



Report for the 4th Special Session of the Indian Ocean Tuna Commission

Held by videoconference, 8-12 March 2021

DISTRIBUTION:

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ACRONYMS

AFAD	Anchored fish aggregating device
BMSY	Biomass which produces MSY
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
CPs	Contracting Parties
CPCs	Contracting Parties and Cooperating non-Contracting Parties
DFAD	Drifting fish aggregating device
EEZ	Exclusive Economic Zone
FAD	Fish aggregating device
FAO	Food and Agriculture Organization of the United Nations
FMSY	Fishing mortality at MSY
GEF	Global Environment Facility
HCR	Harvest control rule
ICRU	Improved Cost Recovery Uplift
IOC	Indian Ocean Commission
IOTC	Indian Ocean Tuna Commission
IPNLF	International Pole and Line Foundation
ISSF	International Seafood Sustainability Foundation
IUU	Illegal, unreported and unregulated
LRP	Limit reference point
LSTLV	Large-scale tuna longline vessel
MPF	Meeting participation fund, of the IOTC
MSC	Marine Stewardship Council
MSE	Management Strategy Evaluation
NGO	Non-Governmental Organisation
OFCF	Overseas Fishery Cooperation Foundation of Japan
OIG	Office of the Inspector General
OPRT	Organisation for the Promotion of Responsible Tuna Fisheries
OT	Overseas Territories
PEW	PEW Charitable Trust
RFMO	Regional Fisheries Management Organisation
SC	Scientific Committee of the IOTC
SCAF	Standing Committee on Administration and Finance of the IOTC
SIOFA	Southern Indian Ocean Fisheries Agreement
SBMSY	Spawning or 'adult' equilibrium biomass at MSY
SWIOFC	Southwest Indian Ocean Fisheries Commission
TCAC	Technical Committee on Allocation Criteria of the IOTC
TCMP	Technical Committee on Management Procedures of the IOTC
TRP	Target referent point
UNCLOS	United Nations Convention on the Law of the Sea
VMS	Vessel Monitoring System
WPEB	Working Party on Ecosystems and Bycatch of the IOTC
WPICMM	Working party on the Implementation of Conservation and Management Measures
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
WWF	World Wide Fund for Nature (a.k.a World Wildlife Fund)

HOW TO INTERPRET TERMINOLOGY CONTAINED IN THIS REPORT

This report uses the following terms and associated definitions.

Level 1: From a subsidiary body of the Commission to the next level in the structure of the Commission:

RECOMMENDED, RECOMMENDATION: Any conclusion or request for an action to be undertaken, from a subsidiary body of the Commission (Committee or Working Party), which is to be formally provided to the next level in the structure of the Commission for its consideration/endorsement (e.g. from a Working Party to the Scientific Committee; from a Committee to the Commission). The intention is that the higher body will consider the recommended action for endorsement under its own mandate, if the subsidiary body does not already have the required mandate. Ideally this should be task specific and contain a timeframe for completion.

Level 2: From a subsidiary body of the Commission to a CPC, the IOTC Secretariat, or other body (not the Commission) to carry out a specified task:

REQUESTED: This term should only be used by a subsidiary body of the Commission if it does not wish to have the request formally adopted/endorsed by the next level in the structure of the Commission. For example, if a Committee wishes to seek additional input from a CPC on a particular topic, but does not wish to formalise the request beyond the mandate of the Committee, it may request that a set action be undertaken. Ideally this should be task specific and contain a timeframe for the completion.

Level 3: General terms to be used for consistency:

AGREED: Any point of discussion from a meeting which the IOTC body considers to be an agreed course of action covered by its mandate, which has not already been dealt with under Level 1 or level 2 above; a general point of agreement among delegations/participants of a meeting which does not need to be considered/adopted by the next level in the Commission's structure.

NOTED/NOTING: Any point of discussion from a meeting which the IOTC body considers to be important enough to record in a meeting report for future reference.

Any other term: Any other term may be used in addition to the Level 3 terms to highlight to the reader of an IOTC report, the importance of the relevant paragraph. However, other terms used are considered for explanatory/informational purposes only and shall have no higher rating within the reporting terminology hierarchy than Level 3, described above (e.g. **CONSIDERED; URGED; ACKNOWLEDGED**).

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THIRTY, AS OF 12 MARCH 2021

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CHINA
COMOROS
ERITREA
EUROPEAN UNION
FRANCE (OT)
INDIA
INDONESIA
IRAN, ISLAMIC REPUBLIC OF
JAPAN
KENYA
KOREA, REPUBLIC OF
MADAGASCAR
MALAYSIA
MALDIVES
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SEYCHELLES
SOMALIA
SOUTH AFRICA, REP. OF
SRI LANKA
SUDAN
TANZANIA, UNITED REPUBLIC OF
THAILAND
UNITED KINGDOM
YEMEN

COOPERATING NON-CONTRACTING PARTIES OF THE INDIAN OCEAN TUNA COMMISSION

TWO, AS OF 12 MARCH 2021

LIBERIA
SENEGAL

EXECUTIVE SUMMARY

The Indian Ocean Tuna Commission (IOTC) at its 24th Session (November 2020) agreed to hold a Special Session to address the sustainability of the yellowfin tuna fishery and deficiencies relating to the harvest control rule for skipjack tuna.

The 4th Special Session of the IOTC was held from 8 to 12 March 2021 and chaired by Ms Jung-re Riley Kim (Rep. of Korea).

242 delegates, comprising of 202 delegates from 25 Contracting Parties (Members), 40 delegates from 14 observer organisations including 11 invited experts participated in the meeting.

The meeting focused on the yellowfin tuna fishery and although considerable progress was made in understanding the various positions of Members across a wide range of complex issues, a conservation and management measure was not adopted.

The Commission agreed to an intersessional work plan to build on the work done at the Special Session and to further develop the text of a conservation and management measure on yellowfin tuna for consideration at its annual session in (June 2021).

1. Opening of the session

1. The Indian Ocean Tuna Commission (IOTC) at its 24th Session (November 2020) agreed to hold a Special Session to address the sustainability of the yellowfin tuna fishery and deficiencies relating to the harvest control rule for skipjack tuna.
2. The 4th Special Session of the IOTC was opened and chaired by the IOTC Vice-Chairperson Ms Jung-re Riley Kim (Rep. of Korea).

2. Letters of credentials

3. The Commission **NOTED** that 25 Members, and 14 Observers submitted credentials and registered to participate in the meeting. The list of participants is provided in [Appendix 1](#).
4. The Commission **NOTED** the statements submitted by Mauritius and the United Kingdom ([Appendix 2](#)).

3. Admission of observers

5. Pursuant to Article VII of the Agreement establishing the IOTC and Rule XIV of the IOTC Rules of Procedure, the Commission admitted the following observers:

Members and Associate Members of the FAO that are not Members of the Commission.

- —

Intergovernmental organizations having special competence in the field of activity of the Commission.

- Indian Ocean Commission

Non-governmental organizations having special competence in the field of activity of the Commission.

- Blue Marine Foundation
- Blue Resources Trust
- Global Tuna Alliance
- Greenpeace International
- International Pole and Line Foundation
- International Seafood Sustainability Foundation
- Marine Stewardship Council
- PEW Charitable Trusts
- SHARKPROJECT International
- Sustainable Fisheries Partnership
- Sustainable Indian Ocean Tuna Initiative
- World Wide Fund for Nature (WWF)

Invited consultants and experts.

- Taiwan, Province of China

4. Adoption of the agenda and arrangements for the session

6. The adopted agenda (IOTC-2021-SS4-01c) is provided in [Appendix 3](#). The documents presented to the Commission are listed in [Appendix 4](#).

5. Yellowfin tuna

5.1 A presentation from the Scientific Committee Chairperson on the latest SC recommendations and advice relating to yellowfin tuna

7. The Commission **NOTED** the report on yellowfin stock status (IOTC–2021–SS4–INF12) which was presented by the Scientific Committee Chair, Dr Toshihide Kitakado (Japan).

8. The Commission **NOTED** the current status of the yellowfin tuna stock as determined by the Scientific Committee. Currently the stock is assessed to be in the red zone of the Kobe diagram i.e. overfished and subject to overfishing.
9. The Commission **NOTED** that critical errors in the projections and estimations for computing probabilities in the K2SM developed from 2016 - 2018 has led to the Scientific Committee not accepting these projections nor the use of the K2SM for providing management advice. The Commission also **NOTED** that F_{2017} was 20% above the target reference point. As such, in 2020, the Scientific Committee's advice on the current status of the resource is that from 2018, based on 2017 data.
10. The Commission **NOTED** that the Scientific Committee recommended that yellowfin tuna catches be reduced to a level at least below the C_{MSY} estimate (403,000 t) from the 2018 assessment until new information based on the 2021 stock assessment and its associated projections becomes available.
11. The Commission **NOTED** that in the 2018 Scientific Committee a workplan was developed to address the issues identified, aimed at increasing the Committee's ability to provide more concrete and robust advice. This workplan will culminate in the 2021 assessment, at which point updated advice based on revised projections and an improved K2SM is expected to be provided to the Commission.

5.1.1 A presentation of yellowfin catch data pertaining to Resolution 19/01

12. The Commission **NOTED** the presentation on 2014-2019 yellowfin catches under Resolution 19/01 (IOTC–2021–SS4–INF13) which was presented by the Executive Secretary.
13. The Commission **NOTED** the following about yellowfin tuna catches by fleets subject to Resolution 19/01 catch reductions:
 - Purse seine catches increased from 2014 to 2016 then decreased. Overall, purse seine catches decreased from 143,146 t in 2014 to 142,205 t in 2019 (<1%)
 - Longline catches varied between 29,726 t and 35,483 t. Overall, longline catches decreased from 35,161 t in 2014 to 32,037 t in 2019 (- 9%)
 - Gillnet catches increased from 24,401 t in 2014 to 44,024 t in 2019 (+80%)
 - Catches from 'other gears' (handline and baitboat) decreased from 29,247 t in 2014 to 26,083 t in 2019 (-11%)
 - Overall, yellowfin tuna catches (by all gears) subject to Resolution 19/01 catch reductions increased from 231,955 t in 2014 to 244,339 t in 2019 (+5%).
14. The Commission **NOTED** that the total catch of yellowfin tuna (irrespective of Resolution 19/01) increased from 421,093 t in 2014 to 454,138 t in 2019 (+8%). The Commission also **NOTED** that around 42% of the catch over the period 2014 to 2019 was not subject to Resolution 19/01 and that gillnets, handlines and baitboats were the major gears associated with this portion of the catch.

5.2 An introduction to the yellowfin proposals

15. The Commission was provided with an overview of the following proposals by their respective proponents.
 - Prop A: On a minimum conservation reference size for Indian Ocean yellowfin tuna in the IOTC area of competence (Sri Lanka).
 - Prop B: On an interim plan for rebuilding the Indian Ocean yellowfin tuna stock in the IOTC area of competence (European Union).
 - Prop C: On an interim plan for rebuilding the Indian Ocean yellowfin tuna stock in the IOTC area of competence (Maldives).
 - Prop D: On management of fish aggregating devices (FADs) in the IOTC area of competence (Kenya & Sri Lanka).

5.3 Discussion on possible target reduction levels for yellowfin

16. The Commission heard a range of interventions on target reduction levels. There were differing views on the size of catch reductions and their scientific basis. In general, the views spanned those that emphasized the SC advice to reduce to “at least below CMSY” to those that emphasized more significant reductions that would remove overfishing (i.e. reduce fishing mortality, and by proxy, catch by around 16-17% on 2017 levels). Some Members noted the need to discuss the application and principles of any future resolution before agreeing on the levels of any catch reductions to apply across the Members of the IOTC.
17. The European Union and Maldives met on the margins of the meeting to produce IOTC-2021-SS4-PropE *On an interim plan for rebuilding the Indian Ocean yellowfin tuna stock in the IOTC Area of Competence*, which merged proposals B and C, respectively.
18. The Commission focused its discussions on PropE which proposed different catch reduction levels for gears and Member status (developed, developing, small island etc). Following a request from the Commission, the IOTC Secretariat developed a simulation tool to calculate gear-specific and fleet-specific limits according to the reduction instructions for each gear specified in PropE.
19. The Commission **NOTED** that the 2020 catch limits calculated for the two scenarios contained in PropE were, for most Members, very similar.
20. The Commission further **NOTED** that the IOTC Secretariat has made available both the input data and the R script used to produce the calculations according to the current formulation of PropE ([click here](#)). The Commission **ENCOURAGED** Members to use the tool to better understand the potential outcomes of PropE and any future iterations of this proposal.
21. The Commission **NOTED** the importance of using the best available data in the calculations and stock assessments and encouraged those Members who need to improve their data submissions, to work with the Secretariat.
22. The Commission **NOTED** that Philippines (a non-coastal Member) would receive a 0 t catch limit from the current formulation of PropE.
23. Mauritius made a statement to object to the “United Kingdom OT” being included in the catch limit table produced by the Secretariat. The United Kingdom responded and referred the Commission to its statement in Appendix 2.

5.4 Discussion on Proposal B and Proposal C

IOTC-2021-SS4-PropB *On an interim plan for rebuilding the Indian Ocean yellowfin tuna stock in the IOTC area of competence.*

24. Following discussions by the Commission PropB_Rev1 was presented to the Commission; however, this was later merged with PropC_Rev1 to produce PropE.

IOTC-2021-SS4-PropC *On an interim plan for rebuilding the Indian Ocean yellowfin tuna stock in the IOTC area of competence.*

25. Following discussions by the Commission PropC_Rev1 was presented to the Commission; however, this was later merged with PropB_Rev1 to produce PropE.

IOTC-2021-SS4-PropE *On an interim plan for rebuilding the Indian Ocean yellowfin tuna stock in the IOTC area of competence.*

26. The Commission heard the views of most Members on PropE, and there were differing views on a broad range of matters, in particular:
 - the scope of application;
 - the need to include the catches currently not covered under Resolution 19/01;

- the treatment of developed and developing and small island States, in terms of the application of catch reductions;
- the levels of catch reductions to be applied and their scientific basis;
- the impact of catch reductions on small scale or subsistence fisheries; possible separate treatment of artisanal and industrial catches;
- how to address non-compliance issues, including how to treat those Members that complied with the catch reductions specified in Resolution 19/01 compared to those that did not;
- how to address Members in the process of developing their fleets;
- the use of supply vessels;
- feasible timelines for reporting catches and methods for verifying catches;
- the treatment of coastal States with low catches in terms of their rights as a coastal State;
- how to differentiate those Members not subject to the catch reductions specified in Resolution 19/01 who increased catches since 2014 and those who decreased.

27. It became apparent that a clear difference among Members as to the scope of application, i.e., whether it should continue to exclude vessels under 24 m operating in EEZs, would be a fundamental point to be resolved. The Commission noted that it could not consider intermediate points between continuation of the current exemption and inclusion of the catches not covered by the current Resolution because there is a lack of information on the catches of vessels <24 m LOA. In order to better understand the small-scale fisheries for yellowfin and possibly explore a new threshold at which the percentage of exemption would be smaller than the current level while exempting artisanal fishing vessels, the Commission **ENCOURAGED** Members to submit information on the catches from these vessels, in particular those under 10 m and under 15 m LOA for 2019 and other years if possible. The Commission **REQUESTED** the Secretariat to coordinate this activity by 1 May 2021. The Commission confirmed that launching this work does not prejudice the position of any Member on the application.

5.5 Discussion on Proposal A

IOTC-2021-SS4-PropA_Rev1 *On a minimum conservation reference size for Indian Ocean yellowfin tuna in the IOTC area of competence.*

28. There was no consensus on this proposal, and it was deferred. The Commission encouraged the proponents to engage with a broader range of Members and take into consideration the current requirements under Resolution 19/05 *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* in any future version of the proposal.

5.6 Discussion on Proposal D

IOTC-2021-SS4-PropD *On management of fish aggregating devices (FADs) in the IOTC area of competence.*

29. The Commission **RECALLED** that the current FAD CMM, Resolution 19/02 *Procedures on a Fish Aggregating Devices (FADs) Management Plan*, was implemented in 2020 and the outcomes of the CMM are to be reviewed by the Commission in 2022.
30. The Commission **NOTED** that the intention of PropD was to apply further restrictions on the number of FADs and supply vessels, as a means to reduce the mortality of juvenile yellowfin tuna, as this was an aspect that was not included in PropB or PropC.
31. Following discussions by the Commission, a PropD_Rev1 was produced. After receiving mixed signals from the Commission Members while reviewing this revision, an informal working group was convened to further work on various elements of the proposal. However, the working group concluded with no further agreement on the basic principles of the proposal and the proponents agreed to defer the proposal and continue to work and collaborate on a revised proposal intersessionally.
32. The Commission **NOTED** the statement made by India regarding large-scale activities of unauthorised fishing vessels in the high seas within the IOTC Area of Competence (Appendix 2).

On a way forward

33. The Commission **NOTED** with regret that it did not adopt a conservation and management measure for yellowfin tuna at SS4; however, it noted that considerable progress had been achieved in understanding the various positions of Members across a wide range of complex issues. The Commission further **NOTED** that there was still time as the CMM is to be adopted for implementation in 2022.
34. To this end, the Commission **AGREED** to support further intersessional dialogue on yellowfin tuna and to implement the following workplan:

- 1st Vice Chair, in cooperation with 2nd Vice Chair, will lead an intersessional working group with the Heads of Delegations
- CPCs will be encouraged to submit catch data from vessels 15 meters, 10 meters and below that can be attributed to the EEZs and territorial waters to the extent possible. The data, for 2019 and preferably additional years, should be reported in a template to be provided by the Secretariat (the Secretariat will send out a request letter to CPCs).
- Yellowfin tuna catch data for 2020 (provisional when appropriate) will be submitted earlier than usual, by 1 May, for the consideration at the WPTT (DP) meeting, 10-14 May.
- A Heads of Delegation meeting will be convened to have initial discussions on the catch data and a revised proposal (currently Prop E). Noting any proposals should be submitted 30 days before the annual meeting (8 May).
- S25 will consider a revised Resolution for yellowfin tuna
- The Secretariat will prepare a table that would show the catch amount by each CPC by gear type, compliance with existing YFT measures and payback status, if any (ref year 2019 and 2020).

March	May	June
By 19 March The Executive Secretary sends out data request	1 May <ul style="list-style-type: none"> • CPCs are encouraged to submit requested data, where available; and • CPCs are also encouraged to indicate the reason if data cannot be submitted — but this is not mandatory. Catch data for 2020 be submitted where available for consideration by the WPTT (DP). TBD <ul style="list-style-type: none"> • A Heads of Delegation meeting convened for initial discussion on a revised yellowfin tuna proposal 	S25 consider a revised yellowfin tuna Resolution

35. The Commission expressed its concern that Iran has not participated in the Commission in recent years and has not complied with the catch reductions specified in Resolution 19/01, given that the Iran gillnet fishery is one of the largest yellowfin tuna fisheries in the Indian Ocean. The Commission **REQUESTED** the Vice-Chairperson to write to Iran on behalf of the Commission and request that it participate in the Annual Session (S25). The Commission also **REQUESTED** the Secretariat to explore ways of facilitating Iran's participation.
36. The Chairperson **ENCOURAGED** all CPCs to continue to contribute to the development of other proposals for conservation and management measures during the intersessional period.

6. Skipjack tuna

37. At its 24th Session (2020), the Commission noted that total catches of skipjack in 2018 (607,701 t) were 30% higher than the catch limit generated by the Harvest Control Rule (470,029 t) and agreed that it should consider addressing deficiencies relating to the harvest control rule for skipjack tuna, in particular, paragraph 11 of Resolution 16/02.

38. In the absence of any documents on skipjack being submitted to the Commission for SS4, and given the meeting's focus on yellowfin tuna, the Commission did not engage in any substantial discussion on the above matter. However, the Commission **ENCOURAGED** major skipjack tuna catching Members to submit a proposal to the annual session in June 2021.

7. Any other business

39. The Executive Secretary informed the meeting that the Government of Seychelles is re-opening the country to visitors, irrespective of their vaccination status, as from 25 March 2021. He further advised that the Secretariat could not currently host a fully populated meeting of the Commission in Seychelles due to the lack of a suitably sized meeting room on the island and the current social distancing requirements, but it might be possible to hold a hybrid meeting comprising HODs +1 only, with other members of the delegations and observers linked by Zoom.
40. Some Members suggested that HODs + 3 or 4 should be explored instead as the hybrid approach would cause problems for internal consultation. Some Members indicated that, at this time, it was highly unlikely that they could participate in such a meeting and the Commission **AGREED** to defer its decision on whether the 25th Session and associated meetings would be held in-person or by video-conference, until 30 April.

8. Adoption of the report of the 4th Special Session of the Commission

41. The report of the 4th Special Session of the Indian Ocean Tuna Commission (IOTC-2021-SS4-R) was **ADOPTED** by correspondence on 19 April 2021.

APPENDIX 1.

LIST OF PARTICIPANTS

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APPENDIX 2. STATEMENTS

Statement 1. Mauritius



REPUBLIC OF MAURITIUS
**MINISTRY OF FOREIGN AFFAIRS, REGIONAL INTEGRATION
AND INTERNATIONAL TRADE**

No (1/2020) 18570/46/142T2

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius presents its compliments to the Secretariat of the Indian Ocean Tuna Commission (IOTC) and has the honour to transmit herewith a statement being made by Mauritius under Agenda Item 2 of the 4th Special Session of the Indian Ocean Tuna Commission to be held virtually from 8th to 12th March 2021.

The Ministry would be grateful if a copy of this statement could be annexed to the report of the 4th Special Session.

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius avails itself of this opportunity to renew to the Secretariat of the Indian Ocean Tuna Commission the assurances of its highest consideration.

Port Louis, 2nd March 2021



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4th Special Session of the Indian Ocean Tuna Commission
8-12 March 2021

Agenda Item 2: Letters of Credentials

Statement by the Republic of Mauritius

The Republic of Mauritius reiterates that the United Kingdom is not entitled to be a member of the Indian Ocean Tuna Commission (IOTC) as a “coastal State situated wholly or partly within the Area [of competence of the Commission]” and wishes to place on record its objection to the participation of the United Kingdom in the 4th Special Session of the IOTC as a coastal State purporting to represent the Chagos Archipelago.

In a Judgment delivered on 28 January 2021 in the case of *Mauritius v. Maldives*, a Special Chamber of the International Tribunal for the Law of the Sea (ITLOS) has ruled that the Republic of Mauritius has undisputed sovereignty over the Chagos Archipelago.

In its Judgment, the Special Chamber, *inter alia*, ruled that:

- (a) the determinations made by the International Court of Justice (ICJ) in its Advisory Opinion of 25 February 2019 on the *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965* have legal effect and clear implications for the legal status of the Chagos Archipelago;
- (b) the United Kingdom’s continued claim to sovereignty over the Chagos Archipelago is contrary to the determinations made by the ICJ that the detachment of the Chagos Archipelago by the United Kingdom from Mauritius was unlawful and that the United Kingdom’s continued administration of the Chagos Archipelago constitutes an unlawful act of a continuing character;
- (c) the fact that the time-limit of 22 November 2019 set by the UN General Assembly for the withdrawal of the United Kingdom’s administration from the Chagos

Archipelago has passed without the United Kingdom complying with that demand further strengthens the Special Chamber's finding that its claim to sovereignty over the Chagos Archipelago is contrary to the authoritative determinations made in the Advisory Opinion;

- (d) while the process of decolonization of the Republic of Mauritius has yet to be completed, the Republic of Mauritius' sovereignty over the Chagos Archipelago can be inferred from the ICJ's determinations;
- (e) the continued claim of the United Kingdom to sovereignty over the Chagos Archipelago cannot be considered anything more than "a mere assertion" and such assertion does not prove the existence of a dispute.

These rulings confirm that under international law, the Republic of Mauritius is the only State which is lawfully entitled to exercise sovereignty or sovereign rights over the Chagos Archipelago and its maritime zones, as the coastal State. The United Kingdom cannot claim any rights over the Archipelago and therefore cannot be a member of the IOTC as a coastal State.

This statement is applicable to all agenda items and all documents of this meeting.

The Republic of Mauritius requests that this statement be annexed to the report of this meeting.

Statement 2. United Kingdom



Note Number: OTD/001/2021

The Overseas Territories Directorate of the Foreign, Commonwealth and Development Office presents its compliments to the Secretariat of the Indian Ocean Tuna Commission (IOTC) and Chair of the IOTC's 4th Special Session (8 to 12 March). In advance of this Session, the United Kingdom wishes to restate its position on the British Indian Ocean Territory (BIOT) and membership of the IOTC.

The United Kingdom has no doubt about its sovereignty over the Chagos Archipelago, which has been under continuous British sovereignty since 1814. Mauritius has never held sovereignty over the Archipelago and we do not recognise its claim. However, we have a long-standing commitment, first made in 1965, to cede sovereignty of the territory to Mauritius when it is no longer required for defence purposes. We stand by that commitment.

The United Kingdom was disappointed that this matter was referred to the International Court of Justice (ICJ), contrary to the principle that the Court should not consider bilateral disputes without the consent of both States concerned. Nevertheless, the United Kingdom respects the ICJ and participated fully in the ICJ process at every stage and in good faith. An Advisory Opinion is advice provided to the United Nations General Assembly at its request; it is not a legally binding judgment. The UK Government has considered the content of the Opinion carefully, however we do not share the Court's approach.

UN Resolution 73/295, adopted following the ICJ's Advisory Opinion, does not and cannot create any legal obligations for UN Member States. Neither the non-binding Advisory Opinion nor the non-binding General Assembly resolution alter the legal situation, namely that of a sovereignty dispute between the United Kingdom and Mauritius. The General Assembly is not the appropriate forum to resolve such a bilateral dispute.

The United Kingdom is aware of the judgment delivered on 28 January by the Special Chamber of the International Tribunal for the Law of the Sea (ITLOS) formed to deal with the Dispute concerning delimitation of a maritime boundary claimed by Mauritius to exist between Mauritius and Maldives in the Indian Ocean. The UK is not a party to these proceedings, which can have no effect for the UK or for maritime delimitation between the UK (in respect of BIOT) and the Republic of the Maldives.

The United Kingdom is a full member of the IOTC. The United Kingdom deposited instruments of acceptance to the IOTC Agreement on 31st March 1995 and 22nd December 2020 and has been a party to the Agreement since it entered into force. The Agreement for the Establishment of the Indian Ocean Tuna Commission provides that IOTC membership shall be open, inter alia, to FAO members that are situated wholly or partly within the IOTC's Area of Competence. As BIOT is situated wholly within the IOTC's Area of Competence, there can therefore be no doubt

that the United Kingdom, as the State with sovereignty over BIOT as aforementioned, is entitled to be a member of IOTC.

The United Kingdom requests that this statement be annexed to the report of 4th Special Session and posted on the IOTC's website.

The Overseas Territories Directorate of the Foreign, Commonwealth and Development Office avails itself of the opportunity to renew to the Secretariat of the Indian Ocean Tuna Commission the assurances of its highest consideration.

FOREIGN, COMMONWEALTH AND DEVELOPMENT OFFICE
LONDON

3 March 2021



Statement 3. Mauritius

REPUBLIC OF MAURITIUS

**MINISTRY OF FOREIGN AFFAIRS, REGIONAL INTEGRATION
AND INTERNATIONAL TRADE**

No (2/2021) 18570/46/142T2

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius presents its compliments to the Secretariat of the Indian Ocean Tuna Commission (IOTC) and with reference to the Note Verbale (No. OTD/001/2021) dated 3 March 2021 from the Overseas Territories Directorate of the Foreign, Commonwealth and Development Office of the United Kingdom of Great Britain and Northern Ireland, has the honour to state as follows:

The Republic of Mauritius wishes to recall that in its Judgment of 28 January 2021, the Special Chamber of the International Tribunal for the Law of the Sea (ITLOS) ruled that the Republic of Mauritius has undisputed sovereignty over the Chagos Archipelago and that the United Kingdom's continued claim to sovereignty over the Chagos Archipelago is contrary to the determinations of the International Court of Justice (ICJ) that the detachment of the Chagos Archipelago from Mauritius was unlawful and that the United Kingdom's continued administration of the Chagos Archipelago is an unlawful act of a continuing character. It also ruled that the Republic of Mauritius is to be regarded as the coastal State in respect of the Chagos Archipelago.

In the view of ITLOS, determinations made by the ICJ in an advisory opinion cannot be disregarded simply because the advisory opinion is not binding. The Special Chamber held that the determinations made by the ICJ in its Advisory Opinion of 25 February 2019 have legal effect and clear implications for the legal status of the Chagos Archipelago.

ITLOS further held that the UN General Assembly was entrusted by the ICJ to take necessary steps towards the completion of the decolonization of the Republic of Mauritius and that Resolution 73/295 which was adopted by the General Assembly on 22 May 2019 is also relevant to assessing the legal status of the Chagos Archipelago. ITLOS also considered that the time-limit of 22 November 2019 for the unconditional withdrawal of the United Kingdom's colonial administration from the Chagos Archipelago was one of the modalities for ensuring the completion of the decolonization of the Republic of Mauritius. It ruled that *"[t]he fact that the time-limit set by the General Assembly has passed without the United Kingdom complying with this demand further strengthens the Special Chamber's finding that its claim to sovereignty over the Chagos Archipelago is contrary to the authoritative determinations made in the advisory opinion"*.

It is therefore clear that as a matter of international law, the Republic of Mauritius is the sole State lawfully entitled to exercise sovereignty or sovereign rights over the Chagos Archipelago and its maritime zones and that the United Kingdom cannot claim any rights over the Chagos Archipelago. The Judgment of ITLOS, which is binding and without appeal, has further confirmed the illegality of the so-called "British Indian Ocean Territory".

It is deeply regrettable that the United Kingdom which professes support for the international rule of law should blatantly disregard both the authoritative determinations of the ICJ and the Judgment of ITLOS. The United Kingdom's stand is all the more astounding, having regard to the fact that it participated actively in the proceedings that led to the authoritative determinations of the ICJ, and its objection to the stand of Mauritius and a large number of other States that the decolonization of the Republic of Mauritius was still incomplete was rejected by the ICJ.

The Republic of Mauritius reiterates that in the light of the foregoing, the United Kingdom is not and cannot be the coastal State in relation to the Chagos Archipelago and is therefore not entitled to be a member of the IOTC as a coastal State pursuant to Article IV(1)(a)(i) of the Agreement for the Establishment of the Indian Ocean Tuna Commission.

The Republic of Mauritius would be grateful if a copy of this Note Verbale could be annexed to the report of the 4th Special Session of the IOTC scheduled for 8-12 March 2021.

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius avails itself of this opportunity to renew to the Secretariat of the Indian Ocean Tuna Commission the assurances of its highest consideration.



Port Louis, 5th March 2021

**Secretariat
Indian Ocean Tuna Commission
Victoria
Seychelles**

Statement 4. India

Statement of INDIA

[During IOTC Special Session held on 08-12 Feb, 2021 through VC]

Dear Chair,

The delegation of India wishes to place on record the observation of its national monitoring center regarding activities of large scale fishing vessels (LSFVs) in the high seas falling within the IOTC area of competence. While fishing activities within the national jurisdiction of coastal states (CPCs) are monitored by the maritime and fishery agencies of the respective coastal states (CPCs), it is noticed that fishing activities in the areas beyond the national jurisdiction (ABNJ) that fall within the IOTC area of competence are being hardly monitored.

The presence of large number of LSFVs are observed in the high seas of Indian Ocean Region (IOR), and majority of such fishing vessels are not in the IOTC list of authorized fishing vessels (AFVs), which is a matter of serious concern. It is noticed that during the Month of January, 2021, there were 704 active LSFVs in the high seas of IOR (Arabian Sea, Indian Ocean & Bay of Bengal), out of it only 183 were AFVs. Similarly, 18 reefers were observed carrying out mid-sea meeting with LSFVs in IOR in January, 2021. Of these, only eight were found to be in the IOTC authorized vessels list of fish carriers. The details of these LSFVs have already shared by India with the IOTC Secretariat. It is also observed that during February, 2021 there were 730 active LSFVs in the high seas of IOR, out of this only 126 were AFVs. Presence of such a large numbers of unauthorized LSFVs in the IOTC area of competence undermines the objective of the IOTC Agreement. Besides, the possibilities of illegal, unreported and unregulated (IUU) fishing by these LSFVs in the IOTC area of competence may not be ruled out, as was observed from pattern of their movements, vessel-speed etc.

There is an urgent need for the Commission to review and assess the effectiveness of MCS measures, identify deficiencies especially in the ABNJ in the IOTC area of competence. The effectiveness and practical aspects of Conservation and Management Measures (CMMs) adopted by the Commission aimed at sustainable and responsible fisheries especially with reference to rebuilding of Yellowfin tuna (YFT) stocks need to be reviewed in light of the unauthorized fishing attributing to data gaps of resource exploitation in high sea fishing.

There is an urgent need for the Commission to explore and adopt options for strengthening MCS in the high seas so as to monitor and identify vessels presumed to have engaged in IUU fishing activities, and recommend further actions to prevent, deter and eliminate IUU fishing activities especially in the high seas by the Large Scale Tuna Fishing Vessels/carrier vessels.

In view of the above position, it is suggested that an enabling regional mechanism for information sharing and high sea monitoring may be worked out in the IOTC to prevent, deter and eliminate IUU fishing from the high seas in the IOTC area of competence. The effectiveness and practical aspects of implementation of concerned IOTC CMMs need to be reviewed. In case a new CMM is required for the purpose, the same may also be considered. The above item may be included in the Agenda and Work Plan for future meetings of the Commission, WPICMM and CoC.

APPENDIX 3.**AGENDA OF THE 4TH SPECIAL SESSION OF THE INDIAN OCEAN TUNA COMMISSION****Date:** 8-12 March 2021**Location:** by video-conference**Chairperson:** Ms Jung-re Riley Kim (Rep. of Korea)**1. OPENING OF THE SESSION****2. LETTERS OF CREDENTIALS**

Written statements may be submitted for posting on the SS04 meeting page. The meeting may also be informed about the existence of any statements and they will be appended to the meeting report.

3. ADMISSION OF OBSERVERS

The Executive Secretary will list the credentialled observers present in the meeting. Statements received from observers are posted on the website.

4. ADOPTION OF THE AGENDA AND ARRANGEMENTS FOR THE SESSION**5. YELLOWFIN TUNA**

5.1 A presentation from the Scientific Committee Chairperson on the latest SC recommendations and advice relating to yellowfin tuna.

5.1.1 A presentation of yellowfin catch data pertaining to Resolution 19/01.

5.2 An introduction to the yellowfin proposals. Proponents will be invited to provide a brief introduction to their proposals, and time will be made available to respond to requests for clarification.

5.3 Discussion on possible target reduction levels for yellowfin.

5.4 Discussion on PropB and PropC — with the aim of finding a compromise proposal to replace Res 19/01

5.5 Discussion on PropA

5.6 Discussion on PropD

6. SKIPJACK TUNA

6.1 Discussion on a way forward for addressing concerns about the status of skipjack tuna. The major skipjack catching fleets are expected to be at the forefront of this discussion.

7. ANY OTHER BUSINESS

7.1 Planning for S25 and associated meetings

8. ADOPTION OF THE REPORT OF THE 4TH SPECIAL SESSION OF THE COMMISSION

APPENDIX 4.

LIST OF DOCUMENTS

Document	Title
IOTC-2021-SS4-01a	Draft agenda for SS4 (v 7Jan).
IOTC-2021-SS4-01b	Draft agenda for SS4 (v 2Mar).
IOTC-2021-SS4-01c	SS4 adopted agenda.
IOTC-2021-SS4-02	List of documents.
IOTC-2021-SS4-PropA & Rev1	On a minimum size for yellowfin tuna (Sri Lanka).
IOTC-2021-SS4-PropB & Rev1	On an interim plan to rebuild the yellowfin tuna stock (EU).
IOTC-2021-SS4-PropC & Rev1	On an interim plan to rebuild the yellowfin tuna stock (Maldives).
IOTC-2021-SS4-PropD & Rev1	On management of fish aggregating devices (Kenya & Sri Lanka)
IOTC-2021-SS4-PropE	On an interim plan to rebuild the yellowfin tuna stock (PropB&C merged)
Reference documents	
IOTC Circular 2020-55_rev1	CORRECTION Table of allocated catch limits for yellowfin tuna
IOTC-2021-SS4-INF12	Scientific Committee Chair's presentation
IOTC-2021-SS4-INF13	Executive Secretary's presentation on catches under Resolution 19/01
IOTC-2021-SS4-Statement01	Statement 1 Mauritius
IOTC-2021-SS4-Statement02	Statement 2 United Kingdom
IOTC-2021-SS4-Statement03	Statement 3 Mauritius
IOTC-2021-SS4-Statement04	India
NGO Statements	
IOTC-2021-SS4-INF02	GTA Position Statement
IOTC-2021-SS4-INF03	ISSF Position-Statement-January-2021
IOTC-2021-SS4-INF04	PEW Statement to the Special Session of the Indian Ocean Tuna Commission
IOTC-2021-SS4-INF05	Blue and IPNLF position statement in advance of the Special Session of the Indian Ocean Tuna Commission
IOTC-2021-SS4-INF06	Key Traceability Position Statement from the Indian Ocean Tuna longline FIP to IOTC re YFN 2021
IOTC-2021-SS4-INF07	WWF_Position_IOTC_SS4
IOTC-2021-SS4-INF08	BMF et al - IOTC Special Session Aligned recommendation
IOTC-2021-SS4-INF09	ISSF et al - IOTC Special Session Aligned recommendation

Document	Title
IOTC-2021-SS4-INF10	Greenpeace statement to IOTC SS4
IOTC-2021-SS4-INF11	Letter of support for Prop D on FAD management (IPNLF et al)
IOTC-2021-SS4-INF14	Pew letter- RFMO Virtual Meeting Recommendations
IOTC-2021-SS4-INF15	Letter from IPNLF member Marks & Spencer in support of proposals submitted for SS4