

CHAIR'S DRAFT PROPOSAL FOR AN ALLOCATION REGIME (V3) — ANNOTATED

Prepared by the TCAC Chairperson

Background on the draft

Draft #3 has been prepared on the basis of comments received from all delegations during TCAC09 and written comments received on Draft #2 during and following the TCAC09 meeting. Draft #3 also includes substantive edits made to Draft #1 not specifically discussed during TCAC09 given the change of approach to the review of the document during TCAC09.

Minor adjustments made to Draft #1, such as correcting typographical errors, renumbering of articles and paragraphs, capitalizing first letters of certain words (e.g. Article), replacing the word “species” by “stock”, and replacing “management cycle” with “allocation period” have been accepted by the Chair on the assumption that there are no opposition to these minor changes made to both Draft #1 and Draft #2. Hence these minor changes are not identified as outstanding edits in this Draft #3.

The delegation source for substantive changes has been identified in side bar comments, including in respect of which version (Draft #1 or Draft #2) the change was proposed and whether the change was proposed during a TCAC meeting or in written comments provided after these meetings. For more details on delegations' written comments, Members are referred to IOTC-2022-TCAC10-REF01 for the compilation of all written comments received on Draft #2 and IOTC-2021-TCAC09-REF01 for the compilation of all written comments received on Draft #1. With the exception of the above referenced minor changes, all other changes and deletions have been tracked in the text. The Chair has also, in some cases, explained certain changes made, and raised certain issues requiring further discussion, in the side bar comments.

When the Chair has made adjustments to text proposed by delegations, this has been flagged in side bar comments. Where changes or deletions proposed have been opposed by one or more delegations, the text has been put in brackets. Where a deletion or a change requested by one or more delegations contradicts a proposed text or stated position of another delegation, the text has been inserted in brackets. Where more than one text proposal has been made with respect to the same part of the text, the Chair has proposed text which tries to capture the intent of all proposals. Where this has not been possible, alternatives have been included for decision by the Members. In such instances, the text with the alternatives has been put in brackets. And, where a delegation has indicated reservations on the text of a provision, brackets have been added to the text.

Brackets will be removed when there is consensus on the wording of the relevant text.

IOTC RESOLUTION 2023/XX**ESTABLISHING AN ALLOCATION REGIME FOR THE IOTC****PREAMBLE****The Indian Ocean Tuna Commission (IOTC),**

Commented [BN1]: The Chair takes note of Maldives' wish to review the Preamble of the text at the end of the discussions on the text of the Resolution.

CONSIDERING the objective of the Commission to promote cooperation among its Members with a view to ensuring, through appropriate management, the conservation and optimum utilization of stocks covered by the Agreement and encouraging sustainable development of fisheries based on such stocks, as referenced in Article V.1 1 of the IOTC Agreement;

MINDFUL that allocation regimes can contribute to the sustainable management of fish stocks, in particular for fish stocks [at levels below maximum sustainable yield / OR / that are depleted, or at or below production levels], by providing a transparent and equitable means of distributing fishing opportunities;

NOTING in this regard IOTC 2010 *Resolution 10/01 for the conservation and management of tropical tuna stocks in the IOTC area of competence* endorsed by the IOTC at its 2010 meeting in Busan, Korea, pursuant to which the Commission mandated the Technical Committee on Allocation Criteria to “discuss allocation criteria for the management of tuna resources in the Indian Ocean and recommend an allocation quota system or any other relevant measures”;

RECALLING the principles, rights and obligations of all States, and provisions of treaties and other international instruments relating to marine fisheries, and in particular, relating to highly migratory species, including those contained in:

The United Nations Convention on the Law of the Sea of 10 December 1982;

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 August 1995;

The 1993 FAO Compliance Agreement;

The 1995 FAO Code of Conduct for Responsible Fisheries;

Other relevant instruments adopted by the Food and Agriculture Organization of the United Nations; and,

The relevant resolutions of the United Nations General Assembly;

RECALLING global commitments to open and transparent decision-making;

NOTING the sovereign rights of coastal States in accordance with the international law of the sea for the purposes of exploring and exploiting, conserving and managing the living resources, including highly migratory species, within the 200 nautical mile Exclusive Economic Zone under their jurisdiction, and the need for the Allocation Regime not to prejudice such rights;

RECOGNISING the established interests, historical fishing patterns and fishing practices of Members of the IOTC historically fishing in the IOTC area of competence;

RECOGNIZING the interests, aspirations, needs, and special requirements of developing [States / Countries], as stated in various international instruments, in particular least developed States and Small Island Developing States (SIDS) that are coastal States in the IOTC area of competence, including their requirement to equitably participate in the fishery for highly migratory fish stocks in this area;

UNDERLINING the results and recommendations from the KOBE process;

DESIRING to cooperate to address developing coastal States interests, aspirations, needs, and special requirements and the rights of coastal States regarding fisheries resources in their exclusive economic zone, while recognizing the historic economic interests and rights of all IOTC Contracting Parties and Cooperating Non-Contracting Parties involved in fisheries for IOTC fish stocks;

Commented [BN2]: As the EU opposed the deletion of the original wording in their comments on Draft #2 and proposed deletion of the alternative wording that had been proposed by Maldives on Draft #1, I have inserted both options in brackets.

Commented [BN3]: Proposed by the EU on Draft #1 and adjusted by the EU in Draft#2.

Commented [BN4]: Indonesia proposed to replace the term “States” for “Countries” in Draft #2. I have inserted both terms in brackets for further consideration.

The term “developing States” is the term used in the fisheries provisions of the UNCLOS and the UN Fish Stocks Agreement. The IOTC Agreement uses both “countries” and “States”. The term State is typically used in the context of exercising sovereignty and sovereign rights, whereas the term country is usually used in a geographic context.

Commented [BN5]: Indonesia proposed to delete this text in Draft #2.

For consideration by the Members, the Chair notes that Art 25(b) of the UN Fish Stocks Agreement uses the term “..developing States, in particular the least-developed among them and small island developing States..”. While the IOTC Agreement does not use this terminology (perhaps as it pre-dates the UN Fish Stocks Agreement), IOTC Resolutions do use the terms developing states, SIDs and Least Developed States.

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

Article 1. USE OF TERMS

1.1. For the purposes of this Resolution:

- (a) **“Agreement”** means the Agreement for the Establishment of the Indian Ocean Tuna Commission, approved by the FAO Council at its Hundred-and-Fifth Session in November 1993, and entered into force on 27 March 1996;
- (b) **“Allocation”** means a fishing opportunity represented as a percentage share of the Total Allowable Catch (TAC) for a given fish stock established by the Commission pursuant to Articles 6.1 to 6.16, and adjusted by the Commission pursuant to Articles 7.1, 7.2, and 7.3.
- (c) **“Allocation Regime”** means the criteria, rules and process contained in this Resolution pursuant to which allocations are determined and approved by the Commission.
- (d) **“Allocation Period”** means the period during which an allocation established pursuant to this Resolution remains valid as determined pursuant to Article 10.
- (e) **[[“Coastal State CPC”]** means a member as referred to in Article IV of the Agreement who is situated wholly or partly in the IOTC Area of Competence and listed as such in Appendix 1.]
- (f) **“Commission”** or **“IOTC”** means the Indian Ocean Tuna Commission;
- (g) **“Compliance Committee”** means the permanent committee provided for in Article XII.5 of the Agreement and established pursuant to the IOTC Rules of Procedures (2014);
- (h) **“Conservation and Management Measure”** or **“CMM”** as specified in Article IX of the Agreement, and consist of Resolutions, which are binding on Members, subject to Article IX para 5 of the IOTC Agreement, and Recommendations, which are non-binding, subject to Article IX para 8 of the Agreement;
- (i) **“Contracting Party”** or **“CP”** means a party to the Agreement;
- (j) **“Contracting Parties and Cooperating Non-Contracting Parties”** are jointly referred to as **“CPCs”**;
- (k) **“Cooperating Non-Contracting Party”** or **“CNCPP”** means any non-Member of the Commission, which voluntarily ensures that vessels flying its flag fish in a manner which conforms with the Conservation and Management Measures adopted by the IOTC and have completed the application process to become a Cooperating Non-contracting Party to the IOTC, as detailed in Appendix III of the IOTC Rules of Procedures and which the Commission has endorsed;
- (l) **“Developing State”** means a State that is a CPC listed in Appendix 1 and whose developing status has been determined on the basis of internationally accepted standards defined under by the United Nations, standards and includes Least Developed States and Small Island Developing States, as provided by the Human Development Index (include ref here); and the Gross National Income status provided by the World Bank (include ref here);
- (m) **“Fish Stocks”** or **“Stocks”** means highly migratory species, including stocks of tuna species, referenced in Article 5 and listed in Annex 1;

Commented [BN6]: Definition proposed by Chair based on comments on Draft #1, including that of UK in its written comments regarding Draft #1.

Commented [BN7]: As requested by the EU in respect of Draft #2, the Chair proposes wording for a new definition of Allocation Regime

Commented [BN8]: Definition proposed by Chair based on comment from Maldives on Draft #1

Commented [BN9]: The Chair has adjusted the term and its definition to address comments from Maldives on Draft #2 and comments from the EU and the UK on Draft #1. And the Chair has made the necessary changes to use this term “Coastal State CPC” throughout the draft document.

The term Coastal State CPC is used in the Coastal States Proposal.

The definition proposed by the Chair is inspired by Article IV of the IOTC Agreement. Reference to Appendix 1 has been added as suggested by the UK in its comments on Draft #2.

An alternative version of this definition could be: **“Coastal State CPC”** means a State or regional economic integration organisation of which any State is a member and to which that State has transferred competence over matters within the purview of the Agreement and, is a CPC situated wholly or partly in the IOTC Area of Competence.”

As there is yet consensus on the term or the definition, I have put both in brackets for further discussion.

Commented [BN10]: Proposed deletion from Maldives suggested in respect of Draft #1 and Draft #2.

Commented [BN11]: Link to Appendix 1 as requested by UK in Draft #2

Commented [BN12]: Reflecting comment from the EU on Draft #2,

The Chair notes that if the standards are defined by the United Nations, these would normally constitute “internationally accepted standards”, and hence this wording may not be needed here. This comment is also relevant to the definition of SIDS below.

Commented [BN13]: Least Developed States proposed by Sri Lanka in respect of Draft #1

Commented [BN14]: Deletion proposed by the Maldives during TCAC08 and in its written comments on Draft #1

Commented [BN15]: Definition proposed by Chair in Draft #2 based on comments received on Draft #1 related to the use of the term “species”, “stocks” and the scope of the Allocation Regime, and comments from Maldives on Draft #2.

- (n) **“Fishing Opportunity”** means, in the context of allocations, access rights of CPCs to catch a share of a given fish stock managed by the IOTC, which may be determined on the basis of portions of catch, biomass, or shares based on fishing effort;
- (o) **“IOTC Area of Competence”** means the area under the IOTC mandate as defined in Article II of the Agreement and set out in Annex A to the Agreement;
- (p) **“IOTC Management Procedures”** means IOTC Resolutions adopted for the sustainable exploitation of harvested stocks through a set of formal actions, usually consisting of data collection, stock assessment (or other indicators), and harvest control rules, able to iteratively and adaptively provide robust decisions to manage a fishery, the management and conservation of species under the mandate of the IOTC;
- (q) **“Member”** means a Member of the Commission as specified in Article IV of the Agreement;
- (r) **“New Entrant”** means a State who was neither a Contracting Party nor a CNCP at the time this Resolution was adopted, and which has been admitted to the IOTC as per the Rules of Procedure submitted its instrument of accession to the IOTC after the adoption of this Resolution;
- (s) **“Non-Coastal State CPC”** means a member as referred to in Article IV of the Agreement who is State whose exclusive economic zone is not situated wholly or partly within adjacent to or included in the IOTC Area of Competence;
- (t) **“Serious non-compliance”** means violations identified by the Commission pursuant to Article 7.2(b), which constitute repeated or gross disrespect of the IOTC’s Conservation and Management Measures adopted by IOTC Resolution, or disrespect of IOTC Conservation and Management Measures that the Commission deems a serious threat to the conservation of IOTC fish stocks;
- (u) **“Scientific Committee”** means the permanent committee provided for in Article XII.1 of the Agreement;
- (v) **“Small Island Developing States”** or **“SIDs”** are States listed in Appendix 1 whose status has jointly been determined on the basis of internationally accepted standards defined by the United Nations, UN and the OECD (include ref here);
- (w) **“Stock Assessment Cycle”** means a cyclical schedule of stock assessments approved by the Commission for scientific advice provided by the Scientific Committee related to the status of fish stocks listed in Annex 1 in its stock assessment reports for such stocks. Stock Assessment cycles may vary by stock;
- (x) **“TAC”** means the Total Allowable Catches established by the Commission following a management evaluation process for a stock under its mandate listed in Annex 1 and caught in the IOTC Area of Competence;
- (y) **“TAC Period”** means the period for which a TAC for a given fish stock remains valid and unchanged by the Commission. The TAC Period is determined by the Commission and usually follows the same schedule as the Stock Assessment Cycle.

Commented [BN16]: Definition proposed by the Chair based on requests made by UK and the EU during TCAC08 and in writing on Draft #1.

Commented [BN17]: Definition taken from the IOTC Scientific Glossary and proposed to be used by the EU in its comments related to Draft #1.

Commented [BN18]: To address comments from Malaysia, Philippines and Maldives. See other comments in respect of articles 4.3 and 6.12-6.14.

Commented [BN19]: Change proposed by Maldives on Draft #2

Commented [BN20]: Change proposed by the EU in Draft #1 and by Maldives in Draft #2. As this is the corollary of the definition of Coastal State CPC, I have changed the term back to its original version, given the opposing views on the use of the term “State” so that it now reads “Non-coastal State CPC” for consistency with its correlated term “Coastal State CPC”, and I have put the term and definition in brackets, for further discussion.

The chair notes that this term may no longer be required given the changes made to Article 6, as it is no longer used in the current draft.

Commented [BN21]: The addition of a definition of this term was originally proposed by Seychelles in respect of Draft #1 during TCAC08. Text is proposed by the Chair based on wording currently contained in Article 7.2.

Commented [BN22]: As proposed by UK

Commented [BN23]: Reflecting comment from the EU on Draft #2. See Chair’s comment related to similar wording in definition of Developing States above.

Commented [BN24]: To address comment from Maldives on Draft #1

Commented [BN25]: Definition proposed by Chair based on comments from a number of delegations on Draft #1.

Commented [BN26]: Proposed by Maldives during TCAC08. As EU has stated a reservation in respect of this edit in its comments on Draft #2, the text has been put in brackets for further consideration.

Commented [BN27]: Definition proposed by Chair based on comments from a number of delegations on Draft #1.

Article 2. PURPOSE

2.1 The Allocation Regime contained in this Resolution shall form the basis and manner for the Commission to determine and share allocations of fish stocks listed in Annex 1 and caught in the IOTC Area of Competence and for sharing these fishing opportunities among CPCs and New Entrants in a fair, equitable and transparent manner.

Commented [BN28]: The term fish stocks or stocks has been retained and used throughout the draft text.

Commented [BN29]: Addition proposed by Maldives in TCAC08 on Draft #1. Words that follow were deleted at Japan's request in its comments on Draft #1.

Commented [BN30]: Deleted at the request of China and Malaysia during TCAC08 in respect of Draft #1

Article 3. GUIDING PRINCIPLES

The following principles shall guide the Commission's decisions in determining allocations for CPCs and New Entrants. Allocations established pursuant to the Allocation Regime contained in this Resolution shall:

- 3.1. provide an objective, a quantitative, fair, equitable and transparent manner system to allocate fishing opportunities in the IOTC area of competence;
- 3.2. factor in the status of the IOTC stocks to be allocated;
- 3.3. contribute to the sustainable management and use of IOTC stocks by ensuring that total fishing opportunities do not exceed biologically sustainable limits, or TACs where provided contribute to ensuring the sustainable management and use of IOTC fish stocks;
- 3.4. consistent with Article XVI of the Agreement, respect and not prejudice the exercise of the sovereign rights and obligations of coastal States in accordance with international law of the sea for the purposes of exploring and exploiting, conserving and managing the living resources, including the highly migratory species, within a zone of up to 200 nautical miles under their jurisdiction; within their Exclusive Economic Zone or equivalent maritime boundary, and national waters;
- 3.5. ensure the compatibility of conservation and management measures for fish stocks in their entirety established for both the high seas and the areas under national jurisdiction of coastal States excluding Archipelagic Waters and Territorial Sea;
- 3.6. respect the rights and obligations of all States fishing in the IOTC area of competence;
- 3.7. take into consideration the significant efforts made by each CPC to fulfil their obligations to comply with the IOTC Agreement and Resolutions;
- 3.8. Take into consideration the unequal challenges and disproportionate burden faced by Developing States in particular, Least Developing States and Small Island Developing States in fulfilling their obligations to comply with the IOTC Agreement and Resolutions;
- 3.9. recognize and accommodate the special requirements of developing coastal States, in particular the vulnerability of including Small Island Developing States, who are socio-economically dependent on IOTC fisheries resources, including for food security, and factor their needs and dependency on these resources;
- 3.10. take into account and accommodate the interests and aspirations of coastal States, particularly those of developing coastal States, in further developing their fishing opportunities in the IOTC area of competence [, without undermining the rights of other CPCs fishing for the same fish stocks];
- 3.11. take into account [and accommodate the established interests,] fishing patterns and fishing practices of CPCs historically fishing in the IOTC area of competence;
- 3.12. be implemented in a step-wise manner while providing some stability in the fisheries, resulting in a by [partially] shifting of current fishing patterns from developed CPCs [and Non-coastal CPCs] to [including] in particular, Least Developed

Commented [BN31]: The term "objective" was added to Draft #1 to address a comment from the UK. The alternative "quantitative" was proposed by the EU in Draft #2. As the UK clarified its intent for this principle to touch on the need for the allocation to "be based on a clear set of guidelines and based on data", the Chair proposes the term "quantitative" to be retained as reflecting this intent.

Commented [BN32]: Change proposed by Indonesia in Draft #2

Commented [BN33]: Changes based on comments from UK in Draft #1 and proposed by Maldives in Draft #2

Commented [BN34]: Given comments and opposition to proposed text lodged by the UK (Draft #1) and Mauritius (Draft #2) respectively, the Chair has rewritten this provision to align with Article XVI of the IOTC Agreement, as proposed by India in TCAC09 in respect of Draft #2.

Commented [BN35]: Addition proposed by EU and Japan during TCAC08 in respect of Draft #1. Wording proposed by Japan supported by Thailand during TCAC09. Additional text proposed at the end of his Article by Indonesia in its comments on Draft #2.

Commented [BN36]: Proposed addition from Korea in Draft #1.

Commented [BN37]: New Principle proposed by Maldives in its comments on Draft #2

Commented [BN38]: Change proposed by Maldives in its comments on Draft #1

Commented [BN39]: Proposed text addition from the EU in Draft #1, and proposed deletion from Indonesia and Maldives in Draft #2, hence the brackets.

Commented [BN40]: New principle proposed by the EU during TCAC08 and in its comments on Draft #1. Text in brackets proposed to be deleted by Indonesia in its written comments on Draft #2.

~~States and Small Island Developing States, as promptly as possible, to ensure a smooth transition to a new allocation regime, taking into account the socio-economic impacts [of the resulting change in past fishing patterns of developed CPCs [and Non-coastal CPCs], and] the socio-economic impacts of any delay in the transition] on CPCs that are developing coastal States [whose people, present and future, rely on the [fish stocks] resources for their economic and food security]; and,~~

[Alternate 3.12:

~~take into account the desire to limit socio economic shocks from the implementation of the allocation regime by providing the ability to temporarily transfer allocations between [CPCs; and.]~~

~~3.6. provide incentives for Cooperating Non-Contracting Parties to become Contracting Parties to the IOTC; and,~~

3.13 the Allocation Regime ~~shall is intended to~~ deter Illegal, Unreported and Unregulated fishing and serious non-compliance with relevant IOTC CMMs.

Article 4. ELIGIBILITY

4.1. Each ~~CPC~~ at the time of the adoption of this Resolution is eligible to receive an allocation for one or more fish stocks under this Allocation Regime¹. The nature and extent of the allocation shall be determined based on the criteria and process outlined in this Resolution, its appendices and its annexes.

4.2. ~~A CNCP at the time of the adoption of this Resolution may also be is not eligible to receive an allocation as described in Article 4.1 if the CNCP did not expressed a real interest in fishing in the IOTC area of competence when it submitted its application for CNCP status. In such a case, the A CNCP that has expressed such an interest at that time that is eligible to one or more allocations pursuant to this Resolution shall~~ receive [50%] of the allocation for each fish stock for which it is eligible, until such time as it becomes a CP. Once a CNCP becomes a CP, it may receive 100% of the allocations to which it is eligible, upon payment of its contribution to the Commission pursuant to Article XIII of the Agreement.

4.3. A New Entrant that is ~~a Coastal State to~~ situated wholly or partly within the IOTC Area of Competence may only be eligible to receive a special allocation described in articles 6.12, 6.13 and 6.14. ~~[A New Entrant that is not a Coastal State is not eligible to receive an allocation under this resolution.]~~

4.4. ~~[CPCs and New Entrants may lose eligibility to an allocation pursuant to Article 7.2.]~~

Article 5. SCOPE

~~5.1. Subject to priorities established pursuant to articles 5.2 and 9.1, this Resolution shall apply to all fish species set out in Annex 2 of the Agreement caught in the IOTC Area of Competence, and to all gear types.~~

~~Or~~

¹ As agreed in the TCAC5 meeting (indicated in paragraph 14 of the meeting report of TCAC05), the allocations for the fishing fleet represented by the Invited Experts in the IOTC area of competence shall be treated in the same way as those for other distant water fishing fleets represented by Contracting Parties.

Commented [BN41]: Several changes have been made to this provision, based on comments from the EU, UK, China and the Maldives made on Draft #1, during TCAC09 and in respect of Draft #2. The Chair proposes wording that avoids characterizing the CPCs given the number of opposing and contradicting comments, and focussing the provision on the principle of a step wise approach proposed to address the impacts of an allocation regime on all CPCs. The details of implementation of the step wise approach are proposed later in this Resolution (see new paragraph 9.4(c)) and, eventually, if Members agree, could be detailed in Annex 2. This somewhat reflects the approach suggested by the UK in respect of Draft #1. Other proposed changes that have been opposed have been put in brackets.

Commented [BN42]: Alternative text proposed by Australia in respect of Draft #1. Brackets have been added to this alternative to reflect the EU's proposed deletion in Draft #2.

Commented [BN43]: Deletion proposed by China, Maldives, and South Africa in respect of Draft #1.

Commented [BN44]: Edits proposed by Indonesia in Draft #2, with slight change suggested by the Chair

Commented [BN45]: China had sought that the timing of this be prior to the adoption of the Resolution in its comments during TCAC08. Words such as prior to or before are not limited in time and could refer to a significant time prior to the adoption of the Resolution. The Chair suggests that the term "at the time of the adoption" conveys the intent sought: to refer to CPs that hold that status when the resolution is adopted. Should Members not be satisfied with this proposal, they could consider the following alternative wording: "immediately prior to the adoption", however, the Chair notes that this makes the sentence a bit awkward.

Commented [BN46]: Changes made to address Maldives comments regarding eligibility of CNCPs on Draft #2

Commented [BN47]: To address UK's comments on Draft #1.

Commented [BN48]: To address Maldives' comments on Draft #1.

Commented [BN49]: Brackets inserted on this provision to reflect opposition by EU, Indonesia and Australia to excluding New Entrants that are not coastal States during TCAC09 and in written comments from the EU on Draft #2.

Commented [BN50]: Brackets have been added to this Article as China sought deletion of this Article in Draft #1, however, other delegations have supported maintaining it and Article 7.2.

Commented [BN51]: The Chair proposed to delete Option 1 in Draft #2 and retain option 2 as the most favoured by delegations in their comments on Draft #1 and during TCAC08.

5.1. (1) Subject to priorities set out in Annex 1 and further established pursuant to articles 5.2 and 9.2, this Resolution shall apply to stocks of the fish highly migratory species, including tuna stocks, listed in Annex 1 to this Resolution caught found in the IOTC Area of Competence [, excluding the Territorial Sea and Archipelagic waters of CPCs] and managed by the IOTC.

(2) Subject to Article 11.3, the Commission may amend Annex 1, including to exclude fish stocks where a CPC can scientifically demonstrate to the Commission that a particular stock is discreet to that CPC's Exclusive Economic Zone and does not migrate to, or straddle the High Seas.

5.2. The Commission may implement the Allocation Regime in this Resolution in a gradual manner, based on priorities set out in Annex 1 and further established in accordance with Article 9.2.

Article 6. ALLOCATION STRUCTURE

Total Allowable Catch

6.1. [(a)] Allocations to CPCs under this Allocation Regime shall consist of fishing opportunities represented as percentage shares of the Total Allowable Catches (TACs) for fish stocks determined by the Commission [and reflected in relevant IOTC Management Procedures or other relevant decision of the Commission following the results of a stock assessment].

[(b)] In the absence of a TAC, the Commission may use a proxy for a TAC for a given fish stock, such as the maximum sustainable yield or other level of exploitation determined by the Commission, for establishing allocations pursuant to this Resolution.

6.2. Allocations to CPCs of a given fish stock shall be established based on allocation criteria contained in articles 6.5 to 6.11, and pursuant to the process set out in articles 9.5. to 9.17. [Such allocations shall be set based on the TAC decision of the Commission for the given stock following each stock assessment for the stock. The allocation shall remain valid until adjustments are made pursuant to Articles 7.1, 7.2 or 7.3, at the beginning of each species cycle designated by the Scientific Committee.]

6.3. Subject to Article 7.3, the sum of allocations for a given fish stock established for a given allocation period pursuant to the Allocation Regime contained in this Resolution shall not exceed biologically sustainable limits, or TACs, where provided, the TAC for that stock for that allocation period.

6.4. [The total initial-Catch-based Allocation shall comprise [%] of the TAC, and the total initial Coastal State Allocation shall comprise [%] of the TAC.]

Criteria for Allocations

6.5. [The allocated share of the TAC for a given stock for each eligible CPC may shall consist of two elements:

- a percentage share of the Catch-based Allocation as defined by criteria provided in articles 6.6 to 6.8, and
- a percentage share of the Coastal State Allocation as defined in criteria provided by articles 6.9 and 6.10 and indicators provided in Annex 3.]

Commented [BN52]: Exclusion inserted in Draft #2 at the request of Indonesia and supported by Omar in TCAC08 and in Indonesia's written comments on Draft #1. The text has been inserted in brackets as objected by the UK, China and others in TCAC08, and by EU in its written comments on Draft #2, and reflecting Australia's reservation stated in TCAC08.

Commented [BN53]: Text added to Draft #2 to address India's request to exclude certain species during TCAC08 and TCAC09 in respect of Draft #1 and #2. Criteria proposed here for exclusion of stocks supported by Maldives in its comments on Draft #1 and by China and the UK in their comments on Draft #2.

Commented [BN54]: Brackets here are related to brackets on paragraph (b)

Commented [BN55]: Changes proposed by the EU and Japan with adjustments by Chair to Draft #1. Maldives proposed deletion in Draft #2 of last part of the provision has been reflected in brackets.

Commented [BN56]: This paragraph had been deleted at the request of Maldives and Japan in Draft #1, the latter being opposed to the use of proxies for use as a basis for establishing allocations. The paragraph has now been reinserted with brackets to reflect opposition by UK to the deletion of the concept of proxies. Other similar changes have been made where the concept of proxies was found in the text.

Commented [BN57]: Last sentence inserted in brackets to reflect Maldives' request for deletion in Draft #2. The second sentence of this article is repetitive of the content of the bracketed text in 6.1(a). If the latter is retained, this second sentence could be deleted here.

Commented [BN58]: Addition proposed by Maldives in Draft #2.

The Chair would note that the addition of the words "biological sustainable limits, or" as proposed in Article 6.3 appears to suggest that allocations could be set based on shares of limits that are not couched on the basis of TACs (e.g. effort based limits such as day trips or vessel trips). If this is the intent and this addition is accepted by the TCAC, Members may wish to consider adding this alternative to 6.1 and 6.2.

Commented [BN59]: I have reinserted this provision here with brackets. The re-insertion is based on EU comments on Draft #2, but the text has been put in brackets given the comments from the Maldives, China and the EU on Draft #1, as well as the comments from Maldives during TCAC09. For the same reason, I have maintained the brackets on the alternative provisions dividing this section into two and moved to Articles 6.6 and 6.12, as per Maldives suggestion on Draft #1. Delegations have the following choices:

- 1) Keep 6.4 and delete 6.6 and 6.12 – as they are, or amended;
- 2) Delete 6.4 and keep 6.6 and 6.12, as they are or amended; or
- 3) Delete 6.4, 6.6 and 6.12 and leave the determination of the split of the TAC between the 2 criteria (catch based allocation, and coastal state allocation) to the determination of the Commission, for each stock.

For clarity, the intent of the original provision 6.4 (or the combined 6.6 and 6.12, wherever it may be situated in the text, is to assign portions of the TAC to catch based allocations and to Coastal State Allocations. It is an attempt at including weighting in the allocation regime akin to that found in the Coastal States previous proposal. As written in Art 6.4 and equally in the alternative versions divided in 6.6 and 6.12, the provision(s) assumes a split of the TAC betwe...

Commented [BN60]: The UK has sought clarification in its comments on Draft #2 as to whether it is intended to provide a double allocation to SIDS and Least Developing States. The Chair was inspired by the Coastal State proposal when drafting the proposal, in particular the Coastal State Allocation referenced in 6.11 and 6.12 and Annex 3. Under the current draft, Coastal States may be eligible to allocations based on two types of criteria: one...

the sum total of which may be adjusted by factors defined in articles 7.1 to 7.3.]

Commented [BN61]: Reservation flagged by Maldives in Draft #1 and #2 reflected by the brackets. The Chair has changed the word "may" to "shall" at the request of Maldives in its comments on Draft #1.

Catch-Based Allocations

6.6. [The total Catch-based Allocation for a given fish stock shall comprise [%] of the TAC for that stock.]

Commented [BN62]: See comments and reasons for brackets stated for Article 6.4.

6.7. (a) Eligible CPCs ~~may shall~~ receive a Catch-based Allocation established based on the Historical Catches of CPCs determined based on the criteria provided in Article 6.8, ~~adjusted to reflect catches attributed to relevant CPCs that are developing Coastal States pursuant to articles 6.8 and 6.9, and revised pursuant to Article 6.10.~~

(b) The Catch-based Allocation shall be normalised for each eligible CPC as a percentage of the stock specific TAC.

Historical Catch

6.8 (1) (a) ~~Subject to paragraphs (2) and (3), Annex 2 articles 6.9, 6.10 and Article 6.11, the historical catch used to determine a CPC's initial Catch-based Allocation for a given stock shall be based on the best scientific estimates of nominal catch data provided by each CPC and, where relevant, re-estimated through a process approved by the Commission determined by the Scientific Committee for each stock caught in the IOTC area of competence, and averaged over the following periods:~~

(i) ~~For Tropical Tuna stocks:~~

[Option 1: 2000-2016,

Option 2: 2012-16,

Option 3: best 5 years averaged from within the period 1950-2016.]

(ii) ~~For other stocks:~~

Best 5 years averaged from within the period of 1950 to [xx].]

Commented [BN63]: These changes are to reflect the views expressed by many that the concern with ensuring that the catch history period not include years more recent than 2016 were in reference to tropical tunas only, and that therefore the catch history period could be different for tropical tunas than for other stocks.

All options have been put in brackets to reflect the various opposing views and suggested deletions.

Commented [BN64]: The Chair proposes this edit for consistency with wording proposed in Art 68(3). This partially responds to Indonesia's question regarding this provision, but more discussion may be required to determine how best to estimate the catches from such IUU vessels.

The Chair's experience has been that such estimates can be determined based on joint processes that combine compliance experts and scientific experts, which catches are then factored in stock assessments. The wording proposed in 6.8(1)(a) proposes that any process for re-estimating nominal catch data should be approved by the Commission. Perhaps this same process could be tasked with estimating IUU catches for the purpose of applying this paragraph (b).

For more clarity, a cross reference to the Resolution that enables the identification of IUU vessels would be advisable here.

Commented [BN65]: Moved to Art. 11.4 and adjusted based on discussions during TCAC09 and written comments provided by Members on Draft #2. See more detailed comments in margins of Art. 11.4

~~6.7. (a) The historical catch used to determine a CPC's initial Catch-based Allocation for a given species shall be based on the best scientific estimates of nominal catch data determined by the Scientific Committee for each species caught in the IOTC area of competence averaged over the reference periods listed in Annex 1.~~

(b) In determining the best scientific estimates of nominal catch data, ~~IUU catches taken by identified IUU vessels~~ shall be excluded.

~~(c) The catch history average periods provided in Paragraph 6.7(a) may be revised [from time to time / every xx years] by the Commission, to take into account most recent catch periods.~~

(2) [All historical catches taken within an area under national jurisdiction of a CPC shall be attributed solely to the CPC with jurisdiction over that area, regardless of the flag of the vessels that took and reported such catches.]

Commented [BN66]: NEW Paragraph included at the request of South Africa, Maldives, Australia, Kenya and Mozambique, and supported by other delegations during TCAC08 and TCAC09. Brackets inserted to reflect opposition to the concept as stated by EU, Japan and China in TCAC09. The Chair has made a minor adjustment by referring to the reported catches.

(3) The spatial separation of historical catches, by each CPC, as between areas within and beyond national jurisdiction shall be made on the following basis, excluding those taken by identified IUU vessels:

(a) Where the IOTC Secretariat holds fine-scale spatial information about the distribution of a CPCs' catches, that information shall be used to spatially attribute the catch history;

(b) Any CPC may provide fine scale spatial information to the IOTC Secretariat no later than [xx]. Once vetted by the IOTC Secretariat, that information shall be used to spatially attribute the catch history for that CPC;

(c) Catches reported for 5x5 or 1x1 degree grid squares that:

i) wholly fall within areas under national jurisdiction are to be considered as being taken in areas under national jurisdiction of a coastal State;

ii) wholly fall within the high seas are to be considered as being taken in the high seas;

iii) overlap one or more areas under national jurisdictions of Coastal States and/or the high seas, shall be distributed proportionately by area. In cases where there is disagreement by one or more participants, the supporting evidence shall be provided to, and considered by the IOTC Compliance Committee;

iv) are taken by a coastal State fishing within its own area under national jurisdiction, shall be considered as being taken within that States' area under national jurisdiction.

(d) Catches reported or estimated without associated spatial effort data (as required by IOTC Resolution 15/02, or any superseding Resolution), shall be considered as being taken on the high seas by that CPC. In cases where the flag State is in disagreement with another CPC, supporting evidence shall be provided for consideration by the IOTC Compliance Committee;

(e) Catches by vessels of a coastal State in its coastal fisheries as defined in Resolution 15/02 are assumed to have been taken within the area under the national jurisdiction of that coastal State, irrespective of whether spatial effort data is available.

[Attributed Catch]

[6.9] [X%] of the historical catch of Developed CPCs and Non-coastal CPCs that are listed in Annex 2 for specified fish stocks [taken within the Exclusive Economic Zones of Coastal CPCs that are Developing States and reported to the Commission as catch of those Developed CPCs and Non-coastal CPCs listed in Annex 2] shall be attributed to the relevant Coastal CPCs that are Developing States listed in Annex 2.]

[6.10] The implementation of the attributed catch shall be transitioned for each relevant fish stock over a specified period in the amounts and based on the schedule set out in Annex 2 to the relevant Coastal CPCs that are Developing States listed in Annex 2, to form the basis of their respective Coastal States Attributed Catch.]

Commented [BN67]: NEW provision Paragraph (3) proposed by South Africa, Maldives, Australia, Kenya and Mozambique, based on outcomes of TCAC05 meeting and reflected in Paragraph 38 of the meeting report.

Commented [BN68]: The Chair suggests that this statement is not clear: it is not clear what disagreement is referred to here and which CPC is referred to in this section.

Commented [BN69]: Edits proposed by Chair to clarify meaning.

Commented [BN70]: Additional reference to Resolution 15/02 suggested by Chair for definition of coastal fisheries.

Commented [BN71]:
The inclusion of paragraph 6.8 (2) and (3), if agreed to, would eliminate the need to attribute catches to Coastal States taken inside areas under their national jurisdiction, as one of the key objectives of Articles 6.9 and 6.10. South Africa, Maldives, Australia, Kenya and Mozambique have requested that Art 6.9 and 6.10 be deleted.

The Chair notes that these provisions (6.9 to 6.11) were not only meant to provide for catch attribution to Coastal States for catches taken inside areas under the national jurisdiction of those Coastal States, but also to provide for a step-wise transition for the implementation of the allocations, which had been identified as a priority by some delegations, and reflected in the principle in Art. 3.8 (now 3.12). This concept has now been proposed by the EU to be added to Art. 9.4 (c), in its written comments on Draft #2, which the Chair has accommodated.

Given the above, the Chair proposes to delete 6.9 and 6.10, put in brackets 6.8(2) and (3) and add 9.4(c) and put in brackets Annex 2, as reflecting the various and opposing views on the concepts of catch attribution of catches taken inside Coastal States EEZs and the step-wise implementation of the allocations.

The following articles have been renumbered accordingly.

Commented [BN72]: Option 2 was eliminated as it did not provide solutions to the issues raised by delegations.

6.9. ~~The Coastal States Attributed Catch shall be shared by CPCs that are developing coastal States based on the criteria set out in article 6.11 and indicators provided in Annex 3.~~

~~6.10 The Catch based Allocations of developed non-coastal CPCs shall be revised in accordance with the amounts and schedule provided in Annex 2.~~

Coastal State Allocation

6.9. ~~[The total Coastal State Allocation for a given fish stock shall comprise [%] of the TAC for that stock.]~~

6.10 ~~[In addition to the Catch base Allocation, (1) To address the particular vulnerability and dependency of developing coastal States on the fish stocks listed in Annex 1, coastal State CPCs that are Coastal States shall be eligible to receive a share of the TAC [for fish stocks that occur in their Exclusive Economic Zones], which may shall comprise one or more of the following components:~~

- (a) ~~[35% / 45%] of the Coastal State Allocation to address their interests and aspirations as Coastal State CPCs, to be shared in equal portion by all Coastal State CPCs as per Annex 3;~~
- (b) ~~[47.5% / 55%] of the Coastal State Allocation dedicated to coastal State CPCs that are developing coastal States, in particular Small Island Developing States and Least Developed States, to address their needs and dependency on the fish stocks listed in Annex 1 and the fisheries for these stocks, to be shared based on internationally agreed upon the indicators described in Annex 3; and~~
- (c) ~~[[17.5% / 0%] of the Coastal State Allocation dedicated to Coastal State CPCs that are Coastal States to address their rights and status as Coastal States, to be shared based on the indicators in Annex 3.]~~

~~(2) Subject to Article 11.3, Annex 3 may be amended by the Commission to replace the indicators with alternative more precise internationally agreed upon indicators reflective of the dependency of developing Coastal State CPCs on the fish stocks and the fisheries for these stocks, as data necessary to implement such alternative indicators become available. Allocations of developing coastal State CPCs shall be adjusted to reflect the new indicators once approved by the Commission.~~

~~(3) At the beginning of a new allocation period, a Coastal State CPC that is a developing State may seek to have its allocation under Paragraph 6.10(1)(b) for a given stock adjusted for that stock to reflect changes in statistics related to its dependency on fish stocks listed in Annex 1 or fisheries for such stocks. In such a case, the CPC shall submit a formal documented request to the Secretariat at least 60 days before the Commission meeting to seek to have its dependency statistics changed and its allocation adjusted by the Commission.~~

Correction for Extenuating Circumstances

6.11. ~~At the beginning of an allocation period, a Coastal State CPC that is a developing State and whose ability and capacity to fish for stocks covered by this Resolution during the catch~~

Commented [BN73]: The Chair proposes these new provisions. They are meant to implement art. 3.12 of the Allocation Principles. The details of Annex 2 would need to be discussed/negotiated and agreed upon, and reflected in the Implementation Plan, as proposed by the EU under Article 9.4 (c).

Commented [BN74]: See comments on 6.4 and 6.6 for reasons for this provision and the brackets.

Commented [BN75]: The Chair takes note of the offer by South Africa, Maldives, Australia, Kenya and Mozambique to provide text to replace what is now article 6.10 and Annex 3. When this text is submitted as a proposal to the TCAC, the Chair will revise the text accordingly. In the meantime, brackets have been inserted around Article 6.10(1)(a) to (c) and Annex 3 to reflect the lack of consensus on these provisions at this stage.

Commented [BN76]: Text added in response of Seychelles comments during TCAC09

Commented [BN77]: Proposed by China during TCAC08, opposed by India in TCAC09 and proposed to be deleted by Maldives in its comments on Draft #2. The text has accordingly been put in brackets.

Commented [BN78]: Deletion proposed by Maldives in Draft #2

Commented [BN79]: Changes made in response to comments from Maldives and Sri Lanka in Draft #1.

Commented [BN80]: Text proposed in response to comment from EU on Draft #2 and India's comment during TCAC09 that such indicators should be those adopted by the UN.

Commented [BN81]: Paragraph added in response to comments from Maldives in Draft #1 and change made in response to comment from the EU on Draft #2.

One question for Maldives: Should the TCAC agree to new indicators provided by coastal States in future meetings of the TCAC, will this Art 6.10(2) still be required?

Commented [BN82]: This article was originally inserted to reflect comments from Maldives in relation to Article 10 in Draft #1. It was then inserted as Art. 7.4. as an adjustment to an allocation.

While the EU suggested that Art. 7.4 be deleted in its comments on Draft #2, they had suggested that the idea contained in 7.4 could be retained in their comments during TCAC09, if the adjustment could only be made when a new allocation period commences. Maldives agreed with this idea in TCAC09. As a result, the Chair has made the changes discussed and moved this provision to this Article 6.10(3). Brackets have been removed on the assumption that this resolves the outstanding difference of views on this provision.

Commented [BN83]: Proposed by EU in Draft #2.

Commented [BN84]: As some delegations had requested that this provision be open to all CPCs (see EU written comments on Draft #1, and comments from others during TCAC08, the Chair had proposed to delete these words, however, Maldives has opposed this deletion, hence the initial wording has been inserted in brackets.

The remaining changes to this Article were proposed by Maldives in Draft #1 and #2, including the last part of the paragraph which was co-drafted with the EU for changes to Draft #1. Further changes have been proposed by both Members in respect of Draft #2. Proposed deletions by one or the other Member reflecting conflicting views has been put in brackets.

history reference period referred to in Article 6.8 has been ~~has demonstrated to have been directly and~~ severely restrained or impeded by extenuating circumstances, such as:

- (a) engagement in war or other military conflicts;
- (b) engagement in civil conflicts;
- (c) wide spread piracy in the fishing area;
- (d) environmental disasters, such as a tsunami;
- (e) impacts of climate change,

directly affecting the fishing capacity, may subject to a formal documented request provided to the Secretariat [at least 60 days before the Commission meeting] and subject to the [explicit] approval of the Commission, ~~the approval of the Commission~~ seek to have its [allocation /catch history]allocation for that stock corrected [based on the average catch taken within the catch history reference period by CPCs ~~developing coastal States~~ for the same stock.]

New Entrants

6.12. The Commission may ~~set aside a portion of a TAC that has increased from the previous TAC~~ period, to be allocated, as a Special Allocation, to an eligible New Entrant as defined in Article 4.3, where ~~the~~such a New Entrant:

- (a) submits a written request to the Commission for an allocation of a given stock;
- (b) provides nominal catch data for the fish stock for which it is seeking an allocation and which has been verified by the ~~Commission~~ Scientific Committee;
- (c) [expressed and demonstrate]d a real interest in the fishery for that stock at the time it sought accession to the IOTC;]
- (d) [pays its annual contribution to the Commission;] and,
- (e) complies with the CMMs, as determined by the Compliance Committee.

6.13. The Commission may allocate shares of the Special Allocation referenced in Article 6.12 to each New Entrant in the year that the Allocation Regime is applied to TAC is reviewed for the stock.

6.14. [New Entrants shall share in equal proportion, any Special Allocation set aside by the Commission pursuant to articles 6.12. and 6.3.]

Article 7. ADJUSTMENTS WITHIN ALLOCATION PERIOD

7.1 Over-catch

(a) Over-catch of a fish stock by a CPC or New Entrant in a given calendar year (n) within an allocation period shall be deducted from that CPC's or New Entrant's allocation for that stock in the following [calendar year within the same allocation period / OR allocation period] [at a ratio of 1.2:1 /OR by 120%] of the over catch.

(b) A CPC or New Entrant may seek to defer this deduction to the next calendar year (n+2) within the allocation period, in which case, the deduction ~~ratio will~~ shall be increased [to a ratio of 1.5:1 /OR by 150%] of the over catch.

Commented [BN85]: A few delegations have raised questions as to how this Special Allocation would be determined. Under the current draft, the determination of whether and how to set a special allocation is left at the Commission's discretion. The trigger to consider this is when a TAC for a given stock increases. More discussion is required for the Chair to propose text with more detail. Alternatively, a delegation may propose text.

Commented [BN86]: Changes to paragraph (b) and brackets to (c) and (d) proposed by Maldives in Draft #2

Commented [BN87]: To address EU question on Draft #2

Commented [BN88]: Change proposed by the Maldives in Draft #1 and #2.

Commented [BN89]: Brackets to demonstrate opposition to equal sharing of the Special Allocation by Maldives in Draft #1

(c) ~~Where a CPC or New Entrant over-catches a given stock for [three / two] consecutive calendar years, shall result in an~~ allocation of that CPC or New Entrant for the [fourth / third] year of the allocation period (n+3) shall be deducted ~~in of~~ [at a ratio of 2:1 / OR by 200%] of the overcatch, and deferral shall not be permitted.

Commented [BN90]: Maldives proposed 3 consecutive years in a row in its comments on Draft #1. The EU proposed 3 years in its comments on draft #1. Both options have been inserted in brackets.

(d) Any outstanding over-catch of a stock from an allocation period shall be deducted from the first calendar year of the following allocation period, based on the relevant ~~ratio~~ percentages referred to in paragraphs 7.1. (a) to (c).

Commented [BN91]: EU has proposed deletion of this paragraph in Draft #2. Brackets have been inserted given China's earlier comments.

Commented [BN92]: Several changes have been made to this provision. The Chair added New Entrants to the application of the provision, which had been inadvertently left out in Draft #1.

(e) Catch Reporting:

The calculation of the penalty has been clarified in response to the UK's questions and comments:

(i) To ensure proper monitoring of IOTC allocations, CPCs and New Entrants shall report catches of allocated stocks on a quarterly basis based on a schedule and requirements determined by the Commission for each stock. When reaching 100% of its allocation, the CPC shall close its fishery for that stock and inform the IOTC Secretariat of its decision.

- 1) in terms of the applicable percentage or ratio, whichever Members of the TCAC prefer,
- 2) clarifying that this formula (% or ratio) applying to the over-catch; and,
- 3) in terms of the period in which the penalty shall be imposed.

(ii) Where a CPC or New Entrant has exceeded its allocation and over-catch penalties have been imposed pursuant to paragraphs 7.1 (a), (b) or (c), that CPC or New Entrant shall, in the subsequent calendar year where ~~overages~~ adjustments have been applied, monitor and report its catches for that stock to the Secretariat on a monthly basis after 50% of its allocation has been caught, to ensure catches over the adjusted allocation do not occur.

The penalty formula has been put in brackets to indicate a choice to be made by the Members, however, the result of the calculation should be the same. A percentage or ratio of the over caught fish (e.g. % of tonnes of over caught fish) shall be deducted from the following year's allocation for that CPC or New Entrant.

The changes proposed by the EU in respect of the references to the allocation period during which over-catch may take place and when penalties may be imposed (n; n+2) assume that the allocation period will be 3 years. The Chair assumes that this is the average number of years before stock assessments are reviewed and catch limits may be adopted. Further consideration of this text may be needed if this period is not consistent for all stocks. If an allocation period for one stock is 5 years, what happens if the over-catch occurs in year 4?

7.2. Serious Non-Compliance

(a) The Commission ~~may~~ shall temporarily withdraw eligibility to an allocation of any CPC or New Entrant ~~or reduce its allocation~~, where the Commission determines that the CPC or New Entrant has demonstrated ~~serious, systematic repeated~~ or gross disrespect of the IOTC's Conservation and Management Measures ~~adopted by IOTC Resolution, or disrespect of such measures which pose a serious threat to the conservation of IOTC fish stocks.~~

Commented [BN93]: The Chair suggests the term adjustments, as the term "overages" has not been used in this Resolution.

Commented [BN94]: New Section drafted in response to comments from the UK on Draft #1 and further explained in comments on Draft #2. Brackets inserted to reflect Maldives reservation raised during TCAC09.

(b) ~~The Commission shall identify violations that constitute serious non-compliance which shall lead it in determining whether to either~~ temporarily withdraw eligibility of a CPC or New Entrant to an allocation ~~or reduce the allocation by an amount to be determined by the Commission, based on advice and recommendations from the Compliance Committee. The Commission may consider~~ ~~it~~. In making this determination, the Commission shall factor the following examples of serious ~~and systematic~~ non-compliance:

Commented [BN95]: A few delegations have raised the need to exclude situations where a CPC has lodged an objection to the allocation and is not bound by the quota allocated to it (notably ...

Commented [BN96]: The option of reducing the CPC allocation has been added here and in paragraph 7.2(b) to reflect the request from the UK, the EU and Japan during TCAC09 to implement this ...

(i) Repeated and persistent over-catch or underreporting, with refusal to adjust their allocation in accordance with Article 7.1, or where no concrete actions are taken to remediate;

Commented [BN97]: Change proposed by EU in Draft #2. The words systematic was also deleted from paragraph (b).

(ii) ~~Long term~~ Non-provision of data ~~for 3 years or more~~ with no concrete actions taken to address the data gaps;

Commented [BN98]: Words to address China's comment on the definition of CMM in Draft #1.

(iii) Persistent non-payment of contributions to the Commission in accordance with Article XIII of the Agreement.

Commented [BN99]: Changes proposed by the EU in Draft #1, adjusted by the Chair.

Commented [BN100]: Changes proposed by the Maldives in Draft #1.

(c) The Commission ~~may~~ shall reinstate a CPC's or New Entrant's allocation that has been temporarily withdrawn ~~or reduced~~, where:

Commented [BN101]: Brackets reflecting deletion requested by the UK in Draft #1 and opposed by the EU in Draft #2.

- (i) the CPC or New Entrant has fully addressed the non-compliance issue; and,
- (ii) the CPC or New Entrant has made a request in writing to the Commission for reinstating their allocation, providing information related to steps taken to address the non-compliance, ~~as outlined in Paragraph 7.2(b).~~

Commented [BN102]: Added the words "or reduced" to reflect the changes proposed in 7.2 in Draft #2, providing a choice for the Commission to either reduce a CPC's allocation or temporarily withdraw its eligibility to the allocation.

Commented [BN103]: Words no longer needed as the non-compliance that may be the subject of loss of eligibility would be defined by the Commission as per 7.2.(b).

7.3 Adjustments based on Changes to TACs

~~When the TAC for a given species changes above or below a threshold set by the Commission and reflected in its Management Procedure for the species, this shall result in proportionate adjustments to allocations of CPCs as follows:~~

~~(i) [%] CPCs that are developed States;~~

~~(ii) [%] CPCs that are developing Coastal States~~

7.3 Adjustments for Extenuating Circumstances

~~(1) A CPC may, when the TAC from the previous calendar year has not be fully caught, seek to have its allocation for a given fish stock adjusted during the allocation period for the stock, if it can demonstrate to the Commission that its ability and capacity to fish the allocation during a calendar year within the allocation period for the stock has been directly and severely restrained or impeded by extenuating circumstances described in Article 6.13.~~

~~(1)(2) In such a case, the CPC shall submit a formal documented request to the Secretariat at least 60 days before the Commission meeting to seek to have the under-harvested part of its allocation for that calendar year carried forward and added to the following calendar year's allocation of the stock for that CPC [in an amount not exceeding xx% of the TAC factoring in the status of the stock].~~

7.4. Changing Statistics

~~A developing Coastal CPC may seek to have its allocation under Paragraph 6.10(1)(b) for a given stock adjusted within the allocation period for that stock to reflect changes in statistics related to its dependency on fish stocks listed in Annex or fisheries for such stocks. In such a case, the CPC shall seek to have its dependency statistics adjusted and its allocation adjusted by the Commission.~~

Article 8. ALLOCATION TRANSFERS AND USE

~~8.1 (a) CPs who wish to transfer, on a temporary basis, a portion or all of their allocations within an allocation period, shall notify the Commission in writing [XX days] prior to the transfer occurring.~~

~~(b) The written notification of the CP shall include the amount tonnage of fish to be transferred; the stock; the period; and, the CP to whom the allocation, or part thereof, will be transferred.~~

~~(b) The receiving CP shall notify its acceptance of the transferred allocation to the Commission within [xx days] prior to the transfer occurring.~~

~~(c) The transfer shall take effect upon receipt by the Secretariat of the written acceptance from the receiving CP.~~

~~(d) The Secretariat shall share the written notifications with all CPCs within [xx days] of the receipt. The written notification and the written confirmation shall be circulated to the Commission.~~

~~(e) When a transfer is notified after the allocation table has been approved by the Commission pursuant to Article 9.17, the Secretariat shall attach a revised allocation table when it shares the written notifications of the transfer with the Commission.~~

Commented [BN104]: This provision was originally proposed as a means of adjusting allocations following "in cycle" TAC adjustments where the harvest control rules (PA decision rules) in the PA framework for a stock allows for TAC adjustments within the stock cycle when the TAC exceeds or is below specified thresholds. The Chair recognizes however, that this may introduce a level of complexity that may not be required in the IOTC allocation regime.

The Article was deleted in Draft #2 at the request of Japan, the EU and Maldives in their written comments on Draft #1.

Commented [BN105]: Words deleted as repetitive in the title of this section. The Chair has also restructured the section into 2 subparagraphs to improve the reading of the provision.

Commented [BN106]: The UK had requested in Draft #1 that this underage be transferred to the next calendar year subject to the TAC not having been fully caught.

The intent, as the Chair understands, is to avoid putting extra pressure on the stock for the next calendar year. Conditioning the approval to the past year's TAC not being fully caught may not address the concern. The Chair had proposed instead in Draft #2, that the decision to allow the underage to be transferred to the next calendar year by subject to advice from the Scientific Committee. The Committee can provide advice to the Commission on the potential impacts that such a transfer may or may not have on the stock. The Scientific Committee could then refer to the test provided in Article 6.3.

In this new draft, the Chair has replaced the wording related to the TAC not being fully caught as proposed by the UK. In response to the UK's questions on Draft #2, the Chair notes that there may be cases where the TAC has been fully caught and the request for a transfer of underages (un-caught allocation), while resulting in exceeding the overall TAC, may not be sufficiently important to have negative or significantly adverse impact on the stock. Linking the possibility of the adjustment for exigent circumstances to the TAC only may unnecessarily restrict it. Conversely, even if the TAC has not been fully caught in one year, there may be scientific reasons why transferring the underage to the next year may put unacceptable risks on the stock (e.g. a very high underage in the context of low recruitment anticipated for that year). The Chair's proposed wording referencing the advice of the Scientific Committee would provide more flexibility to achieve the same goal, and would be consistent with the test provided by Article 6.3. However, the Chair recognizes the benefits of linking the adjustment to the TAC only as it provides for a scope of applicati...

Commented [BN107]: See my comments on Article 6.11.

Commented [BN108]: As per China's request supported by Philippines in Draft #1 and supported by the EU in Draft #2, a limit suggested to ensure that carry forwards are not putting unsustainable pressure on the stock, as per ICCAT's experience. Brackets included at the request of Maldives during TCAC08.

Commented [BN109]: Added words at the request of the EU during TCAC09.

Commented [BN110]: This article was originally inserted to reflect comments from Maldives in relation to Article 10 in Draft #1. It was then inserted here as Art. 7.4, as a criteria or mechanism to enable an adjustment to the allocation.

Commented [BN111]: The Chair apologizes for the format glitches in the order of the paragraphs of this provision in Draft #2. This has been corrected.

Commented [BN112]: Deleted at UK's request.

Commented [BN113]: Paragraph deleted and content merged in paragraph (c) as proposed by Maldives in Draft #2

Commented [BN114]: New Article from Japan, with adjustments from the Chair in Draft #1, put in brackets as proposed to be deleted by Maldives in Draft #2.

~~(f) Transfers of allocations are not permitted within the last 45 days of the allocation cycle.
(f) The written notification of the CP shall include the amount of fish to be transferred; the species; the period; the gear type to be used; and, the CP to whom the allocation, or part thereof, will be transferred.~~

Commented [BN115]: Proposed by Maldives in TCAC09.

Commented [BN116]: Gear type deleted at UK's request in Draft #1.

Commented [BN117]: Paragraph moved up to paragraph (b) and amended as proposed by Maldives in Draft #2

(g) Permanent transfers of allocations are not permitted.

~~[(h) A CP who has received a transferred allocation may not transfer this allocation or a portion thereof to a CPC or New Entrant.]~~

Commented [BN118]: Addition at request of China in Draft #1. Brackets inserted to reflect proposed deletion from Maldives in its comments on Draft #2.

~~[(i) A transferred allocation or portion thereof. This Resolution shall not be considered a precedent for future allocation decisions.]~~

Commented [BN119]: Edit proposed by Maldives in Draft #2, whereas the EU has proposed the deletion of the paragraph in its comments on Draft #2. As a result, this provision has been inserted in brackets.

8.2 CNCPs and New Entrants are not eligible to transfer any whole or part of their allocations, nor to receive any whole or part of an allocation from CPCs or New Entrants.

8.3 A CPC or New Entrant that does not intend to fish, transfer, or preserve its allocation for conservation purposes, in a ~~given allocation calendar year~~ period, ~~is encouraged to may shall~~ notify, ~~on a voluntary basis~~, the Commission in writing, within xx days of the Annual meeting of the Commission. The unused allocation shall be re-allocated in accordance with Article 9.12.

Commented [BN120]: Revisions based on comments from France (OT) on Draft #1 and discussion during TCAC09, in response to proposed edits from Japan.

~~[8.4 Allocation transfers shall not prejudice the determination of future allocations of CPCs.]~~

Commented [BN121]: Addition at request of Maldives in Draft #1 and put in brackets to reflect the proposed deletion of the concept from the EU in Draft #2.

Article 9. IMPLEMENTATION

Priority Fish Stocks

9.1. Allocations shall be established as a matter of ~~first~~ priority for the ~~following fish stocks listed as first priority in Annex 1, species:~~

- ~~(a) yellowfin tuna;~~
- ~~(b) bigeye tuna;~~
- ~~(c) skipjack tuna;~~
- ~~(d) albacore tuna;~~
- ~~(e) swordfish.~~

Commented [BN122]: As discussed in TCAC08, the list of immediate priority fish stocks – i.e. the tropical tunas - has been inserted in the Annex, instead of the text of the Resolution. The timeframe and order of priority for establishing allocations for other fish stocks listed in Annex I will be determined by the Commission based on criteria found in article 9.2.

9.2. The Commission may determine an order of priority for the remaining fish stocks pursuant to Article 5.1 and Annex 1, for which it will gradually implement allocations. In determining the order of priority, the Commission shall consider the advice from the Scientific Committee, and factor in:

- (a) the availability and reliability of data for the remaining fish stocks;
- (b) the status of the stocks;
- (c) the stock assessment cycles; and
- (d) the need to manage the workload of the Commission by rotating the timing of various TAC decisions.

9.3. The Commission may amend Annex 1 to reflect these implementation priorities.

Implementation Plan

Commented [BN123]: Brackets inserted to reflect Maldives opposition to the Implementation Plan in Draft #2 while others supported it.

9.4. (a) Prior to the coming into force of this Resolution, the Secretariat shall prepare for the Commission's approval, an Implementation Plan for establishing allocations factoring in the priority list of fish stocks contained in Annex 1 and additional priorities approved by the

Commission pursuant to Article 9.1. The Implementation Plan may be amended from time to time, to add fish stocks to the priority list based on decisions of the Commission.

(b) The Implementation Plan shall include:

(i) a schedule for setting TACs [or appropriate proxies], as per the schedule of stock assessments for each stock and the advice of the Scientific Committee;

(ii) a draft template for allocation tables;

(iii) information and data requirements for establishing TACs and allocations beyond current data requirements of the IOTC; and,

(iv) proposed strategies for addressing data gaps required to be addressed to enable the Commission to establish TACs and allocations for fish stocks, as needed.]

(c) In accordance Article 3.12, the Implementation Plan shall foresee a step-wise approach for the full implementation of the allocation regime by establishing a progressive transition period of no less than 5 years on the basis of the schedule and formula described in Annex 2.

Allocation Process and Catch Validation

[Allocation Committee

9.5. Pursuant to Article XII.5 of the Agreement, the Commission hereby establishes the Allocation Committee to support the Commission's process for allocating IOTC fish stocks to CPCs and New Entrants.

9.6. The mandate of the Allocation Committee shall include:

- (a) to adjust and make corrections to the allocations consistent with this Resolution; and,
- (b) to provide advice and recommendations to the Commission for decisions it is mandated to make pursuant to this Resolution.

9.7. Membership and Terms of Reference for the Allocation Committee are provided in Annex 4. A process map for the allocation process and catch validation is included as Appendix 2.]

Implementation Plan

9.8. During its first meeting following the adoption of this Resolution, the [Allocation Committee /OR Commission] shall review [and provide advice and recommendations to the Commission in respect of the adoption of /OR and adopt] the Implementation Plan drafted by the Secretariat in accordance with ~~a~~Article 9.4. [Thereafter, the Allocation Committee shall provide advice and recommendations to the Commission on any amendments that may be proposed to /OR Thereafter, the Commission may review and make any amendments to] the Implementation Plan.

Allocation Tables

9.9. (a) XX days prior to the commencement of the allocation period for each fish stock, and in accordance with the Implementation Plan referenced in articles 9.4 and adopted pursuant to Article 9.8, the Secretariat shall develop draft Allocation Tables for each stock to be allocated

Commented [BN124]: The concept of proxies in lieu of TACs was opposed by Japan, however, UK has asked that it be retained in its comments on draft #2, hence the re-insertion of the text, within brackets, in article 6.1(b) and here.

Commented [BN125]: New text proposed by the EU in respect of Draft #2. The Chair understands this provision as replacing the step-wise implementation concept that had been included in Art. 6.9 and 6.10 now proposed to be deleted. As no formula was provided for this step-wise implementation, the Chair has linked this new provision to Annex 2, yet to be drafted, as more discussion is required in this regard.

Commented [BN126]: Article 9.5 to 9.18 contain 2 options throughout.

While some delegations have expressed reservations on the concept of an Allocation Committee (Japan in respect of Draft #1) and some delegations have opposed the idea (South Africa, Maldives, Australia, Kenya and Mozambique in their comments on Draft #2), other delegations have supported the concept be included in the text notably the EU, China, the UK and Thailand.

Given the different and opposing views expressed on Draft #1, the text in Draft #2 which contained the concept of an allocation committee was put in brackets, and alternative text was added by the Chair throughout Article 9 in Draft #2 to reflect 2 options for a decision-making process: one involving an Allocation Committee as originally proposed by the Chair; and, one which sees all decisions related to allocations referred directly to the Commission at its annual meeting.

For clarity, such decisions include the following:
- approval of allocation tables, including any data validation and reconciliation, and
- decisions in response to requests made pursuant to articles: 6.11, 6.12-6.14, 7.2(c)(ii), and 7.3. Note that decisions referenced in these provisions involve some form of discretionary authority on the part of the Commission.

In each of these articles, a reference is made to a decision to be made by the Commission following some form of request or application by a CPC or New Entrant. From what I heard in the discussions to date, there was a desire for these issues to be matters for the discretion of the Commission, to be determined on a case by case basis, as opposed to automatic rights built into the allocation regime. Members may choose to have these matters discussed, debated in a subcommittee of the IOTC (e.g. Allocation Committee) and recommendations made to, and allocation tables reflecting these to be approved by, the Commission, or, they can be discussed, debated and decided at the Commission table.

In addition to these decisions, catch reconciliation when establishing allocation tables can be a tedious job. Members may wish to consider whether they wish to task the Commission with this work and take up valuable time of the Commission during its annual meeting, or whether another body would be best suited for this. In the absence of an Allocation Committee as proposed by some Members, this may be a job for the Secretariat. More direction is needed for the Chair to conclude the drafting of this issue. Ideally, this work should be done before the Commission considers the allocation tables for approval during its annual meeting.

The option involving an Allocation Committee would see the committee work through the technical issues associated to these matters and make recommendations to the Commission for it to make decisions at its annual meeting. If Members prefer having the process go directly to the Commission, articles 9.5-9.7 would be deleted and the references to the committee in other portions of Article 9 now in brackets would be deleted.

pursuant to this Resolution for that period, based on the TAC decisions of the Commission for such stocks.

(b) The draft Allocation Tables shall include allocations for each eligible CPC established pursuant to the criteria in this Resolution, including any adjustments pursuant to Article 7, and any corrections requested pursuant to Article 6.11.

(c) The draft Allocation Tables do not confer allocation rights to CPCs until they are approved by the Commission.

9.10. Eligible CNCPs and New Entrants that wish to be considered for allocations under articles 6.6 to 6.10, shall send a letter of application to the Commission at least xx days prior to the annual meeting of the [Allocation Committee / OR Commission].

9.11. The Secretariat shall also include in the Allocation Tables:
 (a) any transfers notified xx days prior to the Commission's annual meeting pursuant to article 8. The Secretariat shall adjust the allocation tables with any transfers notified after this deadline and circulate to Commission in accordance with Paragraph 8.1 (d); and,
 (b) any requests for allocations submitted by CNCPs and New Entrants pursuant to Article 9.10.

Commented [BN127]: Changes reflecting comments from Japan on Draft #1 and adjusted to reflect changes made to article 8.1 in Draft #2.

9.12. Upon receipt of the notification in Article 8.3., the Secretariat shall revise the relevant Allocation Tables by reallocating the proposed unused allocation to other CPCs based on the relevant allocation criteria.

[Annual Meeting of the Allocation Committee

Commented [BN128]: See comments on Allocation Committee immediately before Article 9.5

9.13. The Allocation Committee shall meet annually, prior to the Commission's Annual Meeting.]

9.14. XX days prior to the annual meeting of the [Allocation Committee / OR Commission], the Secretariat shall share with [the Members of the Allocation Committee / CPCs] information and recommendations emanated from the Compliance Committee regarding non-compliance of CPCs and New Entrants for consideration by the [Allocation Committee / OR the Commission] in accordance with Article 7.2, and any requests made pursuant to articles 6.11, 6.12 to 6.14 and 7.3.

9.15. The Secretariat shall update the Allocation Tables with any information submitted to the Commission in accordance with Article 9. It shall post the updated Allocation Tables on the IOTC Website at least xx days prior to the [Allocation Committee / OR Commission] annual meeting.

9.16. CPCs may seek revisions or corrections to the Allocation Tables from the [Allocation Committee / OR Commission / OR Secretariat] to reconcile and validate catch data compiled and reported to the Commission.

Commission Approval

9.17. The Secretariat shall prepare final draft Allocation Tables for each stock reflecting the outcomes of the [Allocation Committee / OR Commission] meeting and submit them for decision approval by the Commission at its annual meeting.

9.18 (a) At its annual meeting, the Commission shall ~~consider~~ the recommendations of the Allocation Committee ~~/ OR consider any requests made pursuant to articles 6.11, 6.12 to 6.14, 7.2(c)(ii), and 7.3~~ in approving the Allocation Tables submitted by the Secretariat.

(b) The final Allocation Tables, including any decision by the Commission, shall be made public as soon as possible after the Commission's decision.

(c) The allocations contained in the Allocation Tables approved by the Commission constitute the final allocations of CPCs and New Entrants for the Allocation Period for the stock.

Article 10. ALLOCATION PERIOD

10.1 Subject to ~~in-period adjustments made pursuant to Article 7.2, and any in-period adjustments made pursuant to article 7.1~~, each allocation for a given fish stock ~~made and approved pursuant to this Resolution~~ shall remain valid for the ~~period determined by the Commission for that stock. In the absence of a specified period, the allocation shall remain valid for the same~~ period as the TAC ~~period~~ [or proxy] established for the fish stock. ~~and reflected in the management procedure for the species.~~

Article 11. FINAL CLAUSES Coming into Effect

11.1. This Resolution shall come into ~~effect~~ force on [date] ~~within the timeline provided by Article IX of the Agreement~~

Term and Amendment of Resolution

11.2 Subject to Article 11.3, (1) The Allocation Regime contained in this Resolution shall be reviewed after [~~10~~ / OR 5 years] of its entry into ~~effect~~ force, and every [X years] thereafter.

[(2) This term may be extended by decision of the Commission every [X] years thereafter, subject to Article 11.3, and may be amended by decision of the Commission.]

11.3 In reviewing the Allocation Regime pursuant to Article 11.2, the Commission shall consider whether the implementation of the Regime and the resulting allocations have achieved the purpose provided in Article 2, and whether they have met the guiding principles set out in Article 3. ~~The term of the Allocation Regime contained in this Resolution may be extended by periods of 5 years.~~

11.3 The Allocation Regime ~~may be amended by decision of the Commission [after the initial term set out in Article 11.2(1)] to ensure that the allocation is recognizing the interests, aspirations, needs and special requirements of Developing States, in particular Least Developed States and Small Island Developing States that are coastal States. [In this respect, the Allocation Regime shall remain in effect until amended or replaced by the Commission.]~~

[11.4 The catch history average periods provided in Paragraph 6.8(1)(a) may be revised after the initial term set out in Article 11.2(1), on intervals determined by the Commission, to take into account most recent catch periods.]

Commented [BN129]: Changes made to Draft #2 based on comments from Maldives on draft #1.

Commented [BN130]: The word "proxy" which had been proposed to be deleted by Japan in respect of Draft #1 is reinserted with brackets to reflect the opposition to deleting the concept in 6.1(b) by the UK.

Commented [BN131]: Changes made in Draft #2 to reflect Maldives' comments on Draft #1.

Commented [BN132]: The Chair has noted that there appears to be some confusion about the nature of the term discussed in this Article. As a result, the Chair proposes the addition of the words of Resolution to the title.

The term in this Article is proposed to refer to the duration of the Allocation Regime (i.e. this Resolution), as opposed to, or distinct from, the duration of allocations issued pursuant to this Regime (Resolution). The duration of allocations would be covered by Article 10. The duration of the Regime would be covered by Article 11. Presumably, the duration of the Regime would be lengthier than allocations, which would provide for some stability to the IOTC and its members.

Commented [BN133]: In its comments on draft #2, Maldives has proposed deletion of articles 11.3 and 11.4 and proposed alternative text to replace Articles 11.2 and 11.3. These changes have been embedded throughout Articles 11.2 to 11.4.

Specifically, text has been added in 11.2(1) and brackets have been added to 11.2(2) to reflect opposing views on this provision.

Details on 11.3 and 11.4 are provided below in each article.

Commented [BN134]: This text had originally been proposed by the Chair in Draft #2 in response to comments from Maldives on Draft #1. As Maldives does not support the Chair's text, the Chair has deleted it and replaced with the old section 11.4 below.

Commented [BN135]: The first change proposed in this article is to make it clear that no amendments to the Resolution (Allocation Regime) would be entertained during the first term. The Chair understands this to be the intent of comments raised by a number of delegations.

Added text to define the scope for review proposed by the Maldives in its comments on draft #2 has been inserted in 11.3.

Brackets were inserted in draft #2 to reflect Maldives opposition to this text in Draft #1.

Commented [BN136]: This provision originally included as Article 6.7 (1)(c) to address Japan's comments on Draft #1 in respect of the need to review the catch history average periods, was moved to this part of the text and adjusted to reflect comments from Japan and the EU during TCAC09. Brackets were inserted to reflect opposition to the article by Seychelles in TCAC09 and by South Africa, Maldives, Australia, Kenya and Mozambique during TCAC09 and their written comments on Draft #2.

Safeguard

11.5 Consistent with Article IV.6 of the Agreement, nothing in this Resolution, nor any act or activity carried out pursuant to this Resolution, shall be considered or interpreted as changing or in any way affecting the position of any party to the ~~IOTC~~Agreement with respect to the legal status of any area covered by the Agreement.

Commented [BN137]: As per comment from Mauritius and accurate reflection of Article IV.6 of the Agreement.

Past Resolutions

11.6 This Resolutions replaces and supersedes the following Resolutions:

- (a) 14/02 (title)
- (b) 03/01 (title)
- (c) Others..

Appendix 1

Commented [BN138]: New Appendix added at the request of the UK in Draft #1, adjusted as per UK comments on Draft #2.

Developing Status will need to be filled in once criteria have been agreed to for the purpose of this Resolution.

IOTC membership by category

<u>CPC</u>	<u>CP</u>	<u>CNCP</u>	<u>COASTAL STATE CPC</u>	<u>NON-COASTAL STATE CPC</u>	<u>DEV STATES</u>	<u>DEV COASTAL STATE</u>	<u>SIDS</u>	<u>LDS</u>
<u>AUSTRALIA</u>	<u>X</u>		<u>X</u>					
<u>BANGLADESH, People's Republic of</u>	<u>X</u>		<u>X</u>					
<u>CHINA</u>	<u>X</u>			<u>X</u>				
<u>COMOROS</u>	<u>X</u>		<u>X</u>					
<u>ERITREA</u>	<u>X</u>		<u>X</u>					
<u>EUROPEAN UNION</u>	<u>X</u>			<u>X</u>				
<u>FRANCE (OT)</u>	<u>X</u>		<u>X</u>					
<u>INDIA</u>	<u>X</u>		<u>X</u>					
<u>INDONESIA</u>	<u>X</u>		<u>X</u>					
<u>IRAN, Islamic Republic of</u>	<u>X</u>		<u>X</u>					
<u>JAPAN</u>	<u>X</u>			<u>X</u>				
<u>KENYA</u>	<u>X</u>		<u>X</u>					
<u>KOREA, Republic of</u>	<u>X</u>			<u>X</u>				
<u>MADAGASCAR</u>	<u>X</u>		<u>X</u>					
<u>MALAYSIA</u>	<u>X</u>		<u>X</u>					
<u>MALDIVES</u>	<u>X</u>		<u>X</u>					
<u>MAURITIUS</u>	<u>X</u>		<u>X</u>					
<u>MOZAMBIQUE</u>	<u>X</u>		<u>X</u>					

<u>OMAN, Sultanate of</u>	<u>X</u>		<u>X</u>					
<u>PAKISTAN</u>	<u>X</u>		<u>X</u>					
<u>PHILIPPINES</u>	<u>X</u>			<u>X</u>				
<u>SEYCHELLES</u>	<u>X</u>		<u>X</u>					
<u>SOMALIA</u>	<u>X</u>		<u>X</u>					
<u>SRI LANKA</u>			<u>X</u>					
<u>SOUTH AFRICA</u>	<u>X</u>		<u>X</u>					
<u>SUDAN</u>	<u>X</u>		<u>X</u>					
<u>TANZANIA</u>	<u>X</u>		<u>X</u>					
<u>THAILAND</u>	<u>X</u>		<u>X</u>					
<u>UNITED KINGDOM of Great Britain and Northern Ireland</u>	<u>X</u>		<u>X</u>					
<u>YEMEN</u>	<u>X</u>		<u>X</u>					
<u>SENEGAL</u>		<u>X</u>		<u>X</u>				

Appendix 2

A process map for the allocation process and catch validation

To be added

Annex 1**Fish stocks to be allocated pursuant to the Allocation Regime**

A. The following stocks of tunas and highly migratory species found in the IOTC area of competence and managed by the IOTC² shall be allocated pursuant to the Allocation Regime of the IOTC provided in Resolution 2023/XX, in the following priority order:

1st Priority List:

1. Yellowfin tuna
2. Big eye tuna
3. Skipjack tuna
4. Albacore tuna
5. Swordfish

B. The following stocks of tunas and highly migratory species found in the IOTC area of competence and managed by the IOTC shall be allocated pursuant to the Allocation Regime of the IOTC provided in Resolution 2023/XX based on the priority order to be determined by the Commission pursuant to Article 9.2:

- Indo-Pacific Blue Marlin
- Black Marlin
- Striped marlin
- Long tail tuna
- Kawakawa
- Frigate tuna
- Bullet tuna
- Narrow barred Spanish mackerel
- Indo-Pacific king mackerel
- ~~Indo-Pacific Blue Marlin~~
- ~~Black Marlin~~
- ~~striped marlin~~
- Indo-Pacific sailfish

Commented [BN139]: This Annex in Draft #1 was amended to reflect the comments seeking to move the priority species in Article 9.1 to the Annex, and make it clear which stocks are to be allocated as an initial priority pursuant to the Allocation Regime, and which shall be allocated as a later priority. Southern Bluefin Tuna has been excluded as it is managed by the CCSBT.

Commented [BN140]: Order shifted to reflect comments from China in TCAC09

Commented [BN141]: Neritic species proposed to be excluded from the Allocation Regime by India during TCAC09, and opposed by China, have been put in brackets.

² Southern Bluefin Tuna has been excluded as it is managed by the Commission for the Conservation of Southern Bluefin Tuna (CCSBT)

[Annex 2]

~~[Schedule for Attribution of Catch from Developed CPCs and Non-coastal CPCs to Developing Coastal CPCs]~~

Step-wise Implementation of the Allocation Regime

1. The implementation of the Allocation Regime shall be transitioned for each relevant fish stock over the following periods in the amounts and based on the schedule set out below for each CPC.
2. At the beginning of each allocation period, the allocations of CPCs for the relevant fish stocks shall be revised in the allocation table in accordance with the amounts and schedule provided herein.

(Details to be negotiated)

]

Commented [BN142]: This Annex is linked to Article 3.12 and 9.4 (c). Further discussion is required to draft this Annex in more detail.

Annex 3

Coastal State Allocation Indicators

1. The following indicators shall be used to calculate the Coastal State Allocation pursuant to Article 6.10 of the Allocation Regime in Resolution 2023/XX:

a) Pursuant to Paragraph 6.10(a), Coastal State CPCs: Status weighting = 1 (an equal portion for each). Proportion = [35% / OR 45%] of the Coastal State Allocation;

b) Pursuant to Paragraph 6.10(b), Coastal State CPCs that are Developing States: Proportion = [47.5% / OR 55%] of the Coastal State Allocation;

- *Human Development Index (HDI) status*: Status weighting = low (1), medium (0.75), high (0.50), Very high (not applicable). Proportion = 30% of the developing coastal States element of the Coastal State Allocation;

- *Gross National Income (GNI) status*: Status weighting = low (1), low-middle (0.75), upper-middle (0.5), high (0.25). Proportion = 30% of the developing coastal States element of the Coastal State Allocation;

- *Small Islands Development Status (SIDS)*: Status weighting = yes (1), no (0). Proportion = 40% of the developing coastal States element of the Coastal State Allocation;

c) Pursuant to Paragraph 6.10(c), Coastal State CPCs: EEZ proportion: In the absence of data supporting an indicator based on stock abundance, the size of the area under national jurisdiction within the IOTC Area of Competence, as a proportion of the overall IOTC Area of Competence. Proportion = 17.5% of the Coastal State Allocation; EEZ size weighting:

- >0.0-≤1.0% of the IOTC Area of Competence (weighting = 1)
- >1.0-≤2.0% of the IOTC Area of Competence (weighting = 2)
- >2.0-≤3.0% of the IOTC Area of Competence (weighting = 3)
- >3.0-≤4.0% of the IOTC Area of Competence (weighting = 4)
- >4.0-≤5.0% of the IOTC Area of Competence (weighting = 5)
- >5.0-≤6.0% of the IOTC Area of Competence (weighting = 6)
- >6.0-≤7.0% of the IOTC Area of Competence (weighting = 7)
- >7.0-≤8.0% of the IOTC Area of Competence (weighting = 8)] 1

Commented [BN143]: Brackets inserted to reflect that South Africa, Maldives, Australia, Kenya and Mozambique have opposed these provisions as written and plan to submit new indicators for the TCAC consideration.

The Chair has noted India's request for indicators to be reflected in values as opposed to ratios. The Chair encourages South Africa, Maldives, Australia, Kenya and Mozambique to consider this request in their re-draft of the indicators before submitting it to TCAC for its consideration.

Commented [BN144]: Brackets inserted to reflect Australia's and the EU's respective reservation and opposition.

Annex 4

Commented [BN145]: Brackets inserted to reflect opposition by some members to the Allocation Committee proposed in Article 9.

Terms of Reference for Allocations Committee

Membership

1. (a) The Allocations Committee of the IOTC established pursuant to Article 9.5 of the IOTC Allocation Regime contained in Resolution 2023/XX shall consist of representatives of CPCs.

(b) Representatives from New Entrants, Observers and Experts may participate in meetings of the Allocations Committee in accordance with the IOTC Rules of Procedure.

Chair

2. The Allocations Committee shall be presided by a Chairperson elected by its members in accordance with the IOTC Rules of Procedure.

Mandate

3. The mandate of the Allocations Committee shall include to adjust and make corrections to the allocations tables prepared by the Secretariat consistent with the Resolution, and to provide advice and recommendations to the Commission for decisions it is mandated to make pursuant to the Resolution.

4. Specifically and consistent with the process established in the Resolution and reflected in the process map in Appendix 2, the Allocation Committee shall review draft Allocation Tables prepared by the Secretariat for each stocks allocated pursuant to the Resolution, and provide advice and make recommendations to the Commission for decisions on the following matters:
 - (a) Implementation Plan drafted by the Secretariat pursuant to Article 9.4;
 - (b) Allocation Tables prepared by the Secretariat pursuant to Article 9.8;
 - (c) Requests from Eligible CPCs to reconcile catch data pursuant to Article 9.12;
 - (d) Requests for allocations by New Entrants pursuant to articles 6.12 to 6.14;
 - (e) Corrections to allocations of a CPC that is a developing coastal State for extenuating circumstances provided in Article 6.11;
 - (f) Allocation adjustments pursuant to articles 7.1, 7.2., and 7.3.;
 - (g) Temporary withdrawal of or reinstatement of an allocation from a CPC or New Entrant for serious non-compliance pursuant to Article 7.2; and
 - (h) Any other matter required by the Commission.

5. The Allocations Committee shall report directly to the Commission on its deliberations and recommendations.
6. The Allocations Committee shall cooperate closely with the IOTC Secretariat and IOTC subsidiary bodies in accomplishing its functions, in particular, the Compliance Committee and the Scientific Committee.

Meetings

7. The Allocations Committee shall meet once a year, prior to the annual meeting of the Commission.

Rules of Procedure

8. The procedures of the Allocations Committee shall be governed mutatis mutandis by the Indian Ocean Tuna Commission: Rules of Procedure (2014), as amended from time to time.¹