

ROP-TROP
MORATORIUM OF 1 JANUARY 2014 TO 28 FEBRUARY 2014

MEMORANDUM OF UNDERSTANDING

BETWEEN

COFREPECHE

&

_____ **(VESSEL OPERATOR)**

Name of the vessel of assignment concerned:

NAME of the vessel	ICCAT N° of the vessel	Flag of the vessel

Between,

COFREPECHE (the Supplier), chosen by the International Commission for the Conservation of Atlantic Tunas (ICCAT) (the Contractor) for the implementation of the ICCAT Regional Observer Programme for surface fishing fleets targeting bigeye and yellowfin tuna (the ROP-TROP) in accordance with ICCAT Recommendation [11-01], which requires independent Observers to observe and oversee the application by fishing vessels, of the relevant conservation and management measures adopted by the Commission.

And

_____ (the Operator) with vessels in the East Atlantic that will participate in the ROP-TROP and have been entered into the ICCAT Record of vessels authorized to catch bigeye and/or yellowfin tuna.

The Supplier and the Operator, in order to promote the objectives of the ROP-TROP, and ensure observance of the ICCAT provisions, have reached the following terms under this Memorandum of Understanding:

Section 1

General Terms & Conditions

- 1 The Operator wishing to receive one or more ICCAT Observers will take appropriate measures within its competence to ensure to the extent possible that any Observer designated by ICCAT will be provided access to all vessel facilities and personnel designated by Contracting Parties and Cooperating non-Contracting Parties, Entities or Fishing Entities (CPCs) to observe, oversee and report on the application of the relevant conservation and management measures adopted by the Commission, as set out in the ***Recommendation by ICCAT on a multiannual conservation and management programme for the bigeye and yellowfin tunas (Rec. [11-01]; Annex 3)*** (the appendix of the Recommendation is attached with Appendix 1 of this Memorandum of Understanding.)
- 2 For the implementation of the ROP-TROP, the Operator shall accept deployment of ICCAT Observers without regard to; inter alia, race, gender, age, religion, or sexual orientation. The Operator shall also

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ensure the seaworthiness and safety of all vessels consistent with all applicable national and international safety regulations (Torremolinos Convention, 1977, Appendix 5) and the ICCAT guidelines on safety.

- 3 The Operator undertakes to allow the immediate declaration (namely by granting access to the vessel's communication tools) by the ICCAT Observer of any FAD-related fishing activity carried out by the vessel to which the ICCAT Observer has been assigned and/or by another vessel in the area and throughout the period stipulated under article 20 of the Recommendation [11-01].

Section 2

Supplier's Conditions for the Deployment of ICCAT Observers

- 4 The Supplier shall provide an ICCAT Observer in response to a request received from the ICCAT Secretariat, in accordance with procedures agreed with ICCAT. The required mobilisation dates as well as the embarkation and disembarkation location of the ICCAT Observer shall be indicated in this request. In the event that the ICCAT observer needs to be transferred at sea onto the vessel of assignment via another vessel, this information shall be specified in the request (along with the name of the vessel making this transfer).
- 5 The Operator shall take necessary action, including but not limited to the instruction of its personnel on the vessel to which the ICCAT Observer is assigned, but also on the vessels that provide any assistance whatsoever to the activity of the fishing vessels, in order to facilitate the deployment of the ICCAT Observer on the vessel of assignment and his or her recovery in a prompt, efficient and safe manner, and to ensure safe working conditions whilst the ICCAT Observer is working on board the vessel of assignment or during any movement to and from the vessel (in particular transshipment at sea operations).
- 6 The Supplier may need to recover an ICCAT Observer assigned to a vessel at any time during the deployment period. Replacement of an ICCAT Observer prior to the completion of an agreed deployment may become necessary, for example in the following circumstances (this list is provided for guidance only and is not exhaustive):
 - i. The ICCAT Observer is injured or becomes ill to the extent he/she is prevented from performing his/her duties effectively;
 - ii. The ICCAT Observer is involved in an incident which requires urgent medical attention unavailable locally;
 - iii. As a result of an unforeseen family emergency involving the ICCAT Observer (e.g. death or serious illness of a member of the ICCAT Observer's immediate family: parents, siblings, husband/spouse or children);
 - iv. If the provisions of Section 3 of this Memorandum are violated;
 - v. Any situations that can be considered as a case of *force majeure*.
- 7 In such circumstances, the Operator shall instruct its personnel to take such steps as necessary for the prompt, efficient and safe recovery of the ICCAT Observer including cooperation with the Supplier, and, where necessary, the immediate and direct transit of the vessel of assignment to the nearest port with appropriate medical facilities and/or transport links as agreed with the Supplier. The Supplier shall provide a replacement ICCAT Observer to allow for vessel operations requiring the presence of an ICCAT Observer.
- 8 The Supplier shall not be responsible for any loss of business or other costs to the Operator arising from the early recovery and/or non-availability of the ICCAT Observer to perform his or her duties under the ROP-TROP for whatever reason. It is the Operator's responsibility to carry adequate and appropriate insurance to cover such potential losses.

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- 9 In the event that the Operator breaches the guidelines of the ROP-TROP as laid out in the **Obligations of the flag States of the fishing vessels** (document attached with Annex 2 of this Memorandum of Understanding) as set forth under article 12 of Annex 3 of the ICCAT Recommendation [11-14], the Supplier shall require the immediate recovery of the ICCAT Observer. In such circumstances the Operator shall instruct its personnel to take necessary action for the prompt, efficient and safe recovery of the Observer concerned, including cooperation with the Supplier, and the immediate and direct transit of the vessel of assignment to the nearest port with appropriate transport links (to be agreed with the Supplier).
- 10 In such a situation, a full and detailed report will be submitted by the Supplier to the Purchaser and Operator. The Supplier shall only provide a replacement ICCAT Observer when the issue(s) surrounding the event has (have) been resolved to the satisfaction of the Supplier and the ICCAT. The provisions of paragraph 6 of Section 2 shall also apply.
- 11 All vessels on which ICCAT Observers are required to embark, including the fishing vessels of assignment and any other vessel used to transport the ICCAT Observer to and from the fishing vessels of assignment, or transfer them at sea or at the port, must be seaworthy and satisfy all applicable national and international safety regulations and the ICCAT guidelines on safety. To this end:
- i. All certificates related to seaworthiness must be made available to the ICCAT Observers upon request.
 - ii. ICCAT Observers shall conduct an inspection of the vessels on which they embark and a familiarisation tour of all vessels. It is the Operator's responsibility to provide information to the ICCAT Observers relating to the emergency and evacuation procedures of the vessels on which the ICCAT Observers will embark. The following shall be considered mandatory safety requirements for life saving appliances during the inspection:
 - a. Life rafts shall be of sufficient capacity for all personnel on board and possess a valid certificate of maintenance;
 - b. Life jackets shall be of sufficient number for all personnel on board and be compliant with SOLAS¹ standards;
 - c. An Emergency Personal Indicator Response Beacon (EPIRB) or a Search and Rescue Transponder (SART) shall be present on the vessel and possess a valid certificate of maintenance;
 - d. The vessel's captain must hold diplomas and certificates consistent with the rules and regulations of international maritime laws.
- 12 Should there be any major deficiency recorded in the safety standards on board following (or before) embarkation, this shall be reported to the Supplier and the Supplier retains the right to cancel the embarkation of the ICCAT Observer and demand their recovery. The embarkation of the ICCAT Observer on the vessel in question shall continue to be refused until the deficiency has been rectified. In this situation a full report shall be submitted by the Supplier to ICCAT and the Operator.
- 13 During the period of deployment, if the ICCAT Observer cannot remain on board the vessel when stopping at a port of call, the Operator shall continue to cover their expenses. The Operator must provide food and accommodation, ensuring that the accommodation is of a suitable standard, which:
- i. Satisfies applicable national and international health and safety regulations;
 - ii. Provides the following:
 - a. A secure private bedroom for the sole use of the Observer;
 - b. En suite or private bathroom facilities;
 - c. A restaurant or dining room which serves breakfast daily and dinner most evenings;
 - d. Access to telephone facilities;

¹ SOLAS: International Convention for the Safety of Life at Sea

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e. A working air-conditioning system.

14 The Supplier reserves the right to place the ICCAT Observer into separate accommodation and to ensure that meal costs are covered should the provision of the Operator not meet the standard set out in paragraph 13. In this event, the Operator shall be charged by ICCAT the travel day rate including accommodation and meal costs as provided by ICCAT.

Section 3

Operator's Responsibilities for Observer Deployment

15 The Supplier shall make travel arrangements for the ICCAT Observer in accordance with the information forwarded to the ICCAT by the State authorities of the fishing vessel. The Operator shall make every effort to provide accurate information to enable the Supplier to make travel arrangements for the Observer in a timely and efficient manner.

16 Once this information has been directly received from the Operator and after the travel documents and/or hotel reservations have been made by the Supplier, if there is any change made to the plan by the Operator (cancellation of ICCAT Observer requirements, change of dates/locations of deployment and/or recovery), the Operator shall be responsible for paying any additional costs incurred.

17 There are two options for revising the ICCAT Observer's travel arrangements and paying the associated costs:

- i. The Operator can make and pay for the revisions to the ICCAT Observer's travel arrangements directly, provided all travel and accommodation arrangements are approved in advance by the Supplier (subject to written communication).
- ii. In the event that the Operator is unable to make arrangements that meet with the Supplier's approval, the Supplier shall make their own arrangements for the repatriation of the ICCAT Observer and the itemised costs will be passed on to the Operator via the ICCAT.

18 Operators shall ensure that their personnel make the following arrangements for the ICCAT Observer whilst deployed **on board the catching vessels of assignment**:

- i. Upon request, the ICCAT Observers shall be allowed access to the information, documents and equipment listed below, among others, if present on the vessels to which they are assigned, in order to facilitate the carrying out of their duties set forth in Section 4 of this Memorandum of Understanding:
 - f. The vessel records (Fishing Logbook, navigation logbooks, etc.);
 - g. The satellite navigation equipment and, if possible, the map readings, both for the navigation and fishing operations;
 - h. Radar display viewing screens when in use;
 - i. Electronic means of communication, telephone/fax;
 - j. Fish shoal detection equipment (sonar or other);
 - k. Inventory of all the quantities of fish caught, by species and the quantities released;
 - l. All the quantities of fish, by species, kept on board the vessel of assignment.

19 The ICCAT Observers shall be provided with lodging, including accommodation, food and adequate sanitary facilities, equal to those of officers on board throughout their deployment, on board and on land also if the vessel of assignment is forced to be docked without appropriate conditions for adequate lodging on board.

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- 20 The ICCAT Observers shall be provided with adequate space on the bridge or in the pilot house for their clerical work, as well as space on deck adequate for carrying out observer duties.
- 21 No personnel shall obstruct, intimidate, interfere with, influence, bribe or attempt to bribe an ICCAT Observer in the performance of his/her duties.
- 22 Operators shall be required to confirm that the vessel is safe, day and night, especially when docked, and that the vessel is covered by valid Protection and Indemnity (P&I) insurance. The deployment of the ICCAT Observer shall not commence before evidence of P&I insurance has been submitted by the Supplier.
- 23 Just like the personnel of the vessel of assignment, the ICCAT Observer shall be included in the insurance provisions of this vessel applicable to the Operators as described by the Protection and Indemnity Insurance certification. The declaration of the presence of the ICCAT Observer on board the vessel with the reference national authorities remains the responsibility of the Operator.

Section 4

Observer’s Responsibilities on Vessels - Recommendation [11-01]

- 24 Pursuant to the ICCAT Recommendation [11-01], the duties of the Observer shall be in particular to:
 - a) To monitor the fishing vessels’ compliance with the relevant conservation and management measures adopted by the Commission.

In particular the observers shall:

 - i) Record and report upon the fishing activities carried out;
 - ii) Observe and estimate catches and verify entries made in the logbook;
 - iii) Sight and record vessels which may be fishing in contravention of ICCAT conservation and management measures;
 - iv) Verify the position of the vessel when engaged in catching activity;
 - v) Carry out scientific work, such as collecting Task II data, including biology, for purposes of assessing the status of stocks, as required by the Commission, and on the basis of the data collection guidelines of the ICCAT Standing Committee on Research and Statistics (SCRS).
 - b) Report without delay, with due regard to the safety of the Observer, all fishing activity associated with Fish Aggregating Devices (FADs) made by the vessels in the area and during the period referred to in paragraph 20 of this Recommendation.
 - c) Establish general reports compiling the information collected in accordance with this paragraph and provide the master to include all relevant information.
 - d) Submit to the Secretariat the aforementioned general report within 20 calendar days from the end of the period of observation.
 - e) Exercise any other functions as defined by the Commission.
- 25 Observers shall treat as confidential all information with respect to the fishing and transshipment operations of the fishing vessels and accept this requirement in writing as a condition of appointment.
- 26 Observers shall comply with requirements established in the laws and regulations of the flag State which exercises jurisdiction over the vessel to which the Observer is assigned.

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- 27 Observers shall respect the hierarchy and general rules of behaviour which apply to all vessel personnel, provided such rules do not interfere with the duties of the Observer under this programme, and with the obligations of vessel personnel set forth in Section 3 of this Memorandum of Understanding.
- 28 Should the ICCAT Observer infringe the ROP-TROP guidelines, as outlined in the **Standards of Conduct and Behaviour of Observers** (document attached with Annex 3 of this Memorandum of Understanding), the Operator must inform the Supplier to allow an investigation to be conducted. The results of the investigation shall be reported to the ICCAT and the Operator. If a violation is established, it will be up to the Supplier to take the necessary disciplinary measures (which may lead to the delisting of the Observer).

Section 5

Entry into Effect, Duration and Termination

- 29 The arrangements described by this MoU are applicable upon its signature. The deployment of the ICCAT Observer shall only begin when the Supplier has received this **Memorandum of Understanding, initialled and signed by a legal representative of the Operator**. It falls to the Operator to send the initialled and signed copy of the Memorandum of Understanding directly to the Supplier at the following address:

COFREPECHE – 32 rue de Paradis, 75010 Paris – FRANCE or by scanned copy to info@cofrepeche.fr

The Supplier shall confirm by electronic mail that they have duly received the Memorandum of Understanding.

- 30 This Memorandum of Understanding represents the entire understanding between the parties in respect of the ROP-TROP and supersedes any prior written or oral representations, warranties or agreements.
- 31 Activities under this Memorandum of Understanding may continue throughout the duration of the Contract between the ICCAT and the Supplier. Either Party (Supplier or Operator) may discontinue its participation in activities under this Memorandum of Understanding at any time, and should notify the ICCAT and other Party in writing six months in advance of its intention so to do.
- 32 The notification referred to in paragraph 31 above by the Operator of a vessel of assignment shall imply that such Operator no longer participates in the ROP-TROP.
- 33 The text of this Memorandum of Understanding may not be amended unilaterally. Any modification or amendment is subject to the prior agreement of the two parties and an addendum to this Memorandum of Understanding shall in this case be drawn up.

This Memorandum of Understanding is comprised of 33 articles.

For the Supplier

For the Operator

Name: _____

Name: _____

Position: _____

Position: _____

Date: _____

Date: _____

Signature : _____

Signature _____

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Annex1

**ICCAT RECOMMENDATION ON A MULTI-ANNUAL CONSERVATION AND MANAGEMENT PROGRAMME
FOR BIGEYE AND YELLOWFIN TUNAS
Recommendation [11-01]**

Annex 3

ICCAT Regional Observer Programme

1. Each CPC shall require its fishing vessels involved in the bigeye and/or yellowfin tunas fisheries in the area and during the area/time closure referred to in paragraph 20 of this Recommendation to carry an ICCAT observer.
2. Before 1 November each year, CPCs shall notify to the ICCAT Executive Secretary a list of its observers.
3. The Secretariat of the Commission shall appoint the observers before 15 November each year, and shall place them on board the fishing vessels flying the flag of Contracting Parties and of non-Contracting Cooperating Parties, Entities or Fishing Entities that implement the ICCAT observer program. An ICCAT Observer card shall be issued for each Observer.
4. The Secretariat shall issue a contract listing the rights and duties of the Observer and the master of the vessel. This contract shall be signed by both parties involved.
5. The Secretariat shall establish an ICCAT Observer Programme Manual.

Designation of the Observers

6. The designated observers shall have the following qualifications to accomplish their tasks:
 - sufficient experience to identify species and fishing gear;
 - satisfactory knowledge of the ICCAT conservation and management measures assessed by a certificate provided by the CPCs and based on ICCAT training guidelines;
 - the ability to observe and record accurately;
 - a satisfactory knowledge of the language of the flag of the vessel observed.

Obligations of the observer

7. Observers shall:
 - a) Have completed the technical training required by the guidelines established by ICCAT;
 - b) Be nationals of one of the CPCs and, to the extent possible, not of the flag State of the fishing vessel;
 - c) Be capable of performing the duties set forth in item 8 below;
 - d) Be included in the list of observers maintained by the Secretariat of the Commission;
 - e) Not have current financial or beneficial interests in the bigeye and/or yellowfin tuna fisheries.

The duties of the observer

8. The observer tasks shall be in particular:
 - a) To monitor the fishing vessels' compliance with the relevant conservation and management measures adopted by the Commission.

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In particular the observers shall:

- i. Record and report upon the fishing activities carried out;
 - ii. Observe and estimate catches and verify entries made in the logbook;
 - iii. Sight and record vessels which may be fishing in contravention of ICCAT conservation and management measures;
 - iv. Verify the position of the vessel when engaged in catching activity;
 - v. Carry out scientific work such as collecting Task II data when required by the Commission, based on the directives from the SCRS.
- b) Report without delay, with due regard to the safety of the observer, any fishing activity associated with FADs made by the vessel in the area and during the period referred to in paragraph 20 of this Recommendation.
 - c) Establish general reports compiling the information collected in accordance with this paragraph and provide the master the opportunity to include therein any relevant information.
 - d) Submit to the Secretariat the aforementioned general report within 20 consecutive days from the end of the period of observation.
 - e) Exercise any other functions as defined by the Commission.
9. Observers shall treat as confidential all information with respect to the fishing and transfer operations of the fishing vessels and accept this requirement in writing as a condition of appointment as an Observer.
10. Observers shall comply with requirements established in the laws and regulations of the flag State which exercises jurisdiction over the vessel to which the Observer is assigned.
11. Observers shall respect the hierarchy and general rules of behaviour which apply to all vessel personnel, provided such rules do not interfere with the duties of the Observer under this programme, and with the obligations of vessel personnel set forth in paragraph 12 of this Programme.

Obligations of the flag States of fishing vessels

12. The responsibilities regarding observers of the flag States of the fishing vessels and their masters shall include the following, notably:
- a) Observers shall be allowed access to the vessel personnel and to the gear and equipment;
 - b) Upon request, observers shall also be allowed access to the following equipment, if present on the vessels to which they are assigned, in order to facilitate the carrying out of their duties set forth in paragraph 8:
 - i. satellite navigation equipment;
 - ii. radar display viewing screens when in use;
 - iii. electronic means of communication;
 - c) Observers shall be provided accommodations, including lodging, food and adequate sanitary facilities, equal to those of officers;
 - d) Observers shall be provided with adequate space on the bridge or pilot house for clerical work, as well as space on deck adequate for carrying out observer duties; and
 - e) The flag States shall ensure that masters, crew and vessel owners do not obstruct, intimidate, interfere with, influence, bribe or attempt to bribe an observer in the performance of his/her duties.
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The Secretariat, in a manner consistent with any applicable confidentiality requirements, is requested to provide to the flag State of the fishing vessel, copies of all raw data, summaries, and reports pertaining to the trip. The Secretariat shall submit the observer reports to the Compliance Committee and to the SCRS.

Observer fees

- a) The costs of implementing this programme shall be financed by the fishing vessel's owners. The fee shall be calculated on the basis of the total costs of the programme and on prorate of their participation. This fee shall be paid into a special account of the ICCAT Secretariat and the ICCAT Secretariat shall manage the account for implementing the programme;
- b) No Observer shall be assigned to a vessel for which the fees, as required under subparagraph a), have not been paid.

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Annex 2

OBLIGATIONS OF THE FLAG STATES OF THE VESSELS

The obligations incumbent on the flag States of the bigeye and/or yellowfin tuna fishing vessels and their masters in relation to the Observers shall include the following, notably:

- a) Observers shall be allowed access to the personnel of the bigeye and/or yellowfin tuna fishing vessels, and to the fishing gear and catch once brought aboard;
- b) Upon request, Observers shall also be allowed access to the following equipment, if present on the vessels to which they are assigned, in order to facilitate the carrying out of their duties set forth in Rec. 11-01:
 - i. satellite navigation equipment
 - ii. radar display viewing screens when in use;
 - iii. electronic means of communication
 - iv. fish detection equipment
- c) Observers shall be provided with accommodation, food and adequate sanitary facilities, equal to those of officers;
- d) Observers shall be provided with adequate space on the bridge or in the pilot house for clerical work, as well as space on deck adequate for carrying out observer duties;
- e) The flag States shall ensure that masters, crew and vessel owners do not obstruct, intimidate, interfere with, influence, bribe or attempt to bribe an Observer in the performance of his/her duties.
- f) The masters of bigeye and/or yellowfin fishing vessels will make available to the observer copies of video recordings of fishing operations and handling of fish on board and any releases of fish targeted or caught accidentally, as might be the case for turtles, seabirds, and other, if applicable. Video recordings shall include the date and time of recording and the ICCAT registration number of the fishing vessel.

Annex 3

STANDARDS OF CONDUCT & BEHAVIOUR OF OBSERVERS

Definitions

Conflict of interest - Participation in activities or relationships with other persons, resulting in the impairment or possible impairment of a person's objectivity in performing the contract work.

Direct financial interest - Any source of income or capital investment or other interest held by an individual, partnership, or corporation or an individual's spouse, immediate family member or parent that could be influenced by performance or non-performance of duties under the contract.

Conduct

1. An individual is only considered an ICCAT certified Observer when employed by a Contractor that holds a contract with ICCAT to provide Observer services and is acting within the scope of his/her employment.
2. Observers may not participate in any activity which would:
 - a) Cause a reasonable person to question the impartiality or objectivity with which the Observer Program is administered;
 - b) Significantly impair the Observer's ability to perform his/her duties;
 - c) Adversely affect the efficient accomplishment of the Programme's mission.
3. Observers shall treat as confidential all information with respect to the fishing and transfer operations of the bigeye and/or yellowfin tuna fishing vessels and accept this requirement in writing as a condition of appointment as an observer.
4. Observers may not have direct financial interest in the observed fishery, other than the provision of Observer services including, but not limited to, bigeye and yellowfin tuna fishing vessels or shore-side facilities involved in the catching or processing of the products of the fishery, companies selling supplies or services to those vessels or shore-side facilities, or companies purchasing raw or processed products from these vessels or shore-side facilities. The interests of a spouse or minor child are considered those of the Observer.
5. Observers may not solicit or accept, directly or indirectly, any gratuity, gift, favour, entertainment, loan or anything of monetary value from anyone who conducts activities that are regulated by ICCAT, or who has interests that may be substantially affected by the performance or non-performance of the Observers' official duties.
6. Observers may not serve as Observers on any vessel or at any shore-side facility owned or operated by a person who previously employed the Observer in any capacity in the course of the past three years, in any position even if not as ICCAT observer or national observer.
7. Observers may not solicit or accept employment as a crew member or an employee of the bigeye and/or yellowfin tuna vessel or shore-side processor in any fishery while employed as an Observer.
8. A person may not serve as an Observer in a fishery during the 3 consecutive months following the last day of his/her employment as a paid crew member or employee in that fishery.
9. Observers may not engage in an activity that may give rise to the appearance of a conflict of interest that may cause another individual to question the Observer's impartiality, fairness or judgment.

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10. Observers must avoid any behaviour that could adversely affect the confidence of the public in the integrity of the ICCAT Observer Programme or of ICCAT, including, but not limited to the following:

- a) Observers must diligently perform their duties.
- b) Observers must accurately record their sampling data and write complete reports. If the Observer chooses to report any suspected violations of regulations relevant to conservation of marine resources or their environment that they observe, it must be done honestly.
- c) Observers must preserve the confidentiality of the collected data and observations made on board the bigeye and/or yellowfin tuna fishing vessel, with the exception of a duly authorised official of the Contractor or the Secretariat of the ICCAT.
- d) Observers must refrain from engaging in any illegal actions or any activities that would reflect negatively on their image, on other Observers, or the Observer Program, as a whole. This includes, but is not limited to:
 - i) Engaging in drinking of alcoholic beverages while on duty
 - ii) Engaging in the use or distribution of illegal substances
 - iii) Becoming physically or emotionally involved with a member of staff on the bigeye and yellowfin tuna fishing vessel.

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