

**SOUTH WEST INDIAN OCEAN GOVERNANCE AND SHARED GROWTH PROGRAM  
SECOND SOUTH WEST INDIAN OCEAN GOVERNANCE AND SHARED GROWTH PROJECT**

**REPORT**

**Legal Scrub of IOTC Resolutions and Recommendations**

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Submitted 15 December 2019

## EXECUTIVE SUMMARY

This report contains a legal scrub of all existing IOTC Resolutions and Recommendations and includes for each recommended technical legal drafting amendments (non-substantive), formatting and explanatory notes. The explanatory notes focus on the preamble, the operative paragraphs, any Annexes and for MCS Resolutions/Recommendations they summarise the relevant discussions and recommendations of WPICMM02 in considering improvements to the IOTC MCS Scheme.

The explanatory notes generally indicate troublesome technical legal deficiencies, but they may also flag substantive issues that may be discussed separately by CPCs, for example where the correction of contradictions, inconsistencies or errors would result in a different application or legal interpretation of the instrument.

To support the legal scrubbing, this study also:

- provides guidance on technical legal drafting of future Resolutions and Recommendations;
- reviews the comments on the draft Glossary made by CPCs at WPICMM02 and propose definitions accordingly;
- reviews the IOTC Scientific Glossary and proposes updates; and
- makes recommendations on a mechanism or process that provides for the implementation of the outcome of the legal scrub on a continuing basis in relation to the preparation of proposals for future Resolutions and Recommendations.

The IOTC Resolutions and Recommendations in the 2019 Compendium formed the basis for this report (<https://www.iotc.org/cmms>).

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## ACRONYMS

AFAD	Anchored fish aggregating device
AFV	Authorised fishing vessel
ATF	Authorisation to fish
B <sub>MSY</sub>	Biomass which produces MSY
CBD	Convention on biological diversity
CMM	Conservation and Management Measure (of the IOTC; Resolutions and Recommendations)
CNCP	Cooperating Non-Contracting Party, of the IOTC
CoC	Compliance Committee, of the IOTC
CPCs	Contracting Parties and Cooperating Non-Contracting Parties, of the IOTC
DFAD	Drifting fish aggregating device
EEZ	Exclusive Economic Zone
FAD	Fish aggregating device
FAO	Food and Agriculture Organization of the United Nations
FOC	Flag of convenience
F <sub>MSY</sub>	Fishing mortality which produces MSY
GT	Gross tonnage
HCR	Harvest control rule
IMO	International Maritime Organisation
IOTC	Indian Ocean Tuna Commission
IPOA	International plan of action
IUU	Illegal, unreported and unregulated
LOA	Length overall
LRP	Limit reference point
LSTLV	Large-scale tuna longline vessel
LSTV	Large-scale tuna vessel
MoU	Memorandum of understanding
MPF	Meeting participation fund, of the IOTC
MSE	Management strategy evaluation
MSY	Maximum Sustainable Yield
RFMO	Regional Fisheries Management Organisation
ROP	Regional observer programme
SC	Scientific Committee, of the IOTC
SCAF	Standing Committee on Administration and Finance, of the IOTC
SIOFA	Southern Indian Ocean Fisheries Agreement
TCAC	Technical Committee on Allocation Criteria, of the IOTC
TCMP	Technical Committee on Management Procedures
TRP	Target reference point
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
VMS	Vessel Monitoring System
WPEB	Working Party on Ecosystems and Bycatch, of the IOTC
WPM	Working Party on Methods, of the IOTC
WPTmT	Working Party on Temperate Tunas, of the IOTC
WPTT	Working Party on Tropical Tunas, of the IOTC

## INTRODUCTION AND OBJECTIVE

It is fundamental to the common understanding and effective implementation of multilateral legal instruments – whether voluntary or legally binding – that they are clear, consistent and well defined. Otherwise, situations may occur in which parties have different interpretations of legal instruments and implement them unevenly. This gives rise to misunderstandings, conflicts and ineffective or no implementation of the instrument and its objectives.

The Indian Ocean Tuna Commission (IOTC) is an intergovernmental organization established under Article XIV of the FAO Constitution. Its objective is to ensure through appropriate management, the conservation and optimum utilization of the tuna and tuna-like species in the Indian Ocean and adjacent seas, and to encourage their sustainable development. To achieve this objective, the Contracting Parties and Cooperating non-Contracting Parties (CPCs) adopt legally binding resolutions which contain conservation and management measures (CMMs) which parties are obligated to implement. CMMs have been adopted at annual Sessions of the Commission since 1998, and as of December, 2019, there are 59 active CMMs, comprised of 56 Resolutions and 3 Recommendations.

A special fund for capacity building to ensure compliance with CMMs, and a work program of capacity building activities was established under Resolution 12/10, *To promote implementation of Conservation and Management Measures already adopted by IOTC*. This was superseded by Resolution 16/10 which recognized the desirability of improving the coherence, interpretation and accessibility of its CMMs. Resolutions drew attention to challenges in implementation and compliance based on confusions caused, among others, by: frequent addition of new such measures and modifications to existing ones; complicated structure; and duplication of CMMs on one subject.

A special fund for capacity building<sup>1</sup> supported a project in the IOTC work program to review fisheries laws and regulations of CPCs and provide assistance to certain CPCs to translate the relevant obligations in IOTC Resolutions into binding national legal requirements in order to enhance the effective of implementation of and compliance with CMMs. The activity included a review of active IOTC Resolutions and preparation of draft provisions for incorporation of their requirements into national legislation, and then provided tailored guidance to certain CPCs on implementing the provisions at national level.<sup>2</sup>

The activity involved a review of active Resolutions and drew attention to a range of concerns with the use of terms in the Resolutions that hampered harmonized implementation, including the absence of an approved set of definitions of key terms, inconsistent use and formatting of terms and conflicting definitions/no implementation of terms defined in international instruments and best practices. The absence of an approved set of definitions of key terms combined with the lack of rigor in the terminology used within and throughout CMMs affected the clear and common understanding of these measures, which, in turn, was also likely to undermine the effectiveness of their implementation. It was recommended that a glossary of terms be adopted for use in implementation of and compliance with Resolutions, and the need for general legal technical consistency among CMMs was noted.

In 2016, the 13th Session of the Compliance Committee (CoC 13) considered that the adoption of a set of key terms along with their definitions should be seen as the first step in the process of strengthening the global coherence of IOTC CMMs. To be effective, it was proposed that the terms and definitions should be supplemented by additional measures, including on a process for their use in preparing new Resolutions and Recommendations. The CoC noted that the Scientific Committee already had a set of terms and definitions and recommended that further work be undertaken in the future to ensure a harmonized set of Terms and Definitions is developed for the Commission and its subsidiary bodies.

The 1st Session of the IOTC Working Party on Implementation of Conservation and Management Measures (WPICMM), held in March 2018, noted two papers in this regard.<sup>3</sup> One identified weaknesses in IOTC

<sup>1</sup> Resolution 12/10, *To promote implementation of Conservation and Management Measures already adopted by IOTC*.

<sup>2</sup> The report, prepared in 2015, is available at: <http://www.iotc.org/compliance/capacity-building-compliance>.

<sup>3</sup> The papers are, respectively, IOTC-2018-WPICMM-03 and IOTC-2018-WPICMM-04 and are at <http://www.iotc.org/meetings/1st-meeting-iotc-working-party-implementation-conservation-and-management-measures-wpicmm01>.

CMMs due to inconsistent use of terms, lack of definition of key terms and use of terms that are not “terms of legal art”, and provided a summary of IOTC Resolutions that require particular attention and amendments. The WPICMM agreed that a number of Resolutions:

- use inconsistent, weak or confusing definitions;
- use terms that are not terms of legal art;
- lack definitions of terms; and
- require amendments to include terms and definitions that are terms of legal art.

It acknowledged that such amendments will improve the understanding of Resolutions, hence improve implementation at national level and further strengthen compliance by CPCs.

The WPICMM noted that the list of Resolutions described in the paper was not exhaustive, and recommended that the 15th session of the Compliance Committee (CoC15) consider putting the list of active IOTC CMMs through a legal “scrub”, to improve legal soundness, harmonise terms and definitions and to use terms that are terms of legal art.

The second paper reviewed and updated the IOTC Terms and Definitions and proposed a draft glossary of terms and definitions which should be used by Members while drafting proposals for CMMs for consideration by the Commission. The WPICMM noted the significance of this document and recommended that CPCs be allowed six months to provide comments and observations on each of the definitions listed in the paper. It recommended that CoC15 provide clarifications on what will be the use of the glossary of terms and definitions. Both recommendations were noted by CoC15, and the Commission endorsed the report of CoC15 at its 22<sup>nd</sup> Session held in May, 2018.

The 2<sup>nd</sup> meeting of the WPICMM held in February, 2019 (WPICMM02) considering the draft glossary, noted the revised definitions and comments made by seven CPCs, agreed on 10 definition and recommended that the remaining 32 definitions be deferred to further work or be considered under the “legal scrubbing”, as appropriate.<sup>4</sup>

Some inconsistencies between the definition of terms in the Resolutions and their definition in the IOTC scientific glossary<sup>5</sup> have been noted during the review.

WPICMM02 also considered improvement of the IOTC Monitoring, Control and Surveillance (MCS) Scheme, and noted in this regard reports on the MCS CDS study and VMS study. It noted that 17 Resolutions required actions to improve the IOTC MCS Scheme; many of these actions are consistent with recommendations in this report. In order to integrate initiatives and facilitate action, the discussions and recommendations are summarised in the Explanatory Notes of relevant Resolutions.

The terms of reference for this legal scrub, approved at WPICMM02,<sup>6</sup> appear in ANNEX 5. The legal scrub is a standard part of the treaty-making process that takes place after a final text has been agreed. It is normally carried out by a group of lawyers of the negotiating States and aims to focus on technical legal irregularities, including use of terms, formatting, inconsistencies and other without changing the substance of the text. It can result in minor changes to the text in the interests of clarity and harmonized implementation. Legal scrubs take into account relevant international and regional law and instruments (voluntary or legally binding), best practices (including among RFMOs) and legal “terms of art”.

The **objective** of this study is to support IOTC on matters related to strengthening the harmonised implementation of and compliance with the Resolutions adopted by the Commission by conducting a technical legal scrubbing of all active Resolutions and Recommendations. IOTC Resolutions and Recommendations in this study appear in the 2019 IOTC Compendium of Active Resolutions.

To support the legal scrubbing, this study also:

- provides guidance on technical legal drafting of future Resolutions and Recommendations;

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<sup>4</sup> IOTC–2019–WPICMM02–R[E]

<sup>5</sup> IOTC–2013–WPEB09–INF17.

<sup>6</sup> IOTC–2019–WPICMM02–R[E] Appendix 4.



- reviews the comments on the draft Glossary made by CPCs at WPICMM02 and propose definitions accordingly;
- reviews the IOTC Scientific Glossary and proposes updates; and
- makes recommendations on a mechanism or process that provides for the implementation of the outcome of the legal scrub on a continuing basis in relation to the preparation of proposals for future Resolutions and Recommendations.

## TECHNICAL LEGAL SCRUB

The legal scrub conducted for each Resolution and Recommendation is in **Annex 1**. Recommended amendments appear in track changes but the comprehensive formatting changes – proposed to provide standard formatting - are not shown due to limitations of space.

In general, extensive scrubbing was required. It underlined the vital necessity of this scrub and the need for adopting guidelines, glossaries and procedures for the future.

**Explanatory notes** are given at the beginning of each Resolution/Recommendation. They focus on the preamble, the operative paragraphs, any Annexes and for MCS Resolutions/Recommendations they summarise the relevant discussions and recommendations of WPICMM02 in considering improvements to the IOTC MCS Scheme.

The explanatory notes generally indicate troublesome technical legal deficiencies, but they may also flag substantive issues that may be discussed separately by CPCs, for example where the correction of contradictions, inconsistencies or errors would result in a different application or legal interpretation of the instrument.

Proposed amendments of a strictly technical nature are too plentiful to be summarised in this text or addressed separately in the explanatory notes. Instead, common errors and inconsistencies were noted during the scrub and appear in the report on **Guidance and Recommendations** in relation to technical legal drafting of future Resolutions and Recommendations, in **Annex 2**.

The Guidance and Recommendations report is consistent with the IOTC Agreement, international best practices and the FAO style guide. It details the inconsistencies and inaccuracies in existing Resolutions and Recommendations concerning (a) IOTC-related matters, (b) legal responsibilities, (c) references/use of terms and (d) formatting, and recommends for a range of items under each of these four headings the proper approach and language. It clearly sets out the errors and approaches found in existing Resolutions that must be avoided in future.

The comments on the draft glossary made by the CPCs at WPICMM02 were reviewed, and definitions were amended accordingly. Explanations for the proposed definitions draw on the comments and appear in footnotes, together with any recommendations for further review or agreement. The **revised draft Glossary** is in **Annex 3**.

The terms appearing in the draft Glossary that also appear in the IOTC Scientific Glossary, or which do not properly take into account legal aspects, were reviewed for consistency and legal correctness. Those terms, together with the proposed draft Glossary definitions, **IOTC Scientific Glossary** definitions and recommendations, are in **Annex 4**. They are: bycatch, continental shelf, discards, exclusive economic zone, fish aggregating device, fishing logbook, flag State, harvest control rule, limit reference points, target reference points and vessel monitoring system. In most cases, it is recommended that the scientific term should be aligned with the term in the draft Glossary; however, this should be subject to technical scientific confirmation.

## RECOMMENDATIONS ON A PROCESS FOR THE PREPARATION OF PROPOSALS FOR FUTURE IOTC RESOLUTIONS AND RECOMMENDATIONS

This report indicates a need for an agreed approach to the preparation and adoption of Resolutions and Recommendations to ensure they are clear and consistent. Most importantly, mindful of the legally binding

nature of Resolutions and the need for all CPCs to uniformly implement their provisions into national legislation and procedures, they should be legally robust. In this regard, they should accurately reflect relevant international instruments, the IOTC Agreement, legal responsibilities, proper terminology, consistent formatting and legal best practices.

It is understood that the process for preparation of proposed Resolutions and Recommendations, or amendments, requires that they be submitted to the Secretariat in advance of the Sessions, and before distribution to CPCs.

The process for their adoption Sessions can be unpredictable due to the need for negotiation, and that agreement may only be reached as time runs out for further discussion or revision. There are added challenges where: legal advice may not be available or legal experts may not be familiar with the wide range of IOTC Resolutions, other relevant international instruments, IOTC Agreement, terminology or any legal drafting guidelines that may be agreed; and the mother tongue of many CPCs is not English or French.

Mindful of this situation, a three-step process for the preparation and adoption of Resolutions and Recommendations is recommended for consideration.

- (1) CPCs should use guidelines, based on those in Annex 2, to prepare its proposed draft or amendments.
- (2) A brief time period should be designated after receipt of the draft and prior to distribution to CPCs for the Secretariat to arrange a preliminary “legal scrub” of the proposal.
- (3) Final legal input should be given at the Session, if possible, in the form of advice during discussions, a brief legal vetting (“scrub”) after negotiation and prior to adoption, or other as may be agreed.

The legal advice for all steps should take into account the need for consistency within the Resolution or Recommendation, the legal applicability to CPCs, consistency with other Resolutions or Recommendations, the IOTC Agreement, international instruments and as appropriate other RFMOs, terminology, any legal drafting guidelines that may be agreed and terminology based on the draft Glossary and the Scientific Glossary.

## ANNEX 1. LEGAL SCRUB OF ACTIVE IOTC RESOLUTIONS AND RECOMMENDATIONS

### Commented [A1]: JPN

Japan's general comments as follows;

- There are no changes to Japan's 1<sup>st</sup> round of comments (as indicated in "JPN" in comment boxes in the right hand side) which we submitted in March, and therefore we still maintain them as they are.
- In this 2<sup>nd</sup> round submission, we have put comments in yellow to some of the comments made by EU.
- It is our understanding that, whether IOTC reflects these comments or not will be discussed in upcoming IOTC Annual Session in June.
- Japan reserves the right to make further comments, as it was difficult to make a thorough review in just two weeks given for 2<sup>nd</sup> round of comments.

### Commented [A2]: EU

We do not have any comments on the suggestions made by Japan. We have no issue reverting back to the original wording when Japan is suggesting it.

We have however three additional comments on the orthography of some words that were not addressed by the legal consultant. We would like to raise for the attention of all CPCs. Those relates to the lack of consistency in the orthography of three terms:

- Transshipment vs transshipment
- Bycatch vs by-catch
- Purse seiner vs purse seine vessel (same for longline, etc.)

For your convenience, the comments are highlighted in green in the text.

## **ACTIVE CMMs ADOPTED AT THE TWENTY-THIRD SESSION OF THE IOTC**

**2019**

## RESOLUTION 19/01

### ON AN ~~I~~NTERIM ~~P~~LAN FOR ~~R~~EBUILDING THE INDIAN OCEAN ~~Y~~ELLOWFIN ~~T~~UNA ~~S~~TOCK IN THE IOTC ~~A~~REA OF ~~C~~OMPETENCE

(Objection received from India: does not apply on India. Resolution 18/01 remains binding on India.  
Resolution 19/01 will enter into force on 28/12/2019)

**Keywords:** ~~Y~~ellowfin tuna, Kobe ~~P~~rocess, MSY, ~~P~~recautionary ~~A~~pproach.

## EXPLANATORY NOTES

### PREAMBLE

**Paragraph 4.** Reference to a “red quadrant” does not appear in Res. 15/10 *on target and limit reference points and a decision framework* as stated in the paragraph. It appears in Recommendation 14/07 *to standardise the presentation of scientific information in the annual scientific committee report and in working party reports* (below) but does not support the language in this paragraph, which is shown as deleted.

14/07: b) A graphical representation showing the proportion of model outputs of the years used for advice from the last stock assessment that are within the green quadrant of the Kobe plot/chart (not overfished, not subject to overfishing), the yellow and orange quadrants (overfished or subject to overfishing) and the red quadrant (overfished and subject to overfishing).

**Paragraph 5.** Misquotes of the UNFSA are corrected.

**Paragraph 6.** Amended to reflect the proper reference to the KOBE II meeting and the language used in its report.

**Paragraph 7.** Amended to reflect the proper reference to the KOBE III meeting and the language used in its report.

**Paragraph 8.** This statement does not appear in the referenced report and is not proper English. In the report, Table 2 (Summary of “Ideal Gear Property” Mean Scores and Indices for different Capture Methods on page 121) assesses catch controllability and environmental sustainability but does not lead immediately to the conclusions reported. The language was adjusted to align with the table.

**Paragraph 11.** The language from the referenced WPTT report (paragraph 130) is used.

**Paragraph 14.** Amends language to accurately reflect Article V 2(b) of the IOTC Agreement.

**Paragraph 15.** Amends language to accurately reflect Article V 2(d) of the IOTC Agreement.

### PARAGRAPHS

**1.** Amended to reflect the application of the Resolution to supply vessels and to use proper language in describing vessel size.

**16.** “Supply vessel” and footnote deleted, and “support vessel” used. “Support vessel” is defined in the proposed glossary as: Any vessel used, equipped to be used or intended to be used for fishing related activities, including any vessel other than a craft carried on board a fishing vessel that is not equipped with operational fishing gear and that facilitates, assists or prepares fishing activities including by supplying a fishing vessel.

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

## 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 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 and of Articles 87 and 116 of the United Nations Convention of the Law of the Sea regarding the right to fish on the high seas;

RECOGNISING the special requirements of the developing States, particularly Small Island Developing States (SIDS), 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 the UNFSA requires coastal States and States fishing on the high seas to ensure that measures they adopt to ensure the long-term sustainability of the conservation and management of highly migratory fish stocks are based on the best scientific evidence available and that with special reference to Resolution 15/10 for a stock where the assessed status places it within the red quadrant, and with an aim to end overfishing with a high probability and to rebuild the biomass of the stock in as short time as possible;

FURTHER RECALLING that Article 6, of the UNFSA and IOTC Resolution 12/01 On the implementation of the precautionary approach, requires the States to apply the precautionary approach widely to conservation and management of highly migratory fish stocks and to be more cautious during the application of precautionary approach when information is uncertain, unreliable or inadequate and in the absence of adequate scientific information must not be a reason for postponing or failing to take conservation and management measures;

CONSIDERING the recommendations adopted by the KOBE II Second Joint Meeting of Tuna Regional Fisheries Management Organisations (RFMOs), held in San Sebastian, Spain, June 23 – July 3 2009 (KOBE II); that each tuna RFMO consider implementing where appropriate a freeze on fishing capacity on a fishery by fishery basis and such a freeze should not constrain the access to, development of, and benefit from sustainable tuna fisheries by developing coastal States;

FURTHER CONSIDERING the recommendations adopted by the KOBE III Third Joint Meeting of Tuna RFMOs held in La Jolla, California, 12- 14 July 2011 (KOBE III); that, based on considering the status of the stocks, each tuna RFMO should consider a scheme for reduction of overcapacity in a way that does not constrain the access to, development of, and benefit from sustainable tuna fisheries, including on the high seas, by developing coastal States, in particular Small Island Developing States, territories, and States with small and vulnerable economies; and Transfer of capacity from developed fishing members to developing coastal fishing members within its area of competence where appropriate;

FURTHER CONSIDERING the report by International Council for the Exploration of Sea and FAO Working Group on Fishing Technology and Fish Behaviour (2006), that assessed the catch controllability and environmental sustainability of gillnets are considered to be one of the least catch controllable and least environmentally sustainable gears;

FURTHER CONSIDERING the recommendations of the 18th IOTC Scientific Committee held in Bali, Indonesia, 23 – 27 November 2015 and the 21<sup>st</sup> session of the IOTC Scientific Committee held in Seychelles, 3 – 7 December 2018, to reduce that the catches of yellowfin tuna have to be reduced by 20% of the 2017 levels to recover the stocks to levels above the interim target reference points with 50% probability by 2027 as specified in the Kobe II Strategy Matrix;

FURTHER CONSIDERING the management advice of the 21<sup>st</sup> session of the IOTC Scientific Committee on the limitations and uncertainties in the stock assessment;

FURTHER CONSIDERING the concern noted by the 20<sup>th</sup> Session of the IOTC Working Party for Tropical

### Commented [A3]: JPN

"The" shall be deleted. In article 5 of the UNFSA, there is not "the" before the words of "highly migratory fish".

### Commented [A4]: AUS

Australia agrees with Japan that 'the' should be deleted for consistency with article 5 of the UNFSA.

### Commented [A5]: JPN

"that" shall be deleted, because of the grammatical problem.

### Commented [A6]: EU

No. We understand the incorrect reference to red quadrant but we would prefer to keep the reference

### Commented [A7]: EU

No. Overall meaning not the same

### Commented [A8]: EU

No. Overall meaning not the same

Tuna held in Seychelles, 29 October – 3 November 2018 ~~that the catch limits adopted for the yellowfin tuna stock have led to changes in targeting by purse seiners which involved an -the change in strategy by~~ increase of usage of FADs, ~~and that this -by the purse seine vessels to maintain catch level targets~~ has led to changes in the species and size composition of the catch, with more catches of a substantial increase of juvenile yellowfin tuna and bigeye tuna;

NOTING THAT supply vessels contribute to the increase in effort and capacity of purse seiners and that the number of supply vessels has increased significantly over the years;

FURTHER CONSIDERING the call by the United Nations General Assembly Resolution 70/75 *on Sustainable Fisheries* calls upon ~~the~~ States to increase the reliance on scientific advice in developing, adopting and implementing conservation and management measures and to take into account the special requirements of developing States, including ~~Small Island Developing States (SIDS)~~, as highlighted in the SIDS Accelerated Modalities of Action (SAMOA) Pathway;

NOTING THAT Article V ~~-2(b)~~ of the IOTC Agreement ~~describes the functions and responsibilities of the Commission in relation to encouraging, recommending and coordinating research and development activities and other activities covered by the Agreement, having due regard to the need to ensure the -for the Establishment of the Indian Ocean Tuna Commission give full recognition to the~~ special interests and needs of Members in the region that are developing countries, ~~in relation to the conservation and management and optimum utilization of stocks covered by this Agreement and encouraging development of fisheries based on such stocks;~~

FURTHER NOTING THAT Article V 2(d) of the IOTC Agreement requires the Commission to keep under review the economic and social aspects of the fisheries based on the stocks covered by ~~the~~ Agreement bearing in mind, in particular, the interests of developing coastal States ~~and acknowledging that such interests would be served by -This includes~~ ensuring that IOTC Conservation and ~~m~~Management ~~m~~Measures ~~adopted by it~~ do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto developing States, especially ~~SIDS~~ *Small Island Developing States*;

RECOGNIZING FURTHER the interactions that occur between the fisheries for yellowfin, skipjack and bigeye tuna;

CONSIDERING paragraph 12 of Resolution 169/01 ~~superseded by Resolution 17/01, then by Resolution 18/01, then by Resolution 19/01~~ that allows the Commission to review this Interim Plan ~~for rebuilding the Indian Ocean yellowfin tuna stock in the IOTC area of competence~~ before 2019;

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

#### Application

1. This ~~r~~Resolution shall apply to ~~all fishing vessels used for fishing or related activities and that targeting tuna and tuna-like species~~ in the IOTC Area of Competence ~~Indian Ocean~~ of 24 meters ~~overall length overall and/or above~~ ~~and/or above~~, and those ~~under less than~~ 24 meters in length overall if they ~~engage in fishing~~ outside the exclusive economic zone (EEZ) of their flag State, ~~within the IOTC Area of Competence~~.
2. The measures contained ~~within~~ this Resolution shall be considered as interim measures and will be reviewed by the Commission no later than at its annual Session in 2020.
3. Notwithstanding paragraph 2, this Resolution shall be reviewed when a formal Management Procedure for the management of the yellowfin tuna stock is adopted by the Commission and ~~has entered into force in effect~~.
4. Nothing in this ~~r~~Resolution shall pre-empt or prejudice ~~the~~ future allocation of fishing opportunities.

#### Catch limits

5. **Purse seine:** *Contracting Parties and Cooperating Non-contracting Parties* (CPCs) whose purse seine catches of yellowfin reported for 2014 were above 5000 MT ~~to shall~~ reduce their purse seine catches of yellowfin by 15 % from the 2014 levels.
6. **Gillnet:** CPCs whose ~~g~~Gillnet catches of yellowfin reported for 2014 were above 2000 MT ~~to shall~~ reduce their ~~G~~gillnet catches of yellowfin by 10 % from the 2014 levels.

**Commented [A9]:** MDV

Might want to be specific about this referring to drifting FADs

**Commented [A10]:** EU

The sentence does not make sense in English.

Three options:

- 1) Keep the current wording
- 2) "having due regard to the special interest and needs of Members in the regional that are developing countries"
- 3) "having due regard to the need to ensure the equitable participation of Members of the Commission in the fisheries and the special interest and needs of Members in the regional that are developing countries"

**Commented [A11]:** EU

No. It does not reproduce the same meaning.

**Commented [A12]:** MDV

Suggest to retain current wording

**Commented [A13]:** EU

No. Not until definition are not agreed among CPC. This comment is valid through the entire document.

**Commented [A14]:** AUS

Australia does not agree with these changes. Australia agrees with the EU that this definition has not been agreed by CPCs. Australia's strong preference is to retain the existing text ('all fishing vessels targeting tuna and tuna-like species').



7. **Longline:** CPCs whose ~~longline~~ catches of yellowfin reported for 2014 were above 5000 MT ~~shall~~ reduce their ~~longline~~ catches of yellowfin by 10 % from the 2014 levels.
8. **CPCs' other gears:** CPCs whose catches of yellowfin from other gears reported for 2014 were above 5000 MT ~~shall~~ reduce ~~such their other gear~~ catches of yellowfin ~~by other gear~~ by 5 % from the 2014 levels.
9. In applying the catch reductions by gears in provisions in paragraph 5, 6, 7 and 8, ~~SIDS~~ ~~Small Island Developing States~~ and Least Developed Countries can ~~either~~ choose between catches of yellowfin tuna reported for either 2014 or 2015. For such CPCs, ~~p~~ Paragraph 13(a) is applicable over the accumulated catch in 2018 and 2019.
10. Exceptionally for 2019 and 2020, ~~Small Island Developing States~~ ~~SIDS~~ CPCs that contributed less than 4% of the total yellowfin catch of the Indian Ocean in 2017, shall reduce their purse seine catch by 7.5% of 2018 levels.
11. Any CPC to which ~~them~~ paragraphs 5, 6, 7, 8, 9 or 10 do not apply and whose catches exceeded the threshold limits in any subsequent year (from 2017), shall reduce their catches to the levels prescribed for that particular gear as ~~mentioned~~ ~~provided~~ in paragraphs 5, 6, 7 and 8.
12. Flag States will determine appropriate methods for achieving these catch reductions, which could include capacity reductions, effort limits, *etc.*, and will report ~~such methods and catch reductions~~ to the ~~IOTC~~ Secretariat in their ~~annual~~ Implementation Report ~~every year~~.

#### **Over/Excess catch of annual limit**

13. If ~~excess over~~ catch of an annual limit for a given fleet of a CPC listed in paragraph 5 to 10 occurs, catch limits for that fleet shall be reduced as follows:
  - (a) ~~If~~ the accumulated catch in 2017, 2018 and 2019 exceeds the sum of the catch limit<sup>1</sup> for 2017, 2018 and 2019 the excess ~~(over catch)~~ shall be deducted from the 2021 catch limit<sup>2</sup>;
  - (b) ~~For~~ 2020 and following years, 100% of that ~~over excess~~ catch shall be deducted from the following two years limit; unless
  - (c) ~~Over excess~~ catch for that fleet has occurred in two or more consecutive years, in which case 125% of the ~~over excess~~ catch shall be deducted from the following two years limit.
14. CPCs shall inform the Commission ~~via~~ ~~through~~ the IOTC Compliance Committee ~~and in their annual Implementation Report, of~~ any reductions ~~required under paragraph 13~~ in the following year because of ~~over excess catch, in paragraph 13 in their implementation Report.~~
15. The revised limits ~~shall will~~ apply in the following year and CPCs compliance shall be assessed against the revised limits reported to the IOTC Compliance Committee.

#### **Supply/Support Vessels**

16. CPCs shall gradually reduce ~~supply support~~ vessels<sup>3</sup> by 31 December 2022 as ~~follows (except that subparagraphs (a) and (b) shall not apply to flag States which use only one support vessel); specified below in (a), (b), and (c). Flag States shall submit the status of reducing the use of supply vessel as part of the report of Implementation to the Compliance Committee.~~
  - (a) ~~From~~ 1 January 2018 to 31 December 2019: 1 ~~supply support~~ vessel in support of not less than 2 purse seiners, all of the same flag State<sup>3</sup>.
  - (b) ~~From~~ 1 January 2020 to 31 December 2020: 2 ~~support supply~~ vessels in support of not less than 5 purse seiners, all of the same flag State<sup>3</sup>.
  - (c) ~~No~~ CPC is allowed to register any new or additional ~~support supply~~ vessel on the IOTC Record of Authorized Vessels after 31 December 2017<sup>3</sup>.

**Commented [A15]:** JPN

The original technical term shall be maintained.

**Commented [A16]:** AUS

Australia agrees with Japan that the original term ('over catch') should be retained throughout this measure.

**Commented [A17]:** MDV

should maintain the original wording

**Commented [A18]:** JPN

The original technical term shall be maintained.

**Commented [A19]:** EU:

No. Not until definition are not agreed among CPC. This comment is valid through the entire document.

**Commented [A20]:** MDV

Agree with the new change to heading, in line with the amendments to Para 16

**Commented [A21]:** AUS

Australia agrees with Japan that the original term ('over catch') should be retained throughout this measure.

<sup>1</sup> Catch of Indonesia is based on the national reports submitted to the Scientific Committee.

<sup>2</sup> For the purpose of this Resolution, the term "supply vessel" includes "support vessel".

<sup>3</sup> The subparagraphs (a) and (b) shall not apply to flag States which use only one supply vessel.



and Flag States shall submit the status of reducing the use of supply vessels as part of their report of annual Implementation Report to the Compliance Committee.

17. A single purse seine vessel shall not be supported by more than one single support supply vessel of the same flag State at any point of time.
18. Complementary to Resolution 15/0819/02 (~~superseded by Resolution 17/08, then by Resolution 18/08, then by Resolution 19/02~~) Procedures on a fish aggregating devices (FADs) management plan and to Resolution 15/02 on mandatory statistical reporting requirements for IOTC Contracting Parties and Cooperating Non-Contracting Parties, CPC flag States shall report annually before the 1 January for the coming year of operations designating the which Purse seiners that are served by each supply vessel. This information is mandatory and will be published on the IOTC website so as to be accessible to all CPCs. ~~and is mandatory.~~
19. CPCs shall report by 1 March 2019, on the number of FADs that were deployed in 2018 and 2019 by their flag purse seine vessels and associated support supply vessels per 1°x1° grid.

#### Gillnet

20. Without prejudice to Article 46XVI of the IOTC Agreement, CPCs shall encourage phasing out of vessels that use gillnets or their conversion for t-gillnet fishing vessels to using other gears, considering the huge ecological impact of these gears, and fast track the implementation of Resolution 17/07 On the Prohibition to use large-scale driftnets in the IOTC.
21. CPCs shall set their gillnets at 2 meters depth from the surface in gillnet fisheries by 2023 to mitigate the ecological impacts of gillnets.
22. CPCs are encouraged to increase their observer coverage or field sampling in gillnet fishing vessels by 10% using alternative data collection methodologies (electronic or human) to be verified by the IOTC Scientific Committee by 2023.
23. CPCs shall report the level of implementation of paragraphs 21 and 22 —23 to the IOTC-Commission ~~via~~through the IOTC Compliance Committee.

#### Administration

24. The IOTC Secretariat, ~~under on the~~ advice of the IOTC Scientific Committee, shall prepare and circulate in December of the current year a table of allocated catch limits disaggregated ~~as per~~in accordance with the conditions set out in paragraphs 5 ~~through~~ 10 above for the preceding year, ~~in December of the current year.~~
25. CPCs shall monitor the yellowfin tuna catches from their vessels in conformity with IOTC Resolution 15/01 On the recording of catch and effort data by fishing vessels in the IOTC area of competence and Resolution 15/02 Mandatory statistical reporting requirements for IOTC Contracting Parties and Cooperating Non Contracting Parties (CPCs) and will provide a summary of their most recent yellowfin catches for the consideration by of the IOTC Compliance Committee.
26. For the purposes of the implementation of this Resolution, CPCs shall submit their catches of yellowfin disaggregated for vessels 24 meters ~~m overall~~ length overall and ~~over~~above, and those ~~under less than~~ 24 meters in length overall ~~if they which engage in~~ fishing outside their EEZ in the IOTC area of competence as ~~per~~provided in IOTC Resolution 15/02.
27. Each year, the IOTC Compliance Committee shall evaluate the level of compliance with the reporting obligations and the catch limits deriving from this Resolution and shall make recommendations to the Commission accordingly.
28. The IOTC Scientific Committee ~~via~~through its Working Party on Tropical Tunas shall implement the “Workplan to improve current assessment of yellowfin tuna” and shall advise the Commission of the financial and administrative requirements to further strengthen the work undertaken to minimize the issues and complexities regarding yellowfin tuna stock assessment.
29. The IOTC Scientific Committee ~~via~~through its Working Party on Tropical Tunas shall in 2019 undertake an evaluation of the effectiveness of the measures detailed in this Resolution, taking into account all sources of fishing mortality possible aiming at returning and maintaining biomass levels at the Commission’s target level.

#### Commented [A22]: EU

There is no consistency in the usage of “purse seiner” or “purse seine vessel”. Same for “long liner” vs “long line vessel”. We could discuss the relevance of addressing this, or another option could be to integrate a preferred suggested orthography in the guidelines for future resolutions

30. This Resolution supersedes IOTC Resolution 18/01 *On an interim plan for rebuilding the Indian Ocean yellowfin tuna stock*.

Conservation and Management Measures linked to Resolution 19/01 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 12/01</a>	<a href="#">Resolution 15/01</a>	<a href="#">Resolution 18/04</a>	
<a href="#">Resolution 15/02</a>	<a href="#">Resolution 15/10</a>		
<a href="#">Resolution 17/07</a>	<a href="#">Resolution 19/02</a>		

## RESOLUTION 19/02

### PROCEDURES ON A ~~F~~FISH ~~A~~AGGREGATING ~~D~~DEVICES (FADS) ~~M~~MANAGEMENT ~~P~~PLAN

**Keywords:** FAD, active instrumented buoy.

#### EXPLANATORY NOTES

##### PREAMBLE

**Paragraph 11.** Amendment proposed to accurately reflect the IOTC Agreement which, among others, does not refer to bycatch.

##### PARAGRAPHS

2. The application of the Resolution was broadened to reflect the actual scope, including purse seine and supply vessels. Amendment proposed to refer to vessels “using” FADs rather than “fishing on” FADs. This is used elsewhere in the Resolutions and has a broader application where FADs may be registered to vessels that don’t report use for fishing and they may also be used by supply/support vessels.
3. Amendment proposed to obligate CPCs to implement the requirement.
4. Amendment proposed to obligate CPCs to implement the requirements, and paragraph re-formatted for easier understanding.
8. This paragraph is logically confusing, it is difficult to know why an instrumental buoy can only be reactivated in port upon authorisation by the CPC. *As a substantive matter, it is recommended to clarify this with CPCs.*
11. Reference is made to an Annex directed at AFADs but the Resolution only addresses DFADs. Recommended to delete Annex II and IV on AFADs, and all references to AFADs in the Resolution. *It is recommended to clarify this with CPCs.*
12. Same as paragraph 11; delete reference to AFADs.
19. This paragraph does not require annual reports or timelines, resulting in reports often not being made. *As a substantive matter, it is recommended to clarify this with CPCs.*
24. There is some confusion about the reporting responsibilities between the instrumented buoy supplier company or the CPCs; the former is not legally bound by this Resolution and an amendment has been proposed to clarify. Reporting is to be to the Executive Secretary in all cases, rather than the Secretariat.

##### ANNEXES

As described in relation to paragraph 11, it is recommended to delete Annexes II and IV because they related to anchored FADs which are not addressed in the text of the Resolution.

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

**Commented [A23]:** MDV  
Should be “using or deploying” since supply vessels don’t actually “use” FADs

**Commented [A24]:** MDV  
“deployed or serviced by supply/support vessels.

**Commented [A25]:** MDV Feel important to avoid any confusion by also making reference to aFADs in this proposal that is squarely seeking to address issues with dFADs. The scale and intent of deployment, as well as the damage caused to the stock by the different FAD types are not comparable, so agree with removing aFAD references in this Resolution. Might be best to even ensure the title clarifies the focus on drifting FADs.

**Commented [A26]:** JPN  
Finding appropriate places for referencing these annexes would be better than simply deleting these annexes.

**Commented [A27]:** MDV  
Agree with proposal to delete aFAD focussed references and annexes as a means of aligning with the intent and streamlining the focus of this Resolution

## The Indian Ocean Tuna Commission (IOTC),

BEARING IN MIND that the United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UNFSA) encourages coastal States and fishing States on the high seas to collect and share, in a timely manner, complete and accurate data concerning fishing activities on, inter alia, vessel position, catch of target and non-target species and fishing effort;

MINDFUL of the call upon States, either individually, collectively or through regional fisheries management organisations and arrangements in the United Nations General Assembly Resolution 67/79 on Sustainable fisheries to collect the necessary data in order to evaluate and closely monitor the ~~use of~~ large-scale ~~use of~~ fish aggregating devices ~~(FADs) and others~~, as appropriate, and their effects on tuna resources and tuna behaviour and associated and dependent species, to improve management procedures to monitor the number, type and use of such devices and to mitigate possible negative effects on the ecosystem, including on juveniles and the incidental bycatch of non-target species, particularly sharks and marine turtles;

NOTING that the United Nations Food and Agricultural Organization ~~(FAO)~~ Code of Conduct for Responsible Fisheries provides that States should compile fishery-related and other supporting scientific data relating to fish stocks covered by sub-regional or regional fisheries management organisations and provide them in a timely manner to the organisation;

RECOGNISING that ~~FADs~~ ~~Fish Aggregating Devices~~ under the competence of IOTC should be managed to ensure the sustainability of fishing operations;

GIVEN that the activities of supply vessels and the use of ~~Fish Aggregating Devices (FADs)~~ are an integral part of the fishing effort exerted by the purse seine fleet;

AWARE that the Commission is committed to adopt Conservation and Management Measures to reduce juvenile ~~Bbigeye~~ tuna and ~~Yyellowfin~~ tuna mortalities from fishing effort on ~~Fish Aggregating Devices (FADs)~~;

RECALLING that IOTC Resolution 12/04 On the conservation of marine turtles established that the Commission at its annual session in 2013 should consider the recommendations of the IOTC Scientific Committee ~~as regards~~ regarding the development of improved FAD designs to reduce the incidence of entanglement of marine turtles, including the use of biodegradable materials, together with socio-economic considerations, with a view to adopting further measures to mitigate interactions with marine turtles in fisheries covered by the IOTC Agreement;

RECALLING that Resolution 19/02-13/08 ~~[superseded by Resolution 15/08, by Resolution 17/08, by Resolution 18/08 and then by Resolution 19/02]~~ established procedures on a fish aggregating device (FAD) management plan, including more detailed specifications of catch reporting from FAD sets, and the development of improved FAD designs to reduce the incidence of entanglement of non-target species;

NOTING that the IOTC Scientific Committee advised the Commission that only non-entangling FADs, both drifting and anchored, should be designed and deployed to prevent the entanglement of sharks, marine turtles and other species;

NOTING that the IOTC Scientific Committee advised the Commission to conduct an investigation of the feasibility and impacts of a temporary FAD closure as well as other measures in the context of Indian Ocean fisheries and stocks;

RECALLING that Article V of the IOTC Agreement provides that the objective of the ~~Commission~~ ~~IOTC Agreement~~ is to promote cooperation among its Members with a view to ensuring, through appropriate management, the conservation and optimum utilisation of stocks covered by the ~~mentioned~~ Agreement and encouraging sustainable development of fisheries based on such stocks, ~~and minimising the level of bycatch~~;

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

### 1. Definitions.

*For the purposes of this Resolution:*

#### Commented [A28]: JPN

I believe that "United Nation" is not necessary because the legal name is "Agreement for the Implementation of the Provisions of the United Nations Convention of the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks".

#### Commented [A29]: AUS

Australia agrees with Japan that the addition of 'United Nations' is not necessary as the full title of the treaty is the Agreement for the Implementation of the Provisions of the United Nations Convention of the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.

#### Commented [A30]: MDV

This is a misquote: Art. 5(j) UNFSA obliges ("shall") States to do so. It should be corrected.

#### Commented [A31]: EU:

No. It was the intention of the Commission to include other potential FOB

#### Commented [A32]: AUS

Australia does not agree with the deletion of this text ('and others'). Australia agrees with the EU that the current text reflects the Commission's intentions at the time this resolution was agreed.

- (a) “Fish Aggregating Device (FAD)” means a permanent, semi-permanent or temporary object, structure or device of any material, man-made or natural, which is deployed and/or tracked, for the purpose of aggregating target tuna species for consequent capture.
  - (b) “Drifting Fish Aggregating Devices (DFADs)” means a FAD not tethered to the bottom of the ocean. A DFAD typically has a floating structure (such as a bamboo or metal raft with buoyancy provided by buoys, corks, etc.) and a submerged structure (made of old netting, canvass, ropes, etc.).
  - (c) “Anchored Fish Aggregating Devices (AFADs)” means a FAD tethered to the bottom of the ocean. It usually consists of a very large buoy and anchored to the bottom of the ocean with a chain.
  - (d) “instrumented buoy” means a buoy ~~with a~~ clearly marked with a unique reference number allowing identification of its owner and equipped with a satellite tracking system to monitor its position.
  - (e) “~~O~~perational buoy” means any instrumented buoy, previously activated, switched on and deployed at sea on a drifting FAD or log, which transmits position and any other available information such as eco-sounder estimates.
  - (f) “~~a~~Activation of a buoy” means the act of initializing satellite communication service, which is done by the buoy supplier company at the request of the vessel owner or manager.
  - (g) “~~d~~Deactivation of a buoy” means the act of cancelling satellite communications service, which is done by the buoy supplier company at the request of the vessel owner or manager.
  - (h) “~~b~~Buoy owner” means any legal or natural person, entity or branch, who is paying for the communication service for the buoy associated with a FAD, and/or who is authorized to receive information from the satellite buoy, as well as to request its activation and/or deactivation.
  - (i) “~~r~~Reactivation” ~~means~~ the act of re-enabling satellite communications services by the buoy supplier company at the request of the buoy owner or manager.
  - (j) “~~b~~Buoy in stock” means an instrumented buoy acquired by the owner which has not been made operational.
2. This Resolution shall apply to Contracting Parties or Cooperating Non-Contracting Parties (CPCs) ~~flag having~~ purse seine vessels ~~and fishing on Drifting Fish Aggregating Devices (DFADs)~~, equipped with instrumented buoys for the purpose of aggregating target tuna species in the IOTC area of competence, ~~in the IOTC area of competence~~. Only purse seiners and associated supply or support vessels are allowed to deploy DFADs in the IOTC ~~A~~area of ~~C~~competence.
  3. ~~This resolution requires the CPCs shall ensure their flag vessels use of instrumented buoys, as per the above definition above, on all DFADs and prohibits the use of any other buoys, such as radio buoys, not that do not meeting this definition.~~
  4. ~~This Resolution sets CPCs shall require, in respect of its flag vessels operating in the IOTC area of competence:~~
    - (a) ~~the maximum number of:~~
      - (i) operational buoys followed by any purse seine vessel ~~at to be~~ 300 at any one time; ~~The number of and~~
      - (ii) instrumented buoys that may be acquired annually for each purse seine vessel ~~to be is set at no more than 500.~~
    - (b) ~~that n~~No purse seine vessel shall have more than 500 instrumented buoys (buoy in stock and operational buoy) at any time.
    - (c) ~~that a~~An instrumented buoy shall be made operational only when physically present on board the purse-seine vessel to which it belongs or its associated supply or support vessel, and ~~that~~ the event shall be recorded in the appropriate logbook, specifying the instrumented buoy unique identification number and the date, time and geographical coordinates of its deployment.
  5. A CPC may adopt a lower limit than the one ~~set out provided~~ in paragraph 4 for its flag vessels ~~flying its flag~~. Further, any CPC may adopt a lower limit for DFADs deployed in its exclusive economic zone (EEZ) than that

**Commented [A33]: AUS**

Australia does not agree with this change. The existing text should be retained.

**Commented [A34]: MDV**

Unlike indicated in the introductory comment, this language was not changed to “use”.

Proposed amendment:

“This Resolution shall apply to Contracting Parties or Cooperating Non-Contracting Parties (CPCs) **flag purse seine vessels and associated supply or support vessels using, deploying or servicing Drifting Fish Aggregating Devices (DFADs)**”

**Commented [A35]: JPN**

“operating in the IOTC area of competence” shall be replaced by “referred to in paragraph 2”, because the scope is expanded from the original one.

**Commented [A36]: AUS**

Australia agrees with Japan that this text provides a broader scope than that of paragraph 2 of the resolution. Australia suggests replacing this text with ‘its purse seine vessels referred to in paragraph 2’.

- ~~provided~~ stated in paragraph 4. The CPC shall review the adopted limit to ensure that such limit is not more than the limit fixed by the Commission.
6. CPCs shall ensure that, ~~as~~ from the effective date of this Resolution, each of its ~~flag~~ purse seine ~~vessels~~ already in operation does not exceed the maximum number of operational and instrumented buoys at any one time as ~~provided~~ set out in paragraph 4.
  7. ~~CPCs shall require each~~ All flag purse seine vessel, supply or support vessel ~~shall~~ to declare to its ~~respective CPC~~, the number of instrumented buoys onboard, including each unique identifier of the instrumented buoy before and after each fishing trip.
  8. ~~CPCs shall require that~~ Reactivation of an instrumented buoy shall only be possible ~~after~~ once it has been brought back to port, either by the ~~flag~~ vessel tracking the buoy/ associated supply or support vessel or by another ~~flag~~ vessel and has been authorized by the CPC.
  9. Notwithstanding the completion of any study undertaken at the request of the Commission including the study ~~to be~~ being undertaken by the ~~ad hoc~~ Working Group on FADs ~~adopted~~ established by Resolution 15/09 On a fish aggregating devices (FADs) working group in relation to FADs, the Commission may review the maximum number of instrumented buoys set out in paragraph 4.
  10. CPCs shall require ~~their flag~~ vessels ~~flying their flag and that~~ fishing on DFADs to annually ~~submit~~ report the number of operational buoys ~~that are~~ followed by ~~each~~ vessel, lost and transferred (total number of DFADs tagged at sea, by deploying an instrumented buoy on a log or another vessel DFAD already in the water) by 1° by 1° grid area and month strata and DFAD type under the confidentiality rules set by Resolution 12/02 On data confidentiality policy and procedures ~~(or any subsequent superseding Resolution)~~.
  11. All CPCs shall ensure that all ~~flag fishing~~ vessels ~~as~~ referred to in paragraph 2 shall record fishing activities in association with FADs using the specific data elements found in ~~Annex III (DFAD) and Annex IV (AFAD)~~ in the relevant section of the ~~logbook~~ "FAD logbook".
  12. CPCs ~~having with flag~~ vessels ~~flying their flag and that~~ fishing on FADs shall submit, to the ~~Secretariat/Commission~~, on an annual basis, Management Plans for the use of FADs. Due to their specificity in terms of users, type of boat/vessel involved, fishing method and gear used and materials used in their construction, the Management Plans and Reporting Requirements for Drifting FADs (DFAD) and Anchored FADs (AFAD) shall be addressed separately for the purposes of this Resolution. The Plans shall at a minimum follow the Guidelines for Preparation for FAD Management Plans by each CPC ~~as~~ provided for DFADs in Annex I and AFADs in Annex II.
  13. The FAD Management Plans shall be analysed by the IOTC Compliance Committee.
  14. The FAD Management Plans shall include initiatives or surveys to investigate, and, to the extent possible, minimise the capture of small bigeye tuna and yellowfin tuna and non-target species associated with fishing on FADs. Management Plans shall also include guidelines to prevent, to the extent possible, the loss or abandonment of FADs.
  15. In addition to the FAD Management Plans, all CPCs shall ensure that all ~~their flag fishing~~ vessels ~~flying their flag and~~ fishing on FADs, including supply ~~and support~~ vessels, shall record fishing activities in association with FADs using the specific data elements found in Annex III (DFAD) and Annex IV (AFAD).
  16. CPCs shall submit in their ~~Implementation Report to the Commission~~, 60 days before the ~~Annual IOTC Session/Meeting~~, a report on the progress of the FAD Management Plans of FADs, including, if necessary, reviews of the initially submitted FAD Management Plans, and including reviews of the application of the principles set out in Annex III.

#### Non-entangling and biodegradable FADs

17. To reduce the entanglement of sharks, marine turtles or any other species, CPCs shall require their ~~flagged~~ vessels to use non-entangling designs and materials in the construction of FADs as ~~outlined~~ described in Annex ~~V~~ III.
18. To reduce the amount of synthetic marine debris, the use of natural or biodegradable materials in FAD construction should be promoted. CPCs shall encourage their flag vessels to use biodegradable FADs in accordance with the guidelines at Annex ~~V~~ III with a view to transitioning to the use of biodegradable FADs, with the exception of materials used for the instrumented buoys, ~~by their flag vessel from~~ by 1 January 2022.

#### Commented [A37]: JPN

The sentence shall be maintained because without this phrase, all resolutions which refer to the superseding resolutions need to be updated whenever those resolutions are further superseded.

#### Commented [A38]: EU:

We understand the resolution does not make reference to AFAD but we are not favourable to remove this annex until clarity is made among CPCs on the intention of removing any obligation for management plan for the use of AFAD.

#### Commented [A39]: AUS

Australia does not agree with this deletion. Australia agrees with the EU that the references to AFAD/AFADs throughout the resolution, and the annex, should be retained at this stage.

#### Commented [A40]: MDV

Since this is a legal scrubbing exercise and no obligation to have a management plan for AFADs currently exists, the reference to AFADs should be deleted.

#### Commented [A41]: EU:

We understand the resolution does not make reference to AFAD but we are not favourable to remove this annex until clarity is made among CPCs on the intention of removing any obligation for management plan for the use of AFAD.

**Commented [A42]: MDV** Since this is a legal scrubbing exercise and no obligation to have a management plan for AFADs currently exists, the reference to AFADs should be deleted.

#### Commented [A43]: MDV:

DFADs

#### Commented [A44]: MDV

Propose the following wording:  
"shall record fishing activities and fishing related activities"

#### Commented [A45]: MDV:

DFADs

#### Commented [A46]: JPN: If my understanding is correct, IOTC have three type of annual report.

- a) Implementation report which stipulated in article X in the IOTC agreement,
  - b) annual report (national report) which is submitted to the SC and
  - c) report submitted separately from (a) and (b).
- If this paragraph requires CPCs provide information by submitting (c), so I propose the original sentence would be maintained..

#### Commented [A47]: MDV:

DFADs

#### Commented [A48]: MDV:

DFADs

#### Commented [A49]: MDV:

DFADs

#### Commented [A50]: MDV:

DFADs

#### Commented [A51]: MDV:

DFADs



CPCs shall, from 1 January 2022, encourage their flag vessels to remove from the water, retain onboard and only dispose of in port, all traditional FADs encountered (e.g. those made of entangling materials or designs). The reference year ~~2022~~<sup>prescribed above</sup> shall be reviewed in light of the IOTC Scientific Committee's recommendation pursuant to [Resolution 18/04](#) *On BioFAD experimental project*.

**Commented [A52]:** MDV:  
DFADs

19. CPCs are encouraged to conduct trials using biodegradable materials to facilitate the transition to the use of only biodegradable material for DFADS construction by their flag~~ged~~ vessels. The results of such trials shall be presented to the IOTC Scientific Committee ~~which~~ shall continue to review research results on the use of biodegradable material on FADs and shall provide specific recommendations to the Commission as appropriate.

#### FAD Marking

20. A new marking scheme shall be developed by the ad-hoc FAD ~~w~~Working ~~g~~Group and shall be considered by the Commission at its ~~regular~~ annual ~~s~~Session in 2020.
21. Until the marking scheme referred to in paragraph 20 is adopted, CPCs shall ~~ensure~~<sup>require</sup> that the instrumented buoy attached to the DFAD ~~contains~~<sup>to be marked with</sup> a physical, unique reference number marking (ID provided by the manufacturer of the instrumented buoy) and ~~that the the vessel unique~~ IOTC ~~unique vessel identifier~~ ~~registration number~~ ~~be~~ clearly visible.

**Commented [A53]:** MDV:  
DFADs

#### Data reporting and analysis

22. CPCs shall submit the data elements ~~prescribed~~ in Annex III ~~and Annex IV~~ to the Commission, consistent with the IOTC standards for the provision of catch and effort data, and these data shall be made available for analysis to the IOTC Scientific Committee on the aggregation level set by [IOTC Resolution 15/02](#) ~~for any subsequent superseding Resolution~~, and under the confidentiality rules set by [IOTC Resolution 12/02](#) ~~for any subsequent superseding Resolution~~.
23. The IOTC Scientific Committee will analyse the information, when available, and provide scientific advice on additional FAD management options for consideration by the Commission, including recommendations on the number of FADs to be operated, ~~and~~ the use of biodegradable materials in new and improved FADs designs. When assessing the impact of FADs on the dynamic and distribution of targeted fish stocks and associated species and on the ecosystem, the IOTC Scientific Committee will, where relevant, use all available data on abandoned FADs (i.e. FADs without a beacon or which have drifted outside the fishing zone).

**Commented [A54]:** JPN  
The sentence shall be maintained because without this phrase, all resolutions which refer to the superseding resolutions need to be updated whenever those resolutions are further superseded.

**Commented [A55]:** JPN  
The sentence shall be maintained because without this phrase, all resolutions which refer to the superseding resolutions need to be updated whenever those resolutions are further superseded.

**Commented [A56]:** MDV:  
DFADs

#### FAD ~~T~~racking and ~~R~~ecovery ~~P~~rocedures

24. In order to support the monitoring of compliance with the limitation established in Paragraph 4, while protecting business confidential data, ~~starting 1 January 2020, each CPC shall require its flag vessels or the~~ instrumented buoy supplier company ~~or the CPCs shall, starting 1 January 2020, report, or require their vessels to report,~~ daily information on all active FADs to the ~~Executive Secretary, Secretariat~~. Such information shall contain ~~the~~ date, instrumented buoy ID, ~~and~~ assigned vessel and daily position, ~~which~~ ~~and~~ shall be compiled at monthly intervals, ~~to be~~ ~~and~~ submitted with a time delay of at least 60 days, but no longer than 90 days.
25. The Commission shall establish a DFAD tracking and recovery policy at its annual session in 2021, on the basis of recommendations from the ad-hoc ~~FAD w~~Working ~~g~~Group ~~on FADs~~. The policy shall define DFAD tracking, reporting of lost DFADs, arrangements to alert coastal States ~~in near real-time~~ of derelict/lost DFADs at risk of beaching ~~in near real-time~~, how and who recovers the DFADs, ~~and~~ how the recovery costs are collected and shared.
26. The ~~IOTC~~ Secretariat shall submit a report, on an annual basis, to the IOTC Compliance Committee on the level of compliance ~~of~~ ~~by~~ each CPC with ~~limits for~~ operational buoys ~~limits~~ ~~and~~ annual limits of instrumented buoys purchased.
27. This ~~R~~Resolution shall be reviewed by the Commission, at the latest, at its ~~annual~~ ~~S~~session in 2022, based on recommendations ~~of~~ ~~from~~ the IOTC Scientific Committee.
28. This ~~R~~Resolution shall enter into force on 1 January 2020.
29. Resolution 18/08 *Procedures on a fish aggregating devices (FADs) management plan, including more detailed specification of catch reporting from FAD sets, and the development of improved FAD designs to reduce the incidence of entanglement of non-target species* is superseded by this Resolution.

**Commented [A57]:** MDV:  
DFADs

**Commented [A58]:** JPN  
"Secretariat" shall be maintained, because CPCs submit the information to the secretariat.

Conservation and Management Measures linked to Resolution 19/02 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 12/02</a>	<a href="#">Resolution 12/04</a>	<a href="#">Resolution 18/01</a>	<a href="#">Resolution 18/04</a>
<a href="#">Resolution 15/02</a>	<a href="#">Resolution 18/04</a>	<a href="#">Resolution 19/01</a>	



## ANNEX I

### **GUIDELINES FOR PREPARATION OF DRIFTING FISH AGGREGATING DEVICE (DFAD) MANAGEMENT PLANS**

To support obligations in respect of the DFAD Management Plan (DFAD-MP) to be submitted to the IOTC Secretariat by CPCs with fleets fishing in the IOTC area of competence, associated to DFADs, DFAD-MP should include the following:

1. ~~Annex~~ Objective
2. Scope: ~~Description~~ description of its application with respect to:
  - (a) vessel-types and support and tender vessels
  - (b) DFAD numbers and DFADs beacon numbers to be deployed
  - (c) reporting procedures for DFAD deployment
  - (d) incidental bycatch reduction and utilisation policy
  - (e) consideration of interaction with other gear types
  - (f) plans for monitoring and retrieval of lost DFADs
  - (g) statement or policy on “DFAD ownership”
3. Institutional arrangements for management of the DFAD Management Plans:
  - (a) institutional responsibilities
  - (b) application processes for DFAD and /or DFAD beacons deployment approval
  - (c) obligations of vessel owners and masters in respect of DFAD and /or DFAD beacons deployment and use
  - (d) DFAD and/or DFADs beacons replacement policy
  - (e) reporting obligations
4. DFAD construction specifications and requirements:
  - (a) DFAD design characteristics (a description)
  - (b) DFAD markings and identifiers, including DFADs beacons
  - (c) lighting requirements
  - (d) radar reflectors
  - (e) visible distance
  - (f) radio buoys (requirement for serial numbers)
  - (g) satellite transceivers (requirement for serial numbers)
5. Applicable areas:
  - (a) Details of any closed areas or periods e.g. territorial waters, shipping lanes, proximity to artisanal fisheries, etc.
6. Applicable period for the DFAD-MP.
7. Means for monitoring and reviewing implementation of the DFAD-MP.
8. DFAD logbook template (data to be collected specified in Annex II).

## ~~ANNEX II~~

### ~~GUIDELINES FOR PREPARATION OF ANCHORED FISH AGGREGATING DEVICE (AFAD) MANAGEMENT PLANS~~

~~To support obligations in respect of the AFAD Management Plan (AFAD MP) to be submitted to the IOTC Secretariat by CPCs with fleets fishing in the IOTC area of competence, associated to AFADs, AFAD MP should include:~~

#### ~~1. An objective~~

#### ~~2. Scope:~~

~~—— Description of its application with respect to:~~

- ~~a) vessel types~~
- ~~a) AFAD numbers and/or AFADs beacons numbers to be deployed (per AFAD type)~~
- ~~b) reporting procedures for AFAD deployment~~
- ~~c) distances between AFADs~~
- ~~d) incidental bycatch reduction and utilisation policy~~
- ~~e) consideration of interaction with other gear types~~
- ~~f) the establishment of inventories of the AFADs deployed, detailing AFAD identifiers, characteristics and equipment of each AFAD as laid down in point 4 of the present Annex, coordinates of the AFAD's mooring sites, date of set, lost and reset~~
- ~~g) plans for monitoring and retrieval of lost AFADs~~
- ~~h) statement or policy on "AFAD ownership"~~

#### ~~3. Institutional arrangements for management of the AFAD Management Plans:~~

- ~~a) institutional responsibilities~~
- ~~b) regulations applicable to the setting and use of AFADs~~
- ~~c) AFAD repairs, maintenance rules and replacement policy~~
- ~~d) data collection system~~
- ~~e) reporting obligations~~

#### ~~4. AFAD construction specifications and requirements:~~

- ~~a) AFAD design characteristics (a description of both the floating structure and the underwater structure, with special emphasis on any netting materials used)~~
- ~~b) anchorage used for mooring~~
- ~~c) AFAD markings and identifiers, including AFAD beacons if any~~
- ~~d) lighting requirements if any~~
- ~~e) radar reflectors~~
- ~~f) visible distance~~
- ~~g) radio buoys if any (requirement for serial numbers)~~
- ~~h) satellite transceivers (requirement for serial numbers)~~
- ~~i) echo sounder~~

#### ~~5. Applicable areas:~~

- ~~a) coordinates of mooring sites, if applicable~~
- ~~b) details of any closed areas e.g., shipping lanes, Marine Protected Areas, reserves etc.~~

#### ~~6. Means for monitoring and reviewing implementation of the AFAD MP.~~

#### ~~7. AFAD logbook template (data to be collected specified in Annex IV).~~

**Commented [A59]:** JPN

Finding appropriate places for referencing these annexes would be better than simply deleting these annexes.

**Commented [A60]:** EU:

We understand the resolution does not make reference to AFAD but we are not favourable to remove this annex until clarity is made among CPCs on the intention of removing any obligation for management plan for the use of AFAD.

**Commented [A61]:** MDV:

Given the lack of AFAD references in this resolution, the annexes should be deleted. If the EU desires to propose to extend it to AFADs, this should not be done in this legal scrubbing exercise.

**ANNEX II**  
**DATA COLLECTION FOR DFADS**

1. For each activity on a DFAD, whether followed by a set or not, each fishing, support and supply vessel to report the following information:
  - (a) Vessel (name and registration number of the fishing, support or supply vessel)
  - (b) Position (as the geographic location of the event (Latitude and Longitude) in degrees and minutes)
  - (c) Date (as DD/MM/YYYY, day/month/year)
  - (d) DFAD identifier (DFAD or beacon ID)
  - (e) DFAD type (drifting natural FAD, drifting artificial FAD),
  - (f) DFAD design characteristics
    - (i) Dimension and material of the floating part and of the underwater hanging structure
  - (g) Type of the activity, (visit deployment, hauling, retrieving, loss, intervention to service electronic equipment).
2. If the visit is followed by a set, the results of the set in terms of catch and bycatch, whether retained or discarded dead or alive. CPCs to report this data aggregated per vessel at 1\*1 degree (where applicable) and monthly to the Secretariat

**Commented [A62]:** EU:  
We understand the resolution does not make reference to AFAD but we are not favourable to remove this annex until clarity is made among CPCs on the intention of removing any obligation for management plan for the use of AFAD.

**Commented [A63]:** MDV:  
Given the lack of AFAD references in this resolution, the annexes should be deleted. If the EU desires to propose to extend it to AFADs, this should not be done in this legal scrubbing exercise.

**ANNEX IV**

**DATA COLLECTION FOR AFADS**

- a) ~~Any activity around an AFAD.~~
- b) ~~For each activity on an AFAD (repair, intervention consolidation, etc.), whether followed or not by a set or other fishing activities, the,~~
- ~~i. Position (as the geographic location of the event (Latitude and Longitude) in degrees and minutes)~~
  - ~~ii. Date (as DD/MM/YYYY, day/month/year)~~
  - ~~iii. AFAD identifier (i.e. AFAD Marking or beacon ID or any information allowing to identify the owner).~~
- c) ~~If the visit is followed by a set or other fishing activities, the results of the set in terms of catch and bycatch, whether retained or discarded dead or alive.~~

**Commented [A64]:** JPN

Finding appropriate places for referencing these annexes would be better than simply deleting these annexes.

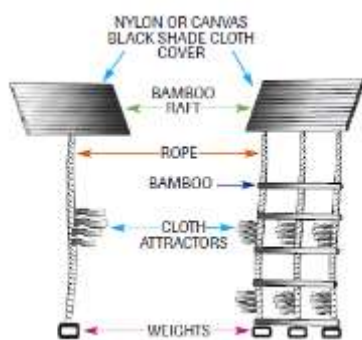
**Commented [A65]:** MDV:

Given the lack of AFAD references in this resolution, the annexes should be deleted. There is no need to find a new place for the annex under these circumstances.

### ANNEX III

#### PRINCIPLES FOR DESIGN AND DEPLOYMENT OF FADS

##### EXAMPLE OF NON-ENTANGLING FAD



1. The surface structure of the FAD shall not be covered, or only covered with non-meshed material
2. If a sub-surface component is used, it shall not be made from netting but from non-meshed materials such as ropes or canvas sheets.

### RESOLUTION 19/03

#### ON THE ~~C~~ONSERVATION OF ~~M~~OBULID ~~R~~AYS ~~C~~AUGHT ~~I~~N ~~A~~SSOCIATION WITH ~~F~~ISHERIES IN THE IOTC ~~A~~REA OF ~~C~~OMPETENCE

**Keywords:** ~~M~~obula ~~R~~ays, ~~M~~anta ~~R~~ays, ~~C~~onservation.;

### EXPLANATORY NOTES

#### PREAMBLE

*No substantive amendments are proposed for the preamble.*

#### PARAGRAPHS

1. Amendment proposed to incorporate application to recreational and/or sport fisheries in paragraph 10. It is unclear if they must be on the IOTC Record of Authorised Vessels (RAV).
12. Reordered to paragraph 14 where it is more logically placed.

#### FOOTNOTES

1. Definition of subsistence fishery: the term is not in the IOTC Scientific Glossary.
2. Definition of artisanal fishery: it is different from the definition in the IOTC Scientific Glossary: “Artisanal fishing. Fishing for subsistence using traditional methods.”

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

## The Indian Ocean Tuna Commission (IOTC),

RECOGNISING IOTC Resolution 12/01 On the implementation of the Precautionary Approach calls on IOTC Contracting Parties and Cooperating Non-Contracting Parties to apply the precautionary approach when managing tuna and tuna-like species in accordance with Article 5 of the United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UNFSA) United Nations Fish Stocks Agreement and that, for sound fisheries management, such an approach applies also within areas under national jurisdiction;

RECALLING IOTC Resolution ~~17/05~~ ~~05/05~~ *Concerning the conservation of sharks caught in association with fisheries managed by IOTC* ~~superseded by Resolution 17/05~~;

CONSIDERING that the species of the family Mobulidae, which includes manta rays and mobula rays (~~hereinafter~~ mobulid rays), are extremely vulnerable to overfishing as they are slow-growing, have late sexual maturity; ~~and have~~ long gestation periods, and often give birth to only a few pups;

RECOGNISING the ecological and cultural significance of mobulid rays in the Indian Ocean;

CONCERNED about the possible impacts on these species by the different fisheries occurring from coastal areas to the high seas;

CONSIDERING that the United Nations Food and Agriculture Organization (~~FAO~~) International Plan of Action for Sharks calls on States to cooperate through regional fisheries management organizations to ensure the sustainability of shark stocks;

CONCERNED by the lack of complete and accurate data reporting concerning fishing activities on non-targeted species;

RECOGNIZING the need to improve the collection of species-specific data on catch, catch rates, release, discards, and trade as a basis for improving the conservation and management of mobulid rays stocks;

NOTING that the mobulid rays are listed in Appendix I and Appendix II of the Convention on the Conservation of Migratory Species of Wild Animals (~~CMS~~) and the range States to a migratory species shall endeavour to strictly protect them;

FURTHER NOTING that the mobulid rays are also listed in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (~~CITES~~) ~~for under~~ which trade shall be closely controlled under specific conditions including, *inter alia*, that trade will not be detrimental to the survival of the species in the wild;

ACKNOWLEDGING that the IOTC Scientific Committee (SC21) recently noted the declines of these species across the Indian Ocean and RECOMMEND that management actions, such as no-retention measures amongst other, are required and must be immediately adopted;

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

1. This Resolution shall apply to all ~~fishing vessels flying the flag~~ vessels of a Contracting Party or Cooperating Non-Contracting Party (~~hereinafter referred to collectively as CPCs~~); ~~that are and~~ on the IOTC record of authorised vessels operating in the IOTC area of competence ~~fishing vessels~~ or are recreational or sport vessels ~~authorised~~ to fish for tuna and/or tuna like species managed by the IOTC.
2. CPCs shall prohibit all vessels from intentionally setting any gear type for targeted fishing of mobulid rays in the IOTC Area of Competence; if the animal is sighted prior to commencement of the set.
3. CPCs shall prohibit all vessels ~~from~~ retaining onboard, transshipping, landing, ~~or~~ storing, any part or whole carcass of any mobulid rays caught in the IOTC ~~A~~area of ~~C~~ompetence.

### Commented [A66]: JPN

I believe that "United Nation" is not necessary because the legal name is "Agreement for the Implementation of the Provisions of the United Nations Convention of the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks".

### Commented [A67]: AUS

Australia agrees with Japan that 'United Nations' is not necessary because the full title of the treaty is 'Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks'.

### Commented [A68]: EU:

No. This is a change of substance that would change the scope of the measure.

The current wording includes all vessels in the IOTC RAV or authorised nationally = all vessels

### Commented [A69]: MDV:

This is a useful clarification even if it should constitute an extension of the scope of this measure. It should be supported. There is otherwise also an inconsistency with Para. 10, which clearly applies to recreational or sport vessels.

### Commented [A70]: AUS

Australia does not agree with any of the proposed changes to this paragraph. Any change to the scope of application of the resolution is a substantive change beyond the remit of this legal scrubbing process.

4. ~~The p~~rovisions ~~of~~ paragraphs 2 and 3 above do not apply to ~~fishing~~ vessels ~~engaging in a carrying-out~~ subsistence fishery<sup>1</sup> that ~~does, anyhow, shall not involve~~ ~~be~~ selling or offering for sale any part or whole carcass of mobulid rays.
5. CPCs shall require all their ~~flag fishing~~ vessels, other than those carrying out subsistence fishery, to promptly release alive and unharmed, to the extent practicable, mobulid rays as soon as they are seen in the net, on the hook, or on the deck, and do it in a manner that will result in the least possible harm to the individuals captured. The handling procedures detailed in **Annex I**, ~~while taking into consideration the safety of the crew~~ shall be implemented and followed ~~while taking into consideration the safety of the crew~~.
6. Notwithstanding paragraph 3, in the case of mobulid rays that are unintentionally caught ~~by~~ and frozen as part of a purse seine vessel's operation, ~~CPCs shall require their vessels to the vessel must~~ surrender the whole mobulid ray to the responsible governmental authorities, or other competent authority, or discard ~~them~~ at the point of landing. Mobulid rays surrendered in this manner may not be sold or bartered but may be donated for purposes of domestic human consumption.
7. Notwithstanding paragraph 3, in the case of mobulid rays that are unintentionally caught by artisanal fishing<sup>2</sup>, the vessel should report the information on the accidental catch to the responsible governmental authorities, or other competent authority, at the point of landing. Mobulid rays unintentionally caught may only be used for purposes of local consumption. This derogation will expire on 1 January 2022.
8. CPCs shall report the information and data collected on interactions (i.e. number of discards and releases) with mobulid rays by vessels through logbooks and/or through observer programs. The data shall be provided to the IOTC Secretariat by 30 June of the following year, and according to the timelines specified in **IOTC Resolution 15/02** ~~(or any subsequent revision)~~ **On mandatory statistical requirements for IOTC CPC**.
9. CPCs shall ensure that fishers are aware of and use proper mitigation, identification, handling and releasing techniques and keep on board all necessary equipment for the release of mobulid rays in accordance with the handling guidelines of **Annex 1**.
10. ~~CPCs shall ensure that r~~Recreational and sport fishers~~ing~~ shall release alive all caught mobulid rays and shall not be entitled to retain~~ing~~ onboard, tranship~~ping~~, land~~ing~~, stor~~ing~~, sell~~ing~~, or offer~~ing~~ for sale any part or whole carcass of mobulid rays.
11. CPCs, unless ~~it is~~ clearly demonstrated~~d~~ that intentional and/or incidental catches of mobulids do not occur in their fisheries, shall develop, with the assistance from the ~~IOTC~~ Secretariat where required, sampling plans for the monitoring of the mobulid rays catches by the subsistence and artisanal fisheries. The sampling plans ~~shall include, including their~~ scientific and operational rationale~~; and~~ shall be reported in the national scientific reports to the **IOTC Scientific Committee**, starting in 2020, which will provide its advice on their soundness by 2021 at the latest. The sampling plans, where required, ~~shall will~~ be implemented by the CPCs from 2022 onward taking into account the ~~advice of the IOTC Scientific Committee~~ **advice**.
- ~~12.1. CPCs are encouraged to investigate at vessel and post release mortality in mobulids including, but not exclusively, the application of satellite tagging programs that may be provisioned primarily through the national support complementing possible funds allocation from the IOTC to investigate the effectiveness of this measure.~~
- ~~13.12.~~ The IOTC Scientific Committee shall review the status of *Mobula spp.* in the IOTC ~~A~~area of ~~C~~ompetence and provide management advice to the Commission in 2023 ~~also to~~and identify possible hot-spots for conservation and management of mobulids within and beyond ~~exclusive economic zones~~**EEZs**. Moreover, the IOTC Scientific Committee is requested to provide, whenever considered adequate on the basis of evolving knowledge and scientific advice, further improvements to the handling procedures detailed in **Annex 1**.
13. Scientific observers shall be allowed to collect biological samples of mobulid rays caught in the IOTC ~~A~~area of ~~c~~ompetence that are dead at haul-back, provided that the samples are a part of a research project approved by the IOTC Scientific Committee. In order to obtain the approval, a detailed document outlining the purpose of

**Commented [A71]: AUS**

Australia does not agree with these changes, which expand the scope of the original paragraph. Australia agrees with Japan's suggested text of 'all their vessels referred to in paragraph 1'.

**Commented [A72]: JPN**

The scope is expanded from the original one. Therefore, "referred to in paragraph 1" shall be inserted.

**Commented [A73]: JPN**

The name of resolutions shall be in italic letter.

**Commented [A74]: JPN**

The original paragraph shall be maintained, because it is a substantial modification.

<sup>1</sup> A subsistence fishery is a fishery where the fish caught are consumed directly by the families of the fishers rather than being bought by middle-(wo)men and sold at the next larger market, per the FAO Guidelines for the routine collection of capture fishery data. FAO Fisheries Technical Paper. No. 382. Rome, FAO. 1999. 113p.

<sup>2</sup> Artisanal fishing: fisheries other than longline or surface fisheries (i.e. purse seines, pole & line, gillnet fisheries, hand-line and trolling vessels), registered in the IOTC Record of Authorized Vessels (DEFINITION in footnote 1 of Res. 15/02).



the work, number of samples intended to be collected and the spatio-temporal distribution of the sampling effect must be included in the proposal. Annual progress of the work and a final report on completion shall be presented to the **IOTC Scientific Committee**.

14. ~~CPCs are encouraged to investigate at-vessel and post-release mortality in mobulids including, but not exclusively, the application of satellite tagging programs to investigate the effectiveness of this measure. The programs that may be provisioned supported primarily through the national resources support complemented by possible funds allocation from the IOTC. to investigate the effectiveness of this measure.~~

**Commented [A75]:** JPN

The original paragraph shall be maintained, because it is a substantial modification.

**Commented [A76]:** EU:

Not sure. We would like the rationale of moving this para

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<a href="#">Resolution 17/05</a>			

## ANNEX I

### LIVE RELEASE HANDLING PROCEDURES

1. Prohibit the gaffing of rays.
2. Prohibit the lifting of rays by the gill slits or spiracles.
3. Prohibit the punching of holes through the bodies of rays (e.g. to pass a cable through for lifting the ray).
4. Rays too large to be lifted safely by hand shall be, to the extent possible, brailed out of the net using best available method such as those recommended in document IOTC-2012-WPEB08-INF07.
5. Large rays that cannot be released safely before being landed on deck, shall be returned to the water as soon as possible, preferably utilizing a ramp from the deck connecting to an opening on the side of the boat, or if no such ramp is available, lowered with a sling or net.

**RESOLUTION 19/04**  
**CONCERNING THE IOTC RECORD OF VESSELS ~~AA~~AUTHORISED TO ~~OO~~OPERATE IN THE IOTC**  
**~~AA~~AREA OF ~~CC~~OMPETENCE**

**Keywords:** ~~AA~~authorised vessels, ~~CC~~active vessels, ~~SS~~auxiliary, supply and support vessels, ~~SS~~IMO number, ~~SS~~IUU fishing vessels.

**EXPLANATORY NOTES**

**PREAMBLE**

- Paragraph 5.** Definition of “support vessels” includes supply vessels in the proposed Glossary.
- Paragraph 6.** Amendment proposed to reflect the proper title and language of the IPOA-IUU.
- Paragraph 8.** Amendment proposed to reflect vessels that engage in “IUU fishing activities”, a term defined in the proposed Glossary.

**PARAGRAPHS**

**1, 2, 3. Substantive issue:** The Commission is to maintain an IOTC Record of “fishing vessels”, which include vessels authorised to ***fish for*** IOTC species in the IOTC area of competence (paragraph 1). The language concerning vessels carrying out fishing related activities is unclear. However, in practice the Record includes vessels that are authorized for fishing or related activities, and the requirements for vessels engaged in marine scientific research are unclear. The key issues in paragraphs 1, 2 and 3 are described below.

1. CPCs must submit the list of AFVs “that are authorized to operate in the IOTC area”, described in paragraph 1, to the Executive Secretary together with specified information (paragraph 3). If any information is not submitted the vessel must not be included in the Record.
2. There is no obligation or requirement for IOTC to enter a fishing vessel in the Record when the specified information has been received.
3. But “fishing vessels, including auxiliary, supply and support vessels that are not entered in the IOTC Record are deemed not to be authorised to fish for, retain on board, tranship or land tuna or tuna like species, support fishing activity or set DFADs in the IOTC area of competence.” (paragraph 2)
4. There are two concerns with the above:
  - (a) “fishing vessels” is not clearly defined to encompass all vessels carrying out operations in the IOTC area of competence in relation to: (i) fishing or fishing-related activities; (ii) tuna and tuna-like species; (iii) with stated exceptions (e.g. research vessels);
  - (b) the term “fishing vessels” is used, but the term “**vessels**” as defined in the proposed Glossary and existing international instruments would be more appropriate: ***Any vessel, ship of another type or boat used, equipped to be used, or intended to be used for fishing or fishing related activities.*** Because this Resolution addresses vessels as defined in the Glossary, and because use of the terms “fishing vessels” and “authorised fishing vessels” is misleading because it does not cover vessels used for fishing related activities, it is proposed that the term “authorised fishing vessel (AFV)” be amended to “authorised vessel (AV)”.
5. There are no requirements for CPCs to submit a list of vessels authorized to tranship, support fishing activity or set DFADs, all of which are described separately from the act of fishing. The only requirement is to submit information for ***fishing*** for purposes of including in the IOTC Record.
6. Therefore the Resolution does not provide for, or set out requirements for entering auxiliary, supply and support vessels in the Record. This appears to mean that all such vessels would be deemed not to be authorised.
7. Research vessels, which carry out different types of operations from fishing/related activities, and would not be considered as “vessels” under the above definition, should be exempted from the AVL requirement

**Commented [A77]:** JPN

Japan can not accept substantial changes and of modification or creation of technical terms.

**Commented [A78]:** AUS

It is not appropriate to substantively change obligations through this legal scrubbing process.

but it would be useful to introduce a separate mechanism for their identification, noting the different permit systems. It is suggested to specifically exclude research vessels in paragraph 2. *As a substantive matter, it is recommended to clarify this with CPCs.*

8. Paragraph 14 is the only other provision that addresses related activities; it requires CPCs to notify the Executive Secretary where there are reasonable grounds to suspect that vessels not on the IOTC Record are engaged in fishing for or transshipment of IOTC species in the IOTC area.

1. The acronym “IOTC RAV” is introduced to indicate the IOTC record of vessels authorised to operate in the IOTC area of competence. Its consistent use is recommended throughout to replace inconsistent reference to the “IOTC Record”, the “Record of fishing vessels” and other. is changed to the IOTC RAV for specificity because IOTC maintains other Records with different information.

14. This paragraph requires each CPC to notify the Executive Secretary of any factual information showing that there are reasonable grounds for suspecting vessels not on the IOTC RAV to be engaged in **fishing for and/or transshipment** of tuna and tuna-like species in the IOTC area of competence. Noting that this Resolution appears to address fishing and fishing related activities (including transshipment, supply and other), it is recommended to amend “transshipment” to “fishing related activities”. *As a substantive matter, it is recommended to clarify this with CPCs.*

15. A new paragraph is recommended for language originally part of paragraph 14. Its substance is different because it addresses procedures depending on the flag of the vessel (engagement with the flag State, information distribution), rather than the act of reporting non-authorised vessels.

17. Subparagraph (a) requires CPCs to ensure that vessels carry on board documents issued “and certified” by the flag State Competent Authority. As a substantive change, it is recommended to delete “and certified” because of the practical impossibility, including in circumstances where licences are issued and supplied electronically. *As a substantive matter, it is recommended to clarify this with CPCs.*

### MCS

*Considerations shown below were directed at Resolution 15/04, which this Resolution supercedes.*

WORKSHOP DISCUSSION	
(a) <b>Key findings</b>	<ul style="list-style-type: none"> <li>• Truthfulness of vessel information contained on the RAV not checked.</li> <li>• (Flag State sole arbiter).</li> <li>• Electronic data submission for RAV not mandatory.</li> <li>• Vessel hold size and target species not indicated.</li> <li>• Vessel owner, operator, master, and/or physical person data not detailed enough.</li> <li>• National competent authorities issuing high seas fishing authorizations not publically available on IOTC website.</li> <li>• Vessel marking scheme insufficiently defined.</li> <li>• Fishing gear marking rules insufficient.</li> <li>• Logbook keeping, updating, and filling rules weak – ill-placed.</li> <li>• Rules on the periodicity of updating authorization period on the RAV are missing.</li> </ul>
(b) <b>Proposed actions</b>	<ul style="list-style-type: none"> <li>• Vessel data significantly expanded – all electronic submission.</li> <li>• Rules on missing data entries provided.</li> <li>• Rules on ATF periodicity, validity and updating added.</li> <li>• Minimum guidelines for vessel markings added.</li> <li>• Rules on gear markings expanded.</li> </ul>
(c) <b>Points discussed during the Workshop</b>	<ul style="list-style-type: none"> <li>• There was agreement that photographs and other details not currently required to be provided, to be included in the list of mandatory information to be submitted at the time of the request to include a vessel in the IOTC Record of Authorised Vessels.</li> </ul>

	<ul style="list-style-type: none"> <li>• There is a need to give more thoughts on how to deal with vessels not obliged on be on IOTC Record of Authorised Vessels (i.e. vessels below 24m operating in EEZ), but are currently being included due to trade issues.</li> <li>• It was agreed that gear markings should in line with the FAO scheme, however, it was also felt that this should be addressed under a mechanism different from 15/04.</li> </ul>
<b>WPICMM02 RECOMMENDATION</b>	<p>Photographs and other details not currently required to be provided, should be included in the list of mandatory information to be submitted at the time of the request to include a vessel in the IOTC Record of Authorised Vessels.</p> <p><i>Note from Legal Scrub:</i></p> <p>The MCS study on which this was based recommended that CPCs submit information on vessels authorised to fish and/or tranship at sea to their flag vessels, and to distinguish between ATF and potential authorisation to tranship at sea, but it didn't refer to the other related activities (e.g. DFADs, support fishing activity etc.)</p>

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

### The Indian Ocean Tuna Commission (IOTC),

RECALLING that IOTC has been taking various measures to prevent, deter and eliminate the IUU fisheries conducted by large-scale tuna fishing vessels;

FURTHER RECALLING that IOTC adopted the [Resolution 01/06](#) Concerning the IOTC Bigeye Tuna Statistical Document Programme at its 2001 ~~Session~~meeting;

FURTHER RECALLING that IOTC adopted the Resolution 01/02 [superseded by Resolution 13/02, then Resolution 14/04, then Resolution 15/04, then [Resolution 19/04](#)] Relating to control of fishing activities at its 2001 meeting;

NOTING that large-scale fishing vessels are highly mobile and easily change fishing grounds from one ocean to another, and have high potential to operate in the IOTC area of competence without timely registration with the Commission;

NOTING that ~~supply or~~ support vessels can increase the fishing capacity of purse seine vessels in an uncontrolled manner by setting fish aggregating devices [in areas closed to fishing];

RECALLING that the FAO Council adopted on 23 June 2001 an International Plan of Action aiming to prevent, ~~to~~ deter and ~~to~~ eliminate illegal, ~~unreported and~~ unregulated ~~and unreported~~ fishing (IPOA-IUU), that this ~~p~~Plan stipulates that the regional fisheries management organisations should take action to strengthen and develop innovative ways, in conformity with international law, to prevent, deter and eliminate IUU fishing ~~and in particular including~~ to establish records of vessels authorised ~~to fish~~ and records of vessels engaged in ~~or supporting~~ IUU fishing;

RECALLING that the IOTC Record of Authorised Vessels was ~~first~~ established by the Commission on 1 July 2003, ~~by~~ Resolution 02/05 ~~and is ultimately superseded by this Resolution; Concerning the establishment of an IOTC record of vessels authorised to operate in the IOTC area of competence [superseded by Resolution 05/02, then Resolution 07/02, then Resolution 13/02, then Resolution 14/04, then Resolution 15/04, then Resolution 19/04];~~

RECOGNISING the need to take further measures to effectively eliminate the ~~IUU~~ large scale tuna fishing vessels ~~that engage in IUU fishing activities;~~

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

1. The Commission shall maintain an IOTC Record of ~~fishing~~ vessels that are ~~authorised to operate in the IOTC area of competence (IOTC RAV) that are:~~

- (a) 24 metres in length overall or above; or

- (b) in case of vessels less than 24 meters ~~in length overall~~, those operating in waters outside the ~~Exclusive~~ economic ~~Exclusive Zz~~one (EEZ) of the flag States;

and that are authorised by their flag State to ~~operate fish for tuna and tuna-like species in the IOTC area of competence in relation to tuna and tuna-like species (hereinafter referred to as "authorised fishing vessels", or AFVs).~~

2. For the purposes of this Resolution: ~~fishing~~

- (a) ~~"fishing"~~ means:

- (i) ~~the actual or attempted searching for, catching, taking or harvesting of fish or engaging in any other activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fish;~~

- (ii) ~~deployment, monitoring or searching for any fish aggregating device or associated equipment including radio beacons;~~

- (iii) ~~an operation at sea directly in support of or in preparation for an activity described in this definition; or~~

#### Commented [A79]: EU:

We can agree to this change if in fact, other vessels than fishing vessels are indeed reported in the RAV systematically. If some CPC are not yet reporting all their vessels (carriers, supports, etc.) then we do not agree to this change that would therefore change the scope of the measure.

#### Commented [A80]: EU:

We note the introduction of this new acronyms which is agreeable for us

#### Commented [A81]: MDV:

In agreement with the new acronym

#### Commented [A82]: AUS

Australia agrees with the introduction of new acronyms, but otherwise does not agree with the changes proposed which are substantive.

#### Commented [A83]: AUS

Australia does not agree with these changes, which are substantive and include introducing definitions which are not agreed among CPCs.

(iv) ~~the use of an aircraft in relation to an activity described in this definition except flights in emergencies involving the health or safety of crew members or the safety of a vessel;~~

(b) ~~“fishing related activities” means any operation in support of, or in preparation for, fishing, including the landing, packaging, processing, transshipping or transporting of fish that have not been previously landed at a port, and the provisioning of personnel, fuel, gear and other supplies at sea, as well as the retrieving of drifting Fish Aggregating Devices (DFADs);~~

~~(b)(c)~~ ~~“vessels” means any vessel, ship of another type or boat used, equipped to be used, or intended to be used for fishing or fishing related activities;~~

~~including auxiliary, supply and support and any -vessels that are not entered in the IOTC RAV Record are deemed not to be authorised to engage in fishing or fishing related activities in relation to fish for, retain on board, tranship or land tuna and tuna-like species or supporting any fishing activity or set drifting fish aggregation devices (DFADs) in the IOTC area of competence. This provision shall not apply to vessels less than 24 m in length overall operating inside the EEZ of the flag State, or vessels engaged in marine scientific research.~~

3. Each Contracting Party and Cooperating Non-Contracting Party ~~(hereinafter referred to as “CPC”)~~ shall submit electronically, to the ~~IOTC~~ Executive Secretary for those vessels referred to in paragraphs 1(a) and 1(b) ~~and for those vessels referred to 1(b)~~, the list of its AFVs that are authorised to operate in the IOTC area of competence. This list shall include the following information:

- (a) ~~N~~ame of vessel(s), and national register number(s) or EU registration (CFR) number;
- (b) IMO number (if eligible under IMO requirements);
- (c) ~~To~~ allow the necessary time for CPCs to obtain an IMO number for eligible vessels that do not already have one, this paragraph is effective as of 1 January 2016; ~~For~~ vessels of less than 100 GT that are at least 12 metres in length overall, the requirement in this paragraph is effective as of 1 January 2020, CPCs shall ensure that all their fishing vessels that are registered on the IOTC ~~RAV Record of fishing vessels~~ have IMO numbers issued to them in line with IMO Assembly Resolution A.1117(30); ~~Paragraph 3(b) on an~~ IMO number does not apply to vessels which are not eligible to receive IMO numbers;
- (d) ~~P~~revious name(s) (if any) or indicate non-availability;
- (e) ~~P~~revious flag(s) (if any) or indicate non-availability;
- (f) ~~P~~revious details of deletion from other registries (if any) or indicate non-availability;
- (g) ~~I~~nternational radio call sign(s) (if any) or indicate non-availability;
- (h) ~~P~~ort of ~~R~~egistration;
- (i) ~~T~~ype of vessel(s), length overall (m) and gross tonnage (GT);
- (j) ~~T~~otal volume of fish hold(s) (in m<sup>3</sup>); ~~Th~~is requirement will be effective from 1 January 2022;
- (k) ~~N~~ame and address of owner(s) and operator(s);
- (l) ~~N~~ame and address of beneficial owner(s), if known and different from vessel owner/operator or indicate non-availability;
- (m) Name and address of company operating the vessel and company registration number (if any);
- (n) ~~G~~ear(s) used;
- (o) ~~T~~ime period(s) authorised for fishing and/or transshipping;
- (p) ~~C~~olour photographs of the vessel showing:
  - (i) the starboard side and portside of the vessel, each showing the whole structure;
  - (ii) the bow of the vessel; ~~and~~
  - (iii) at least one of the photographs clearly showing at least one of the external markings specified in ~~subparagraph 3(a)~~.

**Commented [A84]:** JPN

Duplication of “the”. If the aircraft is used only for fishing ground, the definition of (iv) could be deleted because it has been included in that of (i).

**Commented [A85]:** MDV:

Agree with the insertions, which reflect the purpose of this resolution.

**Commented [A86]:** MDV:

Propose:  
“as well as the maintenance or retrieving of drifting Fish Aggregating Devices (DFADs)”

**Commented [A87]:** EU

No. Not until definition are not agreed among CPC.

**Commented [A88]:** EU:

No. Not until definition are not agreed among CPC

**Commented [A89]:** AUS

Australia does not understand the rationale for this new text.

**Commented [A90]:** EU

Not sure about that. Is there any vessels engaged in marine scientific research in the RAV?

4. For vessels not authorized to operate outside the EEZ of the flag CPC, requirement 3(p) ~~will~~shall be effective after 1 January 2022.
5. If any of the information in paragraph 3 is not submitted, the vessel shall not be included in the IOTC ~~RAVRecord~~. The Commission shall take into account exceptional circumstances in which a vessel owner is not able to obtain an IMO number despite following the appropriate procedures. Flag CPCs shall report any such exceptional situations to the ~~IOTC~~ Secretariat.
6. All CPCs which issue authorisations to fish to their flag vessels to fish for species managed by the IOTC shall submit to the IOTC Executive Secretary, an updated template of the official authorisation to fish outside National jurisdictions, and update this information whenever this information changes. This information includes ~~the~~:
  - (a) name of the Competent Authority;
  - (b) name and contact of personnel of the Competent Authority;
  - (c) signature of the personnel of the Competent Authority; and
  - (d) official stamp of the Competent Authority.
7. The IOTC Executive Secretary shall publish the above information in a secure part on the IOTC website for MCS purposes.
8. The template in paragraph 6 shall be used exclusively for monitoring, control and surveillance purposes and a difference between the template and the authorisation carried onboard the vessel does not constitute an infraction, but will prompt the controlling State to clarify the issue with the identified Competent Authority of the flag State of the vessel in question.
9. Each CPC shall promptly notify, after the establishment of their initial IOTC ~~RAVRecord~~, the ~~IOTC~~-Executive Secretary of any addition to, any deletion from and/or any modification of the IOTC Record at any time such changes occur.
10. The IOTC Executive Secretary shall maintain the IOTC ~~RAVRecord~~, and take any measure to ensure publicity of the ~~RAVRecord~~ through electronic means, including placing it on the IOTC website, in a manner consistent with confidentiality requirements noted by CPCs.
11. The flag CPCs of the vessels on the ~~RAVRecord~~ shall:
  - (e) authorise their vessels to operate in the IOTC area of competence only if they are able to fulfil in respect of these vessels the requirements and responsibilities under the IOTC Agreement and its Conservation and Management Measures;
  - (f) take necessary measures to ensure that their ~~AFVs~~ comply with all the relevant IOTC Conservation and Management Measures;
  - (g) take necessary measures to ensure that their ~~AFVs~~ on the IOTC ~~RAVRecord~~ keep on board valid certificates of vessel registration and valid authorisation to fish and/or tranship;
  - (h) ensure that their ~~AFVs~~ on the IOTC ~~RAVRecord~~ have no history of IUU fishing activities or that, if those vessels have such a history, the new owners have provided sufficient evidence demonstrating that the previous owners and operators have no legal, beneficial or financial interest in, or control over those vessels; the parties of the IUU incident have officially resolved the matter and sanctions have been completed; or that having taken into account all relevant facts, their ~~AFVs~~ are not engaged in or associated with IUU fishing activities;
  - (i) ensure, to the extent possible under domestic law, that the owners and operators of their ~~AFVs~~ on the IOTC ~~RAVRecord~~ are not engaged in or associated with tuna fishing activities conducted by vessels not entered into the IOTC ~~RAVRecord~~ in the IOTC area of competence;
  - (j) take necessary measures to ensure, to the extent possible under domestic law, that the owners of the ~~AFVs~~ on the IOTC ~~RAVRecord~~ are citizens or legal entities within the flag CPCs so that any control or punitive actions can be effectively taken against them.



12. CPCs shall review their own internal actions and measures taken pursuant to paragraph 11, including punitive actions and sanctions and, in a manner consistent with domestic law as regards disclosure, report the results of the review to the Commission annually. In consideration of the results of such review, the Commission shall, if appropriate, request the flag CPCs of AFVs on the IOTC RAVEcord to take further action to enhance compliance by those vessels with IOTC Conservation and Management Measures.

13. (a) CPCs shall take measures, under their applicable legislation, to prohibit the fishing for, ~~the~~ retaining on board, ~~the~~ transshipment and landing of tuna and tuna-like species by the vessels which are not entered into the IOTC RAVEcord.
- (b) To ensure the effectiveness of the IOTC Conservation and Management Measures pertaining to species covered by IOTC Statistical Document Programs:
- (i) Flag CPCs shall validate statistical documents only for the vessels on the IOTC RAVEcord;
  - (ii) CPCs shall require that the species covered by IOTC Statistical Document Programs caught by AFVs in the IOTC area of competence, when imported into the territory of a CPCContracting Party, be accompanied by statistical documents validated for the vessels on the IOTC RAVEcord; and
  - (iii) CPCs importing species covered by IOTC Statistical Document Programs and the flag States of vessels shall cooperate to ensure that statistical documents are not forged or do not contain misinformation.

14. Each CPC shall notify the ~~IOTC~~ Executive Secretary of any factual information showing that there are reasonable grounds for suspecting vessels not on the IOTC RAVEcord to be engaged in fishing for and/or ~~transshipment~~ fishing related activities in relation to of tuna and tuna-like species in the IOTC area of competence.

15. If a vessel ~~subject~~ to paragraph 14:

- (a) ~~If a vessel mentioned in paragraph 14 is a flying the CPC flag vessel of a CPC,~~ the IOTC Executive Secretary shall request that CPCCParty to take measures necessary to prevent the vessel from fishing for tuna and tuna-like species in the IOTC area of competence; ~~or~~
- (b) ~~If the flag of a vessel mentioned in paragraph 14 cannot be determined or is of a non-Contracting Party without cooperating status,~~ the ~~IOTC~~ Executive Secretary shall compile and circulate such information to all CPCs; without delay.

~~15.16.~~ The Commission and the CPCs concerned shall communicate with each other, and make ~~the~~ best efforts with FAO and other relevant regional fisheries management ~~organisations~~ bodies to develop and implement appropriate measures, where feasible, including the establishment of records of a similar nature in a timely manner so as to avoid adverse effects upon tuna resources in other oceans. Such adverse effects might consist of excessive fishing pressure resulting from a shift of the IUU ~~fishing~~ vessels from the Indian Ocean to other oceans.

~~16.17.~~ Each CPCC Contracting Party and Cooperating Non-Contracting Party with the IOTC shall:

- a) ~~E~~nsure that each of its ~~fishing~~ vessels carry on board documents issued ~~and certified~~ by the competent authority of that CPCCContracting Party or of that Cooperating Non-Contracting Party with IOTC, including, at a minimum, the following:
  - (i) ~~L~~icense, permit or authorisation to fish and terms and conditions attached to the licence, permit of authorisation;
  - (ii) ~~V~~essel name;
  - (iii) ~~P~~ort in which registered and the number(s) under which registered;
  - (iv) ~~I~~nternational call sign;
  - (v) ~~N~~ames and addresses of owner(s) and where relevant, the charterer;
  - (vi) ~~O~~verall length;

**Commented [A91]:** AUS  
This is a substantive change.

**Commented [A92]:** EU  
No. Not until definition are not agreed among CPC

**Commented [A93]:** MDV:  
Full support for this insertion as it strengthens the resolution's ability to meet its objectives.

**Commented [A94]:** AUS  
Australia does not agree with this change. This is a substantive change.

**Commented [A95]:** AUS  
Australia notes that 'subject to' has a different meaning to 'mentioned in'. In this context, we believe 'mentioned in' is the appropriate phrase.

**Commented [A96]:** AUS  
Australia does not agree with this deletion.

**Commented [A97]:** EU:  
Not sure. We reserve our views until we clarify with other CPCs the consequence of this change.

(vii) ~~E~~ngine power, in KW/horsepower, where appropriate;-

- b) ~~V~~erify the above documents on a regular basis and at least every year;
- c) ~~E~~nsure that any modification to the documents and to the information referred to in paragraph 17(-a) is certified by the competent authority of that ~~CPC Contracting Party or of that Cooperating Non-Contracting Party with the IOTC.~~

~~17.18.~~ Each ~~CPC Contracting Party and Cooperating Non-Contracting Party with the IOTC~~ shall ensure that its fishing vessels authorised to fish in the IOTC area of competence are marked in such a way that they can be readily identified with generally accepted standards such as the FAO Standard Specifications for the Marking and Identification of Fishing vessels.

~~18.19.~~ Each ~~CPC Contracting Party and Cooperating Non-Contracting Party with the IOTC~~ shall ensure that:

- a) ~~E~~ach gear used by its ~~fishing~~ vessels authorised to fish in the IOTC area of competence is marked appropriately, e.g., the ends of nets, lines and gear in the sea, shall be fitted with flag or radar reflector buoys by day and light buoys by night sufficient to indicate their position and extent;
- b) ~~M~~arker buoys and similar objects floating and on the surface, and intended to indicate the location of fixed fishing gear, shall be clearly marked at all time with the letter(s) and/or number(s) of the vessel to which they belong; and
- c) ~~F~~ish aggregating devices shall be clearly marked at all time with the letter(s) and / or number(s) of the vessel to which they belong.

**Commented [A98]:** AUS  
Australia does not agree with this deletion.

~~19.20.~~ Each ~~CPC Contracting Party and Cooperating Non-Contracting Party with the IOTC~~ shall ensure that all their respective ~~fishing~~ vessels of 24 meters length overall or above and vessels less than 24 meters length overall if ~~fishing~~ operating outside their EEZ, and which are registered on the IOTC ~~RA~~ Record of fishing vessels and authorised to fish in the IOTC area of competence, keep a bound fishing national logbook with consecutively numbered pages. The original recordings contained in the ~~fishing~~ logbooks shall be kept on board the ~~fishing~~ vessel for a period of at least 12 months.

**Commented [A99]:** AUS  
Australia does not agree with this deletion.

**Commented [A100]:** AUS  
Australia does not agree with this deletion.

**Commented [A101]:** AUS  
Australia does not agree with this deletion.

~~20.21.~~ This Resolution supersedes Resolution 15/04 *Concerning the establishment of an IOTC record of vessels authorised to operate in the IOTC area.*

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### RESOLUTION 19/05

ON A ~~B~~BAN ON ~~D~~DISCARDS OF ~~B~~BIGEYE ~~T~~TUNA, ~~S~~SKIPJACK ~~T~~TUNA, ~~Y~~YELLOWFIN ~~T~~TUNA,  
AND ~~N~~NON- ~~T~~TARGETED ~~S~~SPECIES ~~C~~CATCHED BY ~~P~~PURSE ~~S~~SEINE ~~V~~VESSELS IN THE IOTC  
~~A~~AREA OF ~~C~~COMPETENCE

**Keywords:** ~~B~~bigeeye, yellowfin, skipjack, discards, purse seine.

### EXPLANATORY NOTES

#### PREAMBLE

*No substantive amendments are proposed for the preamble.*

#### PARAGRAPHS

3. Amendment proposed to reflect intention of CPCs to require, rather than encourage, the masters of their vessels, rather than their vessels, to undertake the stated actions. The language in the following paragraphs is mandatory, and it would seem that the intention may have been the same in this paragraph.

4(b)(i) and (ii). The master (Glossary term, rather than “captain”) makes a determination relating to the tuna “and/or” (rather than “and”) the non-targeted species (in line with the apparent intention).

6. Subparagraph (a) was integrated into the paragraph because there was no subparagraph (b).

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

#### The Indian Ocean Tuna Commission (IOTC),

RECOGNISING the need for action to ensure the achievement of IOTC objectives to conserve and manage bigeye tuna, skipjack tuna and yellowfin tuna in the IOTC area of competence;

RECOGNISING that the international community has recognised both ethical concerns and policy regarding discards of species in several international instruments and statements, including United Nations General Assembly resolutions (A/RES/49/118 (1994); A/RES/50/25 (1996); A/RES/51/36 (1996); A/RES/52/29 (1997); A/RES/53/33 (1998); A/RES/55/8 (2000); and A/RES/57/142 (2002)), United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea (UNCLOS) relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (United Nations Fish Stocks Agreement); The Rome Consensus on World Fisheries adopted by the FAO Ministerial Conference on Fisheries, Rome, 14–15 March 1995; the **FAO** Code of Conduct for Responsible Fisheries, the FAO International Plan of Action (IPOA) on **S**harks; the Convention on Biological Diversity (CBD);

RECALLING that the United Nations Fish Stocks Agreement has underlined the importance of ensuring the conservation and optimum utilisation of highly migratory species through the action of regional fishery bodies such as the IOTC, and provides that “*States should minimize ... discards, ..., catch of non target species, both fish and non-fish species, and impacts on associated or dependent species, in particular endangered species...*”;

RECALLING that The Rome Consensus on World Fisheries adopted by the FAO Ministerial Conference on Fisheries, Rome, 14–15 March 1995, provides that “*States should ...reduce bycatches, fish discards...*”;

RECALLING that the FAO Code of Conduct for Responsible Fisheries provides that “*States should take appropriate measures to minimize waste, discards...collect information on discards ...; ... take account of discards (in the precautionary approach) ...; develop technologies that minimize discards ...; use of selective gear to minimize discards*”;

RECALLING that the Commission adopted [Resolution 12/01](#) *On the implementation of the precautionary approach*;

CONCERNED about the morally unacceptable waste and the impact of unsustainable fishing practices upon the oceanic environment, represented by the discarding of tunas and non-target species in the purse seine fishery for tunas in the Indian Ocean;

CONSIDERING the important volume of tuna and non-targeted species discarded in the purse seine fishery for tunas in the Indian Ocean;

CONSIDERING the Millennium Development Goals, particularly Goal Number 2 aims to “end hunger, achieve food security and improved nutrition and promote sustainable agriculture”.

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

#### RETENTION OF TARGETED TUNA SPECIES

1. Contracting Parties and Cooperating Non-Contracting Parties (**CPCs**) shall require all purse seine vessels to retain on board and then land all bigeye tuna, skipjack tuna, and yellowfin tuna caught, except fish considered unfit for human consumption as defined in paragraph 4b (i).

#### RETENTION OF NON-TARGETED SPECIES

2. ~~Contracting Parties and Cooperating Non-Contracting Parties~~ **CPCs** shall require all purse seine vessels to retain on board and then land, to the extent practicable, the following non-targeted species or species group; other tunas, rainbow runner, dolphinfish, triggerfish, billfish, wahoo, and barracuda, except fish considered unfit for human consumption as defined in paragraph 4(b)-(i), and/or species which are prohibited from retention, consumption, or trade through domestic legislations and international obligations.
3. ~~CPCs~~ **Contracting Parties and Cooperating Non-Contracting Parties** using other gear types not provided for in paragraph 1 and 2 of this ~~Resolution~~, which are targeting tuna and tuna-like species in the IOTC area of

competence should ~~encourage/require~~ the masters of their vessels to:

- (a) take all reasonable steps to ensure the safe release of non-targeted species taken alive, to the extent possible, while taking into consideration the safety of the crew;
- (b) retain on board and then land all dead non-targeted species except those considered unfit for human consumption as defined in paragraph 4(b)(i) and/or are prohibited from retention through domestic legislation and international obligations.

4. Procedures for the implementation of full retention requirements include the following:

- (a) No bigeye tuna, skipjack tuna, yellowfin tuna and non-targeted species referred to in paragraph 2 caught by purse seine vessels may be discarded after the point in the set when the net is fully pursed and more than one half of the net has been retrieved. If equipment malfunctions affect the process of pursing and retrieving the net in such a way that this rule cannot be complied with, the crew must make efforts to release the tunas and the non-targeted species as soon as possible.

- (b) The following two exceptions to the above rule shall apply:

- (i) Where ~~it is determined by the~~ ~~master/captain~~ of the vessel determines that the tuna (bigeye tuna, skipjack tuna or yellowfin tuna) and/or ~~the~~ non-targeted species as listed in ~~Paragraph~~ paragraph 2 caught are unfit for human consumption, the following definitions shall be applied:

- (1) "unfit for human consumption" are fish that:

- a. is meshed or crushed in the purse seine; ~~or~~
- b. is damaged due to depredation; or
- c. has died and spoiled in the net where a gear failure has prevented both the normal retrieval of the net and catch, and efforts to release the fish alive;

- (2) "unfit for human consumption" does not include fish that:

- a. is considered undesirable in terms of size, marketability, or species composition; or
- b. is spoiled or contaminated as the result of an act or omission of the crew of the fishing vessel.

- (ii) Where the ~~master/captain~~ of a vessel determines that the tuna (bigeye tuna, skipjack tuna or yellowfin tuna) and/or ~~the~~ non-targeted species as listed in ~~Paragraph~~ paragraph 2 were caught during the final set of a trip and there is insufficient storage capacity to accommodate all the tuna (bigeye tuna, skipjack tuna or yellowfin tuna) and the non-targeted species caught in that set. This fish may only be discarded if:

- (1) the ~~captain/master~~ and crew attempt to release the tuna (bigeye tuna, skipjack tuna or yellowfin tuna) and the non-targeted species alive as soon as possible; and
- (2) no further fishing is undertaken after the discard until the tuna (bigeye tuna, skipjack tuna, and/or yellowfin tuna) and the non-targeted species on board the vessel has been landed or transhipped.

## NON-RETENTION

5. Where the captain of the vessel determines that fish should not be retained on board in accordance with ~~Clause~~ paragraph 4(b) (i) and (ii), the ~~captain/master~~ shall record the event in the relevant logbook including estimated tonnage and species composition of discarded fish; and estimated tonnage and species composition of retained fish from that set.

## REVIEW

6. The IOTC Scientific Committee, the IOTC Working Party on Tropical Tunas, and the IOTC Working Party on Ecosystems and Bycatch shall as a matter of priority ~~to~~ act on its recommendation in the Report of the 18th Session of the IOTC Scientific Committee and undertake work to examine the benefits of retaining non-targeted species catches, other than those prohibited via IOTC Resolution, and present its recommendations to the 22nd ~~Annual~~ Session of the Commission. The work should take into account all species that are usually

**Commented [A102]: JPN**

The original word shall be maintained because it is a substantial change.

**Commented [A103]: EU:**

No to "require", this is a substantive change. The obligation stand for PS but not for other gears.

**Commented [A104]: AUS**

Australia does not agree with these changes. These are substantive changes that would alter the nature of the obligation.

**Commented [A105]: EU:**

Not sure. Would depend on the use of master or captain through the rest of the resolution. This comment is valid through the document

discarded on all major gears (i.e., purse-seines, longlines and gillnets), and should look at fisheries that take place both on the high seas and in coastal countries and the feasibility of both retraining on-board and processing of the associated landings.

#### IMPLEMENTATION

7. This Resolution will be revised, according to the advice of the IOTC Scientific Committee resulting from the review of the IOTC Working Party on Tropical Tunas (for bigeye tuna, skipjack tuna and yellowfin tuna) and of the IOTC Working Party on Ecosystems and Bycatch (for non-target species).
8. This Resolution supersedes Resolution 17/04 *On a ban on discards of bigeye tuna, skipjack tuna, yellowfin tuna and a recommendation for non-targeted species caught by purse seine vessels in the IOTC area of competence.*

Conservation and Management Measures linked to Resolution 19/05 or return to the <a href="#">Table of Contents</a>			
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## RESOLUTION 19/06

### ON ~~E~~ESTABLISHING A ~~P~~PROGRAMME FOR ~~T~~TRANSHIPMENT BY ~~L~~LARGE-~~S~~SCALE ~~F~~FISHING ~~V~~VESSELS

**Keywords:** transshipment.

## EXPLANATORY NOTES

### PREAMBLE

*No substantive amendments are proposed for the preamble.*

### PARAGRAPHS

*No substantive amendments are proposed for the paragraphs.*

### MCS

The following information relates to consideration by WPICMM02 of Resolution 18/06 (which this Resolution supersedes).

### MCS

WORKSHOP DISCUSSION	
(a) <b>Key findings</b>	<ul style="list-style-type: none"> <li>• At-sea and in-port transshipments regulated; last one weaker .</li> <li>• Authorised LSTLVs not referenced on RAV.</li> <li>• Reefer IMO number not required; VMS rules not specified.</li> <li>• In-port transshipment decl. only submitted to FS – limiting.</li> <li>• Submission periods for declaration too long (15 days).</li> <li>• Reconciliation.</li> <li>• Transshipments/landings provisions weak.</li> <li>• Annex III essential data fields are missing.</li> </ul>
(b) <b>Proposed actions</b>	<ul style="list-style-type: none"> <li>• Scope of Resolution to be limited to at-sea transshipment.</li> <li>• In-port transshipment to be added to CMM 16/11.</li> <li>• Use of electronic interface for authorizations and declarations (also at-sea transshipments).</li> <li>• Improvement of monitoring and reporting standards (transparency).</li> <li>• IOTC Secretariat to develop e-portal for at-sea transshipments – based on same or similar procedures as under ePSM.</li> <li>• Current periodic CPC data submission requirements to IOTC outside of operational data submission will become superfluous.</li> </ul>
(c) <b>Points discussed during the Workshop</b>	<ul style="list-style-type: none"> <li>• There is a need to develop an “e-portal” to make transshipments information accessible to CPCs, since some CPCs are currently requesting this information for control purposes.</li> <li>• Reefer vessels with operations limited to in-port activities, should also be included in the IOTC list of authorised carrier vessels (CVs).</li> <li>• IMO number for carrier should also be provided under para 7 of Resolution 18/06; information to be provided.</li> <li>• The period of transmission of transshipment declarations for in port transshipments by LSTVs should be less than 15 days (Res 18/06, Annex I, para 2.3).</li> </ul>

	<ul style="list-style-type: none"> <li>• Transshipment declarations received by the landing/market State should be submitted to IOTC Secretariat for the purpose of reconciling transshipment declaration information.</li> <li>• There is a need to clearly define the role of the flag State of carrier vessels in getting carrier vessels into the IOTC Record of Carrier Vessels.</li> <li>• There is currently no provision in this Resolution for the fleet nominating carrier vessels to take on responsibilities that would normally fall due to the flag State.</li> <li>• There is a loophole in this resolution, which is inconsistent with Resolution 15/04; i.e. the ability of non-CPCs carrier vessels to be included in the list of authorised carrier vessels.</li> <li>• Only carrier vessels from IOTC CPCs should be authorised for the purpose of Resolution 18/06.</li> </ul>
<b>WPICMM02 RECOMMENDATION</b>	<ul style="list-style-type: none"> <li>• The development of an e-portal.</li> <li>• The inclusion of IMO number for CV.</li> <li>• Only CVs from CPCs are included in the list of authorised carrier vessels,</li> <li>• Transshipment Declaration for in port transshipment should be less than 15 days.</li> <li>• CVs engaged in port transshipment should be included in the list of Authorised CVs.</li> <li>• Rules for transshipment in port should be developed.</li> </ul>



## The Indian Ocean Tuna Commission (IOTC),

TAKING ACCOUNT of the need to combat illegal, unregulated and unreported (IUU) fishing activities because they undermine the effectiveness of the Conservation and Management Measures (CMMs) already adopted by the IOTC;

EXPRESSING GRAVE CONCERN that organized tuna laundering operations have been conducted and a significant amount of catches by IUU fishing vessels have been transhipped under the names of duly licensed fishing vessels;

IN VIEW THEREFORE OF THE NEED to ensure the monitoring of the transhipment activities by large-scale longline vessels in the IOTC area of competence, including the control of their landings;

TAKING ACCOUNT of the need to collect catch data of such large scale long-line tuna vessels to improve the scientific assessments of those stocks;

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

### PART 1 ~~SECTION 1~~ GENERAL RULE

1. Except under the programme to monitor transhipments at sea ~~outlined provided~~ below in ~~Section paragraph~~ 2, all transhipment operations of tuna and tuna-like species and sharks caught in association with tuna and tuna-like fisheries in the IOTC area of competence (~~hereinafter referred to as "tuna and tuna like species and sharks"~~) ~~must shall~~ take place in port<sup>1</sup>.
2. The ~~flag~~-Contracting Parties and Cooperating Non-Contracting Parties (~~collectively termed~~-CPCs) shall take the necessary measures to ensure that ~~their flag~~ large scale tuna vessels<sup>2</sup> (~~hereafter referred as the "LSTVs"~~) ~~flying their flag~~ comply with the obligations ~~set out in Annex I~~ when transhipping in port.
3. Transhipment operations within the Maldives between pole and line fishing vessels, and collector vessels flagged in the Maldives and registered on the IOTC Record of Authorized Vessels shall be exempted from the data reporting requirements specified in **Annex I** and **Annex III**. Such transhipment operations shall conform to the criteria ~~set forth provided~~ in **Annex II** of this ~~R~~Resolution.

### ~~SECTION PART 2~~ PART 2 PROGRAMME TO MONITOR TRANSHIPMENTS AT SEA

4. The Commission hereby establishes a programme to monitor transhipment at sea which applies only to large scale tuna longline fishing vessels (hereafter referred to as the "LSTLVs") and to carrier vessels authorised to receive transhipments from these vessels at sea. No at-sea transhipment of tuna and tuna-like species and sharks by fishing vessels other than LSTLVs shall be allowed. The Commission shall review and, as appropriate, revise this Resolution.
5. The CPCs that flag LSTLVs shall determine whether or not to authorise their LSTLVs to tranship at sea. However, if the flag CPC authorises the at-sea transhipment by its flag LSTLVs, such transhipment shall be conducted in accordance with the procedures defined in ~~Sections Parts~~ 3, 4 and 5, and ~~Annexes III and Annex IV~~ **Annex IV** ~~below of this Resolution~~.

### ~~SECTION PART 3~~ PART 3 RECORD OF VESSELS AUTHORISED TO RECEIVE TRANSHIPMENTS-AT-SEA IN THE IOTC AREA OF COMPETENCE

6. The Commission shall establish and maintain an IOTC Record of Carrier Vessels authorised to receive tuna and tuna-like species and sharks at sea ~~from LSTLVs~~ in the IOTC area of competence ~~from LSTLVs~~ (IOTC RCV). For the purposes of this Resolution, carrier vessels not entered on the ~~R~~Record are deemed not to be authorised to

<sup>1</sup> "Port" includes offshore terminals and other installations for landing, transshipping, packaging, processing, refuelling or resupplying (as defined by ~~the~~ FAO Port State Measures Agreement)

<sup>2</sup> Large Scale Tuna Vessels (LSTV) ~~-means~~ fishing vessels targeting tuna and tuna like species ~~in the IOTC area of competence~~ that are ~~over 24 meters in length overall and above LoA~~ and are on the IOTC Record of Authorized Vessels (IOTC RAV).

receive tuna and tuna-like species and sharks in at-sea transhipment operations.

7. Each CPC shall submit, electronically where possible, to the IOTC Executive Secretary the list of the carrier vessels that are authorised to receive at-sea transhipments from its LSTLVs in the IOTC area of competence. This list shall include the following information:
  - (a) ~~The~~ flag of the vessel;
  - (b) ~~N~~ame of vessel, register number;
  - (c) ~~P~~revious name (if any);
  - (d) ~~P~~revious flag (if any);
  - (e) ~~P~~revious details of deletion from other registries (if any);
  - (f) International ~~R~~adio ~~e~~Call ~~s~~Sign;
  - (g) ~~T~~ype of vessels, length, gross tonnage (GT) and carrying capacity;
  - (h) ~~N~~ame and address of owner(s) and operator(s); and
  - (i) ~~T~~ime period authorised for transhipping.
8. Each CPC shall promptly notify the IOTC Executive Secretary, after the establishment of the initial IOTC ~~RCV~~ecord, of any addition to, any deletion from and/or any modification of the IOTC ~~RCV~~ecord, at any time such changes occur.
9. The IOTC Executive Secretary shall maintain the IOTC ~~RCV~~ecord and take measures to ensure publicity of the ~~RCV~~ecord through electronic means, including placing it on the IOTC website, in a manner consistent with confidentiality requirements notified by CPCs for their flag vessels.
10. Each CPC shall require ~~c~~Carrier vessels authorised for at-sea transhipment ~~shall be required~~ to install and operate a Vessel Monitoring System (VMS).

#### SECTION PART 4. -AT-SEA TRANSHIPMENT

11. Transhipments by LSTLVs in waters under the jurisdiction of ~~the~~ CPCs are subject to prior authorisation from the ~~C~~oastal State CPC concerned. CPCs shall take the necessary measures to ensure that their flag LSTLVs ~~flying their flag and carrier vessels~~ comply with the following conditions in paragraphs 12 through 20.:

##### Flag State Authorization

12. LSTLVs ~~shall~~ not be authorised to tranship at sea, unless they have obtained prior authorisation from their flag State.

##### Notification obligations

##### Fishing vessel:

13. To receive the prior authorisation ~~mentioned~~ referenced in paragraph 12 ~~above~~, the master and/or owner of the LSTLV must notify the following information to its flag State authorities at least 24 hours in advance of an intended transhipment:
  - (a) ~~The~~ name of the LSTLV, its number in the IOTC ~~RA~~ Vecord of Vessels, and its IMO number, if issued;
  - (b) ~~The~~ name of the carrier vessel, its number in the IOTC ~~RCV~~ecord of Carrier Vessels authorised to receive transhipments in the IOTC area of competence, and its IMO number, and the product to be transhipped;
  - (c) ~~The~~ tonnage by product to be transhipped;
  - (d) ~~The~~ date and location of transhipment;

##### Commented [A106]: JPN

The original paragraph shall be maintained because the modified paragraph implies that non-CPC flagged carrier vessels are not authorized to operate in the IOTC area.

##### Commented [A107]: JPN

The original paragraph shall be maintained because adding "carrier vessels" changes the original meaning of the paragraph. In addition, paragraph numbers explaining the conditions is paragraph 12 through 14, not 12 through 20.

##### Commented [A108]: AUS

Australia does not agree with this addition, which is a substantive change to the obligation.

(e) ~~The~~ geographic location of the catches.

14. The ~~master and/or owner of the~~ LSTLV concerned shall complete and transmit to its flag State, not later than 15 days after the transshipment, the IOTC ~~transshipment~~ ~~Declaration~~, along with its number in the IOTC ~~Record of Fishing Vessels~~, in accordance with the format ~~set out~~ in Annex III.

**Commented [A109]:** AUS  
What is the rationale for this?

#### Receiving carrier vessel:

15. Before starting transshipment, the master of the receiving carrier vessel shall confirm that the LSTLV concerned is participating in the IOTC programme to monitor transshipment at sea (which includes payment of the fee ~~required~~ in paragraph 13 of Annex IV) and has obtained the prior authorisation from their flag State referred to in paragraph 12. The master of the receiving carrier vessel shall not start ~~such~~ transshipment without such confirmation.
16. The master of the receiving carrier vessel shall complete and transmit the IOTC transshipment declaration to the IOTC ~~Executive Secretary/Secretariat~~ and the flag CPC of the LSTLV, along with its number in the IOTC ~~Record of Carrier Vessels authorised to receive transshipment in the IOTC area of competence~~, within 24 hours of the completion of the transshipment.
17. The master of the receiving carrier vessel shall, 48 hours before landing, transmit an IOTC transshipment declaration, along with its number in the IOTC ~~Record of Carrier Vessels authorised to receive transshipment in the IOTC area of competence~~, to the competent authorities of the State where the landing takes place.

**Commented [A110]:** JPN  
"Secretariat" shall be maintained.

#### Regional Observer Programme:

18. Each CPC shall ensure that all ~~its flag~~ carrier vessels transshipping at sea have on board an IOTC observer, in accordance with the IOTC Regional Observer Programme in Annex IV. The IOTC observer shall observe ~~the~~ compliance with this Resolution, and notably that the transhipped quantities are consistent with the reported catch in the IOTC transshipment declaration.
19. ~~Each CPC shall prohibit its flag~~ ~~v~~ Vessels ~~shall be prohibited from~~ commencing or continuing at-sea transshipping in the IOTC area of competence without an IOTC regional observer on board, except in cases of "force majeure" duly notified to the IOTC ~~Executive Secretary/Secretariat~~.
20. In the case of the eight Indonesian wooden carrier vessels listed on the IOTC ~~Record of Authorised Vessel~~ prior to 2015 and listed in Annex V, a national observer programme may be used in place of an observer from the regional observer programme. National observers shall be trained to ~~standards of~~ at least one of tuna-RFMO regional observer programme ~~standards~~ and will carry out all of the functions of the regional observer, including provision of all data as required by the IOTC ~~Regional~~ ~~Observer~~ ~~Programme~~ (ROP) and the reports equivalent to those prepared by the ROP Contractor. This provision shall only apply to the eight specific wooden carrier vessels referenced in this paragraph as indicated in Annex V. Replacement of those wooden carrier vessels are only permitted if the material of substitute vessel shall remain wooden and the carrying capacity or fish hold volume not larger than the vessel(s) being replaced. In such case, the authorisation of the replaced wooden vessel shall be immediately revoked.
21. The provisions ~~in of P~~ paragraph 20 will be rescheduled in consultation with the IOTC Secretariat as a two-year pilot project to be started in 2019. The results of the project, including data collection, reports and the effectiveness of the project shall be examined in 2021 by the IOTC Compliance Committee on the basis of a report prepared by Indonesia and analysis by the IOTC Secretariat. This review shall include whether the programme offers the same level of assurances as those provided by ROP. It shall also explore the feasibility of obtaining an IMO number for the vessels concerned. The extension of the project or the integration of the project into ROP programme shall be subject to a new decision of the Commission.

**Commented [A111]:** JPN  
The original paragraph shall be maintained because the modified paragraph implies that non-CPC flagged carrier vessels are not authorized to operate in the IOTC area.

**Commented [A112]:** JPN  
The original paragraph shall be maintained because the modified paragraph implies that non-CPC flagged carrier vessels are not authorized to operate in the IOTC area.

**Commented [A113]:** JPN  
"Secretariat" shall be maintained.

### SECTION PART 5- GENERAL PROVISIONS

22. To ensure the effectiveness of the IOTC Conservation and Management Measures (CMMs) pertaining to species covered by Statistical Document Programs:
- (a) ~~In~~ validating the Statistical Document, flag CPCs of LSTLVs shall ensure that transshipments are consistent with the reported catch amount by each LSTLV;

- (b) ~~The~~ flag CPCs of LSTLVs shall validate the Statistical Documents for the transhipped fish, after confirming that the transhipment was conducted in accordance with this Resolution, ~~and t-~~ This confirmation shall be based on the information obtained through the IOTC ~~ROP~~ Observer Programme;
- (c) CPCs shall require that the species covered by the Statistical Document Programs caught by LSTLVs in the IOTC area of competence, when imported into the territory of a ~~CP~~ Contracting Party, be accompanied by statistical documents validated for the vessels on the IOTC record and a copy of the IOTC transhipment declaration.
23. The CPCs shall report annually before 15 September to the IOTC Executive ~~Secretary~~:
- (a) ~~The~~ quantities by species transhipped ~~by their flag vessels~~ during the previous year;
- (b) ~~The~~ list of the LSTLVs registered in the IOTC ~~RA~~ Record of Fishing Vessels which have transhipped during the previous year;
- (c) ~~A~~ comprehensive report assessing the content and conclusions of the reports of the observers assigned to carrier vessels which have received transhipment from their ~~flag~~ LSTLVs.
24. All tuna and tuna-like species and sharks landed or imported into the CPCs either unprocessed or after having been processed on board and which are transhipped, shall be accompanied by the IOTC transhipment declaration until the first sale has taken place.
25. Each year, the IOTC Executive Secretary shall present a report on the implementation of this Resolution to the annual meeting of the Commission which shall review compliance with this Resolution.
26. The IOTC Secretariat shall, when providing CPCs with copies of all raw data, summaries and reports in accordance with paragraph 10 of Annex IV to this Resolution, also indicate evidence indicating possible ~~violation~~ ~~infraction~~ of IOTC CMMs ~~regulations~~ by LSTLVs/carrier vessels flagged to that CPC. Upon receiving such evidence, each CPC shall investigate the cases and report the results of the investigation back to the IOTC ~~Executive Secretary~~ ~~Secretariat~~ three months prior to the ~~annual Session of the~~ IOTC Compliance Committee ~~meeting~~. The ~~Executive Secretary~~ ~~IOTC Secretariat~~ shall circulate among CPCs the list of names and flags of the LSTLVs/Carrier vessels that were involved in such possible ~~violations~~ ~~infractions~~ as well as the response of the flag CPCs 80 days prior to the ~~annual Session of the~~ IOTC Compliance Committee ~~meeting~~.
27. Resolution 18/06 *On establishing a programme for transhipment by large-scale fishing vessels* is superseded by this Resolution.

**Commented [A114]: JPN**

I believe that the word of "secretariat" shall be basically used instead of "Executive Secretary" throughout the IOTC resolutions and recommendations, because most obligations of secretariat or Executive Secretary stipulated in the resolutions and recommendations are conducted by the secretariat rather than Executive Secretary.

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## ANNEX I

### CONDITIONS RELATING TO IN PORT TRANSHIPMENT

#### General

1. Transhipment operations in port may only be undertaken in accordance with the procedures detailed below:

#### Notification obligations

2. Fishing vessel
  - (a) Prior to transhipping, the ~~master~~Captain of the LSTV must notify the following information to the port State authorities, at least 48 hours in advance:
    - (i) the name of the LSTV and its number in the IOTC record of fishing vessels;
    - (ii) the name of the carrier vessel, and the product to be transhipped;
    - (iii) ~~The~~ the tonnage by product to be transhipped;
    - (iv) the date and location of transhipment;
    - (v) the major fishing grounds of the tuna and tuna-like species and sharks catches.
  - (b) The ~~master~~Captain of a LSTV shall, at the time of the transhipment, inform its flag State of the following:
    - (i) the products and quantities involved;
    - (ii) the date and place of the transhipment;
    - (iii) the name, registration number and flag of the receiving carrier vessel;
    - (iv) the geographic location of the tuna and tuna-like species and sharks catches.
  - (c) The ~~master~~Captain of the LSTV concerned shall complete and transmit to its flag State the IOTC transhipment declaration, along with its number in the IOTC Record of ~~Authorised Fishing~~ Vessels, in ~~accordance with~~ the format set out in **Annex II** not later than 15 days after the transhipment.
3. Receiving vessel
 

Not later than 24 hours before the beginning and at the end of the transhipment, the master of the receiving carrier vessel shall inform the port State authorities of the quantities of tuna and tuna-like species and sharks transhipped to his vessel, and complete and transmit the IOTC transhipment declaration, to the competent authorities within 24 hours.
4. Landing State
 

The master of the receiving carrier vessel shall, 48 hours before landing, complete and transmit an IOTC transhipment declaration, to the competent authorities of the landing State where the landing takes place.
5. The port State and the landing State referred to in the above paragraphs shall take the appropriate measures to verify the accuracy of the information received and shall cooperate with the flag CPC of the LSTV to ensure that landings are consistent with the reported catches amount of each vessel. This verification shall be carried out so that the vessel suffers the minimum interference and inconvenience and that degradation of the fish is avoided.
6. Each flag CPC of the LSTVs shall include in its annual Implementation Report ~~report each year to IOTC~~ the details on the transhipments by its vessels.

## ANNEX II

### CONDITIONS RELATING TO TRANSHIPMENTS BETWEEN MALDIVIAN COLLECTOR VESSELS AND POLE AND LINE FISHING VESSELS

#### General requirements

1. The pole and line fishing vessel(s) involved shall be flagged in the Maldives and shall have a valid license to fish issued by the competent authorities of the Maldives.
2. The collector vessel(s) involved shall be flagged in the Maldives and shall have a valid license to operate issued by the competent authorities of the Maldives.
3. The vessel(s) involved shall not be authorized to fish or engage in fisheries related activities outside the area of national jurisdiction of the Maldives.
4. Transshipment operation shall only take place inside the atolls within the area of national jurisdiction of the Maldives.
5. The Collector Vessel(s) involved must be equipped and tracked by the competent authorities of the Maldives via a functional vessel monitoring system and shall also be equipped with an electronic observer system suitable for monitoring the transshipment activity. The requirement for monitoring through electronic observer system shall be achieved by 31 December 2019.
6. The fishing vessel(s) involved in the transshipment operation should be tracked by the competent authorities of the Maldives via a functional vessel monitoring system as required by ~~the~~ Resolution 15/03 *On the vessel monitoring system (VMS) programme*.

#### Reporting requirements

7. The flag State ~~should~~shall report in its annual Implementation Report to the IOTC in its annual report each year the details on such transshipments by its vessels.
8. The data recording and reporting requirements set forth by the competent authorities of the Maldives for shore-based reporting or recording requirements shall also be applicable to transshipment operations between Maldivian collector vessels and pole and line fishing vessels.



**ANNEX III  
IOTC TRANSHIPMENT  
DECLARATION**

Carrier Vessel	Fishing Vessel
Name of the Vessel and Radio Call Sign: Flag: Flag State license number: National Register Number, if available: IOTC Register Number, if available:	Name of the Vessel and Radio Call Sign: Flag: Flag State license number: National Register Number, if available: IOTC Register Number, if available:

Departure	Day	Month	Hour	Year	<table border="1"> <tr><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td></tr> </table>													Agent's name:	Master's name of LSTV:	Master's name of Carrier:
Return				from																
Transshipment				to		Signature:	Signature:													

Indicate the weight in kilograms or the unit used (e.g. box, basket) and the landed weight in kilograms of this unit: \_\_\_\_\_ kilograms

**LOCATION OF TRANSHIPMENT**

Species	Port	Sea	Type of product							
			Whole	Gutted	Headed	Filleted				

If transhipment effected at sea, IOTC Observer Name and Signature:

#### ANNEX IV

#### IOTC REGIONAL OBSERVER PROGRAMME

1. Each CPC shall require carrier vessels included in the IOTC Record of Carrier Vessels authorised to receive transshipments in the IOTC area of competence (RCV) and which tranship at sea, to carry an IOTC observer during each transshipment operation in the IOTC area of competence.
2. The ~~IOTC~~ Executive Secretary shall appoint the observers and shall place them on board the carrier vessels authorised to receive transshipments in the IOTC area of competence from LSTLVs ~~flying the flag of~~ CPCs ~~Contracting Parties and of Cooperating Non-Contracting Parties~~ that implement the IOTC Regional Observer Programme.

#### Designation of the observers

3. The designated observers shall have the following qualifications to accomplish their tasks:
  - (a) sufficient experience to identify species and fishing gear;
  - (b) satisfactory knowledge of the IOTC Conservation and Management Measures;
  - (c) the ability to observe and record information accurately;
  - (d) a satisfactory knowledge of the language of the flag of the vessel observed.

#### Obligations of the observer

4. Observers shall:
  - (a) have completed the technical training required by the guidelines established by IOTC;
  - (b) not be, to the extent possible, nationals of the flag State of the receiving carrier vessel;
  - (c) be capable of performing the duties ~~set forth provided in point paragraph 5 below;~~
  - (d) be included in the list of observers maintained by the ~~IOTC~~ Secretariat;
  - (e) not be a crew member of an LSTLV or an employee of an LSTLV company.
5. The observer tasks shall be as follows, in particular to:
  - (a) On the ~~fishing~~ ~~vessel~~ intending to tranship to the carrier vessel and before the transshipment takes place, the observer shall:
    - (i) check the validity of the fishing vessel's authorisation or licence to fish tuna and tuna-like species and sharks in the IOTC area of competence;
    - (ii) check and note the total quantity of catch on board, and the quantity to be transferred to the carrier vessel;
    - (iii) check that the VMS is functioning and examine the logbook;
    - (iv) verify whether any of the catch on board resulted from transfers from other vessels, and check documentation on such transfers;
    - (v) in the case of an indication that there are any violations involving the fishing vessel, immediately report the violations to the carrier vessel's master,
    - (vi) report the results of these duties on the fishing vessel in the observer's report.
  - (b) On the ~~carrier~~ ~~vessel~~ monitor the carrier vessel's compliance with the relevant Conservation and Management Measures adopted by the Commission, and in particular the



observers shall:

- (i) record and report upon the transshipment activities carried out;
- (ii) verify the position of the vessel when engaged in transshipping;
- (iii) observe and estimate products transhipped;
- (iv) verify and record the name of the LSTLV concerned and its IOTC registration number;
- (v) verify the data contained in the transshipment declaration;
- (vi) certify the data contained in the transshipment declaration;
- (vii) countersign the transshipment declaration;
- (viii) issue a daily report of the carrier vessels transshipping activities;
- (ix) ~~establish~~prepare a general reports compiling the information collected in accordance with this paragraph and provide the ~~mastercaptain~~ the opportunity to include therein any relevant information;
- (x) submit to the ~~Executive Secretary~~IOTC Secretariat the aforementioned general report within 20 days from the end of the period of observation;
- (xi) exercise any other functions as defined by the Commission.

6. Observers shall treat as confidential all information with respect to the fishing operations of the LSTLVs and of the LSTLVs owners and accept this requirement in writing as a condition of appointment as an observer.

7. Observers shall comply with requirements established in the ~~legislation~~laws and regulations of the flag State which exercises jurisdiction over the vessel to which the observer is assigned.

8. 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~~provided in paragraph 9 of this programme.

#### Obligations of the flag States of carrier vessels

9. The responsibilities ~~regarding observers~~ of the flag States of the carrier vessels and their ~~mastercaptains in relation to observers~~ shall include the following: ~~notably~~:

- (a) ~~O~~bservers shall be allowed access to the vessel personnel and to the gear and equipment;
- (b) ~~U~~pon 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~~provided in paragraph 5:
  - (i) ~~S~~atellite navigation equipment;
  - (ii) ~~R~~adar display viewing screens when in use; and
  - (iii) ~~E~~lectronic means of communication.
- (c) ~~O~~bservers shall be provided accommodation, including lodging, food and adequate sanitary facilities; equal to those of officers;
- (d) ~~O~~bservers 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) ~~T~~he flag States shall ensure that ~~mastercaptains~~, 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.

10. The ~~IOTC~~-Executive Secretary, in a manner consistent with any applicable confidentiality requirements, shall provide to the flag State of the carrier vessel ~~under whose jurisdiction the vessel transhipped~~ and to the flag

#### Commented [A115]: AUS

Australia does not agree with this change, which is narrower in scope than the existing text. The existing text 'laws and regulations' should be retained.

CPC of the LSTLV, copies of all available raw data, summaries, and reports pertaining to the trip four months prior to the next IOTC Compliance Committee meeting.

#### **Obligations of LSTLV during transhipment**

11. Observers shall be allowed to visit the fishing vessel, if weather conditions permit it, and access shall be granted to personnel and areas of the vessel necessary to carry out their duties ~~set forth~~provided in paragraph 5.
12. The ~~IOTC~~ Executive Secretary shall submit the observer reports to the IOTC Compliance Committee and to the IOTC Scientific Committee.

#### **Observer fees**

13. The costs of implementing this program shall be financed by the flag CPCs of LSTLVs wishing to engage in transhipment operations. The fee shall be calculated on the basis of the total costs of the program. This fee shall be paid into a special account of the ~~IOTC~~ Secretariat and the ~~IOTC~~ Executive Secretary shall manage the account for implementing the program.
14. No LSTLV may participate in the at-sea transhipment program unless the fees ~~as~~ required under paragraph 13, have been paid.

**ANNEX V**  
**INDONESIAN CARRIER VESSELS AUTHORISED TO TRANSHIP AT SEA**

No	Name of Wooden Carrier	Vessel Gross Tonnage
1	Mutiara 39	197
2	Hiroyoshi 17	171
3	Mutiara 36	294
4	Abadi jaya 101	387
5	Perintis Jaya 89	141
6	Bandar Nelayan 271	242
7	Bandar Nelayan 2017	300
8	Bandar Nelayan 2018	290

**RESOLUTION 19/07**  
**ON ~~V~~ESSEL ~~C~~HARTERING IN THE IOTC ~~A~~REA OF ~~C~~OMPETENCE**

**Keywords:** ~~c~~harter, conservation, data.

**EXPLANATORY NOTES**

**PREAMBLE**

**Paragraph 1.** “Shall” was deleted because the general language was taken from the preamble to the IOTC Agreement, is not obligatory and in any case did not include “shall”.

**PARAGRAPHS**

**1.** The term “chartering of vessels” is defined:

“an agreement or an arrangement by which a fishing vessel flying the flag of Contracting Party is contracted for a defined period of time by an operator in another Contracting Party without the change of flag. For the purpose of this Resolution, the “chartering CP” refers to the CP that holds the quota allocation or fishing possibilities and the “flag CP” refers to the CP in which the chartered vessel is registered.”

Some concerns with paragraph 1 which also impact other paragraphs are:

- (a) the term “chartering of vessels” is not used in the text of the Resolution, so definition *as a term* is incorrect;
- (b) the terms actually used in the text are inconsistent: “chartering agreement”, “Charter Agreement” “chartering arrangement” and “charter agreement”;
- (c) the term is defined with reference to Contracting Parties, but it isn’t clear whether this means IOTC Contracting Parties (“flying the flag of Contracting Party”);
- (d) in the text of the Resolution, reference is made inconsistently to: “chartering CPC”, “chartering CP” and “flag CPC” and “flag CP” (for example, sub-paragraphs 3 (c) and (e) show the various inconsistencies); and
- (e) references are made inconsistently to “vessel” and “fishing vessel”.

Proposed amendments aim to address the above by:

- (a) defining “charter agreements” and using that term consistently;
- (b) using CPC consistently (chartering CPC and flag CPC); and
- (c) using the term “vessel” consistently, in line with the proposed definition in the Glossary which includes fishing vessels.

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

#### The Indian Ocean Tuna Commission (IOTC),

RECOGNIZING that, under the IOTC Agreement, Contracting Parties ~~shall expressed a~~ desire to cooperate with a view to ensuring the conservation of tuna and tuna-like species in the Indian Ocean and promoting their optimum utilization;

RECALLING that, according to Article 92 of the United Nations Convention on the Law of the Sea, of 10 December 1982, ships shall sail under the flag of one State only and shall be subject to its exclusive jurisdiction on the high seas except as otherwise provided in relevant international instruments;

ACKNOWLEDGING the needs and interests of all States to develop their fishing fleets to enable them to fully utilize the fishing opportunities available to them under relevant IOTC Conservation and Management Measures (CMMs);

ACKNOWLEDGING the important contribution of chartered vessels to sustainable fisheries development in the Indian Ocean;

MINDFUL that the practice of charter agreements, whereby fishing vessels do not change their flag, might seriously undermine the effectiveness of Conservation and Management Measures established by the IOTC unless properly regulated;

CONCERNED with ensuring that charter agreements do not promote IUU fishing activities or undermine IOTC ~~CMMs~~conservation and Management Measures;

REALIZING that there is a need for IOTC to regulate charter agreements with due regard to all relevant factors;

REALIZING that there is a need for the IOTC to establish procedures for charter agreements;

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

#### ~~PART 1~~ ~~Part I-~~ DEFINITIONS ~~Definitions~~

1. “Charter ~~agreementing of vessels~~”~~:- in relation to a vessel~~ means an agreement or an arrangement by which a ~~fishing~~-vessel flying the flag of an IOTC Contracting Party ~~or Cooperating Non-Contracting Party (CPC)~~ is contracted for a defined period of time by an operator in another ~~CPC~~Contracting Party without the change of flag. For the purpose of this Resolution, the “chartering CPC” refers to the CPC that holds the quota allocation or fishing possibilities and the “flag CPC” refers to the CPC in which the chartered vessel is registered.

#### ~~PART 2~~ ~~Part II-~~ ~~\_\_\_\_\_~~ OBJECTIVE ~~Objective~~

2. Charter agreements may be allowed, predominantly as an initial step in ~~the fisheries~~ development of the chartering ~~CPC~~nation. The period of the chartering ~~agreement~~arrangement shall be consistent with the development schedule of the chartering ~~CPC~~nation. The chartering agreement shall not undermine IOTC ~~CMMs~~conservation and Management Measures.

#### ~~PART 3~~ ~~Part III-~~ ~~\_\_\_\_\_~~ GENERAL PROVISIONS ~~General provisions~~

3. The chartering agreement shall contain the following conditions:
  - (a) The flag CPC has consented in writing to the chartering agreement;
  - (b) The duration of the fishing operations under the chartering agreement does not exceed 12 months cumulatively in any calendar year;
  - (c) ~~Fishing~~-vessels to be chartered shall be registered to responsible ~~CPCs~~contracting Parties and Cooperating Non Contracting Parties, which explicitly agree to apply IOTC ~~CMMs~~conservation and Management Measures and enforce them on their vessels. All flag ~~CPCs~~contracting Parties or Cooperating Non Contracting Parties, concerned shall effectively exercise their duty to control their ~~fishing~~-vessels to ensure compliance with IOTC ~~CMMs~~conservation and Management Measures.

- (d) ~~Fishing~~ Vessels to be chartered shall be on the IOTC ~~Record of~~ ~~Authorized Vessels authorized to operate in the IOTC Area of Competence~~, in accordance with IOTC Resolution 19/04 ~~[superseded by Resolution 19/04] Concerning the IOTC record of vessels authorised to operate in the IOTC Area of Competence, (or any subsequent superseding revision).~~
- (e) ~~3.5~~—Without prejudice to the duties of the chartering CPC, the flag CPC shall ensure that the chartered vessel complies with ~~both the legislation of the chartering CPC Contracting Party and the flag Contracting Party or Cooperating Non-Contracting Party shall ensure compliance by chartered vessels~~ and with relevant IOTC CMMs ~~Conservation and Management Measures established by IOTC~~, in accordance with ~~their relevant~~ rights, obligations and jurisdiction under international law. If the ~~chartered vessel is allowed by the~~ chartering CPC ~~permits the chartered vessel to go and engage in fishing~~ on the high seas, the flag CPC is then responsible for controlling ~~the such~~ high seas fishing conducted pursuant to the charter ~~agreement arrangement~~. The chartered vessel shall report VMS and catch data to both the ~~chartering and flag CPCs (chartering and flag)~~ and to the ~~IOTC Secretariat Executive Secretary~~.
- (f) ~~3.6~~—All catches (historical and current/future), including bycatch and discards, taken pursuant to the chartering agreement (including pursuant to a chartering agreement that existed prior to the ~~adoption of IOTC Resolution 19/07 [superseded by Resolution 19/07]~~), shall be counted against the quota or fishing possibilities of the chartering CPC. The observer coverage (historical, current/future) on board such vessels shall also be counted against the coverage rate of the chartering CPC for the duration that the vessel fishes under the ~~C~~charter ~~A~~greement.
- (g) ~~3.7~~—The chartering CP shall report to the ~~Executive Secretary IOTC~~ all catches, including bycatch and discards, and other information required ~~under by the IOTC CMMs~~, and as ~~required under per~~ the Charter Notification Scheme detailed in Part ~~4III~~ of this Resolution.
- (h) ~~3.8~~—Vessel Monitoring Systems (~~VMS~~) and, as appropriate, tools for the differentiation of fishing areas, such as fish tags or marks, shall be used, ~~in accordance withing to~~ the relevant IOTC CMMs ~~onservation and Management Measures~~, for effective fishery management.
- (i) ~~3.9~~—There shall be observer coverage of at least 5% of fishing effort ~~for chartered vessels~~, as measured in the manner specified in paragraph 2 of Resolution 11/04 ~~On a regional observer scheme (or any subsequent superseding resolution), for chartered vessels~~. All other provisions of Resolution 11/04 apply *mutatis mutandis* in the case of chartered vessels.
- (j) ~~3.10~~—The chartered vessels shall have a fishing license issued by the chartering CPC, and shall not be on the IOTC IUU ~~Vessels List as established by IOTC Resolution 17/03 [superseded by Resolution 18/03] On Establishing a List of Vessels Presumed to Have Carried out Illegal, Unreported, and Unregulated Fishing Activities in the IOTC Area of Competence (or any subsequent superseding resolution)~~, and/or an IUU ~~Vessels List of any other Regional Fisheries Management Organisations~~.
- (k) ~~3.11~~—When operating under charter agreements, the chartered vessels shall not, to the extent possible, be authorized to use the quota (if any) or entitlement of the flag ~~CPC Contracting Parties or Cooperating Non-Contracting Parties~~. In no case, shall the vessel be authorized to fish under more than one chartering agreement at the same time.
- (l) ~~3.12~~—Unless specifically provided in the chartering agreement, and consistent with relevant domestic law and regulation, the catches of the chartered vessels shall be unloaded exclusively in the ~~P~~ports of the chartering ~~CPC Contracting Party~~ or under its direct supervision in order to assure that the activities of the chartered vessels do not undermine IOTC ~~CMM conservation and Management Measures~~.
- (m) The chartered vessel shall at all times carry a copy of the documentation referred to in paragraph 4(a)-1.

**~~PART 4 Part IV:~~ CHARTER NOTIFICATION SCHEME ~~charter notification scheme~~**

4. Within 15 days, or, in any case, prior to 72 hours before commencement of fishing activities under a ~~C~~charter agreement:

- (a) ~~4.1~~ — The chartering CP shall notify the ~~IOTC~~ Executive Secretary and copy the flag CPC of any vessel to be identified as chartered in accordance with this Resolution by submitting electronically where possible the following information with respect to each chartered vessel:
- (i) the name (in both native and Latin alphabets) and registration of the chartered vessel, and International Maritime Organization (IMO) ship identification number (if eligible);
  - (ii) the name and contact address of the beneficial owner(s) of the vessel;
  - (iii) the description of the vessel, including the length overall, type of vessel and the type of fishing method(s) to be used under the charter;
  - (iv) a copy of the chartering agreement and any fishing authorization or license it has issued to the vessel, including in particular, the quota allocation(s) or fishing possibility assigned to the vessel; and the duration of the chartering agreement; ~~frangement~~;
  - (v) its consent to the chartering agreement; and
  - (vi) the measures adopted to implement these provisions.
- (b) ~~4.2~~ — The flag CPC ~~or Cooperating Non Contracting Party~~, shall provide the following information to the ~~IOTC~~ Executive Secretary and copy the chartering CP:
- (i) its consent to the chartering agreement;
  - (ii) the measures adopted to implement these provisions; and
  - (iii) its agreement to comply with IOTC ~~CMM~~ Conservation and Management Measures.
5. Upon receipt of the information required in paragraph 4, the ~~IOTC~~ Executive Secretary shall circulate all the information within 5 business days to all ~~CPCs Contracting Parties or Cooperating Non Contracting Parties, via~~ in an IOTC Circular.
6. Both the chartering CP and the flag CPC ~~or Cooperating Non Contracting Party~~ shall immediately inform the ~~IOTC~~ Executive Secretary of the start, suspension, resumption and termination of the fishing operations under the chartering agreement.
7. The ~~IOTC~~ Executive Secretary shall circulate all the information pertaining to ~~the~~ termination of a chartering agreement within 5 business days to all ~~CPCs Contracting Parties or Cooperating Non Contracting Parties, via~~ in an IOTC Circular.
8. The chartering CP shall report to the IOTC Executive Secretary by 28 February each year, and for the previous calendar year, the particulars of charter agreements made and carried out under this Resolution, including information of catches taken and fishing effort deployed by the chartered vessels as well as the level of observer coverage achieved on the chartered vessels, in a manner consistent with IOTC data confidentiality requirements.
9. Each year the ~~IOTC~~ Executive Secretary shall present a summary of all the chartering agreements undertaken in the previous year, to the Commission which, at its annual meeting, shall review compliance with this Resolution under ~~the~~ advice of the IOTC Compliance Committee.
10. This Resolution supersedes IOTC Resolution 18/10 *On Vessel Chartering in the IOTC Area of Competence*.

Conservation and Management Measures linked to Resolution 19/07 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 11/04</a>	<a href="#">Resolution 18/03</a>		
<a href="#">Resolution 19/04</a>			

**ACTIVE CMMs ADOPTED AT THE TWENTY-SECOND SESSION OF THE IOTC**  
**2018**



### RESOLUTION 18/01

ON AN ~~H~~INTERIM ~~P~~PLAN FOR ~~R~~REBUILDING THE INDIAN OCEAN ~~Y~~YELLOWFIN ~~T~~TUNA ~~S~~STOCK  
IN THE IOTC ~~A~~AREA OF ~~C~~COMPETENCE

(Resolution 18/01 remains binding on India)

**Keywords:** ~~Y~~yellowfin tuna, Kobe Process, MSY, ~~P~~precautionary ~~A~~approach.

### EXPLANATORY NOTES

*The Explanatory Notes prepared for Resolution 19/01, which superseded this Resolution (except for its application to India) are applicable.*

## 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 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 and of Articles 87 and 116 of the United Nations Convention of the Law of the Sea regarding the right to fish on the high seas;

RECOGNISING the special requirements of the developing States, particularly Small Island ~~and~~ Developing States (SIDS), 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 the UNFSA requires coastal States and States fishing on the high seas to ensure that measures they adopt to ensure the long-term sustainability of ~~the~~ the conservation and management of highly migratory fish stocks are based on the best scientific evidence available and ~~that~~ with special reference to Resolution 15/10 for a stock where the assessed status places it within the red quadrant, and with an aim to end overfishing with a high probability and to rebuild the biomass of the stock in as short time as possible;

FURTHER RECALLING that Article 6, of the UNFSA and IOTC Resolution 12/01 *On the implementation of the precautionary approach*, requires the States to apply the precautionary approach widely to conservation and management of highly migratory fish stocks and to be more cautious during the application of precautionary approach when information is uncertain, unreliable or inadequate and ~~this~~ the absence of adequate scientific information must ~~should~~ not be a reason for postponing or failing to take conservation and management measures;

FURTHER RECALLING that Article 6, of the UNFSA and IOTC Resolution 12/01 *On the implementation of the precautionary approach*, requires the States to apply the precautionary approach widely to conservation and management of highly migratory fish stocks and to be more cautious during the application of precautionary approach when information is uncertain, unreliable or inadequate and ~~this~~ the absence of adequate scientific information must ~~should~~ not be a reason for postponing or failing to take conservation and management measures;

CONSIDERING the recommendations adopted by the ~~KOBE II~~ Second Joint Meeting of Tuna Regional Fisheries Management Organisations (RFMOs), held in San Sebastian, Spain, June 23 – July 3 2009 (KOBE II); that each tuna RFMO consider implementing where appropriate a freeze on fishing capacity on a fishery by fishery basis and such a freeze should not constrain the access to, development of, and benefit from sustainable tuna fisheries by developing coastal States;

FURTHER CONSIDERING the recommendations adopted by the ~~KOBE III~~ Third Joint Meeting of Tuna RFMOs held in La Jolla, California, 12- 14 July 2011 (KOBE III); that, based on considering the status of the stocks, each tuna RFMO should consider a scheme for: reduction of overcapacity in a way that does not constrain the access to, development of, and benefit from sustainable tuna fisheries, including on the high seas, by developing coastal States, in particular Small Island Developing States, territories, and States with small and vulnerable economies; and ~~the~~ transfer of capacity from developed fishing members to developing coastal fishing members within its area of competence where appropriate;

FURTHER CONSIDERING the report by International Council for the Exploration of Sea and FAO Working Group on Fishing Technology and Fish Behaviour (2006), that assessed the catch controllability and environmental sustainability of gillnets are considered to be one of the least catch controllable and least environmentally sustainable gears;

FURTHER CONSIDERING the recommendations of the 18th IOTC Scientific Committee held in Bali, Indonesia, 23 – 27 November 2015 to reduce 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;

NOTING THAT the new yellowfin tuna stock assessment produced at the 19th Scientific Committee held in Seychelles mentions: “The stock status determination did not change in 2016, but does give a somewhat more

**Commented [A116]: JPN**

“The” shall be deleted. In article 5 of the UNFSA, there is not “the” before the words of “highly migratory fish”.

**Commented [A117]: AUS**

Australia does not agree with this change, which is narrower in scope than the existing text. The existing text ‘laws and regulations’ should be retained.

**Commented [A118]: JPN**

“that” shall be deleted, because of the grammatical problem

**Commented [A119]: EU**

No. We understand the incorrect reference to red quadrant but we would prefer to keep the reference

**Commented [A120]: EU**

No. This changes the nuance

optimistic estimate of stock status than the 2015 assessment, as a direct result of the use of more reliable information on catch rates of longline fisheries and updated catch up to 2015” and that “**Maximum Sustainable Yield (MSY)**: estimate for the whole Indian Ocean is estimated at 422,000 t with a range between 406,000-444,000 t” and “the 2011-2015 average catches (390,185 t) were below the estimated MSY level;”

FURTHER NOTING that the estimated probability of the Indian Ocean yellowfin tuna stock to be in the red zone of the Kobe plot has decreased from 94% based on 2015 stock assessment to 67.6% based on the 2016 stock assessment and considering other applicable measures within Resolution 16/01 and ultimately Resolution 19/01; [superseded by Resolution 17/01, by Resolution 18/01 then by Resolution 19/01], particularly the 23% reduction in the limit on the number of FADs deployed by tuna purse seiners from 550 to 425 per vessel per year, effective from 1st January 2017, and the supply vessel limitation could help this progressive improvement of the yellowfin tuna stock status;

NOTING THAT supply vessels contribute to the increase in effort and capacity of purse seiners and that the number of supply vessels has increased significantly over the years;

FURTHER CONSIDERING the discussions of the Working Party on Tropical Tuna held in Montpellier, France, 23 – 28 October 2015 on the limitations and the uncertainties in the stock assessment models due to the unavailability of standardized yellowfin tuna CPUE data;

FURTHER CONSIDERING the call by the United Nations General Assembly Resolution 70/75 on Sustainable Fisheries calls upon ~~the~~ States to increase the reliance on scientific advice in developing, adopting and implementing conservation and management measures and to take into account the special requirements of developing States, including ~~Small Island Developing States (SIDS)~~, as highlighted in the SIDS Accelerated Modalities of Action (SAMOA) Pathway;

NOTING THAT Article V -2(b) of the IOTC Agreement describes the functions and responsibilities of the Commission in relation to encouraging, recommending and coordinating research and development activities and other activities covered by the Agreement, having due regard to the need to ensure the ~~for the Establishment of the Indian Ocean Tuna Commission give full recognition to the~~ special interests and needs of Members in the region that are developing countries; ~~in relation to the conservation and management and optimum utilization of stocks covered by this Agreement and encouraging development of fisheries based on such stocks;~~

FURTHER NOTING THAT Article V 2(d) of the IOTC Agreement requires the Commission to keep under review the economic and social aspects of the fisheries based on the stocks covered by ~~the~~ Agreement bearing in mind, in particular, the interests of developing coastal States and acknowledging that such interests would be served by ~~This includes~~ ensuring that IOTC Conservation and mManagement mMeasures adopted by it do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto developing States, especially ~~SIDS~~ Small Island Developing States;

RECOGNIZING FURTHER the interactions that occur between the fisheries for yellowfin, skipjack and bigeye tuna;

CONSIDERING paragraph 12 of Resolution 16/01 On an Interim Plan for Rebuilding the Indian Ocean Tuna Stock ~~[superseded by Resolution 17/01, then by Resolution 18/01, then by Resolution 19/01]~~ that allows the Commission to review this Interim Plan for rebuilding the Indian Ocean yellowfin tuna Stock in the IOTC area of competence before 2019;

CONSIDERING paragraph 12 of Resolution 16/01 [superseded by Resolution 17/01, by Resolution 18/01 then by Resolution 19/01] that allows the Commission to review this Interim Plan before 2019;

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

1. This ~~R~~Resolution shall apply to all [fishing vessels used for fishing or related activities] ~~and that targeting tuna and~~ tuna-like species in the IOTC area of competence ~~Indian Ocean~~ of 24 meters ~~overall~~ length ~~overall~~ ~~and/or~~ ~~above~~ ~~over~~, and those ~~under~~ ~~less than~~ 24 meters in length overall if they engage in fishing outside the exclusive economic zone (EEZ) of their flag State, ~~within the IOTC Area of Competence~~

**Commented [A121]:** EU:

The sentence does not make sense in English.

Three options:

- 1) Keep the current wording
- 2) "having due regard to the special interest and needs of Members in the regional that are developing countries"
- 3) "having due regard to the need to ensure the equitable participation of Members of the Commission in the fisheries and the special interest and needs of Members in the regional that are developing countries"

**Commented [A122]:** EU

See comment on 19/01. Same comments are valid

**Commented [A123]:** MDV

Maintain that suitable justification of an activity being “fishing related” should enable implementation of this Resolution in the interim (i.e. while Members seek to agree on a specific definition)

**Commented [A124]:** AUS

Australia does not agree with these changes. The definitions in the proposed glossary have not been agreed by CPCs.

2. The CPCs will reduce their catch of yellowfin as follows:
3. Purse seine:
  - (a) CPCs whose purse seine catches of yellowfin reported for 2014 were above 5000 MT to reduce their purse seine catches of yellowfin by 15 % from the 2014 levels.
  - (b) The number of Fish Aggregating Devices (FADs) as defined in Resolution ~~15/08~~ ~~19/02~~ ~~[superseded by Resolution 17/08, then by Resolution 18/08 then by Resolution 19/02]~~, paragraph 7 will be no more than 350 active instrumented buoys and 700 acquired annually instrumented buoys per purse seine vessel per year.
  - (c) Supply vessels<sup>1</sup>: Supply vessels shall be gradually reduced by 31st December 2022 as specified below in (i), (ii), (iii) and (iv). Flag States shall submit plans for reducing the use of supply vessel to the IOTC Scientific Committee no later than 31st December 2017.
    - (i) From 1<sup>st</sup> of January 2018 to 31<sup>st</sup> December 2019: 1 supply vessel in support of not less than 2 purse seiners, all of the same flag State.<sup>2</sup>
    - (ii) From 1<sup>st</sup> of January 2020 to 31<sup>st</sup> December 2022: 2 supply vessels in support of not less than 5 purse seiners, all of the same flag State.<sup>2</sup>
    - (iii) No CPC is allowed to register any new or additional supply vessel on the IOTC Record of Authorized Vessels after 31<sup>st</sup> December 2017.
    - (iv) Any further reduction as from 2022 shall be determined by the Commission in light of the advice of the IOTC Scientific Committee.
  - (d) A single purse seine vessel shall not be supported by more than one single supply vessel of the same flag State at any point in time.
  - (e) Complementary to Resolution ~~15/08~~ ~~19/02~~ ~~[superseded by Resolution 17/08, by Resolution 18/08 then by Resolution 19/02]~~ ~~On "Procedures on FADs Management Plan including a limitation on the number of FADs, more detailed specifications of catch reporting from FAD sets, and the development of improved FAD designs to reduce the incidence of entanglement of non-target species"~~ and to Resolution 15/02 ~~"On mandatory statistical reporting requirements for IOTC Contracting Parties and Cooperating Non-Contracting Parties (CPCs)"~~, CPC flag States shall report annually before the 1st of January for the coming year of operations which ~~P~~purse seiners are served by each supply vessel. This information will be published on IOTC website so as to be accessible to all CPCs and is mandatory. In the light of assessments made available by the Working Group (WG) on ~~d~~FADs and the IOTC Scientific Committee, the Commission shall update, if necessary the above limits in ~~point~~sub-paragraphs (b) and (c).
4. Gillnet: CPCs whose Gillnet catches of yellowfin reported for 2014 were above 2000 MT to reduce their Gillnet catches of yellowfin by 10 % from the 2014 levels.
5. Longline: CPCs whose Longline catches of yellowfin reported for 2014 were above 5000 MT to reduce their Longline catches of yellowfin by 10 % from the 2014 levels.
6. CPCs' other gears: CPCs whose catches of yellowfin from other gears reported for 2014 were above 5000 MT to reduce their other gear catches of yellowfin by 5 % from the 2014 levels.
7. Flag States will determine appropriate methods for achieving these catch reductions, which could include capacity reductions, effort limits, etc., and will report to the IOTC Secretariat in their Implementation Report, the measures they have taken.
8. CPCs shall monitor the yellowfin tuna catches from their vessels in conformity with Resolution 15/01 ~~"On the recording of catch and effort data by fishing vessels in the IOTC area of competence"~~ and Resolution 15/02 ~~"On mandatory statistical reporting requirements for IOTC Contracting Parties and Cooperating Non Contracting~~

<sup>1</sup> For the purpose of this Resolution, the term "supply vessel" includes "support vessel".

<sup>2</sup> The subparagraphs (i) and (ii) shall not apply to flag States which use only one supply vessel.

*Parties (CPCs)*” and will provide a summary of most-recent yellowfin catches for the consideration of the IOTC Compliance Committee.

9. Each year, the **IOTC** Compliance Committee shall evaluate the level of compliance with the catch limits deriving from this Resolution and shall make recommendations to the Commission accordingly. The **IOTC** Scientific Committee ~~via~~through its Working Party on Tropical Tunas, shall in 2018, conduct a new assessment of the status of the ~~Y~~yellowfin stock using all available data.
10. The **IOTC** Scientific Committee ~~via~~through its Working Party on Tropical Tunas shall in 2018 undertake an evaluation of the effectiveness of the measures detailed in this Resolution, taking into account all sources of fishing mortality and possible alternatives aiming at returning and maintaining biomass levels at the Commission’s target level. After consideration of the results of this evaluation, the Commission shall take corrective measures accordingly.
11. The Commission shall, based on the improved artisanal fishery data and the assessment of the state and impact of the artisanal fishery on the yellowfin stocks, take appropriate measures on the management of the artisanal yellowfin tuna fishery, at its ~~annual Session~~Commission meeting in 2018.
12. The measures contained within this Resolution shall be considered as interim measure and will be reviewed by the Commission no later than at its annual Session in 2019.
13. The provisions of paragraphs 3, 4, 5 and 6 shall be applicable to Small Island Developing States, Least Developed Countries and Small Vulnerable Economies on catches of yellowfin reported for 2014 or 2015.
14. Nothing in this ~~R~~Resolution shall pre-empt or prejudice future allocation.
15. This Resolution supersedes IOTC Resolution 17/01 *On an interim plan for rebuilding the Indian Ocean yellowfin tuna stock*.

**Conservation and Management Measures linked to Resolution 18/01 or return to the [Table of Contents](#)**

Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 15/01</a>	<a href="#">Resolution 15/02</a>	<a href="#">Resolution 18/04</a>	
<a href="#">Resolution 19/02</a>	<a href="#">Resolution 15/10</a>		

## RESOLUTION 18/02

### ON ~~M~~ANAGEMENT ~~M~~EAURES FOR THE ~~C~~ONSERVATION OF ~~B~~BLUE ~~S~~SHARK ~~C~~CAUGHT IN ~~A~~SSOCIATION WITH IOTC ~~F~~ISHERIES

**Keywords:** ~~B~~blue shark, ~~C~~catch limits, scientific research, reference points, data collection, catch reporting.

## EXPLANATORY NOTES

### PREAMBLE

*No substantive amendments are proposed for the preamble.*

### PARAGRAPHS

*No substantive amendments are proposed for the paragraphs*

*All paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

## The Indian Ocean Tuna Commission (IOTC),

RECALLING the [Resolution 17/05](#) *On the conservation of sharks caught in association with fisheries managed by IOTC aims the sustainability of shark fisheries and the protection of sharks*;

RECALLING the [Resolution 12/01](#) *On the implementation of the precautionary approach* calls on IOTC Contracting Parties and Cooperating Non-Contracting Parties (CPCs) to apply the precautionary approach in accordance with Articles 5 and 6 of the United Nations Fish Stocks Agreement;

RECALLING the [Resolution 15/01](#) *On the recording of catch and effort data by fishing vessels in the IOTC area of competence* fixes the IOTC data record system;

RECALLING the [Resolution 15/02](#) *On the ~~Am~~andatory statistical reporting requirements for IOTC Contracting Parties and Cooperating Non-Contracting Parties (CPCs)* defines the catch and catch related information to be provided by CPCs to the IOTC secretariat;

RECALLING that United Nations General Assembly Resolution on Sustainable Fisheries, adopted annually by consensus, since 2007 ([Resolutions](#) 62/177, 63/112, 64/72, 65/38, 66/68, 67/79, 68/71, 69/109, 70/75 and 71/123) calls upon States to take immediate and concerted action to improve the implementation of and compliance with existing regional fisheries management organisation or arrangement measures that regulate shark fisheries and incidental catch of sharks, in particular those measures which prohibit or restrict fisheries conducted solely for the purpose of harvesting shark fins, and, where necessary, to consider taking other measures, as appropriate, such as requiring that all sharks be landed with fins naturally attached;

CONSIDERING that pending the results of the new stock assessment, it is advisable to avoid an increase in levels of catches of blue shark while simultaneously adopt measures to improve data collection and monitoring of catches;

CONSIDERING that the average estimated catches of blue shark are much higher than the reported catches;

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

1. To ensure the conservation of the blue shark (*Prionace glauca*) stock in the Indian Ocean, Contracting Parties and Cooperating non-Contracting Parties (CPCs) whose ~~flag~~ vessels catch blue shark in the IOTC ~~area of competence~~ ~~Convention Area~~ shall ensure that effective management measures are in place to support the sustainable exploitation of this stock in line with ~~the objective of the IOTC's Agreement~~ ~~Convention~~ objective by undertaking the following management measures:

### Recording, Reporting, and Use of the Catch Information

2. In order to curb the level of unreported catches, each CPC shall ensure that its vessels catching blue shark in association with IOTC ~~species~~ ~~fisheries~~ in the ~~area of competence~~ ~~Agreement area~~ record their catch in accordance with the requirements set out in ~~the Resolution 15/01~~ ~~on the recording of catch and effort data by fishing vessels in the IOTC area of competence or any Resolution superseding it~~.
3. CPCs shall implement data collection programmes that ensure improved reporting of accurate blue shark catch, effort, size and discard data to ~~the Executive Secretary~~ ~~IOTC~~ in full accordance with the [Resolution 15/02](#) ~~on the Mandatory statistical reporting requirements for IOTC Contracting Parties and Cooperating Non Contracting Parties (CPCs), or any Resolution superseding it~~.
4. CPCs shall include in their national Annual Reports to the [IOTC](#) Scientific Committee information on the actions they have taken domestically to monitor catches.

### Scientific Research

5. CPCs are encouraged to undertake scientific research on blue shark that would provide information on key biological/ecological/behavioural characteristics, life-history, migrations, post-release survival and guidelines for safe release and identification of nursery grounds, as well as improving fishing practices. Such information shall be made available to the [IOTC](#) Working Party on Ecosystem and Bycatch and Scientific Committee through working documents and the national ~~A~~ [Annual Implementation](#) Reports.
6. In light of the results of the next stock assessment of blue shark in 2021, the Scientific Committee shall provide advice, if possible, on options for candidate limit, threshold and target reference points for the conservation and

management of this species in the IOTC ~~area of competence. Convention area.~~

7. The IOTC Scientific Committee shall also provide advice, at the latest by 2021, on potential management options for ensuring long-term sustainability of the stock, such as mitigation measures to reduce the mortality of blue shark, improving selectivity of fishing gears, spatial/temporal closures or minimum conservation sizes.

#### Final Provisions

8. Based on the review and the results of the next stock assessment, updated reported catch information by each CPC and taking into account the IOTC Scientific Committee's advice, the Commission shall consider, at its 2021 ~~Sessionmeeting~~, the adoption of conservation and management measures, which could include the catch limit for each CPC to be decided taking into account the most recent reported catch information or bycatch mitigation such as a ban on wire trace/shark line for blue shark as appropriate.

Conservation and Management Measures linked to Resolution 18/02 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 12/01</a>	<a href="#">Resolution 15/01</a>	None	
<a href="#">Resolution 15/02</a>	<a href="#">Resolution 17/05</a>		



## RESOLUTION 18/03

# ON ~~E~~STABLISHING A ~~L~~IST OF ~~V~~ESSELS ~~P~~RESUMED TO ~~H~~AVE ~~C~~CARRIED OUT ~~I~~LLLEGAL, ~~U~~NREPORTED AND ~~U~~NREGULATED ~~F~~FISHING ACTIVITIES IN THE IOTC ~~A~~REA OF ~~C~~OMPETENCE

**Keywords:** IUU, illegal, unreported and unregulated fishing activities.

## EXPLANATORY NOTES

### TITLE

It is recommended to include the word “activities” in the title and key words to be consistent with the definition of “IUU fishing activities” in paragraph 4, mindful that the activities as defined include fishing related activities.

### PREAMBLE

Paragraph 1. Proposed amendments use language directly from the IPOA-IUU.

### PARAGRAPHS

**1.** The definitions are amended to appear in alphabetical order. They expressly apply to this Resolution but are slightly different than those proposed for the IOTC Glossary as shown below. *CPCs may wish to consider aligning the definitions.*

Term	Definition in this Resolution	Proposed definition in IOTC Glossary
fishing	searching for, attracting, locating, catching, taking or harvesting fish or any activity which can reasonably be expected to result in the attracting, locating, taking or harvesting of fish;	(a) the actual or attempted searching for, catching, taking or harvesting of fish or engaging in any other activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fish;  (b) deployment, monitoring or searching for any fish aggregating device or associated equipment including radio beacons;  (c) an operation at sea directly in support of or in preparation for an activity described in this definition; or  (d) the use of an aircraft in relation to an activity described in this definition except flights in emergencies involving the health or safety of crew members or the safety of a vessel
fishing related activities	any operation in support of, or in preparation for, fishing, including landing, packaging, processing,	Any operation in support of, or in preparation for, fishing, including the landing, packaging, processing, transshipping or transporting of fish that

Term	Definition in this Resolution	Proposed definition in IOTC Glossary
	transshipment or transport of fish and/or fish products that have not been previously landed at a port, as well as the provisioning of personnel, fuel, gear, food and other supplies at-sea;	have not been previously landed at a port, and the provisioning of personnel, fuel, gear and other supplies at sea, as well as the retrieving of drifting Fish Aggregating Devices.
master	any person holding the most responsible position at any given time on board a fishing vessel;	In relation to a vessel, aircraft or vehicle, means the person in command or charge in accordance with any relevant licence or authorisation, or for the time being or apparently in command or charge, but does not include a pilot on board a vessel solely for the purpose of navigation
operator	the natural or legal person who is responsible for taking commercial decisions regarding the management and operation of a vessel and includes a charterer of the vessel;	Any natural or legal person in charge or control of a vessel and responsible for taking decisions and giving direction to such vessel for management, operational and/or commercial matters related to fishing and fishing related activities, including the owner, beneficial owner, charterer and master.
owner	the natural or legal person registered as the owner of a vessel;	Includes the registered and legal owner of the vessel or any other organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for operation of the vessel from the owner and who on assuming such responsibilities has agreed to take over all the attendant duties and responsibilities

Amendment is proposed to reflect the intention of CPCs to require, rather than encourage, the masters of their vessels, rather than their vessels, to undertake the stated actions. The language in the following paragraphs is mandatory, and it would seem that the intention may have been the same in this paragraph. *As a substantive matter, it is recommended to clarify this with CPCs.*

**4(b)(i) and (ii).** The master (Glossary term, rather than “captain”) makes a determination relating to the tuna “and/or” (rather than “and”) the non-targeted species (in line with the apparent intention).

**6.** Subparagraph (a) was integrated into the paragraph because there was no subparagraph (b).

**Commented [A125]:** EU  
Clearly this part does not refer to this resolution, but probably rather a copy paste from 19/05

### MCS

WORKSHOP DISCUSSION	
(a) <b>Key findings</b>	<ul style="list-style-type: none"> <li>• Stepwise mechanism and procedure for listing is solid.</li> <li>• Paragraph 2 does not limit listing to vessels only – incoherence with title (and further provisions).</li> <li>• Errors in rulemaking (para 4.1. ad 4.b.).</li> <li>• Contradictions with other CMMs (para 20.b).</li> <li>• Applicable sanctions largely not defined.</li> <li>• Master identity of listed IUU vessel not established.</li> </ul>
(b) <b>Proposed actions</b>	<ul style="list-style-type: none"> <li>• Maximum information on company and physical person details and data to be collected and listed (along vessel details).</li> <li>• CMM expanded and completed.</li> </ul>

	<ul style="list-style-type: none"> <li>• CMM 07/01 on compliance by nationals and CMM 16/05 on vessels without nationality absorbed into CMM 18/03.</li> </ul>
<b>(c) Points discussed during the Workshop</b>	<ul style="list-style-type: none"> <li>• It was agreed that not respecting catch limit/quota is compliance issue, and that should not lead to IUU identification.</li> <li>• There was no agreement to include “Entity” in the IUU list. It was felt that the concept of “Entity” should be clearly defined first, before consideration can be given to this proposal.</li> <li>• Issues relating labour and human rights, whilst recognised as important issues, should be addressed outside the scope of the IUU listing process.</li> <li>• Different mechanisms for the listing of different entities (e.g. list of IUU captains, operators, etc.) should be considered as they are important players in driving IUU. However, more thoughts on how to achieve this, are required.</li> </ul>
<b>WPICMM02 RECOMMENDATION</b>	Further consideration should be given to some of the proposals to amend this Resolution.

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

## The Indian Ocean Tuna Commission (IOTC),

RECALLING that the FAO Council adopted on 23 June 2001 ~~an~~<sup>the</sup> International Plan of Action to ~~p~~<sup>P</sup>revent, ~~to~~<sup>d</sup>eter and ~~e~~<sup>E</sup>liminate ~~i~~<sup>I</sup>llegal, ~~u~~<sup>U</sup>nreported and ~~u~~<sup>U</sup>nregulated ~~f~~<sup>F</sup>ishing (IPOA-IUU), ~~which encouraged -~~  
~~This plan stipulates that the~~ all identifications of the vessels ~~carrying~~<sup>engaged in</sup> IUU fishing activities ~~should to be made through follow~~ agreed procedures ~~and be applied in an equitable~~ in a fair, transparent and non-discriminatory ~~manner way~~;

RECALLING that the IOTC adopted Resolution 01/07 *Concerning the support of the IPOA-IUU* [superseded by Resolution 14/01 *on the removal of obsolete conservation measures*] ~~concerning its support of the IPOA-IUU~~;

RECALLING that IOTC has already adopted measures against IUU fishing activities;

RECALLING that ~~the~~ IOTC adopted *Resolution 07/01 to promote compliance by nationals of Contracting Parties and Cooperating Non-Contracting Parties with IOTC Conservation and Management Measures (CMMs)*;

RECALLING ALSO that ~~the~~ IOTC adopted Resolution *19/04* ~~07/02 [superseded by Resolution 13/02, then by Resolution 14/04, then by Resolution 15/04, then by Resolution 19/04] Concerning the IOTC Record of Vessels Authorised to operate in the IOTC area of competence~~ to enhance the implementation of IOTC ~~CMMs~~ *conservation and Management Measures* through establishing a Record of fishing vessels authorised to operate in the IOTC area of competence;

RECOGNISING that IUU fishing activities may be linked with serious and organised crime;

CONCERNED by the fact that IUU fishing activities in the IOTC area of competence continue, and these activities diminish the effectiveness of IOTC ~~CMMs~~ *conservation and Management Measures*;

FURTHER CONCERNED that there is evidence of a large number of vessel owners engaged in such fishing activities who have re-flagged their vessels to avoid compliance with IOTC ~~CMMs~~ *conservation and Management Measures*;

DETERMINED to address the challenge of an increase in IUU fishing activities by way of countermeasures to be applied in respect of the vessels engaged in IUU fishing ~~activities~~, without prejudice to further measures adopted in respect of flag States under the relevant IOTC instruments;

CONSCIOUS of the need to address, as a matter of priority, the issue of large-scale fishing vessels conducting IUU fishing activities;

NOTING that the situation must be addressed in the light of all relevant international fisheries instruments and in accordance with the relevant rights and obligations established in the World Trade Organization (WTO) Agreements;

TAKING INTO ACCOUNT the basic principles for adopting measures for cross-listing vessels listed as IUU ~~Vessels~~ by other RFMOs endorsed in the recommendations of the ~~Third~~<sup>3<sup>rd</sup></sup> Joint Meeting of *Tuna Regional Fisheries Management Organisations (RFMOs)* ~~of the Tuna RFMO~~, held in La Jolla, California in 2011;

ACKNOWLEDGING the need to preserve the decision-making authority of IOTC in any cross-listing decision by ensuring that members have the opportunity to consider each vessel on a case-by-case basis prior to its inclusion in the IOTC IUU ~~Vessel~~ <sup>U</sup> ~~L~~<sup>I</sup>st;

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

### Use of terms

1. For the purpose of this Resolution:

- (a) “fishing” means searching for, attracting, locating, catching, taking or harvesting fish or any activity which can reasonably be expected to result in the attracting, locating, taking or harvesting of fish;
- (b) “fishing related activities” means any operation in support of, or in preparation for, fishing, including landing, packaging, processing, transshipment or transport of fish and/or fish products that have not been

#### Commented [A126]: MDV:

Support the suggestion to align this definition with the proposed Glossary of IOTC terms, but also with the insertion of FAD ‘maintenance’ in the definition of ‘fishing related activities’, in order to avoid ambiguities:  
“means any operation in support of, or in preparation for, fishing, including the landing, packaging, processing, transshipping or transporting of fish that have not been previously landed at a port, and the provisioning of personnel, fuel, gear and other supplies at sea, as well as the maintenance or retrieving of drifting Fish Aggregating Devices (DFADs);”

previously landed at a port, as well as the provisioning of personnel, fuel, gear, food and other supplies at sea;

(c) "Information" means suitably and sufficiently documented data which is capable of being presented as evidence to the Compliance Committee and/or Commission of any facts in issue,

(d) "master" means any person holding the most responsible position at any given time on board a fishing vessel;

(a) "Owner" means the natural or legal person registered as the owner of a vessel;

(b)(c) "Operator" means the natural or legal person who is responsible for taking commercial decisions regarding the management and operation of a vessel and includes a charterer of the vessel;

(e) "Master" means any person holding the most responsible position at any given time on board a fishing vessel;

(d)(a) "fishing" means searching for, attracting, locating, catching, taking or harvesting fish or any activity which can reasonably be expected to result in the attracting, locating, taking or harvesting of fish;

(f) "fishing-related activities" means any operation in support of, or in preparation for, fishing, including landing, packaging, processing, transshipment or transport of fish and/or fish products that have not been previously landed at a port, as well as the provisioning of personnel, fuel, gear, food and other supplies at sea;

(g) "owner" means the natural or legal person registered as the owner of a vessel;

(e)(a)

(f) "Information" means suitably and sufficiently documented data which is capable of being presented as evidence to the Compliance Committee and/or Commission of any facts in issue,

(e)(h) the singular also includes the plural.

#### Application of this measure

2. This Resolution applies to vessels, together with their ~~O~~wners, ~~O~~perators and ~~M~~asters that undertake fishing and fishing related activities, for species covered by the IOTC Agreement, or by IOTC ~~CMM~~onservation and Management Measures, within the IOTC area of competence (IOTC Area).

#### Objective

3. This Resolution sets out rules and procedures for the maintenance and updating by the Commission of the system of lists of vessels considered to be involved in ~~illegal, unreported and unregulated (IUU)~~ fishing activities and which comprises:
  - (a) the Draft IOTC IUU Vessels List (Draft IUU Vessels List);
  - (b) the Provisional IOTC IUU Vessels List (Provisional IUU Vessels List); and
  - (c) the IOTC IUU Vessels List (IUU Vessels List).

#### Definition of IUU Fishing Activities

4. For the purposes of this Resolution a vessel is presumed to have engaged in IUU fishing activities when an IOTC Contracting Party or Cooperating Non-Contracting Party (~~hereinafter referred to as "CPCs"~~) has provided information that such a vessel has, within the IOTC Area and in relation to species covered by the IOTC Agreement or by any IOTC ~~CMM~~onservation and Management Measures:
  - (a) engaged in fishing or fishing related activities and is neither registered on the IOTC Record of Authorised Vessels in accordance with Resolution ~~19/0415/04 [superseded by Resolution 19/04]~~, nor recorded in the ~~Active~~IOTC Record of Currently Authorised ~~List of~~ Vessels; ~~or~~
  - (b) engaged in fishing or fishing related activities when its flag State is without quota, catch limit, or effort allocation under IOTC ~~CMM~~onservation and Management Measures where applicable unless that vessel is flagged to a CPC; ~~or~~
  - (c) failed to record or report its catches in accordance with IOTC Conservation and Management Measures or has made false reports; ~~or~~

- (d) taken or landed undersized fish in contravention of IOTC Conservation and Management Measures; ~~or~~
- (e) engaged in fishing or fishing related activities during closed fishing periods or in closed areas in contravention of IOTC Conservation and Management Measures; ~~or~~
- (f) used prohibited fishing gear in contravention of IOTC Conservation and Management Measures; ~~or~~
- (g) transhipped fish to, or otherwise participated in joint operations with, support or re-supply vessels that are not included on the IOTC Record of Authorised Vessels or not on the Record of Vessels Authorised to Receive Transhipments At-Sea in the IOTC Area; ~~or~~
- (h) engaged in fishing or fishing related activities in waters that are under the national jurisdiction of a coastal State without the permission or authorisation of that State or in contravention of the laws and regulations of that State (without prejudice to the sovereign rights of the State concerned to undertake enforcement measures against such a vessel)<sup>1</sup>; ~~or~~
- (i) engaged in fishing or fishing related activities while ~~not~~ being without nationality; ~~or~~
- (j) engaged in fishing or fishing related activities having intentionally falsified or concealed its markings, identity or registration; or
- (k) engaged in fishing or fishing related activities in contravention of any other ~~binding~~ IOTC ~~CMMs~~ Conservation and Management Measures.

#### Submission of information on IUU Fishing Activities

5. A CPC in possession of information that one or more vessels has engaged in IUU fishing activities within the IOTC Area within a 24 month period prior to the annual meeting of the Compliance Committee shall submit a list of such vessels to the ~~IOTC~~ Executive Secretary. Such submission shall be made at least 70 days before the annual meeting of the ~~IOTC~~ Compliance Committee using the IOTC Reporting Form for Illegal Activity in Annex I.
6. A list submitted by a CPC (the nominating CPC) in accordance with paragraph 5, shall be accompanied by information concerning the IUU fishing activity of each of the listed vessel(s) including but not limited to:
  - (a) reports regarding the alleged IUU fishing activity from CPCs relating to IOTC ~~CMMs~~ Conservation and Management Measures in force;
  - (b) trade information obtained on the basis of relevant trade statistics such as those from statistical documents and other national or international verifiable statistics;
  - (c) any other information obtained from other sources and/or gathered from the fishing grounds such as:
    - (i) information gathered from inspections undertaken in port or at sea; ~~or~~
    - (ii) information from coastal States including VMS transponder or AIS data, surveillance data from satellites or airborne or seaborne assets; ~~or~~
    - (iii) IOTC programmes, except where such a programme stipulates that information gathered is to be kept confidential; or
    - (iv) information and intelligence collected by third parties either provided directly to a CPC or ~~through~~ the ~~IOTC~~ Executive Secretary pursuant to paragraph 7.
7. When the IOTC Executive Secretary receives information and intelligence from third parties indicating alleged IUU fishing activities, the ~~IOTC~~ Executive Secretary shall transmit the information to the flag State of the vessel and each CPC. Where the flag State of the vessel is a CPC, if requested by any other CPC through the

#### Commented [A127]: MDV:

This footnote should be removed as it is not in line with internationally agreed definitions of IUU fishing and inaccurately creates the impression that the drifting (and thereby even the intentional deployment near the EEZ in suitable currents – thus creating a perverse incentive to do so) of DFADs without the permission of the coastal State does not constitute and illegal fishing activity. Vessels must ensure that their DFADs are deployed in a fashion that does not lead to drifting into the EEZ without the permission of the coastal State. We support the development of a parallel Resolution that may promote accountability for the travels of FADs, which can aggregate and attract resources to travel out of a coastal States EEZ. Such a Resolution should define penalties, also application of a polluter pays principle, and otherwise require prior authorisation to not have such instances be deemed IUU.

<sup>1</sup> For the purposes of this subparagraph, a vessel that is recorded on the IOTC Record of Authorised Vessels shall not be presumed to have engaged in IUU fishing activities when a Fish Aggregating Device (FAD) it has deployed has drifted into waters that are under the national jurisdiction of a coastal State without its permission or authorization. However, if the vessel retrieves or fishes on a FAD in a ~~coastal~~ State's waters without its permission or authorization, the vessel is ~~not~~ presumed to have engaged in IUU fishing activities

~~IOTC~~ Executive Secretary, it shall investigate the allegation and shall report the progress of the investigation to the ~~IOTC~~ Executive Secretary within 60 days. Where the flag State is not a CPC, if requested by any CPC the ~~IOTC~~ Executive Secretary shall request it to investigate the allegation and report the progress of the investigation to the ~~IOTC~~ Executive Secretary within 60 days. The ~~IOTC~~ Executive Secretary shall then, as soon as practicably possible, notify each CPC and the flag State of each vessel concerned, together with such compiled information as has been received. Where the alleged IUU activities occurred in the waters of a coastal State CPC ~~of IOTC~~, the CPC concerned may seek to include the vessel on the ~~draft~~ IUU Vessels List (paragraph 6(c)(iv)). Where the alleged IUU activities occurred in areas beyond national jurisdiction within the IOTC Area any concerned CPC may seek to include the vessel on the draft IUU Vessels List.

#### Draft IOTC IUU Vessels List

8. On the basis of the information received pursuant to paragraphs 5, 6 and 7, the ~~IOTC~~ Executive Secretary shall draw up a Draft IUU Vessels List incorporating the information in the format ~~set out in Annex II~~. The ~~IOTC~~ Executive Secretary shall then transmit the Draft IUU Vessels List together with the compiled information to each CPC and to the flag State of each vessel included on the Draft IUU Vessels List at least 55 days before the ~~Annual Session/Meeting~~ of the Compliance Committee.
9. The flag State of a vessel included on the Draft IUU Vessels List shall be requested to:
  - (a) notify the ~~Owner~~, ~~Operator~~ and the ~~Master~~ of the vessel of the fact of its inclusion in the Draft IUU Vessels List and of the consequences that may result from its inclusion being confirmed in the IUU Vessels List adopted by the Commission; and
  - (b) closely monitor the vessels included in the Draft IUU Vessels List in order to determine their activities and possible changes of use, name, flag and/or registered ~~Owner~~.
10. The flag State of a vessel included on the Draft IUU Vessels List may transmit to the ~~IOTC~~ Executive Secretary at least 15 days before the ~~Annual Meeting~~ of the Compliance Committee, any comments and information about listed vessels and their activities, including information pursuant to ~~Paragraph 9(a) and 9(b)~~ and information showing that the listed vessels either have or have not:
  - (a) conducted fishing activities in a manner consistent with IOTC ~~CMMs~~ ~~conservation and Management Measures~~ in force; ~~or~~
  - (b) conducted fishing activities in a manner consistent with the laws and regulations of a coastal State when fishing in the waters under the jurisdiction of that State, and with the law and regulations of the flag State and the Authorisation to Fish; -or
  - (c) conducted fishing activities exclusively for species that are not covered by the IOTC Agreement or IOTC ~~CMMs~~ ~~conservation and Management Measures~~.
11. The ~~IOTC~~ Executive Secretary shall compile any new information received from CPCs and flag States regarding vessels on the Draft IUU Vessels List and, pursuant to paragraphs 22 and 23, those on the IUU Vessels List and circulate that information to all CPCs and to the flag States of vessels on the lists at least 10 days prior to the annual ~~s~~Session of the Compliance Committee together with the completed checklist, ~~Annex III~~ and where applicable, ~~Annex IV~~.
12. A CPC may at any time submit to the ~~IOTC~~ Executive Secretary any additional information regarding vessels on the Draft IUU Vessels List, which might be relevant to the establishment of the IUU Vessels List. If the IOTC Secretariat receives this information after the Draft IUU Vessels List has been circulated to CPCs, it will circulate the information to all CPCs and to the flag States of listed vessels as soon as practicable.

#### Provisional IOTC IUU Vessels List

13. The IOTC Compliance Committee shall each year at its ~~Annual Meeting/Session~~ examine the Draft IUU Vessels List, as well as the information submitted, ~~and~~ any comments received from the flag State of a vessel included on the Draft IUU Vessels List together with any additional information ~~submitted~~ by any CPC. If



the IOTC Compliance Committee is satisfied that the documented information establishes that the vessel carried out IUU fishing activities, it shall include the vessel or vessels concerned in the Provisional IUU Vessels List.

14. The IOTC Compliance Committee shall not include a vessel in the Provisional IUU Vessels List if:

- (a) the nominating CPC did not follow the provisions of paragraphs 5 and 6; ~~or~~
- (b) on the basis of the information available, the IOTC Compliance Committee is not satisfied that the presumption of IUU fishing activities referred to in paragraph 4 has been established; ~~or~~
- (c) the flag State of a vessel included in the Draft IUU Vessel List provides information that demonstrates that the vessel has at all relevant times complied with the rules of the flag State and with its authorisation to fish and:
  - (i) that the vessel has conducted fishing activities in a manner consistent with the IOTC Agreement and IOTC CMMs ~~Conservation and Management Measures~~; ~~or~~
  - (ii) that the vessel has conducted fishing activities within the waters under the jurisdiction of a coastal State in a manner consistent with the ~~legislation-laws and regulations~~ of that coastal State; or
  - (iii) that the vessel has fished exclusively for species that are not covered by the IOTC Agreement or IOTC CMMs ~~Conservation and Management Measures~~; or
- (d) the flag State of a vessel included in the Draft IUU Vessels List provides information that demonstrates that effective action has been taken in response to the IUU fishing activities in question, including prosecution and imposition of sanctions of adequate severity to be effective in securing compliance and deterring further ~~violations-infringements~~. Every CPC shall report any actions and measures that it has taken in accordance with Resolution 07/01, in order to promote compliance with IOTC CMMs ~~Conservation and Management Measures~~ by its flag vessels ~~that fly its flag~~.

15. In cases where a flag State has not demonstrated the matters referred to in ~~P~~paragraphs 14-(c) or ~~14~~-(d) or where a flag State has not provided any information under paragraph 10 or during the ~~annual Session of the IOTC Compliance Committee-meeting~~, the IOTC Compliance Committee shall include the vessel on the Provisional IUU Vessels List and recommend to the Commission that the vessel be included on the IUU Vessels List.

16. Following the examination referred to in paragraph 13 at each IOTC ~~A~~annual ~~Sessionmeeting~~, the IOTC Compliance Committee shall submit the Provisional IUU Vessels List to the Commission for its consideration. If the Compliance Committee cannot agree as to whether a certain vessel shall be included in the Provisional IUU Vessels List, the List shall include the vessel and the Commission shall decide whether the vessel shall be included in the IUU Vessels List.

#### IOTC IUU Vessels List

17. The IOTC Compliance Committee shall each year examine the IUU Vessels List and the information circulated under paragraph 11 and shall recommend to the Commission which, if any, vessels should be added to or removed from the IUU Vessels List.

18. The Commission shall each year at its ~~A~~annual ~~SessionMeeting~~ review the IUU Vessels List as well as the Provisional IUU Vessels List; and the recommendations adopted by the IOTC Compliance Committee to amend the IUU Vessels List, together with the documented information provided under paragraphs 6, 10, 12, and 30. Based on its review, the Commission may decide to amend the IUU Vessels List by:

- (a) adding or removing vessels; and/or
- (b) rectifying any incorrect details; or inserting new details; about a vessel already included on the IUU Vessels List in accordance with paragraph 30-(a).

#### Commented [A128]: AUS

Australia does not agree with this proposed text which is narrower in scope than the existing text. The existing text 'laws and regulations' should be retained.



19. The Commission, acting in accordance with paragraph 18, may amend the IUU Vessels List by consensus. In the absence of consensus, the Commission shall decide upon any proposed amendment by a vote. Voting may be conducted by a secret ballot if a member requests it and this request is seconded. If two thirds or more of the Contracting Parties present and voting support the proposed amendment it shall be considered approved and brought into effect. The outcome of any decision made by the Commission pursuant to this paragraph shall not affect any domestic prosecution or settlement of any sanctions by the nominating or flag States pursuant to paragraphs 4 and 14(d).

#### Action against IUU Vessels

20. Following the adoption of the IUU Vessel List, the IOTC Executive Secretary shall request the flag State of every vessel that is included in the list:

- (a) to notify the Owner and Operator of the vessel of its inclusion on the list and the consequences which may result from its inclusion in the list;
- (b) to take all the necessary measures to prevent the vessel from undertaking IUU fishing activities, including withdrawing its fishing licence or the de-registering of the vessel, and to inform the Commission of the measures taken in this respect.

21. A CPC shall take all necessary measures, in accordance with its legislation to:

- (a) ~~to ensure that no flag vessel flying its flag~~, including any fishing vessel, support vessel, refuelling (supply) vessel, mother-ship or cargo vessel, provides assistance to a vessel included in the IUU Vessels List in any way, or engages in fishing processing operations with such a vessel or participates in transshipment or joint fishing operations with such a vessel, except for the purpose of rendering assistance where such a vessel, or any person on that vessel, is in danger or distress;
- (b) ~~to refuse entry into its ports by any vessel included on the IUU Vessels List~~, except in case of *force majeure* or where the vessel, or any person on that vessel, is in danger or distress, unless vessels are allowed entry into port for the exclusive purpose of inspection and effective enforcement action;
- (c) ~~to consider giving priority to the inspection of vessels on the IUU Vessels List~~, if such vessels are otherwise found in their ports;
- (d) ~~to prohibit the chartering of a vessel included on the IUU Vessels List~~;
- (e) ~~to refuse to grant their flag to vessels included in the IUU Vessels List~~, except if the vessel has changed Owner and the new Owner has provided sufficient information demonstrating the previous Owner or Operator has no further legal, beneficial or financial interest in, or control of, the vessel; or having taken into account and documented all relevant facts, the flag State determines that granting the vessel its flag will not result in IUU fishing activities;
- (f) ~~to prohibit the import, landing or transshipment, of tuna and tuna-like species from vessels included in the IUU Vessel List~~;
- (g) ~~to encourage importers, transporters and other sectors concerned, to refrain from engaging in transactions, including transshipments, relating to tuna and tuna-like species caught by vessels included in the IUU Vessel List~~;
- (h) ~~to collect and exchange with other CPCs contracting Parties or Cooperating Non-Contracting Parties~~ any appropriate information with the aim of detecting, controlling and preventing false import/export certificates for tunas and tuna-like species from vessels included in the IUU Vessels List.

#### Vessel Delisting Procedures

22. The flag State of a vessel included in the IUU Vessels List may request the removal of the vessel from the list at any time, including during the inter-sessional period, by providing information to the ~~IOTC~~ Executive Secretary to demonstrate that:

- (a) it:

- (i) has adopted measures such that the vessel ~~O~~owner and all other nationals employed on that vessel that engage in fishing and fishing related activities within the IOTC Area for species covered by the IOTC Agreement comply with all IOTC ~~CMM~~senservation and Management Measures; and
  - (ii) ~~it~~ is effectively assuming and will continue to effectively assume its flag State responsibilities with regard to the monitoring and control of the fishing activities of this vessel; and
  - (iii) has taken effective action against the ~~O~~owner, ~~O~~operator and ~~M~~master (where appropriate) in response to the IUU fishing activities that resulted in the vessel's inclusion in the IUU Vessels List including prosecution and imposition of sanctions of ~~-adequate~~ severity; or
- (b) ~~The~~ vessel has changed ownership and that the new ~~O~~owner can establish that the previous ~~O~~owner no longer has any operational, legal, financial or real interests whether direct or indirect in the vessel or exercises control over it and that the new ~~O~~owner has not participated in any IUU fishing activities in the preceding 5 years; ~~or~~
  - (c) ~~The~~ vessel has been sunk or scrapped; or
  - (d) ~~A~~ny prosecution and/or sanctions regarding the vessel that conducted IUU fishing activities has been concluded by both the nominating CPC and the flag State of the vessel.
23. If a request for the removal of a vessel from the IUU Vessels List is received within 55 to 15 days before the annual Session of the IOTC Compliance Committee ~~-meeting~~, the request shall be considered at that ~~Session~~meeting. The Compliance Committee shall examine the request along with any information provided under paragraph 22 and shall recommend to the Commission whether or not the vessel should be removed from the IUU Vessels List.
24. If a request is received more than 55 days before the annual Session of the IOTC Compliance Committee ~~meeting~~, the request will be considered in accordance with the intersessional procedure ~~outlined~~provided in paragraphs 25-28.
25. On the basis of the information received in accordance with paragraph 22, the ~~IOTC~~-Executive Secretary shall transmit the request for removal together with all the supporting information submitted and the checklist in **Annex IV** to all CPCs within 15 days following receipt of the request.
26. The Contracting Parties shall examine the request to remove the vessel and shall notify the IOTC Secretariat of their conclusion to either remove the vessel from, or keep the vessel on, the IUU Vessels List, within 30 days following the notification by the ~~IOTC~~-Executive Secretary.
27. At the end of the 30 day period, the ~~IOTC~~-Executive Secretary shall ascertain the outcome of the CPCs' decision on the proposal in accordance with the following:
- (a) ~~A~~ Vessel Delisting Procedure shall be deemed valid only if at least 50% of the Contracting Parties with voting rights respond to the proposal;
  - (b) ~~A~~ proposal shall be considered to have been approved if two thirds or more of the Contracting Parties with voting rights that respond indicate that they support the delisting of the vessel concerned from the IUU Vessels List, and it shall be delisted;
  - (c) ~~If~~ fewer than two-thirds of the Contracting Parties with voting rights that respond are in favour of delisting the vessel from the IUU Vessels List it shall not be delisted and the request for delisting shall be considered by the next annual Sessionmeeting of the Compliance Committee in accordance with the procedure outlined in paragraph 23.
28. The ~~IOTC~~-Executive Secretary shall communicate the result of every decision, along with a copy of the amended IUU Vessels List, to all CPCs, the flag State of the vessel (if not a CPC), and any Non-Contracting Party that may have an interest. The amended IUU Vessels List ~~shall~~will have effect immediately after the result of the decision has been communicated.

#### Publication of the IUU Vessels List

29. The ~~IOTC~~ Executive Secretary ~~shall~~~~will~~ take any necessary measures to ensure publicity of the IUU Vessels List adopted by ~~the Commission~~~~IOTC~~ pursuant to paragraph 18, or as amended pursuant to paragraphs 22 to 27, 30, 34, 35 or 36 in a manner consistent with any applicable confidentiality requirements, and through electronic means, including placing it on the IOTC website. Furthermore, the ~~IOTC~~ Executive Secretary shall transmit the IOTC IUU Vessels List as soon as possible to the FAO and to the organisations ~~as~~ set out in ~~P~~paragraph 31 for the purposes of enhanced co-operation between IOTC and these organisations in order to prevent, deter and eliminate IUU fishing activities.

**Commented [A129]: JPN**  
The original auxiliary verb shall be maintained.

#### Change of details of vessels included on the IUU Vessels List

30. A CPC with new or changed information for vessels on the IUU Vessels List in relation to the details in paragraphs 1 to 8 of **Annex II** shall, as soon as practicable, transmit such information to the ~~IOTC~~ Executive Secretary. The ~~IOTC~~ Executive Secretary shall communicate such information to all CPCs and:
- (a) where the information indicates incorrect details were included at the time the vessel was added to the IUU Vessels List, refer the matter to the Commission for consideration pursuant to paragraph 18-(b);
  - (b) where the information indicates a change in details since the vessel was added to the IUU Vessels List, seek to verify the information by reference to other information and, after verification, update the relevant details in the IUU Vessels List and re-publish it in accordance with paragraph 29. If the ~~Executive Secretary~~~~Secretariat~~, after reasonable efforts, is unable to verify the information submitted by the CPC the IUU Vessels List will not be updated.

#### Cross-Listing of vessels included on the IUU Vessels List

31. The IOTC Executive Secretary shall maintain appropriate contacts, *inter alia*, with the Secretariats of the following organisations in order to obtain their latest IUU vessel lists and any other relevant information regarding the list in a timely manner upon adoption or amendment: the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), the Commission for the Conservation of Southern Bluefin Tuna (CCSBT), the International Commission for the Conservation of Atlantic Tunas (ICCAT), the South East Atlantic Fisheries Organisation (SEAFO), the Southern Indian Ocean Fisheries Agreement (SIOFA), the South Pacific Regional Fisheries Management Organisation (SPRFMO) and the Western and Central Pacific Fisheries Commission (WCPFC).
32. Notwithstanding paragraph 2, IUU vessels listed by the organisations set out in paragraph 31 may be added to or deleted from the IOTC IUU Vessels List, provided that the procedures specified in paragraphs 33 to 38 are followed.
33. In addition to the organisations set out in paragraph 31, the Executive Secretary shall transmit the IOTC IUU Vessels List to a relevant organisation that has expressed an interest to receive such List,
34. Upon receipt of the information outlined in paragraphs 31, the ~~IOTC~~ Executive Secretary shall promptly circulate it to all CPCs for the purpose of amending the IOTC IUU Vessels List.
35. Vessels that have been included in the IUU ~~Vessels~~ ~~L~~ists of the organisations set out in paragraph 31 shall be included in the IOTC IUU Vessel List, unless any CPC objects to the inclusion in writing within 30 days of the date of transmittal by the Executive Secretary. The objecting CPC shall explain the reason for the objection.
36. In the event of an objection to the inclusion pursuant to paragraph 35, the case shall be brought to the following session of the ~~IOTC~~ Compliance Committee for its examination. The ~~IOTC~~ Compliance Committee shall provide a recommendation to the Commission on the inclusion of the relevant vessel/s in the IUU Vessels List.
37. Vessels that have been listed under the procedures specified in paragraphs 34 and 35 and that have been removed from the IUU ~~Vessels~~ ~~L~~ists of the relevant organisations ~~set out~~ in paragraph 31 shall be removed from the IOTC IUU Vessels List.
38. Upon the change of the IOTC IUU Vessels List pursuant to paragraphs 34 or 36, the ~~IOTC~~ Executive Secretary shall circulate the amended IOTC IUU Vessels List to all CPCs.

## General Provisions

39. Without prejudice to the rights of flag States and coastal States to take action consistent with international law, CPCs shall not take any unilateral trade measures or other sanctions against vessels included in the Draft and/or Provisional IUU Vessels Lists, pursuant to paragraphs 8 and 16 on the grounds that such vessels are involved in IUU fishing activities, or against those vessels removed from the IUU ~~V~~essels ~~L~~ist by the Commission.
40. A summary of the timeframe for actions to be taken in respect of this Resolution is provided in **Annex V**
41. Resolution 17/03 *On Establishing A List of Vessels Presumed to Have Carried Out Illegal, Unreported And Unregulated Fishing in the IOTC Area* is superseded by this Resolution.

Conservation and Management Measures linked to Resolution 18/03 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 07/01</a>	<a href="#">Resolution 14/01</a>	<a href="#">Resolution 19/07</a>	
<a href="#">Resolution 19/04</a>			

## ANNEX I

### IOTC REPORTING FORM FOR ILLEGAL ACTIVITY

Recalling IOTC Resolution 18/03 On establishing a list of vessels presumed to have carried out illegal, unreported and unregulated fishing in the IOTC Area, attached are details of illegal activity recorded by [name of CPC, third party] in [area in which the activity took place] .....

#### A. Details of Vessel

(Please detail the incidents(s) in the format below)

Item	Definition	Indicate
a	Current Name of Vessel (Previous name/s, if any)	
b	Current Flag (previous flag/s, if any)	
c	Date first included on IOTC IUU Vessel List (if applicable)	
d	Lloyds IMO Number, if available	
e	Photo	
f	Call Sign (previous call sign, if any)	
g	Owner (previous Owner/s, if any)	
h	Operator (previous Operator/s, if any) and Master/Fishing Master	
i	Date of alleged IUU fishing activities	
j	Position of alleged IUU fishing activities	
k	Summary of alleged IUU activities (see section B for more detail)	
l	Summary of any actions known to have been taken in respect of the alleged IUU fishing activities	
m	Outcome of actions taken	

## B. Details of IOTC Resolution Elements Contravened

(Indicate with a "X" the individual element(s) of IOTC Resolution 18/03 contravened, and provide relevant details including date, location, source of information. Extra information can be provided in an attachment if necessary.)

~~That a~~ vessel has, within the IOTC Area and in relation to species covered by the IOTC Agreement or by IOTC Conservation and Management Measures:

Item	Definition	Indicate
a.	engaged in fishing or fishing related activities and is neither registered on the IOTC Record of Authorised Vessels in accordance with Resolution 15/04 <del>[superseded by Resolution 19/04]</del> , nor recorded in the <del>Record of Currently Authorised Active List of</del> <del>Vessels;</del> <del>or</del>	
b.	engaged in fishing or fishing related activities when its flag State is without quota, catch limit, or effort allocation under IOTC Conservation and Management Measures where applicable; <del>or</del>	
c.	failed to record or report its catches in accordance with IOTC Conservation and Management Measures or has made false reports; <del>or</del>	
d.	taken or landed undersized fish in contravention of IOTC Conservation and Management Measures; <del>or</del>	
e.	engaged in fishing or fishing related activities during closed fishing periods or in closed areas in contravention of IOTC Conservation and Management Measures; <del>or</del>	
f.	used prohibited fishing gear in contravention of IOTC Conservation and Management Measures; <del>or</del>	
g.	transhipped fish to, or otherwise participated in joint operations with, support or re-supply vessels that are not included on the IOTC Record of Authorised Vessels or not on the Record of Vessels Authorised to receive transshipments at-sea in the IOTC Area; <del>or</del>	
h.	engaged in fishing or fishing related activities in waters that are under the national jurisdiction of a coastal State without the permission or authorisation of that State or in contravention of the laws and regulations of that State (without prejudice to the sovereign rights of the State concerned to undertake enforcement measures against such a vessel); <del>or</del>	
i.	engaged in fishing or fishing related activities whilst being without nationality; <del>or</del>	
j.	engaged in fishing or fishing related activities having intentionally falsified or concealed its markings, identity or registration; <del>or</del>	

**Commented [A130]:** EU:  
Not sure. What list are we talking about?



Item	Definition	Indicate
k.	engaged in fishing or fishing related activities in contravention of any other binding IOTC Conservation and Management Measures.	

#### C. Associated Documents

(List here the associated documents that are appended e.g. boarding reports, court proceedings, photographs)

#### D. Recommended Actions

	Recommended Actions	Indicate
a	Notification to <del>Executive Secretary</del> <del>IOTC Secretariat</del> only. No further action is recommended.	
b	Notification of illegal activity to <del>Executive Secretary</del> <del>IOTC Secretariat</del> . Recommend notification of activity to flag State.	
c	Recommended for inclusion on IOTC IUU <del>Vessels</del> <del>List</del>	

**Commented [A131]:** JPN  
"Secretariat" shall be maintained.

**Commented [A132]:** JPN  
"Secretariat" shall be maintained.

## ANNEX II

### INFORMATION TO BE INCLUDED IN ALL IOTC IUU VESSELS LISTS

The Draft IUU Vessels List, Provisional IUU Vessels List and the IUU Vessels List shall contain the following details:

1. Name of the vessel and previous name/s, if any.
2. Flag of the vessel and previous flag/s, if any.
3. Name and address of the Owner and Operator of the vessel and previous Owner and Operator, if any.
4. For legal entity, the country of registration and registration number.
5. Call sign of the vessel and previous call sign, if any.
6. IMO number, if any, or unique vessel identifier (UVI), or if not applicable, any other vessel identifier.
7. Recent photographs of the vessel, where available.
8. Vessel length overall.
9. Date the vessel was first included on the IOTC IUU Vessel List, if applicable.
10. Summary of the alleged IUU fishing activities which justify inclusion of the vessel on the IUU Vessels List, together with references to all relevant supporting documents information.
11. Summary of any actions known to have been taken in respect of the alleged IUU fishing activities and their outcomes.
12. Name of the organization, if the vessel has been listed or is proposed to be listed based on the information from another organization.



### ANNEX III

#### CHECKLIST TO BE COMPLETED BY THE SECRETARIAT FOR VESSELS TO BE INCLUDED ON THE DRAFT AND PROVISIONAL IUU VESSELS LISTS

Vessel Name: \_\_\_\_\_

Action	Responsibility	Paragraph	Provided on time (Y/N)	Aide Memoire	Mark which applies	Comments
<b>For the Draft IUU Vessels List</b>						
IOTC Reporting form (Annex I) submitted at least 70 days before the <u>IOTC</u> Compliance Committee meeting with documented information.	Nominating CPC	5,6,7,8		If No, do not include on the Provisional IUU <u>Vessels</u> list (Para 17)		
At least 15 days before the <u>IOTC</u> Compliance Committee Meeting, Flag State has provided information that it has notified the <del>O</del> wners and Masters of a vessel of its inclusion on the Draft IUU Vessels List and the consequences thereof.	Flag CPC	9,10				
At least 15 days before the Compliance Committee Meeting, <del>F</del> lag State has provided information consistent with <del>P</del> paragraph 10.	Flag CPC	10				
Additional information has been submitted, relevant to IUU listing.	Nominating CPC or flag CPC	12				
<b>For <del>Inclusion on</del> the Provisional IUU Vessel List</b> (note that Secretariat will indicate if information has been provided, but will make no judgment as to its adequacy, which will be the responsibility of the <u>IOTC</u> Compliance Committee)						
Has the flag State of a vessel included in the Draft IUU Vessels List provided information that demonstrates that the vessel has at all relevant times complied with the rules of the flag State and with its authorisation to fish and:	Flag CPC	14c		<b>Aide Memoire to CoC:</b> Only where paragraph 14(c) or <del>14</del> (d) are satisfied, do not include on Provisional IUU <u>Vessels</u> List.		



Action	Responsibility	Paragraph	Provided on time (Y/N)	Aide Memoire	Mark which applies	Comments
(a) <del>(a)</del> that the vessel has conducted fishing activities in a manner consistent with the IOTC Agreement and Conservation and Management Measures;	Flag CPC	14c				
(b) <del>(b)</del> that the vessel has conducted fishing activities within the waters under the jurisdiction of a coastal State in a manner consistent with the laws and regulations of that coastal State; or	Flag CPC	14c				
(c) <del>(c)</del> that the vessel has fished exclusively for species that are not covered by the IOTC Agreement or IOTC Conservation and Management Measures.	Flag CPC	14c				
Has the flag State provided information that demonstrates that effective action has been taken in response to IUU fishing activities (the <u>IOTC Compliance Committee</u> <del>CcC</del> will decide if they are of adequate severity)?	Flag CPC	14d				
Has the flag State provided information to show that it has taken any actions in accordance with <u>Resolution 07/01</u> ?	Flag CPC	14d				

#### ANNEX IV

#### CHECKLIST TO BE COMPLETED BY THE SECRETARIAT FOR POTENTIAL REMOVAL OF VESSELS FROM THE IOTC IUU VESSELS LIST

(Aide Memoire for the Commission for delisting a vessel: note that the Secretariat will indicate if information has been provided, but will make no judgement as to its adequacy, which will be the responsibility of the IOTC Compliance Committee / Commission, ~~P~~paragraphs 17 and 27)

Vessel Name: \_\_\_\_\_

Para 22, sub para	Action	Responsibility	Information Provided (Y/N)	Comments	Aide Memoire
a)	(i) <del>ii</del> It has adopted measures such that the vessel, Owner and all other nationals comply with all IOTC Conservation and Management Measures; <del>and</del>	Flag CPC			If paragraph (a), <del>or</del> (b) or (c) is satisfied, the vessel may be removed from the IUU Vessels List pursuant to paragraph 27, <u>or</u> else the vessel will remain on the list for re-examination by the <u>IOTC</u> Compliance Committee and Commission at its next <del>a</del> Annual Session.
	(ii) <del>iii</del> it is effectively assuming and will continue to effectively assume its flag State responsibilities with regard to the monitoring and control of the fishing activities of this vessel; and	Flag CPC			
	(iii) <del>iii</del> it has taken effective action against the <del>O</del> owner and crew in response to the IUU fishing activities that resulted in the vessel's inclusion in the IUU Vessels List including prosecution and imposition of sanctions of adequate severity; or	Flag CPC			
b)	The vessel has changed ownership and that the new <del>O</del> owner can establish the previous <del>O</del> owner no longer has any operational, legal, financial or real interests whether direct or indirect in the vessel or exercises control over it and that the new <del>O</del> owner has not participated in any IUU fishing activities in the preceding 5 years; or	Flag CPC			
c)	The vessel has been sunk or scrapped.	Flag CPC			
d)	Any prosecution and sanctions regarding the vessel that conducted IUU fishing activities has been concluded by both the nominating CPC and the flag State of the vessel.	Flag CPC			

## ANNEX V

### A SUMMARY OF THE TIMEFRAME FOR ACTIONS TO BE TAKEN IN RESPECT OF THIS RESOLUTION

Step	Timeframe	Actions to be taken	Responsibility	Paragraph
1	70 days before <del>annual</del> <del>IOTC</del> <del>Compliance</del> <del>Committee</del> <del>(CoC)</del> <del>Sessionmeeting</del> (minimum)	Information transmitted to the IOTC Executive <del>Secretary</del> .	CPCs	5,6
2	55 days before CoC <del>MeetingSession</del>	Compilation of all information received on the alleged IUU fishing activities into the Draft IUU Vessels List together with the IUU Vessel List.  Transmit the Draft IUU Vessels List to all CPCs and to flag States with vessels on the list (if not CPCs).	IOTC Executive Secretary	8
3	15 days before CoC <del>Sessionmeeting</del>	Provide any information to the <del>IOTC</del> -Executive <del>Secretary</del> regarding the alleged IUU fishing activities.	Flag States	10
4	10 days before CoC <del>Sessionmeeting</del>	Transmit the Draft IUU Vessels List, and any additional information on vessels on the IUU Vessels List pursuant to paragraph 22 to all CPCs and to flag States with vessels on the list (if not CPCs).	IOTC Executive Secretary	11
5	Any time	Submit to the <del>IOTC</del> -Executive <del>Secretary</del> any additional information —relevant to the establishment of the IUU Vessels List.	CPCs and flag States	12
6	As soon as practicable prior to CoC <del>Session</del>	Circulate additional information pursuant to paragraph 12.	IOTC Executive Secretary	12
7	CoC <del>SessionMeeting</del>	Review the Draft IUU Vessels List including the information provided by the nominating CPC and the flag State, including information/clarification provided by either party during the meeting.  Submit a Provisional IUU Vessel List and provide recommendations to the Commission.	All CPCs, except the flag State and nominating CPC	13-15
8	CoC <del>SessionMeeting</del>	Examine the IUU <del>*Vessels</del> List and provide recommendations to the Commission regarding	All CPCs, except the flag State and	17

**Commented [A133]:** JPN  
"Secretariat" shall be used instead of "Executive Secretary"

**Commented [A134]:** JPN  
"Secretariat" shall be used instead of "Executive Secretary"

**Commented [A135]:** JPN  
"Secretariat" shall be used instead of "Executive Secretary"



Step	Timeframe	Actions to be taken	Responsibility	Paragraph
		the removal of any vessels.	nominating CPC	
9	Commission <del>annual</del> <del>Session</del> <del>meeting</del>	Review the Provisional IUU Vessels List, including any new information/clarification provided by the nominating CPC and flag State during the <del>session</del> <del>session</del> ; Review the IUU Vessels List. Adopt the Final IUU Vessels List.	All CPCs, except the flag State and nominating CPC	17,19
10	Immediately following the annual <del>s</del> Session	Publish the IUU Vessel List on the IOTC website and transmit the IUU Vessels List to the FAO, the organisations set out in paragraph 31 and 32, CPCs and the flag State (if not a CPC).	IOTC Executive Secretary	29

Commented [A136]: EU:  
Session.

**RESOLUTION 18/04**  
**ON BIOFAD ~~E~~EXPERIMENTAL ~~P~~PROJECT**

**Keywords:** BIOFAD, ~~R~~research project, biodegradability.

**EXPLANATORY NOTES**

**PREAMBLE**

**Paragraph 2.** Amendments are proposed to accurately reflect Article V of the IOTC Agreement which focuses on “*cooperation of Members with a view to ensuring*”, not simply to “ensure”, and there is no reference to bycatch in the IOTC Agreement.

**PARAGRAPHS**

**4.** The meaning of this paragraph is confusing. Both sentences apply to “vessels not participating” and require similar actions. *It is recommended to review this for content and propose amendment as appropriate.*

“Vessels not participating in the BIOFAD Project fishing on FADs clearly identified as a BIOFAD shall specifically report to their national scientists the BIOFAD (and devices) status and activities on this BIOFAD (including catch data if applicable). Vessels not participating in the BIOFAD Project that encounter such FADS are encouraged to report to their national scientists the BIOFAD (and devices) status and activities on this BIOFAD.”

**ANNEX 1**

**7(a)** There appears to be a technical error in the reference in this subparagraph (below) in the phrase “from CON-0001 to CON-0001”. An amendment is suggested: “from CON-0001 to CON-1000”.

“All the BIOFADs and CONFADs shall be identified at all times by an identification number to ensure their traceability (e.g. from BIO-0001 to BIO-1000 and from CON-0001 to CON-0001).”

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

## The Indian Ocean Tuna Commission (IOTC),

MINDFUL of the call upon States, either individually, collectively or through regional fisheries management organisations and arrangements in ~~the~~ United Nations General Assembly Resolution 67/79 on Sustainable ~~f~~ fisheries to collect the necessary data in order to evaluate and closely monitor the use of large-scale fish aggregating devices (FADs) and others, as appropriate, and their effects on tuna resources and tuna behaviour and associated and dependent species, to improve management procedures to monitor the number, type and use of such devices and to mitigate possible negative effects on the ecosystem, including on juveniles and the incidental ~~bycatch~~ of non-target species, particularly sharks and marine turtles;

RECALLING that the objective of the IOTC Agreement is to ~~promote cooperation among IOTC Members with a view to ensuring~~, through appropriate management, the conservation and optimum utilisation of stocks under its ~~mandate competence~~ and to encourage the sustainable development of fisheries based on such ~~stocks while minimising the level of bycatch~~;

HAVING REGARD to Annex V of the International Convention for the Prevention of Pollution from Ships (MARPOL);

RECOGNISING that promoting the use of natural origin biodegradable materials in the construction of FADs could contribute to the reduction of marine litter;

NOTING that the IOTC Scientific Committee advised the Commission that only non-entangling FADs, both drifting and anchored, should be designed and deployed to prevent the entanglement of sharks, marine turtles and other species;

RECALLING that [Resolution 12/04](#) established that the Commission at its ~~annual~~ Session in 2013 should consider the recommendations of the IOTC Scientific Committee ~~as regards relating to~~ the development of improved FAD designs to reduce the incidence of entanglement of marine turtles, including the use of biodegradable materials, together with socio-economic considerations, with a view to adopting further measures to mitigate interactions with marine turtles in fisheries covered by the IOTC Agreement;

RECALLING that Resolution ~~19/02-17/08 [superseded by Resolution 18/08 then by Resolution 19/02]~~ establishes procedures on a ~~fish aggregating device (FAD)~~ management plan, including more detailed specifications of catch reporting from FAD sets, and the development of improved FAD designs and use of biodegradable materials to reduce the incidence of entanglement of non-target species as specified in Annex III of Resolution ~~19/02-17/08 [superseded by Resolution 18/08 then by Resolution 19/02]~~; and calling ~~to for a reduction in-reduce~~ the amount of synthetic marine debris and ~~promot~~ ione of the use of biodegradable materials (such as hessian canvas, hemp ropes, etc.);

~~FURTHER~~ ~~urther~~ RECALLING that the IOTC Scientific Committee noted the challenges in conducting studies on biodegradable FADs (BIOFADs), such as the limit on the number of active FADs per purse seine vessel in the Indian Ocean that may hinder the deployment of biodegradable FADs following experimental sampling designs, and also ~~that~~ engagement with the fleet is necessary in order to incentivise them to deploy biodegradable FADs that may not be successful for fishing;

~~Furthermore~~, NOTING that IOTC, along with other tuna RFMOs, ~~recommended and~~ adopted resolutions to promote reduction of the amount of synthetic marine debris by the use of natural or biodegradable materials for drifting FADs;

RECALLING that ~~the 20<sup>th</sup> Session of the IOTC Scientific Committee~~ SC20 endorsed ~~ENDORSED (IOTC SC20 paras 157 to 165)~~ a scientific research project, ~~(“the BIOFAD Research Project”, IOTC 2017 SC20 INF07)~~ by a consortium (‘the Project Consortium’) led by the Technological Center for Food and Marine Innovation (AZTI), the Spanish Oceanographic Institute (IEO) and the Institut de recherche pour le développement (IRD) to test the use of biodegradable materials and designs for the construction of drifting FADs in natural environmental conditions and ~~REQUESTED requested~~ the project to present the outcomes of the at sea trials to the next meetings of the IOTC Working Party on Ecosystems and Bycatch, WPB, the IOTC Working Party on Tropical Tunas, WPTT and the IOTC Scientific Committee; SC meetings;

### Commented [A137]: MDV:

Suggest “and the incidental bycatch and/or catch by lost or abandoned gear of non-target species, particularly sharks and marine turtles”. Believe that would better reflect the overall intent of minimising unwanted consequences for the broader marine ecosystem, including for species that may be considered bycatch by purse seine fleets, but represent important species for artisanal or other fleets.

### Commented [A138]: MDV:

Agreement with EU that a reference to bycatch was clearly intended here.

### Commented [A139]: EU:

No. We note there is no reference to bycatch in the agreement but the intention was to mention bycatch here

### Commented [A140]: MDV:

In order to clarify the intention of this preambular clause, we propose to add the following wording:  
“HAVING REGARD to Annex V of the International Convention for the Prevention of Pollution from Ships (MARPOL), which prohibits the discharge by vessels of garbage, including fishing gear, into the sea;”

NOTING that the Scientific Committee ~~ENDORSED~~ endorsed that the carrying out ~~Project Consortium carries out~~ of a large-scale experiment ~~by the Project Consortium~~ with the deployment of 1000 ~~biodegradable~~ BIOFADs with experimental sampling designs (~~BIOFADs~~) in 2018-2019 in order to ~~obtain sufficient data by enable~~ the BIOFAD Research Project to ~~obtain sufficient data to~~ conduct reliable scientific research and ~~to~~ avoid the limitations identified in earlier small scale trials (250 in each quarter to analyse temporal effects). The ~~IOTC Scientific Committee~~ SC equally noted that the project counts on the active collaboration of ~~purse seiners flagged to~~ Seychelles, Mauritius and European Union ~~purse seiners~~ with a participation of 42 purse seine vessels operating in the Indian Ocean. The ~~IOTC Scientific Committee~~ SC noted that in total, each vessel will deploy around 24 BIOFADs, 6 BIOFADs by trimester (2 BIOFADS per vessel/month for the duration of the project from April 2018 to April 2019).

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

1. ~~Contracting Parties and Cooperating Non-Contracting Parties (CPCs) To~~ acknowledge and support the ~~Biodegradable FAD (BIOFAD) Research p~~Project with the objective of reducing the impact and the amount of synthetic marine debris ~~caused by~~ the use of non-biodegradable FADs in the ecosystem as requested in Resolution 19/02-17/08 ~~[superseded by Resolution 18/08 then by Resolution 19/02]~~. The description of the ~~p~~Project is ~~contained in Annex 1~~.
2. BIOFADs used for the collection of scientific data on biodegradable FADs tested under the supervision of the ~~BIOFAD~~ Project Consortium and the ~~IOTC Scientific Committee~~, and deployed by the Project Consortium, shall not be exempted from the application of ~~the limitation on the number of FADs limit number~~ established by Resolutions 19/01-17/01 ~~[superseded by Resolution 18/01 then by Resolution 19/01]~~ and 19/02-17/08 ~~[superseded by Resolution 18/08 then by Resolution 19/02]~~.
3. As part of the ~~BIOFAD Research P~~project ~~referred to in paragraph 1~~, each BIOFAD deployed shall be marked in a clear manner by the Project Consortium to distinguish it from other FADs and to avoid that it becomes unreadable or disassociated with the BIOFAD ~~Research~~ project.
4. Vessels not participating in the ~~Research~~ BIOFAD ~~Research P~~project fishing on FADs clearly identified as a BIOFAD shall specifically report to their national scientists the BIOFAD (and devices) status and activities on this BIOFAD (including catch data if applicable). Vessels not participating in the ~~Research~~ BIOFAD ~~Research~~ Project that encounter such FADS are encouraged to report to their national scientists the BIOFAD (and devices) status and activities on this BIOFAD.
5. The Project Consortium ~~will~~ shall make available to the IOTC Scientific Committee the results of the project at the latest two months in advance of its 2020 ~~Session meeting~~. The ~~IOTC Scientific Committee~~ shall ~~will~~ analyse the outcomes of the ~~BIOFAD Research P~~project and provide scientific advice on possible additional FAD management options for consideration by the Commission ~~at its Session~~ in 2021.

**Commented [A141]:** EU:  
No. The debris are originated but not caused by

Conservation and Management Measures linked to Resolution 18/04 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 12/04</a>	<a href="#">Resolution 18/01</a>	None	
<a href="#">Resolution 19/02</a>			



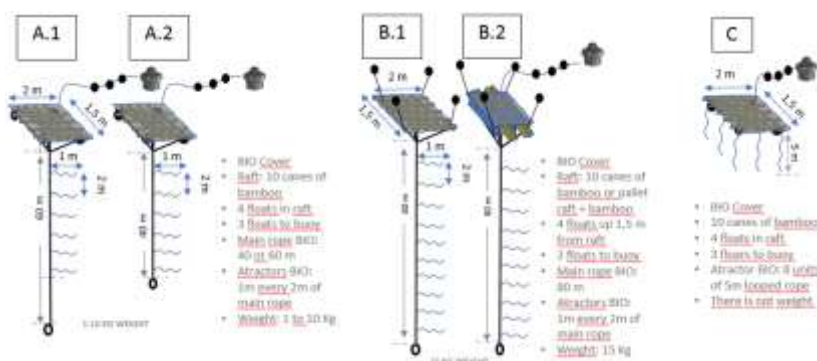
## ANNEX I

## BIOFAD RESEARCH PROJECT INFORMATION AND GUIDELINES TO DEPLOY AND USE OF BIOFADS

1. The **Project Consortium** formed by AZTI, IRD and IEO aims through the project “Testing designs and identifying options to mitigate impacts of drifting FADs on the Ecosystem” to address current impediments and to provide solutions that ~~shall~~ support the implementation of non-entangling and biodegradable FADs in the IOTC ~~area of competence~~**Convention Area**. This project will have the **active** collaboration of **purse seine vessels flagged to** the EU, Seychelles and Mauritius ~~purse seine fishery~~ and the International Seafood Sustainability Foundation ~~active~~. The purpose of this ~~specific contract~~**project** is to:
  - (a) ~~to~~ test the use of specific biodegradable materials and designs for the construction of drifting FADs in natural environmental conditions;
  - (b) ~~to~~ identify options to mitigate drifting FADs impacts on the ecosystem; ~~and~~
  - (c) ~~iii) —to~~ assess the socio-economic viability of the use of BIO-FADs (i.e. non-entangling and biodegradable) in the purse seine tropical tuna fishery.
2. The consortium ~~shall will~~ oversee both the construction of experimental BIOFADs and the monitoring of deployed BIOFADs, and their paired conventional non-entangling FADs (~~hereafter named~~ **CONFAD**); at sea, as well as the data collection and reporting. Purse seine vessels participating in the BIOFAD project in the Indian Ocean will follow the summariz**ed** protocol regarding i) material and prototypes selection, ii) deployment strategy and identification of experimental FADs, and iii) data collection and reporting.

## Material and prototypes

3. ~~Three are~~ Three prototypes have been selected for the BIOFAD Research Project. These designs include ~~all the details in terms of~~ dimensions and materials as to guide ~~for~~ their construction by the tuna purse seine industry. These prototypes were designed ~~in~~by consensus and aim to cover the different drifting performances s that fisherman currently seek with the conventional non-entangling FADs: superficial FADs (prototype C); s semi-superficial FADs (prototypes A<sub>1</sub> and A<sub>2</sub>); s and deep FADs (prototypes B<sub>1</sub> and B<sub>2</sub>). Synthetic material like plastic gallons, plastic bottles, fishing nets, synthetic canvas, and metallic frames s used for the construction of the raft are all prohibited for the construction of the BIOFAD. To replace these synthetic materials, different configurations, cotton ropes and high- resistance cotton canvas have been selected.

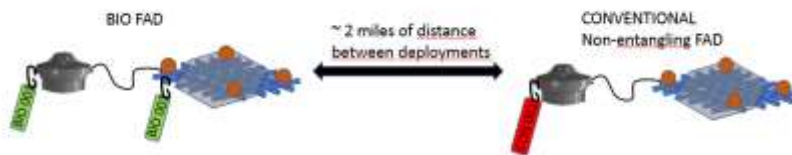


*Summary of the dimensions and materials of the prototypes selected for the BIOFAD project.*

#### Deployment strategy and identification

4. An effective FAD deployment strategy will be adopted considering the ~~PS fleet~~ FAD fishing strategy and ~~its~~ dynamics of the purse seine fleet in the Indian Ocean. A total of 1,000 BIOFADs (24 ~~FADs~~ per vessel) are planned to be deployed from April 2018 to April 2019, 2 BIOFADs per month and vessel (6 ~~BIOFADs~~ per vessel and quarter-season, preferably). Deployment effort will be shared among the 42 purse seiners ~~from flagged to~~ Mauritius, Seychelles and the EU and operating in the Indian Ocean. This will ~~result in~~ ~~make it the deployment of~~ approximately 250 FADs ~~being deployed~~ each quarter.
5. To assess the efficiency of BIOFADs in terms of tuna and non-tuna species aggregation, structure durability and degradation rate, and FAD performance (e.g., drift), a comparison between BIOFADs and ~~currently using conventional non-entangling CONFADs (hereafter named CONFAD)~~ will be conducted.
6. The ~~following~~ deployment procedure ~~shall consist of the following requirements, is defined:~~
  - (a) Every BIOFAD deployment will be accompanied by a "pair" CONFAD deployment.
  - (b) The CONFAD construction will be of similar dimension of its pair BIOFAD but made by currently used synthetic material.
  - (c) The BIOFAD and its pair CONFAD will use same model/brand of echo-sounder buoy at first deployment.
  - (d) The distance between the deployment of BIOFAD and its pair CONFAD will be approximately 2 miles.

**Commented [A142]:** JPN  
The original auxiliary verb (will) shall be maintained.



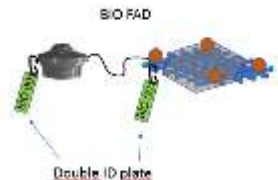
*Drawing of the deployment strategy for the BIOFAD and its pair CONFAD.*

7. ~~The following~~ BIOFAD and CONFAD identification procedures ~~shall be implemented, are described in the following points:~~
  - (a) All the BIOFADs and CONFADs ~~with shall~~ be identified ~~in every moment at all times~~ by an identification number to ensure their traceability (e.g. from BIO-0001 to BIO-1000 and from CON-0001 to CON-~~10004~~).
  - (b) ~~The~~ ~~is identification ID~~ number ~~shall will~~ always belong to the same BIOFAD or CONFAD through ~~out all~~ its lifetime.
  - (c) All BIOFADs ~~shall will~~ be identified by two metallic plates showing the ~~ID~~ identification number. One of them ~~shall will~~ be attached to the raft and the other to the echo-sounder buoy associated with the BIOFAD.
  - (d) ~~Each~~ CONFADs ~~as and~~ its pair BIOFADs ~~shall will~~ share same serial number (e.g. CON-0001 and BIO-0001).
  - (e) ~~At~~ ~~Each~~ CONFAD ~~shall will~~ be identified by a unique metallic plate ~~attached to the associated echo-sounder buoy and~~ showing the ~~ID~~ identification number, ~~and attached to the associated echo-sounder buoy.~~
  - (f) ~~Removal of (T~~ the metallic plate attached to the raft of the BIOFAD ~~shall be prohibited, except will never be removed from it. Only if where~~ the part of the structure ~~where to which~~ the plate is attached is replaced ~~and,~~ the ~~identification ID~~ plate ~~is will be~~ removed and attached ~~again to the newly~~ replaced part.
  - (g) ~~It is very important that w~~ When a BIOFAD or CONFAD changes hands (i.e. every time there is an echo-sounder buoy replacement), the ~~ID~~ identification number plate ~~will shall~~ be transferred from ~~the~~ old buoy to ~~the~~ newly associated buoy.

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The original auxiliary verb (will) shall be maintained.

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The original auxiliary verb shall be maintained.

**Commented [A145]:** EU:  
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Drawing of the procedure to attach the BIOFAD ID number shown in the metallic plate to the raft and associated echo-sounder buoy.

### Data collection and reporting

8. The following data collection procedures relating to BIOFADs and CONFADs shall be implemented in relation to the following identified fishing operations: have been considered for the data collection procedure related to BIOFAD and CONFAD:
  - (a) In every new deployment of BIOFAD or CONFAD: the type of prototype (e.g. A1), identification number of the metallic plate (e.g. BIO-0001), and associated echo-sounder buoy codification number will be collected.
  - (b) In every set, visit with buoy replacement, or retrieval of a BIOFAD or CONFAD: the identification number of the metallic plate, codification number of the echo-sounder buoy, the prototype type, and FAD's component state control will be recorded. If there is buoy replacement, the codification numbers of the new buoy and old buoy must be recorded.
  - (c) In every simple visit (no buoy replacement) to a BIOFAD or CONFAD: It will encourage to record recording of the above described information shall be encouraged.
9. The following procedures shall be implemented to provide information on status control of BIOFAD components status control, the following procedure is defined:
  - (a) Every time there is a set on BIOFAD or CONFAD, if possible, the experimental FAD will be lifted up for the assessment of the state control of FAD's components.
  - (b) The observers onboard, master and crew onboard (Skipper/Captain) will be responsible to collect this information.
  - (c) All parts of the structure described in the email template below will shall be checked. A scale from 1 to 4, shown in the template, will shall be applied to value the status of the FADs (1 – Very good, not damaged; 2 – Good, a bit damaged; 3 – Bad, quite damaged; 4 – Very bad, close to sinking). More detailed description of each of the values for each component is also provided.
  - (d) Pictures of the components of the BIOFAD and CONFAD will shall be taken whenever possible.
  - (e) Every time there is a replacement of any component of the BIOFAD and/or CONFAD, will shall be reported in the email template below.
  - (f) In the case of the BIOFADs, any damaged parts of BIOFADs susceptible of replacement will shall be replaced by biodegradable material, similar to the material used when it was first constructed and keeping the design of the original prototype.
  - (g) The operator is encouraged to provide any observations to further describe the status of the structure (e.g. percentage of degradation % of each component).
10. Participating vessels are also shall be requested to report data from echo-sounder buoys associated to with any BIOFADs and CONFADs deployed during the project.
11. All collected information described above shall will be reported following on a specific form created specifically for the BIOFAD Research Project: An email template, shown below, has been created for the master crew

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The original sentence shall be maintained.

**Commented [A147]:** JPN  
The original auxiliary verb (will) shall be maintained.

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The original auxiliary verb shall be maintained.

Statu control of BIOFAD and CONFAD						REPLACEMENT	
Floating parts	1	2	3	4	5	YES	NO
Raft							
Floats							
Cover/canvas							
Hanging parts	1	2	3	4	5		
Main rope							
Attractor (looped rope)							
Weight							
1	Very good, not damaged				5	Unknown	
2	Good, a bit damaged						
3	Bad, quite damaged						
4	Very bad, close to sinking						

**Vessel name**

**Date / Hour:**

**Activity (add a X in the correct cell)**

New deployment	Visit	Set	Retrieval	Redeployment	Removal

**Number of BIO or CONFAD:**

**Prototype (add a X in the correct cell)**

A1	A2	B1	B2	C

**BIO or CONFAD ownership (Yes/No):**

**Code echo-sounder buoy old or foreign:**

**Code new echo-souder buoy:**

**Lift up (Yes/No):**

*Image of the email template developed for participating vessels to report required information*

## RESOLUTION 18/05

### ON ~~M~~ANAGEMENT ~~M~~EAURES FOR THE ~~C~~ONSERVATION OF THE ~~B~~ILLFISHES: ~~S~~STRIPED ~~M~~MARLIN, ~~B~~BLACK ~~M~~MARLIN, ~~B~~BLUE ~~M~~MARLIN AND INDO-PACIFIC ~~S~~SAILFISH

**Keywords:** ~~S~~striped marlin, black marlin, blue marlin, Indo-Pacific sailfish, catch limits, scientific research, reference points, data collection, catch reporting.

## EXPLANATORY NOTES

### PREAMBLE

*No substantive amendments are proposed for the preamble.*

### PARAGRAPHS

*No substantive amendments are proposed for the preamble.*

*All paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

#### The Indian Ocean Tuna Commission (IOTC),

RECALLING Resolution 15/05 ~~[superseded by Resolution 18/05]~~ *On conservation measures for striped marlin, black marlin and blue marlin aiming to reduce the fishing pressure on the marlin species;*

RECALLING the available scientific information and advice, in particular the IOTC Scientific Committee conclusions, according to which ~~S~~striped ~~M~~marlin, ~~B~~black ~~M~~marlin, ~~B~~blue ~~M~~marlin and/or Indo-Pacific Sailfish are subject to overfishing and, in some cases, overfished with catches in recent years exceeding by far the average catches of the baseline period 2009/2014;

RECALLING [Resolution 12/01](#) *On the implementation of the precautionary approach* that calls on IOTC Contracting Parties and Cooperating Non-Contracting Parties (CPCs) to apply the precautionary approach in accordance with Articles 5 and 6 of the ~~The [United Nations] Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UNFSA)~~ ~~United Nations Fish Stocks Agreement~~ and further recalling that Article 6.2 therein stipulates that the absence of adequate scientific information shall not be used as a reason for postponing or failing to take conservation and management measures;

RECALLING that [Resolution 15/01](#) *On the recording of catch and effort data by fishing vessels in the IOTC area of competence* fixes the IOTC data record system;

RECALLING [Resolution 15/02](#) *On the Mandatory statistical reporting requirements for IOTC Contracting Parties and Cooperating Non-Contracting Parties (CPCs)* that defines the catch and catch related information to be provided by CPCs to the IOTC secretariat;

CONSIDERING that the SC noted that, catches have increased in 2015 and in 2016 from the average level of 2009-2014 and that the SC therefore recommended that substantial reduction of current catches should be agreed to end overfishing and, whenever possible, to enable the stocks to rebuild ;

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

1. To ensure the conservation of the striped marlin (*Tetrapturus audax*), black marlin (*Makaira indica*), blue marlin (*Makaira nigricans*) and Indo-Pacific sailfish (*Istiophorus platypterus*) stocks in the Indian Ocean, ~~Contracting Parties and Cooperating non-Contracting Parties, (CPCs)~~ whose vessels catch those species in the IOTC ~~A~~area of ~~C~~ompetence undertake to implement at least the following—national management measures ~~as~~ described below at a minimum are in place to support the sustainable exploitation of these stocks in line with the objective of the IOTC Agreement ~~objectives~~ of ensuring the conservation and optimum utilization of stocks ~~by undertaking the following:~~

#### Management Measures: Catch limits

2. CPCs shall endeavour to ensure that the overall catches, of the Indian Ocean ~~S~~striped ~~M~~marlin, ~~B~~black ~~M~~marlin, ~~B~~blue ~~M~~marlin and Indo-Pacific ~~S~~sailfish in any given year do not exceed either the MSY level or, in its absence, the lower limit of the MSY range of central values as estimated by the IOTC Scientific Committee.
3. The limits referred to in paragraph 2 correspond to the following:
  - (a) ~~S~~striped ~~M~~marlin: 3,260 t;
  - (b) ~~B~~black ~~M~~marlin: 9,932 t;
  - (c) ~~B~~blue ~~M~~marlin: 11,930 t;
  - (d) Indo-Pacific ~~S~~sailfish: 25,000 t.
4. If the average annual total catch of any of the species referred to in paragraph 2 in any two consecutive years period from 2020 onward exceeds the limits referred to in paragraph 3, the Commission shall review the

#### Commented [A157]: JPN

I believe that "United Nation" is not necessary because the legal name is "Agreement for the Implementation of the Provisions of the United Nations Convention of the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks".

#### Commented [A158]: AUS

Australia agrees with Japan that 'United Nations' is not necessary here.

implementation and effectiveness of the measures contained in this Resolution and consider the adoption of additional conservation and management measures, as appropriate, by also taking into account the advice of the Scientific Committee referred to in paragraph 14.

#### Other Management Measures

5. Pending advice from the IOTC Scientific Committee on a joint and/or a species specific minimum conservation size, notwithstanding Resolution 197/04 ~~[superseded by Resolution 19/04]~~ *Concerning the IOTC Record of Vessels Authorised to operate in the IOTC area of competence*, CPCs shall not retain on board, trans-ship, or land, any specimen smaller than 60 cm Lower Jaw Fork Length (LJFL) of any of the species referred to in paragraph 2, but shall return them immediately to the sea in a manner that maximizes post-release survival potential without compromising the safety of crew.<sup>1</sup>
6. In addition, CPCs may consider the adoption of additional fisheries management measures to limit fishing mortality such as: releasing any specimen brought alive on-board or alongside for taking on board the vessel; modifying fishing practices and/or fishing gears to reduce catches of juveniles; adopting spatial/temporal management measures to reduce fishing in nursery grounds; limiting days at sea and/or fishing vessels exploiting billfishes.

#### Recording, Reporting, and Use of the Catch Information

7. CPCs shall ensure that their flag vessels catching ~~S~~striped ~~M~~marlin, ~~B~~black ~~M~~marlin, ~~B~~blue ~~M~~marlin and Indo-Pacific ~~S~~sailfish in the IOTC ~~A~~area of ~~C~~ompetence record their catch in accordance with the requirements set out in [Resolution 15/01](#) ~~On the recording of catch and effort data by fishing vessels in the IOTC area of competence~~ or any Resolution superseding it.
8. CPCs shall implement data collection programmes to ensure accurate reporting of ~~S~~striped ~~M~~marlin, ~~B~~black ~~M~~marlin, ~~B~~blue ~~M~~marlin and Indo-Pacific ~~S~~sailfish catches, released alive and/or discarded, together with effort, size and discard data to IOTC in full accordance with the [Resolution 15/02](#) on the Mandatory statistical reporting requirements for IOTC ~~Contracting Parties and Cooperating Non-Contracting Parties (CPCs), or any Resolution superseding it.~~
9. CPCs shall include in their ~~A~~annual [Implementation](#) Reports to the IOTC Scientific Committee information on the actions they have taken domestically to monitor catches and to manage fisheries for sustainable exploitation and conservation of ~~S~~striped ~~M~~marlin, ~~B~~black ~~M~~marlin, ~~B~~blue ~~M~~marlin and Indo-Pacific ~~S~~sailfish.
10. The Commission~~;~~ shall consider appropriate assistance to developing CPCs for the collection of data on the above-mentioned species.

#### Scientific Research and Scientific Committee

11. CPCs are encouraged to undertake scientific research on key biological/ecological/behavioural characteristics, life-history, migrations, post-release survival and guidelines for safe release, identification of nursery grounds, improving selectivity of fishing practices and fishing gears, for ~~S~~striped ~~M~~marlin, ~~B~~black ~~M~~marlin, ~~B~~blue ~~M~~marlin and Indo-Pacific ~~S~~sailfish. The results of such researches shall be made available to the Working Party on Billfishes and the IOTC Scientific Committee through working documents and their national ~~a~~Annual [Implementation](#) Reports.
12. The IOTC Working Party on Billfish and the Scientific Committee shall continue their work on assessing and monitoring the status of ~~S~~striped ~~M~~marlin, ~~B~~black ~~M~~marlin, ~~B~~blue ~~M~~marlin and Indo-Pacific ~~S~~sailfish and provide advice to the Commission.

<sup>1</sup> Notwithstanding paragraph 5, in the case of billfish, when purse seiners unintentionally catch such small fish and freeze them as a part of a purse seine fishing operation, this does not constitute non-compliance as long as such fish are not sold.

13. The IOTC Scientific Committee and the IOTC Compliance Committee shall annually review the information provided and assess the effectiveness of the fisheries management measures reported by CPCs on striped marlin, black marlin, blue marlin and Indo-Pacific sailfish and, as appropriate, provide advice to the Commission.
14. For each of the four species covered by this Resolution, the IOTC Scientific Committee shall provide the following advice:
- (a) ~~O~~ptions to reduce fishing mortality with a view to recover and/or maintain the stocks in the ~~G~~reen zone of the Kobe Plot with levels of probability ranging from 60 to 90% by 2026 at the latest;
  - ~~(a)~~(b) ~~The~~ advice shall be provided on the basis of the current exploitation pattern as well as of its likely change to take into account the advice under ~~point e-subparagraph (d)-below~~;
  - ~~(b)~~(c) ~~O~~ptions for candidate reference points for their conservation and management in the IOTC ~~A~~area of ~~C~~ompetence;
  - ~~(d)~~ ~~S~~pecies specific minimum conservation sizes by taking into account the size at maturity and the recruitment size to the fishery by gear as well as its practicability; ~~and~~
  - ~~(e)~~(c) ~~-w~~Where ~~appropriate~~~~adequate~~, due to considerations on technical interaction of fisheries, advice shall provide also a minimum conservation size common to the four species.

#### Final Provision

15. This Resolution supersedes the Resolution 15/05 *On conservation measures for striped marlin, black marlin and blue marlin*.

Conservation and Management Measures linked to Resolution 18/05 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 12/01</a>	<a href="#">Resolution 15/01</a>	None	
<a href="#">Resolution 15/02</a>	<a href="#">Resolution 19/04</a>		



## RESOLUTION 18/07

### ON ~~M~~MEASURES ~~A~~APPLICABLE IN ~~C~~CASE OF ~~N~~NON-~~F~~FULFILMENT OF ~~R~~REPORTING ~~O~~OBLIGATIONS IN THE IOTC

**Keywords:** zero catches, species group, data collection, reporting obligations, ~~and~~ gear group.

## EXPLANATORY NOTES

### PREAMBLE

**Paragraph 1.** An amendment is proposed to accurately reflect the relevant provision of the IOTC Agreement.

### PARAGRAPHS

*No substantive amendments are proposed for the paragraphs.*

### ANNEX 1

Under the column “*Following the decision on retention prohibition*”, paragraph 3 allows the Executive Secretary to override the decision of the Compliance Committee. No amendment has been proposed but *it is recommended that this be referred to CPCs to consider as a possible substantive issue.*

### MCS

WORKSHOP DISCUSSION	
(a) <b>Key findings</b>	Very limited in scope / very weak sanctioning provision / overlap with CMM 10/10 (trade measures).
(b) <b>Proposed actions</b>	<ul style="list-style-type: none"> <li>• Eliminate CMM.</li> <li>• Absorb relevant provisions into CMM 10/10 and CMM 15/02.</li> </ul>
(c) <b>Points discussed during the Workshop</b>	<ul style="list-style-type: none"> <li>• Submission of data is recognised as a common challenge in the five t-RFMOs.</li> <li>• There is a need to streamline and consolidate reporting obligations to avoid multiple reporting of the same information.</li> <li>• The ongoing exercise to reinforce the compliance process (Activity 3.1 of WPICMM Work Plan) should be taken into consideration. This will be discussed at the WPICMM02, as part of the procedure to improve the compliance process.</li> </ul>
<b>WPICMM02 RECOMMENDATION</b>	Streamline and consolidate reporting obligations.

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

## The Indian Ocean Tuna Commission (IOTC),

GIVEN that ~~following~~ Article XI of the Agreement for the ~~e~~Establishment of the IOTC, ~~Contracting Parties~~Members of the Commission ~~are obligated to agree~~ to provide ~~such available and accessible~~ statistical and other data and information ~~that~~as the Commission may ~~require~~need for the purposes of ~~the~~is Agreement and that ~~Contracting Parties and Cooperating Non-Contracting Parties (CPCs) have agreed that~~ nominal catch data, ~~C~~catch and effort data, size data and fish aggregating devices data should be submitted annually to the ~~IOTC~~Secretariat by 30 June the year following the fishing activities;

RECALLING ~~IOTC~~ Resolutions ~~by IOTC on that address the D~~deadlines, ~~P~~procedures for ~~D~~data ~~S~~submission and ~~S~~statistical ~~R~~reporting ~~O~~bligations, notably Resolutions ~~15/02, 15/01, 14/05, 12/04, 16/11~~~~15/02, 15/01, 14/05, 12/04, 16/11~~ ~~superseded by Resolution 16/11, 11/04, 10/08 and 01/06~~;

RECOGNISING that funding is available from the Commission for developing CPCs to improve their data collection and submission capabilities;

TAKING INTO ACCOUNT that the ~~18<sup>th</sup> Session of the IOTC Scientific Committee (IOTC 2015-SC18-R)~~ noted with concern the lack of information submitted by CPCs on total catches, catch and effort and size data for various IOTC species, despite their mandatory reporting status, and requested that CPCs comply with IOTC data requirements, given the gaps in available information in the IOTC database and the importance of basic fishery data in order to assess the status of stocks and for the provision of sound management advice;

CONSIDERING that the ~~IOTC~~ Scientific Committee recommended that the Commission develop penalty mechanisms through the IOTC Compliance Committee to improve compliance by CPCs that do not currently comply with the submission of basic fisheries data requirements as stated in Resolutions ~~15/01~~ *On the recording of catch and effort data by fishing vessels in the IOTC area of competence* and ~~15/02~~ *Mandatory statistical requirements for IOTC Members and Cooperating Non-Contracting Parties (CPCs)*;

NOTING that incomplete reporting or no data reporting and that, despite the adoption of numerous measures intended to address the matter, lack of compliance with reporting obligations is still a problem for the ~~IOTC~~ Scientific Committee and for the Commission;

NOTING that several stocks remain not assessed and some others are assessed with substantial uncertainty, which leads to important risks of depletion of some IOTC species and negative impact ~~on~~ the ecosystem;

FURTHER NOTING that, in order that all IOTC fisheries should be managed in line with the principles of the precautionary approach, it is necessary to take measures aimed at eliminating or reducing non-reporting and misreporting;

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

1. CPCs shall include information in their ~~Annual~~ *Implementation* Reports (~~Report of Implementation~~) on actions taken to implement their reporting obligations for all IOTC fisheries, including shark species caught in association with IOTC fisheries, in particular steps taken to improve their data collection for direct and incidental catches.
2. ~~The IOTC Compliance Committee shall review~~ Actions taken by CPCs, ~~as~~ described in paragraph 1, shall be reviewed annually by ~~the~~ IOTC Compliance Committee.
3. Following the ~~annual~~ review carried out by the ~~IOTC~~ Compliance Committee, the Commission at its annual ~~s~~Session, ~~in accordance with~~ ~~according to the~~ ~~g~~Guidelines in ~~attached~~ (~~Annex I~~), and after having given due consideration to the relevant information provided by the concerned CPCs in these cases, may ~~consider to~~ prohibit CPCs that did not report nominal catch data (exclusively), including zero catches, for one or more species for a given year, in accordance with ~~the~~ *Resolution 15/02*, paragraph 2 (~~or any subsequent revision~~), from retaining such species ~~in~~as of the year following the lack of or incomplete reporting until such data have been received by the ~~IOTC~~Secretariat. Priority shall be given to situations of repeated non-compliance. Any CPC unable to meet these reporting obligations owing to engagement in civil conflict shall be exempt from this measure. The CPC concerned ~~shall~~will work with the ~~IOTC~~Secretariat to identify and implement possible alternative methods for data collection, using established FAO data collection methods.

**Commented [A159]:** JPN

The original text shall be maintained ("agree"-> "are obligated").

**Commented [A160R159]:** EU

Yes there is a change in substance but the article XI is constraining: "The Members of the Commission shall, on the request of the Commission, provide such available and accessible statistical and other data and information as the Commission may require for the purposes of this Agreement."

**Commented [A161]:** AUS

Australia does not agree with deletion of this phrase. An alternative phrase, which has the same meaning as the existing phrase but is grammatically correct, would be 'may consider prohibiting'.

4. To facilitate the reporting of zero catches as required ~~in~~ paragraph 1 (~~under “Data review year”~~) of **Annex I of this Resolution**, the following procedures shall ~~be applied. apply:~~
- ~~As~~ part of the IOTC IRC electronic form used to report nominal catches, the Secretariat shall include a matrix by IOTC species as well as the most commonly caught elasmobranch species according to records of catches and incidents as established in [Resolution 15/01 on the recording of catch and effort data by fishing vessels in the IOTC area of competence \(or any subsequent superseding Resolution\)](#) and main IOTC gear groups on the basis of the format ~~set out provided in Annex II of this Resolution.~~
  - CPCs, as part of their total catch data reporting, shall complete the cells in the matrix with either a value of ‘one’ (1) to indicate where that CPC had catches (positive catch) for a particular species/gear combination or a value of ‘zero’ (0) to indicate where that CPC had no catches (zero landings + zero discards) for a particular species/gear combination.
  - The “Catch columns” section of the electronic Form IRC shall only include reports of positive catches.
5. The Commission may consider expanding the matrix to include additional species under the competence of IOTC as well as stock/gear combinations as appropriate.
6. This Resolution supersedes Resolution 16/06 *On Measures Applicable in case of non-fulfilment of reporting Obligations in the IOTC*.

Conservation and Management Measures linked to Resolution 18/07 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 01/06</a>	<a href="#">Resolution 10/08</a>	None	
<a href="#">Resolution 12/04</a>	<a href="#">Resolution 14/05</a>		
<a href="#">Resolution 15/01</a>	<a href="#">Resolution 15/02</a>		

# ANNEX 1

## GUIDELINES TO FACILITATE THE ~~IMPLEMENTATION APPLICATION~~ OF PARAGRAPH 3

1. The Commission ~~shall~~<sup>will</sup> follow the schedule and steps ~~set forth~~<sup>provided in the guidelines below</sup> ~~to that~~<sup>guide</sup> facilitate the implementation application of paragraph 3 of this Resolution.

**Commented [A162]:** JPN  
The original auxiliary verb shall be maintained.

<i>Data review year (starting in 2016 and annually thereafter)</i>	<i>Following the decision on retention prohibition</i>
<p>1. CPCs submit <del>Total</del> catch data to the <del>Executive Secretary</del><sup>IOTC Secretariat</sup> in accordance with the Resolution 15/02 and the IOTC Scientific Committee template, including zero catches.</p> <p>2. The <del>IOTC Secretariat</del><sup>Executive Secretary</sup>, in consultation with the IOTC Scientific Committee will include in the compliance report information detailing data submission status by species or stock (e.g. complete, incomplete, or missing) for each CPC.</p> <p>3. The IOTC Compliance Committee reviews the report on the basis of any other relevant information provided by the <del>IOTC</del>-Executive Secretary, the IOTC Scientific Committee and CPCs. Based on this review, the IOTC Compliance Committee identifies in its report those CPCs that did not submit required data (i.e. data are missing or incomplete) and notifies them that they may be prohibited by the Commission from retaining the concerned species/stock from the relevant fishery as of the following year unless and until the data are provided to the Secretariat.</p> <p>4. The IOTC Compliance Committee also considers if any other actions consistent with this Resolution should be recommended.</p>	<p>1. CPCs with a finding of "missing" or "incomplete" data submissions cannot retain those species.</p> <p>2. Such CPCs should seek to rectify the situation by sending the missing data to the <del>IOTC</del>-Executive Secretary as soon as feasible.</p> <p>3. In consultation, as necessary and appropriate, with the Chairpersons of the IOTC Compliance Committee and the Commission, the <del>IOTC</del>-Executive Secretary will review the new data submission in a timely manner to determine if it is complete. If the data appear to be complete, the <del>Executive Secretary</del><sup>Secretariat</sup> will promptly inform the CPC in question that it can resume retention of the concerned species/stock in the relevant fishery.</p> <p>4. At the <del>Annual Session-Meeting</del> following the intersessional provision of data and the decision to permit resumption of retention, the IOTC Compliance Committee reviews this decision and, if it considers that data are still incomplete, the IOTC Compliance Committee will again take the actions specified in the <del>previous</del><sup>"Data review year"</sup> column, paragraphs 3 and 4.</p>

**Commented [A163]:** JPN  
"Secretariat" shall be maintained.

**ANNEX-Annex II**

EXAMPLE OF ZERO CATCH MATRIX – TO BE FURTHER ADJUSTED BY ~~IOTC~~ THE SECRETARIAT

T1 "Zero Catch Matrix"				Gear Group						
Species Group	Species Code	Species Name	Stock	HL	BB	LL	PS	TR	GN	Other
Temperate Tunas	ALB	<i>Thunnus alalunga</i>	IO							
	SBT	<i>Thunnus maccoyii</i>	IO							
	BET	<i>Thunnus obesus</i>	IO							
Tropical Tunas	SKJ	<i>Katsuwonus pelamis</i>	IO							
	YFT	<i>Thunnus albacares</i>	IO							
Neritics Tunas	LOT	<i>Thunnus tonggol</i>	IO							
	KAW	<i>Euthynnus affinis</i>	IO							
	FRI	<i>Auxis thazard</i>	IO							
	BLT	<i>Auxis rochei</i>	IO							
	COM	<i>Scomberomorus commerson</i>	IO							
	GUT	<i>Scomberomorus guttatus</i>	IO							
	BUM	<i>Makaira nigricans</i>	IO							
Billfishes	BLM	<i>Makaira indica</i>	IO							
	MLS	<i>Tetrapturus audax</i>	IO							
	SFA	<i>Istiophorus platypterus</i>	IO							
	SWO	<i>Xiphias gladius</i>	IO							
Other "Species" as requested by Resolution 15/01 for specific gears (in grey not required)	SSP	Shortbill spearfish ( <i>Tetrapturus angustirostris</i> )	IO							
	BSH	Blue shark ( <i>Prionace glauca</i> )	IO							
	MAK	Mako sharks ( <i>Isurus</i> spp.)	IO							
	POR	Porbeagle shark ( <i>Lamna nasus</i> )	IO							
	SPN	Hammerhead sharks ( <i>Sphyrna</i> spp.)	IO							
	FAL	Silky shark ( <i>Carcharhinus falciformis</i> )	IO							
	MZZ	Other bony fishes	IO							
	SKH	Other sharks	IO							
	THR	Thresher sharks ( <i>Alopias</i> spp.)	IO							
	OCS	Oceanic whitetip shark ( <i>Carcharhinus longimanus</i> )	IO							
	TIG	Tiger shark ( <i>Galeocerdo cuvier</i> )								
	PSK	Crocodile shark ( <i>Pseudocarcharias kamoharui</i> )								
	WSH	Great white shark ( <i>Carcharodon carcharias</i> )								
	MAN	Mantas and devil rays ( <i>Mobulidae</i> )								
	PLS	Pelagic stingray ( <i>Pteroplatytrygon violacea</i> )								
		Other rays								

GREY AREAS SHOULD NOT BE FILLED IN ACCORDANCE WITH LOGBOOKS SPECIFIED IN RESOLUTION 15/01

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**RESOLUTION 18/09****ON A SSCOPING SSTUDY OF SSOCIO-EECONOMIC DDATA AND IINDICATORS OF IOTC  
FFISHERIES**

**Keywords:** Ssocio-Eeconomics, scoping study.

**EXPLANATORY NOTES****PREAMBLE**

*No substantive amendments are proposed for the preamble.*

**PARAGRAPHS**

*No substantive amendments are proposed for the paragraphs.*

*All paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

#### The Indian Ocean Tuna Commission (IOTC),

CONSIDERING the objective of the Commission provided ~~for~~ in Article V of the IOTC Agreement to promote cooperation among its Members with a view to ensuring, through appropriate management, the conservation and optimum utilization of stocks covered by ~~the~~is Agreement and encouraging sustainable development of fisheries based on such stocks;

FURTHER CONSIDERING the responsibility of the Commission provided ~~for~~ in Article V(2)(d) of the IOTC Agreement to keep under review the economic and social aspects of the fisheries based on the stocks covered by the Agreement bearing in mind, in particular, the interest of developing coastal states;

FURTHER CONSIDERING the objective 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 as qualified by relevant environmental and economic factors including the special requirements of developing States in the IOTC area of competence;

RECOGNISING the special requirements of the developing states, particularly Small Island 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 paragraph 75 of the 20th Session of the Report of the IOTC Scientific Committee (SC) report (IOTC-2017-SC20-R) that states:

*"75. The SC AGREED that the development of the ecosystem report card is a first step in developing the approach. Initiating the process with the development and monitoring of simple indicators and then linking these to management objectives and actions is an iterative process where the data collection and research activities are based on higher level guidance from the Commission. The SC noted that the consideration of socioeconomic dimensions are specifically mentioned in the IOTC Agreement and so the scientific subsidiary bodies are therefore mandated to work on these issues as well."*

RECALLING Article ~~IV~~, paragraph 2(d) of the IOTC Agreement which states:

*"2. In order to achieve these objectives, the Commission shall have the following functions and responsibilities, in accordance with the principles expressed in the relevant provisions of the United Nations Convention on the Law of the Sea: (d) to keep under review the economic and social aspects of the fisheries based on the stocks covered by this Agreement bearing in mind, in particular, the interests of developing coastal states"*

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

1. The terms of reference for a scoping study of socio-economic aspects of IOTC fisheries, ~~are~~ those specified in **Annex I**.
2. Pursuant to Article XII.5 of the IOTC Agreement, the Commission shall, at its 23rd Session in 2019, review the results of the scoping study and determine if a permanent Working Party on the Socio-Economic Aspects of ~~the~~ Fisheries in the IOTC ~~A~~area of ~~the C~~ompetence is needed, at its 23rd Session in 2019.
3. The IOTC Secretariat shall facilitate the process of recruitment of the consultant or consulting company for delivery of the scoping study ~~as~~ specified in **Annex I**. The Commission requested the Secretariat to seek sources of extra-budgetary funds to support the proposed work.
4. ~~The~~ CPCs shall cooperate with the consultant for the purpose of this study, using their best endeavors and in line with their respective national legislation.

Conservation and Management Measures linked to Resolution 18/09 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
None		None	



Food and Agriculture  
Organization of the  
United Nations



Indian Ocean Tuna Commission  
Commission des Thons de l'Océan Indien

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## ANNEX I

### TERMS OF REFERENCE FOR A SCOPING STUDY ON THE SOCIO-ECONOMIC DATA AND INDICATORS OF IOTC FISHERIES

#### Objectives

1. The objectives are to:
  - (a) ~~To~~ describe the economic and social aspects of the fisheries, bearing in mind, in particular, the interests of developing coastal States, and identify the availability of data and socio-economic indicators that would describe the respective CPCs economic and social aspects of fisheries, including but not limited to: socio-economic contribution to the fisheries, economic dependence on fishery resources; income from exports; employment conditions and interactions between fleet segments; impact of fishery resource rents, including fisheries agreements with third parties to the local economies in terms of income, investments and jobs;
  - (b) ~~To~~ evaluate and document what socio-economic data have been, and are currently collected by CPCs or other organisations that are in the public domain, on IOTC fisheries;
  - (c) ~~To~~ evaluate and document what socio-economic data have been, and are currently collected by CPCs or other organisations but are not in the public domain on IOTC fisheries, where feasible under domestic law;
  - (d) ~~To~~ evaluate if a) the data can be feasibly and uniformly collected, and b) would be adequate to calculate the indicators proposed. This should include, where feasible, a discussion on the data themselves, data quality, time periods and coverage rates;
  - (e) ~~To~~ make recommendations on indicators taking into consideration the available data. To make recommendations on data requirements and harmonisation; and
  - (f) ~~To~~ make recommendations on data management, reporting and associated costs to IOTC.
2. The ~~e~~Consultant shall consider existing initiatives focusing on the socio-economic importance of fisheries, including, where applicable, the Overseas Fisheries Cooperation Foundation of Japan (OFCF) pilot project on socio-economic aspect of fisheries, to avoid any duplication

#### Outputs

3. A draft of the Consultant's report will be provided 120 days in advance of the 23rd Session of the ~~IOTC (S23)~~ Commission in 2019.
4. ~~The~~ CPCs shall be tasked to review the report and provide feedback to the Consultant 60 days before the 23rd Session of the IOTC (S23), via the IOTC Secretariat.
5. The final Consultant's report shall be submitted to the ~~Executive Secretary/IOTC Secretariat~~ no later than 30 days prior to the commencement of the 23rd Session in 2019, in accordance with the IOTC Rules of Procedure (2014).
6. The final Consultant's report should be presented to the Commission for consideration at its ~~23rd Session meeting~~ in 2019 and a presentation by the Consultant during the Session to answer any questions from CPCs.



## 2017

**RESOLUTION 17/02**  
**WORKING PARTY ON THE IMPLEMENTATION OF CONSERVATION AND MANAGEMENT**  
**MEASURES (WPICMM)**

**Keywords:** Conservation and Management Measures; Compliance Committee

**EXPLANATORY NOTES**

**PREAMBLE**

**Paragraph 1.** An amendment is proposed to accurately reflect the relevant provision of the IOTC Agreement.

**Paragraph 2.** This paragraph recognizes that “the annual level of illegal, unreported and unregulated (IUU) fishing in the IOTC area of competence is estimated to be in the order of **many hundreds of dollars** and the urgent need to better manage the tuna and tuna-like species under the IOTC mandate”. To note: the reference to hundreds of dollars appears unrealistically low.

**PARAGRAPHS**

*No substantive amendments are proposed for the paragraphs.*

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

## The Indian Ocean Tuna Commission (IOTC),

RECALLING that the ~~Commissions -functions and responsibilities under objective of Article V 2(d) of the IOTC Agreement (Article V) is include adopting -to adopt-~~ in accordance with Article IX and on the basis of scientific evidence, ~~C~~conservation and ~~M~~management ~~M~~measures, to ensure the conservation of the stocks covered by this Agreement and to promote the objective of their optimum utilisation throughout the Area”;

RECOGNISING ~~that~~ the annual level of illegal, unreported and unregulated (IUU) fishing in the IOTC area of competence is estimated to be in the order of many hundreds of dollars and the urgent need to better manage the tuna and tuna-like species under the IOTC mandate;

ALSO RECOGNISING the decision of the Commission to establish the necessary subsidiary bodies to monitor the implementation by CPCs ~~withof~~ the IOTC Agreement and the Commission’s Conservation and Management Measures (CMMs), assist CPCs to enhance their compliance capacity and conserve the harvesting levels of tuna and tuna-like species and their associated ecosystems at sustainable levels;

CONSIDERING the fact that the work of the IOTC Compliance Committee has increased to a level which can no longer be adequately addressed during its annual session, specifically the technical evaluation and planning elements for supporting ~~CPC~~implementation ~~-of~~ CMMs ~~by Contracting Parties and Cooperating Non-Contracting Parties (CPCs)~~;

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

1. Pursuant to Article XII.5 of the Agreement, the Commission establishes a permanent Working Party on the Implementation of Conservation and Management Measures (WPICMM) which shall act as an advisory body to the Commission ~~withthrough~~ the IOTC Compliance Committee.
2. The terms of reference for the WPICMM are those specified in **Annex I**.
3. This Resolution shall be incorporated within the IOTC Rules of Procedure as its next revision.
4. This Resolution supersedes IOTC Resolution 16/12 *Working Party on the Implementation of Conservation and Management Measures (WPICMM)*.

Conservation and Management Measures linked to Resolution 17/02 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
None		None	

## ANNEX I

### TERMS OF REFERENCE FOR A WORKING PARTY ON THE IMPLEMENTATION OF CONSERVATION AND MANAGEMENT MEASURES (WPICMM)

1. The procedures of the Working Party on the Implementation of Conservation and Management Measures (WPICMM) shall be governed *mutatis mutandis* by the Rules of Procedure of the Commission.

#### Objectives:

2. The objectives of the (WPICMM) ~~is~~are to:

- (a) ~~A~~lleviate the technical discussions, workload and time pressures on the Compliance Committee, and permit it to focus on higher level compliance implementation strategies in its work for the Commission;
- (b) ~~E~~nhance the technical capacity of Contracting Party (Member) and Cooperating Non-Contracting Party (CNCP) (collectively termed CPCs) to understand and implement IOTC Conservation and Management Measures (CMMs);
- (c) ~~P~~prioritise implementation issues and develop operational standards for use by CPCs.

#### Composition:

3. The WPICMM shall be composed ~~by~~of fisheries compliance officers (or other relevant officers) of the CPCs, scientists, fisheries managers, fishing industry representatives, ~~-~~administrators and other interested stakeholders, in accordance with the IOTC Rules of Procedure.

#### Mandate:

4. The mandate of the WPICMM shall be to:

- (a) ~~E~~xamine all aspects of CPCs technical implementation of CMMs and recommending ways to enhance the level of implementation;
- (b) ~~E~~xamine Monitoring, Control and Surveillance (MCS) technical matters in order to provide the IOTC Compliance Committee with options for strengthening MCS;
- (c) ~~R~~review the reporting requirements contained within CMMs in order to harmonize and streamline;
- (d) ~~D~~evelop a methodology for the assessment of implementation by CPCs, for producing the Country Compliance Reports provided annually to the Compliance Committee and flag States;
- (e) ~~R~~review and assess the effectiveness and practical aspects of implementation of CMMs adopted by the Commission in order to identify deficiencies and implementation constraints faced by CPCs, and to recommend options for amendments;
- (f) ~~P~~ropose actions to address deficiencies in implementation;
- (g) ~~D~~evelopment of minimum regional standards for implementation of CMMs;
- (h) ~~D~~evelop a harmonised assessment criteria to identify vessels presumed to have engaged in illegal, unreported and unregulated (IUU) fishing activities;
- (i) ~~M~~onitor the development of, and recommend further actions for the IOTC list of vessels presumed to have engaged in ~~illegal, unreported and unregulated (IUU)~~ fishing activities, including where requested by the IOTC Compliance Committee or involved CPCs, a review of the evidence to be presented, where such evidence can be made available to the WPICMM;
- (j) ~~M~~onitor the development of, and recommend actions for the list of Large Scale Tuna Longline Vessels (LSTLVs)/carrier vessels presumed to have committed ~~violations~~infractions of IOTC CMMs, as recorded by observers deployed under the at-sea transshipment programme;
- (k) ~~P~~rovide recommendations to the IOTCC Compliance Committee to assist CPCs in the design and implementation of national MCS systems;

**Commented [A164]:** JPN  
"Infraction" shall be maintained because the word is generally used in the IOTC compliance review process

**Commented [A165]:** EU:  
IOTC



- (l) ~~P~~provide recommendations to the IOTC Compliance Committee to assist CPCs in the design and implementation of enforcement actions to ensure compliance with IOTC CMMs;
- (m) ~~D~~development ~~of~~ regional capacity building mechanisms to assist CPCs to meet the regional minimum terms and conditions or standards for implementation of the CMMs;
- (n) ~~P~~provide recommendations for the strengthening of the implementation of CMMs and capacity building activities, including compliance support missions, regional/national training courses and workshops, to be funded under the special fund for capacity building or extra budgetary contributions;
- (o) ~~D~~develop recommendations and guidelines for a schedule of sanctions for non-compliance with IOTC CMMs for consideration by the CPCs and the Commission;
- (p) ~~R~~review compliance with data reporting obligations by CPCs and recommend actions for implementation; ~~and~~
- (q) ~~O~~ther tasks as assigned by the IOTC Compliance Committee or Commission.

21. The WPICMM ~~would~~shall meet once a year, back to back with the meeting of the IOTC Compliance Committee, and shall report on its work to the IOTC Compliance Committee at its annual session.

**Commented [A166]:** JPN  
"Secretariat" shall be maintained.

**RESOLUTION 17/05**  
**ON THE CONSERVATION OF SHARKS CAUGHT IN ASSOCIATION WITH FISHERIES**  
**MANAGED BY IOTC**

**Keywords:** sharks, finning, naturally attached fins, NEAFC, NAFO.

**EXPLANATORY NOTES**

**PREAMBLE**

*No substantive amendments are proposed for the preamble.*

**PARAGRAPHS**

2. This paragraph requires CPCs to “take the necessary measures to require their fishermen to fully utilise ...”. Reference to “their fishermen” is ambiguous; would it apply to fishers having the nationality of the CPC or fishers on vessels flagged to the CPC, or both? *An amendment is not proposed, but the issue is flagged for consideration by CPCs.*

3. A chapeau has been added because one paragraph should not consist of three sub-paragraphs without a chapeau. The last sub-paragraph was divided into two, to reflect the different subject-matters.

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

**The Indian Ocean Tuna Commission (IOTC).**

RECOGNISING [Resolution 12/01](#) *On the implementation of the precautionary approach* calls on IOTC Contracting Parties and Cooperating Non-Contracting Parties (CPCs) to apply the precautionary approach in accordance with Article V of the [United Nations Fish Stocks Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks \(UNFSA\)](#):

CONCERNED by the continued failure of ~~IOTC~~ CPCs to submit complete, accurate and timely catch records for sharks in accordance with existing IOTC Resolutions:

RECOGNISING the need to improve the collection of species specific data on catch, discards and trade as a basis for improving the conservation and management of shark stocks and aware that identifying sharks by species is rarely possible when fins have been removed from the carcass;

RECALLING that United Nations General Assembly Resolutions<sup>s</sup> on Sustainable Fisheries, adopted annually by consensus—since 2007 (62/177, 63/112, 64/72, 65/38, 66/68, 67/79, 68/71, 69/109, 70/75 and ~~A/RES~~<sup>s</sup>/71/123) calls upon States to take immediate and concerted action to improve the implementation of and compliance with existing regional fisheries management organisations<sup>s</sup> or arrangements<sup>s</sup> measures that regulate shark fisheries and incidental catch of sharks, in particular those measures which prohibit or restrict fisheries conducted solely for the purpose of harvesting shark fins, and, where necessary, to consider taking other measures, as appropriate, such as requiring that all sharks be landed with fins naturally attached;

FURTHER RECALLING that the FAO International Plan of Action for Sharks calls on States to encourage full use of dead sharks, to facilitate improved species-specific catch and landings data and monitoring of shark catches and the identification and reporting of species-specific biological and trade data;

AWARE that despite regional agreements on the prohibition of shark finning, shark fins continue to be removed on board and the rest of the shark carcass discarded into the sea;

EMPHASISING the recent recommendations of ~~the IOTC and WCPFC~~ Scientific Committees of IOTC and the Western and Central Pacific Fisheries Commission (WCPFC) that the use of fin-to-carass weight ratios is not a verifiable means of ensuring the eradication of shark finning and that it has proven ineffective in terms of implementation, enforcement and monitoring;

NOTING the adoption ~~by the North East Atlantic Fisheries Commission (NEAFC)~~ of Recommendation 10:2015 on Conservation of Sharks Caught in Association with Fisheries Managed by the North-East Atlantic Fisheries Commission ~~(NEAFC)~~ and Article 12 of the ~~Conservation and Enforcement Measures by the~~ North-West Atlantic Fisheries Organisation (NAFO), which establish the fins attached policy as ~~the~~ exclusive option for ensuring the shark finning ban in the NEAFC and NAFO fisheries;

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

1. This measure shall apply to all ~~fishing flag~~ vessels ~~flying the flag of a Contracting Party or Cooperating Non-Contracting Party (of CPCs)~~ and on the IOTC Record of Authorised Vessels; ~~are or~~ authorised to fish for tuna or tuna-like species managed by the IOTC.
2. CPCs shall take the necessary measures to require ~~that their~~ fishermen to fully utilise their entire catches of sharks, with the exception of species prohibited by the IOTC. Full utilisation is defined as retention by the fishing vessel of all parts of the shark excepting head, guts and skins, to the point of first landing.
3. CPCs shall take the following measures:
  - (a) ~~S~~sharks landed fresh: CPCs shall prohibit the removal of shark fins on board vessels and ~~-CPCs shall prohibit~~ the landing, retention on-board, transshipment and carrying of shark fins which are not naturally attached to the shark carcass until the first point of landing;:-
  - (b) ~~S~~sharks landed frozen: CPCs that do not apply sub-paragraph ~~3-(a)~~ for all sharks shall require their vessels to not have on board fins that total more than 5% of the weight of sharks on board, up to the

**Commented [A167]:** JPN

I believe that "United Nation" is not necessary because the legal name is "Agreement for the Implementation of the Provisions of the United Nations Convention of the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks".

**Commented [A168]:** AUS

This is a substantive change.

**Commented [A169]:** EU:

Probably a mistake with the order of "are" and "or".  
OK for the correct formulation: 'IOTC record of Authorised Vessels or are authorised to fish...'

**Commented [A170]:** MDV:

“vessels” instead of “fishermen”

**Commented [A171]:** JPN:

New auxiliary verb shall be introduced (shall), because it causes inconsistency in subpara (c ) and (d)(are encouraged to, will).



first point of landing, and CPCs that currently do not require fins and carcasses to be offloaded together at the point of first landing shall take the necessary measures to ensure compliance with the 5 % ratio through certification, monitoring by an observer, or other appropriate measures;

(c) CPCs are encouraged to consider to progressively implement the measures described in sub-paragraph 3(a) to all shark landings; and

(d) the requirements of Paragraph 3 sub-paragraphs (a), (b) and (c) shall be revisited by the Commission in its 2019 Annual Session Meeting in light of recommendations from the IOTC Scientific Committee, using the best available science and case studies from other CPCs already prohibiting the removal of shark fins on board vessels.

4. In fisheries in which sharks are unwanted species, CPCs shall, to the extent possible, encourage the release of live sharks, especially juveniles and pregnant sharks that are caught incidentally and are not used for food and/or subsistence. CPCs shall require that fishers are aware of and use identification guides (e.g. IOTC Shark and Ray Identification in Indian Ocean Fisheries) and handling practices.

5. Without prejudice to paragraph 3, in order to facilitate on-board storage, shark fins may be partially sliced through and folded against the shark carcass, but shall not be removed from the carcass until the first point of landing.

6. CPCs shall report data for catches of sharks no later than 30 June of the following year, in accordance with IOTC data reporting requirements and procedures in Resolution 15/02 mandatory statistical requirements for IOTC Members and Cooperating Non-Contracting Parties (CPC's) (or any subsequent superseding resolution), including all available historical data, estimates and life status of discards (dead or alive) and size frequencies.

7. CPCs shall prohibit the purchase, offer for sale and sale of shark fins which have been removed on-board, retained on-board, transhipped or landed, in contravention of this Resolution.

8. The Commission shall develop and consider for adoption at its regular annual session in 2017 mechanisms to encourage CPCs to comply with their reporting requirement on sharks, notably on the most vulnerable shark species identified by the IOTC Scientific Committee.

9. The IOTC Scientific Committee shall request that the IOTC Working Party on Ecosystems and Bycatch continue its work on identifying and monitoring the status of sharks until such time as comprehensive assessments are possible for all relevant shark species/groups. In particular, the IOTC Working Party on Ecosystems and Bycatch shall establish the Terms of Reference for the Commission to establish a long term-project on sharks in IOTC, with the aim to ensure the collection of data required for performing reliable stock assessments for key shark species. The project shall include:

(a) the identification of data gaps for key shark species in the Commission IOTC;

(b) the collection of relevant data, including through direct contacts with CPC national administrations, research institutes and stakeholders;

(c) any other activity that could contribute to improving the collection of data required for performing stock assessments of key shark species in the Commission IOTC, and

The IOTC Scientific Committee will incorporate results of the project in its reports on sharks and based on progress achieved will propose a timeframe for performing stock assessment of key shark species. CPCs are encouraged to contribute financially to the implementation of the project.

10. The IOTC Scientific Committee shall review annually the information reported by CPCs pursuant to this Resolution and, as necessary, provide recommendations to the Commission on ways to strengthen the conservation and management of sharks within IOTC fisheries in the IOTC area of competence.

11. CPCs shall undertake research to:

(a) identify ways to make fishing gears more selective, where appropriate, including research into the effectiveness of prohibiting wire leaders;

**Commented [A172]:** JPN

The original auxiliary verb shall be maintained.

**Commented [A173]:** JPN

The original auxiliary verb shall be maintained.

**Commented [A174]:** JPN

The original auxiliary verb shall be maintained.



- (b) improve knowledge on key biological/ecological parameters, life-history and behavioural traits, migration patterns of key shark species;
  - (c) identify key shark mating, pupping and nursery areas; and
  - (d) improve handling practices for live sharks to maximise post-release survival.
12. The Commission shall consider appropriate assistance to developing CPCs for the identification of shark species/ groups and the collection of data on their shark catches.
13. This Resolution supersedes Resolution 05/05 *concerning the conservation of sharks caught in association with fisheries managed by the IOTC*.

Conservation and Management Measures linked to Resolution 17/05 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 15/02</a>	<a href="#">Resolution 12/01</a>	<a href="#">Resolution 13/06</a>	<a href="#">Resolution 12/09</a>

**RESOLUTION 17/07**  
**ON THE PROHIBITION TO USE LARGE-SCALE DRIFTNETS IN THE IOTC AREA OF**  
**COMPETENCE**

(Objection received from Pakistan: does not apply ~~onto~~ to Pakistan)

**Keywords:** large-scale driftnets, gillnets, EEZ, cetaceans, marine mammals.

**EXPLANATORY NOTES**

**PREAMBLE**

*No substantive amendments are proposed for the preamble.*

**PARAGRAPHS**

1. New paragraph 1 has been proposed to define the terms used in the Resolution, using the definitions that appear in the footnotes. Definitions should always be in the first paragraph, not in footnotes.

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

## The Indian Ocean Tuna Commission (IOTC),

RECALLING that the United Nations General Assembly (UNGA) Resolution 46/215 calls for a global moratorium on large-scale high seas driftnet fishing and that IOTC Resolution 12/12, ~~superseded by this Resolution, 17/07~~ *On the prohibition to use large-scale driftnets in the IOTC Area* prohibits the use of large-scale driftnets on the high seas in the IOTC area of competence; and also that both texts recognize the negative impact of such fishing gears;

NOTING that a high number of vessels are engaged in large-scale driftnet fishing in ~~the Exclusive Economic Zones~~ (EEZs) and offshore waters;

MINDFUL that large-scale driftnet fisheries have a major impact in the ecosystems, the capacity to catch species of concern to the IOTC, and ~~also~~ that they are likely to undermine the effectiveness of IOTC Conservation and Management Measures;

TAKING INTO ACCOUNT the available scientific information and advice, in particular the IOTC Scientific Committee conclusions establishing that billfishes and Spanish mackerels are overexploited;

NOTING that large scale driftnets are regularly being used with lengths in excess of 4,000 meters (and up to 7,000 meters) within ~~the~~ EEZs and that those used within ~~the~~ EEZs may sometimes drift onto the high seas in contravention of IOTC Resolution 12/12 ~~superseded by Resolution 17/07~~;

~~Furthermore,~~ **FURTHER** NOTING that the IOTC Scientific Committee reiterated its previous recommendation that the Commission should consider whether a ban on large scale driftnets should also apply within ~~the~~ EEZs given the negative ecological impacts of large-scale driftnets in areas frequented by marine mammals and turtles;

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

### 1. In this Resolution:

(a) "configured" to use large-scale driftnets meaning having on board assembled gear that collectively would allow the vessel to deploy and retrieve large-scale driftnets.

(b) "large-scale driftnets" means gillnets or other nets or a combination of nets that are more than 2.5 kilometres in length whose purpose is to enmesh, entrap, or entangle fish by drifting on the surface of, or in, the water column.

~~1.2.~~ This Resolution applies to vessels registered on the IOTC Record of Authorised ~~V~~ vessels that use driftnets for the purpose of targeting tuna and tuna-like species in the IOTC ~~A~~ area of competence.

~~2.3.~~ The use of large-scale driftnets<sup>4</sup> on the high seas within the IOTC area of competence shall be prohibited. The use of large-scale driftnets in the entire IOTC area of competence shall be prohibited by 1 January 2022.

~~3.4.~~ Each Contracting Party and Cooperating Non-Contracting party (~~hereinafter referred to as~~ CPCs) shall take all measures necessary to prohibit ~~their~~ fishing vessels from using large-scale driftnets while on the high seas in the IOTC area of competence. ~~They~~ CPCs shall take all measures necessary to prohibit their fishing ~~flag~~ vessels from using large-scale driftnets in the entire IOTC area of competence by 1 January 2022.

**Commented [A175]:** AUS  
This should be 'means'.

**Commented [A176]:** AUS  
The deletion of 'fishing' is a substantive change. Australia does not agree with this.

**Commented [A177]:** AUS  
The deletion of 'fishing' is a substantive change. Australia does not agree with this.

<sup>4</sup> "Large-scale driftnets" are defined as gillnets or other nets or a combination of nets that are more than 2.5 kilometres in length whose purpose is to enmesh, entrap, or entangle fish by drifting on the surface of, or in, the water column.

4.5. A CPC-flagged ~~fishing~~ vessel will be presumed to have used large-scale driftnets in the IOTC area of competence if it is found operating in the IOTC area of competence and is configured<sup>2</sup> to use large-scale driftnets.

5.6. For the purposes of monitoring the implementation of this Resolution, CPCs must notify the ~~Secretariat~~Executive Secretary of any CPC-flagged vessel using large-scale driftnets in their EEZs before the 31st of December 2020.

6.7. CPCs shall include in their ~~Annual~~Implementation Reports ~~of implementation~~ a summary of monitoring, control, and surveillance actions related to large-scale driftnet fishing in the IOTC area of competence.

7.8. The Commission shall 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 IOTC Scientific Committee. The first such assessment shall take place in 2023.

8.9. Nothing in this measure shall prevent CPCs from applying more stringent measures to regulate the use of large-scale driftnets.

9.10. This Resolution supersedes Resolution 12/12 to prohibit the use of large-scale driftnets on the high seas in the IOTC area.

**Commented [A178]:** AUS

The deletion of 'fishing' is a substantive change. Australia does not agree with this.

Conservation and Management Measures linked to Resolution 17/07 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
None		None	

<sup>2</sup> "Configured" to use large-scale drift-nets meaning having on-board assembled gear that collectively would allow the vessel to deploy and retrieve large-scale driftnets.

**ACTIVE CMMs ADOPTED AT THE TWENTIETH SESSION OF THE IOTC**

**2016**

**RESOLUTION 16/02**  
**ON HARVEST CONTROL RULES FOR SKIPJACK TUNA IN THE IOTC AREA OF COMPETENCE**  
**(Objection from Australia: not binding on Australia)**

**Keywords:** ~~S~~kipjack tuna; ~~R~~eference ~~P~~oints; ~~H~~arvest ~~C~~ontrol ~~R~~ules; ~~P~~recautionary ~~A~~pproach; ~~M~~anagement  
~~S~~trategy ~~E~~valuation.

**EXPLANATORY NOTES**

**PREAMBLE**

**Paragraphs 1 and 3.** Amendments are proposed to more accurately reflect the provisions in the instruments cited.

**PARAGRAPHS**

*No substantive amendments are proposed for the paragraphs.*

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

### The Indian Ocean Tuna Commission (IOTC),

NOTING ~~that, in accordance with~~ Article V, ~~paragraph~~ 2(c), of the IOTC Agreement, ~~the Commission's functions and responsibilities include is to adopting~~, in accordance with Article IX and on the basis of scientific evidence, ~~C~~conservation and ~~M~~management ~~M~~measures to ensure the conservation of the stocks covered by the Agreement;

BEING MINDFUL of Article XVI of the IOTC Agreement regarding the rights of ~~C~~coastal States, Articles 87 and 116 of the 1982 United Nations Convention of the Law of the Sea regarding the right to fish on the high seas and ~~of~~ 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) regarding recognition of the special requirements of developing ~~s~~States;

RECOGNISING ~~that the Commission agreed, in Resolution 12/01 On the implementation of the precautionary approach, calls on the Indian Ocean Tuna Commission to implement and~~ apply the precautionary approach ~~and provided guidelines for its implementation~~, in accordance Article 6 and Annex II 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);~~

RECOGNISING the ongoing discussions on allocation and the need to avoid prejudicing future decision of the Commission;

FURTHER CONSIDERING the call by the United Nations General Assembly Resolution 70/75 *on Sustainable Fisheries* upon ~~the s~~States to increase the reliance on scientific advice in developing, adopting and implementing conservation and management measures and to take into account the special requirements of developing ~~s~~States, including ~~S~~small ~~i~~sland developing States as highlighted in the SIDS Accelerated Modalities of Action (SAMOA) Pathway;

CONSIDERING the recommendations adopted by the ~~Second Joint Tuna RFMOs Meeting held in San Sebastian, Spain from June 29, to July 3, 2009 (KOBIE II), held in San Sebastian, Spain, June 23 – July 3 2009;~~ that tuna RFMOs consider implementing where appropriate a freeze on fishing capacity on a fishery by fishery basis and ~~that~~ such a freeze should not constrain the access to, development of, and benefit from sustainable tuna fisheries by developing coastal States;

TAKING INTO ACCOUNT the need to have due regard for the interests of all ~~Contracting Parties and Cooperating Non-Contracting Parties (CPCs)Members~~ concerned, in conformity with the rights and obligations of those ~~CPCsMembers~~ under international law and in particular, to the rights and obligations ~~for of~~ developing countries;

RECALLING ~~that~~ Article 6, paragraph 3(b) of UNFSA ~~that~~ calls on States to implement the precautionary approach using the best scientific information available, using stock-specific reference points and outlining the action to be taken if they are exceeded;

FURTHER RECALLING that Article 7.5.3 of the FAO Code of Conduct for Responsible Fisheries also recommends the implementation of stock specific target and limit reference points, inter alia, on the basis of the precautionary approach;

ACKNOWLEDGING that implementing pre-agreed harvest strategies including harvest control rules is considered a critical component of modern fisheries management and international best practices for fisheries management;

FURTHER NOTING that a harvest control rule encompasses a set of well-defined, pre-agreed rules or actions used for determining a management action in response to changes in indicators of stock status with respect to reference points;

NOTING that the IOTC Scientific Committee at its 17th Session, recommended ~~that~~ the Commission consider an alternative approach to identify biomass limit reference points, such as those based on biomass depletion levels, when the ~~maximum sustainable yield (MSY)-based~~ reference points are difficult to estimate. In cases where MSY-based reference points can be robustly estimated, limit reference points may be based around MSY;

FURTHER NOTING that the IOTC Scientific Committee also recommended that in cases where MSY-based reference points cannot be robustly estimated, biomass limit reference points be set at 20% of unfished levels (BLIM = 0.2B0);

ACKNOWLEDGING that the IOTC Scientific Committee has initiated a Commission requested process leading to a management strategy evaluation (MSE) process to improve upon the provision of scientific advice on ~~harvest control rules (HCRs);~~



RECALLING obligations and agreements under Resolutions [12/02 Data confidentiality, policy and procedures](#)<sup>1</sup>, [15/01 On the recording of catch and effort data by fishing vessels in the IOTC area of competence](#)<sup>2</sup>, [15/02 Mandatory statistical reporting requirements for IOTC Contracting Parties and Cooperating Non- Contracting Parties \(CPCs\)](#)<sup>3</sup>, and [15/10 On Target and Limit Reference Points and a decision framework](#)<sup>4</sup>;

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

#### Objectives

1. ~~An objective of this Resolution is to~~ maintain the ~~IOTC Indian Ocean Tuna Commission~~ ~~S~~skipjack tuna stock in perpetuity, at levels not less than those capable of producing ~~maximum sustainable yield (MSY)~~ as qualified by relevant environmental and economic factors including the special requirements of ~~D~~developing ~~C~~coastal States and ~~S~~small ~~I~~sland ~~D~~developing States in the IOTC area of competence and considering the general objectives identified in [Resolution 15/10](#) ~~(or any subsequent revision)~~.
2. ~~An objective of this Resolution is to~~ use a pre-agreed ~~harvest control rule (HCR)~~ to maintain the ~~S~~skipjack tuna stock at, or above, the target reference point (TRP) and well above the limit reference point (LRP), specified in [Resolution 15/10](#) ~~(or any subsequent revision)~~.

#### Reference Points

3. Consistent with paragraph 2 of Resolution 15/10, the biomass limit reference point, Blim, shall be 20% of unfished spawning biomass<sup>5</sup> (i.e. 0.2B<sub>0</sub>).
4. Consistent with paragraph 3 of Resolution 15/10, the biomass target reference point, B<sub>targ</sub>, shall be 40% of unfished spawning biomass (i.e. 0.4B<sub>0</sub>).
5. The HCR described in paragraphs 6–12 seeks to maintain the ~~S~~skipjack tuna stock biomass at, or above, the target reference point while avoiding the limit reference point.

#### Harvest Control Rule (HCR)

6. The ~~S~~skipjack tuna stock assessment shall be conducted every three (3) years, with the next stock assessment to occur in 2017. Estimates ~~described in subparagraphs of~~ 7(a)–(c) shall be taken from a model-based stock assessment that has been reviewed by the [IOTC Working Party on Tropical Tunas](#) and endorsed by the [IOTC Scientific Committee](#) ~~via~~ its advice to the Commission.
7. The ~~S~~skipjack tuna HCR shall recommend a total annual catch limit using the following three ~~(3)~~ values estimated from each ~~S~~skipjack stock assessment, ~~and for~~ each value, the reported median from the reference case adopted by the [IOTC Scientific Committee](#) for advising the Commission shall be used:
  - (a) ~~The~~ estimate of current spawning stock biomass (B<sub>curr</sub>);
  - (b) ~~The~~ estimate of the unfished spawning stock biomass (B<sub>0</sub>); ~~and~~
  - (c) ~~The~~ estimate of the equilibrium exploitation rate (E<sub>targ</sub>) associated with sustaining the stock at B<sub>targ</sub>.
8. The HCR shall have five control parameters set as follows:
  - (a) Threshold level, the percentage of B<sub>0</sub> below which reductions in fishing mortality are required, B<sub>thresh</sub> = 40%B<sub>0</sub>. If biomass is estimated to be below the threshold level, then fishing mortality reductions, as output by the HCR, will occur.
  - (b) Maximum fishing intensity, the percentage of E<sub>targ</sub> that will be applied when the stock status is at, or above, the threshold level I<sub>max</sub> = 100%. When the stock is at or above the threshold level, then fishing intensity (I) = I<sub>max</sub>

<sup>1</sup>-12/02: Data Confidentiality, policy and procedures

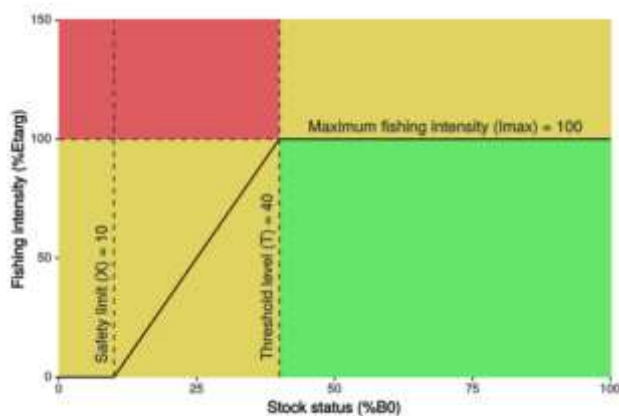
<sup>2</sup>-15/01: On the recording of catch and effort data by fishing vessels in the IOTC Area of competence

<sup>3</sup>-15/02: Mandatory statistical reporting requirements for IOTC Contracting Parties and Cooperating Non- Contracting Parties (CPCs)

<sup>4</sup>-15/10: On Target and Limit Reference Points and a decision framework

<sup>5</sup>: The symbol B is used to refer to spawning biomass, the total mass of mature fish, i.e. B<sub>0</sub>, B<sub>lim</sub>, B<sub>targ</sub> and B<sub>curr</sub> all refer to different levels of spawning biomass.

- (c) Safety level, the percentage of  $B_0$  below which non-subsistence catches are set to zero i.e. the non-subsistence<sup>6</sup> fishery is closed  $B_{safety} = 10\%B_0$ .
  - (d) Maximum catch limit ( $C_{max}$ ), the maximum recommended catch limit = 900,000t. To avoid adverse effects of potentially inaccurate stock assessments, the HCR shall not recommend a catch limit greater than  $C_{max}$ . This value is based upon the estimated upper limit of the MSY range in the 2014 ~~S~~kipjack stock assessment.
  - (e) Maximum change in catch limit ( $D_{max}$ ), the maximum percentage change in the catch limit = 30%. To enhance the stability of management measures the HCR shall not recommend a catch limit that is 30% higher, or 30% lower, than the previous recommended catch limit.
9. The recommended total annual catch limit shall be set as follows.:
- (a) If the current spawning biomass ( $B_{curr}$ ) is estimated to be at or above the threshold spawning biomass i.e.,  $B_{curr} \geq 0.4B_0$ , then the catch limit shall be set at  $[I_{max} \times E_{targ} \times B_{curr}]$
  - (b) If the current spawning biomass ( $B_{curr}$ ) is estimated to be below the threshold spawning biomass i.e.,  $B_{curr} < 0.4B_0$ , but greater than the safety level i.e.,  $B_{curr} > 0.1B_0$ , then the catch limit shall be set at  $[I \times E_{targ} \times B_{curr}]$ . See Table 1 in Appendix 1 for values of fishing intensity ( $I$ ) for specific  $B_{curr}/B_0$ .
  - (c) If the spawning biomass is estimated to be at, or below, the safety level, i.e.  $B_{curr} \leq 0.1B_0$  then the catch limit shall be at 0 for all fisheries other than subsistence fisheries.
  - (d) In the case of (a) or (b), the recommended catch limit shall not exceed the maximum catch limit ( $C_{max}$ ) and shall not increase by more than 30% or decrease by more than 30% from the previous catch limit.
  - (e) In the case of (c) the recommended catch limit shall always be 0 regardless of the previous catch limit.
10. The HCR described in 8(a-e) produces a relationship between stock status (spawning biomass relative to unfished levels) and fishing intensity (exploitation rate relative to target exploitation rate) as shown below (See ~~the~~ Table 4 in ~~Appendix 1~~ **Annex I** for specific values).:



11. The catch limit shall by default, be implemented in accordance with the allocation scheme agreed for ~~S~~kipjack tuna by the Commission. In the absence of an allocation scheme, the HCR shall be applied as follows:

<sup>6</sup> For the purposes of this sub-paragraph, a subsistence fishery ~~is means~~ a fishery where the fish caught are consumed directly by the families of the fishers rather than being bought by middle-(wo)men and sold at the next larger market, ~~per as defined in~~ the FAO Guidelines for the routine collection of capture fishery data. FAO Fisheries Technical Paper. No. 382. Rome, FAO. 1999. 113p.

- (a) ~~If~~ the stock is at or above the Threshold level (i.e.,  $B_{curr} \geq 0.4B_0$ ), then the HCR shall establish an overall catch limit.
- (b) ~~If~~ the stock falls below the Threshold level (i.e.,  $B_{curr} < 0.4B_0$ ), the fishing mortality reductions shall be implemented proportionally by CPCs for catches over 1 percent of the catch limit established by the HCR with due consideration to the aspirations and special requirements of ~~D~~developing ~~C~~coastal States and ~~S~~small ~~I~~island ~~D~~developing States.
- (c) This paragraph shall not pre-empt or prejudice future allocation negotiations.

#### Review and exceptional circumstances

12. The HCR, including the control parameters, ~~will~~shall be reviewed through further ~~M~~management ~~S~~strategy ~~E~~evaluation (~~MSE~~), but no later than 2021 (i.e. five years from its implementation). Subject to the result of that review the current HCR may be refined or replaced with an alternative HCR.
13. In the ~~ease~~event that the estimated spawning biomass falls below the limit reference point, the HCR ~~will~~shall be reviewed, and consideration given to replacing it with an alternative HCR specifically designed to meet a rebuilding plan as ~~advised~~agreed by the Commission.
14. The recommended total annual catch produced by the HCR will be applied continuously as ~~provided~~set forth in paragraph 11 ~~above~~, except in case of exceptional circumstances, such as ~~those~~ caused by severe environmental perturbations. In such circumstances, the IOTC Scientific Committee shall advise on appropriate measures.

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The original auxiliary verb shall be maintained.

**Commented [A180]:** JPN  
The original auxiliary verb shall be maintained.

#### Scientific Advice

15. The IOTC Scientific Committee shall:
- (a) ~~I~~nclude the LRP and TRP as part of any analysis when undertaking all future assessments of the status of the IOTC ~~S~~skipjack tuna stock;
- (b) ~~U~~nderstand and report to the Commission a model-based ~~S~~skipjack tuna stock assessment every three (3) years, commencing with the next stock assessment in 2017;
- (c) ~~U~~nderstand a programme of work to further refine ~~M~~management ~~S~~strategy ~~E~~evaluation (~~MSE~~) for the IOTC ~~S~~skipjack tuna fishery as required in paragraph 12 including, but not limited to,
- (i) ~~R~~efinement of operating model(s)/ used;
- (ii) ~~A~~alternative management procedures; and
- (iii) ~~R~~efining performance statistics.

#### Final Clause

16. The Commission shall review this measure at its annual ~~s~~Session in 2019, or before if there is reason and/or evidence to suggest that the ~~S~~skipjack tuna stock is at risk of breaching the LRP.

Conservation and Management Measures linked to Resolution 16/02 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 12/01</a>	<a href="#">Resolution 12/02</a>	None	
<a href="#">Resolution 15/01</a>	<a href="#">Resolution 15/02</a>		
<a href="#">Resolution 15/10</a>			

#### ANNEX IAppendix 1

**Table 1.**

Values of fishing intensity for alternative levels of estimated stock status ( $B_{curr}/B_0$ ) produced by the HCR.

Stock status ( $B_{curr}/B_0$ )	Fishing Intensity (I)		Stock status ( $B_{curr}/B_0$ )	Fishing Intensity (I)
At or above 0.40	100%		0.24	46.7%
0.39	96.7%		0.23	43.3%
0.38	93.3%		0.22	40.0%
0.37	90.0%		0.21	36.7%
0.36	86.7%		0.20	33.3%
0.35	83.3%		0.19	30.0%
0.34	80.0%		0.18	26.7%
0.33	76.7%		0.17	23.3%
0.32	73.3%		0.16	20.0%
0.31	70.0%		0.15	16.7%
0.30	66.7%		0.14	13.3%
0.29	63.3%		0.13	10.0%
0.28	60.0%		0.12	6.7%
0.27	56.7%		0.11	3.3%
0.26	53.3%		0.10 or below	0%
0.25	50.0%			

**RESOLUTION 16/03**  
**ON THE SECOND PERFORMANCE REVIEW FOLLOW-UP**

**Keywords:** ~~P~~performance review, IOTC Agreement.

**EXPLANATORY NOTES**

**PREAMBLE**

*No substantive amendments are proposed for the preamble.*

**PARAGRAPHS**

*No substantive amendments are proposed for the paragraphs.*

*All paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

### The Indian Ocean Tuna Commission (IOTC),

CONSIDERING the course of action agreed at the ~~meeting of the five first Joint Meeting of~~ Tuna Regional Fisheries Management Organisations (RFMOs) held in Kobe, ~~Japan~~ in January 2007, and in particular the commitment to undertake ~~P~~performance ~~R~~reviews of each ~~T~~tuna RFMOs in order to strengthen the effectiveness of the ~~O~~rganisations;

TAKING NOTE of the decision taken by the IOTC at its 18th Session in June 2014 to undertake the ~~second2nd~~ IOTC ~~P~~performance ~~R~~review;

CONSIDERING the report of the ~~Second2nd~~ IOTC Performance Review Panel (PRIOTC02) as analysed by the Commission at its 20th Session held in La Reunion (France) in May 2016;

RECOGNISING that a number of the recommendations arising from the PRIOTC02 report can be progressed by individual Contracting Parties ~~and Cooperating Non-Contracting Parties (CPCs)~~, including through proposing draft Resolutions for consideration by the Commission, while other initiatives may benefit from consideration by relevant committees of the Commission;

FURTHER RECOGNISING that the PRIOTC02 recommended that the ~~IOTC~~ Agreement needs to be amended or replaced in order to incorporate modern fisheries management principles, such as the precautionary approach, ecosystem based approaches, inclusions of highly-migratory species caught in IOTC fisheries, protection of marine biodiversity, reducing the harmful impacts of fishing on marine environment and to allow the full participation of all fish~~eriesing~~ players;

NOTING that the weaknesses and gaps identified by PRIOTC02 are, or have a potential to be, major impediments to the effective and efficient functioning of the Commission and its ability to adopt and implement measures aimed at long-term conservation and sustainable exploitation of stocks, according to model fisheries management instruments and more fundamentally, ~~that~~ these deficiencies are likely to prevent the Commission from achieving its basic objectives;

CONSIDERING the 24 recommendations ~~put forth by of~~ the ~~Second2nd~~ IOTC Performance Review Panel ~~in its~~ report to the 20th Session of the Commission in 2016;

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

1. The Commission endorses the recommendations of the ~~Second IOTC Performance Review Panel Report, which appear in (Annex I).~~
2. To improve the functioning of the IOTC and to address its deficiencies, including the possible need to amend the IOTC Agreement, an ad-hoc Technical Committee ~~(Terms of Reference in Annex II) willshall~~ be set up with the objective of preparing a Program of Work with concrete actions on the recommendations, including priorities, proposed timelines, budgets, and a possible text of a new agreement. ~~The Terms of Reference of the ad-hoc Technical Committee are in Annex II, and it -The Technical Committee~~ shall complete its work by October 2019 in accordance with its Terms of Reference.
3. The draft Work Plan and the recommendations of the Technical Committee ~~willshall~~ be reviewed by the ~~IOTC~~ Scientific Committee, ~~IOTC~~ Compliance Committee and the ~~IOTC~~ Standing Committee on Administration and Finance. After this review, the Commission will consider the Work Plan.
4. A Performance Review of the IOTC shall be carried out every five (5) years in line with the recommendations of the Kobe process.
5. This Resolution supersedes Resolution 09/01 *On the performance review follow-up*.

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The original auxiliary verb shall be maintained.

**Commented [A182]:** JPN  
original auxiliary verb shall be maintained.

Conservation and Management Measures linked to Resolution 16/02 or return to the [Table of Contents](#)

Links from within this CMM

Links from other CMMs

None		<a href="#">Resolution 10/08</a>	<a href="#">Resolution 12/01</a>
		<a href="#">Resolution 14/05</a>	<a href="#">Resolution 15/10</a>
		<a href="#">Resolution 16/08</a>	

## ANNEX I

### RECOMMENDATIONS ARISING FROM THE 2<sup>ND</sup> IOTC PERFORMANCE REVIEW PANEL (paragraph numbers refer to the Report of the 2<sup>nd</sup> IOTC Performance Review: IOTC-2016-PRIOTC02-R)

REFERENCE #	RECOMMENDATION	RESPONSIBILITY	UPDATE/STATUS	TIMELINE	PRIORITY
PRIOTC02.01 (para. 81)	<p><b>Analysis of the IOTC Agreement against other international instruments</b></p> <p><b>NOTING</b> para 80, the PRIOTC02 <b>RECOMMENDED</b> that the Commission establish an ad-hoc Working Party on the Modernisation of the IOTC Agreement, based on the following scope:</p> <p>a) Develop proposed language for the IOTC Agreement that takes into account modern principles of fisheries management;</p>	Commission & ad-hoc Working Party	Pending	TBD	TBD
	b) Develop a multi-year Program of Work that outlines the specific priority issues to be discussed using the legal analysis contained in Appendix III of this report to inform the working party deliberations;	Commission & ad-hoc Working Party	Pending	TBD	TBD
	c) Proposals to enable the participation of all fishing players with direct fishing interests in IOTC;	Commission & ad-hoc Working Party	Pending	TBD	TBD
	d) That all CPCs should participate in the Working Party and that funds be provided to support the participation of developing coastal States in the meetings;	Commission & ad-hoc Working Party	Pending	TBD	TBD





	e) That the working group meet at least annually and to the extent possible progress its work inter-sessionally using electronic means.	<i>Commission &amp; ad-hoc Working Party</i>	Pending	TBD	TBD
PRIOTC02.02 (para. 86)	<p><b>Status of living marine resources</b></p> <p>The PRIOTC02 <b>RECOMMENDED</b> that:</p> <p>a) while continuing to work on improving data collection and reporting, the Scientific Committee should continue to utilise qualitative stock assessment methodologies for species where there is limited data available, including ecological risk based approaches, and support the development and refinement of data poor fisheries stock assessment techniques to support the determination of stock status.</p>	<i>Scientific Committee</i>	Pending	TBD	TBD
	b) confidentiality provisions and issues of accessibility to data by the scientists involved needs to be clearly delineated, and/or amended if necessary, so that stock assessment analysis can be replicated.	<i>Scientific Committee &amp; Commission</i>	Pending	TBD	TBD
	c) chairpersons and Vice-Chairpersons of the Scientific Committee and respective Working Parties, in conjunction with the IOTC Secretariat, develop guiding principles for the provision of papers to ensure that they are directly related to the Program of Work of the respective Working Party and/or Scientific Committee, as endorsed by the Commission, while still encouraging for new and emerging issues to be presented.	<i>Scientific Committee &amp; Working Party Chairs and Vice-Chairs</i>	Pending	TBD	TBD

	d) ongoing peer review and input by external scientific experts should be incorporated as standard best practice for Working Parties and included in the Commission's regular budget.	<i>Scientific Committee &amp; Commission</i>	Pending	TBD	TBD
PRIOTC02.03 (para. 96)	<p><b>Data collection and reporting</b></p> <p>The PRIOTC02 <b>RECOMMENDED</b> that:</p> <p>a) the Commission make further investments in data collection and targeted capacity building, which is necessary for further improvement in the provision and quality of data in support of the Commission's objectives, as well as to identify the sources of the uncertainty in data and work towards reducing that uncertainty.</p>	<i>Commission</i>	Pending	TBD	TBD
	b) while there are budgetary implications, the IOTC Secretariat staffing dedicated to data collection and data capacity building activities should be increased from 3 to 5 full-time data staff.	<i>Commission</i>	Pending	TBD	TBD
	c) the IOTC Secretariat should facilitate discussions with coastal State non-CPCs and other non-CPCs fishing within the IOTC area of competence to formalise long-term strategies for data submission to the IOTC Secretariat, including all relevant historical data sets.	<i>IOTC Secretariat</i>	Pending	TBD	TBD
	d) steps to gain access to fine-scale data to be used in joint analysis, with sufficient protection of confidentiality, should be taken.	<i>IOTC Secretariat</i>	Pending	TBD	TBD

	e) where budgets and other resources permit, to encourage data preparatory meetings preceding stock assessment review meetings (Working Parties).	<i>Scientific Committee</i>	Pending	TBD	TBD
	f) innovative and/or alternative means of data collection and reporting should be explored and, as appropriate, implemented, including a move towards electronic data collection and reporting for all fleets.	<i>Scientific Committee</i>	Pending	TBD	TBD
PRIOTC02.04 (para. 102)	<p><b>Compliance with data collection and reporting requirements</b></p> <p>The Commission, through its Compliance Committee, needs to strengthen its compliance monitoring in relation to the timeliness and accuracy of data submissions. To that end, the PRIOTC02 <b>RECOMMENDED</b> that:</p> <p>a) the Commission review its compliance monitoring program conducted by the Compliance Committee, including identification of priority obligations (e.g. timely and accurate data reporting, catch and effort limits, accuracy of the supplied registered fishing vessel information, etc.).</p>	<i>Commission and Compliance Committee</i>	Pending	TBD	TBD
	b) the compliance monitoring program review all priority obligations and undertake the compliance review by obligation and by CPCs and that the Commission publish a report of each CPCs compliance by obligation and CPC. The reports of all Compliance Missions should be appended to the compliance report of that relevant CPC and where the CPC has identified an action plan, that they not be assessed for that obligation.	<i>Compliance Committee</i>	Pending	TBD	TBD



	c) the Commission develop a scheme of responses (in accordance with the IOTC Rules of Procedure (2014) Appendix V, para. 3b (iv)) to priority non-compliance areas, including the preparation of CPC Implementation Action Plans that outline how the CPC will, over time, implement its obligations and alternative responses to serious violations of IOTC CMMs taking into account the FAOs Voluntary Guidelines for Flag State Performance. Reforms to the compliance monitoring program should include the ability of developing CPCs to identify (through the preparation of an Implementation Action Plan) and seek assistance for obligations that they are currently non-compliant with, including for example requesting capacity assistance, capacity building, resources, etc., to enable, overtime, implement its obligations.	<i>Commission and Compliance Committee</i>	Pending	TBD	TBD
	d) to facilitate thorough reviews of compliance, the Commission should invest in the development and implementation of an integrated electronic reporting program. This should include automatic integration of data from CPCs into the IOTC Secretariat's databases and automatic cross-referencing obligations and reports for the various obligations, in particular related to the provision of scientific data.	<i>Commission and Compliance Committee</i>	Pending	TBD	TBD

PRIOTC02.05 (para. 104)	<p><b>Capacity building (Data Collection)</b></p> <p>The PRIOTC02 <b>RECOMMENDED</b> that:</p> <p>a) the Commission expand its current data support and data compliance missions and that the IOTC Secretariat should be granted increased autonomy to seek and attract external donor funds to support the work approved by the Commission, including supporting actions and/or capacity building initiatives from Compliance Missions that are applicable to more than two CPCs.</p>	Commission	Pending	TBD	TBD
	<p>b) the IOTC should continue the workshop series aimed at Connecting the IOTC Science and Management processes. The aims of the workshop series should be to: 1) improve the level of comprehension among IOTC CPCs on how the scientific process informs the management process for managing of IOTC species and ecosystem-based management; 2) increase the awareness of IOTC Contracting Parties to their obligations, as stipulated in the Commissions' Conservation and Management Measures which are based on rigorous scientific advice; 3) improve the decision making process within the IOTC; and 4) to provide direct assistance in the drafting of proposals for Conservation and Management Measures.</p>	Commission & Secretariat	Pending	TBD	TBD
PRIOTC02.06 (para. 106)	<p><b>Non-target species</b></p> <p>The PRIOTC02 <b>RECOMMENDED</b> that the Commission should continue to improve upon the requirements of data collection and reporting mechanisms of non-IOTC species that interact with IOTC fisheries.</p>	Commission and Scientific Committee	Pending	TBD	TBD



PRIOTC02.07 (para. 112)	<p><b>Quality and provision of scientific advice</b></p> <p>The PRIOTC02 <b>RECOMMENDED</b> that:</p> <p>a) the Scientific Committee should continue the good work undertaken since the PRIOTC01 and strive to make further improvements in the way it communicates information about stock status and future prospects for the stocks to the Commission.</p>	Scientific Committee & Working Parties	Pending	TBD	TBD
	<p>b) an independent peer review process (and budgeting mechanism) for stock assessments should be implemented if IOTC science is to be considered to be in line with best practice and to maintain a high standard of quality assurance.</p>	Scientific Committee & Commission	Pending	TBD	TBD
	<p>c) the Scientific Committee, through its Working Party on Ecosystems and Bycatch should pursue the application of ecosystem modelling frameworks.</p>	Scientific Committee & Working Party on Ecosystems and Bycatch	Pending	TBD	TBD



	d) continue to develop and adopt robust target and limit reference points, and species or fishery specific harvest control rules through management strategy evaluations, noting that this process has commenced for several species and is specified in IOTC <a href="#">Resolution 15/10 on target and limit reference points and a decision framework</a> . The mandated Resolution 14/03 <a href="#">[superseded by Resolution 16/09]</a> on enhancing the dialogue between fisheries scientists and managers, will benefit from having communication between the Scientific Committee and the Commission more formally structured, facilitated dialogue to enhance understanding and inform decision making.	<i>Scientific Committee &amp; Commission</i>	Pending	TBD	TBD
	e) the Commission and its subsidiary bodies continue to ensure that meeting schedules and activities are rationalised so that the already heavy workload of those involved, and budgeting constraints, are taken into account.	<i>Commission &amp; Scientific Committee</i>	Pending	TBD	TBD



	f) the Commission fully implements <a href="#">Resolution 12/01</a> <i>On the implementation of the precautionary approach</i> , so as to apply the precautionary approach, in accordance with relevant internationally agreed standards, in particular with the guidelines <del>provided set forth</del> in the UNFSA, and to ensure the sustainable utilisation of fisheries resources as <del>provided set forth</del> in Article V of the IOTC Agreement, including ensuring that a lack of information or increased uncertainty in datasets/stock assessment, is not used as a justification to delay taking management actions to ensure the sustainability of IOTC species and those impacted by IOTC fisheries.	Commission	Pending	TBD	TBD
	g) while there are budgetary implications, the IOTC Secretariat staffing dedicated to scientific analysis should be increased from 2 to 4 full-time science staff.	Commission	Pending	TBD	TBD
PRIOTC02.08 (para. 123)	<b>Adoption of Conservation and Management Measures</b> The PRIOTC02 <b>RECOMMENDED</b> that: a) the Commission acknowledge the inherent difficulty in managing small scale and data poor fisheries and continue efforts to adopt adequate fisheries management arrangements and to assist developing coastal States to overcome constraints to implement the CMs.	Commission	Pending	TBD	TBD

**Commented [A183]:** JPN  
The modification is not necessary, because the sentence is an extract from the performance review report.





	b) as the IOTC has faced the management of the main targeted stock under its purview only through a regulation of the fishing effort; other approaches should be explored, such as those envisioned in Resolutions 05/01 and 14/02, including catch limits, total allowable catch (TAC) or total allowable effort (TAE).	<i>Commission &amp; Scientific Committee</i>	Pending	TBD	TBD
	c) the Science-Management Dialogue is strengthened to improve understanding of modern approaches to fisheries management, including the implementation of Harvest Strategies through the use of Management Strategy Evaluation. The Commission adopt a formal process of developing and implementing Harvest Strategies within a prescribed timeframe.	<i>Commission &amp; Scientific Committee</i>	Pending	TBD	TBD
PRIOTC02.09 (para. 129)	<p><b>Fishing capacity management</b></p> <p>The PRIOTC02 <b>RECOMMENDED</b> that:</p> <p>i. the IOTC should establish a stronger policy on fishing capacity to prevent or eliminate all excess fishing capacity, including options to freeze capacity levels as an interim measure, while alternative management measures are considered. As current capacity limits are generic and apply across all fleets and their ability to control catch of particular species is limited, therefore alternative management measures should be considered which may include spatial-temporal area closures, quota allocation, etc.</p>	<i>Commission</i>	Pending	TBD	TBD



	<p><i>ii.</i> the Commission undertake a formal process to develop transfer mechanisms to developing coastal States, and in particular the least developed among them, with a view to realising their fleet development aspirations within sustainable levels.</p>	<i>Commission</i>	Pending	TBD	TBD
PRIOTC02.10 (para. 133)	<p><b>Compatibility of management measures</b></p> <p>The PRIOTC02 <b>RECOMMENDED</b> that if needed, CPCs request assistance from other CPCs or PRIOTC02.01 (para. 81) the IOTC Secretariat to assist in the assessment of the legal needs to effectively implement IOTC CMMs, noting that this process has already commenced with a number of IOTC Contracting Parties.</p>	<i>Secretariat &amp; CPCs</i>	Pending	TBD	TBD
PRIOTC02.11 (para. 136)	<p><b>Fishing allocations and opportunities</b></p> <p>The PRIOTC02 <b>RECOMMENDED</b> that the IOTC develop allocation criteria or any other relevant measures as a matter of urgency through the established Technical Committee on Allocation Criteria (TCAC) process, and that it include consideration of how catches by current non-CPCs would be accounted for. This process should not delay the development and adoption of other management measures, based on the advice of the Scientific Committee.</p>	<i>Commission &amp; Technical Committee on Allocation Criteria</i>	Pending	TBD	TBD



PRIOTC02.12 (para. 139)	<p><b>Flag State duties</b></p> <p>The PRIOTC02 <b>RECOMMENDED</b> that any amendment to or replacement of the IOTC Agreement should include specific provisions on Member's duties as flag States, drawing on the relevant provisions of the UNFSA and take due note of the FAO Guidelines on flag State performance.</p>	Commission	Pending	TBD	TBD
PRIOTC02.13 (para. 144)	<p><b>Port State measures</b></p> <p>The PRIOTC02 <b>RECOMMENDED</b> that:</p> <p>a) since port State measures are critical for the control of fishing in the IOTC area and beyond, CPCs should take action to ratify the FAO Agreement on Port State Measures, and the Commission explore possible ways of including ports situated outside the IOTC area known to be receiving IOTC catches in applying port State measures established by the IOTC.</p>	Commission	Pending	TBD	TBD
	<p>b) the Commission, through its port State measures training, support the implementation, including support from FAO and other donors, of the requirements of the FAO PSMA and the IOTC Resolution 10/11 <b>[superseded by Resolution 16/11]</b></p> <p><i>On port state measures to prevent, deter and eliminate illegal, unreported and unregulated fishing.</i></p>	Commission	Pending	TBD	TBD

PRIOTC02.14 (para. 149)	<p><b>Monitoring, control and surveillance (MCS)</b></p> <p>The PRIOTC02 <b>RECOMMENDED</b> that:</p> <ol style="list-style-type: none"> <li>1. the IOTC should continue to develop a comprehensive monitoring, control and surveillance (MCS) system through the implementation of the measures already in force, and through the adoption of new measures and tools such as a possible catch documentation scheme, noting the process currently being undertaken within the FAO.</li> </ol>	Commission & Compliance Committee	Pending	TBD	TBD
	<ol style="list-style-type: none"> <li>2. as a matter of priority review the IOTC monitoring, control and surveillance (MCS) measures, systems and processes, with the objective of providing advice and guidance on improving the integration of the different tools, identification of gaps and recommendations on how to move forward, taking into consideration the experiences of other RFMOs, and that the review should be used as a basis for strengthening MCS for the purpose of improving the ability of the Commission to deter non-compliance and IUU fishing.</li> </ol>	Commission & Compliance Committee	Pending	TBD	TBD
PRIOTC02.15 (para. 153)	<p><b>Follow-up on infringements</b></p> <p>The PRIOTC02 <b>RECOMMENDED</b> that:</p> <ol style="list-style-type: none"> <li>a) the IOTC should establish a scheme of responses to non-compliance in relation to CPCs obligations, and task the Compliance Committee to further develop a structured approach for cases of infringement.</li> </ol>	Commission & Compliance Committee	Pending	TBD	TBD



	b) further develop an online reporting tool to facilitate reporting by CPCs and to support the IOTC Secretariat through the automation of identification of non-compliance.	<i>Commission &amp; Compliance Committee</i>	Pending	TBD	TBD
	c) reasons for the non-compliance should be identified, including whether it is related to the measure itself, a need for capacity assistance or whether it is wilful or repeated non-compliance, and that the Compliance Committee provide technical advice on obligations where there are high level of CPCs non-compliance.	<i>Commission &amp; Compliance Committee</i>	Pending	TBD	TBD
PRIOTC02.16 (para. 159)	<b><i>Cooperative mechanisms to detect and deter non-compliance</i></b>  The PRIOTC02 <b>RECOMMENDED</b> that the Commission considers strengthening the intersessional decision making processes in situations where CPCs have not transmitted a response such that a decision can be taken for effective operational cooperative mechanisms and that the Commission encourages the CPCs to be more involved in decision making and for the Commission to collaborate to the greatest extent possible with other RFMOs.	<i>Commission</i>	Pending	TBD	TBD
PRIOTC02.17 (para. 163)	<b><i>Market-related measures</i></b>  The PRIOTC02 <b>RECOMMENDED</b> that:  1. the Commission considers strengthening the market related measure ( <a href="#">Resolution 10/10 Concerning market related measures</a> ) to make it more effective.	<i>Commission</i>	Pending	TBD	TBD



	2. the Commission considers to invite key non-CPCs market States that are the main recipient of IOTC catches as observers to its meetings with the aim of entering into cooperative arrangements.	<i>Commission</i>	Pending	TBD	TBD
PRIOTC02.18 (para. 169)	<b><i>Fishing capacity</i></b> The PRIOTC02 <b>RECOMMENDED</b> that the Commission consider non-compliance with fishing capacity related measures as a priority in the scheme of responses to non-compliance, in order to ensure the sustainable exploitation of the relevant IOTC species.	<i>Commission &amp; Compliance Committee</i>	Pending	TBD	TBD
PRIOTC02.19 (para. 175)	<b><i>Decision-making</i></b> The PRIOTC02 <b>RECOMMENDED</b> that intersessional processes be utilised (e.g. via formal or informal subsidiary bodies, or through facilitated electronic working groups) such that proposals brought to the Commission have been subject to debate and consideration by all CPCs.	<i>Commission</i>	Pending	TBD	TBD
PRIOTC02.20 (para. 198)	<b><i>Relationship to Non-Cooperating Non-Members (Non-CPCs)</i></b> The PRIOTC02 <b>RECOMMENDED</b> that the IOTC continue to strengthen its actions towards coastal State non-CPCs to have all such coastal States included under its remit, and that Contracting Parties take diplomatic missions to coastal State non-CPCs with active vessels in the IOTC area of competence.	<i>Commission</i>	Pending	TBD	TBD



PRIOTC02.21 (para. 204)	<p><b>Cooperation with other RFMOs</b></p> <p>The PRIOTC02 <b>RECOMMENDED</b> that:</p> <p>a) the IOTC should further develop mutual recognition and possible exploration of cross-listings of IUU lists with other RFMOs to combat IUU activities globally.</p>	Commission & Compliance Committee	Pending	TBD	TBD
	<p>b) The IOTC should develop cooperative mechanisms, such as MoUs, to work in a coordinated manner on issues of common interest, in particular non-target species and an ecosystem approach with other RFMOs especially with SIOFA.</p>	Commission	Pending	TBD	TBD
PRIOTC02.22 (para. 211)	<p><b>Special requirements of developing States</b></p> <p>The PRIOTC02 <b>RECOMMENDED</b> that:</p> <p>a) the continuation and optimisation of the IOTC Meeting Participation Fund indefinitely as part of the IOTC Regular Budget, and that the MPF is used to support participation of all eligible Contracting Parties in order to create a more balanced attendance to both science and non-science meetings of the Commission.</p>	Commission	Pending	TBD	TBD
	<p>b) the IOTC Secretariat in partnership with development agencies and organisations, should develop a five year regional fisheries capacity development program to ensure coordinated capacity building activities across the region.</p>	Secretariat & Commission	Pending	TBD	TBD



PRIOTC02.23 (para. 228)	<p><b>Availability of resources for IOTC activities &amp; Efficiency and cost-effectiveness</b></p> <p>The PRIOTC02 <b>RECOMMENDED</b> that:</p> <p>a) the IOTC continue to strengthen its actions towards non-paying Contracting Parties including consideration of diplomatic missions to non-paying Contracting Parties to encourage payment and to explore other mechanisms to recover the outstanding contributions (debt), and collaborate with FAO to identify the difficulties faced in recovering outstanding contributions.</p>	Commission	Pending	TBD	TBD
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	<p>b) consistent with best practice governance procedures, that the Commission:</p> <ol style="list-style-type: none"> <li>1. Amend or replace the IOTC Financial Regulations (1999) as a matter of urgency in order to increase Contracting Parties' as well as the Secretariat's control of all the budget elements, including staff costs of the budget, consistent with best practice governance procedures.</li> <li>2. A system of cost-recovery should be considered as a possible funding mechanism for new activities and/or ongoing activities.</li> <li>3. An annual external financial audit of the organisation be implemented as soon as possible, and include a focus on whether IOTC is efficiently and effectively managing its human and financial resources, including those of the IOTC Secretariat.</li> <li>4. Develop guidelines for the acceptance of extra-budgetary funds to undertake elements of the Commission's Program of Work, or those of its subsidiary bodies.</li> <li>5. Explore opportunities to improve efficiency concerning financial contributions, including extra-budgetary funds in support of the Commission's Program of Work, including the possibility of minimising project support costs.</li> <li>6. Develop and implement staff development, performance and accountability evaluations and procedures, for inclusion within the IOTC Rules of Procedure (2014).</li> </ol>	<p><i>Commission &amp; Standing Committee on Administration and Finance</i></p>	<p>Pending</p>	<p>TBD</p>	<p>TBD</p>
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	<i>c)</i> the Commission, as a matter of urgency, decide whether remaining inside the FAO structure (as an Article XIV body) provides the most suitable means to effectively deliver upon the IOTC Objectives.		Pending	TBD	TBD
PRIOTC02.24 (para. 233)	<b>FAO</b> The PRIOTC02 <b>RECOMMENDED</b> that the IOTC would be more appropriate as an independent entity. As such, as a matter of the highest priority, the Commission should decide whether the IOTC should remain within the FAO framework or become a separate legal entity, and as necessary, begin consultations with the FAO on this matter.	Commission	Pending	TBD	TBD

## ANNEX II

### TERMS OF REFERENCE - TECHNICAL COMMITTEE ON PERFORMANCE REVIEW

A Technical Committee is established with the following Terms of Reference:

1. ~~To prepare~~ Prepare a Work Plan with concrete actions on the recommendations of the Second Performance Review Panel (2PRP) Report, including priorities, proposed timelines, budgets.
2. ~~To develop~~ Develop a new text of the IOTC Agreement with respect to the recommendations of the 2PRP and based on the following scope:
  - a) ~~Develop~~ develop proposed language for the IOTC Agreement that takes into account modern principles of fisheries management;
  - b) ~~Develop~~ develop a multi-year Program of Work that outlines the specific priority issues to be discussed using the legal analysis contained in this report to inform the Technical Committee deliberations;
  - c) ~~Make~~ make proposals to enable the participation of all fisheries players in IOTC;
  - d) ~~That~~ all CPCs, wishing so, should participate in this Technical Committee and that funds be provided to support the participation of developing coastal States in the meetings;
  - e) ~~That~~ the Technical Committee shall meet at least annually and to the extent possible progress on its work intersessionally using electronic means.
3. ~~To make~~ Make a recommendation to the Commission to decide whether the IOTC should remain within the FAO framework or become a separate legal entity, and as necessary as a matter of the highest priority, begin consultations with the FAO. If necessary and appropriate in order to adopt an Agreement as an independent legal identity, the Technical Committee can propose to terminate the IOTC Agreement in accordance to the Article XXII of the of the current Agreement.
4. ~~To report~~ Report and make recommendations, as appropriate, to the Commission on the progress regarding Resolution 09/01 [superseded by Resolution 16/03] on the Performance Review follow-up.
5. In developing proposed amendments to the current Agreement and producing draft recommendations, ~~to take~~ take into account the input of CPCs ~~IOTC Contracting Parties, Cooperating Non-Contracting Parties~~ and other IOTC ~~F~~fisheries players.
6. The Technical Committee ~~will~~shall carry out its work in accordance with the following Program of Work:

**Commented [A184]:** JPN  
Original text shall be maintained.

2016–17	2017–18	2018–19
Meet intersessionally to discuss proposed amendments to the <u>IOTC</u> Agreement, including draft text, and <del>to produce</del> produce a recommendation to the Commission to decide whether the IOTC should remain within the FAO framework or become a separate legal entity at the 2018 Annual Meeting.	Meet intersessionally to continue discussion of proposed amendments to the <u>IOTC</u> Agreement, and develop consolidated proposed Agreement texts that will serve as a negotiating text for future meeting(s).	Meet intersessionally to finalise, if possible, proposed amendments to the <u>IOTC</u> Agreement. Present the final proposed Agreement text for adoption.

**RESOLUTION 16/04**  
**ON THE IMPLEMENTATION OF A PILOT PROJECT IN VIEW OF PROMOTING THE REGIONAL**  
**OBSERVER SCHEME OF IOTC**

**Keywords:** ~~R~~egional ~~O~~bserver ~~S~~scheme.:

**EXPLANATORY NOTES**

**PREAMBLE**

**Paragraph 2.** This paragraph refers to the responsibilities of flag States to “ensure that their vessels conduct their ‘fishing’ activities in a responsible manner, fully respecting IOTC Conservation and Management Measures”. Reference to “fishing” activities limits the scope of this Resolution, for example it would not cover transshipment at sea or in port, mindful that port activities are referenced in paragraphs 6 and 7. For broader scope, the word “fishing” could be deleted. *An amendment is not proposed but the issue has been flagged for consideration by CPCs.*

**PARAGRAPHS**

**6 and 7.** Unless there are technical reasons to the contrary, paragraphs 6 and 7, concerning elements of the project relating to electronic observation in port, should appear as paragraphs 3 and 4 after after paragraph 2 which describes elements to the project to be created. In this way, all the elements of the project would appear together.

**7.** A related concern is in paragraph 7, which mandates the *IOTC Scientific Committee* to evaluate whether electronic observation or observation in port can be used to collect data matching IOTC standards. It is recommended that the *pilot project* should evaluate this.

**4 and 5.** The sequence of events as described in paragraphs 4 and 5 is unclear; events may have overtaken them but revisions are suggested for clarity in hindsight.

**General.** There is no provision for *assessment* of the pilot project.

**General.** There is no *life span* for this part of the project.

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

## The Indian Ocean Tuna Commission (IOTC),

TAKING INTO ACCOUNT the need to increase the scientific information, in particular to provide the IOTC Scientific Committee working material in order to improve the management of the tuna and tuna-like species fished in the Indian Ocean;

REITERATING the responsibilities of ~~F~~lag States to ensure that their vessels conduct their ~~fishing~~ activities in a responsible manner, fully respecting IOTC Conservation and Management Measures;

CONSIDERING the need for action to ensure the effectiveness of the IOTC objectives;

CONSIDERING the obligation of all IOTC Contracting Parties and Cooperating Non-Contracting Parties (~~hereinafter~~ CPCs) to fully comply with the IOTC Conservation and Management Measures;

AWARE of the necessity for sustained efforts by CPCs to ensure the enforcement of IOTC's Conservation and Management Measures; and the need to encourage ~~Non~~-CPCs to abide by these measures;

UNDERLINING that the adoption of this measure is intended to promote the implementation of ~~the~~ Resolution 11/04 on a Regional Observer Scheme;

CONSIDERING the deliberations of the 18th Session of the IOTC Scientific Committee held in Bali, Indonesia from 23-27 November 2015, ~~notably and its request~~ that CPCs should comply with IOTC data requirements as requested ~~perunder~~ Resolutions 15/01 and 15/02, respectively ~~on the recording of catch and effort data by fishing vessels in the IOTC area of competence and on mandatory statistical reporting requirements for IOTC Contracting Parties and Cooperating Non-Contracting Parties (CPCs)~~, given the gaps in available information in the IOTC database and the importance of basic fishery data in order to assess the status of stocks and for the provision of sound management advice.

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

1. ~~Create a~~ pilot project ~~shall be created that~~ aiming to enhance the implementation of ~~the~~ Resolution 11/04 on a Regional Observer Scheme and to raise the level of compliance ~~to with~~ the implementation of Resolutions 15/01 and 15/02, ~~respectively on the recording of catch and effort data by fishing vessels in the IOTC area of competence and on mandatory statistical reporting requirements for IOTC Contracting Parties and Cooperating Non-Contracting Parties (CPCs)~~.
2. This pilot project will be funded through ~~the~~ IOTC budget and/or from voluntary contributions. The pilot project ~~shall will~~ focus on developing States, with priority given to promote the implementation of the ROS to small island developing States and least developed countries and shall be prepared taking into account the following elements:
  - (a) ~~I~~dentification and selection of voluntary participat~~ing~~ ~~ing~~ ~~Contracting Parties or Cooperating Non-Contracting Parties (CPCs)~~. Participat~~ing~~ ~~ing~~ CPCs should indicate their ~~flag~~ vessels that will participate in the project;
  - (b) ~~the~~ ~~T~~erms of ~~R~~eference (ToR) and selection of scientific observers, according to ~~the~~ provisions ~~in of the~~ Resolutions 11/04, 15/01 and 15/02;
  - (c) ~~D~~efinition of an Action Plan for the observers' work, including indicatively, a working calendar and an area of activity;
  - (d) ~~M~~id-term review and a final term review, the latter should include recommendation on how to expand the experiences and results of the pilot project ~~to all throughout the~~ IOTC area of competence;
  - (e) ~~C~~ooperation ~~and~~ coordination mechanisms ~~between among~~ CPCs participating in the project; ~~and~~
  - (f) ~~C~~omplementarity with the Regional Observer Scheme (ROS) actions already in place;
3. The IOTC Scientific Committee ~~shall will~~ draft guidelines regarding the ToRs and work of observers, and an indicative budget for approval by the Commission in 2017. ~~This project will focus on developing states, with priority given to promote the implementation of the ROS to small island developing states (SIDS) and least developed countries (LDC)~~.
4. ~~The Executive Secretary~~ shall transmit the draft project and the guidelines drafted by the IOTC Scientific Committee to CPCs, which shall ~~contracting Parties will~~ provide their comments and suggestions within one month after the IOTC Executive Secretary transmission ~~of the draft project, following the Scientific Committee~~.

**Commented [A185]:** MDV:  
Proposal to add "... and fishing related" in line with the explanatory notes in order to avoid a narrowing of this Resolution's scope.

**Commented [A186]:** JPN  
"Secretariat" shall be used instead of "Executive Secretary"

5. Upon receiving comments, the Executive ~~Secretary~~ shall cause the draft proposal to be revised and include ~~The revised draft proposal, including~~ a detailed budget, and shall ~~will be submitted the revised draft proposal for review~~ to the IOTC Compliance Committee and to the IOTC Standing Committee on Administration and Finance ~~for review, and after which it shall be~~ submitted for consideration and approval at the annual ~~Session~~ meeting of the Commission in 2017.
6. The pilot project ~~will~~ shall explore the possibilities offered by electronic observation and observation in port.
7. The IOTC Scientific Committee ~~shall~~ will evaluate whether electronic observation or observation in port can be used to collect data matching IOTC standards. ~~The IOTC Scientific Committee shall~~ will also propose minimum standards for the implementation of ~~Electronic~~ observation systems and how they can be used to increase levels of observer coverage for Indian Ocean fisheries.
8. The pilot project ~~shall~~ will not preclude any ~~Regional Observer Scheme's actions of the Regional Observer Scheme~~ already implemented by ~~CPC's Contracting Parties or Cooperating non Contracting Parties~~ and ~~their~~ respective fleets.

**Commented [A187]:** JPN  
"Secretariat" shall be used instead of "Executive Secretary"

**Commented [A188]:** JPN  
The original auxiliary verb shall be maintained.

Conservation and Management Measures linked to Resolution 16/04 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 11/04</a>	<a href="#">Resolution 15/01</a>	None	
<a href="#">Resolution 15/02</a>			

### **ANNEX I**

#### **MINIMUM REQUIREMENTS FOR OBSERVERS**

##### **Scientific observers**

1. Without prejudice to whatever specific training and qualifications are recommended by the IOTC Scientific Committee, the designated observers shall have the following qualifications to accomplish their tasks:
  - (a) a satisfactory knowledge of the IOTC Conservation and Management Measures;
  - (b) the ability to observe and record information accurately;
  - (c) a satisfactory knowledge of the language of the flag of the vessel observed;
  - (d) sufficient experience to identify species and fishing gear; and
  - (e) proven training in security and survival at sea.
2. Observers shall:
  - (a) record and report upon the fishing activities carried out;
  - (b) observe and estimate catches and check consistency with entries made in the logbook;
  - (c) note the position of the vessel when engaged in catching activity;
  - (d) carry out scientific work such as collecting of IOTC mandatory statistical information and fulfilment of logbooks;
  - (e) report the results of these duties on the fishing vessel in the observers report to the flag state fishing authority;
  - (f) submit the observer report to Flag State authorities within 30 days from the end of the period of observation;
  - (g) 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 as an observer;
  - (h) 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;
  - (i) 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 program, and with the obligations of vessel personnel.

##### **Obligations of the Master**

3. The Master shall: ~~allow observers to:~~
  - (a) allow observers to visit the fishing vessel, if weather conditions permit, and to have access to vessel staff and to the gear and equipment but not interfering with the equipment on-~~board~~;
  - (b) allow observers, on request, to have access to the equipment listed below; if present on the vessels to which they are assigned; in order to facilitate the carrying out of their duties. ~~This shall be done on a request basis. The equipment concerns:~~
    - (i) satellite navigation equipment; (consultation only)
    - (ii) radar display viewing screens when in use; (consultation only) and
    - (iii) electronic means of communication;
  - (c) provide oObservers ~~shall be provided~~ with accommodation, including lodging, food and adequate sanitary facilities; equal to those of officers; and
  - (d) provide oObservers ~~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.

##### **Obligations of the Flag State**

4. 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.

5. No later than two months upon completion of a fishing trip, observer reports ~~shall~~will be sent to the ~~Executive Secretary~~IOTC secretariat, who shall manage and keep record of the mentioned observer's reports in a manner consistent with IOTC confidentiality requirements, and ~~will~~ submit copies of the observer reports to the IOTC Scientific Committee.

6. Data collected in any ~~E~~coastal State exclusive economic zone EEZ ~~will~~shall also be provided to the ~~E~~coastal State authorities within the same ~~delay~~timeframe and conditions of the previous paragraph.

#### **Mutual recognition of observers**

7. The observers selected to participate in this pilot project ~~shall~~will be recognised by all CPCs participating in the project.

**Commented [A189]:** JPN  
The original auxiliary verb shall be maintained.



## RESOLUTION 16/05 ON VESSELS WITHOUT NATIONALITY

**Keywords:** ~~v~~Vessels without nationality; stateless vessels; IUU fishing ~~activities~~; enforcement; ~~transshipment~~; port access.

**Commented [A190]:** EU

There is an inconsistency in the orthograph of this word "Transshipment" or "transshipment". "Transshipment" seems to be the most used orthograph in the resolutions but "transshipment" is the orthograph used in FAO texts.

### EXPLANATORY NOTES

#### PREAMBLE

**Paragraph 4.** The IPOA-IUU defines IUU fishing "activities" as including fishing and fishing related activities.

#### PARAGRAPHS

2. Reference is added to "fishing related activities" for consistency with the IPOA-IUU as well as references in paragraphs 3, 4 and 5 of this Resolution.

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

#### MCS

WORKSHOP DISCUSSION	
(a) <b>Key findings</b>	<ul style="list-style-type: none"> <li>Singular focus on the stateless fishing vessels</li> <li>Identification and enforcement measures regarding owners, operators and/or the master not provided.</li> <li>All key provisions exist in currently binding form in more recent and more relevant IOTC CMMs (18/03 &amp; 16/11).</li> </ul> <p><b>Note from Legal Scrub report:</b> <b>The provisions do not exist in IOTC CMMs 18/03 and 16/11. See note under "WPICMM02 Recommendation".</b></p>
(b) <b>Proposed actions</b>	Eliminate
(c) <b>Points discussed during the Workshop</b>	There was consensus to eliminate this Resolution.
<b>WPICMM02 RECOMMENDATION</b>	<p>This resolution should be eliminated.</p> <p><b>Important note: CPCs are invited to reconsider their decision in view of the following recommendation of this (Legal Scrub) report which counsels <i>against</i> eliminating Resolution 16/05.</b></p> <p>CPCs should be aware that the MCS assessment, on which this proposed action was based, does not appear to take into account paragraphs 4, 5 and 6 of the Resolution.</p> <p>According to international law, countries need national legislation empowering them to take action against stateless vessels on the high</p>

seas, and Resolution 16/05 encourages this in paragraph 4, thereby providing the impetus for CPCs to legally empower MCS on the high seas.

Paragraphs 5 and 6 encourage the sharing of information and clarification of status as stateless (which other Resolutions do not) and cooperation with flag States to take action against stateless vessels. This is not covered in other Resolutions as such and is extremely important for purposes of MCS.

Resolution 18/03 presumes IUU fishing where a vessel without nationality is engaged in fishing or related activities, ***but there is no reference to the need for national legislation to carry out MCS in relation to such vessels on the high seas.***

Resolution 16/11 ***does not contain measures in relation to vessels without nationality.***

CPCs are urged to seriously consider the above in reviewing whether the issue of eliminating the Resolution.

# **The Indian Ocean Tuna Commission (IOTC),**

RECOGNISING that vessels without nationality operate without governance and oversight;

CONCERNED that fishing in the IOTC area of competence by vessels without nationality undermines the objective of the IOTC Agreement and the work of the Commission;

NOTING Articles 92 and 94 of the 1982 United Nations Convention on the Law of the Sea (UNCLOS) relating to the status of ships and the duties of flag States;

RECALLING that the FAO Council has adopted an International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IUU fishing) and has recommended that States adopt measures consistent with international law in relation to fishing vessels without nationality involved in IUU fishing activities on the high seas;

REAFFIRMING IOTC Resolution 18/03 ~~[superseded by Resolution 17/03 then by 18/03]~~ paragraph 1(i), which states that fishing vessels without nationality harvesting tuna or tuna-like species in the IOTC area of competence are presumed to have carried out IUU fishing;

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

1. A vessel without nationality is a vessel that, under international law, is not entitled to fly the flag of any State or, as ~~referred to provided~~ in Article 92 of UNCLOS, sails under the flag of two or more States, using them according to convenience.
2. Vessels without nationality that are engaged in fishing ~~or fishing related activities~~ in the IOTC area of competence undermine the IOTC Agreement and the Conservation and Management Measures adopted by the Commission and are engaged in IUU fishing activities.
3. Contracting Parties ~~(Members)~~ and Cooperating Non-Contracting Parties (CNCPCs) are encouraged to take effective action in accordance with international law, including, where appropriate, enforcement action, against vessels without nationality that are engaging, or have engaged, in fishing or fishing related activities in the IOTC area of competence, and to prohibit the landing and transshipment of fish and fish products, and access to port services; by such vessels, except where such access is essential to the safety or health of the crew or the safety of the vessel.
4. ~~Members and CNCPCs~~ are encouraged to adopt necessary measures, including, where relevant, domestic legislation, to allow them to take the effective action referred to in paragraph 3 to prevent and deter vessels without nationality from engaging in fishing or fishing related activities in the IOTC area of competence.
5. ~~Members and CNCPCs~~ are encouraged to share information about vessels suspected to be without nationality to assist in clarifying the status of such vessels, and about the activities of vessels without nationality to inform decisions about action to prevent and deter such vessels from engaging in fishing or fishing related activities in the IOTC area of competence. Any sightings of fishing vessels that are suspected of, or confirmed as being, without nationality that may be fishing in the high seas of the IOTC area of competence shall be reported to the ~~IOTC Secretariat/Executive Secretary~~ as soon as possible by the appropriate authorities of the ~~Member or CPC~~ whose vessel or aircraft made the sighting. The IOTC Secretariat ~~shall~~ ~~will~~ circulate such information to all ~~CPCs Members and CNCPCs~~ as soon as practicable, and ~~will~~ provide a report to the ~~a~~ Annual Session of the IOTC Compliance Committee of all such information provided.
6. ~~Members and CNCPCs~~ are encouraged to cooperate with all flag States to strengthen their legal, operational and institutional capacity to take action against their flagged vessels that have engaged in fishing or fishing related activities in the IOTC area of competence, including the imposition of adequate sanctions, as an alternative to de-flagging such vessels, thereby rendering such vessels without nationality.

**Commented [A191]:** MDV:  
Support this clarification

**Commented [A192]:** AUS  
The addition of this text is a substantive change to the scope of this paragraph. Australia does not agree with this addition.

**Commented [A193]:** JPN  
"Secretariat" shall be maintained.

## **Conservation and Management Measures linked to Resolution 16/05 or return to the [Table of Contents](#)**

Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 18/03</a>			

**RESOLUTION 16/07**  
**ON THE USE OF ARTIFICIAL LIGHTS TO ATTRACT FISH**

**Keywords:** DFADs; fishing vessels; supply, support and auxiliary vessels; lights.

**EXPLANATORY NOTES**

**PREAMBLE**

**Paragraph 2.** An amendment is proposed to accurately reflect the language of the IOTC Agreement. There is no reference to bycatch in the IOTC Agreement.

**PARAGRAPHS**

2. This paragraph requires CPCs to prohibit their flag vessels from intentionally conducting fishing activities “around or near any vessel or DFAD equipped with artificial lights” for the purpose of attracting tuna and tuna-like species; however the Resolution does not prohibit CPCs from using lights for fishing. *As a substantive matter no amendments are proposed but it is recommended that CPCs review this issue.*

3. This provides that “DFADs equipped with artificial lights, which are encountered by fishing vessels operating in the IOTC area of competence, should as far as possible be removed and brought back to port.” It does not:

- clearly state whether it is the responsibility of the encountering fishing vessels to remove the DFADs;
- allow for the possibility that supply vessels could encounter / remove DFADs;
- clearly state that the vessels should be CPC flag vessels.

*As a substantive matter no amendments are proposed, except to delete “fishing” for alignment with the draft Glossary, but it is recommended that CPCs review this issue.*

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

## The Indian Ocean Tuna Commission (IOTC),

AWARE that the Commission is committed to adopt Conservation and Management Measures to reduce juvenile ~~B~~bigeye tuna and ~~Y~~yellowfin tuna mortalities from fishing effort on ~~A~~aggregating ~~D~~devices;

RECALLING that the objective of the IOTC Agreement is to promote cooperation with a view to ensuring, through appropriate management, the conservation and optimum utilisation of stocks covered by the ~~mentioned~~ Agreement and encouraging sustainable development of fisheries based on such stocks ~~and minimising the level of bycatch~~;

RECOGNISING that all gears deployed to target fisheries resources under the competence of IOTC should be managed to ensure the sustainability of fishing operations;

MINDFUL of the call upon States, either individually, collectively or through regional fisheries management organisations and arrangements in the United Nations General Assembly Resolution 67/79 on Sustainable fisheries to collect the necessary data in order to evaluate and closely monitor the use of large-scale fish aggregating devices and others, as appropriate, and their effects on tuna resources and tuna behaviour and associated and dependent species, to improve management procedures to monitor the number, type and use of such devices and to mitigate possible negative effects on the ecosystem, including on juveniles and the incidental bycatch of non-target species, particularly sharks and marine turtles;

RECALLING that The Rome Consensus on World Fisheries adopted by the FAO Ministerial Conference on Fisheries, Rome, 14–15 March 1995, provides that “States should [...] reduce bycatches, fish discards...”;

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

1. Fishing vessels and other vessels including support, supply and auxiliary vessels flying the flag of an IOTC Contracting Party or Cooperating Non-Contracting Party (~~collectively~~ CPCs) are prohibited from using, installing or operating surface or submerged artificial lights for the purpose of aggregating tuna and tuna-like species beyond territorial waters. The use of lights on drifting fish aggregating devices (DFADs) is ~~also~~ already prohibited.
2. CPCs shall prohibit their ~~flagged~~ vessels from intentionally conducting fishing activities around or near any vessel or DFAD equipped with artificial lights for the purpose of attracting tuna and tuna-like species under the mandate of the IOTC and in the IOTC area of competence.
3. DFADs equipped with artificial lights, which are encountered by ~~fishing~~ vessels operating in the IOTC area of competence, should as far as possible be removed and brought back to port.
4. Notwithstanding paragraph 1, CPCs whose ~~flagging~~ vessels currently use such artificial lights for the purpose of aggregating tuna and tuna-like species may continue to allow such vessels to use such lights until 31~~st~~ December 2017. The CPC that wishes to apply this provision shall so report to the ~~Executive Secretary~~ Secretariat within 120 days after the adoption of this ~~R~~Resolution.
5. Navigation lights and lights necessary to ensure safe working conditions are not affected by this ~~R~~Resolution.
6. This Resolution supersedes Resolution 15/07 *On the use of artificial lights to attract fish to drifting fish aggregating devices*.

### Conservation and Management Measures linked to Resolution 16/07 or return to the [Table of Contents](#)

Links from within this CMM		Links from other CMMs	
None		None	

**Commented [A194]:** EU:

No. We note there is no reference to bycatch in the agreement but the intention was to mention bycatch here.

**Commented [A195]:** MDV:

Agreement with EU that a reference to bycatch was clearly intended here.

**Commented [A196]:** EU:

We note the substantive change. It is agreeable for us as it would indeed allow all vessels to retrieve such FADs.

**Commented [A197]:** AUS

The addition of this text is a substantive change to the scope of this paragraph. Australia does not agree with this addition.

**Commented [A198]:** MDV:

Support this amendment

**Commented [A199]:** EU:

We note the substantive change. It is agreeable for us as it would include all vessels, in line with para 1

**Commented [A200]:** AUS

This is a substantive change. Australia does not agree with the change.

## RESOLUTION 16/08

### ON THE PROHIBITION OF THE USE OF AIRCRAFTS AND UNMANNED AERIAL VEHICLES AS FISHING AIDS

**Keywords:** Helicopters, drones, aircraft, unmanned aerial vehicle, fishing, searching, fishing aid, supply vessel, support vessel, fishing vessel.

#### EXPLANATORY NOTES

#### PREAMBLE

**Paragraph 1.** An amendment is proposed to reflect the language in the UNFSA.

**Paragraph 5.** An amendment is proposed to reflect the language in the IOTC Agreement.

**Paragraph 7.** Terms should not be defined in the preamble; this paragraph is deleted and the terms are defined in new paragraph 1.

#### PARAGRAPHS

1. This is a new paragraph to define terms. The definition of “Aircraft” is taken from the draft Glossary, and that of “unmanned aerial vehicle” is taken from the definition in the preamble because it is not defined separately in the draft Glossary.

2. The definition of “vessel” in the draft Glossary includes those used for fishing or fishing related activities; separate reference to the various activities are not needed.

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

## The Indian Ocean Tuna Commission (IOTC),

RECALLING that Article 5, paragraph (c)<sup>2</sup> 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), calls on States to establish the application of the precautionary approach as a general principle for sound fisheries conservation and management;

NOTING that recommendations 37 and 38 of the IOTC Performance Review Panel, adopted by the Commission as in Resolution 09/01 [superseded by Resolution 16/03], indicate that pending the amendment or replacement of the IOTC Agreement to incorporate modern fisheries management principles, the Commission should implement the precautionary approach as provided set forth in the UNFSA;

RECOGNISING the need to ensure the sustainability of fisheries for tunas and tuna-like species for food security, livelihoods, economic development, multispecies interactions and environmental impacts in its decisions;

CONSIDERING the Resolution 12/01 on the implementation of the precautionary approach, in accordance with relevant internationally agreed standards, in particular with the guidelines provided set forth in the UNFSA, and to ensure the sustainable utilization of fisheries resources as provided set forth in Article V of the IOTC Agreement;

RECALLING that the objective of the IOTC Agreement is to promote cooperation with a view to ensuring, through appropriate management, the conservation and optimum utilisation of stocks covered by the mentioned Agreement and encouraging sustainable development of fisheries based on such stocks;

RECOGNISING that all gears deployed to target resources under the competence of IOTC should be managed to ensure the sustainability of fishing operations;

GIVEN that "Aircraft" means a contrivance used for navigation of, or flight in the air and specifically includes, but is not limited to, planes, helicopters, and any other device that allows a person to fly or hover above the ground. "Unmanned aerial vehicle" means any device capable of flying in the air which is remotely, automatically or otherwise piloted without an occupant, including but not limited to drones;

RECOGNISING that the use of aircraft and unmanned aerial vehicles as fishing/searching aids significantly contributes to the fishing effort of tuna fishing vessels by increasing their fish detection capacity;

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

### 1. For the purposes of this Resolution:

- (a) "aircraft" means any machine or craft capable of self-sustained movement through the atmosphere that can derive support from the atmosphere from the reactions of the air, other than reactions of the air against the earth's surface, including helicopters and unmanned or remotely operated airborne devices; and
- (b) "unmanned aerial vehicle" means any device capable of flying in the air which is remotely, automatically or otherwise piloted without an occupant, including but not limited to drones.

2.3. Contracting Parties and Cooperating Non-Contracting Party (collectively CPCs) shall prohibit their flag ged fishing vessels, support and supply vessels from using aircrafts and unmanned aerial vehicles as fishing aids.

2.3. Notwithstanding paragraph 24, CPCs whose fishing flag vessels currently use aircrafts and unmanned aerial vehicles as fishing aids may continue to allow such vessels to use them until 31st December 2017. The Any CPC that wishes to apply this provision shall so report to the Executive Secretary Secretariat within 120 days after the adoption of this Resolution.

3.4. Any occurrence of a fishing operation undertaken with the aid of aircraft or any unmanned aerial vehicle in the IOTC area of competence shall be reported to the flag State and the IOTC Executive Secretary, for communication to the IOTC Compliance Committee.

4.5. Aircraft and unmanned aerial vehicles used for scientific and MCS purposes are not subject to the prohibition set out in paragraph 4.2 of this measure.

#### Commented [A201]: MDV:

This is a misquote. The referenced provision of the UNFSA uses the prescriptive term "shall". Accordingly, "calls on" should be replaced with "obliges" or "requires".

#### Commented [A202]: EU:

OK. We note this definition was one of term agreed during WPICMM03 and is aligned with ICAO Chicago Convention

#### Commented [A203]: AUS

This definition is different to that included in the preamble of this resolution and while included in the proposed glossary it has not yet been agreed by CPCs. Australia does not agree with this change and prefers that the existing definition from the preamble be retained at this stage.

#### Commented [A204]: EU:

OK for deplacement of this para from preamble to text.

#### Commented [A205]: AUS

This is a substantive change. Australia does not agree with the change.

#### Commented [A206]: AUS

This is a substantive change. Australia does not agree with the change.

Conservation and Management Measures linked to Resolution 16/08 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 12/01</a>	<a href="#">Resolution 16/03</a>	None	



**RESOLUTION 16/09**  
**ON ESTABLISHING A ~~T~~TECHNICAL COMMITTEE ON MANAGEMENT PROCEDURES**

**Keywords:** ~~R~~eference ~~P~~oints, ~~H~~arvest ~~C~~ontrol ~~R~~ules, ~~P~~recautionary ~~A~~pproach, ~~M~~anagement ~~S~~trategy  
~~E~~valuation.

**EXPLANATORY NOTES**

**PREAMBLE**

**Paragraph 1.** Amendment proposed to reflect the language used in the IOTC Agreement, which does not refer to sustainable utilization.

**Paragraph 2.** Amendment proposed to reflect the language used in the IOTC Agreement.

**Paragraph 3.** Amendment proposed to accurately cite the correct Article of UNFSA.

**PARAGRAPHS**

**7(a).** This subparagraph is convoluted and difficult to comprehend, amendments were proposed for clarity and it is recommended to review them for technical correctness.

*All paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

### The Indian Ocean Tuna Commission (IOTC),

HAVING responsibility for the sustainable ~~utilisation~~ **development** of tuna and tuna-like species in the Indian Ocean;

RECOGNISING the need for action to ensure the achievement of ~~IOTC-the Commission's~~ objectives ~~to of~~ **conservation and optimum utilization of stocks covered by the Agreement** ~~e-and manage tuna resources~~ in the IOTC area of competence;

RECALLING Article ~~136, paragraph 3,~~ 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), on the strengthening of existing **subregional and regional fisheries management** organisations and arrangements; **in order to improve their effectiveness in establishing and implementing conservation and management measures for straddling fish stocks and highly migratory fish stocks;**

RECALLING that the IOTC Scientific Committee has initiated a process leading to a Management Strategy Evaluation (MSE) process to improve upon the provision of scientific advice on Harvest Control Rules (HCRs);

FURTHER RECALLING that the IOTC has embarked upon a dialogue process as agreed in Resolution ~~14/0316/09~~ **[superseded by Resolution 16/09]** *On enhancing the dialogue between fisheries scientists and managers*, which required that a series of three Science and Management Dialogue Workshops ~~is to be~~ held between 2014 and 2017;

NOTING the need, expressed by the **IOTC** Scientific Committee, to strengthen the communication on the MSE process between the **IOTC** Scientific Committee and the Commission; in order to facilitate consideration of the elements of the MSE that require endorsement by the Commission;

RECOGNISING that the **18<sup>th</sup> Session of the IOTC** Scientific Committee ~~recommended~~ **RECOMMENDED** that the Commission consider establishing a formal communication channel for the science and management dialogue to enhance decision-making through a dedicated Technical Committee on Management Procedures ~~(SC18.18);~~

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

1. A Technical Committee on Management Procedures (TCMP) co-chaired by the Commission Chair (or designee) and the **IOTC** Scientific Committee Chair (or designee) and facilitated, if possible, by an independent expert, is established with the objective of addressing the priorities identified in Resolutions ~~16/0914/03~~ **[superseded by Resolution 16/09]** *On enhancing the dialogue between fisheries scientists and managers*, and **15/10** *On target and limit reference points and a decision framework* or any subsequent resolutions addressing **MSE** ~~Management Strategy Evaluation~~ and **M**management **p**Procedures.
2. The objectives of the TCMP shall be to:
  - (a) ~~E~~enhance the decision making response of the Commission in relation to management procedures, including recommendations made by the **IOTC** Scientific Committee;
  - (b) ~~E~~enhance communication and foster dialogue and mutual understanding between the **IOTC** Scientific Committee and the Commission on matters relating to management procedures; and
  - (c) ~~A~~assist the Commission to obtain and promote the effective use of scientific resources and information.
3. The TCMP shall meet prior to and in conjunction with the annual Commission Session, to facilitate full attendance by CPCs.
4. The outcomes of the TCMP will be considered by the annual Commission Session under a standing agenda item for that purpose, as well as through the Commission's consideration of proposals relating to management procedures.
5. The TCMP shall focus on the presentation of results and exchange of information necessary for the Commission to consider possible adoption of **m**Management **p**Procedures. Standard formats for the presentation of results should be used, to facilitate understanding of the material by a non-technical audience.
6. The agenda of the TCMP shall place emphasis on the elements of each **m**Management **p**Procedure that require a decision by the Commission. The adoption of **M**management **P**procedures is an iterative process that allows for adjustments as the work, and the understanding of the elements involved, progresses.
7. The TCMP should undertake the following **functions and responsibilities**:

#### Commented [A207]: EU:

Not sure. Even though we have no problem with the substance of this article, by changing the reference article this action goes strictly beyond the legal scrubbing and should be highlighted for CPCs to formally agree to it

- (a) ~~Identifying, evaluating, and discussing procedures for the management procedures for~~ the IOTC fisheries ~~for consideration by the Commission, which help meet the objectives of the IOTC Agreement and address relevant issues identified by the Commission such as, including socioeconomics and food security, etc., identified by the Commission, the ecosystem-based approach to fisheries, and the precautionary approach, and which shall include: for the consideration of the Commission. Specifically, consideration of the following:~~
- ~~Over~~arching management objectives to guide the development of management procedures for the IOTC fisheries;
  - Target and Limit Reference Points with reference to [Resolution 15/10](#) ~~on interim target and limit reference points and a decision framework (or any subsequent revision);~~
  - Harvest Control Rules (HCRs), including: the extent to which HCRs meet management objectives; the probabilities of achieving target reference points, avoiding limit reference points, or rebuilding; the risks to the fishery and the resource at these limit and target reference points; and allowing, in particular, the implementation of a precautionary approach as required by [Resolution 15/10](#). ~~on interim target and limit reference points and a decision framework (or any subsequent revision);~~
- (b) ~~C~~onsidering current scientific advice relating to management procedures and the need for additional scientific advice to support the Commission's consideration of management procedures.
- (c) ~~identifying Specifications for~~ the roles and responsibilities of the Commission and its subcommittees, particularly the ~~IOTC~~ Scientific Committee and working parties, and clarifications for possible interactions and feedback between them, for each step of the management procedure development process (e.g., from technical work to be developed in [Working Parties of the IOTC Scientific Committee](#) ~~WP/SC~~ to the decision making process in the Commission); ~~and~~
- (d) ~~C~~onsidering data monitoring systems and management procedure implementation mechanisms to assure the effectiveness of any of the management procedures agreed.
8. The need for a continuation of the Technical Committee on Management Procedures shall be reviewed no later than at the ~~A~~nnual Session of the Commission in 2019.
9. This Resolution supersedes Resolution 14/03 *On enhancing the dialogue between fisheries scientists and managers*.

**Commented [A208]:** JPN

The original sentence shall be maintained because the technical word of "management procedure" is changed to another expression that makes confusion.

**Commented [A209]:** EU:

NO: "Management procedures" should stay as it is

**Commented [A210]:** EU:

Not sure this was the intention of the resolution. Another interpretation could be true: socioeconomics and food security have been already identified and agreed by the Commission as important elements for MP; while ecosystem-based approach and precautionary approach will be considered by Commission. We reserve our judgment on this change.

Conservation and Management Measures linked to Resolution 16/09 or return to the [Table of Contents](#)

Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 15/10</a>		<a href="#">Resolution 15/10</a>	<a href="#">Resolution 16/03</a>

**RESOLUTION 16/10**  
**TO PROMOTE IMPLEMENTATION OF IOTC CONSERVATION AND MANAGEMENT MEASURES**

**Keywords:** ~~C~~onservation and ~~M~~management ~~M~~measures; ~~C~~apacity building.

**EXPLANATORY NOTES**

**PREAMBLE**

*No substantive amendments are proposed for the preamble.*

**PARAGRAPHS**

*No substantive amendments are proposed for the paragraphs.*

*All paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

### The Indian Ocean Tuna Commission (IOTC),

RECOGNISING the desirability of improving the coherence, interpretation and accessibility of its Conservation and Management Measures (CMMs);

CONCERNED that IOTC Contracting Parties and Cooperating Non-Contracting Parties (~~hereinafter referred to as "CPCs"~~), particularly developing CPCs, seem to find difficulties in implementing ~~Conservation and Management Measures (CMMs)~~ already adopted by the IOTC;

NOTING that among other things the major reasons for this situation seemed to be ~~based on~~ ~~delivered from~~: Lack of human and financial capacity to implement CMMs; ~~F~~requent addition of new such measures and modifications to existing ones; ~~C~~omplicated structure of CMMs adopted by IOTC; ~~and the D~~uplication of CMMs on one subject.

CONSIDERING that streamlining of IOTC work and enhancement of capacity building are necessary to drastically promote the implementation of CMMs;

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

#### Special fund for capacity building

1. The Commission shall maintain a special fund for capacity building in order to ensure compliance with CMMs adopted by the IOTC. This special fund shall be financed by voluntary contributions and ~~via~~ ~~through~~ an IOTC Regular Budget component. The IOTC Secretariat shall contact international organizations, donor agencies and non-governmental organizations to seek voluntary financial contribution.
2. The Special Fund for Capacity Building shall be utilized ~~over~~ the next five (5) years (2017–2021) ~~to~~ focus on, *inter alia*, (i) ~~to~~ ~~improving~~ data collection in developing CPCs and (ii) ~~to~~ ~~developing~~ capacity in ~~the~~ implementation of CMMs.
3. At its ~~Session~~ ~~plenary meeting~~ in 2021, the Commission shall decide the next priority areas for the period from 2022–2026.

#### Arrangement of proposals to be submitted and limitation to the number of proposals to be considered

4. To further improve coordination in ~~the~~ development process of proposals for new and/or revised CMMs to be considered at the Sessions of the Commission, ~~CPCs Contracting Parties~~ are encouraged to submit ~~to the Executive Secretary~~ a provisional title, ~~CPC Contracting Party~~ sponsorship and a focal point for the proposal (including the email address of the focal point), a minimum of 60 days prior to each annual Session. ~~This will enable so that all CPCs Contracting Parties are to be~~ provided with an opportunity to identify proposals being developed by other CPCs, and as appropriate, cooperate in the development of proposals prior to the Session in which they are to be discussed. Where possible, duplication shall be avoided and consensus may be reached on contentious matters before the Session, thereby improving efficiency during Plenary. Whether such consultation is held or not, proposals shall be submitted 30 days before the Commission ~~Session meeting~~. Except for proposals based on recommendations of the ~~IOTC Compliance Committee CoC~~ and ~~IOTC Standing Committee on Administration and Finance SCAF~~, proposals received after the deadline shall be considered by the Commission if agreed by the Commission.
5. The Commission may consider limiting the number of new proposals to be considered at one plenary meeting.

#### Streamlining of Resolutions

6. The Commission shall consider streamlining existing CMMs by:
  - (a) ~~A~~ ~~abolishing~~ outdated CMMs and incorporating key elements that remain to be fully implemented into a new CMM; ~~and~~
  - (b) ~~C~~ ~~combining~~ multiple CMMs into a single CMM with multiple sections relating to a single broad subject area.
7. This Resolution supersedes Resolution 12/10 *to Promote implementation of Conservation and Management Measures already adopted by IOTC*.

Conservation and Management Measures linked to Resolution 16/10 or return to the [Table of Contents](#)

Links from within this CMM

Links from other CMMs

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None		None	

## RESOLUTION 16/11

### ON PORT STATE MEASURES TO PREVENT, DETER AND ELIMINATE ILLEGAL, UNREPORTED AND UNREGULATED FISHING

**Keywords:** ~~P~~ort State ~~M~~inim~~e~~asures, ~~I~~UU, ~~P~~ort, ~~I~~nspection~~s~~, ~~P~~ort State, ~~F~~lag State, ~~P~~ort ~~I~~nspection ~~R~~eports, landing.

#### EXPLANATORY NOTES

The original formatting of sections and paragraph numbers has been kept mindful that IOTC implementation manuals and other resources relating to this Resolution refer to the original version, which cannot be clearly transformed into the standard formatting used for other Resolutions. Any change to reformat would create too much confusion.

Amendments are recommended for the formatting descriptions: “parts” and “paragraphs” are used rather than “sections” and “points” shown in the original text.

#### PREAMBLE

Amendments are suggested for some paragraphs to reflect the scope of “IUU fishing ‘activities’”, consistent with the text of the Resolution, the draft Glossary and Resolution 18/03.

#### PARAGRAPHS

**18.4** This paragraph requires IOTC CPCs to “cooperate to establish appropriate funding mechanisms to assist CPCs developing States in the implementation of this Resolution. These mechanisms shall, inter alia, be directed specifically towards”.... (c) “listing” CPC developing States with the costs involved in any proceedings for the settlement of disputes that result from actions they have taken pursuant to this Resolution”.

It is recommended to amend “listing” to “assisting”.

#### ANNEXES

**ANNEX IV - Information systems on port State measures:** This Annex is appended to the Resolution, but there is no reference to it in the text. It is recommended to delete the Annex and renumber Annex V to Annex IV.

**Commented [A211]:** JPN

Finding appropriate places for referencing these annexes would be better than simply deleting these annexes.

#### MCS

WORKSHOP DISCUSSION	
(a) <b>Key findings</b>	<ul style="list-style-type: none"> <li>• Scope and modalities of the resolution are broad, consistent and largely complete.</li> <li>• ePSM use not yet mandatory data submissions, authorizations, etc.</li> <li>• Transhipments in port not covered.</li> <li>• Pre-licensing inspections of thirdparty vessels not provided.</li> <li>• Regulatory inconsistency regarding.</li> <li>• NCP inspection levels.</li> <li>• Landings data collection not specified.</li> </ul>
(b) <b>Proposed actions</b>	<ul style="list-style-type: none"> <li>• ePSM formally established as data submission portal (AREP, PIR, etc.).</li> <li>• Data submission of landings data now part of this CMM – to be phased out once ePSM-based realtime landing submissions are operational.</li> <li>• Rules for transhipment in port developed.</li> <li>• Transhipment declaration.</li> </ul>

	<ul style="list-style-type: none"> <li>• (Annex VI)<sup>1</sup> revised.</li> <li>• NCP inspections to 100%.</li> <li>• Third-party vessel inspections (min. every two years).</li> <li>• The use of non-CPC ports by active fishing vessels is forthwith prohibited.</li> </ul>
(c) <b>Points discussed during the Workshop</b>	<ul style="list-style-type: none"> <li>• The proposal to prohibit the use of non-CPC ports by authorised fishing vessels was considered to be too restrictive, and more thoughts on how to achieve this would be required.</li> </ul>
<b>WPICMM02 RECOMMENDATION</b>	Continue the discussion on the prohibition of the use of non-CPC ports by authorised vessels.

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

<sup>1</sup> The notes from the Workshop show Annex VI, but there is no Annex VI, perhaps it refers to Annex IV which is appended but not referenced in the text of the Resolution.



## The Indian Ocean Tuna Commission (IOTC),

DEEPLY CONCERNED about the continuation of illegal, unreported and unregulated fishing activities in the IOTC Area of competence and its detrimental effect upon fish stocks, marine ecosystems and the livelihoods of legitimate fishers in particular in Small Island Developing States, and the increasing need for food security in the region;

CONSCIOUS of the role of the port State in the adoption of effective measures to promote the sustainable use and the long-term conservation of living marine resources;

RECOGNISING that measures to combat illegal, unreported and unregulated fishing should build on the primary responsibility of flag States and use all available jurisdiction in accordance with international law, including port State measures, coastal State measures, market related measures and measures to ensure that nationals do not support or engage in illegal, unreported and unregulated fishing activities;

RECOGNISING that port State measures provide a powerful and cost-effective means of preventing, deterring and eliminating illegal, unreported and unregulated fishing activities;

AWARE of the need for increasing coordination at the regional and interregional levels to combat illegal, unreported and unregulated fishing activities through port State measures;

RECOGNISING the need for assistance to developing countries, in particular Small Island Developing States to adopt and implement port State measures;

TAKING NOTE OF the binding FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing ~~combat IUU fishing~~ which was adopted and opened for signature within the framework of FAO in November 2009 and entered into force in June 2009, and desiring to implement this Agreement in an efficient manner in the IOTC Area of competence;

BEARING IN MIND that, in the exercise of their sovereignty over ports located in their territory, IOTC Contracting Parties and Cooperating Non-Contracting Parties (CPCs) may adopt more stringent measures, in accordance with international law;

RECALLING the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982, hereinafter referred to as (the Convention);

RECALLING the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 December 1995, the Agreement to Promote Compliance with International Conservation and Management Resolutions by Fishing Vessels on the High Seas of 24 November 1993 and the 1995 FAO Code of Conduct for Responsible Fisheries;

RECOGNISING recent achievements in developing a computerised communication system as provided ~~for~~ in Annex IV of Resolution 10/11 [superseded by this Resolution-16/44] *On port State measures to prevent, deter and eliminate illegal, unreported and unregulated fishing* referred to in this Resolution as the e-PSM (electronic port State measures) (e-PSM) application and the delivery of national training programme on the usage of this application;

ENSURING the uptake and gradual transition to full utilisation of the e-PSM application designed to facilitate compliance with this resolution;

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

## PART 1

### GENERAL PROVISIONS

#### 1. Use of terms

For the purposes of this Resolution:

- a) “fish” means all species of highly migratory fish stocks covered by the IOTC Agreement;

**Commented [A212]:** MDV:  
Suggest introducing acronym “IUU” here and use it consistently below.

**Commented [A213]:** JPN  
2016

**Commented [A214]:** MDV:  
Previously, “UNCLOS” was being used.

- b) “fishing” means searching for, attracting, locating, catching, taking or harvesting fish or any activity which can reasonably be expected to result in the attracting, locating, catching, taking or harvesting of fish;
- c) “fishing related activities” means any operation in support of, or in preparation for, fishing, including the landing, packaging, processing, transshipping or transporting of fish that have not been previously landed at a port, as well as the provisioning of personnel, fuel, gear and other supplies at sea;
- d) “illegal, unreported and unregulated fishing” refers to the activities set out in paragraph 1 of ~~the~~ Resolution ~~18/03/09/03~~ ~~[superseded by Resolution 11/03, 17/03 then 18/03]~~;
- e) “port” includes offshore terminals and other installations for landing, transshipping, packaging, processing, refuelling or resupplying; and
- f) “vessel” means any vessel, ship of another type or boat used for, equipped to be used for, or intended to be used for, fishing or fishing related activities.

## 2. Objective

The objective of this Resolution is to prevent, deter and eliminate IUU fishing through the implementation of effective port State measures to control the harvest of fish caught in the IOTC Area, and thereby to ensure the long-term conservation and sustainable use of these resources and marine ecosystems.

## 3. Application

- 3.1. Each CPC shall, in its capacity as a port State, apply this Resolution in respect of vessels not entitled to fly its flag that are seeking entry to its ports or are in one of its ports, except for:
  - a) vessels of a neighbouring State that are engaged in artisanal fishing for subsistence, provided that the port State and the flag State cooperate to ensure that such vessels do not engage in IUU fishing or fishing related activities in support of such fishing; and
  - b) container vessels that are not carrying fish or, if carrying fish, only fish that have been previously landed, provided that there are no clear grounds for suspecting that such vessels have engaged in fishing related activities in support of IUU fishing.
- 3.2. This Resolution shall be applied in a fair, transparent and non-discriminatory manner, consistent with international law.
- 3.3. Each CPC may utilise the e-PSM system, available ~~via~~ on the IOTC website, to implement this Resolution. A trial period of three years from 2016 will be provided to allow for the delivery of a complete training programme and further improvement and development. CPCs shall encourage all stakeholders (vessel representatives, port States and flag States) to utilise, to the greatest extent possible, the e-PSM application to comply with this Resolution and provide feedback and inputs contributing to its development until 1<sup>st</sup> January 2020. At the sixteenth session of the IOTC Compliance Committee the success of this application shall be evaluated and consideration shall be given to making the use of this application mandatory and defining a period for implementation. After this date the possibility to submit an advance request for port entry manually in accordance with ~~paragraph~~Article 6 will remain, should access to the Internet not be possible for any reason.

## 4. Integration and coordination at the national level

Each CPC shall, to the greatest extent possible:

- a) integrate or coordinate fisheries related port State measures with the broader system of port State controls;
- b) integrate port State measures with other measures to prevent, deter and eliminate IUU fishing and fishing related activities in support of such fishing, taking into account as appropriate the 2001 FAO

International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing; and

- c) take measures to exchange information among relevant national agencies and to coordinate the activities of such agencies in the implementation of this Conservation and Management Resolution.

## PART 2

### ENTRY INTO PORT

#### 5. *Designation of ports*

- 5.1. Each CPC shall designate and publicise the ports to which vessels may request entry pursuant to this Resolution. Each CPC shall provide a list of its designated ports to IOTC Secretariat before 31 December 2010, which shall give it due publicity on the IOTC website.
- 5.2. Each CPC shall, to the greatest extent possible, ensure that every port designated and publicised in accordance with point 5.1 has sufficient capacity to conduct inspections pursuant to this Resolution.

#### 6. *Advance request for port entry*

- 6.1. Each CPC shall require the information requested in **Annex I** to be provided before granting entry to a vessel to its port.
- 6.2. Each CPC shall require the information referred to in point 6.1 to be provided at least 24 hours before entering into port or immediately after the end of the fishing operations, if the time distance to the port is less than 24 hours. For the latter, the port State must have enough time to examine the above mentioned information.

#### 7. *Port entry, authorisation or denial*

- 7.1. After receiving the relevant information required pursuant to section 6, as well as such other information as it may require to determine whether the vessel requesting entry into its port has engaged in IUU fishing or fishing related activities in support of such fishing, each CPC shall decide whether to authorise or deny the entry of the vessel into its port and shall communicate this decision to the vessel or to its representative.
- 7.2. In the case of authorisation of entry, the master of the vessel or the vessel's representative shall be required to present the authorisation for entry to the competent authorities of the CPC upon the vessel's arrival at port.
- 7.3. In the case of denial of entry, each CPC shall communicate its decision taken pursuant to [paragraph 7.1](#), to the flag State of the vessel and, as appropriate and to the extent possible, relevant coastal States and IOTC Secretariat. The IOTC Secretariat may, if deemed appropriate to combat IUU fishing at global level, communicate this decision to [the](#) secretariats of other [regional fisheries management organisations](#) ~~RFMO's~~.
- 7.4. Without prejudice to ~~point~~[paragraph 7.1](#), when a CPC has sufficient proof that a vessel seeking entry into its port has engaged in IUU fishing or fishing related activities in support of such fishing, in particular the inclusion of a vessel on a list of vessels having engaged in such fishing or fishing related activities adopted by a regional fisheries management organisation in accordance with the rules and procedures of such organisation and in conformity with international law, the CPC shall deny that vessel entry into its ports.
- 7.5. Notwithstanding ~~points~~[paragraphs 7.3 and 7.4](#), a CPC may allow entry into its ports of a vessel referred to in those points exclusively for the purpose of inspecting it and taking other appropriate actions in

conformity with international law which are at least as effective as denial of port entry in preventing, deterring and eliminating IUU fishing and fishing related activities in support of such fishing.

- 7.6. Where a vessel referred to in ~~paragraphs~~<sup>points</sup> 7.4 or 7.5 is in port for any reason, a CPC shall deny such vessel the use of its ports for landing, transshipping, packaging, and processing of fish and for other port services including, *inter alia*, refuelling and resupplying, maintenance and drydocking. ~~paragraphs~~<sup>Points</sup> 9.2 and 9.3 of section 9 apply *mutatis mutandis* in such cases. Denial of such use of ports shall be in conformity with international law.

8. *Force majeure or distress*

Nothing in this Resolution affects the entry of vessels to port in accordance with international law for reasons of *force majeure* or distress, or prevents a port State from permitting entry into port to a vessel exclusively for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

### PART 3 USE OF PORTS

9. *Use of ports*

- 9.1. Where a vessel has entered one of its ports, a CPC shall deny, pursuant to its laws and regulations and consistent with international law, including this Conservation and Management ~~Measure~~<sup>Resolution</sup>, that vessel the use of the port for landing, transshipping, packaging and processing of fish that have not been previously landed and for other port services, including, *inter alia*, refuelling and resupplying, maintenance and drydocking, if:

- a) the CPC finds that the vessel does not have a valid and applicable authorisation to engage in fishing or fishing related activities required by its flag State;
- b) the CPC finds that the vessel does not have a valid and applicable authorisation to engage in fishing or fishing related activities required by a coastal State in respect of areas under the national jurisdiction of that State;
- c) the CPC receives clear evidence that the fish on board was taken in contravention of applicable requirements of a coastal State in respect of areas under the national jurisdiction of that State;
- d) the flag State does not confirm within a reasonable period of time, on the request of the port State, that the fish on board was taken in accordance with applicable requirements of a relevant regional fisheries management organisation; or
- e) the CPC has reasonable grounds to believe that the vessel was otherwise engaged in IUU fishing or fishing related activities in support of such fishing, including in support of a vessel referred to in ~~paragraph~~<sup>point</sup> 7.4, unless the vessel can establish:
  - i. that it was acting in a manner consistent with relevant IOTC Resolutions; or
  - ii. in the case of provision of personnel, fuel, gear and other supplies at sea, that the vessel that was provisioned was not, at the time of provisioning, a vessel referred to in ~~paragraph~~<sup>point 4 of paragraph</sup> 7.4.

- 9.2. Notwithstanding ~~point~~<sup>paragraph</sup> 9.1, a CPC shall not deny a vessel referred to in that ~~paragraph~~<sup>point</sup> the use of port services:

- a) essential to the safety or health of the crew or the safety of the vessel, provided these needs are duly proven; or
- b) where appropriate, for the scrapping of the vessel.

- 9.3. Where a CPC has denied the use of its port in accordance with this paragraph, it shall promptly notify the flag State and, as appropriate, relevant coastal States, IOTC or other regional fisheries management organisations and other relevant international organisations of its decision.
- 9.4. A CPC shall withdraw its denial of the use of its port pursuant to ~~paragraph point~~ 9.1 in respect of a vessel only if there is sufficient proof that the grounds on which use was denied were inadequate or erroneous or that such grounds no longer apply.
- 9.5. Where a CPC has withdrawn its denial pursuant to ~~paragraph point~~ 9.4, it shall promptly notify those to whom a notification was issued pursuant to ~~paragraph point~~ 9.3.

#### PART 4

#### INSPECTIONS AND FOLLOW-UP ACTIONS

##### 10. *Levels and priorities for inspection*

- 10.1. Each CPC shall carry out inspections of at least 5% of landings or transshipments in its ports during each reporting year.
- 10.2. Inspections shall involve the monitoring of the entire discharge or transshipment and include a cross-check between the quantities by species recorded in the prior notice of landing and the quantities by species landed or transhipped. When the landing or transshipment is completed, the inspector shall verify and note the quantities by species of fish remaining on board.
- 10.3. National inspectors shall make all possible efforts to avoid unduly delaying a vessel and ensure that the vessel suffers the minimum interference and inconvenience and that degradation of the quality of the fish is avoided.
- 10.4. The port CPC may invite inspectors of other CPC to accompany their own inspectors and observe the inspection of landings or transshipment operations of fishery resources caught by fishing vessels flying the flag of another CPC.

##### 11. *Conduct of inspections*

- 11.1. Each CPC shall ensure that its inspectors carry out the functions ~~provided set forth~~ in **Annex II** as a minimum standard.
- 11.2. Each CPC shall, in carrying out inspections in its ports:
- ensure that inspections are carried out by properly qualified inspectors authorised for that purpose, having regard in particular to ~~section-part~~ 14;
  - ensure that, prior to an inspection, inspectors are required to present to the master of the vessel an appropriate document identifying the inspectors as such;
  - ensure that inspectors examine all relevant areas of the vessel, the fish on board, the nets and any other gear, equipment, and any document or record on board that is relevant to verifying compliance with relevant Conservation and Management ~~Measures~~ **Resolutions**;
  - require the master of the vessel to give inspectors all necessary assistance and information, and to present relevant material and documents as may be required, or certified copies thereof;
  - in case of appropriate arrangements with the flag State of the vessel, invite the flag State to participate in the inspection;

- f) make all possible efforts to avoid unduly delaying the vessel to minimise interference and inconvenience, including any unnecessary presence of inspectors on board, and to avoid action that would adversely affect the quality of the fish on board;
- g) make all possible efforts to facilitate communication with the master or senior crew members of the vessel, including where possible and where needed that the inspector is accompanied by an interpreter;
- h) ensure that inspections are conducted in a fair, transparent and non-discriminatory manner and would not constitute harassment of any vessel; and
- i) not interfere with the master's ability, in conformity with international law, to communicate with the authorities of the flag State.

12. *Results of inspections*

Each CPC shall, as a minimum standard, include the information set out in **Annex III** in the written report of the results of each inspection.

13. *Transmittal of inspection results*

13.1. The port State CPC shall, within three full working days of the completion of the inspection, transmit by electronic means a copy of the inspection report and, upon request, an original or a certified copy thereof, to the master of the inspected vessel, to the flag State, to the IOTC Secretariat and, as appropriate, to:

- a) the flag State of any vessel that transhipped catch to the inspected vessel;
- b) the relevant CPCs and States, including those States for which there is evidence through inspection that the vessel has engaged in IUU fishing, or fishing related activities in support of such fishing, within waters under their national jurisdiction; and
- c) the State of which the vessel's master is a national.

13.2. The IOTC Secretariat shall without delay transmit the inspection reports to the relevant regional fisheries management organisations, and post the inspection report on the IOTC website.

14. *Training of inspectors*

Each CPC shall ensure that its inspectors are properly trained taking into account the guidelines for the training of inspectors in **Annex IV**. CPCs shall seek to cooperate in this regard.

15. *Port State actions following inspection*

15.1. Where, following an inspection, there are clear grounds for believing that a vessel has engaged in IUU fishing or fishing related activities in support of such fishing, the inspecting CPC shall:

- a) promptly notify the flag State, the IOTC Secretariat and, as appropriate, relevant coastal States, and other regional fisheries management organisations, and the State of which the vessel's master is a national of its findings; and
- b) deny the vessel the use of its port for landing, transhipping, packaging and processing of fish that have not been previously landed and for other port services, including, *inter alia*, refuelling and resupplying, maintenance and drydocking, if these actions have not already been taken in respect of the vessel, in a manner consistent with this Conservation and Management Resolution.

15.2. Notwithstanding ~~paragraph point~~ 15.1, a CPC shall not deny a vessel referred to in that ~~paragraph point~~ the use of port services essential for the safety or health of the crew or the safety of the vessel.

- 15.3. Nothing in this Resolution prevents a CPC from taking measures that are in conformity with international law in addition to those specified in ~~paragraphs~~<sup>points</sup> 15.1 and 15.2, including such measures as the flag State of the vessel has expressly requested or to which it has consented.

16. *Information on recourse in the port State*

- 16.1. A CPC shall maintain the relevant information available to the public and provide such information, upon written request, to the owner, operator, master or representative of a vessel with regard to any recourse established in accordance with its national laws and regulations concerning port State measures taken by that CPC pursuant to ~~sections~~<sup>parts</sup> 7, 9, 11 or 15, including information pertaining to the public services or judicial institutions available for this purpose, as well as information on whether there is any right to seek compensation in accordance with its national laws and regulations in the event of any loss or damage suffered as a consequence of any alleged unlawful action by the CPC.
- 16.2. The CPC shall inform the flag State, the owner, operator, master or representative, as appropriate, of the outcome of any such recourse. Where other Parties, States or international organisations have been informed of the prior decision pursuant to ~~sections~~<sup>parts</sup> 7, 9, 11 or 15, the CPC shall inform them of any change in its decision.

## PART 5

### ROLE OF FLAG STATES

17. *Role of CPCs flag States*

- 17.1. Each CPCs shall require the vessels entitled to fly its flag to cooperate with the port State in inspections carried out pursuant to this Resolution.
- 17.2. When a CPC has clear grounds to believe that a vessel entitled to fly its flag has engaged in IUU fishing or fishing related activities in support of such fishing and is seeking entry to or is in the port of another State, it shall, as appropriate, request that State to inspect the vessel or to take other measures consistent with this Resolution.
- 17.3. Each CPC shall encourage vessels entitled to fly its flag to land, tranship, package and process fish, and use other port services, in ports of States that are acting in accordance with, or in a manner consistent with this Resolution. CPCs are encouraged to develop fair, transparent and non-discriminatory procedures for identifying any State that may not be acting in accordance with, or in a manner consistent with, this Resolution.
- 17.4. Where, following port State inspection, a flag State CPC receives an inspection report indicating that there are clear grounds to believe that a vessel entitled to fly its flag has engaged in IUU fishing or fishing related activities in support of such fishing, it shall immediately and fully investigate the matter and shall, upon sufficient evidence, take enforcement action without delay in accordance with its laws and regulations.
- 17.5. Each CPC shall, in its capacity as a flag State, report to other CPCs, relevant port States and, as appropriate, other relevant States, regional fisheries management organisations and FAO on actions it has taken in respect of vessels entitled to fly its flag that, as a result of port State measures taken pursuant to this Resolution, have been determined to have engaged in IUU fishing or fishing related activities in support of such fishing.
- 17.6. Each CPC shall ensure that measures applied to vessels entitled to fly its flag are at least as effective in preventing, deterring, and eliminating IUU fishing and fishing related activities in support of such fishing as measures applied to vessels referred to in ~~paragraph~~<sup>point</sup> 3.1.

## PART 6



## REQUIREMENTS OF DEVELOPING STATES

### 18. *Requirements of developing States*

- 18.1. CPCs shall give full recognition to the special requirements of CPCs developing States in relation to the implementation of this Resolution. To this end, IOTC should provide assistance to CPCs developing States in order to, *inter alia*:
  - a) enhance their ability, in particular the least-developed among them and small island developing States, to develop a legal basis and capacity for the implementation of effective port State measures;
  - b) facilitate their participation in any international organisations that promote the effective development and implementation of port State measures; and
  - c) facilitate technical assistance to strengthen the development and implementation of port State measures by them, in coordination with relevant international mechanisms.
- 18.2. IOTC shall give due regard to the special requirements of developing CPCs port States, in particular the least-developed among them and small island developing States, to ensure that a disproportionate burden resulting from the implementation of this Resolution is not transferred directly or indirectly to them. In cases where the transfer of a disproportionate burden has been demonstrated, CPCs shall cooperate to facilitate the implementation by the relevant CPCs developing States of specific obligations under this Resolution.
- 18.3. IOTC shall assess the special requirements of CPCs developing States concerning the implementation of this Resolution.
- 18.4. IOTC CPCs shall cooperate to establish appropriate funding mechanisms to assist CPCs developing States in the implementation of this Resolution. These mechanisms shall, *inter alia*, be directed specifically towards:
  - a) developing and enhancing capacity, including for monitoring, control and surveillance and for training at the national and regional levels of port managers, inspectors, and enforcement and legal personnel;
  - b) monitoring, control, surveillance and compliance activities relevant to port State measures, including access to technology and equipment; and
  - c) assisting CPCs developing States with the costs involved in any proceedings for the settlement of disputes that result from actions they have taken pursuant to this Resolution.

**Commented [A215]:** EU:  
OK. 'Listing' in this context did not make sense for us. Assisting corresponds better to the French version.

## PART 7

### DUTIES OF THE IOTC SECRETARIAT

#### 19. *Duties of the IOTC Secretariat*

- 19.1. The IOTC Secretariat shall without delay post on the IOTC website:
  - a) the list of designated ports;
  - b) the prior notification periods established by each CPC;
  - c) the information about the designated competent authority in each port State CPC;
  - d) the blank copy of the IOTC Port inspection report form.



- 19.2. The IOTC Secretariat shall without delay post on the secure part of the IOTC website copies of all ~~P~~port inspection reports transmitted by port State CPCs.
- 19.3. All forms related to a specific landing or transshipment shall be posted together.
- 19.4. The IOTC Secretariat shall without delay transmit the inspection reports to the relevant regional fisheries management organisations.
20. This Resolution shall be applied to CPCs' ports within the IOTC area of competence. The CPCs situated outside the IOTC area of competence shall endeavour to apply this Resolution.
21. This Resolution supersedes Resolution 10/11 *on Port State Measures to prevent, deter and eliminate illegal, unreported and unregulated fishing*.

Conservation and Management Measures linked to Resolution 16/11 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 18/03</a>		<a href="#">Resolution 16/03</a>	

## ANNEX I

### Information to be provided in advance by vessels requesting port entry

1. Intended port of call									
2. Port State									
3. Estimated date and time of arrival									
4. Purpose(s)									
5. Port and date of last port call									
6. Name of the vessel									
7. Flag State									
8. Type of vessel									
9. International Radio Call Sign									
10. Vessel contact information									
11. Vessel owner(s)									
12. Certificate of registry ID									
13. IMO ship ID, if available									
14. External ID, if available									
15. IOTC ID									
16. VMS		No		Yes: National		Yes: RFMO(s)		Type:	
17. Vessel dimensions		Length		Beam		Draft			
18. Vessel master name and nationality									
19. Relevant fishing authorization(s)									
Identifier	Issued by	Validity	Fishing area(s)	Species	Gear				
20. Relevant transshipment authorization(s)									
Identifier	Issued by	Validity							
Identifier	Issued by	Validity							
21. Transshipment information concerning donor vessels									
Date	Location	Name	Flag State	ID	Species	Product	Catch area	Quantity	
22. Total catch onboard							23. Catch to be offloaded		
Species	Product form	Catch area	Quantity		Quantity				

## ANNEX II

### Port State inspection procedures

Inspectors shall:

- a) verify, to the extent possible, that the vessel identification documentation onboard and information relating to the owner of the vessel is true, complete and correct, including through appropriate contacts with the flag State or international records of vessels if necessary;
- b) verify that the vessel's flag and markings (e.g. name, external registration number, International Maritime Organization (IMO) ship identification number, international radio call sign and other markings, main dimensions) are consistent with information contained in the documentation;
- c) verify, to the extent possible, that the authorizations for fishing and fishing related activities are true, complete, correct and consistent with the information provided in accordance with Annex 1;
- d) review all other relevant documentation and records held onboard, including, to the extent possible, those in electronic format and vessel monitoring system (VMS) data from the flag State or IOTC Secretariat or other relevant regional fisheries management organizations (RFMOs). Relevant documentation may include logbooks, catch, transshipment and trade documents, crew lists, stowage plans and drawings, descriptions of fish holds, and documents required pursuant to the Convention on International Trade in Endangered Species of Wild Fauna and Flora;
- e) examine, to the extent possible, all relevant fishing gear onboard, including any gear stowed out of sight as well as related devices, and to the extent possible, verify that they are in conformity with the conditions of the authorizations. The fishing gear shall, to the extent possible, also be checked to ensure that features such as the mesh and twine size, devices and attachments, dimensions and configuration of nets, pots, dredges, hook sizes and numbers are in conformity with applicable regulations and that the markings correspond to those authorized for the vessel;
- f) determine, to the extent possible, whether the fish on board was harvested in accordance with the applicable authorizations;
- g) examine the fish, including by sampling, to determine its quantity and composition. In doing so, inspectors may open containers where the fish has been pre-packed and move the catch or containers to ascertain the integrity of fish holds. Such examination may include inspections of product type and determination of nominal weight;
- h) evaluate whether there is clear evidence for believing that a vessel has engaged in IUU fishing or fishing related activities in support of such fishing;
- i) provide the master of the vessel with the report containing the result of the inspection, including possible measures that could be taken, to be signed by the inspector and the master. The master's signature on the report shall serve only as acknowledgment of the receipt of a copy of the report. The master shall be given the opportunity to add any comments or objection to the report, and, as appropriate, to contact the relevant authorities of the flag State in particular where the master has serious difficulties in understanding the content of the report. A copy of the report shall be provided to the master; and
- j) arrange, where necessary and possible, for translation of relevant documentation.

### ANNEX III

#### IOTC Port inspection report form

1. Inspection report no		2. Port State	
3. Inspecting authority			
4. Name of principal inspector		ID	
5. Port of inspection			
6. Commencement of inspection		YYYY	MM DD HH
7. Completion of inspection		YYYY	MM DD HH
8. Advanced notification received		Yes	No
9. Purpose(s)	LAN	TRX	PRO OTH (specify)
10. Port and State and date of last port call		YYYY	MM DD
11. Vessel name			
12. Flag State			
13. Type of vessel			
14. International Radio Call Sign			
15. Certificate of registry ID			
16. IMO ship ID, if available			
17. External ID, if available			
18. Port of registry			
19. Vessel owner(s)			
20. Vessel beneficial owner(s), if known and different from vessel owner			
21. Vessel operator(s), if different from vessel owner			
22. Vessel master name and nationality			
23. Fishing master name and nationality			
24. Vessel agent			
25. VMS	No	Yes: National	Yes: RFMOs Type:
26. Status in IOTC, including any IUU vessel listing			
Vessel identifier	RFMO	Flag State status	Vessel on authorised vessel list Vessel on IUU vessel list
27. Relevant fishing authorisation(s)			
Identifier	Issued by	Validity	Fishing area(s) Species Gear
28. Relevant transshipment authorisation(s)			
Identifier	Issued by	Validity	
Identifier	Issued by	Validity	
29. Transshipment information concerning donor vessels			
Name	Flag State	ID no	Species Product form Catch area(s) Quantity

30. Evaluation of offloaded catch (quantity)					
Species	Product form	Catch area(s)	Quantity declared	Quantity offloaded	Difference between quantity declared and quantity determined, if any
31. Catch retained onboard (quantity)					
Species	Product form	Catch area(s)	Quantity declared	Quantity retained	Difference between quantity declared and quantity determined, if any
32. Examination of logbook(s) and other documentation			Yes	No	Comments
33. Compliance with applicable catch documentation scheme(s)			Yes	No	Comments
34. Compliance with applicable trade information scheme(s)			Yes	No	Comments
35. Type of gear used					
36. Gear examined in accordance with paragraph e) of Annex II		Yes	No	Comments	
37. Findings by inspector(s)					
38. Apparent infringement(s) noted including reference to relevant legal instrument(s)					
39. Comments by the master					
40. Action taken					

41. Master's signature
42. Inspector's signature

**ANNEX IV**

**Information systems on port State measures**

In implementing this Conservation and Management Resolution, each CPC shall:

- a) seek to establish computerised communication;
- b) establish, to the extent possible, websites to publicise the list of ports designated in accordance with point 5.1 and the actions taken in accordance with the relevant provisions of this Conservation and Management Resolution;
- e) identify, to the greatest extent possible, each inspection report by a unique reference number starting with 3-alpha code of the port State and identification of the issuing agency;
- d) utilise, to the extent possible, the international coding system below in Annexes I and III and translate any other coding system into the international system:

countries/territories: ISO 3166 3 alpha Country Code

species: ASFIS 3 alpha code (known as FAO 3 alpha code)

vessel types: ISSCFV code (known as FAO alpha code)

gear types: ISSCFG code (known as FAO alpha code)

**Commented [A216]: JPN**

Finding appropriate places for referencing these annexes would be better than simply deleting these annexes.

**Commented [A217]: AUS**

Australia does not agree with the deletion of this annex.

**Commented [A218]: EU:**

No. But we would be in favour of finding a para in the text to refer to this annex.

**ANNEX IV****Guidelines for the training of inspectors**

Elements of a training programme for port State inspectors should include at least the following areas:

1. Ethics;
2. Health, safety and security issues;
3. Applicable national laws and regulations, areas of competence and Conservation and Management Resolutions of the IOTC, and applicable international law;
4. Collection, evaluation and preservation of evidence;
5. General inspection procedures such as report writing and interview techniques;
6. Analysis of information, such as logbooks, electronic documentation and vessel history (name, ownership and flag State), required for the validation of information given by the master of the vessel;
7. Vessel boarding and inspection, including hold inspections and calculation of vessel hold volumes;
8. Verification and validation of information related to landings, transshipments, processing and fish remaining onboard, including utilising conversion factors for the various species and products;
9. Identification of fish species, and the measurement of length and other biological parameters;
10. Identification of vessels and gear, and techniques for the inspection and measurement of gear;
11. Equipment and operation of VMS and other electronic tracking systems; and
12. Actions to be taken following an inspection.

**Commented [A219]:** EU:  
No



**ACTIVE CMMs ADOPTED AT THE NINETEENTH SESSION OF THE IOTC**

**2015**

## RESOLUTION 15/01

### ON THE RECORDING OF CATCH AND EFFORT DATA BY FISHING VESSELS IN THE IOTC AREA OF COMPETENCE

**Keywords:** ~~d~~Data recording; logbook; purse seine; longline; gillnet; pole and line; handline; trolling; fishing vessels.

#### EXPLANATORY NOTES

##### PREAMBLE

**Paragraphs 7 and 8.** The reference to deliberations “recommending” or “proposing” is inaccurate; it is the meeting that recommends / proposes, not the deliberations. The latter only refers to discussions, and should not be used in this context. Some clarification to paragraph 7 was needed to indicate that the options were proposed for consideration by the Commission.

##### PARAGRAPHS

**2.** An amendment is proposed to require CPCs to apply the measure to its flag vessels. The last sentence in this paragraph (“The vessels of less than 24 metres operating within the EEZ of developed CPCs shall apply this measure”) has been added to the earlier requirements for clarity, and this should be reviewed for technical accuracy.

CPCs shall apply this measure to all purse seine, longline, gillnet, pole and line, handline and trolling flag vessels 24 metres length overall or above and those less than 24 metres in length overall if they engage in fishing outside the exclusive economic zones (EEZs) of their flag States *or within the EEZs of developed CPCs within the IOTC area of competence.*

Proposed amendments also reflect the language in the draft Glossary describing vessel length.

##### ANNEXES

The numbering formatting of the headings in Annexes I, II and III was amended from 1.1, 1.2 etc to 1, 2, 3. The numbering was amended in Annexes II and III to be sequential. These formatting amendments are not shown in track changes. In general a different style was accepted [1, 1, (a) rather than 1(a)(i)] in order to align as much as possible with the original Annexes.

##### MCS

WORKSHOP DISCUSSION	
(a) <b>Key findings</b>	<ul style="list-style-type: none"> <li>• Logbook templates hosted on IOTC website – best practice</li> <li>• MCS dimension largely overseen in</li> <li>• CMM</li> <li>• Logbook up-keeping rules not provided</li> <li>• Production logbook and stowage plan not provided</li> <li>• Submission periods not specified</li> <li>• Mandatory landings declaration do not exist</li> <li>• No link to CMM 15/02 (Mandatory statistical reporting requirements)</li> </ul>
(b) <b>Proposed actions</b>	<ul style="list-style-type: none"> <li>• CMM to be renamed “Recording and reporting...”</li> <li>• Logbook data (copy) to be kept on-board for 12 month period</li> <li>• Logbook updating rules added</li> <li>• Production logbook defined</li> <li>• Stowage plan defined</li> <li>• Landing declaration instituted, including submission to FS, PS and IOTC</li> <li>• IOTC tasked with developing ePSM routine for landing declaration submission</li> </ul>

(c) <b>Points discussed during the Workshop</b>	<ul style="list-style-type: none"> <li>• There was agreement that “production logbook” and “stowage plan” for carrier vessels (or for other types of vessels) to be better regulated and logbook updating rules should be added.</li> <li>• There was also agreement for instituting landing declarations, including submissions to flag State, port State and IOTC Secretariat.</li> </ul>
<b>WPICMM02 RECOMMENDATION</b>	<ul style="list-style-type: none"> <li>• That “production logbook” and “stowage plan” for carrier vessels (or for other types of vessels) be better regulated and logbook updating rules be added.</li> <li>• To institute landing declarations, including submissions to flag State, port State and Secretariat.</li> </ul>

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

#### The Indian Ocean Tuna Commission (IOTC),

RECALLING the commitment made by Contracting Parties under Article V of the IOTC Agreement to keep under review the conditions and trends of the stocks and to gather, analyse and disseminate scientific information, catch and effort statistics and other data relevant to the conservation and management of the stocks and to fisheries based on the stocks covered by the Agreement;

CONSIDERING the provisions ~~set forth in~~ [Resolution 15/02 On mandatory statistical reporting requirements for IOTC Contracting Parties and Cooperating Non-Contracting Parties \(CPCs\)](#) ~~(or any subsequent superseding Resolution)~~, and in particular paragraph 4, which sets out the catch and effort reporting requirements for surface fisheries, longline and coastal fisheries;

ACKNOWLEDGING that the IOTC Scientific Committee has repeatedly stressed the importance of the timeliness and accuracy of data submissions for ~~CPCs~~ [Members](#);

ALSO RECALLING the outcomes of the 9<sup>th</sup> Session of the IOTC Scientific Committee held in Victoria, Seychelles from 6 to 10 November 2006 where it was agreed that a standardised logbook would be advantageous and ~~agreed on~~ the minimum requirements ~~were agreed~~ for all purse seine and bait boat fleets operating in the IOTC area of competence in order to harmonise data gathering and provide a common basis for scientific analysis for all ~~IOTC Contracting Parties and Cooperating Non-Contracting Parties (CPCs)~~;

FURTHER RECALLING the recommendations adopted by the [International Workshop on Tuna RFMO Management of Issues Relating to Bycatch \(Kobe II Bycatch Workshop\)](#) ~~KOBE II Workshop on Bycatch~~, held in Brisbane, Australia, 23–25 June 2010; in particular that RFMOs should consider adopting standards for bycatch data collection which, at a minimum, allows the data to contribute to the assessment of bycatch species population status and evaluation of the effectiveness of bycatch measures, and that the data should allow the RFMOs to assess the level of interaction of the fisheries with bycatch species;

FURTHER CONSIDERING the work of the small task force created by the IOTC Scientific Committee during its 10<sup>th</sup> Session held in Seychelles in November 2007, to harmonise the various forms currently used by the fleets and the IOTC Scientific Committee agreement on the minimum standard requirements for all purse seine, longline and gillnet fleets as well as the produced logbook template;

FURTHER CONSIDERING ~~that deliberations of~~ the 13<sup>th</sup> Session of the IOTC Scientific Committee held in Victoria, Seychelles from 6 to 10 December 2010, ~~that recommended~~ [for consideration by the Commission](#) three options [to improve the data collection and statistics on sharks in the IOTC area of competence](#), one of which ~~was~~ mandatory reporting of a revised list of shark species in logbooks ~~to improve the data collection and statistics on sharks in the IOTC area of competence~~;

FURTHER CONSIDERING ~~that deliberations of~~ the 14<sup>th</sup> Session of the IOTC Scientific Committee held in Mahé, Seychelles from 12 to 17 December 2011, ~~that proposed~~ a list of shark species for all gears and recommended minimum recording requirements for handline and trolling gears in the IOTC area of competence;

FURTHER CONSIDERING the recommendations of the 17<sup>th</sup> Session of the IOTC Scientific Committee referring to bycatch;

FURTHER CONSIDERING the call upon States, either individually, collectively or through regional fisheries management organisations and arrangements included in the United Nations General Assembly Resolution 67/79 on [Sustainable fisheries](#) to collect the necessary data in order to evaluate and closely monitor the use of large-scale fish aggregating devices and others, as appropriate, and their effects on tuna resources and tuna behaviour and associated and dependent species, to improve management procedures to monitor the number, type and use of such devices and to mitigate possible negative effects on the ecosystem, including on juveniles and the incidental bycatch of non-target species, particularly sharks and turtles;

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

1. Each flag CPC shall ensure that all purse seine, longline, gillnet, pole and line, handline and trolling fishing vessels flying its flag and authorised to fish species managed by IOTC ~~be~~ subject to a data recording system.

**Commented [A220]:** MDV:  
Suggestion in line with international legal drafting practice: "are"

2. ~~CPCs The measure shall apply this measure~~ to all purse seine, longline, gillnet, pole and line, handline and trolling ~~fishing~~ fishing vessels ~~over~~ 24 metres length overall ~~or above~~ and those ~~underless than~~ 24 metres in length overall if they ~~engage in~~ fishing outside the ~~exclusive economic zones~~ (EEZs) of their flag States ~~or within the EEZs of developed CPCs~~ within the IOTC area of competence. The data recording systems for developing CPCs' ~~flag~~ vessels less than 24 metres operating within the EEZs of coastal States ~~are~~ shall be subject to ~~P~~paragraphs 11 and 12. ~~The vessels of less than 24 metres operating within the EEZ of developed CPCs shall apply this measure.~~
3. All vessels shall keep a bound paper or electronic logbook to record data that includes, as a minimum requirement, the information and data in the logbook ~~provided set forth~~ in **Annex I, II and III**.
4. Each flag CPC shall submit to the ~~IOTC~~ Executive Secretary by 15 February 2016 a template of its official logbooks to record data in accordance with **Annex I, II and III**, for publishing on the IOTC website to facilitate MCS activities. For CPCs that use electronic logbook systems, a copy of the applicable regulations implementing the electronic logbook system in that CPC, a set of screen captures and the name of the certified software may be provided. If changes are made to the template after 15 February 2016, an updated template shall be submitted.
5. Where the logbook is not in one of the two languages of the IOTC, CPCs shall provide a complete field description of the logbook in one of the two languages of the IOTC together with the submission of the sample of the logbook. The ~~IOTC~~ Executive Secretary shall publish the sample of the logbook and the field description on the IOTC website.
6. **Annex I** includes information on vessel, trip and gear configuration for purse seine, longline, gillnet and pole and line, and shall only be completed once for each trip, unless the gear configuration changes during the trip.
7. **Annex II** contains information for purse seine, longline, gillnet and pole and line operations and catch, which shall be completed for each set/shot/operation of the fishing gear.
8. **Annex III** contains specifications for handline and trolling gears.
9. The logbook shall be completed by the Master of the ~~fishing~~ vessel and submitted to the flag State administration, as well as to the coastal State administration where the vessel has fished in that coastal State's EEZ. Only the part of the logbook corresponding to the activity deployed in the coastal State EEZ shall be provided to the coastal State administration where the vessel has fished in that coastal State's EEZ.
10. The ~~F~~flag State shall provide all the data for any given year to the ~~IOTC~~ Secretariat by June 30<sup>th</sup> of the following year on an aggregated basis. The confidentiality rules set out in [Resolution 12/02 Data Confidentiality Policy and Procedures](#) ~~(or any subsequent superseding Resolution)~~ for fine-scale data shall apply.
11. Noting the difficulty in implementing a data recording system on ~~fishing~~ vessels from developing CPCs, the data recording systems for vessels less than 24 metres ~~in length overall~~ of developing CPCs operating inside the EEZ shall be implemented progressively from 1 July 2016.
12. The Commission shall consider development of a special program to facilitate the implementation of this Resolution by developing CPCs. Furthermore, developed and developing CPCs are encouraged to work together to identify opportunities for capacity building to assist the long-term implementation of this Resolution.
13. This Resolution supersedes Resolution 13/03 *On the recording of catch and effort by fishing vessels in the IOTC area of competence*.

**Commented [A221]:** AUS

Australia does not agree with the deletion of this annex.

**Commented [A222]:** AUS

If this text is to be incorporated here instead of the current standalone sentence at the end of this paragraph, it must be made clear that this element is only applicable to vessels less than 24 metres in length.

**Commented [A223]:** JPN

If "fishing" is deleted, para 1 shall be referred..

Conservation and Management Measures linked to Resolution 15/01 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 15/02</a>	<a href="#">Resolution 12/02</a>	<a href="#">Resolution 16/02</a>	<a href="#">Resolution 16/04</a>
<a href="#">Resolution 19/02</a>		<a href="#">Resolution 18/07</a>	

**ANNEX I****RECORD ONCE PER TRIP (UNLESS GEAR CONFIGURATION CHANGES)****1. REPORT INFORMATION**

1. Date of the submission of logbook
2. Name of reporting person

**2. VESSEL INFORMATION**

1. Vessel name and/or registration number
2. IMO number, where available
3. IOTC number
4. Call sign: if call sign is not available, other unique identifying code such as fishing licence number should be used
5. Vessel size: gross tonnage and overall length (meters)

**3. CRUISE INFORMATION**

For multiday fishing operations record the:

1. Departure date (at your location) and port
2. Arrival date (at your location) and port

**4. OTHER REQUIRED INFORMATION****Longline (Gear Configuration):**

1. Average branch line length (meters): straight length in meters between snap and hook (Figure 1)
2. Average float line length (meters): straight length in meters from the float to the snap
3. Average length between branch (meters): straight length of main line in meters between successive branch lines
4. Main line material classified into four categories:
  - (a) Thick rope (Cremona rope)
  - (b) Thin rope (Polyethylene or other materials)
  - (c) Nylon braided
  - (d) Nylon monofilament
5. Material of the terminal tackle of the branch line (leader/trace) classified into two categories:
  - (a) Nylon monofilament
  - (b) Other (such as wire)

**Purse Seine:****(Gear configuration):**

1. Length of the purse seine net
2. Height of the purse seine net

3. Total number of FADs deployed per trip: refer to ~~the Resolution 19/02-15/08 [superseded by Resolution 17/08, by Resolution 18/08 and then by Resolution 19/02].~~ *Procedures on a fish aggregating devices\* (FAD\*) management plan*, including a limitation on the number of FADs, more detailed specification of catch reporting from FAD sets, and the development of improved FAD designs to reduce the incidence of entanglement of non-target species ~~(or any subsequent superseding Resolution).~~

**(Search information)\***

1. Days searched
2. Spotter plane used (Yes/No)
3. Supply vessel used (Yes/No), if yes what is the name and registration number of the supply vessel

**Gillnet (Gear Configuration)\***

1. Overall length of net (metres): record the total overall length of the net onboard
2. Mesh size of net (millimetres): record the mesh size (measured between opposite knots when fully stretched) used during the trip
3. Depth of assembled net (meters): height of assembled net in meters
4. Netting material: e.g. nylon braid, nylon monofilament, etc.

**Pole and line (Gear Configuration)\***

1. Number of fishermen

## ANNEX II

### RECORD ONCE PER SET/SHOT/OPERATION

**Note:** for all gears in this ~~a~~Annex use the following ing format for date and time.

**For date:** when recording date of the set/shot/operation, ~~+~~ record the YYYY/MM/DD.

**For time:** record 24hr time as either the local time, GMT or national time and clearly specify which time has been used.

#### 1. OPERATION

##### ~~For~~ Hongline:

1. Date of set.
2. Position in latitude and longitude: either position at noon or position of start of gear or area code of operation (e.g. Seychelles EEZ, ~~H~~high seas, etc.) may be optionally used.
3. Time of starting setting and, when possible, retrieving the gear.
4. Number of hooks between floats: if there are different hooks counts between floats in a single set then record the most representative (average) number.
5. Total number of hooks used in the set.
6. Number of light-sticks used in the set.
7. Type of bait used in the set: e.g. fish, squid, etc.
8. Optionally, sea surface temperature at noon with one decimal point (XX.X°C).

##### ~~For~~ purse seine:

1. Date of set.
2. Type of event: fishing set or deployment of a new fish aggregating device (FAD).
3. Position in latitude and longitude and time of event, or if no event during the day, at noon.
4. If fishing set: specify if the set was successful, nil, well; type of school (free swimming school or FAD associated). If FAD associated, specify the type (e.g. log or other natural object, drifting FAD, anchored FAD, etc.). Refer to the Resolution ~~19/0215/08 [superseded by Resolution 17/08, by Resolution 18/08 and then by Resolution 19/02]~~ Procedures on a fish aggregating devices (FADs) management plan, including a limitation on the number of FADs, more detailed specification of catch reporting from FAD sets, and the development of improved FAD designs to reduce the incidence of entanglement of non-target species ~~(or any subsequent superseding Resolution)~~.
5. Optionally, sea surface temperature at noon with one decimal point (XX.XoC).

##### ~~For~~ gillnet:

1. Date of set: record the date for each set or day at sea (for days without sets).
2. Total length of net (meters): floatline length used for each set in meters.
3. Start fishing time: record the time when starting each set and, when possible, gear retrieving.
4. Start and end position in latitude and longitude: record start and end latitude and longitude that represent the area that your gear is set between or, if no set, record the latitude and longitude at noon for days without sets.
5. Depth at which net is set (meters): approximate depth at which the gillnet is set.

##### ~~For~~ Pole and Line:

Fishing effort information in logbooks shall be recorded by day. Catch information in logbooks shall be recorded by trip or, when possible, by fishing day.

1. Date of operation: record the day or date.



2. Position in latitude and longitude at noon.
3. Number of fishing poles used during that day.
4. Start fishing time (record the time immediately after bait fishing is complete and the vessel heads to the ocean for fishing. For multiple days, the time at which search starts should be recorded) and end fishing time (record the time immediately after fishing is complete from the last school; on multiple days this is the time fishing stopped from the last school). For multiple days number of fishing days should be recorded.
5. Type of school: FAD associated and/or free school.

## 2. CATCH

1. Catch weight (kg) or number by species per set/shot/fishing event for each of the species and form of processing in section 2.3:
  - (a) ~~E~~For longline by number and weight;
  - (b) ~~f~~For purse seine by weight;
  - (c) ~~f~~For gillnet by weight;
  - (d) ~~f~~For pole and line by weight or number.

**Commented [A224]:** JPN  
I can not find which section mentions "form of processing."

## 3. SPECIES

### ~~For Longline:~~

Primary Species	FAO code	Other Species	FAO code
Southern bluefin tuna ( <i>Thunnus maccoyii</i> )	SBF	Shortbill spearfish ( <i>Tetrapturus angustirostris</i> )	SSP
Albacore ( <i>Thunnus alalunga</i> )	ALB	Blue shark ( <i>Prionace glauca</i> )	BSH
Bigeye tuna ( <i>Thunnus obesus</i> )	BET	Mako sharks ( <i>Isurus</i> spp.)	MAK
Yellowfin tuna ( <i>Thunnus albacares</i> )	YFT	Porbeagle shark ( <i>Lamna nasus</i> )	POR
Skipjack tuna ( <i>Katsuwonus pelamis</i> )	SKJ	Hammerhead sharks ( <i>Sphyrna</i> spp.)	SPN
Swordfish ( <i>Xiphius gladius</i> )	SWO	Silky shark ( <i>Carcharhinus falciformis</i> )	FAL
Striped marlin ( <i>Tetrapturus audax</i> )	MLS	Other bony fishes	MZZ
Blue marlin ( <i>Makaira nigricans</i> )	BUM	Other sharks	SKH
Black marlin ( <i>Makaira indica</i> )	BLM	Seabirds (in number) <sup>1</sup>	
Indo-Pacific sailfish ( <i>Istiophorus platypterus</i> )	SFA	Marine Mammals (in number)	MAM
		Marine turtles (in number)	TTX
		Thresher sharks ( <i>Alopias</i> spp.)	THR
		Oceanic whitetip shark ( <i>Carcharhinus longimanus</i> )	OCS

<sup>1</sup> When a CPC is fully implementing the observer program the provision of seabird data is optional.

		Optional species to be recorded	
		Tiger shark ( <i>Galeocerdo cuvier</i> )	TIG
		Crocodile shark ( <i>Pseudocarcharias kamoharai</i> )	PSK
		Great white shark ( <i>Carcharodon carcharias</i> )	WSH
		Mantas and devil rays ( <i>Mobulidae</i> )	MAN
		Pelagic stingray ( <i>Pteroplatytrygon violacea</i> )	PLS
		Other rays	

~~For Purse Seine:~~

Primary Species	FAO code	Other species	FAO code
Albacore ( <i>Thunnus alalunga</i> )	ALB	Marine turtles (in number)	TTX
Bigeye tuna ( <i>Thunnus obesus</i> )	BET	Marine mammals (in number)	MAM
Yellowfin tuna ( <i>Thunnus albacares</i> )	YFT	Whale sharks ( <i>Rhincodon typus</i> ) (in number)	RHN
Skipjack tuna ( <i>Katsuwonus pelamis</i> )	SKJ	Thresher sharks ( <i>Alopias</i> spp.)	THR
Other IOTC species		Oceanic whitetip shark ( <i>Carcharhinus longimanus</i> )	OCS
		Silky sharks ( <i>Carcharhinus falciformis</i> )	FAL
		Optional species to be recorded	FAO code
		Mantas and devil rays ( <i>Mobulidae</i> )	MAN
		Other sharks	SKH
		Other rays	
		Other bony fish	MZZ

~~For Gillnet:~~

Primary Species	FAO code	Other Species	FAO code
Albacore ( <i>Thunnus alalunga</i> )	ALB	Shortbill spearfish ( <i>Tetrapturus angustirostris</i> )	SSP
Bigeye tuna ( <i>Thunnus obesus</i> )	BET	Blue shark ( <i>Prionace glauca</i> )	BSH
Yellowfin tuna ( <i>Thunnus albacares</i> )	YFT	Mako sharks ( <i>Isurus</i> spp.)	MAK
Skipjack tuna ( <i>Katsuwonus pelamis</i> )	SKJ	Porbeagle shark ( <i>Lamna nasus</i> )	POR

Longtail tuna ( <i>Thunnus tonggol</i> )	LOT	Hammerhead sharks ( <i>Sphyrna</i> spp.)	SPN
Frigate tuna ( <i>Auxis thazard</i> )	FRI	Other sharks	SKH
Bullet tuna ( <i>Auxis rochei</i> )	BLT	Other bony fish	MZZ
Kawakawa ( <i>Euthynnus affinis</i> )	KAW	Marine turtles (in number)	TTX
Narrow barred Spanish mackerel ( <i>Scomberomorus commerson</i> )	COM	Marine mammals (in number)	MAM
Indo-Pacific king mackerel ( <i>Scomberomorus guttatus</i> )	GUT	Whale sharks ( <i>Rhincodon typus</i> ) (in number)	RHN
Swordfish ( <i>Xiphias gladius</i> )	SWO	Seabirds (in number) <sup>2</sup>	
Indo-Pacific sailfish ( <i>Istiophorus platypterus</i> )	SFA	Thresher sharks ( <i>Alopias</i> spp.)	THR
Marlins ( <i>Tetrapturus</i> spp, <i>Makaira</i> spp.)	BIL	Oceanic whitetip shark ( <i>Carcharhinus longimanus</i> )	OCS
Southern bluefin tuna ( <i>Thunnus maccoyii</i> )	SBF	<b>Optional species to be recorded</b>	
		Tiger shark ( <i>Galeocerdo cuvier</i> )	TIG
		Crocodile shark ( <i>Pseudocarcharias kamoharai</i> )	PSK
		Mantas and devil rays (Mobulidae)	MAN
		Pelagic stingray ( <i>Pteroplatytrygon violacea</i> )	PLS
		Other rays	

**For Pole and Line:**

Primary Species	FAO code	Other Species	FAO code
Albacore ( <i>Thunnus alalunga</i> )	ALB	Other bony fish	MZZ
Bigeye tuna ( <i>Thunnus obesus</i> )	BET	Sharks	SKH
Yellowfin tuna ( <i>Thunnus albacares</i> )	YFT	Rays	
Skipjack tuna ( <i>Katsuwonus pelamis</i> )	SKJ	Marine turtles (in number)	TTX
Frigate and bullet tuna ( <i>Auxis</i> spp.)	FRZ		
Kawakawa ( <i>Euthynnus affinis</i> )	KAW		
Longtail tuna ( <i>Thunnus tonggol</i> )	LOT		

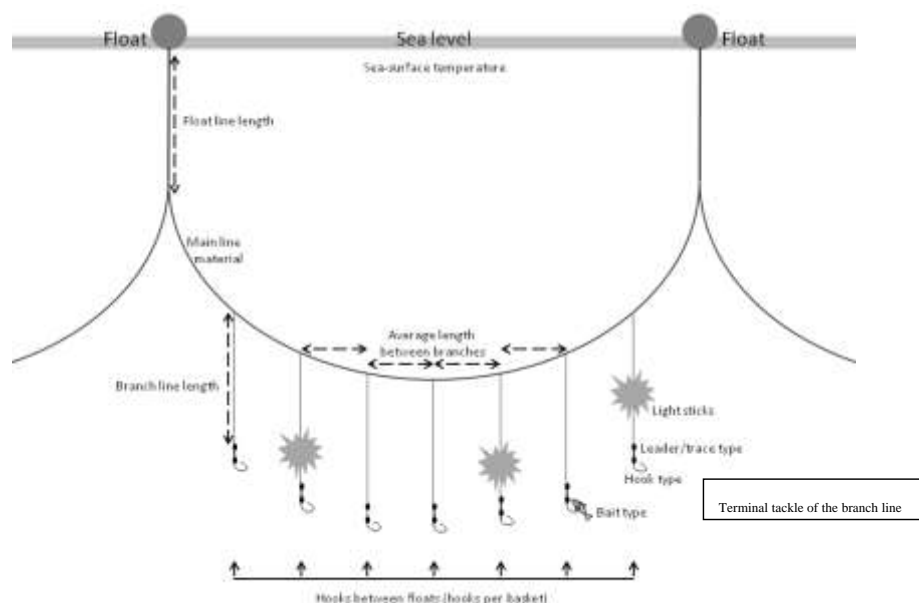
<sup>2</sup> When a CPC is fully implementing the observer program the provision of seabird data is optional.

Narrow barred Spanish mackerel ( <i>Scomberomorus commerson</i> )	COM		
Other IOTC species			

#### 4. REMARKS

1. Discard of tuna, tuna-like fish and sharks to be recorded by species in weight (kg) or number for all gears should be recorded in the remarks.<sup>3</sup>
2. Any interactions with whale sharks (*Rhincodon typus*), marine mammals, and seabirds should be recorded in the remarks.
3. Other information is also written in the remarks.

**Note:** The species included in the logbooks are regarded as minimum requirement. Optionally other frequently caught shark and/or fish species should be added as required across different areas and fisheries.



**Figure 1.** Longline (Gear Configuration): Average branch line length (meters): straight length in meters between snap and hook.

<sup>3</sup> Recall the Recommendation 15/06/10/13 On the implementation of a ban on discards of skipjack tuna, Yellowfin tuna, bigeye tuna and non-target species caught by purse seiners [superseded by Resolution 13/11; then by Resolution 15/06]

### ANNEX III

#### SPECIFICATIONS FOR HANDLINE AND TROLLING

**Note:** for all gears in this Annex use the following format for date and time.

**For date:** when recording date of the set/shot/operation, record the YYYY/MM/DD.

**For time:** record 24hr time as either the local time, GMT or national time and clearly specify which time has been used.

#### I. - HANDLINE

All logbook information shall be recorded by day; where more than one fishing event is recorded for the same day, it is advisable to record each fishing event separately.

**Record once in one cruise, or month where daily operation.**

##### 1. REPORT INFORMATION

1. Fishing day (or Date of submission of the logbook, where multiple fishing days)
2. Name of reporting person

##### 2. VESSEL INFORMATION

1. Vessel name and registration number and IMO number, where available
2. IOTC number, where available
3. Fishing license number
4. Vessel size: Gross tonnage and/or length overall (in metres)

##### 3. CRUISE INFORMATION

1. Departure date and port
2. Arrival date and port

##### 4. OPERATION

1. Date of fishing  
Record the date of fishing. Each fishing day should be recorded separately.
2. Number of fishermen  
Record the number of fishermen on the boat by fishing day.
3. Number of fishing gears  
Record the number of fishing lines used during the fishing day. If the exact number is not available a range may be used: (i) 5 or less lines; (ii) 6–10 lines; (iii) 11 or more lines.
4. Number and type of school (Anchored or drifting FAD, marine mammal, free, other) fished  
Record the number and type of school fished (i.e. anchored FAD, drifting FAD, marine mammal associated or free) fished during the day.
5. Position of the catch  
Position in latitude and longitude: either position at noon or position of start of gear or area code of operation (e.g. Seychelles EEZ, High seas, etc.) may be optionally used. Record the latitude and longitude at noon for non-fishing days, where not in port.

Where information is recorded by day, record the 1° x 1° area(s) where fishing took place.

6. Bait

Record the type of bait used (e.g. fish, squid), where applicable.

5. CATCH

Catch in number and/or weight (kg) by species

1. Catch number and/or ~~W~~weight

For each species shown in section ~~2-36~~ caught and retained, record the number and estimated live weight (kg), per fishing day.

2. Discard number and/or ~~W~~weight

For each species shown in section ~~2-36~~ caught and not retained record the number and estimated live weight (kg) discarded, per fishing day.

6. SPECIES

Primary Species	FAO code
Yellowfin tuna ( <i>Thunnus albacares</i> )	YFT
Bigeye tuna ( <i>Thunnus obesus</i> )	BET
Skipjack tuna ( <i>Katsuwonus pelamis</i> )	SKJ
Indo-Pacific sailfish ( <i>Istiophorus platypterus</i> )	SFA
Black marlin ( <i>Makaira indica</i> )	BLM
Other billfish	
Longtail tuna ( <i>Thunnus tonggol</i> )	LOT
Kawakawa ( <i>Euthynnus affinis</i> )	KAW
Frigate tuna/Bullet tuna ( <i>Auxis</i> spp.)	FRZ
Narrow barred Spanish mackerel ( <i>Scomberomorus commerson</i> )	COM
Indo-Pacific king mackerel ( <i>Scomberomorus guttatus</i> )	GUT
Sharks	
Other fishes	
Rays	
Marine turtles (by number)	

7. REMARKS

1. Other relevant information is also written in the remarks.

**Note:** These species included in the logbook are regarded as minimum requirement. Optionally other species should be added as species may differ depending on the area fished and type of fishery

**II. - TROLLING VESSELS**

All logbook information shall be recorded by day; where more than one fishing event is recorded for the same day, it is advisable to record each fishing event separately.

Record once in one cruise

## 1. REPORT INFORMATION

1. Fishing day (or Date of submission of the logbook, where multiple fishing days)
2. Name of reporting person

## 2. VESSEL INFORMATION

1. Vessel name and registration number and IMO number, where available
2. IOTC number, where available
3. Fishing ~~L~~license number
4. Vessel size: Gross tonnage and/or length overall (in metres)

## 3. CRUISE INFORMATION

1. Departure date and port
2. Arrival date and port

## 4. OPERATION

1. Date of fishing

Record the date of fishing. Each fishing day should be recorded separately.

2. Number of fishermen

Record the number of fishermen on the vessel by fishing day.

3. Number of Fishing Gear

Record the number of lines used during the fishing day. If the exact number is not available a range may be used:  
(i) 3 or less lines; (ii) more than 3 lines.

4. Number and type of school ~~fished~~ (~~A~~anchored or drifting FAD, marine mammal, free, other) ~~fished~~.

Record the number and type of school fished (i.e. anchored FAD, drifting FAD, marine mammal associated or free) ~~fished~~ during the day.

5. Position of the catch

Position in latitude and longitude: either position at noon or position of start of gear or area code of operation (e.g. Seychelles EEZ, High seas, etc.) may be optionally used. Record the latitude and longitude at noon for non-fishing days, where not in port.

Where information is recorded by day, record the 1° x 1° area(s) where fishing took place.

6. Bait

Record the type of bait or indicate if lures are used.

## 5. CATCH

Catch in number and/or weight (kg) by species

1. Number and/or ~~W~~weight of fish retained

For each species shown in section ~~62-3~~ caught and retained, record the number or estimated live weight (kg), per fishing day.

2. Discard number and/or ~~W~~weight

For each species shown in section ~~2-36~~ caught and not retained record the number and estimated live weight (kg) discarded, per fishing day.

## 6. SPECIES

Primary Species	FAO code
Yellowfin tuna ( <i>Thunnus albacares</i> )	YFT
Bigeye tuna ( <i>Thunnus obesus</i> )	BET
Skipjack tuna ( <i>Katsuwonus pelamis</i> )	SKJ
Albacore ( <i>Thunnus alalunga</i> )	ALB
Swordfish ( <i>Xiphias gladius</i> )	SWO
Blue marlin ( <i>Makaira nigricans</i> )	BUM
Black marlin ( <i>Makaira indica</i> )	BLM
Striped marlin ( <i>Tetrapturus audax</i> )	MLS
Indo-Pacific sailfish ( <i>Istiophorus platypterus</i> )	SFA
Other billfish	
Longtail tuna ( <i>Thunnus tonggol</i> )	LOT
Kawakawa ( <i>Euthynnus affinis</i> )	KAW
Frigate tuna/Bullet tuna ( <i>Auxis</i> spp.)	FRZ
Narrow barred Spanish mackerel ( <i>Scomberomorus commerson</i> )	COM
Indo-Pacific king mackerel ( <i>Scomberomorus guttatus</i> )	GUT
Sharks	
Other fishes	
Rays	
Marine turtles	

## 7. REMARKS

- Other relevant information is also written in the remarks.

**Note:** These species included in the logbook are regarded as minimum requirement. Optionally other species should be added as species may differ depending on the area fished and type of fishery.



## RESOLUTION 15/02

### MANDATORY STATISTICAL REPORTING REQUIREMENTS FOR IOTC CONTRACTING PARTIES AND COOPERATING NON-CONTRACTING PARTIES (CPCs)

**Keywords:** Data reporting; total catch; catch and effort; size data; fish aggregating devices (FAD); surface fisheries; longline fisheries; coastal fisheries.

#### EXPLANATORY NOTES

##### PREAMBLE

*No substantive amendments are proposed for the preamble.*

##### PARAGRAPHS

1. This is a new paragraph to define the terms used, which should not appear in a footnote. The definitions in footnote 1 are used except the definition of surface fisheries has been slightly amended for consistency in describing the gear.

**General.** The formatting of the other paragraphs has been standardized and slightly amended. Where paragraph numbers were previously assigned to titles, it is recommended that the title be replaced by a chapeau to introduce subparagraphs. The ordering should be checked for technical accuracy.

For example, proposed paragraph 3(b) originally appeared as paragraph under the title “2. Total catch data” and after a previously unnumbered paragraph now shown as 3(a).

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

**The Indian Ocean Tuna Commission (IOTC),**

GIVEN that the Agreement for the ~~h~~Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UNFSA) encourages coastal States and fishing States on the high seas to collect and share, in a timely manner, complete and accurate data concerning fishing activities on, *inter alia*, vessel position, catch of target and non-target species and fishing effort;

NOTING that the United Nations Food and Agricultural Organization (FAO) Code of Conduct for Responsible Fisheries ~~provides~~ provides that States should compile fishery-related and other supporting scientific data relating to fish stocks covered by subregional or regional fisheries management organisations and provide them in a timely manner to the organisation;

RECALLING the commitment made by Contracting Parties under Article V of the IOTC Agreement to keep under review the conditions and trends of the stocks and to gather, analyse and disseminate scientific information, catch and effort statistics and other data relevant to the conservation and management of the stocks and to fisheries based on the stocks covered by the Agreement;

COGNISANT that the above commitment can only be achieved when Contracting Parties meet the requirements of Article XI of the IOTC Agreement i.e. to provide statistical and other data and information to minimum specifications and in a timely manner;

ACKNOWLEDGING that the IOTC Scientific Committee has repeatedly stressed the importance of the timeliness of data submissions;

GIVEN that the activities of support vessels and the use of ~~F~~fish ~~A~~aggregating ~~D~~devices (FADs) are an integral part of the fishing effort exerted by the purse seine fleet;

CONSIDERING the provisions ~~set forth~~ in Resolution 15/02 on *mandatory statistical reporting requirements for IOTC Contracting Parties and Cooperating Non-Contracting Parties* (CPCs), adopted by the Commission in 2015;

NOTING the ~~concern of the IOTC Scientific Committee's concern~~ concern that the lack of data from CPCs' fisheries under the mandate of the IOTC on the mortality of marine turtles and marine mammals undermines the ability to estimate levels of marine turtle and marine mammals bycatch and consequently the ~~capacity of the IOTC's capacity~~ capacity to respond and prevent adverse effects of fishing on these marine species;

FURTHER NOTING the IOTC Scientific Committee's concern about the impossibility to undertake assessments on the status of seabirds in the Indian Ocean, while acknowledging that some species are currently critically endangered, and that the lack of reporting of seabird interactions by CPCs seriously undermines the ability of IOTC to respond and prevent adverse effects of fishing on seabirds;

CONSIDERING the recommendations of the 17<sup>th</sup> Session of the IOTC Scientific Committee;

FURTHER CONSIDERING the call upon States, either individually, collectively or through regional fisheries management organisations and arrangements included in the United Nations General Assembly Resolution 67/79 on ~~s~~Sustainable fisheries to collect the necessary data in order to evaluate and closely monitor the use of fish aggregating devices and their effects on tuna resources and tuna behaviour and associated and dependent species, to improve management procedures to monitor the number, type and use of such devices and to mitigate possible negative effects on the ecosystem, including on juveniles and the incidental bycatch of non-target species, particularly sharks and turtles;

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

**1. In this Resolution:**

- (a) "coastal fisheries" means fisheries other than longline or surface, as defined below, also called artisanal fisheries;
- (b) "longline fisheries" means fisheries undertaken by vessels in the IOTC Record of Authorized Vessels that use longline gear; and

(a)(c) “surface fisheries” means all fisheries undertaken by vessels in the IOTC Record of Authorized Vessels other than longline fisheries; in particular those using purse seine, pole-and-line, gillnets, handlines and trolling gear.

4.2. Contracting Parties and Cooperating Non Contracting Parties (CPCs) shall provide the following information required in this Resolution to the Executive Secretary/IOTC Secretariat according to the timelines specified in paragraph 7.<sup>4</sup>

2.3. Total catch data shall be submitted as follows.

- (a) Estimates of the total catch by species and gear, if possible on a quarterly basis, ~~that~~ shall be submitted annually as ~~required~~ <sup>referred</sup> in paragraph 7 (separated, whenever possible, by retained catches in live weight and by discards in live weight or numbers) for all species under the IOTC mandate as well as the most commonly caught elasmobranch species according to records of catches and incidents ~~as established in Resolution 15/01 on the recording of catch and effort data by fishing vessels in the IOTC area of competence (or any subsequent superseding Resolution).~~
- (b) ~~Data~~ <sup>C</sup>oncerning cetaceans, seabirds and marine turtles ~~data~~ should be provided as ~~stated~~ <sup>required</sup> in ~~Resolutions 13/04 on the conservation of Cetaceans, Resolution 12/06 on reduction the incidental bycatch of seabirds in longline fisheries and Resolution 12/04 on the conservation of marine turtles (or any subsequent superseding resolutions).~~

3.4. Catch and effort data shall be submitted as follows.<sup>4</sup>

- (a) ~~For~~ <sup>S</sup>urface fisheries: catch weight by species and fishing effort shall be provided by 1° grid area and month strata. Purse seine and pole and line fisheries data shall be stratified by fishing mode (e.g. free swimming schools or schools in association with floating objects). The data shall be extrapolated to the total national monthly catches for each gear. Documents describing the extrapolation procedures (including raising factors corresponding to the logbook coverage) shall also be submitted routinely. Effort units reported should be consistent with those effort requirements of Resolution 15/01 ~~(or any subsequent superseding revision).~~
- (b) Longline fisheries: catch by species, in numbers or weight, and effort as the number of hooks deployed shall be provided by 5° grid area and month strata. Documents describing the extrapolation procedures (including raising factors corresponding to the logbook coverage) shall also be submitted routinely. For the work of relevant working parties under the IOTC Scientific Committee, longline data should be of a resolution of 1° grid area and month or finer. These data would be for the exclusive use of ~~the~~ IOTC Scientific Committee and its Working Parties, subject to the approval of the data owners and IOTC Resolution 12/02 *Data confidentiality policy and procedures*, and should be provided for scientific use only in a timely fashion. Effort units reported should be consistent with those effort requirements of Resolution 15/01 ~~or any subsequent revision of such resolution.~~
- (c) ~~For~~ <sup>C</sup>oastal fisheries: catches by species that shall be submitted annually as ~~required~~ <sup>referred</sup> in paragraph 7, fishing gear and fishing effort shall be submitted frequently and may be provided using an alternative geographical area if it better represents the fishery concerned. Effort units reported should be consistent with ~~these~~ effort requirements ~~of~~ <sup>in</sup> Resolution 15/01 ~~(or any subsequent superseding revision).~~
- (d) Provisions on catch and effort data, applicable to tuna and tuna-like species, shall also be applicable to the most commonly caught elasmobranch species according to records of catches and incidents as established in Resolution 15/01 ~~on the recording of catch and effort by fishing vessels in the IOTC area of competence (or any subsequent superseding Resolution).~~

4.5. Size data:

Size data shall be provided for all gears and for all species ~~referenced in~~ <sup>according to</sup> paragraph 4 and following the ~~guidelines set out by the~~ procedures described in the *Guidelines for the reporting of fisheries statistics to the IOTC*. Size sampling shall be run under strict and well described random sampling schemes which are

<sup>4</sup> Longline fisheries: Fisheries undertaken by vessels in the IOTC Record of Authorized Vessels that use longline gear.

Surface fisheries: All fisheries undertaken by vessels in the IOTC Record of Authorized Vessels other than longline fisheries; in particular purse seine, pole and line, gillnet fisheries, handline and trolling vessels.

Coastal fisheries: Fisheries other than longline or surface, as defined above, also called artisanal fisheries.

necessary to provide unbiased figures of the sizes taken. Sampling coverage shall be set to at least one fish measured by ton caught, by species and type of fishery, with samples being representative of all the periods and areas fished. Alternatively, size data for longline fleets may be provided as part of the Regional Observer Scheme where such fleets have at least 5% observer coverage of all fishing operations. Length data by species, including the total number of fish measured, shall be submitted by a 5° grid area by month, by gear and fishing mode (e.g. free swimming schools or schools in association with floating objects for the purse seiners). Documents covering sampling and raising procedures shall also be provided, by species and type of fishery.

~~5.6. Given~~ Considering that the activities of purse seine supply vessels and the use of ~~Fish Aggregating Devices (FADs)~~ are an integral part of the fishing effort exerted by the purse seine fleet, ~~CPCs shall provide~~ the following data in a timely fashion for the exclusive use of IOTC Scientific Committee and its Working Parties, subject to the approval of the data owners and in accordance with Resolution 12/02 *Data confidentiality policy and procedures*: ~~shall be provided by CPCs:~~

**Commented [A225]:** JPN  
Original text shall be maintained.

- (a) ~~The~~ number and characteristics of purse seine supply vessels:
  - (i) operating under their flag;
  - (ii) assisting purse seine vessels operating under their flag; or
  - (iii) licensed to operate in their exclusive economic zones, and that have been present in the IOTC area of competence;
- (b) ~~the~~ Number of days at sea by purse seine and purse seine supply vessels by 1° grid area and month to be reported by the flag state of the supply vessel;
- (c) ~~The~~ total number set by the purse seine and purse seine supply vessels per quarter, as well as:
  - (i) ~~The~~ positions, dates at the time of setting, FAD identifier and FAD type (i.e. drifting log or debris, drifting raft or FAD with a net, drifting raft or FAD without a net, anchored FADs and other FADs e.g. Payao, dead animal etc.); and
  - (ii) ~~The~~ FAD design characteristics of each FAD (consistent with Annex 4 ~~to~~ of Resolution 19/02 ~~and~~ ~~superseded by Resolution 17/08, by Resolution 18/08 and then by Resolution 19/02~~ *Procedures on a fishing aggregating devices (FADs) management Plan*, including a limitation on the number of FADs, more detailed specifications of catch reporting from FAD sets, and the development of improved FAD designs to reduce the incidence of entanglement of non-target species).

**Commented [A226]:** MDV:  
"fish", not "fishing"

~~These data would be for the exclusive use of IOTC Scientific Committee and its Working Parties, subject to the approval of the data owners and in accordance with Resolution 12/02 *Data confidentiality policy and procedures*, and should be provided in a timely fashion.~~

~~6.7. CPCs shall comply with the following timeline~~ ~~s~~ ~~for~~ data submission to the ~~Executive Secretary~~ ~~IOTC Secretariat~~:

- (a) ~~provisional data on~~ ~~longline fleets/vessels~~ operating in the high seas shall ~~be submitted~~ ~~provided~~ ~~provisional data~~ for the previous year no later than 30 June, ~~and~~ ~~Final~~ data shall be submitted no later than 30 December;
- (b) ~~final data for~~ ~~a~~ ~~All other fleets/vessels~~ (including supply vessels) shall ~~be submitted~~ ~~their final data~~ for the previous year no later than 30 June;
- (c) ~~In case~~ where the final ~~data/statistics~~ cannot be submitted by the ~~required~~ ~~date~~, at least preliminary ~~data/statistics~~ should be provided.
- (~~e~~) ~~(d)~~ Beyond a delay of two years, all revisions of historical data should be formally reported ~~on forms provided by the IOTC Secretariat, and duly justified. These reports should be made on forms provided by the IOTC Secretariat~~ and reviewed by the IOTC Scientific Committee ~~which~~ ~~The IOTC Scientific Committee~~ will advise the IOTC Secretariat if ~~the~~ revisions are ~~then~~ accepted for scientific use.

**Commented [A227]:** JPN  
Original text shall be maintained.

**Commented [A228]:** JPN  
"Secretariat" shall be maintained.

~~7.8. This Resolution supersedes Resolution 10/02 on mandatory statistical requirements for IOTC Members and Cooperating Non-Contracting Parties (CPCs).~~

**Conservation and Management Measures linked to Resolution 15/02 or return to the [Table of Contents](#)**

Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 15/01</a>	<a href="#">Resolution 12/02</a>	<a href="#">Resolution 12/02</a>	<a href="#">Resolution 12/04</a>
<a href="#">Resolution 12/04</a>	<a href="#">Resolution 12/06</a>	<a href="#">Resolution 13/04</a>	<a href="#">Resolution 13/05</a>
<a href="#">Resolution 13/04</a>	<a href="#">Resolution 19/02</a>	<a href="#">Resolution 16/02</a>	<a href="#">Resolution 16/04</a>
		<a href="#">Resolution 18/01</a>	<a href="#">Resolution 18/07</a>
		<a href="#">Resolution 19/02</a>	

## RESOLUTION 15/03 ON THE VESSEL MONITORING SYSTEM (VMS) PROGRAMME

**Keywords:** ~~V~~essel ~~M~~onitoring ~~S~~ystem (VMS).

### EXPLANATORY NOTES

#### PREAMBLE

*No substantive amendments are proposed for the preamble.*

#### PARAGRAPHS

1. There are some concerns about the drafting of this paragraph.

- CPCs are required to “adopt VMS” for flag vessels; it does not provide that CPCs must require their vessels to use the VMS.
- For vessels more 24 meters in length overall or above, there is no requirement for them to be “operating” in relation to IOTC species in the IOTC area of competence.
- For vessels less than 24 meters, it designates that they should be “operating” in waters outside the flag State EEZ, “fishing” for IOTC species in the IOTC area of competence. If this VMS is to be required for vessels engaged in fishing related activities (transshipment, supply etc) the requirement that the smaller vessels must be fishing is very restrictive.

Amendments have been proposed to correct the above, to clarify that CPCs are required to adopt and implement VMS and that both large and small vessels must be “operating” (not “fishing”) for IOTC species in the IOTC area. This seems to have been the intention, *but if it is considered substantive it is recommended to refer this to CPCs for review.*

#### MCS

WORKSHOP DISCUSSION	
(a) <b>Key findings</b>	<ul style="list-style-type: none"> <li>• VMS rules should apply to AFVs on the RAV, instead of given vessel lengths</li> <li>• Lack of clear rules where and when VMS must be functioning</li> <li>• Lacking Secretariat/Commission VMS access</li> <li>• No provisions as to which party has access to what data at what times</li> </ul>
(b) <b>Proposed actions</b>	None. Study on VMS underway & key findings shared
(c) <b>Points discussed during the Workshop</b>	Study on VMS underway and key findings have been shared with the consultant conducting the VMS study.
<b>WPICMM02 RECOMMENDATION</b>	No Recommendation.

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

**The Indian Ocean Tuna Commission (IOTC),**

TAKING NOTE of the results of the Intersessional Meeting on an Integrated Control and Inspection Scheme, held in Yaizu, Japan, from 27 to 29 March, 2001;

RECOGNISING the value of satellite-based ~~V~~essel ~~M~~onitoring ~~S~~ystems (VMS) for the Commission's conservation and management programmes, including compliance;

RECOGNISING IOTC Resolution 02/02 ~~[superseded by Resolution 06/03 and this Resolution]~~ subsequently by ~~Resolution 15/03~~ which called for the adoption of a pilot satellite-based ~~vessel monitoring system (VMS)~~ by 1<sup>st</sup> January 2004;

TAKING NOTE that ~~the~~ Resolution 02/02 ~~[superseded by Resolution 06/03 and subsequently by Resolution 15/03]~~ has allowed the progressive incorporation of these systems to accommodate Contracting Parties ~~and Cooperating Non-Contracting Parties (CPCs)~~ that lack sufficient capacity for immediate implementation at a national level;

RECOGNISING that this Resolution 02/02 ~~[superseded by Resolution 06/03 and subsequently by Resolution 15/03]~~ provides a process for developing States of the region to build the capacity to implement this Resolution;

AWARE that many ~~CPCs~~ Parties have established VMS systems and programmes for their fleets and that their experience may be very helpful in supporting the conservation and management programmes of the Commission;

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

1. ~~Each Contracting Party and Cooperating Non-Contracting Party (CPC) shall adopt a satellite-based vessel monitoring system (VMS) and require its use by for all fishing flag vessels operating in relation to species covered by the IOTC Agreement within the IOTC area of competence which are flying its flag-24 metres in length overall or above and in the case of flag vessels less than 24 meters length overall; the requirement shall apply to those operating in waters outside the Economic Exclusive economic Zone of the Flag State, fishing for species covered by the IOTC Agreement within the IOTC area of competence.~~
2. Those CPCs currently without a VMS for any additional vessel now meeting the criteria for inclusion in the VMS obligation since Resolution 06/03 was superseded, as defined in paragraph 1 above, shall submit an implementation plan to the Compliance Committee in April 2016 that sets out a phased approach to full implementation of their national VMS obligation within a maximum of 3 years, i.e. by April 2019, with at least 50% of all qualifying vessels compliant by September 2017.
3. Any CPC with vessels not yet equipped with VMS as already required under Resolution 06/03 ~~or this Resolution (or any subsequent superseding Resolution)~~ ~~[superseded by Resolution 15/03]~~ shall be required to fully implement its national VMS obligation within a maximum of 1 year, i.e. by April 2016 in respect of those vessels.
4. The Commission may establish guidelines for the registration, implementation and operation of VMS in the IOTC area of competence with a view to standardising VMS adopted by CPCs.
5. Information collected shall include:
  - (a) the vessel identification;
  - (b) the current geographical position of the vessel (longitude, latitude) with a position error which shall be less than 500 metres, at a confidence level of 99%; and
  - (c) the date and time (expressed in UTC) of the fixing of the said position of the vessel.
6. Each CPC shall take the necessary measures to ensure that their land-based national Fisheries Monitoring Center (FMC) receives through the VMS the information required in paragraph 5, and that the FMC is equipped with computer hardware and software enabling automatic data processing and electronic data transmission. Each CPC shall provide for backup and recovery procedures in case of system failures.
7. Each CPC shall ensure that the information in paragraph 5 is transmitted to the FMC at least once every 4 hours. Each CPC shall ensure the masters of fishing vessels flying its flag ensure that the satellite tracking device(s) are at all times fully operational.

**Commented [A229]:** JPN

For clarification, I propose to add the word of "Fishing".

**Commented [A230]:** EU:

Not sure. We would like clarification from the Secretariat on how this resolution is implemented by CPCs. Is the requirement to have VMS also include vessels engaged in related activities but not strictly fishing?

8. Each CPC as a ~~Flag~~ State shall ensure that the vessel monitoring device(s) on board its vessels are tamper resistant, that is, are of a type and configuration that prevent the input or output of false positions, and that they are not capable of being over-ridden, whether manually, electronically or otherwise. To this end, the on-board satellite monitoring device must:
  - (a) be located within a sealed unit; and
  - (b) be protected by official seals (or mechanisms) of a type that will indicate whether the unit has been accessed or tampered with.
9. The responsibilities concerning the satellite-tracking devices and requirements in case of technical failure or non-functioning of the satellite-tracking devices are established in **Annex I**.
10. Fishing vessels referred to in paragraph 1 which are not yet equipped with VMS shall report to their FMC at least daily by email, facsimile, telex, telephone message or radio. Such reports must include, inter alia, information required in paragraph 5 when transmitting the report, to their competent authorities, as well as:
  - (a) the geographic position at the beginning of the fishing operation; ~~and~~
  - (b) the geographic position at the end of the fishing operation.
11. CPCs that cannot fulfil the obligations as outlined in this Resolution shall report to the ~~Executive Secretary~~~~IOTC Secretariat~~ (i) the systems and infrastructure and capabilities existing with respect to the implementation this Resolution, and (ii) the hindrances for implementation of such a system and (iii) requirements for implementation.
12. Each CPC shall provide to the ~~Executive Secretary~~~~IOTC Secretariat~~ by 30 June each year, a report on the progress and implementation of its VMS programme in accordance with this Resolution. The ~~Executive Secretary~~~~IOTC Secretariat~~ shall compile reports prior to the annual Session of the Commission and present a report to the IOTC Compliance Committee. Based on these reports, the Commission ~~shall~~~~will~~ discuss how best to proceed with future consideration of VMS to support its Conservation and Management Measures.
13. CPCs are encouraged to extend the application of this Resolution to their ~~fishing~~ vessels not provided for in paragraph 1 if they consider this to be appropriate to ensure the effectiveness of IOTC Conservation and Management Measures.
14. Resolution 06/03 *On establishing a Vessel Monitoring System Programme* is superseded by this Resolution.

**Commented [A231]:** JPN  
"Secretariat" shall be maintained.

**Commented [A232]:** JPN  
"Secretariat" shall be maintained.

**Commented [A233]:** JPN  
"Secretariat" shall be maintained.

**Commented [A234]:** JPN  
The original auxiliary verb shall be maintained.

**Commented [A235]:** JPN  
"Fishing" shall be maintained.

**Conservation and Management Measures linked to Resolution 15/03 or return to the [Table of Contents](#)**

Links from within this CMM		Links from other CMMs	
None		<a href="#">Resolution 19/02</a>	



## ANNEX I

### RESPONSIBILITIES CONCERNING THE SATELLITE-TRACKING DEVICES AND REQUIREMENTS IN CASE OF TECHNICAL FAILURE OR NON-FUNCTIONING OF THE SATELLITE-TRACKING DEVICES

1. In the event that a CPC has information to suspect that on-board vessel monitoring device(s) do not meet the requirements of paragraph 4, or have been tampered with, it shall immediately notify the IOTC Executive Secretary and the vessel's ~~F~~flag State.
2. Masters and owners/licensees of fishing vessels subject to VMS shall ensure that the vessel monitoring device(s) on board their vessels within the IOTC area of competence are at all times fully operational. Masters and owners/licensees shall in particular ensure that:
  - (a) VMS reports and messages are not altered in any way;
  - (b) the antennae connected to the satellite monitoring device(s) are not obstructed in any way;
  - (c) the power supply of the satellite monitoring device(s) is not interrupted in any way; and
  - (d) the vessel monitoring device(s) are not removed from the vessel.
3. A vessel monitoring device shall be active within the IOTC area of competence. It may, however, be switched off when the fishing vessel is in port for a period of more than one week, subject to prior notification to, and approval of, the ~~F~~flag State, and if the ~~F~~flag State so desires also to the ~~Executive Secretary~~~~IOTC Secretariat~~, provided that the first position report generated following the re-powering (activating) shows that the fishing vessel has not changed position compared to the last report.
4. In the event of a technical failure or non-operation of the satellite tracking device fitted on board a fishing vessel, the device shall be repaired or replaced within one month. After this period, the master of a fishing vessel is not authorised to commence a fishing trip with a defective satellite tracking device. Furthermore, when a device stops functioning or has a technical failure during a fishing trip lasting more than one month, the repair or the replacement ~~has to~~~~shall~~ take place as soon as the vessel enters a port; the fishing vessel shall not be authorised to commence a fishing trip without the satellite tracking device having been repaired or replaced.
5. In the event of a technical failure or non-functioning of the vessel monitoring device on board the fishing vessel, the master or the owner of the vessel, or their representative, shall communicate immediately to the FMC of the ~~F~~flag State, and if the ~~F~~flag State so desires also to the ~~Executive Secretary~~~~IOTC Secretariat~~, stating the time that the failure or the non-functioning was detected or notified in accordance with paragraph ~~#~~6 of this Annex. In the event of a technical failure or non-functioning of the vessel monitoring device on board the fishing vessel, the master or the owner of the vessel, or their representative, shall also communicate to the FMC of the ~~F~~flag State the information required in paragraph 5 of ~~this~~ Resolution every four hours, by email, facsimile, telex, telephone message or radio.
6. When the ~~F~~flag State has not received for 12 hours data transmissions referred to in paragraphs 7 of the Resolution and ~~E~~5 of this Annex, or has reasons to doubt the correctness of the data transmissions under paragraphs 7 of the Resolution and ~~E~~5 of this Annex, it shall as soon as possible notify the master or the owner or the representative thereof. If this situation occurs more than two times within a period of one year in respect of a particular vessel, the ~~F~~flag State of the vessel shall investigate the matter, including having an authorised official check the device in question, in order to establish whether the equipment has been tampered with. The outcome of this investigation shall be forwarded to the ~~Executive Secretary~~~~IOTC Secretariat~~ within 30 days of its completion.
7. With regard to paragraphs ~~E~~5 and ~~F~~6 of this Annex, each CPC shall, as soon as possible but no later than two working days following detection or notification of technical failure or non-functioning of the vessel monitoring device on board the fishing vessel, forward the geographical positions of the vessel to the ~~Executive Secretary~~~~IOTC Secretariat~~, ~~or~~ shall ensure that these positions are forwarded to the ~~Executive Secretary~~~~IOTC Secretariat~~ by the master or the owner of the vessel, or their representative.

**Commented [A236]:** JPN  
"Secretariat" shall be maintained.

**Commented [A237]:** JPN  
"Secretariat" shall be maintained.

**Commented [A238]:** JPN  
"Secretariat" shall be maintained.

**Commented [A239]:** JPN  
"Secretariat" shall be maintained.

**Commented [A240]:** JPN  
"Secretariat" shall be maintained.

**RESOLUTION 15/09**

ON ~~AN AD HOC WORKING GROUP ON A~~ FISH AGGREGATING DEVICES (FADS) ~~WORKING GROUP~~

**Keywords:** Fish aggregating device (FAD); working group on FADs; drifting FADs; anchored FADs; purse seine.

**EXPLANATORY NOTES****PREAMBLE**

*No substantive amendments are proposed for the preamble.*

**PARAGRAPHS**

*No substantive amendments are proposed for the paragraphs.*

*All paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

#### The Indian Ocean Tuna Commission (IOTC),

BEARING IN MIND that the Agreement for the ~~Implementation~~ of the Provisions of the United Nations Convention on the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UNFSA) encourages coastal States and fishing States on the high seas to collect and share, in a timely manner, complete and accurate data concerning fishing activities on, *inter alia*, vessel position, catch of target and non-target species and fishing effort;

MINDFUL of the call upon States, either individually, collectively or through regional fisheries management organizations and arrangements in the United Nations General Assembly Resolution 67/79 on Sustainable fisheries to collect the necessary data in order to evaluate and closely monitor the use of large-scale fish aggregating devices (FADs) and others, as appropriate, and their effects on tuna resources and tuna behaviour and associated and dependent species, to improve management procedures to monitor the number, type and use of such devices and to mitigate possible negative effects on the ecosystem, including on juveniles and the incidental bycatch of non-target species, particularly sharks and marine turtles;

NOTING that the United Nations Food and Agricultural Organization (FAO) Code of Conduct for Responsible Fisheries ~~provides~~ provides that States should compile fishery-related and other supporting scientific data relating to fish stocks covered by subregional or regional fisheries management organisations and provide them in a timely manner to the organisation;

RECOGNISING that all gears deployed to target resources under the competence of IOTC should be managed to ensure the sustainability of fishing operations;

AWARE that the Commission is committed to adopt conservation measures to reduce juvenile ~~Bbig~~eye tuna and ~~Yellowfin~~ tuna mortalities from fishing effort on ~~Fish Aggregating Devices (FADs)~~;

AWARE that the availability of adequate information is fundamental to carrying out the objectives of the IOTC Agreement laid down in its Article V;

NOTING that the IOTC Scientific Committee advised the Commission to conduct an investigation of the feasibility and impacts of a temporary FAD closure as well as other measures in the context of Indian Ocean fisheries and stocks;

NOTING that the IOTC Scientific Committee recommended that an *ad hoc* working group on FADs, drifting and anchored, be created to assess the consequences of the increasing number and technological developments of FADs in tuna fisheries and their ecosystems, in order to inform and advise on future FAD-related management options;

NOTING that ~~the International Commission for the Conservation of Atlantic Tunas (ICCAT) and the Western and Central Pacific Fisheries Commission (WCPFC)~~ have already approved at their 2014 sessions the establishment of FAD working groups, and that the ~~IOTC Scientific Committee~~<sup>SC</sup> agreed that at least the ICCAT and IOTC working groups on FADs work jointly whenever possible.

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

1. An *ad hoc* working group on FADs ~~(Annex I)~~, drifting and anchored, is created to assess the consequences of the increasing number and technological developments of FADs in tuna fisheries and their ecosystems, in order to inform and advise on future FAD-related management options. ~~The terms of reference are in Annex I.~~ This *ad hoc* working group would be of multi-sectorial nature, involving various stakeholders such as scientists, fisheries managers, fishing industry representatives, administrators and fishers. The working group shall deliver its findings in time for the 2017 IOTC Scientific Committee to examine them.
2. The IOTC Secretariat should liaise with the ICCAT Secretariat to determine if their FAD working group could work in conjunction with the IOTC working group.

Conservation and Management Measures linked to Resolution 15/09 or return to the [Table of Contents](#)

Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 12/02</a>	<a href="#">Resolution 19/02</a>		

## ANNEX I

### TERMS OF REFERENCE FOR AN *AD HOC* WORKING GROUP ON FISH AGGREGATING DEVICES (FADS)

1. The objectives of the *ad hoc* working group on Fish Aggregating devices (FADs) ~~are to: would be the following:~~
  - (a) ~~To~~ collect and compile information about past and present numbers of buoys and FADs, changes in FAD-related technology and activities of supply vessels;
  - (b) ~~To~~ review the requirements of collection of data on FADs established in Resolution ~~19/02-15/08 [superseded by Resolution 17/08, by Resolution 18/08 and then by Resolution 19/02]~~ in order to assess the necessity for revision;
  - (c) ~~To~~ assess the effect of ~~FAD's-the~~ density and spatial distribution ~~of FADs~~ on the behaviour, distribution and species composition of the tuna schools;
  - (d) ~~To~~ assess the developments in FAD-related technology notably with regards to:
    - (i) changes in catchability due to technological improvement;
    - (ii) using FAD and buoys marking and identification as a tool for monitoring, tracking and control of FADs; ~~and~~
    - (iii) reducing ~~FAD's-the~~ ecological impacts ~~of FADs~~ through improved design, such as non-entangling FADs and biodegradable material.
  - (e) ~~To~~ evaluate ways to improve the use of information related to FADs in the process of stock assessment, particularly in the standardisation of catch per unit effort, and in ecological risk assessment for non-target species;
  - (f) ~~To~~ through an active exchange of views, to identify management options, including the regulation of deployment limits and characteristics of FADs, and activities of support vessels;
  - (g) ~~To~~ assess the consequences of these management options, in conjunction with other fleets fishing mortality components, on IOTC-managed species and on the pelagic ecosystems.
2. All types of FADs, anchored or drifting, would be considered in the *ad hoc* ~~w~~Working ~~g~~Group on FADs.
3. As several coastal states with limited capacities are primarily concerned by anchored FADs, the ~~IOTC~~ Secretariat should ensure that special provisions be made for those countries in terms of compiling and assimilating the data as required for the *ad hoc* working group. This support could be included in the data collection tasks of the ~~IOTC~~ Secretariat.
4. The ~~IOTC~~ Secretariat should consider using the meeting participation fund (MPF) to facilitate the participation of scientists from ~~IOTC~~CPC coastal ~~S~~states who would contribute significantly in the FAD working group.
5. The access to data used for the *ad hoc* Working Group on FADs ~~FAD working group~~ will follow the confidentiality policy and procedures presented in Resolution 12/02 ~~(or any subsequent superseding Resolution)~~.
6. The *ad hoc* Working Group should be composed by scientists, fisheries managers, fishing industry Representatives, administrators and other interested stakeholders.
7. The *ad hoc* Working Group on FADs would not ~~happen~~meet more than once a year, and shall report on its work to the ~~annual Sessions of the Working Party on Tropical Tunas~~WPTT and ~~the Working Party on Ecosystems and Bycatch~~WPEB annual sessions.
8. The IOTC, at its annual ~~s~~Session, will review the progress and outcomes of the *ad hoc* Working Group on FADs ~~FAD working group~~ and will decide on the necessity for its continuation.

**RESOLUTION 15/10**  
**ON TARGET AND LIMIT REFERENCE POINTS AND A DECISION FRAMEWORK**

**Keywords:** Limit reference points, management strategy evaluation, Kobe plot, maximum sustainable yield.

**EXPLANATORY NOTES**

**PREAMBLE**

*No substantive amendments are proposed for the preamble.*

**PARAGRAPHS**

*No substantive amendments are proposed for the paragraphs.*

*All paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

### The Indian Ocean Tuna Commission (IOTC),

CONSIDERING the objectives of the Commission are to maintain stocks in perpetuity and with high probability, at levels not less than those capable of producing their maximum sustainable yield 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 ~~Co~~astal States and of Article 87 and 116 of the United Nations Convention of the Law of the Sea (UNCLOS) regarding the right to fish on the high seas;

RECALLING that Article 6, paragraph 3, 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); establishes the application of precautionary reference points as a general principle for sound fisheries management;

FURTHER RECALLING that Annex II of the UNFSA provides guidelines for the application of precautionary reference points in the conservation and management of straddling fish stocks and highly migratory fish stocks, including the adoption of provisional reference points when information for establishing reference points is absent or poor;

NOTING that Article 7.5.3 of the FAO Code of Conduct for Responsible Fisheries also recommends the implementation of stock specific target and limit reference points, *inter alia*, on the basis of the precautionary approach;

NOTING that the IOTC Scientific Committee noted that the interim limit reference points contained in Resolution ~~135/10~~ ~~[superseded by Resolution 15/10]~~ are not consistent with the FAO and UNFSA guidelines;

~~NOTING that Article 7.5.3 of the FAO Code of Conduct for Responsible Fisheries also recommends the implementation of stock specific target and limit reference points, *inter alia*, on the basis of the precautionary approach;~~

NOTING that recommendations 37 and 38 of the IOTC Performance Review Panel, adopted by the Commission as Resolution 09/01 ~~[superseded by Resolution 16/03]~~, indicate that pending the amendment or replacement of the IOTC Agreement to incorporate modern fisheries management principles, the Commission should implement the precautionary approach including, *inter alia*, precautionary reference points, as ~~provided set forth~~ in the UNFSA;

NOTING Resolution 12/01 *On the implementation of the precautionary approach* that recommends adoption of provisional reference points, and that the IOTC Scientific Committee proposed provisional values at its 14<sup>th</sup> Session;

RECALLING ALSO that the IOTC Scientific Committee commenced a process leading to a management strategy evaluation (MSE) process to improve upon the provision of scientific advice on ~~H~~arvest ~~C~~ontrol ~~R~~ules (HCRs);

HIGHLIGHTING that the IOTC Scientific Committee is now in a position to provide advice on stock status relative to reference points for several stocks of tropical, temperate or neritic tunas and billfish;

FURTHER NOTING that the IOTC Scientific Committee at its 17<sup>th</sup> Session made recommendations on possible alternates to limit and target reference points derived from  $B_{MSY}$  and  $F_{MSY}$ , when those are considered as insufficiently robust, that are derived from proportions of  $B_0$ , being the estimated virgin biomass;

FURTHER NOTING the Scientific Committee also recommended that in cases where MSY-based reference points cannot be robustly estimated, biomass limit reference points be set at 20 % of the virgin biomass ( $B_{LIM}=0.2 B_0$ );

ACKNOWLEDGING that continuing dialog between scientists and managers is necessary to define appropriate HCRs for the IOTC tuna and tuna-like stocks;

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

#### Interim Target and Limit Reference Points (TRPs and LRPs)

1. When assessing stock status and providing recommendations to the Commission, the IOTC Scientific Committee should, where possible, apply MSY-based target and limit reference points for tuna and tuna-like species and in particular the interim reference points agreed by the Commission in 2013 for albacore, swordfish and the three (3) tropical tunas (~~B~~igeye tuna, ~~S~~kipjack tuna, ~~Y~~ellowfin tuna) ~~(per~~in Resolution 135/10 *On interim target and limit*

reference points and a decision framework) ~~superseded by Resolution 15/10~~, as listed in Table 1. BMSY refers to the biomass level for the stock that would produce the Maximum Sustainable Yield; FMSY refers to the level of fishing mortality that produces the Maximum Sustainable Yield.

**Table 1. Interim target and limit reference points.**

Stock	Target Reference Point	Limit Reference Point
Albacore		
Yellowfin tuna	$B_{TARGET} = B_{MSY}$	$B_{LIM} = 0.40 B_{MSY}$
Swordfish	$F_{TARGET} = F_{MSY}$	$F_{LIM} = 1.40 F_{MSY}$
Bigeye tuna	$B_{TARGET} = B_{MSY}$	$B_{LIM} = 0.50 B_{MSY}$
	$F_{TARGET} = F_{MSY}$	$F_{LIM} = 1.30 F_{MSY}$
Skipjack tuna	$B_{TARGET} = B_{MSY}$	$B_{LIM} = 0.40 B_{MSY}$
	$F_{TARGET} = F_{MSY}$	$F_{LIM} = 1.50 F_{MSY}$

#### Alternate interim Target and Limit Reference Points

- Where the IOTC Scientific Committee considers that MSY-based reference points cannot be robustly estimated, biomass limit reference points will be set at a rate of  $B_0$ . Unless the IOTC Scientific Committee advises the Commission of more suitable limit reference point for a particular species, by default, the interim BLIM will be set at  $0.2 B_0$  and fishing mortality rate limit reference point at  $F_{0.2 B_0}$  (the value corresponding to this biomass limit reference point). These interim limit reference points ~~shall~~ be reviewed no later than 2018.
- Where the IOTC Scientific Committee considers that MSY-based reference points cannot be robustly estimated, target reference points based on the depletion proportion (i.e. reference points with respect to the ratio of current biomass to  $B_0$ ,  $B_0$  being the virgin biomass estimate) should be used as a basis for  $B_{TARGET}$  and  $F_{TARGET}$ , as follows:
  - the interim biomass target reference point  $B_{TARGET}$  could be set at a ratio of  $B_0$ , the virgin biomass; ~~and~~
  - the interim fishing mortality rate target reference point  $F_{TARGET}$  could be set at a level consistent with the target biomass reference point, the fishing mortality rate corresponding then to the adopted ratio of  $B_0$ , the virgin biomass).
- These target and limit reference points, referred to in paragraphs 1, 2 and 3, shall be further reviewed by the IOTC Scientific Committee according to the program of work ~~set forth~~ in Annex 1 and in accordance with paragraph 6. The results shall be presented to the Commission for adoption of species-specific reference points.
- The IOTC Scientific Committee shall continue to provide advice on the status of stocks and on recommendations for management measures in relation to the reference points referred to in paragraphs 1, 2 and 3, where available, until the Commission adopts other reference points that achieve the IOTC's conservation and management objectives and are consistent with paragraph 6.
- The IOTC Scientific Committee shall recommend to the Commission for its consideration options for harvest control rules for IOTC species in relation to agreed reference points and, in doing so, shall take into account:
  - the ~~relevant~~ provisions ~~set forth~~ in the UNFSA and in Article V of the IOTC Agreement;
  - the following objectives and any other objective identified through the Science and Management Dialogue process designed in Resolution 14/093 ~~superseded by Resolution 16/091 (or any revision thereof). On establishing a Technical Committee on Management Procedures~~ and agreed thereafter by the Commission:
    - ~~Am~~ maintain the biomass at or above levels required to produce MSY or its proxy and maintain the fishing mortality rate at or below FMSY or its proxy;
    - ~~Av~~oid the biomass being below BLIM and the fishing mortality rate being above FLIM;
  - the following guidelines:
    - ~~F~~for a stock where the assessed status places it within the lower right (green) quadrant of the Kobe Plot, aim to maintain the stock with a high probability within this quadrant;

**Commented [A241]:** JPN  
The original auxiliary verb shall be maintained.



- (ii) ~~F~~for a stock where the assessed status places it within the upper right (orange) quadrant of the Kobe Plot, aim to end overfishing with a high probability in as short a period as possible;
- (iii) ~~F~~for a stock where the assessed status places it within the lower left (yellow) quadrant of the Kobe plot, aim to rebuild these stocks in as short a period as possible; ~~and~~
- (iv) ~~F~~for a stock where the assessed status places it within the upper left quadrant (red), aim to end overfishing with a high probability and to rebuild the biomass of the stock in as short a period as possible.

#### Final Clauses

7. Bearing in mind Article 64 of UNCLOS and Article 8 of UNFSA, the entirety of this Resolution is subject to Article XVI (Coastal States' Rights) of the IOTC Agreement for the Establishment of the Indian Ocean Tuna Commission, and Articles 87 and 116 of the UN Convention of the Law of the Sea regarding the right to fish on the high seas.
8. The IOTC Scientific Committee is requested to evaluate the performance of any harvest control rules with respect to the species specific target and limit reference points adopted for IOTC species, but not later than 10 years following their adoption, and the Commission will consider, as appropriate and consistent with the scientific advice, these harvest control rules.
9. As soon as advice from the IOTC Scientific Committee regarding the appropriateness of TRPs and LRPs, as required under **Annex 1**, is available to the Commission, and where possible no later than at the IOTC Commission meeting in 2020, this Resolution will be reviewed with the view to adopting revised TRPs and LRPs.
10. This Resolution supersedes Resolution 13/10 *On interim target and limit reference points and a decision framework*.

Conservation and Management Measures linked to Resolution 15/10 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 16/09</a>	<a href="#">Resolution 12/01</a>	<a href="#">Recommendation 14/07</a>	<a href="#">Resolution 16/02</a>
<a href="#">Resolution 16/03</a>		<a href="#">Resolution 16/09</a>	

## ANNEX 1

### DEVELOPMENT AND ASSESSMENT OF TARGET (TRPs) AND LIMIT REFERENCE POINTS (LRPs), HARVEST CONTROL RULES (HCRs) THROUGH MANAGEMENT STRATEGIES EVALUATION (MSE) – PROGRAM OF WORK

1. The IOTC Scientific Committee is requested to assess the appropriateness of the limit reference points (LRP) and target reference points (TRP) referred to in paragraphs 1, 2 and 3 of ~~the~~ Resolution 15/10, where relevant, and other reference points based on the guidelines of UNFSA taking into account:
  - (a) the nature of these reference points – target or limit;
  - (b) the best scientific knowledge on population dynamics and on life-history parameters;
  - (c) all fisheries exploiting the stock; and
  - (d) major sources of uncertainty.
2. The IOTC Scientific Committee is requested to develop and assess, through the management strategy evaluation (MSE) process, the performance of Harvest Control Rules (HCRs), to achieve Target Reference Points (TRPs) on average and avoid the Limit Reference Points (LRPs) with a high probability taking into account the levels of uncertainty in the stock assessments for the priority species listed in ~~point~~ paragraph 4. To that end the following activities shall be carried out:
  - (a) ~~The~~ IOTC Scientific Committee is requested to assess the robustness and the performance of the HCRs in relation to:
    - (i) the TRPs and LRPs specified in Resolution 15/10; and
    - (ii) alternative candidate TRPs and LRPs, as identified through Science and Management Dialogue processes ~~as laid down in Resolution 16/0914/03 [superseded by Resolution 16/09]~~.
  - (b) The IOTC Scientific Committee is requested to provide a range of potential performance statistics to allow the Commission to evaluate the alternative candidate HCRs and alternative LRPs/TRPs.
3. When evaluating candidate HCRs for species identified in point 4a and 4b, the IOTC Scientific Committee ~~will~~ shall be requested to provide advice regarding the probability of the biomass being:
  - (a) at or below the biomass LRP; ~~and~~
  - (b) at or above the biomass TRP.
4. The initial assessment described in points 2 and 3 shall be completed, where possible, for:
  - (a) ~~A~~lbacore and ~~S~~kipjack tuna by the Scientific Committee in 2015 for presentation to the Commission ~~Session~~ meeting in 2016.
  - (b) Assessments for ~~Y~~ellowfin tuna, ~~B~~igeye tuna and swordfish to be completed by 2017 ~~for~~ and presentation ed to the Commission ~~Session~~ meeting in 2018.

**Commented [A242]:** JPN  
The original auxiliary verb shall be maintained.

## **ACTIVE CMMS ADOPTED AT THE EIGHTEENTH SESSION OF THE IOTC**

**2014**

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**RESOLUTION 14/01**  
**ON THE REMOVAL OF OBSOLETE CONSERVATION AND MANAGEMENT MEASURES**

**EXPLANATORY NOTES**

**PREAMBLE**

*No substantive amendments are proposed for the preamble.*

**PARAGRAPHS**

*No substantive amendments are proposed for the paragraphs.*

*All paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

## The Indian Ocean Tuna Commission (IOTC),

RECOGNISING the desirability of improving the coherence, interpretation and accessibility of its Conservation and Management Measures;

NOTING the concerns raised by some CPCs during the Fifteenth Session of the Commission that many coastal States are not yet able to fully implement many of the Conservation and Management Measures adopted by the Commission;

ALSO NOTING the intent of Resolution 11/01 ~~[superseded by this Resolution-14/01]~~ *Regarding consolidation of IOTC Resolutions and recommendations;*

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

1. The following Conservation and Management Measures previously adopted by the Commission shall be revoked since they are considered to have been fulfilled or are obsolete, as they have been replaced without being superseded or are no longer relevant to the conservation and management of tuna and tuna-like species in the IOTC area of competence Indian Ocean:

### Recommendations

- (a) Recommendation 01/01 Concerning the national observer programmes for tuna fishing in the Indian Ocean
- (b) Recommendation 02/06 On the implementation of the Resolution concerning the IOTC Record of Vessels
- (c) Recommendation 03/04 Concerning enhancement of effectiveness of IOTC measures to eliminate IUU activities in the IOTC area
- (d) Recommendation 03/05 Concerning trade measures
- (e) Recommendation 03/06 Recommendation to commission a report on management options for tuna and tuna-like species
- (f) Recommendation 05/06 Concerning the terms of references for an IOTC Working Party on Management Options
- (g) Recommendation 02/07 Concerning measures to prevent the laundering of catches by IUU large-scale tuna longline fishing vessels

### Resolutions

- (a) Resolution 98/03 On southern bluefin tuna
  - (b) Resolution 99/01 On the management of fishing capacity and on the reduction of the catch of juvenile Bigeye tuna by vessels, including flag of convenience vessels, fishing for tropical tunas in the IOTC area of competence
  - (c) Resolution 99/03 On the elaboration of a control and inspection scheme for IOTC
  - (d) Resolution 00/01 On compliance with mandatory statistical requirements for IOTC Members and requesting Cooperation with Non-Contracting Parties
  - (e) Resolution 00/02 On a survey of predation of longline caught fish
  - (f) Resolution 01/04 On limitation of fishing effort of non members of IOTC whose vessels fish Bigeye tuna
  - (g) Resolution 01/07 Concerning the support for the IPOA-IUU plan
  - (h) Resolution 02/08 On the conservation of ~~B~~bigeye and ~~Y~~yellowfin tuna in the Indian Ocean
  - (i) Resolution 03/07 Recognising the contributions of David Ardill
  - (j) Resolution 11/01 Regarding consolidation of IOTC Resolutions and Recommendations
2. The following Conservation and Management Measures previously adopted by the Commission are considered to be of a procedural or administrative nature and shall be incorporated into the IOTC Rules of Procedure:
    - (a) Resolution 98/05 On Cooperation With Non-Contracting Parties

- (b) Resolution 02/09 Establishment of the Standing Committee on Administration and Finance (SCAF)
  - (c) Resolution 03/02 On criteria for attaining the status of Cooperating Non-Contracting Party
  - (d) Resolution 10/05 On the establishment of a meeting participation fund for developing IOTC Members and Non-Contracting Cooperating Parties (CPCs)
  - (e) Resolution 10/09 Concerning the functions of the Compliance Committee
3. This Resolution supersedes Resolution 13/01 *On the removal of obsolete Conservation and Management Measures* as well as the Conservation and Management Measures detailed in paragraphs 1 and 2.

Conservation and Management Measures linked to Resolution 14/01 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
None		<a href="#">Resolution 10/10</a>	<a href="#">Resolution 18/03</a>
		<a href="#">Resolution 03/01</a>	<a href="#">Resolution 05/01</a>

**RESOLUTION 14/02****FOR THE CONSERVATION AND MANAGEMENT OF TROPICAL TUNAS STOCKS IN THE IOTC AREA  
OF COMPETENCE****EXPLANATORY NOTES****PREAMBLE**

*No substantive amendments are proposed for the preamble.*

**PARAGRAPHS**

*No substantive amendments are proposed for the paragraphs.*

*All paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

**The Indian Ocean Tuna Commission (IOTC),**

RECOGNISING that based on past experience in the fisheries, the potential production from the resources can be negatively impacted by excessive fishing effort;

TAKING INTO ACCOUNT the available scientific information and advice, in particular the IOTC Scientific Committee conclusions whereby the yellowfin tuna stock might have been over or fully exploited and the Bigeye tuna stock may have been fully exploited in recent years;

RECOGNISING that during the 12<sup>th</sup> IOTC scientific meeting held in Seychelles from 30 November to 04 December 2009, the IOTC Scientific Committee recommended that yellowfin tuna and Bigeye tuna catches should not exceed the MSY levels which have been estimated at 300,000 tonnes for

yellowfin tuna and at 110,000 tonnes for Bigeye tuna;

ACKNOWLEDGING that the implementation of a total allowable catch TAC without a quota allocation would result in an inequitable distribution of the catches and fishing opportunities among the IOTC Contracting Parties Members and Cooperating Non-Contracting Parties (CPCs) and non-CPCs;

FURTHER RECOGNISING that the tuna artisanal fisheries sector needs strengthening in terms of catch statistics reporting in order to more closely follow the catch situations and notwithstanding improvement in the industrial fishery catch statistics reporting requirements;

NOTING the importance of applying the precautionary approach for the management of the tropical tuna and swordfish stock, in particular yellowfin tuna and Bigeye tuna in the Indian Ocean;

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

1. CPCs shall implement the following action plan:
  - (a) Establishment of an allocation system (Quota) or any other relevant measures based on the IOTC Scientific Committee recommendations for the main targeted species under the IOTC area competence;
  - (b) Advise on the best reporting requirement of the artisanal tuna fisheries and implementation of an appropriate data collection system.
2. This Resolution supersedes Resolution 12/13 *For the conservation and management of tropical tunas stocks in the IOTC area of competence.*

Conservation and Management Measures linked to Resolution 14/02 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
None		None	



## RESOLUTION 14/05

### CONCERNING A RECORD OF LICENSED FOREIGN VESSELS FISHING FOR IOTC SPECIES IN THE IOTC AREA OF COMPETENCE AND ACCESS AGREEMENT INFORMATION

#### EXPLANATORY NOTES

##### PREAMBLE

*No substantive amendments are proposed for the preamble.*

##### PARAGRAPHS

8 This paragraph previously did not have a number, it simply followed the list in paragraph 7. A number was assigned because of the substantive content and reference to Annex I.

##### MCS

WORKSHOP DISCUSSION	
(a) <b>Key findings</b>	<ul style="list-style-type: none"> <li>• Fails to provide that foreign vessels not on the RAV may not be licensed to operate in the EEZ.</li> <li>• Authorized vessels are not identified on the RAV as being authorised to fish in a particular foreign EEZ.</li> <li>• Vessel information asked for the previous year – not current.</li> <li>• Coastal State not tasked to inspect vessel and verify data.</li> <li>• Silent on VMS provisions.</li> </ul>
(b) <b>Proposed actions</b>	<ul style="list-style-type: none"> <li>• Foreign vessels not on the IOTC RAV may not be licensed to fish for tuna and tuna-like species within the EEZ.</li> <li>• Coastal States shall that foreign vessel data are accurate and concur with RAV data.</li> <li>• Periodicity of submission of information changed to immediate for individual vessels, and one month for all other agreement related information.</li> </ul>
(c) <b>Points discussed during the Workshop</b>	<ul style="list-style-type: none"> <li>• There were concerns with regards to the impact of immediate reporting of foreign vessels licensed and the burden that it will pose on coastal States.</li> <li>• There is a need to assess the merit of sharing information on license for operational purpose within the IOTC, since this is a practice taking place between a subgroup of IOTC Members.</li> </ul>
<b>WPICMM02 RECOMMENDATION</b>	Continue the discussion on immediate reporting and sharing of foreign licence vessel lists.

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

**The Indian Ocean Tuna Commission (IOTC),**

RECOGNISING that coastal States have sovereign rights in a 200-nautical mile ~~Exclusive Economic Zone (EEZ)~~ ~~for the purpose of exploring and exploiting, conserving and managing the~~ ~~with respect to their natural resources;~~

CONSCIOUS of the provisions of Article 62 of the United Nations Convention on the Law of the Sea;

NOTING that the information on vessels licensed to fish in the EEZ of IOTC Contracting Parties and Cooperating Non-Contracting Parties ~~(collectively, CPCs);~~ constitutes a means to identify potential unreported fishing activities;

MINDFUL of ~~the~~ Recommendation 17 of the Performance Review Panel, as listed in Resolution 09/01 ~~[superseded by Resolution 16/03]~~ *on the performance review follow-up*, that the obligation incumbent to a flag State to report data for its vessels be included in a separate Resolution from the obligation incumbent on Members to report data on the vessels of third countries they licence to fish in their EEZs;

AWARE of the data reporting requirements for all CPCs and the importance of complete statistical reporting to the work of the IOTC Scientific Committee, its Working Parties and the Commission;

MINDFUL of the need to ensure transparency among CPCs, in particular to facilitate joint efforts to combat illegal, unreported, and unregulated fishing;

RECALLING the duties of CPCs concerning IUU fisheries ~~as stated in the Resolution 14/03 [superseded by Resolution 17/03 then by Resolution 18/03]~~ *establishing a list of vessels presumed to have carried out illegal, unreported and unregulated fishing in the IOTC area of competence* which requires CPCs to ensure that their vessels do not conduct fishing activities within areas under the national jurisdiction of other States without authorisation and/or ~~infringe/contravene~~ the coastal State's laws and ~~regulations/Resolutions;~~

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

**~~Private access agreements~~RIVATE ACCESS AGREEMENTS:**

1. All CPCs which issue licenses to foreign flag vessels to fish in their EEZ for species managed by the IOTC in the IOTC area of competence ~~(hereinafter referred to as "the Area");~~ shall submit to the ~~IOTC~~ Executive Secretary, by 15 February every year, a list of all foreign flag vessels to which such licences have been issued during the previous year.
2. This list shall contain the following information for each vessel:
  - (a) IOTC Number;
  - (b) ~~N~~ame and registration number;
  - (c) IMO number (if eligible);  
To allow the necessary time to obtain an IMO number for eligible vessels that do not already have one, paragraph 2.c on IMO number is effective as of 1 January 2016. As of this date, CPCs shall ensure that all the fishing vessels that are registered on the IOTC Record of ~~Authorised/licenced fishing~~ *V*essels have IMO numbers issued to them. ~~Paragraph 2.c on IMO number~~ *This requirement* does not apply to vessels which are not eligible to receive IMO numbers;
  - (d) ~~T~~he flag at the time of issuing the licence;
  - (e) ~~I~~nternational radio call sign (if any);
  - (f) ~~V~~essel type, length, and gross tonnage (GT);
  - (g) ~~N~~ame and address of owner, and/or charterer and/or operator;
  - (h) ~~M~~ain target species; and
  - (i) ~~P~~eriod of licence.

**Commented [A243]:** EU  
No. Meaning changes

**Commented [A244]:** AUS  
Australia agrees with these changes, which are consistent with the relevant provisions of UNCLOS.

**Commented [A245]:** MDV:  
"fishing"

In assessing compliance with the paragraph above, the Commission shall take into account exceptional circumstances in which a vessel owner is not able to obtain an IMO number despite following the appropriate procedures. The CPC which has issued the licence to this vessel shall report any such exceptional situation to the ~~Executive Secretary~~ IOTC Secretariat.

#### ~~Government to government access agreements~~ **GOVERNMENT TO GOVERNMENT ACCESS AGREEMENTS:**

3. In cases where coastal State CPCs allow foreign-flagged vessels to fish in waters in their EEZ in the IOTC Area for species managed by IOTC through a ~~G~~government to ~~G~~government access agreement, CPCs involved in the referred agreement shall submit jointly to the ~~IOTC~~-Executive Secretary the information concerning these agreements, including:
  - (a) ~~T~~he CPCs involved in the agreement;
  - (b) ~~T~~he time period or periods covered by the agreement;
  - (c) ~~T~~he number of vessels and gear types authorised;
  - (d) ~~T~~he stock or species authorised for harvest, including any applicable catch limits;
  - (e) ~~T~~he CPC's quota or catch limit to which the catch will be applied, where applicable;
  - (f) ~~M~~onitoring, control, and surveillance measures required by the flag CPC and coastal CPC involved;
  - (g) ~~D~~ata reporting obligations stipulated in the agreement, including those between the parties involved, as well as those regarding information that must be provided to the Commission;
  - (h) A copy of the written agreement.
4. For agreements in existence prior to the entry into force of this Resolution, the information specified in paragraph 3 shall be provided, at the least, 60 days in advance of the 2013 Commission ~~Session~~ meeting.
5. When an access agreement is modified in a manner that changes any of the information specified in paragraph 3, these changes shall be promptly notified to the ~~IOTC~~-Executive Secretary.

#### **COMMON PROVISIONS FOR ACCESS AGREEMENTS:**

6. The CPCs shall notify the ship owner and flag State ~~-concerning~~ foreign flagged fishing vessels that requested a license under a private access agreement or under a government to government access agreement and for which the request of license was denied. If the reason for denial is related to a ~~violation or infringement~~ of any IOTC CMMs, the IOTC Compliance Committee shall address the issue at ~~the~~ its next ~~s~~Session ~~accordingly~~.
7. All CPCs which issue licenses to foreign flag vessels to fish in their EEZs for species managed by the IOTC in the IOTC Area, ~~whether~~ under a private access agreement or under a government to government access agreement, shall submit to the ~~IOTC~~-Executive Secretary within two (2) months of the entry into force of this Resolution a template of the official coastal State fishing license and translated version in one of the official languages of the IOTC, with ~~the~~:
  - (a) ~~The~~ terms and conditions of the coastal State fishing license;
  - (b) ~~The~~ name of the Competent Authority;
  - (c) ~~The~~ name and contact of the personnel of the Competent Authority;
  - (d) ~~The~~ signature of the personnel of the Competent Authority; and
  - (e) ~~The~~ official stamp(s) of the Competent Authority.
8. The information required under paragraphs 7 (b), (c), (d) and (e) shall be provided in the form in Annex I, and (The IOTC Executive Secretary shall publish the template of the coastal State fishing license and the above information provided under paragraph 7 on a secure part of the IOTC website for MCS purposes of monitoring, control and surveillance. The information mentioned in sub-paragraph b) to e) must be provided in the form of the Annex I.
9. When a coastal State fishing license is modified in a manner that changes the template, any of the information provided in it or the information provided ~~under (a) to e)~~ of paragraph 7 ~~(a) – (e)~~, these changes shall be promptly notified to the ~~IOTC~~-Executive Secretary.

**Commented [A246]:** JPN  
The original auxiliary verb shall be maintained.

**Commented [A247]:** JPN  
"Secretariat" shall be used instead of "Executive Secretary"

10. The ~~IOTC~~ Secretariat shall report the information specified in this Resolution annually to the Commission at its annual ~~Session~~~~meeting~~.
11. This Resolution shall be consistent with domestic confidentiality requirements of the coastal ~~State~~ CPC and the flag ~~State~~ CPC concerned.
12. This Resolution supersedes Resolution 13/07 *Concerning ~~a~~ Record ~~o~~f Licensed Foreign Vessels Fishing ~~F~~or IOTC Species ~~i~~n ~~T~~he IOTC ~~A~~rea ~~O~~f ~~E~~competence ~~A~~nd Access Agreement Information.*

Conservation and Management Measures linked to Resolution 14/05 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 18/03</a>	<a href="#">Resolution 16/03</a>	<a href="#">Resolution 18/07</a>	<a href="#">Resolution 18/03</a>

# ANNEX I

## COMPLEMENTARY INFORMATION

### Coastal State Fishing licence

Country:	
Name of the Competent Authority as stated in the Authorisation <del>To</del> Fish (ATF):	
Address of the Competent Authority:	
Name and contact of personnel of the Competent Authority (email, telephone, fax):	
Signature of the personnel of the Competent Authority:	
Government seal used on the fishing licence:	

**RECOMMENDATION 14/07****TO STANDARDISE THE PRESENTATION OF SCIENTIFIC INFORMATION IN THE ANNUAL SCIENTIFIC  
COMMITTEE REPORT AND IN WORKING PARTY REPORTS****EXPLANATORY NOTES****PREAMBLE**

*No substantive amendments are proposed for the preamble.*

**PARAGRAPHS**

*No substantive amendments are proposed for the paragraphs.*

*All paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

## The Indian Ocean Tuna Commission (IOTC),

RECOGNISING the importance of sound scientific advice as the centre piece for the conservation and management of tuna and tuna-like species in the Indian Ocean and adjacent seas in line with international law and the information needs of the Commission;

NOTING that participants of the first [Joint Meeting of Tuna Regional Fisheries Management Organisations \(RFMOs\) Global Summit of Tuna RFMOs](#) held in 2007 in Kobe, Japan agreed that stock assessment results be presented in a standardised "four quadrant, red-yellow-green-orange" format that is now referred as the "Kobe Plot" which is widely embraced as a practical, user-friendly method to present stock status information;

FURTHER NOTING that, at the Second Joint Meeting of Tuna RFMOs in June 2009 in San Sebastian, Spain, a "Strategy Matrix" was adopted to provide fisheries managers with the statistical probability of meeting management targets, including ending overfishing and rebuilding overfished stocks, in a standardised manner as a result of potential management actions;

ACKNOWLEDGING that the Strategy Matrix is a harmonised format for RFMO science bodies to convey advice, and that this format for presenting stock assessment results facilitates the application of the precautionary approach by providing Commissions with the basis to evaluate and adopt management options at various levels of probability of success;

RECALLING recommendations of the Kobe II Workshop of Experts to Share Best Practices on the Provision of Scientific Advice and of the Kobe III recommendations, in particular on development on research activities to better quantify the uncertainty and understand how this uncertainty is reflected in the risk assessment inherent in the Kobe II strategy matrix;

FURTHER RECALLING the provisions of the [Recommendation 12/15 on the best available science](#), that requests the provision of clear, transparent, and standardised formats for scientific advice delivered to the Commission;

TAKING INTO ACCOUNT that [Resolutions 12/01 on the implementation of the precautionary approach](#) and 13/10 [\[superseded by Resolution 15/10\] on target and limit reference points and a decision framework](#), make possible the implementation of the precautionary approach thanks to the adoption of interim target and limit reference points;

NOTING the excellent work to date by the [IOTC Scientific Committee](#), its working parties and the [IOTC Secretariat](#) to standardise the presentation of scientific information in their annual reports, including ~~via~~through the 'Executive Summaries' for each stock;

STRESSING the importance of further refining the presentation of scientific information to facilitate appropriate utilisation by the Commission;

RECOMMENDS, in accordance with paragraph 8 of Article IX of the IOTC Agreement, ~~the following that:~~

1. In support of the scientific advice made available by the IOTC Scientific Committee, the 'Executive Summaries' within the annual IOTC Scientific Committee report which present stock assessment results, include when possible:

### Stock status

(a) A Kobe plot/chart showing:

- (i) ~~A~~any Target and Limit Reference Points adopted by the Commission, e.g. FMSY and FLIM, SBMSY and SBLIM or BMSY and BLIM, depending on the assessment models used by the Scientific Committee, or proxies where available;
- (ii) ~~T~~he stock estimates, expressed in reference to Target Reference Points adopted by the Commission, e.g. as FCURRENT on FMSY and as SBCURRENT on SBMSY or as BCURRENT on BMSY;
- (iii) ~~T~~he estimated uncertainty around estimates, provided that statistical methods to do so have been agreed upon the Scientific Committee and that sufficient data exist; ~~and~~
- (iv) ~~T~~he stock status trajectory.

- (b) ~~A~~a graphical representation showing the proportion of model outputs of the years used for advice from the last stock assessment that are within the green quadrant of the Kobe plot/chart (not overfished, not subject to overfishing), the yellow and orange quadrants (overfished or subject to overfishing) and the red quadrant (overfished and subject to overfishing).

### Model outlooks

#### (c) Two Kobe II strategy matrices:

- (i) ~~A~~a first one indicating the probability of complying with the Target Reference Points adopted by the Commission, e.g. the probability of either  $SB > SBMSY$  or  $B > BMSY$  and of  $F < FMSY$  for different levels of catch across multiple years;
- (ii) ~~A~~a second one indicating the probability of being inside safe biological limits expressed through Limit Reference Points adopted by the Commission, e.g. the probability of either  $SB > SBLIM$  or  $B > BLIM$  and of  $F < FLIM$  for different levels of catch across multiple years; ~~and~~
- (iii) ~~W~~hen the Commission agrees on acceptable probability levels associated with the target and limit reference points on a stock by stock basis, the Scientific Committee could prepare and include, in the annual report, the Kobe II strategy matrices using colour coding corresponding to these thresholds.

### Data quality and limitations of the assessment models

- (a) A statement qualifying the quality, the reliability and where relevant the representativeness of input data to stock assessments, such as, but not limited to:
  - (i) ~~F~~fisheries statistics and fisheries indicators (e.g. catch and effort, catch-at size and catch at age matrices by sex and, when applicable, fisheries dependent indices of abundance);
  - (ii) ~~B~~biological information (e.g. growth parameters, natural mortality, maturity and fecundity, migration patterns and stock structure, fisheries independent indices of abundance);
  - (iii) ~~C~~complementary information (e.g. consistencies among available abundance indices, influence of the environmental factors on the dynamic of the stock, changes in fishing effort distribution, selectivity and fishing power, changes in target species);~~i~~
- (b) ~~A~~a statement qualifying the limits of the assessment model with respect to the type and the quality of the input data and expressing the possible biases in the assessment results associated with uncertainties of the input data; ~~and~~
- (c) ~~A~~a statement concerning the reliability of the projections carried out over the long term.

### Alternative approach (data poor stocks)

2. When, due to data or modelling limitations, the IOTC Scientific Committee is unable to develop Kobe II strategy matrices and associated charts or other estimates of current status relative to benchmarks, the IOTC Scientific Committee will develop its scientific advice on available fisheries-dependent and fisheries-independent indicators and provide similar caveats as those detailed in paragraph 1(d).

### Additional information and review of the structure and templates of the 'Executive Summaries'

3. The Commission encourages the IOTC Scientific Committee to include either in its annual report or in the detailed reports, where possible and if considered as relevant and useful, any other tables and/or graphics supporting scientific advice and management recommendations. In particular, the IOTC Scientific Committee ~~shall~~will include, where possible, information on the recruitment trajectories, on the stock-recruitment relationship and some ratio such as yield per recruit or biomass per recruit.
4. As far as needed, the IOTC Scientific Committee shall review recommendations and templates for the Kobe II strategy matrices, plot and graphical representations as  ~~laid down~~described in this Recommendation and will advise the Commission on possible improvements.

**Commented [A248]:** JPN  
The original auxiliary verb shall be maintained.

Conservation and Management Measures linked to Resolution 14/07 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 15/10</a>	<a href="#">Resolution 12/01</a>	None	
<a href="#">Recommendation 12/15</a>			



**ACTIVE CMMs ADOPTED AT THE SEVENTEENTH SESSION OF THE IOTC**

**2013**

**RESOLUTION 13/04**  
**ON THE CONSERVATION OF CETACEANS**

**EXPLANATORY NOTES**

**PREAMBLE**

*No substantive amendments are proposed for the preamble.*

**PARAGRAPHS**

1. This paragraph applies the requirements of the Resolution to CPC flag vessels:

“on the IOTC Record of Fishing Vessels *or* authorised to fish tuna and tuna-like species managed by the IOTC on the high seas”.

It is proposed to amend this to apply to flag vessels “on the IOTC Record of Authorised Vessels”, delete “or” and replace it with “and”, and refer to fishing in the IOTC area of competence.

Keeping the “or” (being authorised to fish on the high seas without being on the RAV) would be inconsistent with IOTC obligations.

*It is recommended to review this and evaluate whether it is a substantive change, and if so to bring this to the attention of CPCs.*

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

## The Indian Ocean Tuna Commission (IOTC),

RECOGNISING [Resolution 12/01](#) *On the Implementation of the Precautionary Approach* calls on IOTC Contracting Parties and Cooperating Non-Contracting Parties (CPCs) to apply the precautionary approach when managing tuna and tuna-like species in accordance with ~~the guidelines in Article 6 and to ensure the sustainable utilisation of fisheries resources as provided in Article 5~~ of the ~~Article~~ 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) ~~V of the United Nations Fish Stocks Agreement~~;

RECOGNISING the ecological and cultural significance of cetaceans in the Indian Ocean;

MINDFUL that cetaceans are particularly vulnerable to exploitation including from fishing;

CONCERNED about the potential impacts of purse seine fishing operations on the sustainability of cetaceans;

NOTING that under Resolution 10/02 ~~[superseded by Resolution 15/02]~~ *On mandatory statistical reporting requirements for IOTC Contracting Parties and Cooperating Non-Contracting Parties (CPC's)*, paragraph 3 ~~provides that~~ 'CPCs are also encouraged to record and provide data on species other than sharks and tunas taken as bycatch';

CONCERNED by the lack of accurate and complete data collection and reporting to the ~~IOTC~~ Secretariat concerning interactions and mortalities of non-target species with fishing vessels in the IOTC area of competence;

FURTHER NOTING that the IOTC Working Party on Ecosystems and Bycatch (WPEB) noted paper IOTC-2011-WPEB07-08 which reviewed the status of the information available on non-target species associated with IOTC fisheries; ~~and~~ recommended that data on marine mammal interactions with IOTC fisheries are collected and reported by CPCs to the ~~IOTC~~ Secretariat;

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

1. This measure shall apply to all ~~CPC flag vessels~~ ~~fishing vessels flying the flag of a CPC and~~ on the IOTC Record of ~~Authorised Fishing Vessels~~ ~~or~~ authorised to fish tuna and tuna-like species managed by the IOTC on the high seas ~~in the IOTC area of competence~~. The provisions of this measure do not apply to ~~vessels engaged in~~ artisanal fisheries ~~and operating exclusively in their respective exclusive economic zone (-EEZ) of their flag State~~.
2. ~~Contracting Parties and Cooperating Non-Contracting Parties (collectively, CPCs)~~ shall prohibit their ~~flagged~~ vessels from intentionally setting a purse seine net around a cetacean in the IOTC area of competence; ~~if the animal is sighted prior to the commencement of the set~~.
3. CPCs shall require that, in the event that a cetacean is unintentionally encircled in a purse seine net, the master of the vessels ~~shall~~:
  - (a) take all reasonable steps to ensure the safe release of the cetacean; ~~while taking into consideration the safety of the crew~~; ~~These steps shall include~~ following the best practice guidelines for the safe release and handling of cetaceans developed by the IOTC Scientific Committee;
  - (b) report the incident to the relevant authority of the flag State, with the following information:
    - (i) the species (if known);
    - (ii) the number of individuals;
    - (iii) a short description of the interaction, including details of how and why the interaction occurred, if possible;
    - (iv) the location of the encirclement;
    - (v) the steps taken to ensure safe release; ~~and~~
    - (vi) an assessment of the life status of the animal on release, including whether the cetacean was released alive but subsequently died.
4. CPCs using other gear types fishing for tuna and tuna-like species associated with cetaceans shall report all interactions with cetaceans to the relevant authority of the flag State and include all the information outlined in paragraph 3(b)(i)-(vi).

**Commented [A249]:** JPN

Article 6 shall not be referred because the commission did not discuss that.

**Commented [A250]:** AUS

Australia agrees with these changes, which are consistent with the relevant provisions of UNCLOS.

**Commented [A251]:** EU

Considering it is restricted to vessels authorised to fish in the HS, then we agree with the change that will not change the scope of the measure.

5. CPCs shall adopt ~~Fish Aggregating Device~~ designs that reduce the incidence of entanglement, in accordance with ~~according to~~ Annex VIII of Resolution 19/02~~13/08~~ Procedures on a fish aggregating devices (FADs) management plan {superseded by Resolution 15/08, by Resolution 17/08, by Resolution 18/08 and then by Resolution 19/02} (or any subsequent revision).
6. The Commission requests that the IOTC Scientific Committee develop best practice guidelines for the safe release and handling of encircled cetaceans, taking into account those developed in other Regional Fisheries Management Organisations, including the Western and Central Pacific Fisheries Commission, and that these guidelines be submitted to the 2014 Commission ~~Session~~meeting for endorsement.
7. CPCs shall report the information and data collected under paragraph 3(b) and paragraph 4, through logbooks, or when an observer is onboard through observer programs, and provide it to the ~~Executive Secretary IOTC Secretariat~~ by 30 June of the following year and according to the timelines specified in Resolution ~~15/02~~~~10/02~~ {superseded by Resolution 15/02} (or any subsequent revision).
8. CPCs shall report, in accordance with Article X of the IOTC Agreement, any instances in which cetaceans have been encircled by the purse seine nets of their ~~flagged~~ vessels.
9. ~~For~~ CPCs having national and state legislation for protecting these species shall be exempt from reporting to the Executive Secretary IOTC, but are encouraged to provide data for consideration by the IOTC Scientific Committee ~~consideration~~. The IOTC Scientific Committee ~~shall~~~~will~~ analyse the situation concerning the availability of data and ~~will~~ advise the Commission to undertake support measures to developing CPCs to overcome this situation.

**Commented [A252]:** JPN  
"Secretariat" shall be maintained.

**Commented [A253]:** JPN  
"Secretariat" shall be maintained.

**Commented [A254]:** JPN  
The original auxiliary verb shall be maintained.

Conservation and Management Measures linked to Resolution 13/04 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 12/01</a>	<a href="#">Resolution 15/02</a>	None	
<a href="#">Resolution 19/02</a>			

**RESOLUTION 13/05**  
**ON THE CONSERVATION OF WHALE SHARKS (*RHINCODON TYPUS*)**

**EXPLANATORY NOTES**

**PREAMBLE**

*No substantive amendments are proposed for the preamble.*

**PARAGRAPHS**

1. This paragraph is the same as paragraph 1 in Resolution 13/04 and the same concerns apply: it applies the requirements of the Resolution to CPC flag vessels:

“on the IOTC Record of Fishing Vessels *or* authorised to fish tuna and tuna-like species managed by the IOTC on the high seas”.

It is proposed to amend this to apply to flag vessels “on the IOTC Record of Authorised Vessels”, delete “or” and replace it with “and”, and refer to fishing in the IOTC area of competence.

Keeping the “or”(being authorised to fish on the high seas without being on the RAV) would be inconsistent with IOTC obligations.

*It is recommended to review this and evaluate whether it is a substantive change, and if so to bring this to the attention of CPCs.*

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

## The Indian Ocean Tuna Commission (IOTC),

RECOGNISING ~~that Resolution 12/01 On the Implementation of the Precautionary Approach~~ calls on IOTC Contracting Parties and Cooperating Non-Contracting Parties (CPCs) to apply the precautionary approach when managing tuna and tuna-like species in accordance with Article ~~45~~ of the ~~Agreement for the Implementation of the Provisions of the United Nations Convention on the Law Of The Sea Of 10 December 1982 Relating to the Conservation And Management of Straddling Fish Stocks and Highly Migratory Fish Stocks~~ United Nations Fish Stocks Agreement;

RECOGNISING the ecological and cultural significance of whale sharks in the Indian Ocean;

MINDFUL that whale sharks are particularly vulnerable to exploitation including from fishing;

CONCERNED about the possible impacts of purse seine fishing operations on the sustainability of whale sharks;

ACKNOWLEDGING that under Resolution 10/02 ~~[superseded by Resolution 15/02]~~ On mandatory statistical reporting requirements for IOTC Contracting Parties and Cooperating Non-Contracting Parties (CPC's), paragraph 3: 'the provisions, applicable to tuna and tuna-like species, shall also be applicable to the most commonly caught shark species and, where possible, to the less common shark species';

CONCERNED by the lack of complete and accurate data reporting concerning fishing activities on non-target species;

NOTING that the IOTC Working Party on Ecosystems and Bycatch (WPEB) noted paper IOTC-2011-WPEB07-08 that reviewed the status of the information available on non-target species associated with IOTC fisheries; recommended that Resolution 10/02 ~~[superseded by Resolution 15/02]~~ be revised to include whale sharks in a list of the most commonly caught elasmobranch species for which nominal catch data shall be reported as part of the statistical requirements for IOTC CPCs;

FURTHER NOTING that the WPEB noted paper IOTC-2011-WPEB07-08, paragraph 163: 'recommended that the recommendations from the KOBE bycatch technical working group are considered to encourage research and development of best practice with regard to setting nets on whale sharks to determine the impacts of the practice' and that the WPEB also recommended developing best practice methods for extraction of whale sharks from purse seine nets through direct collaboration with the Western and Central Pacific Fisheries Commission;

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

1. This measure shall apply to all ~~fishing~~ CPC flag vessels ~~flying the flag of a CPC and~~ on the IOTC Record of ~~Authorised Fishing Vessels~~ or and authorised to fish for tuna and tuna-like species managed by the IOTC on the high seas ~~in the IOTC area of competence~~. The provisions of this measure do not apply to ~~vessels engaged in artisanal fisheries and operating exclusively in their respective exclusive economic zone (-EEZ) of their flag State.~~
2. ~~Contracting Parties and Cooperating Non-Contracting Parties (collectively, CPCs)~~ shall prohibit their ~~flagged~~ vessels from intentionally setting a purse seine net around a whale shark in the IOTC area of competence; if it is sighted prior to the commencement of the set.
3. CPCs shall require that, in the event that a whale shark is unintentionally encircled in the purse seine net, the master of the vessel shall:
  - (a) take all reasonable steps to ensure its safe release; ~~while taking into consideration the safety of the crew, including -These steps shall~~ following the best practice guidelines for the safe release and handling of whale sharks developed by the IOTC Scientific Committee;
  - (b) report the incident to the relevant authority of the flag State, with the following information:
    - (i) the number of individuals;
    - (ii) a short description of the interaction, including details of how and why the interaction occurred, if possible;
    - (iii) the location of the encirclement;
    - (iv) the steps taken to ensure safe release;

**Commented [A255]:** AUS  
The reference to 'fishing vessels' should be retained.

**Commented [A256]:** EU  
Considering it is restricted to vessels authorised to fish in the HS, then we agree with the change that will not change the scope of the measure.

- (v) an assessment of the life status of the animal on release, including whether the whale shark was released alive but subsequently died.
4. CPCs using other gear types fishing for tuna and tuna-like species associated with a whale shark shall report all interactions with whale sharks to the relevant authority of the flag State and include all the information outlined in paragraph 3(b)(i)–(v).
5. CPCs shall adopt ~~F~~ish ~~A~~ggregating ~~D~~evice designs that reduce the incidence of entanglement, in accordance with in accordance with Annex V of Resolution 19/02 Procedures on a fish aggregating devices (FADs) management plan according to Annex III of Resolution 13/08 [superseded by Resolution 15/08, by Resolution 17/08, by Resolution 18/08 and then by Resolution 19/02] (or any subsequent revision).
6. The Commission requests that the IOTC Scientific Committee develop best practice guidelines for the safe release and handling of encircled whale sharks, taking into account those developed in other regional fisheries management organisations including the Western and Central Pacific Fisheries Commission, and that these guidelines be submitted to the 2014 Commission ~~Session~~meeting for endorsement.
7. CPCs shall report the information and data collected under paragraph 3(b) and paragraph 4 through logbooks, or when an observer is onboard through observer programs, and provide to the ~~Executive Secretary IOTC Secretariat~~ by 30 June of the following year and according to the timelines specified in Resolution ~~15/02~~10/02 [superseded by Resolution 15/02] (or any subsequent revision).
8. CPCs shall report, in accordance with Article X of the IOTC Agreement, any instances in which whale sharks have been encircled by the purse seine nets of their ~~flag~~ged vessels.
9. ~~For~~ CPCs having national and state legislation for protecting ~~this~~ species shall be exempt from reporting to ~~the Executive Secretary IOTC~~, but are encouraged to provide data for consideration by the IOTC Scientific Committee ~~consideration~~. The IOTC Scientific Committee ~~shall~~will analyse the situation concerning the availability of data and ~~will~~ advise the Commission to undertake support measures to developing CPCs to overcome this situation.

**Commented [A257]:** JPN  
"Secretariat" shall be maintained.

**Commented [A258]:** JPN  
"Secretariat" shall be maintained.

**Commented [A259]:** JPN  
The original auxiliary verb shall be maintained.

Conservation and Management Measures linked to Resolution 13/05 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 12/01</a>	<a href="#">Resolution 15/02</a>	None	
<a href="#">Resolution 19/02</a>			

**RESOLUTION 13/06**  
**ON A SCIENTIFIC AND MANAGEMENT FRAMEWORK ON THE CONSERVATION OF SHARK SPECIES**  
**CAUGHT IN ASSOCIATION WITH IOTC MANAGED FISHERIES**

**(Objection from India: Not binding on India)**

**EXPLANATORY NOTES**

**PREAMBLE**

*No substantive amendments are proposed for the preamble.*

**PARAGRAPHS**

**3. and 4.** These paragraphs are similar to paragraph 1 in Resolutions 13/04 and 13/05 and the same concerns apply: it applies the requirements of the Resolution to CPC flag vessels:

“on the IOTC Record of Fishing Vessels *or* authorised to fish tuna and tuna-like species managed by the IOTC on the high seas”.

It is proposed to amend this to apply to flag vessels “on the IOTC Record of Authorised Vessels”, delete “or” and replace it with “and”, and refer to fishing in the IOTC area of competence.

Keeping the “or” (being authorised to fish on the high seas without being on the RAV) would be inconsistent with IOTC obligations.

*It is recommended to review this and evaluate whether it is a substantive change, and if so to bring this to the attention of CPCs.*

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*



**The Indian Ocean Tuna Commission (IOTC),**

RECALLING IOTC Resolution 17/0505/05 ~~[superseded by Resolution 17/05]~~ ~~e~~ Concerning the conservation of sharks caught in association with fisheries managed by IOTC;

NOTING that the IOTC Working Party on Ecosystems and Bycatch (WPEB) recognised that full stock assessments on sharks may not be possible because of data limitations and that it is essential that some stock assessment evaluation should be carried out;

NOTING that the IOTC Scientific Committee advises that maintaining or increasing fishing efforts for certain shark species will probably result in further declines in biomass, productivity and ~~catch per unit effort (CPUE)~~;

NOTING that the ecological risk assessment (ERA) by fishing gears made by the IOTC Scientific Committee recognises the oceanic whitetip sharks (*Carcharhinus longimanus*) as vulnerable species in IOTC fisheries;

CONSIDERING that ~~sharks~~ are caught as either main target or bycatch in the IOTC area of competence and valuable fishery resources for local communities in IOTC area;

CONSIDERING that the number of fishing vessels such as longliners and purse seiners and their fishing effort are gradually getting to reduce in the IOTC area of competence recently;

RECOGNISING the need for further improvement of the level of sharks data/information submitted by Contracting Parties and Cooperating Non-Contracting Parties (hereafter referred to as CPCs) to IOTC;

RECOGNISING the significant impact of IOTC Conservation and Management Measures regarding sharks on fishing operations and sharks data/information collected and reported by CPCs;

FURTHER RECOGNISING the need to establish a scientific framework for the conservation and management of shark species in IOTC;

BEARING IN MIND that oceanic whitetip sharks can be easily distinguished from other shark species and can therefore be released before they are taken on board of the vessel;

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

1. The Commission shall determine the shark species that are subjected to IOTC Conservation and Management Measures, including prohibitions to retain on board, tranship, land or store any part or whole carcass according to the ~~IOTC Scientific Committee's (SC)~~ ~~any~~ recommendations or advice ~~of the IOTC Scientific Committee (SC)~~.
2. The SC recommendations or advice shall be conducted taking account of:
  - (a) full stock assessments on sharks, stock assessment and ~~Ecological Risk Assessments (ERAs)~~ by fishing gears, using available best scientific data/information;
  - (b) trends of fishing effort by fishing gear on each shark species;
  - (c) effective IOTC Conservation and Management Measures for certain fishing gears with high risk ~~by~~ ~~for~~ shark species;
  - (d) priority ~~in~~ shark species with ~~a~~ high risk;
  - (e) ~~a~~ review of ~~the~~ practical implementation of ~~any~~ prohibition to retain on board of shark species;
  - (f) ~~the~~ feasibility of implementation of prohibition to retain on board including identification of shark species;
  - (g) impact and bias of IOTC Conservation and Management Measures of sharks on fishing operations and sharks data/information collected and reported by CPCs; ~~and~~
  - (h) further improvements ~~on the~~ ~~of~~ level ~~for~~ ~~of~~ sharks data/information ~~on~~ ~~sharks~~ submitted by CPCs, particularly developing CPCs.
3. Notwithstanding paragraphs 1 and 2, CPCs shall prohibit, as an interim pilot measure, ~~all their flag fishing vessels~~ ~~flying their flag and~~ on the IOTC Record of Authorised Vessels, ~~or~~ ~~and~~ authorised to fish for tuna or tuna-like species managed by the IOTC on the high seas ~~in the IOTC area of competence~~ ~~to~~ ~~from~~ retaining onboard,

**Commented [A260]:** JPN  
"Fishing" shall be maintained.

**Commented [A261]:** MDV:  
Wish to maintain this as "all their flag vessels" to ensure the intended reach of this measure also covers supply or other vessels that may store or transport the white tip shark components in question here.

transshipping, landing or storing any part or whole carcass of oceanic whitetip sharks with the exception of circumstances described in paragraph 7. The provisions of this measure do not apply to vessels engaged in artisanal fisheries and operating exclusively in their respective Exclusive Economic Zone (EEZ) of their flag State for the purpose of local consumption.

4. CPCs shall require ~~fishing~~ vessels flying their flag and on the IOTC Record of Authorised Vessels ~~or~~ authorised to fish for tuna and tuna-like species managed by the IOTC on the high seas to promptly release unharmed, to the extent practicable, of oceanic whitetip sharks when brought alongside for taking onboard the vessel. However, CPCs should encourage their fishers to release this species if recognised on the line before bringing them onboard the vessels.
5. CPCs shall encourage their fishers to record incidental catches as well as live releases of oceanic whitetip sharks. These data shall be kept at the IOTC Secretariat.
6. CPCs shall, where possible, implement research on oceanic whitetip sharks taken in the IOTC area of competence, in order to identify potential nursery areas. Based on this research, CPCs shall consider other measures, as appropriate.
7. Scientific observers shall be allowed to collect biological samples (vertebrae, tissues, reproductive tracts, stomachs, skin samples, spiral valves, jaws, whole and skeletonised specimens for taxonomic works and museum collections) from oceanic whitetip sharks taken in the IOTC area of competence that are dead at haulback, provided that the samples are a part of a research project approved by the ~~IOTC Scientific Committee (SC)/WPEB. the IOTC Working Party on Ecosystems and Bycatch (WPEB).~~ In order to obtain the approval, a detailed document outlining the purpose of the work, number of samples intended to be collected and the spatio-temporal distribution of the sampling effect must be included in the proposal. Annual progress of the work and a final report on completion shall be presented to the SC/WPEB.
8. The CPCs, especially those ~~with flag vessels that target~~ sharks, shall submit data for sharks, as required by IOTC data reporting procedures.
9. The provisional measures stipulated in this Resolution shall be evaluated in 2016 by the IOTC Scientific Committee to deliver more appropriate advice on the conservation and management of the stocks for ~~the~~ consideration ~~of~~ by the Commission.

**Commented [A262]:** MDV:  
"fishing" should be deleted to streamline this Resolution with other Resolutions and to avoid restricting its scope and thereby undermining its effectiveness.

**Commented [A263]:** JPN  
"Fishing" shall be maintained.

**Commented [A264]:** AUS  
The reference to 'fishing' should be retained.

Conservation and Management Measures linked to Resolution 13/06 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 17/05</a>		None	

**RESOLUTION 13/09**  
**ON THE CONSERVATION OF ALBACORE CAUGHT IN THE IOTC AREA OF COMPETENCE**

**EXPLANATORY NOTES**

**PREAMBLE**

*No substantive amendments are proposed for the preamble.*

**PARAGRAPHS**

*No substantive amendments are proposed for the paragraphs.*

*All paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

**The Indian Ocean Tuna Commission (IOTC),**

CONSIDERING that albacore (*Thunnus alalunga*) is one of the most important species managed by IOTC;

NOTING that the IOTC Working Party on Temperate Tunas and the IOTC Scientific Committee recognised that the current level of catches is likely to result in further declines in albacore biomass, productivity and catch-per-unit-effort (CPUE);

FURTHER NOTING that the impacts of the piracy in western Indian Ocean have resulted in the displacement of a substantial portion of the longline fishing effort into the traditional albacore fishing grounds in the southern and eastern Indian Ocean and therefore it is likely that catch-and-effort on albacore will decline in the future unless management action is taken;

BEARING IN MIND that the albacore stock in the Indian Ocean is currently subject to overfishing (current fishing mortality > fishing mortality allowing the stock to deliver MSY) and that the fishing mortality rate needs to be reduced below the 2010 level to ensure that the fishing mortality in 2020 does not exceed the fishing mortality allowing the stock to deliver MSY;

CONSIDERING the recommendations of the 15<sup>th</sup> Session of the IOTC Scientific Committee held in Mahé, Seychelles from 13–15 December 2012;

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

~~that~~ The Commission shall request the IOTC Scientific Committee:

- (a) ~~To~~ compile, review, discuss and assess, during the year 2014 and with the support of all the concerned Contracting Parties and Cooperating Non-Contracting Parties (CPCs), the coverage and the quality of all available data on catches and fishing effort related to albacore fisheries in the IOTC area of competence;
- (b) ~~Through~~ its IOTC Working Party on Temperate Tunas (WPTmT), to examine in relevant 2014 ~~sessions~~ the state of albacore stock, by considering even common working sessions with the ICCAT scientific community to improve the knowledge on the interrelation between the Indian Ocean and Atlantic albacore populations; and
- (c) ~~To~~ advise the Commission, by end of 2014 at the latest on:
  - (i) ~~On~~ Target Reference Points (TRPs) and Limit Reference Points (LRPs) used when assessing the albacore stock status and when establishing the Kobe plot and Kobe matrices;
  - (ii) ~~On~~ potential management measures having been examined through the Management Strategy Evaluation (MSE) process. These management measures will therefore have to ensure the achievement of the conservation and optimal utilisation of stocks as laid down in article V of the Agreement for the establishment of the IOTC and more particularly to ensure that, in as short a period as possible and no later than 2020, (i) the fishing mortality rate does not exceed the fishing mortality rate allowing the stock to deliver MSY and (ii) the spawning biomass is maintained at or above its MSY level.

**Conservation and Management Measures linked to Resolution 13/09 or return to the [Table of Contents](#)**

Links from within this CMM		Links from other CMMs	
None		None	

**ACTIVE CMMs ADOPTED AT THE SIXTEENTH SESSION OF THE IOTC**

**2012**

**RESOLUTION 12/01**  
**ON THE IMPLEMENTATION OF THE PRECAUTIONARY APPROACH**

**EXPLANATORY NOTES**

**PREAMBLE**

*No substantive amendments are proposed for the preamble.*

**PARAGRAPHS**

**1.** This is a new paragraph to define the terms; definitions were taken from the footnotes. Interpretation should always be in the first paragraph, not footnotes.

The sources of the definitions referenced in the footnotes was not repeated in the paragraph because it is not in keeping with legal style and the CPCs had agreed on these definitions.

However, the definitions are different from those in the IOTC Scientific Glossary:

- **Harvest control rule** (HCR). An agreed response that management must make under pre-defined circumstances regarding stock status;
- **Limit reference point** (LRP). A benchmark which defines undesirable states of the system that should be avoided or achieved with very low probability;
- **Target reference point** (TRP). A benchmark which assesses the performance of management in achieving one or more operational management objectives.

*It is recommended to consider whether to propose to CPCs as a substantive matter that the definitions in the Resolution be replaced by those in the IOTC Scientific Glossary.*

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

## The Indian Ocean Tuna Commission (IOTC),

RECALLING that Article 5, paragraph (c), 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), establishes the application of the precautionary approach as a general principle for sound fisheries management;

FURTHER RECALLING that Article 6, and Annex II, of UNFSA provide guidelines for the implementation of the precautionary approach, including the adoption of provisional reference points when information for establishing reference points is absent or poor;

NOTING that Article 7.5 of the FAO Code of Conduct for Responsible Fisheries also recommends the implementation of the precautionary approach, *inter alia*, on the basis of stock-based target and limit reference points;

NOTING that recommendations 37 and 38 of the Performance Review Panel, adopted by the Commission as Resolution 09/01 [superseded by Resolution 16/03], indicate that pending the amendment or replacement of the IOTC Agreement to incorporate modern fisheries management principles, the Commission should implement the precautionary approach as provided set forth in the UNFSA;

MINDFUL that paragraph 29.6 of the FAO Guidelines for the Eco-labelling of Fish and Fishery Products from Marine Capture Fisheries, revision 1, 2009, and other eco-certification initiatives highlight the implementation of the precautionary approach as an important criterion to assess the sustainability of a fishery;

RECALLING the time-area closure adopted by the Commission towards the conservation of tropical tuna stocks, described in Resolution 14/02<sup>1</sup> [superseded by Resolution 12/13, then Resolution 14/02];

RECALLING that the IOTC Scientific Committee has initiated a process of management strategy evaluation to focus the provision of scientific advice on the information needs of the Commission;

RECOGNISING the need to ensure the sustainability of fisheries for tunas and tuna-like species for food security, livelihoods, economic development, multispecies interactions and environmental impacts in its decisions;

**ADOPTS/AGREES**, in accordance with paragraph 1 of Article IX of the IOTC Agreement, ~~to~~ the following:

### 1. In this Resolution:

- (a) "harvest control rule" means a rule that describes how harvest is intended to be controlled by management in relation to the state of some indicator of stock status;
- (b) "limit reference points" means the limit beyond which the state of a fishery and/or a resource is not considered desirable; and
- (c) "target reference points" correspond to a state of a fishery and/or a resource which is considered desirable.

~~2. The Commission shall~~ apply the precautionary approach, in accordance with relevant internationally agreed standards, in particular with the guidelines provided set forth in the UNFSA, and to ensure the sustainable utilisation of fisheries resources as provided set forth in Article V of the IOTC Agreement.

~~2.3. In applying the precautionary approach, the Commission shall adopt, after due consideration of the~~ advice supplied by the IOTC Scientific Committee;

- (a) stock-specific reference points (including, but not necessarily limited to, target and limit reference points<sup>1</sup>), relative to fishing mortality and biomass; and

#### Commented [A265]: JPN

The original sentence shall be maintained because inserting new auxiliary verb (shall) change the original meanings.

<sup>1</sup> Target Reference Points corresponds to a state of a fishery and / or a resource which is considered desirable; Limit Reference Points indicates the limit beyond which the state of a fishery and / or a resource is not considered desirable. Source: <http://www.fao.org/fi/glossary> (accessed 25 April 2012).

(b) associated harvest control rules<sup>2</sup>, that is, management actions to be taken as the reference points for stock status are approached or if they are breached, ~~and~~

Reference points and harvest control rules shall be determined so that, according to the best available science, the risk of a negative impact on the sustainability of Indian Ocean resources of tuna and tuna-like species is minimised.

~~3.4.~~ In the determination of appropriate reference points and harvest control rules, consideration ~~must~~ ~~shall~~ be given to major uncertainties, including the uncertainty about the status of the stocks relative to the reference points, uncertainty about biological, environmental and socio-economic events and the effects of fishing activities on non-target and associated or dependent species.

~~4.5.~~ If an unanticipated event, such as a natural phenomenon has a significant adverse impact on the status of a stock or its associated environment, the Commission shall adopt Conservation and Management Measures on an emergency basis to ensure that fishing activity does not exacerbate such adverse impacts.

~~5.6.~~ Initially and as an interim measure, the Commission may adopt provisional reference points and harvest control rules, taking into account the advice of the IOTC Scientific Committee ~~and~~ such measures ~~shall~~ ~~would~~ remain current until such time as the Commission chooses to update them.

~~6.7.~~ The Commission ~~shall~~ ~~instruct~~ the IOTC Scientific Committee to assess, through the management strategy evaluation process, the performance of reference points, including any interim reference points, and ~~of~~ potential harvest control rules to be applied as the status of the stocks approaches the reference points.

~~7.8.~~ After completion of the management strategy evaluation, the IOTC Scientific Committee ~~shall~~ ~~should~~ provide the Commission with recommended reference points for all major stocks, and cast future advice on the status of the stocks relative to the adopted reference points, on the basis of the best available scientific evidence.

~~8.9.~~ The IOTC Scientific Committee will report on the progress of the management strategy evaluation process at the Commission Session in 2014, with a view to confirming or updating any interim reference points and associated harvest control rules.

**Commented [A266]:** JPN

The original auxiliary verb shall be maintained.

**Commented [A267]:** JPN

The original auxiliary verb shall be maintained.

**Commented [A268]:** JPN

The original auxiliary verb shall be maintained.

**Commented [A269]:** JPN

The original auxiliary verb shall be maintained.

Conservation and Management Measures linked to Resolution 12/01 or return to the [Table of Contents](#)

Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 14/02</a>	<a href="#">Resolution 16/03</a>	<a href="#">Resolution 13/04</a>	<a href="#">Resolution 13/05</a>
		<a href="#">Recommendation 14/07</a>	<a href="#">Resolution 15/10</a>
		<a href="#">Resolution 16/02</a>	<a href="#">Resolution 16/08</a>
		<a href="#">Resolution 19/05</a>	

<sup>2</sup> Harvest Control Rule: A rule that describes how harvest is intended to be controlled by management in relation to the state of some indicator of stock status. Source: <http://www.fao.org/fi/glossary> (accessed 25 April 2012).



**RESOLUTION 12/02**  
**DATA CONFIDENTIALITY POLICY AND PROCEDURES**

**EXPLANATORY NOTES**

**PREAMBLE**

*No substantive amendments are proposed for the preamble.*

**PARAGRAPHS**

1. Amendments are proposed that:

- (a) summarise the content of the Resolution. Otherwise it is legally incomplete: e.g. “the following policy and procedures on confidentiality of data will apply”, but it doesn’t identify that the data subject to the Resolution is data submitted by CPCs to the Secretariat;
- (b) incorporate and broaden the provisions of paragraph 6, which describes the application of the Resolution to all members of the IOTC Working Parties and the IOTC Scientific Committee. The proposed amendment applies the Resolution to data submitted by CPCs to the Secretariat, and it must be implemented by CPCs and the Secretariat, including members of and all IOTC Committees and Working Parties.

As a consequential amendment, paragraph 6 is deleted.

3. It is proposed to amend paragraph 3 by merging (a) into the paragraph (if there is only one subparagraph it should appear as one, and be distinct). Only the first sentence is merged; it is specific to tagging and recovery data. The second sentence concerns an application for tagging data, and this has been moved to a new paragraph 4.

4. A new paragraph 4 is proposed specific to applications for data. An amendment is proposed so that the application in Annex I can be used generically for all data, and not be restricted to tagging data. A sentence has been proposed reflecting current practice where the Executive Secretary may consult with CPCs on an application for the use of data, and CPCs may recommend approval/denial/conditions.

**ANNEX**

Amendments have been proposed to the Data Users Application Form in order to make it more generic; it currently limits requests for data from the Indian Ocean Tuna Tagging Program. The option to approve with conditions has been added.

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

**The Indian Ocean Tuna Commission (IOTC),**

RECOGNISING the need for confidentiality at the commercial and organisational levels for data submitted to the IOTC;

CONSIDERING the provisions ~~set forth in Resolution 15/02~~ ~~[superseded by Resolution 15/02]~~ on *mandatory statistical reporting requirements for IOTC Contracting Parties and Cooperating Non-Contracting Parties (CPCs)*;

CONSIDERING the provisions ~~set forth in Resolution 11/04~~ ~~on a regional observer scheme~~;

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

1. The ~~following~~ policy and procedures on ~~the confidentiality of data in this Resolution and for safeguarding records shall will be applied~~ to data submitted by CPCs to the Secretariat and implemented by CPCs and the Secretariat, including members of and all IOTC Committees and Working Parties.

**Data submitted to the ~~IOTC~~ Secretariat**

2. The policy for releasing catch-and-effort, length-frequency and observer data ~~is stated in subparagraphs (a) – (g). will be as follows:~~

**Standard stratification**

- (a) Catch-and-effort and length-frequency data grouped by 5° longitude by 5° latitude by month for longline and 1° longitude by 1° latitude by month for surface fisheries stratified by fishing ~~CPC nation~~ are considered to be in the public domain, provided that the catch of no individual vessel can be identified within a time/area stratum. In cases when an individual vessel can be identified, the data will be aggregated by time, area or flag to preclude such identification, and will then be in the public domain.

**Finer level stratification**

- (b) Catch-and-effort and length-frequency data grouped at a finer level of time-area stratification will only be released with written authorisation from the sources of the data. Each data release will require the specific permission of the ~~IOTC~~ Executive Secretary.
- (c) Observer data grouped by 1° longitude by 1° latitude for surface fisheries and by 5° longitude by 5° latitude for longline, stratified by month and by fishing nation are considered to be in the public domain, provided that the activities /catch of no individual vessel can be identified within a time/area stratum.
- (d) A Working Party will specify the reasons for which the data are required.
- (e) Individuals requesting the data are required to provide a description of the research project, including the objectives, methodology and intentions for publication. Prior to publication, the manuscript should be cleared by the ~~IOTC~~ Executive Secretary. The data are released only for use in the specified research project and the data must be destroyed upon completion of the project. However, with authorisation from the sources of the data, catch-and-effort and length-frequency data may be released for long-term usage for research purposes, and in such cases the data need not be destroyed.
- (f) The identity of individual vessels will be hidden in fine-level data unless the individual requesting this information can justify its necessity.
- (g) Both IOTC Working Parties and individuals requesting data shall provide a report of the results of the research project to the ~~Executive Secretary~~ ~~IOTC~~ for subsequent forwarding to the sources of the data.
3. The policy for releasing tagging data ~~will be as follows:~~ is that detailed tagging and recovery data are considered to be in the public domain, with the exception of any vessel names or identifiers and detailed information about the person who recovered the tag (name and address).

~~Detailed tagging and recovery data are considered to be in the public domain, with the exception of any vessel names or identifiers and detailed information about the person who recovered the tag (name and address). however, requests for tagging data should be made to the IOTC Executive Secretary through the application form provided at Annex I.~~

#### Release of data by the Secretariat

4. ~~Requests for the release of data shall be made to the Executive Secretary using the Data Users Application Form in Annex I. The Executive Secretary may consult with CPCs on applications submitted for the release of data to determine whether to accept, accept with conditions or deny the application.~~

#### Procedures for ~~the safeguarding of records and databases~~

5. Procedures for safeguarding records and databases ~~are stated in subparagraphs (a) – (c). will be as follows:~~
- (a) Access to logbook-level information or detailed observer data ~~shall will~~ be restricted to ~~IOTC~~ staff members of the ~~IOTC Secretariat~~ requiring these records for their official duties. Each staff member having access to these records will be required to sign an attestation recognising the restrictions on the use and disclosure of the information.
  - (b) Logbook and observer records ~~shall will~~ be kept locked, under the specific responsibility of the ~~IOTC~~ Data Manager. These ~~records sheets~~ will only be released to authorised ~~staff members of the IOTC Secretariat personnel~~ for the purpose of data input, editing or verification. Copies of these records will be authorised only for legitimate purposes and will be subjected to the same restrictions on access and storage as the originals.
  - (c) Databases ~~shall will~~ be encrypted to preclude access by unauthorised persons. Full access to the database will be restricted to the ~~IOTC~~ Data Manager and to senior ~~IOTC~~ staff of the ~~IOTC Secretariat~~ requiring access to these data for official purposes, under the authority of the ~~IOTC~~ Executive Secretary. Staff entrusted with data input, editing and verification will be provided with access to those functions and data sets required for their work.

#### Data submitted to IOTC Working Parties and the IOTC Scientific Committee

6. Data submitted to IOTC Working Parties and the IOTC Scientific Committee ~~will shall~~ be retained by the IOTC Secretariat or made available for other analyses only with the permission of the source.
- ~~7. The above rules of confidentiality will apply to all members of IOTC Working Parties and the IOTC Scientific Committee.~~
- ~~8.7.~~ This Resolution supersedes Resolution 98/02 *Data Confidentiality Policy and Procedures*.

**Commented [A270]:** JPN  
"Secretariat" shall be used instead of "Executive Secretary"

**Commented [A271]:** JPN  
"Secretariat" shall be used instead of "Executive Secretary"

**Commented [A272]:** EU  
We note the extension of the scope of this provision where annex I can be use for other data than only tagging data. We can agree with this change.

**Commented [A273]:** JPN  
The original auxiliary verb shall be maintained.

**Commented [A274]:** JPN  
The original auxiliary verb shall be maintained.

**Commented [A275]:** JPN  
The IOTC Executive Secretary shall be maintand. (shall not use "secretariat" in this case)

**Commented [A276]:** JPN  
The original auxiliary verb shall be maintained.

Conservation and Management Measures linked to Resolution 12/02 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 11/04</a>	<a href="#">Resolution 15/02</a>	<a href="#">Recommendation 05/07</a>	<a href="#">Resolution 11/04</a>
		<a href="#">Resolution 15/01</a>	<a href="#">Resolution 16/02</a>
		<a href="#">Resolution 19/02</a>	

**ANNEX I**  
**TAGGING-DATA USERS APPLICATION FORM**

To the Executive ~~Secretary~~ of the Indian Ocean Tuna Commission:

I ~~wish to submit the following~~ request ~~to receive and analyse the data-~~ described in this application for purposes of analysis, from the Indian Ocean Tuna Tagging Programme.

Names of the institution/s requesting the data and head researcher, and contact details for the head researcher

Project outline

Specifications of the data required

Names and positions of the staff accessing the data: ~~(Note, the IOTC Secretariat expects to be informed of any changes to the data users list must be promptly notified to the Executive Secretary.)~~

Intentions ~~for with respect to~~ publication of the results of the proposed work

I have read and agree to all conditions in the above Data Users Policy Resolution 12/02 on Data Confidentiality Policy and Procedures, noting in particular, the matters relating to data confidentiality and will provide an appropriate acknowledgement in the case of any publications arising from the use of these data, ~~and agree to all the conditions listed.~~

APPLICANT \_\_\_\_\_ ~~Signature and date:~~

Name: \_\_\_\_\_

Position: \_\_\_\_\_

**Commented [A277]:** JPN  
"Secretariat" shall be used instead of "Executive Secretary"

Organisation:

Signature and date:

EXECUTIVE SECRETARY

Approved / Not Approved

Approved with the following conditions:

Signature and date:

IOTC Executive Secretary:

**RESOLUTION 12/04**  
**ON THE CONSERVATION OF MARINE TURTLES**

**EXPLANATORY NOTES**

**PREAMBLE**

*No substantive amendments are proposed for the preamble.*

**PARAGRAPHS**

- 12.** It is proposed to number this paragraph (previously unnumbered) and amend accordingly.

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

**The Indian Ocean Tuna Commission (IOTC),**

RECALLING ~~Resolution 12/04~~~~Recommendation 05/08~~ ~~[superseded by Resolution 12/04]~~ *On Sea Turtles* and Resolution 09/06 ~~[superseded by this Resolution 12/04]~~ *On Marine Turtles*;

FURTHER RECALLING that marine turtles, including all species in the family Cheloniidae and *Dermochelys coriacea* (leatherback turtles) are listed in Appendix I of the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES) and that all species of marine turtles are listed on Appendix I or II of *Convention on the Conservation of Migratory Species of Wild Animals*;

AWARE that the populations of the six species of marine turtles under the *Memorandum of Understanding on the Conservation and Management of Marine Turtles and their Habitats of the Indian Ocean and South-East Asia* (IOSEA MoU) are listed as Vulnerable, Endangered or Critically endangered on the International Union for the Conservation of Nature (IUCN) Red List of Threatened Species;

RECOGNISING that the 26<sup>th</sup> FAO-COFI Session in March 2005 adopted the *Guidelines to Reduce Sea Turtle Mortality in Fishing Operations* (~~hereinafter referred to as “the FAO Guidelines”~~) and recommended their implementation by regional fisheries bodies and management organisations;

RECOGNISING that some fishing operations carried out in the Indian Ocean can adversely impact marine turtles and the need to implement measures to manage the adverse effects of fishing in the Indian Ocean on marine turtles;

ACKNOWLEDGING the activities undertaken to conserve marine turtles and the habitats on which they depend within the framework of the IOSEA MoU in particular its *Resolution to Promote the Use of Marine Turtle Bycatch Reduction Measures by IOSEA Signatory States* adopted by the Fifth Meeting of the Signatory States;

NOTING the IOTC Scientific Committee’s concern that the lack of data from Contracting Parties and Cooperating Non-Contracting Parties (CPCs) on the interactions and mortality of marine turtles from fisheries under the mandate of the IOTC undermines the ability to estimate levels of marine turtle bycatch and consequently IOTC’s capacity to respond and manage adverse effects of fishing on marine turtles;

FURTHER NOTING the IOTC Scientific Committee’s concern that the expansion of gillnet fishing from traditional fishing grounds into high seas might increase the interaction with marine turtles and lead to increased mortality;

CONVINCED of the need to strengthen Resolution 09/06 ~~[superseded by Resolution 12/04]~~ *On Marine Turtles* to ensure that the Resolution applies equally to all marine turtle species and that CPCs annually report all interactions and mortalities of marine turtles in fisheries under the mandate of the IOTC;

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

1. This Resolution shall apply to all fishing vessels on the IOTC Record of ~~Authorised Fishing~~ **Fishing** Vessels.
2. ~~Contracting Parties and Cooperating Non-Contracting Parties~~ (~~hereinafter referred to as “CPCs”~~) ~~shall will~~ implement, as appropriate, the FAO Guidelines.
3. CPCs shall collect (including through logbooks and observer programs) and provide to the IOTC Secretariat no later than 30 June of the following year in accordance with Resolution 15/02 ~~[superseded by Resolution 15/02] (or any subsequent revision)~~; all data on their vessels’ interactions with marine turtles. The data shall include the level of logbook or observer coverage and an estimation of total mortality of marine turtles incidentally caught in their fisheries.
4. CPCs shall report to the IOTC Scientific Committee information on successful mitigation measures and other impacts on marine turtles in the IOTC area, such as the deterioration of nesting sites and swallowing of marine debris.
5. CPCs shall report to the Commission in the annual ~~Implementation Report~~, in accordance with Article X of the IOTC Agreement, their progress of implementation of the FAO Guidelines and this Resolution.
6. CPCs shall require fishermen on vessels targeting species covered by the IOTC Agreement to bring aboard, if practicable, any captured marine turtle that is comatose or inactive as soon as possible and foster its recovery, including aiding in its resuscitation, before safely returning it to the water. CPCs shall ensure that fishermen are

**Commented [A278]:** JPN  
“Fishing” shall be maintained.

**Commented [A279]:** JPN  
The original auxiliary verb shall be maintained.

aware of and use proper mitigation, identification, handling and de-hooking techniques and keep on board all necessary equipment for the release of marine turtles, in accordance with handling guidelines in the IOTC Marine Turtle Identification Cards.

7. CPCs with gillnet flag vessels that fish for species covered by the IOTC Agreement shall: ~~Require~~ that operators of such vessels record all incidents involving marine turtles during fishing operations in their logbooks<sup>1</sup> and report such incidents to the appropriate authorities of the CPC.
8. CPCs with longline flag vessels that fish for species covered by the IOTC Agreement shall:
  - (a) ~~E~~nsure that the operators of all longline vessels carry line cutters and de-hookers in order to facilitate the appropriate handling and prompt release of marine turtles caught or entangled, and that they do so in accordance with IOTC Guidelines;
  - ~~(a)(b)~~ CPCs shall also ensure that operators of all longlines~~such~~ vessels follow the handling guidelines in the IOTC Marine Turtle Identification Cards;
  - ~~(b)(c)~~ Where appropriate, encourage the use of whole finfish bait;
  - ~~(e)(d)~~ Require that operators of such vessels record all incidents involving marine turtles during fishing operations in their logbooks<sup>2</sup> and report such incidents to the appropriate authorities of the flag CPC.
9. CPCs with purse seine flag vessels that fish for species covered by the IOTC Agreement shall:
  - (a) ~~E~~nsure that operators of such vessels, while fishing in the IOTC area of competence:
    - (i) ~~T~~o the extent practicable, avoid encirclement of marine turtles, and if a marine turtle is encircled or entangled, take practicable measures to safely release the turtle in accordance with the handling guidelines in the IOTC Marine Turtle Identification Cards;
    - (ii) ~~T~~o the extent practicable, release all marine turtles observed entangled in fish aggregating devices (FADs) or other fishing gear;
    - (iii) ~~I~~f a marine turtle is entangled in the net, stop net roll as soon as the turtle comes out of the water; ~~disentangle the turtle without injuring it before resuming the net roll; and to the extent practicable, assist the recovery of the turtle before returning it to the water; and~~
    - (iv) ~~C~~arry and employ dip nets, when appropriate, to handle marine turtles.
  - (b) ~~E~~ncourage such vessels to adopt FAD designs that reduce the incidence of entanglement of marine turtles according to international standards;
  - (c) ~~R~~equire that operators of such vessels record all incidents involving marine turtles during fishing operations in their logbooks<sup>3</sup> and report such incidents to the appropriate authorities of the CPC.
10. All CPCs are requested to:
  - (a) ~~W~~here appropriate undertake research trials of circle hooks, use of whole finfish for bait, alternative FAD designs, alternative handling techniques, gillnet design and fishing practices and other mitigation methods which may improve the mitigation of adverse effects on marine turtles;
  - (b) ~~R~~eport the results of these trials to the IOTC Scientific Committee; at least 30 days in advance of ~~theirs~~ annual ~~meetings~~Session of the Scientific Committee.
11. The IOTC Scientific Committee shall request the IOTC Working Party on Ecosystems and Bycatch to:
  - (a) ~~d~~evelop recommendations on appropriate mitigation measures for gillnet, longline and purse seine fisheries in the IOTC area;

<sup>1</sup> This information should include, where possible, details on species, location of capture, conditions, actions taken on board and location of release.

<sup>2</sup> This information should include, where possible, details on species, location of capture, conditions, actions taken on board and location of release

<sup>3</sup> This information should include, where possible, details on species, location of capture, conditions, actions taken on board and location of release



- (b) ~~D~~develop regional standards covering data collection, data exchange and training;
- (c) ~~D~~develop improved FAD designs to reduce the incidence of entanglement of marine turtles, including the use of biodegradable materials.
12. The recommendations of the IOTC Working Party on Ecosystems and Bycatch in relation to paragraph 11 shall be provided to the IOTC Scientific Committee for consideration at its annual Session in 2012. In developing its recommendations, the IOTC Working Party on Ecosystems and Bycatch shall examine and take into account the information provided by CPCs in accordance with paragraph 10 of this Resolution~~measure~~, other research available on the effectiveness of various mitigation methods in the IOTC area, mitigation measures and guidelines adopted by other relevant organizations and, in particular, those of the Western and Central Pacific Fisheries Commission. The IOTC Working Party on Ecosystems and Bycatch will specifically consider the effects of circle hooks on target species catch rates, marine turtle mortalities and other bycatch species.
13. At its annual ~~s~~Session in 2013 the Commission shall consider the recommendations of the IOTC Scientific Committee, together with socio-economic considerations, with a view to adopting further measures to mitigate interactions with marine turtles in fisheries covered by the IOTC Agreement.
14. In researching new mitigation methods, consideration should be given to ensuring that methods do not cause greater harm than they prevent and do not adversely impact other species (particularly threatened species) and/or the environment.
15. CPCs are encouraged to collaborate with the IOSEA and take into account the IOSEA MoU including the provisions of the Conservation and Management Plan in the implementation of bycatch mitigation measures for marine turtles.
16. The IOTC and IOSEA secretariats are encouraged to intensify their collaboration and exchange of information on marine turtle issues in accordance with the protocols agreed by the Commission.
17. CPCs are encouraged to support developing countries in their implementation of the FAO Guidelines and this Resolution.
18. The IOTC Scientific Committee shall annually review the information reported by CPCs pursuant to this measure and, as necessary, provide recommendations to the Commission on ways to strengthen efforts to reduce marine turtle interactions with IOTC fisheries.
19. This Resolution supersedes Recommendation 05/08 *On Sea Turtles* and Resolution 09/06 *On Marine Turtles*.

Conservation and Management Measures linked to Resolution 12/04 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 15/02</a>		<a href="#">Resolution 16/06</a>	<a href="#">Resolution 19/02</a>

**RESOLUTION 12/06****ON REDUCING THE INCIDENTAL BYCATCH OF SEABIRDS IN LONGLINE FISHERIES****EXPLANATORY NOTES****PREAMBLE**

*No substantive amendments are proposed for the preamble.*

**PARAGRAPHS**

*No substantive amendments are proposed for the paragraphs.*

*All paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

**The Indian Ocean Tuna Commission (IOTC),**

RECALLING Resolution 10/06 *On reducing incidental bycatch of seabirds in longline fisheries* [superseded by this Resolution-12/06], and in particular, its paragraph 8;

RECOGNISING the need to strengthen mechanisms to protect seabirds in the Indian Ocean, and to harmonise them with ~~ICCAT~~ measures of the International Commission for the Conservation of Atlantic Tunas that will enter into force no later than July 2013;

TAKING INTO ACCOUNT the United Nations Food and Agriculture Organization (FAO) International Plan of Action for Reducing the Incidental Catch of Seabirds in Longline Fisheries (IPOA-Seabirds);

NOTING the recommendations of the IOTC Scientific Committee, in agreement with the IOTC Working Party on Ecosystems and Bycatch (WPEB) on measures to mitigate seabird interactions as outlined in their 2007, 2009 and 2011 Reports;

ACKNOWLEDGING that to date some IOTC Contracting Parties and Cooperating Non-Contracting Parties (~~hereinafter referred to as "CPCs"~~) have identified the need for, and have either completed or are near finalising, their National Plan of Action on Seabirds;

RECOGNISING the global concern that some species of seabirds, notably albatrosses and petrels, are threatened with extinction;

NOTING that the Agreement on the Conservation of Albatrosses and Petrels, which opened for signatures at Canberra on 19 June 2001, has entered into force;

NOTING that the ultimate aim of the IOTC and the CPCs is to achieve a zero bycatch of seabirds for fisheries under the purview of the IOTC, especially threatened albatrosses and petrel species in longline fisheries;

BEARING in mind studies undertaken in other longline tuna fisheries, demonstrating the economic~~a~~ benefit of measures to mitigate incidental bycatch of seabirds, by significantly increasing catches of targeted species;

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

1. CPCs shall record data on seabird incidental bycatch by species, notably through scientific observers in accordance with Resolution 11/04 On a regional observer scheme and report these annually. Observers shall to the extent possible take photographs of seabirds caught by fishing vessels and transmit them to national seabird experts or to the ~~IOTC~~ Secretariat, for confirmation of identification.
2. CPCs that have not fully implemented the provisions of the IOTC Regional Observer Scheme ~~outlined~~provided in paragraph 2 of Resolution 11/04 shall report seabird incidental bycatch through logbooks, including details of species, if possible.
3. CPCs shall provide to the Commission as part of ~~the their annual~~ Implementation Reports stipulated in article X in the agreement annually, information on how they are implementing this measure.
4. CPCs shall seek to achieve reductions in levels of seabird bycatch across all fishing areas, seasons, and fisheries through the use of effective mitigation measures, while giving due consideration to the safety of crew members and the practicability of mitigation measures.
5. In the area south of 25 degrees South latitude, CPCs shall ensure that all longline vessels use at least two of the three mitigation measures identified in Annex Table I-1. These measures should also be considered for implementation in other areas, as appropriate, consistent with scientific advice.
6. Mitigation measures used pursuant to paragraph 5 shall conform to the minimum technical standards for these measures, as ~~provided shown~~ in Annex Table I-1.
7. The design and deployment for bird scaring lines should also meet the additional specifications provided in Annex II.
8. The IOTC Scientific Committee, ~~based notably on the work of the WPEB and information from CPCs, shall will~~ analyse the impact of ~~the requirements of~~ Resolution on seabird bycatch, based on the work of the WPEB and

**Commented [A280]: JPN**

If my understanding is correct, IOTC have three type of annual report.

- a) Implementation report which stipulated in article X in the IOTC agreement,
  - b) annual report (national report) which is submitted to the SC and
  - c) report submitted separately from (a) and (b).
- If this paragraph requires CPCs provide information by submitting (a), I would like to propose the amendment for clarification.

**Commented [A281]: JPN**

The original auxiliary verb shall be maintained.

information from CPCs, no later than for the 2016 ~~Sessionmeeting~~ of the Commission. ~~In order to make the Resolution more effective, the IOTC Scientific Committee~~ ~~It~~ shall advise the Commission ~~on~~ of any modifications that are required, based on experience to date of the ~~operationimplementation~~ of the Resolution and/or further relevant international studies, research ~~and~~ advice on best practices ~~on the issue, in order to make the Resolution more effective.~~

**Commented [A282]:** JPN

"or" shall be maintained, because both research and advice may not be used at the same time.

9. The Commission should hold a workshop in the intersessional period before the entry into force of this Resolution to facilitate its implementation, particularly focusing on how to address safety and practical concerns. CPCs shall ensure that fishers make a trial of the safety and practicality of these measures for review at the workshops with a view of resolving their concerns and assuring the orderly implementation, including training for and adaptation to these measures. A second workshop should be held, if necessary to explain the science, theory and application of the line weighting measure.
10. This Resolution shall enter into force on 1 July 2014.
11. As of 1 July 2014, the Resolution 10/06 *on reducing incidental bycatch of seabirds in longline fisheries* and the Recommendation 05/09 *on incidental mortality of seabirds* are superseded by this Resolution.

Conservation and Management Measures linked to Resolution 12/06 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 11/04</a>		None	

**ANNEX I**  
**MITIGATION MEASURES**

**Table 1. Mitigation measures**

Mitigation	Description	Specification
Night setting with minimum deck lighting	No setting between nautical dawn and before nautical dusk.  Deck lighting to be kept to a minimum.	Nautical dusk and nautical dawn are defined as set out in the Nautical Almanac tables for relevant latitude, local time and date.  Minimum deck lighting should not breach minimum standards for safety and navigation.
Bird-scaring lines (Tori lines)	Bird-scaring lines shall be deployed during the entire longline setting to deter birds from approaching the branch line.	For vessels greater than or equal to 35 m: (a) Deploy at least 1 bird-scaring line. Where practical, vessels are encouraged to use a second tori pole and bird scaring line at times of high bird abundance or activity; both tori lines should be deployed simultaneously, one on each side of the line being set. (b) Aerial extent of bird-scaring lines must be greater than or equal to 100 m. (c) Long streamers of sufficient length to reach the sea surface in calm conditions must be used. (d) Long streamers must be at intervals of no more than 5m.  For vessels less than 35 m: (a) Deploy at least 1 bird-scaring line. (b) Aerial extent must be greater than or equal to 75 m. (c) Long and/or short (but greater than 1 m in length) streamers must be used and placed at intervals as follows: (i) Short: intervals of no more than 2 m. (ii) Long: intervals of no more than 5 m for the first 55 m of bird scaring line.  Additional design and deployment guidelines for bird-scaring lines are provided in <b>Annex II</b> of this Resolution.
Line weighting	Line weights to be deployed on the snood prior to setting.	Greater than a total of 45 g attached within 1 m of the hook <del>or</del> ; Greater than a total of 60 g attached within 3.5 m of the hook or; Greater than a total of 98 g weight attached within 4 m of the hook.

## ANNEX II

### SUPPLEMENTAL GUIDELINES FOR DESIGN AND DEPLOYMENT OF TORI LINES

#### Preamble

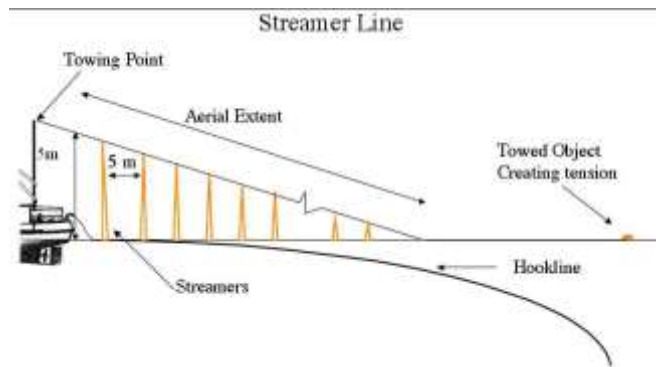
The minimum technical standards for deployment of tori lines are found in ~~Table Annex I-I~~ of this Resolution, and are not repeated here. These supplemental guidelines are designed to assist in the preparation and implementation of tori line regulations for longline vessels. While these guidelines are relatively explicit, improvement in tori line effectiveness through experimentation is encouraged, in accordance with the requirements of ~~Table Annex 4I in the of~~ this Resolution. The guidelines take into account environmental and operational variables such as weather conditions, setting speed and ship size, all of which influence tori line performance and design in protecting baits from birds. Tori line design and use may change to take account of these variables provided that line performance is not compromised. On-going improvement in tori line design is envisaged and consequently review of these guidelines should be undertaken in the future.

#### Tori line design (see Figure 1)

1. A diagram of a Bird Scaring Streamer Line is provided in Figure 1, below.
2. An appropriate towed device on the section of the tori line in the water can improve the aerial extension.
3. The above water section of the line should be sufficiently light that its movement is unpredictable to avoid habituation by birds and sufficiently heavy to avoid deflection of the line by wind.
4. The line is best attached to the vessel with a robust barrel swivel to reduce tangling of the line.
5. The streamers should be made of material that is conspicuous and produces an unpredictable lively action (e.g. strong fine line sheathed in red polyurethane tubing) suspended from a robust three-way swivel (that again reduces tangles) attached to the tori line.
6. Each streamer should consist of two or more strands.
7. Each streamer pair should be detachable by means of a clip so that line stowage is more efficient.

#### Deployment of tori lines

8. The line should be suspended from a pole affixed to the vessel. The tori pole should be set as high as possible so that the line protects bait a good distance astern of the vessel and will not tangle with fishing gear. Greater pole height provides greater bait protection. For example, a height of around 7 m above the water line can give about 100 m of bait protection.
9. If vessels use only one tori line it should be set to windward of sinking baits. If baited hooks are set outboard of the wake, the streamer line attachment point to the vessel should be positioned several meters outboard of the side of the vessel that baits are deployed. If vessels use two tori lines, baited hooks should be deployed within the area bounded by the two tori lines.
10. Deployment of multiple tori lines is encouraged to provide even greater protection of baits from birds.
11. Because there is the potential for line breakage and tangling, spare tori lines should be carried onboard to replace damaged lines and to ensure fishing operations can continue uninterrupted. Breakaways can be incorporated into the tori line to minimize safety and operational problems should a longline float foul or tangle with the in-water extent of a streamer line.
12. When fishers use a bait casting machine (BCM), they must ensure coordination of tori line and machine by:
  - (a) ensuring the BCM throws directly under the tori line protection; and
  - (b) when using a BCM (or multiple BCMs) that allows throwing to both port and starboard, two tori lines should be used.
13. When casting branchline by hand, fishers should ensure that the baited hooks and coiled branchline sections are cast under the tori line protection, avoiding the propeller turbulence which may slow the sink rate.
14. Fishers are encouraged to install manual, electric or hydraulic winches to improve ease of deployment and retrieval of tori lines.



**Figure 1.** Diagram of Bird Scaring Streamer Line.

**RESOLUTION 12/09****ON THE CONSERVATION OF THRESHER SHARKS (FAMILY ALOPIIDAE) CAUGHT IN ASSOCIATION  
WITH FISHERIES IN THE IOTC AREA OF COMPETENCE****EXPLANATORY NOTES****PREAMBLE**

*No substantive amendments are proposed for the preamble.*

**PARAGRAPHS**

2. Reference to “fishing vessels” is replaced with “vessels”, consistent with the definition of “vessels” in the draft Glossary and with the provisions of Resolution 19/04 on the Record of Authorised Vessels.
5. This paragraph was reformatted to accommodate three separate issues, the WPICMM is invited to review it to ensure that the technical changes are not substantive.

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*



**The Indian Ocean Tuna Commission (IOTC),**

RECALLING that ~~the~~ IOTC Resolution ~~05/17/05 [superseded by Resolution 17/05]~~ ~~e~~Concerning the conservation of sharks caught in association with fisheries managed by IOTC;

CONSIDERING that thresher sharks of the family Alopiidae are caught as bycatch in the IOTC area of competence;

NOTING that at its 2009 meeting, the IOTC Working Party on Ecosystems and Bycatch recognised that full stock assessments on sharks may not be possible because of data limitations and that it is essential that some stock assessment evaluation should be carried out;

NOTING that the international scientific community points out that the ~~B~~bigeye thresher shark (*Alopias superciliosus*) is particularly endangered and vulnerable;

CONSIDERING that it is difficult to differentiate between the various species of thresher sharks without taking them onboard and that such action might jeopardise the survival of the captured individuals;

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

1. This measure shall apply to all fishing vessels on the IOTC Record of Authorised Vessels.
2. Fishing ~~v~~vessels ~~flagged to flying the flag of an IOTC Member~~any Contracting Party or Cooperating Non-Contracting Party (CPCs) are prohibited from retaining on board, transshipping, landing, storing, selling or offering for sale any part or whole carcass of thresher sharks of all the species of the family Alopiidae, with the exception of paragraph 7.
3. CPCs shall require ~~the operators~~ of their flag vessels ~~flying their flag~~ to promptly release unharmed, to the extent practicable, thresher sharks when brought along side for taking on board the vessel.
4. CPCs shall encourage their fishers to record and report incidental catches as well as live releases ~~and to provide -~~ these data ~~to the relevant authority of the CPC, which will then transmit it to will be then kept at the Executive Secretary IOTC Secretariat.~~
5. CPCs shall ensure that:
  - (a) ~~r~~Recreational and sport fishers shall release alive all caught animals of thresher sharks of all the species of the family Alopiidae;
  - (b) recreational and sport fishermen carrying out fishing with high risk of catching thresher sharks are equipped with instruments suitable to release the animals alive; and
  - (c) ~~In no circumstances specimen shall specimens be retained on board, transhipped, landed, stored, sold or offered for sale. The CPCs shall ensure that both recreational and sport fishermen carrying out fishing with high risk of catching thresher sharks are equipped with instruments suitable to release alive the animals.~~
- 5-6. CPCs shall, where possible, implement research on sharks of the species *Alopias* spp, in the ~~IOTC area of competence~~Convention area in order to identify potential nursery areas. Based on this research, CPCs shall consider additional management measures, as appropriate.
- 6-7. Scientific observers shall be allowed to collect biological samples (vertebrae, tissues, reproductive tracts, stomachs, skin samples, spiral valves, jaws, whole and skeletonised specimens for taxonomic works and museum collections) from thresher sharks that are dead at haulback, provided that the samples are part of the research project approved by the IOTC Scientific Committee ~~(or IOTC Working Party on Ecosystems and Bycatch (WPEB))~~. In order to obtain ~~such~~the approval, ~~a proposal shall must be made in~~ a detailed document outlining the purpose of the work, number and type of samples intended to be collected and the spatio-temporal distribution of the sampling work. ~~must be included in the proposal~~ Annual progress of the work and a final report on completion of the project shall be presented to the IOTC WPEB and the IOTC Scientific Committee.
- 7-8. The ~~CPCs~~Contracting Parties, Cooperating Non-Contracting Parties, especially those ~~whose flag vessels engage in directing~~ fishing activities for sharks, shall submit data for sharks, as required by IOTC data reporting procedures.
- 8-9. This Resolution supersedes Resolution 10/12 *On the Conservation of Thresher Sharks (Family Alopiidae) Caught in Association with Fisheries in the IOTC Area of Competence*.

**Commented [A283]:** EU  
Not sure. Operator or master?

**Commented [A284]:** JPN  
"the operators of" is not necessary.

**Commented [A285]:** JPN  
The original auxiliary verb shall be maintained.

**Commented [A286]:** JPN  
"Secretariat" shall be maintained.

**Commented [A287]:** JPN  
This proposed paragraph shall be followed by sub-paragraph (a), because making sub-paragraph (c) independent changes the meanings of the original paragraph. The original paragraph stipulates that only recreational and sport fishing are prohibited from retaining specimens on board and so on. However, the proposed modification seems to pose the obligation on all vessels as it no longer limits the scope to "recreational and sport fishing".

Conservation and Management Measures linked to Resolution 12/09 or return to the [Table of Contents](#)

Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 17/05</a>		None	

## RESOLUTION 12/12

### TO PROHIBIT THE USE OF LARGE-SCALE DRIFTNETS ON THE HIGH SEAS IN THE IOTC AREA

**(Resolution 12/12 remains binding on Pakistan)**

#### EXPLANATORY NOTES

##### PREAMBLE

*No substantive amendments are proposed for the preamble.*

##### PARAGRAPHS

1. It is proposed to add a new paragraph 1 to define the terms that appeared in footnotes: large-scale driftnet and configuration. Terms should always be defined in the text at the beginning of the Resolution.

The definition of large-scale driftnet in the IOTC Scientific Glossary is the same as that shown in paragraph 1 (“Gillnets or other nets or a combination of nets that are more than 2.5 kilometers in length whose purpose is to enmesh, entrap, or entangle fish by drifting on the surface of, or in, the water column”), and “configuration” is not in the Glossary.

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

## The Indian Ocean Tuna Commission (IOTC),

RECALLING that the United Nations General Assembly (UNGA) Resolution 46/215 *Large-scale pelagic drift-net fishing and its impact on the living marine resources of the world's oceans and seas* calls for a global moratorium on large-scale high seas driftnet fishing;

NOTING that a number of vessels continue to engage in large-scale high seas driftnet fishing in the ~~Indian Ocean area~~ (IOTC area of competence);

MINDFUL that any vessel fishing with large-scale driftnets on the high seas in the IOTC area of competence, or configured to conduct large-scale high seas driftnet operations, has the capacity to take species of concern to the IOTC and is likely to undermine the effectiveness of IOTC Conservation and Management Measures;

NOTING with concern that recent information indicates that such vessels are interacting more frequently with highly migratory species, such as tunas, swordfish, sharks, and other species covered by the IOTC Agreement,<sup>1</sup> and that associated “ghost fishing” by lost or discarded driftnets have serious detrimental effects on these species of concern and the marine environment;

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

### 1. In this Resolution:

(a) “Configured to use large-scale drift-nets” means having on board assembled gear that collectively would allow the vessel to deploy and retrieve large-scale driftnets; and

(b) “Large-scale driftnets” means gillnets or other nets or a combination of nets that are more than 2.5 kilometers in length whose purpose is to enmesh, entrap, or entangle fish by drifting on the surface of, or in, the water column.

~~4.2.~~ The use of large-scale driftnets<sup>1</sup> on the high seas within the IOTC area of competence shall be prohibited.

~~2.3.~~ Each Contracting Party and Cooperating Non-Contracting Party (~~hereinafter referred to as~~ CPCs) shall take all measures necessary to prohibit their ~~flag fishing~~ vessels from using large-scale driftnets while on the high seas in the IOTC area of competence.

~~3.4.~~ A CPC-flagged fishing vessel will be presumed to have used large-scale driftnets on the high seas in the IOTC area of competence if it is found operating on the high seas in the IOTC area of competence and is configured<sup>2</sup> to use large-scale driftnets.

~~4.5.~~ Paragraph ~~3.4~~ shall not apply to a CPC-flagged vessel duly authorised to use large-scale driftnets in ~~its~~ ~~the~~ ~~exclusive~~ ~~economic zone~~ ~~EEZ~~. While on the high seas in the IOTC area of competence all ~~of such~~ large-scale driftnets and related fishing equipment shall be stowed or secured in such a manner that they are not readily available to be used for fishing.

~~5.6.~~ CPCs shall include in their ~~Annual Implementation~~ Reports ~~stipulated in article X in the agreement annually~~ a summary of monitoring, control, and surveillance actions related to large-scale driftnet fishing on the high seas in the IOTC area of competence.

~~6.7.~~ The IOTC shall periodically assess whether additional measures should be adopted and implemented to ensure that large-scale driftnets are not used on the high seas in the IOTC area of competence. The first such assessment shall take place in 2013.

~~7.8.~~ Nothing in this measure shall prevent CPCs from applying more stringent measures to regulate the use of large-scale driftnets.

**Commented [A288]:** AUS  
The reference to ‘fishing’ should be retained.

**Commented [A289]:** JPN  
If my understanding is correct, IOTC have three type of annual report.  
a) Implementation report which stipulated in article X in the IOTC agreement,  
b) annual report (national report) which is submitted to the SC and  
c) report submitted separately from (a) and (b).  
If this paragraph requires CPCs provide information by submitting (a), I would like to propose the amendment for clarification.

<sup>1</sup> “Large-scale driftnets” are defined as gillnets or other nets or a combination of nets that are more than 2.5 kilometers in length whose purpose is to enmesh, entrap, or entangle fish by drifting on the surface of, or in, the water column.

<sup>2</sup> “Configured” to use large-scale drift-nets means having on board assembled gear that collectively would allow the vessel to deploy and retrieve large-scale driftnets.

**8.9.** This Resolution supersedes *Resolution 09/05 to prohibit the use of large-scale driftnets on the high seas in the IOTC area.*

Conservation and Management Measures linked to Resolution 12/12 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
None		None	

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**RECOMMENDATION 12/15**  
**ON THE BEST AVAILABLE SCIENCE**

**EXPLANATORY NOTES**

**PREAMBLE**

*No substantive amendments are proposed for the preamble.*

**PARAGRAPHS**

*No substantive amendments are proposed for the paragraphs.*

*All paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

### The Indian Ocean Tuna Commission (IOTC),

RECOGNISING the importance of sound scientific advice as the centre piece for the conservation and management of tuna and tuna-like species in the Indian Ocean and adjacent seas in line with international law and the information needs of the Commission;

AWARE that the availability of adequate scientific information is fundamental to carrying out the objectives of the IOTC Agreement ~~laid down in its~~ Article V;

EMPHASISING the importance of the effective participation by all Contracting Parties and Cooperating Non-Contracting Parties (CPCs) in the work of the IOTC Scientific Committee and its Working Parties;

RECOGNISING the limited financial resources of developing coastal States and wishing to assist in building their scientific capacity;

ACKNOWLEDGING the need to improve the availability and quality of data and analysis used for the provision of scientific advice, including on bycatch and discards;

NOTING that participation of invited experts may advance the quality assurance of the scientific work of the IOTC Scientific Committee;

RECOGNISING the need for broadening and streamlining the scope of financial support for capacity building for the purpose of this Recommendation;

BUILDING on the deliberations and recommendations of the IOTC Scientific Committee and of the Kobe process;

NOTING the importance of regular assessments of the performance of ~~R~~egional ~~F~~isheries ~~M~~anagement ~~O~~rganisations (RFMOs), including the functioning of their scientific committees;

RECOMMENDS, in accordance with the provisions of Article IX, paragraph 8 of the IOTC Agreement, that CPCs undertake the following:

1. Take all measures which would be appropriate to:
  - (a) ~~To~~ improve the communication ~~amongbetween~~ CPCs, the Commission and the IOTC Scientific Committee by enabling a continuous dialogue, for example, through the use of electronic discussion groups and tele-/video conferencing;
  - (b) ~~To~~ improve the collection and submission of data to the IOTC Secretariat, including on bycatch;
  - (c) ~~To~~ support research programs and projects relevant to the information needs of the Commission;
  - (d) ~~To~~ facilitate participation in meetings of the IOTC Scientific Committee, its Working Parties as well as in other relevant scientific bodies of scientists with suitable scientific qualifications; and
  - (e) ~~To~~ contribute to the training of scientific researchers, including young scientists.
2. Preserve and promote the professional independence and excellence of the IOTC Scientific Committee and its Working Parties, and the relevance of their work to the information needs of the Commission, by:
  - (a) ~~Enhancing~~ the participation of scientists in meetings of the IOTC Scientific Committee and its Working Parties, including scientists involved in other tuna RFMOs and other relevant scientific bodies;
  - (b) ~~D~~rafting a code of conduct for the IOTC Scientific Committee, including for its Working Parties, for adoption by the Commission, and: ~~f~~For this purpose, the IOTC Scientific Committee may develop rules to avoid conflict of interests, to ensure the quality, relevance and professional independence of scientific activities and, where applicable, to maintain the confidentiality of the data used;
  - (c) ~~D~~rafting a strategic plan for the IOTC Scientific Committee, including its Working Parties, for adoption by the Commission. The strategic plan shall be used to guide the work of the IOTC Scientific Committee, and Working Parties, in assisting the Commission to effectively achieve its mandate;
  - (d) ~~E~~nsuring that relevant, professionally independent and objective scientific advice, based on the best available and peer-reviewed scientific analysis, is presented by the IOTC Scientific Committee to the Commission;

- (e) Ensuring that sources and history of revisions of all documents submitted to and assessed by the IOTC Scientific Committee and its Working Parties are fully documented;
  - (f) Providing clear, transparent, and standardised formats for the provision of advice to the Commission; ~~and~~
  - (g) Providing for well-defined rules for formulating scientific advice to the Commission, reflecting different views while striving for consensus, to promote consistency and transparency.
3. Strengthen peer review mechanisms within the IOTC Scientific Committee by participation of invited experts (e.g. from other RFMOs or from academia) in the IOTC Scientific Committee activities. These experts shall be subject to the data confidentiality rules and procedures currently applicable in the IOTC.
  4. Continue to support the IOTC Scientific Committee's initiatives to publish its scientific findings in the scientific peer-reviewed academic literature.
  5. With the aim of meeting the above-mentioned objectives, consider broadening financial support and mechanisms, including inter alia, contributing to the "Meeting Participation Fund" for Developing IOTC Contracting Parties, for the purpose of the implementation of this Recommendation~~solution~~, in particular to:
    - (a) Contribute to the scientific capacity building of the developing CPCs and to enhance their effective participation in the work of the IOTC Scientific Committee and its Working Parties; ~~and~~
    - (b) Provide necessary resources for the IOTC Scientific Committee and its Working Parties, including consideration of alternative funding models for the commissioning of research.
  6. The next independent performance review of IOTC should assess the functioning of the IOTC Scientific Committee and its Working Parties as a total quality management process, including an evaluation of the potential role of external reviews.

Conservation and Management Measures linked to Resolution 12/15 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
None		<a href="#">Recommendation 14/07</a>	



**ACTIVE CMMS ADOPTED AT THE FIFTEENTH SESSION OF THE IOTC**

**2011**

**RESOLUTION 11/02**  
**ON THE PROHIBITION OF FISHING ON DATA BUOYS**

**EXPLANATORY NOTES**

**PREAMBLE**

*No substantive amendments are proposed for the preamble.*

**PARAGRAPHS**

**2, 3, 4, 5 6.** “fishing vessel” has been replaced by “flag vessel”, in accordance with the draft glossary and to further define the nationality of the vessel.

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

## The Indian Ocean Tuna Commission (IOTC),

AWARE that ~~vessels of many States/nations~~, including ~~Contracting Parties and Cooperating Non-Contracting Parties (CPCs)~~, ~~CPCs of the Indian Ocean Tuna Commission (IOTC)~~, operate and deploy data buoys throughout the IOTC area of competence and oceans worldwide to gather information used to make improved weather and marine forecasts, provide assistance to fisheries by generating data on sea surface and subsurface measurements, provide assistance to search and rescue efforts at sea, and collect critical data used to conduct research on meteorological and oceanographic topics and climate prediction;

KNOWING that highly migratory species, in particular tuna species, aggregate in the vicinity of data buoys;

RECOGNISING that the World Meteorological Organization and the Intergovernmental Oceanographic Commission have determined that damage caused to data buoys by ~~fishing~~ vessels are significant problems in the Indian Ocean and worldwide;

CONCERNED that damage to data buoys results in significant loss of data critical to weather forecasting, to the study of marine conditions, to tsunami warnings, to support for search and rescue efforts at sea, and that ~~CPC flag vessels~~ ~~Commission Members and non-members~~ expend considerable time and resources to locate, replace and repair damaged or lost data buoys;

ALARMED that the loss of data critical to the study of marine conditions because of damage to data buoys undermines analyses by IOTC scientists seeking better understanding of tuna habitat use and the relationships between climate and tuna recruitment, as well as research by environmental scientists in general;

RECALLING ~~United Nations General Assembly~~ ~~Resolution A/Res/64/72 on Sustainable fisheries~~, paragraph 109, which "Calls upon States and regional fisheries management organisations or arrangements, working in cooperation with other relevant organisations, including the Food and Agriculture Organization of the United Nations, the Intergovernmental Oceanographic Commission and the World Meteorological Organization, to adopt, as appropriate, measures to protect ocean data buoy systems moored in areas beyond national jurisdiction from actions that impair their operation;"

ALSO RECALLING UNGA resolution A/Res/64/71 ~~on Oceans and Law of the Sea~~, paragraph 172, which "Expresses its concern at the intentional or unintentional damage to platforms used for ocean observation and marine scientific research, such as moored buoys and tsunameters, and urges States to take necessary action and to cooperate in relevant organizations, including the Food and Agriculture Organization of the United Nations, the Intergovernmental Oceanographic Commission and the World Meteorological Organization, to address such damage;"

MINDFUL that several data buoy programs publish information on the internet describing the type and location of such buoys;

FURTHER NOTING the mandate given to the Commission to adopt generally recommended international minimum standards for the responsible conduct of fishing operations;

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

1. For the purposes of this measure, data buoys are defined as floating devices, either drifting or anchored, that are deployed by governmental or recognised scientific organisations or entities for the purpose of electronically collecting and measuring environmental data, and not for the purpose of fishing activities.
2. ~~Contracting Parties and Cooperating Non-Contracting Parties (CPCs)~~ shall prohibit their ~~flagfishing~~ vessels from ~~intentionally fishing~~ within one nautical mile of or interacting with a data buoy in the IOTC area of competence, which includes, but is not limited to, encircling the buoy with fishing gear; tying up to or attaching the vessel, or any fishing gear, part or portion of the vessel, to a data buoy or its mooring; or cutting a data buoy anchor line.
3. CPCs shall prohibit their ~~fishingflag~~ vessels from taking on board a data buoy while engaged in fishing for tuna and tuna-like species in the IOTC area of competence, unless specifically authorised or requested to do so by the ~~CPC Member~~ or owner responsible for that buoy.
4. CPCs shall encourage their ~~fishingflag~~ vessels operating in the IOTC area of competence to keep watch for moored data buoys at sea and to take all reasonable measures to avoid fishing gear entanglement or directly interacting in any way with those data buoys.

**Commented [A290]:** JPN  
「Fishing」 削除は原案に戻すべき

**Commented [A291]:** JPN  
「Fishing」 shall be maintained.

**Commented [A292]:** AUS  
The reference to 'fishing' should be retained throughout this resolution.

**Commented [A293]:** EU  
Considering the word fishing is used later in the same sentence, we agree with the deletion of "fishing" to characterise "vessel"

**Commented [A294]:** JPN  
「Fishing」 shall be maintained.

**Commented [A295]:** JPN  
「Fishing」 shall be maintained.

5. CPCs shall require their ~~flag fishing~~ vessels that become entangled with a data buoy to remove the entangled fishing gear with as little damage to the data buoy as possible.
6. CPCs shall encourage their ~~flag fishing~~ vessels to report to them regarding any data buoys observed to be damaged or otherwise inoperable along with the date of observation, buoy location, and any discernable identifying information contained on the data buoy. CPCs shall notify the ~~Executive Secretary IOTC Secretariat~~ of all such reports.
7. Notwithstanding paragraph 2, scientific research programs notified to the Commission may operate fishing vessels within one nautical mile of a data buoy so long as they do not interact with those data buoys as described in paragraph 2.
8. CPCs are encouraged to communicate to the Commission, through the IOTC Secretariat, the location of data buoy assets that they have deployed throughout the IOTC area of competence.

**Commented [A296]:** JPN  
"Fishing" shall be maintained.

**Commented [A297]:** JPN  
"Fishing" shall be maintained.

**Commented [A298]:** JPN  
"Secretariat" shall be maintained.

Conservation and Management Measures linked to Resolution 11/02 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
None		None	

**RESOLUTION 11/04**  
**ON A REGIONAL OBSERVER SCHEME**

**EXPLANATORY NOTES**

**PREAMBLE**

*No substantive amendments are proposed for the preamble.*

**PARAGRAPHS**

**15.** An amendment has been proposed to restrict funds for use to “developing State CPCs”, rather than “developing States”. The latter (current language) would allow developing States that are not CPCs to have access to the funds.

The overall intention appears to be to restrict availability of funds to developing CPCs.

*All paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

### The Indian Ocean Tuna Commission (IOTC),

TAKING INTO ACCOUNT the need to increase the scientific information, in particular to provide the IOTC Scientific Committee working material in order to improve the management of the tuna and tuna-like species fished in the Indian Ocean;

REITERATING the responsibilities of flag States to ensure that their vessels conduct their fishing activities in a responsible manner, fully respecting IOTC Conservation and Management Measures;

CONSIDERING the need for action to ensure the effectiveness of the IOTC objectives;

CONSIDERING the obligation of all IOTC Contracting Parties and Cooperating Non-Contracting Parties (~~hereinafter~~ CPCs) to fully comply with the IOTC Conservation and Management Measures;

AWARE of the necessity for sustained efforts by CPCs to ensure the enforcement of IOTC~~s~~ Conservation and Management Measures, and the need to encourage Non-Contracting ~~Non-Cooperating~~ Parties (NCPs) to abide by these measures;

UNDERLINING that the adoption of this measure is intended to help support the implementation of Conservation and Management Measures as well as scientific research for tuna and tuna-like species;

CONSIDERING the provisions ~~set forth in~~ Resolution 101/04 *On A Regional Observer Scheme* ~~[superseded by Resolution 11/04]~~; adopted by the Commission;

CONSIDERING the deliberations of the 12<sup>th</sup> Session of the IOTC Scientific Committee held in Victoria, Seychelles from 30 November to 4 December 2009;

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

#### Interpretation

1. In this Resolution:

- (a) “field sampler” means a person who collects information on land during the unloading of fishing vessels and field sampling programmes can be used *inter alia* for quantifying catch, retained bycatch and collecting tag returns; and
- ~~(a)~~(b) “observer” means a person who collects information on board fishing vessels and observer programmes can be used *inter alia* for quantifying species composition of target species, bycatch, by-products and dead discards and collecting tag returns.

#### Objective

2. The objective of the IOTC observer scheme shall be to collect verified catch data and other scientific data related to the fisheries for tuna and tuna-like species in the IOTC area of competence.

#### Observer Scheme

3. In order to improve the collection of scientific data, at least 5 % of the number of operations/sets for each gear type by the ~~fleet flag vessels~~ of each CPC ~~while fishing in the IOTC area of competence~~ of 24 meters ~~overall~~ length ~~overall~~ and ~~overabove~~ while fishing in the IOTC area of competence, and ~~underless than~~ 24 meters length overall if they fish outside their ~~Exclusive Economic Zone (EEZ) of the flag CPC and in the IOTC area of competence~~ shall be covered by this observer scheme. ~~Coverage of For~~vessels ~~underless than~~ 24 meters ~~if they fishing~~ outside their EEZ, ~~the above mentioned coverage~~ should be achieved progressively by January 2013.
4. When purse seiners are carrying an observer<sup>+</sup> ~~in accordance with as stated in~~ paragraph ~~4.2~~, ~~theis~~ observer shall also monitor the catches at unloading to identify the composition of ~~B~~bigeye tuna catches. The requirement for the

**Commented [A299]:** EU  
Not sure. Would like views of the secretariat on possible impact for Taiwan fleet.

<sup>+</sup> Observer: a person who collects information on board fishing vessels. Observer programmes can be used for quantifying species composition of target species, bycatch, by-products and dead discards, collecting tag returns, etc.

observer to monitor catches at unloading is not applicable to CPCs already having a sampling scheme, with at least the coverage set out in paragraph 32.

5. The number of ~~landings from~~ the artisanal fishing vessels ~~landings~~ shall also be monitored at the landing place by field samplers<sup>2</sup>. The indicative level of the coverage of the artisanal fishing vessels should progressively increase towards 5% of the total levels of vessel activity (i.e. total number of vessel trips or total number of vessels active).
6. CPCs shall:
  - (a) ~~Have~~ the primary responsibility to obtain qualified observers, ~~and~~ ~~Each~~ CPC may choose to use either deployed national or non-national of the flag State of the vessel on which they are deployed;
  - (b) ~~Endeavour to ensure~~ that the minimum level of coverage is met and that the observed vessels are a representative sample of the gear types active in their fleet;
  - (c) ~~Take~~ all necessary measures to ensure that observers are able to carry out their duties in a competent and safe manner;
  - (d) ~~Endeavour to ensure~~ that the observers alternate vessels between their assignments;
  - (~~e~~) ~~ensure that~~ observers ~~do~~ not ~~to~~ perform duties, other than those described in paragraphs 110 and 124 below;
  - (f) ~~Ensure~~ that the vessel on which an observer is placed shall provide suitable food and lodging during the observer's deployment at the same level as the officers, where possible; ~~and~~
  - (~~e~~) ~~require~~ ~~Vessel masters to~~ ~~shall~~ ensure that all necessary cooperation is extended to observers in order for them to carry out their duties safely including providing access, as required, to the retained catch, and catch which is intended to be discarded.
7. The cost of the observer scheme ~~described~~ in paragraphs 23 and 34 shall be met by each CPC.
8. The sampling scheme referred in paragraph 45 ~~shall will~~ be covered by the Commission's accumulated funds and voluntary contribution on a provisional basis. The Commission ~~shall will~~ consider an alternative for the financing of this scheme.
9. If the ~~cost coverage of the observer scheme described coverage referred~~ in paragraphs 23 and 34 is not met by a CPC, any other CPC may, subject to the consent of the CPC who has not met its coverage, place an observer to fulfil the tasks defined in the paragraphs 43 and 23 until that CPC provides a replacement or the target coverage level is met.
10. CPCs shall provide to the ~~IOTC~~ Executive Secretary and the IOTC Scientific Committee annually a report of the number of vessels monitored and the coverage achieved by gear type in accordance with the provisions of this Resolution.
11. Observers shall:
  - (a) ~~R~~ecord and report fishing activities, verify positions of the vessel;
  - (b) ~~O~~bserve and estimate catches as far as possible with a view to identifying catch composition and monitoring discards, ~~by catches~~ and size frequency;
  - (c) ~~R~~ecord the gear type, mesh size and attachments employed by the master;
  - (d) ~~C~~ollect information to enable the cross-checking of entries made to the logbooks (species composition and quantities, live and processed weight and location, where available); and
  - (e) ~~C~~arry out such scientific work (for example, collecting samples), as ~~may be~~ requested by the IOTC Scientific Committee.
12. ~~Each~~ ~~The~~ observer shall, within 30 days of completion of each trip, provide a report to the ~~flag~~ CPCs of the vessel. ~~The~~ ~~Each~~ CPCs shall send within 150 days at the latest each report, as far as continuous flow of report from observer placed on the longline fleet is ensured, which is recommended to be provided with 1°x1° format to the ~~IOTC~~

**Commented [A300]:** JPN  
The original auxiliary verb shall be maintained.

**Commented [A301]:** JPN  
The original auxiliary verb shall be maintained.

**Commented [A302]:** MDV:  
Believe this is focussed on the "cost"

**Commented [A303]:** JPN  
"coverage" shall be maintained.  
I think "cost" can not be used in this case..

**Commented [A304]:** EU  
Inconsistency in the orthography. "Bycatch" is more generally used in other IOTC resolution.

<sup>2</sup> Field sampler: a person who collects information on land during the unloading of fishing vessels. Field sampling programmes can be used for quantifying catch, retained bycatch, collecting tag returns, etc.

Executive ~~Secretary~~, who shall make the report available to the IOTC Scientific Committee upon request. In a case where the vessel is fishing in the EEZ of a coastal State, the report shall equally be submitted to that coastal State.

**Commented [A305]:** JPN  
"Secretariat" shall be used instead of "Executive Secretary"

13. The confidentiality rules set out in ~~the Resolution 12/0298/02~~ ~~[superseded by Resolution 12/02]~~ *Data confidentiality policy and procedures for fine-scale data* shall apply.
14. Field samplers shall monitor catches at the landing place with a view to estimating catch-at-size by type of boat, gear and species, or carry out such scientific work as may be requested by the IOTC Scientific Committee.
15. The funds available from the IOTC balance of funds may be used to support the implementation of this programme in developing State CPCs, notably the training of observers and field samplers.
16. The elements of the ~~O~~observer ~~S~~scheme, notably those regarding its coverage, are subject to review and revision, as appropriate, for application in 2012 and subsequent years. Basing on the experience of other ~~T~~tuna RFMOs, the IOTC Scientific Committee will elaborate an observer working manual, a template to be used for reporting (including minimum data fields) and a training program.
17. This Resolution supersedes Resolution 10/04 *On A Regional Observer Scheme*.

Conservation and Management Measures linked to Resolution 11/04 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 12/02</a>		<a href="#">Resolution 12/06</a>	<a href="#">Resolution 16/04</a>
		<a href="#">Resolution 18/07</a>	



**ACTIVE CMMs ADOPTED AT THE FOURTEENTH SESSION OF THE IOTC**

**2010**

**RESOLUTION 10/08**  
**CONCERNING A RECORD OF ACTIVE VESSELS FISHING FOR TUNAS AND SWORDFISH IN THE IOTC AREA**

**EXPLANATORY NOTES**

**PREAMBLE**

*No substantive amendments are proposed for the preamble.*

**PARAGRAPHS**

*No substantive amendments are proposed for the paragraphs.*

**MCS**

<b>WORKSHOP DISCUSSION</b>	
(a) <b>Key findings</b>	<ul style="list-style-type: none"> <li>Objective of resolution is not defined – and rationale for raising list of vessels active in previous year is unclear.</li> </ul>
(b) <b>Proposed actions</b>	<ul style="list-style-type: none"> <li>Eliminate.</li> </ul>
(c) <b>Points discussed during the Workshop</b>	<ul style="list-style-type: none"> <li>There was agreement not to eliminate this resolution until an alternative mechanism for monitoring of fishing capacity is available.</li> </ul>
<b>WPICMM02 RECOMMENDATION</b>	No Recommendation.

*All paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

## The Indian Ocean Tuna Commission (IOTC),

CONSCIOUS of the duties of every State to exercise effectively its jurisdiction and control over vessels flying its flag;

RECALLING the responsibilities incumbent on States whose vessels fish for highly migratory fish stocks on the high seas;

NOTING that the information about the size of active fleets for implementing the limitation of fishing capacity ~~as set forth~~ in Resolution 15/1109/02 ~~[superseded by Resolution 12/11, then by Resolution 15/11]~~ *On the implementation of a limitation of fishing capacity of Contracting Parties and Cooperating Non-Contracting Parties*;

MINDFUL of the recommendation 17 of the IOTC Performance Review Panel, as listed in Resolution 09/01 ~~[superseded by Resolution 16/03]~~ *On the performance review follow-up*, that the obligation incumbent to a flag State to report data for its vessels be included in a separate Resolution from the obligation incumbent on Members to report data on the vessels of third countries they licence to fish in their exclusive economic zones (EEZs);

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

1. All ~~IOTC~~ Contracting Parties and Cooperating Non-Contracting Parties (CPCs) with flag vessels fishing for tunas and swordfish in the IOTC area of competence (~~hereinafter referred to as~~ "the Area"), shall submit annually to the ~~IOTC~~ Executive Secretary by 15 February ~~every year~~ a list of their respective flag vessels that were active in the Area during the previous year and that are:
  - (a) ~~larger than~~ 24 metres in length overall or above; or
  - (b) in case of vessels less than 24m length overall, those operating in waters outside the economic exclusive zone (EEZ) of the flag state.
2. These lists shall contain the following information for each vessel:
  - (a) ~~The~~ IOTC number;
  - (b) ~~Name~~ and registration number;
  - (c) IMO number, if available;
  - (d) ~~P~~previous flag (if any);
  - (e) ~~I~~nternational radio call sign (if any);
  - (f) ~~V~~essel type, length, and gross tonnage (GT);
  - (g) ~~Name~~ and address of owner, and/or charterer, and/or operator;
  - (h) ~~Main~~ target species,
  - (i) ~~P~~eriod of authorisation
3. The ~~IOTC~~ Executive Secretary shall maintain the IOTC Record of Active Vessels, and take any measure to ensure publicity of the Record and through electronic means, including placing it on the IOTC website, in a manner consistent with confidentiality requirements noted by CPCs.
4. The ~~IOTC~~ Executive Secretary shall compile, for consideration by the IOTC Compliance Committee, a report on the information submitted by CPCs.
5. The objective of the report shall be to provide the IOTC Compliance Committee with an independent evaluation of the level of compliance ~~to with~~ this Resolution, and other ~~pertinent~~ relevant IOTC Resolution(s); by the concerned CPCs.
6. The IOTC Compliance Committee shall after its evaluation of the ~~IOTC~~ Executive Secretary's report, make appropriate recommendations to the Commission on actions that should be pursued against the non-complying CPCs. These should include, *inter alia*, taking actions under Resolution 10/10 Concerning market related measures.
7. IOTC Resolution 07/04 *Concerning registration and exchange of information on vessels fishing for tunas and swordfish in the IOTC Area* is superseded by this Resolution.

Conservation and Management Measures linked to Resolution 10/08 or return to the [Table of Contents](#)

Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 10/10</a>		<a href="#">Resolution 18/07</a>	
<a href="#">Resolution 16/03</a>			

**RESOLUTION 10/10**  
**CONCERNING MARKET RELATED MEASURES**

**EXPLANATORY NOTES**

**PREAMBLE**

Reference could be made to Resolution 18/03 On establishing a list of vessels presumed to have carried out illegal, unreported and unregulated fishing in the IOTC area of competence

**PARAGRAPHS**

**2 – 12.** This Resolution is discretionary; it states in various paragraphs what the Commission, etc., *should* do, not what it shall (or must) do. It is therefore not legally binding and does not fulfil the requirements of paragraph 1, Article IX of the IOTC Agreement.

Because of the significance of its discretionary nature, no amendment has been suggested to the Resolution *but it is recommended that the WPICMM review this and as appropriate refer it to CPCs to consider whether it should be strengthened to require specific actions.*

**3 and 4.** These are new paragraphs which contain language from the original paragraphs 2(b) and (c). Separate paragraphs were created because of the differences in subject matter but mainly because section 2 did not have a chapeau.

**8.** This is a new paragraph which contains language from the original unnumbered paragraph after 5(c).

**MCS**

WORKSHOP DISCUSSION	
(a) <b>Key findings</b>	<ul style="list-style-type: none"> <li>• No single binding (“shall”) clause in resolution.</li> <li>• Title of resolution unclear.</li> <li>• Sanctioning mechanism never used (ICCAT...).</li> <li>• Regulatory incoherence with other CMMs (e.g. para. 1).</li> <li>• Port and coastal States not targeted by TREM mechanism.</li> <li>• Discriminates against NCPs – CPC altern. sanctions weak (!)</li> <li>• Step-wise identification procedure unclear.</li> <li>• Feedback on TREM implementation non-binding on parties.</li> </ul>
(b) <b>Proposed actions</b>	<ul style="list-style-type: none"> <li>• Preidentification/identification mechanism created.</li> <li>• Pre-identification to exactly establish nature of infringements and targets of potential TREMs.</li> <li>• Discriminatory clauses, and lenient option for CPCs eliminated.</li> <li>• Notification of the measures undertaken by CPCs made mandatory.</li> </ul>
(c) <b>Points discussed during the Workshop</b>	<ul style="list-style-type: none"> <li>• It was agreed that this resolution needs to be reinforced and there was support for strengthening it in accordance to the study’s recommendations.</li> <li>• There will be a need to integrate provisions for inter sessional removal of identification of identified parties.</li> <li>• To maintain objectivity in the identification process, there will be a need to introduce some criteria to maintain objectivity.</li> <li>• There is a need for these considerations to be discussed further at WPICMM02, alongside measures to strengthen the IOTC compliance process.</li> </ul>

**WPICMM02  
RECOMMENDATION**

- The reinforcement of Res 10/10, in accordance to the results derived by the consultant, to include intersessional removal of identification.
- Further discussion on criteria that will result in objectivity of the identification process.

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

### The Indian Ocean Tuna Commission (IOTC),

RECALLING that ~~the IOTC adopted~~ Resolution 01/07 ~~[superseded (revoked) by Resolution 14/01]~~ ~~concerning its Support of the IPOA-IUU Plan;~~

RECALLING the IOTC Recommendation 03/05 ~~[superseded by Resolution 13/01, then (revoked) by Resolution 14/01]~~ ~~Concerning trade Measures~~ and its non-binding nature;

CONSIDERING the calls of the United Nation General Assembly, included in particular in the UNGA Resolutions on Sustainable ~~F~~isheries N° 61/105 of 6 December 2006 and N° 62/177 of 18 December 2007, urging States, individually and through ~~R~~egional ~~F~~isheries ~~M~~anagement ~~O~~rganisations to adopt and implement trade measures in accordance with international law, including principles, rights and obligations established in ~~the~~ World Trade ~~Organisation~~ (WTO) Agreements;

CONSIDERING the need for action to ensure the effectiveness of the IOTC objectives;

CONSIDERING the obligation of all IOTC Contracting Parties and Cooperating Non-Contracting Parties (~~hereinafter~~ CPCs) to respect the IOTC Conservation and Management Measures;

AWARE of the necessity for sustained efforts by CPCs to ensure the enforcement of IOTC's Conservation and Management Measures; and the need to encourage Non-Contracting ~~Non-Cooperating~~ Parties (NCPs) to abide by these measures;

NOTING that market related measures should be implemented only as last resort, where other measures have proven unsuccessful to prevent, deter and eliminate any act or omission that diminishes the effectiveness of IOTC Conservation and Management Measures;

ALSO NOTING that market related measures should be adopted and implemented in accordance with international law, including principles, rights and obligations established in WTO Agreements, and be implemented in a fair, transparent and non-discriminatory manner;

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

#### Identification

1. CPCs that import tuna and tuna-like fish products; ~~harvested~~ from the IOTC area of competence, or in whose ports those products are landed or transhipped, ~~should~~, as much as possible, collect and examine all relevant data on import, landing or transshipment and associated information and submit the following information to the Commission each year at least 60 days prior to the annual meeting of the Commission:
  - (a) ~~N~~ames of the vessels that caught, landed and/or transhipped such tuna or tuna-like species products;
  - (b) ~~F~~lag States of those vessels;
  - (c) ~~S~~pecies of tuna and tuna-like species of the products;
  - (d) ~~A~~reas of catch (Indian Ocean, or other area);
  - (e) ~~P~~product weight by product type;
  - (f) ~~P~~points of export;
  - (g) ~~N~~ames and addresses of owners of the vessels; ~~and~~
  - (h) ~~R~~egistration number.
2. The Commission, ~~based on reporting~~ through the IOTC Compliance Committee, should identify each year:
  - (a) ~~t~~The CPCs ~~who~~that have repeatedly failed, as ~~determined~~stated by the Commission in its annual ~~Session~~Plenary, to discharge their obligations under the IOTC Agreement in respect of IOTC Conservation and Management Measures, in particular, by not taking measures or exercising effective control to ensure compliance with IOTC Conservation and Management Measures by their ~~flag~~ vessels ~~flying their flag~~; and/or

**Commented [A306]:** MDV:  
Proposal in line with explanatory notes to change to "shall". It is proposed to use prescriptive language rather than "should" throughout this Resolution.

(b) The NCPs who have failed to discharge their obligations under international law to co-operate with IOTC in the conservation and management of tuna and tuna-like species, in particular, by not taking measures or exercising effective control to ensure that their vessels do not engage in any activity that undermines the effectiveness of IOTC Conservation and Management Measures.

3. ~~b)~~ The ~~se~~ identifications carried out pursuant to paragraph 2 should be based on a review of all information provided in accordance with paragraph 1 or, as appropriate, any other relevant information, such as: the catch data compiled by the Commission; trade information on these species obtained from ~~N~~ational ~~S~~tatistics; the IOTC statistical document programme; the IUU Vessel List ~~list of the IUU vessels~~ adopted by the Commission~~IOTC~~, as well as any other information obtained in the ports and on the fishing grounds.
4. ~~e)~~ In deciding whether to make an identification pursuant to paragraph 2, the IOTC Compliance Committee should consider all relevant matters including the history, and the nature, circumstances, extent, and gravity of the act or omission that may have diminished the effectiveness of IOTC Conservation and Management Measures.

#### Notification

5. The Commission should request CPCs and NCPs concerned to rectify the act or omission identified under paragraph 2 so as not to diminish the effectiveness of the IOTC ~~e~~Conservation and ~~m~~Management measures, and in making such requests. ~~The~~ Commission should notify identified CPCs and NCPs of the following:
  - (a) the reason(s) for the identification with all available supporting evidence;
  - (b) the opportunity to respond to the Commission in writing at least 30 days prior to the annual ~~meeting~~Session of the Commission with regard to the identification decision and other relevant information, for example, evidence refuting the identification or, where appropriate, a plan of action for improvement and the steps they have taken to rectify the situation; and
  - (c) in the case of a NCP, an invitation to participate as an observer at the annual meeting where the issue will be considered.
6. The Executive Secretary~~IOTC Secretariat~~ should transmit without delay the Commission's request referred to in paragraph ~~35~~ to the identified CPC or NCP. The ~~IOTC~~ Executive Secretary should seek to obtain confirmation from the CPC or the NCP that it received the notification. Absence of response from the CPC or NCP concerned within the time limit shall not prevent action ~~by from~~ the Commission.

#### Evaluation and possible actions

7. The IOTC Compliance Committee should evaluate the response of the CPCs or NCPs referred to in paragraph ~~53~~ (b), together with any new information, and propose to the Commission to decide upon one of the following actions:
  - (a) the revocation of the identification;
  - (b) the continuation of the identification status of the CPC or NCP; or
  - (c) the adoption of non-discriminatory WTO-consistent market related measures in accordance with Article IX paragraph 1 of the IOTC Agreement.
8. In the case of CPCs, actions such as the reduction of existing quotas or catch limits should be implemented to the extent possible before consideration is given to the application of market related measures referred to in subparagraph 7(c). Market related measures should be considered only where such actions either have proven unsuccessful or would not be effective.
9. The Commission, through the IOTC Secretariat, should notify the CPCs and NCPs concerned of its decision and the underlying reasons in accordance with the procedures specified in paragraph ~~46~~.
10. CPCs should notify the Commission of any measures that they have taken for the enforcement of the non-discriminatory market related measures adopted in accordance with paragraph 57.
11. The Commission should establish annually a list of CPCs and NCPs that have been subject to a non-discriminatory market-related measure pursuant to paragraph 57 and, with respect to NCPs, are considered as Non-Cooperating Non-Contracting Parties to IOTC.



#### Review of market related measures

12. In order for the Commission to adopt the possible lifting of market related measures, the IOTC Compliance Committee should review each year all non-discriminatory market related measures adopted in accordance with paragraph 57. Should this review show that the situation has been rectified the IOTC Compliance Committee should recommend to the Commission the lifting of the non-discriminatory market related measures. Such decisions should in particular take into consideration whether the CPCs and/or NCPs concerned have demonstrated by submitting the necessary evidence that the conditions that led to the adoption of non-discriminatory market related measures are no longer met.
13. Where exceptional circumstances so warrant or where available information clearly shows that, despite the lifting of non-discriminatory market related measures adopted in accordance with paragraph 912, the CPC or NCP concerned continues to diminish the effectiveness of IOTC Conservation and Management Measures, the Commission may immediately decide on action including, as appropriate, the imposition of non-discriminatory market related measures in accordance with paragraph 57. Before making such a decision, the Commission should request the CPC or NCP concerned to discontinue its wrongful conduct and, after verification through the IOTC Secretariat that the CPC or NCP concerned has received such communication, should provide the CPC or NCP with an opportunity to respond within 10 working days. Absence of response from the CPC or NCP concerned within the time limit shall not prevent action from the Commission.

Conservation and Management Measures linked to Resolution 10/10 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 14/01</a>		<a href="#">Resolution 10/08</a>	

## **ACTIVE CMMS ADOPTED AT THE ELEVENTH SESSION OF THE IOTC**

**2007**

## RESOLUTION 07/01

### TO PROMOTE COMPLIANCE BY NATIONALS OF CONTRACTING PARTIES AND COOPERATING NON-CONTRACTING PARTIES WITH IOTC CONSERVATION AND MANAGEMENT MEASURES

#### EXPLANATORY NOTES

##### PREAMBLE

*No substantive amendments are proposed for the preamble.*

##### PARAGRAPHS

*No substantive amendments are proposed for the paragraphs.*

##### MCS

WORKSHOP DISCUSSION	
(a) <b>Key findings</b>	<ul style="list-style-type: none"> <li>• Mere re-iteration of a CPCs duty to enforce the law against physical and legal persons subject to their jurisdiction.</li> <li>• Infractions to be detected and sanctioned can only apply to people actively involved in fishing.</li> <li>• Resolution does not provide listing mechanism.</li> <li>• Referencing to other CMMs wrong (again).</li> </ul>
(b) <b>Proposed actions</b>	<ul style="list-style-type: none"> <li>• Eliminated; merged into CMM 18/03.</li> </ul>
(c) <b>Points discussed during the Workshop</b>	<ul style="list-style-type: none"> <li>• There was consensus to eliminate this resolution.</li> </ul>
<b>WPICMM02 RECOMMENDATION</b>	This resolution should be eliminated.

*All paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

#### Commented [A307]: EU

We propose to use the legal scrubbing exercise to propose the deletion of this resolution entirely, in line with recommendation from WPICMM02

#### Commented [A308]: JPN

WPICMM02 recommendation does not provide specific rationale for deletion of this resolution. We reserve position on the EU's suggestion.

**The Indian Ocean Tuna Commission (IOTC),**

CONVINCED that illegal, unreported and unregulated (IUU) fishing compromises the objectives of the [IOTC Agreement](#) ~~for the Establishment of the IOTC~~;

CONCERNED that some flag States do not comply with their obligations regarding jurisdiction and control according to international law in respect of fishing vessels entitled to fly their flag that carry out their activities in the IOTC area of competence, and that as a result these vessels are not under the effective control of such flag States;

AWARE that the lack of effective control facilitates fishing by these vessels in the area of competence in a manner that undermines the effectiveness of IOTC Conservation and Management Measures, and can lead to IUU fishing activities;

CONCERNED that vessels that carry out activities in the area of competence which do not comply with the IOTC Conservation and Management Measures are benefiting from the support provided by persons subject to the jurisdiction of Contracting Parties and Cooperating Non-Contracting Parties (CPCs), including, *inter alia*, through participation in transshipment, transport and trade of illegally harvested catches or engagement on board or in the management of these vessels;

NOTING that the FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing calls on States to take measures to discourage nationals subject to their jurisdiction from supporting and engaging in any activity that undermines the effectiveness of international Conservation and Management Measures;

RECALLING that CPCs should cooperate in taking appropriate action to deter any activities which are not consistent with the objective of the [IOTC Agreement](#);

DESIRING, as a first step, to enhance cooperation between CPCs through facilitating measures being taken against natural or legal persons; subject to their jurisdiction; that have engaged in IUU fishing activities;

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

1. Without prejudice to the primacy of the responsibility of the flag State, the CPCs shall take appropriate measures, subject to and in accordance with their applicable laws and regulations [to](#):
  - (a) ~~to~~ investigate allegations and/or reports concerning the engagement of any natural or legal persons subject to their jurisdiction in the activities described, *inter alia*, in paragraph 1 of ~~the Resolution 18/0306/04 on Establishing a List of Vessels Presumed to Have Carried Out Illegal, Unreported and Unregulated Fishing in the IOTC Area of Competence~~; ~~superseded by Resolution 09/03, then Resolution 11/03, then by Resolution 17/03~~
  - (b) ~~to~~ take actions in response to any verified activities referred to in [subparagraph 4-\(a\)](#); and
  - (c) ~~to~~ cooperate for the purpose of implementing the measures and actions referred to in [subparagraph 4-\(a\)](#).
2. To this end, relevant agencies of CPCs should cooperate to implement IOTC Conservation and Management Measures and CPCs shall seek the cooperation of the [relevant](#) industries within their jurisdiction.
3. To assist with the implementation of this Resolution, CPCs shall submit reports subject to the national laws of confidentiality to the [Executive Secretary](#) ~~IOTC Secretariat~~ and other CPCs on the actions and measures taken in accordance with paragraph 1, in a timely fashion.
4. These provisions shall be applicable from 1 July 2008. CPCs may voluntarily decide to implement these provisions prior to this date.

Conservation and Management Measures linked to Resolution 07/01 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 18/03</a>		None	

**ACTIVE CMMS ADOPTED AT THE NINTH SESSION OF THE IOTC**

**2005**



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**RESOLUTION 05/01**  
**ON CONSERVATION AND MANAGEMENT MEASURES FOR BIGEYE TUNA**

**EXPLANATORY NOTES**

**PREAMBLE**

*No substantive amendments are proposed for the preamble.*

**PARAGRAPHS**

*No substantive amendments are proposed for the paragraphs.*

*All paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

# **The Indian Ocean Tuna Commission (IOTC),**

RECOGNISING the need for action to ensure the achievement of the IOTC's objectives to conserve and manage tuna and tuna-like species in the IOTC area of competence;

RECALLING the adoption by IOTC of Resolution ~~14/0101/04, [superseded by Resolution 14/01]~~ in relation to the limitation of fishing capacity on ~~B~~bigeye tuna ~~of~~by Contracting Parties and Cooperating Non-Contracting Parties (CPC's);

ACKNOWLEDGING that the limitation of fishing capacity alone will not be sufficient to limit effort or total catch of tuna and tuna-like species, particularly ~~B~~bigeye tuna;

AWARE that due to illegal activity and underestimation of the total mortality of ~~B~~bigeye tuna the current assessment of the status of the stock is likely to be overly optimistic;

RECOGNISING that the IOTC Scientific Committee has recommended that a reduction in the catches of ~~B~~bigeye tuna from all fishing gears should be implemented as soon as possible;

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

- ~~Contracting and Cooperating Non-Contracting Parties (CPC's)~~ shall limit their catch of ~~B~~bigeye tuna to their recent levels of catch reported by the IOTC Scientific Committee.
- The Commission shall request Taiwan, Province of China to limit their annual ~~B~~bigeye tuna catch in the IOTC ~~Area of competence~~ to 35,000 tonnes.
- ~~At~~The 10th Session of the Commission shall establish, for a three year period, interim catch levels for CPC's catching more than 1000t of ~~B~~bigeye tuna.
- CPC's, including developing coastal states, ~~and~~ in particular small island developing states and territories, with catches under 1000 tonnes ~~which~~ intend to substantially increase these catches will be allowed to submit 'Fleet Development Plans' during the 3 year interim period referred to in paragraph 3 above.
- During this three year period the Commission shall develop a mechanism to allocate, for specific time periods, ~~B~~bigeye tuna quotas for all CPC's.
- Future access to the tuna and tuna-like resources found within the area of competence of the IOTC will, in part, be determined on the level of responsibility shown by CPC's in relation to ~~implementing this Resolution~~measure.
- The IOTC Scientific Committee be tasked to provide advice, including advice on;
  - the effects of different levels of catch on the ~~spawning-stock biomass~~SSB (in relation to MSY or other appropriate reference point);
  - the impact of misreported and illegal catch of ~~B~~bigeye tuna on the stock assessment and required levels of catch reduction; and
  - evaluation of the impact of different levels of catch reduction by main gear types.
- In relation to the foregoing, the Commission took note of the developing coastal states, in particular small island developing states and territories within the IOTC ~~convention area~~ [area of competence] whose economies depend largely on fisheries.

Conservation and Management Measures linked to Resolution 05/01 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 14/01</a>		None	



**RESOLUTION 05/03**  
**RELATING TO THE ESTABLISHMENT OF AN IOTC PROGRAMME OF INSPECTION IN PORT**

**EXPLANATORY NOTES**

**PREAMBLE**

*No substantive amendments are proposed for the preamble.*

**PARAGRAPHS**

*No substantive amendments are proposed for the paragraphs.*

**MCS**

<b>WORKSHOP DISCUSSION</b>	
(a) <b>Key findings</b>	<ul style="list-style-type: none"> <li>• Discriminatory (NCP vessels sanctioned /CPC vessels not).</li> <li>• Foreign landings to be reported to Secretariat (others not).</li> <li>• Flag State and Secretariat to be notified of infringements detected in port</li> <li>• Regulatory incoherence.</li> </ul>
(b) <b>Proposed actions</b>	<ul style="list-style-type: none"> <li>• Eliminated; already absorbed into 16/11; 15/01.</li> </ul>
(c) <b>Points discussed during the Workshop</b>	<ul style="list-style-type: none"> <li>• There was consensus to eliminate this resolution, once there is assurance that equivalent measures are available in Resolution 16/11.</li> </ul>
<b>WPICMM02 RECOMMENDATION</b>	No Recommendation.

*All paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

## The Indian Ocean Tuna Commission (IOTC),

TAKING NOTE of the results of the Intersessional Meeting on an Integrated Control and Inspection Scheme, held in Yaizu, Japan, from 27 to 29 March 2001;

NOTING that there is a general consensus of the Contracting Parties ~~and Cooperating Non-Contracting Parties (CPCs)~~ on the fact that the inspection in port is a central element of a control and inspection programme, and that it can be, in particular, an effective tool to fight against IUU fishing;

TAKING INTO ACCOUNT that ~~CPCs~~~~Contracting Parties~~ have agreed that the implementation of an integrated control and inspection scheme should follow a phased approach;

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

1. All measures ~~provided for~~ under this Resolution shall be taken in accordance with international law.
2. Measures taken by a ~~P~~port State in accordance with this ~~Resolution Agreement~~ shall take full account of the right and the duty of a ~~P~~port State to take measures, in accordance with international law, to promote the effectiveness of subregional, regional and global ~~C~~conservation and ~~M~~management ~~M~~measures.
3. Each ~~Contracting Party and Cooperating Non-Contracting Party (hereinafter referred to as CPC's)~~ may, *inter alia*, inspect documents, fishing gear and catch on board fishing vessels, when such vessels are voluntarily in its ports or at its offshore terminals. Inspections shall be carried out so that the vessel suffers the minimum interference and inconvenience and that degradation of the quality of the fish is avoided.
4. Each CPC shall, in accordance with the [Resolution 01/03](#) ~~Establishing a Scheme to promote compliance by Non-Contracting Party vessels with Resolutions established by the IOTC~~, adopt regulations in accordance with international law to prohibit landings and transshipments by Non-Contracting ~~Non-Cooperating~~ Party (NCP) vessels where it has been established that the catch of the species covered by the [IOTC Agreement](#) ~~establishing the IOTC~~ has been taken in a manner which undermines the effectiveness of Conservation and Management Measures adopted by the Commission.
5. In the event that a ~~P~~port State considers that there has been evidence of a violation by ~~a-a CPC or NCP~~~~Contracting Party or a Non-Contracting Party~~flag vessel of a Conservation and Management Measure adopted by the Commission, the ~~P~~port State shall draw this to the attention of the ~~F~~flag State concerned and, as appropriate, the Commission. The ~~P~~port State shall provide the ~~F~~flag State and the Commission with full documentation of the matter, including any record of inspection. In such cases, the ~~F~~flag State shall transmit to the Commission details of actions it has taken in respect of the matter.
6. Nothing in this recommendation affects the exercise by States of their sovereignty over ports in their territory in accordance with international law.
7. While recognising that inspection in port should be carried out in a non-discriminatory basis, in a first place, priority should be given to inspection of vessels from ~~NCPs~~~~Non-Contracting Parties~~.
8. Each CPC shall submit electronically to the ~~IOTC~~-Executive Secretary by 1 July of each year, the list of foreign fishing vessels which have landed in their ports tuna and tuna-like species caught in the IOTC area in the preceding year. This information shall detail the catch composition by weight and species landed.
9. IOTC Resolution 02/01 *Relating to the establishment an IOTC programme of inspection in port* is superseded by this Resolution.

Conservation and Management Measures linked to Resolution 05/03 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 01/03</a>		<a href="#">Recommendation 05/07</a>	

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**RECOMMENDATION 05/07**  
**CONCERNING A MANAGEMENT STANDARD FOR THE TUNA FISHING VESSELS**

**EXPLANATORY NOTES**

**PREAMBLE**

*No substantive amendments are proposed for the preamble.*

**PARAGRAPHS**

*No substantive amendments are proposed for the paragraphs.*

*All paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

#### The Indian Ocean Tuna Commission (IOTC),

RECALLING that the Commission has actively taken various measures and actions to eliminate illegal, unregulated and unreported (IUU) fishing activities by large-scale tuna longline vessels in the IOTC ~~area of competence~~;

FURTHER RECALLING that ~~the Food and Agriculture Organization of the United Nations (FAO)~~ has been taking initiatives to eliminate IUU fishing activities;

RECOGNISING that large-scale tuna vessels shift fishing grounds very easily from the IOTC ~~area of competence~~ ~~Area~~ to other ~~O~~ceans and vice versa and that ~~the~~ ~~is~~ highly mobile nature of this fishery makes control and management of this fishery difficult;

FURTHER RECOGNISING that their catches are transferred from the fishing grounds to the market directly without going through the flag ~~States~~ ~~countries~~;

BEING AWARE that most of their ~~B~~bigeye tuna and ~~Y~~yellowfin tuna catches are exported to Contracting Parties and Cooperating Non-Contracting Parties- (~~hereinafter referred to as~~ CPCs);

NOTING, with grave concern, that many IUU large-scale tuna vessels ~~owners and operators~~ still survive by ~~reflagging/shifting their flags~~ from Non-Contracting ~~Non-Cooperating~~ Parties to CPC's with less management ability; and by changing their vessel names and nominal owners to evade international efforts to eliminate these vessels;

FURTHER NOTING that the lack of a minimum management standard of the Commission allows such ~~reflagging/shifting~~ to CPCs;

RECOGNISING the urgent necessity of undertaking ~~due~~ measures so as not to use ~~CPCs~~ ~~Contracting Parties~~ as shelters ~~of~~ ~~for~~ such vessels;

RECOMMENDS, in accordance with paragraph 8 of Article IX of the IOTC Agreement, ~~the following~~ ~~that~~:

1. ~~Contracting Parties and Cooperating Non-Contracting Parties~~ (CPCs) should take measures to meet the minimum management standards ~~in Annex I~~ (~~Annex I~~) when they issue fishing licenses to their ~~authorised fishing vessels~~ (AFVs) as ~~provided~~ ~~defined~~ in Resolution ~~15/04~~ ~~15/04~~ ~~05/02~~ [~~superseded by Resolution 07/02, then Resolution 12/02~~] ~~Concerning the IOTC Record of Vessels authorised to operate in the IOTC area of competence.~~
2. All CPCs should cooperate with those CPCs which issue ~~fishing~~ licenses to their AFVs to meet the ~~above~~ standards ~~in Annex I~~.
3. The CPC flag ~~s~~States which issues ~~fishing~~ licenses to their AFVs should report annually to the Commission all measures taken according ~~in accordance with~~ ~~to~~ paragraph 1 using the format shown in ~~Annex II~~.

**Commented [A309]:** AUS  
The reference to 'fishing' should be retained.

**Commented [A310]:** JPN  
"Fishing" shall be maintained.

Conservation and Management Measures linked to Resolution 05/07 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 15/03</a>	<a href="#">Resolution 12/02</a>		
<a href="#">Resolution 05/03</a>	<a href="#">Resolution 01/06</a>		
<a href="#">Resolution 03/03</a>			

## ANNEX I

### IOTC MANAGEMENT STANDARD FOR THE **AUTHORISED FISHING VESSELS**

**Commented [A311]:** MDV:  
"Authorised Vessels", not "Authorised Fishing Vessels"

~~The~~ Contracting Parties and Cooperating Non-Contracting Parties ~~should apply the management standards in this Annex.~~

#### Management in the fishing grounds

- (a) Monitor and inspect, where appropriate through patrol boats and maintain surveillance of the activities of its vessels in order to ensure compliance with IOTC's Conservation and Management Measures.
- (b) Deploy if appropriate, scientific observers on-board the vessels in accordance with relevant IOTC Conservation and Management Measures according to the Commission's Resolution.
- (c) Require the installation of satellite-based vessel monitoring systems on board the AFVs operating in the IOTC Area according to ~~the Commission's Resolution 15/03 On the vessel monitoring system (VMS) programme~~ 02/02 superseded by Resolution 06/03, then by Resolution 15/03.
- (d) Require a report of their entry/exit to and from the management areas and the IOTC ~~Area of competence~~, unless otherwise indicated, through use of a vessel monitoring system.
- (e) Require a daily or periodical report of the vessel's catches of species to which catch limits are applicable.

#### Management of transshipment (from the fishing grounds to the landing ports)

- (a) Require a report of any transshipment of the vessel's catches by species and by management area.
- (b) Conduct port inspection according to ~~the Commission's Resolution 05/03~~ Relating to the establishment of an IOTC programme of inspection in port.
- (c) Implement statistical document programs according to the Commission's Resolutions 01/06 Concerning the IOTC bigeye tuna statistical document programme and 03/03 Concerning the amendment of the forms of the IOTC Statistical Documents.

#### Management at landing ports

- (a) Collect landing and transshipment data to verify catch data, if appropriate, through cooperation with other ~~CPC Contracting Parties and Cooperating Non-Contracting Parties.~~
- (b) Require a report of landings of their catches by species and by management area.

## ANNEX II

### MODEL FORMAT FOR ANNUAL REPORTING OF IMPLEMENTATION OF THE IOTC MANAGEMENT STANDARD FOR AUTHORISED FISHING VESSELS

#### a. Management in the fishing grounds

	<i>Scientific Observer boarding</i>	<i>Satellite-based vessel monitoring system</i>	<i>Daily or required periodic catch report</i>	<i>Entry/Exit report</i>
Yes, No				
Note	%	% or number of vessels	Method	Method

#### b. Management of transshipment (from the fishing grounds to the landing ports)

	<i>Transshipment report</i>	<i>Port inspection</i>	<i>Statistical document program</i>
Yes, No			
Note	Method	Method	

#### c. Management at landing ports

	<i>Landing inspection</i>	<i>Landing reporting</i>	<i>Cooperation with other Parties</i>
Yes, No			
Note	Method	Method	

**Commented [A312]:** MDV:  
"Authorised Vessels", not "Authorised Fishing Vessels"

**ACTIVE CMMS ADOPTED AT THE EIGHTH SESSION OF THE IOTC**

**2003**

**RESOLUTION 03/01****ON THE LIMITATION OF FISHING CAPACITY OF CONTRACTING PARTIES AND COOPERATING  
NON-CONTRACTING PARTIES****EXPLANATORY NOTES****PREAMBLE**

*No substantive amendments are proposed for the preamble.*

**PARAGRAPHS**

*No substantive amendments are proposed for the paragraphs.*

*All paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*



**The Indian Ocean Tuna Commission (IOTC),**

RECALLING the adoption of ~~the~~ FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas;

RECOGNISING that paragraph 1 of the Resolution 99/01 ~~[superseded and revoked by Resolution 14/01]~~ *On the Management of Fishing Capacity and on the Reduction of the Catch of Juvenile Bigeye Tuna by Vessels, including Flag of Convenience Vessels, Fishing for Tropical Tunas in the IOTC area of competence*, adopted at the 4th Session of the Commission, ~~stipulate~~<sup>provided</sup> that the 2000 IOTC Session would consider the limitation of the capacity of the fleet of large-scale tuna vessels (greater than 24 m LOA) to the appropriate level;

RECALLING the adoption by IOTC in 2001 of the Resolution 01/04 ~~[superseded by and revoked by Resolution 14/01]~~ on limitation of fishing effort of non-Members of IOTC whose vessels fish ~~B~~bigeye tuna;

RECOGNISING that the IOTC Scientific Committee recommended that a reduction in catches of ~~B~~bigeye tuna from all gears should be implemented as soon as possible; that the stock of ~~Y~~yellowfin tuna is being exploited close to, or possibly above MSY; and that the level of fishing effort of swordfish should not be increased;

RECOGNISING that FAO International Plan of Action for the Management of the Fishing Capacity (IPOA-Capacity) 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;

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

1. Contracting Parties and Cooperating Non-Contracting Parties (CPCs) which have more than 50 vessels on the 2003 IOTC Record of ~~Authorised~~ Vessels, shall limit in 2004 and following years, the number of their fishing vessels ~~larger than~~ 24 meters length overall ~~and above~~ (hereafter LSFVs) to the number of its fishing vessels registered in 2003 in the IOTC Record of ~~Authorised~~ Vessels, ~~including authorisations currently foreseen under administrative process.~~<sup>1</sup>;
2. This limitation of number of vessels shall be commensurate with the corresponding overall tonnage expressed in GRT (Gross Registered Tonnage) or in GT (Gross Tonnage) and, where vessels are replaced, the overall tonnage shall not be exceeded.
3. Other CPCs which have the objective of developing their fleets above those authorisations currently foreseen under administrative processes, ~~shall will~~ draw up, a fleet development plan in accordance with the provisions of Resolution ~~19/0402/05 [superseded by Resolution 05/02, then Resolution 07/02, then Resolution 13/02, then Resolution 14/04, then by Resolution 15/04, then by Resolution 19/04]~~. This Plan shall be submitted to the Commission for information and record at the 2004/05 Sessions and should define, *inter alia*, the type, size and origin of the vessels and the programming of their introduction into the fisheries.
4. In relation to the foregoing, the Commission took note of the interests of the developing coastal States, in particular small island developing States and territories within the IOTC ~~Convention Area~~ ~~[area of competence]~~ whose economies depend largely on fisheries.

**Commented [A313]:** JPN  
The original auxiliary verb shall be maintained.

<sup>1</sup> Including authorisations currently foreseen under administrative process

Conservation and Management Measures linked to Resolution 03/01 or return to the [Table of Contents](#)

Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 14/01</a>	<a href="#">Resolution 19/04</a>	None	

## RESOLUTION 03/03

### CONCERNING THE AMENDMENT OF THE FORMS OF THE IOTC STATISTICAL DOCUMENTS

#### EXPLANATORY NOTES

##### PREAMBLE

*No substantive amendments are proposed for the preamble.*

##### PARAGRAPHS

*No substantive amendments are proposed for the paragraphs.*

##### MCS

WORKSHOP DISCUSSION	
(a) <b>Key findings</b>	<ul style="list-style-type: none"> <li>Integral part of resolution 01/06.</li> </ul>
(b) <b>Proposed actions</b>	<ul style="list-style-type: none"> <li>Not separately considered (eliminated with CMM 01/06).</li> </ul>
(c) <b>Points discussed during the Workshop</b>	<ul style="list-style-type: none"> <li>There was consensus to eliminate this resolution.</li> </ul>
<b>WPICMM02 RECOMMENDATION</b>	No Recommendation.

*All paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

#### Commented [A314]: EU

We propose to use the legal scrubbing exercise to propose the integration of all operative text from 01/06 into Resolution 03/03; and to eliminate resolution 01/06 - in line with the philosophy of the exercise

#### Commented [A315]: JPN

In our understanding there is no particularly outstanding issues in implementation of Res 03/03 and 01/06 originating from their separation. It would take considerable time and effort to do the integration exercise and let stakeholders be familiar with the integrated version. In light of cost effectiveness, we do not feel pressing necessity of integration.

#### Commented [A316]: MDV:

Support proposal to incorporate 01/06 into 03/03 and delete 01/06 (see below).

**The Indian Ocean Tuna Commission (IOTC),**

NOTING that ~~the Resolution 19/0402/05 [superseded by Resolution 05/02, then by Resolution 07/02, then by Resolution 13/02, then by Resolution 14/04, then by Resolution 15/04, then by Resolution 19/04]~~ *Concerning the Establishment of an IOTC Record of Vessels over 24 metres Authorised to Operate in the IOTC Area* prescribes that both exporting and importing Contracting Party or Cooperating Non-Contracting Party (CPC) shall cooperate to ensure to avoid the forgery or misinformation of the statistical documents;

RECOGNISING that additional information such as vessel length is necessary for better implementation of Commission's Conservation and Management Measures and for the smooth implementation of the Resolution ~~19/0402/05~~;

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

1. The sample forms of the statistical documents and instruction sheets in ~~the Resolution 01/06~~ *Concerning the IOTC Bigeye tuna statistical document programme* shall be replaced by the requirements, attached forms and instructions in Annex I Bigeye Tuna Statistical Document, Annex II Bigeye Tuna Re-export Certificate, Annex III Report of the Bigeye Tuna Statistical Document and Annex IV Information on Validation of IOTC Statistical Documents, ~~respectively.~~
2. The Commission shall communicate with other relevant regional fisheries management ~~organisations~~ bodies which have established the statistical document programs and ~~the~~ authorised vessel records and request them to implement the similar reform.

Conservation and Management Measures linked to Resolution 03/03 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 01/06</a>	<a href="#">Resolution 19/04</a>	<a href="#">Recommendation 05/07</a>	

## ANNEX I

### REQUIREMENTS CONCERNING THE IOTC BIGEYE TUNA STATISTICAL DOCUMENT

#### Part 1 - Requirements

1. The sample form of the IOTC Bigeye Tuna Statistical Document ~~is in Part 2. shall be as in the Appendix.~~
2. ~~CPCs shall ensure that~~ Customs or other appropriate government officials ~~shall~~ request and inspect all import documentation including the IOTC Bigeye Tuna Statistical Document for all Bigeye tuna in the shipment. Those officials may also inspect the content of each shipment to verify the information on the document.
3. Only complete and valid documents will guarantee that shipments of ~~B~~bigeye tuna will be allowed to enter the territory of ~~CPCs. Contracting Parties.~~
4. Shipments of ~~B~~bigeye tuna that are accompanied by improperly documented Bigeye Tuna Statistical Documents (i.e., improperly documented means that the Bigeye Tuna Statistical Document is either missing from the shipment, incomplete, invalid or falsified) will be considered illegitimate shipments of ~~B~~bigeye tuna; that ~~contravene~~ ~~are contrary to~~ IOTC Conservation and Management measures ~~conservation efforts~~, and ~~CPCs shall ensure that~~ their entry ~~shall~~ be suspended (PENDING RECEIPT OF A PROPERLY COMPLETED DOCUMENT) into the territory of a ~~CPC Contracting Party~~ or ~~be~~ subject to administrative or other sanction.
5. The import of fish parts other than the meat, i.e., head, eyes, roe, guts, tails may be allowed without the document.

**Commented [A317]:** JPN  
The original auxiliary verb shall be maintained.

**Commented [A318]:** JPN  
The original auxiliary verb shall be maintained.

#### Part 2 – Bigeye Tuna Statistical Document and instructions

#### APPENDIX

DOCUMENT NUMBER	IOTC BIGEYE TUNA STATISTICAL DOCUMENT			
EXPORT SECTION				
1. FLAG OF COUNTRY/ENTITY/FISHING ENTITY				
2. DESCRIPTION OF VESSEL AND REGISTRATION NUMBER (if applicable)				
Vessel Name				
Registration Number				
LOA (m)				
IOTC Record No. (if applicable) :				
3. TRAPS (if applicable)				
4. POINT OF EXPORT (City, State / Province, Country / Entity / Fishing Entity)				
5. AREA OF CATCH (check one of the following)				
(a) Indian (b) Pacific (c) Atlantic				
* In case of (b) or (c) checked, the item 6 and 7 below do not need to be filled out.				
6. DESCRIPTION OF FISH				
Product Type (*1)	Time of Harvest (mm/yy)	Gear (*2)	Code	Net Weight (Kg)
F/FR D/GG/DR/FL/OT				


\*1= F=Fresh, FR=Frozen, RD=Round, GG=Gilled and Gutted, DR=Dressed, FL=Fillet

OT=Other, describe the type of product

\*2= When the Gear Code is OT, describe the type of gear,

7. EXPORTER CERTIFICATION I certify that the above information is complete, true, and correct to the best of my knowledge and belief.

Name:      Company name:      Address:      Signature:      Date:      License Number (if applicable):

8. GOVERNMENT VALIDATION I validate that information listed above is complete, true, and correct to the best of my knowledge and belief.

Total weight of the shipment: Kg

Name & Title:      Signature:      Date:      Government Seal

#### IMPORT SECTION:

IMPORTER CERTIFICATION I certify that the above information is complete, true, and correct to the best of my knowledge and belief.

Importer Certification (Intermediate Country / Entity / Fishing Entity)

Name:      Address:      Signature:      Date:      License # (if applicable):

Importer Certification (Intermediate Country / Entity / Fishing Entity)

Name:      Address:      Signature:      Date:      License # (if applicable):

Final Point of Import

City:      State/Province:      Country / Entity / Fishing Entity:

NOTE: If a language other than English or French is used in completing this form, please add an English translation of this document...

## INSTRUCTIONS:

**DOCUMENT NUMBER:** Block for the issuing Country to designate a country coded Document Number.

- (1) **FLAG COUNTRY/ENTITIES/FISHING ENTITIES:** Fill in the name of the country of the vessel that harvested the **B**bigeye tuna in the shipment and issued this Document. According to the Recommendation, only the flag state of the vessel that harvested the **B**bigeye tuna in the shipment or, if the vessel is operating under a charter arrangement, the exporting state can issue this Document.
- (2) **DESCRIPTION OF VESSEL (if applicable):** Fill in the name and registration number, length overall (LOA) and IOTC Record number of the vessel that harvested the **B**bigeye tuna in the shipment.
- (3) **TRAPS (if applicable):** Fill in the name of the trap that harvested the **B**bigeye tuna in the shipment.
- (4) **POINT OF EXPORT:** Identify the City, State or Province, and Country from which the **B**bigeye tuna was exported.
- (5) **AREA OF CATCH:** Check the area of catch. (If (c) or (d) checked, items 6 and 7 below do not need to be filled out.)
- (6) **DESCRIPTION OF FISH:** The exporter must provide, to the highest degree of accuracy, the following information.

**NOTE:** One row should describe one product type

- (1) **Product Type:** Identify the type of product being shipped as either FRESH or FROZEN, and in ROUND, GILLED AND GUTTED, DRESSED, FILLET or OTHER form. For OTHER, describe the type of products in the shipment.
- (2) **Time of Harvest:** Fill in the time of harvest (in month and year) of the Bigeye tuna in the shipment
- (3) **Gear Code:** Identify the gear type which was used to harvest the Bigeye tuna using the list below. For OTHER TYPE, describe the type of gear, including farming.
- (4) Net product weight: in kilograms.
- (5) **EXPORTER CERTIFICATION:** The person or company exporting the **B**bigeye tuna shipment must provide his/her name, company name, address, signature, date the shipment was exported, and dealer license number (if applicable).
- (6) **GOVERNMENT VALIDATION:** Fill in the name and full title of the official signing the Document. The official must be employed by a competent authority of the flag state government of the vessel that harvested the Bigeye tuna appearing on the Document or other individual or institution authorised by the flag state. When appropriate, this requirement is waived according validation of the document by a government official, or if the vessel is operating under a charter arrangement, by a government official or other authorised individual or institution of the exporting state. The total weight of the shipment shall also be specified in this block.
- (7) **IMPORTER CERTIFICATION:** The person or company that imports Bigeye tuna must provide his/her name, address, signature, date the **B**bigeye tuna was imported, license number (if applicable), and final point of import. This includes imports into intermediate countries. For fresh and chilled products, the signature of the importer may be substituted by a person of a customs clearance company when the authority for signature is properly accredited to it by the importer.

## GEAR CODE:

GEAR CODE	GEAR TYPE,
BB	BAITBOAT
GILL	GILLNET
HAND	HANDLINE
HARP	HARPOON
LL	LOGLINE
MWT	MID-WATER TRAWL
PS	PURSE SEINE
RR	ROD AND REEL
SPHL	SPORT HANDLINE
SPOR	SPORT FISHERIES UNCLASSIFIED
SURF	SURFACE FISHERIES UNCLASSIFIED
TL	TENDED LINE
TRAP	TRAP
TROL	TROLL
UNCL	UNSPECIFIED METHODS
OT	OTHER TYPE

**RETURN A COPY OF COMPLETED DOCUMENT TO:** (the name of the office of the competent authority of the flag state).



## ANNEX II

### REQUIREMENTS CONCERNING THE IOTC BIGEYE TUNA RE-EXPORT CERTIFICATE

#### Part 1 - Requirements

1. The sample form of the IOTC Bigeye Tuna Re-export Certificate ~~is in Part 2. shall be as in the Appendix.~~
2. ~~CPC~~s shall ensure that Customs or other appropriate government officials will request and inspect all import documentation including the IOTC Bigeye Tuna Re-export Certificate for all ~~B~~bigeye tuna in the shipment. Those officials may also inspect the content of each shipment to verify the information on the document.
3. Only complete and valid documents will guarantee that shipments of Bigeye tuna will be allowed to enter the territory of Contracting Parties.
4. A ~~CPC~~Contracting Party shall be free to validate IOTC Bigeye Tuna Re-export Certificates for Bigeye tuna imported by that Contracting Party, to which IOTC Bigeye Tuna Statistical Documents or IOTC Bigeye Tuna Re-export Certificates are attached. IOTC Bigeye Tuna Re-export Certificates shall be validated by government organisations or by recognised institutions which are accredited by a ~~CPC~~Contracting Party's government to validate the IOTC Bigeye Tuna Statistical Document. A copy of the original Bigeye Tuna Statistical Document accompanying the imported ~~B~~bigeye tuna must be attached to an IOTC Bigeye Tuna Re-export Certificate. The copy of the original Bigeye Tuna Statistical Document so attached must be verified by that government organisation or by that recognised institution accredited by a government which validated the IOTC Bigeye Tuna Statistical Document. When re-exported ~~B~~bigeye tuna is again re-exported, all copies of documents, including a verified copy of a Statistical Document and Re-export Certificate which accompanied that ~~B~~bigeye tuna upon importation, must be attached to a new Re-export Certificate to be validated by a re-exporting ~~CPC~~Contracting Party. All copies of the Documents to be attached to that new Re-export Certificate must be also be verified by a government organisation or a recognised institution accredited by a government which validated the IOTC Bigeye Tuna Statistical Document.
5. Shipments of ~~B~~bigeye tuna that are accompanied by improperly documented Bigeye Tuna Re-export Certificate (i.e., improperly documented means that the Bigeye Tuna Re-export Certificate is either missing from the shipment, incomplete, invalid or falsified) will be considered illegitimate shipments of Bigeye tuna, that ~~contravenes~~are ~~contrary to~~ IOTC ~~Conservation and Management Measures~~conservation efforts, and their entry will be suspended (PENDING RECEIPT OF A PROPERLY COMPLETED DOCUMENT) into the territory of a ~~CPC~~Contracting Party or ~~be~~ subject to administrative or other sanction.
6. IOTC ~~CPC~~sContracting Parties that validate Re-export Certificates in accordance with the procedure ~~set forth in~~ paragraph 4 shall require from the re-exporting ~~B~~bigeye tuna dealer necessary documents (e.g. written sales contracts) which are to certify that the Bigeye tuna to be re-exported corresponds to the imported ~~B~~bigeye tuna. ~~CPC~~sContracting Parties which validate Re-export Certificates shall provide flag states and importing states with evidence of this correspondence upon their request.
7. The import of fish parts other than the meat, i.e., head, eyes, roe, guts, tails may be allowed without the document.

**Commented [A319]:** JPN

The original text auxiliary verb shall be maintained.

**Commented [A320]:** JPN

CPC

**APPENDIX**

**Part 2 – Bigeye Tuna Re-export Certificate and instructions**

DOCUMENT NUMBER		IOTC BIGEYE TUNA RE-EXPORT CERTIFICATE		
<b>RE-EXPORT SECTION:</b>				
1. RE-EXPORTING COUNTRY / ENTITY / FISHING ENTITY				
2. POINT OF RE-EXPORT				
3. DESCRIPTION OF IMPORTED FISH				
Product Type(*) F/FR	RD/GG/DR/FL/OT	Net Weight (Kg)	Flag country/ Entity/Fishing Entity	Date of Import
4. DESCRIPTION OF FISH FOR RE-EXPORT				
Product Type(*) F/FR	RD/GG/DR/FL/OT	Net Weight (Kg)		
*F=FRESH, FR=Frozen, RD=Round, GG=Gilled and Guttled, DR=Dressed, FL=Fillet OT=Other(Describe the type of product)				
<b>5. RE-EXPORTER CERTIFICATION:</b> <u>I certify that the above information is complete, true and correct to the best of my knowledge and belief.</u>				
Name/Company Name	Address	Signature	Date	License Number (if applicable)
<b>6. GOVERNMENT VALIDATION:</b> <u>I validate that the above information is complete, true and correct to the best of my knowledge and belief.</u>				
Name & Title	Signature	Date	Government Seal	

**IMPORT SECTION:**

**7. IMPORTER CERTIFICATION:** I certify that the above information is complete, true and correct to the best of my knowledge and belief.

Importer Certification (Intermediate Country / Entity / Fishing Entity)

Name:                      Address:                      Signature:                      Date:                      License # (if applicable)

Importer Certification (Intermediate Country / Entity / Fishing Entity)

Name:                      Address:                      Signature:                      Date:                      License # (if applicable)

Importer Certification (Intermediate Country / Entity / Fishing Entity)

Name:                      Address:                      Signature:                      Date:                      License # (if applicable)

Final Point of Import

City:                      State/Province:                      Country / Entity / Fishing Entity:

NOTE: If a language other than English or French is used in completing this form, please add the English translation of this document.

## INSTRUCTIONS

**DOCUMENT NUMBER:** Block for the issuing Country/Entity/Fishing Entity to designate a Country/Entity/Fishing Entity coded document number.

### (1) RE-EXPORTING COUNTRY/ENTITY/FISHING ENTITY

Fill in the name of the Country/Entity/Fishing Entity which re-exports the Bigeye tuna in the shipment and issued this Certificate. According to the Recommendation, only the re-exporting Country/Entity/Fishing Entity can issue this Certificate.

### (2) POINT OF RE-EXPORT

Identify the City/State Province and Country/Entity/Fishing Entity from which the Bigeye tuna was re-exported.

### (3) DESCRIPTION OF IMPORTED FISH

The exporter must provide, to the highest degree of accuracy, the following information: NOTE: One row should describe one product type. (1) Product type: Identify the type of product being shipped as either FRESH or FROZEN, and in ROUND, GILLED AND GUTTED, DRESSED, FILLET or OTHER form. For OTHER, describe the type of products in the shipment. (2) Net weight: Net product weight in kilograms. (3) Flag Country/Entity/Fishing Entity: the name of the Country/Entity/Fishing Entity of the vessel that harvested the Bigeye tuna in the shipment. (4) Date of import: Imported date.

### (4) DESCRIPTION OF FISH FOR RE-EXPORT

The exporter must provide, to the highest degree of accuracy, the following information: NOTE: One row should describe one product type. (1) Product type: Identify the type of product being shipped as either FRESH or FROZEN, and in ROUND, GILLED AND GUTTED, DRESSED FILLET or OTHER form. For OTHER, describe the type of products in the shipment. (2) Net weight: Net product weight in kilograms.

### (5) RE-EXPORTER CERTIFICATION

The person or company re-exporting the Bigeye tuna shipment must provide his/her name, address, signature, date the shipment was re-exported, and re-exporter's license number (if applicable).

### (6) GOVERNMENT VALIDATION

Fill in the name and full title of the official signing the Certificate. The official must be employed by a competent government authority of the re-exporting Country/Entity/Fishing Entity appearing on the Certificate, or other individual or institution authorised to validate such certificates by the competent government authority.

### (7) IMPORTER CERTIFICATION

The person or company that imports Bigeye tuna must provide his/her name, address, signature, date the Bigeye tuna was imported, license number (if applicable) and re-exported final point of import. This includes imports into intermediate Countries/Entities/Fishing Entities. For fresh and chilled products, the signature of the importer may be substituted by a person of a customs clearance company when the authority for signature is properly accredited to it by the importer.

**RETURN A COPY OF THE COMPLETED CERTIFICATE TO:** (the name of the office of the competent authority of the re-exporting Country/Entity/Fishing Entity).

### ANNEX III

#### REPORT OF THE IOTC BIGEYE TUNA STATISTICAL DOCUMENT

Period \_\_\_\_\_ to \_\_\_\_\_, \_\_\_\_\_ IMPORT COUNTRY/ENTITY/FISHING ENTITY \_\_\_\_\_  
Month Month Year

Flag Country/Entity/ Fishing Entity	Area Code	Gear Code	Point of Export	Product Type		Product Wt.(Kg)
				F/FR	RD/GG/DR/FL/OT	

Gear Code Gear Type

BB Baitboat

GILL Gillnet

HAND Handline

HARP Harpoon

LL Longline

MWT Mid-water trawl

PS Purse seine

RR Rod & reel

SPHL Sport Handline

SPOR Sport fisheries unclassified

SURF Surface fisheries unclassified

TL Tended line

TRAP Trap

TROL Troll

UNCL Unclassified methods

OTH Other type (Indicate the type of gear):

Product type

F Fresh

FR Frozen

RD Round AT Atlantic

GG Gilled & gutted

DR Dressed

FL Fillet

OT Other form, describe the type of products in the shipment

Area Code

ID Indian Ocean

PA Pacific Ocean

**REPORT OF THE IOTC BIGEYE TUNA RE-EXPORT CERTIFICATE**

Period \_\_\_\_\_ to \_\_\_\_\_, \_\_\_\_ IMPORT COUNTRY/ENTITY/FISHING ENTITY \_\_\_\_\_

Month      Month      Year

Flag Country/Entity/F ishing Entity	Re-export Country/Entity/Fishing Entity	Point of Re-export	Product Type		Product Wt.(Kg)
			F/FR	RD/GG/DR/FL/OT	

Product type

F	Fresh	ID	Indian Ocean
FR	Frozen	PA	Pacific
RD	Round	AT	Atlantic
GG	Gilled & gutted		
DR	Dressed		
FL	Fillet		
OT	Other form, describe the type of products in the shipment		

#### ANNEX IV

##### INFORMATION ON VALIDATION OF IOTC STATISTICAL DOCUMENTS

1. Flag
2. Government/Authority Organisation(s) accredited to validate Statistical Documents

<i>Organisation Name</i>	<i>Organisation Address</i>	<i>Sample Seal</i>

NOTE: For each organisation, attach a list with the names, titles and addresses of the individuals authorised to validate Documents.

3. Other institutions accredited by the government/authority to validate Statistical Documents

<i>Organisation Name</i>	<i>Organisation Address</i>	<i>Sample Seal</i>

NOTE: For each organisation, attach a list with the names, titles and addresses of the individuals authorised to validate Documents.

#### INSTRUCTIONS:

Contracting Parties, Non-Contracting Parties, Entities, Fishing Entities having vessels that harvest species whose international trade must be accompanied by Statistical Documents are requested to submit the information on this sheet to the Executive Secretary of IOTC\*, and to ensure that any changes to the above are also transmitted to the IOTC Executive Secretary on a timely fashion.

\*IOTC; P.O. BOX 1011, Le Chantier Mall, Victoria, Mahé, Seychelles

**ACTIVE CMMS ADOPTED AT THE SIXTH SESSION OF THE IOTC**

**2001**



## RESOLUTION 01/03

### ESTABLISHING A SCHEME TO PROMOTE COMPLIANCE BY NON-CONTRACTING PARTY VESSELS WITH RESOLUTIONS ESTABLISHED BY IOTC

#### EXPLANATORY NOTES

##### PREAMBLE

*No substantive amendments are proposed for the preamble.*

##### PARAGRAPHS

*No substantive amendments are proposed for the paragraphs.*

##### MCS

WORKSHOP DISCUSSION	
(a) <b>Key findings</b>	Trail blazing at the time of its adoption, has now been overtaken by developments in international law and related IOTC resolutions
(b) <b>Proposed actions</b>	Eliminated; to be absorbed into CMM 18/03, 16/11 and 10/10, most of which has been done over time – complete with provisions regarding potential punitive responses
(c) <b>Points discussed during the Workshop</b>	There was consensus to eliminate this resolution.
<b>WPICMM02 RECOMMENDATION</b>	Eliminate the resolution.

*All paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

**Commented [A321]:** EU  
We propose to use the legal scrubbing exercise to propose the deletion of this resolution entirely, in line with recommendation from WPICMM02

**Commented [A322]:** MDV:  
Support EU proposal under the condition that all still relevant contents of this Resolution are absorbed into other Resolutions.

**Commented [A323]:** JPN  
WPICMM02 recommendation does not provide specific rationale for deletion of this resolution. We reserve position on the EU's suggestion.

**The Indian Ocean Tuna Commission (IOTC),**

TAKING NOTE of the results of the Intersessional Meeting on an Integrated Control and Inspection Scheme, held in Yaizu, Japan, from 27 to 29 March 2001;

TAKING NOTE of the need to fight against illegal, unregulated and unreported (IUU) fisheries activities;

TAKING INTO ACCOUNT that Contracting Parties and Cooperating Non-Contracting Parties (CPCs) have agreed that the implementation of an integrated control and inspection scheme should follow a phased approach;

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

1. Any observation by a ~~CPC flag Contracting Party~~ vessel or aircraft of a vessel flagged to a Non-Contracting ~~Non-Cooperating~~ Party, Entity or fishing Entity ~~vessels~~, indicating that there are grounds for believing that these vessels are fishing contrary to IOTC Conservation or Management Measures, shall be reported immediately to the appropriate authorities of the flag State making the observation. The ~~CPC Contracting Party~~ shall then notify immediately the appropriate authorities of the flag State of the vessel fishing. Each Contracting Party making the observation shall also immediately notify the ~~Executive Secretary IOTC Secretariat~~, which, in turn, shall notify the other ~~CPC contracting Parties~~.
2. A flag vessel flying the flag of a Non-Contracting ~~Non-Cooperating~~ Party, Entity or fishing Entity, which has been sighted in the IOTC ~~Area of competence~~ in conformity with the conditions of paragraph 1, is presumed to be undermining IOTC Conservation and Management Measures.
3. When a flag vessel of a Non-Contracting Party, Entity or fishing Entity referred to in paragraph 2 enters voluntarily a port of any Contracting Party, it shall be inspected by authorised Contracting Party officials knowledgeable of IOTC measures and shall not be allowed to land or tranship any fish until this inspection has taken place. Such inspections shall include the vessel's documents, logbooks, fishing gear, catch on board and any other matter relating to the vessel's activities in the IOTC ~~area of competence~~ ~~Area~~.
4. Landings and transhipments of all fish from flag vessels of a Non-Contracting Party, Entity or fishing Entity which have been inspected pursuant to paragraph 3 shall be prohibited in all ~~CPC Contracting Party~~ ports if such inspection reveals that the vessel has onboard species subject to IOTC Conservation or Management Measures, unless the vessel establishes that the fish were caught outside the IOTC ~~area of competence~~ ~~Area~~ or in compliance with the relevant IOTC Conservation and Management Measures and requirements under the IOTC Agreement.
5. Information on the results of all inspections of flag vessels of Non-Contracting Parties, Entities or fishing Entities, conducted in the ports of ~~CPCs Contracting Parties~~, and any subsequent action, shall be transmitted immediately to the ~~Executive Secretary Commission~~ who ~~The IOTC Secretariat~~ shall transmit this information to all ~~CPCs Contracting Parties~~ and to the relevant flag State(s).

**Commented [A324]:** JPN  
"Fishing" shall be maintained.

**Commented [A325]:** JPN  
"Secretariat" shall be maintained.

**Commented [A326]:** JPN  
"Secretariat" shall be maintained.

Conservation and Management Measures linked to Resolution 01/03 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
None		<a href="#">Resolution 05/03</a>	

## RESOLUTION 01/06 CONCERNING THE IOTC BIGEYE TUNA STATISTICAL DOCUMENT PROGRAMME

### EXPLANATORY NOTES

#### PREAMBLE

The last paragraph (IOTC....“Recommends”) appears erroneous because this is a legally binding Resolution under paragraph 1 Article IX, so an amendment is proposed to substitute the term “Adopts”. This should not be substantive and is flagged for information.

#### PARAGRAPHS

**General.** Considering other Resolutions are binding on CPCs (including, e.g. another Resolution on documentation - 03/03 on statistical documentation), and not just Contracting Parties, and that this is the intention under the IOTC Agreement, it is inconsistent for this Resolution to be directed solely at “Contracting Parties”, with the requirement in paragraph 8 that the Commission “shall request Cooperating non-Contracting parties to take measures” described in the previous paragraphs.

Amendments are proposed throughout that would apply the requirements to CPCs rather than Contracting Parties, and it is proposed that paragraph 8 be deleted. *It is recommended to refer this to CPCs for review if it is believed that the intention was to apply this to Contracting Parties only.*

#### MCS

WORKSHOP DISCUSSION	
(a) <b>Key findings</b>	<ul style="list-style-type: none"> <li>Non-punitive market-related measure, with large gaps and the resulting ineffectiveness of resolution singled out 9 years ago by PRIOTC01.</li> </ul>
(b) <b>Proposed actions</b>	<ul style="list-style-type: none"> <li>Eliminated; no further amendments; to be replaced with CDS, covering all IOTC commercially important species, all product forms and all trade routes, using state of the art CDS design and electronic implementation</li> </ul>
(c) <b>Points discussed during the Workshop</b>	<ul style="list-style-type: none"> <li>There was consensus to eliminate this resolution, once a catch documentation scheme is in place.</li> </ul>
<b>WPICMM02 RECOMMENDATION</b>	Eliminate this resolution transfer, the operative text to Resolution 03/03. Resolution 03/03 will be eliminated once a CDS is in place.

*All other paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

**Commented [A327]:** MDV:  
EU proposal can be supported under the condition that all operative text is indeed incorporated into 03/03.

**Commented [A328]:** JPN  
See our [comments to Res 03/03](#).

**Commented [A329]:** EU  
We propose to use the legal scrubbing exercise to propose the integration of all operative text from 01/06 into Resolution 03/03; and to eliminate resolution 01/06 - in line with the philosophy of the exercise

## The Indian Ocean Tuna Commission (IOTC),

RECOGNISING the authority and responsibility of IOTC to manage ~~B~~bigeye tuna in the IOTC area of competence (“Convention Area”), at the international level;

RECOGNISING ALSO the nature of the international market for ~~B~~bigeye tuna in the Convention Area;

RECOGNISING ALSO that there is uncertainty on the catch of ~~B~~bigeye tuna in the Convention Area and that the availability of trade data would greatly assist in reducing such uncertainty;

RECOGNISING ALSO that ~~B~~bigeye tuna is the main target species of “flag of convenience” fishing operations and that most of the ~~B~~bigeye tuna harvested by such fishing vessels are exported to Contracting Parties and Cooperating Non-Contracting Parties (CPCs), especially to Japan;

RECALLING that the International Commission for the Conservation of Atlantic Tunas (ICCAT) has established its Bluefin Tuna, Bigeye Tuna and Swordfish Statistical Document Programs, and that the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) has also established its Southern Bluefin Tuna Statistical Document Programme;

RECOGNISING that the Statistical Document Programme is an effective tool to assist the Commission’s effort for the elimination of illegal, unreported and unregulated (IUU) fishing operations;

ADOPTS/RECOMMENDS, in accordance with paragraph 1 of Article IX of the IOTC Agreement, the following:~~that,~~

1. ~~CPC~~Contracting Parties, by July 1, 2002 or as soon as possible thereafter, shall require that all ~~B~~bigeye tuna, when imported into the territory of a ~~CPC~~Contracting Party, be accompanied by an IOTC Bigeye Tuna Statistical Document which meets the requirements described in Annex I or an IOTC Bigeye Tuna Re-export Certificate which meets the requirements described in Annex II. Bigeye tuna caught by purse seiners and pole and line (bait) vessels and destined principally for the canneries in the Convention Area are not subject to this statistical document requirement. The Commission and the ~~CPC~~Contracting Parties importing ~~B~~bigeye tuna shall contact all the exporting countries to inform them of this Programme in advance of the implementation of the Programme.
2. CPCs shall ensure that:
  - (a) ~~if~~ The IOTC Bigeye Tuna Statistical Document ~~is~~must be validated by a government official or other authorised individual or institution of the flag State of the vessel that harvested the tuna, or, if the vessel is operating under a charter arrangement, by a government official or other authorised individual of the exporting state; ~~and;~~
  - (b) The IOTC Bigeye Tuna Re-export Certificate ~~must be~~is validated by a government official or other authorised individual or institution of the state that re-exported the tuna.
- ~~2.3.~~ Each ~~CPC~~Contracting Party shall provide to the ~~IOTC~~ Executive Secretary sample forms of its statistical document and re-export certificate required with ~~B~~bigeye tuna imports and information on validation in the format specified in Annex IV, and inform him/her of any change in a timely fashion.
- ~~3.4.~~ The ~~CPC~~Contracting Parties which export or import ~~B~~bigeye tuna shall compile data from the Programme.
- ~~4.5.~~ The ~~CPC~~Contracting Parties which import ~~B~~bigeye tuna shall report the data collected by the Programme to the IOTC Executive Secretary each year by April 1 for the period of July 1 – December 31 of the preceding year and October 1 for the period of January 1 – June 30 of the current year, which the Executive Secretary shall then be circulated to all ~~the CPC~~Contracting Parties by the IOTC Executive Secretary. The formats of the report are attached as Annex III.
- ~~5.6.~~ The ~~CPC~~Contracting Parties which export ~~B~~bigeye tuna shall examine export data upon receiving the import data ~~referenced~~mentioned in paragraph 5 ~~above~~ from the ~~IOTC~~ Executive Secretary, and report the results to the Commission in their annual Implementation Report~~annually~~.
- ~~6.7.~~ The ~~CPC~~Contracting Parties should exchange copies of statistical documents and re-export certificates to facilitate the examination ~~referenced~~mentioned in paragraph 6, consistent with relevant domestic laws and regulations.
- ~~7.~~ The Commission shall request Cooperating Non-Contracting Parties to take the measures described in the above paragraphs.

**Commented [A330]:** EU

Not sure.

Clarity from Secretariat needed on the current implementation of this resolution by cooperation non contracting parties. Is para 7 a mandatory application by cooperating non CP? This comment is valid through the entire resolution

**Commented [A331]:** JPN

The original text shall be maintained.

**Commented [A332]:** JPN

The original text shall be maintained.

**Commented [A333]:** JPN

“Secretariat” shall be used instead of “Executive Secretary”

**Commented [A334]:** JPN

“Secretariat” shall be used instead of “Executive Secretary”

**Commented [A335]:** JPN

“Secretariat” shall be used instead of “Executive Secretary”

**Commented [A336]:** JPN

“Secretariat” shall be used instead of “Executive Secretary”

**Commented [A337]:** JPN

“Secretariat” shall be used instead of “Executive Secretary”

**Commented [A338]:** JPN I think the original wording is more accurate because this SD examination report is submitted separately from Implementation report and annual report.

**Commented [A339]:** JPN I can not understand why this paragraph is deleted. I think it shall be maintained.

8. The ~~IOTC~~ Executive Secretary shall request information on validation from all the Non-Contracting Parties/Entities/Fishing Entities fishing and exporting Bigeye tuna to Contracting Parties, and request them to inform him/her in a timely fashion of any changes to the information provided.
9. The IOTC Executive Secretary shall maintain and update information specified in paragraphs 3 and 9 and provide it to all the Contracting Parties, and promptly circulate any changes.
10. The Commission shall request the Non-Contracting Parties which import Bigeye tuna to cooperate with implementation of the Programme and to provide to the Commission data obtained from such implementation.
11. Implementation of this Programme shall be in conformity with relevant international obligations.
12. At the initial stage of the programme, the statistical documents and the re-export certificates will be required for frozen Bigeye tuna products. Prior to implementing this Programme for fresh products, several practical problems need to be solved, such as guidelines to ensure procedures to handle fresh products at customs.
13. The statistical documents for Bigeye tuna caught by fishing vessels flying the flag of a Member State of the European Community may be validated by the competent authorities of the Member State whose flag the vessel flies or by those of a different Member State where the products are landed, provided the corresponding quantities of Bigeye tuna are exported outside the Community from the territory of the Member State of landing.
14. Notwithstanding the provisions of Article IX, paragraph 4, of the Agreement, the Contracting Parties shall implement this recommendation [Resolution] by July 1, 2002 or as soon as possible thereafter in accordance with the regulatory procedures of each Contracting Party.

**Commented [A340]:** JPN  
"Secretariat" shall be used instead of "Executive Secretary"

**Commented [A341]:** JPN  
"Secretariat" shall be used instead of "Executive Secretary"

Conservation and Management Measures linked to Resolution 01/06 or return to the <a href="#">Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
None		<a href="#">Resolution 03/03</a>	<a href="#">Recommendation 05/07</a>
		<a href="#">Resolution 18/07</a>	<a href="#">Resolution 19/04</a>

#### ANNEX I TO ANNEX IV

NOTE: The sample forms of the statistical documents and instruction sheets in [Resolution 01/06](#) concerning the IOTC Bigeye tuna statistical document programme have been superseded by those contained in [Resolution 03/03](#).

## **ACTIVE CMMS ADOPTED AT THE FOURTH SESSION OF THE IOTC**

**1999**

## RESOLUTION 99/02

### CALLING FOR ACTIONS AGAINST FISHING ACTIVITIES BY LARGE SCALE FLAG OF CONVENIENCE LONGLINE VESSELS

#### EXPLANATORY NOTES

##### PREAMBLE

*No substantive amendments are proposed for the preamble.*

##### PARAGRAPHS

*No substantive amendments are proposed for the paragraphs.*

##### MCS

WORKSHOP DISCUSSION	
(a) <b>Key findings</b>	<ul style="list-style-type: none"> <li>• Predates the NPOA-IUU.</li> <li>• Action called for under the CMM are now provided under CMM 01/03, 05/03, 10/10 (resulting from para. 7 of this resolution – which called for its development), CMM 14/05, CMM 16/11, and CMM 18/03.</li> </ul>
(b) <b>Proposed actions</b>	<ul style="list-style-type: none"> <li>• Eliminated; already wholly absorbed into existing regulatory substance.</li> </ul>
(c) <b>Points discussed during the Workshop</b>	<ul style="list-style-type: none"> <li>• There was consensus to eliminate this resolution.</li> </ul>
<b>WPICMM02 RECOMMENDATION</b>	Eliminate this resolution.

*All paragraphs have been amended non-substantively, to reflect best practices in legal drafting and language proposed for the glossary.*

#### Commented [A342]: EU

We propose to use the legal scrubbing exercise to propose the deletion of this resolution entirely, in line with recommendation from WPICMM02

#### Commented [A343]: JPN

WPICMM02 recommendation does not provide specific rationale for deletion of this resolution. We reserve position on the EU's suggestion.

**The Indian Ocean Tuna Commission (IOTC),**

RECALLING that ~~the Commission~~~~IOTC~~ adopted at its 1998 ~~Session~~~~meeting~~ the Recommendation Concerning Registration and Exchange of Information on Vessels, including Flag of Convenience Vessels, Fishing for Tropical Tunas in the IOTC area of competence;

CONCERNED that fishing activities by large scale flag of convenience (FOC) tuna longline fishing vessels in the IOTC ~~area of competence~~~~Areas~~ have continued and increased, and that such activities diminish the effectiveness of IOTC Conservation and Management Measures;

RECOGNISING that there is evidence to indicate that many owners of vessels engaged in such fishing activities have reflagged their vessels to avoid compliance with IOTC Conservation and Management Measures;

AWARE that most of these vessels are owned and operated by Taiwan, Province of China (TPC) entities while almost all of their products are being exported to Japan;

WELCOMING the work now underway in FAO to develop an international Plan of Action to combat illegal, unregulated and unreported (IUU) fishing including FOC;

DETERMINED that further action must be taken to deter FOC fishing activities;

~~ADOPTS, in accordance with paragraph 1 of Article IX of the IOTC Agreement, the following:~~ **RESOLVES** as follows:

1. ~~The~~ Contracting Parties and ~~Cooperating~~ Non-Contracting Parties ~~Cooperating with the IOTC~~ shall ensure that ~~their~~ large-scale tuna longline ~~flag~~ vessels ~~under their registry~~ do not engage in ~~illegal, unreported or unregulated (IUU)~~ fishing activities (e.g. by means of denying such vessels a license to fish).
2. ~~CPCs~~~~The Contracting Parties and Cooperating Non-Contracting Parties of the IOTC~~ shall ~~require that refuse~~ landing and transshipment ~~be refused for~~~~by~~ FOC vessels which are engaged in fishing activities ~~that~~ diminishing the effectiveness of ~~Conservation and Management~~ measures adopted by ~~IOTC~~.
3. ~~CPCs~~~~The Contracting Parties and Cooperating Non-Contracting Parties of the IOTC~~ shall take every possible action, consistent with their relevant laws, ~~to:~~
  - (a) ~~to~~ urge their importers, transporters and other concerned business people to refrain from transacting in and transshipping tunas and tuna-like species caught by vessels carrying out FOC fishing activities;
  - (b) ~~to~~ inform their general public of FOC fishing activities by tuna longline vessels which diminish the effectiveness of IOTC Conservation and Management Measures and urge them not to purchase fish harvested by such vessels; and
  - (c) ~~to~~ urge their manufacturers and other concerned business people to prevent their vessels and equipment/devices from being used for FOC longline fishing operations.
4. The Commission urges all Non-Contracting ~~Non-Cooperating~~ Parties, entities or fishing entities not referred to above to act in conformity with ~~operative~~ paragraphs 1, 2 and 3 of this Resolution.
5. The Commission encourages monitoring and exchange of information concerning FOC fishing activities including the port sampling activity conducted by the IOTC Secretariat.
6. The Commission urges States and fishing entities whose FOC fishing vessels are engaged in fishing activities diminishing the effectiveness of ~~IOTC Conservation and Management Measures adopted by IOTC~~, to repatriate or scrap such vessels. The Commission also urges Japan, in cooperation with such states and fishing entities, to scrap Japan-built vessels engaged in FOC fishing activities.
7. The Commission instructs the IOTC Secretariat to prepare possible measures including trade restrictive measures to prevent or eliminate FOC fishing activities.
8. The legal joint venture operation of vessels by ~~CPCs~~~~Contracting Parties~~ should not be construed as FOC fishing as long as it does not diminish the effectiveness of ~~Conservation and Management Measures~~ adopted by ~~the Commission~~~~IOTC~~.
9. Due consideration shall be given to the interests of coastal ~~States~~~~nations~~.

**Commented [A344]:** JPN

The original sentence shall be maintained because the governments are responsible for refusing landing and transshipment.



**Conservation and Management Measures linked to Resolution 99/02 or return to the [Table of Contents](#)**

Links from within this CMM		Links from other CMMs	
None		None	

## **ANNEX 2. GUIDANCE AND RECOMMENDATIONS FOR PREPARING IOTC RESOLUTIONS AND RECOMMENDATIONS**

Guidance and recommendations in relation to technical legal drafting of future Resolutions and Recommendations, consistent with the IOTC Agreement, international best practices and the FAO style guide, is shown below. It details the inconsistencies and inaccuracies in existing Resolutions concerning IOTC-related matters, legal responsibilities, references/use of terms and formatting, and recommends for each the proper approach and language. It clearly sets out the erroneous use of terms and approaches found in existing Resolutions that must be avoided in future.

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Subject and guidance	Recommendation
<b>1. IOTC</b>	
<b>Addressees</b> of reports within IOTC.  <i>Do not</i> require reports to be sent to the Secretariat unless it is specifically required (e.g. the port State measures Resolution 16/11 specifies the duties of the Secretariat).	Addressees of reports should be the: <ul style="list-style-type: none"> <li>• Commission (where specifically required, e.g. by the IOTC Agreement or Rules of Procedure);</li> <li>• Executive Secretary; or</li> <li>• Other body formally designated, e.g. a Working Party to report to the Scientific or Compliance Committee.</li> </ul>
<b>“IOTC”</b> as part of a title/designation for IOTC bodies.  <i>Do not use “IOTC”</i> : Refer to the following <i>without</i> use of “IOTC”, to reflect their definition/use in the IOTC Agreement and Rules of Procedure: <ul style="list-style-type: none"> <li>• Commission</li> <li>• Executive Secretary</li> <li>• Resolutions (noted below)</li> <li>• Secretariat</li> </ul>	IOTC should precede Committees or subsidiary bodies, e.g. “IOTC Committee, IOTC Working Party”

Subject and guidance	Recommendation
<b>“IOTC Agreement”</b>  <i>Do not use:</i> <ul style="list-style-type: none"> <li>• IOTC Convention</li> <li>• Agreement</li> </ul>	<p>The formal title is “Agreement for the Establishment of the Indian Ocean Tuna Commission”</p> <p>The proper reference is “IOTC Agreement”.</p>
<b>“IOTC area of competence”</b>  <i>Do not use:</i> <ul style="list-style-type: none"> <li>• IOTC Area of Competence</li> <li>• IOTC Convention Area</li> <li>• IOTC Area unless it is called out after first use of “IOTC area of competence”.</li> </ul>	<p>Use the term “IOTC area of competence”, as used in the IOTC Agreement.</p>
<b>“IOTC Record of Authorised Vessels”</b>  <i>Do not use:</i> <ul style="list-style-type: none"> <li>• Record of Vessels</li> <li>• Record of Fishing Vessels</li> <li>• Record of Licensed Fishing Vessels</li> <li>• List of Authorised Vessels</li> </ul>	<p>Resolution 19/04 <i>concerning the IOTC Record of Vessels Authorised to Operate in the IOTC Area of Competence</i>:</p> <ul style="list-style-type: none"> <li>• does not specifically refer to fishing vessels in the title;</li> <li>• applies to “fishing vessels”, which include vessels authorised to fish for IOTC species in the IOTC area of competence and support, etc vessels.</li> </ul> <p>However, the definition of “vessels” proposed for the Glossary and based on international practice also includes those used for fishing or related activities.</p> <p>This report recommends use of the term “vessels” (rather than “fishing vessels”) to designate those used for fishing or related activities, mindful of international practice and the confusion, for example, in referring to a carrier vessel as a fishing vessel.</p>
<b>Resolutions (first reference)</b>  <i>Do not:</i> <ul style="list-style-type: none"> <li>• Refer to a Resolution without its title, for the first use.</li> </ul>	<p>Include the title on first use each time, in italics: “Resolution xx/xx <i>on....</i>”</p>
<b>Resolution (general references)</b>  <i>Do not use:</i> <ul style="list-style-type: none"> <li>• “The” Resolution xx/xx, <i>On...</i>”</li> <li>• As provided in “the” Resolution xx/xx, <i>On...</i>”</li> <li>• “IOTC” Resolution</li> </ul>	<p>When referring to a Resolution by number, cite it simply and do not precede it with “the”, or “IOTC” e.g.:</p> <ul style="list-style-type: none"> <li>• “Resolution xx/xx, <i>On ...</i>”, provides....</li> <li>• “As provided in Resolution xx/xx, <i>On....</i>”</li> </ul> <p>Refer to “Resolution” (as used in the IOTC Agreement and Rules of Procedure), rather than “IOTC Resolution”.</p>
<b>Resolutions (future)</b>  <i>Do not:</i>	<p>Refer only to the title of the Resolution, do not add “or any (future) superseding resolution”; it is stated</p>

Subject and guidance	Recommendation
<ul style="list-style-type: none"> <li>When referring to existing Resolutions add “(or any (future) superseding resolution...)”</li> </ul>	<p>in the superseding Resolution that it supersedes the earlier one.</p> <p>International agreements, treaties, etc do not use this language or refer to the possibility of future events.</p>
<p><b>Resolutions (superseding)</b></p> <p><i>Do not use:</i></p> <ul style="list-style-type: none"> <li>Resolution aa/aa [superseded by Resolution xx/xx, then Resolution yy/yy, then Resolution zz/zz....];</li> </ul> <p><i>Use:</i></p> <ul style="list-style-type: none"> <li>Resolution zz/zz</li> </ul>	<p>Refer to the most recent IOTC Resolution only, and not to those it supersedes, except where:</p> <ul style="list-style-type: none"> <li>the original Resolution is superseded by the Resolution citing it (i.e. replacing the original Resolution) then the number of the original Resolution should be shown and its ultimate replacement by the current Resolution indicated (e.g. superseded by this Resolution);</li> <li>a paragraph or other reference is attributed to the superseded Resolution which does not appear in the most recent version and the information referenced is only in the original Resolution (e.g. Resolution 09/01 on follow-up to the first performance review contains certain information that superseding Resolution 16/03 does not).</li> </ul>
<p><b>Resolutions (superfluous language)</b></p> <p><i>Do not use, where it is otherwise apparent:</i></p> <ul style="list-style-type: none"> <li>“binding” Resolution;</li> <li>Resolution “in force”</li> </ul>	<p>It is clear from the IOTC Agreement that Resolutions are binding and in force, and unnecessary to include this where it is already apparent.</p>
<p><b>“Sessions” of the Commission, Committees</b></p> <p><i>Do not use:</i></p> <ul style="list-style-type: none"> <li>session (lower case “s”)</li> <li>Annual meeting of the Commission</li> <li>Meetings of the Commission</li> </ul>	<p>The IOTC Rules of Procedure refer to regular “Sessions” of the Commission or Committees that are to be held annually.</p>
<b>2. LEGAL RESPONSIBILITIES</b>	
<p><b>Legal responsibility</b> for implementation of Resolution must be given to CPCs.</p> <p><i>Do not:</i></p> <ul style="list-style-type: none"> <li>give responsibility for implementation to vessels, operators, masters etc rather than CPCs.</li> </ul>	<p>Language should reflect CPCs legal obligation to implement requirements on owners, operators, masters etc.,</p> <p>To the extent possible, the requirements should be made in relation to CPC control of the persons (legal or natural) relating to the vessels – owners, operators, masters – rather than the vessels.</p> <p>e.g. “CPCs shall ensure/require compliance by all owners and operators of their flag vessels...”</p>
<p><b>Legal responsibility</b> to be clearly stated.</p> <p><i>Do not use:</i></p>	<p>The Resolutions are legally binding and must reflect this by use of “shall” or other mandatory language, unless there is clearly a contrary intention.</p>

Subject and guidance	Recommendation
<ul style="list-style-type: none"> <li>“should” where there is an intention that the measure is legally binding.</li> </ul>	
<b>3. REFERENCES, USE OF TERMS</b>	
<b>as regards</b>  <i>Do not use:</i> <ul style="list-style-type: none"> <li>“as regards”</li> </ul>	This is not a term of legal art; “relating to” or “concerning” can be used.
<b>bycatch</b>  <i>Do not use:</i> <ul style="list-style-type: none"> <li>“by-catch”</li> </ul>	The correct spelling is bycatch, as it appears in the IOTC Scientific Glossary.
<b>“captain”, “master” “operator”</b>  These terms are used interchangeably in different Resolutions.  <i>Do not use:</i> <ul style="list-style-type: none"> <li>“captain”</li> </ul>	Use “master” in relation to vessel activity and “master” or “operator” in relation to responsibilities.  Note the definition of “master” and “operator” in the proposed Glossary.
<b>fish aggregating device (FAD) use:</b>  Reference to “fishing on” FADs may be too narrow.  <i>Do not use</i> <ul style="list-style-type: none"> <li>“fish on” FADs: refers to vessels that carry FADs, and is activity-specific</li> </ul>	Use of “fishing on” FADs limits the application to vessels actually carrying out fishing activities on FADs.  Reference to vessels that “use” FADs broadens the application to all use of FADS, such as deployment, even where no fishing activities are carried out.
<b>flag vessels</b>  Various references should be consistent.  <i>Do not use</i> <ul style="list-style-type: none"> <li>vessels “flying the flag” of,</li> <li>vessels “flagged” to etc.</li> </ul>	Although various terms are used to denote the flag of the vessel, the term “flag” vessels is simplest and clear.  e.g. CPC flag vessels.
<b>gear</b>  Spelling of fishing gear varies.  <i>Do not use:</i> <ul style="list-style-type: none"> <li>“drift-net”</li> <li>“gill net or gill-net”</li> <li>“long-line”</li> <li>“purse-seine”</li> </ul>	Use driftnet, gillnet, longline, purse seine, as spelled in the FAO Fisheries Glossary
<b>Implementation Report</b>  There is inconsistent reference to annual Implementation Reports.	Refer to the CPC “annual Implementation Report”

**Commented [A345]:** MDV:  
Should include FAD

Subject and guidance	Recommendation
<p><i>Do not use:</i></p> <ul style="list-style-type: none"> <li>“annual report to the IOTC”</li> <li>“annual report to the Commission”</li> </ul>	
<p><b>“infraction” and “infringement”</b></p> <p><i>Do not use:</i> “infraction” and “infringement”; they are terms used at national level to connote minor violations.</p>	<p>Replace by “violation”, as used in UNCLOS and UNFSA. (“Contravention” is used in the Port State Measures Agreement and is also acceptable.)</p>
<p><b>“IUU fishing”, “IUU”</b></p> <p><i>Do not use:</i></p> <ul style="list-style-type: none"> <li>“IUU”</li> <li>“IUU fishing” especially where it is intended to include related activities.</li> </ul>	<p>The term defined in Resolution 18/03 <i>On establishing a list of vessels presumed to have carried out illegal, unreported and unregulated fishing in the IOTC area of competence</i>, paragraph 4 is “illegal, unreported and unregulated fishing <u>activities</u>”, and the definition covers fishing related activities.</p> <p>All references should be made to “IUU fishing activities” where it is intended to include fishing and related activities.</p>
<p><b>IUU Vessels List</b></p> <p><i>Do not use:</i></p> <ul style="list-style-type: none"> <li>“IUU Vessel List”</li> <li>“IUU List”</li> </ul>	<p>The correct term for the list is “IUU Vessels List”.</p>
<p><b>“Laws and regulations”</b> (at national level)</p> <p><i>Do not use:</i></p> <ul style="list-style-type: none"> <li>“laws and regulations”</li> </ul>	<p>The term “legislation” should be used, as it refers to any instrument at national level having the force of law (e.g. laws, regulations, orders, decrees other).</p>
<p><b>Paragraph</b></p> <p><i>Do not use:</i></p> <ul style="list-style-type: none"> <li>“Paragraph”</li> <li>“Point”</li> </ul>	<p>The numbered paragraphs in the Resolutions should be referred to as “paragraph”, sub-paragraph, etc.</p>
<p><b>Preamble</b></p> <p><i>Do not cite:</i></p> <ul style="list-style-type: none"> <li>Detailed specifics of referenced document unless necessary, in order to maintain generality of preamble.</li> </ul>	<p>The preamble is general and details do not need citing (such as specific paragraph numbers in referenced Scientific Committee meeting reports); it is usually enough to cite the report, Resolution etc.</p>
<p><b>Preamble, last paragraph</b></p> <p>The last two words should be ADOPTS... “the following”.</p> <p><i>Do not use:</i> ADOPTS ..... “that”;</p>	<p>The language should be consistent:</p> <p>ADOPTS, in accordance with paragraph 1 of Article IX of the IOTC Agreement, “the following”:</p>
<p><b>“set forth”</b> is very general and does not explain the status of the provision referenced (e.g. required or not).</p>	<p>Where needed, the terms “provided” or “required” should be used, which connote specific provisions having the force of law.</p>



Subject and guidance	Recommendation
<p><i>Do not use:</i></p> <ul style="list-style-type: none"> <li>“set forth”, e.g. in paragraph xx, or Resolution xx.</li> </ul>	
<p><b>“via”, “per”</b></p> <p>Many Resolutions use these terms as follows, e.g.:</p> <p>“via” Resolution xx/xx</p> <p>“per” Guidelines on xxx</p> <p><i>Do not use:</i></p> <ul style="list-style-type: none"> <li>“via”</li> <li>“per”</li> </ul>	<p>“via” and “per” are not legal terms of art as used in the Resolutions. They should be replaced by other appropriate terms, such as “by” or “through”.</p>
<b>4. FORMATTING</b>	
<p><b>Acronyms: Callout style</b></p> <p><i>Do not use:</i></p> <ul style="list-style-type: none"> <li>Additional language or punctuation in the callout, e.g. (<i>hereinafter referred to as</i> “CMMs”), (<i>collectively</i> “CPCs”)</li> <li>Acronyms should not be used without including the full term then callout, e.g. when referring to other RFMOs (WCPFC, ICCAT)</li> </ul>	<p>At first use the acronym should be called out and afterwards only the acronym should be used.</p> <p>Callout should be by use of the acronym in parentheses, e.g.:</p> <ul style="list-style-type: none"> <li>Conservation and Management Measures (CMMs);</li> <li>Contracting Parties and Cooperating Non-Contracting Parties (CPCs).</li> </ul> <p>Always include the full term before first use of the acronym, e.g. Western and Central Pacific Fisheries Commission (WCPFC).</p>
<p><b>Acronyms: Consistent use</b></p> <p><i>Do not:</i></p> <ul style="list-style-type: none"> <li>Repeat the full words multiple times in a Resolution when acronyms are normally used, e.g. multiple references to exclusive economic zone.</li> </ul>	<p>All Resolutions should use the same acronyms, and not full words, to the extent possible, including:</p> <p><b>CMMs</b> – Conservation and Management Measures</p> <p><b>CPCs</b> – Contracting Parties and Cooperating Non-Contracting Parties</p> <p><b>EEZs</b> – exclusive economic zone (note the upper case letters are not used in the words, consistent with UNCLOS)</p>
<p><b>Annexes</b></p> <p>Annexes must be formatted consistently, including their titles.</p> <p><i>Do not:</i></p> <ul style="list-style-type: none"> <li>refer to Annexes in regular font</li> <li>refer to “Appendix”</li> <li>refer to Annex X “of this Resolution”</li> <li>use numbers 1, 2, 3 or letters A, B, C.</li> </ul>	<p>Reference to Annexes should be in bold and roman numerals:</p> <p><b>Annex I, Annex II</b> etc.</p> <p>The titles should be formatted consistently with the titles of the Resolution.</p>
<p><b>Chapeau</b> The use of a chapeau should be consistent.</p>	<p>The chapeau should be as broad as possible to economise on words, e.g. include “to” one time in the chapeau rather than at the beginning of each</p>

Subject and guidance	Recommendation
<p><i>Do not:</i></p> <ul style="list-style-type: none"> <li>provide numbered paragraphs without a chapeau that only consists of subparagraphs (a) (b) etc.</li> <li>begin each subparagraph below a chapeau with the same word(s) when it (they) could be placed in the chapeau, e.g. "CPCS have a responsibility.... (a) to... (b) to... (c) to..."</li> </ul>	<p>sub-paragraph, e.g. "CPCS have a responsibility to:"</p> <p>A chapeau should be used in numbered paragraphs that consist of subparagraphs (a), (b), (c) etc.</p>
<p><b>Colons and semicolons</b></p> <p><i>Do not use:</i></p> <ul style="list-style-type: none"> <li>semicolons in the keywords description</li> <li>unnecessary semicolons and colons</li> </ul>	<p>Use the FAO style guide for colons and semicolons</p> <p><b>Colons</b></p> <ul style="list-style-type: none"> <li>Colons are generally followed by a lower-case letter and are usually used to introduce a list or a definition. However, an initial capital letter is used when a colon is followed by a proper noun or by a complete sentence, e.g. Land-use planning can be expressed in the following questions: <b>What</b> is the present situation? <b>Is</b> change desirable?</li> </ul> <p><b>Semicolons</b></p> <ul style="list-style-type: none"> <li>Semicolons are used to separate main clauses that have different subjects and are not introduced by a conjunction. A semicolon is followed by an initial lower-case letter (unless the semicolon is followed by a proper noun).</li> </ul>
<p><b>Commas</b></p> <p><i>Do not use:</i></p> <ul style="list-style-type: none"> <li>unnecessary commas.</li> </ul>	<p>Use the FAO Style guide for commas:</p> <ul style="list-style-type: none"> <li>Use commas to separate clauses within a compound sentence where there is a change of subject, or to prevent possible misreading: <ul style="list-style-type: none"> <li>The Chairperson selected the representative of the Netherlands to lead the subcommittee, and the subcommittee agreed.</li> </ul> </li> <li>Use commas to isolate a word, phrase or relative clause: <ul style="list-style-type: none"> <li>The study, conducted in 1999, confirmed the earlier findings.</li> <li>The rise in productivity, although limited, has been steady.</li> </ul> </li> <li><b>Do not</b> use a comma: <ul style="list-style-type: none"> <li>before <b>and</b> in a list, e.g. sheep, goats and oxen</li> <li>after i.e. and e.g.</li> </ul> </li> </ul>

Subject and guidance	Recommendation
	<ul style="list-style-type: none"> <li>Avoid overuse of commas. For example, the following sentence has many unnecessary commas: <ul style="list-style-type: none"> <li>The soil, which, in places, overlies the hard rock of the plateau, is, for the most part, thin and poor. The same sentence would be better written as follows:</li> <li>The soil, which in places overlies the hard rock of the plateau, is for the most part thin and poor.</li> </ul> </li> </ul>
<p><b>Italics</b></p> <p><i>Do not use:</i></p> <ul style="list-style-type: none"> <li>foreign words and phrases unless they are in italics.</li> </ul>	<p>Use the FAO style guide for italics:</p> <ul style="list-style-type: none"> <li>foreign words and phrases that are not in common usage, such as <i>et seq.</i>, <i>inter alia</i>.</li> <li>to indicate genus or species, e.g. <i>Oryza sativa</i>, <i>Cucurbita spp.</i>, but not for higher levels of taxonomic classification, e.g. <i>Brassicaceae</i>. Note that modifiers to species' names (such as <i>cv.</i>, <i>var.</i>, <i>spp.</i>) and species' authorities are not italicized.</li> </ul>
<p><b>Keywords</b></p> <p>Keywords should be formatted consistently.</p> <p><i>Do not use:</i></p> <ul style="list-style-type: none"> <li>upper case (capital) letters.</li> </ul>	<p>Use lower case letters for each keyword (no capitals), separated by commas and ending with a full stop.</p>
<p><b>Lists</b> Lists should be formatted consistently.</p> <p><i>Do not use:</i></p> <p>Conjunctives and disjunctives in lists except in the penultimate sub-paragraph (use of “and” or “or” in Resolutions is sometimes improperly shown after every sub-paragraph), e.g.</p> <p>(a) .... ; and (b) .....; and (c) .....; and (d) .....</p>	<p>Use the FAO style guide (first two points) for lists:</p> <ul style="list-style-type: none"> <li>Lists are punctuated in the same way as sentences, unless entries are very short, e.g. no punctuation is required in the following list: <ul style="list-style-type: none"> <li>radios</li> <li>televisions</li> <li>cameras</li> </ul> </li> <li>When entries are more complex, use initial lower-case letters and end each with a semicolon, except for the final entry, which ends with a full stop. When entries consist of complete sentences, begin each with a capital letter and end each with a full stop.</li> <li>Use conjunctives or disjunctives only after the penultimate item in the list, e.g. <p>(a) .....; (b) .....; (c) .....; and</p> </li> </ul>

Subject and guidance	Recommendation
	(d) .....
<p><b>Numbering style:</b> Treaty-type formatting should be used. References would then be made, e.g. to Part I, paragraph 1(a)(i).</p> <p><i>Do not use</i></p> <ul style="list-style-type: none"> <li>• “section”</li> <li>• “point”</li> <li>• dashes</li> <li>• dot points</li> </ul>	<p>PART XX</p> <p>1. Paragraph</p> <p>(a) sub paragraph</p> <p>(i) sub sub paragraph</p> <p>(1) sub sub sub paragraph</p> <p>a. sub sub sub sub paragraph</p>
<p><b>Objectives</b> Objectives should be formatted consistently.</p> <p><i>Do not use:</i></p> <p><b>Objectives</b></p> <ol style="list-style-type: none"> <li>1. To maintain the skipjack stock in perpetuity.</li> <li>2. To use a harvest control rule.</li> </ol>	<p>If there are multiple objectives for a Resolution, they should be expressed as a list under a general chapeau. For example:</p> <p>The objectives of this Resolution are to:</p> <p>(a) .....;</p> <p>(b) .....; and</p> <p>(c) ....</p>
<p><b>Preamble</b></p> <p><i>Do not use:</i></p> <ul style="list-style-type: none"> <li>• lower case letters for the first word(s)</li> <li>• hanging indents</li> <li>• paragraph spacing different from 6pt before and 6pt after</li> </ul>	<p>Use upper case letters for the first word(s)</p> <p>Use paragraph spacing of 6pt before and 6pt after</p>
<p><b>Species</b> Use of capital (upper case) letters.</p> <p><i>Do not use:</i></p> <ul style="list-style-type: none"> <li>• capital letters, e.g. Yellowfin, Skipjack.</li> </ul>	<p>Use lower case letters for species, e.g. yellowfin, skipjack.</p> <p>It is based on standard practice: the common names of fishes by convention have been treated as common nouns, not proper nouns, and are accordingly spelled in lower case.</p> <p>This is the WCPFC model, others (IOTC, ICCAT etc) have no model and use upper case and lower case for the names of species inconsistently.</p>

### ANNEX 3. DRAFT IOTC GLOSSARY

**Commented [A346]:** JPN

Japan does not make comments on the Annex because the work has been suspended.

**Commented [A347]:** AUS

Australia is not providing comments on the draft glossary through the legal scrubbing process. We reserve our right to comment on the draft glossary when that work is resumed.

A draft Glossary has been prepared to provide a set of generally agreed definitions to be drawn upon when drafting new IOTC CMMs, and as a source for the “legal scrubbing” project.

In this draft, comments and suggestions for defining the terms that were provided at WPICMM02 (IOTC–2019–WPICMM02–11a) were considered and as appropriate integrated into the definitions. Explanations for the proposed definitions draw on comments provided at WPICMM02 and appear in footnotes, together with any recommendations for further review or agreement.

Recommendations for updates to the Scientific Glossary are given separately in Annex 4.

Terms accepted by WPICMM02, for which no explanations are given, are High Seas, IOTC or “Commission”, IOTC Agreement, IOTC Area of Competence, IOTC Record of Authorised Vessels, Legislation, IOTC Observer.

Key terms	Definitions
Aircraft	Any machine or craft capable of self-sustained movement through the atmosphere that can derive support from the atmosphere from the reactions of the air, other than reactions of the air against the earth's surface, including helicopters and unmanned or remotely operated airborne devices. <sup>1</sup>
Authorised vessel	Any vessel that is: a) 24 meters in length overall or above; or b) in the case of vessels less than 24 meters in length overall, those operating outside areas under the national jurisdiction of the flag State, and is authorised by the flag State to fish for tuna and tuna-like species or to carry out fishing related activities in the IOTC Area of Competence. <sup>2</sup>
Bycatch	All species, other than the species listed in Annex B of the IOTC Agreement (IOTC Species), caught or interacted with by fisheries for tuna and tuna-like species in the IOTC Area of Competence. Bycatch species includes those non-IOTC species which are (a) retained, (b) incidentally taken in a fishery and returned to the sea; or (c) incidentally affected by interacting with fishing equipment in the fishery, but not taken. <sup>3</sup>
Coastal fisheries or fishery	Any fishery, including artisanal fisheries, where the fishing activity is undertaken by a vessel that is not required to be registered on the IOTC Record of Authorised Vessels, targets or catches tuna and tuna-like species and operates exclusively in the waters under the jurisdiction of the flag State, but does not include any vessel of 24 metres in length overall or above operating exclusively in the waters under the jurisdiction of the flag State. <sup>4</sup>
CPCs	Contracting Parties and Cooperating Non-Contracting Parties of IOTC

<sup>1</sup> Amended to align the definition with that used in Annex 7 of the ICAO Chicago Convention. To replace definition in preamble of Res. 16/08 (prohibition on use of aircraft etc as fishing aids).

<sup>2</sup> This term will apply to “vessels” as defined in this glossary, including those carrying out fishing or related activities; this is consistent with Res. 15/04 (Record of Authorised Vessels). Res. 15/04 provides “in case of vessels less than 24 meters, those operating in waters outside the Economic Exclusive Zone of the Flag State”. This is problematic because (a) waters outside the EEZ could include territorial waters of the flag State, so “areas beyond national jurisdiction” is preferable because it reflects more accurately the intent of the members; and (b) the correct term is Exclusive Economic Zone. WPICMM01-03 noted that the it is the flag State that must give the authorisation and this is included.

<sup>3</sup> The full definition is reproduced from the IOTC Scientific Glossary for maximum clarity.

<sup>4</sup> It was proposed that the definition should include artisanal fisheries, and that “coastal fisheries” should be used throughout resolutions rather than “artisanal fisheries”. The term ‘coastal fisheries’ is used only once in an operative paragraph of an IOTC Resolution (Res. 15/02, [4], Mandatory statistical reporting requirements). The far more commonly used term is ‘artisanal fishery’, but with different qualifications, e.g. “for subsistence” or “for the purpose of local consumption”, “operating exclusively in their respective EEZs”. The revised definition would include such fisheries but not be limited to them and in addition would clarify that a fishing activity undertaken by a vessel of 24 metres in length overall or above and operating exclusively in the waters under the jurisdiction of the flag State is NOT coastal fishery.

Key terms	Definitions
Discards	That portion of catch which is returned to the sea, which may be comprised of single or multiple species and may be alive or dead. <sup>5</sup>
Exclusive Economic Zone	An area beyond and adjacent to the territorial sea, subject to the specific legal regime established in the United Nations Convention on the Law of the Sea, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by its relevant provisions, and which provides that it is not to extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured. <sup>6</sup>
Fish aggregating device	Anchored, drifting, floating or submerged objects deployed and/or tracked by vessels, including through the use of radio and/or satellite buoys, for the purpose of aggregating target tuna species for purse-seine fishing operations. <sup>7</sup>
Fishery	A unit determined by an authority or other entity for purposes of conservation and management of fish, taking into account geographical, scientific, technical, customary, recreational, economic and other relevant characteristics. The unit may be typically defined by the: people involved, species or type of fish, area of water or seabed, method of fishing, class of boats and/or purpose of the activities. <sup>8</sup>
Fishing	(a) the actual or attempted searching for, catching, taking or harvesting of fish or engaging in any other activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fish; (b) deployment, monitoring or searching for any fish aggregating device or associated equipment including radio beacons; (c) an operation at sea directly in support of or in preparation for an activity described in this definition; or (d) the use of an aircraft in relation to an activity described in this definition except flights in emergencies involving the health or safety of crew members or the safety of a vessel. <sup>9</sup>
Fishing logbook	A fishing logbook required by the flag State for any purpose relating to fishing or fishing related activities that is: (a) a permanently bound logbook issued by the flag State of a vessel and required for any purpose relating to fishing or related activities, with irremovable pages, each of

<sup>5</sup> “Returned to the sea” added to replace “thrown away or slipped”.

<sup>6</sup> Amended to more accurately reflect the provisions in UNCLOS.

<sup>7</sup> The definition in Res. 18/08 (Procedures on a FAD management plan) is: “For the purpose of this Resolution, the term Fish Aggregating Device means drifting (DFAD) or anchored floating or submerged objects (AFAD) deployed for the purpose of aggregating target tuna species”. However it does not refer to tracking, so the suggestion to use the ICCAT definition (Res. 18-05) is recommended: “Anchored, drifting, floating or submerged objects deployed and/or tracked by vessels, including through the use of radio and/or satellite buoys, for the purpose of aggregating target tuna species for purse-seine fishing operations.”

<sup>8</sup> This reflects language suggested based on the definition of “fishery” in the FAO Fisheries Glossary. “Fisheries” is not expressly included but can be inferred; there is scope for inclusion if thought necessary. It was asked whether the definition should be applied to the Agreement, as well as CMMs. In the Agreement,

- “fishery” is only used once: “fishery resources” – it is used as an adverb and the term is defined as a noun so would not apply;
- “fisheries” use is connected with stocks – i.e. fisheries “of these stocks”, “based on the stocks”, “covered by this Agreement” and is consistent with the proposed definition of “fishery”.

<sup>9</sup> Based on comments received, the definition has been revised and as suggested the exception for emergencies in (d) was added based on WCPFC practice. It is broader than but consistent with the definition in Res. 16/11 (Port State Measures) and Res. 18/03 (IUU Vessel List): “searching for, attracting, locating, catching, taking or harvesting fish or any activity which can reasonably be expected to result in the attracting, locating, taking or harvesting of fish”. The definitions are made for the purposes of the Resolution and, unless otherwise decided, should not be changed but the recommended definition can be considered for future CMMs. A query arose whether FADs should be a “fishing related activity” noting that the deployment, monitoring or retrieving of FADs is carried out by support vessels. Although this is the case fishing vessels also may deploy FADs and deployment/searching for FADs (and aggregated fish) is commonly regarded as fishing. The technical aspects can be considered further.

Key terms	Definitions
	which is consecutively numbered and printed with an applicable serial number; and/or (b) an electronic logbook, being a computerised record of information and data relating to fishing or related activities in such template as may be required and capable of being transmitted, including under any conservation and management measure. <sup>10</sup>
Fishing related activities, or related activities	Any operation in support of, or in preparation for, fishing, including the landing, packaging, processing, transshipping or transporting of fish that have not been previously landed at a port, and the provisioning of personnel, fuel, gear and other supplies at sea, as well as the retrieving of drifting Fish Aggregating Devices. <sup>11</sup>
Fishing vessel	Any vessel used, equipped to be used, of a type normally used or intended to be used for fishing. <sup>12</sup>
Flag State	The State which has granted to a vessel the right to fly its flag and has issued a registration to that effect, provided the vessel is only registered in one State. <sup>13</sup>
Gear	In relation to fishing, any physical device or part thereof or combination of items that may be placed on or in the water or on the seabed with the intended purpose of capturing or controlling for subsequent capture or harvesting marine organisms. <sup>14</sup>

**Commented [A348]:** MDV:  
"as well as the maintenance or retrieving of drifting Fish Aggregating Devices (DFADs)"

<sup>10</sup> Revised to include comments concerning the use of language and to cater for information "and data capable of" being transmitted. Concerning the necessity of defining this term: although Res. 15/01 (Recording Catch and Effort Data) explains what logbook should be and provides templates, it does not define the term "fishing logbook" but other Resolutions do (e.g. Res. 15/04, Record of Authorised Vessels). It is also essential for common understanding in implementing CMMs in national legislation.

<sup>11</sup> Res. 16/11 (Port State Measures) and 18/03 (IUU Vessel List) both define fishing related activities, but the principal difference is the reference in 18/03 to the transport of fish "and/or fish products" not previously landed at a port. This is included. The definition aligns with the proposed definition of "fishing" to delete deployment and monitoring of FADS. There was a suggestion to refer at the beginning to any operation "at sea", but this would be inconsistent with the activity of "landing"; operations at sea are described at the end of the definition consistently with the Resolutions.

<sup>12</sup> There is some inconsistency in the use of "fishing vessel" within and among different resolutions. The key issues are whether the various definitions include vessels used for fishing or related activities and whether it is necessary to specify vessels used for commercial fishing. For example:

- Res. 15/04 (IOTC Record of Vessels authorised to operate in the IOTC Area): The title refers generically to Vessels, but the text refers to "fishing vessels" which, "for the purpose of the Resolution, include auxiliary, supply and support vessels".
- Res. 16/07 (Use of artificial lights to attract fish) refers to "fishing vessels and other vessels including support, supply and auxiliary vessels".
- Res. 16/11 (Port State Measures) does not use the term "fishing vessel", and refers throughout to "vessel" which is defined as "any vessel, ship of another type or boat used for, equipped to be used for, or intended to be used for, fishing or fishing related activities".

It is recommended to use the terms:

- "vessel" where a resolution is to be applied to those used for fishing or fishing related activities (e.g. Res. 15/04).
- "fishing vessel" where a resolution applies only to vessels used for fishing
- "vessel used for related activities" where a resolution applies only to vessels used for related activities.

In this case the suggestions to include "vessel, ship of another type or boat" as suggested would be unnecessary because they are already in the definition of "vessel". (This language was included in the FAO Port State Measures Agreement to align with IMO definitions.)

A suggestion to restrict the definition to "commercial" vessels, as distinct from those used for sport fishing, would be inconsistent with the mandate of IOTC, which does not exclude sport fishing. In fact Resolutions such as 12/09 and 03/03 include responsibilities relating to sport fishing.

<sup>13</sup> It was noted that there are various types of registration, and the revised definition clarifies "registration" based on Article 91 of UNCLOS.

<sup>14</sup> The revised definition draws on the 2019 FAO Voluntary Guidelines on Marking of Fishing Gear. However, it does not include the last phrase "in accordance with MARPOL Annex V", because otherwise it would mean that any gear that does not conform to MARPOL would not be considered gear; this would make it impossible to regulate gear considered illegal under MARPOL. Also MARPOL Annex V does not relate directly to fishing gear. It generally prohibits the discharge of all garbage into the sea, except as provided otherwise, and applies to fishing vessels.



Key terms	Definitions
Harvest control rule	A pre-determined rule that describes how harvest is to be controlled by management in relation to the state of indicators of the targeted stock's status. <sup>15</sup>
High Seas	All parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State. <sup>16</sup>
IOTC, or "Commission"	The Indian Ocean Tuna Commission established in 1993 at the 105th Session of the Council of the Food and Agriculture Organization of the United Nations under Article XIV of the FAO Constitution. <sup>17</sup>
IOTC Agreement	The 1993 Agreement for the establishment of the Indian Ocean Tuna Commission.
IOTC Area of Competence	The area of competence of the Indian Ocean Tuna Commission as defined in Article II of, and Annex A to, the IOTC Agreement.
IOTC Conservation and Management Measure	Any measure adopted pursuant to Articles V(2)(c) and IX(1) in the IOTC Agreement. <sup>18</sup>
IOTC Record of Authorised Vessels	The IOTC record of vessels authorised to operate in the IOTC Area of Competence established under Resolution 15/04 or any subsequent relevant Resolution.
IUU fishing activity	Any activity defined as an illegal, unreported or unregulated (IUU) fishing activity in Resolution 18/03 or any subsequent relevant Resolution. <sup>19</sup>
Landing	The transfer of fish or fish products from any vessel to land, including transfer to an artificial structure or a vessel at a port or shoreline where landing is recorded and reported, excluding transshipment. <sup>20</sup>
Large-scale fishing vessel	Any fishing vessel 24 meters in length overall or above, or as defined in a relevant IOTC conservation and management measure. <sup>21</sup>

<sup>15</sup> The term is defined in the preamble to Resolution 16/02 (Harvest Control Rules): "harvest control rule encompasses a set of well-defined, pre-agreed rules or actions used for determining a management action in response to changes in indicators of stock status with respect to reference points;". It was revised based on suggestions provided, but another suggested option could also be considered: "A pre-agreed rule that determines management action in response to changes in indicators of stock status (or any other agreed) in relation agreed reference points." It was suggested at WPICMM02 that Japan and the EU, who offered the suggestions, should consult.

<sup>16</sup> No Change, suggested to ensure compatibility with UNCLOS and this implements Article 86 of UNCLOS.

<sup>17</sup> Added "or Commission" to the term.

<sup>18</sup> Measure defined to refer exclusively to legally binding measures under Article IX(1) of the Agreement, and by implication exclude non-binding recommendations made under Article IX(8).

<sup>19</sup> IUU fishing "activity" is elaborated, mindful that Res. 18/03 (IUU Vessel List), paragraph 4 is titled "Definition of IUU Fishing Activities" and includes fishing and related activities. The definition explains the activities that give rise to a presumption of engaging in IUU fishing activities but it is not considered necessary to refer to "presumption" in the definition. The full term "IUU fishing activity" should therefore be used in Resolutions, rather than "IUU fishing", because the former embraces related activities as well.

<sup>20</sup> "Excluding transshipment" added to clarify that transfer to a vessel at port was for purposes of landing and not transshipment.

<sup>21</sup> Amended to reflect concern that the length may change in the future. There is a problem with consistency amount CMMs in describing the length:

Res. 03/01 (Limitation of fishing capacity) referred to "fishing vessels larger than 24 meters length overall (hereafter LSFVs)".

Key terms	Definitions
Large-scale longline vessel	Any large-scale fishing vessel equipped to deploy longline gear. <sup>22</sup>
Large-scale tuna vessel	Any large-scale fishing vessel equipped to deploy gear used for fishing for tuna. <sup>23</sup>
Legislation	Includes laws, regulations, orders, notices and any other instrument having the force of law in a country or regional economic integration organisation. <sup>24</sup>
Limit reference points	An indicator of the limit beyond which the state of a fishery and / or a resource is not considered desirable; otherwise, it is considered that it might endanger the capacity of self-renewal of the stock or the reproductive capacity. <sup>25</sup>
Master	In relation to a vessel, aircraft or vehicle, means the person in command or charge in accordance with any relevant licence or authorisation, or for the time being or apparently in command or charge, but does not include a pilot on board a vessel solely for the purpose of navigation. <sup>26</sup>
Mobile transceiver unit	A device approved by the competent authority of the flag State which is installed on board a fishing vessel and is designed to automatically transmit, whether independently or in conjunction with another device or devices, information or data concerning position, fishing, catch and such other activities as may be required, and allows detection and identification of the fishing vessel at all times. <sup>27</sup>
IOTC Observer	An observer appointed pursuant to the IOTC Regional Observer Scheme.
Operator	Any natural or legal person in charge or control of a vessel and responsible for taking decisions and giving direction to such vessel for management, operational and/or commercial matters related to fishing and fishing related activities, including the owner, beneficial owner, charterer and master. <sup>28</sup>

In all other resolutions, the term is not defined and reference is made variously only to vessels “24 meters in length overall and above”, “24 meters in length overall and over”, etc.: Res. 11/04 (Regional Observer Scheme), Res. 15/03 (VMS Programme), 15/04 (Record of Authorised Vessels), 18/01 (Rebuilding Yellowfin Tuna).

This term is used in conjunction with tuna and longline vessels, and is not defined in the FAO fisheries glossary.

<sup>22</sup> The definition was revised to refer to a vessel “equipped to deploy” gear, rather than just transporting (carrying) it.

<sup>23</sup> The definition was revised to refer to a vessel “equipped to deploy” gear, rather than just transporting (carrying) it.

<sup>24</sup> The definition is based on best practices, and includes all instruments having the force of law. It is a generic term that covers the use of various terms from country to country, such as “Act”, “Law” “Decree” etc and requires as a bottom line that the instrument has the *force of law*.

<sup>25</sup> Revised to add the phrase beginning “otherwise”, as recommended.

<sup>26</sup> This term is used throughout CMMs, and is defined in Res 18/03 (IUU Vessel List) as “any person holding the most responsible position at any given time on-board a fishing vessel”. Japan suggested this definition.

It is recommended to expand to all vessels (used for fishing or related activities), aircraft or vehicles as all may be involved in fishing operations.

Reference to the “most responsible” position does not necessarily indicate that the person is in charge and issues commands/directs the operations.

It is important to define this term for purposes of implementation of obligations and enforcement and to address situations where the master does not identify himself to obstruct enforcement or otherwise attempts to evade responsibilities.

<sup>27</sup> VMS Steering Group to revise; includes some suggested amendments.

<sup>28</sup> This definition is necessary to identify the person (natural or legal) who has responsibilities assigned under various CMMs (e.g. Res. 12/04 on marine turtles, 18/08 on FADS), and is therefore answerable/liable where a contravention of CMMs occurs. Res. 18/03 (IUU Vessel List) defines “operators” as “the natural or legal person who is responsible for taking commercial decisions regarding the management and operation of a vessel and includes a charterer of the vessel”. The reference to taking “commercial decisions” may be too restrictive for general application. For example, the operator may direct vessel activities for purposes of compliance (e.g. escaping enforcement, or complying with costly requirements) rather than for strict commercial reasons concerning fishing opportunities and markets.

Key terms	Definitions
Owner	Includes the registered and legal owner of the vessel or any other organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for operation of the vessel from the owner and who on assuming such responsibilities has agreed to take over all the attendant duties and responsibilities. <sup>29</sup>
Person	Includes natural and legal persons, unless otherwise stated. <sup>30</sup>
Port	Includes offshore terminals and other installations for landing, transshipping, packaging, processing, refuelling or resupplying. <sup>31</sup>
Support vessel	Any vessel used, equipped to be used or intended to be used for fishing related activities, including any vessel other than a craft carried on board a fishing vessel that is not equipped with operational fishing gear and that facilitates, assists or prepares fishing activities including by supplying a fishing vessel. <sup>32</sup>
Target reference points	A benchmark which assesses the performance of management in achieving one or more operational management objectives and indicates the desirable status of a fishery or a resource.
Transshipment	The transfer of fish or fish products to or from any vessel, and may include the transfer of fish or fish products from a vessel to any land-based facility such as containers or freezing or storing facilities but not landed, exclusively for purposes of promptly onloading to another vessel, without being subject to importation into the country where the land-based facility is located. <sup>33</sup>
Tuna and tuna-like species	Unless otherwise specified, this refers to the species defined in Article II and listed in Annex B of the IOTC Agreement. <sup>34</sup>
Vessel	Any vessel, ship of another type or boat used, equipped to be used, or intended to be used for fishing or fishing related activities. <sup>35</sup>

Suggestions to include reference to “any natural or legal person” were incorporated, and prompted the recommendation to define this term in the glossary.

A key consideration in defining “Operators” for IOTC purposes is that they are always linked to vessels in the CMMS; there was a proposal to extend the definition to persons carrying out activities relating to any stage of production, processing, marketing, distribution etc for fisheries and aquaculture products, but this would exceed the mandate of the Commission under the IOTC Agreement. However the definition is extended to fishing related activities as proposed.

The operator in best practices includes any person in a position to give direction to a vessel, including the owner, beneficial owner, charterer and master. The CMMs requiring the “operator” to undertake specific fishing techniques are clearly directed at the master, so this was included in the definition.

<sup>29</sup> The definition was revised as proposed, based on the Recruitment and Placement of Seafarers Convention, 1996 (No. 179). The addition of an additional phrase is recommended: “Includes the registered and legal”. It is consistent with shipping practice to acknowledge and distinguish registered/legal owners and elaborates Res. 18/03 (IUU Vessel List) which defines “owner” as “the natural or legal person registered as the owner of a vessel”.

<sup>30</sup> This is a new term, based on comments in relation to the proposed definition of “operator”.

<sup>31</sup> Revised as suggested to implements definition in Res. 16/11 (Port State Measures).

<sup>32</sup> Revised to include a proposed definition. The following introductory language added for clarification and consistency with the definitions of fishing vessel and related activities: “Any vessel used, equipped to be used or intended to be used for fishing related activities, including...”

For clarity, “a fishing vessel” was added: “...other than a craft carried on board a *fishing vessel* that is not equipped with operational fishing gear...”.

<sup>33</sup> Language added as suggested to clarify the possibility of transshipment - but not landing - via a land based facility.

<sup>34</sup> Language clarified as suggested to indicate exceptions (“otherwise specified”).

<sup>35</sup> Minor amendments as suggested (deletion of used “for”). This adopts the definition of “vessel” in Res. 16/11 (Port State Measures), which applies to vessels used for fishing or related activities. As noted under the definition of “fishing vessel”, reference can be made more specifically to “fishing vessel” or “vessel used for related activities” as the context requires. This will address the errors made by referring to “fishing vessel” when the context relates to vessels used for fishing or related activities. e.g. Res.

Key terms	Definitions
Vessel monitoring system	Includes a satellite based reporting system capable of monitoring the position and activities of vessels. <sup>36</sup>

18/03 (IUU Vessel List) defines “master” in relation to a fishing vessel, but the resolution covers vessels used for fishing or related activities.

<sup>36</sup> VMS Steering Group to revise and consider as an alternative:

“A satellite-based system capable of automatically transmitting to the relevant authorities data at regular intervals on the location, course, activities and speed of vessels for purposes of monitoring the position and activities of vessels.” This is based on a suggested definition (as amended): “A satellite-based fishing vessel monitoring system automatically transmitting to the fisheries authorities data at regular intervals on the location, course, activities and speed of vessels”

It was amended because: “vessel monitoring system” is tautological, and cannot be used to define the same term; “fishing vessels” would not include vessels used for related activities; “automatically transmitting” indicates that the system would not fall within the definition if it is not transmitting information at any time”;

“fisheries authorities” should be broader in to accommodate interagency cooperation in receiving VMS information.

#### **ANNEX 4. REVIEW OF RELEVANT IOTC SCIENTIFIC GLOSSARY TERMS**

The terms appearing in the draft IOTC Glossary considered by WPICMM02 that also appear in the IOTC Scientific Glossary (SG), or which do not properly take into account legal aspects, were reviewed for consistency and legal correctness. It is recommended that many of the Scientific Glossary terms be reviewed for consistency with the definitions in the proposed draft IOTC Glossary. Reviews should have scientific input and if possible be adopt the definition proposed (or eventually agreed) for the draft IOTC Glossary.

Those terms, together with the proposed draft Glossary definitions, IOTC Scientific Glossary definitions and recommendations, appear below. They are: bycatch, continental shelf, discards, exclusive economic zone, fish aggregating device, fishing logbook, flag State, harvest control rule, limit reference points, target reference points and vessel monitoring system.

Key terms	Proposed draft Glossary Definitions	Scientific Glossary Definitions	Recommendations
Bycatch	All species, other than the species listed in Annex B of the IOTC Agreement (IOTC Species), caught or interacted with by fisheries for tuna and tuna-like species in the IOTC Area of Competence. Bycatch species includes those non-IOTC species which are (a) retained, (b) incidentally taken in a fishery and returned to the sea; or (c) incidentally affected by interacting with fishing equipment in the fishery, but not taken.	All species, other than the 16 species listed in Annex B of the IOTC Agreement, caught or interacted with by fisheries for tuna and tuna-like species in the IOTC area of competence. A bycatch species includes those non-IOTC species which are (a) retained (byproduct), (b) incidentally taken in a fishery and returned to the sea (discarded); or (c) incidentally affected by interacting with fishing equipment in the fishery, but not taken.	Same definitions used, no recommendation.
Continental Shelf		The continental shelf has been defined in a number of ways. It can mean the area of relatively shallow water that fringes a continent from the shoreline to the top of the continental slope. The top of the continental slope is often defined by the 200 m isobath. Continental shelf is also a defined maritime zone and comprises the continental shelf where it extends beyond the limit of the EEZ to the limit of the continental margin. This area is also sometimes referred to as "extended continental shelf" and its limit is determined by the United Nations Commission on the Limits of the Continental Shelf.	SG does not refer to the legal limits in Article 76 of the Law of the Sea:  "The continental shelf of a coastal State comprises the sea-bed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where

Key terms	Proposed draft Glossary Definitions	Scientific Glossary Definitions	Recommendations
			<p>the outer edge of the continental margin does not extend up to that distance.”</p> <p>UNCLOS also provides rules for establishing the outer edge of the continental margin.</p>
Discards	That portion of catch which is returned to the sea, which may be comprised of single or multiple species and may be alive or dead.	Any part of the catch that is returned to the sea, whether dead or alive.	Review SG definition for inclusion of reference to species.
Exclusive Economic Zone	An area beyond and adjacent to the territorial sea, subject to the specific legal regime established in the United Nations Convention on the Law of the Sea, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by its relevant provisions, and which provides that it is not to extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.	The area that extends from the limit of the territorial sea, which is 12 nautical miles offshore from the territorial sea baseline, to a maximum of 200 nautical miles, measured from the territorial sea baseline. The EEZ is less than 200 nautical miles in extent where it coincides with the EEZ of another country. In this case the boundaries between the two countries are defined by treaty.	Review SG definition to align with draft Glossary definition.
Fish aggregating device	Anchored, drifting, floating or submerged objects deployed and/or tracked by vessels, including through the use of radio and/or satellite buoys, for the purpose of aggregating target tuna species for purse-seine fishing operations.	Buoys and platforms used to attract and “hold” pelagic fishes to enhance fishing. Can be as simple as a floating log or bamboo raft, but tuna fishers setting purse seine nets around tuna schools now deploy sophisticated FADs that allow satellite tracking and interrogation of information, such as sea surface temperature.	Review SG definition to align with draft Glossary definition.
Fishing logbook	A fishing logbook required by the flag State for any purpose relating to fishing or fishing related activities that is: (a) a permanently bound logbook issued by the flag State of a vessel and required for any purpose relating to fishing or related activities, with irremovable	Logbook. Official record of catch and effort data made by fishers. In many fisheries, a licence condition makes the return of logbooks mandatory.	Review SG definition to align with draft Glossary definition.

**Commented [A349]:** MDV:  
It should say “which is up to 12 nautical miles”

Key terms	Proposed draft Glossary Definitions	Scientific Glossary Definitions	Recommendations
	<p>pages, each of which is consecutively numbered and printed with an applicable serial number; and/or</p> <p>(b) an electronic logbook, being a computerised record of information and data relating to fishing or related activities in such template as may be required and capable of being transmitted, including under any conservation and management measure.</p>		
Flag State	The State which has granted to a vessel the right to fly its flag and has issued a registration to that effect, provided the vessel is only registered in one State.	State under whose laws a vessel is registered and whose flag it is entitled to fly.	Review SG definition to align with draft Glossary definition.
Harvest control rule	A pre-determined rule that describes how harvest is to be controlled by management in relation to the state of indicators of the targeted stock's status.	An agreed response that management must make under pre-defined circumstances regarding stock status.	Review SG definition to align with draft Glossary definition.
Limit reference points	An indicator of the limit beyond which the state of a fishery and / or a resource is not considered desirable; otherwise, it is considered that it might endanger the capacity of self-renewal of the stock or the reproductive capacity.	A benchmark which defines undesirable states of the system that should be avoided or achieved with very low probability.	Review SG definition to align with draft Glossary definition.
Target reference points	A benchmark which assesses the performance of management in achieving one or more operational management objectives and indicates the desirable status of a fishery or a resource.	A benchmark which assesses the performance of management in achieving one or more operational management objectives.	Review SG definition to align with draft Glossary definition.
Vessel monitoring system	Includes a satellite based reporting system capable of monitoring the position and activities of vessels.	Electronic device that transmits the identity and location of a vessel.	Review SG definition to align with draft Glossary definition.



## **ANNEX 5. TERMS OF REFERENCE TO CONDUCT A LEGAL SCRUBBING OF THE IOTC RESOLUTIONS**

## Background and context

It is fundamental to the common understanding and effective implementation of multilateral legal instruments – whether voluntary or legally binding – that they are clear, consistent and well defined. Otherwise, situations may occur in which parties have different interpretations of legal instruments and implement them unevenly. This gives rise to misunderstandings, conflicts and ineffective or no implementation of the instrument and its objectives.

The Indian Ocean Tuna Commission (IOTC) is an intergovernmental organization established under Article XIV of the FAO Constitution. Its objective is to ensure through appropriate management, the conservation and optimum utilization of the tuna and tuna-like species in the Indian Ocean and adjacent seas, and to encourage their sustainable development. To achieve this objective, the Contracting Parties and Cooperating non-Contracting Parties (CPCs) adopt legally binding resolutions which contain conservation and management measures (CMMs) which parties are obligated to implement. CMMs have been adopted at annual IOTC Sessions since 1999, and as of October, 2018, there are 57 active CMMs, comprised of 54 Resolutions and 3 Recommendations.

To strengthen understanding of, and compliance with the CMMs, IOTC publishes an annual Compendium of Active Conservation and Management Measures for the Indian Ocean, pursuant to *Resolution 13/01 On the Removal of Obsolete Conservation and Management Measures*. This was a significant for clarifying the interrelated nature of the CMMs and strengthening implementation and compliance.

A special fund for capacity building to ensure compliance with CMMs, and a work program of capacity building activities was established under Resolution 12/10, *To promote implementation of Conservation and Management Measures already adopted by IOTC*. This was superseded by Resolution 16/10 which recognized the desirability of improving the coherence, interpretation and accessibility of its CMMs. Both Resolutions drew attention to challenges in implementation and compliance based on confusions caused, among others, by: frequent addition of new such measures and modifications to existing ones; complicated structure; and duplication of CMMs on one subject.

The special fund supported a project in the IOTC work program to review fisheries law and regulations of CPCs. Assistance was provided to certain CPCs to translate the relevant obligations in IOTC Resolutions into binding national legal requirements in order to enhance the effective of implementation of and compliance with CMMs. The activity included a review of active IOTC Resolutions and preparation of draft provisions for incorporation of their requirements into national legislation, and then provided tailored guidance to certain CPCs on implementing the provisions at national level.

The review of active Resolutions<sup>1</sup> drew attention to a range of concerns with the use of terms in the Resolutions that hampered harmonized implementation, including the absence of an approved set of definitions of key terms, inconsistent use and formatting of terms and conflicting definitions/no implementation of terms defined in international instruments and best practices. The absence of an approved set of definitions of key terms combined with the lack of rigor in the terminology used within and throughout CMMs affects the clear and common understanding of these measures, which, in turn, is also likely to undermine the effectiveness of their implementation. It was recommended that a glossary of terms be adopted for use in implementation of and compliance with Resolutions, and the need for general legal technical consistency among CMMs was noted.

In 2016, the 13th session of the Compliance Committee (CoC 13) considered that the adoption of a set of key terms along with their definitions should be seen as the first step in the process of strengthening the global coherence of IOTC CMMs. To be effective, it was proposed that the terms and definitions should be supplemented by additional measures, including on a process for their use in preparing new Resolutions and Recommendations. The CoC noted that the Scientific Committee already had a set of terms and definitions and recommended that further work be undertaken in the future to ensure a harmonized set of Terms and Definitions is developed for the Commission and its subsidiary bodies.

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<sup>1</sup> The report, prepared in 2015, is available at: <http://www.iotc.org/compliance/capacity-building-compliance>.

The 1st Session of the IOTC Working Party on Implementation of Conservation and Management Measures (WPICMM), held in March 2018, noted two papers in this regard.<sup>2</sup> One identified weaknesses in IOTC CMMs due to inconsistent use of terms, lack of definition of key terms and use of terms that are not “terms of legal art”, and provided a summary of IOTC Resolutions that require particular attention and amendments. The WPICMM agreed that a number of Resolutions:

- use inconsistent, weak or confusing definitions;
- use terms that are not terms of legal art;
- lack definitions of terms; and
- require amendments to include terms and definitions that are terms of legal art.

It acknowledged that such amendments will improve the understanding of Resolutions, hence improve implementation at national level and further strengthen compliance by CPCs.

The WPICMM noted that the list of Resolutions described in the paper was not exhaustive, and recommended that the 15th session of the Compliance Committee (CoC15) consider putting the list of active IOTC CMMs through a legal “scrub”, to improve legal soundness, harmonise terms and definitions and to use terms that are terms of legal art.

The second paper reviewed and updated the IOTC Terms and Definitions and proposed a draft glossary of terms and definitions which should be used by Members while drafting proposals for CMMs for consideration by the Commission. The WPICMM noted the significance of this document and recommended that CPCs be allowed six months to provide comments and observations on each of the definitions listed in the paper. It recommended that CoC15 provide clarifications on what will be the use of the glossary of terms and definitions.

Both recommendations were noted by CoC15, and the Commission endorsed the report of CoC15 at its 22<sup>nd</sup> Session held in May, 2018.

The legal scrub is a standard part of the treaty-making process that takes place after a final text has been agreed. It is normally carried out by a group of lawyers of the negotiating States and aims to focus on technical legal irregularities, including use of terms, formatting, inconsistencies and other without changing the substance of the text. It can result in minor changes to the text in the interests of clarity and harmonized implementation.

Legal scrubs take into account relevant international and regional law and instruments (voluntary or legally binding), best practices (including among Regional fisheries Management Organisations, RFMOs) and the use of adequate legal “terms of art”. Many IOTC Resolutions refer to relevant international instruments in the preamble, including the 1982 UN Convention on the Law of the Sea, the 1995 UN Fish Stocks Agreement, the 1995 FAO Compliance Agreement, the 2009 FAO Agreement on Port State Measures and various General Assembly Resolutions, and consistency with these instruments – as well as more general law, instruments and practices – should be ensured.

Mechanisms and procedures for ensuring the implementation of the same standards for the preparation of future Resolutions and Recommendations should be considered.

It is expected that the consultant’s work will lead to the formulation of recommendations on the legal technical amendment of IOTC Resolutions and Recommendations to ensure consistency and clarity for implementation and compliance, and on a mechanism and process to ensure this standard is applied in the future.

#### **Assignment title**

Legal assistance to the IOTC on matters related to strengthening the harmonized implementation of and compliance with the Resolutions and Recommendations adopted by the Indian Ocean Tuna Commission through a legal scrub and guidance as appropriate in relation to technical legal drafting of future Resolutions and Recommendations.

#### **Purpose of this assignment**

The purpose of this assignment is to provide legal assistance to the IOTC on matters related to strengthening the harmonized implementation of and compliance with the Conservation and Management Measures (Resolutions) adopted

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<sup>2</sup> The papers are, respectively, IOTC–2018–WPICMM–03 and IOTC–2018–WPICMM–04 and are at <http://www.iotc.org/meetings/1st-meeting-iotc-working-party-implementation-conservation-and-management-measures-wpicmm01>.

by the Indian Ocean Tuna Commission by conducting a technical legal scrubbing of all active IOTC Resolutions and Recommendations and to provide guidance as appropriate in relation to mechanisms and procedures for technical legal drafting in the preparation of proposals for future Resolutions and Recommendations.

The consultancy work shall address the following:

- Undertake a review and legal scrub of all active IOTC Resolutions and Recommendations, ensuring consistency both within the Resolutions and Recommendations and with relevant international and regional instruments (voluntary and legally binding) and practices of other RFMOs, best practices, relevant glossaries (including the FAO Fisheries and Scientific Glossaries) and the use of adequate legal “terms of art” in drafting, including ensuring consistency in:
  - the definition and use of terms, noting the papers and glossary considered by WPICMM01 together with subsequent comments by members, and updating/elaborating as appropriate terms: considered at CoC 13; that appear in the Scientific Glossary but where the definitions are erroneous or difficult to understand; that have not yet been defined; that should be renamed.
  - formatting and substantive provisions among all Resolutions and Recommendations.
- Recommend a mechanism and process that provides for the technical legal standards on a continuing basis in relation to the preparation of proposals for future Resolutions and Recommendations.

#### Methodology

Under the supervision of the IOTC Secretariat, the consultant will undertake the following activities:

1. Review active IOTC Resolutions and Recommendations for inconsistencies, errors and omissions, taking into account relevant international and regional instruments (voluntary and legally binding), best practices, use of legal “terms of art” and relevant glossaries. The review should include the glossary under development by WPICMM, and the paper it considered on the inconsistent use of terms in CMMs.<sup>3</sup>
2. Prepare a preliminary draft report for review and guidance by IOTC that identifies (a) Resolutions and Recommendations that will require a scrub and briefly summarizes the reasons for each (e.g. inconsistencies, errors and omissions) and (b) any issues where IOTC technical guidance may be needed, taking into account *inter alia*:
  - a) the use of terms and provisions both within the IOTC Resolutions and Recommendations and with relevant international and regional instruments (voluntary and legally binding), best practices (including of other RFMOs as appropriate, relevant glossaries (including those in IOTC and FAO) and use of “terms of legal art” in legal drafting;
  - b) any need for technical legal formatting including structure, paragraph numbering, use of punctuation, proper legal terms, etc.;
  - c) any need for further legal references;
  - d) any need for amendment of the IOTC Scientific Glossary;
  - e) any comments on input received from members on the draft glossary considered at WPICMM 1.

<sup>3</sup> See note 2: IOTC–2018–WPICMM–03. <http://www.iotc.org/meetings/1st-meeting-iotc-working-party-implementation-conservation-and-management-measures-wpicmm01>.

If any provisions show major substantive inconsistencies, errors or omissions with applicable international or regional instruments, this should be raised with IOTC and as appropriate flagged as a substantive matter for further consideration outside the technical legal scrub.

The preliminary report should include the following parts: (a) an overview that summarizes the types of amendments and issues to be addressed; (b) a part that identifies each Resolution/ Recommendation to be amended together with a draft amendment and a brief reason(s) (e.g. inconsistency, error, omission etc).

As appropriate, the report may also identify indicative substantive issues, not of a legal technical nature subject to the scrub, that should be considered separately by the IOTC CPCs.

3. Taking into account comments from IOTC, prepare a final report that includes:

- an introduction and background;
- a summary of the overarching issues addressed;
- the legal scrub, including elements described in (a) – (e) of paragraph 2 above, with proposed amendments to be submitted in track changes mode;
- explanatory notes for the proposed amendments, shown as a comment for each;
- as needed, recommendations to update the glossary that was presented at WPICMM01 and as appropriate a review of members' comments received since that meeting and recommendations to update the IOTC Scientific Glossary;
- as appropriate, substantive issues, not of a legal technical nature subject to the scrub, that should be considered separately by the IOTC CPCs;
- recommendations on a mechanism or process that provides for the implementation of the outcome of the legal scrub on a continuing basis in relation to the preparation of proposals for future Resolutions and Recommendations.

#### **Deliverables**

The deliverables are:

1. The draft final report (electronic) and recommendations of the Legal Scrub of IOTC CMMs submitted to Secretariat for circulation to CPCs,
2. The final report (electronic) and recommendations of the Legal Scrub of IOTC CMMs for consideration by the WPICMM that includes:
  - an introduction and background;
  - a summary of the overarching issues addressed;
  - the legal scrub, including elements described in (a) – (e) of paragraph 2 above, with proposed amendments to be submitted in track changes;
  - explanatory notes for the proposed amendments, shown as a comment for each;
  - as needed, recommendations to update the glossary that was presented at WPICMM01 and as appropriate a review of members' comments received since that meeting and recommendations to update the IOTC Scientific Glossary;

- as appropriate, substantive issues, not of a legal technical nature subject to the scrub, that should be considered separately by the IOTC CPCs;
- recommendations on a mechanism or process that provides for the implementation of the outcome of the legal scrub on a continuing basis in relation to the preparation of proposals for future Resolutions and Recommendations,
- Any other recommendations that the consultant may see relevant for this exercise.

3. The consultant will attend a meeting of the WPICMM to present the report in 2020 Kenya.

#### **Qualifications and Experience**

The consultant should be able to demonstrate a successful history of consultancy engagements related to these Terms of Reference.

##### *Qualifications and skills*

- A post graduate degree (LL.M. or equivalent in international law with expertise in law of the sea or equivalent)
- Excellent communication, legal drafting skills
- A high level of proficiency in written and spoken English

##### *Experience*

- Experience in the region/countries of the IOTC and knowledge of IOTC functioning
- Minimum 10 years of professional experience in international law and areas of law closely related to RFMOs and fisheries management
- Demonstrated knowledge of international and regional fisheries instruments related to IOTC CMMs
- Experience in legal drafting of international fisheries instruments
- Ability to work under pressure and meet tight deadlines

#### **Beneficiaries**

The beneficiaries of the project are the CPCs of the IOTC.

#### **Technical supervisor**

The technical supervisor of the expert will be the Secretariat of the Indian Ocean Tuna Commission.

#### **Location, travel and expected starting date**

The preparation of the paper is home based, and consultant will attend travel to Kenya to attend the meeting of the WPICMM to present the report in 2020.

#### **Indicative number of working days**

The assignment duration is 25 working days, including attendance at the WPICMM.