

December 2006



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COMMITTEE ON FISHERIES

Twenty-seventh Session

Rome, Italy, 5 - 9 March 2007

STRENGTHENING REGIONAL FISHERIES MANAGEMENT ORGANIZATIONS AND THEIR PERFORMANCES INCLUDING THE OUTCOME OF THE 2007 TUNA RFMOS MEETING

SUMMARY

This paper provides background information relating to strengthening Regional Fisheries Management Organizations (RFMOs) and their performances. Developments of this issue at international level are described, including through international fisheries instruments, in the United Nations system and by independent organizations. The document reviews ongoing consideration of the issue in FAO including by COFI and actions relating to FAO Regional Fishery Bodies (RFBs). Moreover, approaches to the issue in the biennial meetings of RFBs are reported, and examples of recent initiatives by some RFMOs to undertake performance reviews are outlined. The final section of the paper proposes possible action by the Committee.

BACKGROUND

1. The role, obligations and stature of RFMOs in fisheries governance is growing steadily, as reflected, *inter alia*, in international fisheries instruments, the number of new RFMOs established in recent years, and the innovative policy, legal and institutional reforms and cooperative action that many RFMOs are taking, many in an effort to rebuild depleted stocks or prevent further decline. The contribution of RFMOs to fisheries governance is further shown by their wide ranging activities to implement the international fisheries instruments¹ and their increasingly harmonized and coordinated approaches to current and emerging issues.

2. The family of Regional Fishery Bodies – already numbering thirty-eight including eighteen bodies with a management mandate (RFMOs) – is rapidly expanding in response to recognition by the international community of the continuing need to strengthen international cooperation and institutions that work on a regional basis, and to increase the coverage of the oceans by RFBs. A major objective in establishing RFMOs is to attain global coverage that also fills high-seas management gaps where valuable but vulnerable stocks exist. In this way, the conservation and management of all fisheries resources is encompassed and greater management of interactions between fisheries and the environment as a whole is achievable. Strengthened and coordinated governance will be essential to guide this evolving process.

3. Since 2003, six RFBs have been established or are under negotiation. This will broaden the implementation of the relevant provisions of the post-UNCED international fisheries instruments through their conventions or statutes.² Currently, nine key RFMOs have mandates to manage straddling fish stocks and highly migratory fish stocks. Ten RFBs have been established under the FAO Constitution.

4. The priorities and activities of RFMOs vary. However, many are focusing their efforts on implementing measures that will operationalize key aspects of the 1995 FAO Code of Conduct for Responsible Fisheries and the 1995 UN Fish Stocks Agreement³ as well as other recently concluded international fisheries instruments. Important steps towards the implementation of these instruments have been taken through the review and updating of mandates.

5. Many RFMOs are taking steps to strengthen governance through implementing the ecosystem approach to fisheries and adopting the precautionary approach. They are also working to strengthen international cooperation, promote transparency, address non-members, and enhance monitoring, control and surveillance (MCS) measures, including the implementation of mandatory vessel monitoring systems (VMS), the adoption of regional schemes for port State measures and the development of vessel lists.

6. The perceived lack of action by RFMOs and their inability in some cases to stem stock declines should be viewed in the context of the obstacles that many of them are facing, not all of which are of their own making. A lack of political commitment by the members of some RFMOs and unyielding positions incompatible with sound regional fisheries management have thwarted, if not stalled, efforts undertaken within some RFMOs to meet and address conservation and management

¹ See Swan, J. "Summary Information on the Role of International Fishery Organizations or Arrangements and other Bodies Concerned with the Conservation and Management of Living Aquatic Resources", FAO Fisheries Circular No. 985, FIPL/C985, Rome, 2003.

² RFBs established in recent years include the South East Atlantic Fisheries Organization (SEAFO) (2003), Western and Central Pacific Fisheries Commission (WCPFC) (2004), and the South West Indian Ocean Fisheries Commission (SWIOFC) (2004). The South Indian Ocean Fisheries Agreement (SIOFA) was signed in July 2006. Processes are underway to establish the South Pacific Regional Fisheries Management Organisation (SPRFMO), and an RFMO in the North Western Pacific Ocean to regulate bottom trawl fishing.

³ The Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks entered into force on 11 December 2001.

challenges. This situation hinders RFMO performance, while criticism is directed at the organizations rather than at their members.

7. The high incidence and increasing sophistication of IUU fishing continue to undermine the work of RFMOs. The continuing widespread use of flags of non-compliance and ports of convenience exacerbates the scope and extent of IUU fishing. The criminal aspect of IUU fishing is also coming to the fore as organizations take measures against offending fishing vessels and their owners, and RFMO secretariats sometimes receive threats intended to make them withdraw measures that combat IUU fishing.

8. Strengthening RFMOs and their performances in order that fish stocks may be better conserved and managed remains therefore the major challenge facing international fisheries governance. This is reinforced by the overall state of exploitation of marine fishery resources; it was concluded in 2006 that the situation seems more serious for certain fishery resources that are exploited solely or partially in the high seas and, in particular, for straddling stocks and for highly migratory oceanic sharks.⁴ The maximum wild capture fishery potential from the world's oceans has probably been reached and reinforces the calls for more cautious and effective fisheries management to rebuild depleted stocks and prevent the decline of those being exploited at or close to their maximum potential.

9. The international community has focused in recent years on the need to strengthen those RFBs that have a management mandate – the RFMOs. This is reflected in international fisheries instruments (both binding and voluntary), and in international fora. However, the role of RFBs with an advisory mandate, and their interrelationships with RFMOs, should also be fully taken into account. Their activities may lead to improved national fisheries governance and harmonized regional measures. They contribute to the efforts of RFMOs in key areas such as monitoring, control and surveillance (MCS), information exchange and scientific advice, and otherwise interact with RFMOs. Renewed attention to the importance of the effective performance of these bodies, as supportive of an increasingly integrated approach to global fisheries governance, is reflected in the proceedings of the RFB Secretariats Network and the reviews by individual RFBs of their performance and mandates.

INTERNATIONAL DEVELOPMENTS

International Instruments: RFMO roles and responsibilities

10. Specific reference to the role and responsibilities of RFMOs first appeared in the 1995 UN Fish Stocks Agreement (Fish Stocks Agreement). Previous instruments had referred more generally to regional organizations or bodies, encompassing bodies with an advisory mandate.⁵

11. The 1993 FAO Compliance Agreement,⁶ unlike the Fish Stocks Agreement, assigned the primary role of international coordination to FAO rather than RFBs with advisory mandates, but suggested certain roles for the latter.⁷ The 1995 FAO Code of Conduct for Responsible Fisheries (Code of Conduct) referred to “subregional, regional and global organizations” in the context of implementation of the Code⁸ and more specifically to RFMOs in articles relating to general principles,

⁴ FAO. World Review of Fisheries and Aquaculture. Draft, December 2006.

⁵ The 1982 United Nations Convention on the Law of the Sea referred to “appropriate sub regional or regional organizations”.

⁶ Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, entered into force on 24 April 2003, referred to “global, regional or subregional fisheries organizations or arrangements”.

⁷ The roles related to the scope of its application, international cooperation, exchange of information and cooperation with developing countries.

⁸ Articles 1 and 4.

fisheries management and fishing operations.⁹ Roles are also designated for RFMOs in the International Plans of Action (IPOAs) elaborated under the Code of Conduct.¹⁰

12. The Fish Stocks Agreement, in Part III, sets out mechanisms for international cooperation concerning the relevant stocks and identifies RFMOs as the mechanism through which States can fulfill their obligations to manage and conserve them.

13. The Fish Stocks Agreement contains an extensive array of functions of RFMOs which, *inter alia*, includes the duty of States to “cooperate to strengthen existing RFMOs in order to improve their effectiveness in establishing and implementing conservation and management measures for straddling fish stocks and highly migratory fish stocks”.¹¹ It also refers to RFMOs in the context of: new members;¹² transparency;¹³ collection of scientific data and cooperation in scientific research;¹⁴ and dealing with non-member States whose vessels undermine the effectiveness of high seas conservation and management measures or the effective implementation of the Agreement.¹⁵

14. Most RFMOs established prior to the conclusion of the Fish Stock Agreement have taken specific actions in order to meet some of the new demands and expectations envisaged in the Agreement, as well as in the Code of Conduct and its IPOAs.

United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea (ICP) and United Nations General Assembly (UNGA) Resolutions

15. The ICP, which facilitates the review by the UNGA of developments in ocean affairs and the law of the sea, addressed the role of RFMOs at its sixth meeting in 2005.¹⁶ The important role of RFMOs was underlined, and a strengthening of their role and a modernization of their operation was advocated. Different views as to how this might be done were discussed.

16. A statement was tabled by attending RFMOs, referring to the trend of improved cooperation among the RFB Secretariats Network, especially in the scientific basis for decisions, the increased levels of monitoring and surveillance and integration of environmental concerns. It indicated that the point was not to focus on deficiencies or performance or gaps in coverage of RFBs, but to support the trend of enhancement of the performance of RFBs.

17. The ICP outcome was followed by the UNGA Resolution on Sustainable Fisheries (UNGA 60/31) in 2005, which encouraged States through their participation in RFMOs to initiate processes for their performance review, and welcomed the work of FAO in the development of general objective criteria for such reviews. It called for further efforts by RFMOs, as a matter of priority, to strengthen and modernize their mandates to include an ecosystem approach to fisheries management and biodiversity considerations. The Resolution also placed emphasis on decision-making processes in RFMOs, encouraging incorporation of a precautionary approach and the adoption of related measures.

⁹ Articles 6, 7 and 8.

¹⁰ In particular, the roles of RFMOs identified in the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU) are extensively defined.

¹¹ Article 13.

¹² Article 11.

¹³ Article 12.

¹⁴ Article 14.

¹⁵ Article 17(4) and 33(2).

¹⁶ Prior to 2005, the first meeting of the ICP in 2000 addressed the improvement of the environment in which regional fisheries organizations function, and recommended that the biennial conference of regional fisheries organizations should consider measures to strengthen further the role of these organizations.

18. The UNGA Resolution on Sustainable Fisheries considered by the Sixty-first Session in 2006 continued to call on RFMOs to strengthen their mandates and the measures they adopt to implement modern approaches to fisheries management.¹⁷ This reflected the recommendation of the seventh meeting of the ICP in 2006, that implementation of an ecosystem approach could be achieved through, *inter alia*, where appropriate, strengthening RFMOs, adapting their mandates and modernizing their operations in accordance with international law. Moreover, the UNGA Resolution urged States through RFMOs to undertake performance reviews, and offered guidance in relation to the process, criteria and guidelines for such reviews. RFMOs were encouraged to include some element of independent evaluation and make the results publicly available.

United Nations Fish Stocks Agreement: Implementation

19. The Conference on the Governance of High Seas Fisheries and the UN Fish Agreement held in St. John's, Canada, in May 2005, called for the mandates of RFMOs to be broadened and strengthened. Participants also indicated that there was considerable merit in establishing effective performance review mechanisms for RFMOs.¹⁸ At the Conference, Ministers adopted a declaration that, *inter alia*, recognized that RFMOs today face new challenges and responsibilities, and expressed a need for political will to further strengthen and modernize RFMOs.

20. The Review Conference on the UN Fish Stocks Agreement held in New York in May 2006 reviewed and assessed the adequacy of the provisions of the Agreement and proposed means of strengthening the substance and methods of their implementation.¹⁹

21. The strong focus on RFMOs in the recommendations of the Review Conference reflected their central role in implementing the Agreement. Furthermore, the Conference also encouraged States, as appropriate, to recognize that the general principles of the Agreement should also apply to discrete fish stocks in the high seas, thereby contributing to eliminate a conservation and management gap for these stocks and enhancing the role of high seas RFMOs.

22. The review and assessment of key issues by the Conference included the issues of modernization of RFMOs mandates to fulfil functions in the Agreement, and a systematic review and assessment of RFMO performance.

23. As a result, proposals were agreed for actions to strengthen mechanisms for international cooperation that should be taken by States individually and through RFMOs, including a detailed reference to performance reviews. States were to: urge RFMOs of which they were members to undergo performance reviews on an urgent basis; encourage the inclusion of some element of independent evaluation in such reviews; and ensure that the results are made publicly available. The reviews should use transparent criteria, including best practices of RFMOs.

24. A call was made for a process to review the performance of RFMOs. The initiation by RFMOs of periodic performance assessments was supported and annual performance reviews were suggested. It was also suggested that organizations should report the results of their assessments and any actions taken to remedy deficiencies to FAO or to future meetings of the Review Conference.

¹⁷ The agreed text in the draft Resolution as at 30 November 2006 is referenced; the UNGA had not yet formally considered the Resolution at the time of writing.

¹⁸ Report of the *Conference on the Governance of High Seas Fisheries and the UN Fish Agreement*, hosted by Canada in St. John's from May 1-5, 2005.

¹⁹ Report of the Review Conference on the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. New York, 22-26 May 2006.

Other International Initiatives

25. Independent initiatives are increasingly supportive of the actions taken by regional and international organizations to strengthen RFMOs. One effort that focused attention on IUU fishing on the high seas and the role played by RFMOs in attempts to combat this problem was undertaken by the Ministerially-Led Task Force on IUU Fishing on the High Seas (HSTF).²⁰ The final report of the Task Force, containing nine proposals, addressed improved high seas governance and, similar to calls from within the UN system, advocated promoting a more systematic approach to the review of RFMO performance. It encouraged RFMOs to work together more effectively through improved coordination and the use of port-and trade-related measures. The HSTF report proposed that a model be developed for improved RFMO governance, based on an assessment of best practices worldwide in the implementation of international fishery instruments.

26. A five-member panel has been commissioned by the Governments of Australia, Canada, New Zealand and the United Kingdom in partnership with the international conservation organizations IUCN and WWF. The “Independent High-level Panel: Promoting Better High Seas Governance Through a Model for Improved Governance by RFMOs” is hosted by the Royal Institute of International Affairs (Chatham House), London. The panel is addressing the proposal to develop a model for improved RFMO governance and has identified a thematic approach to its work. The report of the panel is expected in April 2007.

27. Another initiative was the publication by two NGOs in 2006 of a review of experience and best practice in RFMOs.²¹ The publication contributed to the views being developed through broader international processes by encouraging RFMOs to instigate mechanisms for the regular review of their performance, to be based upon on a consistent set of agreed criteria, embedded within the ecosystem approach to fisheries.

DEVELOPMENTS IN FAO

28. The main objective of FAO in its approach to RFBs is to foster international fisheries cooperation so as to enhance conservation and management. In this regard, developments in FAO have included ongoing review and reform of its ten RFBs, including in 2004 the establishment of a new body. FAO continues to provide technical and administrative support to its RFBs, and hosts the biennial meeting of RFB Secretariats.

COMMITTEE ON FISHERIES

29. In COFI, ongoing attention has been given to the review and strengthening of FAO RFBs. Major efforts were initiated with the conclusion of the post-UNCED fisheries instruments in 1995, when the issue was addressed in COFI. A major review and reform process was activated in 1997 when COFI agreed that the FAO RFBs be reviewed and evaluated by their members to determine measures to be taken to strengthen each body. It was recognized then, much as it is today, that implementation would require a systematic and specific review of each statutory body, which in turn could promote the restructuring of the bodies, revision of the mandate, and undertaking of more financial responsibilities by member countries.²²

²⁰ The work of the Task Force extended over a period of two years with the report published in March 2006. High Seas Task Force (2006). Closing the net: Stopping illegal fishing on the high seas. Summary recommendations. Governments of Australia, Canada, Chile, Namibia, New Zealand, and the United Kingdom, WWF, IUCN and the Earth Institute at Columbia University.

²¹ Willock, A. and Lack, M. (2006). Follow the leader: Learning from experience and best practice in regional fisheries management organizations. WWF International and TRAFFIC International.

²² Report of the Twenty-second Session of COFI, Rome, 17-20 March 1997, para. 31. Resolution 13/97. Review of FAO Statutory Bodies. The basis for this Resolution was financial – the Conference encouraged Article VI bodies to seek extra-budgetary funding or Article XIV bodies to provide their own financial resources.

30. The following year, in 1998, a FAO High Level Panel of External Experts in Fisheries concluded that the FAO RFBs should be strengthened and recommended that FAO work with national and regional fishery bodies to promote objective self evaluation of governance performance including the development of performance indicators.²³ By 1999, eight of the nine existing FAO RFBs had considered actions required to strengthen their functions and responsibilities. COFI urged FAO to continue the systematic analysis of these bodies, especially concerning their institutional and financial arrangements, the strategies used to implement decisions and the recommendations and measures taken to address current international fishery issues.²⁴

31. The issue briefly resurfaced in COFI in 2003, when a range of initiatives was proposed to more effectively address IUU fishing, including strengthening the functions of RFBs.²⁵

32. At the Twenty-sixth Session of COFI in 2005, members requested further strengthening to enhance the effectiveness of RFMOs.²⁶ In this regard, there was agreement on the importance of establishing principles to review the performance of RFMOs in meeting their objectives and the obligations and principles set forth in relevant international instruments.

33. However, a cautious approach was favoured, and it was suggested that further discussion was needed on the question of how to undertake such a review and on the concept of independence, in view of RFMOs' current assessment activities. It was thought that the process could be shaped by consultations among RFMOs, and the results fed back to COFI for further actions.²⁷

34. Strong support was given at COFI to a proposal by Japan for a joint meeting of the Secretariats of the tuna RFMOs and their members.²⁸

35. Immediately following the COFI meeting, the FAO Ministerial Meeting on Fisheries agreed upon the need to strengthen RFMOs to ensure that they are more effective in preventing, deterring and eliminating IUU fishing.²⁹

FAO Regional Fishery Bodies

36. Individually, as appropriate, FAO RFBs review their roles and responsibilities, and continue to take appropriate actions to strengthen their effectiveness.³⁰

37. Collectively, a meeting of the FAO RFB Secretariats was held in March 2005 as part of the continuing process in FAO to review the role and operations of its RFBs. Prior to the meeting, a review was undertaken to identify strengths and challenges for the RFBs in terms of their mandates, policies and administration, and the possible need for proactive and coordinated policy and administration between FAO and its RFBs.

38. The review invited input from the Secretariats, which indicated that a clear, long-term policy on FAO RFBs was needed taking into account the diversities and roles of the various bodies and the need

²³ *Ibid.*, para. 24. However, RFBs were reluctant to develop performance indicators due to costs, time and other constraints.

²⁴ Report of the twenty-third session of the Committee on Fisheries, Rome, Italy, 15-19 February 1999, FAO Fisheries Report No. 595, para 81.

²⁵ FAO. Report of the twenty-fifth session of the Committee on Fisheries. Rome, 24–28 February 2003. *FAO Fisheries Report*. No. 702. Rome, FAO. 2003. 88p. para. 22.

²⁶ FAO. Report of the twenty-sixth session of the Committee on Fisheries. Rome, 7–11 March 2005. *FAO Fisheries Report*. No. 780. Rome, FAO. 2005. 88p. paragraph 108.

²⁷ *Ibid.*, paragraph 111.

²⁸ *Ibid.*, Paragraph 28.

²⁹ FAO. *The 2005 Rome Declaration on Illegal, Unreported and Unregulated Fishing* adopted by the FAO Ministerial Meeting on Fisheries. Rome, 12 March 2005.

³⁰ For example, FAO Council approved the updating and amendment of the WECAFC Statutes in November 2006. In addition, GFCM undertook an external evaluation of its Scientific Advisory Committee and of its Committee on Aquaculture. COPESCAL has also initiated a process of review of its own statutes.

for a proactive, coordinated administration by FAO.³¹ At the meeting, participants reviewed several issues of common concern. The matter is receiving ongoing attention, and another meeting of the FAO RFB Secretariats is scheduled for March 2007.

FAO Inter Departmental Working Groups (IDWGs)

39. In the context of the reform process under way in FAO, two parallel IDWGs were established by the Director-General in September 2005 with outcomes relevant to FAO RFBs. The objectives of the IDWG on regional commissions were to review the functioning of the regional statutory bodies, identify eventual problems and make suggestions for improvement, including their strengthening. Recommendations endorsed by the Director-General encourage, *inter alia*, reviews of policies, mandates and statutes. A range of actions was proposed to streamline and strengthen the work of FAO regional commissions with a view to enhancing their effectiveness and avoiding duplications. The IDWG on international treaties and agreements was tasked with considering the implementation and follow-up of treaties and agreements within FAO.³² The Group emphasized that a systematic and more visible approach to FAO treaties and agreements will strengthen its voice in the international arena, and advocated policy coherence and efficiency gain.

MEETINGS AMONG RFBs

Biennial meetings of Regional Fishery Bodies - The RFB Secretariats Network

40. The biennial Meetings of Regional Fishery Bodies, since the inaugural session in 1999, have facilitated discussion and information sharing among all bodies. These meetings address the outcomes of COFI and focus on issues of major importance to the RFBs, including the role of RFBs in global fisheries governance. At the fourth meeting in 2005, participants agreed that the title "RFB Secretariats Network" would be more appropriate, in particular since it emphasized the intersessional contacts that take place between meetings.

41. The performance of RFBs and their role as vehicles for good fisheries governance was first addressed in 1999 when meeting emphasized that RFBs must "measure their success by results in the form of favourable trends in, or status of, stocks and human benefits." The meeting concluded that RFBs should continue to review and adapt, where appropriate, their mandates, structures and strategies.

42. At the second meeting in 2001, RFBs expressed that they supported in principle the concept of developing performance indicators and related guidelines for self-evaluation, but that no action had been taken at the time due to constraints such as cost, time and other priorities.³³ The meeting also emphasized that in view of the diverse nature of RFBs, it was difficult to establish indicators which were generally applicable to all RFBs.

43. At the fourth meeting of RFBs in 2005,³⁴ participants addressed in greater depth the role of RFBs and external factors affecting fisheries management, partly in response to the 2005 COFI proposal to review the performance of RFMOs in meeting the objectives and principles in international instruments. In this context, COFI had stressed a need to develop a process to assess the performance of RFMOs as well as to promote best practices across RFMOs. There was broad support for the proposal but members called, as a priority, for further clarification on the nature, process and use of the outcome. It was considered that the proposed review should recognize the diversities of RFMOs, and should be independent but should not be an efficiency assessment of secretariats.

³¹ Summary Report. Meeting of Secretaries of FAO (RFBs held in Rome, 13 March 2005).

³² The outcomes apply to RFBs established under Article XIV of the FAO Constitution

³³ Report of the Second Meeting of FAO and non-FAO Regional Fishery Bodies or Arrangements. Rome, 20-21 February 2001. *FAO Fisheries Report*. No. 645. Rome, FAO. 2001. 26p.

³⁴ FAO. Report of the fourth Meeting of Regional Fishery Bodies. Rome, 14-15 March 2005. *FAO Fisheries Report*. No. 778. Rome, FAO. 2005. 29p.

44. The meeting recognized that there were a number of perceived common deficiencies in fisheries governance at a global level, for example in areas relating to overcapacity, IUU fishing, catch allocation and the behaviour of non-contracting parties. There was a strong indication from COFI and a number of external organizations that RFMOs may require capacity building to deal with such issues, so the meeting expressed a need for some form of review, possibly in the context of applicable regional and global instruments.

45. The agenda of the March 2007 meeting of the RFB Secretariats Network includes an item on RFMO/RFB Performance Enhancement. The meeting is expected to address the broadening of discussions at international level, and consider key elements such as assessing/improving RFMO performance, developing new RFMOs where there are gaps for area/stocks not covered by existing arrangements and improving fisheries management capacity globally. Additional points for consideration, in the context of improving effective fisheries management, are expected to include: (i) the joint meeting of Tuna RFMOs; (ii) setting common standards for exchanging information (including within/between RFMOs as well as RFBs); and (iii) the possibility of holding a meeting of other high seas RFMOs similar to that to be held for the tuna RFMOs. An expected outcome is a plan for action/advice.

Joint Meeting of Tuna RFMOs

46. As supported by the Twenty-sixth Session of COFI, Japan hosted a joint meeting of tuna RFMOs, with FAO technical cooperation, in Kobe, Japan, 22 – 26 January 2006. The participants included the Secretariats of the RFMOs, as well as their members and cooperating non-members. Major issues for discussion were: a review of the current situation of RFMOs and markets; and consideration of actions to improve management of tunas such as coordination of measures adopted by RFMOs and capacity control. Outcomes of the meeting were an Action Plan and Recommendations to further harmonize tuna conservation and management measures among the RFMOs. The relevant outcomes will be available at COFI.

PERFORMANCE REVIEWS

47. This document has described the intensifying calls for the performance of RFMOs to be reviewed regularly as a means of promoting greater efficiency and accountability. However, this issue is highly sensitive and in some instances RFMO members have been reluctant to support such evaluation on the ground that it might interfere with the autonomy of the RFMOs, disrupt their work and, ultimately, reflect somewhat poorly on their membership.

48. Nonetheless, the rationale and need for such performance appraisals have taken root and are gaining wide acceptance in international fora, as described above. Additionally, RFBs have devoted increasing attention and action to the process and mechanisms for such appraisals, both collectively and individually. It is believed that the outcomes will provide concrete results that organizations can adopt and implement to strengthen their conservation and management capacity.

49. Organizations embarking upon a performance review must first consider and decide on a process and terms or criteria for the review to ensure the effectiveness of the outcomes. Some examples of such considerations appear below.

Approaches:

- internal review: carried out by the Commission;
- external review: carried out by a panel of external experts with stated qualifications;
- mixed review: mixture of internal, external experts.

Procedures:

- terms of reference: e.g. evaluate achievement of RFMO objectives through measures adopted, the process for achieving the objectives, and the implementation of relevant international instruments;
- standards and criteria for performance evaluation;
- selection of reviewers;
- timing; and
- review procedures.

*Budgetary requirements**How the results are to be considered and used, ensuring transparency and accountability*

50. Examples of performance reviews initiated by some RFMOs since 2005 are shown in the Appendix. The establishment of each refers to the international instruments, but the process and objectives differ in each case, reflecting the diversities among RFMOs.

SUGGESTED ACTION BY THE COMMITTEE

51. The Committee is invited to:

- consider the unique role of RFMOs in fisheries governance, and the actions and measures that have been recommended and taken to promote their strengthening and review their performance and accountability;
- reflect and offer comments on actions and measures that may be taken to promote or facilitate further strengthening of RFMOs and, as appropriate, RFBs with an advisory mandate;
- offer guidance and, as appropriate, strategies for RFMO performance reviews and, as appropriate, for RFBs with an advisory mandate, and
- identify steps that may be taken by FAO to facilitate and promote the strengthening of RFMOs and, as appropriate, RFBs with an advisory mandate.

PERFORMANCE REVIEWS UNDERTAKEN BY SOME RFMOS SINCE 2005

The North East Atlantic Fisheries Commission (NEAFC)

The purpose of the review, initiated in 2005, was to provide a systematic check on the Commission's performance since its inception in 1982 and its consistency with the NEAFC Convention, and relevant international instruments. A comprehensive set of criteria was developed against which NEAFC was reviewed.³⁵

A six member mixed review Panel was appointed, which identified achievements and areas where there is room for improvement. The Panel found that the Convention established the proper legal framework as a foundation for the future management in the North East Atlantic. It also found the evidence of strong performance in specific areas of operation such as the monitoring and enforcement schemes. However, the status of the main fish stocks in the Convention area is at a critical point and unless effective action is taken promptly, there is a strong possibility that their future sustainable use will be compromised. The Panel suggested a more transparent process in setting objectives for the management and ultimately a change to the objective driven management process consistent with internationally recognized best practice. The Panel's report was presented in November 2006 to the NEAFC Commission and the Working Group on the Future of NEAFC was mandated to follow up the recommendations.

The Northwest Atlantic Fisheries Organization (NAFO)

In NAFO, a course of action was agreed in 2005 to reform the body as a matter of priority to address the concerns and issues contained in recent political declarations.³⁶ It was agreed to establish an *ad hoc* Working Group on NAFO Reform (WG Reform) to review and, where appropriate, develop recommendations to modify and/or complete the provisions of the NAFO Convention.

The WG Reform was comprised of delegates from NAFO members, and met twice. The meetings were focused on the mandate to review, and if appropriate revise the NAFO Convention. A Working Paper, prepared by the chair, formed the basis for discussion. Several substantial issues were identified with regard to the reform during the meetings, and it was agreed that the 1979 NAFO Convention needed to be updated on many aspects³⁷. An overall agreement on an amended Convention text is expected to be presented to the next Annual Meeting in 2007 for adoption.

³⁵ NEAFC. 2006. Performance Review Panel Report of the North East Atlantic Fisheries Commission, NEAFC. Volume I: Main Report. London. NEAFC.

³⁶ Including the Ministerial Declarations at the 2005 St. John's Conference and the 2005 Fisheries Ministerial Meeting at COFI. GC W.P. 05/8, Rev. 2 now GC Doc. 05/2.

³⁷ Including: taking account in an amended Convention of the ongoing international efforts for more sustainable use of fisheries resources and improved protection of the ecosystems in which they occur; moving towards a more integrated oceans policy; streamlining NAFO's structure; modernization of the decision-making process; and consideration of new definitions for key terms.

The International Commission for the Conservation of Atlantic Tuna (ICCAT)

A resolution to strengthen ICCAT was adopted in 2005.³⁸ It provided that, at the 2006 annual meeting, the Commission should review ICCAT's conservation and management program taking account of the provisions set out in relevant international fisheries instruments. At its annual meeting in November 2007, the Organization established a Working Group on the Future of ICCAT in order to review the Convention and evaluate its compatibility with development of international law since 1966. However, the performance review has been deferred pending the outcomes of the matter in the Kobe Joint Meeting of Tuna RFMOs in January 2007. The Working Group will then meet intersessionally and report to the 2008 annual meeting of ICCAT.

³⁸ Resolution to Strengthen ICCAT. 05-10.