

Original: English

Appendix 4

**DRAFT MEMORANDUM OF UNDERSTANDING BETWEEN THE
THE INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS (ICCAT)
AND
THE FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS (FAO) ON BEHALF OF
THE WESTERN CENTRAL ATLANTIC FISHERY COMMISSION (WECAFC)**

The International Commission for the Conservation of Atlantic Tunas (ICCAT) and, the Food and Agriculture Organization of the United Nations (FAO), acting on behalf of the Western Central Atlantic Fishery Commission (WECAFC). Both of the above-mentioned are hereinafter collectively referred to as "Parties" or individually as "Party";

WHEREAS the ICCAT has been created through a Conference of Plenipotentiaries on the Conservation of Atlantic Tunas in 1966. This Conference prepared and opened for signature a Convention, the objective of which is to co-operate in maintaining the populations of tuna and tuna-like fishes and elasmobranchs that are oceanic, pelagic, and highly migratory, found in the Atlantic Ocean and adjacent seas at levels which will permit the maximum sustainable catch for food and other purposes.

WHEREAS the Western Central Atlantic Fishery Commission is a Regional Fisheries Body established in 1973 by Resolution 4/61 of the FAO Council under Article VI (1) of the FAO Constitution, with its statutes later amended by the FAO Council at its Seventy-fourth Session in December 1978 and by the Hundred and Thirty-first Session of the FAO Council in November 2006, pursuant of an aim , *inter alia*, to promote the effective conservation, management and development of the living marine resources of the area of competence of the Commission, in accordance with the FAO Code of Conduct for Responsible Fisheries, and to address common problems of fisheries management and development faced by members of the Commission. It serves its Members through its Scientific Advisory Group (SAG) and various thematic working groups which facilitate the implementation of agreed policies and activities as coordinated by its secretariat,

WHEREAS the Parties share common goals with regard to the sustainable use of marine living resources and the fight against illegal, unreported and unregulated (IUU) fishing and wish to collaborate to further these common goals within their respective mandates and governing rules and regulations,

CONVINCED of the importance of countering existing threats to marine biodiversity and marine living resources with a view to promote sustainable development and blue growth,

AWARE of the need to strengthen collaboration and coordinated efforts, improve synergies and avoid duplications in the context of the development of projects and programs focusing on main regional priorities in order to foster improved governance and promote commonalities,

WHEREAS the Parties intend to conclude this Memorandum of Understanding (hereafter referred to as "MoU") with the aim to establish a broader cooperation aimed at harmonizing their activities and to facilitate common approaches to their objectives,

NOW THEREFORE ICCAT AND WECAFC HAVE AGREED TO COOPERATE UNDER THIS MoU AS FOLLOWS:

**Article 1
Interpretation**

This MoU supersedes all prior communications and representations between the Parties, whether oral or written, concerning the subject matter thereof.

Article 2

Purpose

Having regard to the respective mandates of the Parties, the purpose of this MoU is to provide a framework of cooperation and understanding and to facilitate collaboration between the Parties to further their shared goals in relation to the sustainable use of marine living resources and the fight against IUU fishing in their respective fields of competence.

Article 3

Areas and scope of cooperation

1. Areas of cooperation are agreed jointly in accordance with this MoU to enable the Parties to respond to newly emerging issues in the realm of the conservation of marine biodiversity and sustainability of fisheries resources.
2. The Parties have agreed on the following areas of cooperation under this MoU:
 - 1) Development of a joint ICCAT/WECAFC Working Group addressing issues related to Large Pelagic Fishes in the Western Central Atlantic, to foster exchange of relevant information and improved data in its context, including on the interactions and relative impacts of various fisheries with and upon populations of tuna and tuna-like fishes and elasmobranchs that are oceanic, pelagic, and highly migratory, and other species which may be of relevance to both organisations;
 - 2) Improve data collection and use to inform fisheries management and exchange relevant information on IUU fishing activities carried out in their respective Convention areas;
 - 3) Enhanced communication and active participation at the level of the respective scientific and technical bodies in relation to monitoring, control and surveillance related issues;
 - 4) Mutual participation in the respective activities, as appropriate, and continuous dialogue in view of the potential development of joint activities, including research and capacity building projects;
 - 5) Continuous communication of elements useful to facilitate the formation of common positions on the role of regional fisheries management organizations in relevant international fora (e.g. dialogue with other Regional Fishery Management Organizations (RFMOs) and Regional Fishery Advisory Bodies (RFABs, etc.);
3. The areas of cooperation are relevant to the respective mandates of the Parties. As appropriate, they may be revised based on, and consistent with, decisions of the respective governing bodies of the Parties that might have a bearing on their respective mandates.
4. The ICCAT and the WECAFC will work together, to the extent possible, within the remit of their respective mandates, for the implementation of the activities undertaken pursuant to this MoU. Specific activities will be identified and carried out on the basis of distinct legal arrangements concluded pursuant to Article 4(7) of this MoU, as appropriate. The Parties will meet for coordination and review of the joint activities to be developed as described therein, as deemed necessary, and may agree, in such occasions, to prepare a joint workplan which would enter into effect upon approval by the Parties of the records of their bilateral consultations (4.1).
5. This MoU seeks to further harmonize activities of the Parties, optimize the use of resources and to avoid duplications of efforts. In this context, the ICCAT and the WECAFC will inform each other of their respective capacity development and related initiatives to strengthen cooperation.

Article 4

Organizational arrangements pertaining to the cooperation

1. The Parties may hold bilateral consultations on matters of mutual interest, in accordance with an agenda agreed in advance by them, aiming also at the development and/or review of their joint activities. Subject to the applicable internal rules and procedures of each Party and to prior consultation among the Parties, relevant international organizations and relevant initiatives and/or projects may be invited by both Parties to join such consultations. The following two items should be examined on occasion of consultations:
 - a) technical and operational issues related to furthering the objectives of the present MoU;
 - b) review of progress in the work by the Parties in implementing the MoU.
2. Further bilateral meetings at desk-to-desk and expert levels will be encouraged and convened on an *ad hoc* basis, as deemed necessary by the Parties to address priority matters regarding the implementation of activities in specific areas, countries and regions.
3. Where the Parties convene a meeting at which policy matters related to this MoU will be discussed, the Parties will, as appropriate, invite each other and seek to mutually participate.
4. The Parties will encourage, and where possible promote, contacts, exchange of information and joint activities at the national level between their respective focal points. The Parties may subsequently develop these contacts, exchange of information and joint activities while ensuring the confidentiality of the information and documents exchanged.
5. Within the remit of areas of cooperation set in Article 3(2), collaboration between the ICCAT and the WECAFC will be carried out, as appropriate, through joint development, fundraising for and implementation of projects on specific issues of common interest.
6. Neither Party shall engage in fundraising with third Parties for activities to be carried out within the framework of this MoU in the name of or on behalf of the other.
7. Nothing under this MoU imposes financial obligations upon either Party. If the Parties mutually agree to allocate specific funds to facilitate an activity undertaken pursuant to this MoU, such an agreement will be reflected in writing and signed by both Parties. In particular, for the implementation of joint activities within the framework of this MoU which might involve payment of funds, a specific separate written arrangement will be entered into, as appropriate, taking into account the relevant administrative and financial rules and procedures applicable to each Party.
8. The Parties will undertake, within their global knowledge network and to the extent possible, to facilitate mutual access to relevant information and work as well as dissemination between the Parties. The Parties will consider the possibility of joint missions and the hosting of joint training activities, events and information sessions.
9. Both the ICCAT and the WECAFC will identify, as appropriate, focal points within their internal organizational structure to coordinate cooperation, ensure implementation and monitoring of the activities under this MoU.

Article 5

Status of personnel

For the purpose of implementation of this MoU, no agents, sub-contractors or employees of one of the Parties shall be considered in any way as agents, sub-contractors or employees of the other Party. Neither Party will be liable for the acts or omissions of the other Party or its agents, sub-contractors, employees or any persons performing services on behalf of it.

Article 6

Transparency and Confidentiality

Notwithstanding the foregoing, neither of the Parties nor its personnel shall communicate to any other person or entity any confidential information made known to it by the other Party/ies in the course of the implementation of this MoU, nor shall it use this information to private or company advantage.

Article 7

Privileges and Immunities

1. Nothing in this MoU or in any document or arrangement relating thereto shall be construed as constituting a waiver, express or implied, of any of the privileges or immunities of FAO, nor as extending any privileges or immunities of FAO to the ICCAT or its agents, sub-contractors or employees.
2. Nothing in this MoU or in any document or arrangement relating thereto shall be construed as constituting a waiver, express or implied, of any of the privileges or immunities of the ICCAT.

Article 8

Dispute settlement

1. Any dispute between any of the Parties arising out of the interpretation or execution of this MoU, or any document or arrangement relating thereto, shall be settled by negotiations and mutual agreement. If the Parties are unable to reach an agreement on any question in the dispute or on a mode of settlement other than arbitration, either Party shall have the right to request arbitration in accordance with the Arbitration Rules of UNCITRAL, as at present in force. The Parties agree to be bound by any arbitration award rendered in accordance with this Article as the final adjudication of any such dispute.
2. The present MoU or any other document, annex or arrangement related thereto, will be governed by general principles of law to the exclusion of any national law.

Article 9

Official emblems and logos

1. Neither Party shall use the name, emblem or logos of the other Party, its subsidiaries, affiliates, and/or authorized agents, or any abbreviation thereof, any press release, memo, report or other published disclosure related to this MoU, without the prior written approval of the other Party, which may be provided electronically.
2. In no event will authorization of the ICCAT or the WECAFC name or emblem, or any abbreviation thereof, be granted for commercial purposes.

Article 10

Intellectual property rights

1. Intellectual property rights, in particular copyright, in material such as information, software and designs, made available by the ICCAT and FAO to be used to carry out activities under this MoU shall remain with the originating Party. Appropriate authorizations for use of such materials by the other Party will be addressed in the agreements concluded in accordance with Article 4(7) above.
2. Intellectual Property Rights in materials that may be developed under this MoU such as, but not limited to, information, software and designs, will be addressed in the agreements concluded in accordance with Article 1(3) above.

Article 11

Notification and amendments

1. Each Party shall notify the other in writing of any proposed or actual changes that it deems necessary for this MoU.
2. Upon receipt of such notification, the Parties shall consult each other with a view of reaching an agreement on any actual or proposed change(s) suggested in accordance with Article 11 (1).
3. This MoU may be amended only by mutual agreement of the Parties reflected in writing.

Article 12

Termination

1. This MoU may be terminated by either Party by giving 3 months prior written notice to the other Party.
2. Upon termination of this MoU, the rights and obligations of the Parties defined under any specific arrangement established in accordance with Article 4(7) will be also terminated, unless the Parties agree otherwise. The rights and obligations set out in Articles 6, 7, 8, 9, and 10 of this MoU shall survive the expiration or termination of this MoU.

Article 13

Entry into force and Duration

This MoU will be signed on the same date by both Parties and enter into force on the date of signature by both parties. It will remain in effect for a period of four (4) years or until terminated in accordance with Article 12 above. Its content will be reviewed and/or renewed whenever considered necessary by the Parties.

IN WITNESS WHEREOF, the duly authorized representatives of the Parties affix their signatures below.

For the ICCAT

For FAO, on behalf of the WECAFC

Name: Camille Jean Pierre Manel
Title: Executive Secretary, ICCAT
Date:

Name: Yvette Diei Ouadi
Title: Executive Secretary, WECAFC
Date: