
**PROPOSAL TO AMEND RESOLUTION 21/01: ON AN INTERIM PLAN FOR REBUILDING THE INDIAN
OCEAN YELLOWFIN TUNA STOCK IN THE IOTC AREA OF COMPETENCE**SUBMITTED BY: KENYA/TANZANIA

Explanatory Memorandum

Tuna fisheries contribute in a remarkable manner to sustain the population of Least Developed States (LDS) and Small Island Developing States (SIDS).

The rights of the above-mentioned LDS to both profit from these fisheries and develop their national fleets have continuously received a legal recognition in all international frameworks (inter alia, IOTC Agreement, UNCLOS, UNFSA, UNGA, KOBE II and III).

The yellowfin tuna stocks in the Indian Ocean have been experiencing overfishing since 2015 in spite of a resolution being in place to ensure that the overfishing does not happen.

There have been several revisions of the interim yellowfin tuna rebuilding plan which has not been effective so far.

The major challenge with the yellowfin tuna has been due to over-catch by some fleets while those not catching have been forced to limit their exploitation of the yellowfin tuna stocks.

Discussions on the allocation criteria for the tuna and tuna-like stocks in the Indian Ocean have been going on since 2011 and no agreement has been reached so far.

More stocks in the Indian Ocean have been experiencing overfishing as recently noted with the bigeye tuna while the skipjack tuna are also being harvested at a level higher than proposed through the harvest control rules.

This proposal intends to have the yellowfin tuna catches distributed equally between the IOTC members based on the most recent scientific committee advice.

If each party shall ensure no over-catch happens, the set limit would easily be achieved.

If overharvesting happens, the penalties would ensure catches remain within the required threshold.

RESOLUTION 23/xx**ON AN INTERIM PLAN FOR REBUILDING THE INDIAN OCEAN YELLOWFIN TUNA STOCK IN THE IOTC AREA OF COMPETENCE**

Keywords: Yellowfin tuna, Kobe Process, MSY, Precautionary Approach
The Indian Ocean Tuna Commission (IOTC),

CONSIDERING the objectives of the Commission to maintain stocks in perpetuity and with high probability, at levels not less than those capable of producing their maximum sustainable yield as qualified by relevant environmental and economic factors including the special requirements of developing States in the IOTC area of competence;

BEING MINDFUL of Article XVI of the IOTC Agreement regarding the rights of Coastal States and of Article 87 and 116 of the UN Convention of the Law of the Sea regarding the right to fish on the high seas;

RECOGNISING the special requirements of the developing States, particularly Small Island developing States in Article 24(b), of the Agreement for the Implementation of the Provisions of the United Nations Convention of the Law of the Sea of December 1982, relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UNFSA);

FURTHER RECOGNISING the need to ensure that conservation and management measures do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto developing States, Article 24(c) of UNFSA;

RECALLING that Article 5, of UNFSA entitles the conservation and management of highly migratory fish stocks are based on best scientific evidence available and with special reference to IOTC Resolution 15/10 for a stock where the assessed status places it within the red quadrant, and with an aim to end overfishing with a high probability and to rebuild the biomass of the stock in as short time as possible;

FURTHER RECALLING that Article 6, of UNFSA and IOTC Resolution 12/01 “*On the implementation of the precautionary approach*”, requires the States to be cautious during the application of precautionary approach when information is uncertain, unreliable or inadequate and this should not be a reason for postponing or failing to take conservation and management measures;

CONSIDERING the recommendations adopted by the KOBE II, held in San Sebastian, Spain, June 23 – July 3 2009; implementing where appropriate a freeze on fishing capacity on a fishery by fishery basis and such a freeze should not constrain the access to, development of, and benefit from sustainable tuna fisheries by developing coastal States;

FURTHER CONSIDERING the recommendations adopted by the KOBE III, held in La Jolla, California, 12- 14 July 2011; considering the status of the stocks, each RFMO should consider a scheme for 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, in particular Small Island Developing States, territories, and States with small and vulnerable economies; and Transfer of capacity from developed fishing members to developing coastal fishing members within its area of competence where appropriate;

FURTHER CONSIDERING the concern of the 20th Session of the Working Party for Tropical Tuna held in Seychelles, 29 October – 3 November 2018, the change in strategy by increase of usage of FADs by the purse seine vessels to maintain catch level targets has led to a substantial increase of juvenile yellowfin tuna and bigeye tuna;

NOTING THAT supply vessels contribute to the increase in effort and capacity of purse seiners and that the number of supply vessels has increased significantly over the years;

FURTHER CONSIDERING the call by the United Nations General Assembly Resolution 70/75 upon the States to increase the reliance on scientific advice in developing, adopting and implementing conservation and management measures and to take into account the special requirements of developing States, including Small Island Developing States (SIDS) as highlighted in the SIDS Accelerated Modalities of Action (SAMOA) Pathway;

NOTING THAT Article V.2b of the Agreement for the Establishment of the Indian Ocean Tuna Commission give full recognition to the special interests and needs of Members in the region that are developing countries, in relation to the conservation and management and optimum utilization of stocks covered by this Agreement and encouraging development of fisheries based on such stocks;

FURTHER NOTING THAT Article V.2d requires the Commission to keep under review the economic and social aspects of the fisheries based on the stocks covered by this Agreement bearing in mind, in particular, the interests of developing coastal States. This includes ensuring that conservation and management measures adopted by it do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto developing States, especially Small Island Developing States;

RECOGNIZING FURTHER the interactions that occur between the fisheries for yellowfin, skipjack and bigeye tuna;

FURTHER CONSIDERING the management advice of the 23rd session of the Scientific Committee, that given the limitations and uncertainties in the stock assessment and the inability to use K2SM derived from the 2018 yellowfin tuna stock assessment, the catches to be reduced to a level at least below the C_{MSY} estimate (403, 000MT) and the need to decrease the fishing mortality from the 2017 level in order to remove overfishing on the stock;

FURTHER CONSIDERING the issues raised in the 23rd session of the Scientific Committee regarding the estimated K2SM probabilities derived from the 2018 stock assessment, and that due to critical errors in projections and estimations in computing probabilities in the K2SM developed in 2018, the K2SM is not suitable to provide management advice;

FURTHER CONSIDERING the SC 2020 advice that Commission should ensure that CPCs take all necessary action to achieve the catch reductions in their fleets as per Resolution 19/01.

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

Application

1. This resolution shall apply to all CPCs within the IOTC area of competence.
2. This resolution will be effective from 1 January 202~~42~~⁴². The measures contained within this Resolution shall be considered as interim measure and will be reviewed by the Commission no later than at its annual Session in 202~~42~~⁴².
3. Notwithstanding paragraph 2, this Resolution shall be reviewed when a formal Management Procedure for the management of the yellowfin tuna stock is adopted by the Commission and in effect.
4. Nothing in this resolution shall pre-empt or prejudice future allocation of fishing opportunities.

Catch limits

5. CPCs whose reported catches of yellowfin tuna for 2014 were above 5000t shall reduce their catches of yellowfin tuna by ~~3521~~% compared to 2014 yellowfin tuna catch, except:
 - a. If those CPCs are Coastal Developing States, they shall reduce their catches of yellowfin tuna by ~~2642~~% compared to 2014 yellowfin tuna catch;
 - b. If those CPCs are Small Island Developing States or Least Developed States, they shall reduce their catches of yellowfin tuna by ~~2410~~% compared to 2014 yellowfin tuna catch.
6. CPCs whose reported catches of yellowfin tuna for 2014 were below 5000t and their average catches of yellowfin tuna for the period from 2017 to 2019 inclusive, were above 5000t, shall reduce their catches of yellowfin tuna by ~~3521~~% compared to 2014 yellowfin tuna catch, except:
 - a. If those CPCs are Coastal Developing States, they shall reduce their catches of yellowfin tuna by ~~2642~~% compared to average of 2017 – 2019 yellowfin tuna catch;
 - b. If those CPCs are Small Island Developing States or Least Developed States, they shall reduce their catches of yellowfin tuna by ~~2410~~% compared to average of 2017 – 2019 or 2018 yellowfin tuna catch, whichever is higher.
7. CPCs whose reported catches of yellowfin tuna for 2014 were below 5000t and their average catches of yellowfin tuna for the period from 2017 to 2019 inclusive were between 2000t to 5000t, shall not exceed their maximum reported yellowfin tuna catches between 2017 to 2019. Developing Coastal States developing their fisheries sector shall not be allocated a catch limit until their catch levels get to 10,000 MT.
8. CPCs whose reported catches of yellowfin tuna for 2014 were below 5000t and their average catches of yellowfin tuna for the period from 2017 to 2019 inclusive were below 2000t, shall not exceed their catches above 2000t. Developing Coastal States developing their fisheries sector shall not be allocated a catch limit until their catch levels get to 10,000 MT
9. Developing coastal CPCs subject to paragraph 7 and 8 catching more than 10,000 MT either in 2023 or 2024, the Commission shall consider establishing a binding catch limit applicable to that CPC for the management period commencing from 2026, if an allocation scheme has not yet been agreed and implemented by the Commission
- ~~10. 9.~~ In respect of paragraph 8, and recalling paragraph 4, for conservation purposes three CPCs have agreed exceptionally for 2022 (or 1 year) not to exceed yellowfin tuna catches at different levels¹
- ~~11. 10.~~ — In applying the catch reductions in paragraph 5, Small Island Developing State CPCs and Least Developed State CPCs can either choose between catches of yellowfin tuna reported for either 2014, or 2015 or their average catches for the period from 2017 to 2019.
- ~~12. 11.~~ — In applying the catch reductions in paragraph 5 for Distant Water Fishing CPCs, if the average yellowfin tuna catches between 2017 – 2019 were below 10,000t, CPCs shall reduce their yellowfin catch by ~~2713~~% compared to 2014 levels.
- ~~13. 12.~~ — CPCs will determine appropriate methods for achieving these catch reductions, which could include capacity reductions, effort limits, etc., and will report to the IOTC Secretariat in their Implementation Report every year.
- ~~14. 13.~~ — Any CPC who submits updated catch histories of yellowfin tuna in accordance with IOTC resolution

¹ ~~France (OT) 500t; Philippines 700t; and the United Kingdom 500t.~~

15/01 and verified by the secretariat and the IOTC Scientific Committee, shall have a right to access yellowfin tuna in accordance with the limits prescribed in the Resolution.

15. A total catch limit of yellowfin tuna will be based on the 2022 scientific committee report at MSY of 349,000 MT of yellowfin tuna.

16. Catches carried out by artisanal fleets (fishing vessels below 12 meters LOA) of Developing Coastal States and SIDS these CPCs (fishing vessels below 10 meters LOA) will be exempted from the catch limits.

Over catch of annual limit

17. If over catch of an annual limit for a given CPC listed in paragraphs 5 to 8 ~~7~~ occurs, catch limits for that CPC shall be reduced as follows:

- a. for over-catch of limits set forth in Resolution 19/01, in 202~~30~~39 and/or 202~~41~~40, 100% of that over-catch shall be deducted from following two years limit, and;
- b. over-catch in 202~~52~~51 and following years, 100% of that over-catch shall be deducted from the following two years' limit, unless;
- c. over-catch for that CPC has occurred in two or more consecutive years, in which case 125% of the over-catch shall be deducted from the following two years limit.

18. CPCs that are subject to catch reductions due to over-catch shall inform the Commission via the IOTC Compliance Committee, corrective actions taken by the CPC to adhere to the prescribed catch levels, in their implementation Report.

19~~1~~. The revised limits from paragraph 14 will apply in the following year and CPCs compliance shall be assessed against the revised limits reported to the IOTC Compliance Committee.

20~~1~~. The tropical tuna data submitted by CPCs in accordance with Resolution 15/01 “*On the recording of catch and effort data by fishing vessels in the IOTC area of competence*” and Resolution 15/02 “*Mandatory statistical reporting requirements for IOTC Contracting Parties and Cooperating Non-Contracting Parties (CPCs)*” shall be reviewed by the Secretariat and discussed by the Scientific Committee for possible inconsistencies. In such cases, the Scientific Committee shall provide the rationale of the detected inconsistencies and justify the choice of the best solution available with regard the scientific analysis to be carried out. Data used for catch limit calculations shall be based on the data reviewed, including possible estimates, by the Secretariat.

Supply Vessels

21. CPCs shall gradually reduce supply vessels² in purse seine operations targeting tropical tuna, by 31 December 2022 as specified below in (a) and (b). Flag States shall submit the status of reducing the use of supply vessel as part of the report of Implementation to the Compliance Committee.

- a. From 1 January 2022 to 31 December 2024: 3 supply vessels in support of not less than 10 purse seiners, all of the same flag State³.

² For the purpose of this resolution, the term “supply vessel” includes “support vessel”

³ The subparagraph (a) shall not apply to CPCs which use only one supply vessel

~~b. No CPC is allowed to register any new or additional supply vessel on the IOTC Record of Authorized Vessels.~~

22. A single purse seine vessel shall not be supported by more than one single supply vessel of the same flag State at any point of time.
23. Complementary to Resolution 15/08 and to Resolution 15/02, CPC/flag States shall report annually before the 1st of January for the coming year of operations which Purse seiners are served by each supply vessel. This information will be published on IOTC website so as to be accessible to all CPCs and is mandatory.

Gillnet

24. Without prejudice to Article 16 of the IOTC Agreement, CPCs shall encourage phasing out or convert gillnet fishing vessels to other gears, considering the huge ecological impact of these gears and fast track the implementation of Resolution 17/07 *“On the Prohibition to use large-scale driftnets in the IOTC”*, noting that large-scale driftnets are prohibited in the IOTC Area of Competence from 1 January 2022.
25. CPCs shall set their gillnets at 2m depth from the surface in gillnet fisheries by 2023 to mitigate ecological impacts of gillnets.
26. CPCs are encouraged to increase their observer coverage or field sampling in gillnet fishing vessels by 10% using alternative data collection methodologies (electronic or human) verified by the IOTC Scientific Committee by 2023.
27. CPCs shall report the level of implementation of paragraphs 21-23 to the Commission via the Compliance Committee.

Administration

28. The IOTC Secretariat under advice of the Scientific Committee shall prepare and a table of allocated catch limits disaggregated as per the conditions set out in paragraphs 5-11 for following year, in December of the current year.
29. For the purposes of the implementation of this resolution, each CPC shall, by 15 February of the following year, notify to the Executive Secretary the list of vessels, which have fished for yellowfin tuna in the IOTC area of competence for the preceding year.
30. The IOTC Secretariat shall report each year these lists of active vessels to the IOTC Compliance Committee and to the IOTC Scientific Committee in the form of aggregated statistics concerning fishing fleets capacity metrics.
31. CPCs shall monitor the yellowfin tuna catches from their vessels in conformity with Resolution 15/01 *“On the recording of catch and effort data by fishing vessels in the IOTC area of competence”* and Resolution 15/02 *“Mandatory statistical reporting requirements for IOTC Contracting Parties and Cooperating Non Contracting Parties (CPCs)”* and will provide a summary of most-recent yellowfin catches for the consideration of the IOTC Compliance Committee.

32. Each year, the IOTC Compliance Committee shall evaluate the level of compliance with the reporting obligations and the catch limits deriving from this Resolution and shall make recommendations to the Commission accordingly.
33. The IOTC Scientific Committee via its Working Party on Tropical Tunas shall implement the “Workplan to improve current assessment of yellowfin tuna” and shall advise the Commission the financial and administrative requirements to further strengthen the work undertaken to minimize the issues and complexities regarding yellowfin tuna stock assessment.
34. The IOTC Scientific Committee and its Working Parties shall prioritise the work on the yellowfin tuna management procedure and to provide advice to the Technical Committee on Management Procedures and to enable the Commission to adopt the yellowfin tuna management procedure at the earliest opportunity.
35. The Scientific Committee via its Working Party on Tropical Tunas shall undertake evaluation of the effectiveness of the measures detailed in this Resolution, taking into account all sources of fishing mortality possible aiming at returning and maintaining biomass levels at the Commission’s target level.
36. This Resolution supersedes IOTC Resolution 219/01 *On an interim plan for rebuilding the Indian Ocean yellowfin tuna stock*.