
**CHAIR'S DRAFT PROPOSAL FOR AN ALLOCATION REGIME (V6) — TC &
ANNOTATED**Prepared by the TCAC Chairperson

ABOUT THIS REVISION**Background on the draft –**

Draft #6 has been prepared to reflect comments received from delegations during the TCAC11 meeting and from written submissions received after this meeting.

Changes proposed to limit the geographical scope of the allocation regime or any of its provisions have not been reflected in this draft. The Chair proposes to set these aside pending the advice of the FAO Legal Bureau. This advice was not available at the time of submission of this Draft #6.

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 draft #5. Hence these minor changes are not identified as outstanding edits in this Draft #6. The Chair has also accepted changes made in previous drafts that have not been bracketed, reserved, disputed or opposed in the past 2 TCAC meetings.

With the exception of the above referenced accepted changes, all other changes and deletions have been tracked in the text. The Chair has inserted timelines for submissions of requests and documents, as per advice from the Secretariat, based on existing IOTC processes. 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. For the delegation source for remaining substantive changes, Members are referred to the summary of TCAC11 discussions found in the meeting report IOTC-2023-TCAC11-R, the summary of the 3 Working Groups in TCAC11 attached to the report, and the compendium of delegations' written comments received on Draft #5 IOTC-2023-TCAC12-REF01.

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.

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

Commented [BN1]: Recognizing that discussion of the preamble has been postponed until a text has been finalized, the preamble remains in brackets as a whole. I have taken out brackets within specific provisions as not needed.

RECOGNIZING the interests, aspirations, needs, and special requirements of developing States, 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;
- (b) **“Allocation”** means a fishing opportunity represented as a percentage share of the Total Allowable Catch (TAC) for a given fish stock pursuant to this Resolution.
- (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~~];
- (f) **“Commission”** or **“IOTC”** means the Indian Ocean Tuna Commission;
- (g) **“Compliance Committee”** means the permanent committee provided for in Article XII.5 of the Agreement and established pursuant to the IOTC Rules of Procedures (2014);
- (h) **“Conservation and Management Measure”** or **“CMM”** as specified in Article IX of the Agreement, and consist of Resolutions, which are binding on Members, subject to Article IX para 5 of the IOTC Agreement, and Recommendations, which are non-binding, subject to Article IX para 8 of the Agreement;
- (i) **“Contracting Party”** or **“CP”** means a party to the Agreement;
- (j) **“Contracting Parties and Cooperating Non-Contracting Parties”** are jointly referred to as **“CPCs”**;
- (k) **“Cooperating Non-Contracting Party”** or **“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”**, which includes least developed States and Small Island Developing States, means a State that is a CPC whose developing status has been defined by the human development index categories of the United Nations Development Program¹ (and subsequent revisions) and the United Nations Department of Economic and Social Affairs² (and subsequent revisions); ~~and which status may be amended from time to time;~~
- (m) **“Fish Stocks”** or **“Stocks”** means highly migratory species as referenced in Article III and Annex B of the Agreement and referenced listed in Article 5;
- (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) **“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 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 State or regional economic integration organization, as defined in Article IV of the IOTC Agreement, which, subsequent to the adoption of this Resolution, has acceded to the Agreement pursuant to paragraph IV.1 and XVII.1 of the Agreement, or whose accession has been approved by the Commission pursuant to IV.2 and XVII.2 of the Agreement;~~
- (s) ~~[bis] “Regional Economic Integration Organization CPC” or “REIO CPC” means the regional economic integration organization defined in Article IV of the Agreement 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) **“Significant~~erious~~ non-compliance”** means violations identified by the Commission pursuant to Article 7.2, which constitute repeated or systematic disrespect of the Agreement, ~~or~~ the IOTC’s Conservation and Management Measures adopted by IOTC Resolution including this Resolution, that which the Commission deems a significant~~erious~~ threat to the conservation of IOTC fish stocks;
- (u) **“Scientific Committee”** means the permanent committee provided for in Article XII.1 of the Agreement;

Commented [BN2]: The scope of the term IOTC Area of Competence as used throughout the resolution is as defined in the IOTC Agreement. Discussions regarding the scope of this term is the subject of a legal review by the FAO for which the IOTC is awaiting a legal opinion. This opinion was not available to the Chair at the time this version 6 was prepared.

Commented [BN3]: Inspired by the draft definition provided by the TCAC11 Working Group, I have adjusted it, as requested by TCAC11, to reflect the fact that FAO members may accede to the IOTC Agreement without prior approval by the FAO or the Commission, whereas non-FAO Members must first seek the approval of the Commission before acceding to the Agreement.

Commented [BN4]: See Chair’s comments on Art. 7.2

¹ United Nations Development Program...(reference will be added at the time of adoption of resolution)

² United Nations Department of Economic and Social Affairs...(reference will be added at the time of adoption of resolution)

- (v) “**Small Island Developing States**” or “**SIDs**” are States listed in Appendix 1 whose status has been defined by the United Nations Department of Economic and Social Affairs³, (and subsequent revisions) 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 in its stock assessment reports for such stocks. Stock Assessment cycles may vary by stock;
- (x) “**TAC**” means the Total Allowable Catch 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, [taking into account advice from the Scientific Committee];
- (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.

Commented [BN5]: Appendix 1 and references to it have been deleted as the status of States in the list may change over time and require a change to the Appendix. The IOTC Secretariat may choose to develop a list for administrating the allocation regime, which list may be adjusted more easily, when the status of States change.

Article 2. PURPOSE AND SCOPE

- 2.1 The Allocation Regime contained in this Resolution shall form the basis and manner for the Commission to determine and share in a fair, equitable and transparent manner allocations of fish stocks listed in Article 5 and caught in the IOTC Area of Competence, 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 established pursuant to 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.

3.2 Allocations shall:

- (1) provide a fair, equitable and transparent mechanism to quantitatively allocate fishing opportunities from the TACs of fish stocks caught in the IOTC area of competence;
- (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 do not exceed the TAC established for that stock;
- (3) [be implemented in a compatible way for fish stocks in their entirety throughout the IOTC Area of Competence, as per Article 7 of the UN Fish Stocks Agreement];
- (4) be established and implemented in a way that considers the compliance record of CPCs with the Agreement, CMMs and this Resolution, and as a result, deters non-compliance with this Resolution and other IOTC CMMs that directly impacts the effectiveness of the allocation regime;

Commented [BN6]: For clarity, the Chair has referenced Article 7 of the UN Fish Stocks Agreement as the basis of this principle and for guidance on its implementation. The words “in their entirety” questioned by some during TCAC11 are used in Art. 7 and reproduced here, and are generally accepted as meaning “throughout the geographic range” of the stocks.

The Chair has taken note of Madagascar’s request to exclude the Territorial waters of coastal States from this provision. The Chair proposes to wait for the legal opinion from the FAO before excluding any waters from the application of the allocation resolution or any parts of it.

³ As referenced in footnote (2).

- ~~3.8(5)~~ recognize the challenges and disproportionate burden faced by developing coastal States in fulfilling their obligations to implement and comply with the IOTC Agreement and IOTC resolutions, ~~including related to~~ the implementation of allocations ~~this Resolution~~, in particular by 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 these challenges and their special requirements:
- (a) by factoring these needs and dependency when establishing their allocations, and,
- (b) by identifying ways in which IOTC Members may, through the IOTC Secretariat, assist those States in implementing these obligations, ~~either bilaterally, or through the Commission with the assistance of the Secretariat;~~
- (6) take into account the respective interests and aspirations of coastal States, particularly those of developing coastal States, in further developing their fisheries ~~fisheries fishing opportunities~~ in the IOTC area of competence, and by identifying ways in which IOTC Members, through the IOTC Secretariat, may assist those States in this objective, ~~either bilaterally, through the Commission, or through other means;~~
- (7) take into account the respective established interests, historical fishing patterns and fishing practices of CPCs who have fished in the IOTC Area of competence; ~~and,~~
- (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; and, by ~~[implementing allocations in a timely but step-wise manner, and by providing the ability to temporarily transfer allocations between CPCs.~~
- ~~[(9) [reflect the attribution to coastal CPCs of historical catches taken within their respective EEZ in the IOTC Area of Competence regardless of the flag State of the vessels that took the catch.]~~
- ~~[3.2 — 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 Regime.
- 4.21(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.

CNCP

- 4.3 A CNCP at the time of the adoption of this Resolution is eligible to receive an allocation as described in Article 4.4 as described in Article 6.11. for stocks in the green zone of the Kobe plot if the CNCP expressed a real interest in fishing in the IOTC area of competence when it submitted its application for CNCP status. A such 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,

Commented [BN7]: Paragraph 3.2 has been redrafted as a principle as requested by TCAC11, which facilitated its integration in Art. 3.1 as new paragraph (9).

Commented [BN8]: This provision implies that any State that is admitted as a CNCP after the adoption of the Resolution would not be eligible to any allocations, as per the consensus views of TCAC11.

The rest of the content of this provision has been moved under the allocation criteria part of the Resolution in new Article 6.11, immediately after the New Entrant provision.

~~until such time as it becomes a CP. Once at the CNCP becomes a CP, it may receive 100% of the allocations to which it is eligible at the beginning of the allocation period that follows its entry into the IOTC, [upon payment of its contribution to the Commission pursuant to Article XIII of the Agreement].~~

New Entrant

4.4 A [Coastal State] CPC that is a new entrant ~~may only be~~ eligible to receive a [Special] an allocation ~~as~~ described in ~~subject to~~ Article 6. ~~109.~~

Commented [BN9]: Revisions as proposed by TCAC11 working group 3.

4.5 CPCs ~~and New Entrants~~ may lose eligibility to an allocation pursuant to Article 7.2.

Article 5. ~~SCOPE~~PRIORITY OF IMPLEMENTATION

5.1. ~~(1)~~ This Resolution shall initially be implemented for the following fish stocks⁴, as a matter of priority, in the order and within the timeline determined by the Commission:

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

5.2 ~~(1)~~ The Commission shall prioritize the implementation of the allocation regime in this Resolution by gradually applying it to determine a priority order and a timeline for the following remaining fish stocks include the following stocks managed by the IOTC under this allocation regime:

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

~~(2) In making this determination, the Commission 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.]~~

⁴ Southern Bluefin Tuna has been excluded as it is managed by the Commission for the Conservation of Southern Bluefin Tuna (CCSBT)

~~5.32. In determining the priority order and timelines in which to establish allocations for stocks referred to in Articles 5.1 and 5.2, the Commission shall take into account the state of the stocks based on advice from the Scientific Committee, the data available for the stock, and whether a TAC has been established for the stock. 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.~~

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 Catch (TAC) for fish stocks listed in Article 5.
- 6.2. Allocations to CPCs of a given fish stock shall be established in the order of priority determined by the Commission pursuant to Article 5, based on allocation criteria contained in articles 6.5 to 6.11, pursuant to the process set out in Article 9, and shall be adjusted pursuant to Article 7.
- 6.3. The sum of allocations for a fish stock established for a given year shall not exceed the TAC for that stock for that year.
- 6.4. The TAC for each stock shall be apportioned based on the following:
 - (1) [%] of the TAC for that stock to be allocated based on the total Baseline Allocation criteria;
 - (2) [%] of the TAC for that stock to be allocated based on the Coastal State Allocation criteria; and
 - (3) [%] of the TAC for that stock to be allocated based on the Catch-based Allocation criteria.

Criteria for Allocations

Baseline Allocation

~~6.5 Each CPC shall be eligible to receive an equal~~ A Baseline Allocation consisting of [%] of the TAC for a given fish stock shall be allocated equally between all CPCs.

Coastal State Allocation

- ~~6.65~~ [(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 recognizing Coastal State CPCs' interests and aspirations, to be shared in equal portion by all Coastal State CPCs as per Annex ~~23~~;
 - (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~~:

Commented [BN10]: As agreed at TCAC11, the content of 5.2(2) and 5.3 have been merged in reference to both lists of stocks in 5.1 and 5.2.

Commented [BN11]: Most delegations at TCAC11 did not support an allocation structure based on splitting areas of the high seas and EEZs. I have therefore not included changes premised on such a structure, and I have removed text that had been included which was premised on such a structure, including the Bangladesh and Indian proposed text submitted for TCAC11. I have, however, retained some of the ideas from the Bangladesh and Indian proposals elsewhere in the text, as these relate to Small Scale Fisheries and dependency on allocations for meeting population nutritional needs.

Commented [BN12]: Concept of apportioning TAC to the 3 allocation criteria reinserted based on consensus view during TCAC11.

There may be circumstances where the Commission may wish to have different portions dedicated to each criteria for a given stock. Should TCAC members wish to include this possibility, the chair would propose the following:

"6.4 (1) Subject to paragraph (2), the TAC...

(2) The Commission may determine different portions of the TAC for a given stock for each allocation criteria."

- (i) address their vulnerability, as dependent on the exploitation of living marine resources, including for meeting the nutritional requirements of their populations or parts thereof; needs and dependency on the fish stocks and the fisheries for these stocks, to be shared based on [internationally agreed upon] indicators described in Annex 32;
- (ii) avoid adverse impacts on, and ensure access to, fisheries by subsistence, small-scale and artisanal fishers and women fish-workers, as well as indigenous people in developing States, particularly in small island developing States; and
- (iii) to ensure that such measures do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto developing States,
- based on [internationally agreed upon] indicators described in Annex 32; 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 32.7] and,

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

(2) Subject to Article 11, Annex 32 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 process cycle period, at least 60 days before the Commission meeting, 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.]

(4) Outermost Regions and Overseas Territories

(a) This article applies mutatis mutandis to the Regional Economic Integration Organization CPC. The Regional Economic Integration Organisation CPC is eligible to receive an allocation pursuant to Article 6.6(1)(c) in respect of its Outermost Regions whose exclusive economic zones are situated in the IOTC Area of Competence.

(b) CPCs whose Overseas Territories whose exclusive economic zones are situated in the IOTC Area of Competence are eligible to receive an allocation pursuant to Article 6.6(1)(c) in respect of these Overseas Territories.

[Catch-Based Allocation]

[6.7. (1) Each eligible CPC shall be eligible to receive a Catch-based Allocation consisting a share of the TAC, established based on the historical catches of the CPC determined based on the criteria provided in Article 6.8.

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

Commented [BN13]: The Chair inserted these adjustments and precisions based on written comments from Maldives and oral comments provided by many members of the TCAC11 meeting. The Chair notes in particular, that as the wording of i) overlaps in respect of population with paragraph (d) originally proposed by India and Bangladesh, this paragraph (d) has been deleted.

The Chair also takes note of the ongoing work underway by the G-16 like-minded coastal States in developing indicators in reference to all criteria in Article 6.6 to eventually be reflected in Annex 3.

Commented [BN14]: The Chair has adjusted timelines for submitting applications and other documents throughout the draft allocation regime to reflect the draft process map prepared by the Secretariat and the current meeting processes of the IOTC.

Commented [BN15]: To reflect the discussions during TCAC11 Working Group 1.

[6.8(1)(a) Subject to paragraphs (2) and (3), Annex 21 and Article 6.9, 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 the CPC and, where relevant, re-estimated through a process approved by the Commission for each stock, and averaged over the following periods:

(i) For tropical tuna, albacore tuna and swordfish stocks:

Option 1: 2000-2016,

Option 2: 2012-16,

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

Option 4: 2000-2018].

(ii) For other stocks:

[Best 5 years averaged from within the period of 1950 to [most recent year with data / 2019]].

[(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 187/03 and all of its predecessor and successor lists, for the relevant period shall be excluded.]

(2) [(a) For the sole purpose of allocations pursuant to this Resolution, [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 Article 6.12 [Paragraph 9.1(b)] and Annex 21,] regardless of the flag of the vessels that took and reported such catches.]

(3) [The spatial separation of historical catches, by each CPC, as between areas within and beyond national jurisdiction shall be made on the following basis], excluding those taken by vessels on the IOTC IUU Vessels List created pursuant to Resolution 18/03, 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 60 days before the Commission meeting. 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 Commission;

iv) are taken by vessels of a coastal State CPC or REIO fishing within its own area under national jurisdiction, shall be considered as being taken within that CPCs' area under national jurisdiction;

v) are taken by vessels flagged to a Member of the REIO CPC within the exclusive economic zone of the REIO's Outermost Regions shall be considered as being taken within that REIO CPC's national jurisdiction;

vi) are taken by vessels of a CPC fishing within the exclusive economic zone of that CPC's Overseas Territories shall be considered as being taken within that CPC's 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 ;

(e) Notwithstanding paragraph 6.8(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 [BN16]: To reflect discussions during TCAC11 within Working Group 1.

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:~~

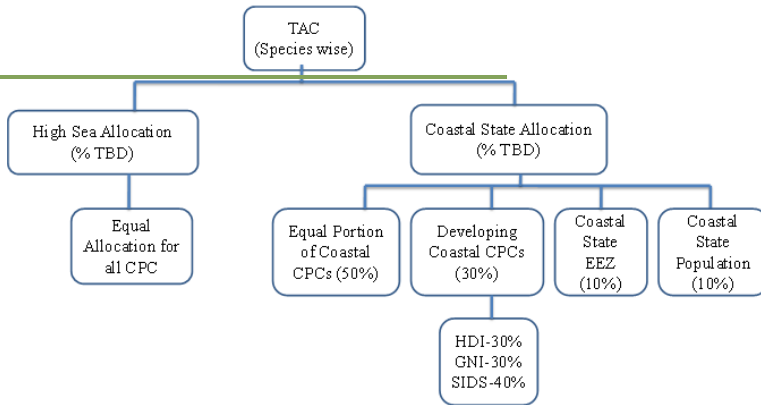
~~(a) [%] of the Coastal State Allocation to be shared in equal portion by all Coastal State CPCs, as per Annex 3;~~

~~(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.~~

IOTC Species Allocation Structure



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

6.9g (1) ~~At the beginning of an allocation period or thereafter, a [CPC /Or /Coastal State CPC that is a developing State and] whose ability to fish for stocks covered by this Resolution has been severely restrained or impeded by extenuating circumstances may seek to have its allocation for that stock corrected or carried forward. The CPC shall submit a formal documented request to the Secretariat at least 60 days before the Commission meeting for decision of the Commission.~~

(2) Extenuating Circumstances include but are not limited to:

- (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 adopted by the Commission based on advice from the Scientific Committee;
- and,
- (f) global pandemic,

~~which have directly affected the fishing capacity of the CPC, 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 for that stock corrected.~~

Commented [BN17]: For better clarity, the Chair has split this article in two paragraphs. This has also facilitated cross reference made in the carry-forward provision under article 7.3, as agreed to in TCAC11.

New Entrant

~~6.109~~ (1) Each [Coastal State] CP that is a new entrant may receive an allocation for the start of the allocation period following their acceptance of the IOTC Agreement, for one or more species. Such a request shall be submitted to the Commission for its approval at least 60 days before the Commission meeting.

(2) For the purposes of determining an initial allocation to a new entrant, the existing nominal catch history data estimated by the IOTC Secretariat and vetted through the IOTC science process shall be used.

(3) A new entrant may submit alternative nominal catch data for consideration, in accordance with IOTC Resolution 15/02 (or subsequent revision), for review and verification through the IOTC's existing data review and verification processes at least 90 days prior to the beginning of the allocation process cycle for the stock for which it is seeking an allocation.

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

CNCP

6.11 (1) A CNCP at the time of the adoption of this Resolution is eligible to receive an allocation for stocks in the green zone of the Kobe plot if the CNCP expressed a real interest in fishing in the IOTC area of competence when it submitted its application for CNCP status. Upon application to, and approval by, the Commission, ~~s~~such a CNCP is eligible to receive [50%] of the allocation for each fish stock for which it is eligible, until such time as it becomes a CP. Such an application shall be submitted at least 60 days prior to the Commission meeting.

(2) Once the CNCP becomes a CP, it may receive 100% of the allocations to which it is eligible at the beginning of the allocation period that follows its accession to the IOTC, ~~upon~~ following payment of its contribution to the Commission pursuant to Article XIII of the Agreement].

Transition for Implementation of Allocation Regime

Commented [BN18]: Wording from the TCAC11 Working Group 3, with some adjustment to reflect the need to include deadlines for submissions.

Commented [BN19]: Text moved from Art. 4.3, with adjustment for application deadline.

6.12 Allocations established pursuant to this Resolution shall be initially implemented in a step-wise approach by establishing a progressive transition period of [no less than X years] on the basis of the schedule and formula described in Annex 21.

Commented [BN20]: this paragraph reflects the consensus view expressed during TCAC11 that the content of Art. 9(1)(b) should be moved elsewhere in the text. Of course, the content of this provision, including how it will work, still needs to be discussed and agreed upon, hence the brackets.

Article 7. ADJUSTMENTS WITHIN ALLOCATION PERIOD

7.1 Over-catch

~~[(a) Over catch of a fish stock by a CPC or New Entrant in a given calendar year 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.~~

~~[(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) A CPC or New Entrant may seek to defer the deduction to the next calendar year, in which case, the deduction shall be increased [by 150%] of the over catch.~~

~~[(c) Where a CPC or New Entrant over catches a given stock for two consecutive calendar years, the allocation of that CPC or New Entrant for the fourth calendar year shall be deducted by 200% of the over catch, and deferral shall not be permitted.]~~

[(a) Where a CPC over catches its allocation of a stock for 2 or more consecutive years, the Commission may deduct 120% of the over-caught allocation from that CPC's allocation for the calendar year following the availability of the catch data demonstrating the over-catch. The Commission may increase the percentage of adjustment for stocks in poor condition.

[(b) A CPC may seek to defer the deduction to the following calendar year, in which case, the percentage of adjustment shall be increased to 150% of the overcaught allocation.

[(c) A Coastal State CPC may submit, for the approval of the Commission, a plan to pay back overcaught allocations of neritic stocks by its small scale fisheries within a reasonable timeframe in lieu of the adjustment imposed pursuant to paragraph (a).]

[(d) A CPC seeking to adjust its allocation pursuant to this Article shall submit a written request at least 60 days before the Commission meeting.

[(e) ~~Catch Reporting~~(i). To ensure proper monitoring of IOTC allocations, CPCs shall report catches of allocated stocks and other data in accordance with IOTC Resolutions 1501 and 1502 (or subsequent revisions).

Commented [BN21]: Redraft based on discussions and outcomes of Working Group 2 at TCAC11.

~~, 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 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~~

Commented [BN22]: Most participants at TCAC11 Working Group 2 agreed to delete details related to enhanced catch data requirements from this Resolution and refer to existing data requirements in resolutions 1501 and 1502 and any subsequent versions. The Chair understands that TCAC will want to recommend that the Commission consider changes to Resolutions 1501 and 1502 to consider specific data requirements for allocations in the future.

development, technical assistance, transfer of technology, including through joint venture arrangements, and advisory and consultative services.

~~(iii) Where a CPC has exceeded its allocation and over catch penalties have been imposed pursuant to this article, that CPC 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. Significant Non-Compliance]

(a) ~~Upon advice from the Compliance Committee, t~~The Commission shall review and temporarily withdraw ~~review~~ the eligibility of a CPC to an allocation or temporarily reduce its allocation where the Commission determines that the CPC has demonstrated repeated disrespect of the Agreement or the IOTC's Conservation and Management Measures which the Commission deems a significant threat to the conservation of IOTC fish stocks, and no responsive actions have been taken by the CPC to implement, monitor and ensure compliance with the Agreement or the IOTC Conservation and Management Measures consistent with the IOTC Compliance Report established pursuant to Appendix V of the IOTC Rules of Procedure (and subsequent revisions).

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

~~(iiv)~~ Any other factors agreed to by the Commission.

(c) The Commission shall reinstate a CPC's eligibility~~allocation~~ that has been temporarily withdrawn or readjust an allocation that has been reduced, where:

(i) the CPC has made significant progress in addressing the non-compliance issue; and,

(ii) the CPC has made a request in writing to the Commission for reinstating their allocation at least 60 days before the Commission meeting, providing information related to steps taken to address the non-compliance.]

Carry-Forward of Catch

~~7.3(bis) (1) A~~Upon a documented request from a CPC submitted no later than October 31 to the ~~Secretariat or New Entrant~~, the Commission may ~~seek to have~~authorize the carry forward of up to a maximum of 20% ~~portion or all~~ of that CPC's ~~its~~ under-harvested allocation for a fish stock ~~carried forward~~ to the allocation of that CPC for the same stock for the calendar year following the availability of the catch data demonstrating the under-harvest.

(2) In determining the portion of allocation that may be carried forward, the Commission shall consider:

Commented [BN23]: The Chair has revised the wording of this section to reflect the newly adopted Appendix V to the IOTC Rules of Procedures in respect of the Compliance Committee's Terms of Reference and process for identifying non-compliance.

The ToRs refer to "significant" non-compliance, hence the wording change. The Chair understands that the consequences of non-compliance are left to discussions between the CoC, the Commission and the CPC following the issuance of the Compliance Committee's Compliance Report. Art. 7.2 provides the ability to temporarily reduce or suspend a CPC's allocation in the situation where that CPC remains non-compliant in respect of an obligation which poses a significant threat to the conservation of IOTC fish stocks, and that CPC has not taken responsive actions to address the issue despite the CoC Compliance Report and such discussions. Art. 7.2(b) enables the Commission to define what types of violations would trigger such consequences. Presumably, such violations would be those category 2 violations identified in Appendix V to the IOTC RoPs, or a subset of these. The Chair proposes that this could be determined at a later stage by the Commission pursuant to Art. 7.2(b) and perhaps reflected in amendments to Appendix V.

Commented [BN24]: TCAC11 Working Group2 proposed the deletion of this subparagraph.

Commented [BN25]: 7.3(bis) (now 7.3) redrafted to reflect discussions and outcomes of Working Group 2 at TCAC11.

- (a) the advice from the Scientific Committee regarding the status of the stock;
- (b) whether the stock is normally caught by that CPC as a target fishery or as a bycatch in a mixed stock fishery; and,
- (c) any extenuating circumstance, as referenced in Article 6.9, that would have severely restrained or impeded the CPC's ability to fish and caused 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.~~

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

Article 8. ALLOCATION ~~USE AND TRANSFERS~~ ~~AND USE~~

Allocation Use

8.1 ~~Subject to the provisions of this Resolution, each CPC that receives an allocation pursuant to this Allocation Regime:~~

~~(1) may use, fish, share or transfer this allocation;~~

~~(2) shall implement measures for its fishing fleets to ensure that their catches do not exceed that CPC's allocation;~~

~~(3) shall notify the Commission when its allocation has been fully caught; and,~~

~~(4) in accordance with Coastal States rights and obligations under international law, each coastal State CPC that receives an allocation pursuant to this Allocation Regime:~~

~~(a) may allocate its share to its fishing fleets in a manner and to be fished in an area it deems appropriate;~~

~~(b) may transfer any portion of its allocation to foreign fleets fishing in waters under its jurisdiction, in a manner that it deems appropriate to meet the requirements of Article 8.2; and,~~

~~(c) the coastal State CPC shall manage fisheries for fish stocks allocated pursuant to this Resolution and caught in waters under its jurisdiction in a manner to achieve a compatible outcome to the management measures implemented by the Commission for the same stock.~~

~~(5) A CPC or New Entrant that does not intend to fish or transfer its allocation pursuant to Article 8.2, in a calendar year period, is encouraged to notify, on a voluntary basis, the Commission in writing, within 60 days of the Annual meeting of the Commission. The unused allocation may be re-allocated in accordance with Article 9.~~

Commented [BN26]: The Chair proposes 4 new paragraphs in an attempt to address comments regarding allocation transfers, concerns expressed by Coastal State CPCs in exercising their rights to manage fisheries within their coastal areas, and to implement the principle enunciated in 3.1(3), as raised in TCAC11.

Commented [BN27]: 8.3 moved up here.

Allocation Transfers

8.2 (1) ~~{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 ~~at least 60~~ days prior to the transfer occurring.

(2) 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.

~~{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 {x} years.~~

(3) The transfer shall take effect upon receipt by the Executive Secretary of the written acceptance from the receiving ~~{CP /CPC}~~.

(4) The Executive Secretary shall notify all ~~{CPs /CPCs}~~ of the written notification and the written confirmation of the transfer.

(5) When a transfer is notified after the allocation table has been approved by the Commission pursuant to Article 9, the Secretariat shall attach a revised allocation table when it shares the written notifications of the transfer with the Commission.

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

(7) Permanent transfers of allocations are not permitted.

~~{(8) 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.]~~

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

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

Article 9. IMPLEMENTATION**[Calendar and Process Map Implementation Plan]**

9.1 (a) The allocation process cycle for each stock shall begin with the issuance of the report containing the Scientific Committee's advice for the stock and end with the expiry of the allocation period for that stock.

(b) The Secretariat shall prepare for the Commission's adoption a Calendar and Process Map Plan for the implementation of this Resolution.

~~(b) In accordance articles 3.1(8), 5.3 and 6.7(2), 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.]~~

Commented [BN28]: Consensus during TCAC11 that this idea needed to be moved elsewhere in the text. Concept moved to Article 6.12.

Allocation Process and Catch Validation**[Ad Hoc Allocation Committee]**

9.19.2 (1) Pursuant to Article XII.5 of the Agreement, the Commission hereby establishes the Ad Hoc Allocation Committee to support the Commission's process for allocating IOTC fish stocks to CPCs, when required and New Entrants.

(2) The Ad Hoc Allocation Committee shall hold meetings on an ad hoc basis, as needed to support the Commission in its roles under this Resolution.

9.29.3 The mandate of the Ad Hoc 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.

9.39.4 Membership and Terms of Reference for the Ad Hoc Allocation Committee are provided in Annex 43. ~~A process map for the allocation process and catch validation is included as Appendix 2.]~~

[Calendar and Implementation Plan Process Map]

9.49.5 [During its first meeting following the adoption of this Resolution, the [Ad Hoc Allocation Committee / OR Commission] shall review [and provide advice and recommendations to the Commission in respect of the adoption of / OR and adopt] the Calendar and Process Map Implementation Plan drafted by the Secretariat in accordance with Article 9.14. [Thereafter, the Ad Hoc 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 Calendar and Process Map Implementation Plan.]

Allocation Tables

~~9.59.6~~ [(a) ~~At least 50XX~~ days prior to the commencement of the allocation period for each fish stock Commission meeting, and in accordance with the Implementation Plan Calendar and Process Map 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 covering the allocation that period for that stock, based on the TAC decisions of the Commission for such the stocks.

(b) The draft Allocation Tables shall include allocations for each eligible CPC established pursuant to the criteria in this Resolution, including any requests pursuant to Articles 6.10 and 6.11, any adjustments requested pursuant to Article 7.1 and 7.3, and any corrections requested pursuant to Article 6.9.

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

~~9.6~~ [Eligible CNCPs and New Entrants that wish to be considered for allocations under articles 6.4 to 6.10, and 6.11, respectively, shall send a letter of application to the Commission at least 60 days prior to the annual meeting of the ~~[Ad Hoc Allocation Committee / OR Commission].]~~

Commented [BN29]: Already covered by 6.10 and 6.11.

9.7 [The Secretariat shall also include in the draft Allocation Tables: any transfers notified 60 days prior to the Commission's annual meeting pursuant to article 8. The Secretariat shall adjust the draft Allocation Tables with any transfers notified after this deadline and circulate to Commission in accordance with Paragraph 8.2 (5); and, (b) any requests for allocations submitted by CNCPs and New Entrants pursuant to Article 9.7.]

9.8 [Upon receipt of the notification in Article 8.2(5), the Secretariat shall revise the relevant draft Allocation Tables by reallocating the proposed unused allocation to other CPCs based on the relevant allocation criteria.]

[Annual Meeting of the Ad Hoc Allocation Committee]

9.9 [The Ad Hoc Allocation Committee shall meet on an ad hoc basis as determined by the Commission annually, prior to the Commission's Annual Meeting.]

9.10 [30 days prior to the annual meeting of the ~~[Ad Hoc 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 ~~[Ad Hoc Allocation Committee / OR the Commission]~~ in accordance with Article 7.2, and any requests made pursuant to articles 6.9, 6.10, 6.11, 7.1 and 7.3.]

9.11 [The Secretariat shall update the draft Allocation Tables with any information submitted to the Commission in accordance with Article 9. It shall post the updated draft Allocation Tables on the IOTC Website at least 30 days prior to the ~~[Ad Hoc Allocation Committee / OR Commission annual] meeting.~~

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

[Commission Approval]

9.13 [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.]

9.14 (a) At its annual meeting, the Commission shall [consider the recommendations of the [Ad Hoc Allocation Committee /OR consider any requests made pursuant to articles 6.9, 6.10, 6.11, 7.1 and 7.3] in approving the Allocation Tables submitted by the Secretariat.

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

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

[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.

9.3 (a) At its annual meeting, the Commission shall consider any requests made pursuant to articles 6.8, 6.9, 7.2, and 7.3 in approving the Allocation Tables submitted by the Secretariat.

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

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

Commented [BN30]: As proposed by South Africa, Maldives Kenya, Mozambique, Pakistan and Tanzania in comments on version 4. As there is no consensus view on process, both versions of article 9 remain in the text for now.

Article 10. ALLOCATION PERIOD

10.1. Allocations for a given fish stock shall remain valid for the period determined by the Commission for that stock.

Article 11. FINAL CLAUSES

Term and Amendment of Resolution

11.1 (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.

11.2 The Allocation Regime may be amended by decision of the Commission [after the initial term set out in Article 11.1(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.]

Safeguard

11.3 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.

Appendix 1

IOTC membership by category

CPC	CP	CNCP	COASTAL STATE CPC	REIO CPC	DEV STATES	DEV COASTAL STATE	SIDS	LDS
AUSTRALIA	✖		✖					
BANGLADESH, People's Republic of	✖		✖					
CHINA	✖							
COMOROS	✖		✖					
ERITREA	✖		✖					
EUROPEAN UNION	✖			✖				
FRANCE (OT)	✖		✖					
INDIA	✖		✖					
INDONESIA	✖		✖					
IRAN, Islamic Republic of	✖		✖					
JAPAN	✖							
KENYA	✖		✖					

KOREA, Republic of	✘							
MADAGASCAR	✘		✘					
MALAYSIA	✘		✘					
MALDIVES	✘		✘					
MAURITIUS	✘		✘					
MOZAMBIQUE	✘		✘					
OMAN, Sultanate of	✘		✘					
PAKISTAN	✘		✘					
PHILIPPINES	✘							
SEYCHELLES	✘		✘					
SOMALIA	✘		✘					
SRI LANKA			✘					
SOUTH AFRICA	✘		✘					
SUDAN	✘		✘					
TANZANIA	✘		✘					
THAILAND	✘		✘					

UNITED KINGDOM of Great Britain and Northern Ireland	✖		✖					
YEMEN	✖		✖					
SENEGAL		✖						

ALTERNATE APPENDIX 1 (provided by Bangladesh for Rev1)

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

Appendix 2

A process map for the allocation process and catch validation

To be added

[Annex 21]

Step-wise Transition for 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 32

Commented [BN31]: Revisions expected from G-16 like-minded Coastal States.

Coastal State Allocation Indicators

[1. The following indicators shall be used to calculate the Coastal State Allocation pursuant to Article 6.6 of the Allocation Regime in Resolution 2023/XX:

a) Pursuant to Paragraph 6.6(a), Coastal State CPCs: Status weighting = 1 (an equal portion for each). Proportion = [35% / OR 45%] of the Coastal State Allocation;

b) Pursuant to Paragraph 6.6(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 6.6(c), Coastal State CPCs: EEZ proportion: In the absence of data supporting an indicator based on stock abundance, the size of the area under national jurisdiction within the IOTC Area of Competence, as a proportion of the overall IOTC Area of Competence. Proportion = 17.5% of the Coastal State Allocation; EEZ size weighting:

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

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:

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 43]

Terms of Reference for Ad Hoc Allocations Committee

Membership

1. (a) The Ad Hoc 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 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 Ad Hoc Allocations Committee shall be presided by a Chairperson, supported by a Vice-Chairperson, elected by the Commission.

Mandate

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

4. Specifically and consistent with the process established in the Resolution and reflected in the Calendar and Process Map in Appendix 2, the Ad Hoc Allocation Committee shall review draft Allocation Tables prepared by the Secretariat for each stock allocated pursuant to the Resolution, and provide advice and make recommendations to the Commission for decisions on the following matters:

- (a) ~~Implementation Plan~~ Calendar and Process Map drafted by the Secretariat pursuant to Article 9.1;
- (b) Allocation Tables prepared by the Secretariat pursuant to Article 9.6;
- (c) Requests from Eligible CPCs to reconcile catch data pursuant to Article 9.12;
- (d) Requests for allocations by CNCPs and New Entrants pursuant to article 6.10 and 6.11;
- (e) Corrections to allocations of a CPC that is a developing coastal State for extenuating circumstances provided in Article 6.9;
- (f) Allocation adjustments pursuant to articles 7.1 and 7.3;
- (g) Temporary withdrawal of or reinstatement of an allocation from a CPC for serious non-compliance pursuant to Article 7.2; and
- (h) Any other matter required by the Commission.

5. The Ad Hoc Allocations Committee shall report directly to the Commission on its deliberations and recommendations.

6. The Ad Hoc 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 on an ad hoc basis at the request of the Commission ~~once a year~~, immediately prior to the annual meeting of the Commission.

Rules of Procedure

8. The procedures of the Ad Hoc 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 21st 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.~~

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