



# CFFA

*Coalition for Fair Fisheries Arrangements*

*Confédération Africaine des Organisations  
Professionnelles de la Pêche Artisanale*

## The challenge for setting up access allocation system in IOTC: eliminating overcapacity whilst ensuring the rights of developing states

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### 1. The rights of developing countries are well established and recognised under international law

The FAO International Plan of Actions (IPOA) for the Management of Capacity requires States to “*achieve world-wide ...an efficient, equitable and transparent management of fishing capacity*”<sup>1</sup> The FAO IPOA also requires that its implementation “*be based on the Code of Conduct, particularly Article 5, in relation to enhancing the ability of developing countries, to develop their own fisheries as well as to participate in high seas fisheries, including access to such fisheries, in accordance with their legitimate rights and their obligations under international law.*”<sup>2</sup> [emphasis added]

Furthermore, the United Nations Fish Stocks Agreement (UNFSA) requires States to “*agree on means by which the fishing interests of new members of the organization or new participants in the arrangement will be accommodated*”<sup>3</sup> and take into account “*the interests of developing States from the sub-region or region in whose areas of national jurisdiction the stocks also occur.*”<sup>4</sup>

<sup>1</sup> Paragraph 7.

<sup>2</sup> Paragraph 10.

<sup>3</sup> Article 10 - Functions of sub-regional and regional fisheries management organizations and arrangements.

<sup>4</sup> Article 11 - New members or participants.

It is important in this context to differentiate between new members, in particular developing States who want to exercise their rights to participate in tuna fisheries and to receive an equitable share of the resources, and participants who are States that already exploit tuna resources in various oceans, and want to further increase their access to resources or compensate for the loss of access or lack of resources in another region.

In taking these interests into account, developing States must be assisted to ensure that they not only have their rights respected, but that they are also in a position to fulfil their obligations. Article 25 of the UNFSA (Forms of cooperation with developing States) requires that States cooperate:

*(a) to enhance the ability of developing States, in particular the least-developed among them and small island developing States, to conserve and manage straddling fish stocks and highly migratory fish stocks and to develop their own fisheries for such stocks;*

*(b) to assist developing States, in particular the least-developed among them and small island developing States, to enable them to participate in high seas fisheries for such stocks, including facilitating access to such fisheries subject to articles 5 and 11".*

## **2. Allocation of access: moving away from historical rights to accommodate developing countries legitimate aspirations, whilst rewarding those who fish most sustainably**

Most of the current mechanisms for the allocation of access are largely based on so-called "historical rights", i.e. historically reported catches declared by States that have had the capacity to exploit fish resources, including on the high seas. However, these major fishing nations that have these historical rights have largely failed to meet their obligations to exploit resources sustainably.

Moreover, such mechanisms, based on historical rights, do not recognise the aspirations of developing countries to benefit more from tuna fisheries, including for providing access to their local artisanal fishing communities.

Countries that have largely been excluded from tuna fisheries are reluctant to set fishing mortality and capacity limits and further conservation and management rules unless a new allocation system has been agreed. They fear, with reason, that those who currently have the largest share will attempt to keep it.

**Therefore, in order to evolve towards a level playing field for those developing nations, we suggest that a system be devised where developing States from the region in whose areas of national jurisdiction the stocks also occur:**

- **are granted an increased share of fishing opportunities (per stock/fishery);**
- **agree that fisheries are subject to increasingly strict conservation and management rules, including efficient monitoring, control and enforcement and compliance with precautionary management advice;**
- **are granted support to abide by such rules, implement obligations and/or new mechanisms for fisheries management to reflect economic and capacity disparities for those developing countries.**

### **3. Defining sustainability and good governance criteria for allocating access**

Allocation of access should be based on a set of transparent environmental and social criteria, that respects the rights of developing coastal States and small-scale fishing communities to participate in and benefit from tuna fisheries, and that would lead to positive competition to improve the standards and practices in the fishery.

Such criteria should apply equally to all IOTC contracting Parties and Cooperating non-Contracting Parties (CPCs) and their operators and should cover:

- impacts on the ecosystem: level of by-catch; damage to the marine environment, species composition, marine trophic relationships
- history of compliance/flag State performance;
- amount and quality of data provided;
- socio-economic benefits provided, especially to coastal fishing communities, in developing Indian Ocean coastal States.
- public access to data concerning vessels authorised to fish in IOTC waters and coastal CPCs waters, including flag, name, beneficial owner/operator, technical characteristics and gear, and licensing conditions.

Socio economic and labour aspects of tuna fisheries are often poorly documented. To develop criteria that would take into account socio-economic benefits provided, it is necessary to improve data on these aspects. We therefore support the proposal to establish a Working Group on Socio-Economic and Labour Aspects of fisheries in the IOTC Area of Competence.

This Working Group should assess and advise the IOTC on the socio-economic dimension, including labour conditions, both in small-scale and industrial fisheries. This working group would be of multi-sectoral nature, and actively involve various stakeholders, fisheries officers, socio-economists, trade unions, fishery managers, industrial and artisanal fishing sector representatives, administrators and other interested stakeholders, in accordance with the IOTC rules of procedure.

The working group shall collect, compile and assess information regarding socio-economic indicators and contributions for all fleet segments, including but not limited to labour and employment conditions, economic dependence on tuna stocks, contribution to national food security, income from exports, interactions between fleet segments. Based on assessment of compiled information and data, the working group will make recommendations to the Commission.

Allocation of access must be combined with adequate fishing fleet capacity/power management plans; and commensurate with the quality of data provided and compliance with conservation and management rules.

Allocation should be reviewed periodically taking into account:

- the performance of CPCs (as flag/coastal/port States and State of beneficial ownership),
- the socio-economic gains achieved in developing coastal States (particularly benefits accruing to fisheries dependent communities) and the extent to which these gains may be captured by foreign fishing interests.

Indeed, beneficial owners from distant water fishing nations or other Indian Ocean coastal States may use the development potential of some developing coastal CPCs to transfer their fishing capacity under various arrangements, f.ex. by reflagging their vessels to those countries, thereby getting access to new fishing opportunities while contributing very little to local development. They may even benefit from more lenient management measures, as well as inadequate MCS. This may also happen where developing States sell off their allocated quotas to foreign fishing interests.

These factors may exacerbate the over-capacity problems, jeopardising tuna stocks as well as the potential development of local fisheries, particularly small-scale fisheries, and economic benefits to those coastal States that have not yet developed fisheries to exploit the tuna resources found in their own waters.

The specific problem of reflagging as a consequence to allocation decisions requires the IOTC to ensure that CPCs achieve high levels of transparency in licensing and beneficial ownership. A failure to achieve this ought to be considered in future allocation decisions.

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