
REGARDING THE INTERPRETATION OF RESOLUTION 21/01 IN RELATION TO THE YELLOWFIN TUNA ALLOCATED CATCH LIMITS FOR 2022

PREPARED BY THE SECRETARIAT

ABOUT THE REVISIONS

Rev1: document IOTC-2022-WPICMM05-14 was revised to include comments received from Thailand on 31 January, that were inadvertently not included in the original document.

Rev2: document IOTC-2022-WPICMM05-14_Rev1 was revised to include comments received from the European Union on 3 February.

Rev3: document IOTC-2022-WPICMM05-14_Rev2 was revised to include comments received from the United Kingdom on 31 January, that were inadvertently not included in the original document.

PURPOSE

This document provides background and Member comments to assist the Working Party on the Implementation of Conservation and Management Measures (WPICMM) to deliberate on the interpretation of IOTC Resolution 21/01 para 14a and IOTC Resolution 19/01 para 13b and provide guidance on this matter to the Compliance Committee.

BACKGROUND

In [IOTC Circular 2022-04](#), Seychelles queried the interpretation of paragraph 14a of [Resolution 21/01](#) *On an Interim Plan for Rebuilding the Indian Ocean Yellowfin Tuna Stock in the IOTC Area of Competence*. in relation to the estimated allocated catch limits for 2022 that were posted in [IOTC Circular 2021-78](#). Seychelles has a similar issue with paragraph 13b of Resolution 19/01, the preceding yellowfin rebuilding resolution.

Seychelles is querying the interpretation of paragraph 14a text which determines the deduction of over-catch for a given fleet of a CPC when it occurs.

Resolution 21/01 Paragraph 14 states:

If over catch of an annual limit for a given CPC listed in paragraph 5 to 13 occurs, catch limits for that CPC shall be reduced as follows:

a: for over-catch of limits set forth in Resolution 19/01, in 2020 and/or 2021, 100% of that over-catch shall be deducted from following two years limit,

Resolution 19/01 Paragraph 13b states:

If over-catch of an annual limit for a given fleet of a CPC listed in paragraph 5 to 10 occurs, catch limits for that fleet shall be reduced as follows:

b. For 2020 and following years, 100% of that over-catch shall be deducted from the following two years limit; unless

The 2022 yellowfin catch limit estimates, as reported by the Scientific Committee, were based on 100% of an over-catch being deducted from the limits each year, for two years following. However, Seychelles is of the opinion that this interpretation does not reflect the aim of this provision as adopted by the Commission. Instead, Seychelles believes that the Commission aimed at reducing the impact of a payback on a given CPC by allowing the 100% over-catch to be split over a two-year limit.

The IOTC Chairperson indicated that further deliberation by the Commission on these elements is required and proposed the following steps to resolve the issues:

- 1. CPCs to be invited to submit comments on their interpretations of Res21/01 para 14a and Res19/01 para 13b, in writing to the Secretariat by 31 January*
- 2. The Working Party on the Implementation of Conservation and Management Measures (WPICMM) that is meeting in February 2022 will discuss the matter and provide guidance to the Compliance Committee, who will in turn provide advice to the Commission. The comments received from CPCs will be compiled in a document and provided to the WPICMM as soon as possible after 1 February.*
- 3. The matter will be concluded by the Commission at S26 in May.*

FOR CONSIDERATION BY THE WPICMM

The following information is available to assist discussions:

- the letter from Seychelles outlining the issue (Annex 1).
- Responses received from Australia, Japan, Maldives and Thailand on the matter (Annex 2).

Note also, Resolution 21/01 para 14 a does not include guidance on a process that Members should use to declare how they would want to apportion a payback over each of the two years.

RECOMMENDATION/S

That the WPICMM:

1. **NOTE** paper IOTC-2022-WPICMM055-14 that provides information to be considered on the interpretation of Resolution para 14 a and Resolution 19/01 para 13 a.
2. **PROVIDE GUIDANCE** to the Compliance Committee on the matter.

Annex 1.



Ministry of Fisheries and the Blue Economy
 2nd Floor, Maison Collet
 Palm Street, P O Box 408, Victoria, Mahe, Republic of Seychelles
 Tel. 248 4672300 Email: rclarisse@gov.sc

Please address all correspondence to the Principal Secretary for Fisheries

Our ref: PSF/IOTC/2022/01
 Date: 5th January 2022

Ms. Jung-re Riley Kim
 Chairperson
 Indian Ocean Tuna Commission

Dear Madam Chairperson,

Subject: Circular 2021-78 on Allocation limits for yellowfin tuna in 2022

We take note of Circular 2021-78 on allocation limits for yellowfin tuna in 2022 which was issued on 31st December 2021 by the Executive Secretary of the Indian Ocean Tuna Commission.

We also take note, that the limits provided in the table of the respective Circular are provisional.

However, Seychelles has great concern with regards to the interpretation of paragraph 14(a) of Resolution 21/01 and paragraph 13(b) of Resolution 19/01 respectively by the IOTC Secretariat on the determination of catch limits for 2022, especially with regards to the Secretariat's interpretation and implementation of the deduction for over-catch.

Based on the referenced Circular and the methodology used by the IOTC Secretariat as detailed in Working Paper IOTC-2021-WPDCS17-28-Res_21-01_estimates_Rev1 for determining the deduction of over-catch for a given fleet of a CPC when it occurs, the IOTC Secretariat's interpretation of the phrase "...100% of that over-catch shall be deducted from following two years limit" does not reflect the aim of this provision as adopted by the Commission according to Seychelles' understanding and interpretation of the same.

Whilst with the above quoted wordings, the Commission aimed at reducing the impact of a payback on a given CPC by allowing the 100% over-catch to be split over a two year limit, the IOTC Secretariat's interpretation is contrary to the above, implementing a double penalty system. Seychelles has queried with the Maldives, who were the proponent of the said paragraphs, for which our interpretation and understanding are similar.

The consequence of this misinterpretation by the IOTC Secretariat Madam Chairperson, would be very severe to Seychelles and to our economy, especially more so now in the current pandemic we are all facing, and we are sure that this interpretation of the IOTC Secretariat will also affect negatively other CPCs finding themselves unjustly faced with the same situation.

As such, Seychelles is requesting that this letter is circulated to the Commission for an agreement on the interpretation of the provisions in paragraph 14(a) of Resolution 21/01 and paragraph 13(b) of Resolution 19/01 on the basis that the over-catch that happens in 2020 and following years shall be 100% (in total) deducted from the following two years limit, rather than being deducted twice from the following two years limit, and that the Secretariat issue a revision to the respective Circular, thereafter.

We thank you Madam Chairperson for your usual cooperation and understanding.

Yours Sincerely,

Roy Clarisse (Mr)
 Principal Secretary for Fisheries
 Seychelles Commissioner to IOTC

Annex 2**Australia:**

Dear Ms Kim

Thank you for IOTC Circular 2022-04 regarding the interpretation of Resolution 21/01 in relation to yellowfin tuna catch limits for 2022.

Australia agrees the drafting of the resolution with respect to payback provisions is ambiguous, but we agree with Seychelles interpretation that payback of overcatch should be initially be only 100% of the overcatch amount, and that this be returned over the following 2 year period (that is 50% of the overcatch amount, for two years).

Australia recalls this was the intention of the provision when it was agreed. Further, while acknowledging the IOTC is able to make whatever provisions it thinks is appropriate with respect to overcatch, Australia notes that other RFMOs, for example the CCSBT, only seek repayment of overcatch and do not penalise members for overcatch over and above seeking repayment of any overcatch amount. Additional penalties may be appropriate for continued or deliberate overcatch, but this should be discussed by Compliance Committee, taking all circumstances into account, and a recommendation made to the Commission for subsequent decision.

Noting that other parties may have differing views of the resolution, Australia supports the process you propose to resolve the issue. However, if there is a unanimous view among members on the interpretation of the overcatch provision, Australia would support an expedited process to clarify the resolution drafting and recalculate catch limits, using out of session decision making processes.

Australia also notes that, while the use of 'allocated' in the circular title is consistent with the resolution, we would like to put on the record that the resolution relates only to an interim measure to limit the catch of yellowfin tuna and is not relevant to any longer term catch allocation process.

Best regards

George Day

Assistant Secretary, Fisheries Branch and Australian Head of Delegation to the IOTC

Agvet Chemicals, Fisheries, Forestry and Engagement

Department of Agriculture, Water and the Environment

t +61 2 6271 6466 | m +61 401 004 967

w www.awe.gov.au | e george.day@awe.gov.au

European Union:



EUROPEAN COMMISSION
 DIRECTORATE-GENERAL FOR MARITIME AFFAIRS AND FISHERIES
 International Ocean Governance and Sustainable Fisheries
 Regional Fisheries Management Organisations

Brussels, 31 January 2022
 MARE.B.2/LAM

Dear Ms Jung-re Riley Kim,

I am writing in response to IOTC circular 2022-04 regarding the interpretation of Resolution 21/01 in relation to the allocated yellowfin tuna catch limits for 2022.

The European Union considers that paragraph 14 of Resolution 21/01 and paragraph 13b of Resolution 19/01 can be interpreted in two ways:

1. According to the first interpretation, the aim of the Commission was to reduce the impact of a payback on a given CPC by allowing the CPC to payback 100% of its over-catch over a period of two years, thus permitting the split of the compulsory payback.
2. According to the second interpretation, the implementation of the payback by a given CPC should be carried out two years after the overfishing (n+2).

After due reflection and in line with the positions already expressed by Seychelles and Japan, the EU delegation can agree to retain the first interpretation, as it would provide CPCs with the flexibility to split the payback in two years or to implement it fully during either the first or the second year.

I would appreciate if you could share this communication with the other Delegations.

Yours faithfully,

Marco VALLETTA
 Head of the EU delegation to the
 IOTC

Commission européenne/Europese Commissie, 1049 Bruxelles/Brussel, BELGIQUE/BELGIË - Tel. +32 22991111
 Office: T-99 03/065 - Tel. direct line +32 229-59854

Marco.VALLETTA@ec.europa.eu

 Electronically signed on 01/02/2022 09:42 (UTC+01) in accordance with article 11 of Commission Decision C(2020) 4482

Japan



FISHERIES AGENCY

MINISTRY OF AGRICULTURE, FORESTRY AND FISHERIES, GOVERNMENT OF JAPAN

1-2-1, Kasumigaseki, Chiyoda-ku, Tokyo 100-8907, Japan

19 January 2022

Dr. Christopher O'Brien
Executive Secretary
IOTC

Dear Dr. O'Brien:

I am writing in response to the IOTC Circular 2021-78 regarding 2022 allocated catch limits for yellowfin tuna as well as the Circular 2022-05 with a communication from China regarding 2022 allocated catch limits for yellowfin tuna.

Japan recognizes that, as pointed out by China, the IOTC has been managing catches of China and Taiwan, province of China separately, and catch limits for yellowfin tuna established by Resolution 16/01 and its succeeding Resolution 21/01 have been applied separately to China and Taiwan, province of China. We would also like to recall that, at the 25th Commission meeting in June 2021, both the delegations from China and Taiwan, province of China expressed their interpretations that catch limits for China and Taiwan, province of China should be allocated separately in accordance with paragraph 7 and 11 of Resolution 21/01, respectively, and no delegation expressed different views thereon. Therefore, it is naturally considered that the Commission agreed to manage catch limits for China and Taiwan, province of China separately.

Taking this opportunity, Japan would also like to express its view on the Circular 2022-04 regarding the pay-back provision of Resolution 21/01 (paragraph 14a). As pointed out by Seychelles, Japan considers that this paragraph allows the 100% over-catch to be split over a two year limit.

I would appreciate it if you would circulate this letter to CPCs.

Sincerely,

A handwritten signature in black ink, appearing to read 'H. Moronuki', with a long, sweeping horizontal stroke extending to the right.

Hideki Moronuki
Japan's Commissioner to IOTC

Maldives:

Dear Ms. Kim,

We concur with the interpretation of Seychelles as explained in the letter relating to implementation of Para 14a of Resolution 21/01.

As the main proponent of the Proposal that is now adopted as Resolution 21/01, I can confirm that our intention was to reasonably minimise the impact of the overcatch in the event it happens as we understand that there are serious reporting difficulties with many CPCs.

Best regards,

Adam Ziyad
Director General
Fisheries Department

Ministry of Fisheries, Marine Resources and Agriculture
7th Floor, Velaanage, Ameer Ahmed Magu, Male', 20096 Maldives
Tel No: +960 3339266 | Fax: +960 3326558 |
Email: adam.ziyad@fishagri.gov.mv | Website: www.fishagri.gov.mv

Thailand:

No. 0511.3/ 976



Department of Fisheries
Kaset Klang, Chatuchak,
Phahonyothin Road,
Bangkok 10900, Thailand

๗ February B.E. 2565 (2022)

Dear Mr. Christopher O' Brien,

Subject: Responding to IOTC Circular 2022 - 04

Kindly refer to IOTC Circular 2022-04 dated 13th January 2022 inviting CPCs to comment on the interpretation of Resolution 21/01 concerning the yellowfin tuna allocated catch limits for 2022.

In this connection, the Department of Fisheries (DoF), Thailand is of the view that the proportion of reducing the over-catch limit should be able to split over a two-year limit to reduce the economic impact on CPCs that exceed catching yellowfin tuna. In addition, DoF supports that this issue would be further considered by the Commission to ensure that the interpretation would be concluded based on mutual understanding and agreement.

Please kindly be assured of our cooperation.

Yours Sincerely,

(Mr. Sornchuan Ratanamungklanon)

Inspector-General, MOAC

Acting for Director-General of DOF

Mr. Christopher O' Brien
Executive Secretary, Indian Ocean Tuna Commission
IOTC Secretariat Le Chantier Mall (2nd floor)
PO Box 1011, Victoria, Seychelles.
Phone: +248 4225 494 Fax: +248 4224 36
E-mail: IOTC-Secretariat@fao.org

Fishing and Fleets Management Division
E-mail: overc.dof@gmail.com

United Kingdom:



Department
for Environment
Food & Rural Affairs

2 Marsham Street
London
SW1P 4DF
UK

Dr. Christopher O'Brien
Executive Secretary
IOTC

¶
¶
¶
Date: → 31.01.2022

Dear Dr. O'Brien

IOTC Circular 2022-04 regarding the interpretation of Resolution 21/01

¶
In response to Circular 2022-04 of 13 January 2022 regarding the interpretation of Resolution 21/01 para. 14a and Resolution 19/01 para. 13b, the UK would like to offer to following comments. ¶

¶
The UK suggests that consideration is given to the intention behind the drafting originally agreed for Resolution 19/01, and specifically whether the intention behind 19/01 para. 13b was that any over-catch would need to be paid back twice (100% in each of the following two years) or split (50% repaid in each of the following two years). The drafting in Resolution 19/01 was mirrored in the drafting of Resolution 21/01 and any indication of the intent behind the drafting of 19/01 should inform the interpretation of Resolution 21/01. ¶

¶
The UK welcomes further exploration of this issue at the Working Party for the Implementation of Conservation and Management Measures (WPICMM05) in February. ¶

¶
Furthermore, the UK feels it would be beneficial, regardless of the agreed interpretation of Resolution 21/01 para. 14a and Resolution 19/01 para. 13b, that any new measure for yellowfin tuna is drafted in a clear and unambiguous manner to avoid different interpretations of how catch limits, and related payback of over-catches, are established. ¶

¶
Yours sincerely ¶

¶
¶
Marc Owen
Deputy Head of the Delegation of the United Kingdom to the IOTC ¶

¶
¶
M: → 07557 325524
marc.owen@defra.gov.uk ¶

¶

