

## **Re: Insights from consultations and proposed draft agenda for TCAC**

Dear colleagues,

I hope this finds you all well. I have completed the first round of consultations with members for the forthcoming TCAC in October and would like to thank everyone involved. I am grateful for the opportunity to speak with almost two thirds of the IOTC membership, representing a diversity of interests and concerns. All of the consultations were positive and have guided me in the development of a first draft of the agenda for the TCAC. In order to be fully transparent, I would like to briefly summarise a few of the key insights from these consultations, and my own reflections, before I propose some recommendations and a draft agenda for feedback.

### **Consultations**

1. Firstly, I note that all of the consulted delegations expressed support for progressing TCAC and reaching an agreement. All consulted delegations were positive and helpful, and I am reassured by the engagement and concern that the IOTC must develop a sustainable and equitable allocation framework. Most delegations expressed concern at the slow progress to-date, and the need for the TCAC to urgently fulfil its mandate and agree on allocation criteria. Some delegations questioned whether the TCAC should continue if it did not make urgent progress.
2. Some delegations expressed concerns that the ongoing decline in yellowfin stocks required an urgent response, and that an agreement on allocation was necessary for the recovery of yellowfin stocks. Some noted that allocation provided an opportunity to re-engage members who have opted out of yellowfin limits, and ensure all members equitably contribute to the sustainable management of the region's tuna stocks.
3. Almost all coastal State delegations argued that their sovereign rights include catch history, and as such, all catch history within waters under their national jurisdiction should be attributed to them. They expressed concern that their sovereign rights are respected according to the UN Law of the Sea. Meanwhile, some distant water fishing State delegations argued that their vessels caught the fish and therefore they own the catch history. Some delegations suggested that a long-term transition plan could enable sufficient flexibility to bridge this divide, although some concerns were expressed at transition mechanisms that might undermine sovereign rights. Some delegations also expressed concern at the ongoing lengthening of this transition period. Some discussions explored different mechanisms that might enable a transition without weakening sovereign rights. Some delegations also supported criteria that considered local biomass, applied through formulas based on EEZ size.

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4. Almost all developing States argued that their special requirements and development aspirations must be considered, consistent with the IOTC Agreement, UN Fish Stocks Agreement, FAO Code of Conduct Sustainable Development Goals and other instruments, and that they are entitled to a development quota to provide some balance, enable their development aspirations and avoid a disproportionate burden. Almost all delegations (developed and developing) recognised this, but there is no consensus yet on how to implement this requirement. Some developed States support a development quota, but expressed concern that it be structured so as to ensure that it directly benefits developing States.
  5. Most delegations supported catch history as a criteria to some degree, but some delegations expressed concerns that prioritising catch history risks rewarding overfishing, while penalising States with little historical impact and development plans.
  6. Many delegations supported a baseline criteria.
  7. Some delegations expressed concerns at the broad inclusion of numerous species in the current draft, with some delegations opposing the inclusion of neritic tunas, while other delegations supported their inclusion. All delegations agreed on the need to develop a practical workplan, with some delegations suggesting that an initial resolution should be developed for yellowfin, with subsequent work then scheduled for other species. Some delegations supported a workplan that would develop a framework resolution, implemented through individual resolutions for each species.
  8. Some delegations expressed concerns that agreement on allocation was contingent on compliance and monitoring, noting that they could accept some compromise on quota if this was balanced by an overall strengthening of governance across the IOTC fisheries. Some delegations also expressed concerns regarding the poor quality of data reporting, and the limited capacity of many members to implement limits and monitor catches.
  9. Some developing State delegations noted their limited capacity to monitor and report catch and effort, particularly in diverse and distributed artisanal fisheries, and limited capacity to manage fisheries to regionally agreed limits. Any agreement on allocation, and subsequent catch limits, will require substantial assistance packages to strengthen national monitoring, reporting and management frameworks and processes.
  10. Most delegations expressed divergent views on the socio-economic indicators, with some delegations expressing concerns at their complexity and practicality.
  11. Delegations expressed varying views on reference years.
  12. Many delegations expressed support for allowing transfers of annual quota, though some clarification is required on the long-term consequences of transfers. All delegations that discussed this matter agreed that transfers would only apply to annual quota and should not impact on the enduring rights and allocations of IOTC members.
  13. Most delegations found the current draft complex and difficult.
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## Reflections

14. *Revising Chair's Draft*: while many delegations supported simplifying the current Chair's draft allocation regime, I do not have clear instructions on how to revise it. It is also clear that the current draft has become highly complex with varying interpretations over key provisions, and some confusion over its meaning and impact. It is also apparent that further negotiations of the current draft will likely be confusing and difficult due to ongoing uncertainties with the actual criteria.
15. *Rights and Aspirations*: the current draft conflates coastal State concerns over their sovereign rights with the special requirements and aspirations of developing States. These are two separate issues. They require separate consideration but are conflated as one. It is difficult to negotiate these as proposed in the current draft without exacerbating confusion over rights and aspirations, and potentially raising concerns over 'double-dipping'. Two separate issues need to be resolved:
  - a. Catch attribution for waters under national jurisdiction needs to be resolved, as the convention area explicitly includes EEZs in which coastal States hold sovereign rights over IOTC species. There is an additional question in regard to catches within territorial seas and archipelagic waters where sovereignty applies.<sup>1</sup>
  - b. The aspirations and special requirements of developing States must be addressed as per the IOTC Agreement, UN Fish Stocks Agreement, FAO Code of Conduct Sustainable Development Goals and other instruments.
16. *Special requirements and development quotas*: as noted above, the TCAC must decide on how to address the aspirations and special requirements of developing States. Assuming that the TCAC agrees on a criteria and weighting that assigns a percentage of catch to these concerns, the TCAC then needs to consider how this percentage is distributed among developing States and ensure that it benefits the development concerns. The negotiation over development indices and socio-economic indicators can inform this process, but it is complex and data-dependent.
17. *Species*: the inclusion of multiple species creates further complexity, and raises significant challenges for coastal States that have diverse artisanal fisheries targeting neritic tunas. While these species clearly require management and are included in the IOTC jurisdiction, they have significantly different characteristics and fisheries compared to the tropical tunas and may require a different allocation regime or weightings, or may be better served by other management approaches.
18. *Spatial data*: unlike other tuna RFMOs, the IOTC does not require members to provide operational data and does not operate a centralised VMS or a comprehensive observer scheme. As a result, the secretariat can only provide spatial estimates of catch based on 5x5 squares for most fisheries. The secretariat has developed a highly useful catch visualisation tool, but its accuracy is limited for 5x5 squares that straddle multiple jurisdictions. Given the large size of 5x5 squares, this occurs frequently and causes significant inaccuracies in the catch estimates for many coastal States. In order to

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<sup>1</sup> Noting that the FAO legal advice referred questions of jurisdiction back to the IOTC.

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accurately estimate catch attributions, either the IOTC will need to improve data reporting to the same standard as other RFMOs, or the TCAC will need to agree a methodology to assign catches in 5x5 squares that straddle multiple jurisdictions.

19. *Reference years:* while the IOTC has access to fisheries data back to 1950, the coverage is variable and inconsistent in early years. Reference to early historic data will need to consider bias concerns as early years may favour developed industrial fleets over developing artisanal and small-scale industrial fleets. Piracy and other extenuating circumstances may need to be considered. Proposals to allow members to choose their best 5 reference years can mitigate this. However, ongoing delays in defining the date range for reference years may exacerbate a 'race-to-fish' and inflame mistrust among members. As such, it is important that the TCAC resolve reference years urgently.
20. *Capacity:* Many IOTC members have limited capacity to monitor and report fisheries, particularly in diverse and distributed artisanal fisheries, or manage catches to agreed limits. It is critical that TCAC members are confident that all members can, and will, implement their subsequent limits so as to enable compromise and agreement. For some IOTC members, it is a practical reality that they do not currently have the capacity to monitor, report and manage all relevant fisheries. It may also be difficult for some members to implement such provisions domestically without assistance. The IOTC will need to develop a capacity building plan to support implementation, and may seek assistance from global donors to prepare and fund a regional development package to support capacity building and structural adjustments in highly vulnerable communities.
21. *Package deal:* given the complexity of the IOTC and the diversity of its membership, any agreement on allocation will clearly require a package deal so as to enable members to balance compromises across numerous issues. TCAC members will need to maintain a flexible and positive approach to negotiation, understanding that a balanced compromise will be required so as to enable agreement.

## **Recommendations**

22. Given the complexity, technicality and lack of clarity in the current chair's draft, I recommend that we focus TCAC13 on a broader discussion of key issues before we attempt to revise the current draft. Following consultations, I do not believe that the TCAC can resolve key disagreements on matters of principle, through negotiating technical text on a screen. I recommend a broader approach before we revert to revising text.
  23. I recommend that we focus discussions on an agreed workplan that will enable TCAC to finalise agreement on the allocation of yellowfin by the end of 2026, with a report and proposed resolution for IOTC to consider and adopt in 2027. I propose that TCAC meet twice in 2025 and twice in 2026. If there are no objections to this proposal, I will prepare a draft workplan for consideration at TCAC13.
  24. I recommend that we focus TCAC negotiations on yellowfin first and agree on a resolution that works for yellowfin. Our workplan would then request direction from
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IOTC in 2026 to proceed with a resolution on bigeye and skipjack. The IOTC may also consider whether to instruct TCAC to proceed with other species such as neritic tunas.

25. I recommend that TCAC13 focus negotiations on three criteria that would provide the framework for negotiations, and then follow a decision tree to consider data, catch attribution and reference years, weightings, development indices/indicators, transferability, compliance, implementation and jurisdiction, review and other details. As noted above, this will always be a package deal so acceptance of one matter is conditional on the package that will be negotiated in 2026. The three criteria to be considered are:
- a. Baseline
  - b. Catch history/Biomass
  - c. Special Requirements of Developing States
26. Following discussion of the criteria/framework, TCAC can then determine if it wishes to continue with this approach and instruct the chair on revisions to the draft resolution. TCAC13 will also consider what supporting analysis and simulations (i.e numbers) it will require to progress negotiations, and understand the ramifications for each member. If this approach is accepted, we would then follow a decision tree in 2025 to resolve catch attribution, weightings, reference years and other matters – again, noting that this is a package deal and will require flexibility and compromise through the negotiations, reassured by an understanding that each step in the decision tree is connected to the entire package which would be negotiated in 2026.

I invite you to consider the attached draft agenda and the proposed approach. Please contact me anytime if you have any questions, concerns or suggestions. I would like to finalise the broad agenda by mid-September so I can then distribute a detailed agenda and supporting documents. I intend to request that the secretariat also provide a demonstration of their simulations and table a series of papers to help inform discussions. Please provide feedback by Monday 16<sup>th</sup> September.

I would also like to thank Thailand for generously assisting with the organisation of the TCAC at short notice. I look forward to returning to Bangkok and meeting with you all.

Best wishes,

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**Professor Quentin Hanich**  
**IOTC TCAC Chair**

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