

24 April 2007

IOTC CIRCULAR 07/07 CIRCULAIRE CTOI 07/07

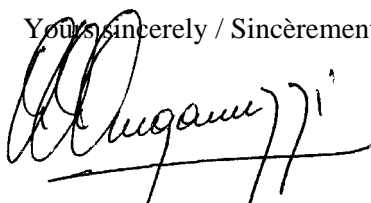
SUBJECT: ACTIONS RELATING TO THE THIRD SPECIAL SESSION OF THE COMMISSION

In accordance with the decisions of the 3RD Special Session of the Commission please find attached two documents exchanged between the Director General of FAO and the Chairperson of IOTC.

SUJET: ACTIONS RELATIVES A LA TROISIEME SESSION EXTRAORDINAIRE DE LA COMMISSION

Conformément aux décisions de la 3^{ème} Session extraordinaire de la Commission veuillez trouver ci-joint deux documents échangés entre le Directeur Général de l'OAA et le Président de la CTOI.

Yours sincerely / Sincèrement



Alejandro Anganuzzi
Executive Secretary / Secrétaire exécutif

Attachments / Pièces jointes :

- Letter from DG-FAO to Chairperson IOTC dated 5 February 2007 / Lettre du DG-FAO pour le Président de CTOI daté 5 Février 2007
- Letter from Chairperson IOTC to DG-FAO dated 23 April 2007 / Lettre du Président de CTOI pour DG-FAO daté 23 Avril 2007

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IOTC Chairperson / Président de la CTOI
E. Spencer

This message has been transmitted by email and fax.
Ce message a été transmis par courriel et télécopie

FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

The Director-General

Rome, 05. II. 2007

LEG-DG/07/121

Dear Mr. Spencer,

I wish to refer to your letter of 22 December 2006 informing me of the decision of the Indian Ocean Tuna Commission (IOTC), at its 3rd Special Session, held in Goa, India, on 17-19 May 2006, to propose changes to the Agreement for the Establishment of IOTC, in order to achieve a more efficient and effective organization. You ask me, in accordance with the provisions of Article XX, paragraph 2 of the Agreement, to circulate to all IOTC Members proposed amendments to the Agreement with a view to their formal adoption at the forthcoming Session of the Commission on 14-17 May 2007.

First of all, I should like to assure you, and through you all the Members of IOTC, that the Organization takes due note of the wish of the Members to adopt amendments intended to remove the Commission from the framework of FAO deemed to allow for its more efficient and effective functioning. In this connection, I should like to express my unreserved commitment, as well as that of all my staff, to facilitating the process that the Commission has decided to accomplish and to give you our assurances that we will take a pro-active stand to that effect.

As is clear not only from the report of the above Session, but also from informal communications received by the FAO secretariat, doubts have been expressed as to the legal correctness of the procedure that the Commission is following for the adoption of the proposed amendments. You will recall that such doubts were also voiced by my representatives at the above Special Session. In particular, it has been emphasized that the IOTC Agreement has been negotiated and concluded under Article XIV of the FAO Constitution as well as detailed procedural rules adopted thereunder, in the course of a process which involved for many years various Governing Bodies of FAO, and, through them, the membership as a whole. It is therefore questionable whether IOTC itself has authority to change its status and whether the procedure being implemented is consistent with the existing framework for the negotiation and conclusion of agreements under Article XIV of the FAO Constitution.

Mr. Edward John Spencer
Chairperson
IOTC Secretariat
Victoria

23 April 2007

Mr Jacques Diouf
Director-General
Food and Agriculture Organization
Rome

Subject : Proposed Amendments to the Agreement for the Establishment of the Indian Ocean Tuna Commission (IOTC)

Dear Mr Diouf,

I wish to thank you for your letter of 5 February last in relation to the decision taken by the Indian Ocean Tuna Commission (IOTC) at its 3rd Special Session, held in Goa, Indian, on 17-19 May 2006.

As a matter of fact, at this Special Session, the IOTC Commission by unanimity agreed to propose amendments to the Agreement for the Establishment of the Indian Ocean Tuna Commission, with a view to their formal adoption at the next Session of the Commission to be held in Mauritius on 13-17 May 2007. Those amendments were transmitted to you by letter of 22 December 2006 in conformity with article XX paragraph 2 of the IOTC Agreement, pursuant to which "The Director General shall immediately inform all Members of the Commission of all proposals for amendments".

I must express my surprise that these proposals for amendments were not circulated as requested by article XX paragraph 2 of the IOTC Agreement.

As you have noted the proposed amendments reflect the political desire of IOTC Members that have identified the clear direction in which they want to see the organisation move forward to achieve a more efficient and effective Organisation which is able to fulfil its conservation and management obligations.

To achieve this objective, which I am happy to see, is shared by FAO, the IOTC Commission examined various legal alternatives. Some of those legal alternatives imply a lengthy process, whereas the process proposed is a more pragmatic and short term solution which is considered to respond more effectively to the main objective of ensuring a responsible management and sustainability of the tuna and tuna like species under the competence of the IOTC.

I am confident that the FAO Governing Bodies involved in the negotiation of the IOTC Agreement, share the concerns and the objectives of the IOTC Members and fully support any decision that the IOTC Members would take to ensure the conservation and optimum utilisation of the stocks.

As Chairperson of the IOTC, and on behalf of its Members, I would like to express my appreciation for your unreserved commitment, as well as that of all your staff, to facilitate the process that the Commission has decided to accomplish as you state in the second paragraph of your letter. In light of this commitment we would look forward for an active cooperation with the FAO in facilitating the changes considered necessary by the IOTC. This cooperation is all the more important as FAO has a continuing major role to play within this Organisation even though IOTC will be independent.

Yours sincerely,

"signed"

John Spencer

Chairperson of the IOTC