



MEMBERSHIP OF SIERRA LEONE AND GUINEA IN THE IOTC

PREPARED BY: IOTC SECRETARIAT, 11 MARCH 2015

PURPOSE

To submit for the consideration of the Standing Committee on Administration and Finance (SCAF), on Members deemed to have withdrawn from the Membership of IOTC.

BACKGROUND

Following the discussions in the last Session of SCAF, the Secretariat has still not received any communications from Sierra Leone or Guinea on their continued involvement in the IOTC and payment for the overdue contributions (SCAF12.07 – Table 1 refers).

It is noteworthy that neither Sierra Leone nor Guinea are situated wholly or partly within the IOTC area of competence and are in arrears for five years or more.

As the per Article IV (4) on Membership of the Agreement, “*If any Member of the Commission ceases to meet the criteria set out in paragraphs 1 or 2 above [reproduced below] for two consecutive calendar years, the Commission may, after consultation with the Member concerned, determine that the Member is deemed to have withdrawn from this Agreement effective as from the date of that determination*”.

“1. *Membership in the Commission shall be open to Members and Associate Members of FAO*

(a) that are:

- (i) coastal States or Associate Members situated wholly or partly within the Area;*
- (ii) States or Associate Members whose vessels engage in fishing in the Area for stocks covered by this Agreement; or*
- (iii) regional economic integration organizations of which any State referred to in subparagraphs (i), or (ii) above is a member and to which that State has transferred competence over matters within the purview of this Agreement;*

and XVII.

(b) that accept this Agreement in accordance with the provisions of paragraph 1 of Article

2. *The Commission may, by a two-thirds majority of its Members, admit to membership any other States that are not Members of FAO, but are Members of the United Nations, or of any of its Specialized Agencies or of the International Atomic Energy Agency, provided that such States:*

(a) are

- (i) coastal States situated wholly or partly within the Area; or*
- (ii) States whose vessels engage in fishing in the Area for stocks covered by this Agreement; and*

(b) have submitted an application for membership and a declaration made in a formal instrument that they accept this Agreement as in force at the time of acceptance in accordance with paragraph 2 of Article XVII.”

Sierra Leone is currently in arrears US\$38,391 and Guinea US\$143,308. Both Members were contacted by the Chair of the Commission on 13 September 2013 requesting further clarification regarding the countries interest in being a member of IOTC. A further reminder was sent to both countries on 11 February 2014. No reply has been received, to date, by written or verbal communication from Sierra Leone or by Guinea. This is not the first time that

the Secretariat has written to Sierra Leone regarding its membership in IOTC (previous message was sent on 15 March 2012).

The Commission, at its 13th Session, discussed the accession of Sierra Leone to the Commission and considered that Sierra Leone did not meet the eligibility criteria listed in Article IV of the IOTC Agreement. Specifically, that, Sierra Leone is not a coastal State situated in the IOTC area of competence, and it has not reported any fishing activity in the IOTC area of competence in recent years. Under these circumstances, the Members considered that FAO, in its role as depositary of the IOTC Agreement, should have sought advice from the Members before accepting the instrument of accession from Sierra Leone.

ISSUE

As highlighted within the letters addressed to the two countries by the Chair of the Commission and in accordance with Article XIII of the IOTC Agreement, a Member of the Commission which is in arrears in the payment of its financial contributions to the Commission shall have no vote in the Commission if the amount of its arrears equals or exceeds the amount of the contributions due from it for the two preceding calendar years. The Commission may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay was due to conditions beyond the control of the Member.

In addition, as Sierra Leone and Guinea are Members of the FAO and noting that the countries are not situated wholly or partly within the IOTC area of competence, continued Membership eligibility requires Sierra Leone and Guinea to have vessels engaged in fishing in the Area for stocks covered by the IOTC Agreement, as identified in Article IV, paragraph 1 of the IOTC Agreement.

If Sierra Leone and/or Guinea should decide that it no longer wishes to be a Member of the IOTC, please note that in accordance with the IOTC Agreement, any Member of the Commission may withdraw from the IOTC Agreement at any time after the expiry of two years from the date upon which the Agreement entered into force with respect to that Member, by giving written notice of such withdrawal to the Director-General. Withdrawal shall become effective at the end of the calendar year following that in which the Director-General has received the notice of withdrawal.

Alternatively, if any Member of the Commission ceases to meet the criteria set out in Article IV, paragraphs 1 or 2 of the IOTC agreement for two consecutive calendar years, the Commission may, after consultation with the Member concerned, determine that the Member is deemed to have withdrawn from this Agreement, effective as of the date of that determination.

A decision to remove Sierra Leone and Guinea from the Membership of the IOTC means that the contribution from these two countries must either be forgiven or absorbed within the Deficit Contingency budget. A positive outcome of such a decision is a reduced risk on budget in terms of unpaid contributions. Moreover, any recovery of the unpaid contributions is very unlikely.

PROPOSED OPTIONS

Option 1: As the Commission has consulted and received no reply from Sierra Leone or Guinea, it may determine that both countries have **withdrawn** from the IOTC Agreement based on their lack of involvement in Commission meetings, contribution obligations and non-response to the attempts of the Chair's and Secretariat's consultation with the two Members concerned.

Option 2: To **change the status** of Sierra Leone and Guinea to a Commission Cooperating Non-Contracting Party (CNCP). With a CNCP status, both countries will not be calculated within the scale of contributions and a reduced budgetary risk will be achieved.

SUGGESTED ACTION BY THE STANDING COMMITTEE ON ADMINISTRATION AND FINANCE

That the SCAF:

- a) **NOTE** paper IOTC–2015–SCAF12–08, including the options proposed regarding the Membership of Sierra Leone and Guinea;
- b) **RECOMMEND** that the Commission determine that Sierra Leone and/or Guinea are deemed to have withdrawn from the IOTC Membership, or change both Members status in the Commission to that of Cooperating Non-Contracting Parties (CNCP).