



**UNITED REPUBLIC OF TANZANIA**  
**DEEP SEA FISHING AUTHORITY**

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**Ref. No. BA 40/104/03/52**

**14<sup>th</sup> April, 2022**

The Executive Secretary,  
Indian Ocean Tuna Commission,  
P.O. Box 1011,

**SEYCHELLES**

**Re: POSITION OF THE UNITED REPUBLIC OF TANZANIA ON**  
**COMPLIANCE COMMITTEE'S AGENDA POINT 9**

The heading above refers following our letter with Ref. No. Ref. No. BA 40/104/03/49 dated 7<sup>th</sup> April, 2022.

2. The United Republic of Tanzania has the honour to attach hereto its position on agenda item 9 of the 19th Session of the Compliance Committee.
  
3. Thank you for your cooperation.



Dr. Emmanuel A. Sweke  
**FOR: DIRECTOR GENERAL**

**CC. Dr. Indra Jaya, Vice-Chairperson, Compliance Committee.**

## **POSITION OF THE UNITED REPUBLIC OF TANZANIA ON COMPLIANCE COMMITTEE'S AGENDA POINT 9**

### **BACKGROUND**

At least two CPCs have requested the change of flag on the IOTC record of authorized vessels (RAV) during 2022 of supply vessels that were previously flagged in a different CPC.

However, paragraph 18 (b) of Resolution 21/01, on an interim plan for rebuilding the Indian Ocean yellowfin tuna stock in the IOTC area of competence reads as follows:

“No CPC is allowed to register any new or additional supply vessel on the IOTC record of authorized vessels”

The Secretariat has requested this delegation to seek guidance in this Committee on the interpretation of the above-mentioned paragraph 18 (b).

### **DISCUSSION**

The question presented could be briefly described as follows: does paragraph 18 (b) allow developing CPCs to flag a supply vessel that was already listed in the RAV under a different CPC?

Our short answer would be “yes”. Any other interpretation would necessarily transfer a disproportionate burden of conservation action onto developing States.

The question of interpretation of the above-mentioned subparagraph might be approached from different angles, but this Delegation strongly believes that they all lead to the same conclusion.

An objective approach would require focusing on the terms. Under the current wording, a simple change of CPC of a vessel already registered in the RAV would under no circumstances contradict the requirements of this subparagraph.

It is our belief that both the subjective (the intention of the Parties) and the spirit of the resolution confirm this opinion. The legal basis to support this position is simply overwhelming:

- Article 24(b), of the Agreement for the Implementation of the Provisions of the United Nations Convention of the Law of the Sea of December 1982, relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UNFSA); expressly recognizes special requirements of the developing States.
- Article 24(c) of UNFSA further recognizes the need to ensure that conservation and management measures do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto developing States.
- The recommendations adopted by the KOBE II, held in San Sebastian, Spain, June 23 – July 3 2009; require implementing where appropriate a freeze on fishing capacity on a fishery by fishery basis, but also state that such a freeze should not constrain the access to, development of, and benefit from sustainable tuna fisheries by developing coastal States.
- The recommendations adopted by the KOBE III, held in La Jolla, California, 12- 14 July 2011; also remark that considering the status of the stocks, each RFMO should consider a scheme for reduction of overcapacity in a way that does not constrain the access to, development of, and benefit from sustainable tuna fisheries, including on the high seas, by developing coastal States, in particular Small Island Developing States, territories, and States with small and vulnerable economies; and promotes transfer of capacity to developing coastal fishing members within its area of competence where appropriate.
- Article V.2b of the Agreement for the Establishment of the Indian Ocean Tuna Commission itself gives full recognition to the special interests and needs of Members in the region that are developing countries, in relation to the conservation and management and

optimum utilization of stocks covered by this Agreement and encourages the development of fisheries based on such stocks; Article V.2d of the same Agreement requires the Commission to keep under review the economic and social aspects of the fisheries based on the stocks covered by this Agreement bearing in mind, in particular, the interests of developing coastal States. This includes ensuring that conservation and management measures adopted by it do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto developing States, especially Small Island Developing States.

Thus, when approaching the question of interpretation of subparagraph 18 (b), we must always remember that supply vessels are currently registered under CPCs that have already developed their industrial purse seine fleets. Maintaining the status quo by restricting the only redistribution mechanism included in Resolution 21/01 would necessarily collide with the founding principles of UNCLOS, UNFSA, and the IOTC itself.

Once we have reached the conclusion that any interpretation of the subparagraph allows for the transfer, then the interpretation of 18(b) becomes clear.

However, a reasonable CPC could inquire about the limit to this right to transfer supply vessels. This Delegation would then argue that the Commission has already considered and recognized the status of those CPCs which do not count with enough purse seiners to comply with the requirements of subparagraph 18 (a). In those cases, footnote 3 of Resolution 21/01 clarifies that “the subparagraph (a) shall not apply to CPCs which use only one supply vessel”.

It is our understanding that the same exception (but, at the same time, limitation), does apply to the case of vessels transferred to developing CPCs. Thus, the limit would be one single supply vessel that was also previously registered in the RAV.

## **CONCLUSION**

Considering that:

- Subparagraph 18 (b) does not forbid the transfer to a different CPC of the supply vessels already registered in the RAV.
- There is an overwhelming legal basis to support the responsible transfer of capacity to developing coastal CPCs.
- Any interpretation of subparagraph 18 (b) that would mean denial of developing CPCs' inspirations to use supply vessels, clearly transfers a disproportionate burden of conservation action onto developing States.

Tanzania is convinced that subparagraph 18 (b) does allow developing CPCs to flag a supply vessel that was previously listed in the RAV under a different CPC.