

**Chair’s Explanatory Note for the 10th meeting of the Technical Committee on
Allocation Criteria (TCAC10) of the IOTC**

Seychelles, June 20-23, 2022

Dear Heads of delegation and Delegates,

I look forward to meeting you in the Seychelles on June 20-24, 2022 to continue the work of the Committee to develop allocation criteria for the IOTC.

As space is limited particularly in the context of the pandemic restrictions, the meeting will be held in a hybrid way, similar to the arrangements made for the recent Commission meeting. Heads of delegations plus one delegate are invited to participate in person, whereas other participants, including other members of delegations of CPCs, observers and invited experts are invited to participate virtually. While I encourage participation of Heads of delegation in person, arrangements can be made for those who cannot be present in the Seychelles to participate virtually if you inform the Secretariat in advance.

Draft #4 Chair’s Proposal for an Allocation Regime for the IOTC

The main focus of our discussions in June will be based on the latest Draft #4 of the Allocation Regime text (IOTC-2022-TCAC10-03 Rev 1). Following our TCAC09 meeting in November 2021, I produced Draft #3 (IOTC-2022-TCAC10 REF 02) in February 2022 on which some delegations provided written comments. This Draft #3 is provided as background only for our meeting in June. Our discussions will center on Draft #4, which was developed on the basis of oral and written input I received since TCAC06, including the written comments on Draft #3 compiled in Reference Document IOTC-2022-TCAC10-REF 01-Rev1.

You have been provided with 3 versions of the Draft #4 text. One version contains all changes made and tracked in the text, as well as sidebar comments referring to the source of most changes made, and any adjustments I may have made to any proposals provided (IOTC-2022-TCAC10-REF 05 Rev1). A clean Word version has been provided for your use (IOTC-2022-TCAC10-REF 06 Rev1).

Our Working Document will be the version containing the tracked changes without sidebar comments (IOTC-2022-TCAC10-03 Rev1). While I have identified the delegation source of most changes in this working document, I would also refer delegations to the compilation of written comments on Draft #4 prepared by the Secretariat and contained in IOTC-2022-TCAC10-REF 04.

As you will see, while we have made progress on a number of issues, we still have a lot of work to do, to achieve our common objective of developing an allocation regime for the IOTC. I still believe that this is possible if everyone continues to contribute in a positive, constructive and respectful way. This will be especially important in respect of those issues where polarized views continue to exist.

TCAC10

We will be meeting for 4 full days. A preliminary Agenda has been provided for your consideration (IOTC-2022-TCAC-01). Following the usual preliminary items, I propose to start the substantive part of the meeting with a brief presentation of Draft #4. I then propose that each delegation provide their general reactions to the text. As we are foregoing opening remarks by delegations, I suggest that you use this opportunity to flag any key priorities or show-stoppers that are critical to your delegation.

This will be followed by a review of the entire draft text, based on the themes and in the order contained in the attached list of themes (Annex 1). As you will note, this would not follow the normal order of the articles of the draft text. Rather, all provisions related to a given theme are grouped and would be considered together. TCAC delegations will be familiar with the themes as these essentially mirror the themes discussed during TCAC06 and TCAC07 on the basis of which Draft #1 of the text was developed.

The objective of this approach is for the Committee to consider the more substantive critical parts of the text early in the TCAC10 meeting. This can help to ensure sufficient time to cover each issue in a comprehensive way before moving to the next theme. As you will see from the attached list (Annex 1), the intent is for all articles of the text to eventually be discussed during the TCAC10 meeting.

Depending on the progress achieved during our meeting, I may propose that we form working groups on specific topics and related articles of the text on Day 3. My hope is that the informal structure of such working groups can help to generate ideas for resolving outstanding issues. Depending on the nature of the discussions, these topics could include:

- catch history in EEZs;
- Coastal State Allocations;
- allocation adjustments for non-compliance (overages; serious non-compliance; IUU catches);
- new entrants (eligibility and allocations); or,
- allocation process.

Participation in such working groups will be voluntary. We will ensure that working groups are not meeting concurrently, so as to enable the participation of any delegation that wishes to do so, as well as those participants using the virtual platform. Any progress in these groups will be reported back to the plenary of the TCAC for delegations to comment on, and for me, as Chair, to consider in formulating the next draft of the text.

Intersessional Work

To continue to make progress, it is important for delegations to come to the meeting prepared to move beyond stating general positions or staying silent, and to propose specific solutions and related text proposals for resolving outstanding issues. I would also encourage you to work intersessionally with other delegations on these proposals to help garner support before you attend the meeting. It would be helpful if you shared these proposals ahead of time with me for my awareness, and indicate whether you wish for the Secretariat and I to share them with other members of the TCAC.

Negotiation Process

As in our previous meetings, we will follow the standard practice of UN organisations for negotiating text. I have attached a summary of these for your reference (Annex 2).

Moving Forward

I would encourage you to share with me your written submissions or interventions after the TCAC10 meeting, including any wording proposals made during the meeting. My plan is to make changes and adjustments to Draft #4 after our June meeting, based on your interventions and written submissions. I will circulate a revised Draft #5 text early in the fall 2022 for review during our scheduled TCAC11 meeting October 10-13, 2022 in the Seychelles.

At the end of the TCAC10 meeting, I will want to hear delegations' views on how to structure our meeting in the fall, what preparatory work may be required from the Secretariat for this meeting, and, how to use our time until then in a constructive way to advance our work.

I remain available should any delegation wish to speak with me prior to TCAC10. And, I look forward to finally meeting you in person in the Seychelles.

With kind regards,

Nadia Bouffard
Chair,
TCAC

ANNEX 1

Thematic Review of Draft #4

1. Guiding Principles
 - Articles 3.1 to 3.13
2. Scope of Allocation Regime
 - Articles 5.1, 5.2 & Alternate 5
 - Article 1.1 - Definitions: (b) “Allocations”, (m) “Fish stocks” and (o) “IOTC Area of Competence”
 - Annex 1
 - Articles 9.1, 9.2 and 9.3
3. Allocation Structure
 - Article 1.1 - Definitions: (x) “TAC” and (p) “IOTC Management Procedures”
 - Articles 6.1 to 6.5
4. Catch Based Allocations
 - Articles 6.6 to 6.8
5. Coastal State Allocations
 - Article 1.1 – Definitions: (e) “Coastal State CPC”; (s) “Non-Coastal State CPC”; (l) “Developing State”; and (v) “Small Island Developing State”
 - Articles 6.9 & 6.10
 - Appendix 1
 - Annex 3
6. CNCPs and New Entrants
 - Article 1.1 – Definitions: (k) “CNCP” and (r) “New Entrant”
 - Article 4.2
 - Articles 4.3, 6.12 and 6.13
7. Adjustments to Allocations
 - Over-catch - Article 7.1, Alternate 1 and Alternate 2
 - Serious non-compliance – Article 7.2, Article 4.4 & Article 1.1 - Definition (t) “serious non-compliance”
8. Extenuating Circumstances
 - Article 6.11 – when determining historical catch
 - Article 7.3 – when adjusting allocation
9. Allocation Transfers
 - Articles 8.1 to 8.4

10. Implementation and Process

- Implementation Plan and Timeframe – Article 9.4 & Annex 2
- Process – Articles 9.5 to 9.18; Appendix 2; Annex 4

11. Allocation Period

- Article 1.1 – Definitions: (d)“Allocation Period”; (w)“Stock Assessment Cycle”; and (y) “TAC Period”
- Article 10

12. Other Articles

- Article 1.1 - Definitions: (c)“Allocation Regime” and (n)“Fishing Opportunity”
- Article 2 – Purpose
- Articles 11.1 to 11.6 Final Clauses

13. Preamble

ANNEX 2

Process and Rules for Negotiating Text of IOTC Allocation Regime

- 1- Nothing is agreed to until the entire text is supported by the Committee;
- 2- For a final text to move to the Commission for adoption, it will need to have consensus from all Members of the Committee, either by support from all, or with no explicit objection raised by any one Member;
- 3- The absence of proposed changes, reservations or brackets on a section, paragraph or text will be interpreted by the Chair as having received consensus from the Committee. In such instances, the section, paragraph or text will be considered final and no further changes or comments will be taken on it in the next round of review of the text.
- 4- Brackets on a portion or on an entire paragraph, means that there is no consensus on its content and wording.
- 5- If a delegation needs more time to consider a paragraph or a proposed change to a paragraph, the delegation can reserve the opportunity to come back to it, in which case the relevant text will be put in brackets.
- 6- When opposition is signaled by one or more delegations on a paragraph, a portion thereof, a proposed wording change or a proposed deletion, and there is no consensus on the view expressed or proposed change or deletion, brackets will be put on the wording signaling lack of consensus on the wording. This means that further discussions are required, and changes and comments will continue to be taken on the paragraph.
- 7- When alternative text proposals are made in respect of a paragraph for which there is no consensus, the Chair will attempt to propose new wording reflecting all views and alternative proposals. If this is not possible, both or all options will be included in brackets as options for consideration by the Committee, and Members will need to negotiate and eventually agree to a single version.
- 8- In the final rounds of negotiations, only wording remaining in brackets will be considered.

The role of the chair is not to decide for delegations or to choose one option or the other on text proposals. The Chair will make suggestions if it helps, or if there are matters that haven't been considered. It is up to delegations to decide if they wish to follow the Chair's suggestions. The Chair will propose wording to try to bridge the different views, but at the end of the day, delegations will need to be comfortable with the final text, and either give a show of support, or abstain from any comment, for the Chair to declare victory, and move the text for the Commission's consideration.

While this description of the process and rules is basic, clarifying the rules and expectations from the beginning, allows for a better process and as such, a better outcome.