

27 December 2025

Chair's Explanatory Memo Allocation Framework and Proposed Approach

TCAC16, 3 - 6 February 2026
Perth Australia

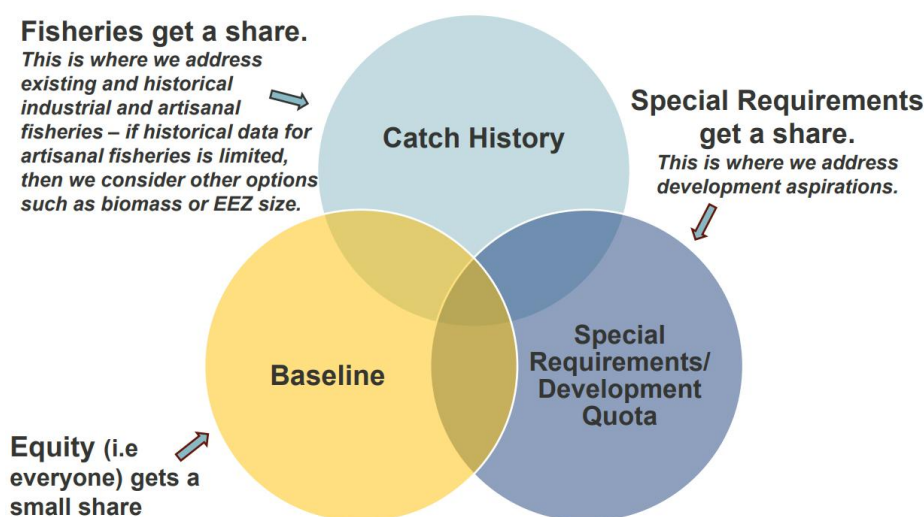
Background

TCAC has determined that TCAC16 will be a defining meeting. If TCAC16 does not make significant progress on key issues, members will discuss the future of allocation negotiations. Ultimately, TCAC16 must determine whether it is possible to agree on a principles-based allocation framework, or whether it should explore other options. My hope is that TCAC16 will make significant progress. Ideally, I am aiming for TCAC16 to provide sufficient clarity so that the secretariat can provide accurate simulations for the Commission to review prior to TCAC17.

With that goal in mind, I have prepared this explanatory memo to guide our discussions, hoping that this will help get us all 'on the same page.' While there are clearly divergent positions on key issues, I think it is critical that we all have a common understanding of the proposed allocation framework, and the decisions required to adopt it. This memo proposes some important questions that will need to be decided at TCAC16.

Allocation Criteria – Clarifying Fishing Interest/Catch History/Biomass

First, our previous TCAC reports have recorded that we have agreed to develop a package deal, structured around three criteria. TCAC13 revised and agreed on the figure below.



The definition of ‘catch history’ has been uncertain since we agreed on this package, particularly in regard to whether it included ‘biomass’ or other proxies. Recent letters by Somalia and Australia have both raised concerns at the dominance of ‘catch history’ noting the lack of legal justification for using this indicator as a criteria. During recent consultations, I have also explored these concerns and would like to propose the following clarification.

The UN Law of the Sea, the UN Fish Stocks Agreement and the IOTC Agreement all repeatedly refer to various ‘interests’ that must be considered. While these agreements never refer to catch history, the UN Fish Stocks Agreement does refer to fishing practices and patterns, among other things. Our own discussions have repeatedly referred to ‘interest’ as a key criteria, but our discussions have conflated the criteria of interest, with potential indicators for demonstrating this interest: catch history, and/or biomass, and/or EEZ size. Both Somalia and Australia have raised this concern in their formal letters, and other members have also discussed this matter in consultations. I would like to propose the following clarification so that we can be consistent with international law and ensure that everyone is on the same page:

1. Baseline

- Indicator(s) is Contracting Party status
- Purpose is to provide all CPs with a share

2. Special requirements of developing States

- Indicator(s) to be agreed at TCAC16 (*see Options Paper #2*)
- Purpose is to address special requirements of developing States consistent with international law and development goals

3. Fishing interest

- Indicator(s) to be agreed. I suggest we only consider two indicators: catch history (1) and proxy for biomass (2). In the absence of biomass science/data, there are international precedents to use EEZ size as a proxy. The lack of data for artisanal fisheries inside EEZs, and intentionally limited data for industrial longline fisheries (5x5), means that the TCAC will struggle to determine fishing interest purely on catch history. Artisanal fisheries are a clear interest and must be reflected either through the catch history, catch estimations, or a proxy such as EEZ size.
- Purpose is to recognise legitimate fishing interests and avoid unreasonable impacts on existing fishing practises and patterns, including artisanal and dependent communities.

TCAC16 will need to consider this clarification of catch history as an indicator to measure fishing interest and **decide** if this approach is more appropriate.

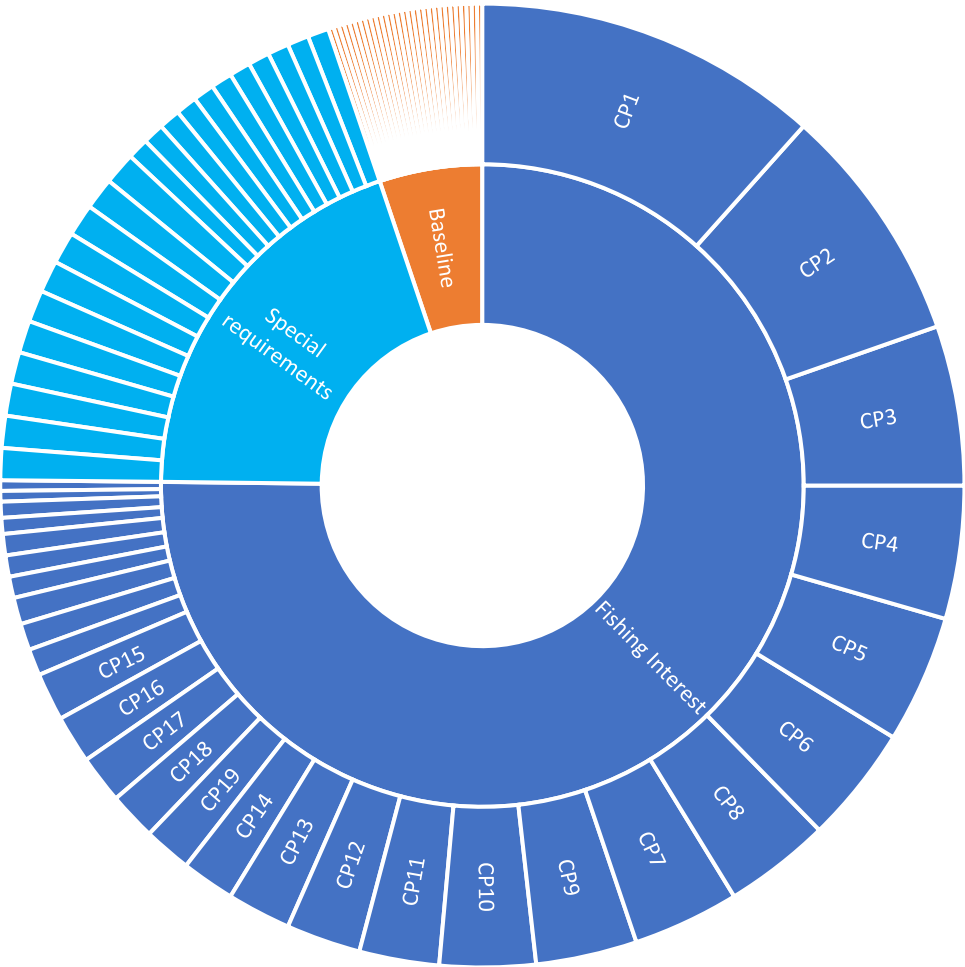
If the TCAC decides to utilise this approach, then it will need to **decide** if a proxy for biomass is acceptable as a second indicator, and how to apply these two indicators in tandem. One option for a proxy may be to develop a formula for EEZ size as a proxy that is weighted regionally for each species. For example, EEZs in regions with low productivity for a species could be discounted in the calculation for that species. Lastly, a ratio would be required that would reasonably balance catch history with EEZ size and avoid

unacceptable calculation outcomes. Advocates for the use of a biomass proxy as an indicator for fishing interest will need to consider these questions and propose transparent and justifiable formula.

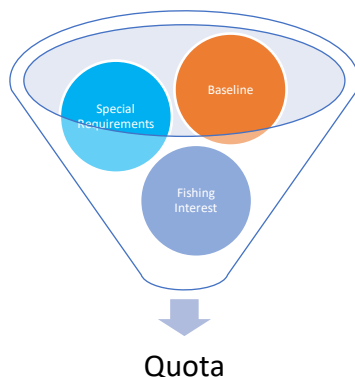
Allocation Framework – Clarifying Distribution

These three criteria will provide the framework for calculating the percentages allocated to each CP. Each criteria will be assigned a percentage of the TAC (weighting), which will then be divided between CPs. All CPs will receive a share of the baseline criteria, while some CPs, depending on their circumstances, will also receive shares of the fishing interest and special requirements criteria. This will be their quota. Option papers #2 and #3 provide some suggestions on the distribution of the baseline and special requirements criteria. Combining these three percentages, each CP will then be allocated a final percentage of the agreed TAC for each species, as determined by the agreed IOTC process.

This is illustrated by the figure below. The percentage (weighting) that is assigned to each criteria is likely to be static, but the fishing interest for each species will vary according to circumstances. The figure assumes that 29 CPs will be eligible for a baseline share, 22 will be eligible for special requirements, and up to 29 will have a fishing interest reflecting their circumstances. The percentages below are purely illustrative.



The national quota for each CP will be determined annually as a set percentage of the TAC. For example, if the TAC for a species in 2028 is 300,000mt, and a CP has been allocated a quota of 5% (i.e baseline share + special requirements share + fishing interest share), then that CP will receive a quota of 15,000mt.



That CP could then choose to provide some or all of that quota to their nationally flagged fleet, or license foreign vessels to catch some or all of that quota within their EEZ, or transfer or trade some or all of that quota to other CPs.

Catch Attribution – Background

Catch history is fundamental to the allocation framework. Regardless of whether it is described as a criteria or as an indicator, catch history depends on accurate data that can be attributed to the appropriate CP. The attribution of catch history from vessels fishing inside a foreign EEZ (i.e distant water fishing) has been difficult to resolve and will be a key priority for TCAC16. Failure to make progress on this decision will trigger a discussion on the future of the TCAC.

TCAC15 did make some progress on the question of catch attribution, refining the options to be considered. The TCAC15 report agreed on two options for future discussion:

1. Historical catches taken within waters under the national jurisdiction of a CPC shall be attributed to the coastal State CPC with sovereign jurisdiction over that area. To minimize economic disruption and maintain fishing and processing industry stability, this re-attribution shall be implemented through a phased transition over a defined period. During this transitional period:
 - In Year 1, X% of the historical catch of a Flag State CPC in another CPC's jurisdictional waters shall be attributed to the corresponding coastal State CPC.
 - The remaining (100 – X)% shall be reallocated in a stepwise manner over the following [Y]-year period, according to a pre-agreed schedule.

Coastal State CPCs may, under mutually agreed terms, grant surplus quota to Flag State CPCs. This approach aims to balance the rights of coastal States with the economic interests of industrial fishing and processing CPCs, while ensuring a predictable and equitable transition.
2. Attributes catch history to the flag State, regardless of where the catches have been caught so to reflect the migratory nature of tuna species. Over a period of X years, Y% of the catches caught in the EEZ of a Coastal State will be gradually allocated to that Coastal State.

In order to further progress negotiations, I propose that TCAC16 establish an informal working group that includes CPs who have a direct interest in this matter (i.e coastal CPs with a history of foreign fishing inside their EEZs, and distant water fishing CPs with a history of fishing inside foreign EEZs). I will then seek views at TCAC16 on whether this informal working group should be chaired by a CP with no vested interest, or one of the CPs with an interest, or utilise the independent chair.

In order to guide discussion towards an achievable outcome, I suggest that the working group consider the following three points to guide discussions.

First, given the sovereignty of internal waters and territorial seas, the minimal catch by foreign vessels in these waters, and the focus of these discussions on foreign vessels – I propose that that catch history inside internal waters and territorial seas be attributed solely to the coastal State. Within internal waters and territorial seas out to 12 nautical miles, coastal States hold sole jurisdiction, free of external interference within internationally agreed limits. Under general international law, coastal States have absolute sovereignty in respect of the living and non-living resources out to 12 nautical miles, and that can only be limited by their express agreement. It is also unlikely that there is any significant disputed catch history in these waters as it is common global practice for coastal and island States to prohibit foreign vessels from fishing within these waters so as to avoid conflict with artisanal and small-scale fishing vessels.

Second, the catch history of domestically flagged or chartered vessels fishing inside their own domestic EEZ shall be attributed to the coastal State. Similarly, the catch history of vessels fishing on the high seas shall be attributed to their flag State. Both of these statements are widely agreed but are noted for clarity.

Third, the attribution of catch history of vessels fishing inside a foreign EEZ shall be **decided** at TCAC16. In deciding this, CPs should consider the legal and operational context.

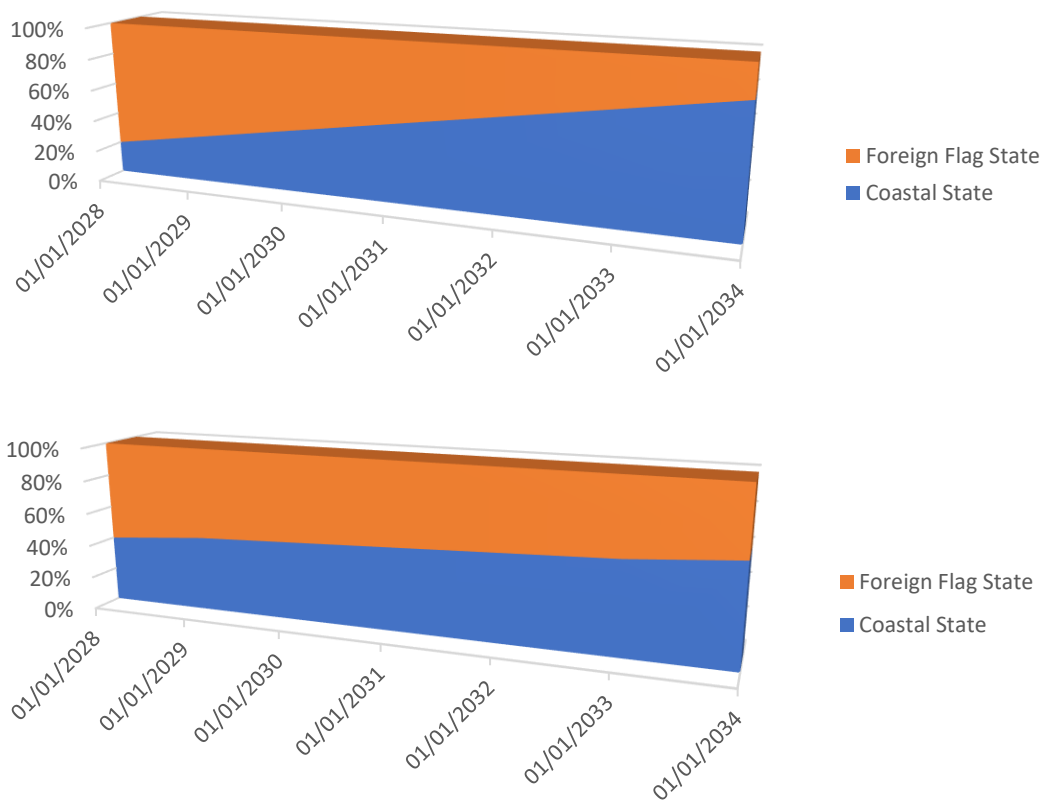
On a legal note, the UN Law of the Sea provides Coastal State with exclusive rights to determine who can access their EEZ resources, and under what conditions. Coastal States shall promote the objective of optimum utilisation and provide foreign access to any surplus allowable catch, but, they are given exclusive discretion in determining the surplus, if any, and any conditions and fees. In this context, access arrangements have provided an important mechanism for coastal States to promote optimum utilisation and enable foreign flagged fleets to fish within their EEZs. Through these arrangements, fishing fleets pay for access to an EEZ, within the short timeframe of the access arrangement. Access agreements have not historically provided any payment or provision for catch history or the transfer of longer-term rights. This is consistent with the Law of the Sea which does not provide for any transfer of long-term rights. The rights and obligations of coastal States over fishery resources in their EEZ remain perpetually with the coastal State. Additionally, both the United Nations Fish Stocks Agreement (UNFSA) and the IOTC Agreement explicitly declare that their respective Agreements shall not prejudice the exercise of the sovereign rights of coastal States in accordance with the law of the sea for the purposes of exploring and exploiting, conserving and managing the living resources, including the highly migratory species.

On a operational level, a number of distant water fishing fleets depend on access to EEZs. Similarly, a number of coastal States gain important access revenue from these fleets. It is important that the TCAC negotiates a compromise solution that allows these fleets to continue fishing and funding developing coastal State licensing revenue.

Catch Attribution Approach – Transition or Sharing Pathways

With this in mind, I propose that the working group consider one of two pathways to consensus. First, I suggest that the working group initiate its negotiations with an offer in good faith, beginning with the immediate and permanent attribution of a percentage of catch history from foreign vessels in EEZs to the coastal State and to the distant water fishing flag State. I suggest that 20% of the catch history from these foreign vessels be attributed to the coastal State, and 20% to the flag State.

Assuming that the working group accept this suggestion, I suggest that they then focus on negotiating a transition for the remaining 60% of the catch history. I have provided two figures below that visualise how this might progress (these are intended to be illustrative only. In order to progress this negotiation, the working group needs to **decide** on the number of years given to the transition, and the percentages involved.



Alternatively, if the working group cannot agree on the transition period and percentages, then I suggest that they **consider** a shared compromise pathway. 20% of the catch history from foreign vessels in an EEZ is attributed to the coastal State, and 20% to the flag State. The remaining 60% is attributed to a shared catch history that will generate a shared quota. This shared quota will be available to both the coastal and the flag State to fish in

the coastal State's EEZ, consistent with coastal State's rights under the Law of the Sea to determine access fees and conditions. The quota should prioritise domestically based vessels, to be defined by the working group.

I hope that these suggestions can help guide negotiations closer towards consensus. I note that no-one will walk away from these negotiations with a perfect outcome. It is the nature of consensus that all will have to compromise. However, it is equally important that all benefit from this compromise. If TCAC can agree on a compromise, we can provide a long term sustainable and equitable future for these critical fisheries - for the coastal communities that depend on them; and for the distant water fishing fleets that supply global markets.

I wish you all well and safe travels.

Yours sincerely,



Professor Quentin Hanich
Chair - IOTC Technical Committee for Allocation Criteria (TCAC)