

**ON THE IMPLEMENTATION OF A LIMITATION OF FISHING CAPACITY OF
CONTRACTING PARTIES AND COOPERATING NON-CONTRACTING PARTIES**

SUBMITTED BY: MALDIVES

Explanatory Memorandum

This proposal updates Resolution 15/11 *On the implementation of a limit of fishing capacity of contracting parties and cooperating non-contracting parties* to ensure that there are IOTC processes in place to control fishing effort at reasonable levels and to address the concerns and the needs of developing coastal states and small island developing states.

Given the lack of an allocation scheme at IOTC and the limited nature of automatic IOTC processes to manage and restrict fishing capacity in the Indian Ocean, Resolution 15/11 *On the implementation of a limit of fishing capacity of contracting parties and cooperating non-contracting parties* is an important resolution. However, the resolution which was first introduced in 2006 and subsequently followed by several resolutions is no longer in effect as the period of applicability specified in the Resolution has surpassed. During the 21st session of the IOTC a decision was made by the Commission to extend the applicability of the Resolution by a further 12 months on exceptional circumstances.

Furthermore, Commission and its subsidiary bodies have indicated that the proposal requires amendments to clearly specify the procedures for transfer of capacity among CPCs to address the concerns raised by the Members.

RESOLUTION 18/XX
ON THE IMPLEMENTATION OF A LIMITATION OF FISHING CAPACITY OF CONTRACTING PARTIES AND COOPERATING NON-CONTRACTING PARTIES

Keywords: Fishing capacity; tropical tunas; swordfish; albacore

The Indian Ocean Tuna Commission (IOTC),

RECALLING the adoption by IOTC in 2003 of the Resolution 03/01 on the limitation of fishing capacity of IOTC Contracting Parties and Cooperating Non-Contracting Parties ; the adoption in 2006 of Resolution 06/05 [superseded by Resolution 09/02, then Resolution 12/11, then Resolution 15/11] on limitation of fishing capacity, in terms of number of vessels, of IOTC Contracting Parties and Cooperating Non-Contracting Parties , and the adoption in 2007 of Resolution 07/05 [superseded by Resolution 09/02, then Resolution 12/11, then Resolution 15/11] *on limitation of fishing capacity of IOTC Contracting Parties and Cooperating Non-Contracting Parties in terms of number of vessels targeting swordfish and albacore;*

RECOGNISING that FAO International Plan of Action for the Management of the Fishing Capacity (IPOA) provides, in its Objectives and Principles that "States and Regional Fisheries Organisations confronted with an overcapacity problem, where capacity is undermining achievement of long-term sustainability outcomes, should endeavour initially to limit at present level and progressively reduce the fishing capacity applied to affected fisheries";

TAKING INTO ACCOUNT the need to have due regard for the interests of all Members concerned, in conformity with the rights and obligations of those Members under international law and in particular, to the rights and obligations of developing countries of the Indian Ocean rim with respect to entry into the high-seas fisheries in the IOTC area of competence;

RECOGNISING the need to ensure the proper implementation of the Resolutions 03/01 and Resolution 15/11, in order to allow the stabilisation of the level of fishing capacity active on the stocks of high commercial value under the IOTC responsibility, and to facilitate the work of the IOTC Scientific Committee to be able to provide the Commission with sound scientific advice;

RECALLING Article XVI of the IOTC Agreement that states:

“Article XVI. COASTAL STATES’ RIGHTS. This Agreement shall not prejudice the exercise of sovereign rights of a coastal state in accordance with the international law of the sea for the purposes of exploring and exploiting, conserving and managing the living resources, including the highly migratory species, within a zone of up to 200 nautical miles under its jurisdiction.”

RECALLING that at its 1st Session, the IOTC Working Party on the Implementation of Conservation and Management Measures (WPICMM) (IOTC-2018-WPICMM-R), made the following recommendation:

“Review of Resolution 15/11

WPICMM01.11 (Para. 44): For these reasons and until alternative measures are in place to manage capacities in the two fisheries, the WPICMM RECOMMENDED that the Commission extends the applicability of Resolution 15/11, noting that the extension of this resolution should not be seen as a means to maintain the status quo.”

ADOPTS in accordance with paragraph 1 of Article IX of the IOTC Agreement, that:

1. Contracting Parties and Cooperating Non-Contracting Parties (collectively termed CPCs) shall notify to the IOTC Secretariat, by 31 December 2009, the lists of vessels, by gear type, over 24 meters overall length, and under 24 meters if they fished outside their Exclusive Economic Zone (EEZ), and

corresponding overall capacity in GT which have actively fished in accordance with the provision of IOTC Resolution 10/08 and Resolution 14/05:

- a) for tropical tunas during the year 2006¹
- b) for swordfish and albacore during the year 2007

Both lists shall include the vessel at that time considered under administrative process of construction.

2. All CPCs shall maintain the overall capacity of its fishing fleet targeting a particular species of tropical tuna at 2006 levels and for swordfish or albacore at the 2007 levels.
- 2.3. In notifying their vessels fishing for tropical tunas in the IOTC Area of Competence in 2006, and for swordfish and albacore in 2007, the CPCs shall confirm that they have verified the effective presence and fishing activities of their vessels in the IOTC Area of Competence in 2006 and in 2007, through their VMS records, catch reports, port calls, or other means. The IOTC Secretariat shall have access to such information upon request.
- 3.4. This provision does not apply to those vessels included in the lists, but considered under administrative process of construction in 2006 and in 2007.
- 4.5. CPCs may change the number of their vessels, by gear type, provided that they can either demonstrate to the Commission, under the advice of the IOTC Scientific Committee that the change in the number of vessels, by gear type, does not lead to an increase of fishing effort on the fish stocks involved or where they are directly limiting catches using individual transferable quotas under a comprehensive national management plan which has been provided to the Commission.
6. CPCs shall ensure that where there is a proposed transfer of capacity to their fleet that the vessels to be transferred are on the IOTC Record of Vessels or on the Record of Vessels of other tuna Regional Fisheries Management Organisations. No vessel on the Combined IUU Fishing Vessel List (<http://www.iuu-vessels.org/>)List of IUU Vessels of any tuna Regional Fisheries Management Organisation shall be transferred.
7. Any request for capacity transfer between the CPCs shall be submitted to the Compliance Committee for its approval before such a capacity transfer can take place.
8. All CPCs shall maintain the overall capacity of its fishing fleet targeting a particular species of tropical tuna at 2006 levels, swordfish or albacore at 2007 levels in accordance with the following conditions.
 - a. CPCs that have already submitted their Fleet Development Plans and agreed to by the Commission, may implement their plans with no further increases, with the exceptions specified in para 8(b).
 - b. Development aspirations of IOTC developing coastal States and Small Island Developing States, shall be accommodated in this provision through a new or revised Fleet Development Plan submitted to and approved by the Compliance Committee, and agreed to by the Commission.
9. This provision in 8a-b shall be applicable until such time that the Commission adopts a system of allocation of fishing opportunities.

¹ Acknowledging that the catch levels and vessels presence in 2006 of certain Members is not representative of their historical presence, and consequently that these Members may increase the number of vessels present during the period of application of the Resolution to a maximum level operating in a season or year since 2000. These Members shall provide the Commission the identified number of vessels and corresponding capacity in GT by 31 December 2009.

- ~~5.10.~~ CPCs which fail to introduce vessels in accordance with their Fleet Development Plans, the IOTC Compliance Committee and the Commission will give annual consideration to the problems related to the implementation of Fleet Development Plans.
- ~~11.~~ The IOTC Compliance Committee shall verify, at any IOTC Plenary Session, the compliance of CPCs with the provisions of this Resolution, including the implementation, according to the notified programming, of the Fleet Development Plans.
- ~~6.12.~~ In relation to the foregoing, the Commission will give due consideration to the interests of the developing coastal States, in particular small islands developing States and territories within the IOTC area of competence.
- ~~7.13.~~ This Resolution is applicable during the years 2018 and 2019. The Commission shall review its implementation at the 23rd Session of the Commission in 2019.
- ~~8.14.~~ This Resolution supersedes Resolution 15/11 *on the implementation of a limitation of fishing capacity of Contracting Parties and Cooperating Non-Contracting Parties*.