

Original language: English

LETTER FROM THE EU CONCERNING CHANGE OF DEPOSITARY
(ICCAT Circular #7073/15)



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MARITIME AFFAIRS AND FISHERIES

INTERNATIONAL AFFAIRS AND MARKETS

ICCAT-ENTRADA

Ref. Ares(2015)20453-10-10-15

E15-09647

Brussels,
MARE.B1/FA/ARES(2015)

Mr Driss Meski
Executive Secretary of the International
Commission for the Conservation of
Atlantic Tuna (ICCAT)
Corazón de María 8
ES - 28002 MADRID

Dear Mr Meski,

Subject: ICCAT Convention Amendment – change of depositary

One of the topics being addressed by the ICCAT Working Group on Convention Amendment is the "non-party participation". At the last meeting of the Working Group meeting that took place in Miami from 18 to 22 May 2015 *"Delegations worked informally to identify possible ways forward on the issue of non-party participation, but the Working Group was not able to take up any concrete proposals. The Chair encouraged CPCs to continue to actively consult amongst each other and develop a common approach before the ICCAT Annual Meeting."*

*The Working Group noted that implementing an approach on this issue comparable to that developed by other RFMOs would require an ICCAT Contracting Party to take on the role of Depositary, which is currently fulfilled by the UN Food and Agriculture Organization. The European Union proposed its service to act as a Depositary to the protocol resulting from the Convention Amendment process, with the FAO retaining the role of Depositary for the original Convention. However, such partial Depositary was not considered sufficient by some Contracting Parties. Furthermore, in light of the lack of precedent of a partial Depositary, the EU announced its intention to explore whether or not it would be in position to offer its services as Depositary for the entire Convention, including future amendments, and would advise other CPCs of this in advance of this year's Annual Meeting"*¹

Further to the discussions held in Miami, I can now gladly confirm that the European Union, through the Agreement Office of the Council of the European Union, would be ready to offer its services as depositary for the entire Convention. In order to ease the discussion at the Working Group on Convention Amendment scheduled on 10th November, delegations should be informed that the EU will submit a proposal with the corresponding amendments of the Convention text concerning a possible change of depositary.

I would like to remind that the Vienna Convention on the Law of the Treaties provides in Article 76(2) that the depositary functions are "international in character" and that a

¹ Quoted text copied from paragraph 5 of the meeting report.

depository is under an obligation "to act impartially in their performance". In this respect I would like to underline that in fulfilling its depository function the Council of the European Union would not perform act of representation in ICCAT, a function which, according to the European Treaties, is in the remit of the European Commission.

Furthermore, it may be useful to remind that the role of a depository is of purely administrative nature and that, should the depository be moved from FAO to the EU, ICCAT would continue to have a working relationship with FAO pursuant to Article XI of the ICCAT Convention.

I would be grateful if you could circulate this letter to all ICCAT Contracting Parties and cooperating non-Contracting Parties, Entities, and Fishing Entities in advance of the 24th ICCAT Annual Meeting.

Yours sincerely,



Stefaan DEPYPERE
Head of EU Delegation