

LDAC POSITION

REQUEST FOR PHASING OUT OF LARGE-SCALE PELAGIC DRIFT NETS IN THE INDIAN OCEAN

Advice in preparation of IOTC Special Session 4 (SS4, 8-12 March 2021)

Date of adoption: 5 March 2021

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The LDAC notes that it has already provided a broader advice on October 2020 on management of tuna stocks ahead of IOTC Annual Meeting¹. One of the recommendations contained in this previous advice was the need for an intersessional meeting in early 2021. It was subsequently agreed at the IOTC Annual Meeting that such a Special Session would be held from 8-12 March 2021 and that the focus would be on the sustainability of the yellowfin tuna fishery as well as addressing deficiencies relating to the harvest control rule for skipjack tuna.

In January 2021, DG MARE held a coordination meeting in preparation of the Special Session (SS4) where the views of LDAC individual members, who could attend at short notice, were expressed on behalf of their organisations.

Since the coordination meeting, the LDAC received in February a further request from the EU tuna purse seine fleet representatives to reflect specifically on a single issue ahead of the SS4 that is of relevance. This issue is the increased catches attributed to large-scale pelagic drift nets in the Indian Ocean, which if taken on the high seas, would be in contravention of international law².

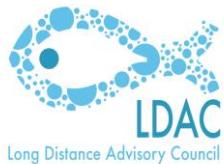
Large-scale pelagic drift nets are non-selective fishing gillnets or other nets or combination of nets that are more than 2.5 km in length that are set in the ocean to catch highly migratory species such as tunas, billfish and sharks. They also undermine the status of other endangered, threatened and protected species such as marine mammals and marine turtles. As a consequence, both the international community and the EU adopted long time ago a global moratorium on all large-scale pelagic drift-nets fishing in the world's oceans and seas.

The United Nations General Assembly (UNGA) adopted Resolution in 1991 calling upon all members of the international community to implement before 31 December 1992 a global moratorium on all large-scale pelagic drift net fishing on the world's oceans and seas.³ Despite the UN ban, in 2012, the Indian Ocean Tuna Commission (IOTC) expressed concern that these gears were still widely used in both high seas and coastal waters of the Indian Ocean.

¹ LDAC Advice for IOTC AM 2020: https://ldac.eu/images/EN_LDAC_Opinion_on_IOTC_AM_2020_R.14.20.WG1.pdf

² UN Resolution 46/215 of 20 December 1991 Large-scale Pelagic Drift-net Fishing and its Impact on the Living Marine Resources of the World's Oceans and Seas.

³ UNGA Resolution A/RES/46/215, Large-scale pelagic drift-net fishing and its impact on the living marine resources of the world's oceans and seas



As a consequence, the IOTC adopted a Resolution⁴ that year, reinforced by another in 2017⁵, extending the prohibition to use large-scale driftnets to the whole IOTC Area. IOTC Resolution 17/07 (to which Pakistan objected) expects CPCs to take all the necessary measures to prohibit their fishing vessels from using large-scale driftnets while on the high seas in the IOTC area of competence. It is further expected that they take all measures necessary to prohibit their fishing vessels from using large-scale driftnets in the entire IOTC area of competence by 1 January 2022. The Commission has further committed to periodically assess whether additional measures should be adopted and implemented to ensure that large-scale driftnets are not used in the IOTC area of competence and to take into account the latest advice of the Scientific Committee. The first such assessment shall take place in 2023.

Unlike in other RFMOs such as ICCAT or IATTC where the use of large scale pelagic drift nets has been mostly eradicated or is penalized, in IOTC there is clear evidence and reported activity of continuous and increased catch by drift nets by the following IOTC members: Iran, Pakistan, India, Sri Lanka, Indonesia, Yemen and Oman. This has a significant impact not only to the overfishing of the yellowfin tuna stock (adding up to 20% of the total) but also to the high by-catch of sensitive species such as marine mammals, sharks and turtles. From all the above mentioned countries, Iran has the only driftnet fishery subject to a catch reduction according to IOTC Resolution 19/01 and has systematically breached its catch limit, reporting catches of yellowfin tuna in 2019 twice such limit. India and Pakistan have also objected IOTC Resolutions in an attempt to dodge provisions on drift nets, ignoring the long standing UN ban.

There is also a notorious problem of catch reporting, as most of the drift net vessels are not in the IOTC record of vessels, do not have VMS nor comply with the minimum 5% observer coverage. Furthermore, catch estimates are patchy at its best and presented in aggregated manner with other gears and without distinction of fishing areas.

The LDAC notes that the EU has tabled a proposal for a rebuilding plan on YFT to the IOTC SS4 and is surprised that such proposal contemplates the allocation of catch to drift nets. It indeed rewards drift nets (both small and large scale) with lower catch reduction (15%) than for other gears such as purse seiners (18%).

⁴ IOTC Resolution 12/12

⁵ IOTC Resolution 17/07

The LDAC would like to remind that driftnets are fishing nets that, since 2002, regardless their size, have been prohibited in EU waters when intended for the capture of certain highly migratory species such as albacore tuna, bluefin tuna and swordfish⁶. A roadmap and a consultation was launched by the EC in 2014 to address existing weaknesses and loopholes seeking to extend this prohibition to all fisheries⁷.

Any prohibited gear would fall into the category of illegal fishing under the definition and scope of the IUU Regulation (EC) 1005/2008 and their products should not be marketed into the EU.

To ensure the coherent implementation of the Common Fisheries Policy outside EU waters, it is clearly stated as a principle of good governance that the EU must ensure coherence between its internal and external dimension⁸. This is also consistent with the ongoing initiatives of promoting the EU international ocean governance agenda⁹ and the fourth priority of the present Von der Leyen's Commission for 2019-2024 to "*a stronger Europe in the World*"¹⁰.

In view of the above, we consider that agreeing or contemplating the allocation of fishing opportunities to fleets using driftnet fisheries is in contravention to the CFP. As an example for other species, the EU has tabled proposals in most RFMOs (NAFO, ICCAT, IOTC) for adopting a shark-fins naturally attached policy and prohibition of removal of fins of sharks on board vessels in most RFMOs as a result of the adoption of the (EU) Regulation No 605/2013.

That being said, it should be acknowledged that a more hands-on approach might be required as well, especially for smaller-scale gillnet fisheries in some of the poorest communities of the globe, by investing in gear conversion pilot projects to evidence the economic sustainability of more sustainable fishing methods (e.g. handline, pole-and-line, short longlines) in strategic locations, as to ensure the long-term viability of a phase out of all drift nets. Several LDAC members, such as the purse seine sector, WWF and IPNLF would be happy to partner on such a project with the EU.

⁶ Species listed in Annex VIII of Council Regulation (EC) No 894/97(1), as amended by Council Regulation (EC) No 1239/98(2) (including swordfish, albacore tuna and bluefin tuna).

⁷ https://ec.europa.eu/commission/presscorner/detail/en/IP_14_563

⁸ (EU) Regulation 1380/2013 – article 3(i)

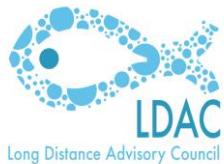
⁹ <https://webgate.ec.europa.eu/maritimeforum/en/frontpage/1469>

¹⁰ https://ec.europa.eu/info/strategy/priorities-2019-2024/stronger-europe-world_en



In view of the above, the LDAC asks to the European Commission to put forward the following requests at the IOTC 4th Special Session:

1. To ask IOTC to effectively implement the long standing prohibition of driftnets in the area of competence of the IOTC, in line with IOTC and international regulations through a phase-out approach of all large scale drift net fisheries.
2. The EU should work towards the identification of fleets that use large scale driftnets in the IOTC Area and consider nominating all vessels that use driftnets for the IOTC IUU list, unless the flag states concerned demonstrate that they are implementing plans to phase-out the use of drift nets in their waters and the high seas over a period no longer than 4 years. Those flag states should demonstrate that they have adopted and are implementing plans to completely phase-out the use of drift nets by their vessels, including gradual reductions in catch, by 1st January 2025.
3. As a matter of principle, the EU should not contemplate or accept proposals that allocate fishing opportunities -i.e. rebuilding plans, harvest rules, or any other such measure-, to fleets that operate in clear contravention of EU and/or international measures, such as IOTC Resolutions banning drift nets. The EU should at least not accept proposals that reward fisheries that use drift nets or any other prohibited gear with greater fishing opportunities than other fisheries in the Indian Ocean, as well as ensuring that any proposal adopted contemplate that drift net catches are gradually reduced, until its full elimination by 1st January 2025.
4. The EU should consider nominating all vessels that use large scale driftnets not under phasing-out schemes as proposed in points 2 and 3 for the IOTC IUU list, and work towards the adoption of other measures to penalize the states that allow for the continuation of these practices in their waters and/or the high seas as flag states, or as states whose operators are involved in the trade of the catches issued from large scale driftnets not under phasing-out schemes.
5. The EU should promote the implementation of international programmes for the phasing-out of all drift nets (both small scale and large scale ones) in the IOTC Area, working with other IOTC Contracting and Cooperating parties towards such purpose.
6. To request to IOTC to incorporate a fair mechanism to reward compliance or penalize non-compliance for CPCs when adopting catch limits or quotas, including provisions related to monitoring the activity and catches of their fleets (e.g., vessel records, VMS, observer coverage, and catch, effort and size reporting requirements).



Joint statement from International Pole and Line Foundation (IPNLF), World Wildlife Fund (WWF), Coalition for Fair Fisheries Arrangements (CFFA) and Environmental Justice Foundation (EJF)

IPNLF, WWF, CFFA and EJF are concerned that a sole focus on gillnets before this important SS4 meeting deflects attention from other key issues that caused IOTC Resolution 19/01 to be ineffective in rebuilding the yellowfin tuna stock. While we acknowledge the ecological and legal issues related to large-scale pelagic drift net fisheries, WWF has been working for a long time on phasing out and transforming harmful driftnets fisheries in the EU, Mediterranean and Indian Ocean.

IPNLF, WWF, CFFA and EJF have significant concerns about the recruitment overfishing and effort creep caused by purse seiners fishing on drifting FADs and the overall failure of the YFT recovery plan. Proposals were submitted by both the EU and the Maldives ‘On an interim plan for rebuilding the Indian Ocean yellowfin tuna stock in the IOTC Area of Competence’, by Kenya and Sri Lanka on ‘On management of fish aggregating devices (FADs) in the IOTC Area of Competence’ and by Sri Lanka on ‘On a minimum conservation reference size for Indian Ocean yellowfin tuna in the IOTC Area of Competence’. No proposal on gillnets was submitted for the Special Session.

IPNLF, WWF, CFFA and EJF believe that a more constructive approach will be required to practically address gillnet issues in the Indian Ocean and that especially small-scale coastal gillnet fisheries will require sustainable alternative livelihoods to support the long-term social and environmental sustainability. Additional efforts will be needed – in addition to the political will of the non-compliant coastal States – to ensure synergies within international efforts in order to speed up a fair transition and phase out as has happened in other regions in the past.

IPNLF, WWF, CFFA and EJF think the EU should play a key role in this regard and these organizations are keen to discuss how the LDAC can contribute to this aim in advance to the upcoming 25th Session of the Indian Ocean Tuna Commission.