



Council of the
European Union

Brussels, 28 July 2014
(OR. en)

10540/1/09
REV 1 DCL 1

PECHE 144

DECLASSIFICATION

of document: ST 10540/1/09
dated: 16 June 2009
new status: Public
Subject: [\[...\]](#)

Delegations will find attached the declassified version of the above document.

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**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 16 June 2009

**10540/1/09
REV 1**

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PECHE 144**

NOTE

from : Commission
on : 15 June 2009
to : Working Party on External Fisheries Policy

Subject : Tuna RFMOs meeting (San Sebastian, 29 June - 3 July 2009)
- Non-Paper (revised)

Following the discussions in the External Fisheries Policy Working Party on 11 June 2009, delegations will find attached a revised version of the document which will constitute the basis for the discussions and possible outcomes in San Sebastian.

Modifications are highlighted as underlined text or deletions [...].

Non Paper Course of Actions of Kobe process 2009-2011

1. The Participants of the Second tuna RFMOs meeting held in San Sebastian, Spain, from 29 June to 3 July 2009;
2. Reconfirm their firm commitment to the course of actions adopted in Kobe in January 2007;
3. Agree that concrete actions should be taken to implement the course of actions of Kobe without delay;
4. Agree that, taking into account the status of the tuna stocks worldwide, considering the current tuna RFMOs performances and the risk that these bodies lose their international credibility as management bodies, there is an urgent need for initiatives aiming at strengthening their actions and performances in the short term;
5. Stress the need for tuna RFMOs to operate on the basis of a sound mandate which foresees the implementation of modern concepts of fisheries management, including good marine governance, conservation of marine biodiversity and the precautionary approach;
6. Desiring to strengthen the co-operation between tuna RFMOs with the objective of agreeing on common standards, approaches and working methods for the purpose of simplification and with the view of avoiding unnecessary duplication of work, and substitute individual RFMO actions with work to be developed in common by all tuna RFMOs on issues of common interest;
7. Welcome the independent performance reviews carried out and ongoing by CCSBT, ICCAT and IOTC;
8. Invite IATTC and WCPFC to carry out such an independent review without delay;
9. Note with concern that the independent performance reviews carried out so far have identified fundamental shortcomings on issues such as science, data collection, compliance, Monitoring Control and Surveillance (MCS), overcapacity and market measures, which need to be addressed without delay;
10. Note further that these shortcomings to a high degree correspond to those identified in the course of actions agreed in Kobe in 2007;
11. Agree that many of these shortcomings should be addressed individually by the concerned RFMOs but also through common actions of the tuna RFMOs within the framework of the Kobe process and that such work could greatly enhance the functioning of these RFMOs;

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12. Emphasise in particular the need for common standards on issues like transshipment control, Vessel Monitoring Systems (VMS), by-catch mitigation measures, catch documentation and market measures as well as scientific data collection and reporting, which tend to differ from one organisation to the next with the result of making the management of tuna fisheries unnecessarily complex, cumbersome and inefficient;
13. Urge all Parties to agree, ratify and implement, as a matter of priority, the currently discussed FAO binding agreement on port state control measures;
14. Emphasise that compliance with basic reporting requirements is fundamental for the functioning of tuna RFMOs;
15. Note with great concern that compliance with reporting requirements in several organisations seem to be poor and need to be enhanced, and recognise the need to address these shortcomings with a comprehensive system of non discriminatory sanctions vis-à-vis Parties which repeatedly fail to comply with the obligations at issue that can ultimately lead to suspension of entitlements and trade of fisheries products of that Party;
16. Agree that this system of sanctions should include incentives to encourage swift and transparent recognition of overfishing and reinforced sanctions for undeclared overfishing;
17. Call for the introduction in all RFMOs of a robust compliance review mechanism by which compliance record of each Party is examined in depth on a regular basis;
18. Notwithstanding the duties of all parties to strictly comply with their obligations under the RFMOs, in particular reporting obligations, RFMOs may extend assistance to developing countries to enhance their capacity in this regard;
19. Recognise that the problem of overcapacity in the tuna sector constitutes one of the main threat to the sustainable exploitation and development to the global tuna resources, and that there is a need for RFMOs, notably through their Scientific Committee, to evaluate the level of overcapacity on a stock by stock basis;
20. Recognise further that despite the efforts to address the problems of overcapacity at regional level, the problem has not been addressed in an adequate manner and now needs to be also tackled at global level through a global rights based regime for the management of fishing effort operated jointly by the tuna RFMOs and therefore agreed that this work should be the top priority of the Kobe process in the coming years;
21. Call for the establishment of a global management of capacity allowing for a system whereby developing nations can develop their fishing sector and make a better use of the fishing opportunities found in their waters in a responsible manner and without compromising the objectives of sustainable fishing activities;
22. Acknowledge, on the one hand, the possible contradiction between the legitimate aspiration of developing states to benefit from their natural resources and the need to harness capacity in relation to the state of the tuna stocks and, on the other hand, agree that a system should be established to support some form of restraint by developing countries where the state of tuna stocks does not allow for any increase of capacity;

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23. Agree to recommend that the following actions be implemented in 2009-2011 through the Kobe process:

Scientific issues

24. A Working Group of scientific experts shall be created. The participation shall be open to Members and Co-operating non Members of the tuna RFMOs in accordance with the rules of each organisation. Observers to any of the tuna RFMOs shall also be invited. (Chair from Australia and Brazil)

25. The meeting shall be organised by IOTC. The purpose of the meeting will be to develop and agree on common standards on the following issues which can be implemented in each tuna RFMO:

- Common standards for data collection of target and non target species needed for scientific evaluations and stock assessments,
- Recommended reporting requirements in support of the above standards,
- Harmonised data validation methods,
- Clear delineation of confidentiality requirements which can be implemented at national level without compromising the need for scientific data collection,
- Enhanced co-operation between tuna RFMOs on stock assessment, *inter alia* through joint meetings, notably to reduce the number of meetings,
- Identification of necessary scientific initiatives such as tagging programmes and a common scientific methodology to deal with their outcomes and results,
- Develop standardised assessments methods,
- Development of harmonised user friendly scientific reports,
- Common standard for dissemination and publication of scientific works,
- Reflection on the possible creation of a common scientific tuna forum, independent and external to RFMOs, which could constitute a unique body including all interested scientists, now dealing with individual RFMOs issues, for a general analysis of the tuna stocks situation worldwide.

26. As a matter of priority the Working Group on Science will assess the state of tuna stocks and of the corresponding fishing capacity. They will determine the method to assess overcapacity and propose targets to restore optimum fishing capacity in line with maximum sustainable yield (MSY). These results will feed into the work of the Working Group on Capacity.

27. The Working group is free to meet on several occasions during 2009-2010 if necessary, work through electronic means or otherwise organise its work as it deems fit.

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Market issues

28. A Working Group of technical experts shall be created. The participation shall be open to Members and Co-operating non Members of the tuna RFMOs in accordance with the rules of each organisation. Observers to any of the tuna RFMOs shall also be invited. (Chair from Japan and the European Community)

29. The meeting shall be organised by ICCAT. The purpose of the meeting will be to develop and agree on common standards on the following issues:

- A model scheme for catch documentation/trade documentation or statistical document programme that can be recommended for application at global level by tuna RFMOs,
- Trade related measure to improve compliance with conservation and management measures established by RFMOs.

30. Given that the regimes on these matters tend to differ from one organisation to the next, the objective of this meeting is to seek harmonisation of existing schemes and develop model schemes which can be implemented in all tuna RFMOs.

31. The working group is free to meet on several occasions during 2009-2010 if necessary, work through electronic means or otherwise organise its work as it deems fit

Monitoring, Control and Surveillance

32. A Working Group of experts shall be created. The participation shall be open to Members and Co-operating non Members of the tuna RFMOs in accordance with the rules of each organisation. Observers to any of the tuna RFMOs shall also be invited. (Chair from Canada and Morocco)

33. The meeting shall be organised by WCPFC. The purpose of the meeting will be to develop and agree on common standards on the following issues which can be implemented in each tuna RFMO:

- An effective and strict regime of sanctions vis-à-vis contracting parties, nationals and vessels that repeatedly fail to comply with the obligations of the organisation, and conversely of incentives for transparency in reporting. This regime could comprise mechanisms for suspension, quota reductions etc. of the rights of non compliant contracting parties, nationals and vessels,
- Assessment of IUU measures in view of their reinforcement, notably by a system for mutual recognition of IUU lists between the tuna RFMOs,
- A model scheme for control and monitoring of transshipment activities,
- Technical and operational guidelines for a centralised VMS system operated at the Headquarters of each RFMO,
- A model scheme for a high seas boarding and inspection procedures,

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- A model scheme for regional observer programmes,
- Enhanced co-operation between tuna RFMOs on monitoring, control and surveillance measures, *inter alia* through joint meetings, notably to reduce the number of meetings,

34. Given that the regimes on these matters tend to differ from one organisation to the next, the objective of this meeting is to seek a harmonisation of existing schemes and develop model schemes which can be implemented in all tuna RFMOs.

35. The Working group is free to meet on several occasions during 2009-2010 if necessary, work through electronic means or otherwise organise its work as it deems fit.

Incidental catches of non target species

36. A Working Group of experts shall be created. The participation shall be open to Members and Co-operating non Members of the tuna RFMOs in accordance with the rules of each organisation. Observers to any of the tuna RFMOs shall also be invited. (Chair from the USA and Australia)

37. The meeting shall be organised by IOTC. The purpose of the meeting will be to develop and agree on common standards on the following issues which can be implemented in each tuna RFMO:

- Technical measures to avoid by-catches of seabirds in sensitive areas by longline vessels,
- Technical measures to avoid by-catches of sea turtles by longline and purse seine vessels,
- Technical measures avoid by-catches of juvenile bigeye tuna by purse seine vessels deploying FADs,
- Measures to ensure sustainable development of shark species.

38. Given that the regimes on these matters tend to differ from one organisation to the next, the objective of this meeting is to seek a harmonisation of existing schemes and develop model schemes which can be implemented in all tuna RFMOs.

39. The working Group should to the extent possible with the MCS working Group to controllability of the recommended measures.

40. The Working group is free meet on several occasions during 2009-2010 if necessary, work through electronic means or otherwise organise its work as it deems fit.

Capacity control

41. A Working Group of experts shall be created. The participation shall be open to Members and Co-operating non Members of the tuna RFMOs in accordance with the rules of each organisation. Observers to any of the tuna RFMOs shall also be invited. (Chair from European Community and Japan)

42. The meeting shall be organised by ICCAT. The purpose of the meeting will be to develop and agree on a global system for the management of fishing capacity, notably on the basis of the findings of the Working Group on Science, to be operated jointly by the tuna RFMOs.

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43. The work should focus on the following elements:

1) Active fishing capacity identification

Ensure that each RFMO establishes a record of active large-scale tuna fishing vessels¹.

2) Optimum level of fishing capacity to grant Maximum Sustainable Yield (MSY) exploitation

Determine, in co-operation with the scientific community and in collaboration with FAO, the current and appropriate level of fishing capacity at regional and global level which would ensure that tuna fish stocks are not harvested above MSY,

Document the historical track record of developed fishing nations participating in tuna fishing activities.

3) Reduction of fishing capacity methodology and developing States issue

Elaborate a global regime for the management of fishing capacity. This regime may include elements such as a rights-based regime for tuna fishing vessels [...].

Create a fund, at each RFMO or global level, [...] which will be used in particular to support developing States and facilitate capacity measures.

The involvement of the relevant donor institutions should also be considered both in their management and/or financial capacity.

This fund would operate a series of instruments notably to assist developing nations in participating in the work of the tuna RFMOs and to fulfil the obligations therein and to create the conditions for those developing States to responsibly have access to tuna fisheries.

Develop a toolbox of measures that may include, *inter alia*, instruments to regulate responsible transfer of fishing vessels to developing nations in full respect of sustainability of resources, requirements for developed fishing nations to make investments in the ports of developing coastal states, make greater use of their ports, employing crew from developing states.

44. The Working group is free to meet on several occasions during 2009-2010 if necessary, work through electronic means or otherwise organise its work as it deems fit.

45. Pending the work of the WG on capacity control, the parties agree on the immediate introduction by RFMOs of the following interim measures:

- Overall capacity should be frozen to current levels (31 December 2008), and any restructuring of capacity should be a zero sum exercise, paving the way for ensuring that capacity matches the state of stocks,
- Parties agree not to transfer fishing capacity from one ocean to another, unless duly justified and notified to the concerned RFMOs.

¹ Vessels over 24 meters overall length, and under 24 meters if they fish in the high seas

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Assistance to developing States fishing in the high seas

46. A Working Group of technical experts shall be created. The participation shall be open to Members and Co-operating non Members of the tuna RFMOs in accordance with the rules of each organisation. Observers to any of the tuna RFMOs shall also be invited. (Chair from Brazil/India/China and possibly a developed country)

47. The meeting shall be organised by ICCAT. The purpose of the meeting will be to develop and agree on common actions and approaches to assist the developing States fishing in the high seas, with the final goal of allowing them to respond to the challenges posed by an active participation to tuna stocks management within the five tuna RFMOs. The work should focus on the following actions:

- Develop a common approach to ensure adequate capacity building assistance to developing countries, including human resource development (training),
- Establish the needs for financial assistance with the view of ensuring developing States full participation in RFMOs and scientific meetings,
- Establishing transfer of scientific knowledge and capacities through ad hoc training of scientists and support to research institutes based in the developing States,
- Establishing mechanisms to enhance fisheries data collection and dissemination and stock assessment capacity,
- Assist the development and implementation of MCS measures.

48. The Working group is free to meet on several occasions during 2009-2010 if necessary, work through electronic means or otherwise organise its work as it deems fit.

Process

49. The Meetings of the Working Groups on Science, Market, Capacity, MCS measures, Developing States and By-catch will be organized by RFMOs Secretariats, as much as possible back-to-back to other Meetings organized by the concerned RFMO.

50. These Working Groups should report on their work by end September 2010. The reports shall be sent to the acting Chair of the Joint tuna RFMOs Meeting who will transmit them to the RFMOs Secretaries in view of their dissemination to RFMOs Contracting Parties.

51. A Ministerial Conference should be convened during the first quarter 2011 and be preceded by a technical meeting.

52. At the Ministerial Conference an Action Plan to be implemented by RFMOs should be adopted.