



04 October 2021

**IOTC CIRCULAR
2021-56**

Dear Madam / Sir

A COMMUNICATION FROM KENYA REGARDING A PROPOSED SPECIAL SESSION OF IOTC

Please find attached a communication from the Kenya (received 1 October) in response to IOTC Circular 2021-48
Regarding a proposed special session of the IOTC.

Yours sincerely

Christopher O'Brien
Executive Secretary

Attachments:

- Letter from Kenya

Distribution

IOTC Contracting Parties: Australia, Bangladesh, China, Comoros, Eritrea, European Union, France (Territories), India, Indonesia, Iran (Islamic Rep of), Japan, Kenya, Rep. of Korea, Madagascar, Malaysia, Maldives, Mauritius, Mozambique, Oman, Pakistan, Philippines, Seychelles, Somalia, South Africa, Sri Lanka, Sudan, United Rep. of Tanzania, Thailand, United Kingdom, Yemen. **Cooperating Non-Contracting Parties:** Senegal. **Intergovernmental Organisations, Non-Governmental Organisations. Chairperson IOTC. Copy to:** FAO Headquarters, FAO Representatives to CPCs.

This message has been transmitted by email only

KENYA FISHERIES SERVICE



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When replying please quote;

REF: MOALF/SDF/KeFS/Vol. 1 (228)

30th September 2021

The Chairperson,
Indian Ocean Tuna Commission,
P.O. Box. 1011
VICTORIA-SEYCHELLES

Dear Ms Jung-re Riley Kim,

RE: REQUEST TO CONVENE A SPECIAL SESSION OF IOTC

The Delegation of the Republic of Kenya and the co-sponsors of the FAD proposal present their compliments to the Chairperson of the Indian Ocean Tuna Commission (IOTC), and to the Secretariat of the IOTC Annual Session held virtually from 7th to 11th June 2021.

Kenya would like to reiterate its view, as first expressed in our letter of 25th June 2021 (MOALF/SDF/KeFS/Vol.1 (207)), that the Kenyan proposal (IOTC-2021-S25-PropE_Rev2) was adopted in accordance with Article X(1) of the IOTC Agreement, with 12 out of 17 votes in favour and 5 votes against. At the Session, the Secretariat erroneously recorded 19 votes, of which 12 were in favour of the proposal, 5 against, and 2 abstentions. In so doing, the Secretariat erroneously counted the two abstentions as "votes cast". However, as later confirmed by the FAO Legal Office, abstentions do not count towards the vote and as such the the proposal was adopted.

In this respect, the Republic of Kenya once again draws the attention of the Chairperson and Secretariat to Article IX (3) of the IOTC Agreement, which states: "**The Secretary shall, without undue delay, notify the Members of the Commission of any conservation and management measures adopted by the Commission**", as read together with Article IX (4) IOTC Agreement, which stipulates the effective date of CMMs adopted by the Commission.

Against this background, and in response to the IOTC Circular 2021-48 and 2021-49 of 16 September 2021, we request, pursuant to Article VI (5) IOTC Agreement and Rule 2(2) of the Rules of Procedure, that the Chairperson convene a Special Session of the Commission in **November 2021** for the sole purpose of discussing the matter of the adoption of proposal IOTC-

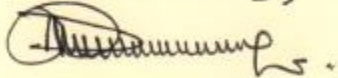
2021-S25-PropE_Rev2 in light of the FAO Legal Office's advice that abstentions do not count as "votes cast".

Moreover, in our view, the outcomes of the meetings of the FAD Working Group and the Scientific Committee (to be held in October and December 2021, respectively) are not relevant to the Special Session, the sole purpose of which is discussing the matter of the adoption of proposal IOTC-2021-S25-PropE_Rev2 in light of the FAO Legal Office's advice that abstentions do not count as "votes cast". Therefore, we consider that the proposed date of 17-21 January 2022 would result in delaying the adoption of the proposal. We would also like to refer to Rule 4(6) of the Rules of Procedure, according to which the "agenda of a special Session shall consist only of items relating to the purpose for which the Session was called."

This is therefore to request the Secretariat to circulate the present letter to all Members via IOTC circular.

The State Department of Fisheries, Aquaculture and the Blue Economy, Ministry of Agriculture, Livestock, Fisheries and Cooperatives of the Republic of Kenya avails itself of this opportunity to renew to the Secretariat of the IOTC the assurance of its highest consideration.

Yours Sincerely,



Daniel Mungai
DIRECTOR GENERAL