

19 September 2024

## IOTC CIRCULAR 2024-47

Dear Madam / Sir

### OBJECTION FROM OMAN TO IOTC RESOLUTION 24/02

Please find attached a communication from the Sultanate of Oman regarding its objection, in accordance to Article IX (5) of the IOTC Agreement, to [Resolution 24-02](#) *On Management of Drifting Fish Aggregating Devices (DFADs) in the IOTC area of competence*, which was adopted at the 28<sup>th</sup> Session of the IOTC.

Given this objection, an extension period of 60 days has been applied to the date when Resolution 24/02 will come into force. Thus, Resolution 24/02 will come into force on 19 November 2024, unless a total of more than one-third of the members also object, before this time. Oman's objection is the first 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



Paul de Bruyn  
Executive Secretary

#### Attachment:

- letter from Oman

#### Distribution

**IOTC Contracting Parties:** Australia, Bangladesh, China, Comoros, 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

Sultanate of Oman

Ministry of Agriculture, Fisheries Wealth & Water Resources



سلطنة عُمان

وزارة الزراعة والثروة السمكية ووزارة المياه

No. : .....

الرقم : .....

Date : .....

التاريخ : .....

Date : .....

الموافق : 2024-09-11

Mr Paul de Bruyn

Executive Secretary

Indian Ocean Tuna Commission

Dear Sir,

**Subject : Objection to IOTC Resolution 24-02 "on management of drifting fish aggregating devices (FADs) in the IOTC Area of Competence"**

I have the honour to refer to Circular 2024-28 which outlines the Conservation and Management Measures ("CMM") adopted by the IOTC during its 28<sup>th</sup> annual session, held in Bangkok from the May 13 to 17, 2024.

In accordance with Article IX (5) of the IOTC Agreement, the Sultanate of Oman ("Oman") hereby submits this formal communication to express **its official objection to Resolution 24-02 "on Management of Drifting Fish Aggregating Devices (DFADs) in the IOTC area of competence"**.

The IOTC Agreement **does not require Contracting Parties ("CPCs")** to provide explanations or alternative measures when objecting to a CMM. Furthermore, the IOTC Agreement does not include provisions for submitting such objections to an *ad hoc* panel which would allow members to initiate a review of the legality and non-discriminatory character of any contentious CMMs following their adoption.

However, Oman explains below the main reasons why it has decided to object Resolution 24-02.

**1. On-going negotiations to reach consensus and not to object Resolution 24-02.**

During the 28<sup>th</sup> annual session of the Commission, Oman already stated through several oral interventions that it was not in a position to agree with the two versions of the draft resolution related to DFADs that were under discussion and that, at the request of the Chairwoman, had been prepared during the week by the Sponsors of the proposals and the designated Facilitator CPCs working in the preparation of a consolidated Resolution on management of DFADs.

Oman raised serious concerns, both on procedural aspects and on the merits of these versions.

Oman, being a coastal State developing a balanced fleet of tuna purse seiners, reiterated its request to the Sponsors to participate in the discussions to draft a consolidated version, but unfortunately was not invited to work with the Sponsors, despite being a directly affected CPC.

For those reasons, Oman respectfully stressed the same concerns during the 15-minutes Heads of Delegations (“HoDs”) Meeting that took place on Friday, May 17<sup>th</sup> during lunchtime where the Sponsors and the Facilitator CPCs presented their final version of the consolidated draft Resolution on management of DFADs, just minutes before the commencement of the final afternoon session of the Commission, and last session of the Meeting.

In an effort to find out a settlement solution to avoid the deadlock and reach consensus on this relevant Resolution on management of DFADs, Oman requested just two amendments to the version that the Facilitator CPCs was presenting to the Commission a few minutes later.

A “gentlemen” agreement was reached to introduce **two amendments to the wording of Points 18 (DFADs limits) and Point 44 (Supply Vessels)** to the draft Resolution which was to be immediately presented to the Commission. Please find below in Points 2.1.9 and 2.1.10 further arguments on those amendments. In exchange, **Oman agreed not to block the adoption of Resolution 24-02 and, more important, not to object it later.**

Unfortunately, once the session started to adopt Resolution 24-02, the leading sponsor CPC decided to remain silent, and the Facilitator also decided to move forward without considering Oman’s amendments to the draft Resolution, and therefore, Oman’s requests were not discussed.

## 2. Reasons to object

### 2.1. General remarks

#### 2.1.1. Main reasons to last year objections to Resolution 23-02 made by 11 CPCs have not changed

First of all, and repeatedly stated during the 28<sup>th</sup> Session, Oman fully supports conservation and management measures which aim at the sustainable exploitation and management of the tuna resources in the Indian Ocean.

However, when reading the number of objections letters submitted by more than 11 CPCs against Resolution 23-02 (the previous Resolution adopted in the intersessional meeting in 2023 that took place in Kenya), all published in the IOTC website, **it is important to highlight that most of the points included in those objections to Resolution 23-02 by a very relevant number of CPCs have not been taken into account at all in Resolution 24-02.**

Therefore, Oman sees no reasons to change its position.

The objection of Oman is a call for the different CPCs involved to reach an agreement based **in consensus and a balanced management of the different gears currently in use in the Indian Ocean tuna fisheries, and considering not to jeopardize the industrial fleets of "emerging" CPCs that operate or will develop soon purse seiners, once they will benefit of higher quotas for instance of yellowfin - once the Technical Committee on Allocation Criteria ("TCAC") adopts a draft proposal of allocation criteria.**

#### 2.1.2. Absence of proven basis of scientific evidence

During the Commission's meeting in Bangkok, Oman also emphasized that the adoption of a new Resolution on DFADS **should be based on scientific evidence but also keeping under review the economic and social aspects of the fisheries as provided under Article V 2 (c) and 2 (d) of the Agreement** for the establishment of the Indian Ocean Tuna Commission which reads as follows:

(c) *"to adopt in accordance with Article IX and on the basis of scientific evidence, conservation and management measures, to ensure the conservation of the stocks covered"*

(d) *"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 interest of developing Coastal States".*

Letters c) and d) of the IOTC Agreement carry equal weight and importance.

**2.1.3. Resolution 24-02 reflects a partial view of the burden that various fishing gears should bear in attaining the sustainability of tuna stocks in the Indian Ocean.**

Furthermore, Oman strongly believes that a thorough investigation into the usage of DFADs in the purse seiner fishery will facilitate the Commission to take appropriate and consolidates decisions on the management of DFADS in the future.

This relevant point was one of the main reasons why so many CPCs objected Resolution 23/02 adopted in Kenya, but nothing has improved on this so Oman sees no reasons to support Resolution 24-01.

In the meantime, Oman is free to promote which type of fleet and gears that best aligns to its interests and reality. Similar to how other CPCs have promoted the use of Fixed FADS, longline or gill-netting, Oman prioritizes to develop a minimum industrial fleet of purse seiners using DFADs.

**2.1.4. Disproportionate restrictions to coastal developing State committed to develop a balance mixed of artisanal-coastal and industrial fleet targeting tunas.**

Resolution 24-02 places a **disproportionate burden on CPCs**, particularly on coastal developing States like Oman, who has not only aspirations but is actively demonstrating progress in developing a mixed local-coastal and industrial fleet targeting tunas and tuna like species.

It is true that Point 18 of Resolution 24-02 includes a provision for lowers DFAD Limits in favour of CPCs only operating two purse seiners (focusing in a particular CPC who was sponsor of the Resolutions on DFADs), there is no mention of any provisions in favour of developing coastal States that have plans to develop a minimum industrial fleet of purse seiners, in particular, when allocation of quotas such as yellowfin will be hopefully soon adopted by the Commission. Would only the artisanal fleets of those developing coastal States be permitted to catch these quotas, or will the right to transfer quotas between CPCs become the norm for such States?

Developing States have the same right to operate a minimum industrial fleet like other Distant Water CPCs have made across the years, and also Small Island Coastal Developing CPCs.

**2.1.5. Social economic aspects of coastal developing States have not been taken into account.**

Last but not least, from an economic and social point of view, Resolution 24/02 **shall hinder transition of the smooth and continuous supply of raw material to local canneries** and result in severe losses in revenue for the developing Coastal States such as the Sultanate of Oman, who always informed the Commission about the right of coastal developing States to develop a minimum industrial fleet.

**2.1.6. Review of the legality. CPCs shall keep the right to exercise full and exclusive jurisdiction over their registered purse seiners.**

IOTC Agreement does not allow IOTC to interact directly with operators (buoy owners) of purse seiners, as imposed by Resolution 24-02, but only via the CPC. The conditions of the DFAD Register do not comply with IOTC Agreement, in particular the obligation by buoy owners to directly insert in the DFAD Register information concerning the deployment of instrumented buoys (point 4 onwards).

CPCs with registered purse seiners shall have the right to continue exercising full **and exclusive jurisdiction** over its fleet of purse seiners. And those CPCs are then bound to provide to the IOTC Secretariat the data and information related to DFADs deployed by their registered purse seiners.

It is very rare that an International Agreement imposes private operators to provide directly data and/or information to the Secretariat of an international organization and/or even to a third State member of that organization, without the prior agreement of the flag State of the vessel. If a CPC requests data or information on DFADs deployed by a purse seiner from another CPC, only this one would have the right to decide to grant access to this information and data. There is a transfer of jurisdiction not covered by the IOTC Agreement.

**Access to DFADs data to a third CPC by the IOTC Secretariat (POINT 5).** In Resolution 24/02, the IOTC Secretariat is entitled, under certain conditions, to grant access to a third CPC data and/or information on DFADs deployed by purse seiners registered by other

CPCs. The flag State of the purse seiners will lose the right to decide to grant such an access to the third CPC.

As a conclusion, the way the DFADs Register and monitoring system set up by Resolution 24-02 raises several concerns:

- It imposes different obligations to buoys owners to provide direct data and information to the IOTC Secretariat, ie without intervention of the CPCs where the purse seiners are registered. IOTC is a State-to-State international Convention.
- Access to the DFADs related to letters d and e) data by CPCs other than the CPCs where the buoys owner is registered. The provisions related to the creation of the DFADs Registers does not preserve the confidentiality and data protection of buoys operators.
- the system of data protection is not guaranteed to preserve the rights of shipowners.

#### **2.1.7. Further legal uncertainties about the access and use by other CPCs to the protected data related to DFADs versus the Resolution 23-01 on AFADs**

In Resolution 23-01 on management of anchored fish aggregating devices (AFADs), *the AFAD location data provided by the CPCs as required by paragraph 8 of this Resolution shall only be used for the purposes of the Scientific Committee and relevant Working Parties and should not be publicly shared or circulated for any other purpose.*

Why Resolution 24/01 set up a different procedure to provide access and use of the protected data to other CPCs than the flag State of the purse seiner?

#### **2.1.8. Absence of advice from SCAF**

There are also other procedural points such as the absence of advice from SCAF on the budget to be spent by IOTC Secretariat to implement the measures adopted in the objected Resolution 24-02:

Absence of budget to implement Resolution 24-02  
Investment on IT tools, new IOTC Data Officers to hire, etc  
SCAF has not approved any budget yet.





**Why limit the benefits to any CPCs operating only two purse seiners registered in 2023**, particularly in favor of the interest of a particular CPC? This measure has not been adopted to support developing Coastal States, but rather to benefit other developed CPC operating two purse seiners and considering the fact that a third vessel will be operational soon to replace a purse seiner that was damaged by fire.

Furthermore, Point 19 provides a significantly smaller reduction exclusively to Small Island Developing Coastal CPCs which will enjoy a greater derogation, irrespective of their number of purse seiners operating in the IOTC Area of Competence. Only one of those CPCs operates more than 14 purse seiners.

Furthermore, it includes a discrimination that affects to Coastal Developing States that are developing a minimum industrial fleet, and who will be hardly penalized versus the Small Island Developing Coastal CPCs and other CPCs which are already operating a relevant number of tuna purse seiners in the IOTC Area of Competence.

What is the legal rationale behind this disparity, and why has another category related to developing Coastal States not been included?

Purse seiners represent only 33% of total catches, while minimum level paying fields would be needed to adopt also measures against other types of fishing gears, such as drift nets, Fix Aggregated Devices and gill-netting.

#### **2.1.10. Supply Vessels (Point 44) The ban to register supply vessels to those CPCs that have not registered anyone yet is clearly discriminatory in particular for developing Coastal States**

##### **Supply Vessels**

*44) CPCs shall gradually reduce supply vessels in purse seine operations targeting tropical tuna as follows:*

*a) By 1 January 2026: 3 supply vessels in support of not less than 12 purse seine vessels, all of the same flag State.*

*b) By 1 January 2029: 3 supply vessels in support of not less than 15 purse seine vessels, all of the same flag State.*

***c) Subparagraphs a) and b) do not apply to CPCs with one supply vessel actively operating in the IOTC area of competence.***

*d) CPCs shall ensure that a single purse seine vessel shall not be supported by more than one supply vessel of the same flag State at any time.*

***e) CPCs shall not register any new or additional supply vessels on the IOTC Record of Authorised Vessels.***

Furthermore, it eliminates the right of registering supply vessels to those CPCs who have not registered any supply vessel yet, even a supply vessel already registered by other CPS in the Record of Authorised Vessels ("RAV") of the IOTC.

Point 44 is inconsistent with the provisions on supply vessels included in other IOTC Resolutions 19-01 and 21-01.

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With these objections, we foresee the ineffectiveness of the enforcement of this CMM.

Oman has also noted that other CPCs voted against this Resolution.

All members of a Regional fisheries management organisations ("RFMOs") may object to a CMM, as also stated in the IOTC. Any other Member of the Commission may similarly object within a further period from the expiry of the 120-day period. This generally applies regardless of whether they voted in favour of the CMM's adoption or whether they refrained from blocking consensus.

Oman therefore wishes to notify the Commission that it is hereby recording its objection to Resolution 24-02.

A Member of the Commission which has objected to a measure shall not be bound thereby.

As per Article IX of the IOTC Agreement, we should be grateful if this letter could be circulated to notify the objection decision of Oman to all CPCs.

Oman remains open to discuss with interested CPCs to prepare an amended resolution to Resolution 24-02.

Please accept dear Executive Secretary the assurances of my highest consideration.



**Dr Abdulaziz Al-Marzouqi**

**Director General of Fisheries Resources Development  
- Head of Oman Delegation to the IOTC**

