

CHAIR'S DRAFT PROPOSAL FOR AN ALLOCATION REGIME (V5) — ANNOTATED

Prepared by the TCAC Chairperson

ABOUT THIS REVISION

The text for Alternate Article 6 in IOTC-2023-TCAC11-02 was provided by Bangladesh. Bangladesh subsequently provided a revised text for Alternate Article 6 (and its associated appendices and annexes) and these are included in this Rev1 document, with the revisions shown in yellow.

Background on the draft

Draft #5 has been prepared to reflect comments received from delegations during the TCAC10 meeting and from written submissions received after this meeting.

Minor adjustments such as correcting typographical errors, renumbering of articles and paragraphs, capitalizing first letters of certain words (e.g. Article) have been accepted by the Chair on the assumption that there are no oppositions to these minor changes made to drafts #4. Hence these minor changes are not identified as outstanding edits in this Draft #5.

With the exception of the above referenced accepted changes, all other changes and deletions have been tracked in the text. As instructed during TCAC10, the Chair has attempted to streamline the text, where possible, and noted this in the side bar comments. The Chair has also, in some cases, explained certain changes made, and raised certain issues requiring further discussion, in the side bar comments. Proposed deletions to text already in brackets have not been noted in side bar comments. The delegation source for remaining substantive changes has been identified in side bar comments. For more details on delegations' written comments, Members are referred to IOTC-2023-TCAC11-REF01 for the compilation of comments received on Draft #4.

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 alternative(s) 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 to enable time for that delegation to consider its views and enable a dialogue.

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

Please note: *A proposal entitled "On equitable allocation of fishing opportunities for sustainable harvest of tuna resources in the Indian Ocean" was received from India for inclusion in Version 5 of the Chair's text and consideration of members during TCAC11. Due to the differences in the structure of this proposal compared to that of the v5 draft text, India's proposal has been provided after Annex 4 of the following v5 draft text.*

IOTC RESOLUTION 2023/XX

ESTABLISHING AN ALLOCATION REGIME FOR THE IOTC

[PREAMBLE

The Indian Ocean Tuna Commission (IOTC),

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 (UNCLOS);

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 (UNFSA);

The Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas of 1993 (The 1993 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, including those contained in the above international instruments, 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;

[RECOGNIZING/~~NOTING~~ the established interests, historical fishing patterns and fishing practices of Members of the IOTC historically fishing in the IOTC area of competence;

Commented [BN1]: Deletion proposed by the EU

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;

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 this Resolution Articles 6.1 to 6.13, 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 State that is a CPC which is situated wholly or partly in the IOTC Area of Competence, and is listed as a Coastal State CPC in Appendix 1. ~~These term and definition shall apply mutatis mutandis to a regional economic integration organisation that is a CPC and of which any Coastal State is a member and has transferred competence over matters within the purview of the Agreement, including those under this resolution;~~
- (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”**;

Commented [BN2]: As Developing “States” is a term of art used in many treaties and UN documents, the Chair has deleted the alternative “countries” proposed by Indonesia. And, based on exchanges during TCAC10, the Chair has removed the brackets around SIDs and least developed States.

Commented [BN3]: Deletion jointly proposed by South Africa, Maldives, Kenya, Mozambique, Pakistan, Tanzania, serving to simplify the text, as requested by the TCAC10.

Commented [BN4]: Change jointly proposed by South Africa, Maldives, Kenya, Mozambique, Pakistan, Tanzania. See definition of TAC in response to comment from EU.

Commented [BN5]: As Appendix 1 is not proposed to be deleted, the Chair has maintained its reference here. The brackets are maintained to allow delegations to consider the changes made to the definitions and the Appendix. These changes jointly proposed by South Africa, Maldives, Kenya, Mozambique, Pakistan, Tanzania in response to EU’s comments, should be read in combination with the definition of Regional Economic Integration Organisation where the deleted text has been inserted.

- (k) **“Cooperating Non-Contracting Party” or “CNCP”** 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 been admitted as a Cooperating Non-contracting Party to the IOTC, pursuant to the IOTC Rules of Procedures;
- (l) **“Developing State”** means a State that is a CPC listed in Appendix 1 whose developing status has been ~~[determined on the basis of internationally accepted standards]~~ defined by ~~the United Nations~~ the human development index categories of the United Nations Development Program and the United Nations Department of Economic and Social Affairs, amended from time to time, which includes least developed States and Small Island Developing States;
- (m) **“Fish Stocks” or “Stocks”** means highly migratory species, ~~including stocks of tuna species, referenced in Article 5 and listed in Annex 1;~~
- (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;
- (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* and amended pursuant to the decision in the 4th Session of the Commission to modify the western boundary of the IOTC Area of Competence from 30°E to 20°E;
- (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;
- (q) **“Member”** means a Member of the Commission as specified in Article IV of the Agreement;
- (r) **“New Entrant”** means a State who was ~~not a CPC neither a Contracting Party nor a CNCP~~ at the time this Resolution was adopted, and which has been admitted to the IOTC after the adoption of this Resolution, in respect of a Contracting Party, pursuant to the Agreement, and in respect of a CNCP, pursuant to the Rules of Procedures. A State ceases to be considered a New Entrant and shall be considered as a CPC under this Resolution after [XX] year from its date of admission to the IOTC;
- ~~(s) **“Non-Coastal State CPC”** means a State that is a CPC which is not situated wholly or partly in the IOTC Area of Competence, and is listed as a Non-Coastal State CPC in Appendix 1. These term and definition shall apply mutatis mutandis to a regional economic integration organisation that is a CPC and of which any Non-coastal State is a member and has transferred competence over matters within the purview of the Agreement, including those under this resolution;~~
- (s) [(bis) **“Regional Economic Integration Organization CPC” or “REIO CPC”** means the regional economic integration organization that is a CPC and of which any State referred to in Article IV subparagraphs i) or ii) of the Agreement is a member and has transferred competence over matters within the purview of the Agreement;]
- (t) **“Serious non-compliance”** means violations identified by the Commission pursuant to Article 7.2~~(b)~~, which constitute repeated ~~or gross~~ disrespect of the Agreement or the IOTC’s Conservation and Management Measures adopted by IOTC Resolution, ~~or disrespect of IOTC~~

Commented [BN6]: As agreed during TCAC10, and jointly proposed in writing by South Africa, Maldives, Kenya, Mozambique, Pakistan, Tanzania, wording in brackets deleted, and, as agreed during TCAC10 explicit reference to standards developed by UN body reinserted, with reference to the fact that these may be amended from time to time by the UN. Similar changes have been made to the definition of SIDs.

Commented [BN7]: Edits jointly proposed by South Africa, Maldives, Kenya, Mozambique, Pakistan, Tanzania. As the list of stocks is now proposed to be included in the text of the Resolution, Annex 1 has been deleted and reference to it as well.

Commented [BN8]: Addition jointly proposed by South Africa, Maldives, Kenya, Mozambique, Pakistan, Tanzania, for an accurate reference to the IOTC area of competence as amended.

Commented [BN9]: The reference to recognizing rights of coastal States as proposed by Madagascar is inappropriate for a definition, which was developed by the Scientific Committee.

Commented [BN10]: Addition jointly proposed by South Africa, Maldives, Kenya, Mozambique, Pakistan, Tanzania and Madagascar.

The Chair notes, as an alternative, that the timeline could be associated to a new allocation period for a stock for which the New Entrant is seeking an allocation. This would give CPCs more time to adjust to a new participant in the allocation key. The wording could read:
“A State ceases to be considered a New Entrant in respect of an allocation of a stock under this Resolution at the beginning of the new allocation period for that stock following its admission to the IOTC.”

Commented [BN11]: The Chair has deleted this definition as it is not used in the text of the Resolution except for Annex 1 and this annex has now been amended to eliminate this category.

~~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 been determined on the basis of internationally accepted standards~~ defined by the United Nations ~~Department of Economic and Social Affairs, amended from time to time;~~
- (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 ~~Article 5 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 ~~strategy evaluation (MSE) process, or in the absence of a MSE process, based on a biological catch limit recommended by the Scientific Committee and adopted by the Commission,~~ for a stock listed in ~~Article 5 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 ~~based on the recommendation of the Scientific Committee.~~

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 ~~Article 5 Annex 1 and caught in the IOTC Area of Competence, among CPCs, and New Entrants where relevant,~~ in a fair, equitable and transparent manner.

Article 3. GUIDING PRINCIPLES

~~3.1~~ 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, without prejudice to the sovereign rights and obligations of coastal States for the purpose of exploring and exploiting, conserving and managing the living marine resources within areas under national jurisdiction and the rights and obligations of all States to engage in fishing on the high seas, consistent with international law and Article IV of the Agreement.~~

~~Allocations~~ shall:

- ~~(1)3.1.~~ provide a ~~quantitative,~~ fair, equitable and transparent ~~manner / mechanism~~ to allocate fishing opportunities in the ~~high seas portion of the~~ IOTC area of competence;
- ~~3.2.~~ ~~factor in the status of the IOTC stocks to be allocated;~~
- ~~3.3(2)~~ contribute to the sustainable management and use of IOTC stocks by ~~factoring in their status and by ensuring that the total fishing opportunities and resulting fishing mortality of a stock / mortality~~ does not exceed the TAC ~~established for that stock for recommended biological catch limit established by the Commission if a TAC has not yet been set;~~

Commented [BN12]: See side bar comments on developing States.

Commented [BN13]: Changes made reflecting consensus reached during TCAC10 and written proposal jointly made by South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania.

Commented [BN14]: As stocks are now listed and defined in Article 5, there is no need to include qualifications here nor a reference to the deleted Annex 1.

Commented [BN15]: Deletion proposed by Japan, as not all TAC periods are recommended by the SC.

Commented [BN16]: Edits jointly proposed by South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania.

Commented [BN17]: The Chair has not deleted the specific principles suggested by the EU, but instead, takes note of its suggestion, supported by Japan, to review and revise as needed, the principles, once the remaining part of the Resolution is agreed upon, to eliminate any unnecessary duplication in the principles.

Commented [BN18]: The Chair proposes to remove 3.4 and its alternate, as well as 3.6, and move the content of these provisions in the chapeau of Article 3. This will help to elevate these two principles as proposed during TCAC10, ensure that it covers both rights and obligations, as discussed during TCAC10 and streamline the rest of Article 3. The Chair also hopes that this will help to address concerns expressed by Indonesia in respect of 3.5 and sovereign rights of CS in their EEZ.

The Chair has also adjusted the jointly proposed change from South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania to ensure the introduction in the chapeau works with the rest of the text throughout article 3.

The numbering of article 3 has been changed to reflect that which is used in the rest of the draft Resolution.

Commented [BN19]: The term quantitative was originally proposed to mean criteria that automatically lead to quantitative results without the need of discussion and determination by the Commission. The term has been deleted as proposed by many delegations and reflecting the discussion in TCAC10 that some elements of the allocation criteria in the current draft text are somewhat subjective, left for the determination by the Commission, and thus would not lead to an automatic quantitative result.

The term “mechanism” was agreed to during TCAC10.

India and Bangladesh proposed to limit the scope of the regime to the high seas. This was opposed by many delegations. Accordingly, the reference to high seas has been put into brackets.

Commented [BN20]: Deletion proposed and agreed to during TCAC10 as a means to eliminate duplication with the topic more specifically covered in Article 3.3. and jointly proposed by South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania in their written comments.

Commented [BN21]: The Chair has attempted to redraft this article to reflect the discussion during TCAC10 and all written comments provided. Deleted words relate to the adjustments made to the definition of TAC.

~~3.4. consistent with Article XVI of the Agreement and in accordance with international law of the sea, including as provided in UNCLOS and UNFSA, respect and not prejudice the exercise of the sovereign rights and obligations of coastal States 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;~~

ALTERNATE 3.4

~~Shall not prejudice the exercise of the sovereign rights and obligations of coastal States consistent with Article XVI of the Agreement;~~

~~3.6. respect the rights and obligations of all States fishing in the IOTC area of competence;~~

~~3.5.(3) [be implemented inure the a compatible way] of conservation and management measures for fish stocks in their entirety throughout the IOTC area of competence established for both the high seas and the areas under national jurisdiction of coastal States [excluding Archipelagic Waters and Territorial Sea];~~

~~3.7.(4) [be established and implemented in a way that take into consideration the significant efforts made by each CPC to fulfil their obligations to comply with the IOTC Agreement and Resolutions] considers the compliance record of CPCs, and as a result, deters non-compliance with [relevant] this Resolution and other IOTC CMMs that directly impact the effectiveness of the allocation regime;]~~

~~3.8.(5) [recognize the challenges and disproportionate burden faced by developing coastal States in fulfilling their obligations to comply with the IOTC Agreement and resolutions related to the implementation of allocations, in particular Small Island Developing States and least developed States who are vulnerable due to their socio-economic dependency on IOTC fisheries resources including for food security, and shall take into account their special requirements by factoring these needs and dependency when establishing their allocations, and by identifying ways in which IOTC Members may assist those States in implementing these obligations, either bilaterally, or through the Commission with the assistance of the Secretariat];~~

~~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 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.(6) [take into account and accommodate the respective interests and aspirations of coastal States, particularly those of developing coastal States, in further developing their fishing opportunities in the IOTC area of competence, and by identifying ways in which IOTC Members may assist those States in this objective, either bilaterally, through the Commission, or through other means] [while respecting the rights of other CPCs fishing for the same fish stocks];~~

~~3.11.(7) [take into account [and accommodate the established] respective interests,] fishing patterns and fishing practices of CPCs who have fished [historically] fishing in the IOTC area of competence]; and,~~

Commented [BN22]: The Chair proposes to remove 3.4 and its alternate, and move the content in the chapeau of Article 3. This will help to elevate the principles as discussed during TCAC10, and streamline the rest of Article 3.

3.4(bis) as jointly proposed by South Africa, Maldives, Kenya, Mozambique, Pakistan, Tanzania, Madagascar and Mauritius has been added at the end of Article 3, as 3.13(bis) – now 3.2(bis), so as to work cohesively with the chapeau of article 3.

Commented [BN23]: The Chair proposes to remove 3.6, and move the content in the chapeau of Article 3, as discussed above. This will help to elevate the principle by moving it up in the article, as discussed during TCAC10, and streamline the rest of Article 3.

South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania proposed to replace the word “respect” with “take into account” in this paragraph. Legally, rights and obligations need to be respected. The use of the term “taken into account” presumes that these could be considered, and possibly set aside. This would not be consistent with the legal obligations of IOTC members. Interests and aspirations may be taken into account or considered, but not rights or obligations. To mirror 3.4, the Chair has opted for “shall not prejudice”, and moved the idea into the chapeau.

Commented [BN24]: As proposed by Tanzania during TCAC10, the Chair has made adjustments to this provision, to better align it with the chapeau, and reflect the intent to ensure that allocations are implemented in a compatible way throughout the range of the hms on the high seas and in EEZs in the entire IOTC Area of Competence. As a reminder, the obligation in Article 7 of UNFSA is intended to be reflected in article 3.5(now 3.1(3)), is one of outcomes, as opposed to one seeking the same management approach for the high seas and EEZs.

Brackets inserted to reflect the proposal to delete this provision from South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania, originally proposed by Japan.

The wording proposing to exclude archipelagic waters and the Territorial Sea of Coastal States in this section has been proposed to be deleted by a number of delegations during TCAC10 and in written comments from some delegations. This deletion is proposed in brackets. The Chair would note that excluding the ...

Commented [BN25]: The Chair has attempted to redraft this provision, factoring in the input received during TCAC10. As agreed, 3.7 has been merged with 3.13 in what is now 3.1(4), and the wording of the latter part adjusted based on discussions during TCAC10 and written comments.

Brackets reflecting a proposed deletion from South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania. The outcome of this provision is directly linked to, and contingent on, the outcome of article 7.2

Commented [BN26]: Factoring in discussions during TCAC10, the Chair has attempted to merge the ideas in 3.8 and 3.9 as requested by many delegations, while reflecting other comments provided during TCAC10 and in written submissions, including that of Bangladesh to include the concept of assistance for implementing data requirements and related obligations of the IOTC. The provision remains a “mouth full”, but captures all ideas expressed during TCAC10, and the concepts in article 24(1) and (2) of the UNFSA.

Commented [BN27]: The Chair has proposed changes to both 3.10 and 3.11 to accommodate the comments received by many delegations during TCAC10 and in written comments, and to mirror the ideas in the two paragraphs as discussed during TCAC10, as well as to align some of text in both paragraphs with wording in Article 11 of the UNFSA.

The addition at the end of paragraph 3.10 (now 3.1(6)) is to address Bangladesh’ comments during TCAC10 and in its written proposal under 3.13(bis). The words “other means” are meant to refer to ...

~~3.12(8) take into account the desire to manage the socio-economic impacts on all CPCs from the shift of current fishing patterns resulting from the implementation of the allocation regime by implementing allocations in a timely but step-wise manner, and by providing the ability to temporarily transfer allocations between CPCs.]~~

~~be implemented in a step-wise manner while providing some stability in the fisheries, resulting in a [partial] shifting of current fishing to CPCs that are developing coastal States, [including] in particular, least developed States and Small Island Developing States, [as promptly as possible], taking into account the socio-economic impacts [of the resulting change in past fishing patterns of 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 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.]~~

~~3.13 The Allocation Regime is intended to deter illegal, unreported and unregulated fishing and serious non-compliance with [relevant] IOTC CMMs.~~

~~[3.213(bis) For the purpose of allocating future fishing opportunities, all historical catches taken [in the future] within an Exclusive Economic Zone within IOTC Area of Competence, shall be attributed [solely] to the CPC with jurisdiction over that area, regardless of the flag State of the vessels that took the [catch].]~~

Article 4. ELIGIBILITY

4.1. Each CP at the time of the adoption of this Resolution is eligible to receive an allocation for one or more fish stocks under this Allocation Regime³. ~~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.~~

4.1(bis) ~~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.~~

4.2. A CNCP at the time of the adoption of this Resolution is ~~not~~ eligible to receive an allocation as described in Article 4.1 ~~for stocks in the green zone of the Kobe plot~~ 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. A CNCP that has expressed such an interest at that time is eligible to receive [50%] of the allocation for each fish stock for which it is eligible ~~depending on the status of the stock~~, 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~~. ~~A CNCP that is a New Entrant~~

³ ~~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 [BN28]: As instructed during TCAC10, the Chair has attempted to merge the ideas in 3.12 and 3.12 Alternate, recognizing support by many delegations for one or the other option. In doing so, it is recognized that both options reflected in each option can be used as a means of addressing the socio-economic impacts of changing the current status. The manner in which to implement this principle should be detailed later in the text of the resolution (and Annex 2), and so the Chair recommends keeping this principle as simple and concise as possible leaving the details to other provisions. In the same spirit, the Chair has attempted to simplify the text, as was directed during TCAC10. Topics already covered by other provisions of article 3 – such as interests and needs of developing coastal states have been deleted as fully covered by 3.8 now 3.1(5).

Commented [BN29]: Insertion of this Principle was proposed by many delegations during TCAC10 and in jointly submitted comments from South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania, and opposed by the EU, France, China and Japan. The Chair has inserted the wording in brackets and moved it to the end of article 3 (as article 3.2), to better align it with the chapeau of the article. The words [in the future] have been added to reflect Japan's proposal during TCAC10, as a possible compromise to address concerns with respect to the addition of this principle. The Chair understands this wording to apply to the future catch history, starting from the time the Resolution is adopted, or at a date to be agreed to by the members.

Commented [BN30]: Deleted as proposed by South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania.

Commented [BN31]: Foot note in 4.1 deleted and inserted directly in the text of the Resolution as proposed by South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania.

Commented [BN32]: As proposed by Japan. The words depending on the status of the stock later in article have been deleted.

Commented [BN33]: Proposal by South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania to delete requirement to pay contributions for a CNCP that becomes a Party to be eligible to its full allocation. As other delegations requested this requirement, the proposed deletion is reflected with brackets on the wording.

The Chair takes note of the linkage between the outcome of this requirement here, and the similar requirements in articles 7.2(b)(iii) and 6.9(d), as suggested by Japan.

may only be eligible to a Special allocation pursuant to article 4.3 and described in articles 6.12 and 6.13.

4.3. A [Coastal State] CPC that is a New Entrant ~~[that is situated wholly or partly within the IOTC Area of Competence]~~ may only be eligible to receive a [Special] allocation described in article 6.12 and 6.13. ~~[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. ~~(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 the following stocks of highly migratory species, including tuna stocks, listed in Annex 1 to this Resolution found in the IOTC Area of Competence, excluding the Territorial Sea and Archipelagic waters of CPCs, and managed by the IOTC²:~~

- a) Yellowfin tuna;
- b) Big eye tuna;
- c) Skipjack tuna;
- d) Albacore tuna; and,
- e) Swordfish.

5.2 (1) The Commission shall determine a priority order and a timeline to include the following stocks managed by the IOTC under this allocation regime:

- (a) Indo-Pacific Blue Marlin
- (b) Black Marlin
- (c) Striped marlin
- (d) Long tail tuna
- (e) Kawakawa
- (f) Frigate tuna
- (g) Bullet tuna
- (h) Narrow barred Spanish mackerel
- (i) Indo-Pacific king mackerel]
- (i) Indo-Pacific sailfish

(2) In making this determination, ~~Subject to Article 11.3, the Commission may amend Annex 1, including to exclude fish stocks [where a CPC can demonstrate to the Commission on the shall factor-basis of the distribution of the stocks based on advice from the Scientific Committee, that a particular stock is discreet to that CPC's Exclusive Economic Zone and does not migrate to, or straddle the High Seas.]~~

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

Commented [BN34]: Deletion reflects comments from Japan and jointly from South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania.

Commented [BN35]: As per comments from EU, Japan, South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania.

Commented [BN36]: Article 5 has been revised based on all comments received during TCAC10 and based on written comments. The list of stocks has been inserted explicitly in the Resolution, from the list that used to be contained in Annex 1. Annex 1 has accordingly been deleted. All listed stocks are currently managed by the IOTC. Reference to this fact has been maintained in the text. This is important not to bring in those listed stocks managed by other RFMOs.

There appears to be general support for the allocation regime to apply to the 5 tropical tuna stocks. There is clearly a difference of views in respect of the application of the allocation regime to coastal fish stocks. Recognizing the need for further dialogue in respect of other IOTC managed stocks, 5.2 has been rewritten to enable discussion to occur in the future – post adoption of this Resolution, to be determined with a decision from the Commission factoring in scientific advice of the SC on the distribution of such stocks, as per the comments of some members during TCAC10.

Alternate 5 has been accordingly deleted.

The footnote of Annex 1 in respect of BFT has been retained from the annex and moved here in the Resolution, as a footnote. The numbering of the footnote will be corrected once the deletion of the first footnote is agreed to.

~~5.32. The Commission may prioritise the implementation of the Allocation Regime in this Resolution by gradually applying it to each stock, in a gradual manner, based on priorities set out in Annex 1 and further established in accordance with Article 9.2.~~

ALTERNATE 5

Article 5. SCOPE

~~5.1 This resolution shall apply to those species covered in Annex 1 [excluding the Territorial Sea and Archipelagic waters of CPCs] and managed by the IOTC.~~

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 a stock 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 6.45 to 6.740, and pursuant to the process set out in aArticles 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, and The allocation shall be remain valid until adjustments are made pursuant to Articles 7.1, 7.2 or 7.3.]~~

6.3. ~~Subject to Article 7.3, [The sum of allocations for a given fish stock established for a given year allocation period pursuant to this Resolution shall not exceed [biologically sustainable limits, or TACs, where provided, /OR/ the TAC or proxy set by the Commission in the absence of a TAC /OR/ limits determined by the Commission in articles 6.1(a) and 6.1(b)] for that stock for that year allocation period.~~

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

Criteria for Allocations

Baseline Allocation

~~[6.4 Each CPC shall be eligible to receive an equal Baseline Allocation consisting of [%] of the TAC for a given fish stock.]~~

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

~~(a) a percentage share of the Catch based Allocation as defined by criteria provided in articles 6.6 to 6.8; and,~~

Commented [BN37]: As Bangladesh's proposal for article 6 is significantly different from the current draft, the Chair has opted to include it as a separate Alternate Article 6, which can be found at the end of article 6.7.

Commented [BN38]: Wording in 6.1 (a) and (b) now referenced in definition of TAC, and so they've deleted here as discussed and agreed during TCAC10 and as proposed in written comments from Japan and jointly from South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania.

Commented [BN39]: The Chair has reflected changes requested by delegations during TCAC10 and in written comments. Many of these changes are a direct result of the clarification of the definition of TAC. The Chair notes that by removing the reference to Article 7.3 in this article, any adjustments for exigent circumstances would need to "fit" within the TAC established for the stock. For stocks in the red quadrant, it may be impossible to accommodate exigent circumstance requests.

Commented [BN40]: The premise of 6.4 and 6.5 was to first divide the TAC in two portions: one to implement the catch-base allocation and the other to implement the coastal State allocation, and then to determine each CPC's share of each portion of the TAC based on the criteria in 6.6 to 6.8 on the one hand, and on 6.9 and 6.10 on the other hand. Both criteria are based on the status of the CPC: its catch history on the one hand, and its status as a Coastal State on the other hand. Neither criteria were meant to be based on geography – they were not meant to restrict where the allocation may be fished, but instead, to allocate a certain percentage of the TAC dedicated to each "status" criteria. The Chair understands the preference of many delegations is to calculate the share of each CPC directly from the TAC, on the basis of the criteria in 6.6 to 6.10. In this context, 6.4 and 6.5 have been deleted and other provisions have been adjusted to reflect this preference. See further discussions regarding geographically based criteria in the margins of Article 6.7.

The Chair has taken note of the offer by Indonesia, Australia, India and Bangladesh to submit a new proposal for a new structure to the allocation regime distinguishing between allocations for the high seas and allocations for EEZs of Coastal States to the IOTC. Bangladesh's proposal has been inserted as an Alternate proposal after Article 6.

Commented [BN41]: This paragraph was originally inserted as 6.7(a)(i) under the Catch-base Allocation Criteria, to address Australia's and India's request for an equally shared allocation for all CPCs. It is now inserted here in 6.4 in brackets to reflect the reservations raised by the EU and Australia and the proposal from South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania to delete it. The Chair has moved this baseline allocation criteria from out of the Catch-base Allocation criteria, to make it clear that it is not based on catch.

The Chair has noted Japan's suggestion to use this baseline allocation as a possible means to address new entrants' aspirations. If agreed, article 6.9 could be deleted.

The Chair noted India's opening remarks and Maldives comments related to the scope of this allocation criteria stated during TCAC10, and Australia's written comment, all in reference to such a criteria being applicable to the high seas. The Chair would flag that as it currently stands, the text of this draft Resolution does not restrict the implementation of this baseline allocation to the high seas. In other words, it does not require that this allocation be caught on the high seas. In fact, the Chair's assumption, throughout the text of the Resolution and for all allocation criteria, is for Parties to catch their allocations wherever they choose, provided, of course, that they seek approval of Coastal States if this catch is proposed to be taken within the EEZ of another Coastal State. This assumption is premised on the fact that, once allocated, a State may choose to do what it wants with the allocation. Also, as this is an allocation regime for HMS, the management measures of the RFMO in res...

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,

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

Coastal State Allocation

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

6.540 [(1) Coastal State {CPCs} shall be eligible to receive a share of the TAC [for fish stocks that occur in their Exclusive Economic Zones], which shall comprise the following components:

(a) [35% / 45%] of the Coastal State Allocation ~~to address their interests and aspirations~~ recognizing Coastal State CPCs' 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 particular vulnerability, 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] indicators described in Annex [3]; and

~~(c)~~ [(17.5% / 0%) of the Coastal State Allocation dedicated to Coastal State {CPCs} to address their rights and status as coastal States, to be shared based on the indicators in Annex [3];] and,

(d) [%] of the Coastal State Allocation dedicated to Coastal State CPCs according to the size of their population;

(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 at least 60 days before the Commission meeting, a Coastal State {CPCs} shall inform the Secretariat of any statistical changes that may affect their dependency status referenced in paragraph (1)(b). The Secretariat shall reflect this change for that CPC's allocation in the allocation table submitted for the Commission's approval.] 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, with the agreement of the Commission, the coastal State [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.

Commented [BN42]: The Chair has brought the Coastal State Allocation criteria up in the text as requested by some delegations during TCAC10 and jointly by South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania in their written comments.

The Chair is unclear as to what "principled priority" or "priority ranking", as suggested by these members, would mean in the context of an allocation regime. The Chair notes that the order in which the criteria figure in the Resolution does not grant any priority or preferred ranking to this or any other criteria that follow.

One means of achieving some form of priority to the allocation criteria would be to assign a greater portion of the TAC to one criteria than to another criteria, however, the Chair's proposal to provide for the possibility of achieving this in previous articles 6.4, 6.5 and 6.9 has been rejected by most delegations, including by the delegations mentioned above. Further clarification is needed to reflect a concept of prioritization in the text, should there be consensus on the idea.

In respect of India's comment during TCAC10 that "there may not need to be any criteria for coastal States as all catches in EEZs will go to the coastal States", the Chair would note that this assumes that the criteria for coastal States would provide an allocation to coastal States to be fished in their waters only. The Chair did not understand the proposed CS Allocation criteria in this way, nor was the draft text written in a way to limit where any allocation may be caught, as discussed above. The criteria as drafted are based on the status of a CPC as a coastal State. Imposing restrictions on where the allocation may be caught would be a concept not currently used in RFMOs, and as such, if supported by the TCAC, would require explicit language to put into effect.

Commented [BN43]: Reflects the discussions during TCAC10 and assumes support for the new definition of REIO CPC combined with this paragraph (4).

Commented [BN44]: This wording in brackets proposed by China in TCAC08 opposed by others, is not clear. Is it meant to be the % basis of the TAC from which to calculate the CS allocation (assuming this can be done with distribution data or other proxy), or is it to limit where the CS allocation may be caught? Or both?

Commented [BN45]: Wording proposed by UK in its written comments supported during TCAC10, and adjusted by the Chair. The Chair has omitted the word "rights" here, as already covered by paragraph (c), and in reference to those delegations that sought to have "needs" added to paragraph (a), the Chair would refer them to paragraph (b) which already covers this. Paragraph (a) is meant ...

Commented [BN46]: The numbering of Annexes may change based on proposals to delete certain annexes.

Commented [BN47]: Brackets removed based on discussions during TCAC10.

Commented [BN48]: Wording proposed to be deleted by South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania reflected by brackets as the EU has requested that such indicators be agreed upon internationally.

Commented [BN49]: New criteria proposed by Bangladesh. The Chair would note that the current indicators in Annex 3: HDI, GNI and SIDs developed by the UN, all factor in the size of the population. Clarification is needed to better understand what may be missing from the current list of indicators in Annex 3. As well, the criteria in paragraphs (a) to (c) and associated indicators are formulated in ratios to facilitate the application of the result in % ...

Commented [BN50]: The Chair has attempted to reflect the comments from the EU and jointly from South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania. The Chair would note that there had been general agreement to delete this paragraph during TCAC10. Accordingly, it has been put into brackets for further consideration.

(4) This article applies mutatis mutandis to the Regional Economic Integration Organization CPC.

Commented [BN51]: This new paragraph is added to address the EU's comment on 1.1(e), given the new proposed definition of REIO. An alternative is to insert REIO in each paragraphs of 6.5, which makes the text a bit more cumbersome.

[Catch-Based Allocations]

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

Commented [BN52]: Brackets have been inserted around this part – the title, 6.7 and 6.8 - to reflect the opposition to catches forming one basis for criteria to determine allocations, lodged by India, Bangladesh, Somalia and Indonesia, whereas such a criteria has been supported by other delegations, including the EU, Japan, China, Sri Lanka, and Maldives.

[6.7. (a1) Each eligible CPCs shall receive a Catch-based Allocation consisting of two components:

(i) an equal Baseline Allocation consisting of [%] of the total Catch-based Allocation for a given fish stock; and,

Commented [BN53]: This paragraph has been moved up out of the catch-based allocation criteria, to clarify that it is not based on historical catch, and meant to address delegations' comments (EU, India, Australia, Bangladesh, Indonesia and others) that a criteria was needed to reflect all CPCs freedom to fish on the high seas.

(ii) a Catch-based Allocation consisting of a share of the TAC total Catch base Allocation, established based on the historical catches of the CPC determined based on the criteria provided in Article 6.78.

Please see comments above regarding where an allocation may be fished.

(b2) The Catch-based Allocation shall be normalised for each eligible CPC as a percentage of the stock specific TAC.]

Historical Catch

[6.78(1)(a) Subject to paragraphs (2) and (3), Annex 2 and Article 6.811, the historical catch used to determine a CPC's Catch-based Allocation for a given stock shall be based on the best nominal catch data provided by each CPC and, where relevant, re-estimated through a process approved by the Commission 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] most recent year with data / 2019].

Commented [BN54]: XX has been replaced by wording proposed by the EU and as an alternative, the actual year when most recent data exists i.e. 2019. The Chair notes South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania's request to delete this period for determining the historical catch of stocks other than the tropical tunas. This has been reflected with a bracket around the text, which, as drafted, had been proposed in earlier discussions by other delegations. Having said this, delegations will need to decide what period to reference, or, alternatively, delete any reference to other stocks if the members agree to postpone the inclusion of these other stocks in the application of the allocation regime to a later stage. At that time, delegations will need to determine the reference period they wish to apply to such stocks.

[(b) In determining the best estimates of nominal catch data pursuant to paragraph (a), catches taken by any vessels on the IOTC IUU Vessels List created pursuant to Resolution 17/03 and all of its predecessor and successor lists, for the relevant period shall be excluded.]

Commented [BN55]: TCAC10 indicated support for this provision, but a need to clarify the process for determining and validating the IUU catch. Indonesia referenced a similar process within CCSBT. The Chair would look to a proposal by a delegation for inclusion here in response to this issue.

(2) [For the purpose of allocations pursuant to this Resolution, [All a portion of / % of] historical catches taken within an area under national jurisdiction of a CPC shall be [attributed / counted] [solely] to the CPC with jurisdiction over that area, within the reference period in [Paragraph 9.1(b) and Annex 2,] regardless of the flag of the vessels that took and reported such catches.]

Commented [BN56]: Korea's general opposition has been reflected with brackets around the entire provision. Comments and edits proposed by the EU, Japan and South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania have been included, with options in brackets, reflecting the different views and the need for further discussions.

(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 vessels on the IOTC IUU Vessels List created pursuant to Resolution 17/03, and any predecessor or successor lists:

(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~~ the Commission;

iv) are taken by a coastal State CPC or REIO fishing within its own area under national jurisdiction, shall be considered as being taken within that States' or REIO's 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 Commission ~~IOTC Compliance Committee~~;

(e) Notwithstanding paragraph 6.7&(3)(d) and unless otherwise demonstrated by the coastal flag State, catches by small artisanal vessels of a limited range of a coastal State CPC 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 CPC, irrespective of whether spatial effort data is available.]]

Commented [BN57]: Change proposed by the EU during TCAC10. The debate about the appropriate committee to review and provide advice to the Commission on this paragraph and paragraph (d) are examples of the nature of discussions related to allocations that may be better addressed by a committee dedicated to the issue prior to being submitted to the Commission for decision. Ongoing questions related to the merits of the Compliance Committee for this work led the Chair to propose a the Allocation Committee. Depending on the outcome of discussions regarding the Allocation Committee, the chair recommends a simple reference to the Commission in these sections for now. It may be possible to add reference to this work in article 9 and the Terms of Reference for the Allocation Committee, should it be supported in the end.

Commented [BN58]: Wording to reflect UK's comments. The Chair would note that these characteristics are subjective. The FAO has used 24m as a threshold for "artisanal" vessels, which members may wish to consider. A similar approach has been used in some RFMOs (e.g. WCPFC for observer requirements).

~~Coastal State Allocation~~

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

~~6.10. [(1) Coastal State [CPCs] shall be eligible to receive a share of the TAC [for fish stocks that occur in their Exclusive Economic Zones] which shall comprise the following components:~~

~~[25% / 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;~~

~~[17.5% / 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 particular vulnerability, 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 indicators described in Annex 3; and~~

~~[[17.5% / 0%] of the Coastal State Allocation dedicated to Coastal State [CPCs] 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.~~

~~(2) 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, with the agreement of the Commission, the coastal State [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.~~

ALTERNATE ARTICLE 6 [Rev1](#). (provided by Bangladesh)

Article 6. ALLOCATION STRUCTURE

Total Allowable Catch

- [6.1](#) 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.
- [6.2](#) Allocations to CPCs of a given fish stock shall be established based on allocation criteria contained in articles [6.4](#) to 6.10, and pursuant to the process set out in articles 9.5 to 9.17.
- [6.3](#) The sum of allocations for a given fish stock established for a given allocation period pursuant to this Resolution shall not exceed TAC.

Criteria for Allocations

6.4 The allocated share of the TAC for a given stock for each eligible CPC shall consist of two elements:

(a) a percentage share for the High Seas; and,

(b) a percentage share for Coastal State status.

High Seas Allocation

6.5 The total High Seas Allocation for a given fish stock shall comprise [%] of the TAC for that stock.

6.6 Each eligible CPC (including new entrant) shall receive an equal Allocation for that given fish stock.

Coastal State Allocation

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

6.8 (1) Coastal State [CPCs] shall be eligible to receive a share of the TAC, which shall comprise the following components:

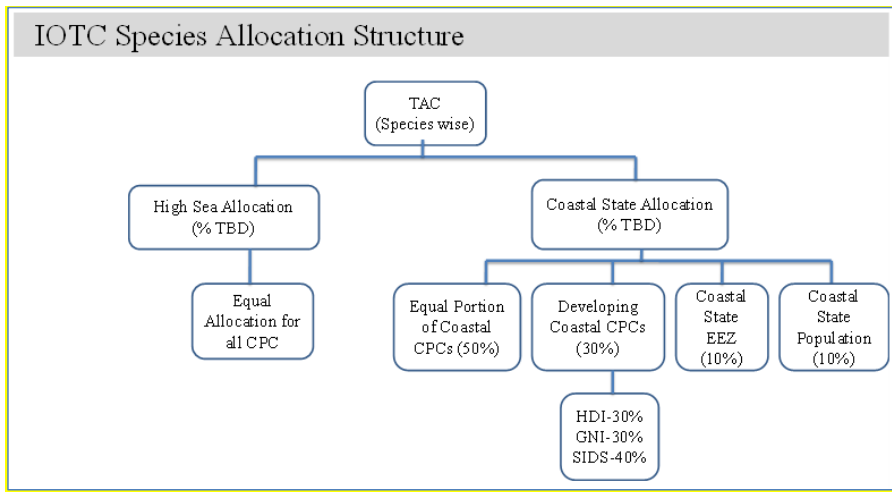
(a) [%] of the Coastal State Allocation to be shared in equal portion by all Coastal State CPCs, as per Annex 3;

(b) [%] 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 particular vulnerability, needs and dependency on the fish stocks listed in Annex 1 article 5 and the fisheries for these stocks, to be shared based on internationally agreed upon indicators described in Annex 3;

(c) [%] of the Coastal State Allocation dedicated to Coastal State CPCs EEZ proportion, to be shared based on indicators in Annex 3; and,

(d) [%] of the Coastal State Allocation dedicated to Coastal State CPCs population size, to be shared based on the indicators in Annex 3.

Commented [BN59]: Some of the wording proposed was not clear. The Chair has tried to clarify it with suggested adjustments. The new structure based on geographic criteria seems to imply that the allocations would be caught in the specific areas identified, without stating this explicitly. As this would be a new concept, if this alternate structure is agreed to, the Chair recommends stating this explicitly, if this is the intent. Please see discussion on the matter of where an allocation may be fished under the new article 6.4 in the original structure section.



Note: Adjustments; the CPC, whose current harvest for a stock exceeds the allocated regime, will be reduced gradually by the next 10 (ten) years to reach the allocated regime. The CPC shall submit a Harvest Reduction Plan to the allocation committee after the allocation regime being approved.

Correction for Extenuating Circumstances

6.811. At the beginning of an allocation period or thereafter, a Coastal State CPC that is a developing State and whose ability to fish for stocks covered by this Resolution during the catch history reference period referred to in Article 6.8 has been severely restrained or impeded by extenuating circumstances, including, but not limited to 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) spatio-temporal impacts of climate change on fishing once adequate and stable indicators are developed and agreed adopted by the Commission based on advice from the Scientific Committee; and,
- (f) global pandemic,

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, seek to have its [allocation /catch history] for that stock corrected. [based on the average catch taken within the catch history reference period by CPCs for the same stock.]

New Entrants

Commented [BN60]: The Chair has attempted to reflect changes proposed by all delegations who have provided them during TCAC10 and in written submission: EU, Japan, Madagascar, South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania in 6.11 (now 6.8), and the related 7.3, which has now been deleted and its content incorporated in 6.8.

Commented [BN61]: As proposed by Japan and supported by Australia, with process requested by EU, during TCAC10.

Commented [BN62]: Proposed by Australia during TCAC10

Commented [BN63]: The Chair recognizes the need for a thorough discussion on New Entrants, once firmer support is found on an allocation structure and criteria for CPCs. If the baseline allocation in 6.4 is agreed to, it could replace this special allocation in article 6.9, as suggested by Japan during TCAC10. Alternatively, TCAC members may wish to consider a similar approach to that used for CNCPs – i.e. 50% of the allocation until the next allocation period begins. Both options would provide a lesser impact on CPCs' allocations from the time the new member enters the IOTC for an initial period, until a new allocation cycle begins. It is understood that once this initial period is over, the New Entrant would be considered a CPC and would hence be eligible to allocations as any other CPC under the criteria found in 6.4 to 6.8.

~~6.9+2.~~ 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 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, where relevant, and which has been verified by the Scientific Committee;]~~
- (c) ~~[expressed 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 the stock and in doing so shall take into account the factors specified in Article 11 of the UNFSA.~~

Article 7. ADJUSTMENTS WITHIN ALLOCATION PERIOD

7.1 Over-catch

~~[(a) Over-catch of a fish stock by a CPC or New Entrant an allocation holder in a given calendar year (n) within an allocation period shall be deducted by [120%] of the over-catch from its allocation for that stock in the calendar year following the availability of the catch data or catch estimates. [calendar year within the same allocation period /OR/ allocation period] [at a ratio of 1.2:1 / by 120%] /OR/ [1.1:1 / by 110%] of the over catch.~~

~~[(a)bis The Commission may increase the ratio of adjustment for over-catch provided in paragraph (a) based on the status of the stock.~~

~~[(b) An allocation holder 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 shall be increased [to a ratio of 1.5:1 / by 150%] of the over catch.~~

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

~~[(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).]~~

ALTERNATE 1 to paragraphs 7.1 (a) to (d)

7.1 Over catch

~~(a) 100% of the over catch of a fish stock by an allocation holder in a given calendar year shall be deducted from that holder's allocations for the following two years, unless over-catch for that~~

Commented [BN64]: Note link with 4.2 and 7.2(b)(iii)

Commented [BN65]: South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania are seeking to delete 6.13. Adjustments to other provisions may be required to make it clear that this special allocation would be allocated based on the criteria laid out in articles 6.5 to 6.10. The Chair has not yet made these changes, as a more substantive discussion is needed regarding New Entrants.

To note that as written, especially with the words "special allocation" and "eligible new entrant" in the chapeau of 6.9, new entrants would only receive an allocation of the portion of the TAC that has increased from the previous TAC. So if the TAC has increased by 5% from the previous TAC, they would receive an allocation of this 5%, based on the criteria discussed above. This option minimizes the impacts of new entrants on existing allocations for the initial period when they are considered "new entrants" as per the definition, while providing them access to the resources when such resources can accommodate increased catch. Alternatives to this approach are discussed above and may be considered.

Commented [BN66]: As requested during TCAC10, the Chair has attempted to simplify this provision by deleting options that did not receive support, and did not serve to clarify the text. The Chair has reverted back to the use of CPCs and New Entrants as requested by Sri Lanka and Pakistan during TCAC10. Edits proposed in writing by Japan, the EU, the UK and South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania have been reflected. Brackets have been inserted around 7.1 to reflect India's reservation on the concept.

Several Parties have raised the issue of timing of available catch data to adjust allocations for over catch in the calendar year following the data being submitted which demonstrates the over-catch. In the Chair's view, this issue can only be addressed in two ways: change the data submission timing to require real time submission that would allow for the penalty adjustment to apply to the next calendar year as proposed by the UK in paragraph (d); or, delay the application of the adjustment penalty by one year. Most RFMOs apply a penalty 2 years after the over-catch, given the challenges with submitting real time data, particularly for developing States. As the outcome of paragraph (d) is not yet known, the Chair has proposed text that reflects the link between the timing of the over-catch and the availability of data. This wording would work irrespective of the choice the TCAC makes in respect of the data submission timing requirement in paragraph (d). All of this assumes that the Commission will approve the over-catch adjustment to the allocation in the year the data, or estimates of that CPCs' catch, are received by the Commission. In practical terms this would be in year 3, after the over-catch has occurred (i.e. n+2).

As proposed by Korea during TCAC10 and supported by many delegations, the chair has also added the possibility of increasing the adjustment percentage based on stock status. This implies that the 120% adjustment in paragraph (a) would be the baseline/default adjustment, while leaving open the % of adjustment to be determined by the Commission on a stock by stock basis, to account for the impacts of over-catch on a stock that is in poor condition. The chair has retained the higher 120% as a baseline to address Maldives comments in TCAC10, to ensure that it serves as a disincentive for over-catching allocations. This percentage has been put in brackets as some delegations reserved their views for future discussion on this.

Commented [BN67]: Alternate proposals have been deleted based on discussions during TCAC10 and written requests of South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania, as well as from the EU.

allocation holder has occurred in two or more consecutive years, in which case 125% of the over-catch shall be deducted over the following two years.

ALTERNATE 2 to paragraphs 7.1 (a) to (d)

7.1 Over-catch

~~(a) An allocation holder that over catches its allocation of a given fish stock in a given year shall see its allocation for the subsequent year(s) deducted in the amount determined through a penalty mechanism approved by the Commission for each stock and reflected in the Conservation and Management Measures for that stock.~~

[(de) Catch Reporting:

(i) To ensure proper monitoring of IOTC allocations, ~~allocation holders~~CPCs and New Entrants shall report catches of allocated stocks, preferably on a quarterly basis, or if not possible, as a minimum on an annual basis, based on a schedule and requirements determined by the Commission for each stock. Where quarterly reporting is not possible, preliminary catch data, including catch estimates, for the first six months of the fishing season should be provided by year end of the same calendar year. When reaching 100% of its allocation, the CPC or New Entrant~~allocation holder~~ shall close its fishery for that stock and inform the IOTC Secretariat of its decision.

(ii) CPCs shall consider ways in which they, either bilaterally or through the Commission with the support of the Secretariat, may assist Developing State CPCs in implementing catch reporting requirements referred to in paragraph (i) beyond the current annual data reporting requirements of the IOTC. This may include financial assistance, assistance relating to human resources development, technical assistance, transfer of technology, including through joint venture arrangements, and advisory and consultative services.

(iii) Where an allocation holder a CPC or New Entrant has exceeded its allocation and over-catch penalties have been imposed pursuant to this article paragraphs 7.1 (a), (b) or (c), that allocation holder CPC or New Entrant shall, in the subsequent calendar year where 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.]

[7.2. Serious Non-Compliance

(a) The Commission shall [temporarily withdraw / review] the eligibility of a CPC or a New Entrant 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 repeated ~~or gross~~ disrespect of the Agreement or the IOTC's Conservation and Management Measures adopted by IOTC Resolution, or disrespect of such measures which ~~the Commission deems~~pose a serious threat to the conservation of IOTC fish stocks.

(b) The Commission shall identify violations that constitute serious non-compliance which shall lead it 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

Commented [BN68]: Deletion requested by South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania has been reflected by the brackets around paragraph (d). Edits reflect the discussions during TCAC10 and written comments from EU, Bangladesh, and the UK.

The Chair would note that the allocation regime as currently drafted is highly dependent on accurate and timely catch data. Flexibility has been added to the timeframe for reporting such catch data or estimates thereof, while encouraging shorter timeframes, as discussed during TCAC10. The Chair has also proposed a new paragraph (ii) inspired by the wording of Art. 25(2) of the UNFSA, with a view to implementing principle 3.8 (now 3.1(5)), as per comments during TCAC10 from Comoros, Mozambique, Tanzania, Maldives and Bangladesh.

from the Compliance Committee. In making this determination, the Commission shall may factor the following examples of serious non-compliance:

- (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;
- [(ii) Non-provision of catch data for 3 years or more with no quantifiable improvement in addressing the data gaps;]
- [(iii) Persistent non-payment of contributions to the Commission in accordance with Article XIII of the Agreement.];
- (iv) Any other factors agreed to by the Commission.

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

- (i) the CPC or New Entrant has made significant progress in addressing 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.]

7.3 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 carried over to the next calendar year within the allocation period for the stock, if it can demonstrate to the Commission that its ability and capacity to fish the allocation during that calendar year within the allocation period for the stock has been directly and severely restrained or impeded by extenuating circumstances described in Article 6.11.~~

~~(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 [x%] of the TAC factoring in the status of the stock].~~

Carry-Forward of Catch

7.3(bis) (1) A CPC or New Entrant may seek to have its under-harvested allocation for a fish stock carried forward to the calendar year following the availability of the catch data demonstrating the under-harvest.

(2) In such a case, the CPC or New Entrant shall submit a documented request to the Secretariat by 31 October to have the under-harvested catch, in tonnage, for the previous calendar year carried forward and added to the following calendar year's allocation of the same stock for that CPC or New Entrant. The Secretariat shall circulate such documentation to CPCs and New Entrants without delay. The carry-forward shall not exceed [20%] of the allocation of that CPC or New Entrant, unless a lower percentage of carry-forward is established by the Commission for that stock based on the status of the stock.

7.4 The Secretariat shall reflect any adjustments to allocations made pursuant to Article 7 in the allocation table and share the revised table with all CPCs and New Entrants.

Commented [BN69]: Some members raised concerns during TCAC10 with the ambiguity of certain terms such as "underreporting" (by how much? For how long?), lack of data reporting for "3 years" (consecutive? Within a period of how many years?), "persistent non-payment" (for how long?). While specific details can be added to 7.2(b) to respond to these questions, narrowing the scope of the Commission's discretion could result in a CPC not being penalized for a serious breach, based on a technical detail. For instance, if 7.2(b)(ii) was amended to include "consecutive" or a timeframe of within 5 years was added, but the CPC did not report its data for 3 non-consecutive years within 6 years, this would not be considered a serious violation under the resolution, whereas CPCs may believe that it is. There are definite pros and cons for adding specificity. One definite con is to take away some discretion from the Commission to consider the entire circumstances, and the fundamental intent of this provision: to dissuade and penalize serious non-compliance. This may explain the proposed change to "may" from "shall" proposed by Maldives in its written comments. The TCAC may wish to consider all of this and provide some direction to the Chair for further amendments to this provision.

While many delegations supported paragraph (ii), brackets have been inserted to reflect the reservation registered by Bangladesh, for further discussion. And, as opposing views remain on whether to keep or delete (iii), brackets remain. Linkages between (iii) and 4.2 and 6.9 are noted. And new paragraph (iv) added to reflect joint comments from South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania.

Commented [BN70]: South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania have proposed to remove the ability to re-instate eligibility of new entrants in paragraph 7.2(c). As this would be considered discriminatory given that CPCs may have their standing reinstated, the Chair has not made the change. Either they are all in, or all out of the serious non-compliance provision.

Commented [BN71]: To reflect UK's comment during TCAC10 and Maldives' written proposal.

Commented [BN72]: This provision has been combined with Article 6.11 to provide for one single provision (6.8) to deal with extenuating circumstances that may affect allocations, as proposed by some delegations.

In response to Japan's proposal for a carry-over (or carry-forward) clause, a new Article 7.3(bis) is proposed.

Commented [BN73]: Proposal from Japan supported by many delegations during TCAC10, adjusted to reflect input during TCAC10.

Commented [BN74]: Reflecting Japan's comment in respect of Article 8.1(6).

7.5 Allocation adjustments under Article 7 shall not prejudice the determination of future allocations of CPCs.

Commented [BN75]: Addition proposed by Maldives during TCAC10.

Article 8. ALLOCATION TRANSFERS AND USE

8.1 ~~(1a)~~ [CPs / CPCs] who wish to transfer, on a temporary basis, a portion or all / up to a maximum of 20% of their allocations] within an allocation period, shall notify the Commission in writing [XX days] prior to the transfer occurring.

Commented [BN76]: South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania's request to replace CPs with CPCs is inserted as an option in brackets as other delegations requested that the right to transfer allocations be limited to CPs. The outcome of this issue will impact the wording of article 8.2.

~~(2b)~~ The written notification of the [CP / CPC] shall include the tonnage of fish to be transferred; the stock; the period; [the gear type]; and, the [CP / CPC] to whom the allocation, or part thereof, will be transferred.

As Indonesia originally proposed the change to insert the cap of 20% and supported by Shri Lanka and EU during TCAC10, the proposal to delete this cap and revert to the original wording made by Korea, Madagascar, South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania, the UK, and Bangladesh is inserted as an option and in brackets.

(3) When an allocation transfer is proposed in the context of a transition for developing a fishing fleet, the Developing State CPC shall provide the Commission with a fleet development plan. In such instances, the transfer period shall be limited to [xx years].

The Chair would note that temporary transfers of allocations may be sought for different reasons. A temporary quota transfer may be sought to enable a transition for developing a fishing fleet to fish a new allocation. Such a transfer may also be sought for other "temporary" reasons. For instance, a weather disaster such as a tsunami, may destroy a fishing fleet, requiring a CPC to transfer its allocation for the remaining part of the fishing season and until the fleet can be replaced. A cap on the amount of allocation that may be transferred may be problematic in such instances.

~~(4e)~~ The transfer shall take effect upon receipt by the ~~Secretariat~~Executive Secretary of the written acceptance from the receiving [CP / CPC].

It is clear that TCAC members do not support the permanent sale and transfer of allocations. Recognizing that the transfer mechanism may be used for different reasons, including as a means of providing developing CPCs with time needed to develop their fishing fleets, it may be useful to treat those particular scenarios distinctly from other transfer scenarios. The Chair has proposed new paragraph (c) to address the many comments made during TCAC10 in relation to fleet development, including the requests made to put a time limit on transfers in such circumstances.

~~(5d)~~ The Executive Secretary shall notify all [CPs / CPCs] of the written notification and the written confirmation of the transfers shall be circulated to the Commission.

~~(6e)~~ 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 [BN77]: As the UK had requested to delete the words gear type in version 2, the EU's request to reinsert these words is put in brackets.

~~(7f)~~ Transfers of allocations are not permitted within the last 45 days of the allocation cycle.

Commented [BN78]: As suggested by Kenya during TCAC10, reference is made to a fleet development plan, though the Chair would note that the resolution requiring fleet development plans has expired. As stated earlier, the Chair has also inserted a timeframe for transfers in such circumstances, as discussed during TCAC10.

~~(8g)~~ Permanent transfers of allocations are not permitted.

Commented [BN79]: To address Bangladesh's questions during TCAC10.

~~(9h)~~ A CP who has received a transferred allocation
~~(a) must report the catch to the Commission;~~
~~(b) may not use this catch history for future allocations;~~
~~(c) may not transfer this allocation or a portion thereof to a CPC or New Entrant.]~~

Commented [BN80]: Brackets remain on this paragraph to reflect requested insert by China and requested deletion from South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania.

~~(i) This Resolution shall not be considered a precedent for future allocation decisions.]~~

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.~~

Commented [BN81]: Paragraph deleted as originally requested by Maldives and now requested to be deleted by South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania.

8.3 A CPC or New Entrant that does not intend to fish, ~~or transfer, or preserve its allocation for conservation purposes,~~ in a calendar year period, is encouraged to notify, on a voluntary basis, the Commission in writing, within xx days of the Annual meeting of the Commission. The unused allocation may be re-allocated in accordance with Article ~~9-12~~.

Commented [BN82]: Proposed deletion from South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania.

Commented [BN83]: Deletion proposed by Japan

[8.4 A transferred Allocation or part thereof transfers shall not prejudice the determination of future allocations of CPCs.]

Commented [BN84]: Edits proposed by South Africa, Maldives, Kenya, Mozambique, Pakistan, and Tanzania.

Article 9. IMPLEMENTATION

Priority Fish Stocks

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

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

9.1 (a) The Secretariat shall prepare for the Commission's ~~adoption approval, an Implementation a~~ Plan for ~~the implementation of this Resolution, 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 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.]~~

[(be) In accordance ~~Articles 3.1(8), 5.3 and 6.7(2)42,~~ 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

Commented [BN85]: Articles 9.1-9.3 and Annex 1 have been deleted as content, including list of stocks and prioritization have been incorporated into the text of Article 5, as proposed by South Africa, Maldives, Kenya, Mozambique, Pakistan, and Tanzania.

Commented [BN86]: South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania have proposed to delete this section and insert it into an appendix which would be "removed of the final adopted Resolution, as it's a Commission process".

The Chair is uncertain as to which provision should be removed. In addition, it is unclear how the appendix would be approved by the Commission as the process for implementing the Resolution, if not appended to this Resolution when adopted.

Accordingly, the Chair has maintained the provisions in the text of the Resolution, and will enable a discussion about Article 9 and its placement during TCAC11 with a view to addressing this matter. Also, as mentioned above, all changes proposed by these delegations to the process of allocation in Article 9 have been inserted in a separate Alternate Article 9.

Commented [BN87]: Paragraph (b)(i), (ii), (iii) and (iv) are deleted at the request of South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania.

The Chair would note that paragraph (iii) would be covered by paragraph 7.1(d) if approved by the TCAC.

The Chair would further note that paragraph (iv) is meant to implement, in part, the objective set out in principle 3.1(5). This has now been reflected in a proposed new paragraph 7.1(d)(ii).

Commented [BN88]: As this paragraph was originally proposed by the EU, the requested deletion from South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania is reflected by the insertion of brackets.

Commented [BN89]: As the creation of an allocation committee has been supported by some delegations and opposed by others, this section and reference to it in other provisions of the Resolution have been put in brackets.

South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania have proposed to delete most provisions and have proposed some alternative text to a few of these provisions. The Chair has chosen to reflect these proposed changes as brackets around the current text, and an alternative Article 9 has been added to reflect their proposal. This approach will enable a more comprehensive discussion on the process in the future.

9.2 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.

9.3 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.

9.4 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]

9.5 [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 Article 9.14. [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

9.6 [(a) XX days prior to the commencement of the allocation period for each fish stock, and in accordance with the Implementation Plan adopted pursuant to Article 9.7~~8~~, the Secretariat shall develop a draft Allocation Tables for each stock to be allocated 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 6.8~~11~~.

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

9.7 [Eligible CNCPs and New Entrants that wish to be considered for allocations under articles 6.4~~6~~ to 6.8~~10~~, and 6.9~~12 and 6.13~~ respectively, shall send a letter of application to the Commission at least xx days prior to the annual meeting of the [Allocation Committee / OR Commission].]

9.8 [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 (5~~4~~); and,

(b) any requests for allocations submitted by CNCPs and New Entrants pursuant to Article 9.7~~10~~.]

9.9 [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]

9.10 [The Allocation Committee shall meet annually, prior to the Commission’s Annual Meeting.]

9.11 [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 6.8~~11~~, 6.9~~12~~ and 7.3(bis).]

9.12 [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.]

9.13 [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]

9.14 [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 approval by the Commission at its annual meeting.]

9.15 (a) At its annual meeting, the Commission shall [consider the recommendations of the [Allocation Committee /OR consider any requests made pursuant to articles 6.8~~11~~, 6.9~~12~~, 6.13, 7.2(c)(ii), and 7.3(bis)] 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.

ALTERNATE ARTICLE 9.

Allocation Process

9.1 The Secretariat shall prepare for the Commission’s adoption a Plan for the implementation of this Resolution.

9.2 The Commission shall consider matters of allocation as an agenda item in the annual meeting of the Commission.

Commented [BN90]: As proposed by South Africa, Maldives Kenya, Mozambique, Pakistan and Tanzania.

9.3 (a) At its annual meeting, the Commission shall consider any requests made pursuant to articles 6.8, 6.9, 7.2(c)(iii), and 7.3(bis) 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, each a~~Allocations for a given fish stock 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.~~

Commented [BN91]: Edits proposed by South Africa, Maldives, Kenya, Mozambique, Pakistan, and Tanzania.

Article 11. FINAL CLAUSES

Coming into Effect

~~11.1. This Resolution shall come into force on [date].~~

Commented [BN92]: Deletion proposed by South Africa, Maldives, Kenya, Mozambique, Pakistan, and Tanzania.

Term and Amendment of Resolution

11.12 (1) The Allocation Regime contained in this Resolution shall be reviewed after [10 / OR 5 years] of its entry into 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.]~~

Commented [BN93]: Deletion proposed by South Africa, Maldives, Kenya, Mozambique, Pakistan, and Tanzania.

11.32 The Allocation Regime may be amended by decision of the Commission [after the initial term set out in Article 11.12(1)], including 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 [BN94]: Deletion proposed by South Africa, Maldives, Kenya, Mozambique, Pakistan, and Tanzania.

Safeguard

11.35 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 Agreement with respect to the legal status of any area covered by the Agreement.

Past Resolutions

~~11.6 This Resolutions replaces and supersedes the following Resolutions:~~

~~(a) 14/02 (title)~~

~~(b) 03/01 (title)~~

~~(c) Others.~~

Commented [BN95]: Deletion proposed by South Africa, Maldives, Kenya, Mozambique, Pakistan and Tanzania.

Appendix 1

IOTC membership by category

Commented [BN96]: Note, as per the Chair's comment in respect of the deleted definition of Non-Coastal State as it is not used in the Resolution, the column Non-Coastal State has been deleted as well, and a new column has been added to reflect the REIO CPC.

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

PAKISTAN	X		X					
PHILIPPINES	X							
SEYCHELLES	X		X					
SOMALIA	X		X					
SRI LANKA			X					
SOUTH AFRICA	X		X					
SUDAN	X		X					
TANZANIA	X		X					
THAILAND	X		X					
UNITED KINGDOM of Great Britain and Northern Ireland	X		X					
YEMEN	X		X					
SENEGAL		X						

ALTERNATE APPENDIX 1 (provided by Bangladesh for Rev1)

CPC	CP	CNCP	COASTAL STATE CPC	NON-COASTAL STATE CPC	DEV STATES	DEV COASTAL STATE	SIDS	LDS
AUSTRALIA	X		X					
BANGLADESH, People's Republic of	X		X					
CHINA	X			X				
COMOROS	X		X					
ERITREA	X		X					
EUROPEAN UNION	X		X					
FRANCE (IOT)	X		X					
INDIA	X		X					
INDONESIA	X		X					
IRAN, Islamic Republic of	X		X					
JAPAN	X			X				
KENYA	X		X					
KOREA, Republic of	X			X				
MADAGASCAR	X		X					
MALAYSIA	X		X					
MALDIVES	X		X					
MAURITIUS	X		X					
MOZAMBIQUE	X		X					
OMAN, Sultanate of	X		X					
PAKISTAN	X		X					
PHILIPPINES	X			X				
SEYCHELLES	X		X					
SOMALIA	X		X					
SRI LANKA			X					
SOUTH AFRICA	X		X					
SUDAN	X		X					
TANZANIA	X		X					
THAILAND	X		X					
UNITED KINGDOM of Great Britain and Northern Ireland	X		X					
YEMEN	X		X					
SENEGAL		X		X				

Appendix 2

A process map for the allocation process and catch validation

To be added

Annex 1

Commented [BN97]: Annex 1 is deleted as its content has been integrated in Article 5 of the Resolution.

NOTE: Annex 1 is retained for ALTERNATE ARTICLE 6 (Bangladesh REV1)

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 IOTC³ 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 sailfish

³ Southern Bluefin Tuna has been excluded as it is managed by the Commission for the Conservation of Southern Bluefin Tuna (CCSBT)

[Annex 2]

Commented [BN98]: To implement articles 3.1(8), 5.3 and 6.7(2).

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)]

Annex 3

Coastal State Allocation Indicators

[1. The following indicators shall be used to calculate the Coastal State Allocation pursuant to Article 6.510 of the Allocation Regime in Resolution 2023/XX:

a) Pursuant to Paragraph 6.510(a), Coastal State CPCs and REIO: Status weighting = 1 (an equal portion for each). Proportion = [35% / OR 45%] of the Coastal State Allocation;

b) Pursuant to Paragraph 6.510(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% / 40%] 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% / 40%] of the developing coastal States element of the Coastal State Allocation;

- Small Islands Development Status (SIDS): Status weighting = yes (1), no (0). Proportion = [40% / 20%] of the developing coastal States element of the Coastal State Allocation;

[c) Pursuant to Paragraph 6.510(c), Coastal State CPCs and REIO: 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

In respect of ALTERNATE ARTICLE 6:

d) Pursuant to Paragraph 6.5(d), coastal State CPCs Population Size: Proportion = [%] of the Coastal State Allocation; population size weighting:

In respect of ALTERNATE ARTICLE 6 **REV1**:

Commented [BN99]: Alternative repartition of HDIs proposed by EU and inserted in brackets.

d) Pursuant to Paragraph 6.10(d), Coastal State CPCs Population Size: Proportion = [%] of the Coastal State Allocation; population size weighting;

- < 25 million (Weighting 1)
- 25-99.99 million (Weighting 2)
- 100-199.99 million (Weighting 3)
- 200-1000 million (Weighting 4)
- > 1000 million (Weighting 5)

[Annex 4

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.

Chairperson and Vice-Chairperson

2. The Allocations Committee shall be presided by a Chairperson, supported by a Vice-Chairperson, elected by the Commission ~~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 ~~Allocation Tables~~ Allocation 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 9.14;
 - (b) Allocation Tables prepared by the Secretariat pursuant to Article 9.68;
 - (c) Requests from Eligible CPCs to reconcile catch data pursuant to Article 9.12;
 - (d) Requests for allocations by CNCs and New Entrants pursuant to article ~~6.9.712 and 6.13~~;
 - (e) Corrections to allocations of a CPC that is a developing coastal State for extenuating circumstances provided in Article ~~6.811~~ 6.811;
 - (f) Allocation adjustments pursuant to articles 7.1, 7.2., and 7.3 (bis);
 - (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, immediately 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.]

ON EQUITABLE ALLOCATION OF FISHING OPPORTUNITIES FOR SUSTAINABLE HARVEST OF TUNA RESOURCES IN THE INDIAN OCEAN

Submission of India

This text is for discussion purpose and without prejudice to the India's position on the Quota Allocation Regime or any other relevant measures in the IOTC Area of Competence

Background:

Some of the species under the management mandate of the Indian Ocean Tuna Commission (IOTC) have been assessed as overfished and / or subject to overfishing as per the latest scientific estimations done by the IOTC. The IOTC has taken several initiatives with the objectives of reversing the trends and recovering the stock status in longer term. A quota allocation system was proposed vide IOTC Resolution 14/02 and the Contracting Parties and Cooperating Non-Contracting Parties (CPCs) were urged to adopt the system for the management of the major species. India had put forth its perspectives on the quota allocation regime in the past meetings of IOTC including the Technical Committee on Allocation Criteria (TCAC) highlighting the rights and aspirations of coastal states, especially the developing coastal states and Small Island Developing Coastal States (SIDS) considering the importance of protecting the interests of artisanal and small-scale fisheries. India reiterates its proposition on the catch quota regime, which is under consideration in the IOTC.

The proposal aims for sustainable and equitable harvest of the following five species covered under the management mandate of the IOTC: (i) albacore, (ii) bigeye tuna, (iii) skipjack tuna, (iv) yellowfin tuna and (v) swordfish in the IOTC area of competence, supported with the best available scientific evidence, ensuring an unimpeded access of the fishery resources to the artisanal small-scale fisheries, recognizing and protecting the sovereign rights of the coastal states in the maritime zones under their national jurisdiction in line with the IOTC Agreement, extant international law of the sea/conventions as well as taking into consideration the developmental aspirations, food and social security requirements of the developing coastal states.

Noting that

- The preamble to the agreement on formation of the IOTC unambiguously proclaims the desire to contribute to the realization of a just and equitable international economic order with regard to the special interests and needs of developing coastal countries to benefit equitably from the fishery resources. Its stated objectives are for maintaining stocks in perpetuity and with high probability, at levels not less than those capable of producing their maximum sustainable yield (MSY), as qualified by relevant environmental, social and economic factors including the special requirements of developing coastal states in the IOTC area of competence.
- The IOTC Agreement, Article V, para 1 states: "The Commission shall promote cooperation among its Members with a view to ensuring, through appropriate management, the conservation and optimum utilization of stocks covered by this Agreement and encouraging sustainable development of fisheries based on such stocks."
- The Article XVI of the IOTC Agreement categorically provides that the agreement shall not prejudice the exercise of sovereign rights of a coastal state in accordance with the international law of the sea for the purposes of exploring, exploiting, conserving and managing the living resources, including the highly migratory species, within its EEZ.
- The Article 6 of the "Convention on Fishing and Conservation of the living Resources of the high Seas" of 1st UN Conference on the Law of the Sea (1958); Article 61, 116 and 119 of the UNCLOS (1982) and Article 7 and Part VII: Requirements of Developing States; Article 24 and 25 of the 1995 UN Fish Stocks Agreement (UNFSA) etc. also fully recognizes the sole rights and responsibilities of the coastal states in harvesting and managing the fisheries resources within

their respective EEZs. The UNFSA recognizes the special requirements of developing states in relation to conservation and management as well as development and participation in fisheries for the migratory stocks. The 1995 Code of Conduct for Responsible Fisheries (CCRF) of the FAO is also emphatic on considerations to the circumstances and requirements of the developing states in implementation of the Code.

RECALLING the Article 25 of the 2007 United Nations Declaration on the Rights of Indigenous Peoples;

RECALLING that the United Nations General Assembly has declared 2022 as the International Year of Artisanal Fisheries and Aquaculture to promote, support, equity and thrust to the artisanal and small scale fisheries, which are the backbone of global fisheries;

RECOGNIZING the interests of coastal communities of Indian Ocean coastal States, in the long-term conservation and sustainable use of living marine resources and in healthy marine ecosystems in the Indian Ocean Region (IOR) and underlining the importance of involving these communities in the utilisation and management of these resources;

RECALLING the Target 14.b of the Sustainable Development Goals (SDGs) 2030 Agenda of the United Nations, which focuses on access to resources and markets for small-scale fisheries, in line with the Rio+20 outcome document para, 175. In order to guarantee secure access, an enabling environment is necessary which recognizes and protects artisanal small-scale fisheries rights. Such an enabling environment has three key features:

1. Appropriate legal, regulatory and policy frameworks;
2. Specific initiatives to support small-scale fisheries; and
3. Related institutional mechanisms which allow for the participation of small-scale fisheries organisations in relevant processes.

NOTING that Artisanal small-scale fisheries (SSF) contribute about half of global fish catches and employ more than 90 percent of the approximately 120 million people employed in fisheries, about half of them are women (mainly engaged in marketing and processing). An estimated 97 percent of all these fish workers live in developing countries, with many artisanal small-scale fishing communities experiencing high levels of poverty. The artisanal small-scale fishery contributes immensely for human well-being, sustainable development, food and nutrition security and poverty eradication. However, artisanal small-scale fishing communities are often marginalised and tend not to be involved in decision making processes that influence their lives and future (FAO, 2018) and their issues tend to be inadequately addressed, both with regard to resource management and from a broader social and economic development perspective (FAO, 2005; FAO, 2015) globally and especially in the IOTC.

NOTING the Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (SSF Guidelines), were developed by the FAO and endorsed by the 31st Session of the FAO Committee on Fisheries (COFI) in 2014, to address this situation (FAO, 2015). The prime objective of the SSF Guidelines is to contribute to equitable development and a sustainable future which are to be achieved by applying a human rights-based approach (HRBA).

NOTING the Principles of The International Plan of Action for the management of fishing capacity, 1999 of the FAO limiting the fishing capacity at present level and progressively reduce the fishing capacity applied to affected fisheries;

CONSIDERING the recommendations adopted by the KOBE III; Reduction of overcapacity in a way that does not constrain the access to, development of, and benefit from sustainable tuna fisheries, including on the high seas, by developing coastal states; and Transfer of capacity from developed

fishing members to developing coastal fishing members within its area of competence where appropriate.

NOTING that several advanced fishing nations have developed their capacities and have been indiscriminately exploiting the highly migratory and shared tuna stocks in the high seas in the past. Such nations shall own the greater responsibility for restoring the global tuna fish wealth.

CONSIDERING that CPCs who are not high sea fishing nations as on date (13th Sept, 2022) and were not been able to harvest the shared fish stocks in the past due to lack of capacity and resources, considering aspirational interests of such CPCs to fish in the high seas, they should be given special and differential treatment and provided additional quota allocations for a period of (XX years) so as to develop their capacity. It is essential to provide equitable rights to the fishers of such developing and non-DWFNs.

NOTING that the advanced fishing countries including distant water fishing nations (DWFNs) should bear higher responsibilities and demonstrate common but differentiated responsibilities towards sustainability of shared fish stocks, they should voluntarily adopt moratorium in high sea fishing to provide adequate policy space to the developing and non-DWFNs.

Criteria for Allocations in IOTC Quota allocation regime

1. Exemption for artisanal small-scale fisheries of the Coastal States

Similar to the provisions in the quota allocation measures in other tuna RFMOs including IATTC (Resolution C-17-01) and ICCAT (Recommendation 11-01), the artisanal small-scale fisheries by the coastal states within the areas of their national jurisdiction will not be brought under the quota allocation system.

The artisanal small-scale fisheries in case of the IOTC herein is referred to the fishing vessels that are less than 24 metres in length overall and operating within the exclusive economic zone of the coastal state.

2. Allocation Regime for Industrial fishery

Total allowable catch (TAC) of the fish stock in the IOTC area of competence shall be determined after deducting the total catch of the artisanal small-scale fishery (as mentioned in para 1 above) for implementation of allocation regime. The allocation shall be applicable on the Industrial fishery of the CPCs, invited experts (Taiwan province of China) and New Entrants, and it will be based on the following criteria:

a. Historical catch (30 percent weightage) - to determine a CPC's allocation for a given stock shall be based on the best nominal catch data provided by each CPC caught in the IOTC area of competence for any calendar year (during 1950-2018 for each stock), or it may be an average of its catch over the best 5 years for the said stock within the period 1950-2018.

b. Total population of coastal state (20 percent weightage) – for contributing to the food security of the citizens of the coastal States;

c. SIDS and Least Developed coastal states (09 percent weightage) – for meeting their special requirements and considering dependency on fishery resources;

d. Fishermen population of coastal state (25 percent weightage) – for sustaining the employment and livelihood security of the fishermen in the coastal States;

e. EEZ area (15 percent weightage) – considering the biomass of given stock available in the EEZ that strays in the high seas and exploited by the advanced fishing countries including the distant water fishing nations (DWFNs) using their fleets equipped with advanced technology.

f. New entrants (01 percent weightage) – for any new entrant coastal country in the Indian Ocean Region (IOR).

3. The allocation regime proposed at para-2 above will be an interim measure, until the IOTC develops precise information on biomass distributions in the areas under national jurisdiction of the coastal states. The allocation regime proposed at para-2 above shall be periodically reviewed by the IOTC (Commission) till the biomass distributions in the areas under national jurisdiction of the coastal states is estimated by the IOTC.
