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EU RESPONSE ON POSSIBLE NON-COMPLIANCES DETECTED BY THE ICCAT-ROP ON EU VESSELS, FARMS AND TRAPS

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EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MARITIME AFFAIRS AND FISHERIES

INTERNATIONAL AFFAIRS AND MARKETS

Brussels,
MARE/D2/HH/ D(2016)

Subject: **ICCAT Regional Observer Programme (ROP) 2016**

Dear Sir,

Thank you for your communications dated 23 August and 22 September 2016 in which you provided us with a list of possible non-compliances detected by the ICCAT Regional Observers on EU vessels, farms and traps. Our comments on each case are provided in the column G "response" in the tables attached (Annex I and II).

As our records contain some additional cases, we also provide the follow-up on these cases in the above mentioned tables.

I would like to highlight that the EU took the decision to leave the new column F "confirmed by CPC (yes/no)" empty except for two particular cases. The reasoning behind is explained in Annex III. The EU would like to discuss this point with other CPCs in the Compliance Committee (CoC) to decide:

- on whether or not the column shall be maintained in the future and,
- if yes, on clear guidelines for all CPCs on how to judge a case.

I finally would like to provide the EU's feedback on the ROP implementation 2016. To this end you will find in Annex IV our comments and suggestions for possible further discussions in the CoC.

Please do not hesitate to contact us should you require any additional information or clarification.

Yours sincerely,

Stefaan DEPYPERE
Head of the EU delegation to ICCAT

Encl: Annex I: ROP-PNC Summery farms/traps EU 2016,
Annex II: ROP-PNC Summery vessels EU 2016,
Annex III: ROP – the "yes/no" column,
Annex IV: ROP 2016- EU feedback on implementation and follow-up

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Annex III
Regional Observer Programme (ROP) – the "yes/no"- column.

The EU did not fill in the new column F "confirmed by CPC (yes/no)" and "PNC confirmed by CPC (yes/no)" unless for two cases in the table of EU vessels where the EU in concert with the ROP Consortium cancelled a PNC (wrong vessel name, sighting of unknown vessel).

The decision to leave the column blanc has been taken for both, technical and procedural reasons:

- The Regional Observer Programme is an ICCAT programme and it should have been discussed in ICCAT if a final judgment of a PNC should be left to Contracting Parties (CPCs) or to the ICCAT Compliance Committee (CoC).
- The approach taken by the ICCAT Secretariat (adding a new column) has not been discussed with all CPCs and a number of questions came up:
    - Different names were used for the same column in the table for traps/farms and the table for vessels, which implies different interpretation.
    - It is consequently not clear if the judgment should define non-compliance or potential non-compliance cases.
    - It is also not clear if the judgment should refer to the initial alert from the RO or to the outcome at the end of the investigation (even within EU Member States there is no common interpretation)
- Considering the room of interpretation (explained above), it is likely that the "yes/no" judgments submitted on ROP PNCs to the CoC will vary between CPCs.
- If attention in the CoC will be given to cases indicated as "yes" (as suggested by the ICCAT Secretariat in its Mail to the EU of 23rd May), it is unfair for CPCs or EU Member States providing a stricter and more transparent judgment than others.
- In most of the cases, the ROP PNCs are of complex nature. Therefore the EU considers the column "response" providing a detailed reply as more adequate and duly sufficient.
- It is therefore important to discuss in the CoC the added value of the "yes/no" column with other CPCs and to take a decision whether to maintain it in the future.
- Should the CoC be in favour of maintaining the "yes/no" column, guidelines should be established to ensure a level playing field within CPCs on how to provide the replies.

Annex IV

EU feedback on 2016 ROP implementation and follow-up

The EU considers the ICCAT Regional Observer Programme (ROP) as a very important and efficient instrument to provide transparency and credibility to the ICCAT BFT fishery. The EU would also like to express its satisfaction with the overall organisation (deployment, quality of RO) of the programme.

However, some procedural aspects could be improved to ensure an adequate and timely follow-up of the Potential Non-Compliance (PNC) cases reported by Regional Observers (RO) throughout the year. To this end, the EU would like to make some suggestions to facilitate follow-up of PNC cases for both, Member State and EU administration:

<u>During the season:</u>

- Avoid delays of alerts – some were reported only after the RO debriefing.
- Avoid repetition of previous alerts of same PNC after debriefing.
- Provide a maximum of information in the initial alert.
- Material mentioned in the alerts (fotos,..) should always be transmitted immediately to Member State authorities.
- Consistent behaviour of RO should be integral part of the training (i.e.: Alerting PNC but signing documents).

<u>PNC tables prepared by the ICCAT Secretariat</u>

- Number of cases indicated in final list should always correspond to number of alerts sent during the year (As in previous years, cases on the ICCAT list were missing).
- Dates of PNCs should always correspond to dates of alert to EU and Member State administration.
- Consequently, merging of different alerts in same row should be avoided.
- Suggestion: ID should be issued for each PNC *from the first alert* to avoid the mix-up and confusion between different cases.