

## Reviewing the performance of CCSBT

### New Zealand

#### Introduction

1. This paper seeks to provide a process for progressing work on the performance review of CCSBT agreed to at the thirteenth meeting of the Commission in Miyazaki, Japan (CCSBT 13).

#### Background

2. The international community has called for improved performance of RFMOs. One consequence of this has been a focus on the importance of reviewing the performance of RFMOs—for example, the 2006 United Nations General Assembly, the UN Fish Stocks Agreement Review Conference, the Food and Agriculture Organisation's Committee on Fisheries (FAO/COFI), and the five tuna RFMOs meeting in Kobe, Japan, all addressed this aspect.
3. States involved in these meetings have committed to initiating performance reviews of the RFMOs they are members of and work is currently underway on this issue in a variety of regional fisheries bodies. One RFMO, the North East Atlantic Fisheries Commission (NEAFC), has already completed a performance review<sup>1</sup> and the Indian Ocean Tuna Commission (IOTC) at its 11<sup>th</sup> session on 13–18 May 2007 agreed to implement a process of performance review<sup>2</sup>.

#### Discussions at CCSBT 13

4. The general concept of modernising and improving the functioning of the Commission was discussed at CCSBT 13, when the issue of reviewing the performance of RFMOs was still making its way onto the agendas of RFMO commission meetings around the world. The CCSBT 13 meeting report records that:

*107. Members also agreed that there is an immediate need to modernise the CCSBT, with a view to improve its efficiency and effectiveness.*

*108. Participants at both the UNFSA Review Conference and the Ministerial High Seas Taskforce on IUU Fishing have agreed that performance reviews of RFMOs are required urgently. Further, the upcoming joint meeting of tuna RFMOs to be held in Kobe, Japan, is expected to promote the institutional strengthening of those organisations responsible for managing highly migratory fish stocks.*

*109. Taking these issues into account, and noting that reviews have now been launched in other RFMOs, Members decided that an*

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<sup>1</sup> Completed in November 2006 and available at <http://www.neafc.org/news/docs/performance-review-final-edited.pdf>

<sup>2</sup> Available at <http://www.iotc.org/files/proceedings/2007/s/IOTC-2007-S11-R%5BE%5D.pdf>

*intersessional working group together with the Secretariat carry out a full internal review of the CCSBT. Each Member may nominate one person for the working group and the working group and the Secretariat provide a set of recommendations at CCSBT 14 for improving the effectiveness and efficiency of the Commission, consistent with world's best practice.*

5. Since these decisions at CCSBT 13, other regional fisheries bodies and multilateral fora have developed the concept of performance reviews further, including details of when they should occur, who should be involved in them, and what criteria should be used to assess an RFMO.
6. The Commission is now in the fortunate position of being able to draw from this work to further shape the details of the performance review committed to at CCSBT 13.

### **The Kobe meeting outcomes**

7. In particular, the Joint Meeting of the five Tuna RFMOs (the Kobe meeting) discussed in detail how the tuna RFMOs could respond to these international calls to review their performance.
8. Key considerations at that meeting were the benefits that would be obtained from developing a common approach to performance reviews across the five tuna RFMOs.
9. With that in mind, it was agreed that:
  - The five tuna RFMOs should have reviews of their performance conducted in accordance with a common methodology and common set of criteria.
  - Reviews should be conducted by a team of individuals drawn from the RFMO secretariat, members of the RFMO, and outside experts.
  - The results of the performance review should be presented to the tuna RFMO in question for consideration and possible action. The results should also be made available on the RFMO website.
  - The performance reviews should commence as soon as practicable following the development of a performance review framework (subsequently completed, refer to discussion below).
  - Tuna RFMOs should decide on the timing of their first performance review and on follow-up reviews with a view to having them every 3-5 years.
10. Subsequent to the Kobe meeting, U.S. Ambassador David Balton led an informal process that resulted in the development of a common set of criteria for the five Tuna RFMOs to consider when undertaking performance reviews (**Attachment A**).

## Other recent developments

11. Other developments include the recently released Chatham House Report titled 'Recommended Best Practices for Regional Fisheries Management Organisations'. This includes useful guidance relating to the conduct of RFMO performance reviews.
12. For further details see:  
[http://www.chathamhouse.org.uk/research/eedp/current\\_projects/rfmo/](http://www.chathamhouse.org.uk/research/eedp/current_projects/rfmo/)

## Steps forward

13. In order to progress the decision made at CCSBT13, New Zealand proposes that the following items are now required to be agreed upon at CCSBT14:
  - i. The terms of reference for the PRWG including timeframes for the review **(see draft terms of reference in Annex one)**
  - ii. The individuals that will be the members of the performance review working group (PRWG)—including the process of appointing **(see draft criteria and selection process in Attachment A)**, and the funding of one independent expert in the PRWG
  - iii. A coordinator for the PRWG
  - iv. The criteria against which CCSBT will be reviewed **(Attachment B)**
  - v. The funding of one meeting of the PRWG in 2008
14. The overall objective would be to establish a process that would have the PRWG start work as soon as possible and develop recommendations for reporting back to in time for them to be considered at CCSBT 15.

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## Annex one

### Performance review working group

#### Terms of reference

The performance review working group (PRWG) shall review the performance of the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) including the extent to which its current mandate needs to be updated to enable it to perform at a level consistent with international best practice.

The PRWG shall:

- i. Use the criteria in **Attachment B** to guide its assessment of the performance of CCSBT
- ii. Work intersessionally to prepare a draft report and recommendations including any necessary changes to the Convention for improving the performance of CCSBT by 31 July 2008
- iii. Convene in August 2008 to finalise the report
- iv. Provide the report to the Secretariat in sufficient time to distribute to members 45 days in advance of the Commission meeting and to place on the Commission's website
- v. Present its final report and recommendations for improving the performance of CCSBT to the fifteenth meeting of the Commission

**Independent expert for the performance review working group—  
qualification criteria and selection process**

**Qualification criteria**

The person to be selected as the independent expert on the performance review working group (PRWG):

- i. Should not be a national of the parties or have been a permanent resident or have worked for the parties since 31/12/89 except where Parties reach a consensus to chose the qualified individual<sup>3</sup>
- ii. Should have appropriate working experience in international fisheries management and an excellent understanding of international fisheries management frameworks.

**Process of appointment**

**Option 1**

The process and timeframes for selecting the independent expert is outlined below:

By 15 November 2007	Members to provide a list of candidates to the Secretariat
By 1 December 2007	Secretariat to contact listed candidates (to check their availability and willingness and obtain the CV for those available—due 20 December)
20 December 2007 to 1 February 2007	Members to consult for selection
15 February 2008	Final decision

**Option 2**

With final approval from the Commission, the Executive Secretary will appoint a suitable person for the role of independent expert by 15 February 2007.

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<sup>3</sup> refer to the report of CCSBT 6, attachment O “qualification for independent chairs and for the advisory panel”.

## **Attachment B**

**See separate attachment titled**

*'Suggested Criteria for Reviewing the Performance of Regional Fisheries  
Management Organisations (RFMOs)'*

## Suggested Criteria for Reviewing the Performance of Regional Fisheries Management Organizations (RFMOs)

	AREA	General Criteria	Detailed Criteria
<b>1</b>	<i>Conservation and management</i>	Status of living marine resources	<ul style="list-style-type: none"> <li>• Status of major fish stocks under the purview of the RFMO in relation to maximum sustainable yield or other relevant biological standards.</li> <li>• Trends in the status of those stocks.</li> <li>• Status of species that belong to the same ecosystems as, or are associated with or dependent upon, the major target stocks (hereinafter “non-target species”).</li> <li>• Trends in the status of those species.</li> </ul>
		Data collection and sharing	<ul style="list-style-type: none"> <li>• Extent to which the RFMO has agreed formats, specifications and timeframes for data submission, taking into account UNFSA Annex I.</li> <li>• Extent to which RFMO members and cooperating non-members, individually or through the RFMO, collect and share complete and accurate fisheries data concerning target stocks and non-target species and other relevant data in a timely manner.</li> <li>• Extent to which fishing data and fishing vessel data are gathered by the RFMO and shared among members and other RFMOs.</li> <li>• Extent to which the RFMO is addressing any gaps in the collection and sharing of data as required.</li> </ul>
		Quality and provision of scientific advice	<ul style="list-style-type: none"> <li>• Extent to which the RFMO receives and/or produces the best scientific advice relevant to the fish stocks and other living marine resources under its purview, as well as to the effects of fishing on the marine environment.</li> </ul>
		Adoption of conservation and management measures	<ul style="list-style-type: none"> <li>• Extent to which the RFMO has adopted conservation and management measures for both target stocks and non-target species that ensures the long-term sustainability of such stocks and species and are based on the best scientific evidence available.</li> <li>• Extent to which the RFMO has applied the precautionary approach as set forth in UNFSA Article 6 and the Code of Conduct for Responsible Fisheries Article 7.5, including the application of precautionary reference points.</li> <li>• Extent to which the RFMO has adopted and is implementing effective rebuilding plans for depleted or overfished stocks.</li> <li>• Extent to which the RFMO has moved toward the adoption of conservation and management measures for previously unregulated fisheries, including new and exploratory fisheries.</li> <li>• Extent to which the RFMO has taken due account of the need to conserve marine biological diversity and minimize harmful impacts of fisheries on living marine resources and marine ecosystems.</li> <li>• Extent to which the RFMO has adopted measures to minimize pollution, waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species, and impacts on associated or dependent species, in particular endangered species, through measures including, to the extent practicable, the development and use of selective, environmentally safe and cost-effective fishing gear and techniques.</li> </ul>
		Capacity management	<ul style="list-style-type: none"> <li>• Extent to which the RFMO has identified fishing capacity levels commensurate with long-term sustainability and optimum utilization of relevant fisheries.</li> <li>• Extent to which the RFMO has taken actions to prevent or eliminate excess fishing capacity and effort.</li> </ul>
		Compatibility of management measures	<ul style="list-style-type: none"> <li>• Extent to which measures have been adopted as reflected in UNFSA Article 7.</li> </ul>
		Fishing allocations and opportunities	<ul style="list-style-type: none"> <li>• Extent to which the RFMO agrees on the allocation of allowable catch or levels of fishing effort, including taking into account requests for participation from new members or participants as reflected in UNFSA Article 11.</li> </ul>

2	<i>Compliance and enforcement</i>	Flag State duties	<ul style="list-style-type: none"> <li>• Extent to which RFMO members are fulfilling their duties as flag States under the treaty establishing the RFMO, pursuant to measures adopted by the RFMO, and under other international instruments, including, inter alia, the 1982 Law of the Sea Convention, the UNFSA and the 1993 FAO Compliance Agreement, as applicable.</li> </ul>
		Port State measures	<ul style="list-style-type: none"> <li>• Extent to which the RFMO has adopted measures relating to the exercise of the rights and duties of its members as port States, as reflected in UNFSA Article 23 and the Code of Conduct for Responsible Fisheries Article 8.3.</li> <li>• Extent to which these measures are effectively implemented.</li> </ul>
		Monitoring, control and surveillance (MCS)	<ul style="list-style-type: none"> <li>• Extent to which the RFMO has adopted integrated MCS measures (e.g., required use of VMS, observers, catch documentation and trade tracking schemes, restrictions on transshipment, boarding and inspection schemes).</li> <li>• Extent to which these measures are effectively implemented.</li> </ul>
		Follow-up on infringements	<ul style="list-style-type: none"> <li>• Extent to which the RFMO, its members and cooperating non-members follow up on infringements to management measures.</li> </ul>
		Cooperative mechanisms to detect and deter non-compliance	<ul style="list-style-type: none"> <li>• Extent to which the RFMO has established adequate cooperative mechanisms to both monitor compliance and detect and deter non-compliance (e.g., compliance committees, vessel lists, sharing of information about non-compliance).</li> <li>• Extent to which these mechanisms are being effectively utilized.</li> </ul>
		Market-related measures	<ul style="list-style-type: none"> <li>• Extent to which the RFMO has adopted measures relating to the exercise of the rights and duties of its members as market States.</li> <li>• Extent to which these market-related measures are effectively implemented.</li> </ul>
3	<i>Decision-making and dispute settlement</i>	Decision-making	<ul style="list-style-type: none"> <li>• Extent to which RFMO has transparent and consistent decision-making procedures that facilitate the adoption of conservation and management measures in a timely and effective manner.</li> </ul>
		Dispute settlement	<ul style="list-style-type: none"> <li>• Extent to which the RFMO has established adequate mechanisms for resolving disputes.</li> </ul>
4	<i>International cooperation</i>	Transparency	<ul style="list-style-type: none"> <li>• Extent to which the RFMO is operating in a transparent manner, as reflected in UNFSA Article 12 and the Code of Conduct for Responsible Fisheries Article 7.1.9.</li> <li>• Extent to which RFMO decisions, meeting reports, scientific advice upon which decisions are made, and other relevant materials are made publicly available in a timely fashion.</li> </ul>
		Relationship to cooperating non-members	<ul style="list-style-type: none"> <li>• Extent to which the RFMO facilitates cooperation between members and non-members, including through the adoption and implementation of procedures for granting cooperating status.</li> </ul>
		Relationship to non-cooperating non-members	<ul style="list-style-type: none"> <li>• Extent of fishing activity by vessels of non-members that are not cooperating with the RFMO, as well as measures to deter such activities.</li> </ul>
		Cooperation with other RFMOs	<ul style="list-style-type: none"> <li>• Extent to which the RFMO cooperates with other RFMOs, including through the network of Regional Fishery Body Secretariats.</li> </ul>
		Special requirements of developing States	<ul style="list-style-type: none"> <li>• Extent to which the RFMO recognizes the special needs of developing States and pursues forms of cooperation with developing States, including with respect to fishing allocations or opportunities, taking into account UNFSA Articles 24 and 25, and the Code of Conduct of Responsible Fisheries Article 5.</li> <li>• Extent to which RFMO members, individually or through the RFMO, provide relevant assistance to developing States, as reflected in UNFSA Article 26.</li> </ul>
5	<i>Financial and administrative issues</i>	Availability of resources for RFMO activities	<ul style="list-style-type: none"> <li>• Extent to which financial and other resources are made available to achieve the aims of the RFMO and to implement the RFMO's decisions.</li> </ul>
		Efficiency and cost-effectiveness	<ul style="list-style-type: none"> <li>• Extent to which the RFMO is efficiently and effectively managing its human and financial resources, including those of the Secretariat.</li> </ul>