



ON A PRECAUTIONARY PROHIBITION ON THE USE OF DRIFTING FISH AGGREGATING DEVICES (DFADS) IN THE IOTC AREA

SUBMITTED BY: INDIA

Explanatory memorandum

The proposed precautionary prohibition of the use of drifting fish aggregating devices (DFADs) serves the purpose of applying the precautionary approach conservation, management and exploitation of tuna stocks in the IOTC area of competence in order to protect the living marine resources and preserve the marine environment, as required by Articles 5 and 6 of the UNFSA as well as Resolution 12/01, *On the implementation of the precautionary approach*. There is a growing body of evidence that the use of DFADs in conjunction with purse seine vessels results in extremely high catches of juvenile tuna, in particular yellowfin and bigeye tuna, which has implications for the sustainability of tuna stocks, as well as other harmful effects on ecosystems and the marine environment more generally. These harmful effects include, but not limited to, higher bycatch rates including catch of vulnerable species such as sharks and sea turtles, Ghost fishing by abandoned or lost dFADs, stranding of dFADs in coastal areas potentially damaging coral reefs; leading to pollution (A recent study estimated that more than 90% of dFADs are never retrieved after deployment and that this loss contributed as much as 225,720 metric tonnes of plastic debris over the period 2016– 2020); altering pelagic environments, probable disruption of natural behaviours and distribution patterns of tuna, fragmentation of tuna schools, etc. At the same time, scientific knowledge about the extent of harmful impacts of DFAD use and technologies and practices to reduce such harmful impacts (such as seasonal and/or spatial DFAD closures) remains inadequate.

Against this background and bearing in mind that the yellowfin tuna stock, in particular, is currently under pressure and more effective conservation measures are required, the IOTC should apply the precautionary approach, pursuant to which “States shall be more cautious when information is uncertain, unreliable or inadequate. The absence of adequate scientific information shall not be used as a reason for postponing or failing to take conservation and management measures” (Article 6(2) UNFSA). The proposed precautionary prohibition of the use of DFADs will remove the risks posed by purse seine fisheries on DFADs until such time that the impacts of these devices and potential mitigating measures are sufficiently well understood on the basis of reliable scientific knowledge. The prohibition itself will provide an opportunity to monitor the overall impact of DFAD use on tuna stocks in the IOTC area of competence, which is mostly being used in the high seas.

RESOLUTION 23/XX
ON A PRECAUTIONARY PROHIBITION ON THE USE OF DRIFTING FISH AGGREGATING
DEVICES (DFADS) IN THE IOTC AREA

Keywords: drifting fish aggregating devices (DFADs), precautionary approach

The Indian Ocean Tuna Commission (IOTC),

BEARING IN MIND that the United Nations Convention of the Law of the Sea requires all States to cooperate with a view to ensuring conservation of highly migratory fish stocks and to protect and preserve the marine environment;

RECALLING that the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UNFSA) requires States to apply the precautionary approach widely to conservation, management and exploitation of highly migratory fish stocks in order to protect the living marine resources and preserve the marine environment;

RECALLING FURTHER that the UNFSA requires States to be more cautious when information is uncertain, unreliable or inadequate and prohibits States from using the absence of adequate scientific information as a reason for postponing or failing to take conservation and management measures,

MINDFUL of the call upon States, either individually, collectively or through regional fisheries management organisations and arrangements in the United Nations General Assembly Resolution 67/79 on Sustainable fisheries to collect the necessary data in order to evaluate and closely monitor the use of large-scale fish aggregating devices and other devices, as appropriate, and their effects on tuna resources and tuna behaviour and associated and dependent species, to improve management procedures to monitor the number, type and use of such devices and to mitigate possible negative effects on the ecosystem, including on juveniles and the incidental bycatch of non-target species, particularly sharks and marine turtles;

RECALLING that the objective of the IOTC Agreement is to ensure, through appropriate management, the conservation and optimum utilisation of stocks covered by the IOTC Agreement and encouraging sustainable development of fisheries based on such stocks and minimising the level of bycatch;

TAKING INTO ACCOUNT the recommendations made by the first meeting of the Joint Tuna RFMO FAD Working Group;

RECALLING that Resolution 12/01, *On the implementation of the precautionary approach* requires the IOTC to apply the precautionary approach, in accordance with relevant internationally agreed standards, in particular with the guidelines set forth in the UNFSA, and to ensure the sustainable utilisation of fisheries resources as provided in Article V of the IOTC Agreement;

CONCERNED that despite the adoption of Resolution 15/09, *On a Fish Aggregating Devices (FADs) Working Group*, there has been little progress and willingness to improve scientific knowledge and transparency about the use and impacts of FADs;

CONVINCED that a precautionary prohibition of the use of DFADs by purse seine vessels in the IOTC area of competence would significantly reduce pressure on tuna stocks, in particular through a reduction of catch of juvenile yellowfin and bigeye tuna, pending improvements in scientific knowledge.

ADOPTS, in accordance with paragraph 1 of Article IX of the IOTC Agreement, the following:

Definitions

1. For the purposes of this Resolution:
 - a) Fish Aggregating Device (FAD) means a permanent, semi-permanent or temporary object, structure or device of any material, man-made or natural, which is deployed and/or tracked, for the purpose of aggregating target tuna species for consequent capture.
 - b) Drifting Fish Aggregating Device (DFAD) means a FAD not tethered to the bottom of the ocean. A DFAD typically has a floating structure (such as a bamboo or metal raft with buoyancy provided by buoys, corks, etc.) and a submerged structure (made of old netting, canvass, ropes, etc.).

Application

2. This Resolution applies to all CPC flag purse seine vessels and associated supply and support vessels fishing for tuna or tuna-like species in the high seas within the IOTC area of competence.

Prohibition of DFADs

3. The use of DFADs within the high seas of the IOTC area of competence shall, as a precautionary measure, be prohibited from 1 January 2024, without prejudice to the adoption of an earlier prohibition of DFADs by the Commission.

~~4. For the purpose of this Resolution, DFADs deployed in the territorial waters of coastal States by small-scale artisanal fishery will be exempted from this prohibition.~~

- ~~5.4.~~ CPCs shall take all measures necessary to prevent their fishing vessels and associated supply and support vessels from using DFADs in the high seas of the IOTC area of competence by 1 January 2024.

- ~~6.5.~~ CPCs shall take all necessary measures to ensure that owners and operators of their flag vessels retrieve all DFADs ~~deployed by their flag vessels by 1 January 2024.~~

a) deployed by their flag vessels in the high seas of the IOTC area of competence by 1 January 2024.

b) deployed by their flag vessels in an Exclusive Economic Zone in the IOTC area of competence that have drifted into the high seas.

- ~~7.6.~~ CPCs shall include in their annual Report of Implementation a summary of monitoring, control and surveillance measures related to DFAD use in the high seas of the IOTC area of competence.

- ~~8.7.~~ The measure contained in this Resolution shall not prevent CPCs from taking more stringent measures to regulate the use of DFADs in the IOTC area of competence.

Entry into force

- ~~9.8.~~ This Resolution shall enter into force on 1 January 2024.

- ~~10.9.~~ The Secretariat shall submit a report, on an annual basis, to the IOTC Compliance Committee on the level of compliance of each CPC with all the obligations under this Resolution.

- ~~11.10.~~ This Resolution shall be reviewed by the Commission, at the latest, at its Session in 2029 based

on recommendations from the IOTC Scientific Committee.

~~12.1.~~ This Resolution takes precedence over Resolution 19/02, Procedures on a fish aggregating devices (FADs) management plan, including more detailed specification of catch reporting from FAD sets, and the development of improved FAD designs to reduce the incidence of entanglement of non-target species ~~is superseded by this Resolution~~ insofar as the two Resolutions are incompatible.