
**EU PROPOSAL FOR A RESOLUTION
ESTABLISHING A QUOTA ALLOCATION SYSTEM FOR THE MAIN
TARGETED SPECIES IN THE IOTC AREA OF COMPETENCE**

SUBMITTED BY: EUROPEAN UNION 2018

Explanatory Memorandum

At the 4th Session of the Technical Committee on Allocation Criteria (TCAC04), which was held in Victoria, Mahé, Seychelles, from 5 to 7 February 2018, two proposals for allocation criteria were submitted for consideration. One proposal was submitted by the EU (proposal A) and the other one by a number of countries belonging to the G16 group of like-minded Coastal States (proposal B).

The TCAC discussions focused on allocation criteria and not allocation amounts. The TCAC recognized that major changes and/or reductions in allocated catch would affect not only the specified fishing fleets, but also the economic components within the industry as well as other industries dependent on the fishing industry. There was therefore consensus that in order for any CPC to agree on a final allocation scheme the outcomes produced when the criteria are applied must first be understood. In light of this, the TCAC agreed that no final decision could be reached, until it was known how well the criteria perform in meeting the expectations of CPCs. In this regard, it was considered to have simulations performed by an independent consultant for both proposals using the same set of data. The TCAC further discussed that in order for these simulation to be performed, certain aspects of the two proposals would need to be further developed, notably the weighting of the various criteria.

Based on the discussions that took place at the TCAC, the EU has consolidated its own proposal in order to take into account some of the comments expressed during the meeting. At the same time, it has further developed its provisions, including the missing weighting elements, and the proposal is therefore now ready for the agreed simulations.

This proposal is submitted to the IOTC Secretariat and to members for information. The EU would ask that the simulations agreed at the TCAC meeting of both proposal A and proposal B are undertaken as soon as proposal B is sufficiently developed, notably by clarify the weighting to be given to the different criteria/elements, to allow this work to be undertaken. The EU would suggest that the simulations are done not only using the figures contained in the two proposals, but also include scenarios that include a plus/minus 10% variation in the figures contained in the proposals.

The EU reserves the right to review and revise its proposal at any time to take account of the results of the simulations performed and in light of the expected impacts.

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Keywords: Allocation criteria, TCAC

The Indian Ocean Tuna Commission (IOTC),

CONSIDERING the objectives of the Commission to ~~maintain stocks in perpetuity and with high probability, at levels not less than those capable of producing their maximum sustainable yield~~ensure, through appropriate management, the conservation and optimum utilisation of stocks covered by the organisation's establishing Agreement and encouraging sustainable development of fisheries based on such stocks, as qualified by relevant environmental and economic factors, including the special requirements of developing States in the IOTC area of competence;

BEING MINDFUL of Article XVI of the IOTC Agreement regarding the rights of Coastal States to the exercise of sovereign rights in accordance with Part V of the UN Convention of the Law of the Sea (UNCLOS) within a zone up to 200 nautical miles under their jurisdiction and the duties of Coastal States under UNCLOS to inter alia ensure through proper conservation and management measures that the maintenance of the living resources in the exclusive economic zone is not endangered by over-exploitation and the conditions regarding access to the surplus of the allowable catch;

CONSIDERING Article 63 (2) of UNCLOS on the duty of cooperation of the coastal States and other States for the purpose of conservation and development of straddling stocks occurring within the Exclusive Economic Zones (EEZs) of two or more coastal States and in an area beyond or adjacent to it and Article 64 (1) of UNCLOS on the duty to cooperate between coastal States and other States whose nationals fish in the region to ensuring conservation of highly migratory species both within and beyond the EEZs;

BEING MINDFUL of Articles 87 and 116 of UNCLOS concerning, respectively, the freedom of fishing in the high seas and the right for all States for their nationals to fish on the high seas;

RECOGNISING the special requirements of the developing states in Article 24 of the Agreement for the Implementation of the Provisions of the United Nations Convention of the Law of the Sea of December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UNFSA);

RECALLING that Article 5, of UNFSA requires Coastal States and States fishing on the high seas to adopt measures to ensure the long-term sustainability of straddling fish stocks and highly migratory fish stocks and to ensure that the conservation and management of highly migratory fish stocks is based on the best scientific evidence available;

FURTHER RECALLING that Article 6, of UNFSA, requires the states to be cautious during the application of precautionary approach when information is uncertain, unreliable or inadequate and this should not be a reason for postponing or failing to take conservation and management measures;

FURTHER RECALLING that Article 7 and 8 of the UNFSA point out the equal rights and obligations of all States fishing straddling fish stocks or highly migratory fish stocks in high seas;

BEING MINDFUL that Article 119 UNCLOS requires States to ensure that conservation measures and their implementation do not in form or in fact discriminate against the fishermen of any state;

RECOGNISING that Article 8 of UNFSA requires that terms of participation of a State in a RFMO shall not be applied in a manner which discriminates against any State or group of States having a real interest in the fisheries concerned;

NOTING that Resolution 15/10 sets as a guideline that for a stock where the assessed status places it within the red quadrant, the aim shall be to end overfishing with a high probability and to rebuild the biomass of the stock in as short time as possible;

FURTHER CONSIDERING the recommendations of the 18th IOTC Scientific Committee held in Bali, Indonesia, 23-27 November 2015 that the catches of yellowfin tuna have to be reduced by 20% of the 2014 levels to recover the stocks to levels above the interim target reference points with 50% probability by 2024, and subsequent recommendations by the IOTC Scientific Committee;

FURTHER NOTING the results of the Kobe process recommending the harmonisation of a series of targeted recommendations in key areas of by-catch, coordinated scientific efforts, reduced capacity, decision-making guidelines, and compliance and enforcement;

FURTHER CONSIDERING the active and stable important investments made in harvesting, processing and trade industries are essential to keep IOTC fisheries economic and socially viable and maintain jobs created in the region as well as to supply international markets with tuna and tuna like products.

BEING MINDFUL of Article V of the IOTC Agreement to adopt on the basis of scientific evidence, conservation and management measures, to ensure the conservation of the stocks and to promote the objective of their optimum utilization throughout the Area;

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

Main principles

1. In order to ensure ~~the~~their long-term sustainability ~~of the stocks,~~ the IOTC Commission shall establish allocation criteria for a Total Allowable Catch (TAC) for stocks covered by the IOTC Agreement ~~shall be established~~on a stock by the IOTC ~~based on a recommendation from the~~ stock basis in line with Scientific Committee at levels not less than those capable of producing maximum sustainable yield (MSY)~~advice.~~ The setting of TACs and participatory rights in accordance with the relevant management procedure, or in its absence, with an agreed biological reference point. The TAC allocation ~~these allocation criteria~~ shall be applied to all stocks in a gradual manner focusing in the first place on stocks where their assessed status places ~~it~~them within the upper left quadrant (red) of the Kobe plot.
2. The TAC~~allocation criteria~~ shall be allocated among apply to Members and, Cooperating Non-Members ~~(and long-term participating non-Contracting Parties (LPNCP) (in the context of this resolution defined as~~ CPCs) in a fair and equitable manner according to this Resolution and shall apply to all fishing gears.
- 2.3. The TAC allocation shall be limited to IOTC CPCs and consist of an initial baseline allocation for all CPCs plus ~~complimentary~~complementary and new entrants allocations for certain CPCs to be adjusted by certain correction factors as set out below. The initial baseline allocation shall comprise [85]% of the TAC. The remaining [15]% of the TAC shall be set aside for redistribution through a complementary allocation [8%], new entrants allocation [1%] and adjusted by correction factors [6%].
- 3.4. A CPC that has failed to report nominal catch data (exclusively), including zero catches, in accordance with ~~the~~ Resolution 15/02, paragraph 2, for one or more species for a given year, is not eligible to receive a TAC allocation. ~~However, if~~if a CPC has provided

incomplete reporting on nominal catch data it remains in principle eligible to receive a TAC allocation, but the Commission may pursuant to Resolution 16/06 consider prohibiting that CPC from retaining such species as of the year following the incomplete reporting and its allocation redistributed until such data has been received by the IOTC Secretariat. In such cases, a proportional temporary adjustment amongst CPCs on the basis of their final allocation shall take place.

4. ~~CPCs~~ A CPC having a compliance score of less than [60%] each year, for two consecutive years, without any indication of real progress in compliance is also ~~be excluded from receiving~~ not eligible to receive a TAC allocation.
5. ~~The TAC~~ In such cases, a temporary proportional adjustment amongst CPCs on the basis of their final allocation shall be set for five year periods. A stake place. "Real progress" in this context means an exception, where exceptional circumstances exist based on a recommendation from the Scientific Committee, improved compliance score of [10%] compared to the previous year Commission may revise the TAC before the end of any five-year period. ~~The Scientific Committee will develop a protocol for the application of extraordinary circumstances for consideration by the Commission at its [23rd Annual Session in 2019].~~
6. Any upwards or downwards revision of the TAC due to ~~exceptional circumstances in accordance with paragraph 5~~ shall lead to a proportional adjustment amongst CPCs on the basis of their final allocation.
7. In order to assure CPCs and their nationals, who fish or have made other fishing related investments in the ~~convention~~ IOTC Convention area, relative stability of their fishing and related activities and to avoid any sudden economic dislocation/disruption in the countries concerned, any final allocation that results in a reduction in excess of [10]% of the of the average catches in the last 10 years or the precedent quota, if a quota was already established, shall be implemented gradually over a period of [5-10] years (hereinafter referred to as the "stability principle").
- ~~8.1. In order to accommodate requests from new entrants with a real interest in the fishery, a set aside of [1]% of the overall TAC shall be reserved for allocations to new entrants established in accordance with the provisions of this Resolution. This [1]% set aside shall be equally shared by all new entrants, regardless the moment they join IOTC. If there are no requests by new entrants or the actual allocation to new entrants is less than the set aside of [1]%, the remaining amount shall be distributed proportionally amongst Members on the basis of their final allocation.~~

Initial baseline allocation

- ~~9.8.~~ The initial baseline allocation of the TAC amongst CPCs shall be based on historical catches covering the period [2000-2016]. For the purposes of this Resolution and in order to calculate the initial baseline allocation historical catches taken within an EEZ shall be apportioned reallocated between the respective coastal State and the flag state of the fishing vessel(s) that took the catches in a proportion of respectively **[10/90]** of those catches. This reallocation of historical catches shall be dependent on reliable catch data being available and validated for catches within the EEZ concerned. In accordance with the principle of stability the change in attribution that result from this new approach shall be implemented gradually over a transitional period of [10] years.
- ~~10. The initial baseline allocation shall comprise [85]% of the TAC. The remaining [15]% of the TAC will be set aside for redistribution through a complementary allocation [8%], new entrants allocation [1%] and adjusted by correction factors [6%].~~

Complementary allocation

~~11.9.~~ 9. In addition to the baseline allocation provided for in paragraphs 9 and 10 and to accommodate the special requirements of the developing States in Article 24 UNFSA and special interests of developing countries in the Indian Ocean Region to benefit equitably from the fishery resources ~~in the region~~ as recognised in the IOTC Agreement the following complementary allocations shall be added to the baseline allocation to be distributed amongst the following CPCs:

a) **Least developed countries** (LDCs) on the list of LDCs established by the United Nations' Committee for Development (CDP) ~~and/or Small Island coastal States that the fisheries sector (including processing industry) amounts to more than [20]% of their GDP shall receive a supplementary baseline allocation of [1/2/3] of the complementary allocation]~~ in this paragraph ~~11~~ to be distributed amongst all LDCs ~~and Small Inland coastal States mentioned above~~ in proportion of the size of their EEZs.

b) Small Island Developing States (SIDS) shall receive a supplementary baseline allocation of [1/4] of the complementary allocation provided for in this paragraph to be distributed amongst all SIDS in proportion of the size of their EEZs

~~b) Coastal developing states~~ States, excluding States described in a) and b), shall receive ~~an additional~~ a supplementary baseline allocation of [1/3~~4~~] of the ~~set aside described~~ complementary allocation provided for in this paragraph ~~11~~ to be shared amongst all coastal developing ~~states~~ States in proportion to the size of their EEZs.

c) The complementary allocation shall correspond to [8]% the size of the TAC. ~~their EEZs.~~

~~12.10.~~ 10. Any CPC having at the end of ~~after~~ the exercise a quota for application of the allocation principles set out in this resolution an allocation for a particular species corresponding to more than [5-10%] of the TAC ~~will~~ shall no longer be eligible for a complementary allocation for that species.

~~13.11.~~ 11. In order to benefit from the complementary allocation the CPCs concerned must confirm that such additional allocations and the associated future fishing efforts are consistent with the their Fleet Development Plan (FDP) submitted under Resolution [15/11] and its actual implementation (>50%).

Correction factors

~~14.12.~~ 12. The following correction factors ~~will~~ shall be applied to the sum of the initial and the complementary allocation as per paragraphs ~~98~~ to ~~13~~ 11 in order to ~~top up~~ increase, where appropriate, the allocation for a particular CPC:

~~a) real fishing interest, measured by having an active fleet or a FDP and under implementation;~~

a) contribution Contribution to the **effective conservation and management of fishery resources**, including the provision of accurate and timely data and effective through:

~~b) Effective~~ monitoring, control, surveillance and enforcement;

1. ~~the record of compliance with the IOTC conservation and management measures under the Agreement, including effective monitoring, control, surveillance and enforcement, as evidenced by a IOTC compliance score of more than [exceeding 80%];~~ ;

- e) ~~the contribution of the fisheries for the stocks regulated by IOTC to the national food security/needs, domestic consumption, income resulting from exports, and employment;~~
- d) ~~the interests of artisanal, subsistence and small-scale coastal fisheries;~~
- e) ~~the public and/or private sector investments made in the tuna sector, and the weight of imports of tuna products on economies and on the global consumption of tuna products;~~

2. contribution **Provision of accurate and timely data;**

- 1.3.Contributions both in kind and through the provision of financial support to the conduct of scientific research with respect to fishery resources and the public dissemination of the results of such research;

2.4.contribution to capacity building in developing coastal States;

~~15.1. Cooperating non contracting Parties will be eligible for a maximum of 80% of its TAC as per paragraphs 9 to 13. Downwards revision of the TAC to Cooperating non Contracting Parties shall lead to a proportional adjustment amongst CPCs on the basis of their final allocation.~~

b) ~~The correction~~ **Development and social factors** shall comprise at **, including:**

1. the needs of subsistence, small-scale and artisanal fishers, who are mainly dependent on fishing for the IOTC stocks;
2. the maximum [6]% of the overall allocation plus any left-over allocations as a result of decreases **needs of coastal states whose economies are overwhelmingly dependent on the exploitation of marine living resources in terms of for example employment and income resulting from exports;**
3. the allocations as a result of vulnerability of developing coastal states, and notably LDC, in whose area of national jurisdiction the applications **IOTC stock also occur and who are dependent on the exploitation of marine living resources, including for meeting nutritional requirements contribution of the correction** their population or parts thereof.

c) **Fishery-related issues and trade factors, including:**

1. real fishing interest as evidenced by fishing patterns and fishing practices by an active fleet or a FDP under implementation;
2. the public and/or private sector investments made in the tuna sector;
3. the weight of imports of tuna products on a CPCs economy.

~~16.13. Each individual correction factor in paragraph 14 above.12 shall be weighted at 1/3. The application of the correction factors can't result in an increase of the total TAC.~~

New entrants allocation

14. In order to accommodate requests from new entrants with a real interest in the fishery, [1]% of the overall TAC shall be reserved for allocations to new entrants established in accordance with the provisions of this Resolution. This [1]% set aside shall be equally shared by all new entrants, regardless of the moment they join IOTC. If there are no requests by new-entrants or the actual allocation to new entrants is less than the set-aside of [1]%, the remaining amount shall be distributed proportionally amongst Members on the basis of their final allocation.

Final allocation

- ~~17.~~^{15.} The sum of the initial allocation, the complementary allocation, the allocation for new entrants, plus the correction factors shall constitute the final allocation for the five-year period. Any additional allocation as a result of the applications of paragraphs 3 and 4 above shall be considered temporary and the CPCs concerned by the loss of allocation shall reacquire its full allocation as the soon as the conditions that led to the loss have ceased to exist.
- ~~18.~~^{16.} In order to ensure the stability of producers, canneries, markets, investments, food supply and to promote the social and economic development and the livelihood of the fishermen, including the need to minimize economic disruption and dislocation, any initial allocation or revision of that allocation in accordance with paragraphs ~~9~~⁸ to ~~14~~¹³ above that results in a decrease of more than 10% of the allocation from the preceding period for any CPC shall be implemented progressively over the following 10 year period.
- ~~19.~~^{17.} The final allocation is not to be considered a precedent for future allocation decisions or revisions.
18. Cooperating non-contracting Parties shall be eligible for a maximum of 80% of its TAC as per paragraphs 8 to 12. Downwards revision of the TAC to Cooperating non-Contracting Parties shall lead to a proportional adjustment amongst CPCs on the basis of their final allocation.

Weighting of the allocation criteria

- ~~20.~~^{19.} Each Member of the Commission commits to making a good faith effort to reach agreement on a weighting scheme for the correction factors set out in this Resolution within 2 years after the adoption of this Resolution.

Carry forward

- ~~21. Any part of a CPCs allocation that is not caught in a particular year can only be carried forward if the status of the stock concerned is assessed to be within the green quadrant of the Kobe plot and in no case can be carried forward beyond two years.~~

Revision of the allocation criteria

- ~~22. Any five-yearly or extraordinary revision of the TAC allocation amongst CPCs shall be based on the criteria established in this Resolution.~~

Transferability

- ~~23.~~^{20.} No CPC shall trade or sell its quota allocation or a part thereof unless authorised to do so by the Commission ~~or unless provided for by an international agreement between a CPC coastal State and another sovereign State or Regional Economic Integration Organization.~~¹

¹ This paragraph shall not apply to international agreements between a CPC coastal State and another sovereign State or Regional Economic Integration Organization which provides for access to the coastal state EEZ