



ON VESSEL CHARTERING IN THE IOTC AREA OF COMPETENCE

SUBMITTED BY: EUROPEAN UNION

Explanatory Memorandum

This Revision includes corrections to references in the text, typographic errors and formatting

The proposed Resolution revokes the following Resolutions:

- Resolution 19/07 *On Vessel Chartering in the IOTC Area of Competence*.

**RESOLUTION XX/XX
ON VESSEL CHARTERING IN THE IOTC AREA OF COMPETENCE**

Keywords: Charter, conservation, data.

The Indian Ocean Tuna Commission (IOTC),

RECOGNIZING that, under the IOTC Agreement, Contracting Parties shall desire to cooperate with a view to ensuring the conservation of tuna and tuna-like species in the Indian Ocean and promoting their optimum utilization;

RECALLING that, according to Article 92 of the United Nations Convention on the Law of the Sea, of 10 December 1982, ships shall sail under the flag of one State only and shall be subject to its exclusive jurisdiction on the high seas except as otherwise provided in relevant international instruments;

ACKNOWLEDGING the needs and interests of all States to develop their fishing fleets to enable them to fully utilize the fishing opportunities available to them under relevant IOTC Conservation and Management Measures;

ACKNOWLEDGING the important contribution of chartered vessels to sustainable fisheries development in the Indian Ocean;

MINDFUL that the practice of charter agreements, whereby fishing vessels do not change their flag, might seriously undermine the effectiveness of Conservation and Management Measures established by the IOTC unless properly regulated;

CONCERNED with ensuring that charter agreements do not promote IUU fishing activities or undermine IOTC Conservation and Management Measures;

REALIZING that there is a need for IOTC to regulate charter agreements with due regard to all relevant factors;

REALIZING that there is a need for the IOTC to establish procedures for charter agreements;

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

Part I: Definitions

- 1) **Chartering of vessels:** means an agreement or a contractual arrangement whereby a fishing vessel flying the flag of Contracting Party (CP) is contracted for a defined period of time by an operator in another Contracting Party without the change of flag or transfer of ownership.
- 2) **Chartering CP:** refers to the contracting party under whose jurisdiction the natural or legal person that has chartered a fishing vessel operates or is established. The chartering CP holds the quota allocation or fishing possibilities to be used under the chartering arrangement.
- 3) **Flag CP:** refers to the CP under whose authority the chartered vessel is registered.
- 4) **Chartering agreement:** refers to the contractual arrangement between the vessel owner or operator

and the chartering entity specifying the terms and conditions under which a fishing vessel is chartered.

- 5) **Chartering period:** refers to the period during which a vessel operates as a chartered vessel and fishes under the chartering CP quota.

Part II: Objective

- 6) Charter agreements may be allowed, predominantly as an initial step in the fishery development of the chartering nation. The period of the chartering arrangement shall be consistent with the development schedule of the chartering nation. The chartering agreement shall not undermine IOTC Conservation and Management Measures.

Part III: General provisions

- 7) The chartering agreement shall be subject to the following conditions:
- a) The chartering agreement is limited to vessels flying the flag of a contracting party of IOTC;
 - b) The chartered vessel is fully authorised to operate in the IOTC Area of Competence and is included on the IOTC Record of Authorised Vessels (RAV);
 - c) The chartered vessel is not on the IOTC IUU vessel list and/or on the IUU vessel list of any other Regional Fisheries Management Organisation;
 - d) The chartered vessel is equipped with a vessel monitoring system (VMS);
 - e) The chartered vessel reports fishing information in an electronic logbook, to ensure that data is reported in a coherent manner;
 - f) The flag CP has consented in writing to the chartering agreement;
 - g) The initial duration of the chartering agreement does not exceed twelve months;
 - h) Both the chartering CP and the flag CP effectively fulfil their obligations under international law, including the IOTC Agreement and relevant IOTC Resolutions, to ensure control and monitoring of the activities of its fishing vessels;
 - i) The chartering agreement does not undermine any IOTC Resolution; [and](#)
 - j) The chartering agreement does not undermine applicable legislation of the chartering CP or the flag CP.
- 8) All catches, including bycatch and discards, taken during a chartering period (including pursuant to a chartering agreement that existed prior to the adoption of IOTC Resolution 18/10), shall be attributed to the chartering CP. For species under quota or catch limit, catches shall be counted against the quota or fishing possibilities of the chartering CP.
- 9) The chartered vessels shall not simultaneously use the quota or catch limit of the chartering CP and the flag CP.
- 10) A vessel shall not operate under more than one chartering agreement at the same time.
- 11) Any specification of date reported under this Resolution shall be expressed in full calendar days. The applicable fishing regime shall apply for the entirety of each calendar day included within the specified period.

Part IV: Responsibilities

12) The chartering CP shall have the following duties and responsibilities:

- a) Ensure that the chartered vessel operates in accordance with the fishing authorisations of the vessel;
- b) Ensure that all information relating to fishing activities under the charter agreement is accurately recorded, fully and timely reported;
- c) When the chartered vessel operates in the waters under its jurisdiction, ensure compliance with monitoring, control, and surveillance requirements; and
- d) Report all information relating to fishing activities, including catch, effort, and bycatch data shall be reported to the IOTC Secretariat by the chartering CP in line with the appropriate deadlines. The flag CP shall also receive the information reported to the IOTC Secretariat.

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The flag CP shall retain primary responsibility for exercising effective jurisdiction and control over vessels flying its flag. The flag CP shall:

13) Monitor the activities of the vessel and ensure that the chartered vessel complies with IOTC Agreement and Resolutions, relevant regulations of the chartering CP and the relevant regulations of the coastal State if the vessel operates in an area under national jurisdiction;

- a) Ensure that the chartered vessel operates in accordance with its fishing authorisations;
- b) Investigate any alleged violations involving the vessel; and
- ~~c) Take appropriate enforcement action, including sanctions where violations are confirmed;~~
- ~~c) Take appropriate enforcement action, including sanctions where violations are confirmed;~~

14) The flag CPC and chartering CPC shall cooperate to ensure compliance and enforcement of the ~~Convection measures~~ IOTC Resolutions, including:

- a) Exchanging all relevant information concerning chartered vessel activities;
- b) Communicating in real time the control data, in particular VMS and fishing data of the chartered vessel, from the Flag states to the chartering CP.
- c) Notifying the chartering scheme
- d) Promptly notifying each other and the IOTC Secretariat of any suspected violations;
- e) Cooperating in investigations; and
- f) Taking complementary enforcement actions where appropriate.

15) The chartered vessel shall:

- a) Report VMS and catch data to both the CPs (chartering and flag) and to the IOTC Secretariat;
- b) Carry, at all time, a copy of the fishing authorisation issued by the chartering CPC, a copy of the chartering agreement and any other relevant documentation.

16) The IOTC Secretariat shall:

- a) Maintain a record/list of chartered vessels;
- b) Update the IOTC RAV with the information received on chartering;

- c) Verify and circulate notifications;
- d) Cross-check chartered vessels against IUU vessel lists and vessel records;
- e) Prepare an annual report on chartering arrangements;
- f) Provide relevant information to the Compliance Committee.

Part V: Monitoring and control

- 17) The minimum observer coverage shall be in line with the requirement of Resolution 25/06 on a Regional Observer Scheme. All other provisions of Resolution 25/06 apply mutatis mutandis in the case of chartered vessels. The observer coverage rate during the chartering period on board such vessels shall be counted against the observer coverage obligations of the chartering CP.
- 18) Prior to the activation of the charter agreement or to any resumption or suspension of the chartering period, the flag CP shall ensure that the vessel has landed or transhipped all catches taken under its fishing authorisation.
- 19) The procedures adopted to ensure proper separation, identification, recording, and attribution of catches shall be specified in the notification of the chartering arrangement submitted to the IOTC Secretariat. In case a chartering CP is objecting any IOTC Resolution, the chartering CPC shall report, in its initial notification, on measure in place to ensure that the chartering agreement does not undermine that Resolution.
- 20) Unless specifically provided in the chartering agreement, and consistent with relevant domestic law and regulation, the catches of the chartered vessels shall be unloaded exclusively in the Ports of the chartering CP or under its direct supervision in order to assure that the activities of the chartered vessels do not undermine IOTC Resolutions.

Part VI: Charter notification scheme

- 21) At least 72 hours prior to the commencement of the chartering period, the chartering CP shall notify the IOTC Secretariat, and copy the flag CP, of any vessel to be identified as chartered in accordance with this Resolution by submitting electronically the following information with respect to each chartered vessel:
 - a) The name (in both native and Latin alphabets) and registration of the chartered vessel, and International Maritime Organization (IMO) ship identification number;
 - b) The name and contact address of the beneficial owner(s) of the vessel;
 - c) The description of the vessel, including the length overall, type of vessel and the type of fishing method(s) to be used under the charter;
 - d) A copy of the chartering agreement, in accordance with paragraph ~~7-XX~~;
 - e) Any fishing authorisation or license it has issued to the vessel. Those shall include the quota allocation or fishing possibility assigned to the vessel;
 - f) Its consent to the chartering agreement; and
 - g) The measures adopted to ~~to~~ ensure that the chartering agreement does not undermine the IOTC agreement or any IOTC Resolution.
- 22) The flag CP, shall provide the following information to the IOTC Executive Secretary and copy the chartering CP:
 - a) Its consent to the chartering agreement;

- b) The measures adopted to implement these provisions;
 - c) Its agreement to ensure compliance with IOTC Resolutions; and
 - d) The date of commencement of the chartering period.
- 23) Upon receipt of the information required in both paragraphs ~~XX~~21 and ~~XX~~22, the IOTC Executive Secretary shall circulate all the information within 5 business days to all Contracting Parties or Cooperating Non-Contracting Parties, via an IOTC Circular.
- 24) Both the chartering CP and the flag CP shall immediately inform the IOTC Secretariat of the commencement, suspension, resumption and termination of the fishing operations under the chartering agreement.
- 25) Both the chartering CP and the flag CP shall notify any changes to the chartering agreement. The changes shall be considered effective only once both CPs have notified of the changes.
- 26) The IOTC Secretariat shall circulate all the information pertaining to termination of a chartering agreement within 5 business days to all Contracting Parties or Cooperating Non-Contracting Parties, via an IOTC Circular.

Part VII. Authorisation and register

- 27) The chartering agreement shall include the following information:
- a) Dates of commencement and end of the chartering agreement;
 - b) Quota or catch limit for the relevant IOTC species;
 - c) Ports in which the vessel shall land catches taken under the chartering period; and
 - d) Areas under which the vessel will operate.
- 28) The chartering CPC shall issue a fishing authorisation to each chartered vessel. The fishing authorisation shall specify:
- a) The name and identification of the vessel;
 - b) The duration of the charter;
 - c) The authorized fishing area;
 - d) The species and fishing opportunities allocated; and
 - e) The applicable reporting requirements.
- 29) The chartering CP shall report to the IOTC Secretariat any fishing authorisations or licences it issues to the chartered vessel in addition to the ones included in the initial notification under paragraph 22.
- 30) The IOTC Secretariat shall update the RAV to indicate when a vessel is operating during a chartering period. The RAV shall include, at least, the chartering CP, the flag CP, the duration of the charter agreement, the areas of application, and fishing opportunities under which the vessel is authorised to operate. The information of the RAV shall be up-to-date to reflect any commencement, suspension, resumption, termination or change in the chartering period, as notified by the relevant CPs.
- 31) Each year the IOTC Executive Secretary shall present a summary of all the chartering agreements undertaken in the previous year, to the Commission which, at its annual meeting, shall review compliance with this Resolution under advice of the IOTC Compliance Committee.

32) This Resolution supersedes IOTC Resolution 19/07 *On Vessel Chartering in the IOTC Area of Competence*.