owners) to limit their liability and avoid regulation, and aware of the need for CPCs to encourage and support investigation of such practices;

NOTING that the FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing calls on States to take measures to discourage nationals subject to their jurisdiction from supporting and engaging in any activity that undermines the effectiveness of international conservation and management measures;

RECALLING that CPCs should cooperate in taking appropriate action to deter any activities, which are not consistent with the objective of the Convention;

RESOLVED to reinforce its integrated monitoring measures aimed at eliminating IUU fishing in the ICCAT Convention area;

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

1. Without prejudice to the primacy of the responsibility of the flag State, the CPCs shall take appropriate measures, subject to and in accordance with their existing applicable laws and regulations or the relevant laws and regulations to be developed:
 - (i) to investigate and to verify any allegations and/or reports concerning the engagement of any natural or legal persons subject to their jurisdiction who engaged or is engaging in, the activities described, *inter alia*, in paragraph 1 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).

- (ii) to investigate and to verify allegations and/or reports that natural or legal persons subject to their jurisdiction are responsible for, benefiting from or supporting the activities described in point (i) above (e.g. as operators, owners, including beneficial owners, logistics and service providers, including insurance providers and other financial services providers).
 - (iii) to take appropriate, effective and deterrent action in response to any verified activities referred to in subparagraphs 1(i) and (ii); and
 - (iv) to cooperate for the purpose of implementing the measures and actions referred to in subparagraphs 1(i) and (ii). To this end, relevant agencies of CPCs should cooperate to implement ICCAT conservation and management measures and CPCs shall seek cooperation by stakeholders within their jurisdiction.
2. To assist with the implementation of this Recommendation, CPCs shall, subject to national laws on confidentiality and privacy, submit reports to the ICCAT Secretariat and the CPCs on the actions and measures taken in accordance with paragraph 1, in a timely fashion.
 3. Recommendation 06-14 is repealed and replaced by this Recommendation.