

A Case for Libya's joint fishing operation (to be discussed under Agenda item 7)
(submitted by Panel 2 Chair)

Facts

1. Libya conducted a joint fishing operation (JFO) and completed on 19 June (JFO 2024-023). The allocated quota for this JFO was 1,349 t. The analysis of stereoscopic camera at caging resulted in 1,503 t (154 t more than the quota).
2. Libya conducted another JFO (JFO 2024-024) and completed on 9 June. The allocated quota for this JFO was 337 t. The analysis of stereoscopic camera at caging resulted in 385 t (48 t more than the quota).
3. Libya allocated 506 t for another JFO (JFO 2024-026). Due to engine trouble for one of the vessels participating in the JFO, this JFO ended up with a catch of 249 t, which means that 257 t was still uncaught. As a result, Libya requested ICCAT to create another Joint Fishing Operation (JFO 2024-033) to allocate this unutilised quota to other vessels. This JFO was approved on 5 July 2024. Despite all efforts made, the vessels were not able to make any catches and the allocated quota of 257 t remained uncaught.
4. Then, Libya compensated the excess amounts in JFO 2024-023 (154 t) and JFO 2024-024 (48 t) by transferring the unutilized quota (257 t) to the vessels participating in JFO 2024-023 and JFO 2024-024.

Possible non-compliance with Rec. 22-08

5. The Chair considers that the retrospective compensation of quotas made by Libya poses no problem in terms of Libya's overall quota management because the total catch by those JFOs is still below the total allocated amount. On the other hand, the Chair has some doubts about its compliance with several provisions in Rec. 22-08.
6. Paragraphs 70 to 73 of Rec. 22-08 do not specify any procedures for changing individual vessel quotas participating in JFO. Even if there is no procedure, the Chair believes that transfer of quotas among JFOs should be OK as long as such transfer shall be notified to the Secretariat before fishing starts. However, in this case, transfer was made in a retrospective manner. Even if a retrospective transfer should be allowed, the Chair wonders why Libya did not immediately make such transfer after completion of JFO 2024-024 and JFO 2024-023. Rather, Libya allocated the unused 257 t to JFO 2024-033. Because this JFO could not catch any fish, 257 t was used to offset the excess catch made by JFO 2024-024 and JFO 2024-023. However, what if JFO 2024-033 had successfully used the allocation?
7. Paras 183 and 184 of Rec. 22-08 says:

183. The determination of the fish to be released shall be done in accordance with the provisions of Annex 9 paragraph 4.

184. If the weight of bluefin tuna being caged is in excess of what had been declared as caught and/or transferred, the catching flag or trap CPC competent authority shall issue a release order and communicate it without delay to the farm CPC competent authority concerned. The release order shall follow the provisions of Annex 9 paragraph 4, taking into account the possible compensation at the JFO or trap level, in accordance with Annex 9 paragraph 5.

These paragraphs say that fish must be released in accordance with Annex 9 para 4, taking into account the possible compensation in para 5 in case of JFO.

8. Annex 9 para 4 in Rec. 22-08 says:

4. *Use of the outcome of the stereoscopic camera systems*

By applying the margin of error inherent to the technical specifications of the stereoscopic camera system used, the farm CPC competent authority shall determine the range (lowest and higher value) of the total weight of the bluefin tuna being caged, in accordance with point 5 of the Appendix to this Annex.

When receiving the results of the analysis of the stereoscopic camera video footage and the range (lower and higher value) of the total weight of the bluefin tuna being caged, communicated by the farm CPC competent authority, the catching flag or trap CPC/EU Member State competent authority shall take the following measures:

- a) *apply the following measures as regards releases and adaptation of the eBCD sections for catching vessels operating within the framework of an individual fishing operation (outside a JFO);*
 - i. *(omitted)*
 - ii. *when the total weight declared by the catching vessel in the catching section of the eBCD is below the lowest figure of the range of the stereoscopic camera system results:*
 - *a release shall be ordered using the lowest figure in the range of the stereoscopic camera system results;*

9. Annex 9 para 1 sub-para vi says:

The margin of error for determining weight, inherent to the technical specifications of the stereoscopic camera system, shall not exceed a range of +/- 5 percent.

This means that there could be 5% difference between the catch amount in ITD and the caged amount. Also, the meaning of "(outside a JFO)" is that since a JFO is conducted by multiple vessels, special compensation among participating vessels is permitted in accordance with Annex 9 para 5.

10. Annex 9 para 5 says:

5. *Provisions applicable to JFO and traps*

1. *Decisions consequent to differences between the catch report and the results from the stereoscopic camera system programme shall be taken by the flag or trap CPC competent authority:*
 - a) *based on comparison between the total of the weights resulting from the stereoscopic camera system programme of all the bluefin tuna caging operations from a JFO / traps, with the total of the weights of catches declared by vessels participating in that JFO or by those traps and, in the case of JFOs and traps involving a single CPC and/or EU Member State;*
 - b) *at the level of the caging operations for JFOs involving more than one CPC and/or EU Member State, unless otherwise agreed by all the flag CPC/EU Member State competent authorities of the catching vessels involved in the JFO.*
2. *In case of compensation of differences in weight between what has been determined by the stereoscopic camera and the correspondent catch found in individual caging reports across all cagings from a JFO or traps of a same CPC/EU Member State, whether or not a release operation is required, all relevant eBCD shall be modified on the basis of the lowest range of the stereoscopic camera system results.*
3. *The eBCD related to the quantities of bluefin tuna released shall also be modified to reflect the weight and the corresponding number of fish released. The eBCD related to bluefin tuna not released but for which the results from the stereoscopic camera systems or alternative techniques differ from those reported caught and transferred shall also be amended to reflect these differences.*

4. *The eBCD relating to the catches from where the release operation took place shall also be modified to reflect the weight/number released.*

Annex 9 Para 5 is a bit difficult to understand, but the Chair's interpretation is that if the catch is made by three vessels and divided into three portions and caged, the total catch should be compared with the total caged amount rather than individual caging.

Compliance with Libya's fishing plan

11. Libya's fishing plan approved at the Intersessional Meeting of Panel 2 last March says, "Joint Fishing Operations (JFOs) and their respective allocation keys will be notified to ICCAT Secretariat within the stipulated timeframe. Respecting individual quota limits shall be monitored by fishery authorities and cross checked with ROPs on board fishing vessels. All vessels or JFOs whose quota is exhausted shall be ordered back to port immediately. All fishing vessels catching BFT shall adhere to the eBCD system." The Chair wonders what the fishery authorities did at the time of transfer.

Conclusion

12. It seems that the current rules require fish release in the case that the reported catch amount exceeds the caged amount plus the margin of error (maximum 5%). Paras 183 and 184 do not exempt JFOs from release order. For example, Annex 9 para 5, sub-paras 2, 3 and 4 assume possible release order in case of JFO.
13. Although there is no prohibition for the reallocations of unused quota between different vessels/JFOs, such reallocations should be done prior to fishing.