

DRAFT AMENDMENTS TO THE IOTC AGREEMENT

As circulated by the Chairperson 20 January 2006

The Contracting Parties,

Conscientious that since the establishment of the Indian Ocean Tuna Commission in 1995 (IOTC), and taking account of the evolution of the fishing activities in the Area of competence of the Commission, it is appropriate to change the relationship between IOTC and the Food and Agriculture Organisation of the United Nations, to make the IOTC more efficient and effective in accomplishing its conservation objectives,

In conformity with Article XX, paragraphs 1 and 4,

Agree to amend the Agreement for the establishment of the Indian Ocean Tuna Commission as follows:

- 1) In Article I the words “within the framework of the Food and Agriculture Organization of the United Nations (hereinafter referred to as “FAO”)” are deleted.
- 2) In Article IV paragraph 1 the word “FAO” is replaced by the words “Food and Agriculture Organization of the United Nations (hereafter referred to as “FAO”)”.
- 3) In Article V paragraph 2 (e) the word “autonomous” is deleted.
- 4) Article V paragraph 2 (f) is deleted.
- 5) In Article VI paragraph 3 the words “or with the Constitution of FAO” are deleted.
- 6) In Article VI paragraph 7 the words “which Financial Regulations shall be consistent with the principles embodied in the Financial Regulations of FAO. The Financial Regulations and amendments thereto shall be reported to the Finance Committee of FAO which shall have the power to disallow them if it finds that they are inconsistent with the principles embodied in the Financial Regulations of FAO.” are deleted.
- 7) Article VI paragraph 8 is replaced by the following:

“To establish a working relationship between the Commission and the FAO, the Commission shall enter into negotiations with this Organization with a view to concluding a cooperation agreement. Such agreement should provide, *inter alia*, for the Director-General of the FAO (hereinafter referred to as the “Director General”) to appoint a Representative who would participate in all meetings of the Commission and its subsidiary bodies, but without the right to vote.
- 8) Article VII paragraph 1 is deleted.
- 9) Article VII paragraph 2 is replaced by the following:

“States which, while not Members of the Commission, are Members of the United Nations, any of its Specialized Agencies or the International Atomic Energy Agency may, upon request and subject to the concurrence of the Commission through its Chairperson, be invited to attend sessions of the Commission as observers.”

- 10) Article VIII paragraph 1 is replaced by the following:
“ The Secretary of the Commission (hereinafter referred to as the “Secretary”) shall be appointed by the Commission, or in the event of appointment between regular sessions of the Commission, with the approval of the Members of the Commission. The staff of the Commission shall be appointed by the Secretary and shall be under the Secretary’s direct supervision. The Secretary and staff of the Commission shall be appointed under the same terms and conditions as staff members of FAO.”
- 11) Article VIII paragraph 3 is replaced by the following:
“The expenses of the Commission shall be paid out of its budget.”
- 12) Article XII paragraph 6 is replaced by the following:
“ The establishment by the Commission of any sub-commission which requires funding by the Commission, and of any committee, working party or other subsidiary body shall be subject to the availability of the necessary funds in the approved budget of the Commission. Before taking any decision involving expenditure in connection with the establishment of subsidiary bodies, the Commission shall have before it a report from the Secretary on the administrative and financial implications.”
- 13) In Article XIII paragraphs 1 and 2 the word “autonomous” is deleted.
- 14) Article XIII paragraph 4 is deleted.
- 15) In Article XIII paragraph 5 the words “with the concurrence of the Director General” are deleted.
- 16) Article XIII paragraph 7 is replaced by the following:
“Contributions and donations and other forms of assistance received shall be placed in a Trust Fund administered by the Secretary in conformity with the Financial Regulations of the Commission.”
- 17) In Article XIV the words “after consultation with the Director General” are deleted.
- 18) The following Article is inserted after Article XIV:

“Article XIV bis

The Commission has international legal personality and such legal capacity as may be necessary to perform its functions and achieve its objectives.

The privileges and immunities which the Commission and its officers shall enjoy in the territory of a Contracting Party shall be determined by agreement between the Commission and the Member concerned.”
- 19) In Article XVII paragraph 3 the words “all Members of FAO” are deleted.
- 20) Article XX paragraph 2 is replaced by the following:
“Proposals for amendments may be made by any Member of the Commission and shall be addressed to both the Chairperson of the Commission and the Director-General, not later than 120 days before the Session of the Commission at which the proposal is to be considered. The Director-General shall immediately inform all Members of the Commission of all proposals for amendments.
- 21) Article XX paragraph 3 is deleted.
- 22) In Article XX paragraphs 4 and 5 the words “subject to paragraph 3 above” are deleted.
- 23) In Article XX paragraph 7 the words “all members and Associate Members of FAO” are deleted.

- 24) In Article XXI paragraph 1 the words “and the members and Associate Members of FAO” are deleted.
- 25) Article XXI paragraph 3 is deleted.
- 26) In Article XXIV subparagraph (a) the words “and Associate Member of FAO” are replaced by the words “of the Commission”.
- 27) Article XXIV subparagraph (c) is replaced by the following:
 - “(c) inform each Member of the Commission which has accepted this Agreement of:
 - (i) any application for membership in the Commission;
 - (ii) proposals for the amendment of this Agreement or of the Annexes thereto;
- 28) In Article XXIV subparagraph (d) the words “and Associate Member of FAO” are replaced by the words “of the Commission”.