

Original: English

**DRAFT RECOMMENDATION BY ICCAT ON PROTECTING THE HEALTH AND SAFETY OF
OBSERVERS IN ICCAT'S REGIONAL OBSERVER PROGRAMS**

Proposal submitted by the United States

UNDERSCORING that safety of life at sea is a longstanding objective of international maritime governance, that observers collect data that are essential to the functions of the Commission, and that the health, safety, and welfare of observers is critical to their ability to perform their duties;

RECALLING the regional observer programs established in the *Recommendation by ICCAT on a Program for Transshipment* [Rec. 16-15] and the *Recommendation by ICCAT Amending the Recommendation 13-07 by ICCAT to Establish a Multi-Annual Recovery Plan for Bluefin Tuna in the Eastern Atlantic and Mediterranean* [Rec. 14-04];

CONCERNED that ICCAT's recommendations establishing these regional observer programs do not include requirements that adequately protect the health, safety, and welfare of observers;

ACKNOWLEDGING the need to include comprehensive and consistent requirements in relevant ICCAT recommendations to protect the health, safety, and welfare of observers, in particular to supply necessary safety equipment and training and to establish emergency procedures with respect to ICCAT Regional Observer Programs (ROPs);

RECALLING that the International Convention on Standards of Training, Certification, and Watch keeping for Fishing Vessel Certification (STCW-F), adopted by the International Maritime Organization (IMO) in 1995, sets forth safety training standards for observers and other fishing vessel personnel;

NOTING existing contracts between the ICCAT Secretariat and ROP observer providers that include observer health and safety requirements as well as associated materials establishing procedures for the implementation of such requirements;

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

The following shall apply to ensure the health, safety, and welfare of observers deployed pursuant to an ICCAT Regional Observer Program (ROP) established in the *Recommendation by ICCAT on a Program for Transshipment* [Rec. 16-15] and the *Recommendation by ICCAT Amending the Recommendation 13-07 by ICCAT to Establish a Multi-Annual Recovery Plan for Bluefin Tuna in the Eastern Atlantic and Mediterranean* [Rec. 14-04]:

1. The observer provider shall provide safety training to observers before they are deployed on a vessel for a trip and at appropriate intervals thereafter. Such training program must, at a minimum, meet the International Maritime Organization (IMO) safety training standards.
2. Before deploying an observer on a vessel for a trip, the observer provider shall ensure the observer is issued the following safety equipment:
 - (a) an independent two-way satellite communication device and a waterproof personal life-saving beacon. This may consist of a single device such as a Satellite Emergency Notification Device, or a combination of an independent two-way satellite-based device, (e.g., an inReach messaging device) and a personal locator beacon (e.g., a ResQ Link device); and
 - (b) other safety equipment, such as personal flotation devices (PFDs) and immersion suits, appropriate to the specific fishing operations and activities, including ocean area and distance from shore.

3. The observer provider shall have a designated contact point for deployed observers to use in cases of emergency.
4. The observer provider must have an established procedure for contacting and being contacted by the observer and the vessel, and, if necessary, for contacting the competent authority of the flag CPC or non-CPC. This procedure must provide for regularly scheduled contact with observers to confirm their health, safety, and welfare status and clearly describe the steps that must be taken in the event of various emergencies, including situations where an observer dies, is missing or presumed fallen overboard, suffers from a serious illness or injury that puts his or her health or safety at risk, or has been assaulted, intimidated, threatened or harassed while on board a vessel, and/or if the observer requests to be removed from the vessel prior to the conclusion of the trip.
5. CPCs shall ensure their vessels that carry observers under an ICCAT ROP are outfitted with appropriate safety equipment for the entirety of each voyage, including the following:
 - (a) A life raft of sufficient capacity for all persons onboard and with a certificate of inspection that is valid throughout the observer's deployment;
 - (b) Life jackets of sufficient number for all persons onboard, and compliant with International Convention for the Safety of Life at Sea (SOLAS) standards; and
 - (c) Properly registered Emergency Personal Indicator Response Beacon (EPIRB) or a Search and Rescue Transponder (SART) that will not expire until after the observer deployment ends.
6. The observer provider shall not deploy an observer on a vessel unless and until the observer is allowed to inspect all vessel safety equipment and document and report its status to the observer provider; observers shall not be deployed on vessels with outstanding safety discrepancies, in particular if the vessel does not meet the requirements of paragraph 5. If, during deployment, the observer provider or flag CPC or non-CPC determines that a serious risk to the health, safety, or welfare of the observer exists, the observer shall be removed from the vessel unless and until the risk is addressed.
7. Flag CPCs and non-CPCs with vessels carrying observers deployed under an ICCAT ROP shall develop and implement an Emergency Action Plan (EAP) to be followed in the event an observer dies, is missing or presumed fallen overboard, suffers from a serious illness or injury that threatens his or her health, safety, or welfare, or has been assaulted, intimidated, threatened or harassed. Minimum criteria for EAPs will be developed by the IMM for consideration by the Commission. At a minimum, the EAP must include the following:
 - i. The responsibilities of the fishing vessel regarding search and rescue operations, ceasing fishing activities, notifications, cooperation in any investigations, necessary medical care, facilitation of any necessary disembarkation, and reporting requirements;
 - ii. The responsibilities of the CPC or non-CPC if they are involved as a port State;
 - iii. The responsibilities of the CPC or non-CPC if they are involved as a flag State; and
 - iv. The process for coordinating and cooperating with the observer provider, the ICCAT Executive Secretary, and authorities of the party from which the observer is a citizen or national.

These EAPs shall (a) be implemented by flag CPCs and non-CPCs as soon as practicable and (b) be submitted to the Commission at least 60 days in advance of the annual meeting following adoption of minimum criteria. New or amended EAPs shall be submitted at least 60 days prior to subsequent annual meetings. Beginning in 2020, CPCs shall report on their implementation of EAPs in their annual reports.

8. The Executive Secretary shall contact flag CPCs and non-CPCs participating in any ICCAT regional observer program to notify them of the requirement, as a condition of participating in the regional observer program, to develop and implement an EAP as described in paragraph 7 and to request the flag non-CPC to submit its plan for Commission review at least 60 days in advance of the ICCAT meeting following adoption of minimum criteria and new or amended EAPs at least 60 days prior to subsequent annual meetings in accordance with that paragraph.

9. Beginning on 1 January following adoption of minimum criteria, vessels flagged to CPCs or non-CPCs that have not submitted EAPs shall not be eligible to carry an observer from the ICCAT regional observer program. Further, should the Commission review an EAP and determine that it is inadequate, the Commission may decide that the deployment of an observer on a vessel of the concerned flag CPC or non-CPC shall be delayed until the Commission determines that the inadequacy has been sufficiently addressed.
10. The Commission may also decide that a vessel is ineligible to carry an ICCAT regional observer where the flag CPC or non-CPC has previously failed to investigate any reported instances of observer interference, harassment, intimidation, assault, or unsafe working conditions or, where warranted, to take appropriate corrective action, consistent with their domestic law.
11. The observer provider and flag CPCs and non-CPCs with vessels carrying observers deployed under an ICCAT regional observer program shall submit to the Executive Secretary reports on observer incidents triggering provisions of the EAP, including any corrective action taken by the flag CPC or non-CPC. The Executive Secretary shall transmit such reports to the Commission, consistent with applicable confidentiality rules, for its review at each annual meeting or, where warranted, more frequently.
12. Flag CPCs and non-CPCs are encouraged to cooperate with and provide for the participation of, as appropriate and consistent with domestic law, the CPC or non-CPC of the observer in search and rescue operations and investigations of cases where the observer dies, is missing or presumed fallen overboard, suffers from a serious illness or injury that threatens his or her health or safety, or has been assaulted, intimidated, threatened or harassed while on board a vessel.
13. Nothing in this recommendation shall prejudice the exercise of discretion by the observer provider not to deploy an observer on a vessel because of concerns about risk to the observer's health, safety, or welfare.