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Miguel de Serpa Soares  
Under-Secretary-General for Legal Affairs and United Nations Legal Counsel

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Dear Mr. de Serpa Soares,

Thank you for your letter dated 28 December 2018 inviting non-governmental organizations to submit views on the performance review process for regional fisheries management organizations and arrangements (RFMO/A), in preparation for the 14<sup>th</sup> Informal Consultative Process for States Parties of the Fish Stocks Agreement. The Pew Charitable Trusts is pleased to provide the following information. Our organization has been an observer at several RFMOs for the last decade, and we have expressed consistent support for independent performance reviews, which we view to be a vital contribution to the regular business of each RFMO/A. Our most extensive relevant experience has been at the International Commission for the Conservation of Atlantic Tunas (ICCAT), the Inter-American Tropical Tuna Commission (IATTC), and the Western and Central Pacific Fisheries Commission (WCPFC), and therefore we focus on those three bodies in responding to your invitation.

The commitment from the parties to the United Nations Fish Stocks Agreement (UNFSA) to cooperate to “ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks” is a foundational tenant of global fishery management. Tuna RFMOs create mechanisms for governments to work together toward this goal with respect to some of the world’s most important and valuable fisheries. Combined, these bodies manage tunas, sharks, billfishes, and other species in 90 percent of the ocean. Collectively, RFMO members are charged with cooperating in precautionary, science-based fisheries management within their Convention Areas to ensure fish stock sustainability and ecosystem health. Despite this, many valuable stocks are experiencing overfishing or are depleted.

In 2006, 2010, and 2016, UNFSA Parties reviewed the Agreement’s implementation, in order to strengthen cooperation and management. Each time, their recommendations included calls for RFMOs to implement regular independent performance reviews to evaluate their work, suggest improvements, and identify best practices.<sup>1</sup>

Pew has examined the recommendations of the independent performance reviews of ICCAT,<sup>2</sup> IATTC,<sup>3</sup> and WCPFC<sup>4</sup> and compared these recommendations to subsequent actions taken by the RFMOs to design and adopt harvest strategies, science-based stock management, and compliance measures, as well as to end and prevent illegal, unreported, and unregulated (IUU) fishing. The results of our examination show that across all three considered RFMOs, implementation has been deficient, particularly for ending and preventing overfishing and rebuilding depleted stocks. Progress towards comprehensive harvest strategies has been slow, and parties to these three RFMOs have been unable to reach consensus across other key areas, as described below.

ICCAT, IATTC, and WCPFC must do a better job of implementing performance review recommendations to meet the terms of UNFSA and to promote sustainable fisheries management in their areas of jurisdiction.

### **ICCAT**

ICCAT's first performance review in 2008 was very critical, particularly of the way ICCAT managed eastern Atlantic and Mediterranean bluefin tuna. That review, combined with the threat of an international trade ban on Atlantic bluefin, sparked improvements. Catch restrictions were tightened and recent trends imply that the population is recovering. ICCAT deserves credit for implementing the first review's recommendations in this regard.

Unfortunately, management of other important ICCAT stocks has not followed a similar pattern. Despite 2008 and 2016 performance review recommendations to improve management of Mediterranean swordfish, the Commission has taken no corresponding action.<sup>5</sup> This outcome should be an embarrassment, given that 100 per cent of ICCAT's own scientific models conclude that the stock is overfished and that overfishing continues to occur. The Commission's 2016 "recovery" plan's estimated chance of success by 2025: zero.<sup>6</sup>

There has been similar inaction on the tropical tunas under ICCAT's jurisdiction, despite recommendations in its 2016 performance review to better address these stocks, including juvenile mortality associated with fish aggregating devices. That review highlighted the importance of adopting management plans with high probabilities of success and biologically relevant timelines. In the three annual Commission meetings since, ICCAT has been unable to adopt an Atlantic bigeye management plan in line with this recommendation. Instead, 99.5 percent of ICCAT's scientific models conclude that bigeye is overfished and that overfishing continues to occur, and the stock is now 60 times more likely to collapse than to recover by 2033.<sup>7</sup> The review also recommended that each year's total allowable catch (TAC) for Atlantic yellowfin tuna be subject to an allocation scheme to make each party more accountable in managing its fleets. In the three annual Commission meetings since the second review, ICCAT has not even considered such an allocation scheme, and the TAC has been breached by as much as 41,000 tonnes in recent years.<sup>8</sup> Scientists agree that this failure to act has almost certainly been detrimental for the yellowfin stock.

ICCAT has had mixed implementation of recommendations to improve management of Atlantic billfishes. Sailfish management has been more closely aligned to the scientific advice, while marlin management has not. Data collection for both billfishes and sharks, however, has recently been augmented to incorporate new check sheets to better inform managers and scientists about these vulnerable stocks.<sup>9</sup>

The 2016 review made eight recommendations to facilitate a move from setting ad hoc annual catch limits to a “harvest strategies” system of pre-agreed management responses to future stock status. This was a priority for the panel and should also be a priority at ICCAT and all RFMOs/As. ICCAT has made progress on some of these recommendations, such as by adopting a harvest control rule for North Atlantic albacore and agreeing a timeline to develop similar rules for other stocks. However, recent decisions to delay the timeline for priority stocks and a lack of funding have prevented further gains. This development, combined with the lack of ability to make the difficult – but necessary – annual decisions for tropical tunas and billfishes, is bad for ICCAT fisheries.

ICCAT’s response to operational recommendations by the review panels has been mixed, but more complete than the response to stock management recommendations. In addition to the new billfish and shark check sheets mentioned above, ICCAT has strengthened its port state measures<sup>10</sup> and improved its vessel monitoring systems (VMS) to require more frequent location reporting,<sup>11</sup> both recommendations of the two performance reviews. On the other hand, observer coverage remains woefully deficient for longline fleets, despite review recommendations to increase coverage to better understand the impacts of ICCAT fisheries on bycatch species. Furthermore, ICCAT should more closely follow the numerous review recommendations regarding member and vessel compliance with ICCAT rules. Examples of persistent non-compliance require more responsive action from ICCAT, and the Commission’s compliance committee needs more dedicated opportunities to review Parties’ compliance with operational requirements, such as observer coverage, use of fish aggregating devices, and other non-quota issues.

## **IATTC**

In 2016, IATTC became the last tuna RFMO to conduct its first independent review, 8 years after the initial ICCAT review. While the resulting recommendations focused largely on organizational procedures, there were some recommendations geared toward improving management of the species under its jurisdiction. In the three years since the review, however, little action has been taken. Procedurally, there has been no effort to adopt recommendations that would allow some voting and establish a fisheries management committee to advise the scientific advisory committee (SAC) and the Commission. Both recommendations could assist in addressing the Commission’s troubled bigeye tuna stock.<sup>12</sup> While IATTC adopted a basic harvest control rule to protect bigeye in 2014, managers refused to apply this rule when it should have been triggered by a stock assessment in 2018. Instead, they began a review of the stock assessment models, delaying any potential fishing reductions for at least two years.

The review also included recommendations to balance the leadership of the SAC by adding a co-chair to work alongside the Secretariat's executive director (who currently leads the SAC) and to adjust the meeting schedules of the SAC and compliance committees to allow more time to analyze and act on their advice. These simple changes would significantly improve the ability of the Commission to fulfill its mission, but neither has been implemented.

On the management side, the review determined that observer coverage of small purse seine vessels should be increased. In addition, it proposed increasing longline observer coverage above 5 percent, although this existing requirement is presently met by only one nation.<sup>13</sup> Neither of these recommendations have been implemented; proposals were introduced at the 2018 Commission meeting to increase longline observer coverage but failed to achieve the necessary support. While the review recommended an augmentation of the observer program, electronic monitoring should be considered as a complementary tool to human observer coverage. Moreover, the IATTC faces a data gap regarding transshipment, as the Commission outsources observer coverage through a contract that does not require observation of transshipment events occurring in the WCPFC Convention Area, even if they include IATTC-managed stocks.<sup>14</sup>

On sharks, the Commission has yet to act on the review's recommendation to develop management proposals for key shark species. On a positive note, the Commission endorsed a recovery plan for Pacific bluefin that is consistent with the review's recommendations,<sup>15</sup> but it will require strict attention to ensure complete implementation and compliance. In general, strengthening the IATTC compliance regime to incorporate greater accountability for flag states and greater consequences for persistent non-compliance would help bolster the conservation and management of all stocks under the jurisdiction of the IATTC.

## **WCPFC**

WCPFC agreed to undertake a performance review in 2008, four years after its Convention entered into force. Because of budget constraints, the review was postponed for several years, before being completed and presented at the Commission's annual meeting in 2012. On conservation matters, WCPFC has made progress in taking up recommendations to improve the collection and timeliness of data and further develop a Regional Observer Program. Some recommendations remain outstanding or require further implementation, however. For instance, the review lauded the WCPFC for its commitment to develop limit and target reference points and associated harvest control rules to maintain stocks at healthy states and encouraged that work to continue. Since then, the WCPFC has adopted a definition for a limit reference point for multiple tuna species and expanded its work by embarking on what is now being called the harvest strategy approach for tuna species or fisheries, backed by a Conservation and Management Measure (CMM)<sup>16</sup> and an annual workplan.<sup>17</sup> Although progress is being made, much more work remains, and members should cooperate and collaborate to ensure the workplan is completed as a matter of priority. With respect to individual species management, the WCPFC's record is mixed, having adopted a rebuilding plan for Pacific bluefin

tuna in 2018, after several years of stalemate over how to arrest the decline of the stock.<sup>18</sup> On the other hand, it has not adopted new limits on mortality of southwest Pacific striped marlin, nor revised its north Pacific striped marlin measure, as recommended by the review.

On compliance, the review recommended WCPFC fully implement its then-CMM on a compliance monitoring scheme (CMS). Since the review, the WCPFC has updated the scheme several times, most recently by adopting a new CMS in 2018.<sup>19</sup> The scheme includes provisions to ensure members are accountable for responding to alleged infractions by their vessels to Commission obligations and a mechanism to identify capacity constraints hindering developing States' compliance. However, the WCPFC has yet to revise the CMS in accordance with the review's suggestion to develop a range of penalties for non-compliance, or to explore market-related mechanisms (which may include prohibitions on trade) to address unsustainable fishing, and it has also avoided codifying the CMS into a permanent CMM, instead extending it on a year-to-year basis.

On efforts to fight illegal, unreported or unregulated fishing, the WCPFC has made progress by adopting a CMM on port state measures and requiring the use of unique vessel identification numbers, including their placement on smaller vessels fishing outside their exclusive economic zones, as recommended by the review. On the other hand, WCPFC was encouraged to review whether its transshipment verification and regulation is adequate or needs improvement, a review which is just getting underway in 2019. Similarly, an effort to develop a catch documentation scheme is still ongoing within a working group, despite encouragement by the 2012 review to start developing a CDS for species of greater concern.

## **Conclusions**

ICCAT, IATTC, and WCPFC have made progress in some areas of fisheries management but need to do more. While we do not provide comment here on the other tuna and non-tuna RFMOs/As, we anticipate that inadequate implementation of performance review recommendations is likely a global issue, particularly with regard to recommendations on ending overfishing and recovering depleted stocks.

Independent performance reviews offer clear guidance on the best means for governments to fulfill the terms of UNFSA and their obligations to RFMOs/As. Each RFMO/A should commit to undertaking a formal response to the review recommendations, including an annual audit on progress towards implementation, as part of its normal business. Parties should also support a more complete compliance mechanism that includes consequences for non-compliance, as consistently recommended by performance reviews around the world. They should also support a full shift from ad hoc annual management of individual fish stocks to holistic harvest strategies, where science-based management actions are automatically triggered based on stock status. Hopefully, the next round of independent performance reviews can highlight several areas where past recommendations have been met, as opposed to reiterating the same recommendations again.

Pew looks forward to participating as an observer in the upcoming 14<sup>th</sup> Informal Consultative Process for States Parties of the Fish Stocks Agreement and to supporting the efforts to improve the performance reviews for all RFMOs/As around the world.

Thank you for your consideration of the above,



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Acting Director, Global Tuna Conservation

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<sup>1</sup> United Nations, "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," 22-26 May 2006, Report of the Review Conference, U.N. Doc. A/CONF.210/2006/15 (July 3, 2006), [http://www.un.org/Depts/los/convention\\_agreements/review\\_conf\\_fish\\_stocks.htm](http://www.un.org/Depts/los/convention_agreements/review_conf_fish_stocks.htm); United Nations, "Resumed Review Conference on the Agreement ... Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks," 24-28 May 2010, Report of the Resumed Review Conference, A/CONF.210/2010/7 (27 July 2010), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N10/465/87/PDF/N1046587.pdf?OpenElement>; United Nations, "Resumed Review Conference on the Agreement ... Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks," 23-27 May 2016, Report of the Resumed Review Conference, A/CONF.210/2016/5 (1 August 2016), <http://undocs.org/A/CONF.210/2016/5>.

<sup>2</sup> ICCAT, "Report of the independent performance review of ICCAT," 2009, [http://www.iccat.int/Documents/Other/PERFORM\\_%20REV\\_TRI\\_LINGUAL.pdf](http://www.iccat.int/Documents/Other/PERFORM_%20REV_TRI_LINGUAL.pdf); ICCAT, "Report of independent performance review of ICCAT," 2016, [https://www.iccat.int/documents/other/0-2nd\\_performance\\_review\\_tri.pdf](https://www.iccat.int/documents/other/0-2nd_performance_review_tri.pdf).

<sup>3</sup> IATTC, "Performance review," 2016, <http://www.tuna-org.org/Documents/IATTC-AIDCP-Performance-Review-Final-ReportENG.pdf>.

<sup>4</sup> WCPFC, "Review of the Performance of WCPFC," 2012, <https://www.wcpfc.int/node/3050>.

<sup>5</sup> ICCAT, "Recommendation by ICCAT replacing the Recommendation [13-04] and establishing a multi-annual recovery plan for Mediterranean swordfish," 2016, <https://www.iccat.int/Documents/Recs/compendiopdf-e/2016-05-e.pdf>.

<sup>6</sup> ICCAT, "Report of the Standing Committee on Research and Statistics," 2018, [https://www.iccat.int/Documents/Meetings/Docs/2018/REPORTS/2018\\_SCRS\\_REP\\_ENG.pdf](https://www.iccat.int/Documents/Meetings/Docs/2018/REPORTS/2018_SCRS_REP_ENG.pdf).

<sup>7</sup> John Walter et al., "Atlantic bigeye tuna stock assessment in stock synthesis," 2018, ICCAT Doc. SCRS/2018/111.

<sup>8</sup> Ibid 6

<sup>9</sup> ICCAT, "Recommendation by ICCAT on improvement of compliance review of conservation and management measures regarding billfish caught in the ICCAT Convention Area," 2018, <https://www.iccat.int/Documents/Recs/compendiopdf-e/2018-05-e.pdf>; ICCAT, "Recommendation by ICCAT to replace Recommendation 16-13 on improvement of compliance review of conservation and management measures regarding sharks caught in association with ICCAT fisheries," 2018, <https://www.iccat.int/Documents/Recs/compendiopdf-e/2018-06-e.pdf>.

<sup>10</sup> ICCAT, "Recommendation by ICCAT on port state measures to prevent, deter, and eliminate illegal, unreported, and unregulated fishing," 2018, <https://www.iccat.int/Documents/Recs/compendiopdf-e/2018-09-e.pdf>.

<sup>11</sup> ICCAT, "Recommendation by ICCAT concerning minimum standards for vessel monitoring systems in the ICCAT Convention Area," 2018, <https://www.iccat.int/Documents/Recs/compendiopdf-e/2018-10-e.pdf>.

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- <sup>12</sup> IATTC, “Staff recommendations for management and data collection,” 2018, IATTC Doc. SAC-09-15 REV 2, [https://www.iattc.org/Meetings/Meetings2018/SAC-09/PDFs/Docs/\\_English/SAC-09-15-EN-REV-17-May-18\\_Staff-recommendations-2018.pdf](https://www.iattc.org/Meetings/Meetings2018/SAC-09/PDFs/Docs/_English/SAC-09-15-EN-REV-17-May-18_Staff-recommendations-2018.pdf).
- <sup>13</sup> Ibid 3
- <sup>14</sup> MRAG Americas Inc., “Review of the IATTC Regional Observer Programme covering the period January 1, 2016 to Mar 1, 2017,” 2017, [https://www.iattc.org/Meetings/Meetings2017/IATTC-92/PDFs/OtherDocuments/\\_English/IATTC-92-OTR\\_MRAG-report-on-at-sea-transshipment-program-2016.pdf](https://www.iattc.org/Meetings/Meetings2017/IATTC-92/PDFs/OtherDocuments/_English/IATTC-92-OTR_MRAG-report-on-at-sea-transshipment-program-2016.pdf).
- <sup>15</sup> IATTC, “Amendment to resolution C-16-08 on a long-term management framework for the conservation and management of Pacific bluefin tuna in the Eastern Pacific Ocean,” 2018, [http://www.iattc.org/PDFFiles/Resolutions/IATTC/\\_English/C-18-02-Active\\_Bluefin%20tuna%20\(long%20term\).pdf](http://www.iattc.org/PDFFiles/Resolutions/IATTC/_English/C-18-02-Active_Bluefin%20tuna%20(long%20term).pdf).
- <sup>16</sup> WCPFC, “Conservation and Management Measure on Establishing a Harvest Strategy for Key Fisheries and Stocks in the Western and Central Pacific Ocean (CMM 2014-06),” 2014, <https://www.wcpfc.int/doc/cmm-2014-06/conservation-and-management-measures-develop-and-implement-harvest-strategy-approach>.
- <sup>17</sup> WCPFC, “Workplan for the Adoption of Harvest Strategies – Updated and Adopted by WCPFC15,” 2018, <https://www.wcpfc.int/doc/supplcmm-2014-06/workplan-adoption-harvest-strategies-updated-and-adopted-wcpfc15>.
- <sup>18</sup> WCPFC, “Conservation and Management Measure for Pacific Bluefin Tuna (CMM 2018-02),” 2018, <https://www.wcpfc.int/doc/cmm-2018-02/conservation-and-management-measure-pacific-bluefin-tuna>.
- <sup>19</sup> WCPFC, “Conservation and Management Measure for Compliance Monitoring Scheme (2018-07),” 2018, <https://www.wcpfc.int/doc/cmm-2018-07/conservation-and-management-measure-compliance-monitoring-scheme>.