GUIDANCE AND RECOMMENDATIONS FOR PREPARING IOTC RESOLUTIONS AND RECOMMENDATIONS

Guidance and recommendations in relation to technical legal drafting of future Resolutions and Recommendations, consistent with the IOTC Agreement, international best practices and the FAO style guide, is shown below. It details the inconsistencies and inaccuracies in existing Resolutions concerning IOTC-related matters, legal responsibilities, references/use of terms and formatting, and recommends for each the proper approach and language. It clearly sets out the erroneous use of terms and approaches found in existing Resolutions that must be avoided in future.

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Addressees of reports within IOTC. *Do not* require reports to be sent to the Secretariat unless it is specifically required (e.g. the port State measures Resolution 16/11 specifies the duties of the Secretariat).	Addressees of reports should be the: • Commission (where specifically required, e.g. by the IOTC Agreement or Rules of Procedure); • Executive Secretary; or • Other body formally designated, e.g. a Working Party to report to the Scientific or Compliance Committee.
"IOTC" as part of a title/designation for IOTC bodies. *Do not use "IOTC"*: Refer to the following *without* use of "IOTC", to reflect their definition/use in the IOTC Agreement and Rules of Procedure: • Commission • Executive Secretary • Resolutions (noted below) • Secretariat	IOTC should precede Committees or subsidiary bodies, e.g. "IOTC Committee, IOTC Working Party"
"IOTC Agreement" *Do not use:* • IOTC Convention • Agreement	The formal title is "Agreement for the Establishment of the Indian Ocean Tuna Commission" The proper reference is "IOTC Agreement".
"IOTC area of competence" *Do not use*: • IOTC Area of Competence • IOTC Convention Area • IOTC Area unless it is called out after first use of "IOTC area of competence".	Use the term "IOTC area of competence", as used in the IOTC Agreement.
"IOTC Record of Authorised Vessels" *Do not use*: • Record of Vessels • Record of Fishing Vessels • Record of Licensed Fishing Vessels • List of Authorised Vessels	Resolution 19/04 *concerning the IOTC Record of Vessels Authorised to Operate in the IOTC Area of Competence*: • does not specifically refer to fishing vessels in the title; • applies to "fishing vessels", which include vessels authorised to fish for IOTC species in the IOTC area of competence and support, etc vessels. However, the definition of "vessels" proposed for the Glossary and based on international practice also includes those used for fishing or related activities. This report recommends use of the term "vessels" (rather than "fishing vessels") to designate those used for fishing or related activities, mindful of international practice and the confusion, for example, in referring to a carrier vessel as a fishing vessel.
Resolutions (first reference) *Do not*:	Include the title on first use each time, in italics: "Resolution xx/xx *on….*

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• Refer to a Resolution without its title, for the first use.	
Resolution (general references) *Do not use:* • "The" Resolution xx/xx, *On...*" • As provided in "the" Resolution xx/xx, *On...*" • "IOTC" Resolution	When referring to a Resolution by number, cite it simply and do not precede it with "the", or "IOTC" e.g.: • "Resolution xx/xx, *On ...*", provides…. • "As provided in Resolution xx/xx, *On….*" Refer to "Resolution" (as used in the IOTC Agreement and Rules of Procedure), rather than "IOTC Resolution".
Resolutions (future) *Do not:* • When referring to existing Resolutions add "(or any (future) superseding resolution…)"	Refer only to the title of the Resolution, do not add "or any (future) superseding resolution"; it is stated in the superseding Resolution that it supersedes the earlier one. International agreements, treaties, etc do not use this language or refer to the possibility of future events.
Resolutions (superseding) *Do not use*: • Resolution aa/aa [superseded by Resolution xx/xx, then Resolution yy/yy, then Resolution zz/zz….]; *Use:* • Resolution zz/zz	Refer to the most recent IOTC Resolution only, and not to those it supersedes, except where: • the original Resolution is superseded by the Resolution citing it (i.e. replacing the original Resolution) then the number of the original Resolution should be shown and its ultimate replacement by the current Resolution indicated (e.g. superseded by this Resolution); • a paragraph or other reference is attributed to the superseded Resolution which does not appear in the most recent version and the information referenced is only in the original Resolution (e.g. Resolution 09/01 on follow-up to the first performance review contains certain information that superseding Resolution 16/03 does not).
Resolutions (superfluous language) *Do not use, where it is otherwise apparent:* • "binding" Resolution; • Resolution "in force"	It is clear from the IOTC Agreement that Resolutions are binding and in force, and unnecessary to include this where it is already apparent.
"Sessions" of the Commission, Committees *Do not use*: • session (lower case "s") • Annual meeting of the Commission • Meetings of the Commission	The IOTC Rules of Procedure refer to regular "Sessions" of the Commission or Committees that are to be held annually.

2. LEGAL RESPONSIBILITIES

Legal responsibility for implementation of Resolution must be given to CPCs. *Do not:* • give responsibility for implementation to vessels, operators, masters etc rather than CPCs.	Language should reflect CPCs legal obligation to implement requirements on owners, operators, masters etc., To the extent possible, the requirements should be made in relation to CPC control of the persons (legal or natural) relating to the vessels – owners, operators, maters – rather than the vessels. e.g. "CPCs shall ensure/require compliance by all owners and operators of their flag vessels…"

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Legal responsibility to be clearly stated. *Do not use*: • "should" where there is an intention that the measure is legally binding.	The Resolutions are legally binding and must reflect this by use of "shall" or other mandatory language, unless there is clearly a contrary intention.
<td colspan="2" align="center">**3. REFERENCES, USE OF TERMS**</td>
as regards *Do not use:* • "as regards"	This is not a term of legal art; "relating to" or "concerning" can be used.
bycatch *Do not use:* • "by-catch"	The correct spelling is bycatch, as it appears in the IOTC Scientific Glossary.
"captain", "master" "operator" These terms are used interchangeably in different Resolutions. *Do not use*: • "captain"	Use "master" in relation to vessel activity and "master" or "operator" in relation to responsibilities. Note the definition of "master" and "operator" in the proposed Glossary.
fish aggregating device (FAD) use: Reference to "fishing on" FADs may be too narrow. *Do not use* • "fish on" FADs: refers to vessels that carry FADs, and is activity-specific	Use of "fishing on" FADs limits the application to vessels actually carrying out fishing activities on FADs. Reference to vessels that "use" FADs broadens the application to all use of FADS, such as deployment, even where no fishing activities are carried out.
flag vessels Various references should be consistent. *Do not use* • vessels "flying the flag" of, • vessels "flagged" to etc.	Although various terms are used to denote the flag of the vessel, the term "flag" vessels is simplest and clear. e.g. CPC flag vessels.
gear Spelling of fishing gear varies. *Do not use*: • "drift-net" • "gill net or gill-net" • "long-line" • "purse-seine"	Use driftnet, gillnet, longline, purse seine, as spelled in the FAO Fisheries Glossary
Implementation Report There is inconsistent reference to annual Implementation Reports.	Refer to the CPC "annual Implementation Report"

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Do not use: • "annual report to the IOTC" • "annual report to the Commission"	
"infraction" and **"infringement"** *Do not use:* "infraction" and "infringement"; they are terms used at national level to connote minor violations.	Replace by "violation", as used in UNCLOS and UNFSA. ("Contravention" is used in the Port State Measures Agreement and is also acceptable.)
"IUU fishing", "IUU" *Do not use:* • "IUU" • "IUU fishing" especially where it is intended to include related activities.	The term defined in Resolution 18/03 *On establishing a list of vessels presumed to have carried out illegal, unreported and unregulated fishing in the IOTC area of competence*, paragraph 4 is "illegal, unreported and unregulated fishing <u>activities</u>", and the definition covers fishing related activities. All references should be made to "IUU fishing activities" where it is intended to include fishing and related activities.
IUU Vessels List *Do not use:* • "IUU Vessel List" • "IUU List"	The correct term for the list is "IUU Vessels List".
"Laws and regulations" (at national level) *Do not use:* • "laws and regulations"	The term "legislation" should be used, as it refers to any instrument at national level having the force of law (e.g. laws, regulations, orders, decrees other).
Paragraph *Do not use:* • "Paragraph" • "Point"	The numbered paragraphs in the Resolutions should be referred to as "paragraph", sub-paragraph, etc.
Preamble *Do not cite:* • Detailed specifics of referenced document unless necessary, in order to maintain generality of preamble.	The preamble is general and details do not need citing (such as specific paragraph numbers in referenced Scientific Committee meeting reports); it is usually enough to cite the report, Resolution etc.
Preamble, last paragraph The last two words should be ADOPTS… "the following". *Do not use*: ADOPTS ….. "that*"*:	The language should be consistent: ADOPTS, in accordance with paragraph 1 of Article IX of the IOTC Agreement, "the following":
"set forth" is very general and does not explain the status of the provision referenced (e.g. required or not). *Do not use:* • "set forth", e.g. in paragraph xx, or Resolution xx.	Where needed, the terms "provided" or "required" should be used, which connote specific provisions having the force of law.

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"via", "per" Many Resolutions use these terms as follows, e.g.: "via" Resolution xx/xx "per" Guidelines on xxx *Do not use:* • "via" • "per"	"via" and "per" are not legal terms of art as used in the Resolutions. They should be replaced by other appropriate terms, such as "by" or "through".

4. FORMATTING

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Acronyms: Callout style *Do not use:* • Additional language or punctuation in the callout, e.g. (*hereinafter referred to as "CMMs"*), (*collectively "CPCs"*) • Acronyms should not be used without including the full term then callout, e.g. when referring to other RFMOs (WCPFC, ICCAT)	At first use the acronym should be called out and afterwards only the acronym should be used. Callout should be by use of the acronym in parentheses, e.g.: • Conservation and Management Measures (CMMs); • Contracting Parties and Cooperating Non-Contracting Parties (CPCs). Always include the full term before first use of the acronym, e.g. Western and Central Pacific Fisheries Commission (WCPFC).
Acronyms: Consistent use *Do not:* • Repeat the full words multiple times in a Resolution when acronyms are normally used, e.g. multiple references to exclusive economic zone.	All Resolutions should use the same acronyms, and not full words, to the extent possible, including: **CMMs** – Conservation and Management Measures **CPCs** – Contracting Parties and Cooperating Non-Contracting Parties **EEZs** – exclusive economic zone (note the upper case letters are not used in the words, consistent with UNCLOS)
Annexes Annexes must be formatted consistently, including their titles. *Do not*: • refer to Annexes in regular font • refer to "Appendix" • refer to Annex X "of this Resolution" • use numbers 1, 2, 3 or letters A, B, C.	Reference to Annexes should be in bold and roman numerals: **Annex I, Annex II** etc. The titles should be formatted consistently with the titles of the Resolution.
Chapeau The use of a chapeau should be consistent. *Do not*: • provide numbered paragraphs without a chapeau that only consists of subparagraphs (a) (b) etc. • begin each subparagraph below a chapeau with the same word(s) when it (they) could be placed in the chapeau, e.g. "CPCS have a responsibility….	The chapeau should be as broad as possible to economise on words, e.g. include "to" one time in the chapeau rather than at the beginning of each sub-paragraph, e.g. "CPCS have a responsibility to:" A chapeau should be used in numbered paragraphs that consist of subparagraphs (a), (b), (c) etc.

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(a) to… (b) to… (c) to…	
Colons and semicolons *Do not use:* • semicolons in the keywords description • unnecessary semicolons and colons	Use the FAO style guide for colons and semicolons **Colons** • Colons are generally followed by a lower-case letter and are usually used to introduce a list or a definition. However, an initial capital letter is used when a colon is followed by a proper noun or by a complete sentence, e.g. Land-use planning can be expressed in the following questions: **W**hat is the present situation? **I**s change desirable? **Semicolons** • Semicolons are used to separate main clauses that have different subjects and are not introduced by a conjunction. A semicolon is followed by an initial lower-case letter (unless the semicolon is followed by a proper noun).

Commas
 	
Do not use:
• unnecessary commas.
	Use the FAO Style guide for commas:
	• Use commas to separate clauses within a compound sentence where there is a change of subject, or to prevent possible misreading:
	  • The Chairperson selected the representative of the Netherlands to lead the subcommittee, and the subcommittee agreed.
	• Use commas to isolate a word, phrase or relative clause:
	  • The study, conducted in 1999, confirmed the earlier findings.
	  • The rise in productivity, although limited, has been steady.
	• **Do not** use a comma:
	  • before **and** in a list, e.g. sheep, goats and oxen
	  • after i.e. and e.g.
	• Avoid overuse of commas. For example, the following sentence has many unnecessary commas:
	  • The soil, which, in places, overlies the hard rock of the plateau, is, for the most part, thin and poor.
	  The same sentence would be better written as follows:
	  • The soil, which in places overlies the hard rock of the plateau, is for the most part thin and poor.

Italics *Do not use:* • foreign words and phrases unless they are in italics.	Use the FAO style guide for italics: • foreign words and phrases that are not in common usage, such as et seq., inter alia. • to indicate genus or species, e.g. *Oryza sativa, Cucurbita spp*., but not for higher levels of taxonomic classification, e.g. Brassicaceae. Note that modifiers to species' names (such as cv., var., spp.) and species' authorities are not italicized.
Keywords	Use lower case letters for each keyword (no capitals), separated by commas and ending with a full stop.

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Keywords should be formatted consistently. *Do not use:* • upper case (capital) letters.	
Lists Lists should be formatted consistently. *Do not use:* Conjunctives and disjunctives in lists except in the penultimate sub-paragraph (use of "and" or "or" in Resolutions is sometimes improperly shown after every sub-paragraph), e.g. (a) …. ; and (b) …..; and (c) …..; and (d) ……	Use the FAO style guide (first two points) for lists: - Lists are punctuated in the same way as sentences, unless entries are very short, e.g. no punctuation is required in the following list: - radios - televisions - cameras - When entries are more complex, use initial lower-case letters and end each with a semicolon, except for the final entry, which ends with a full stop. When entries consist of complete sentences, begin each with a capital letter and end each with a full stop. - Use conjunctives or disjunctives only after the penultimate item in the list, e.g. (a) …..; (b) …..; (c) ……; and (d) ……

Numbering style: Treaty-type formatting should be used.   References would then be made, e.g. to Part I, paragraph 1(a)(i).
 	
Do not use
• "section"
• "point"
• dashes
• dot points
	PART XX
	1. Paragraph
	
	    (a) sub paragraph
	
	        (i) sub sub paragraph
	
	            (1) sub sub sub paragraph
	
	                a. sub sub sub sub paragraph

Objectives Objectives should be formatted consistently. *Do not use:* **Objectives** 1. To maintain the skipjack stock in perpetuity. 2. To use a harvest control rule.	If there are multiple objectives for a Resolution, they should be expressed as a list under a general chapeau. For example: The objectives of this Resolution are to: (a) …..; (b) …..; and (c) …. .
Preamble *Do not use:* • lower case letters for the first word(s) • hanging indents • paragraph spacing different from 6pt before and 6pt after	Use upper case letters for the first word(s) Use paragraph spacing of 6pt before and 6pt after
Species Use of capital (upper case) letters. *Do not use:* • capital letters, e.g. Yellowfin, Skipjack.	Use lower case letters for species, e.g. yellowfin, skipjack.

Subject and guidance	Recommendation
	It is based on standard practice: the common names of fishes by convention have been treated as common nouns, not proper nouns, and are accordingly spelled in lower case. This is the WCPFC model, others (IOTC, ICCAT etc) have no model and use upper case and lower case for the names of species inconsistently.