

February 25, 2015 (10:48 AM)

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WORKING DOCUMENT

**DRAFT RESOLUTION BY ICCAT
FOR A MODEL JOINT INTERNATIONAL INSPECTION SCHEME**

(Proposed by the European Union and the United States)

RECALLING Recommendation 75-02 for a Scheme of Joint International Inspection and Annex 7 of Recommendation 14-04 establishing a joint international inspection scheme for the eastern Atlantic and Mediterranean bluefin tuna fishery;

FURTHER RECALLING Resolution 94-09 on Compliance with the ICCAT Conservation and Management Measures, Recommendation 97-11 on Transshipments and Vessel Sightings, and Recommendation 98-11 Concerning the Ban on Landings and Transshipments of Vessels from Non-Contracting Parties Identifies *sic* as Having Committed a Serious Infringement;

RECALLING ALSO the General Outline of Integrated Monitoring Measures adopted at the 13th Special Meeting of the Commission (Doc. 02-31);

DESIRING to collaborate in the adoption of a system of joint international enforcement as provided in paragraph 3 of Article IX of the ICCAT Convention;

INTENDING to strengthen ICCAT's monitoring, control, and surveillance regime to promote compliance with the ICCAT Convention and the Recommendations of the Commission;

RECOGNIZING the value of establishing a Model Scheme of Joint International Inspection that reflects current international standards and is available for activation in fisheries under the jurisdiction of ICCAT; and

NOTING that this Model Scheme is intended to replace Recommendation 75-02, which no longer reflects current international standards for joint international inspections.

**THE INTERNATIONAL COMMISSION FOR THE
CONSERVATION OF ATLANTIC TUNAS RESOLVES THAT:**

Where a Scheme of Joint International Inspection is adopted in a fishery managed under the ICCAT Convention, such Scheme should be established based upon the following provisions, recognizing that additional elements may be needed to adapt the model scheme to a specific fishery:

Section I: Definitions

For the purpose of the Scheme of Joint International Inspection:

1. "Fishing" means the catching, taking, or harvesting of fishery resources under the competence of ICCAT; the attempted catching, taking, or harvesting of such resources; or any other activity which can reasonably be expected to result in the catching, taking, or harvesting of such resources;

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2. "Fishing activities" means fishing and any other activity in preparation for, in support of, or related to fishing, including storage, processing, transporting, transferring fish to or from cages, and transshipment of fish or fish products;
3. "Fishing vessel" means any powered vessel used for, intended to be used for, or equipped for use for fishing activities including catching vessels, support vessels, fish processing vessels, towing vessels, transport vessels and any other vessel directly engaged in fishing activities;
4. "Inspection vessel" means any vessel authorized by a Contracting Party and assigned to the ICCAT register of inspection vessels under the Joint International Inspection Scheme;
5. "Inspector" means an official authorized by a Contracting Party and assigned to conduct boarding and inspections in the ICCAT Convention area under the Joint International Inspection Scheme;
6. "Scheme" means the Joint International Inspection Scheme established by this Recommendation.

Section II: Purpose and area of application

7. Boarding and inspection conducted pursuant to this Scheme is intended to monitor compliance with the ICCAT Convention and related Recommendations in force.
8. This Scheme applies in the ICCAT Convention area beyond areas under national jurisdiction.

Section III: General provisions

Duties of the Contracting Parties

9. Each Contracting Party shall take such measures as may be necessary to ensure that fishing vessels entitled to fly its flag, their Masters, its inspection vessels, and inspectors it has assigned to the Scheme, fulfil their respective duties and requirements under the Scheme.
10. Within 30 days of entry into force of this Scheme, each Contracting Party shall advise the Executive Secretary of a point of contact for the purposes of receiving notifications, inspection reports and immediate notification of infringements pursuant to this Scheme. It shall notify any changes to this information to the Executive Secretary as soon as possible, but no more than 14 days after the effective date of the change.
11. Boarding and inspections shall be carried out by inspectors and inspection vessels assigned to the Scheme by a Contracting Party.



Notification requirements

12. A Contracting Party that intends to conduct boarding and inspection under the Scheme, including by deploying inspectors on board the inspection vessel of another Contracting Party pursuant to an agreement under paragraph 13, shall:
 - a) so notify the Executive Secretary, no later than 30 days in advance of the inspection vessel or inspector's deployment, providing the following particulars:
 - (i) its national authority responsible for at-sea inspection, as well as the name and contact details (including telephone and fax numbers and e-mail address) for a point of contact within that authority;

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- (ii) the names of the individual inspectors designated by the national authority referred to in subparagraph (i) above, where required by a Recommendation;
- (iii) an example of the credentials issued to inspectors by the national authority referred to in subparagraph (i) above, except where a Recommendation requires the following ICCAT-approved credential:

Dimensions: Width 10.4cm, Height 7cm

<p>INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNA</p>  <p>ICCAT</p> <p>Inspector Identity Card</p> <p>Contracting Party:</p> <p>Inspector Name:</p> <p>Card n°:</p> <p>Issue Date:</p> <p>Valid five years</p>	 <p>ICCAT</p> <p>The holder of this document is an ICCAT inspector duly appointed under the terms of the Scheme of Joint International Inspection and Surveillance of the International Commission for the Conservation of the Atlantic Tuna and has the authority to act under the provision of the ICCAT Control and Enforcement measures.</p> <p>..... ICCAT Executive Secretary Issuing Authority</p> <p>..... Inspector</p>
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and

- (iv) for each inspection vessel designated by a national authority referred to in subparagraph (i) above, its name, description, image, registration number, port of registry and, if different from the port of registry, the name of the port as marked on the hull, international radio call sign and particulars of any other communication capabilities.
- b) notify the Executive Secretary of any changes to the information it has provided pursuant to subparagraph (a) above as soon as possible and, in all cases, before a new inspection vessel, inspector or national authority participates in the Scheme;
- c) ensure that each inspection vessel it authorizes to participate in the Scheme is clearly marked and identifiable as being on government service, and displays the ICCAT inspection flag or pennant depicted in **Annex 1**;
- d) ensure that the inspectors and crew of any inspection vessel authorized and assigned to participate in the Scheme are competent to conduct inspection at-sea consistent with generally accepted international standards and are conversant with and have access to the ICCAT Recommendations in force; and
- e) ensure that any inspector it authorizes to participate in the Scheme remains under its operational control, is fully familiar with the fishing activities being inspected and has been issued the credentials notified pursuant to this paragraph.

Exchange of Inspectors

13. Contracting Parties are encouraged to enter into standing or *ad hoc* arrangements to allow for an inspector, authorized by a Contracting Party, to be deployed on inspection vessels of another Contracting Party to facilitate communication and coordination for the purpose of implementing the Scheme.

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- a) Such arrangements should establish a process for the timely identification of the authorized inspection vessels involved and include provisions for the cooperative deployment of personnel and the use of vessels, aircraft or other equipment for fisheries surveillance and law enforcement purposes.
- b) In addition to the notification requirements of paragraph 12, the Contracting Parties involved shall notify the Executive Secretary of any arrangement reached under this paragraph.
- c) Contracting Parties deploying inspection vessels should, subject to having an agreement as outlined in this paragraph, embark authorized inspectors from another Contracting Party if available. Foreign inspectors may participate in all inspections conducted by the inspection vessel under this Scheme as agreed upon by the two Contracting Parties prior to deployment.

Duties of the Executive Secretary

14. The Executive Secretary shall,

- a) establish, maintain and post to the secure part of the ICCAT website accessible to all Contracting Parties and Cooperating Non-Contracting Parties, Entities or Fishing Entities:
 - i) a register, including the information notified by the Contracting Parties under subparagraph 12.a; and
 - ii) information on the arrangements referred to in paragraph 13.
- b) issue the ICCAT inspection flag or pennant depicted at **Annex 1** to Contracting Parties deploying inspection vessels pursuant to the Scheme;
- c) maintain and post to the secure part of the ICCAT website a standardized multi-language questionnaire developed by Contracting Parties for use in contacting fishing vessels and conducting boarding and inspection activities pursuant to the Scheme.

Section IV: Inspections

Transparency and equitable treatment

15. Inspection shall be conducted in a transparent, non-discriminatory manner taking into account, *inter alia*, vessel fishing patterns and compliance records, the presence of observers, the frequency and results of prior inspections, and the full range of measures available to monitor compliance with ICCAT Recommendations.

Priorities for inspections

16. The inspecting Contracting Party should give priority to inspecting a fishing vessel:

- a) entitled to fly the flag of a Contracting Party that is eligible for inclusion in the ICCAT Record of Fishing Vessels, but is not included;
- b) where there are reasonable grounds to suspect the fishing vessel is, or has been, engaged in IUU fishing or in any activity in contravention of the ICCAT Convention or Recommendations;
- c) included in the list of vessels that have engaged in IUU fishing adopted by a regional or sub-regional fisheries management organization; or

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- d) pursuant to a request by a Contracting Party or a regional or sub-regional fisheries management organization supported by evidence of IUU fishing by the vessel in question.

Optimal use of inspection resources

17. Contracting Parties shall direct their inspection vessels to seek to establish regular contact with other inspection vessels operating in the same area for the purpose of sharing information on sightings, inspections and other operational elements relevant to their activities under the Scheme.

Non-Contracting Party Fishing Vessels and Vessels of Undetermined Flag

18. Notwithstanding the notification requirements of *Recommendation by ICCAT on Transshipments and Vessel Sightings* [Rec. 97-11], an inspecting Contracting Party that sights a fishing vessel without nationality or of indeterminate flag, engaged in fishing activities in the Convention area, shall report the sighting to the Executive Secretary, who shall forward the reports to all Contracting Parties. Consistent with *Recommendation by ICCAT on Transshipments and Vessel Sightings* [Rec. 97-11], where there are reasonable grounds for suspecting that such a fishing vessel is targeting ICCAT species and is stateless, the inspecting Contracting Party may take such action as may be appropriate in accordance with international law.
19. In accordance with paragraph 4 of *Recommendation by ICCAT on Transshipments and Vessel Sightings* [Rec. 97-11], an inspection vessel that sights a non-Contracting Party vessel that may be fishing contrary to ICCAT conservation and management measures shall immediately report such sighting to the authorities of the inspecting Contracting Party who shall notify the flag State of the fishing vessel and the Executive Secretary of such sighting. The Executive Secretary shall forward the reports to all Contracting Parties.
20. The inspection vessel shall, if possible, advise the Master of the sighted vessel that they are operating within the ICCAT Convention area and may be fishing contrary to conservation and management measures adopted by ICCAT. Where practicable, the inspecting Contracting Party shall request permission from the flag State of the fishing vessel to board and inspect the fishing vessel. A report of the encounter and of any ensuing inspection shall be transmitted to the flag State of the fishing vessel and to the Executive Secretary, who shall, in turn, forward the reports to all Contracting Parties.

Duties of the Executive Secretary

21. The Executive Secretary shall,
 - a) upon receipt, immediately distribute to the Contracting Parties the reports received pursuant to paragraphs 18, 19, and 20; and
 - b) compile, maintain, and post to the secure part of the ICCAT website a list of vessels reported pursuant to paragraph 18 and encounters and inspections reported pursuant to paragraph 20.

Section V: Boarding and inspection procedures

Conduct of inspections

22. An inspection vessel that intends to undertake boarding and inspection of a fishing vessel entitled to fly the flag of a Contracting Party pursuant to the Scheme shall:
 - a) seek to establish contact with the fishing vessel by radio, using the appropriate International Code of Signals or other internationally accepted means of alerting the vessel;

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- b) identify itself as an inspection vessel by communicating its name, registration number, international radio call sign and frequency;
 - c) advise the vessel of its intention to board and inspect the vessel pursuant to the Scheme;
 - d) initiate notice through its authorities to the point of contact of the fishing vessel; and
 - e) display the ICCAT inspection flag or pennant depicted in Annex 1 in a clearly visible fashion.
23. The inspection vessel and the inspectors shall make best efforts to communicate with the Master of the fishing vessel in a language that the Master can understand using the standardized multi-language questionnaire referred to in paragraph 14.c.
24. The number of inspectors assigned to an inspection party by the inspecting Contracting Party shall be determined by the commanding officer of the inspection vessel taking into account relevant circumstances. The inspection party should be as small as possible to conduct an effective inspection safely and securely.
25. Boarding and inspection shall be conducted:
- a) in accordance with generally accepted international standards, regulations, procedures and practices relating to the safety of the fishing vessel and its crew; and
 - b) to the extent possible, in a manner that avoids:
 - i) undue interference with the lawful activity of the fishing vessel;
 - ii) actions that would adversely affect the quality of the catch; and
 - iii) harassment of the fishing vessel, its officers or crew.
26. In conducting an inspection pursuant to this Scheme, the inspectors shall:
- a) upon boarding, present their credentials to the Master;
 - b) avoid interfering with the Master's ability to communicate with the flag Contracting Party of the fishing vessel;
 - c) inspect and record such images of the fishing vessel's license, gear, equipment, facilities, fish and fish products on board, and logbooks, records and documents as may be necessary to verify compliance with, or establish any suspected infringements of, the ICCAT Convention or Recommendations;
 - d) collect, and clearly document in the inspection report, any evidence of an infringement of the ICCAT Convention or Recommendations;
 - e) record the inspection and any suspected infringement in the fishing vessel's logbook or, where the vessel's logbook is electronic, provide a written record of the inspection and any suspected infringement;
 - f) provide the Master with a copy of the inspection report;
 - g) complete the inspection within four 4 hours unless evidence of a serious infringement is found, or where a longer time period is required to monitor ongoing fishing operations and obtain related documentation issued by the Master; and

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- h) except where they have reasonable grounds to believe that the fishing vessel has committed a serious infringement and other action is authorized pursuant to paragraph 41, promptly leave the vessel following completion of the inspection.

27. Where the inspectors have reasonable grounds to believe that the fishing vessel has committed an infringement of the ICCAT Convention or Recommendations, they shall seek to so advise, without delay, any inspection vessel of the flag Contracting Party of the fishing vessel that may be present in the vicinity.

Use of force

28. The use of force shall be avoided except when and to the degree necessary to ensure the safety of the inspectors and where the inspectors are obstructed in the execution of their duties. The degree of force used shall not exceed that reasonably required in the circumstances.

29. The inspectors shall promptly report any incident involving the use of force to their national authorities responsible for at-sea inspection, who shall advise the contact point of the flag Contracting Party of the fishing vessel, and to the Executive Secretary.

Duties of the Master of the fishing vessel

30. Each Contracting Party shall require that the Master of every fishing vessel entitled to fly its flag:

- a) when signalled to do so by an inspection vessel displaying the ICCAT flag or pennant, using the International Code of Signals, accepts and, to the extent compatible with good seamanship, facilitates boarding by the inspectors, unless the vessel is directly engaged in fishing activities, in which case the Master shall manoeuvre to safely facilitate boarding as soon as possible;
- b) provides a standardized boarding ladder that meets the requirements of IMO Resolution A.889(21) and ensures safety measures are in place to prevent and respond as required to an accident during boarding;
- c) cooperates with and assists in the inspection;
- d) facilitates the inspection of such equipment, catch, gear and documents as the inspectors may consider necessary to verify compliance with the ICCAT Convention or Recommendations;
- e) ensures that the crew avoids interfering with, or obstructing the inspectors in the performance of their duties;
- f) makes available the use of the vessel's communication equipment and operator, to the extent required by the inspectors;
- g) facilitates communication by the inspectors with the crew and the flag Contracting Party of the inspection vessel;
- h) provides the inspectors with reasonable facilities, including, where appropriate, food and accommodation;
- i) takes such action as may be necessary to preserve the integrity of any seal affixed by an inspector and of any evidence remaining on board;

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- j) where the inspectors have made an entry in the logbooks, provides the inspectors with a copy of each page where such entry appears and, at the request of the inspector, signs each page to confirm that it is a true copy;
- k) refrains from resuming fishing activity until the inspectors have completed the inspection and, in the case of a serious infringement, secured the evidence; and
- l) facilitates the safe disembarkation of the inspectors.

Refusal of boarding and inspection

- 31. Where the Master of a fishing vessel refuses to allow boarding and inspection pursuant to this Scheme, the inspecting Contracting Party shall immediately so advise the point of contact of the flag Contracting Party of the fishing vessel and the Executive Secretary.
- 32. Upon receiving notification under paragraph 31, the flag Contracting Party of the fishing vessel shall:
 - a) except where generally accepted international regulations, procedures or practices relating to safety at sea make it necessary to delay the inspection, direct the Master to accept the inspection forthwith; and
 - b) where the Master does not comply with such direction:
 - i) order the Master to justify the refusal;
 - ii) where appropriate, take action in accordance with subparagraphs 40.a. and b; and
 - iii) promptly notify the Executive Secretary and the inspecting Contracting Party of the action it has taken.

Section VI: Inspection report and follow-up

Inspection reports

- 33. Each Contracting Party shall require that its inspectors:
 - a) upon completion of an inspection, complete an inspection report in the form set out in Annex 2;
 - b) sign the inspection report in the presence of the Master, who shall be given the opportunity to add or have added to the report any observations;
 - c) request the Master to sign the report only as an acknowledgement of receipt; and
 - d) before disembarking, provide a copy of the report to the Master, duly noting any refusal by the Master to acknowledge receipt.

Transmission and dissemination of inspection reports

- 34. Upon completion of the inspection, the inspecting Contracting Party shall transmit the inspection report, if possible within 30 days, to the point of contact of the flag Contracting Party of the fishing vessel and to the Executive Secretary.

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35. Notwithstanding paragraph 34, where inspectors have noted an infringement in the inspection report, the inspecting Contracting Party shall transmit, within 10 days, a copy of the inspection report and all supporting documents, images or audio recordings, to the point of contact of the flag Contracting Party of the fishing vessel and to the Executive Secretary.

Duties of the Executive Secretary

36. The Executive Secretary shall, without delay, post the inspection report to the secure part of the ICCAT website.

Section VII: Procedures relating to serious infringements

Serious infringements

37. Each of the following constitutes a serious infringement:

- a) fishing without a valid license, permit or authorization;
- b) significant failure to maintain accurate records of catch or catch-related data in contravention of the ICCAT Convention or Recommendations, or significant misreporting of catch or catch-related data;
- c) fishing in a closed area;
- d) fishing during a closed season;
- e) intentional taking or retention of species in contravention of ICCAT Recommendations;
- f) significantly exceeding applicable catch limits or quotas;
- g) using prohibited fishing gear;
- h) falsifying or intentionally concealing the markings, identity or registration of a fishing vessel or its gear, or failing to mark fishing gear;
- i) concealing, tampering with or disposing of evidence related to an inspection or investigation of an infringement, including the breaking or tampering of marks or seals, or accessing sealed areas;
- j) committing multiple infringements which, taken together, constitute a serious disregard of the ICCAT Convention or Recommendations;
- k) assaulting, resisting, intimidating, harassing, interfering with, obstructing or unduly delaying inspectors or observers in the performance of their duties;
- l) tampering with, disabling, or interfering with the vessel monitoring system (VMS) of the fishing vessel where VMS is required by ICCAT Recommendations;
- m) operating a fishing vessel without VMS in contravention of ICCAT Recommendations;
- n) presenting falsified documents or providing false information to an inspector so as to prevent a serious infringement from being detected;
- o) fishing with the assistance of spotter planes in contravention of ICCAT Recommendations;
- p) failure to submit to an inspection;

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- q) transshipping at sea in contravention of ICCAT Recommendations;
- r) operating a fishing vessel without an observer in contravention of ICCAT Recommendations; and
- s) such other violations identified as a serious infringement in future ICCAT Recommendations.

Duties of the Inspectors

38. Each Contracting Party shall require that, where its inspectors have noted a serious infringement in the inspection report, they:
- a) immediately notify their national authority responsible for at-sea inspection of all relevant particulars;
 - b) take all such measures as may be required to ensure the security and continuity of the evidence, including, as appropriate, marking or sealing the vessel's hold or gear for further investigation; and
 - c) where feasible, advise any inspection vessel of the flag Contracting Party of the fishing vessel they know to be in the vicinity of the serious infringement and of the action they have taken.

Duties of the inspecting Contracting Party

39. Where notified by its inspectors of a serious infringement, the inspecting Contracting Party shall immediately transmit written notification of the serious infringement and a description of the supporting evidence to the point of contact of the flag Contracting Party of the fishing vessel and to the Executive Secretary.

Duties of the Flag Contracting Party of the fishing vessel

40. Upon receiving notification pursuant to paragraph 39, the flag Contracting Party of the fishing vessel shall:
- a) acknowledge receipt of the notification without delay;
 - b) require that the fishing vessel concerned:
 - i) ceases all fishing activity until it is satisfied that the infringement will not continue or be repeated and has so notified the Master;
 - ii) where appropriate to the conduct of a full and thorough investigation, to proceed immediately to a port or other location it designates for investigation under its authority; and
 - iii) report to the Executive Secretary the measures it has taken pursuant to its laws in relation to the infringement.
41. The flag Contracting Party of the fishing vessel may authorize the inspecting Contracting Party to take such enforcement action as it may specify with respect to the vessel. It may also authorize an inspector from another Contracting Party to board or remain on board the vessel as it proceeds to port and to participate in the port inspection.

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Failure of the flag Contracting Party to respond

42. Where the flag Contracting Party of the fishing vessel fails to take action as required pursuant to paragraph 40, the inspectors shall immediately so advise their national authority responsible for at-sea inspection and record the failure in the inspection report.
43. The inspecting Contracting Party shall notify the Executive Secretary of the flag Contracting Party's failure to respond.
44. The flag Contracting Party shall, without delay, provide to the Executive Secretary a written explanation of its failure to respond.

Duties of the Executive Secretary

45. The Executive Secretary shall,
 - a) upon receipt, post any notifications received pursuant to paragraphs 39 or 42, and any explanation received pursuant to paragraph 44, to the secure part of the ICCAT website;
 - b) transmit, upon receipt, the justification received pursuant to paragraph 44 to the inspecting Contracting Party; and
 - c) maintain a record of actions reported by the flag Contracting Party pursuant to paragraph 40, post such record to the secure part of the ICCAT website, and refer the information to the Commission for its consideration.

Section VIII: Follow-up enforcement action

Cooperation

46. Contracting Parties shall cooperate to facilitate judicial or other proceedings initiated as follow-up to a report submitted by an inspector pursuant to the Scheme.

National treatment

47. Each Contracting Party shall:
 - a) without prejudice to their national legislation, treat interference by its fishing vessels, their Masters or crew with an inspector or an inspection vessel of another Contracting Party in the same manner as interference with its own inspectors within areas under its national jurisdiction; and
 - b) accord treatment to reports of inspections conducted by inspectors of another Contracting Party consistent with that accorded to reports of their own inspectors.

Duties of the flag Contracting Party of the fishing vessel

48. A Contracting Party that has been notified of an infringement committed by a fishing vessel entitled to fly its flag shall:
 - a) investigate immediately and fully, including as appropriate, by physically inspecting the fishing vessel at the earliest opportunity or, authorize the inspecting Contracting Party to take enforcement action as appropriate under the circumstances;

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- b) cooperate with the inspecting Contracting Party to preserve the evidence in a form that will facilitate proceedings in accordance with its laws;
- c) if the evidence so warrants, take judicial or administrative action, as appropriate; and
- d) ensure that any sanctions applied are adequate in severity to be effective in securing compliance, deterring further infringements and, to the extent possible, depriving the offenders of the benefits accruing from the infringement, including, *inter alia*:
 - i) fines;
 - ii) seizure of the fishing vessel, illegal fishing gear and/or catches;
 - iii) suspension or withdrawal of authorization to fish; and
 - iv) reduction or cancellation of any fishing allocations.
- e) notify the Executive Secretary of the measures taken pursuant to this paragraph as soon as possible.

Section IX: Annual compliance report

Reports by the Contracting Parties

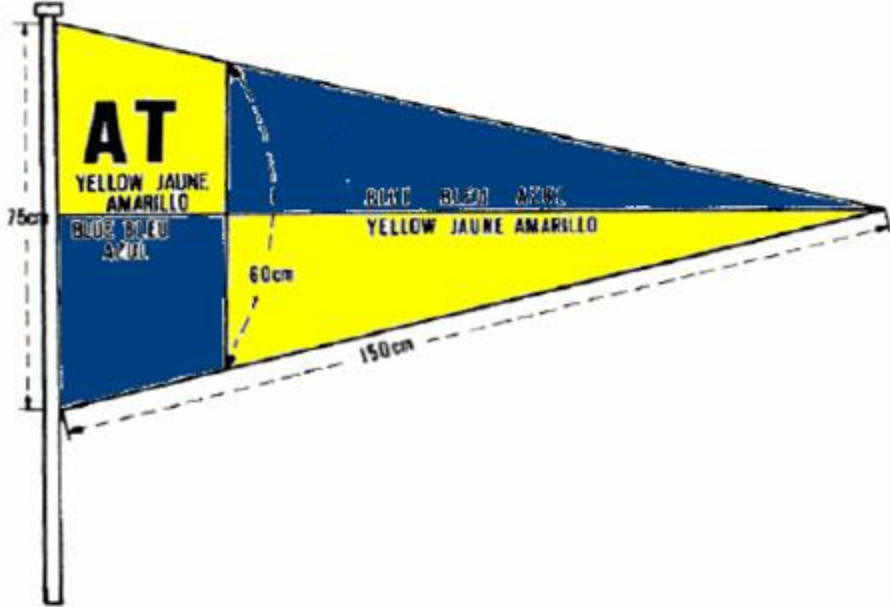
49. Each Contracting Party shall for the period ending on September 30 of that year, include in its annual report to the Commission, a summary of:
- a) the boarding and inspection activities it has conducted pursuant to the Scheme;
 - b) the action it has taken in response to reported infringements by its fishing vessels, including any enforcement procedures and the sanctions it may have applied; and
 - c) an explanation regarding every reported infringement concerning which it has taken no action.

Report of the Executive Secretary

50. The Executive Secretary shall submit to the ICCAT Commission before each annual meeting a report setting out a description of:
- a) the boarding and inspection activities and follow-up actions taken, as reported by each Contracting Party, for the period ending September 30;
 - b) the instances where boarding and inspection was refused by a fishing vessel of a Contracting Party, and any follow-up action taken by that Contracting Party in respect of such fishing vessel; and
 - c) the cases where force was used including the reported circumstances thereof.

ICCAT Inspection Flag or Pennant

ICCAT Pennant



Inspection Report