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POSSIBLE APPROACH TO A SECOND PERFORMANCE REVIEW OF ICCAT

The purpose of this document is to present a possible approach for the manner in which the Second ICCAT Performance Review should be conducted.

1. The First ICCAT Performance Review

ICCAT carried out its First Performance Review in 2008, making use of the common criteria adopted at the *Sixth round of informal consultations of 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 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (the Agreement).* Those criteria outlined "what" (at minimum) should be assessed in the performance review.

The evaluation was oriented towards the examination of the Commission's objectives, as stipulated in the ICCAT Convention, and the measures in place to achieve such objectives. In particular, the review included the following:

a) Assessment of the text of the Convention, and its ability to assimilate the requirements of international fisheries instruments.

b) Assessment of the extent to which measures adopted achieve the Commission's objectives and the objectives of international instruments.

c) Recommendations on how the Organization could be improved.

Following this review, the Review Panel made the following main general observations:

- ICCAT has developed reasonably sound conservation and fisheries management practices, which, if fully implemented and complied with by Contracting Parties, Cooperating non-Contracting Parties, Entities and Fishing Entities (CPCs), would have been expected to be effective in managing the fisheries under ICCAT's purview.
- The ICCAT Convention should be reviewed, modernised, or otherwise supplemented, to reflect current approaches to fisheries management.
- The ICCAT standing committee and panel structure is sound and the committees provide timely advice to ICCAT. However, the Panel expressed strong reservations on the performance of the Compliance Committee (COC).
- The Standing Committee on Research and Statistics (SCRS) provides sound advice to the Commission members operating under significant difficulties largely caused by CPCs failing to provide timely and accurate data.
- The performance of the Secretariat is sound and well regarded as both efficient and effective by CPCs.
- The fundamental problems and challenges that ICCAT faces in managing sustainably the fisheries under its purview are not unique; other tuna RFMOs also face them, but the size of the ICCAT membership adds more difficulties.

The Review Panel made the following general assessment of ICCAT performance:

- Fundamentally ICCAT's performance to date does not meet its objectives for several of the species under its purview.
- ICCAT's failure to meet its objectives is due in large part to the lack of compliance by many of its CPCs.
- CPCs have consistently failed to provide timely and accurate data and to implement monitoring, control and surveillance (MCS) arrangements on nationals and national companies.

- The judgement of the international community will be based largely on how ICCAT manages fisheries on bluefin tuna (BFT). ICCAT CPCs' performance in managing fisheries on bluefin tuna particularly in the eastern Atlantic and Mediterranean Sea is widely regarded as an international disgrace and the international community which has entrusted the management of this iconic species to ICCAT deserve better performance from ICCAT than it has received to date.
- There are concerns about transparency within ICCAT both in decision making and in resource allocation.
- Most of the problems and challenges ICCAT faces would be simple to fix if CPCs developed the political will to fully implement and adhere to the letter and spirit of the rules and recommendations of ICCAT.

2. Approach for the Second ICCAT Performance Review

2.1 Terms of reference

The aim of the second assessment should be to:

1. Evaluate how ICCAT has responded to the outcome of the First ICCAT Performance Review of 2008, taking into consideration the discussions/recommendations of the Working Group on the Future of ICCAT, of the Working Group on Convention Amendment and subsequent decisions and practices by the Commission and its subsidiary bodies.
2. Taking into account the evaluation under item 1 above, assess the functioning of the Commission and of its subsidiary bodies, in particular the Compliance Committee and the SCRS.
3. Compare, to the extent possible, the performance of ICCAT with the performance of other [tuna] RFMOs, i.e. by taking into account the Performance Reviews by other [tuna] RFMOs and by highlighting best practices adopted by other RFMOs that could help further strengthen ICCAT.
4. Identify areas where improvement is needed to strengthen the organisation further and make recommendations to the Commission on how performance could be improved, taking into consideration the development in fisheries and ocean management that has taken place during the period covered by the review.

2.2 Criteria and standards for performance evaluation

It is suggested that the criteria used for the First Performance Review be adapted to the new terms of reference for the Second Performance Review, as laid out in **Annex 1.** These criteria outline "what" (at minimum) should be assessed in the performance review.

2.3 Selection of reviewers

The Commission should decide on the composition and size of the Panel. The panel for the First Performance Review included one legal expert, one fisheries scientist and one fisheries manager. All were external experts that did not have a current connection to ICCAT.

For the Second Performance Review, the Commission should consider three alternatives regarding the composition of the Panel:

1) three external experts, as in the First Performance Review.
2) external and internal experts (3-4 of each), potentially including participants from ICCAT's accredited observers (1 environmental and 1 industry representative).
3) a smaller group than that suggested in alternative 2 above composed of primarily external experts with one or two internal experts on ICCAT science, management and administration.

Reviewers should be independent and be appointed as individuals in their personal capacity. One of the reviewers, who should come from the group of external experts, will be assigned the task of coordinating the Panel.

Qualifications/experience of reviewers:

- profound knowledge of the following areas: international fisheries instruments and organisations, fisheries management, and fisheries science, ensuring that all these fields are adequately covered.
- an appropriate level of education and experience in their specialized field of work.
- very good command of written and spoken English. Knowledge of one or more of the other official languages of ICCAT would be an advantage.

The ICCAT Secretariat should provide adequate information and other support to the experts to facilitate their work but Secretariat staff will not form part of the Panel.

Selection process:

- The Commission should establish a Screening Committee, to support the selection process of panelists as specified in the 6th tic below, composed of: Commission Chairman, First Vice-Chair and Second Vice Chair, Chairs of STACFAD and the SCRS, and the Executive Secretary.
- All Contracting Parties will be invited to nominate qualified experts [*internal and/or external based on the Panel composition decided*] in one or more of the desired fields (i.e., international fisheries instruments and organizations, fisheries management, and/or fisheries science).
- *If the Panel includes NGOs*: ICCAT's accredited observers will be invited to nominate no more than one qualified expert per organization.
- The Secretariat will compile lists of candidates by field of expertise on the basis of nominations made by the Contracting Parties [*and lists of the environmental and industry candidates nominated by ICCAT accredited observers*].
- The ICCAT Chairman will distribute the lists with the names and relevant background of all the candidates by field of expertise and request the CPCs to select and rank [a *maximum of three*] experts per field among these candidates in order of preference. [The Chairman will also distribute the lists of the names and relevant background of candidates nominated by ICCAT accredited observers.]
- The Screening Committee will review the input from the CPCs, prepare a composite list of candidates by assigning a value in inverse relationship to the order on each list (i.e. 3 points for number 1; 2 points for number 2 and 1 point for number 3) and confirm the selection of the Review Panel by the Commission in accordance with the outcome of the ranking process.
- The Secretariat will communicate the results of the Screening Committee's analysis to CPCs and the resultant selection of the Review Panel.
- It is envisaged to complete the selection process by [*mid of February 2016 – to be confirmed*].

2.4 Timing

The work should be carried out within a reasonable time period as specified by the Commission, and should preferably commence no later than [*March 2016-to be confirmed*]. The final report should be presented at the [*2016 ICCAT Annual Meeting – to be confirmed*].

2.5 Review procedures

At the end of the specified period [*15 September 2016 - period to be confirmed*], the panel of experts would make a provisional report available for review by the Screening Committee for the sole purpose of improving the clarity of the report. Any requests for clarification made by the Screening Committee should be addressed by the Review Panel before presentation of the final report to the Commission.

The role of the Secretariat is to ensure the Review Panel has access to all required information and documentation to complete its work efficiently and effectively.

2.6 Dissemination and consideration of the performance review report

The performance review report will be distributed to CPCs as soon as it is finalized and also posted on the public portion of the ICCAT website without delay. The Commission will consider the performance review report at its 2016 meeting [*to be confirmed – depending on the date of delivery*] and at future meetings as necessary.

3. Budgetary requirements

3.1 General rules

Internal reviewers (i.e. reviewers associated with a CPC) will be reimbursed for travel expenses only.

The daily rate of external reviewers is calculated to be not more than €600 per person excluding travel costs.

[*If the Panel includes NGOs*: Reviewers representing an ICCAT accredited observer will cover their own costs.]

3.2 Budget

On the basis of [*fourteen weeks work*] by [*three external experts*], a total of [*210 person days*] would be required to carry out the review. The price per day includes all materials and communication costs.

In addition, the panel of experts would be required to make one trip to meet with the Steering Committee and at least the Panel's Coordinator would make a second trip to present the report to the Commission. Under this scenario, travel and per diem of external experts would be paid by the Commission, but not fees.

Costs could vary depending on the original location of experts and location of the meetings, and, hence, estimates are tentative.

Item	*Unit cost (€)*	*Number of units*	*Total cost (€)*
Days of work	600	210	126,000
Travel costs	3,000	*7*	*21,000*
Contingencies	10% of total work/travel	1	14,700
Total			**161,700**

Annex 1

CRITERIA FOR THE SECOND PERFORMANCE REVIEW OF ICCAT

	Area	*General criteria*	*Detailed criteria*	*Changes compared to 2007 criteria*
1	*Conservation and management*	Status of living marine resources	• Status of major fish stocks under the purview of ICCAT in relation to maximum sustainable yield or other relevant biological standards. • Trends in the status of those stocks. • 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"). • Trends in the status of those species.	No change.
		Precautionary and ecosystem approach	Extent to which ICCAT decisions take account of and incorporate the precautionary approach and an ecosystem approach to fisheries management	From NASCO – 2nd Perf review with edits.
		Data collection and sharing	• Extent to which ICCAT has agreed formats, specifications and timeframes for data submission, taking into account UNFSA Annex I. • Extent to which ICCAT members and cooperating non-members, individually or through ICCAT, collect and share complete and accurate fisheries data concerning target stocks and non-target species and other relevant data in a timely manner (Task I/II data). • Extent to which fishing data and fishing vessel data are gathered by ICCAT and shared among members and other RFMOs. • Extent to which ICCAT is addressing any gaps in the collection and sharing of data as required. • Extent to which capacity building initiatives are put in place to improve data collection in developing economies.	Added reference to Task I/II data.

	Area	*General criteria*	*Detailed criteria*	*Changes compared to 2007 criteria*
		Adoption of conservation and management measures	• Extent to which ICCAT has adopted conservation and management measures for both target stocks and non-target species that ensure the long-term sustainability of such stocks and species and are based on the best scientific evidence available. • Extent to which ICCAT 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. • Extent to which ICCAT has adopted and is implementing effective rebuilding plans for depleted or overfished stocks. • Extent to which ICCAT has moved toward the adoption of conservation and management measures for previously unregulated fisheries. • Extent to which ICCAT 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. • Extent to which ICCAT 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.	Suggest deletion of new and exploratory fisheries as not applicable in ICCAT.
		Capacity management	• Extent to which ICCAT has identified fishing capacity levels commensurate with long-term sustainability and optimum utilization of relevant fisheries. • Extent to which ICCAT has taken actions to prevent or eliminate excess fishing capacity and effort.	
		Compatibility of management measures	• Extent to which measures have been adopted as reflected in UNFSA Article 7.	
		Fishing allocations and opportunities	• Extent to which ICCAT 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.	

	Area	*General criteria*	*Detailed criteria*	*Changes compared to 2007 criteria*
2	*Monitoring, control and surveillance (MCS)*	Port State measures	• Extent to which ICCAT 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. • Extent to which ICCAT has adopted Port State Measures pursuant to the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing. • Extent to which these measures are effectively implemented.	New area (MCS) – previously under "compliance and enforcement".
		Integrated MCS measures	• Extent to which ICCAT 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). • Extent to which these measures are effectively implemented.	New title (former one: *Monitoring, control and surveillance (MCS)*).
3	*Compliance and enforcement*	Flag State duties	• Extent to which ICCAT 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.	
		Cooperative mechanisms to detect and deter non-compliance	• Extent to which ICCAT 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). • Extent to which these mechanisms are being effectively utilized.	
		Follow-up on infringements	• Extent to which ICCAT, its members and cooperating non-members follow up on infringements to management measures. • Extent to which ICCAT and its members effectively implement Recommendations 11-15, 06-13, 96-14, 97-01, 00-14, and 11-11.	New item.
		Market-related measures	• Extent to which ICCAT has adopted measures relating to the exercise of the rights and duties of its members as market States. • Extent to which these market-related measures are effectively implemented.	
4	*Governance*	Decision-making	• Extent to which ICCAT has transparent and consistent decision-making procedures that facilitate the adoption of conservation and management measures in a timely and effective manner. • Extent to which these procedures are effectively implemented in ICCAT.	Decision-making/dispute settlement and international cooperation merged together and renamed "Governance." New item.

	Area	*General criteria*	*Detailed criteria*	*Changes compared to 2007 criteria*
		Dispute settlement	• Extent to which ICCAT has established adequate mechanisms for resolving disputes.	
		Transparency	• Extent to which ICCAT is operating in a transparent manner, as reflected in UNFSA Article 12 and the Code of Conduct for Responsible Fisheries Article 7.1.9. • Extent to which ICCAT decisions, meeting reports, scientific advice upon which decisions are made, and other relevant materials are made publicly available in a timely fashion.	
		Confidentiality	• Extent to which ICCAT has set security and confidentiality standards and rules for sharing sensitive scientific and operational/compliance data.	New item (from IOTC 2nd Perf. Review).
		Relationship to cooperating non-members	• Extent to which ICCAT facilitates cooperation between members and nonmembers, including through the adoption and implementation of procedures for granting cooperating status.	
		Relationship to non-cooperating non-members	• Extent of fishing activity by vessels of non-members that do not have cooperating status, as well as measures to deter such activities.	
		Cooperation with other RFMOs and relevant international organizations	• Extent to which ICCAT cooperates with other RFMOs, including through the network of Regional Fishery Body Secretariats, as well as with other relevant international organizations.	
		Special requirements of developing States	• Extent to which ICCAT 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. • Extent to which ICCAT members, individually or through ICCAT, provide relevant assistance to developing States, as reflected in UNFSA Article 26.	
5	*Science*	Quality and provision of scientific advice	• Extent to which the SCRS 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. • Extent to which the scientific advice is presented consistently with Resolutions 11-14 and 13-15.	Copied from previous "conservation and management" with a specific reference to SCRS. New items.

	Area	*General criteria*	*Detailed criteria*	*Changes compared to 2007 criteria*
			• Extent to which the structure, processes, procedures, and expertise of the SCRS and of the ICCAT Secretariat meet the needs and resources of ICCAT as well as the highly demanding data and technical requirements of the most recent modelling platforms.	
		Participation and capacity building	• Extent to which ICCAT members and cooperating non-members participate actively in the provision of the scientific advice. • Extent to which capacity building initiatives are put in place to facilitate the effective participation of developing economies in SCRS activities.	
		Long-term planning and research	• Extent to which ICCAT adopts and regularly reviews a long-term strategy for the SCRS to implement. • Extent to which the research coordinated or undertaken directly by ICCAT is aligned with the needs of the Commission to fulfil its mandate.	New items.
		Best available science	• Extent to which the Resolution on Best Available Science [Res. 11-17] is effectively implemented. • Extent to which the SCRS and its working groups apply a total quality management process.	New items (from Res. 11-17).
6	*First performance review*	Follow-up to first performance review	• Review of actions taken by ICCAT in response to the conclusions and recommendations of the first performance review and consideration of their effectiveness.	New item.
7	*Comparison with other RFMOs*	Best practices	• To the extent possible, evaluate the extent to which ICCAT's performance is comparable to other [tuna] RFMOs in relation to the adoption and implementation of conservation and management measures for target and non-target species, status of the resources under its purview, scientific processes and procedures, and adoption and implementation of MCS measures and compliance review procedures. • Identification of areas/best practices that would allow ICCAT to enhance its performance.	New item.
		Kobe	• Extent to which ICCAT implemented the Kobe III recommendations and comparison to the degree of implementation in other tuna RFMOs.	New item.
8	*Financial and administrative issues*	Availability of resources for RFMO activities	• Extent to which the need for financial, human, and other resources are effectively forecasted and resources are made available to achieve the aims of ICCAT and to implement ICCAT decisions.	

	Area	*General criteria*	*Detailed criteria*	*Changes compared to 2007 criteria*
		Efficiency and effectiveness	• Extent to which ICCAT is efficiently and effectively managing its human and financial resources, including those of the Secretariat, to support Commission objectives and ensure continuity of operations, including through establishment of clear and transparent office policies, structures, roles and responsibilities, and lines of authority; effective internal and external communication; and other aspects of office planning and operations.	