



26 March 2019

Dear Mr Miguel de Serpa Soares:

The International Seafood Sustainability Foundation (ISSF) is pleased to present our views on the **Performance Review of Regional Fisheries Management Organisations and Arrangements (RFMO/As)** for the consideration of the States Parties to the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 related to the Conservation and Management of Straddling Fish Stocks and highly Migratory Fish Stocks (UNFSA) at its May meeting, in accordance with UNGA Resolution 73/125.

ISSF is a non-government organisation established in 2009 by leading tuna scientists, NGOs and tuna processors with the objective of *undertaking and facilitating science-based initiatives for the long-term conservation and sustainable use of global tuna stocks, reducing bycatch and promoting tuna ecosystem health*. Further information on ISSF can be found at: <https://iss-foundation.org/>.

ISSF staff and consultants bring a range of scientific and policy expertise that has been utilised in conducting RFMO performance reviews. ISSF experts have participated in the performance review of several RFMOs, for example, the first and second performance review of the Indian Ocean Tuna Commission and the independent reviews of the Commission for the Conservation of Southern Bluefin Tuna and the Commission for the Conservation of Antarctic Marine Living Resources.

Based on our expertise and our participation in these RFMO/A performance reviews, ISSF provides the following insights for the consideration of the States Parties to UNFSA:

**1. Scope of performance reviews of RFMO/As and importance of such reviews for the implementation of the treaty**

Our experience has shown there is a wide degree of variation in the scope, rigour and depth of RFMO/A performance reviews. ISSF has, and continues to advocate for, wide scope and rigorous performance review programs.

An RFMO/A's performance is built on all aspects of the treaty, its policies and frameworks and the conservation and management measures adopted, the performance of the institution or Secretariat and its infrastructures to support the RFMO's work and the RFMO's ability to address future challenges. To date, most performance reviews have focused primarily on normative aspects of the treaty,



organizational and infrastructural issues and its policies. But there has been little assessment of the performance of the conservation and management measures (CMMs) agreed by the specific RFMO/A and how these measures do/don't give effect to the objective of the treaty.

Performance reviews of RFMO/As are critically important to strengthening these institutions through robust and independent review of their effectiveness in meeting the objectives of the constituent conventions. Further, such reviews provide importance outside perspectives regarding whether or not modifications to the conventions may be needed to ensure the RFMO/A is meeting best practices for modern fisheries governance, including through giving effect to provisions of UNFSA. Finally, independent evaluation, and the serious consideration and implementation of the review's recommendations, builds confidence by civil society and the market in RFMO/As as effective management bodies for shared fishery resources.

ISSF has been pleased that recommendations from performance reviews have been actioned by individual RFMOs. In fact, it is our experience that conservation measures based on recommendations from performance reviews are viewed quite positively among the RFMO/A membership.

## **2. Process and structure of performance review of RFMO/As, including related to independent evaluation, participation, transparency, accountability and periodicity**

ISSF has participated in both committee-based performance reviews and independent performance reviews. For committee-based performance reviews the participation remains restricted to a mix of members, accredited observers, independent scientific expertise, members of other RFMO/As, the RFMO under review and the Secretariat. Independent panels, in our experience, are composed of a small number of individuals completely independent of the RFMO/A. Our comments here compare the two structures that we have participated in.

Overall, we have found that both structures provide opportunity for rigorous discussion and strong recommendations, but the following aspects should be considered going forward to further strengthen and enhance the process and structure of performance reviews.

Independent Evaluation and Structure of the Panels: An independent panel structure allows for more detached and impartial evaluation. However, we note that there are also costs associated with engaging independent experts for the work. Committee-based performance reviews undertake a kind of self-assessment of performance depending on the number and type of experts engaged from outside the RFMO 'family'. These types of structures do not have the same degree of independence. However, individuals from within the RFMO family are likely to be best placed to comment on how the RFMO/A is functioning in practice, its challenges, and how it is executing its mandate; thereby making it possible to identify clear recommendations to improve performance. In either case, it is important for performance reviews to take into account how other RFMO/As conduct their business.



Participation: it is essential that the performance review panel, whether independent or committee-based, be composed of experts in their field that are impartial. All participants should be acting as experts not as representatives of their government or organisation or in their official role if part of the Secretariat. It is also essential that all stakeholder groups are represented on the panel.

Transparency: all documents prepared in association with the performance review, for example summary reports and analyses, should be made publicly available. At minimum, these documents should be public at the conclusion of the performance review. However, this needs to also be consistent with the confidentiality policy of the relevant RFMO/A, for example, not disclosing specific vessel level information. The overarching objective should be to publish as much information as possible related to the performance of the RFMO/A so that the methodology, documents examined, and criteria used are available for analysis by interested parties.

Accountability: remains one of the most important aspects of the performance review process. In subsequent performance reviews it is critical that review panels are tasked to assessing the actions taken in relation to the recommendations of the previous performance review. Without this step, the performance review is meaningless as it is not considering any improvements, or lack thereof, and the new review becomes just a snapshot in time. Second, the panel should articulate their recommendations in their reports in such a way that it is clear who has responsibility for taking action on the recommendation, for example either the members, the secretariat, scientific committee, etc.

Periodicity: Often the review period of an RFMO/As is 5 years. We recommend retaining this timeframe to allow members of RFMO/As to undertake the necessary work in support of recommendations and/or to implement the recommendations.

### **3. Implementation of recommendations of, and other follow up to, performance review of RFMO/As**

RFMO/A performance reviews have made numerous recommendations for action by the organisation and its members. In ISSF's view, RFMO members and secretariats have taken solid steps to address panel recommendations that are research focused or would not require significant process or normative changes. However, performance review recommendations that are more substantial, for example amending the RFMO's convention or measures, implementing allocation schemes or addressing critical data gaps, and/or putting in place needed, but detailed, regional MCS programs (e.g., observer programs or centralized VMS) are areas where there has been less progress.

The fact that RFMO/As are composed of nations, which have diverse interests and objectives, remains a reality regarding the performance of any RFMO/A. This not only affects the degree to which performance review panel recommendations are implemented, but also the pace of adoption of other needed conservation measures even when there is significant scientific advice to support the proposed action. Geo-political interplay can to delay agreement on and/or result in gaps in the conservation and management arrangements adopted by the members.



#### **4. Lessons learned and best practices from past performance reviews of RFMO/As**

As highlighted above, the biggest hurdle to strengthening the RFMO/As is overcoming political inertia that is inherent in all international bodies. One avenue ISSF considers will support moving this issue forward is requiring more independent assessments of RFMO/A.

As identified earlier, a performance review need not be fully independent, but it can include additional mechanisms that strengthen the independence of the recommendations. For example, an independent panel can be brought in to review an RFMO's self-assessment. A second option is the establishment of independent panels to consider specific aspects of RFMO/A performance, such as related to the effectiveness of conservation and management measures or its MCS tools and compliance assessment programs.

It is critical that RFMO/A performance reviews include representation from, to the greatest extent possible, all components of the supply chain and from civil society. Historically RFMO/As have focused solely on the catching sector from the member States. However, there is increasing engagement from the processing sector that takes place in RFMO/A non-member States. RFMO/As are slow to recognise the importance of these other market actors in the design and adoption of effective management arrangements that can have a direct bearing on diverse and global supply chain stakeholders.

Although, RFMO/As have utilised civil society representation on performance reviews, this relationship can be further strengthened. There are clear opportunities for RFMO/A members to utilise the skills and expertise of civil society to support the development, adoption and implementation of effective conservation and management arrangements, such as through seeking the input of such stakeholders throughout the implementation of performance review recommendations.

#### **5. Actions needed to further strengthen the effectiveness of performance review processes, including through capacity building**

One critical aspect of strengthening the performance review process is for, to the greatest extent possible, the review of a RFMO/A's performance be solely via self-assessment. And if a self-assessment is made, as noted above, it should then reviewed by an independent panel of experts that can provide its own recommendations on, and in addition to, the self-assessment.

It is important for RFMO/As to develop and implement systems, programs and approaches that enable the ongoing review of their performance. This might include systems of independent verification of flag State/ members reporting against CMMs and then associated reporting at the RFMO level. Importantly, there would need to be a rigorous systems-based approach to responding to non-implementation and/or non-compliance by a flag State/member.

An independent verification and systems-based approach to responding to non-compliance provide a stronger basis on which the performance of RFMO/A members and their systems can be assessed.



ISSF would be pleased to provide clarification or additional information as required to States Parties to the UNFSA to support their deliberations on this important matter.

Sincerely,

A handwritten signature in black ink that reads "Holly Koehler". The signature is written in a cursive, flowing style with a prominent flourish at the end.

**Holly Koehler**  
Vice President Policy and Outreach  
International Seafood Sustainability Foundation