

October 26, 2015 (11:06 AM)

Original language: English

**LETTER FROM CANADA ON DISPUTE SETTLEMENT**  
(Circular #5327/15)

31 July 2015

Lorraine Anderson  
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Oceans and Environmental Law Division

Lester B. Pearson Building  
125 Sussex Drive  
Ottawa Ontario Canada

UNCLASSIFIED

ICCAT  
JLO 61

Dear ICCAT Contracting Parties:

**Re: Dispute Settlement Proposals for ICCAT Convention Amendment Negotiations**

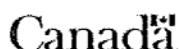
As many of you know, the ICCAT Convention Amendment Working Group was unable to reach an agreement on a single proposal for dispute settlement at its third meeting in Miami, 18 to 22 May 2015. During the meeting, the Working Group Chair requested that Canada lead intersessional discussions among Contracting Parties with a view to developing a single proposal for consideration by the Working Group at its next meeting on 10 November 2015 from 9:00am to 12 noon in Malta.

I have been designated to lead this process on Canada's behalf and I would like to ensure that the process is an inclusive one. I would therefore request that each CPC designate and send me the name, email address and phone number of the person that will represent them in this informal process, preferably by **14 August 2015**. Please send this information to the following email address: [Lorraine.anderson@international.gc.ca](mailto:Lorraine.anderson@international.gc.ca). I will then set up a distribution list so that we can communicate efficiently.

There are two proposals currently on the table relating to dispute settlement located in appendices 5 and 6 to the Report of the Third Meeting of the Working Group on Convention Amendment which is available on the ICCAT website. For ease of reference, both proposals are annexed to this letter.

The key difference between these two options is that one is based on a non-compulsory and non-binding mechanism and the other is based on a compulsory and binding procedure. This is a wide gap to close. In order to do so, and before efforts are made to draft specific text for a single proposal, it will be important to get the views of all CPCs on general principles.

I therefore request that each CPC send an email to the group list (once established) advising whether or not they can agree (in principle) to a compulsory and binding dispute settlement mechanism for ICCAT. A rationale for your position would be helpful as it would assist in determining common questions or concerns that we will need to address. Your response to this initial question would be appreciated by **21 August 2015**. Once this question has been answered, we can then begin to look at the elements that an ICCAT dispute settlement process could have, which would then lead us to drafting specific text.



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I look forward to working cooperatively and efficiently with all of you for a successful outcome on this issue before the next annual meeting. Given my language capacity, the working language of this informal group will be English.

If you have any questions or concerns about my proposed way forward, please do not hesitate to contact me directly.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'L. Anderson', with a long horizontal flourish extending to the right.

Lorraine Anderson  
+1 343 203 2549

ENCL: (2) Dispute resolution proposals

**PEACEFUL SETTLEMENT OF DISPUTES**

*(Proposal of Canada, Brazil, European Union, Norway, United States)*

(Appendix 6 of the Report of the Second Meeting of the Working Group on Convention Amendment)

1. Members of the Commission shall cooperate in order to prevent disputes and shall consult among themselves in order to settle disputes by amicable means.
2. In any case where a dispute is not resolved through the means set out in paragraph 1, the provisions relating to the settlement of disputes set out in Part VIII of the 1995 Agreement shall apply, *mutatis mutandis*, to any dispute between the members of the Commission, whether or not they are also Parties to the 1995 Agreement. *[Source: SPRFMO, WCPFC]*
3. Paragraph 2 shall not affect the status of any member of the Commission in relation to the 1995 Agreement or the 1982 Convention. *[Source: SPRFMO]*

**SETTLEMENT OF DISPUTES**

*(Proposed by Turkey)*

(Commission document PLE-121/2014)

1. The members of the Commission shall cooperate in order to prevent disputes. Any member may consult with one or more members about any dispute related to the interpretation or application of the provisions of this Convention to reach a solution satisfactory to all as quickly as possible.
2. If a dispute is not settled through such consultation within a reasonable period, the members in question shall consult among themselves as soon as possible in order to settle the dispute through any peaceful means they may agree upon, in accordance with international law.
3. In cases when two or more members of the Commission agree that they have a dispute of a technical nature, and they are unable to resolve the dispute among themselves, they may refer the dispute, by mutual consent, to a non-binding *ad hoc* expert panel constituted within the framework of the Commission in accordance with the procedures adopted for this purpose by the Commission. The panel shall confer with the members concerned and shall endeavour to resolve the dispute expeditiously without recourse to binding procedures for the settlement of disputes.

[Source: Antigua Convention of the IATTC]