

MEMORANDUM OF UNDERSTANDING (MoU) BETWEEN THE IOTC AND THE SECRETARIAT FOR THE CONVENTION ON THE CONSERVATION OF HIGHLY MIGRATORY SPECIES OF WILD ANIMAL (CMS)

PREPARED BY: IOTC SECRETARIAT, 15 APRIL 2016

PURPOSE

To provide the Commission with an opportunity to consider a revised draft Memorandum of Understanding (MoU) between the IOTC and the Secretariat for the Convention on the Conservation of Highly Migratory Species of Wild Animal (CMS).

BACKGROUND

The IOTC Agreement, Article XV, paragraphs 1 and 2, on the *Cooperation with other organisations and institutions* state:

1. *The Commission shall cooperate and make appropriate arrangements therefore with other intergovernmental organizations and institutions, especially those active in the fisheries sector, which might contribute to the work and further the objectives of the Commission in particular with any intergovernmental organization or institution dealing with tuna in the Area. The Commission may enter into agreements with such organizations and institutions. Such agreements shall seek to promote complementarity and, subject to paragraph 2, to avoid duplication in and conflict with the activities of the Commission and such organizations.*
2. *Nothing in this Agreement shall prejudice the rights and responsibilities of other intergovernmental organizations or institutions dealing with tuna or a species of tuna in the Area or the validity of any measures adopted by such organization or institution.*

DISCUSSION

The Indian Ocean Tuna Commission and the Secretariat for the Convention on the Conservation of Highly Migratory Species of Wild Animal (CMS) may benefit from the establishment and maintenance of a mechanism of consultation, cooperation and collaboration with respect to matters of common interest to both sides.

A potential Memorandum of Understanding (MoU) could have as its core objective, to facilitate cooperation between the IOTC and the CMS with a view to supporting efforts to minimise the impact of IOTC fisheries on endangered migratory species listed in Appendix I of the CMS, as well as those migratory species which have an unfavourable conservation status listed on Appendix II of the CMS, within the IOTC area of competence.

In 2015, the Commission considered a Draft MoU and recommended a number of revisions. The CMS Standing Committee, at its 44th Session (14-15 October 2015) considered the revisions and agreed to all, with the following exceptions/comments:

- 1) The CMS Standing Committee agreed to put [sharks and rays] in square brackets, to allow IOTC Parties to make a final decision whether or not to include these species in the MoU at its next Session.
- 2) The CMS Standing Committee did not agree with the addition of the phrase 'and sustainable use' into the final pre-ambular paragraph.

“DESIRING to put into place and promote complementary arrangements that avoid duplication in and conflict with the activities of the two organisations, to promote cooperation in order to enhance the conservation [and sustainable use] of migratory species”

NOTE: As an alternative, which is consistent with the Objectives of both organisations, the term [and management] has been inserted.

The revised MoU is provided at **Appendix I** for the Commission's consideration.

RECOMMENDATION/S

That the Commission:

- 1) **NOTE** paper IOTC–2016–S20–13 which provided the Commission with an opportunity to consider the revised draft Memorandum of Understanding (MoU) between the IOTC and the Secretariat for the Convention on the Conservation of Highly Migratory Species of Wild Animal (CMS).
- 2) **CONSIDER** the MoU and recommend a course of action.

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE INDIAN OCEAN TUNA COMMISSION
AND
THE SECRETARIAT FOR THE CONVENTION ON THE CONSERVATION OF MIGRATORY SPECIES
OF WILD ANIMALS

The Indian Ocean Tuna Commission (hereafter 'IOTC') and the Secretariat for Convention on the Conservation of Migratory Species of Wild Animals (hereafter 'CMS');

ACKNOWLEDGING that the IOTC, as a Regional Fisheries Management Organisation has as its core objective, to promote cooperation among its Members with a view to ensuring, through appropriate management, the conservation and optimum utilisation of stocks covered by the Agreement for the establishment of the Indian Ocean Tuna Commission (hereafter IOTC Agreement) and encouraging sustainable development of fisheries based on such stocks;

ALSO ACKNOWLEDGING that the CMS, as an environmental treaty under the aegis of the United Nations Environment Programme, provides a global platform for the conservation and sustainable use of migratory wild animals and their habitats;

NOTING that CMS brings together the States through which migratory animals pass, the Range States, and lays the legal foundation for internationally coordinated conservation measures throughout a migratory range, which includes species of marine mammals, marine turtles, seabirds, sharks and rays that interact with IOTC fisheries;

RECOGNISING that migratory species considered to be endangered are listed on Appendix I of the CMS, and thus, CMS Parties strive towards strictly protecting these animals, conserving or restoring their habitats, mitigating obstacles to migration and controlling other factors that might endanger them;

ALSO RECOGNISING that migratory species that need or would significantly benefit from international cooperation are listed in Appendix II of the CMS and for this reason, the Convention encourages the Range States to conclude global or regional agreements;

FURTHER RECOGNISING that besides establishing obligations for each Party to the CMS, CMS promotes concerted action among the Range States of many of these species;

RECOGNISING that any matter within the purview of the Agreement on the Conservation of Albatrosses and Petrels (ACAP), concluded under Article IV of CMS, will be addressed within the existing Memorandum of Understanding (MoU) between ACAP and IOTC;

NOTING that as the only global convention specialising in the conservation of migratory species, their habitats and migration routes, CMS complements and cooperates with a number of other international organisations, NGOs and partners in the media as well as in the private sector;

FURTHER NOTING that Article XV of the IOTC Agreement empowers the IOTC to cooperate and make appropriate arrangements with other intergovernmental organisations and institutions, especially those active in the fisheries sector, which might contribute to the work and further the objectives of the Commission, in particular with any intergovernmental organisation or institution dealing with tuna in the IOTC area of competence;

RECOGNISING that the achievement of the objectives of the IOTC and CMS will benefit from cooperation, with a view to strengthening the Conservation and Management Measures adopted in respect of migratory species;

DESIRING to put into place and promote complementary arrangements that avoid duplication in and conflict with the activities of the two organisations, to promote cooperation in order to enhance the conservation and management of migratory species;

NOW THEREFORE the IOTC and the Secretariat of the CMS record the following understandings:

1. OBJECTIVE OF THIS MEMORANDUM OF UNDERSTANDING

The objective of this Memorandum of Understanding (MoU) is to facilitate cooperation between the IOTC and the CMS (hereafter 'both sides') with a view to supporting efforts to minimise the impact of IOTC fisheries on endangered migratory species listed in Appendix I and, as well as those migratory species which have an unfavourable conservation status listed on Appendix II of the CMS, within the IOTC area of competence;

2. AREAS OF COOPERATION

Both sides may establish and maintain consultation, cooperation and collaboration with respect to matters of common interest to both sides for the:

- a) development of standardised systems for collecting, exchanging and analysing data concerning fishery interactions with marine mammals, marine turtles, seabirds, [sharks and rays] within the IOTC area of competence;
- b) exchange of expertise and information regarding the management approaches relevant to the conservation of marine mammals, marine turtles, seabirds, [sharks and rays], including their strengths and weaknesses within the IOTC area of competence;
- c) development and implementation of education and awareness programmes for persons operating in the fisheries sector who operate in areas where marine mammals, marine turtles, seabirds, [sharks and rays] may be encountered;
- d) design, testing and implementation of bycatch mitigation measures for marine mammals, marine turtles, seabirds, [sharks and rays] relevant to fishing operations within the IOTC area of competence;
- e) development of training programmes for persons operating in the fisheries sector, port samplers and participants in the IOTC Regional Observer Scheme on data collection, reporting and analysis, measures to mitigate threats to marine mammals, marine turtles, seabirds, [sharks and rays], including best practice handling for safe and successful live release;
- f) exchange of expertise, techniques and knowledge relevant to the conservation of marine mammals, marine turtles, seabirds, [sharks and rays]; and
- g) reciprocal participation with observer status at the relevant meetings of each organisation.

3. MODIFICATION

This MoU may be modified at any time by the mutual written consent of both sides.

4. LEGAL STATUS

Both sides acknowledge that this MoU is not legally binding between them.

5. COMING INTO EFFECT AND TERMINATION

This MoU will continue to operate for 5 years from the date of signing. At that stage both sides will review the operation of the MoU and decide whether it will be renewed or modified.

- (a) This MoU will come into effect on the day of signature.
- (b) Either side may terminate this MoU by giving six months prior written notice to the other side.

SIGNATURE

Signed in XXXX on dd MMM YYYY

Signed in XXX on dd MMM YYYY

Chairperson, IOTC

Executive Secretary, CMS