

**Chair's Explanatory Note for the 12th meeting of the Technical Committee on
Allocation Criteria (TCAC) of the IOTC (TCAC12)**

Eden Island, Seychelles,

October 16 - 19, 2023

Dear Heads of delegation and Delegates,

We will be meeting in the Seychelles October 16 to 19, 2023 to continue the work of the Technical Committee to develop allocation criteria for the Indian Ocean Tuna Commission.

Draft #6 of Allocation Regime

Following our TCAC11 meeting in January 2023 in Mombasa, Kenya, written comments were submitted by some delegations which were compiled by the Secretariat and contained in IOTC-2023-TCAC12-REF01. I have done my best to reflect delegations' input provided during TCAC11 and in the written comments to the last Draft #5 of the Allocation Regime text (IOTC-2023-TCAC11-02) in a new Draft #6 (IOTC-2023-12-02) submitted for our upcoming TCAC12 meeting in the Seychelles. As in the past, you have been provided with 3 versions of the Draft #6 text. One version contains all changes made and tracked in the text, as well as sidebar comments referring to the source of changes made, and any adjustments I may have made to any proposals provided. A version containing the highlighted changes with no sidebar comments has been provided, as well as a clean Word version for your use.

Objective for TCAC12

TCAC Members have been discussing the matter of allocations for the IOTC since 2011. I believe that the TCAC has made considerable progress since then on a number of topics related to allocations. However, key issues have yet to be resolved. I propose that our main objective for TCAC12 should be to tackle these core issues over which consensus has been difficult to achieve to date.

To accomplish this, I propose that we continue to frame our discussions during TCAC12 on the basis of core themes rather than on the basis of a section-by-section review of the Draft #6 text provided. As has been done in the past, the text will be adjusted to reflect our discussions during TCAC12, and I will continue to invite written comments from delegations on the text during and following the meeting.

Proposed Meeting Structure and Agenda

We will be meeting for 4 full days on Eden Island. A preliminary Agenda has been provided for your consideration (IOTC-2023-TCAC12-01). I have prepared the agenda and this memorandum factoring in bilateral discussions I have had with a number of delegations.

I propose that we continue with our practice of forgoing the usual introductions and jump directly into the substantive part of the meeting with my brief presentation of Draft #6 of the Allocation Regime.

During TCAC11, TCAC Members expressed support for continuing discussions on themes in working group formats, to enable a freer flowing, informal discussion. Based on this, my proposal is to form working groups during TCAC12 that would touch on core outstanding issues. To enable participation by all delegations, these working groups will be held consecutively, in the main meeting room at the Eden Blue Hotel where videoconferencing will be available for those participating virtually. Based on some consultations I held prior to writing this memorandum, I propose that 6 working groups be formed on the core topics of an allocation regime: allocation criteria, eligibility, scope and implementation calendar, as follows:

WG1: Coastal State Allocation Criteria and Indicators

WG2: Eligibility of Outermost Regions and Overseas Territories to Coastal State Allocation Criteria

WG3: EEZ Catch Attribution and Transition

WG4: Geographical Scope of Allocation Regime

WG5: Fish Stocks Covered by the Allocation Regime

WG6: Allocation Implementation Calendar

Discussion and interventions from delegations on each of these themes should be inspired by the text related to each of these themes as found in Draft #6. This does not mean other topics in the text are not important. It will be possible to broach these other topics on the last day of our meeting, after we cover the core matters above.

In respect of the Working Groups, I would ask delegations to come to the meeting with recommendations on a chairperson for each Working Group from a TCAC Member. I understand that Members may prefer that I chair Working Group 3, and I am prepared to do this, but I would also encourage delegations to consider supporting representatives from TCAC Members to chair the other working groups.

I expect that a great part of our time in the Seychelles will be spent discussing allocation criteria with a view to better understanding what these may look like, how they will work, and how progress can be made to achieve consensus on them. On the first day, following my presentation of Draft #6, I hope we can move to a discussion on the Coastal State Allocation Criteria (Article 6.6). Discussions in WG1 should specifically cover the changes that have been made to this provision in Draft #6 of the text. I will

want to hear from delegations their views on the newly proposed criteria. This discussion may also include input on any indicators associated to these criteria that may need to be adjusted in, or added to, Annex 2. In WG2 I hope to also cover the matter of eligibility to these Coastal State Criteria, specifically the matter of the application of these criteria to Outermost Regions and Overseas Territories (Article 6.6(4)).

The Secretariat has circulated updated Catch Estimates Tables as TCAC Members requested. I would encourage delegations to consult this document and use it for their own assessment of the implications of the concepts under negotiation. On Day 2, the Secretariat will present these Tables and you will have the opportunity to raise any high-level questions that you may have on the estimates, their methodology and the assumptions made. These Tables were provided for delegations' own use, to make their own simulations based on the allocation regime text, and not for a detailed discussion on allocation numbers during TCAC12. Having said this, my hope is that we can make important progress on the allocation criteria during TCAC12 so that we may move to a discussion on specific numbers and simulations using the information contained in these Tables, perhaps in TCAC meetings in 2024. Having a good understanding of the tables will help each Member be better prepared for that future discussion.

Following the Secretariat's presentation, I hope we can dedicate Day 2 on the EEZ catch attribution criteria (Article 6.8(2) and (3)) in WG3, for delegations to have a clearer understanding of how such allocations may be determined, and how they could be implemented in a stepwise manner. I believe progress can be achieved on this specific criterion if delegations have a better sense of possible implementation details, such as how much quota is involved; to which fish stocks it would apply; which Member may benefit; and what may be the timeframe for implementing this specific allocation.

For this discussion, I propose that we use the relevant catch data as found in the Catch Estimates Tables provided by the Secretariat for illustrative purposes, recognizing that these may not be the final data to be used for determining the final IOTC allocations. I plan to chair this specific working group and will propose hypothetical scenarios using this data and pose targeted questions to help stimulate the discussion. I also propose that we remain flexible to enable discussions among the Members, bilateral or other, with my presence as chair or not, in the margins of the working group and plenary, to help this matter get to a resolution. It may be necessary to come back to this item on Day 3 or 4, if Members need more time to consult and engage face to face. I will remain available to delegations in this respect.

Our discussions on Day 3 will be focused on the scope of the allocation regime. There remain outstanding issues around the geographic scope of the allocation regime (WG4), and the fish stocks to be covered by the regime (WG5). I propose that we deal with these two issues in separate working groups in this order. I am hoping that we can start our discussion with a summary presentation from the Secretariat on the FAO Legal Opinion sought at the request of TCAC Members. At this time, I have not yet received the opinion, but I am hoping that we will have it in time for the meeting in October.

We will cover a few substantive topics on Day 4 before turning our minds to the way forward. I hope we can cover a discussion on the allocation implementation calendar and process for determining allocations (WG6). We will begin this item with a presentation from the Secretariat on the implementation calendar posted on the meeting website (IOTC-2023-TCAC12-03). I would encourage Members to come prepared with questions, views and comments on the proposed calendar and implementation plan, including any timelines proposed, as the slides prepared by the Secretariat have been drafted on the basis of the current Draft #6 text. Any changes needed and agreed to will need to be reflected in the future version of the text.

Following WG6 discussions, I will open the floor for any comments that delegations may wish to make regarding any other topic in the allocation regime of Draft #6 not already covered during the meeting. I will canvas delegations' views on the topics to be covered, to ensure we have the time required to cover them adequately. Of course, delegations are also invited to provide written comments on the text, so that they may be factored in the next version of the text.

Negotiation Process

As in our previous meetings, we will follow the standard practice of UN organizations for negotiating text shared in previous sessions of the TCAC.

Moving Forward

I would encourage you to share with me your written submissions or interventions after the TCAC12 meeting, including any wording proposals made during the meeting. In this respect, it will be important for chairs of working groups to submit any proposals from these working groups in writing so that I may have a record of them.

My plan is to make changes and adjustments to Draft #6 after our meeting, based on your interventions and written submissions, within the timeframe agreed upon during our meeting on Day 4.

At the end of the TCAC12 meeting, I will want to hear delegations' views on our way forward in 2024, including views how many TCAC meetings should be held, the timing of such meeting(s), the key objectives for such meeting(s), and any preparatory work that may be required from the Secretariat for the meeting(s). Depending on the outcomes of TCAC12, and if delegations are in agreement, we could envisage a meeting to discuss specific allocation numbers by simulating allocation criteria found in articles 6.5, 6.6, 6.7 and 6.8 of the draft text.

My consultations in preparation for our TCAC12 meeting have confirmed that TCAC Members continue to see the need for allocations to be established as a management measure to help mitigate overfishing and overfished IOTC fish stocks and to improve the sustainable management of the stocks overall. This had been a key objective of the Commission when it established the TCAC in 2011. I heard that Members believe that this objective continues to be relevant and critically needed today. During my consultations, I also heard clear support for the ongoing TCAC process for developing such allocations through the allocation regime under discussion.

While we will not be covering the entire Allocation Regime text in depth during our TCAC12 meeting, my hope is that we can make significant progress on the core outstanding issues, to enable us to move forward in a positive way and to conclude our work in a reasonable timeframe.

I look forward to seeing you in person in the Seychelles and wish you all safe travels.

With kind regards,

Nadia Bouffard
Chair,
TCAC, IOTC