

MEMBERSHIP OF SIERRA LEONE AND GUINEA IN THE IOTC

PREPARED BY: IOTC SECRETARIAT, 17 APRIL 2014

PURPOSE

To submit for the consideration of the Standing Committee on Administration and Finance (SCAF), on Members deemed to have withdrawn from the Membership of IOTC.

BACKGROUND

Following the instructions indicated in the last Session of SCAF, the Chair of the Commission, with the assistance of the IOTC Executive Secretary, wrote to Guinea and Sierra Leone (including the other Members with contributions in arrears, totalling more than the previous two combined years of contributions) to seek confirmation of their continued involvement in the IOTC and to request payment for overdue contributions (SCAF10.01 – para. 27 refers).

Of the eight Members contacted (Eritrea, Guinea, I.R Iran, Pakistan, Sierra Leone, Sudan, Kenya and Vanuatu) currently in arrears more than the last two years contributions combined, two are not situated wholly or partly within the IOTC Area and are in arrears for five years or more: Sierra Leone and Guinea.

As the per Article IV (4) on Membership of the Agreement, “*If any Member of the Commission ceases to meet the criteria set out in paragraphs 1 or 2 above [reproduced below] for two consecutive calendar years, the Commission may, after consultation with the Member concerned, determine that the Member is deemed to have withdrawn from this Agreement effective as from the date of that determination*”.

“1. Membership in the Commission shall be open to Members and Associate Members of FAO

(a) that are:

- (i) coastal States or Associate Members situated wholly or partly within the Area;
- (ii) States or Associate Members whose vessels engage in fishing in the Area for stocks covered by this Agreement; or
- (iii) regional economic integration organizations of which any State referred to in subparagraphs (i), or (ii) above is a member and to which that State has transferred competence over matters within the purview of this Agreement;

and XVII.

(b) that accept this Agreement in accordance with the provisions of paragraph 1 of Article

2. The Commission may, by a two-thirds majority of its Members, admit to membership any other States that are not Members of FAO, but are Members of the United Nations, or of any of its Specialized Agencies or of the International Atomic Energy Agency, provided that such States:

(a) are

- (i) coastal States situated wholly or partly within the Area; or
- (ii) States whose vessels engage in fishing in the Area for stocks covered by this Agreement; and

(b) have submitted an application for membership and a declaration made in a formal instrument that they accept this Agreement as in force at the time of acceptance in accordance with paragraph 2 of Article XVII.”

Sierra Leone is currently in arrears US\$40,214 and Guinea US\$110,682. Both respective countries were contacted by the Chair of the Commission on 13 September 2013 requesting further clarification regarding the countries

interest in being a member of IOTC. A further reminder was sent to both countries on 11 February 2014. No reply has been received, to date, by written or verbal communication from Sierra Leone or by Guinea. This is not the first time that the Secretariat has written to Sierra Leone regarding its membership in IOTC (previous message was sent on 15 March 2012).

The Commission, at its 13th Session, discussed the accession of Sierra Leone to the Commission and considered that Sierra Leone did not meet the eligibility criteria listed in Article IV of the IOTC Agreement. Specifically, that, Sierra Leone is not a coastal State situated in the IOTC Area, and it has not reported any fishing activity in the IOTC Area in recent years. Under these circumstances, the Members consider that FAO, in its role as depositary of the IOTC Agreement, should have sought advice from the Members before accepting the instrument of accession from Sierra Leone.

ISSUE

As highlighted within the letters addressed to the two countries by the Chair of the Commission and in accordance with Article XIII of the IOTC Agreement, a Member of the Commission which is in arrears in the payment of its financial contributions to the Commission shall have no vote in the Commission if the amount of its arrears equals or exceeds the amount of the contributions due from it for the two preceding calendar years. The Commission may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay was due to conditions beyond the control of the Member.

In addition, as Sierra Leone and Guinea are Members of the FAO and noting that the countries are not situated wholly or partly within the IOTC Area, continued Membership eligibility requires Sierra Leone and Guinea to have vessels engaged in fishing in the Area for stocks covered by the IOTC Agreement, as identified in Article IV, paragraph 1 of the IOTC Agreement.

If Sierra Leone and/or Guinea should decide that it no longer wishes to be a Member of the IOTC, please note that in accordance with the IOTC Agreement, any Member of the Commission may withdraw from the IOTC Agreement at any time after the expiry of two years from the date upon which the Agreement entered into force with respect to that Member, by giving written notice of such withdrawal to the Director-General. Withdrawal shall become effective at the end of the calendar year following that in which the Director-General has received the notice of withdrawal.

Alternatively, if any Member of the Commission ceases to meet the criteria set out in Article IV, paragraphs 1 or 2 of the IOTC agreement for two consecutive calendar years, the Commission may, after consultation with the Member concerned, determine that the Member is deemed to have withdrawn from this Agreement, effective as of the date of that determination.

A decision to remove Sierra Leone and Guinea from the Membership of the Indian Ocean Tuna Commission means that the contribution from these two countries will be redistributed to the other Members of the Commission. A positive outcome of such a decision is a reduced risk on budget in terms of unpaid contributions. Moreover, any recovery of the unpaid contributions is very unlikely.

PROPOSED OPTION

As the Commission has consulted and received no reply from Sierra Leone or Guinea, it may determine that both countries have withdrawn from the IOTC Agreement based on their lack of involvement in Commission meetings, contribution obligations and non-response to the attempts of the Chair's and Secretariat's consultation with the two countries concerned.

SUGGESTED ACTION BY THE STANDING COMMITTEE ON ADMINISTRATION AND FINANCE

That the SCAF:

- a) **NOTE** the information presented in the document;
- b) **RECOMMEND** that the Commission determines that Sierra Leone or Guinea are deemed to have withdrawn from the IOTC Membership;
- c) **RECOMMEND** that the budget contributions of the two countries be re-disturbed to all other Members of the Commission.