



Report of the 8th Technical Committee on Allocation Criteria

By videoconference, 28 June-1 July 2021

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BIBLIOGRAPHIC ENTRY

IOTC 2021. Report of the 8th Technical Committee on Allocation Criteria. By videoconference, 28 June - 1 July 2021. *IOTC-2021-TCAC08-R[E]*: 27 pp.

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ACRONYMS

AFAD	Anchored fish aggregating device
BMSY	Biomass which produces MSY
CMM	Conservation and Management Measure
CNCP	Cooperating Non-Contracting Party, of the IOTC
CoC	Compliance Committee of the IOTC
CPs	Contracting Parties
CPCs	Contracting Parties and Cooperating non-Contracting Parties
DCS	Developing Coastal State
DFAD	Drifting fish aggregating device
EEZ	Exclusive Economic Zone
FAD	Fish aggregating device
FAO	Food and Agriculture Organization of the United Nations
FMSY	Fishing mortality at MSY
HCR	Harvest control rule
IUU	Illegal, unreported and unregulated
LRP	Limit reference point
LSTLV	Large-scale tuna longline vessel
MSE	Management Strategy Evaluation
NCP	Non-Contracting Party
NGO	Non-Governmental Organisation
OT	Overseas Territories
RFMO	Regional Fisheries Management Organisation
SC	Scientific Committee of the IOTC
SCAF	Standing Committee on Administration and Finance of the IOTC
SIDS	Small Island Developing States
TAC	Total Allowable Catch
TCAC	Technical Committee on Allocation Criteria of the IOTC
TCMP	Technical Committee on Management Procedures
TRP	Target referent point
UNCLOS	United Nations Convention on the Law of the Sea
VMS	Vessel Monitoring System

HOW TO INTERPRET TERMINOLOGY CONTAINED IN THIS REPORT

This report uses the following terms and associated definitions.

Level 1: From a subsidiary body of the Commission to the next level in the structure of the Commission:

RECOMMENDED, RECOMMENDATION: Any conclusion or request for an action to be undertaken, from a subsidiary body of the Commission (Committee or Working Party), which is to be formally provided to the next level in the structure of the Commission for its consideration/endorsement (e.g. from a Working Party to the Scientific Committee; from a Committee to the Commission). The intention is that the higher body will consider the recommended action for endorsement under its own mandate, if the subsidiary body does not already have the required mandate. Ideally this should be task specific and contain a timeframe for completion.

Level 2: From a subsidiary body of the Commission to a CPC, the IOTC Secretariat, or other body (not the Commission) to carry out a specified task:

REQUESTED: This term should only be used by a subsidiary body of the Commission if it does not wish to have the request formally adopted/endorsed by the next level in the structure of the Commission. For example, if a Committee wishes to seek additional input from a CPC on a particular topic, but does not wish to formalise the request beyond the mandate of the Committee, it may request that a set action be undertaken. Ideally this should be task specific and contain a timeframe for the completion.

Level 3: General terms to be used for consistency:

AGREED: Any point of discussion from a meeting which the IOTC body considers to be an agreed course of action covered by its mandate, which has not already been dealt with under Level 1 or level 2 above; a general point of agreement among delegations/participants of a meeting which does not need to be considered/adopted by the next level in the Commission's structure.

NOTED/NOTING: Any point of discussion from a meeting which the IOTC body considers to be important enough to record in a meeting report for future reference.

Any other term: Any other term may be used in addition to the Level 3 terms to highlight to the reader of an IOTC report, the importance of the relevant paragraph. However, other terms used are considered for explanatory/informational purposes only and shall have no higher rating within the reporting terminology hierarchy than Level 3, described above (e.g. **CONSIDERED; URGED; ACKNOWLEDGED**).

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EXECUTIVE SUMMARY

The 8th Session of the IOTC Technical Committee on Allocation Criteria was held by videoconference from 28 June to 1 July 2021 and chaired by Ms Nadia Bouffard. Delegates from 24 Contracting Parties and 4 observer organisations including invited experts participated in the session.

The TCAC undertook an in-depth review of an allocation regime proposal drafted by the independent Chairperson. This draft was based on views that TCAC Members have expressed over time; and views documented in previous TCAC reports, Commission reports and allocation proposals.

The Chairperson informed the TCAC that the suggested text changes and the written comments (to be received) would be considered in the second draft of the allocation regime proposal text.

The Chairperson also advised the TCAC that divergent views remain on important elements of the allocation regime, such as the attribution of catches inside EEZs of Coastal States and the scope of the allocation regime. The Chairperson advised that these will need to be resolved if the TCAC is to achieve its objective of developing an allocation regime for the IOTC. The TCAC expressed its commitment to continue working constructively and AGREED to a work plan leading up to TCAC09.

The TCAC also AGREED to change the dates of the TCAC09 Meeting to 2-5 November 2021.

1. OPENING OF THE SESSION

1. The 8th Session of the Technical Committee on Allocation Criteria (TCAC08) was opened and chaired by the Independent TCAC Chairperson, Ms Nadia Bouffard.

2. LETTERS OF CREDENTIALS

2. The TCAC **NOTED** that 24 Members and 4 Observers, including Invited Experts submitted credentials. The list of participants is provided in [Appendix 1](#).
3. Mauritius and the United Kingdom provided statements ([Appendix 4](#)).

3. ADMISSION OF OBSERVERS

4. Pursuant to Article VII of the IOTC Agreement and Rule XIV of the IOTC Rules of Procedure, the Commission admitted the following observers:

Non-governmental organizations having special competence in the field of activity of the Commission.

- Global Tuna Alliance
- International Pole and Line Foundation
- Sustainable Fisheries and Communities Trust

Invited consultants and experts.

- Taiwan, Province of China.

4. PRESENTATION OF DELEGATIONS

5. The Chairperson invited the Heads of Delegations to introduce their respective delegations.

5. ADOPTION OF THE AGENDA AND ARRANGEMENTS FOR THE SESSION

6. The TCAC **ADOPTED** the agenda provided in [Appendix 2](#). The documents presented to the TCAC are listed in [Appendix 3](#).
7. The Chairperson provided an overview of the documents available to the meeting, including:
 - the Chairperson's Memorandum (IOTC-2021-TCAC08-02)
 - the Summary List of Where Things Stand (IOTC-2021-TCAC08-03)
 - the Chairperson's Proposed Allocation Regime Text, Annexes and Appendices (IOTC-2021-TCAC08-04_Rev1)
 - the Chairperson's Comparative Thematic Table (IOTC-2021-TCAC08-05)

6. SUMMARY OF THE COMMISSIONS DIRECTION

8. The Executive Secretary provided an overview of the Commission's recent deliberations on the outcomes of the TCAC07 meeting that was held in March 2021 and the TCAC Chairperson's plan going forward. The TCAC **NOTED** that the report of the Commission's Annual Session (S25) had not been adopted so there was, at the time, no confirmed new guidance from the Commission. However, the TCAC **ACKNOWLEDGED** that the Commission, aware that the S25 and TCAC08 meetings were separated by only one week, agreed to reschedule the TCAC08 to 28 June to 1 July 2021 so Members had more time to prepare for the meeting.

7. RULES OF PROCEDURE

9. Without prejudice to the final text of the report of the 25th annual session, yet to be adopted by the Commission, the TCAC **NOTED** that the Commission concluded that, as a subsidiary body of the Commission, the TCAC is governed mutatis mutandis by the IOTC Rules of Procedures.

8. TCAC LINKAGES WITH OTHER IOTC BODIES

10. The Executive Secretary presented an overview of the effects that an allocation regime might have on existing Commission processes and bodies (IOTC-2021-TCAC08-06). The presentation was based on the Chairperson's draft allocation regime provided in IOTC-2021-TCAC08-04_Rev1 and covered the possible linkages that would be required with existing IOTC bodies and the Secretariat; the likely activities and steps required for implementing such an allocation regime in a normal year (i.e. post-adoption); and a plan for the implementation of the allocation regime as described.

9. REVIEW OF THE CHAIRPERSON’S PROPOSED ALLOCATION REGIME TEXT

11. The Chairperson informed the TCAC that the drafting of the allocation regime text (IOTC-2021-TCAC08-04_Rev1) has been guided by the views that TCAC Members have expressed over time, and views documented in previous TCAC reports, Commission reports, and allocation proposals.
12. The Chairperson also indicated that the wording in many sections has come from one or other of the latest proposals from the Coastal States and from the European Union, respectively; and in many cases, the proposed text either reflected, or suggested, a consensus view on a given topic. Furthermore, on some topics, the draft proposed options or alternative text proposals, with a view to building a consensus view on the topic. The draft also provided suggested text on topics that had not yet been thoroughly discussed.
13. The TCAC **ACKNOWLEDGED** the concerns of Members that, given there was only two weeks between the conclusion of the Annual Session of the Commission and the start of the TCAC meeting, there was little time to fully review the draft allocation regime text and consult with stakeholders. The TCAC **ACCEPTED** that the opinions and positions that Members may have stated on certain matters at TCAC08 could change going forward and reserve the right to come back with views on, or suggested changes to, any provision of the text.
14. The TCAC **MADE COMMENTS** on the overall nature and content of the sections of document IOTC-2021-TCAC08-04_Rev1. The TCAC then **MADE COMMENTS** on each paragraph of the text. The Chairperson noted the comments made in plenary and also invited Members to submit written comments.

10. CHAIRPERSON’S SUMMARY

15. In summarising the deliberations of the TCAC08, the Chairperson noted the following:
 - Progress had been made by the TCAC which accepted to negotiate the development of an allocation regime based on a single text proposal.
 - Despite remaining divergent views on important topics, consensus is building on many aspects of the allocation regime.
 - There is a need to reconcile the divergent views regarding the attribution of catches inside Coastal States waters in the context of determining the catch-based allocation proposed under Article 6.8 of the draft proposal. The Chairperson encouraged Members to review the resolutions of other RFMOs that were referenced by some delegations and consider whether these offer possible solutions to this matter.
 - There is a need to clarify the type of data used to determine catch history for the purpose of determining the catch-based allocation under article 6.7, and the process for evaluating and validating this data. Options debated included validation processes involving the Scientific Committee, the Commission, or a separate body, such as the proposed allocation committee.
 - The scope of the allocation regime has yet to be agreed upon. In particular, whether certain areas of the IOTC area of competence or species should be excluded. The Chairperson suggested to the Members that in considering such exclusions, the TCAC may wish to consider the impacts that such exclusions are likely to have on the IOTC’s role beyond allocations, such as data collection, stock assessments and other management roles and authorities.
 - The TCAC must consider alternative approaches and compromises on unresolved and contentious matters in order to achieve consensus on an allocation regime. To this end, TCAC delegations are encouraged to work with other delegations on proposals for revisions to the text.
16. The TCAC generally **AGREED** that in order to be most effective, an allocation regime should be adopted by consensus, and expressed its commitment to continue working constructively to that end.
17. The Chairperson thanked the TCAC for the suggested text changes and noted they would be useful for finding the right balance of the various and diverse interests around the table. The Chairperson informed the TCAC that the comments made in plenary were noted and all the written comments received would be compiled and considered for the second draft of the allocation regime text.
18. The TCAC **AGREED** to the following work plan leading up to TCAC09:
 - Written proposals on the text to be provided to the Secretariat and the Chairperson by 31 July.

- The Secretariat will compile the comments into one document and post it on the TCAC09 meeting webpage by 5 August.
- The Chairperson will circulate a new draft allocation regime proposal (Draft #2) by 23 September. This draft will be considered at TCAC09.
- In the new draft, track changes will be used to identify the changes made to the first draft.
- Where there are changes that have been proposed by delegations which have been opposed by other delegations, the changes will be put in brackets. The brackets will remain in the text until there is consensus on the wording.
- Where various proposals are made on the same part of the text, the Chairperson will endeavour to propose text that factors in the intentions of all the proposals. However, if this is not possible, the alternative texts may be included in brackets.

19. The TCAC **AGREED** to change the dates of the TCAC09 meeting to 2-5 November (over 4 days instead of 5) and **ACKNOWLEDGED** that, given the ongoing limitations on travel due to the COVID-19 pandemic, an in-person meeting was unlikely.

11. DRAFT REPORT

20. The TCAC **AGREED** to adopt the meeting report by correspondence.

12. OTHER BUSINESS

21. No matters were raised.

13. MEETING CLOSURE

22. The TCAC **ADOPTED** the report of the 8th Session of the Technical Committee on Allocation Criteria (IOTC–2021–TCAC08–R) on 20 July 2021.

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APPENDIX 2.

AGENDA OF THE 8TH TECHNICAL COMMITTEE ON ALLOCATION CRITERIA

DAY 1

- 1. OPENING OF THE SESSION** (Chairperson & IOTC Secretariat)
- 2. LETTERS OF CREDENTIALS** (IOTC Secretariat)
- 3. INTRODUCTION OF DELEGATIONS** (Each Head of Delegation)
- 4. ADMISSION OF OBSERVERS** (Chairperson)
- 5. ADOPTION OF THE AGENDA AND ARRANGEMENTS FOR THE SESSION** (Chairperson, IOTC-2021-TCAC08-01)
 - **Chair's Memorandum** (IOTC-2021-TCAC08-02)
 - **Summary List of Where Things Stand** (IOTC-2021-TCAC08-03)
 - **Chair's Proposed Allocation Regime Text, Annexes and Appendices** (IOTC-2021-TCAC08-04)
 - **Chair's Comparative Thematic Table** (IOTC-2021-TCAC08-05)
- 6. SUMMARY OF COMMISSION DIRECTION** (Chairperson)
- 7. RULES OF PROCEDURES** (Chairperson)
- 8. TCAC LINKAGES WITH OTHER IOTC BODIES** (Secretariat)
 - **Linkages and Process Map**
- 9. REVIEW OF CHAIR'S PROPOSED ALLOCATION REGIME TEXT** (IOTC-2021-TCAC08-04)
 - **Chair's presentation** (Chairperson)
 - **General Comments** (All delegations)

Day 2

- **Section by Section Review** (All delegations)

Day 3

- **Paragraph by Paragraph Review** (All delegations)

Day 4

- **Continue Paragraph by Paragraph Review** (All delegations)

- 10. CHAIR'S SUMMARY** (Chairperson)
- 11. DRAFT REPORT**
- 12. OTHER BUSINESS**
- 13. MEETING CLOSURE**

APPENDIX 3.
LIST OF DOCUMENTS

All documents are available on the IOTC website [[click here](#)]

Document number	Title
IOTC-2021-TCAC08-01a	Draft Agenda v20May
IOTC-2021-TCAC08-02	Chairpersons explanatory memorandum
IOTC-2021-TCAC08-03	Chairpersons summary of where things stand
IOTC-2021-TCAC08-04_Rev1	Chairpersons proposal for draft Allocation Regime
IOTC-2021-TCAC08-05	Chairperson's Comparative Thematic Table
IOTC-2021-TCAC08-06	Preparation for an allocation regime

APPENDIX 4. STATEMENTS

Statement 1 by Mauritius

8th Meeting of IOTC Technical Committee on Allocation Criteria
28 June-1 July 2021

Agenda Item 3: Letter of Credentials

Statement by the Republic of Mauritius

The Republic of Mauritius reiterates its long-standing position that the United Kingdom is not entitled to be a member of the Indian Ocean Tuna Commission (IOTC) as a “coastal State situated wholly or partly within the Area [of competence of the Commission]” and wishes to place on record its objection to the participation of the United Kingdom in the 8th meeting of the IOTC Technical Committee on Allocation Criteria as a coastal State purporting to represent the Chagos Archipelago.

In addition to the reasons provided in the past to support its stand, the Republic of Mauritius wishes to draw the attention of the Committee to the Judgment delivered on 28 January 2021 in the case of *Mauritius v. Maldives* by a Special Chamber of the International Tribunal for the Law of the Sea (ITLOS). This Judgment held that the Republic of Mauritius has undisputed sovereignty over the Chagos Archipelago, thereby further confirming that the United Kingdom cannot be recognized as a member of the IOTC as a coastal State.

In its Judgment, the Special Chamber, *inter alia*, ruled that:

- (a) the determinations made by the International Court of Justice (ICJ) in its Advisory Opinion of 25 February 1919 on the *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965* have legal effect and clear implications for the legal status of the Chagos Archipelago;
- (b) the United Kingdom’s continued claim to sovereignty over the Chagos Archipelago is contrary to the determinations made by the ICJ that the detachment of the Chagos Archipelago by the United Kingdom from Mauritius was unlawful and that the United Kingdom’s continued administration of the Chagos Archipelago constitutes an unlawful act of a continuing character;

- (c) the fact that the time-limit of 22 November 2019 set by the UN General Assembly for the withdrawal of the United Kingdom's administration from the Chagos Archipelago has passed without the United Kingdom complying with that demand further strengthens the Special Chamber's finding that its claim to sovereignty over the Chagos Archipelago is contrary to the authoritative determinations made in the Advisory Opinion of the ICJ;
- (d) while the process of decolonization of the Republic of Mauritius has yet to be completed, the Republic of Mauritius' sovereignty over the Chagos Archipelago can be inferred from the ICJ's determinations;
- (e) the continued claim of the United Kingdom to sovereignty over the Chagos Archipelago cannot be considered anything more than "a mere assertion" and such assertion does not prove the existence of a dispute;
- (f) the Republic of Mauritius is to be regarded as the coastal State in respect of the Chagos Archipelago.

It is crystal clear that as a matter of international law, the Republic of Mauritius is the only State lawfully entitled to exercise sovereignty and sovereign rights over the Chagos Archipelago and its maritime zones, as the coastal State and that the United Kingdom is not in a position to claim any rights over the Chagos Archipelago. The so-called "British Indian Ocean Territory" which the United Kingdom purported to create by illegally excising the Chagos Archipelago from the territory of Mauritius prior to its accession to independence is an illegal entity. The United Kingdom cannot accordingly be a member of the IOTC as a coastal State.

The Republic of Mauritius requests that this statement be annexed to the report of this meeting.

Statement 2 by Mauritius



REPUBLIC OF MAURITIUS

MINISTRY OF FOREIGN AFFAIRS, REGIONAL INTEGRATION
AND INTERNATIONAL TRADE

No (10 /2021) 18570/46/142

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius presents its compliments to the Secretariat of the Indian Ocean Tuna Commission (IOTC) and with reference to the Note Verbale (No. OTD/006/2021) dated 25 June 2021 from the Overseas Territories Directorate of the Foreign, Commonwealth and Development Office of the United Kingdom of Great Britain and Northern Ireland, has the honour to state as follows:

The position taken by the United Kingdom in respect of the Chagos Archipelago is in manifest breach of international law, including its legally binding obligations thereunder, as clearly set out in the Advisory Opinion of the International Court of Justice (ICJ) of 25 February 2019 on the *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, UN General Assembly Resolution 73/295 of 22 May 2019 and the Judgment of the Special Chamber of the International Tribunal for the Law of the Sea (ITLOS) of 28 January 2021.

In its Advisory Opinion, the ICJ made clear that the Chagos Archipelago is and has always formed an integral part of the territory of the Republic of Mauritius. The Court also found that the United Kingdom's continued administration of the Chagos Archipelago constitutes a wrongful act entailing the international responsibility of the United Kingdom and is an unlawful act of a continuing character which arose from the separation of the Chagos Archipelago from Mauritius. It accordingly concluded that the United Kingdom is under an obligation to bring to an end its administration of the Chagos Archipelago as rapidly as possible.

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The United Kingdom claims that the ICJ ought not to have considered a bilateral dispute without the consent of the States concerned. In this regard, the Republic of Mauritius wishes to point out that the Court addressed this issue and squarely rejected the arguments of the United Kingdom. The ICJ carefully distinguished on the one hand, a purely bilateral dispute and on the other, a dispute about the lawfulness of decolonization, which might require the Court to address other legal issues arising within the broader framework of decolonization. The ICJ made it clear that the Advisory Opinion requested by the UN General Assembly concerned a matter related to decolonization, not a bilateral dispute.

The United Kingdom further claims that it does not share the ICJ's approach and that the Advisory Opinion of the Court merely provides advice to the UN General Assembly and is not a legally binding judgment. The United Kingdom is fully aware that the Court considered thousands of pages of factual and legal arguments, and heard oral submissions from more than thirty States, including the United Kingdom, and the African Union over four days. The Court carefully examined those facts and legal arguments before reaching its conclusions which are entirely without ambiguity. The Court heard and rejected the arguments of the United Kingdom, the same ones now being asserted before the IOTC.

While Advisory Opinions *per se* may not be binding on States (although binding in this case on the United Nations which has given effect to it), it is unquestionable that the obligations which the ICJ identified as arising under international law are binding on the States concerned, including the United Kingdom. That such determinations of law in the Court's Advisory Opinions are as authoritative as they are in its Judgments is recognized by international and national courts, and by distinguished commentators, including Professors Rosenne, Pellet, Watts, Dugard and Kolb as well as Judge Nagendra Singh and Judge Yusuf, former Presidents of the ICJ.

In Resolution 73/295 which was adopted by an overwhelming majority of 116 votes to 6, the UN General Assembly fully endorsed the findings of the ICJ. It recognized that as a matter of international law, the Chagos Archipelago forms an integral part of the territory of the Republic of Mauritius and demanded the United Kingdom to withdraw its colonial administration from the Chagos Archipelago unconditionally by 22 November 2019. Given the *erga omnes* nature of the obligation in

respect of the right to self-determination, Member States are required to ensure the completion of the decolonization of the Republic of Mauritius.

The Republic of Mauritius wishes to recall that in its Judgment of 28 January 2021, the Special Chamber of ITLOS ruled that the Republic of Mauritius has undisputed sovereignty over the Chagos Archipelago and that the United Kingdom's continued claim to sovereignty over the Chagos Archipelago is contrary to the determinations of the ICJ that the detachment of the Chagos Archipelago from Mauritius was unlawful and that the United Kingdom's continued administration of the Chagos Archipelago is an unlawful act of a continuing character. It also ruled that the Republic of Mauritius is to be regarded as the coastal State in respect of the Chagos Archipelago.

ITLOS further underscored that determinations made by the ICJ in an Advisory Opinion cannot be disregarded simply because the Advisory Opinion is not binding. The Special Chamber held that the determinations made by the ICJ in its Advisory Opinion of 25 February 2019 have legal effect and clear implications for the legal status of the Chagos Archipelago. ITLOS also ruled that the continued claim of the United Kingdom to sovereignty over the Chagos Archipelago cannot be considered anything more than "a mere assertion" and that such assertion does not prove the existence of a dispute.

The ITLOS Judgment is binding under international law. It gives effect to, and applies, the ICJ Advisory Opinion. It is now indisputable that as a matter of international law, the Republic of Mauritius is the sole State lawfully entitled to exercise sovereignty and sovereign rights over the Chagos Archipelago and its maritime zones and that the United Kingdom cannot claim any rights over the Chagos Archipelago. The Judgment of ITLOS has further confirmed the illegality of the so-called "British Indian Ocean Territory".

In the light of the foregoing, the United Kingdom is not and cannot be the coastal State in relation to the Chagos Archipelago and is therefore not entitled to be a member of the IOTC as a

coastal State pursuant to Article IV(1)(a)(i) of the Agreement for the Establishment of the Indian Ocean Tuna Commission.

It follows that neither the Instrument of Acceptance deposited by the United Kingdom on 22 December 2020 nor that deposited on 31 March 1995 could validly have been submitted on the basis of Article IV(1)(a)(i) of the Agreement for the Establishment of the Indian Ocean Tuna Commission.

The Republic of Mauritius would be grateful if a copy of this Note Verbale could be annexed to the report of the 8th meeting of the IOTC Technical Committee on Allocation Criteria scheduled for 28 June-1 July 2021 and posted on the IOTC's website.

The Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius avails itself of this opportunity to renew to the Secretariat of the Indian Ocean Tuna Commission the assurances of its highest consideration.



1st July 2021

Secretariat
Indian Ocean Tuna Commission
Victoria
Seychelles

Statement 1 by United Kingdom



Note Number: OTD/006/2021

The Overseas Territories Directorate of the Foreign, Commonwealth and Development Office presents its compliments to the Secretariat of the Indian Ocean Tuna Commission (IOTC) and Chair of the IOTC's Technical Committee on Allocation Criteria (TCAC) from 28 June to 1 July. In advance of this session, the United Kingdom wishes to restate its position on the British Indian Ocean Territory (BIOT) and membership of the IOTC.

The United Kingdom has no doubt about its sovereignty over the Chagos Archipelago, which has been under continuous British sovereignty since 1814. Mauritius has never held sovereignty over the Archipelago and we do not recognise its claim. However, we have a long-standing commitment, first made in 1965, to cede sovereignty of the territory to Mauritius when it is no longer required for defence purposes. We stand by that commitment.

The United Kingdom was disappointed that this matter was referred to the International Court of Justice (ICJ), contrary to the principle that the Court should not consider bilateral disputes without the consent of both States concerned. Nevertheless, the United Kingdom respects the ICJ and participated fully in the ICJ process at every stage and in good faith. An Advisory Opinion is advice provided to the United Nations General Assembly at its request; it is not a legally binding judgment. The UK Government has considered the content of the Opinion carefully, however we do not share the Court's approach.

UN Resolution 73/295, adopted following the ICJ's Advisory Opinion, does not and cannot create any legal obligations for UN Member States. Neither the non-binding Advisory Opinion nor the non-binding General Assembly resolution alter the legal situation, namely that of a sovereignty dispute between the United Kingdom and Mauritius. The General Assembly is not the appropriate forum to resolve such a bilateral dispute.

The United Kingdom is aware of the judgment delivered on 28 January by the Special Chamber of the International Tribunal for the Law of the Sea (ITLOS) formed to deal with the Dispute concerning delimitation of a maritime boundary claimed by Mauritius to exist between Mauritius and Maldives in the Indian Ocean. The UK is not a party to these proceedings, which can have no effect for the UK or for maritime delimitation between the UK (in respect of BIOT) and the Republic of the Maldives.

The United Kingdom is a full member of the IOTC. The United Kingdom deposited instruments of acceptance to the IOTC Agreement on 31st March 1995 and 22nd December 2020 and has been a party to the Agreement since it entered into force. The Agreement for the Establishment of the Indian Ocean Tuna Commission provides that IOTC membership shall be open, inter alia, to FAO members that are situated wholly or partly within the IOTC's Area of Competence. As BIOT is situated wholly within the IOTC's Area of Competence, there can therefore be no doubt

that the United Kingdom, as the State with sovereignty over BIOT as aforementioned, is entitled to be a member of IOTC.

The United Kingdom requests that this statement be annexed to the report of TCAC's session and posted on the IOTC's website.

The Overseas Territories Directorate of the Foreign, Commonwealth and Development Office avails itself of the opportunity to renew to the Secretariat of the Indian Ocean Tuna Commission the assurances of its highest consideration.

FOREIGN, COMMONWEALTH AND DEVELOPMENT OFFICE
LONDON

25 June 2021

