

02 March 2023

## IOTC CIRCULAR 2023-14

Dear Madam / Sir

### OBJECTION FROM KENYA TO IOTC RESOLUTION 23/02

Please find attached a communication from Kenya regarding its objection, in accordance to Article IX (5) of the IOTC Agreement, to [Resolution 23-02](#) *On Management of Drifting Fish Aggregating Devices (DFADs) in the IOTC area of competence*, which was adopted at the 6<sup>th</sup> Special Session of the IOTC.

Given a previous objection, an extension period of 60 days has already been applied to the date when Resolution 23/02 will come into force. Thus, Resolution 23/02 will come into force on 8 August 2023, unless a total of more than one-third of the members also object, before this time. Kenya's objection is the third to be received.

The relevant paragraphs (5, 6 and 7) of Article IX on the ensuing process are reproduced herein for your reference.

*5. Any Member of the Commission may, within 120 days from the date specified or within such other period as may be specified by the Commission under paragraph 4, object to a conservation and management measure adopted under paragraph 1. A Member of the Commission which has objected to a measure shall not be bound thereby. Any other Member of the Commission may similarly object within a further period of 60 days from the expiry of the 120-day period. A Member of the Commission may also withdraw its objection at any time and become bound by the measure immediately if the measure is already in effect or at such time as it may come into effect under this article.*

*6. If objections to a measure adopted under paragraph 1 are made by more than one-third of the Members of the Commission, the other Members shall not be bound by that measure; but this shall not preclude any or all of them from giving effect thereto.*

*7. The Secretary shall notify each Member of the Commission immediately upon receipt of each objection or withdrawal of objection.*

Yours sincerely



Christopher O'Brien  
Executive Secretary

#### Attachment:

- letter from Kenya

#### Distribution

**IOTC Contracting Parties:** Australia, Bangladesh, China, Comoros, Eritrea, European Union, France (Territories), India, Indonesia, Iran (Islamic Rep of), Japan, Kenya, Rep. of Korea, Madagascar, Malaysia, Maldives, Mauritius, Mozambique, Oman, Pakistan, Philippines, Seychelles, Somalia, South Africa, Sri Lanka, Sudan, United Rep. of Tanzania, Thailand, United Kingdom, Yemen. **Cooperating Non-Contracting Parties:** Liberia. **Intergovernmental Organisations, Non-Governmental Organisations.** Chairperson IOTC. **Copy to:** FAO Headquarters, FAO Representatives to CPCs.

This message has been transmitted by email only

REPUBLIC OF KENYA



MINISTRY OF MINING, BLUE ECONOMY AND MARITIME AFFAIRS  
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27<sup>th</sup> February 2023

**Mr. Christopher O'Brien**

The Executive Secretary

Indian Ocean Tuna Commission (IOTC)

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**Victoria, SEYCHELLES**

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Dear *O'Brien,*

**OBJECTION OF THE GOVERNMENT OF KENYA TO THE IOTC RESOLUTION 23/02 UNDER  
ARTICLE IX (5) OF THE IOTC AGREEMENT**

**Ref: IOTC Circular 2023-09 from 9<sup>th</sup> February 2023**

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At the 6<sup>th</sup> Special Session of the Indian Ocean Tuna Commission held in Mombasa, from 3<sup>rd</sup> to 5<sup>th</sup> February, the Commission approved by voting Resolution 23-02 "On Management of Drifting Fish Aggregating Devices (DFADs) in the IOTC area of competence".

As I personally stated at the opening statement of that meeting, the position of the Kenyan Government was to withdraw the proposal that they initially lead as proponent, waiting for a formal approval at Government level and based on further scientific evidences required before adopting a measure so important of the Indian Ocean Tuna Fishery.

The new elected Government of Kenya needs some time to reflect of the IOTC measure, as an important component of the development plans that our country has in relation to tuna fishing. We consider that IOTC CPCs should work in a collaborative spirit, looking to adopt the measures by consensus, as a ratification of that cooperative spirit. Forcing for a vote has never been on that cooperative

spirit that Kenya is trying to promote at IOTC, and the result of the voting has been contrary to the political interest of the Kenyan Government and its tuna fisheries development plans.

Therefore, following Article IX (5) of the IOTC Agreement, The Kenyan Government officially objects Resolution 23-02 "On Management of Drifting Fish Aggregating Devices (DFADs) in the IOTC area of competence", approved on the 5<sup>th</sup> February 2023, that will not be applied to our country.

Kenya recognises that IOTC should continue working for the benefit of all CPCs members, and forcing the vote by some parties, influenced by commercial interests sometimes totally irrelevant to them, cannot be used as a legitimate ruling at international matters.

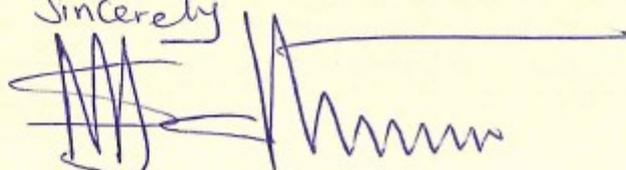
Kenya remains committed to continue working on the cooperative spirit at IOTC for the benefit of tuna stocks and all CPCs, and not only for the interests of some against the rest. We pledge that this spirit could prevail at the next IOTC Commission meeting in May in Mauritius and this matter could be reconsidered.

As per the provisions of Article IX of the IOTC Agreement, I would be grateful if you could circulate this letter to all CPCs concerned.

Please accept, Mr O'Brien, the assurance of my highest consideration.

Yours

Sincerely

A handwritten signature in blue ink, consisting of several vertical strokes followed by a horizontal line and a wavy tail.

**HON. SALIM MVURYA, EGH  
CABINET SECRETARY**