
Committee on Trade and Environment

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**COMMUNICATION FROM THE SECRETARIAT OF THE INTERNATIONAL
COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS**

The attached background paper¹ has been received from the Secretariat of the International Commission for the Conservation of Atlantic Tunas (ICCAT). It is being circulated to Members of the CTE in preparation for the Information Session with Secretariats of Multilateral Environmental Agreements on 23 July 1998.

Comité du commerce et de l'environnement

**COMMUNICATION DU SECRÉTARIAT DE LA COMMISSION INTERNATIONALE
POUR LA CONSERVATION DES THONIDES DE L'ATLANTIQUE**

La note d'information ci-jointe¹ a été reçue du Secrétariat de la Commission internationale pour la conservation des thonides de l'Atlantique. Elle est distribuée aux membres du Comité du commerce et de l'environnement en vue de la séance d'information avec les Secrétariats des Accords environnementaux multilatéraux qui aura lieu le 23 juillet 1998.

Comité de Comercio y Medio Ambiente

**COMUNICACIÓN DE LA SECRETARÍA DE LA COMISIÓN INTERNACIONAL PARA
LA CONSERVACIÓN DEL ATÚN ATLÁNTICO**

La Secretaría de la Comisión Internacional para la Conservación del Atún Atlántico ha enviado el documento de base adjunto¹, que se distribuye a los miembros del CCMA como parte de los preparativos para la reunión de información con las Secretarías de Acuerdos Multilaterales sobre el Medio Ambiente, que se celebrará el 23 de julio de 1998.

¹ English only/En anglais seulement/En inglés solamente

STOCK MANAGEMENT MEASURES TAKEN BY THE INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS (ICCAT) IN RELATION TO TRADE MEASURES

Note by the Secretariat of the International Commission
for the Conservation of Atlantic Tunas

Summary

*As a Regional Agency responsible for the conservation of tuna and tuna-like resources in the Atlantic and its adjacent seas, the International Commission for the Conservation of Atlantic Tunas (ICCAT), currently comprised of 25 Contracting Parties, has adopted various regulatory measures for the species under its purview. According to the Convention, Commission decisions are taken by its Contracting Parties and such agreements are generally reached by consensus. In recent years, due to the high market prices paid, Atlantic bluefin tuna (*Thunnus thynnus*) has been fished well beyond the level of sustainable yield. The Commission has adopted regulatory measures specific to this species since 1975. In order to enforce the implementation of its regulations by non-contracting parties, which are under no obligation to enforce the recommendations by the Commission, ICCAT has taken several courses of action. These include: (1) frequent communication with parties fishing in a manner which undermines the effectiveness of the regulatory measures; (2) the establishment of the Bluefin Tuna Statistical Document Program (BSD); (3) the adoption of an Action Plan to Ensure the Effectiveness of the Conservation Program for Atlantic Bluefin Tuna; and (4) the implementation of trade restrictive measures further to the Action Plan.*

To ensure the effectiveness of the ICCAT bluefin tuna conservation program, the Commission has recommended ICCAT Contracting Parties to take non-discriminatory trade restrictive measures, consistent with their international obligations, on bluefin tuna products in any form from those non-contracting parties whose vessels have been fishing for Atlantic bluefin tuna in a manner which diminishes the effectiveness of the relevant ICCAT conservation recommendations.

I. MANAGEMENT MEASURES ADOPTED BY THE COMMISSION

The International Commission for the Conservation of Atlantic Tunas (ICCAT) is an intergovernmental organization, currently comprised of 25 Contracting Parties, which was established by an international Convention signed in 1966 with the mandate of conservation of tuna and tuna-like fish stocks in the Atlantic Ocean and its adjacent seas. ICCAT initiated its activities in 1969 and its Headquarters are located in Madrid, Spain. The Commission collects statistics from all tuna fisheries, conducts stock assessments and, on a scientific basis, adopts appropriate management measures for various stocks of tunas.

Since 1972, the Commission has recommended numerous regulatory measures for various tuna species. In recent years, bluefin tuna (*Thunnus thynnus*) and swordfish (*Xiphias gladius*) have drawn considerable attention to international fisheries, mainly due to the high prices for these fish on international markets. In particular, the high price paid for bluefin tuna on the Japanese "Sashimi" (raw fish) market triggered increasing fishing efforts for this species. As a result, bluefin tuna stocks have been found to be below the level of maximum sustainable yield (MSY).

The Commission adopted regulatory measures (minimum size and catch limits) for the entire Atlantic² for the first time in November 1975.³ As the depletion of the western Atlantic stock became

²The Atlantic Ocean includes all the adjacent seas, such as the Mediterranean Sea.

³According to the Convention, the Commission recommendations for regulatory measures enter into force, generally six months after they have been transmitted to the Contracting Parties. Since the Commission

apparent, the Commission recommended at its 1981 meeting that fishing for western Atlantic bluefin tuna be prohibited, except for a minor quantity for scientific monitoring purposes. This allowance was shared by three bluefin tuna fishing countries (Canada, Japan and U.S.A.) and has been well monitored.

For the eastern Atlantic stock, except for the minimum size and capping of the catches recommended in 1975, no significant measures were taken until much later. In 1993, a recommendation was adopted which prohibits bluefin fishing by large pelagic longline fishing vessels (over 24 meters in length) during June and July (the bluefin spawning season) in the Mediterranean. In 1996, a recommendation was adopted to prohibit purse seine fishing in August in the Mediterranean Sea to protect small fish. The catch reduction for the eastern stock was recommended, for the first time, in 1994 by the Commission and entered into effect in 1995.

II. PROBLEMS CAUSED BY NON-CONTRACTING PARTIES' CATCHES

As more regulatory measures are adopted by the Commission, the problems of fishing by non-contracting parties, entities and fishing entities in contravention to such measures, have become more obvious. The regulatory measures recommended by the Commission are binding on its Contracting Parties (currently 25 members), but they are not binding on non-contracting parties, entities and fishing entities. Consequently, many non-ICCAT members continued or have started fishing for bluefin tuna, ignoring ICCAT regulations. Even more serious is that some fishing vessels previously registered under ICCAT Contracting Parties have changed flags to a third country (flag of convenience) and have continued unregulated fishing. The catches taken by vessels flying flags of convenience are not reported and thus the scientific studies are becoming progressively inaccurate and more difficult to carry out. In addition, the increase of such fishing operations by non-members that do not comply with ICCAT's regulatory measures have discouraged the fishermen of Contracting Parties to implement the regulations.

The following table shows the magnitude of such unreported catches (estimated by the Commission and possibly still under-estimated) and hence demonstrates the problems which the Commission is currently facing.

Table. Atlantic Bluefin Tuna Catches

		1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996
Contracting Parties	MT	9927	11613	16407	13133	14531	14325	17111	18200	24763	24920	24077
	%	43.5	56.2	60.1	52.8	58.2	51.9	60.9	59.0	53.0	59.5	56.2
Non-Members*	MT	12718	8797	10168	10948	9887	11442	9580	10377	13882	10408	10183
	%	55.7	42.6	37.3	44.0	39.6	41.5	34.1	33.6	29.7	24.9	23.8
Unreported catches	MT	183	259	705	793	532	1826	1415	2280	8049	6554	8545
	%	0.8	1.3	2.6	3.2	2.1	6.6	5.0	7.4	17.2	15.6	20.0
TOTAL	MT	22828	20669	27280	24874	24950	27593	28106	30857	46694	41882	42805

*Non-members are for that particular year. Some countries became ICCAT members during this period.

NOTE: The unreported catches in the above table may still be under-estimated and most of them represent catches taken in contravention to the ICCAT regulatory measures.

holds its annual meeting in November, the recommendations adopted do not enter into effect until the middle of the following year.

III. MEASURES TAKEN BY THE COMMISSION CONCERNING NON-CONTRACTING PARTIES' CATCHES

In an attempt to solve the problem of catches by non-contracting parties which have been undermining the effectiveness of ICCAT's stock management program, the Commission has adopted a number of measures in recent years.

A. REQUESTING THE COLLABORATION OF THESE NON-CONTRACTING PARTIES, ENTITIES AND FISHING ENTITIES

The first step the Commission took was to communicate with non-contracting parties, entities and fishing entities to request their collaboration. Since the early 1990's, the Commission has transmitted official communications to non-members fishing bluefin tuna. In 1995, a special diplomatic demarche was made. Unfortunately, most of these efforts did not produce any positive results.

In 1994, the Commission adopted a "Resolution on Coordination with non-Contracting Parties". The Resolution urged non-contracting parties known to be fishing in the ICCAT Convention area for species under ICCAT competence to become Contracting Parties or "Cooperating Parties", and again requested their observance of ICCAT's conservation measures.

Since 1996, the Commission has transmitted official communication to some non-members, specifically pointing out that their fishing vessels have been fishing in a manner which seriously undermines ICCAT's conservation efforts.

B. BLUEFIN TUNA STATISTICAL DOCUMENT PROGRAM

Noting the increasing inaccuracy of bluefin tuna statistics and the increase in unreported catches by non-members and fleets flying flags of convenience, the Commission adopted recommendations to enforce its Bluefin Tuna Statistical Document Program (BTSDP) for frozen fish in 1992 (which entered into force in 1993) and for fresh bluefin tuna in 1993 (which entered into force in 1994). The Program requested all Contracting Parties to require that all bluefin tuna, when imported into the territory of a Contracting Party or at the first entry into a regional economic organization, be accompanied by an ICCAT Bluefin Tuna Statistical Document which is defined by the Commission (including the name of the country issuing the document, the name of the exporter and importer, the area of the harvest, etc.). Later, more details were added but, in principle, all bluefin tuna products (not only from the Atlantic), must be accompanied by a Statistical Document validated by a government official. The Program is equally applied for products from Contracting Parties and from non-contracting parties, entities or fishing entities.

The seals and signatures used for validation of the Statistical Documents are registered with the Commission, and only those products accompanied by Documents containing registered seals and signatures are accepted for import. The catch quantities reported on these Documents are assembled by the importing countries and the Commission uses such information to estimate unreported catches. In addition, the Statistical Documents identify the countries fishing bluefin tuna, the amounts caught (although these are minimum estimates), and the fishing areas. It should, however, be noted that this Program has been successful only because most of the bluefin products end up on the Japanese market, and the Japanese Fisheries Agency has successfully introduced this Program with the full collaboration of its Ministries of Finance (Customs) and Industry and Trade.

C. ACTION PLAN AND OTHER RELATED MEASURES

After taking the above steps (A and B), it became evident that many countries still fishing bluefin tuna in the Atlantic (particularly in the Mediterranean) were not complying with the ICCAT

regulatory measures. Consequently, in 1994, the Commission adopted an “Action Plan to Ensure the Effectiveness of the Conservation Program for Atlantic Bluefin Tuna”. This issue was disputed at length before its final adoption (text attached as Appendix 1). The Action Plan establishes steps whereby the Commission first has to identify those non-contracting parties whose vessels have been fishing for Atlantic bluefin tuna in a manner which diminishes the effectiveness of the relevant conservation recommendations of the Commission on Atlantic bluefin tuna, based on the catch data compiled by the Commission, the trade information obtained through national statistics and the Bluefin Statistical Document Program, and other relevant information obtained in ports and at the fishing grounds.

As a second step, the Commission notifies those countries of their infractions and requests their cooperation with the Commission in implementing the conservation program. If, despite these efforts, the Commission recognizes that those identified and requested to collaborate have not rectified their fishing activities, as a third step, the Commission will recommend that the Contracting Parties take non-discriminatory, trade restrictive measures, consistent with their international obligations, on bluefin tuna products in any form, from the Parties identified as such.

In addition to this Action Plan, the Commission adopted a “Resolution on Vessel Sighting” in 1994, which requests its Contracting Parties to collect, through their enforcement and surveillance operations in the Convention area, information on the sighting of fishing vessels engaged in illegal fishing activities.

IV. CONSERVATION MEASURES RELATED TO TRADE

Since the Action Plan and other related measures have been put into effect, the Commission has studied the fishing activities of various non-contracting parties, entities or fishing entities every year. In 1995, the Commission identified several countries which caught more bluefin tuna than they were allowed and decided to transmit a letter of warning. Among these, vessels flying the flags of Belize, Honduras and Panama were particularly noted as fishing during the closed season in closed areas, and catching bluefin tuna without any quota. These facts were duly transmitted to the above three countries and they were requested to comply with the ICCAT regulations, with the possible consequent measures the Commission might have to take in the case these activities were not rectified.

In 1996, the Commission noted that the vessels flying those countries’ flags were still fishing in a manner which diminished the effectiveness of the relevant conservation measures and no action had been taken to rectify these fishing practices. Thus, in accordance with the provisions of the Action Plan adopted in 1994 and transmitted to these countries in 1995, the Commission adopted a “Resolution Regarding Belize and Honduras Pursuant to the 1994 Bluefin Tuna Action Plan Resolution” (attached as Appendix 2) and another “Regarding Panama Pursuant to the 1994 Bluefin Tuna Action Plan Resolution”. (These two Resolutions are basically the same, except as concerns the date the trade restrictive action becomes effective). According to the Resolution, the Contracting Parties shall take appropriate measures, consistent with provisions of the Action Plan, to the effect that the import of Atlantic bluefin tuna and its products in any form from Belize, Honduras and Panama be prohibited. This came into force on August 4, 1997 for Belize and Honduras and on January 1, 1998 for Panama.

According to the above Resolutions, the Commission will lift the import prohibitions on these parties when it has ascertained that the fishing practices detrimental to ICCAT’s conservation efforts have been duly rectified.

V. CONCLUSIONS

It was a long process for the Commission to take these steps. Involved were numerous legal studies, biological analyses and tedious efforts to urge those countries to respect the conservation measures adopted by the Commission. When the trade restrictive measures were adopted, it was only after all other efforts at conservation were exhausted. It should also be noted that most of those vessels were fishing without any vessel name, identification, or flag, in the middle of the closed fishing area and season, that their catches had been exported to Contracting Parties that were strictly observing the regulations, and that those flag countries had failed to respond to ICCAT's requests and inquiries about their fishing activities. Thus, the Commission was left with no other choice but to implement its regulatory measures through trade restrictive measures.

It should also be noted that in order to ensure the effectiveness of the ICCAT bluefin tuna conservation program, the Commission has recommended ICCAT Contracting Parties to take non-discriminatory trade restrictive measures, consistent with their international obligations, on bluefin tuna products in any form from those non-Contracting Parties whose vessels have been fishing for Atlantic bluefin tuna in a manner which diminishes the effectiveness of the relevant ICCAT conservation recommendations.

APPENDIX 1

RESOLUTION ON AN ACTION PLAN TO ENSURE THE EFFECTIVENESS OF THE CONSERVATION PROGRAM FOR ATLANTIC BLUEFIN TUNA

The following Resolution was adopted by the Commission at its Ninth Special Meeting (Madrid, November-December, 1994). It was officially transmission to the Contracting Parties on January 23, 1995.

RECOGNIZING that the goal of ICCAT is to maintain populations of tuna and tuna-like fishes in the Atlantic at levels which will permit harvesting maximum sustainable yield;

BEING AWARE that the link between trade and environment is being addressed in other international fora;

RECALLING that the 1992 Recommendation Concerning the ICCAT Bluefin Tuna Statistical Document Program, which requires that all bluefin tuna, when imported into the territory of a Contracting Party or at the first entry into a Regional Economic Organization, be accompanied by an ICCAT Bluefin Tuna Statistical Document;

CONSIDERING the continuing need for action to ensure the effectiveness of the ICCAT conservation program for Atlantic bluefin tuna;

RECOGNIZING that a significant number of vessels registered to nations which are not Contracting Parties to ICCAT are catching Atlantic bluefin tuna;

BEING AWARE of the strenuous efforts by Contracting Parties to ensure enforcement of ICCAT's conservation and management measures and to encourage non-Contracting Parties to abide by these measures;

NOTING that the ICCAT's ability to manage Atlantic bluefin tuna on a sustainable basis is diminished by harvesting contrary to ICCAT recommendations and recognizing the need to take further strenuous measures to ensure the effectiveness of the ICCAT bluefin tuna conservation program;

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

a. The Infractions Committee shall review, during the 1994 meeting and annually thereafter, the implementation by each Contracting Party of accepted Commission Recommendations. The Commission shall decide, by the end of 1994 and annually thereafter, any necessary new measures to be taken to ensure compliance by Contracting Parties.

b. The Permanent Working Group for the Improvement of ICCAT Statistics and Conservation Measures shall identify, during the 1994 meeting and annually thereafter, those non-Contracting Parties whose vessels have been fishing for Atlantic bluefin tuna in a manner which diminishes the effectiveness of the relevant conservation recommendations of the Commission on Atlantic bluefin

tuna, based on the catch data compiled by the Commission, the trade information obtained through national statistics and the Bluefin Tuna Statistical Document Program, and other relevant information obtained in ports and at the fishing grounds.

c. The Commission shall request those Parties identified in paragraph (b) to rectify their fishing activities so as not to diminish the effectiveness of the ICCAT bluefin tuna conservation program and to advise the Commission of actions taken in that regard.

d. The Contracting Parties shall jointly and individually request that non-Contracting Parties fishing Atlantic bluefin tuna in the Convention Area cooperate fully with the Commission in implementing the ICCAT bluefin tuna conservation program.

e. The Permanent Working Group for the Improvement ICCAT Statistics and Conservation Measures shall review, by the end of 1995 and annually thereafter, the actions taken by those Parties identified and requested in paragraphs (b), (c), and (d), and identify the Parties which have not rectified their fishing activities.

f. To ensure the effectiveness of the ICCAT bluefin tuna conservation program, the Commission will recommend the Contracting Parties to take non-discriminatory trade restrictive measures, consistent with their international obligations, on bluefin tuna products in any form, from the Parties identified in paragraph (e).

APPENDIX 2

RESOLUTION REGARDING BELIZE AND HONDURAS PURSUANT TO THE 1994 BLUEFIN TUNA ACTION PLAN RESOLUTION

The following Recommendation was adopted by the Commission at its Tenth Special Meeting (San Sebastian, November 1996). It entered into force on August 4, 1997.

THE INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS (ICCAT)

RECOGNIZING the authority and responsibility of ICCAT to manage populations of bluefin tuna in the Atlantic Ocean and its adjacent seas, at the international level;

NOTING the need for all non-Contracting Parties fishing for bluefin tuna in the Atlantic Ocean and its adjacent seas to join ICCAT or cooperate with ICCAT's conservation and management measures;

RECALLING the Commission's past actions over many years to encourage Belize and Honduras to cooperate with ICCAT conservation and management measures for Atlantic bluefin tuna;

CONSIDERING the sighting of vessels of Belize and Honduras in the Mediterranean Sea during the closed season when the bluefin tuna are spawning;

TAKING INTO ACCOUNT the import data compiled from the ICCAT Bluefin Tuna Statistical Documents that must accompany bluefin tuna imports, and further taking into account that such data reveal significant exports of Atlantic bluefin tuna by Belize and Honduras;

EXPRESSING CONCERN with regard to the over-fished status of bluefin tuna in the Atlantic Ocean;

RECALLING the Commission's Action Plan, adopted in 1994, to ensure the effectiveness of the conservation measures for Atlantic bluefin tuna;

RECOGNIZING that effective management of bluefin tuna stocks cannot be achieved by Contracting Parties of ICCAT whose fishermen are forced to reduce their catches of Atlantic bluefin tuna unless all non-Contracting Parties cooperate with ICCAT in connection with its conservation and management measures;

CALLING ATTENTION to the 1995 decision by the Commission identifying Belize and Honduras as countries whose vessels have been fishing for Atlantic bluefin tuna in a manner which diminishes the effectiveness of the ICCAT bluefin tuna conservation measures, and recognizing that the decision was based on catch, trade and vessel sightings data;

CAREFULLY REVIEWING information regarding the efforts by the Commission to get the collaboration of Belize and Honduras over the past year, including recognition of the fact that there has been no response from Belize to the ICCAT requests, and limited response, but no action, from Honduras; and

NOTING that this Recommendation does not prejudice the rights and obligations of Contracting Parties based on other international agreements;

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

- a. Contracting Parties take appropriate measures, consistent with provisions of the *"Resolution by ICCAT Concerning an Action Plan to Ensure Effectiveness of the Conservation Program for Atlantic Bluefin Tuna"*, to the effect that the import of Atlantic bluefin tuna and its products in any form from Belize and Honduras be prohibited, effective from the time this Recommendation enters into force.
 - b. The Commission again request that Belize and Honduras cooperate with ICCAT by fishing in a manner and extent consistent with ICCAT conservation and management measures and by providing catch statistics to ICCAT in accordance with ICCAT procedures.
 - c. The Commission continue to encourage participation by Belize and Honduras in all ICCAT meetings.
 - d. Contracting Parties lift the import prohibition on either of the two countries referred to in paragraph (a) above, upon the decision of the Commission and receipt of notification from the ICCAT Executive Secretary that fishing practices of that country have been brought into consistency with ICCAT measures.
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