

14th Informal Consultation of States Parties to UNFSA

Performance Reviews of Regional Fisheries Management Organizations and Arrangements

Canada's Submission

Canada has long supported the effective international management of fisheries resources and strived to be a leader in this field to continually improve shared management. Individually and collectively, Canada has shown this commitment to adopt new approaches to fisheries management when appropriate and to continuously improve and refine the way we do business.

This commitment is exemplified by the adoption, in 1923, of a bilateral agreement with the United States to manage the shared fishery of Pacific halibut. This is seen as the first regional fisheries body¹.

This was followed by the development of the International Commission for the Northwest Atlantic Fisheries (ICNAF) which was created in 1949 and is recognized as the first regional fisheries science and management body.

By 1972, ICNAF had 16 member countries and became the first international fisheries management body to introduce a joint at-sea inspection scheme, and the first to regulate commercial fish stocks with catch limits and quota allocations to its members.

With the adoption of the 200 nautical mile exclusive economic zone under the United Nations Convention on the Law of the Sea, ICNAF was reformed into the Northwest Atlantic Fisheries Organization (NAFO) in 1979, after 3 years of discussions, to manage fisheries outside 200 miles as well as straddling stocks.

The NAFO Convention has itself been updated on four occasions since entering into force. The most recent amendments, adopted September 28, 2007, entered into force on May 18, 2017 through the *Convention on Cooperation in the Northwest Atlantic Fisheries*. These amendments served to modernize the Organization by incorporating the ecosystem approach to fisheries management. In addition, the most recent reforms codified the decision-making process, strengthened the obligations of Contracting Parties, and implemented a formal dispute resolution mechanism.

Using our experience in other RFMOs, Canada has been active in supporting the development of a robust management framework under the North Pacific Fisheries Commission, a new RFMO established in 2015. Based on lessons learned in other bodies, Canada has been a strong proponent of establishing practical and effective compliance, enforcement, and scientific and conservation approaches.

Canada has also strongly supported the development of strong and effective measures through the UN system, including the development and implementation of the United Nations Fish Stocks Agreement (UNFA) and various mechanisms through the Food and Agriculture Organization such as the Compliance Agreement, the Code of Conduct for Responsible Fisheries, and guidelines for Flag State Performance.

¹ UN Food and Agriculture Organization, Committee on Fisheries, 2018. Global and Regional Ocean Processes.

Through the Ministerially-led 2004-2006 High Seas Task Force on Illegal, Unregulated and Unreported (IUU) Fishing on the High Seas, under the Organisation for Economic Cooperation and Development Round Table on Sustainable Development², our Fisheries Minister was active in promoting reforms. While the focus of the Task Force was on IUU fishing, it also led to development of, and advocacy for, a Canadian supported project delivered through Chatham House, the recommended best practices for RFMOs, known as a model RFMO³. This model can serve as a basis for evaluating the effectiveness of the bodies through regular performance reviews.

Performance reviews were adopted soon after by a range of RFMOs including NAFO and ICCAT. For the latter there was recognition that, given increasing demand for wild capture fish and the iconic status of tuna, there was interest for RFMOs to review their progress in achieving their mandates. This has been particularly relevant for tuna species given increased pressure on stocks. It was in this context that ICCAT conducted its first performance review in 2008 and its second in 2016. In both cases, the reviews were conducted by independent panels of experts.

Our experience historically in developing Regional Fisheries Bodies, our experience in theory through development of the model RFMO, and our experience in practice through supporting performance reviews of RFMOs has led to some best practices and considerations that we outline below.

Timing:

The performance reviews can consume significant time and thus need to balance their utility to support continual improvement of the body with the time and cost of them being undertaken. While no single ideal sequence can be identified, a five year cycle of review and then implementation seems workable. Subsequent performance reviews should be less onerous than the first, and can start to focus more on key areas to lessen the burden.

Review team:

As a member of organizations, we have been aware of reviews that are fully external, a mix of external and internal, and also external via a consultancy. We feel that successful reviews are undertaken with a combination of experience in the body (internal experts representing the members) and external experts with a range of experience (i.e., in science, management and legal).

Implementation and Assessment:

Members of the body need to be committed to the process as well as to assessing the results of the review and considering its implementation in an orderly way. Equally, the members of the body need to consider if they are able to adopt the outcomes taking into account their sovereign rights. There is great utility to identifying weaknesses in the organization and the reviews are frequently cited by members and observers as beneficial in this regard.

² 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.

³ Lodge et al, 2007. Recommended Best Practices for Regional Fisheries Management Organizations: Report of an independent panel to develop a model for improved governance by Regional Fisheries Management Organizations. Chatham House, London.

Significant progress can occur through such processes. An example is ICCAT's 2008 Performance Review, which encouraged the adoption of the precautionary and ecosystem approaches and consideration of doing so through amendments to the Convention. Both of these elements are now part of agreed amendments to the ICCAT Convention which we expect to be formally adopted soon.

As well, the requirements of developing country members of RFMOs, including small island developing states and participating territories, need to be taken into account when performance review recommendations to improve RFMO effectiveness are considered. This is underscored in UNFA as well as being specifically outlined in the Conventions of some RFMOs. Canada has actively supported this process through the UNFA Part VII fund, contributions to RFMO funds, and direct bilateral cooperation that in part supports enhancing participation and implementation of RFMO practices and performance review outcomes.

Conclusion:

As noted in a recent OECD report⁴ on IUU fishing, there remain discrepancies across RFMOs that would suggest there is ongoing scope for improvement by learning from and sharing best practices. However, an approach that they suggest is to "Establish an efficient voting protocol in all RFMOs, allowing easier adoption of measures against IUU fishing and sanctioning non-compliant parties than consensus-based decision making."

Canada believes that real change requires commitment derived from political will. While the recent OECD report⁴ suggests that having a voting process would allow for more "efficient" adoption of measures, it masks the concept of full commitment to their development and implementation by all members that can be achieved through a consensus-based approach. Thus while lack of agreement can seem to slow progress and there can be a desire, as expressed in the OECD paper, to move in a more expedient way, such a focus on efficiency rather than agreement may in fact impede real progress and adoption of reformed measures by all members. Canada therefore views achieving consensus as essential to obtaining the full commitment of all members to the process of improving performance and implementation of best practices in an incremental way. Furthermore, Canada views the process of performance review as indispensable, and sees it as necessary that the process aligns with the political will of all members.

⁴ OECD Fisheries Committee, 2018. Combatting Illegal, Unreported and Unregulated Fishing: Where countries stand and where efforts should concentrate in the future.