

ADDITIONAL COMMENTS FROM EUROPEAN UNION ON ISSUES OF NON-COMPLIANCE

The EU provides below further comments as regard the reply sent by **Senegal and Belize** (Doc_312(A)/2022 and Doc. COC_312A_ADD_2 /2022) pursuant to Recommendation 08-09, as well as comments in relation to **The Gambia**.

Senegal

The EU 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 July 15 (Doc_312(A)/2022). Considering that some of these issues are now being discussed since two years, this casts major doubts on Senegal intention to fully cooperate with ICCAT on the matter.

The EU 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 2020¹. 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 (Doc_312(A)/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 provides, 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 Recommendation 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), the EU draws Senegal's attention 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

¹ 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).

that the vessel logbook clearly refers to catches of swordfish in August 2020²; *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.

The EU also notes Senegal failure to provide the landing data of the fishing vessel MAXIMUS in 2020³. 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 Doc 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.

² See for instance reference to a catch of 990 kg of SWO on 7 August 2020.

³ Requested through the proposal to IUU list the fishing vessel MAXIMUS, PWG_405_REV/2022.

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.

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_312(A)/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 11⁴. 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 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.

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 EU⁵. 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 EU also underlines that the fact 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.

The EU also notes 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.

The Gambia

The EU notes that The Gambia is still not replying to the issues raised by the EU in Doc 312_2022(A). 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 the EU. To date, the only information that the EU eventually received 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, the EU also notes that The Gambia has not replied to Chinese Taipei in relation to the fishing vessel SAGE (investigation report received from Chinese Taipei, Doc. COC_312A/2022⁶). This additional case of non-cooperation with other ICCAT CPCs adds to the concerns expressed by the EU in the previous paragraph.

Belize

The EU 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.

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

⁵ PWG-411A and PWG-416/20

⁶ "*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.*"