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**WESTERN CENTRAL ATLANTIC FISHERY COMMISSION
COMMISSION DES PÊCHES POUR L'ATLANTIQUE CENTRE-OUEST
COMISIÓN DE PESCA PARA EL ATLÁNTICO CENTRO-OCCIDENTAL**

Report of the

**FIRST WESTERN CENTRAL ATLANTIC FISHERY COMMISSION
PREPARATORY MEETING FOR THE TRANSFORMATION INTO A
REGIONAL FISHERIES MANAGEMENT ORGANIZATION**

Bridgetown, Barbados, 25–26 March 2019

Rapport de la

**PREMIÈRE RÉUNION PRÉPARATOIRE POUR LA TRANSFORMATION
DE LA COMMISSION DES PÊCHES POUR L'ATLANTIQUE CENTRE-
OUEST EN UNE ORGANISATION REGIONALE DE GESTION DES
PÊCHES**

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TRANSFORMACIÓN EN UNA ORGANIZACIÓN REGIONAL DE
ORDENACIÓN PESQUERA**

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PREPARATION OF THIS DOCUMENT

This is the report of the First Western Central Atlantic Fishery Commission (WECAFC) Preparatory Meeting for the Transformation into a Regional Fisheries Management Organization (RFMO) held in Bridgetown, Barbados, on 25 and 26 March 2019.

The workshop was convened in keeping with the decision of the 16th Session of the WECAFC (held in Guadeloupe, France, 20–24 June 2016/WECAFC 16) to “launch a process to establish a Regional Fisheries Management Organization (RFMO), and to clarify issues in relation to competency area, stocks coverage, budgetary implications for Members, institutional structure, membership, decision-making processes, national sovereignty aspects, its objectives and any other relevant matters that the Members may wish to consider”.

The workshop was made possible through the generous support provided by the European Union (Member Organization) under Trust Fund project GCP/SLC/015/EC “Support to the establishment of a Regional Fisheries Management Organization for the Western Central Atlantic (WECAFC),” and the Global Environment Facility-funded Caribbean and North Brazil Shelf Large Marine Ecosystems (CLME+) Project.

The FAO Secretariat to the workshop consisted of Ms Yvette Diei Ouadi, WECAFC Secretary, Mr Jeremy Mendoza and Mr Terrence Phillips, Regional Coordinators of the CLME+ Shrimp and Groundfish and StewardFish Projects, respectively, Mr Piero Mannini, FAO Senior Fisheries Liaison Officer, and Ms Annick VanHoutte, Senior Legal Officer. Administrative and logistical support was provided by Ms Sonya Thompson, WECAFC Administrative and Operational Officer.

Ms Cristina Leria, International Legal Consultant and Fred Kingston, Executive Secretary of the Northwest Atlantic Fisheries Organization (NAFO), assisted the workshop as resource persons.

This report contains a short summary of the presentations, discussions, conclusions and recommendations of the workshop, endorsed at the seventeenth session of the WECAFC held in Miami, Florida, United States of America, 15–18 July 2019.

PRÉPARATION DU PRÉSENT RAPPORT

Ce document est le rapport de la Première réunion préparatoire pour la transformation de la Commission des pêches pour l’Atlantique Centre-Ouest (COPACO) en une organisation régionale de gestion des pêches en une organisation régionale de gestion des pêches (ORGP), qui s’est tenue à Bridgetown (La Barbade) les 25 et 26 mars 2019.

L’Atelier a été organisé conformément à la décision de la seizième session de la COPACO, (tenue à la Guadeloupe (France), du 20 au 24 juin 2016/COPACO 16) «de lancer un processus en vue d’établir une Organisation régionale de gestion des pêches (ORGP) et de clarifier les points en rapport avec la zone de compétence, la couverture des stocks, les incidences budgétaires pour les Membres, la structure institutionnelle, l’adhésion, les processus décisionnels, les aspects ayant trait à la souveraineté nationale, les objectifs et toute autre question pertinente que les membres pourraient envisager de soulever».

L’atelier a pu être organisé grâce au généreux appui fourni par l’Union européenne (Organisation Membre) au titre du Projet de fonds fiduciaire GCP/SLC/015/EC «Appui à l’établissement d’une Organisation régionale de gestion des pêches (ORGP) dans la zone de l’Atlantique Centre-Ouest

(COPACO)» et par le Projet relatif aux Grands écosystèmes marins des Caraïbes et du plateau Nord-Brézil (CLME+) financé par le Fonds pour l'environnement mondial (FEM).

Pour l'atelier, les membres du secrétariat de la FAO étaient Mme Yvette Diei Ouadi, secrétaire de la COPACO, M. Jeremy Mendoza et M. Terrence Phillips, respectivement coordonnateurs régionaux du Projet CLME+ sur les crevettes et les poissons de fond et du Projet StewardFish, M. Piero Mannini, fonctionnaire principal de la FAO chargé de liaison, and Mme Annick VanHoutte, juriste principale. Un appui administratif et logistique a été fourni par Mme Sonya Thompson, agent administratif et opérationnel de la COPACO.

Mme Cristina Leria, consultante juridique internationale et M. Fred Kingston, secrétaire exécutif de l'Organisation des pêches de l'Atlantique Nord-Ouest (OPANO) ont assisté à l'atelier en tant que personnes-ressources.

Le présent rapport contient un résumé succinct des présentations, discussions, conclusions et recommandations de l'atelier, tels qu'adoptés à la dix-septième session de la COPACO tenue à Miami, Floride, Etats-Unis d'Amérique, du 15 au 18 juillet 2019.

PREPARACIÓN DE ESTE DOCUMENTO

Este es el primer informe de la Primera reunión preparatoria de la Comisión de Pesca para el Atlántico Centro Occidental (COPACO) para la transformación en una organización regional de ordenación pesquera (OROP), celebrada en Bridgetown, Barbados, los días 25 y 26 de marzo de 2019.

El taller fue convocado de conformidad con la decisión de la 16.^a reunión de la COPACO (celebrada en Guadalupe, Francia, 20-24 de junio de 2016/WECAFC 16) a fin de “iniciar un proceso para establecer una organización regional de ordenación pesquera (OROP), y de aclarar las cuestiones en relación con el área de competencia, las poblaciones, las consecuencias presupuestarias para los miembros, la estructura institucional, la composición, los procesos de toma de decisiones, aspectos de la soberanía nacional, sus objetivos y otras cuestiones pertinentes que los miembros tal vez desearan considerar”.

El taller fue posible gracias al generoso apoyo brindado por la Unión Europea (Organización Miembro) a través del proyecto de Fondo Fiduciario GCP/SLC/015/CE “Apoyo a la creación de una organización regional de ordenación pesquera para el Atlántico Centro Occidental (COPACO)”, y el proyecto financiado por el Fondo Mundial para el Medio Ambiente para los grandes ecosistemas marinos del Caribe y la plataforma del norte de Brasil (CLME+).

La Secretaría de la FAO para el taller estuvo compuesto por la Sra. Yvette Diei Ouadi, Secretaria de la COPACO, el Sr. Jeremy Mendoza y el Sr. Terrence Phillips, coordinadores regionales de los proyectos sobre camarones y peces demersales y StewardFish del CLME+, respectivamente, el Sr. Piero Mannini, Oficial superior de enlace (pesca) de la FAO, y la Sra. Annick VanHoutte, Oficial jurídico superior. Proporcionaron apoyo administrativo y logístico la Sra. Sonya Thompson, oficial administrativo y operacional de la COPACO.

Asistieron al taller la Sra. Cristina Leria, Asesor Jurídico Internacional y Fred Kingston, Secretario Ejecutivo de la Organización de Pesquerías del Atlántico Noroeste (NAFO), en calidad de especialistas.

Este informe contiene un resumen de las presentaciones, deliberaciones, conclusiones y recomendaciones del taller, aprobados en la decimoséptima sesión de la COPACO celebrada en Miami, Florida, Estados Unidos de América., del 15 al 18 de julio de 2019.

ABSTRACT

The First Preparatory Meeting of the Western Central Atlantic Fishery Commission for the Transformation into a Regional Fisheries Management Organization (RFMO) was held in Bridgetown, Barbados on 25 and 26 March 2019.

The Preparatory Meeting conferred on the discussion paper in support of the WECAFC Strategic Reorientation Process and the substantive themes that needed to be addressed in considering institutional alternatives, as a follow-up to the deliberations at the 16th Session of the WECAFC (held in Guadeloupe, France, 20–24 June 2016/WECAFC 16) to transform the Commission into an RFMO.

The Preparatory Meeting recognized that the WECAFC transformation process would contribute to improving compliance, fighting against illegal, unreported and unregulated (IUU) fishing as well as strengthening the monitoring, control and surveillance (MCS) in the region.

WECAFC Members concurred that there are limitations on the data collection in the region and that there is a clear need to obtain stock data and other relevant information to make adequate fisheries management decisions. They underlined that when deciding on Conservation and Management Measures (CMMs) not all species have to be managed, and that priorities and procedures have to be established that respect the sovereign rights of WECAFC Members.

WECAFC Members agreed on short, medium and long term approaches starting with the Areas Beyond National Jurisdiction (ABNJ) where binding measures can be implemented, and perhaps also including selected straddling and transboundary stocks, or highly migratory stocks within the Exclusive Economic Zones (EEZs) without prejudice of the sovereign rights of WECAFC Members.

A possible structure of a new entity/arrangement (a) which would have an advisory role in science, capacity building, technology transfer and MCS and (b) where binding CMM decisions could be made at the level of the ABNJ with the possibility of retaining the option to include the EEZ in order to maintain flexibility for certain stocks/species as it is done under the North Atlantic Fisheries Organization (NAFO) Convention. Other aspects to be included would be the fight against IUU fishing and trade issues such as traceability and catch documentation schemes.

The details of the arrangement would have to be worked out. The entity/arrangement should be consistent with the United Nations Law of the Sea Convention and other relevant international fisheries instruments.

RÉSUMÉ

La Première réunion préparatoire pour la transformation de la Commission des pêches pour l'Atlantique Centre-Ouest en une organisation régionale de gestion des pêches s'est tenue à Bridgetown (la Barbade) les 25 et 26 mars 2019.

La réunion préparatoire estimait au document de travail à l'appui du processus de réorientation stratégique de la COPACO et les questions de fond qui devaient être abordés lors de l'examen des autres options institutionnelles, comme un suivi des délibérations de la seizième session de la COPACO (tenue à la Guadeloupe (France), du 20 au 24 juin 2016), pour transformer la Commission en RFMO.

La réunion préparatoire a reconnu que le processus de transformation de la COPACO contribuerait à améliorer le respect des règlements, à renforcer le suivi, le contrôle et la surveillance (SCS) dans la région et faciliterait la lutte contre la pêche illicite, non déclarée et non réglementée (INDNR).

Les Membres de la COPACO estimaient qu'il y avait des carences dans la collecte des données dans la région et qu'il était clairement nécessaire d'obtenir des données sur les stocks et d'autres informations pertinentes pour prendre de bonnes décisions sur la gestion des pêches. Ils sont convenus que les mesures de conservation et de gestion (MCG) qui seraient adoptées ne couvriraient pas toutes les espèces et qu'il faudrait définir des priorités et des procédures qui respectent leurs droits souverains.

Les Membres de la COPACO se sont accordés sur des mesures à court, moyen et long termes, en premier lieu dans la ZHJN où des mesures contraignantes peuvent être mises en œuvre, avec une possibilité d'inclure également certains stocks chevauchants et transfrontaliers, ou stocks de poissons grands migrants présents dans la ZEE, sans préjudice des droits souverains des Membres de la COPACO.

Une structure possible d'une nouvelle entité ou un nouvel arrangement a) qui aurait un rôle consultatif dans les domaines scientifique, du renforcement des capacités, du transfert de technologie et du SCS, et b) où des mesures de conservation et de gestion contraignantes pourraient être prises au niveau de la ZHJN, en conservant éventuellement la possibilité d'inclure la ZEE afin de conserver la souplesse requise pour gérer certains stocks ou espèces, comme cela est fait dans le cadre de la Convention de l'Organisation des pêches de l'Atlantique Nord-Ouest (OPANO). Les autres questions à prendre en compte seraient la lutte contre la pêche INDNR et des questions liées au commerce, comme les systèmes de traçabilité et de documentation des captures.

RESUMEN

La Primera Reunión Preparatoria de la Comisión de Pesca para el Atlántico Centro-Occidental (COPACO) para la transformación en una organización regional de ordenación pesquera (OROP) se celebró en Bridgetown, Barbados, los días 25 y 26 de marzo de 2019.

La Reunión Preparatoria coincidió en el documento de discusión en apoyo al Proceso de Reorientación Estratégica y las cuestiones sustantivas que tendrían que abordarse en el examen de opciones institucionales, como seguimiento de las deliberaciones al debate de la 16.^a reunión de la COPACO (celebrada en Guadalupe, Francia, del 20 al 24 de junio de 2016/COPACO), transformar la Comisión en una OROP.

La Reunión Preparatoria reconoció que el proceso de transformación de la COPACO contribuiría a mejorar el cumplimiento en la lucha contra la pesca ilegal, no declarada y no reglamentada (INDNR), así como a fortalecer el seguimiento, control y vigilancia (SCV) en la región.

Los miembros de la COPACO coincidieron en que hay limitaciones en la recopilación de datos en la región y que hay una clara necesidad de obtener datos de las poblaciones y otra información pertinente para tomar decisiones de gestión adecuadas en materia de pesca. Ellos convinieron en que a la hora de decidir sobre las MCG no todas las especies requieren gestión, y que había que establecer prioridades y procedimientos que respeten los derechos soberanos de los miembros de la COPACO.

Los miembros de la COPACO convinieron en los enfoques de corto, mediano y largo plazo, comenzando con el de la zona situada fuera de la jurisdicción nacional, donde pueden aplicarse medidas vinculantes y, quizás también, incluir una selección de poblaciones transfronterizas y transzonales o poblaciones de peces altamente migratorios dentro de la ZEE, sin perjuicio para los derechos soberanos de los miembros de la COPACO.

Una posible estructura de una nueva entidad o acuerdo, que: (a) tuviera una función de asesoramiento científico, creación de capacidad, transferencia de tecnología y SCV y (b) en el que se pudieran tomar decisiones vinculantes en materia de MCG respecto a la zona situada fuera de la jurisdicción nacional, con la posibilidad de conservar la opción de incorporar la ZEE, a fin de mantener flexibilidad para determinadas poblaciones o especies, como se procede de conformidad con la Convención de la NAFO. Otros aspectos que deberán incluirse sería la lucha contra la pesca INDNR y cuestiones comerciales, como la trazabilidad y regímenes de documentación de las capturas.

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ABBREVIATIONS AND ACRONYMS

ABNJ	Areas Beyond National Jurisdiction
CARICOM	Caribbean Community
CBMC	Consortium on Billfish Management and Conservation
CCLM	Committee on Constitutional and Legal Matters (FAO)
CCRF	FAO Code of Conduct for Responsible Fisheries (1995)
CERMES	Centre for Resource Management and Environmental Studies (UWI)
CFMC	Caribbean Fisheries Management Council
CI	Conservation International
CLME+	Caribbean Large Marine Ecosystem project
CMMs	Conservation and management measures
CNFO	Caribbean Network of Fisherfolk Organizations
COFI	Committee on Fisheries
CPs	Contracting Parties (to a RFMO)
CRFM	Caribbean Regional Fisheries Mechanism
DWFN	Distant Water Fishing Nations
EEZ	Exclusive Economic Zone
EU	European Union
FADs	Fish Aggregating Devices
FAO	Food and Agricultural Organization of the United Nations
FAO CA	FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (1993)
FFA	Pacific Islands Forum Fisheries Agency
GFCM	General Fisheries Commission for the Mediterranean
ICCAT	International Commission for the Conservation of Atlantic Tuna
ICM	Interim Coordination Arrangement
IFREMER	French Research Institute for Exploration of the Sea
IGFA	International Game Fish Association
IGO	Intergovernmental Organisation
IOTC	Indian Ocean Tuna Commission
IPOA-IUU	International Plan of Action to Prevent, Deter and Eliminate IUU fishing
IUU	Illegal, Unreported and Unregulated
LIFDCs	Low Income Food Deficit Countries
LoI	Letter of Intent
LOSC	United Nations Convention on the Law of the Sea (1982)
MCS	Monitoring Control and Surveillance
MoU	Memorandum of Understanding
NEAFC	North East Atlantic Fisheries Commission
OLDEPESCA	Latin American Organisation for Fisheries Development
OSPESCA	Central American Fisheries and Aquaculture Organisation
PSMA	FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (2009)
RFBs	Regional Fisheries Bodies
RFMO	Regional Fisheries Management Organisation
RoP	Rules of Procedure
RSN	Regional Fishery Body Secretariats Network
SAG	Scientific Advisory Group (WECAFC)
SAMOA	SIDS Accelerated Modalities of Action
SAP	Strategic Action Plan
SDG	Sustainable Development Goals
SICA	Central American Integration System

SIDS	Small Island Developing States
SO	Strategic Objective (FAO)
SSF	Small-scale fisheries
TCP	Technical Cooperation Programme (FAO)
ToR	Terms of Reference
UNFSA	UN Agreement for the Implementation of the Provisions of 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 (2003)
UWI	University of the West Indies
VMS	Vessel Monitoring System
WECAFC	Western Central Atlantic Fishery Commission
WG	Working Groups
WTO	World Trade Organisation

ABRÉVIATIONS ET ACRONYMES

AA FAO	Accord visant à favoriser le respect par les navires de pêche en haute mer des mesures internationales de conservation et de gestion (1993) (FAO) (en abrégé: Accord d'application de la FAO).
CARICOM	Communauté des Caraïbes
CBMC	Consortium sur la gestion et la conservation des poissons à rostre
CCPR	Code de conduite de la FAO pour une pêche responsable (1995)
CERMES	Centre d'études sur la gestion des ressources et l'environnement (Université des Indes occidentales (UWI))
CFMC	Conseil de gestion des pêches des Caraïbes
CGPM	Commission générale des pêches pour la Méditerranée
CI	Conservation International
CICTA	Commission internationale pour la conservation des thonidés de l'Atlantique
CLME+	Projet sur le Grand écosystème marin des Caraïbes
CNFO	Réseau d'organisations de pêcheurs des Caraïbes
COFI	Comité des pêches (FAO)
COPACO	Commission des pêches pour l'Atlantique Centre-Ouest
CPANE	Commission des pêches de l'Atlantique Nord-Est.
CPPOC	Commission des pêches pour le Pacifique central et occidental
CPSOOI	Commission des pêches pour le Sud-Ouest de l'océan Indien
CQCJ	Comité des questions constitutionnelles et juridiques (FAO)
CRFM	Mécanisme régional des pêches des Caraïbes
CTOI	Commission des thons de l'océan Indien
DCP	Dispositifs de concentration du poisson
FAO	Organisation des Nations Unies pour l'alimentation et l'agriculture
FFA	Organisme des pêches du Forum du Pacifique
FIRMS	Système de suivi des ressources halieutiques et des pêcheries
GSC	Groupe scientifique consultatif (COPACO)
IFREMER	Institut français de recherche pour l'exploitation de la mer
IGFA	International Game Fish Association
INDNR	(Pêche) illicite, non déclarée et non réglementée
JICA	Agence japonaise de coopération internationale
MGC	Mesures de gestion et de conservation
MCP - Pêche	Mécanisme de coordination provisoire en faveur de la pêche durable
ODD	Objectif de développement durable
OIG	Organisation intergouvernementale
OLDEPESCA	Organisation latino-américaine de développement des pêches
OMC	Organisation mondiale du commerce
ORGP	Organisation régionale de gestion des pêches
ORP	Organes régionaux des pêches
OS	Objectif stratégique
OSPESCA	Organisation du secteur des pêches et de l'aquaculture de l'isthme centraméricain
PAI-INDNR	Plan d'action international visant à prévenir, à contrecarrer et à éliminer la pêche illicite, non déclarée et non réglementée
PAS	Plan d'action stratégique.
PCT	Programme de coopération technique (FAO)
PEID	Petits États insulaires en développement
PFRDV	Pays à faible revenu et à déficit vivrier
PPPH	Pays pratiquant la pêche hauturière

PSMA	Accord relatif aux mesures du ressort de l'État du port visant à prévenir, contrecarrer et éliminer la pêche illicite, non déclarée et non réglementée (FAO, 2009)
PSOI	[Accord relatif aux] pêches dans le sud de l'océan Indien
RAA	Réseau d'aquaculture pour les Amériques
RSN	Réseau des secrétariats des organes régionaux des pêches
SAMOA	Orientations de Samoa sur les Modalités d'action accélérées des petits États insulaires en développement
SCS	Suivi, contrôle et surveillance
SICA	Système d'intégration de l'Amérique centrale
SSN	Système de surveillance des navires par satellite
SVG	Saint Vincent et les Grenadines
UE	Union européenne
UNCLOS	Convention des Nations Unies sur le droit de la mer (1982)
UNFSA	Accord aux fins de l'application des dispositions de la Convention des Nations Unies sur le droit de la mer du 10 décembre 1982 relatives à la conservation et à la gestion des stocks de poissons dont les déplacements s'effectuent tant à l'intérieur qu'au-delà des zones économiques exclusives (stocks chevauchants) et des stocks de poissons grands migrateurs (en abrégé Accord de 1995 sur les stocks de poissons)
USVI	Îles vierges américaines
UWI	Université des Indes occidentales
ZEE	Zone économique exclusive
ZHJN	Zone hors juridiction nationale

ABREVIACIONES Y ACRÓNIMOS

AFJN	Áreas Fuera de Jurisdicción Nacional
AMERP/PSMA	Acuerdo sobre Medidas del Estado Rector del Puerto Destinadas a Prevenir, Desalentar y Eliminar la Pesca Ilegal, No Declarada y No Reglamentada de FAO (2009)
APC/ ICM	Acuerdo Provisional de Coordinación
CARICOM	Comunidad del Caribe
CBMC	Consorcio para el Ordenamiento y la Conservación de Picudos
CCLM	Comité de Asuntos Constitucionales y Jurídicos (FAO)
CCRF	Código de Conducta para la Pesca Responsable de FAO (1995)
CdI	Carta de Intensión
CERMES	Centro de Estudios Ambientales y Gestión de Recursos (UWI)
CFMC	Consejo Para la Administración Pesquera del Caribe
CI	Conservación Internacional
CICAA/ICCAT	Comisión Internacional para la Conservación del Atún Atlántico
CLME+	Proyecto del Gran Ecosistema Marino del Caribe
CMMs/MCO	Medidas de Conservación y Ordenamiento
CNFO	Red de Organizaciones de Pescadores del Caribe
COFI	Comité de Pesca
CONVEMAR	Convención de las Naciones Unidas sobre los Derechos del Mar / (1982)
COPACO	Comisión de Pesca para el Atlántico Centro Occidental
CPANE	Comisión de Pesca para el Atlántico Noroeste/North East Atlantic Fisheries Commission
CRFM	Mecanismo Regional de Pesca del Caribe
DAPs	Dispositivos de Agregación de Peces
FAO	Organización de las Naciones Unidas para la Alimentación y la Agricultura
FAO CA	Acuerdo para Promover el Cumplimiento de las Medidas Internacionales de Conservación y Ordenación de los Buques Pesqueros que Pescan en Altamar de FAO (1993)
FFA	Agencia de Pesca del Foro de las Islas del Pacífico
GAC	Grupo de Asesoría Científica (COPACO)
GFCM	Comisión General de Pesca para el Mediterráneo
GT	Grupos de Trabajo
IFREMER	Instituto Francés de Investigación para la Explotación del Mar
IGFA	Asociación Internacional de Pesca Recreativa
INDNR	Ilegal, No Declarada y No Reglamentada
IOTC	Comisión del Océano Índico para el Atún
MdE	Memorando de Entendimiento
MdP/RdP	Reglas De Procedimiento
NPAL	Naciones Pesqueras de Aguas Lejanas. Distant Water Fishing Nations
ODS	Objetivos de Desarrollo Sostenible
OE	Objetivo Estratégico (FAO)
OGI/ IGO	Organización Intergubernamental
OLDEPESCA	Organización Latinoamericana para el desarrollo Pesquero
OMC	Organización Mundial del Comercio
OROP	Organización Regional para el Ordenamiento Pesquero
OSPESCA	Organización del Sector Pesquero y Acuícola del Istmo Centroamericano
ORPs	Organismos Regionales de Pesca
PAI-INDNR/	
IPOA-IUU	Plan de Acción Internacional para Prevenir, Desalentar y Eliminar la Pesca INDNR

PAE	Plan de Acción Estratégico
PBIDAs	Países de Bajos Ingresos y con Déficit de Alimentos
PCT	Programa de Cooperación Técnica (FAO)
PCs	Partes Contratantes (a una OROP)
PEID	Pequeños Estados Insulares en Desarrollo
PPE	Pesca en Pequeña Escala
RSN	Red de Secretarías de los Órganos Regionales de Pesca
SAMOA	Modalidades de Acción Acelerada de los PEIDs
SCV	Seguimiento, Control y Vigilancia
SICA	Sistema Centroamericano de Integración
TdR	Términos de Referencia
UE	Union Europea
UNFSA	Acuerdo sobre la Aplicación de las Disposiciones de la Convención sobre el Derecho del Mar de 10 de Diciembre de 1982 de las Naciones Unidas relativas a la Conservación y Ordenación de las Poblaciones de Peces Transzonales y las Poblaciones de Peces Altamente Migratorios (2003)
UWI	Universidad de West Indies
VMS	Sistema de Monitoreo de Embarcaciones
ZEE	Zonas Economicas Exclusivas

INTRODUCTION

1. The Western Central Atlantic Fishery Commission (WECAFC) is the oldest Regional Fisheries Body (RFB) in the Western Central Atlantic, established in 1973 by Resolution 4/61 of the FAO Council under Article VI (1) of the FAO Constitution. WECAFC's Statutes were amended by the FAO Council at its 74th Session (in December 1978) and 131st Session (in November 2006). The area under the mandate of WECAFC covers 18 million km² of which 51 percent corresponds to Areas Beyond National Jurisdiction (ABNJ). The main governing body of WECAFC is the Commission, which is composed of all members. The general objective of the Commission is, without prejudice to the sovereign rights of the coastal states, to promote the effective conservation, management and development of the living marine resources of its area of competence, in accordance with the FAO Code of Conduct for Responsible Fisheries (CCRF), and to address common problems of fisheries management and development faced by Members of the Commission.
2. In the Western Central Atlantic region, which is also called the wider Caribbean region or FAO Fishing Area 31, the International Commission for the Conservation of Atlantic Tunas (ICCAT), which deals with tuna species, sharks and tuna-like species is the only RFMO. There are however three Regional Fishery Advisory Bodies (RFBs), including the Caribbean Regional Fisheries Mechanism (CRFM), Organization for Fisheries and Aquaculture for Central America (OSPESCA), and the Western Central Atlantic Fishery Commission (WECAFC). The first two are linked to regional economic cooperation commissions (CARICOM and SICA) and the latter is embedded in the FAO structure.
3. Considering that in the 1980s fisheries production in this area was 2.4 million tonnes and had decreased to around 1.5 million tonnes in 2016, and that imports of fish and fisheries products were valued at approximately 20 billion USD in 2011, there is a great need to improve fisheries management, secure sustainable fisheries and develop the sector where possible. While it may be unrealistic to expect an increase in production to levels of the 1980s, a production increase to 1.8 million tonnes would be possible as evidenced by past production levels. Investment in regional fisheries management would reduce reliance on imports, which are currently between 30 percent and 40 percent of fish consumed in the Caribbean islands.
4. Fishing by Distant Water Fishing Nations (DWFN) in a large area of the high seas of WECAFC is affecting the availability of fish (particularly pelagic and straddling resources) in the Exclusive Economic Zones (EEZs) of the member states of WECAFC.
5. The WECAFC reorientation process has involved extensive discussions at WECAFC Sessions and workshops about what future legal structure the Commission might assume and how its functions might be reoriented:
 - *Initiation of strategic reorientation (WECAFC 14th Session, 2012).* During the 14th Session of WECAFC (Panamá, February 2012), WECAFC Members approved the work Programme of the Commission, which included as Component 4 “to carry-out a strategic reorientation of the functions and mandate of the Commission”.
 - *Performance review process (2013-14).* The 30th Session of COFI (Rome, July 2012) instructed FAO “to initiate performance reviews of the Regional Fisheries Bodies (RFBs) under its auspices that had not already been assessed.” In response, the FAO WECAFC Secretariat and the Bureau of the Commission arranged for and supported the Performance Review of WECAFC (from October 2013 to January 2014).

- The WECAFC Performance Review included a survey based on a questionnaire distributed to over 300 stakeholders in the region in English, French and Spanish. A total of 71 responses were received. Of these, 21 were submitted by WECAFC Members, representing 64 percent of the 33 Members. The reorientation process was one of the issues addressed in the survey. Analysis of the survey responses indicated that: “the transformation into a Regional Fisheries Management Organization (RFMO)¹ was shown as the last priority of responding Members (but ranked significantly higher for non-Members), however the priority rated significantly higher than midpoint so should be regarded as a clear option for further consideration by WECAFC Members”.
 - *1st Reorientation and Strategic Planning Workshop (2014)*. The WECAFC 1st Reorientation and Strategic Planning Workshop held in Guadeloupe in September 2014 reviewed the preliminary outcomes of the WECAFC performance review and the options for WECAFC’s improvement and strategic reorientation. The Workshop recommended to the 15th session of WECAFC to identify whether there is support for the establishment of a Regional Fisheries Management Organization (RFMO) in the region and request (if appropriate) FAO to engage with the Members in the process of transition of WECAFC from a FAO Article VI advisory body to an FAO Article XIV RFMO should the Commission decide to go that route.
 - *WECAFC 15th session (2014)*. During the 15th Session of WECAFC (Trinidad and Tobago, March 2014) delegates at the meeting were not authorized by their governments to take a decision on the possible transformation of WECAFC. “After extensive discussion, in which cost aspects and stakeholder involvement were the main issues, it was concluded that WECAFC should remain an Article VI advisory body for the immediate future”. The Commission endorsed as a way forward an independent cost-benefit assessment as proposed by the European Union.
 - *2nd Strategic Reorientation Workshop (2015)*. At the 2nd Strategic Reorientation Workshop, held in Trinidad and Tobago in December 2015, the attending delegations from twenty-five Members of the Commission “saw value in a move towards an RFMO, but some participants cautioned that development could be slow and that even an RFMO will need some years to make an impact on fisheries stocks and fisheries production”. The workshop also recognized that “the success of an RFMO will depend on the Members ability to bring positive results to the fish stocks and catches. The results will depend on issues such as the availability of accurate scientific information, an effective decision-making structure and the Members’ ability to adopt and implement appropriate measures. In this respect more analysis of the common problems and how they can be addressed would be useful.” Workshop participants also observed that “[t]he existing subregional RFBs (CRFM and OSPESCA) should be essential components of an RFMO and as such should be embedded in its governance structure”.
6. At the 16th session of WECAFC (Guadalupe, June 2016) attended by 28 Members, the Commission agreed to launch a process to establish an RFMO and to clarify issues in relation to *competency area, stocks coverage, budgetary implications for Members, institutional structure, membership, decision making processes, national sovereignty aspects, its objectives and any other relevant matters that the Members may wish to consider*.
 7. During 2016–2017, WECAFC issued two letters to its Members and partners seeking their express opinions on the strategic reorientation of WECAFC. The first letter, dated 20 May 2016, enquired

¹ An RFMO, is an intergovernmental regional fishery body or arrangement with authority to establish binding conservation and management measures (Gilman *et al.*, 2014). Some RFMOs manage all the fish stocks found in a specific area, for example GFCM, while others focus on particular highly migratory species, for example, IOTC.

about the establishment of an RFMO, areas and stocks to be covered and legal status. The second letter, dated 14 July 2017, requested Members and partners for questions to be answered in the RFMO establishment process.

8. In October 2018 a Discussion Paper, commissioned in late 2017, was finalized for Members of the Commission to build further on the findings and recommendations of the various studies elaborated previously, to take into account the views solicited from Members and partners in response to the 2016 and 2017 letters, and to assist WECAFC's Members in the process of establishing an RFMO. This Discussion paper was shared to the Members for their review and comments, which were received prior to the preparatory meeting either directly in the document as in Annex C or separate communications documented in Annex D.
9. In January 2018, in anticipation to the 1st Preparatory workshop and in order to complement the Discussion Paper, a Guidance paper was prepared which analyzed the key substantive themes² to address in considering institutional alternatives (see Annex E).
10. The objectives of the First WECAFC Preparatory Meeting for the transformation into a Regional Fisheries Management Organization (RFMO) were twofold:
 - raise the common understanding on substantive matters for informed consent in order to ensure the appropriate follow up to the deliberations at the 16th Session of the Commission,
 - discuss and make recommendations on the priority issues and subsequent steps in a smooth transformation of WECAFC.

ATTENDANCE

11. The following 20 WECAFC Members attended the workshop: Antigua and Barbuda, Barbados, Belize, Cuba, Dominica, European Union (Member Organization), France (including Guadeloupe and Martinique), Guatemala, Guyana, Haiti, Jamaica, Netherlands (Caribbean Netherlands), Nicaragua, Panama, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, United States of America. International organizations that participated in the workshop included the Caribbean Natural Resources Institute (CANARI), the Centre for Resource Management & Environmental Studies (CERMES), the Caribbean Regional Fisheries Mechanism (CRFM), Caribbean Network of Fisherfolk Organizations (CNFO), Caribbean and North Brazil Shelf Large Marine Ecosystems (CLME+), International Commission for the Conservation of Atlantic Tuna (ICCAT), Northwest Atlantic Fisheries Organization (NAFO), Organization for fisheries and aquaculture of Central America (OSPESCA), Sargasso Sea Commission. The complete list of 45 participants can be found in Annex B.

OPENING OF THE WORKSHOP

12. The workshop was held in Bridgetown, Barbados, and was kindly hosted by Ministry of Maritime Affairs and the Blue Economy of the Government of the Republic of Barbados. On behalf of the Government the Permanent Secretary, Mr Esworth Reid, kindly welcomed the Preparatory Meeting, and acknowledged the generous support from the European Union (Member Organization) and the Food and Agriculture Organization of the United Nations (FAO), and officially opened the workshop. Welcoming remarks were also delivered by Ms Vyjayanthi Lopez, FAO Sub-regional Coordinator a.i. of the FAO Sub-regional Office for the Caribbean (Bridgetown, Barbados) and Mr. Piero Mannini, Senior Liaison Officer, on behalf of the Assistant Director General of the

² The term "themes" is used here to refer to the critical issues the Members of the Commission need to resolve before deciding on its formal structure. These themes reflect the experience of a number of Regional Fisheries Bodies (RFB).

Fisheries and Aquaculture Department of the FAO, (Rome, Italy). Ms Yvette Diei Ouadi, FAO Fisheries and Aquaculture Officer and WECAFC Secretary, who welcomed and thanked the participants for their attendance.

ELECTION OF THE CHAIRPERSON AND TWO VICE-CHAIRS

13. Although the item was not included in the Agenda (Annex A), the WECAFC Secretary indicated that the Preparatory Meeting would elect a chair and two vice-chairs. Noting that it was a technical meeting, the WECAFC Secretary proposed that Mr Patrick McConney, Director of the Centre for Resource Management and Environmental Studies (CERMES) of The University of the West Indies (UWI), be elected as Chair. The WECAFC Secretary noted Mr McConney's technical engagement in the preparation of this Preparatory Meeting, his prior participation engagement in the WECAFC reorientation process, his neutrality and the trust he has built in the region.
14. Mr Marc Williams, Director of Marine Resources, Department of Marine Resources of St. Kitts and Nevis, and Mr Carlos F. Marin Arriola, Director, Dirección de Normativa de la Pesca y Acuicultura, Ministerio de Agricultura, Ganadería y Alimentación, Guatemala, were proposed as the two vice-chairs. All WECAFC Members present at the Preparatory Meeting unanimously supported the election of the Chair and the two Vice-Chairs.
15. These officers were assisted by a team of rapporteurs from FAO Secretariat: Ms Yvette Diei Ouadi, WECAFC Secretary, Mr Jeremy Mendoza and Mr Terrence Phillips, Regional project coordinators, Mr Piero Mannini Senior Liaison Officer and Ms Annick VanHoutte, Senior Legal Officer.

ADOPTION OF THE AGENDA AND MEETING ARRANGEMENTS

16. The Chair opened the floor for the adoption of the agenda. WECAFC Members agreed to delete agenda item 17 relating to the introduction and discussion of a Draft Convention/Agreement to establish an RFMO. The Members noted that it would be premature to discuss the text of any Convention/Agreement before clarifying the issues to be addressed at the Preparatory Meeting.
17. Several WECAFC Members considered that it was still appropriate to discuss, as part of the WECAFC reorientation process, the possibility of retaining WECAFC as a strengthened advisory body established under Article VI of the FAO Constitution (hereinafter "Article VI body").
18. Some WECAFC Members also proposed to include as a new agenda item a "road map" for the reorientation process.

BACKGROUND AND OBJECTIVES OF THE MEETING

19. Ms Diei Ouadi gave a brief presentation on the background and objectives of the Preparatory Meeting, recalling that the strategic reorientation of WECAFC was initiated at the request of WECAFC Members at the 14th Session of the Commission. She underlined the opportunity the meeting offered to clarify the fundamental questions yet to be addressed, as well as the need to move towards the transformation of WECAFC in a practical and pragmatic way.
20. Regarding the role of observers at the Meeting it was noted that the observers would undoubtedly bring valuable knowledge and experience to the discussion but priority would be given to interventions by WECAFC Members. Hence, the Chair noted that in keeping with protocol and FAO rules, WECAFC Members would be allowed to make their statements first, followed by observers.

PRESENTATIONS AND DISCUSSIONS

21. The meeting proceeded with a general discussion on the “*Discussion paper in support of the WECAFC Strategic Reorientation Process*” (the “Discussion Paper”).
22. Members of Caribbean Regional Fisheries Mechanism (CRFM) indicated that they were not aware of an explicit agreement to move towards the establishment of an RFMO and noted that the CRFM countries had not committed to an RFMO.
23. The WECAFC Secretary observed that paragraph 55 of the report of the 16th Session of the WECAFC report indicated the agreement by WECAFC Members to: “*launch a process to establish a Regional Fisheries Management Organization (RFMO) and to clarify issues in relation to competency area, stocks coverage, budgetary implications for Members, institutional structure, membership, decision making processes, national sovereignty aspects, its objectives and any other relevant matters that the Members may wish to consider*” and that this Preparatory Meeting had been called to this effect.
24. CRFM Members noted that in the event an RFMO is created in the WECAFC area of competence it could deal with resources in the Areas Beyond National Jurisdiction (ABNJ), while WECAFC Members maintained control of the resources in their respective Exclusive Economic Zone (EEZs). They further underscored, as it was mentioned in paragraph 56 of the report of the 16th Session of WECAFC that “*such an RFMO should not replace existing RFBs in the process*”, and reaffirmed the possibility of considering strengthening WECAFC as an Article VI body, along with the other RFBs. It was emphasized that for the reorientation to succeed and be sustainable it needs to be a country driven process.
25. Observations were made with respect to the importance of introducing the Ecosystem Approach to Fisheries (EAF) and co-management, as an essential element for fisheries management in the region, particularly in relation to small-scale fisheries. Stakeholder participation and information to drive management, including fishers’ traditional ecological knowledge, are critical gaps remaining to be filled in order to better engage and obtain fishers support for a possible RFMO.

OBJECTIVES AND FUNCTIONS

26. Ms Cristina Leria, FAO International Legal Fisheries Consultant, presented the substantive issues to be resolved by WECAFC Members in considering institutional alternatives. The presentation focused on the objectives and functions of the Commission³ and set forth three threshold questions to clarify: whether the Commission should play a scientific role, whether the Commission will have the mandate to issue Conservation and Management Measures (CMM) and what role the Commission will play with respect to Monitoring, Control and Surveillance (MCS).
27. The delegate from the United States of America (USA) indicated that every RFMO in a given region is different as it relates to framework, participation, funding, etc. However, conceptually RFMO(s) fulfill three basic functions, with these being: scientific knowledge of the resource(s), CMM and compliance. Both the delegates from the USA and Jamaica agreed on the need for WECAFC Members to decide on the key elements of the entity/arrangement to be established and to decide what is the best alternative for WECAFC Members, without outside influence.
28. WECAFC Members concurred that there are limitations on data collection in the region and that there is a clear need to obtain stocks data and other relevant information to make adequate fisheries management decisions. The delegate from France stressed the importance of the scientific

³ The term “Commission” has been used here to refer to an RFMO or any other entity/arrangement.

evaluation of the fisheries resources in order to advance in the harmonization of the management of those fisheries resources.

29. It was also asserted that the species and thematic working groups (currently 11 WECAFC joint working groups) should be included in the development of scientific knowledge, but that these groups required resources to be able to complete their tasks. Any such research would have to take into account the work already fulfilled under other arrangements such as the Caribbean and North Brazil Shelf Large Marine Ecosystems Plus Strategic Action Programme (CLME+SAP). Participants were provided with a brief introduction to the CLME+SAP, which is being implemented in the EEZs, and its efforts to establish a Permanent Coordination Mechanism (PCM), and agreed that this process should be taken into account in the reorientation process.
30. WECAFC Members agreed with the importance of including among the functions of the entity/arrangement the mandate to increase capacity building in the region, which would apply to state as well as non-state stakeholder organizations. In relation to Small Island Development States (SIDS), this function would include building capacity to utilize the resources in the ABNJ, which would require technology transfer from developed countries to ensure equity in resource access.
31. WECAFC Members agreed that when deciding on CMM not all species have to be managed, and that priorities and procedures have to be established that respect the sovereign rights of WECAFC Members.
32. WECAFC Members further considered that the WECAFC transformation process would contribute to improving compliance, fighting against Illegal, Unreported and Unregulated (IUU) fishing as well as strengthening the Monitoring, Control and Surveillance (MCS) in the region. The European Union indeed pointed out that an RFMO can be a powerful tool in combatting IUU fishing, but that this would also require that key elements are reflected in the national legal and institutional framework of WECAFC Members.
33. In the case of IUU fishing, WECAFC Members observed that no country can fight against it alone. The delegate from Jamaica also pointed out that there is a need for fisheries management to cover the entire value chain. Common issues such as IUU fishing, constraints to trade and marketing and climate change could be addressed within reformed WECAFC context.

SCOPE OF APPLICATION

34. Ms Cristina Leria, FAO International Legal Fisheries Consultant, outlined questions concerning the scope of application of the Commission and what stocks should be within its mandate and presented examples of how some of other RFMOs address these. A key decision point is whether to include a general provision relating to “*all fishery resources in the Area of Competence of the Commission*” or specific stocks, such as straddling fish stocks, deep sea, and highly migratory species not covered under ICCAT’s mandate, as well as some transboundary stocks such as sharks, queen conch, spiny lobster, shrimp and dolphinfish.
35. Mr Piero Mannini, FAO Senior Liaison Officer, introduced the concept of shared stocks and informed the Meeting on some results of a recent survey conducted by FAO on RFMOs’ functioning and mandate, according to which many RFMOs have established their convention area to include the ABNJ as a regulatory area and the EEZ/Territorial waters as advisory area.
36. The delegate from The Netherlands questioned the idea of focusing on the “high seas” with it being noted that there are no fisheries there, so fisherfolk would not see any benefits. It was suggested that the focus should be on species of economic importance, with stock assessment being undertaken for them.

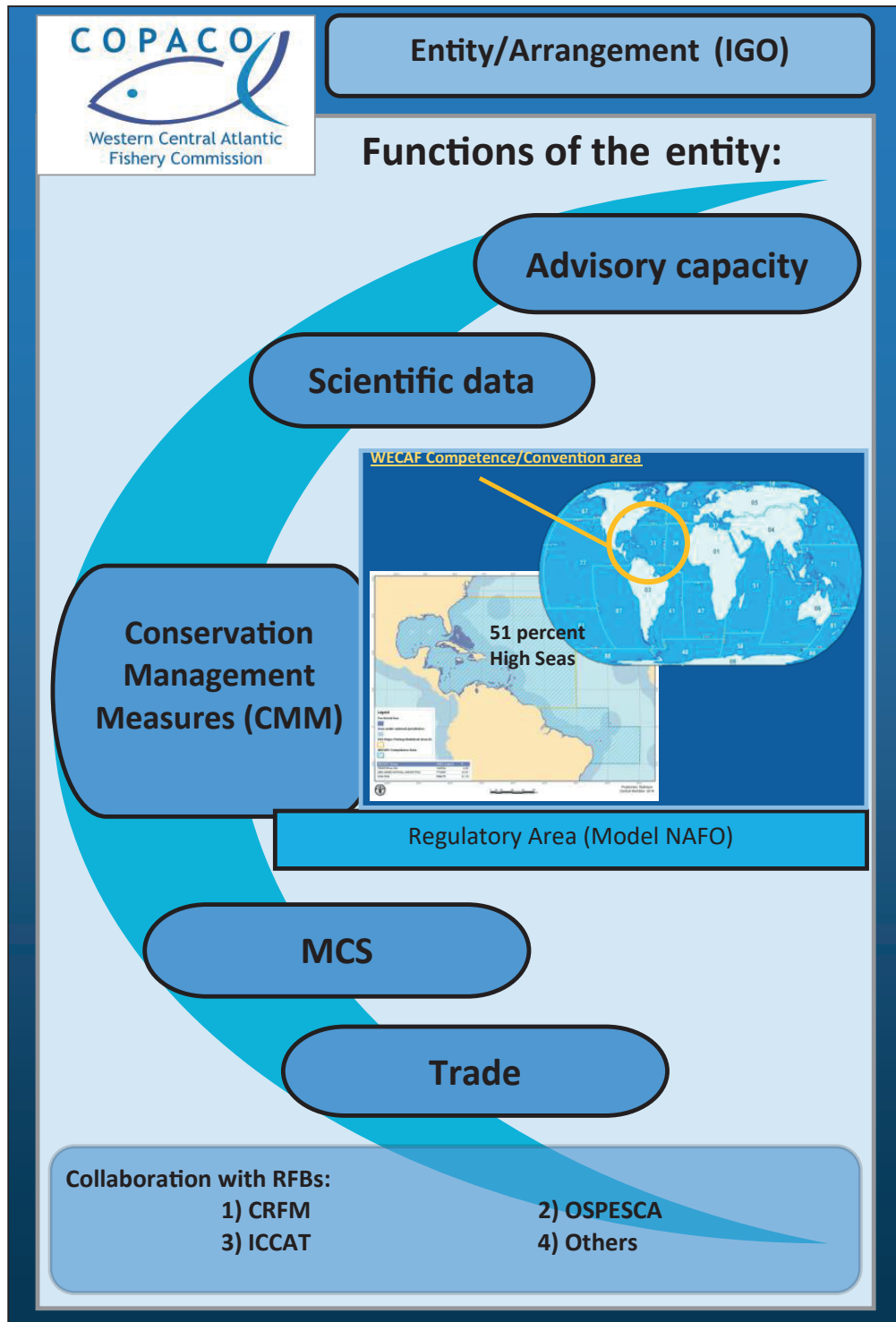
37. From the ensuing discussions, there appeared to be a general agreement, among the WECAFC Members present, on the creation of an entity/arrangement having a mandate within the ABNJ, while some Members were also willing to consider extending this mandate to stocks within the EEZ of the coastal states concerned. It was agreed that a cost benefit analysis would have to be undertaken at the national level.
38. WECAFC Members agreed on short, medium and long term approaches starting with the ABNJ where binding measures can be implemented, and perhaps also including selected straddling and transboundary stocks, or highly migratory stocks within the EEZ without prejudice of the sovereign rights of WECAFC Members.

AN RFMO UNDER ARTICLE XIV OF THE FAO CONSTITUTION VERSUS AN INDEPENDENT IGO - BENEFITS AND RISKS

39. Ms Annick Van Houtte, FAO Senior Legal Officer, addressed the Meeting on the institutional and legal and administrative benefits and risks of an RFMO under Article XIV of the FAO Constitution versus an independent IGO. Her presentation was based primarily on the information available in the Discussion Paper, in Tables 11 and 12.

EXPERIENCE FROM THE NORTHWEST ATLANTIC FISHERIES ORGANIZATION

40. Mr Fred Kingston, Executive Secretary of NAFO, provided a general overview of NAFO, including NAFO's Contracting Parties, competencies, structure, budget and decision-making process. The presentation then focused on NAFO's ecosystem approach framework to fisheries management that includes NAFO's ecosystem 'roadmap' and measures such as area-based management measures, to protect Vulnerable Marine Ecosystems (VMEs) and seamounts. Mr Kingston also stressed the application by NAFO of CMM in the Regulatory Area (i.e. the ABNJ area) as well as measures for appropriate mechanisms for effective MCS.
41. In the ensuing discussions the NAFO Secretary informed WECAFC Members of key attributes of Members' sovereignty, and that CMM binding measures are developed and adopted for the Regulatory Area, which corresponds to the NAFO ABNJ Convention Area.
42. The rationale for the selection of NAFO as an informative case study was also explained. More than any other RFB, this RFMO shares important commonalities with WECAFC, as its Convention Area borders WECAFC's geographic area of competence, and a number of WECAFC Members are also Contracting Parties to NAFO, namely the USA, EU and Cuba. It is an example of a successful and long established RFMO and is advanced from a legal and institutional point of view, notably with respect to (i) its competency over a Regulatory Area and a Convention Area that includes the EEZ, which safeguard the countries' rights and sovereignty and (ii) the important role played by its Scientific Council.
43. WECAFC members found the presentation by NAFO to be helpful, particularly the approach to the application of CMM in the Regulatory Area. Building upon the discussion of NAFO, the Members requested to the Secretariat to prepare a sketching of the possible structure of a new entity/arrangement (a) which would have an advisory role in science, capacity building, technology transfer and MCS and (b) where binding CMM decisions could be made at the level of the ABNJ with the possibility of retaining the option to include the EEZ in order to maintain flexibility for certain stocks/species as it is done under the NAFO Convention. Other aspects to be included would be the fight against IUU fishing, and trade issues such as traceability and catch documentation schemes. The following figure is an attempt to reflect the overall framework of this entity/arrangement:



44. The details of the entity/arrangement would have to be worked out. The entity/arrangement should be consistent with the United Nations Law of the Sea Convention and other relevant international fisheries instruments.

45. The following brief summary and recommendations of the meeting were endorsed by the participants:

- WECAFC Members recommended that any international entity/arrangement that may be established should be consistent with the United Nations Law of the Sea Convention and other relevant international fisheries instruments. And should not prejudice the rights, jurisdictions and obligations of states under the Convention.
- WECAFC Members recommended that a regional fisheries management entity/arrangement would address core issues including: scientific functions, data collection and information systems, technology transfer, capacity building, trade related issues such as traceability and catch certification of fisheries products, Conservation and Management Measures (CMM), co-management, MCS, combatting IUU fishing in the region, while having flexibility to respond to new and emerging needs.
- WECAFC Members recommend that the regional fisheries management entity/arrangement would retain the broad objectives and thematic areas of WECAFC.
- WECAFC Members recommended to develop a regional fisheries management entity or arrangement that will define a convention area and a regulatory area in the ABNJ where binding measures can be implemented, and these could also include selected straddling and transboundary stocks, or highly migratory stocks within the EEZ without prejudice of the sovereign rights of WECAFC Members.
- Several WECAFC Members indicated that the feasibility of establishing a regional fisheries management entity or arrangement with regulatory powers in the ABNJ should be further evaluated at the national and sub-regional level. These Members indicated their willingness to undertake the evaluation of such feasibility in full consultation with stakeholders regarding their options, alternatives and design of the proposed entity/arrangement before the second preparatory meeting. This could include analyses of stocks to be covered.
- WECAFC Members recommended that duplication/overlapping with the stocks adequately covered by any other entity/arrangement should be avoided.
- WECAFC Members recommended that regional cooperation should continue to be strengthened through the existing RFBs and the several ongoing and planned fisheries-related initiatives. Especially to create synergies.

CLOSURE OF THE PREPARATORY MEETING

46. The WECAFC Secretary made the closing remarks. She expressed her satisfaction as Meeting objectives had been met and that the Meeting had been an important step forward in the WECAFC reform process. She was also particularly pleased with all the constructive discussions and opinions expressed about the direction of the WECAFC reform process that led to the recommendations. She mentioned that the summary report of the meeting would be ready before the May 30th deadline. She thanked participants, the FAO team and particularly Ms Sonya Thompson, FAO Programme Assistant. She also thanked the Chair for his contribution and facilitation skills.

47. The Preparatory Meeting was declared closed on Tuesday, 26 March 2019 at 18:15 hours.

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INTRODUCTION

1. La Commission des pêches pour l'Atlantique Centre-Ouest (COPACO) est le plus ancien Organe régional des pêches (ORP) de l'Atlantique Centre-Ouest, établi en 1973 par la résolution 4/61 du Conseil de la FAO, en vertu de l'article VI (1) de l'Acte constitutif de la FAO. Les statuts de la COPACO ont été amendés par le Conseil de la FAO, à sa soixante-quatorzième session (décembre 1978) et à sa cent trente-et-unième session (novembre 2006). La zone relevant du mandat de la COPACO couvre une superficie de 18 millions de km², comprenant 51 pour cent de zones situées au-delà des juridictions nationales (ZHJN). Le principal organe directeur de la COPACO est la Commission, qui est composée de tous ses membres. La Commission a pour objectif général, sans préjudice des droits souverains des États côtiers, de favoriser la conservation, la gestion et le développement efficaces des ressources biologiques marines présentes dans sa zone de compétence, conformément au Code de conduite pour une pêche responsable (CCPR) de la FAO, et de traiter les problèmes communs de gestion et de développement des pêches auxquels les Membres sont confrontés.
2. Dans la région de l'Atlantique Centre-Ouest, également appelée Grande Région Caraïbe ou Zone de pêche 31 de la FAO, la Commission internationale pour la conservation des thonidés de l'Atlantique (CICTA), qui s'occupe des thonidés, du thon, et des espèces voisines, est la seule ORGP. Il existe cependant trois Organes régionaux des pêches consultatifs (ORPC), à savoir le Mécanisme régional des pêches des Caraïbes (CRFM), l'Organisation du secteur des pêches et de l'aquaculture de l'isthme centraméricain (OSPESCA) et la Commission des pêches de l'Atlantique Centre-Ouest (COPACO). Les deux premiers sont liés à des commissions de coopération économique régionales - la Communauté des Caraïbes (CARICOM) et le Système d'intégration de l'Amérique centrale (SICA), alors que le troisième fait partie intégrante de la structure de la FAO.
3. Quand on sait que dans les années 1980, la production halieutique de cette zone était de 2,4 millions de tonnes et qu'elle est tombée à 1,5 million de tonnes en 2016, et que la valeur des importations de poissons et de produits de la pêche était estimée à 20 milliards d'USD en 2011, on comprend qu'il est impératif d'améliorer la gestion des pêches, de garantir la pérennité de la pêche et de développer le secteur, partout où c'est possible. Il serait sans doute irréaliste de s'attendre à ce que la production retrouve les niveaux des années 1980, mais les volumes de production passés montrent qu'une augmentation à 1,8 million de tonnes est envisageable. En investissant dans la gestion régionale des pêches, on réduirait la dépendance à l'égard des importations qui représentent actuellement entre 30 pour cent et 40 pour cent des poissons consommés dans les îles Caraïbes.
4. Les opérations des pays pratiquant la pêche hauturière (PPPH) dans une vaste zone de haute mer de la COPACO ont une incidence sur les ressources halieutiques disponibles (en particulier les stocks de poissons pélagiques et de poissons chevauchants) dans les zones économiques exclusives (ZEE) des États Membres de la COPACO.
5. Le processus de réorientation de la COPACO a fait l'objet de débats prolongés aux sessions et aux ateliers de la COPACO sur la structure juridique que pourrait avoir la Commission et la manière dont ses fonctions pourraient être réorientées:
 - *Lancement du processus de réorientation stratégique (COPACO 14ème session 2012).* Pendant la quatorzième session de la COPACO (Panama, février 2012), les Membres de la FAO ont approuvé le Programme de travail de la Commission et sa composante 4 prévoyant « d'effectuer une réorientation stratégique des fonctions et du mandat de la Commission ».
 - *Processus d'examen des performances (2013-2014)* À sa trentième session, le Comité des pêches (Rome, juillet 2012) a demandé à la FAO d'entreprendre des examens des performances des Organes régionaux des pêches (ORP) placés sous ses auspices qui n'ont pas encore fait

l'objet d'une évaluation. Le secrétariat FAO/ COPACO et le Bureau de la Commission ont donc organisé et soutenu l'Examen des performances de la COPACO (d'octobre 2013 à janvier 2014).

- L'examen des performances de la COPACO comprenait une enquête réalisée au moyen d'un questionnaire distribué à plus de 300 parties prenantes de la région, en anglais, en espagnol et en français. Au total, 71 réponses ont été reçues. 21 d'entre elles ont été soumises par des Membres de la COPACO, ce qui représente 64 pour cent des 33 Membres. Le questionnaire portait notamment sur le processus de réorientation. L'analyse des réponses a mis en relief ce qui suit: « Bien que la conversion en une organisation de gestion de pêcheries régionales¹ reçoive le plus faible degré de priorité de la part des membres interrogés (mais un degré sensiblement supérieur pour les non Membres), cette faible priorité se situe nettement au-dessus de l'option médiane », de sorte que cette option mérite clairement d'être examinée de façon plus approfondie par les Membres de la FAO.
- *Premier Atelier pour la réorientation et la planification stratégique (2014)* Le Premier Atelier pour la réorientation et la planification stratégique de la COPACO, tenu à la Guadeloupe en septembre 2014, a examiné les résultats préliminaires de l'examen des performances de la COPACO et les options pour l'amélioration et la réorientation stratégique de la COPACO. L'Atelier a recommandé à la COPACO, à sa quinzième session, de chercher à savoir si l'option de l'établissement d'une Organisation régionale de gestion des pêches (ORGP) recevrait un appui et de demander (le cas échéant) à la FAO de s'engager aux côtés des Membres dans le processus de transition de la COPACO d'un organe consultatif relevant de l'Article VI de l'Acte constitutif de la FAO, à une ORGP relevant de l'Article XIV de la FAO, au cas où la Commission déciderait de suivre cette voie.
- *Quinzième session de la COPACO (2014)* Pendant la quinzième session de la COPACO (la Trinité-et-Tobago, mars 2014), Les délégations n'étaient pas autorisées par leurs gouvernements à prendre une décision sur une éventuelle transformation de la COPACO. « *Après un long débat, portant principalement sur les coûts et la participation des parties prenantes, il a été conclu que la COPACO devrait rester un organe consultatif régi par l'article VI pour l'instant* » Pour avancer, la Commission a approuvé une évaluation indépendante des coûts/avantages conformément à la proposition de l'Union européenne.
- *Deuxième atelier de réorientation stratégique (2015)* Au deuxième Atelier de réorientation stratégique, tenu à la Trinité-et-Tobago en décembre 2015, les délégations de vingt-cinq Membres de la Commission qui étaient présentes « ont jugé intéressante l'option ORGP, mais quelques participants ont averti que les choses pouvaient évoluer lentement et que même une ORGP ne pourrait pas avoir d'impact sur les stocks de poissons et la production halieutique qu'au bout de quelques années ». L'Atelier a également reconnu que « le succès d'une ORGP dépendra de la capacité de ses membres à apporter des solutions positives pour améliorer les stocks et les captures. Les résultats dépendront de questions telles que la disponibilité d'informations scientifiques précises, l'efficacité de la structure de prise de décision et la capacité des membres à adopter et mettre en œuvre des mesures appropriées. À cet égard, une réflexion plus poussée sur les problèmes communs et la manière de les traiter serait utile. » Les participants à l'atelier ont aussi fait observer que les ORP sous-régionaux existants (CRFM et OSPESCA) devraient être des éléments essentiels d'une ORGP, et que par conséquent ils devraient être intégrés dans sa structure de gouvernance.

⁴ Une ORGP est un organe ou un arrangement intergouvernemental régional des pêches habilité à prendre des mesures contraignantes en matière de conservation et de gestion (Gilman *et al.* 2014). Certaines ORGP comme la CGPM, gèrent tous les stocks de poissons présents dans une zone déterminée, alors que d'autres, comme la CTOI, se concentrent plus particulièrement sur les espèces de poissons grands migrateurs.

6. À la seizième session de la COPACO (Guadeloupe, juin 2016), qui a réuni 28 Membres, la Commission a décidé de lancer un processus pour l'établissement d'une ORGP, et clarifier les points en rapport avec *la zone de compétence, la couverture des stocks, les incidences budgétaires pour les Membres, la structure institutionnelle, l'adhésion, les processus décisionnels, les aspects ayant trait à la souveraineté nationale, les objectifs et toute autre question pertinente que les membres pourraient envisager de soulever.*
7. En 2016-2017, la COPACO, a adressé deux lettres à ses membres et partenaires pour sonder leur opinion sur la réorientation stratégique de la COPACO. La première, datée du 20 mai 2016, les interrogeait sur l'établissement d'une ORGP, les zones et les stocks à couvrir et son statut juridique. Dans la seconde lettre, datée du 14 juillet 2017, la COPACO invitait ses membres et partenaires à répondre à un questionnaire sur le processus d'établissement de l'ORGP.
8. En octobre 2018, un document de travail, commandité fin 2017, a été finalisé pour permettre aux Membres de la Commission de mieux exploiter les conclusions et les recommandations des différentes études antérieures, tenir compte des opinions exprimées par les Membres et les partenaires en réponse aux lettres de 2016 et 2017, et aider les membres de la COPACO dans le processus d'établissement de l'ORGP. Ce document de travail a été distribué aux Membres afin qu'ils l'examinent et fassent part de leurs observations, qui nous ont été transmises avant la réunion préparatoire, directement dans le document en tant qu'ANNEXE C ou dans des communications à part, documentées à l'ANNEXE D.
9. En janvier 2018, en vue du premier Atelier préparatoire et en complément du Document de travail, un document d'orientation a été rédigé pour analyser les principaux thèmes de fond à traiter⁵ lors de l'examen des options institutionnelles (cf. ANNEXE E).
10. La première réunion préparatoire pour la transformation de la COPACO en une Organisation régionale de gestion des pêches (ORGP) a un double objectif:
 - Parvenir à une vision commune des questions de fond concernant le consentement éclairé afin d'assurer un suivi adéquat aux délibérations à la seizième session de la Commission, et discuter et formuler des recommandations sur les questions prioritaires et les étapes successives d'une transformation « en douceur » de la COPACO.

PARTICIPATION

11. L'atelier a été suivi par 20 Membres, à savoir: Antigua-et-Barbuda, la Barbade, Belize, Cuba, Dominique, États-Unis d'Amérique, France (y.c. Guadeloupe et Martinique), Guatemala, Guyana, Haïti, Jamaïque, Nicaragua, Panama, Pays-Bas (Antilles néerlandaises), Saint-Kitts-et-Nevis, Sainte-Lucie, Saint-Vincent-et-les Grenadines, Suriname, la Trinité-et-Tobago, Union européenne (Organisation Membre). Les organisations internationales qui ont participé à l'atelier sont le Caribbean Natural Resources Institute (CANARI), le Centre pour la gestion des ressources et l'environnement (CERMES), le Mécanisme régional des pêches des Caraïbes (CRFM), le Réseau des organisations de pêcheurs des Caraïbes (CNFO), le projet pour les Grands écosystèmes marins des Caraïbes et du plateau Nord-Brésil (CLME+), la Commission internationale pour la conservation des thonidés de l'Atlantique (CICTA), l'Organisation des pêches de l'Atlantique Nord-Ouest (OPANO), l'Organisation du secteur des pêches et de l'aquaculture de l'isthme centraméricain (OSPESCA), la Commission pour la mer des sargasses. La liste complète des 45 participants figure à l'ANNEXE B.

⁵ Le mot « thèmes » désigne ici les problèmes critiques que les Membres de la Commission doivent résoudre avant de prendre une décision concernant sa structure officielle. Ces thèmes reflètent l'expérience de plusieurs Organes régionaux des pêches (ORP).

OUVERTURE DE L'ATELIER

12. L'atelier s'est tenu à Bridgetown (la Barbade) et il a été aimablement accueilli par le Ministère des affaires maritimes et de l'économie bleue du Gouvernement de la République de la Barbade. Au nom du gouvernement, le secrétaire permanent, M. Esworth Reid, a souhaité la bienvenue à la réunion préparatoire, et remercié l'Union européenne (Organisation Membre) et l'Organisation des Nations Unies pour l'alimentation et l'agriculture (FAO) pour leur généreux appui, et il a officiellement ouvert l'atelier. Mme Vyjayanthi Lopez, Coordinatrice sous-régionale de la FAO par intérim du Bureau sous-régional de la FAO aux Caraïbes (Bridgetown, la Barbade) et M. Piero Mannini, Fonctionnaire principal chargé de liaison, ont aussi prononcé des allocutions de bienvenue, au nom du Sous-Directeur général de la FAO chargé du Département des pêches et de l'aquaculture (Rome, Italie). Mme Yvette Diei Ouadi, Fonctionnaire de la FAO chargée des pêches et de l'aquaculture et Secrétaire de la COPACO a également souhaité la bienvenue aux participants en les remerciant de leur présence.

ÉLECTION DU PRÉSIDENT ET DE DEUX VICE-PRÉSIDENTS

13. Bien que le point ne soit pas inscrit à l'ordre du jour (Annexe A), la Secrétaire de la COPACO a indiqué que la réunion préparatoire élirait un président et deux vice-présidents. Notant qu'il s'agissait d'une réunion technique, Mme Diei Ouadi a proposé que M. Patrick McConney, Directeur du Centre pour la gestion des ressources et l'environnement (CERMES) soit élu Président. Elle a souligné l'appui technique fourni par M. McConney pour la préparation de cette réunion, son engagement préalable dans le processus de réorientation de la COPACO, sa neutralité et le climat de confiance qu'il a instauré dans la région.
14. M. Marc Williams, Directeur des ressources marines du Département des ressources marines de Saint-Kitts-et-Nevis, et M. Carlos F. Marin Arriola, Directeur, Direction de la réglementation des pêches et de l'aquaculture, Ministère de l'agriculture, de l'élevage et de l'alimentation (Guatemala), ont été proposés comme vice-présidents. Les membres de la COPACO présents à la réunion préparatoire ont soutenu à l'unanimité l'élection du Président et des deux vice-présidents.
15. Le Président et les Vice-Présidents étaient secondés par une équipe de rapporteurs membres du Secrétariat de la FAO: Mme Yvette Diei Ouadi, Secrétaire de la COPACO, M. Jeremy Mendoza et M. Terrence Phillips, coordonnateurs régionaux de projets, M. Piero Mannini Fonctionnaire principal chargé de liaison et Mme Annick VanHoutte, juriste principale.

ADOPTION DE L'ORDRE DU JOUR ET ORGANIZATION DE LA RÉUNION

16. Le Président a ouvert le débat pour l'adoption de l'ordre du jour. Les membres de la COPACO sont convenus de supprimer le point 17 concernant la présentation et l'examen d'un projet de Convention/ Accord pour l'établissement d'une ORGP. Ils estimaient qu'il serait prématuré d'examiner le texte d'un Accord/Convention avant de clarifier les questions à aborder lors de la réunion préparatoire.
17. Plusieurs membres de la COPACO considéraient qu'il était encore temps de débattre, dans le cadre du processus de réorientation de la COPACO, de la possibilité de maintenir la COPACO en tant qu'organe consultatif renforcé, établi en vertu de l'Article VI de l'Acte constitutif de la FAO (ci-après dénommé «organe de l'Article VI»).
18. Certains membres de la COPACO ont également proposé d'intégrer un nouveau point de l'ordre du jour, traçant une «feuille de route» pour le processus de réorientation.

CONTEXTE ET OBJECTIFS DE LA RÉUNION

19. Mme Diei Ouadi a fait un bref exposé sur le contexte et les objectifs de la réunion préparatoire, en rappelant que le processus de réorientation stratégique de la COPACO avait été lancé à la demande des Membres à la quatorzième session de la Commission. Elle a souligné que la réunion offrait une opportunité de clarifier les questions fondamentales en suspens et insisté sur la nécessité de faire avancer le processus de transformation de la COPACO de manière concrète et pragmatique.
20. Concernant le rôle des observateurs présents à la réunion, il a été indiqué que, bien que leurs connaissances et leur expérience soient précieuses pour les débats, la priorité serait donnée aux interventions des Membres de la COPACO. En conséquence, le Président a précisé que, conformément au protocole et aux règles de la FAO, les Membres de la COPACO seraient autorisés à faire leurs déclarations en premier, et que les observateurs pourraient intervenir ensuite.

PRÉSENTATIONS ET DISCUSSIONS

21. La réunion est ensuite passée à une discussion générale sur le *«Document de travail à l'appui du processus de réorientation stratégique de la COPACO»* (le «Document de travail»).
22. La majorité des Membres du Mécanisme régional des pêches des Caraïbes (CRFM) ont indiqué qu'ils n'étaient pas informés d'un accord explicite en faveur de l'établissement d'une ORGP, ajoutant que les pays du CRFM n'avaient pas pris d'engagement en ce sens.
23. La Secrétaire de la COPACO a fait observer qu'il était précisé au paragraphe 55 du rapport de la seizième session de la COPACO que les Membres de la Commission avaient décidé de: *« lancer un processus pour l'établissement d'une organisation régionale de gestion des pêches (ORGP), et clarifier les sujets ayant trait à la zone de compétence, la couverture des stocks, les incidences budgétaires pour les Membres, la structure institutionnelle, l'adhésion, les processus décisionnels, les aspects ayant trait à la souveraineté nationale, les objectifs et toute autre question pertinente que les membres pourraient envisager de soulever »* et que la présente réunion préparatoire avait été convoquée à cette fin.
24. Les Membres du CRFM ont fait observer que, dans le cas où une ORGP serait créée dans la zone de compétence de la COPACO, elle pourrait s'occuper des ressources présentes dans les zones hors juridiction nationale (ZHJN) alors que les Membres de la COPACO conserveraient le contrôle des ressources de leurs zones économiques exclusives (ZEE). Ils ont ensuite souligné, conformément à ce qui était indiqué au paragraphe 56 du rapport de la seizième session de la COPACO que *«cette ORGP ne devrait pas remplacer les ORP existantes»* et réaffirmé qu'il était encore possible d'envisager de renforcer la COPACO en tant qu'organe de l'Article VI, de même que les autres ORP. Il a été souligné que pour que la réorientation soit couronnée de succès et durable, le processus devait être conduit par les pays.
25. Des observations ont été faites au sujet de l'introduction de l'Approche écosystémique des pêches (AEP) et de la cogestion, en tant qu'éléments essentiels de la gestion des pêches dans la région, en particulier dans le sous-secteur de la pêche artisanale. La participation et le savoir des parties prenantes pour guider la gestion, notamment les connaissances écologiques traditionnelles des pêcheurs, sont des questions critiques qui restent à traiter pour mieux engager le processus et obtenir l'appui des pêcheurs à une éventuelle ORGP.

OBJECTIFS ET FONCTIONS

26. Mme Cristina Leria, consultante juridique internationale en matière de pêche, a présenté les questions de fond que doivent résoudre les Membres de la COPACO lors de l'examen des autres options institutionnelles. La présentation portait sur les objectifs et les fonctions de la Commission⁶ et énonçait trois questions auxquelles il est essentiel de répondre, à savoir: la Commission doit-elle jouer un rôle scientifique? La Commission aura-t-elle pour mandat de formuler des mesures de conservation et de gestion (MCG) et Quel rôle jouera la Commission dans le suivi, le contrôle et la surveillance (SCS)?
27. Le délégué des États-Unis d'Amérique a indiqué que chaque ORGP opérant dans une région donnée avait des caractéristiques différentes, en ce qui concerne le cadre, la participation, le financement, etc. mais qu'en revanche, sur le plan conceptuel, les ORGP remplissent trois fonctions essentielles, à savoir: approfondir la connaissance scientifique de la ressource, adopter des MCG et garantir la mise en application. Les délégués des États-Unis et de la Jamaïque étaient d'avis que les Membres de la COPACO devaient décider, sans se laisser influencer, des éléments clés de l'entité/arrangement à établir et de la meilleure option pour les Membres de la COPACO.
28. Les Membres de la COPACO estimaient qu'il y avait des carences dans la collecte des données dans la région et qu'il était clairement nécessaire d'obtenir des données sur les stocks et d'autres informations pertinentes pour prendre de bonnes décisions sur la gestion des pêches. Le Délégué de la France a souligné l'importance de l'évaluation scientifique des ressources halieutiques pour progresser dans l'harmonisation de leur gestion.
29. On a également fait valoir que les groupes de travail sur les espèces et les groupes de travail thématiques (actuellement 11 groupes de travail conjoints de la COPACO) devraient intervenir dans le développement des connaissances scientifiques mais qu'ils avaient besoin de ressources pour pouvoir s'acquitter de leurs fonctions. Toutes ces recherches devraient prendre en compte les travaux déjà effectués dans le cadre d'autres programmes tels que le Programme d'action stratégique (PAS) du Grand écosystème marin des Caraïbes et du plateau Nord-Brésil (Programme CLME+). Les participants ont suivi une brève présentation du Programme CLME+ en cours d'exécution dans les ZEE, et des efforts déployés en vue de l'établissement d'un mécanisme de coordination permanent (MCP), et ils sont convenus qu'il devrait en être tenu compte dans le processus de réorientation.
30. Les Membres de la COPACO considéraient également qu'il était important d'inclure dans les fonctions de l'entité/arrangement une obligation de développer les activités de renforcement des capacités dans la région, aussi bien pour les organisations de parties prenantes étatiques que non étatiques. En ce qui concerne les Petits États insulaires en développement (PEID), cette fonction de renforcement des capacités couvrirait l'exploitation des ressources des ZHJN, de sorte qu'un transfert de technologies des pays développés serait nécessaire pour leur garantir un accès équitable à ces ressources.
31. Les Membres de la COPACO sont convenus que les mesures de conservation et de gestion (MCG) qui seraient adoptées ne couvriraient pas toutes les espèces et qu'il faudrait définir des priorités et des procédures qui respectent leurs droits souverains.
32. Les Membres de la COPACO considéraient en outre que le processus de transformation de la COPACO contribuerait à améliorer le respect des règlements, à renforcer le suivi, le contrôle et la surveillance (SCS) dans la région et faciliterait la lutte contre la pêche illicite, non déclarée et non

⁶ Le terme « Commission » est utilisé ici pour désigner une ORGP ou toute autre entité ou arrangement.

réglementée (INDNR). L'Union européenne a en effet fait observer qu'une ORGP pouvait être un instrument très efficace pour lutter contre la pêche INDNR, à condition que des éléments clés soient pris en compte dans le cadre juridique et institutionnel national des Membres de la COPACO.

33. Dans le cas de la pêche INDNR, les Membres de la COPACO ont souligné qu'aucun pays ne pouvait la combattre seul. Le Délégué de la Jamaïque a également fait observer que la gestion des pêches devait couvrir tous les stades de la chaîne de valeur. Des problèmes communs, tels que la pêche INDNR, les obstacles au commerce et le changement climatique pourraient être traités dans le contexte de la COPACO réformée.

CHAMP D'APPLICATION

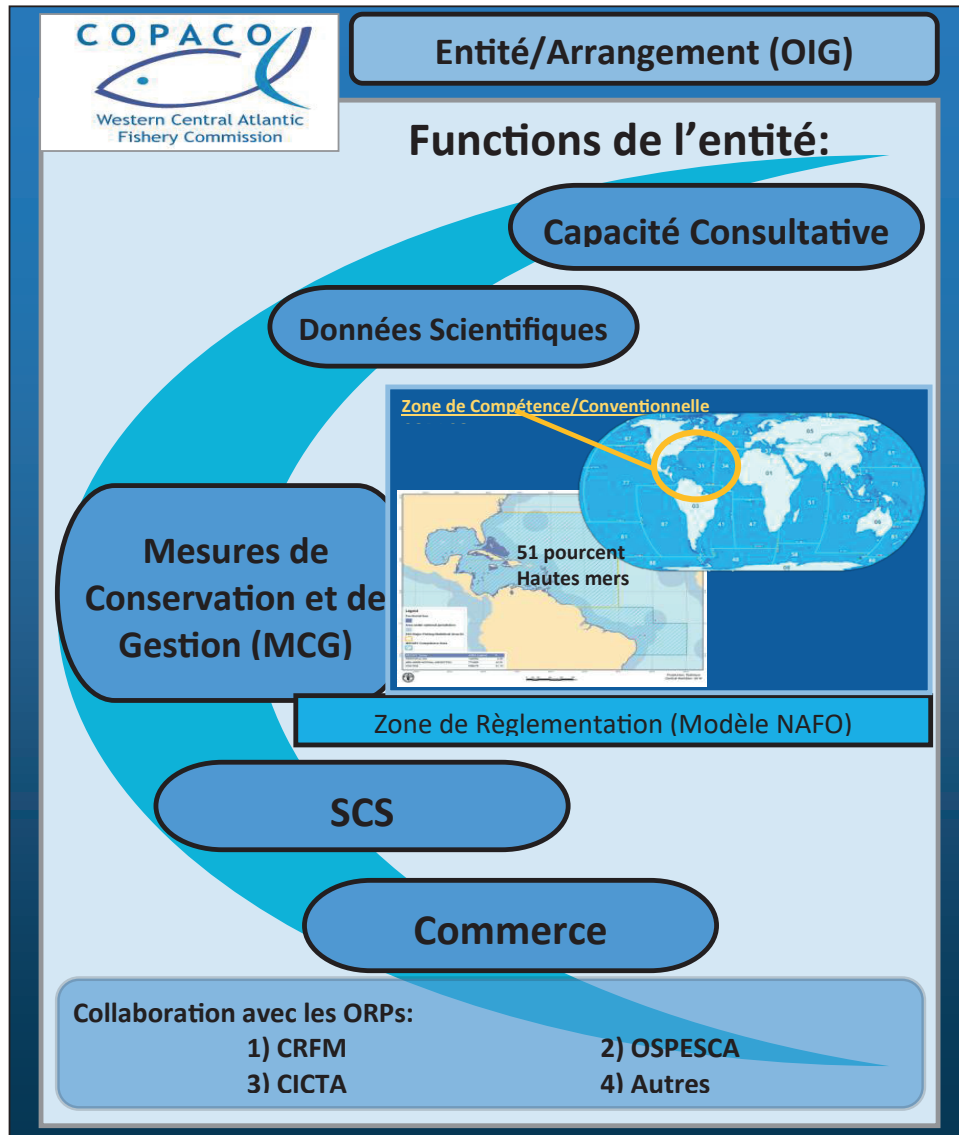
34. Mme Cristina Leria, consultante juridique internationale en matière de pêche, a exposé les problèmes liés au champ d'application de la Commission et à la désignation des stocks qui devraient être inclus dans son mandat et donné des exemples des approches adoptées par d'autres ORGP pour les résoudre. Un des principaux points à trancher est de savoir s'il convient d'inclure une disposition générale mentionnant « *toutes les ressources halieutiques présentes dans la zone de compétence de la Commission* » ou des stocks spécifiques, tels que les stocks chevauchants, les stocks de poissons d'eaux profondes et les espèces de poissons grands migrateurs ne relevant pas du mandat de la CICTA, ainsi que certains stocks transfrontaliers, tels que les requins, les lambis, les langoustes, les crevettes et les dorades coryphènes.
35. M. Piero Mannini, Fonctionnaire principal chargé de liaison, a présenté le concept des stocks partagés et informé les participants des résultats d'une récente enquête de la FAO sur le fonctionnement et le mandat des ORGP; selon cette enquête, de nombreuses ORGP ont décidé d'inclure dans leur zone de la convention la ZHJN comme zone de réglementation et la ZEE/eaux territoriales comme zone de consultation.
36. Le Délégué des Pays-Bas s'est interrogé sur le bien-fondé de se concentrer sur les zones de « haute mer » étant donné qu'il n'y a pas de pêcheries dans ces eaux et que les pêcheurs n'en tireraient aucun avantage. Il a été suggéré de mettre l'accent sur les espèces d'importance économique, et de procéder à des évaluations des stocks concernés.
37. Il ressort des discussions qui ont suivi que les Membres de la COPACO présents à la réunion étaient d'accord pour la création d'une entité ou d'un arrangement qui aurait un mandat au sein de la ZHJN, certains d'entre eux souhaitant aussi étudier la possibilité d'étendre ce mandat aux stocks présents dans la ZEE des États concernés. Il a été convenu qu'une analyse coût-avantages devrait être réalisée au niveau national.
38. Les Membres de la COPACO se sont accordés sur des mesures à court, moyen et long termes, en premier lieu dans la ZHJN où des mesures contraignantes peuvent être mises en œuvre, avec une possibilité d'inclure également certains stocks chevauchants et transfrontaliers, ou stocks de poissons grands migrateurs présents dans la ZEE, sans préjudice des droits souverains des Membres de la COPACO.

UNE ORGP RELEVANT DE L'ARTICLE XIV DE L'ACTE CONSTITUTIF DE LA FAO OU UNE OIG INDÉPENDANTE – AVANTAGES ET RISQUES

39. Mme Annick Van Houtte, juriste principale de la FAO, s'est exprimée sur les avantages et les risques institutionnels, juridiques et administratifs d'une ORGP relevant de l'Article XIV de l'Acte constitutif de la FAO par rapport à une OIG indépendante. Son argumentation se fondait principalement sur les informations contenues dans les tableaux 11 et 12 du Document de travail.

EXPÉRIENCE DE L'ORGANISATION DES PÊCHES DE L'ATLANTIQUE NORD-OUEST (OPANO)

40. M. Fred Kingston, Secrétaire exécutif de l'OPANO, a fourni un aperçu général de l'OPANO, couvrant notamment ses parties contractantes, ses compétences, sa structure, son budget et ses processus décisionnels. La présentation s'est ensuite centrée sur le cadre de l'approche écosystémique des pêches de l'OPANO, qui inclut la «feuille de route» et les mesures écosystémiques de cette organisation, y compris les mesures de gestion par zone, visant à protéger les monts sous-marins et les écosystèmes marins vulnérables. M. Kingston a aussi souligné que l'OPANO appliquait des mesures de conservation et de gestion dans la zone de réglementation (c-à-d la ZHJN) ainsi que des mesures pour la mise en place de mécanismes appropriés pour assurer un SCS efficace
41. Au cours des discussions qui ont suivi, le Secrétaire de l'OPANO a informé les Membres de la COPACO des principaux attributs de la souveraineté des Membres et indiqué que des mesures de conservation et de gestion contraignantes étaient élaborées et adoptées pour la zone de réglementation, qui correspond à la ZHJN de la zone de la convention de l'OPANO.
42. La raison pour laquelle le choix s'est porté sur l'OPANO pour réaliser une étude de cas a également été expliquée. Plus que tout autre Organisme régional des pêches (ORP), cette ORGP a d'importants points communs avec la COPACO, dans la mesure où sa zone de la convention jouxte la zone de compétence géographique de la COPACO et où un certain nombre de Membres de la COPACO, à savoir les États-Unis d'Amérique, l'Union européenne et Cuba, sont aussi parties contractantes à l'OPANO. C'est un exemple d'ORGP réussie, établie depuis longtemps et avancée sur le plan juridique et institutionnel, notamment en ce qui concerne i) sa compétence sur une zone de réglementation et une zone de la convention incluant la ZEE, qui préserve les droits et la souveraineté des pays et ii) le rôle important de son Conseil scientifique.
43. Les Membres de la COPACO ont jugé intéressante la présentation faite par l'OPANO, en particulier l'approche d'application des MCG dans la zone de réglementation. En s'appuyant sur la discussion de l'OPANO, les Membres ont demandé au Secrétariat de préparer un schéma de la structure que pourrait avoir une nouvelle entité ou un nouvel arrangement a) qui aurait un rôle consultatif dans les domaines scientifique, du renforcement des capacités, du transfert de technologie et du SCS, et b) où des mesures de conservation et de gestion contraignantes pourraient être prises au niveau de la ZHJN, en conservant éventuellement la possibilité d'inclure la ZEE afin de conserver la souplesse requise pour gérer certains stocks ou espèces, comme cela est fait dans le cadre de la Convention OPANO. Les autres questions à prendre en compte seraient la lutte contre la pêche INDNR et des questions liées au commerce, comme les systèmes de traçabilité et de documentation des captures. Ce schéma est indiqué comme ci-dessous:
44. Les détails de l'arrangement devraient être précisés. L'entité/arrangement international(e) doit être conforme aux dispositions de la Convention des Nations Unies sur le droit de la mer et d'autres instruments internationaux des pêches pertinents.



45. Les membres de la COPACO présents à la réunion préparatoire ont adopté le bref résumé et les recommandations suivantes:

- Les membres de la COPACO ont recommandé de veiller à ce que l'éventuel(le) entité/arrangement international(e) qui serait établi(e) soit conforme aux dispositions de la Convention des Nations Unies sur le droit de la mer et d'autres instruments internationaux des pêches pertinents, et ne porte pas préjudice aux droits, juridictions et obligations des États découlant de la Convention.
- Les Membres de la COPACO ont indiqué qu'un(e) entité/arrangement régional(e) de gestion des pêches devrait être chargé des questions essentielles, notamment: les activités scientifiques, les systèmes d'information et de collecte des données, le transfert de technologie, le renforcement des capacités, les questions liées au commerce telles que la traçabilité des produits de la pêche et la certification des captures, les mesures de conservation et de gestion (MCG), la cogestion, le SCS, la lutte contre la pêche INDNR dans la région, et être suffisamment flexible pour répondre aux besoins émergents.
- Les Membres de la COPACO ont recommandé que l'entité/arrangement régional(e) de gestion des pêches conserve les objectifs généraux et les domaines thématiques de la COPACO.

- Les Membres de la COPACO ont recommandé d'établir une entité ou un arrangement régional des pêches qui définira une zone de la convention et une zone de réglementation dans la ZHJN où des mesures contraignantes peuvent être mises en œuvre, ces zones pouvant aussi inclure certains stocks chevauchants et transfrontaliers ou stocks de poissons grands migrateurs présents dans la ZEE sans préjudice des droits souverains des États Membres de la COPACO.
- Plusieurs membres de la COPACO ont indiqué que la faisabilité de l'établissement d'une entité ou d'un arrangement régional de gestion des pêches doté de pouvoirs réglementaires dans la ZHJN devrait faire l'objet d'un examen plus approfondi aux niveaux national et sous-régional. Ces Membres se sont déclarés disposés à évaluer cette faisabilité avant la deuxième réunion préparatoire, en pleine consultation avec les parties prenantes sur leurs options, leurs alternatives et leur conception de l'entité/arrangement proposé(e). Cette évaluation pourrait comprendre des analyses des stocks à couvrir.
- D'identifier ces membres qui conduiront cette étude de faisabilité d'établissement d'une entité régionale des pêches ou arrangement avec pouvoirs réglementaires dans la ZHJN
- Les Membres de la COPACO ont recommandé d'éviter les doubles emplois/chevauchements avec des stocks déjà couverts de façon adéquate par une autre entité ou arrangement.
- Les membres de la COPACO ont recommandé de continuer à renforcer la coopération régionale par le biais des ORP existants et des nombreuses initiatives prévues et en cours liées à la pêche, en particulier pour créer des synergies.

CLÔTURE DE LA RÉUNION PRÉPARATOIRE

46. La Secrétaire de la COPACO a prononcé l'allocation de clôture. Elle a exprimé sa satisfaction que les objectifs de la réunion aient été atteints, et que la réunion ait marqué un grand pas en avant dans le processus de réforme de la COPACO. Elle s'est félicitée en particulier de tous les débats constructifs et des opinions exprimées sur la direction du processus de réforme de la COPACO qui a débouché sur les recommandations. Elle a indiqué que le rapport résumé de la réunion serait prêt avant le 30 mai. Elle a remercié les participants, l'équipe de la FAO et en particulier Mme Sonya Thompson, l'adjointe au programme de la FAO. Elle a également remercié le Président pour sa contribution et ses talents de facilitateur.

47. La réunion préparatoire a été déclarée close le mardi 26 mars 2019, à 18h 15.

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INTRODUCCIÓN

1. La Comisión de Pesca para el Atlántico Centro Occidental (COPACO) es el más antiguo órgano regional de pesca (ORP) del Atlántico centro occidental, establecido en 1973 por la Resolución 4/61 del Consejo de la FAO en virtud del artículo VI (1) de la Constitución de la FAO. Los Estatutos de la COPACO fueron modificados por el Consejo de la FAO en su 74.^a reunión (diciembre de 1978) y en la 131.^a reunión (noviembre de 2006). El área de competencia de la COPACO abarca 18 millones de km², de los cuales el 51 por ciento corresponde a zonas fuera de la jurisdicción nacional (ABJN). El principal órgano rector de la COPACO es la Comisión, que está integrada por todos los miembros. El objetivo general de la COPACO es promover la efectiva conservación, gestión y desarrollo de los recursos vivos marinos en su área de competencia, de conformidad con el Código de conducta de la FAO para la pesca responsable, y tratar los problemas comunes de gestión y desarrollo de la pesca que afrontan los miembros de la Comisión.
2. En la región del Atlántico centro occidental, que también es llamada la región del Gran Caribe o área de pesca 31 de la FAO, la Comisión Internacional para la Conservación del Atún Atlántico (CICAA), que se ocupa de especies de atunes, tiburones y especies parecidas a los atunes, es la única OROP. Sin embargo, hay tres órganos consultivos regionales de pesca (ORP), incluido el Mecanismo Regional de Pesca del Caribe (CRFM), la Organización del Sector Pesquero y Acuícola del Istmo Centroamericano (OSPESCA) y la Comisión de Pesca para el Atlántico Centro-Occidental (COPACO). Los dos primeros están vinculados a las comisiones de cooperación económica regional (CARICOM y SICA) y el segundo está integrado en la estructura de la FAO.
3. Considerando que la producción pesquera de los años 80 en esta área fue de 2,4 millones de toneladas y que había disminuido a cerca de 1,5 millones de toneladas en 2016, y que las importaciones de pescado y productos pesqueros fueron valoradas en aproximadamente 20 mil millones de USD en 2011, es muy necesario mejorar la gestión de las pesquerías, garantizar una pesca sostenible y desarrollar el sector en la medida de lo posible. Aunque sería poco realista esperar un aumento de la producción a los niveles de los años 80, sería posible un incremento de la producción a 1,8 millones de toneladas, como lo demuestran los niveles de producción anteriores. La inversión en la gestión de pesquerías regionales reduciría la dependencia de las importaciones, que son en la actualidad del 30 por ciento al 40 por ciento del pescado que se consume en las islas del Caribe.
4. La pesca por parte de naciones que faenan en aguas distantes en una amplia zona de alta mar de la COPACO está afectando la disponibilidad de pescado (especialmente los recursos transzonales y especies pelágicas) en las zonas económicas exclusivas (ZEE) de los Estados miembros de la COPACO.
5. El proceso de reorientación de la COPACO ha supuesto dilatados debates en talleres y reuniones de la COPACO sobre la futura estructura jurídica que podría asumir la Comisión y sobre la reorientación de sus actividades:
 - *Iniciación de la reorientación estratégica (14.^a reunión de la COPACO, 2012).* Durante la 14.^a reunión de la COPACO (Panamá, febrero de 2012),²⁹ los miembros de esta aprobaron el programa de trabajo de la Comisión, que incluyó como componente 4 “llevar a cabo una reorientación estratégica de las funciones y el mandato de la Comisión”.
 - *Proceso de revisión del desempeño (2013-14).* La 30.^a reunión del COFI (Roma, julio de 2012) encargó a la FAO “iniciar revisiones del desempeño de los organismos regionales de pesca (ORP) bajo sus auspicios que no habían sido evaluados”. En respuesta, la Secretaría de la COPACO en la FAO y la Mesa de la Comisión organizaron y apoyaron la revisión del desempeño de la COPACO (desde octubre de 2013 a enero de 2014).

- La revisión del desempeño de la COPACO incluyó una encuesta basada en un cuestionario distribuido a más de 300 interesados en la región, en inglés, francés y español. Se recibió un total de 71 respuestas. De estas, 21 fueron presentadas por miembros de la COPACO, que representan el 64 por ciento de los 33 miembros. El proceso de reorientación era uno de los temas tratados en la encuesta. El análisis de las respuestas a la encuesta indicaron que: “La transformación en una organización regional de ordenación pesquera (OROP)⁷ aparece como la última prioridad de los miembros informantes (pero significativamente mayor para los no miembros), sin embargo la prioridad obtuvo una puntuación muy superior a la mitad, por lo que debería considerarse como una opción clara para su ulterior consideración por los miembros de la COPACO “.
 - *1er Taller de reorientación y planificación estratégica (2014)*. El 1er Taller de reorientación y planificación estratégica de la COPACO, celebrado en Guadalupe en septiembre de 2014, examinó los resultados preliminares de la revisión del desempeño de la COPACO y las opciones para la mejora de la Comisión y la reorientación estratégica. El Taller recomendó a la 15.ª reunión de la COPACO determinar si hay apoyo para el establecimiento de una organización regional de ordenación pesquera (OROP) en la región y pedir (si procede) que la FAO participe con los Estados miembros en el proceso de transición de la COPACO desde órgano asesor de acuerdo con el Artículo VI de la FAO a OROP de conformidad con el Artículo XIV de la FAO, si la Comisión decidiera seguir ese camino.
 - *15.ª reunión de la COPACO (2014)*. Durante la 15.ª reunión de la COPACO (Trinidad y Tobago, marzo de 2014), los delegados asistentes no fueron autorizados por sus gobiernos para tomar una decisión sobre la posible transformación de la COPACO. “*Después de un amplio debate, en el que aspectos de los costos y la participación de los interesados fueron los temas principales, se llegó a la conclusión de que la COPACO debería seguir siendo un órgano asesor de acuerdo con el Artículo VI en el futuro inmediato*”. La Comisión aprobó como medio hacia una evaluación independiente costo-beneficio propuesta por la Unión Europea.
 - *2º Taller sobre reorientación estratégica (2015)*. En el 2º Taller sobre reorientación estratégica, celebrado en Trinidad y Tobago en diciembre de 2015,³⁵ las delegaciones de los 25 miembros de la Comisión “vieron el valor de proceder hacia una OROP, pero algunos participantes advirtieron que el proceso podría ser lento y que incluso una OROP necesitaría algunos años para dejar un impacto en las poblaciones de peces y la producción pesquera”. El taller también reconoció que “el éxito de una OROP dependerá de la capacidad de los miembros para imprimir resultados positivos en las poblaciones de peces y las capturas. Los resultados dependerán de cuestiones tales como la disponibilidad de información científica precisa, una eficaz estructura de toma de decisiones y la capacidad de sus miembros para adoptar y aplicar las medidas adecuadas. En este sentido, sería útil más análisis de los problemas más comunes y cómo pudieran tratarse”. Los participantes del taller también observaron que “[l]as ORP subregionales existentes (CRFM y OSPESCA) deben ser elementos esenciales de una OROP y como tales deberán estar integradas en su estructura de gobierno”.
6. En el taller de la 16.ª reunión de la COPACO (celebrado en Guadalupe, 20-24 de junio), al que asistieron 28 miembros, la Comisión acordó poner en marcha un proceso para establecer una OROP y aclarar las cuestiones en relación con *el área de competencia, las poblaciones que se cubrirían, las consecuencias presupuestarias para los miembros, la estructura institucional, la composición,*

⁷ Una OROP es un organismo o acuerdo regional intergubernamental de pesca con autoridad para establecer medidas de conservación y ordenación vinculantes (Gilman *et al.* 2014). Algunas OROP gestionan todas las poblaciones de peces que hay en un área determinada, por ejemplo, la CGPM, mientras que otras se centran en determinadas especies altamente migratorias, por ejemplo, la Comisión del Atún para el Océano Índico (IOTC).

los procesos de toma de decisiones, aspectos de la soberanía nacional, sus objetivos y otras cuestiones pertinentes que los miembros tal vez desearan considerar.

7. Durante 2016 - 2017, la COPACO envió dos cartas a sus miembros y socios tratando de expresar sus opiniones sobre la reorientación estratégica de la COPACO. La primera carta, de fecha 20 de mayo de 2016, preguntaba acerca de la creación de una OROP, las áreas y las poblaciones que se cubrirían y la condición jurídica. La segunda carta, de fecha 14 de julio de 2017, planteaba a los miembros y asociados preguntas para responder en el proceso de establecimiento de la OROP.
8. En octubre de 2018 un documento de debate, encargada a finales de 2017, fue terminado para que los miembros de la Comisión siguieran avanzando sobre las conclusiones y recomendaciones de los diversos estudios elaborados anteriormente, para tener en cuenta las opiniones solicitadas a los miembros y asociados en respuesta a las cartas de 2016 y 2017, y ayudar a los miembros de la COPACO en el proceso de creación de una OROP. Este documento de debate se distribuyó a los miembros para su revisión y para recoger observaciones, que se recibieron antes de la reunión preparatoria directamente en el documento, en el Anexo C, o en comunicados independientes que aparecen en el Anexo D.
9. En enero de 2018, anticipándose al 1^{er} taller preparatorio y para complementar el documento de debate, se preparó un documento de orientación en el que se analizaron los principales temas sustantivos⁸ para abordar al considerar las opciones institucionales (véase el Anexo E).
10. Los objetivos de la Primera Reunión Preparatoria de la COPACO para la transformación en una organización regional de ordenación pesquera (OROP) fueron dos:

ASISTENCIA

11. Asistieron a la reunión los siguientes 20 miembros de la COPACO: Antigua y Barbuda, Barbados, Belice, Cuba, Dominica, Unión Europea (Organización Miembro), Francia, Guatemala, Guiana, Haití, Jamaica, Países Bajos, Nicaragua, Panamá, Saint Kitts y Nevis, Santa Lucía, San Vicente y las Granadinas, Surinam, Trinidad y Tobago, Estados Unidos de América. Las organizaciones internacionales que participaron en el taller fueron: Instituto de Recursos Naturales del Caribe (CANARI), Centro de Ordenación de Recursos y Estudios sobre el Medio Ambiente (CERMES), Mecanismo Regional de Pesca del Caribe (CRFM), Red Caribeña de Organizaciones de Pescadores Artesanales (CNFO), Caribe y Norte de Brasil Estandarización Grandes Ecosistemas Marinos (CLME+), la Comisión Internacional para la Conservación del Atún Atlántico (ICCAT), la Organización de Pesquerías del Atlántico Noroeste (NAFO), la Organización de la pesca y la acuicultura del Istmo Centroamericano (OSPESCA), Comisión del Mar Sargasso. La lista completa de los 45 participantes figura en el Anexo B.

APERTURA DEL TALLER

12. El taller se celebró en Bridgetown, Barbados, y el Ministerio de Asuntos Marítimos y Economía Azul del Gobierno de la República de Barbados proporcionó amablemente la sede. En nombre del Gobierno, el Secretario Permanente, Sr. Esworth Reid, amablemente acogió la Reunión Preparatoria, y reconoció el apoyo generoso de la Unión Europea (organización miembro) y la Organización de las Naciones Unidas para la Alimentación y la Agricultura (FAO), e inauguró oficialmente el taller. También pronunciaron palabras de bienvenida la Sra. Vyjayanthi Lopez, la Coordinadora Subregional de la FAO Sub-coordinador regional interino de la Oficina regional de la Oficina subregional de la FAO para el Caribe (Bridgetown, Barbados) y el Sr. Piero Mannini,

⁸ The term “themes” is used here to refer to the critical issues the Members of the Commission need to resolve before deciding on its formal structure. These themes reflect the experience of a number of Regional Fisheries Bodies (RFB).

Oficial superior de enlace, en nombre del Subdirector General del Departamento de Pesca y Acuicultura de la FAO (Roma, Italia). La Sra. Yvette Diei Ouadi, Oficial de Pesca y Acuicultura de la FAO y Secretaria de la COPACO, quien dio la bienvenida y agradeció a los participantes por su asistencia.

ELECCIÓN DEL PRESIDENTE Y DOS VICEPRESIDENTES

13. Si bien el tema no era parte de la agenda (Anexo A), la Secretaria de la COPACO indicó que la reunión preparatoria elegiría un presidente y dos vicepresidentes. Observando que se trataba de una reunión técnica, la Secretaria de la COPACO propuso al Sr. Patrick McConney, Director del Centro para la Gestión de los Recursos y Estudios Ambientales (CERMES), como Presidente. La Secretaria de la COPACO señaló la participación técnica del Sr. McConney en la preparación de esta reunión, su anterior colaboración en el proceso de reorientación de la COPACO, su neutralidad y la confianza que merece en la región.
14. El Sr. Marc Williams, Director de Recursos Marinos, Departamento de Recursos Marinos de San Kitts y Nevis, y el Sr. Carlos F. Marin Arriola, Director de la Dirección de Normativa de la Pesca y Acuicultura, Ministerio de Agricultura, Ganadería y Alimentación, de Guatemala, fueron propuestos como vicepresidentes. Todos los miembros de la COPACO presentes en la reunión aprobaron por unanimidad la elección del Presidente y de los dos Vicepresidentes.
15. Estos oficiales recibieron el apoyo de un equipo de relatores de la Secretaría de la FAO: La Sra. Yvette Diei Ouadi, Secretaria de la COPACO, Sr. Jeremy Mendoza y Sr. Terrence Phillips, coordinadores de proyectos regionales, el Sr. Piero Mannini Oficial superior de enlace y la Sra. Annick VanHoutte, Oficial jurídico superior.

APROBACIÓN DEL PROGRAMA Y ORGANIZACIÓN DE LA REUNIÓN

16. El Presidente abrió el debate para la aprobación del programa. Los miembros de la COPACO acordaron suprimir el tema 17 del programa correspondiente a la presentación y debate de un proyecto de convenio o acuerdo para establecer una OROP. Los Miembros señalaron que sería prematuro debatir el texto de un convenio o acuerdo antes de aclarar las cuestiones que se tratarían en la reunión preparatoria.
17. Varios miembros de la COPACO consideraron que sí era apropiado debatir, dentro del proceso de reorientación de la COPACO, la posibilidad de que esta Comisión siguiera siendo el órgano consultivo fortalecido creado en virtud del Artículo VI de la Constitución de la FAO (en adelante “Artículo VI”).
18. Algunos miembros de la COPACO también propusieron incluir como nuevo tema del programa una “hoja de ruta” para el proceso de reorientación.

INFORMACIÓN GENERAL Y OBJETIVOS DE LA REUNIÓN

19. La Sra. Diei-Ouadi hizo una breve presentación de los antecedentes y objetivos de la reunión preparatoria, recordando que la reorientación estratégica de la COPACO se había iniciado a petición de los miembros de esta Comisión en la 14.^a reunión de la misma. Destacó la oportunidad que ofrecía la reunión para aclarar las cuestiones fundamentales que quedaban por tratar, así como la necesidad de avanzar hacia la transformación de la COPACO en forma práctica y pragmática.
20. En cuanto a la función de los observadores en la reunión, se señaló que sin duda aportarían valiosos conocimientos y experiencia al debate, pero se daría prioridad a las intervenciones de los miembros de la COPACO. De esta manera, el Presidente señaló que, de conformidad con el protocolo y las

normas de la FAO, los miembros de la COPACO podrían hacer primero sus declaraciones, seguidos por los observadores.

PRESENTACIONES Y DEBATE

21. La reunión continuó con un debate general sobre el “*Documento de debate en apoyo al proceso de reorientación estratégica de la COPACO*” (el “Documento de debate”).
22. La mayoría de Los miembros del Mecanismo Regional de Pesca del Caribe (CRFM) indicaron que no tenían conocimiento de un acuerdo explícito de avanzar hacia el establecimiento de una OROP y observaron que los países del CRFM no se habían comprometido a la formación de una OROP.
23. La Secretaria de la COPACO observó que el párrafo 55 del informe de la 16.^a reunión de la COPACO indicaba el acuerdo de los miembros de la COPACO de: “*Iniciar un proceso para establecer una organización regional de ordenación pesquera (OROP) y aclarar cuestiones en relación con el área de competencia, las poblaciones que se cubrirían, las consecuencias presupuestarias para los miembros, la estructura institucional, la composición, los procesos de toma de decisiones, aspectos de la soberanía nacional, sus objetivos y otras cuestiones pertinentes que los miembros tal vez deseen considerar*” y que esta reunión se había convocado a tal efecto.
24. Los miembros del CRFM señalaron que en el caso de crearse una OROP en el área de competencia de la COPACO esta podría ocuparse de los recursos de las zonas no pertenecientes a jurisdicción nacional, a la vez que los miembros de la COPACO mantendrían el control de los recursos en sus respectivas zonas económicas exclusivas (ZEE). Además destacaron, como se mencionó en el párrafo 56 del informe de la 16.^a reunión de la COPACO, que “*tal OROP no reemplazaría las ORP en este proceso*”, y reafirmaron la posibilidad de considerar el fortalecimiento de la COPACO como órgano del Artículo VI, junto con las otras ORP. Se destacó que para que la reorientación tuviera éxito y fuera sostenible tenía que ser un proceso impulsado por los países.
25. Se formularon observaciones respecto a la importancia de introducir el enfoque ecosistémico de la pesca (EEP) y una gestión conjunta como elementos indispensables para la gestión pesquera en la región, particularmente en relación con la pesca en pequeña escala. La participación de las partes interesadas y la información para impulsar la gestión, incluidos los conocimientos ecológicos tradicionales de los pescadores, son críticas lagunas que quedan por zanjar a fin de lograr una mejor participación de los pescadores y obtener su apoyo para la creación de una posible OROP.

OBJETIVOS Y FUNCIONES

26. La Sra. Cristina Leria, consultora internacional de la FAO en materia de derecho pesquero, presentó las cuestiones sustantivas resueltas por los miembros de la COPACO en el examen de opciones institucionales. La presentación se centró en los objetivos y funciones de la Comisión⁹ y formuló tres preguntas fundamentales: si la Comisión debería desempeñar una función científica, si la Comisión tendrá el mandato de expedir medidas de conservación y gestión (MCG) y qué función desempeñará la Comisión en materia de seguimiento, control y vigilancia (SCV).
27. El delegado de los Estados Unidos de América (EE.UU.) indicó que las OROP de cada región son diferentes en lo que se refiere al marco, la participación, la financiación, etc. Sin embargo, conceptualmente las OROP cumplen tres funciones básicas, a saber: conocimiento científico de los recursos, MCG y cumplimiento. Tanto los delegados de los EE.UU. como los de Jamaica coincidieron en la necesidad de que los miembros de la COPACO decidieran los elementos decisivos de la entidad u organización que fuera a establecerse y decidieran cuál era la mejor opción para los miembros de la COPACO, sin influencia externa.

⁹ El término “Comisión” se ha utilizado aquí para referirse a una OROP o cualquier otra entidad / acuerdo.

28. Los miembros de la COPACO coincidieron en que hay limitaciones en la recopilación de datos en la región y que hay una clara necesidad de obtener datos de las poblaciones y otra información pertinente para tomar decisiones de gestión adecuadas en materia de pesca. El delegado de Francia destacó la importancia de la evaluación científica de los recursos pesqueros a fin de avanzar en la armonización de la gestión de esos recursos pesqueros.
29. También se afirmó que las especies y los grupos de trabajo temáticos (actualmente la COPACO tiene 11 grupos de trabajo conjuntos) deben participar en la elaboración de conocimiento científico, pero que estos grupos necesitaban recursos para llevar a cabo sus tareas. Cualquier investigación de este tipo debería tener en cuenta los trabajos realizados al amparo de otros acuerdos, como el de los Grandes ecosistemas marinos del Caribe y la plataforma del norte del Brasil + Programa de Acción Estratégico (CLME+Programa). Se facilitó a los participantes una breve introducción al CLME+Programa, que se está ejecutando en las ZEE, y sus esfuerzos para establecer un mecanismo permanente de coordinación (MPC), y se convino en que este proceso debería tomarse en cuenta en el proceso de reorientación.
30. Los miembros de la COPACO convinieron en la importancia de incluir entre las funciones de la entidad o acuerdo que tenga el mandato aumentar la creación de capacidad en la región, lo que se aplicaría tanto a las organizaciones del Estado como a las partes interesadas no estatales. En relación con los pequeños Estados insulares en desarrollo (PEID), esta función podría incluir creación de capacidad para utilizar los recursos en la zona situada fuera de la jurisdicción nacional, lo que requeriría la transferencia de tecnología desde los países desarrollados a fin de garantizar la equidad en el acceso a los recursos.
31. Los miembros de la COPACO convinieron en que a la hora de decidir sobre las MCG no todas las especies requieren gestión, y que había que establecer prioridades y procedimientos que respeten los derechos soberanos de los miembros de la COPACO.
32. Los miembros de la COPACO consideraron además que el proceso de transformación de la COPACO contribuiría a mejorar el cumplimiento en la lucha contra la pesca ilegal, no declarada y no reglamentada (INDNR), así como a fortalecer el seguimiento, control y vigilancia (SCV) en la región. De hecho, la Unión Europea señaló que una OROP puede ser un poderoso instrumento en la lucha contra la pesca INDNR, pero que esto requeriría también que los elementos clave se reflejen en el marco jurídico e institucional nacional de los miembros de la COPACO.
33. En el caso de la pesca INDNR, los miembros de la COPACO observaron que ningún país puede luchar solo contra ella. El delegado de Jamaica señaló también que es necesario que la gestión de la pesca cubra la totalidad de la cadena de valor. Los problemas comunes, como la pesca INDNR, las restricciones al comercio y la comercialización y el cambio climático podrían tratarse en el contexto de una COPACO reformada.

ÁMBITO DE APLICACIÓN

34. La Sra. Cristina Leria, consultora internacional de la FAO en materia de derecho pesquero, expuso las cuestiones relativas al ámbito de aplicación de la Comisión y qué poblaciones deben quedar dentro de su mandato, y presentó ejemplos de cómo lo han tratado otras OROP. Una decisión importante es si se debe incluir una disposición general relativa a “*todos los recursos pesqueros del área de competencia de la Comisión*” o a poblaciones específicas, como las poblaciones de peces transzonales, especies de aguas profundas, y las especies altamente migratorias que no están cubiertas en el mandato de la CICAA, así como algunas de las poblaciones transfronterizas como los tiburones, el cobo rosado, la langosta, los camarones y los delfines.

35. El Sr. Piero Mannini, Oficial Superior de Enlace de la FAO, presentó el concepto de poblaciones compartidas e informó a la reunión de algunos resultados de una encuesta reciente realizada por la FAO sobre el funcionamiento y mandato de las OROP, según la cual numerosas OROP han establecido que su área del convenio comprenda la zona situada fuera de la jurisdicción nacional como área de regulación y las aguas de la ZEE/aguas territoriales como área de asesoramiento.
36. El delegado de los Países Bajos cuestionó la idea de centrarse en “alta mar” haciendo notar que allí no hay pesquerías, por lo que no se beneficiaría a los pescadores. Se recomendó centrar el debate en las especies de importancia económica, y que se evalúen las poblaciones de las mismas.
37. A partir de los subsiguientes debates se expresó un acuerdo general entre los miembros presentes de la COPACO respecto a la creación de una entidad o acuerdo con mandato en la zona situada fuera de la jurisdicción nacional, y algunos miembros estaban dispuestos a considerar la posibilidad de ampliar el mandato a las poblaciones de la ZEE de los Estados costeros interesados. Se convino en la necesidad de que se lleve a cabo un análisis costo-beneficio a nivel nacional.
38. Los miembros de la COPACO convinieron en los enfoques de corto, mediano y largo plazo, comenzando con el de la zona situada fuera de la jurisdicción nacional, donde pueden aplicarse medidas vinculantes y, quizás también, incluir una selección de poblaciones transfronterizas y transzonales o poblaciones de peces altamente migratorios dentro de la ZEE, sin perjuicio para los derechos soberanos de los miembros de la COPACO.

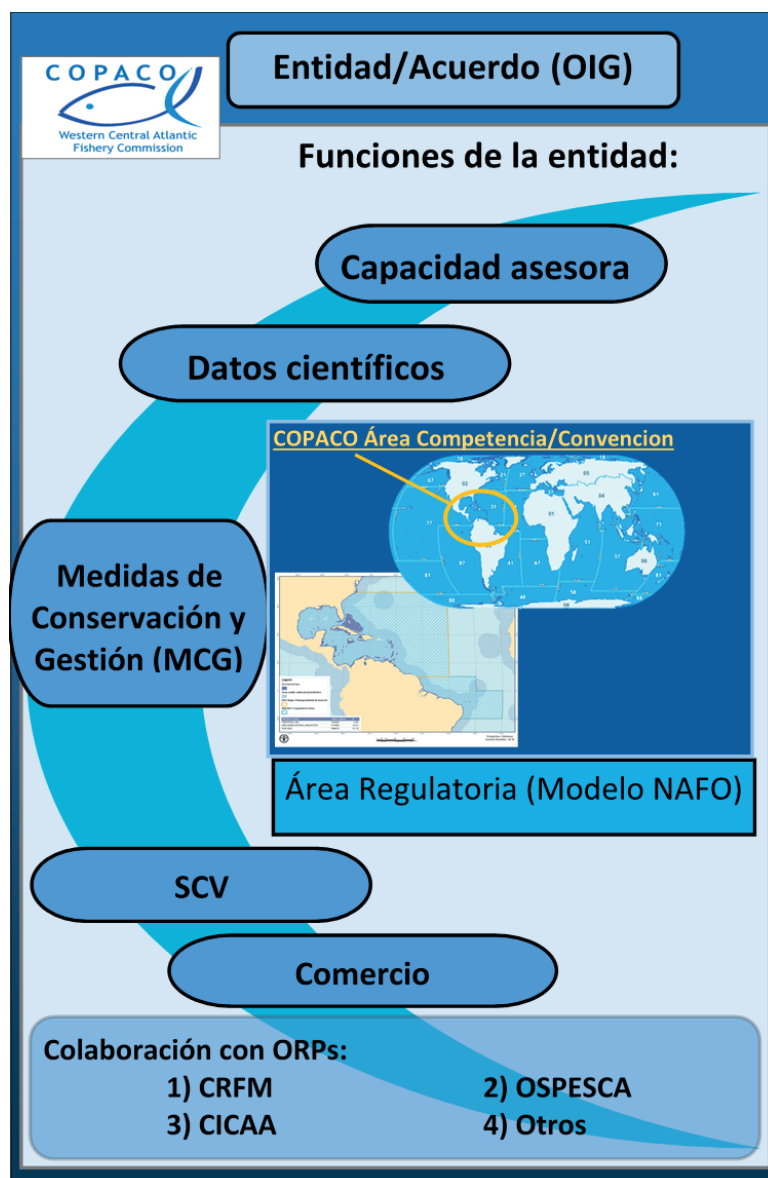
UNA OROP DE ACUERDO AL ARTÍCULO XIV DE LA CONSTITUCIÓN DE LA FAO O UNA OIG INDEPENDIENTE BENEFICIOS Y RIESGOS

39. La Sra. Annick Van Houtte, Oficial Jurídico Superior de la FAO, expuso ante la reunión sobre el marco institucional, jurídico y administrativo los beneficios y los riesgos de una OROP en virtud del Artículo XIV de la Constitución de la FAO a diferencia de una OIG independiente. Su presentación se basó principalmente en la información disponible en el documento de debate, en los cuadros 11 y 12.

EXPERIENCIA DE LA ORGANIZACIÓN DE PESQUERÍAS DEL ATLÁNTICO NOROESTE (NAFO)

40. El Sr. Fred Kingston, Secretario Ejecutivo de la NAFO, presentó un panorama general de esta organización, así como las partes contratantes de la NAFO, las competencias, estructura, presupuesto y el proceso de toma de decisiones. La presentación se centró entonces en el marco del enfoque ecosistémico de la NAFO para la gestión pesquera, que comprende la “hoja de ruta” de la organización y medidas, que incluyen medidas de gestión basadas en la zona, para proteger los ecosistemas marinos vulnerables y los montes submarinos. El Sr. Kingston destacó también la aplicación por la NAFO de MCG en la zona de regulación (es decir, la zona situada fuera de la jurisdicción nacional) así como medidas de mecanismos adecuados para un eficaz SCV.
41. En los subsiguientes debates el Secretario de la NAFO informó a los miembros de la COPACO sobre los atributos fundamentales de la soberanía de los miembros, y que se elaboran y adoptan medidas vinculantes de MCG para el área de regulación, que corresponde a la zona situada fuera del área de la convención situada fuera de la jurisdicción nacional de la NAFO.
42. La lógica de la selección de la NAFO como estudio de caso informativo también se explicó. Más que cualquier otra ORP, esta OROP comparte importantes semejanzas con la COPACO, ya que los límites de su área de competencia colindan con el área geográfica de la COPACO, y algunos miembros de la COPACO también son partes contratantes de la NAFO, a saber: los EE.UU., la Unión Europea y Cuba. Es un ejemplo de OROP con éxito y establecida desde hace mucho tiempo, es avanzada desde un punto de vista jurídico e institucional y destaca en particular respecto a:

- (i) su competencia sobre una zona de regulación y un área del convenio que incluye la ZEE, que salvaguarda los derechos y la soberanía de los países y (ii) por la importante función que desempeña su Consejo Científico.
43. Los miembros de la COPACO consideraron de utilidad la presentación de la NAFO y, sobre todo, el enfoque para la aplicación de las MCG en el área de regulación. A partir del debate de la NAFO, los miembros pidieron a la Secretaría que preparara un esquema de la posible estructura de una nueva entidad o acuerdo, que: (a) tuviera una función de asesoramiento científico, creación de capacidad, transferencia de tecnología y SCV y (b) en el que se pudieran tomar decisiones vinculantes en materia de MCG respecto a la zona situada fuera de la jurisdicción nacional, con la posibilidad de conservar la opción de incorporar la ZEE, a fin de mantener flexibilidad para determinadas poblaciones o especies, como se procede de conformidad con la Convención de la NAFO. Otros aspectos que deberán incluirse sería la lucha contra la pesca INDNR y cuestiones comerciales, como la trazabilidad y regímenes de documentación de las capturas. La figura siguiente es un intento de reflejar el marco general de esta entidad o acuerdo:
44. Será necesario definir los detalles del acuerdo. La entidad o acuerdo deberá estar en consonancia con la Convención de las Naciones Unidas sobre el Derecho del Mar y otros instrumentos internacionales de pesca pertinentes.



45. Los Miembros de la COPACO en la 1.^a Reunión Preparatoria adoptó el breve resumen y las siguientes recomendaciones:

- Los Miembros de la COPACO recomendaron que cualquier entidad/acuerdo que pueda establecerse debe ser consistente con la Convención de la Naciones Unidas sobre el Derecho del Mar y otros instrumentos internacionales relevantes en el ámbito de la pesca. Y que no deben ir en detrimento de los derechos, jurisdicciones y obligaciones de los estados bajo la Convención.
- Los Miembros de la COPACO recomendaron que una entidad/acuerdo regional de gestión de los recursos pesqueros debe abordar temas centrales como: funciones científicas, sistemas de información y colecta de datos, transferencia tecnológica, el fomento de capacidades, asuntos relativos al comercio como la trazabilidad y la certificación de capturas de productos pesqueros, medidas de conservación y manejo (MCM), co-manejo, SCV, la lucha contra la pesca INDNR en la región, si bien manteniendo la flexibilidad para responder a necesidades nuevas y emergentes.
- Los Miembros de la COPACO recomiendan que la entidad/acuerdo regional de gestión pesquera debe retener los objetivos amplios y las áreas temáticas de la COPACO.

- Los miembros de la COPACO recomendaron establecer una entidad o acuerdo regional de gestión pesquera que definirá un área de la convención y un área regulatoria en la ABNJ donde puedan implementarse medidas vinculantes, y que estas puedan también incluir especies transzonales y transfronterizas seleccionadas, o especies altamente migratorias dentro la ZEE, sin detrimento de los derechos soberanos de los Miembros de la COPACO.
- Varios Miembros de la COPACO indicaron que la factibilidad de establecer una entidad o acuerdo regional de gestión pesquera en la ABNJ debería ser evaluada con mayor detenimiento a nivel nacional y subregional. Estos Miembros indicaron su voluntad de emprender la evaluación de tal factibilidad en consulta plena con las partes interesadas en cuanto a las opciones, alternativas y diseño de la entidad/acuerdo propuesto antes de la segunda reunión preparatoria. Esto puede incluir el análisis de las especies a ser consideradas.
- Identificar aquellos miembros que conduzcan los estudios de factibilidad para el establecimiento de la entidad o acuerdo regional de gestión pesquera con poderes regulatorios en la ABNJ
- Los Miembros de la COPACO recomendaron que la duplicación/solapamiento con especies ya cubiertas adecuadamente por cualquier otra entidad/acuerdo debería evitarse.
- Los miembros de la COPACO recomendaron que la cooperación regional debe continuar a reforzarse a través de los ORP existentes y las diversas iniciativas relacionadas con la pesca en curso y planificadas.

CLAUSURA DE LA REUNIÓN PREPARATORIA

46. La Secretaria de la COPACO formuló las observaciones finales. Expresó su satisfacción por el cumplimiento de los objetivos de la reunión y que esta había sido un importante paso adelante en el proceso de reforma de la COPACO. También manifestó su especial satisfacción por todo el debate y las opiniones constructivas expresadas acerca de la dirección del proceso de reforma de la COPACO, lo que condujo a la formulación de las recomendaciones. Mencionó que el informe resumido de la reunión debería estar listo antes del plazo del 30 de mayo. Agradeció a los participantes, el equipo de la FAO y, en particular, a la Sra. Sonya Thompson, Asistente del Programa de la FAO. Asimismo, agradeció al Presidente por su contribución y facilitación.

47. La reunión preparatoria fue clausurada el martes 26 de marzo de 2019 a las 18:15 horas.

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ANNEX A – AGENDA

DAY 1: 25 March 2019

Morning session

- 08.30 Registration of participants
- 09.00 1. Opening of the Workshop
- 09.15 2. Introduction of delegates
- 09.30 3. Election of the Chairperson & Adoption of the agenda and arrangements for the Workshop
- 09.35 4. Background and objectives of the Workshop
Yvette Diei Ouadi, WECAFC Secretariat
- 10.00 5. General overview of the Discussion paper in support of the WECAFC Strategic Reorientation Process with specific focus on the objectives of the RFMO
Annick VanHoutte, FAO Senior Legal Officer
Piero Mannini, Senior Liaison Officer

10.30 Break & Group photo

- 11.00 6. Perspective from WECAFC Member countries: Objectives of the RFMO
- 12.00 7. Feedback from partners/Observers: Objectives of the RFMO
- 12.30 8. Geographic area of competence and Stock coverage
Annick VanHoutte, FAO Senior Legal Officer
Piero Mannini, Senior Liaison Officer

13.00 Lunch Break

Afternoon session

- 14.00 9. Perspective from WECAFC Member States: Geographic area of competence and Stock coverage
- #### 15.30 Coffee Break
- 16.00 10. Feedback from partners/Observers
- 16.30 11. Recommendations to the 17th session of WECAFC17
- 17.00 End of the first day of the meeting
- 17.15 Return by bus to the hotel

DAY 2: 26 March 2019

Morning session

- 08.30 Reflection/Summary on Day 1 deliberations
- 08.45 12. A RFMO under Art. XIV of the FAO Constitution versus an independent IGO: Institutional, Political, Social, Economic and Environmental and administrative Benefits and Risks
Annick VanHoutte, FAO Senior Legal Officer
Piero Mannini, Senior Liaison Officer
- 09.15 13. Benefits and Risks of a RFMO under Art. XIV of the FAO Constitution versus an independent IGO: Experience from 2 RFMOs
- 09.45 14. A RFMO under Art. XIV of the FAO Constitution versus an independent IGO: Preference of the WECAFC Member countries

10.30 Break

- 11.00 15. RECOMMENDATIONS TO WECAFC 17

- 11.30 16. Draft Convention and Agreement
International Fisheries Legal Expert
- 12.00 17. Plenary discussion and recommendations

13.00 Lunch Break

Afternoon session

- 14.00 18. Draft Rules of Procedures; Financial Regulations, including the scheme and scale of contributions to the budget of the autonomous RFMO, to be adopted after its entry into force; 1st Programme of Work of the RFMO; and proposals for establishment of sub-commissions or other subsidiary bodies
International Fisheries Legal Expert
- 14.30 19. Plenary discussion and recommendations

15.30 Break

- 16.00 20. Adoption of the summary report
- 17.00 21. Closing ceremony
- 17.15 Return by bus to the hotel

ANNEXE A – ORDRE DU JOUR

PREMIER JOUR: 25 mars 2019

Matin:

- 08h30 Enregistrement des participants
- 09h00 1. Ouverture de l'Atelier
- 09h15 2. Présentation des délégués
- 09h30 3. Élection du président &
Adoption de l'ordre du jour et organisation de l'Atelier
- 09h35 4. Contexte et objectifs de l'Atelier
Yvette Diei Ouadi, Secrétariat de la COPACO
- 10h00 5. Aperçu général du Document de travail à l'appui du processus de réorientation
stratégique de la COPACO, centré en particulier sur les objectifs de l'ORGP
Annick VanHoutte, Juriste principale, FAO
Piero Mannini, Fonctionnaire principal chargé de liaison

10h30 Pause & Photo de groupe

- 11h00 6. Points de vue des États Membres de la COPACO : Objectifs de l'ORGP
- 12h00 7. Retours d'information des partenaires/observateurs: Objectifs de l'ORGP
- 12h30 8. Zone géographique de compétence et couverture des stocks
Annick VanHoutte, Juriste principale, FAO
Piero Mannini, Fonctionnaire principal chargé de liaison

13h00 Pause déjeuner

Après-midi:

- 14h00 9. Points de vue des États Membres de la COPACO: Zone géographique de compétence
et couverture des stocks

15h30 Pause café

- 16h00 10. Retours d'information des partenaires/observateurs
- 16h30 11. Recommandations pour la dix-septième session de la COPACO
- 17h00 Fin de la première journée
- 17h15 Retour à l'hôtel en autobus

DEUXIÈME JOUR: 26 mars 2019

Matin:

- 08h30 Réflexion/Résumé sur les délibérations du premier jour
- 08h45 12. Une ORGP relevant de l'article XIV de l'Acte constitutif de la FAO, ou une OIG
indépendante: Avantages et risques institutionnels, politiques, sociaux, économiques,
environnementaux et administratifs
Annick VanHoutte, Juriste principale, FAO
Piero Mannini, Fonctionnaire principal chargé de liaison
- 09h15 13. Avantages et risques associés à une ORGP relevant de l'article XIV de l'Acte
constitutif de la FAO, ou à une OIG indépendante : Expérience de 2 ORGP

09h45 14. Une ORGP relevant de l'article XIV de l'Acte constitutif de la FAO, ou une OIG indépendante: Préférence des États Membres de la COPACO

10h30 Pause

11h00 15. RECOMMANDATIONS POUR LA DIX-SEPTIÈME SESSION DE LA COPACO

11h30 16. Projet de Convention et d'Accord
Expert juridique international en matière de pêche

12h00 17. Débat et recommandations en séance plénière

13h00 Pause déjeuner

Après-midi:

14h00 18. Projet de Règlement intérieur et de Règlement financier, notamment régime et barème des contributions au budget autonome de l'ORGP devant être adoptés après son entrée en vigueur; premier programme de travail de l'ORGP; et propositions en vue de l'établissement de sous-commissions ou d'autres organes subsidiaires
Expert juridique international en matière de pêche

14h30 19. Débat et recommandations en séance plénière

15h30 Pause

16h00 20. Adoption du rapport succinct

17h00 21. Cérémonie de clôture

17h15 Retour à l'hôtel en autobus

ANEXO A – PROGRAMA

DIA 1: 25 de Marzo 2019

Sesión de la mañana

- 08.30 Registro de participantes
- 09.00 1. Apertura del Taller
- 09.15 2. Presentación de los delegados
- 09.30 3. Elección de Presidente & Adopción de la agenda y disposiciones para el Taller
- 09.35 4. Antecedentes y objetivos del Taller
Yvette Diei Ouadi, Secretaria de la COPACO
- 10.00 5. Revisión General del Documento de Discusión en apoyo al Proceso de Reorientación Estratégica de la COPACO con enfoque específico en los objetivos de la OROP.
Annick VanHoutte, Oficial Superior Jurídico de la FAO
Piero Manini, Oficial Superior de Enlace de la FAO

10.30 Descanso & Fotografía del Grupo

- 11.00 6. Perspectiva de los países Miembros de la COPACO: Objetivos de la OROP
- 12.00 7. Retroalimentación de los aliados /Observadores: Objetivos de la OROP
- 12.30 8. Área geográfica de competencia y cobertura de las poblaciones
Annick VanHoutte, Oficial Superior Jurídico de la FAO
Piero Manini, Oficial Superior de Enlace de la FAO

13.00 Descanso para Almuerzo

Sesión de la Tarde

- 14.00 9. Perspectiva de los Estados Miembros de la COPACO: area geográfica de competencia y cobertura de las poblaciones

15.30 Descanso para cafe

- 16.00 10. Retroalimentación de los aliados/Observadores
- 16.30 11. Recomendaciones de la 17ª sesión de la COPACO17
- 17.00 Fin del primer día de la reunión
- 17.15 Retorno en bus al hotel

DIA 2: 26 de Marzo 2019

Sesión de la mañana

- 08.30 Reflexión/Resumen de las deliberaciones del Día 1
- 08.45 12. Una OROP bajo el Art. XIV de la Constitución de la FAO en comparación con una OIG independiente: Beneficios y Riesgos Institucionales, Políticos, Sociales, Económicos y Ambientales, y Administrativos
Annick VanHoutte, Oficial Superior Jurídico de la FAO
Piero Manini, Oficial Superior de Enlace de la FAO
- 09.15 13. Beneficios y Riesgos de una OROP bajo el Art. XIV de la Constitución de la FAO en comparación con una OIG independiente: Experiencia de 2 OROPs

- 09.45 14. Una OROP bajo el Art. XIV de la Constitución de la FAO en comparación con una OIG independiente: Preferencia de los países Miembros de la COPACO

10.30 Descanso

- 11.00 15. RECOMENDACIONES A LA COPACO 17

- 11.30 16. Borrador de la Convención y del Acuerdo
Experto de Pesca Internacional Jurídico

- 12.00 17. Discusión Plenaria y recomendaciones

13.00 Descanso para almuerzo

Sesión de la tarde

- 14.00 18. Borrador de los Reglamentos y los Procedimientos; Regulaciones financieras, incluyendo el esquema y la escala de contribuciones del presupuesto de la OROP, para ser adoptado posterior a su entrada en vigencia; 1^{er} Programa de Trabajo de la OROP; y propuestas para el establecimiento de las sub-comisiones u otros organismos subsidiarios

Experto de Pesca Internacional Jurídico

- 14.30 19. Discusión Plenaria y recomendaciones

15.30 Descanso

- 16.00 20. Adopción del informe

- 17.00 21. Ceremonia de clausura

- 17.15 Retorno en bus al hotel

ANNEX/ANNEXE/ANEXO B – LIST OF PARTICIPANTS/LISTE DES PARTICIPANTS/ LISTA DE PARTICIPANTES

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ANNEX/ANNEXE/ANEXO – C

Available in English only

**DISCUSSION PAPER IN SUPPORT OF THE WECAFC STRATEGIC
REORIENTATION PROCESS**

to clarify issues in relation to WECAFC's objectives, competency area, stocks coverage, budgetary implications for Member states, institutional structure, membership, decision making processes, national sovereignty aspects and its objectives

FINAL VERSION, 12 October 2018

INTRODUCTION

The Western Central Atlantic Fishery Commission (WECAFC)¹ was established in 1973 by Resolution 4/61 of the FAO Council under Article VI (1) of the FAO Constitution. WECAFC's Statutes were amended by the FAO Council at its 74th Session (in December 1978) and 131st Session (in November 2006). The main governing body of WECAFC is the Commission, which is composed of all members. The general objective of the Commission is to promote the effective conservation, management and development of the living marine resources of its area of competence, in accordance with the FAO Code of Conduct for Responsible Fisheries (CCRF),² and to address common problems of fisheries management and development faced by members of the Commission.

The WECAFC **strategic reorientation process** started in 2012 at the *14th session of WECAFC* (Panama, February 2012)³ following a period of relative inactivity (2008-2011). Delegations of 12 WECAFC Member-states⁴ formally requested FAO “to carry-out a strategic reorientation of the functions and mandate of the Commission” taking into account the following considerations: the limitations of the Secretariat in terms of legal and technical capacity for supporting such a process; the long standing experience of FAO in relation to regional fishery bodies (RFBs); the neutral role of FAO as a United Nations specialized agency; and the vital importance of maintaining the current momentum for change. In addition the *30th Session of COFI* (Rome, July 2012)⁵ instructed FAO “to initiate performance reviews of the RFBs under its auspices that had not already been assessed.” In the response the FAO WECAFC Secretariat and the Bureau of the Commission arranged for and supported the Performance Review of WECAFC (from October 2013 to January 2014).⁶

Overall the **Performance Review** found that the role of WECAFC is appreciated with regard to the implementation of the CCRF and the relevant instruments, especially the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA). It also concluded that WECAFC largely depends on the Secretariat in terms of supporting, initiation and implementation of the activities. However, the coordination of an RFB in such a complex and diverse region would require more human resources than those actually made available to WECAFC.

The main recommendations were to increase the availability of financial resources and the number of staff working in the WECAFC Secretariat. The review of the level of implementation of the work plan as adopted by the *14th session of WECAFC* showed that more than 80 percent of the envisaged activities had been implemented, and the reasons for shortcomings in the implementation have generally been caused by external factors. The review also underlined the regional-level coordination function of WECAFC and that further strengthening and increased institutionalization of this function is needed in the future.

The Performance Review, together with the **WECAFC Strategic Plan (2014–2020)** and the **revised Rules of Procedure (RoP)** were discussed and reviewed by WECAFC members at the *1st Reorientation and Strategic Planning Workshop* (Guadeloupe, January 2014)⁷ which was attended by delegations from nine members of the Commission.

¹ www.wecafc.org/en/

² www.fao.org/3/a-v9878e.pdf

³ Report of the 14th Session of the WECAFC (Panama City, Panama, 6-9 February 2012)
www.fao.org/docrep/017/i2677t/i2677t00.htm

⁴ The member states included: Antigua and Barbuda, Bahamas, Dominica, Grenada, Haiti, Nicaragua, Netherlands, Panama, St Kitts and Nevis, St Lucia, Suriname and Trinidad and Tobago.

⁵ Paragraph 72 –Report of the 30th session of the COFI (Rome, 9-13 July 2012)
www.fao.org/3/a-i5096t.pdf

⁶ WECAFC Performance, Planning and Procedures, FAO Fisheries and Aquaculture Circular SLC/FIP/C1096 (Tri)
www.fao.org/3/a-i5096t.pdf

⁷ Report of the 1st Reorientation and Strategic Planning Workshop (Gosier Guadeloupe, 29-30 January 2014).
FAO Fisheries and Aquaculture Report No. 1068 SLC/FIPI/R1068 (En)
www.fao.org/3/a-i3795e.pdf

The documents were further reviewed, finalized and approved by the *15th session of WECAFC* (Trinidad and Tobago, March 2014).⁸ Delegations were not authorized by their governments to take a decision on the possible transformation of WECAFC. It was however agreed that WECAFC has an important role to play in regional fisheries management and conservation and that it should not be abolished. The option of WECAFC abolishment was consequently removed from the process. After extensive discussion, in which cost aspects and stakeholder involvement were the main issues, “*it was concluded that WECAFC should remain an Article VI advisory body for the immediate future*”. The Commission endorsed, as a way forward an independent cost–benefit assessment of the three options for WECAFC reorientation, being:

1. WECAFC should remain a regional level fisheries advisory commission as a FAO Article VI body and continue to coordinate joint work with the (sub-) regional advisory/management bodies;
2. WECAFC should become a RFMO as an FAO Article XIV body, with a mandate to manage the fisheries in a sustainable manner through the adoption of legally binding decisions;
3. WECAFC should become a RFMO established outside of FAO’s legal framework, i.e. as an Intergovernmental Organization (IGO) with a mandate to manage fisheries in a sustainable manner through the adoption of legally binding decisions.

At the 15th session the Commission also adopted the **WECAFC Strategic Plan (2014-2020)**,⁹ the process of which embraced the ongoing collaboration with other sub-regional fishery bodies, fisherfolk organizations, civil society organizations, research institutions, development banks and projects, and which considered information from the Performance Review (2013-2014).¹⁰

At the *2nd Reorientation and Strategic Planning Workshop* (Trinidad and Tobago, December 2015),¹¹ the attending delegations from twenty-five members of the Commission recognized the value of a transformation of WECAFC into an RFMO for the sustainability of fisheries in the region which would have “*an umbrella function and should not replace effective existing institutions (CRFM and OSPESCA) at sub-regional level*”. As such, these RFBs should be embedded in the governance structure of the new RFMO.

The *34th FAO Regional Conference for Latin America and the Caribbean* (Mexico, March 2016),¹² acknowledged the improvements in the functioning and performance of WECAFC and recognized its increased collaboration with CRFM and OSPESCA. The Conference “*took note of the potential benefits for the region if WECAFC were to be transformed into a RFMO, and agreed that an RFMO could develop very positive synergies among members to boost effective regional cooperation in fisheries*”. It requested also that the 16th session of WECAFC consider the possibility of providing adequate resources to support the process of transforming WECAFC into an RFMO, should members so desire.

⁸ Report of the 15th Session of the WECAFC (Port of Spain, Trinidad and Tobago, 26–28 March 2014) www.fao.org/3/a-i3790t.pdf

⁹ Approved with minor amendments at the 15th Session of WECAFC
See Part II: www.fao.org/3/a-i5096t.pdf

¹⁰ The implementation of the recommendations of the Performance Review are expected to be discussed at the 17th session of WECAFC since it was not possible to include that agenda item on the 16th session. The plan is to establish a monitoring system for implementation of regional management and conservation plans.

¹¹ Report of the 2nd Reorientation and Strategic Planning Workshop (Port of Spain, Trinidad and Tobago, 1–2 December 2015) FAO Fisheries and Aquaculture Report No. 1140, SLC/FIP/R1140 (Bi) www.fao.org/3/a-i5584be.pdf

¹² Paragraph 57 - Report of the 34th Regional Conference for Latin America and the Caribbean (Mexico City, Mexico, 29 February to 3 March, 2016) LARC/16/REP www.fao.org/3/a-mq197e.pdf

At the *16th session of WECAFC* (Guadeloupe, June 2016)¹³ the Commission endorsed the outcomes of the *2nd Reorientation and Strategic Planning Workshop* and **agreed to launch a process to establish a RFMO and to clarify issues in relation to competency area, stocks coverage, budgetary implications for Members, institutional structure, membership, decision making processes, national sovereignty aspects, its objectives and any other relevant matters that the Members may wish to consider.** The Commission further noted **that such an RFMO should not replace existing RFBs, but instead establish functional ties and formal relationships with CRFM, OSPESCA and ICCAT** and agreed that the process should ensure **effective stakeholder participation and capacity building**, as well as a mechanism for effective stakeholder participation in decision making once the RFMO is established.

During 2016 – 2017 WECAFC issued two letters to its members and partners seeking their express opinion on the strategic reorientation of WECAFC. The first letter (from 20 May 2016) enquired about the establishment of and RFMO, areas and stocks to be covered and its legal status. On the 2nd letter WECAFC (from 14 July 2017) requested its members and partners for questions to be answered in the RFMO establishment process.

This discussion paper is intended to build further on the findings and recommendations of the various studies elaborated previously and assist the WECAFC's members in the process of establishing a RFMO. As agreed at the 16th session of WECAFC this paper aims to clarify issues in relation to *competency area, stocks coverage, budgetary implications for Members, institutional structure, membership, decision making processes, national sovereignty aspects, its objectives and any other relevant matters that the Members may wish to consider.*¹⁴ It also addresses the opinions expressed by Members and other stakeholders in reply to the letters of the WECAFC chairpersons of May 2016 and July 2017. Annex I provides an overview of the views expressed by Member-states prior to the 16th session. Annex II compiles the questions raised by Member-states and partners regarding the RFMO establishment process. The annexes should be consulted in tandem with the main text when indicated.

2. BACKGROUND

The table below identifies the WECAFC Member-states, their status with regard to the main international agreements and their membership of other RFBs. As highlighted in the table the majority of WECAFC's Member-states are Parties to UN Law of the Sea Convention (LOSC, 1982) and UNFSA, which calls upon countries to collaborate through RFMOs to ensure effective conservation and management of the targeted stocks (see Section 9 below).

¹³ Report of the 16th Session of WECAFC (Guadeloupe, 20–24 June 2016) www.fao.org/3/a-i6031t.pdf

The session was attended by 28 members of the Commission. Observers from 4 RFBs and 4 intergovernmental organizations also participated.

¹⁴ Paragraph 55 of the Report of the 16th Session of WECAFC www.fao.org/3/a-i6031t.pdf

Table 1. WECAFC Members-States, international agreements¹⁵ and RFMOs

Member State	LOSC, 1982 ¹⁶	UNFSA ¹⁷	FAO CA ¹⁸	PSMA ¹⁹	CRFM	OSPESCA	ICCAT
Antigua & Barbuda	02/1989	X	X	X	02/2002	X	X
Bahamas	07/1983	01/1997	X	10/2016	02/2002	X	X
Barbados	10/1993	09/2000	10/2000	02/2016	02/2002	X	12/2000
Belize	08/1983	07/2005	07/2005	X	02/2002	2000	07/2005
Brazil	12/1988	03/2000	03/2009	11/2009	X	X	04/1969
Colombia	X	X	X	X	X	X	X
Costa Rica	09/1992	06/2001	X	12/2015	X	1991	NM ²⁰
Cuba	08/1984	X	X	03/2016	X	X	NM ²¹
Dominica	10/1991	X	X	05/2016	02/2002	X	X
Dominican Republic	07/2009	X	X	X	NM ²²	2013	X
European Union	04/1998	12/2003	08/1996	07/2011	X	X	11/1997
France	04/1996	12/2003	X	07/2016	X	X	12/1997 ²³
Grenada	04/1991	X	X	06/2016	02/2002	X	X
Guatemala	02/1997	X	X	X	X	1991	11/2004
Guinea	09/1985	09/2005	X	06/2016	X	X	06/1991
Guyana	11/1993	X	X	03/2016	02/2002	X	NM ²⁴
Haiti	07/1996	X	X	X	02/2002	X	X
Honduras	10/1993	X	X	X	X	1991	01/2001
Jamaica	03/1983	X	X	X	02/2002	X	X
Japan	06/1996	08/2006	06/2000	05/2017	X	X	08/1967
Mexico	03/1983	X	03/1999	X	X	X	05/2002
Netherlands	06/1996	12/2003	X	X	X	X	X
Nicaragua	05/2000	X	X	X	X	1991	03/2004
Panama	07/1996	12/2008	X	11/2016	X	1991	12/1998
Republic of Korea	01/1996	02/2008	04/2003	01/2016	X	X	08/1970
Saint Kitts and Nevis	01/1993	X	06/1994	12/2015	02/2002	X	X
Saint Lucia	03/1985	08/1996	10/2002	X	02/2002	X	X
St.VincentGrenadines	10/1983	10/2010	X	06/2016	02/2002	X	11/2006
Spain	01/1997	12/2003	X	X	X	X	NM ²⁵
Suriname	07/1998	X	X	X	02/2002	X	NM ²⁶
Trinidad & Tobago	04/1986	09/2006	X	X	02/2002	X	03/1999
UK	07/1997	12/2001	X	X	X	X	01/1998 ²⁷
USA	X	08/1996	12/1995	02/2016	X	X	05/1997
B.Rep of Venezuela	X	X	X	X	X	X	11/1983

¹⁵ As of 15 October 2017¹⁶ United Nations Convention on the Law of the Sea (1982); in force since 16/11/1994
www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf¹⁷ Agreement for the Implementation of the provisions of the UNCLOS relating to the conservation and management of straddling fish stocks and Highly migratory Fish Stocks (1995); in force since 11/12/2001
www.un.org/depts/los/convention_agreements/convention_20years/1995FishStockAgreement_ATahindro.pdf¹⁸ Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (1993); in force since 24/04/2003
www.fao.org/fileadmin/user_upload/legal/docs/012s-e.pdf¹⁹ Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (2009); in force since 05/06/2016 www.fao.org/3/a-i5779e.pdf²⁰ Not a Member, but a Cooperating non-contracting party.²¹ Cuba was a member of the Commission from 15-01-1975 to 31-12-1991.²² The CRFM Member States cooperate with the Dominican Republic through a MoU. 60 France (St-Pierre et Miquelon).²³ France (member since 7-11-1968) withdrew from the Commission following the access of the European Community on 14-11-1997. However, France retains membership as of 24-12-97 on behalf of its overseas territories not covered by the Treaty of Rome. See Note 2 of www.iccat.es/en/contracting.htm²⁴ Status of Cooperating non-contracting party according to www.iccat.es/en/contracting.htm²⁵ Spain (member since 21-3-1969) withdrew from the Commission following the access of the European Community on 14-XI-1997. See Note 2 of www.iccat.es/en/contracting.htm²⁶ Status of Cooperating non-contracting party according to www.iccat.es/en/contracting.htm²⁷ United Kingdom (O. territories). U.K. (member since 10-XI-1995) withdrew from the Commission following the access of the European Community on 14-XI-1997. However, the UK retains membership as of 19-I-1998 on behalf of its overseas territories not covered by the Treaty of Rome. See Note 2 of www.iccat.es/en/contracting.htm

The reasons for the strategic reorientation of WECAFC, which started in 2012,²⁸ have been identified as being:

- the substantial changes in the institutional environment in which WECAFC operates (e.g. other subregional fishery bodies such as the CRFM and the OSPESCA) got stronger and more efficient in recent years;
- an overlap in mandates with these other RFBs which requires greater partnerships;
- the current WECAFC mandate is very broad and receives only limited funding from members and FAO;
- the WECAFC Statutes and Rules of Procedure cause less efficient functioning of the Commission in a time of rapid developments and changes in the region.
- In 2013, an additional reason was provided, being that WECAFC needs to address the Caribbean Large Marine Ecosystem (CLME) Strategic Action Programme (SAP) process outcomes and start supporting its implementation.

The COFI at its 31st session identified the main weaknesses of the RFBs and stressed that FAO will continue to provide a framework and technical support for the RFBs established under Article VI and XIV of its Constitution. **However it was stressed that “ultimately these bodies exist for, and by, their members” and it is therefore for the members of these bodies, not FAO, to drive this change.**²⁹

In assisting its Member-States in **driving the strategic reorientation of WECAFC** several studies have been elaborated in order to assess the three options, which were discussed and endorsed at the WECAFC’s sessions and are briefly referred to above.

The “*Background, guidance and strategic options for the strategic re-orientation of WECAFC: Options paper*”³⁰ provides the institutional and financial aspects of WECAFC, describes the relevant FAO developments, elaborates on the legal, financial and administrative implications for continuing as a FAO Article VI body, or transforming into a FAO Article XIV body or an independent RFB. It was addressed by the 15th session of WECAFC.

The preliminary outcomes of the “*Findings of the independent cost-benefit assessment of the options for strategic reorientation of WECAFC*”³¹ were discussed at the 2nd Reorientation and Strategic Planning Workshop. The assessment discussed the status and trends of marine fisheries in the WECAFC area, regional fisheries bodies and RFMOs active in the area, international fisheries instruments and the role of RFMOs and the costs and benefits of the three options mentioned above. It concluded that the establishment of an RFMO, either under FAO or outside FAO’s framework would create significant economic, social and environmental benefits at limited costs to the WECAFC members. The “Summary findings of the independent cost-benefit assessment of the options for strategic re-orientation of WECAFC”, were presented to and endorsed by the 16th session of WECAFC.³²

²⁸ See paragraph 2 Report of the 1st WECAFC Reorientation and Strategic Planning Workshop www.fao.org/3/a-i3795e.pdf

²⁹ See Paragraph 16, RFBs established under the FAO Framework – COFI/2014/Inf.11 (May, 2014) www.fao.org/3/a-mk346e.pdf

³⁰ WECAFC/XV/2014/12, Report prepared by Dr. Judith Swan (February 2014) www.fao.org/fishery/docs/DOCUMENT/wecafc/15thsess/12e.pdf

³¹ Report prepared by Dr Kjartan Hoydal (February 2016) www.fao.org/3/a-i6377e.pdf

³² WECAFC/XVI/2016/12, May, 2016. www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/12e.pdf

The “*Assessment of the recent achievements and collaboration of CRFM, OSPESCA and WECAFC including options for a regional institutional collaborative structure within an RFMO framework*”³³ is an addition to the independent cost benefit study. It assesses the existing collaboration between the main RFBs in the Western Central Atlantic Region, and discusses how the creation of a RFMO would help this collaboration and improve the status and management of shared stocks among WECAFC member countries. The study collected and analysed information on the recent achievements of CRFM, OSPESCA and WECAFC, recent experiences in sub-regional collaboration, identified shared and transboundary stock status and options for management, costs and benefits of the management of these specific fisheries and the role of other stakeholders. The study was discussed at the 16th session of WECAFC, which recognised that “*it advanced the discussion and that there were some gaps in the document that still need to be addressed*”.³⁴

At its 32nd session, in July 2016, COFI reiterated the calls for support to the WECAFC region³⁵ and further elaborated on the RFBs established within the FAO framework.³⁶

In the sections 3 and 7 below, a comparative assessment is presented between WECAFC and GFCM, NEAFC, FFA and ICCAT with regard to their respective **objectives and membership**. GFCM is the only statutory body established under Article XIV of the FAO Constitution that is used in this comparison.³⁷ The others are independent IGOs.

3. OBJECTIVES

The **objectives and principles** of WECAFC are outlined respectively in Article 1 and 2 of its Statutes adopted in 1973 and last revised in 2006 by Resolution 1/131.³⁸ They are broad and enable the Commission to provide advice to its members on the conservation, management and development of fisheries as well as on the sustainable use of the marine and aquatic resources in the widest sense.

The **General Fisheries Commission for the Mediterranean (GFCM)**³⁹ is one of the oldest RFMO, which was established in 1949 under the provisions of Article XIV of the FAO Constitution. The GFCM Agreement⁴⁰ was amended four times, the last in 2014 and its RoP were last amended in 2015.⁴¹ The GFCM has a broad mandate – it is responsible for the management of living marine resources in the Mediterranean and Black Sea and for the sustainable development of aquaculture.⁴²

The **North-East Atlantic Fisheries Commission (NEAFC)**⁴³ is the RFMO for the North-East Atlantic, one of the most abundant fishing areas in the world. It was set up under the framework of the Convention on Future Multilateral Cooperation in the North-East Atlantic Fisheries, which entered into

³³ WECAFC/XVI/2016/13 Report prepared by Ms. Helga Josupeit (April 2016)
www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/13e.pdf

³⁴ See paragraph 53, Report 16th Session WECAFC
www.fao.org/3/a-i6031t.pdf

³⁵ See paragraph 141 of the Report of the 32th session of COFI (11-15 July, 2016)
www.fao.org/3/a-i6882e.pdf

³⁶ COFI/2016/Inf.16 www.fao.org/3/a-mq842e.pdf

³⁷ Other fisheries agreements and RFMOs established under article XIV of FAO's Constitution include a tuna RFMO (IOTC), various general RFMO's (RECOFI, APFIC), an inland fisheries RFMO (CACFish), the Compliance Agreement and the PSMA. The comparison only included GFCM, as it is a well-established RFMO.

³⁸ Revised WECAFC Statutes adopted by Resolution 1/131 (2006)
www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/statutes.pdf

³⁹ www.fao.org/gfcm/en/

⁴⁰ Agreement for the Establishment of the GFCM.
www.fao.org/3/a-ax825e.pdf

⁴¹ RoP GFCM: www.fao.org/3/a-ax822e.pdf

⁴² The GFCM Secretariat is based in Rome, Italy. More information about the Commission and its membership can be found at:
www.fao.org/3/a-mk346e.pdf

⁴³ www.neafc.org/

force on 17 March 1982.⁴⁴ The Convention was amended in 2006. The amendments, which came into force in 2013, broadened the objectives of the Convention including taking into account the need to conserve biodiversity. The area covered by the NEAFC Convention stretches from the southern tip of Greenland, east to the Barents Sea, and south to Portugal. The mandate of NEAFC is to ensure the long-term conservation and optimum utilization of the fishery resources in the Convention Area, providing sustainable economic, environmental and social benefits and in doing so desiring to safeguard the marine ecosystems in which the resources occur, and accordingly to encourage international cooperation and consultation with respect to these resources.

The International Commission for the Conservation of Atlantic Tunas (ICCAT)⁴⁵ was established under the International Convention for the Conservation of Atlantic Tunas⁴⁶ which entered into force in 1969. The ICCAT is an inter-governmental fishery organization responsible for the conservation of tunas and tuna-like species in the Atlantic Ocean and its adjacent seas. ICCAT compiles fishery statistics from its members and from all entities fishing for these species in the Atlantic Ocean, coordinates research, including stock assessment, on behalf of its members, develops scientific-based management advice and produces relevant publications. Similarly as for GFCM and NEAFC above also ICCAT provides a mechanism for Contracting Parties (CPs) to agree on management measures. Special collaboration arrangements have been established between WECAFC and ICCAT (*see section 8.2 below*).

The **Pacific Islands Forum Fisheries Agency (FFA)**⁴⁷ was established to assisting countries to sustainably manage their fishery resources that fall within their 200 miles Exclusive Economic Zones (EEZs). FFA is an advisory body providing expertise, technical assistance and other support to its members who make sovereign decisions about their tuna resources and participate in regional decision making on tuna management through agencies such as the Western and Central Pacific Fisheries Commission.⁴⁸ The FFA strengthens national capacity and regional solidarity so its members can manage, control and develop their tuna fisheries now and in the future, aiming at the highest levels of social and economic benefits through the sustainable use of their offshore fisheries resources. The mission of FFA is to drive regional cooperation to create and enable the maximum long term social and economic benefit from the sustainable use of their shared offshore fishery resources conservation and optimum utilization of the living marine resources of the South Pacific region and in particular of the highly migratory species, and also desiring to facilitate collection, analysis, evaluation and dissemination of relevant statistical scientific and economic information of such resources.

⁴⁴ This Convention (which replaces the original North-East Atlantic Fisheries Convention of 1959, which in turn had replaced the 1946 Convention for the Regulation of Meshes and Fishing Nets and the Size Limits of Fish) was adopted on 18 November 1980 and entered into force in 1982. Amendments were adopted by the Commission in 2006 and entered into force on 29 October 2013.

⁴⁵ www.neafc.org/system/files/Text-of-NEAFC-Convention-04.pdf

⁴⁶ www.iccat.es/en/

⁴⁷ www.iccat.es/Documents/Commission/BasicTexts.pdf

⁴⁸ www.ffa.int/

⁴⁸ The FFA Secretariat is based in Honiara and its members are Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu, Vanuatu.
www.ffa.int/members#2/-18.6/2.0

Table 2. General objectives of WECAFC, GFCM, NEAFC, ICCAT, and FFA

RFBs	General Objective
WECAFC Art. 1 Statutes	Without prejudice to the sovereign rights of coastal States, the Commission shall promote the effective conservation, management and development of the living marine resources of the area of competence of the Commission, in accordance with the FAO CCRF, and address common problems of fisheries management and development faced by Members of the Commission.
GFCM Art. 2 (2) Agreement	The main objective of GFCM is to ensure the conservation and sustainable use, at the biological, social, economic and environmental level, of living marine resources, as well as the sustainable development of aquaculture in its area of application (Mediterranean and in the Black Sea, Art. 3(1)).
NEAFC Art. 2 Convention	The main objective of NEAFC is to ensure the long-term conservation and optimum utilisation of the fishery resources in the Convention Area (Art. 1 a)), providing sustainable economic, environmental and social benefits. To this end, NEAFC adopts management measures for various fish stocks and control measures to ensure that they are properly implemented. NEAFC also adopts measures to protect other parts of the marine ecosystem from potential negative impacts of fisheries.
ICCAT Art. IV(1) Convention	In order to carry out the objectives of this Convention the Commission shall be responsible for the study of the populations of tuna and tuna-like fishes (the Scombriformes with the exception of the families Trichiuridae and Gempylidae and the genus Scomber) and such other species of fishes exploited in tuna fishing in the Convention area as are not under investigation by another international fishery organization.
FFA Art. III (1), (2) Convention	The objective of the FFA is to enable Member Countries to manage, conserve and use the tuna resources in their EEZ and beyond, through enhancing national capacity and strengthening regional solidarity. To this end, the Member Countries establish additional international machinery, in order to reach effective cooperation for the conservation and optimum utilization of the highly migratory species of the region, providing for cooperation between coastal states in the region and all states involved in the harvesting of such resources.

In line with *inter alia* the UNFSA (1995), the CCRF (1995) and the Reykjavik Declaration (2001),⁴⁹ the WECAFC Statutes make reference to important international principles, namely the precautionary and ecosystem approach to fisheries management. The Performance Review (2013-2014) concluded that the objectives, principles and functions of WECAFC are still adequate. However, the WECAFC's Statutes do not take into account the more recent international legal instruments, and this should be reviewed in line with Resolution WECAFC/14/2012/1⁵⁰ under which Member-States agreed to take actions and measures to strengthen the implementation of the FAO CA, the UNFSA and the PSMA.

It has also been previously proposed⁵¹ that the mandate of WECAFC should be enlarged to relay the Global Blue Growth Initiative,⁵² thus placing stronger emphasis on the socio-economic role of fisheries in support to food security and nutrition and the environmental role in mitigating climate change effects.

The objective of the new RFMO would be similar to many other RFMO's, being to bring together countries that have a common interest in effectively managing and conserving particular fish stocks or the fish resources of a particular region, and that adopt common management rules that apply to all parties.

⁴⁹ Adopted by Conference on Responsible Fisheries in the Marine Ecosystem held in Reykjavik from 1 to 4 October 2001. www.fao.org/docrep/meeting/004/Y2211e.htm

⁵⁰ www.fao.org/fishery/docs/DOCUMENT/wecafc/resolution.pdf

⁵¹ See project proposal and concept note for the 15th Session of WECAFC www.fao.org/fishery/docs/DOCUMENT/wecafc/15thsess/ref14e.pdf

⁵² www.fao.org/zhc/detail-events/en/c/233765/

Recommendations: the overall objective of WECAFC should be reviewed to take into account more recent international legal instruments, which have entered into force since the adoption of WECAFC's Statutes. This is in line with WECAFC **Resolution 14/2012/1** on strengthening the implementation of international fisheries instruments (see Section 9 below). Its objective should be consistent with the provisions of LOSC, 1982.

In the subsequent sub-sections the specific mandates of these RFBs are briefly assessed with regard to the main functions of an RFMO.

3.1 Scientific advice and information sharing

The collection of scientific data and information in support of decision making processes and monitoring, as well as the evaluation of implementation and impact of fisheries management and conservation measures, are among the most important tasks to be carried out by a RFMO. An RFMO in the WECAFC region could fill an important gap in harmonization of methodologies for stock assessments and will coordinate the generation of fisheries scientific advice among all countries in the region, in close collaboration with research and educational institutions of the members and the sub-regional organizations.

Table 3. Specific functions of WECAFC, GFCM, NEAFC, ICCAT, and FFA on scientific advice and information sharing

RFBs	Scientific Advice and Information Sharing
WECAFC Art. 4 and 6 e), f) g) Statutes	<p>The Commission shall have the following functions and responsibilities:</p> <ul style="list-style-type: none"> e. to promote, coordinate and, as appropriate, organize or undertake research related to the living marine resources in the area of competence of the Commission, including on the interactions between fisheries and the ecosystem, and design programmes required for this purpose; f. to promote, coordinate and, as appropriate, undertake the collection, exchange and dissemination of statistical, biological, environmental and socio-economic data and other marine fishery information as well as its analysis or study; g. to provide the necessary support and advice to enable Members to ensure that fishery management decisions are based on the best available scientific evidence.
GFCM Art. 8 a), b) v), d) Agreement	<p>In accordance with its objectives [Art.2] and general principles [Art. 5], the Commission shall exercise the following functions:</p> <ul style="list-style-type: none"> a) regularly review and assess the state of living marine resources; b) formulate and recommend, in accordance with the provisions of Article 13 [decision making], appropriate measures, including: <ul style="list-style-type: none"> v) to ensure, if possible through electronic means, the collection, submission, verification, storing and dissemination of data and information, consistent with relevant data confidentiality policies and requirements; d) regularly review the socioeconomic aspects of the fishing industry, including by obtaining and evaluating economic and other data and information relevant to the work of the Commission.⁵³

⁵³ For more information see section 3.5 below.

RFBs	Scientific Advice and Information Sharing
<p>NEAFC Art. 4 (2), (3), Art. 9 (1),(2), Art.11(2) and 16(2) Convention</p>	<p>2. When making recommendations the Commission shall in particular:</p> <ul style="list-style-type: none"> a) ensure that such recommendations are based on the best scientific evidence available; b) apply the precautionary approach; c) take due account of the impact of fisheries on other species and marine ecosystems, and in doing so adopt, where necessary, conservation and management measures that address the need to minimize harmful impacts on living marine resources and marine ecosystems; and d) take due account of the need to conserve marine biological diversity. <p>3. The Commission shall provide a forum for consultation and exchange of information on the state of the fishery resources in the Convention Area and on the management policies, including examination of the overall effects of such policies on the fishery resources and, as appropriate, other living marine resources and marine ecosystems.</p> <p>1. The Commission may by a qualified majority make recommendations providing for the collection of statistical information relating to fisheries conducted beyond areas under the jurisdiction of Contracting Parties.</p> <p>2. The Commission may also make recommendations providing for the collection of statistical information relating to fisheries conducted within an area under the jurisdiction of a Contracting Party, provided that the recommendation receives the affirmative vote of that Contracting Party.</p> <p>2. The Commission may publish or otherwise disseminate reports of its activities and other information relating to the fisheries in the Convention Area. The Commission may request each Contracting Party any available scientific and statistical information needed for the purposes of this Convention and such additional information as may be required under Article 9.</p>
<p>ICCAT Art. IV (2), Art. VI and Art. IX (2) (a) (b) Convention</p>	<p>The carrying out of the Commission responsibilities shall include:</p> <ul style="list-style-type: none"> (a) collecting and analysing statistical information relating to the current conditions and trends of the tuna fishery resources of the Convention area; (b) studying and appraising information concerning measures and methods to ensure maintenance of the populations of tuna and tuna-like fishes in the Convention area at levels which will permit the maximum sustainable catch and which will ensure the effective exploitation of these fishes in a manner consistent with this catch; (c) recommending studies and investigations to the CPs; (d) publishing and otherwise disseminating reports of its findings and statistical, biological and other scientific information relative to the tuna fisheries of the Convention area. <p>To carry out the objectives of this Convention the Commission may establish Panels on the basis of species, group of species, or of geographic areas. Each Panel in such case:</p> <ul style="list-style-type: none"> a) shall be responsible for keeping under review the species, group of species, or geographic area under its purview, and for collecting scientific and other information relating thereto; b) may propose to the Commission, upon the basis of scientific investigations, recommendations for joint action by the CPs; c) may recommend to the Commission studies and investigations necessary for obtaining information relating to its species, group of species, or geographic area, as well as the co-ordination of programmes of investigation by the CPs. <p>The Commission may request the CPs to furnish any available statistical, biological and other scientific information the Commission may need for the purposes of this Convention, or may obtain such information on a voluntary basis direct from companies and individual fishermen.</p>
<p>FFA Art. V (1) (a), (b), Art. VII (a)-(d) and IX (a)-(d) Convention</p>	<p>Subject to direction of the Committee the Agency shall:</p> <ul style="list-style-type: none"> (a) collect, analyse, evaluate and disseminate to Parties relevant statistical and biological information with respect to the living marine resources of the region and in particular the highly migratory species; (b) collect and disseminate to Parties relevant information concerning management procedures, legislation and agreements adopted by other countries both within and beyond the region; (c) collect and disseminate to Parties relevant information on prices, shipping, processing and marketing of fish and fish products; (d) provide, on request, to any Party technical advice and information, assistance in the development of fisheries policies and negotiations, and assistance in the issues of licenses, the collection of fees or in matters pertaining to surveillance and enforcement. <p>The Parties shall provide the Agency with available and appropriate information including:</p> <ul style="list-style-type: none"> (a) catch and effort statistics in respect of fishing operations in waters under their jurisdiction or conducted by vessels under their jurisdiction; (b) relevant laws, regulations and internal agreements; (c) relevant biological and statistical data; and (d) action with respect to decision taken by the Committee.

The Performance Review of WECAFC (2013-2014) concluded that its members regard the current role of WECAFC as advisory body in the area Scientific Advice and Information Sharing insufficient to actually improve the stock status for the mid-to long term.

The two existing sub-regional RFBs, CRFM and OSPESCA, can be instrumental in generating scientific advice for the areas and species covered by them. As such their intense collaboration with their respective membership and high interest in scientific information could be highly beneficial for the new RFMO to build on (see section 8.2 below).

Recommendations: Through the establishment of a forum similar to the NEAFC for consultation and exchange of information on the state of the fishery resources in the WECAFC area of competence the advisory role of WECAFC should be strengthened. The new RFMO could also facilitate resource mobilization for scientific work to be undertaken by existing national and sub-regional institutions and regional RFBs, as well as play a role in coordination and exchange of scientific research findings between all members. A similar approach is taken by the GFCM, which relies on working groups and projects to support the generation of scientific advice. Another good example is the establishment of panels on the basis of species, group of species, or of geographic areas under ICCAT to build upon (see rule 12 of ICCAT's RoP⁵⁴ with regard to the establishment of panels their membership and participation).

The currently established and formalized way of working, with joint WECAFC Working Groups with CRFM and OSPESCA, that generate scientific advice and share information, could largely continue. However, to ensure sustainability of the working groups a joint funding mechanism or joint programming approach may be needed.

3.2 Fisheries management and conservation

It has been mentioned various times by national delegations at regional fora of CRFM, OSPESCA and WECAFC that fish stocks that can be managed at national level should be managed at such level. It is also clear that the management of those stocks that are shared and transboundary in a sub-region should be coordinated at that level. Fisheries for highly migratory species, straddling stocks, regionally shared stocks, as well as fisheries in Areas Beyond National Jurisdiction (ABNJ) require in their turn a regional approach, with coordination through an RFMO. A major issue relates to the question why countries do not effectively implement fisheries management and conservation related decisions and recommendations adopted under competent RFMO at the regional and sub-regional levels in a timely manner. In general, the key constraints are political will, the availability of resources and the limited human and institutional capacity. Going forward these fundamental weaknesses must be addressed to achieve significant progress, and have to be addressed in the establishment process of the RFMO.

Regional decision-making based on the best available scientific advice will be possible through an RFMO which is empowered to adopt legally binding Conservation and Management Measures (CMMs) provided there are resources and human and institutional capacity.⁵⁵

⁵⁴ Available at: www.iccat.int/en/contracting.html

⁵⁵ CMMs means measures to conserve and manage living marine resources that are adopted and applied consistently with the relevant rules of international law including those reflected in the LOSC, 1982 (Article 1 a) of the PSMA).

Table 4. Specific functions of WECAFC, GFCM, NEAFC, ICCAT, and FFA on fisheries management

RFBs	Fisheries Management
WECAFC Art. 4 and 6 m),n) Statutes	The Commission shall have the following functions and responsibilities. h) to provide advice on management measures to member governments and competent fisheries organizations; m) to promote and facilitate harmonizing of relevant national laws and regulations, and compatibility of conservation and management measures; n) to assist its Members in and facilitate, as appropriate and upon their request, the conservation, management and development of transboundary and straddling stocks under their respective national jurisdictions.
GFCM Art. 8 b) i), iii) iv) Agreement	In accordance with its objectives and general principles, the Commission shall exercise the following functions: b) formulate and recommend, in accordance with the provisions of Article 13[decision making], appropriate measures, including: i) for the conservation and management of living marine resources found in the area of application; iii) to adopt multiannual management plans applied in the totality of the relevant sub-regions based on an ecosystem approach to fisheries to guarantee the maintenance of stocks above levels which can produce maximum sustainable yield, and consistent with actions already taken at the national level; iv) to establish fisheries restricted areas for the protection of vulnerable marine ecosystems, including but not limited to nursery and spawning areas, in addition to or to complement similar measures that may already be included in management plans.
NEAFC Art. 7 NEAFC Convention	In the exercise of its functions the Commission may consider <i>inter alia</i> measures for: a) the regulation of fishing gear and appliances, including the size of mesh of fishing nets; b) the regulation of the size limits of fish that may be retained on board vessels, or landed or exposed or offered for sale; c) the establishment of closed seasons and of closed areas; d) the improvement and increase of fishery resources, which may include artificial propagation; e) ... f) the regulation of the amount of fishing effort and its allocation to Contracting Parties.
ICCAT	No specific measures found
FFA Art. V (2) (a) (d) Convention	2. In particular the Committee shall promote intra-regional co-ordination and co-operation in the following field; (a) harmonization of policies with respect to fisheries management; (d) co-operation in respect of onshore fish processing.

WECAFC has adopted recommendations on fisheries in its area of competence with regard to *inter alia*: management and planning [WECAFC/15/2014/3](#); using fish aggregating devices (FADs) [WECAFC/15/2014/2](#); on the establishment of a regional closed season for fisheries for Nassau Grouper [WECAFC/15/2014/1](#); queen conch management [WECAFC/16/2016/1](#), flying fish management [WECAFC/16/2016/3](#), and spiny lobster management [WECAFC/16/2016/2](#). The recommendations from WECAFC 16 in 2016 related to queen conch and flying fish include regionally approved management and conservation plans that are time-bound and have various measures combined to increase the impact of the measures. Implementation of these measures is actively pursued by many countries in the region.

Pursuant to Article 8 of the GFCM Agreement, the GFCM has adopted multiannual management plans to achieve the sustainable management of specific stocks, which are coherent with the precautionary approach to fisheries management, consistent with the maximum sustainable yield and provide other specific management measures.⁵⁶

⁵⁶ See REC.CM-GFCM/40/2016/4 establishing a multiannual management plan for the fisheries exploiting European hake and deep-water rose shrimp in the Strait of Sicily (GSA 12 to 16) - (Part. II (4)) www.cbd.int/doc/meetings/mar/soiom-2016-01/other/soiom-2016-01-gfcm-01-en.pdf and REC. GFCM/37/2013/1 on a multiannual management plan for fisheries on small pelagic stocks in the GFCM-GSA 17 (Northern Adriatic Sea) and on transitional conservation measures for fisheries on small pelagic stocks in GSA 18 (Southern Adriatic Sea) (Part I (1)) www.fao.org/3/a-ax394e.pdf

Recommendations: the nature and the scope of the decisions to be adopted by the new RFMO should support the sustainable management of stocks through specific measures based on the best scientific information. These could include the establishment of fisheries restricted areas for the protection of vulnerable marine ecosystems, the regulation of gears and size limits and the limitation of the fishing capacity of the members.

The current management recommendations and resolutions issued by WECAFC are non-binding and thus voluntary. They are however formulated in a way that would facilitate making the recommendations binding, if the members of the new RFMO would decide so.

In fact, the current recommendations follow the format and style used by GCFM, IOTC and ICCAT and draft recommendations for 2018 use similar wording as those, to harmonize various management measures (e.g. authorized vessel lists and IUU vessel lists) with those of other RFMO's.

While WECAFC members and partner agencies widely agree that adoption and implementation of the WECAFC recommendations is substantial, this is not being monitored at present and making them binding would significantly improve implementation by members.

A monitoring framework to measure progress regarding the implementation of management measures is required and it would be useful if the 17th session could discuss and agree on such a framework.

3.3 MCS and enforcement

A RFMO will be able to support Monitoring, Control and Surveillance (MCS) activities of its CMMs in collaboration with regional and national enforcement agencies. An RFMO will also be empowered to monitor compliance with recommendations and create a transparent playing field for the members, allowing them to combat IUU fishing effectively and ensuring the responsible use of the living marine resources. This would include the adoption of legally binding decisions on *inter alia*: record of vessels authorised to operate in the WECAF's area of competence; establishment of a VMS programme; adoption of regional observer schemes and inspection schemes; and port State measures.

Table 5. Specific functions of WECAFC, GFCM, NEAFC, ICCAT, and FFA on MCS and enforcement

RFBs	MCS and enforcement
WECAFC Art. 4 and 6 i Statutes)	The Commission shall have the following functions and responsibilities: i) to provide advice on MCS, and to promote cooperation on these matters, including joint activities, especially as regards issues of a regional or sub-regional nature.
GFCM Art. 8 b) vi), vii), 14 (2) and 18(2) Agreement	In accordance with its objectives (Art. 2) and general principles (Art. 5), the Commission shall exercise the following functions: b) formulate and recommend, in accordance with the provisions of Article 13 [decision making], appropriate measures, including: vi) to take action to prevent, deter and eliminate IUU fishing, including mechanisms for effective MCS; vii) to resolve situations of non-compliance, including through an appropriate system of measures. The Commission shall define this system of measures and the way to implement them in its RoP; To assess whether the recommendations are uniformly implemented, the Commission shall use the information reported annually by each CP providing information on the monitoring and control of their fisheries. The Commission, through the Secretariat, shall exchange information with respect to vessels engaged in fishing or fishing related activities in the Agreement area that are flying the flags of non-Contracting Parties to this Agreement and identify and address, as appropriate, including through the application of sanctions, consistent with international law, which shall be defined in the RoP, cases of activities by non-Contracting Parties adversely affecting the objective of the Agreement. Sanctions may include non-discriminatory market-related measures.

RFBs	MCS and enforcement
NEAFC Art. 8 NEAFC Convention	1. The Commission may by a qualified majority make recommendations concerning measures of control relating to fisheries conducted beyond areas under the jurisdiction of CPs for the purpose of ensuring the application of this Convention and any recommendations adopted thereunder. 2. The Commission may also make recommendations concerning measures of control relating to fisheries conducted within an area under the jurisdiction of a CP, provided that the Contracting Party in question so requests and the recommendation receives its affirmative vote.
ICCAT Art. VIII, (1) a) and Art. IX (1) Convention	The Commission may, on the basis of scientific evidence, make recommendations designed to maintain the populations of tuna and tuna-like fishes that may be taken in the Convention area at levels which will permit the maximum sustainable catch. The Commission may require the CPs at any time to transmit a statement of the action taken by it for the purpose of ensuring the enforcement of the ICCAT Convention.
FFA Art. V (2) (c) Convention	2. In particular the Committee shall promote intra-regional co-ordination and co-operation in the following field: c) co-operation in surveillance and enforcement.

The GFCM adopts every year binding recommendations linked to MCS aspects in order to come to grips with IUU fishing in the region. These recommendations include an authorized vessel list,⁵⁷ an IUU list of vessels,⁵⁸ port State measures,⁵⁹ VMS⁶⁰ and a process leading to the identification of cases of non-compliance.⁶¹

At its annual meeting of 15 November 2006, NEAFC adopted in accordance with Article 8 of its Convention, a recommendation on a *Scheme of Control and Enforcement*⁶² which has been subsequently amended (the last amendment was adopted at the 37th Annual Meeting, in November 2018). The scheme applies to all vessels used or intended for use for fishing activities conducted on fisheries resources in the Regulatory Area (Art. 2) and covers: Control Measures; Monitoring of Fisheries; Inspections at Sea; Port State Control of Foreign Fishing Vessels; Infringements; and Measures to Promote Compliance by Non-Contracting Party Fishing Vessels.

ICCAT adopts based on Article VIII of its Convention, specific recommendations which are every year compiled by the Secretariat together with ICCAT's resolutions,⁶³ and include on monitoring and compliance *inter alia*, the Joint Scheme of International Inspection,⁶⁴ the Port Inspection Scheme⁶⁵ and the Regional Observer Programme.⁶⁶

⁵⁷ Rec GFCM/33/2009/6 - concerning the establishment of a GFCM record of vessels over 15 meters authorized to operate in the GFCM area amending the recommendation GFCM/29/2005/2
www.fao.org/3/a-ax888e.pdf

⁵⁸ Rec GFCM/33/2009/8 - on the establishment of a list of vessels presumed to have carried out IUU fishing in the GFCM area repealing recommendation GFCM/30/2006/4
www.fao.org/3/a-ax890e.pdf

⁵⁹ Rec GFCM/40/2016/1 - on a regional scheme on port State measures to combat IUU fishing activities in the GFCM area of application
<http://extwprlegs1.fao.org/docs/pdf/mul166785.pdf>

⁶⁰ Rec GFCM/33/2009/7 - concerning minimum standards for the establishment of a VMS in the GFCM area
www.fao.org/3/a-ax889e.pdf

⁶¹ Rec GFCM/38/2014/2- amending and repealing Recommendation GFCM/34/2010/3 concerning the identification of non-compliance
www.fao.org/3/a-ax390e.pdf

⁶² www.neafc.org/mcs/scheme

⁶³ Compendium of the Management Recommendations and Resolutions adopted by ICCAT for the Conservation of Atlantic Tunas and Tuna-Like Species (2017)
www.iccat.int/Documents/Recs/COMPENDIUM_ACTIVE_2017_ENG.pdf

⁶⁴ www.iccat.int/en/Inspection.htm

⁶⁵ www.iccat.int/en/portinspection.htm

⁶⁶ www.iccat.int/en/ROPbft.htm

Recommendation: the mandate of the new RFMO should include specific responsibilities with regard to *inter alia*: the maintenance of a regional record of vessels authorised to operate in the WECAFC area of competence, the establishment of a list of vessels presumed to have carried out IUU fishing in the WECAFC area of competence, the development of a regional scheme on port state measure to combat IUU fishing activities in the WECAFC area of competence. It should also include monitoring of the implementation of the CMMs, namely through consideration of regional observers' schemes or Electronic Monitoring Schemes and VMS, and specific procedures for inspection, control and enforcement.

It is common for an RFMO to establish and maintain a Compliance Committee to measure progress towards implementation of management and conservation measures and also in terms of maintaining transparent processes and procedures to handle IUU fishing. The new RFMO should establish such a committee as well, or develop the current Regional Working Group on IUU Fishing into such a compliance committee; amending its TORs and scope.

3.4 Capacity building

A RFMO can extend the particular role played by FAO/WECAFC in capacity building on *inter alia* stock assessments, fisheries statistics, fisheries inspections, training of observers, VMS and the development of the sector. In general, RFMOs establish dedicated funds that support staff of developing country member states to participate in capacity building programmes.

The GFCM Agreement foresees the development of institutional capacity and human resources, particularly through education, training and vocational activities in areas of competence of the Commission (Article 8 e). The special requirements of developing States CPs are specially recognized under its Article 17. In the recognition of such requirements the GFCM Agreement provides for the possibility that expenses incurred by delegates, their alternates, experts and advisers when attending, as government representatives, sessions of the Commission and its subsidiary bodies, as well as the expenses incurred by observers at sessions, could be borne by the budget of the Commission subject to the availability of funds (Art. 12 (3)). No such provision was found in the legal framework of the other RFBs and RFMOs (in the case of NEAFC it has not needed this provision so far due to the nature of its Contracting Parties). However, in practice ICCAT has some arrangements in place to support participation of developing country members in various of its activities.

From the 34 members of WECAFC some 15 members are Caribbean Small Island Developing States (SIDS), 7 are small island overseas territories of European Member States and 3 are Low Income Food Deficit Countries (LIFDCs). These SIDS and LIFDCs have generally limited capacity to manage their fisheries and heavily rely on WECAFC for capacity building and supporting regional harmonization of fisheries management measures to increase their effect. These characteristic of WECAFC's membership needs to be taken into account in the design of the new RFMO.

The General Assembly of the United Nations in its small island developing States (SIDS) Accelerated Modalities of Action (SAMOA) Pathway adopted in 2014,⁶⁷ highlights that small island developing States remain a special case for sustainable development in view of their unique and particular vulnerabilities and that they remain constrained in meeting their goals in all three dimensions of sustainable development. The SAMOA pathway highlights that SIDS have large maritime areas and have shown notable leadership in the conservation and sustainable use of those areas and their

⁶⁷ www.sids2014.org/index.php?menu=1537

resources. The pathway supports SIDS efforts to develop and implement strategies for the conservation and sustainable use of those areas and resources.⁶⁸ This is of relevance for WECAFC, as one third of WECAFC members are SIDS, and the call by the SAMOA pathway is to work through relevant regional fisheries management organizations and arrangements, and to ensure that the SIDS should not bear too high economic costs for the regional cooperation.

The Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (SSF Voluntary Guidelines)⁶⁹ have a capacity-building component, which will enable SSF fishers to cope with the changing environment – This voluntary instrument, as well as the ‘tenure guidelines’,⁷⁰ can be best implemented through the overarching mechanism of the new RFMO.

Recommendations: the constituent instrument of the new RFMO should include provisions on the special requirements of Developing States CPs and provide for specific measures to address the special needs of SIDS and LIFDCs where the small-scale fisheries (SSF) is the most important sub-sector of the fisheries sector.

3.5 Trade

Previous studies have concluded that the role of the market is currently underestimated in fisheries management decision-making processes in the region. The Queen Conch example shows that the market can impose its values and norms on the production side. The spiny lobster fishing practices are also under discussion in the main importing countries (USA and EU). In some markets the main importers are posing new standards that aim to increase safety at sea, reduce bad practices and support sustainable fishing. An RFMO could work together with importers and environmental NGOs to improve the communication of values, build capacity in trade related matters and avoid market distortions that work against fish producers in the WECAFC area.

To facilitate trade in fish and fish products WECAFC promotes the implementation of internationally accepted sanitary and phytosanitary standards (Article 6 l) of its Statutes).

The GFCM is required to regularly review the socioeconomic aspects of the fishing industry, including by obtaining and evaluating economic and other data and information relevant to the work of the Commission (Article 8 d) of its Agreement).

The International Plan of Action to Prevent, Deter and Eliminate IUU fishing (IPOA-IUU)⁷¹ requires States to cooperate, including through RFMOs, to adopt appropriate multilaterally agreed trade-related measures, consistent with the World Trade Organization (WTO), that may be necessary to prevent, deter and eliminate IUU fishing for specific fish stocks or species. These multilateral trade-related measures

⁶⁸ The SAMOA pathway strongly supports inter alia actions to promote and support national, subregional and regional efforts to assess, conserve, protect, manage and sustainably use the oceans, seas and their resources by supporting research and the implementation of strategies on coastal zone management and ecosystem-based management, including for fisheries management, and enhancing national legal and institutional frameworks for the exploration and sustainable use of living and non-living resources, to implement fully and effectively the regional seas programmes in which SIDS participate and to promote the conservation, sustainable use and management of straddling and highly migratory fish stocks, including through measures that benefit small island developing States that are adopted by relevant regional fisheries management organizations and arrangements.

⁶⁹ The Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (FAO, 2015)
www.fao.org/3/a-i4356e.pdf

⁷⁰ The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security are available at:
www.fao.org/tenure/voluntary-guidelines/en/

⁷¹ www.fao.org/3/a-y1224e/index.html

may be used to support cooperative efforts to ensure that trade in specific fish and fish products does not in any way encourage IUU fishing or otherwise undermines the effectiveness of CMMs which are consistent with LOSC, 1982.

In line with the IPOA-IUU the NEAFC Scheme of Control and Enforcement⁷² allows for NEAFC CPs to adopt appropriate multilaterally agreed non-discriminatory trade related measures, consistent with the WTO, that may be necessary to prevent, deter, and eliminate the IUU fishing activities identified by the Commission.

Recommendation: it is recommended that the new RFMO is empowered to adopt multilaterally agreed trade-related measures in accordance with international law and consistent with the WTO in a fair, transparent and non-discriminatory manner. These measures should include a scheme of transparency and traceability of fisheries products, multilateral catch documentation and certification requirements as well as import and export controls or prohibitions. MoUs could be established with CITES to collaborate on the conservation of the CITES listed species that are under the mandate of the RFMO.

4. GEOGRAPHIC AREA OF COMPETENCE

The issue of the Commission's area of competence has been assessed in detail in previous studies and discussed among WECAFC's members.

The previous assessments concluded that **51 percent of the current WECAFC's geographic area of competence (9.4 million Km²) is in ABNJ** not managed by any country or organisation at the moment. The creation of an RFMO in that area will ensure that resources such as deep sea fish stocks and straddling stocks, which are currently not exploited or are exploited without the knowledge of WECAFC Member-states, will come under a common management and conservation regime determined by the members which "*should be considered a priority considering the limited surveillance and monitoring of fisheries resources and activities in the ABNJ area*".⁷³ Specifically with regard to the transboundary nature of various straddling stocks, the previous studies concluded that it makes sense that the new RFMO will cover both high seas area in Area 31 and the northern part of Area 41.⁷⁴

An RFMO in the WECAFC region would also be entitled to make recommendations concerning fisheries of shared stocks, straddling stocks and highly migratory species undertaken within the EEZs of its Member-states, provided that the Members in question request such recommendations and it receives their affirmative vote.

WECAFC members had an opportunity to give their opinion about this issue in reply to the letter issued by WECAFC, on 20 May 2016. Among the 34 Member-states, 13 have expressed their opinion as follows: 11 favoured the Commission competence over the ABNJ (in Area 31 and North Area 41) of which 6 favoured the Commission competence area to include the EEZs of the members and 5 countries suggested that the RFMO only covers the ABNJ.⁷⁵

⁷² www.mapama.gob.es/es/pesca/temas/control-e-inspeccion-pesquera/NEAFC_Scheme_2014_y_recomendaciones_tcm7-326885.pdf

⁷³ See Page 46, Findings of the independent cost-benefit assessment of the options for strategic reorientation of WECAFC (February 2016)
www.fao.org/3/a-i6377e.pdf

⁷⁴ See Page 57, WECAFC/XVI/2016/13 (April 2016)
www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/13e.pdf

⁷⁵ Official responses were received from the following Member-states: Barbados, Brazil, Colombia, Costa Rica, Dominica, Dominican Republic, EU, Guyana, Saint Kitts and Nevis, The Netherlands, Trinidad and Tobago and Venezuela.

At the *16th session of WECAFC*, held in June 2016, the Commission recognized the value of establishing an RFMO in the WECAFC area of competence, being the Western Central Atlantic (area 31) and the Northern part of the South West Atlantic (area 41) to collaborate in fisheries management and conservation in the ABNJ (paragraph 58).

Additional questions were raised on this issue by Member-states and partners following the letter on “Request to WECAFC Members for questions to be answered in the RFMO establishment process” sent by WECAFC’s chairperson on 14 July 2017 to all members and key partner agencies. The letter was circulated in English and Spanish and received by the end of September 2017 responses from: Bahamas, CRFM, Dominican Republic, France, Honduras, ICCAT, NAFO OSPESCA, Saint Kitts and Nevis, Suriname and Venezuela. A number of members informed the Secretariat that their comments and questions were integrated in the responses from CRFM and/or OSPESCA (*see Annex 2*).

Recommendation: the new RFMO could initially focus on conservation and management of the living resources in the ABNJ (Article 118 of LOSC, 1982 and Article 13 of UNFSA), while supporting its Member-states in the management and conservation of the shared and transboundary stocks in their respective EEZs, and then strengthen arrangements for the conservation and management of the resources under national jurisdiction in accordance with the sovereign rights of coastal States for the purpose of exploring and exploiting, conserving and managing the living marine resources within their EEZ (Articles 55 of LOSC, 1982).

5. STOCKS COVERAGE

According to previous studies the present status and management of shared stocks of economic relevance shows that the WECAFC area supplies fish and fisheries products for an estimated 94 million people representing 1.6 percent of total world capture fisheries production.⁷⁶ Many commercially targeted fish stocks are overfished or fully exploited at present. The main fish producers are USA, Mexico, Brazil, CRFM, Venezuela, OSPESCA, the European Union (EU) and Cuba. The USA, Mexico, Venezuela and Brazil produce together some 80 percent of the fish in the region. The WECAFC region is a net importer of fish and fisheries products- imports of fish and fish products are 8.8 billion USD higher than exports. The fisheries sector provides direct employment to 1.3 million people in the region and it is estimated that 4.5 million people depend directly or indirectly on the sector for their livelihoods. IUU fishing in the WECAFC area is estimated at between 20 and 30 percent of the total reported production levels.⁷⁷

The independent cost benefit study⁷⁸ showed that WECAFC is the overarching organization in the region. CRFM and OSPESCA represent a majority of the WECAFC members, but in terms of production only cover some 20 percent of total catches in the region. Most of the commercially interesting fish stocks are shared, transboundary, straddling or highly migratory species, which require **collaboration among the WECAFC’s Member-states on stock assessment and establishment of CMMs**. This is one of the key duties of an RFMO.

The study considered five commercially important fisheries target species/stocks (Queen Conch, spiny lobster, shrimp, dolphin fish and sharks) and concluded that for the sustainable fishing of these stocks the establishment of an RFMO would be essential. Apart from these shared regional stocks, the **straddling fish stocks and deep sea fish stocks** in the ABNJ of areas 31 and the northern part of

⁷⁶ www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/13e.pdf

⁷⁷ See Page 2, WECAFC/XVI/2016/12 (May, 2016)

www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/12e.pdf

⁷⁸ www.fao.org/3/a-i6377e.pdf

41 require coverage by an RFMO. The highly migratory species (e.g tuna and tuna like) are difficult to manage in the Caribbean region if few countries in this region are Member and/or actively involved in ICCAT. The role of the RFMO with regard to these regional stocks has been summarized as:⁷⁹ Coordinate collaboration on research and scientific advice generation on the stocks and their fisheries; Conduct regional stock assessments; Build capacity for stock assessments and fisheries management among the members; Support sustainable fisheries development and responsible fisheries investments among the member; Develop management and conservation plans supported by (binding) management recommendations; Monitor and evaluate the implementation and impact of the management recommendations; Facilitate regional coordination in fisheries activities monitoring and enforcement.

It should however be noted that, as pointed out by the FAO's Legal Office, there is no clear link between the legal status of WECAFC and the current situation in terms of stocks and fisheries in the WECAFC area of competence.

WECAFC members had an opportunity to give their opinion about this issue e in reply to the letter issued by WECAFC, on 20 May 2016. Among the 34 Member-states, 13 have expressed their opinion of which 11 countries favoured the coverage of the regionally shared stocks; straddling stocks, deep sea fish stocks and highly migratory species not covered by ICCAT, 1 raised concerns except for the shared stocks and one country did not express its views on the subject-matter.

At the *16th session of WECAFC* the Commission recognized the value of establishing an RFMO in the WECAFC area of competence to collaborate in fisheries management and conservation in the ABNJ of **straddling stocks, deep sea fish stocks and highly migratory species** that are not under the mandate of ICCAT (paragraph 58). It also noted with concern "*the very limited information currently available about deep sea fish stocks and their respective catches in the WECAFC area*" and adopted **Recommendation WECAFC/16/2016/4** on the management of Deep Sea Fisheries in the High Seas.⁸⁰

Additional questions were raised on this issue by Member-states following the letter issued by WECAFC on 14 July 2017), as per Annex 2.

Recommendation: the stocks to be covered by the RFMO and to which CMMs will apply should include all the Straddling Fish Stocks, all the deep sea fishing stocks⁸¹ and the highly migratory species (Article 64 and Annex I LOSC, 1982) that are not covered by ICCAT (Article 8, UNFSA) taking into account the biological characteristics of the stocks concerned and the nature of the fisheries involved (Article 9 (1) a), UNFSA). Detailed stock assessments would be required to ensure that adequate scientific data and information is available over the range of the stocks to be managed.

6. NATIONAL SOVEREIGNTY ASPECTS

On the high seas, LOSC, 1982 grants to all States the freedom of fishing (Article 87 (1) e)) and Article 116), which is balanced by a duty to co-operate to manage the resources and a duty to adopt measures to control the fishing activities of their national vessels operating on the high seas (Articles 117 and 118). The UNFSA subjects coastal States and States fishing on the high seas to the obligation of cooperating in relation to straddling fish stocks and highly migratory fish stocks

⁷⁹ See Page 73, WECAFC/XVI/2016/13 (April 2016)
www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/13e.pdf

⁸⁰ 16th Session of the WECAFC www.fao.org/3/a-i6031t.pdf

⁸¹ Straddling fish stocks are stocks which occur both within an EEZ and in an area beyond and adjacent to the zone, while highly migratory fish stocks typically swim long distances across the high seas and more than one EEZ.

either directly or through an appropriate subregional or regional RFMO “*taking into account the specific characteristics of the sub-region or region, to ensure effective conservation and management of such stocks*” (Article 8 n.º 1). Relevant coastal States and States fishing for the stocks on the high seas regarding which CMMs have been adopted shall cooperate by becoming members of the relevant subregional or regional RFMO, or agreeing to apply the CMMs established by such RFMO (Article 8 n.º 3, UNFSA).

The general objectives of WECAFC have been established “*without prejudice to the sovereign rights of coastal States*” (Article 1, WECAFC Statutes).

In the areas under national jurisdiction coastal States have “*sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone*” (Article 56 (1) a), LOSC, 1982).

With the purpose of promoting the conservation of the living resources coastal States are required in their EEZ to determine the allowable catch of such resources and at the same time to promote their optimum utilization (Articles 61 and 62 of LOSC, 1982). In these areas flag States are required to “*comply with the conservation measures and with the other term and conditions established in the laws of the Coastal States*” (Articles 58 n.º 3 and 62 n.º 4, UNCLOS).

With regard to the new RFMO, and within their EEZ, coastal States are required to:

- Cooperate with the RFMO in the adoption of CMMs to ensure that “*the maintenance of the living resources in the EEZ is not endangered by over-exploitation*” (Article 61 n.º 2, LOSC, 1982);
- Contribute and exchange on a regular basis available scientific information, catch and fishing effort and other data relevant to the conservation of fish stocks (Article 61, n.º 5).

Recommendation: the new RFMO should have responsibilities over the living resources in the ABNJ and in the EEZ in accordance with international law.

7. MEMBERSHIP

The Statutes proved that “The Commission shall be composed of such Members and Associate Members of the Organization that are coastal States, whose territories are situated wholly or partly within the area of the Commission or States whose vessels engage in fishing in the area of competence of the Commission and that notify in writing to the Director-General of the Organization of their desire to be considered as members of the Commission.”

A very important feature of WECAFC is that it is the Regional Fishery Body (RFB) that includes all the countries of the region. Besides it includes also, in line with Article 5 of its Statutes, several non-coastal fishing States, including Japan, Republic of Korea, Spain and the UK. Other advisory RFBs comprised of coastal States only (e.g. SWIOFC, Pacific Islands Forum Fisheries Agency) use their regional organization as a platform for developing common regional standards and minimum terms and conditions of fisheries access for foreign fishing fleets.

Table 6. Membership of GFCM, NEAFC, ICCAT and FFA

Other RFBs	Membership
GFCM Art.4 (1) (ii), Art. 18(1) and Art. 23(7) Agreement	<p>1. Membership in the Commission shall be open to Members and Associate Members of the Organization and such non-member States as are members of the United Nations or any of its specialized agencies,</p> <p>a) that are:</p> <p>ii) States or Associate Members whose vessels engage in fishing, or intend to conduct fishing, in the area of application for stocks covered by this Agreement;</p> <p>1. The Commission, through the Secretariat, may invite non-C Ps whose vessels engage in fishing in the area of application, with particular reference to coastal States, to cooperate fully in the implementation of its recommendations, including by becoming cooperating non-C Ps. The Commission may accept by consensus of its CPs any application for granting cooperating non-Contracting Party status provided however, that if, after every effort has been made, a consensus cannot be reached, the matter will be put to a vote and the cooperating non-Contracting Party status will be granted by a two-thirds majority of its CPs.</p> <p>7. Acceptance of this Agreement by non-C Ps may be made subject to reservations which shall become effective only upon approval by two thirds of the CPs. CPs whose relevant competent authorities have not replied within three months from the date of the notification shall be deemed to have accepted the reservation. Failing such approval, the nation or regional economic integration organization making the reservation shall not become a party to this Agreement. The Director-General of the Organization shall notify forthwith all C Ps of any reservations.</p>
NEAFC Art. 20(1)(3)(4) Convention	<p>1. This Convention shall be open for signature from 18 November 1980 to 28 February 1981 by the following Parties: Bulgaria, Cuba, Denmark in respect of the Faroe Islands, the European Economic Community, Finland, the German Democratic Republic, Iceland, Norway, Poland, Portugal, Spain, Sweden and the Union of Soviet Socialist Republics.</p> <p>3. Any of the Parties referred to in paragraph 1, which has not signed this Convention may accede thereto at any time after it has entered into force in accordance with paragraph 2.</p> <p>4. Any state not referred to in paragraph 1, except a Member State of the European Economic Community, may accede to this Convention at any time after it has entered into force in accordance with paragraph 2, provided that an application for accession of that State meets with the approval of three-fourths of all the Contracting Parties.</p> <p>At the 22nd Annual Meeting of NEAFC in November 2003 "Guidelines for the expectation of future new Contracting Parties with regard to fishing opportunities in the NEAFC Regulatory Area"⁸² were adopted, which also refer to the possibility of participating as non-contracting party in the work of NEAFC.</p>
ICCAT Art. III (3) and Art. XIV Convention	<p>3. Except as may otherwise be provided in this Convention, decisions of the Commission shall be taken by a majority of the C Ps, each CP having one vote. Two-thirds of the CPs shall constitute a quorum.</p> <p>1. This Convention shall be open for signature by the Government of any State which is a Member of the United Nations or of any Specialized Agency of the United Nations. Any such Government which does not sign this Convention may adhere to it at any time.</p> <p>To become a C P, an instrument of adherence to the <u>International Convention for the Conservation of Atlantic Tunas</u> must be deposited with the Director-General of FAO. Membership becomes effective on the date that the instrument is deposited.</p> <p>The Commission can also grant the special status of Non-contracting cooperating party. Such non-contracting cooperating parties have many of the same rights and obligations that CPs have.</p> <p>The procedures and criteria for attaining this status are laid out in the 2003 <u>Recommendation by ICCAT on criteria for attaining the status of Cooperating non-Contracting Party. Entity or Fishing Entity in ICCAT</u>. Those wishing to attain Cooperating Status should make their application through the Secretariat 90 days before the annual meeting, which usually takes place in November of each year.</p>
FFA Art. II(a)(b) and Art. X(1)(2)(4) FFA Convention	<p>Membership of the Agency shall be open to:</p> <p>(a) members of the South Pacific Forum</p> <p>(b) other states or territories in the region on the recommendation of the Committee and with the approval of the Forum.</p> <p>1. This Convention shall be open for signature by members of the South Pacific Forum.</p> <p>2. This Convention is not subject to ratification and shall enter into force 30 days following the eighth signature. Thereafter it shall enter into force for any signing or acceding state thirty days after signature or the receipt by the depositary of any instrument of accession.</p> <p>4. States or territories admitted to membership of the Agency in accordance with Article II (b) shall deposit an instrument of accession with the depositary.</p>

⁸² www.neafc.org/becomingacp

Indeed, the 34 Members of WECAFC include all Caribbean SIDS, Central and South American countries bordering the Caribbean basin, the European Union (EU), the USA and various Distant Water Fishing Nations (DWFN). The DWFN are those allowed under Article 62 n.º of LOSC, 1982 to have access to the surplus of the allowable catch where the coastal State does not have the capacity to harvest the entire allowable catch.

At the *2nd WECAFC's Reorientation Workshop* it was recognised that “*the fisheries by DWFN in large area of high seas of WECAFC is affecting the availability of fish (particularly pelagic and straddling resources) in the EEZs of the member states of WECAFC*”. It was also concluded that the establishment of an RFMO would ensure better collaboration between the States in the region, which has the potential to increase fisheries production, employment and incomes in the Caribbean.⁸³ On this regard one of the options identified in the previous studies for the establishment of the new RFMO⁸⁴ is through a small framework, which allows for a membership composed of the large producing countries in the region (USA, Venezuela, Brazil, Mexico, Cuba, Colombia) and relevant regional organisations (CRFM, OSPESCA, and the EU). Under this framework the CRFM, OSPESCA and the EU would represent their members and vote on behalf of them.⁸⁵ In addition, under this option it was proposed that the DWFNs would not be members, but could participate as observers, which would change the position of present WECAFC member States such as Japan, Republic of Korea and the UK. The small-RFMO option can be seen in practice within NEAFC where the EU represents its members and no DWFN can become member.

Recommendation: the future membership of WECAFC should include both coastal and flag states and take into account the specific role of non-coastal member states of WECAFC and how they could be better incorporated in the new RFMO and in the process of adopting binding CMMs in the region.

8. INSTITUTIONAL STRUCTURE

This section provides an overview of the institutional structure of WECAFC, its collaboration with the Sub-regional RFBs (CRFM, OSPESCA), which are observers, and ICCAT and their respective institutional structure.

WECAFC institutional structure. The institutional structure of WECAFC is based on its Statutes and RoP. The Statutes provide for the general objective, principles and functions of the Commission (Articles 1, 2 and 6, respectively) and the RoP set out the operational procedures of its different bodies. The Performance Review (2013-2014) concluded that the WECAFC's institutional structure has been relatively stable in recent decades. The attendance of the Commission's session has been good in recent years (see annex III). The Scientific Advisory Group (SAG) was established by the *9th session of WECAFC* in 1999. The Bureau was established in the revised RoP of 2008 and was assigned a greater role at the *14th session of WECAFC* (2012). The *15th session of WECAFC* (2014) reviewed and adopted the Revised RoP, which enlarge the scope and transformed the Bureau into an Executive Committee. Working Groups (WGs) have changed over time along with the priorities of the members. The WECAFC Secretariat is provided by FAO and hosted by the FAO Sub-regional Office for the Caribbean in Barbados.

⁸³ Paragraph 6 of the Report of the 2nd Reorientation and Strategic Planning Workshop.
www.fao.org/3/a-i5584be.pdf

⁸⁴ See Page 63, of WECAFC/XVI/2016/13
www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/13e.pdf

⁸⁵ It is not clear whether the current legal frameworks of the EU, CRFM and OSPESCA allow for full representation of the members by these institutions on all issues in another organization.

Table 7. Institutional Structure of WECAFC⁸⁶

WECAF Body	Mandate and Composition
Commission (Article 1, 7 Statutes; Rule VII, RoP)	Is the main governing body composed of all members- every member country and the EU have each 1 vote (34 members). The general objective of the Commission is to promote the effective conservation, management and development of the living marine resources of the area of competence of the Commission, in accordance with the FAO CCRF, and address common problems of fisheries management and development faced by its members. Meetings of the Commission have been held every two years.
The Executive Committee (Rule IV, RoP)	The Executive Committee is in charge of: <ul style="list-style-type: none"> - proposing a strategy and work plan with the assistance of the Secretariat, for the Commission's review, and monitoring its implementation; - ensuring that policies and decisions of the Commission are operationalized; - coordinating and monitoring the work of the Technical Advisory Committee and Working Groups. It reports to the Commission and It meets at least once a year.
SAG (Rule XII, RoP)	The SAG is an advisory body to the Commission constituted of no more than seven scientists with suitable scientific qualifications and experience in fisheries who serve in their personal capacity. Its functions are to : <ul style="list-style-type: none"> - Provide scientific advice to WECAFC ad hoc working groups and the Commission; - Review and contribute to the report to the Commission on the status of stocks in the area covered by the Commission; - Review and contribute to the report on the situation, trends and prospects of fisheries in the WECAFC Region; - Consider any other matters referred to it by the Commission and the WECAFC ad hoc working groups. The SAG conducts its work on a regular basis particularly in the year when the Commission meets.
Secretariat (Rule VI, RoP)	The Secretariat is responsible for implementing the policies and activities of the Commission and for carrying out the duties and performing its functions and responsibilities established under Rule VI (4) and reports thereon to the Commission.
WGs	Ad-hoc WGs are established by the Commission to provide fishery management advice and recommendations, based on the best available scientific information. Most WGs are joint with other regional partner institutions, such as the CRFM, OSPESCA, the Caribbean Fisheries Management Council (CFMC) and with the French Research Institute for Exploration of the Sea (IFREMER). The WGs have specific terms of reference (ToR) and meet on a regular basis, the timing of which is decided by the members. The essential role played by WECAFC WGs in the implementation of the Programme of Work was highlighted at the 16th Session of the Commission. ⁸⁷

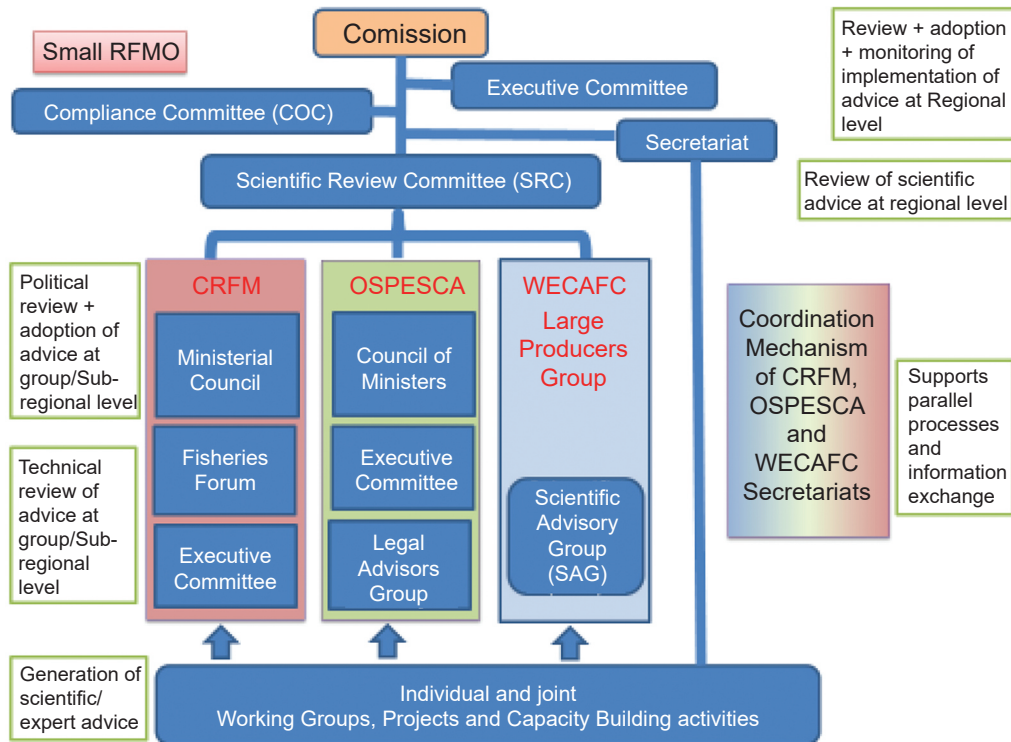
The overarching bodies to which the WECAFC currently reports are the Regional Conference of FAO for Latin America and the Caribbean (LARC) and the FAO Committee of Fisheries (COFI), both bodies meet once every two years. Technical assistance to WECAFC and its members is also given by FAO headquarters and the Regional Office for Latin America. The WECAFC Secretariat is an active member of the Regional Fishery Body Secretariats Network (RSN), which meets biennially. The RSN was established to facilitate on-going information exchange among RFB Secretariats. In part this is facilitated by the distribution of a quarterly newsletter, which is published by FAO and based on contributions from the RFBs.⁸⁸

The discussions at the 16th session of WECAFC emphasized that an RFMO in the WECAFC area should be based on existing institutional structures and partnerships, have a small secretariat and be cost-effective. In either of the two options (IGO and Art XIV) the institutional set-up could be kept largely similar to the current Interim Coordination Mechanism for Sustainable Fisheries. A potential RFMO institutional set-up that was favoured by various delegations at the 16th session was the following:

⁸⁶ See Figure 11 with the organizational structure and governance for WECAFC as Article VI statutory body, WECAFC/ XVI/2016/13 www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/13e.pdf

⁸⁷ See Paragraphs 12 www.fao.org/3/a-i6031t.pdf

⁸⁸ www.fao.org/fishery/topic/18244/en



The above institutional set-up was presented as one of the options in document WECAFC/XVI/2016/13 “assessment of the recent achievements and collaboration of CRFM, OSPESCA and WECAFC, including options for a regional institutional collaborative structure within an RFMO framework”.

8.1 WECAFC collaboration with other RFMOs

There is a multitude of organizations working on fisheries related issues in the WECAFC area of competence at national, sub-regional and regional level. The collaboration among the RFBs in the WECAFC’s area of competence has significantly strengthened in recent years- 19 of the 34 WECAFC Members are member of other RFMOs in the Atlantic or elsewhere.

In the Western Central Atlantic region, which is also called the wider Caribbean region or FAO Fishing Area 31, ICCAT is the only RFMO, which solely deals with tuna and tuna-like species. There are however three RFBs besides WECAFC- namely CRFM, OSPESCA and OLDEPESCA.⁸⁹ The first two are linked to regional economic cooperation commissions – the Caribbean Community (CARICOM) and Central American Integration System (SICA) and the latter is not included in this assessment since it has not been active in the WECAFC region in the last six years. WECAFC is the oldest RFB in the Western Central Atlantic (established in 1973) and has the widest membership (34 members).

At the **16th Session** the Commission noted the importance of **taking into account the sub-regional and local peculiarities**. In this respect, the Commission “*noted that such an RFMO should not replace existing RFBs, but instead establish functional ties and formal relationships with CRFM, OSPESCA and ICCAT. The Commission considered it important to build on the positive momentum created by WECAFC and sub-regional partners in recent years*”.⁹⁰ In the same session the Commission also adopted the **WECAFC Strategic Plan (2014-2020)**, the process of which embraces the on-going collaboration with other sub-regional fishery bodies, fisherfolk organizations, civil society organizations, research institutions, development banks and projects.

⁸⁹ The Latin American Organization for Fisheries Development OLDEPESCA www.fao.org/fishery/rfb/oldepesca/en. It is noted that OLDEPESCA has not been active in recent years and may be abolished in 2019/2020.

⁹⁰ See Paragraph 56 www.fao.org/3/a-i3790t.pdf

The overlaps in membership between WECAFC, CRFM and OSPESCA and between WECAFC and ICCAT have been previously identified⁹¹ and are summarised above (*see Table 1*). **From the 34 Member-states of WECAFC 1 belongs to CRFM, OSPESCA and ICCAT,⁹² 3 belong to CRFM and ICCAT,⁹³ 4 belong to OSPESCA and ICCAT,⁹⁴ 10 belong only to CRFM,⁹⁵ 2 belong only to OSPESCA,⁹⁶ 10 belong only to ICCAT⁹⁷ and 4 belong to none of the other RFBs.⁹⁸**

Presently WECAFC coordinates joint work with CRFM, OSPESCA and ICCAT. The interim coordination mechanism for sustainable fisheries (ICM-Fisheries) is being tested since 2014, formalized through an MoU in January 2016, and is likely to show improvements in harmonization of policy and legal frameworks for fisheries, cooperation on relevant scientific and fisheries management projects, participation in each other's activities and sharing of data, information and findings.

To ensure the proper articulation between WECAFC and the other RFBs in the region the following different mechanisms have been developed and are briefly assessed below: Joint WGs; MoU for the ICM Fisheries; and the Consortium on Billfish Management and Conservation (CBMC), which are briefly addressed below.

Joint Working Groups

WECAFC, CRFM and OSPESCA are all RFBs that promote fisheries management and conservation recommendations and coordination of decisions and recommendations on fisheries and stocks. They have competences and responsibilities for fisheries management and conservation of fish stocks, respectively within the SICA and CARICOM regions and the Western Central Atlantic (FAO area 31 and northern part of area 41) including in the ABNJ.

WECAFC, CRFM and OSPESCA are already collaborating on regional projects and in the execution of work under the **joint WGs** that were established by the 14th and 15th Sessions of WECAFC which have contributed to exchange of information on fisheries resources and the fisheries activities in the region and to generate fisheries advice in support of management and decision making by their members. There is also on-going collaboration with other organizations/projects including: the Caribbean Fisheries Management Council (CFMC);⁹⁹ the Caribbean Large Marine Ecosystem project (CLME+);¹⁰⁰ the Centre for Resource Management and Environmental Studies (CERMES);¹⁰¹ and IFREMER.¹⁰² The following joint WGs currently exist and most have been active in the last 3 years:

- OSPESCA/WECAFC/CRFM/CRFM WG on Caribbean Spiny Lobster;
- WECAFC/OSPESCA/CRFM/CFMC WG on Recreational Fisheries;
- CRFM/OSPESCA/WECAFC/CRFM/CITES WG on Queen Conch;
- CRFM/WECAFC/JICA/IFREMER Working Group on fisheries using FADs;
- CRFM/WECAFC Working Group on flying fish in the eastern Caribbean;
- WECAFC WG on the management of deep sea fisheries;
- CFMC/WECAFC/OSPESCA/CRFM Spawning Aggregations WG;

⁹¹ See Figures 9 and 10 of WECAFC/XVI/2016/13
www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/13e.pdf

⁹² Belize.

⁹³ Barbados, S. Vincent & Grenadines and Trinidad & Tobago.

⁹⁴ Guatemala, Honduras, Nicaragua and Panamá.

⁹⁵ Antigua & Barbuda, Bahamas, Dominica, Grenada, Guyana, Haiti, Jamaica, Saint Kitts and Nevis, Saint Lucia and Suriname.

⁹⁶ Costa Rica, Dominican Republic.

⁹⁷ Brazil, European Union, France, Guinea, Japan, Mexico, Republic of Korea, UK, USA and B.Rep of Venezuela.

⁹⁸ Colombia, Cuba, Netherlands and Spain.

⁹⁹ www.caribbeanfmc.com/

¹⁰⁰ www.clmeproject.org/

¹⁰¹ www.cavehill.uwi.edu/cermes/about-us.aspx

¹⁰² <https://www.ifremer.fr/en/>

- WECAFC/ IFREMER/CRFM Working Group on Shrimp and Groundfish in the northern Brazil-Guianas shelf;
- WECAFC/CITES/OSPESCA/CRFM/CFMC Working Group on Shark management and conservation;
- Regional Working Group on IUU Fisheries; and
- WECAFC-FIRMS/CRFM/OSPESCA Fishery Data and Statistics Working Group.

At the *16th Session* the Commission considered the intersessional activities of the WGs¹⁰³ and debated whether they should be maintained or abolished including the joint WGs with CRFM, OSPESCA, IFREMER and CFMC. It concluded that all the existing WGs should be maintained and their terms of reference reviewed by each session and re-focused (as necessary) with a view to broaden their scope and encompass cross-cutting issues.¹⁰⁴

The joint activities, especially during the last two years, resulted in various management plans, which were adopted as Recommendations by the 16th Session of WECAFC.¹⁰⁵

Memorandum of Understanding for the ICM-Fisheries:

On 27 January 2016, **CRFM, OSPESCA and FAO/WECAFC signed a MoU**,¹⁰⁶ which formalizes the earlier collaboration started in 2012 through the joint WGs in order to facilitate, support and strengthen the coordination of actions among the three RFBs to increase the sustainability of fisheries in the Western Central Atlantic region

The MoU establishes specific objectives of collaboration including: to promote coordination and mutual cooperation in the areas identified as priorities in the CRFM-OSPESCA joint Action Plan, covered by the joint WGs, or identified in the CLME+ Project and CLME+ SAP that are of relevance to the mandate/scope of work of the Parties; to ensure a free flow of mutually useful information (including data) concerning fish stocks, fisheries activities and the Caribbean and North Brazil Shelf Large Marine Ecosystems;¹⁰⁷ to facilitate the work among the Members of the Parties towards harmonization of their respective policy and legal frameworks for fisheries; to cooperate on relevant scientific and fisheries management projects of mutual interest; to establish reciprocal observer arrangements (according to their respective internal rules and procedures) and to share reports.

The MoU establishes an Interim Coordination Arrangement for Sustainable Fisheries (ICM- Fisheries). The ICM will enable better coordination of these working groups and ensure that the members are better informed and have more opportunities to participate in Working Group activities.

¹⁰³ Intersessional activities of WGs and matters referred to the attention of the Commission, WECAFC/XVI/2016/4 (April, 2016) www.fao.org/fi-static-media/MeetingDocuments/WECAFC16/4e.pdf

¹⁰⁴ See Paragraphs 11, 12 and 13 www.fao.org/3/a-i6031t.pdf

¹⁰⁵ Recommendation WECAFC/16/2016/1 “on the regional plan for the management and conservation of Queen conch in the WECAFC area – addendum to recommendation WECAFC/15/2014/3; Recommendation WECAFC/16/2016/2 “on spiny lobster management and conservation in the WECAFC area”; Recommendation WECAFC/16/2016/3 “on the sub-regional fisheries management plan for flyingfish in the Eastern Caribbean”; Recommendation WECAFC/16/2016/4 “on the management of deep sea fisheries in the high seas”; Recommendation WECAFC/16/2016/5 “on the management of shrimp and groundfish resources in the WECAFC area”.

¹⁰⁶ The MoU was signed during the First Steering Committee Meeting of the Project which took place in Cartagena, Colombia from 26 to 28 January 2016 www.fao.org/fishery/nems/40814/en www.fao.org/3/a-bc123e.pdf

¹⁰⁷ This initiative is supported through the UNDP/GEF Catalysing Implementation of the Strategic Action Programme for the Sustainable Management of shared Living Marine Resources in the Caribbean and North Brazil Shelf Large Marine Ecosystems (CLME+) Project. This 5 year regional project seeks to support the implementation of a 10 year politically endorsed Strategic Action Programme for the Sustainable Management of the Shared Living Marine Resources of the Caribbean and North Brazil Shelf Large Marine Ecosystems (CLME+SAP); through the full implementation of ecosystem based management/an ecosystem approach to fisheries within the CLME+ region.

This MoU shows that cooperation and partnership has strengthened significantly in recent years between the two CARICOM and SICA fisheries bodies and FAO. The WECAFC Secretariat coordinates its implementation in close cooperation with CRFM and OSPESCA and the CLME+ Project Coordination Unit.

The ICM organized so far 8 meetings before and after its formal establishment, on average twice per year. The last three meetings were on 24 June 2016 (Guadeloupe), 28 February 2017 (Barbados) and 18 August 2018 (Miami). The meetings are generally organized back-to-back with a regional working group meeting or CLME+ meeting, in which all three secretariats participate. The WECAFC Secretary chaired the first meetings and in October 2017 the chairmanship was handed over to CRFM Executive Director for the next upcoming meetings. The latest workplan of the ICM can be found in Annex A to the Update on the ICM presented at the 8th SAG session last held in Mexico (Merida 3-4 November 2017).¹⁰⁸

An important shortcoming that should be highlighted is that no RFMO exist in this region. The three RFBs operating in fishing Area 31 or the northern part of Area 41 have no regulatory powers in spite of the powers of the Council of Ministers of OSPESCA (see section 8.2.2, below). It has to be considered however, that even if these two RFBs would have binding functions and if these decisions would be fully implemented, the majority of the catch of the shared stocks would not be covered under these arrangements since CRFM and OSPESCA in terms of production only cover some 20 percent of total catches in the region.

The ICM is supposed therefore to be an interim solution for the period until a RFMO is established in the WECAFC area of competence.

Consortium on Billfish Management and Conservation

The Consortium on Billfish Management and Conservation (CBMC) for the Western Central Atlantic was formally established in March 2016, through a Letter of Intent (LoI)¹⁰⁹ between FAO/WECAFC, CRFM, OSPESCA, the Caribbean Network of Fisherfolk Organizations (CNFO)¹¹⁰ and Conservation International (CI)¹¹¹ the International Game Fish Association (IGFA).¹¹² The ICCAT has not yet signed the LoI despite great participation of ICCAT experts in the WGs meetings.

The main purpose of the CBMC is to support the implementation of the World Bank/Global Environment Facility (GEF) financed, WECAFC executed, Caribbean Billfish Project, and to foster better management and conservation of the billfish resources in the Western Central Atlantic. Since its establishment the CBMC has met four times. The main achievements to date are its contribution to the development process of the Caribbean billfish management and conservation plan, the organization of several regional studies on billfish resources and values, the review of various billfish study reports and the increase in visibility of and awareness among the public and fisheries stakeholders in particular on billfish stocks and the value that is generated by the billfish fisheries sub-sectors (small-scale, recreational and industrial).

It has to be considered that when WECAFC becomes an RFMO, CRFM and OSPESCA roles and mandates would remain largely unaffected. Changes are expected of course in decision-making processes as greater coordination among these RFBs and the new RFMO would be required. Moreover, collaboration, scientific advice and stock assessments will need to be strengthened.

¹⁰⁸ WECAFC/SAG/VIII/2017/7 (October 2017)

www.fao.org/3/a-bs250e.pdf

¹⁰⁹ www.fao.org/in-action/commonoceans/news/detail-events/en/c/385778/

¹¹⁰ www.cirp.org.tt/cnfo/

¹¹¹ www.conservation.org/Pages/default.aspx

¹¹² www.igfa.org/

8.1.1 CRFM

The CRFM¹¹³ was established, as a specialised institution of the CARICOM, by means of an international agreement signed on 4 February 2002, which entered into force on the same day.¹¹⁴ The organization adopted its own rules of procedure on 5 August 2002¹¹⁵ and was officially inaugurated in Belize City, Belize, on 27 March 2003 where it is headquartered.

Recommendation: the new RFMO should not replace existing RFBs, but rather build on and further strengthen the structural linkages (functional ties and formal relationships) with CRFM, OSPESCA and with ICCAT for tuna stocks.

The CRFM is an inter-governmental organization that promotes and facilitates coordinated actions for the management, conservation and the responsible utilization of the region's fisheries and other aquatic resources for the economic and social benefits of the current and future population of the region. More specifically it promotes the following main objectives (Article 4; Agreement): the efficient management and sustainable development of marine and other aquatic resources within the jurisdictions of Member States; the promotion and establishment of co-operative arrangements among interested States for the efficient management of shared, straddling or highly migratory marine and other aquatic resources; the provision of technical advisory and consultative services to fisheries divisions of Member States in the development, management and conservation of their marine and other aquatic resources.

The CRFM governance structure has been presented in detail in a previous study.¹¹⁶ It consists of three main organs, namely the Ministerial Council, the Caribbean Fisheries Forum and the Technical Unit/Secretariat (Article 6, CRFM Agreement). Membership is open to Member-states and Associated Members of CARICOM.¹¹⁷

8.1.2 OSPESCA

OSPESCA was created in 1995 as the agency of the SICA with the aim of promoting the sustainable and coordinated development of fisheries and aquaculture in the context of the Central American integration process, defining, approving and implementing policies, strategies, programs and regional projects. headquarters are based in San Salvador

It was established by the Council of Ministers of SICA, which under Article 22 of the Protocol of Tegucigalpa,¹¹⁸ has the power to adopt binding decisions, but still the SICA countries have to ratify any management measures decided by the Council.

The main activities of OSPESCA are: to promote strategies of integration policy for fisheries and aquaculture; to promote and monitor the Regional Framework Treaty on fisheries and aquaculture; to coordinate inter-institutional and intersectoral efforts of regional fisheries development in Central American, with an ecosystem and interdisciplinary approach; to work together to harmonize and

¹¹³ www.crfm.net/

¹¹⁴ www.crfm.net/index.php?option=com_k2&view=item&layout=item&id=2&Itemid=116

¹¹⁵ www.caricom-fisheries.com/LinkClick.aspx?fileticket=D%2bL1OJk32pk%3d&tabid=125

According to the founding document of the CRFM the Ministerial Council and the Caribbean Fisheries Forum should normally each establish their own RoP (CRFM Agreement, Arts 7 (4) and 8 (2), respectively). Instead, a single document was adopted covering both bodies.

¹¹⁶ See Figure 1 WECAFC/XVI/2016/13 www.fao.org/fi-static-media/MeetingDocuments/WECAFC16/13e.pdf

¹¹⁷ Current Member-states of CRFM are: Anguilla, Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saint Lucia, Saint Kitts and Nevis, Saint Vincent/Grenadines, Suriname, Trinidad and Tobago, Turks and Caicos Is. The CRFM Member-states cooperate with the Dominican Republic through a MoU.

¹¹⁸ www.internationaldemocracywatch.org/attachments/224_Tegucigalpa_protocol.pdf

implement the laws on fisheries and aquaculture; to formulate and promote strategies, programs, projects, agreements or regional agreements on fisheries and aquaculture; to encourage regional fisheries and aquaculture producers organization; to coordinate an appropriate and coordinated regional participation in international fora related to the fisheries and aquaculture.

The governance structure of OSPESCA has been presented in detail in a previous study.¹¹⁹ Members of OSPESCA are: the Council of Ministers, which is the highest authority responsible for regional policy decisions; The Committee of Deputy Ministers, which is the Executive level of the Organization and directs, orients, monitors and evaluates the implementation of policies, programmes and regional projects; The Commission of Directors of fisheries and aquaculture, which is the scientific and technical level, responsible for ensuring scientific and technical regional brackets; two organizations of civil society that represent small-scale and large-scale fishing and aquaculture producers and assume an advisory role – Artisanal Fishermen of Central America Confederation (CONFEPESCA) and Industrial marine and aquaculture Central American Organization (OECAP). The executive committee meets every second year. Technical review is provided by the scientific working groups.¹²⁰

8.1.3 ICCAT

ICCAT is an inter-governmental fishery organization responsible for the conservation of tunas and tuna-like species in the Atlantic Ocean and its adjacent seas. Information on its objectives and functions as well as membership have been provided above (*see sections 3 and 7*).

At the last WECAFC session the Commission was informed of the ICCAT governance process and recommendations relevant for the WECAFC region. The Members learned and discussed about the functioning of ICCAT, and in particular, its compliance scheme, the activities of its scientific committee, the status of cooperating non contracting parties, costs of membership and the extensive technical assistance to developing countries. Reference was made to the duty of States that have ratified LOSC, 1982 and/or the UNFSA to collaborate in the management and conservation of fish stocks in the ABNJ. Members of WECAFC that are not (yet) contracting parties of ICCAT were encouraged to do so. Various Members (Grenada, Guyana, and Suriname) informed the Commission that they were in the process of becoming a party to ICCAT.

The scope of the ICCAT Convention is under review and its amendments were expected to be finalized at the 25th session of the Commission, which took place in Marrakesh from 14 to 22 November 2017; however, conclusion on the amendments could not be reached and discussions continue in 2018.

9. ROLE OF RFMOS IN THE IMPLEMENTATION OF INTERNATIONAL AGREEMENTS

In order to ensure the long-term benefits of sustainable use of living marine resources and marine ecosystems the international community has, based in LOSC, 1982, adopted several international fisheries instruments, legally binding and voluntary. WECAFC has called upon its members to strengthen the implementation of these instruments through **Resolution WECAFC/14/2012/1**.¹²¹ The Performance Review (2013-2014) highlighted the important role of WECAFC in the implementation of the CCRF and relevant instruments, especially the PSMA.

These instruments and the CCRF emphasize the crucial role that RFBs are expected to play in good global fishery governance and call on them to undertake a number of activities. Under the **LOSC, 1982** RFBs are expected to promote agreement between States for the conservation and development

¹¹⁹ See Figure 2 WECAFC/XVI/2016/13 www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/13e.pdf
See also: www.sica.int/ospesca/estructura-organizativa.aspx?IdEnt=47

¹²⁰ Current Member-states of OSPESCA are: Belize, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, and Panama.

¹²¹ [ftp://ftp.fao.org/FI/DOCUMENT/wecafc/resolution.pdf](http://ftp.fao.org/FI/DOCUMENT/wecafc/resolution.pdf)

of shared stocks and the conservation of straddling stocks, as well as the conservation and optimum utilization of highly migratory stocks. **To date 91 percent of the WECAFC Members (31 out of 34) are a Party to the LOSC, 1982** (see Table 1 above).

Under the UNFSA, RFBs and arrangements are expected to assist or facilitate their members to *inter alia* agree and comply with CMMs, evaluate the scientific advice they obtain, review the status of stocks, agree on standards for collection, reporting, verification and exchange of data on fisheries for the stocks, compile and disseminate statistical data, and establish as appropriate mechanism for an effective MCS. **To date 53 percent of the WECAFC Members (18 out of 34) are a Party to the UNFSA** (see Table 1 above).

The **FAO Compliance Agreement** calls upon Parties to join the RFBs or arrangements with a view to achieve compliance with international CMMs and envisages that RFBs facilitate the exchange among its Parties of information relating to the implementation of the Agreement. **To date 29 percent of the WECAFC Members (10 out of 34) are a Party to the FAO CA** (see Table 1 above).

RFMOs are defined by the **PSMA** as “*an intergovernmental fisheries organizations or arrangements, as appropriate, that has the competence to establish conservation and management measures*”. RFMO play a key role in the implementation of the PSMA, which calls upon Parties to exchange information with RFMOs and to cooperate through them in the effective implementation of the Agreement. These includes the assessment of evidence of IUU fishing, the development of procedures for identification of “*ports of non-compliance*”, and communication and notification requirements. **Resolution WECAFC/15/2014/9**¹²² calls upon its members to become a Party to the PSMA and to implement the *FAO Voluntary Guidelines on Flag State Performance*¹²³ through cooperation and collaboration in sharing information and identifying priorities, harmonizing, to the greatest extent possible, measures and actions and monitoring progress. **To date 50 percent of the WECAFC Members (17 out of 34) are a Party to the PSMA** (see Table 1 above).

Besides the CCRF there are also important voluntary instruments that attribute tasks and responsibilities to the RFMOs including: the IPOA-IUU (2001); the FAO Technical Guidelines on the Ecosystem Approach to Fisheries (2003);¹²⁴ the Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication; the FAO International Guidelines for the Management of Deep-sea Fisheries in the High Seas (2008);¹²⁵ and the FAO International Guidelines on Bycatch Management and Reduction of Discards (2010).¹²⁶ The WECAFC has made and continues to make efforts to inform, create awareness on and build capacity for national level implementation of these instruments.

10. A RFMO: UNDER ART. XIV OF THE FAO CONSTITUTION VERSUS AN INDEPENDENT IGO

RFBs are mechanisms through which States work together to ensure long-term sustainability of shared fishery resources. They provide a forum for lesson-learning, discussion, negotiation and joint-action as well as an enabling environment to increase technical and scientific assistance and coordinate work with key actors in the same area of competence, including other RFBs and arrangements.

Previous studies have concluded that the establishment of an RFMO would enable countries in the WECAFC area to harmonize fisheries management measures, but also to develop and implement

¹²² www.wecafc.org/en/recommendations-and-resolutions/resolutions.html#

¹²³ www.fao.org/3/a-i4577t.pdf

¹²⁴ www.fao.org/3/a-y4470e.pdf

¹²⁵ [ftp.fao.org/docrep/fao/011/i0816t/i0816t.pdf](ftp://ftp.fao.org/docrep/fao/011/i0816t/i0816t.pdf)

¹²⁶ www.fao.org/docrep/015/ba0022t/ba0022t00.pdf

arrangements for mandatory reporting and information sharing, joint vessel boarding and inspection schemes, joint observer programmes, VMS and to build technical capacity among the members to allow higher production in fisheries, while increasing sustainability at the same time. The key benefits of a transition of WECAFC into an RFMO identified in the *Independent cost-benefit assessment* were:

- Stocks: rehabilitation of some key commercially targeted stocks, reduced IUU fishing and an increase in ecosystem services;
- Fisheries production: increase in production with 320 thousand tonnes within 10 years;
- Fisheries value: off-vessel value of fisheries products will increase 20, adding an estimated 700 million USD to the current 3.2 billion USD;
- Employment: additional direct employment in the fisheries sector for some 250 to 300 thousand people;
- Food security: Increased supply of fish for an additional 20 to 25 million people (at current per capita consumption levels);
- Trade: the negative trade balance for fish and fisheries products will improve in favour of the region;
- High seas: an area of 9.4 million km² of High Seas will be brought under management – claiming ownership over the fisheries resources in this area;
- Other stakeholders: certain tourism sectors (e.g. scuba diving and recreational fishing) will continue to generate significant incomes for the region.

Globally the FAO lists 31 RFBs of which 11 have been established under the legal framework of FAO in accordance with the provisions of either Article VI or Article XIV of the FAO Constitution. From these, 6 are **Article VI Statutory Bodies** (RFBs) including the WECAFC¹²⁷ and 5 are **Article XIV Statutory Bodies** (RFMOs).¹²⁸

In accordance with the **Principles and Procedures** which should govern Conventions and Agreements concluded under Article XIV of the FAO Constitution and Commissions and Committees established under Article VI of the FAO Constitution, the FAO Conference stressed that Article XIV of the Constitution applies to conventions and multilateral agreements concluded under the aegis of FAO with “*the express purpose of creating contractual obligations for those who become parties to them*”. The corollary to this principle, in the understating of the FAO Conference, is that any agreement concluded under Article XIV of the Constitution among Member-states of FAO should entail financial or other obligation going beyond those already assumed under the Constitution of FAO. Failing this, there would be no grounds for such an agreement, at least not in the legal form prescribed under Article XIV of the FAO Constitution.¹²⁹

¹²⁷ The Commission for Inland Fisheries and Aquaculture of Latin America and the Caribbean (COPESCAALC); The Committee on Inland Fisheries and Aquaculture of Africa (CIFAA); The European Inland Fisheries and Aquaculture Advisory Commission (EIFAAC); The Fishery Committee for the Eastern Central Atlantic (CECAF); The South West Indian Ocean Fisheries Commission (SWIOFC).

¹²⁸ The Asia-Pacific Fishery Commission (APFIC); The Central Asian and Caucasus Regional Fisheries and Aquaculture Commission (CACFish); The Regional Commission for Fisheries (RECOFI); GFCM and IOTC.

¹²⁹ See Section O paragraphs 3 and 5 of the Basic Texts of the FAO, Vol II, 2015 Edition
www.fao.org/3/a-mp046e.pdf

Table 8. Main differences between Art VI, Art XIV Statutory Bodies and IGO

Article VI Statutory Bodies	Article XIV Statutory Bodies	IGO
Constituent instrument: Statutes They are created by a decision of the FAO Conference, Council or by the Director-General under the authority of the Conference/Council.	Constituent instrument: International agreement under Article XIV of the FAO Constitution negotiated and concluded within FAO in accordance with the procedures set forth in the Constitution, the General Rules of the Organization and its Principles.	Constituent instrument: Independent international instrument, such as a treaty or agreement.
No independent legal personality.	No independent legal personality – FAO is the entity vested with legal personality to enter into legally binding agreements and its ultimately liable for their proper implementation.	Legal personality, provided this is set out in the agreement or treaty.
Advisory role only to their Member states – can issue non-binding recommendations on management issues and adopt authoritative recommendations.	Regulatory powers to their Member-states including the power to adopt CMMs that are binding on their members and wider advisory role.	Advisory and regulatory powers.
No functional autonomy. May establish on an ad hoc basis such subsidiary body as it deems appropriate for the accomplishment of its tasks.	Functional “semi” autonomy within the FAO framework– “life of its own”. ¹³⁰ They can adopt or amend their RoP and Financial Regulations but these must be consistent with the general institutional framework of FAO and be approved by the Director-General; They can create subsidiary bodies, subject to the availability of funds.	Functional authority and other competencies as the parties wish to negotiate.
Funded by FAO Regular Programme to support core activities. ¹³¹ Activities may also be financed by donor-assisted extra budgetary support, if available, in accordance with FAO regulations and rules.	Must have an autonomous budget, with assessed contributions and voluntary extra budgetary (trust funds) for the implementation of its programmes of work. Very limited Regular Programme (RP) funds. ¹³² Extra-budgetary funds are subject to the FAO rules and regulations, including the financial regulations. FAO is accountable to donors for the management and use of any contributions received.	Autonomous budget from assessed contributions and donor support to implement the programme or work.

At the 16th session of the WECAFC in 2016 it was agreed to launch “*a process to establish a RFMO in the WECAFC area of competence*”. The legal status of such RFMO can assume one of the following options, which remains to be decided, and are briefly assessed in sub-sections 10.1 and 10.2 below:

- WECAFC becomes a RFMO as an FAO Article XIV body, with a mandate to manage the fisheries in a sustainable manner through the adoption of legally binding decisions.
- WECAFC becomes a RFMO established outside of FAO’s legal framework, i.e. as an independent IGO with a mandate to manage fisheries in a sustainable manner through the adoption of legally binding decisions.

¹³⁰ CCLM 99/7 (September, 2014) www.fao.org/3/a-ml631e.pdf

See document PC 104/9, paragraph 8: “As a general rule, bodies established under Article VI are part of the Organization. They do not have a ‘life of their own’. Article XIV, on the other hand, makes provision for the negotiation within meetings convened by, or on behalf of the Director-General, and the subsequent adoption by the Conference or the Council of conventions and agreements. These instruments are said to have a ‘life of their own’ and usually provide for obligations extending beyond those set out in the Constitution and the other Basic Texts of FAO. For instance, these bodies may adopt regulatory measures directly binding upon the Members of the concerned body and may have autonomous budgets”.

¹³¹ WECAFC activities are funded from the FAO Regular Programme, FAO TCP and in-kind by other organizations.

¹³² CCLM 88/3 (September, 2009) [ftp://ftp.fao.org/docrep/fao/meeting/017/k5829e.pdf](http://ftp.fao.org/docrep/fao/meeting/017/k5829e.pdf)

CCLM also concluded that Article XIV bodies where members pay their way with autonomous budgets have a certain degree of autonomy to decide on budgets, work programme and expenditure, including signing some agreements, communicating with members, traveling arrangements and participation in meetings.

10.1 WECAFC becomes a RFMO under Article XIV of the FAO Constitution

As confirmed by the Council of FAO¹³³ the constituent instruments of Article XIV bodies do not vest them with legal personality, i.e. the capacity to enjoy rights and assume obligations of their own and, therefore, they have to act through FAO or draw on the legal capacity of FAO.

The relationship between FAO and Article XIV statutory bodies is complex and dynamic.¹³⁴ It has been assessed in detail by the FAO Committee on Constitutional and Legal Matters (CCLM) which, in 2009 under CCLM 88/3,¹³⁵ identified the **following advantages of operating under FAO**: automatic access to established human resource; administrative and financial systems and practices and procedures; legal services; benefits of security and access accruing from a comprehensive set of privileges and immunities established between FAO and its member countries; an established regional framework of offices and staff; status within the international community as a FAO/UN organisation; benefits of staff members of the UN system for pay and conditions.

On the other hand there are **concerns with regard to *inter alia***, flexibility in delegating responsibilities to Article XIV bodies, human resources and recruitment process, translation, corporate identity, reporting arrangements, budgeting and accounting process which should be taken into account in this process.

These benefits, immunities and privileges are significant and should be considered and evaluated by WECAFC's members against the concerns when assessing the option of becoming and RFMO under Article XIV or moving towards independence.

At its 29th session the FAO Conference adopted **Resolution 13/97**¹³⁶ *on the review of FAO Statutory Bodies* setting forth the procedures relating to their establishment and abolition. “*In the future Statutory Bodies should be established only where strictly necessary and where the work to be undertaken cannot be carried out by ad hoc groups*”. It further requires that the ToR of all new bodies created “*should provide for a periodic review of their usefulness*”. To this end the Conference adopted a list of factors to be taken into account in establishing a new statutory body which are assessed below with regard to WECAFC:

¹³³ 127th Session of the FAO Council- CL 127/REP paragraph 90: The Council agreed that the legal status of bodies established under Article XIV of the FAO Constitution has to be seen in such a way as to reconcile, in a suitable manner, the requirements of functional autonomy of such bodies and the fact that they are placed and operate under the framework of FAO. The constituent instruments of bodies under Article XIV of the FAO Constitution do not entrust them with legal personality, i.e. capacity to hold rights and obligations of their own, and, therefore, they have to act through FAO or drawing on the legal capacity of FAO.

<ftp://ftp.fao.org/docrep/fao/meeting/009/j3893e.pdf>

¹³⁴ See RFBs established under the FAO Framework – COFI/2014/Inf.11
www.fao.org/3/a-mk346e.pdf

¹³⁵ CCLM 88/3 (September, 2009)
Preliminary Review of the Statutory Bodies with a view to allowing them to exercise greater financial and administrative authority while remaining within the framework of FAO <ftp://ftp.fao.org/docrep/fao/meeting/017/k5829e.pdf>

¹³⁶ See Addendum IV to the Basic Texts of the FAO, Vol II, 2015 Edition
www.fao.org/3/a-mp046e.pdf
www.fao.org/3/a-w7475e/W7475e0f.htm

Table 9. Requirements to establish a new technical body under FAO versus WECAFC

FAO requirements to establish a new body (Res. 13/97)	WECAFC
Centrality to the FAO mandate and the Organization's current priorities as expressed by FAO Members and reflected in planning documents.	The WECAFC is presently central to the FAO mandate as an Article VI Statutory Body. WECAFC is contributing to FAO's Strategic Framework and particularly addresses Strategic Objective (SO) 2 ¹³⁷ contributing also to the other SO as outlined in the endorsed WECAFC Strategic Plan (2014-2020). An abolishment of WECAFC as a RFB in favour of a transformation into a RFMO under FAO's Constitution would mean a continuation of the current programme, while adding to the advisory and capacity building tasks important regulatory powers on regional management.
Clarity of the definition of the task, which should normally be of limited duration.	The RFMO tasks are not of limited duration; the RFMO is expected to play a long-term role in fisheries scientific advisory services, capacity building for fisheries management and regional fisheries management and conservation.
Positive impact of the Body's work at the level of FAO Members.	The establishment of a RFMO to cover the area identified under section 4 above would fill a gap in RFMO coverage in the Atlantic Ocean. It would further have a positive impact at the level of FAO members by addressing their need to comply with the requirements of LOSC, 1982, UNFSA, FAO CA and PSMA as summarised under Section 9 above. This new RFMO will contribute significantly to deterring and eliminating IUU fishing and promoting a more responsible utilization of the fisheries resources in the region.
FAO's comparative advantage, thereby avoiding overlap and creating synergy with the work of other Bodies.	In a wider Caribbean region, with a range of ongoing conflicts between countries in the region (e.g. on maritime border disputes, trade- and political disputes), FAO has played an important neutral advisory role in fisheries through WECAFC for over 47 years. A RFMO under FAO's Constitution would continue to provide such neutral role, building on well-established partnerships with the sub-regional organizations, members and donors. As indicated above, 6 RFBs and 5 RFMOs have been established under Articles VI and XIV of the FAO Constitution respectively which demonstrates FAO has sufficient in-house experience on this subject to provide (if members so decide) the necessary administrative and operational support to this new RFMO. In case WECAFC would be transformed into a RFMO, a clear partnership arrangement should be made with CRFM and OSPESCA as well as with ICCAT (see section 8.2 above) and neighbouring RFMOs (e.g. NAFO, SEAFO and NEAFC), in order to increase the effectiveness of approaches. The exact mandate of the RFMO would have to take into consideration the mandates of the other RFBs and RFMOs.
Proportion of the FAO Membership to which the work of the proposed body is of importance with due regard to the economic capacity of less-advantaged members, including least developed countries and small-island developing states.	Currently WECAFC has 34 members, including 15 Caribbean SIDS, and 7 small island overseas territories of European countries and 3 LIFDCs. These SIDS and LIFDCs have generally limited capacity to manage their fisheries and heavily rely on WECAFC for capacity building and supporting regional harmonization of fisheries management measures to increase the effect of these.
Willingness of their Members to contribute financially and through non-monetary inputs to the work of the Body, especially where the Body will serve a more limited number of countries, with due regard to the economic capacity of their less advantaged members and the availability of other financial support.	The Caribbean SIDS and Central American members of WECAFC that are organized under CRFM (CARICOM) and OSPESCA (SICA) already contribute annually some USD 5/tonne of fish landed towards sub-regional fisheries management by these RFBs. These countries are hesitant to pay more, particularly if those countries that produce most fish in the region do not contribute their fair share. The USA, Brazil, Trinidad and Tobago, EU, France and the Netherlands have indicated publicly in various WECAFC meetings to be willing to contribute to a RFMO. Similarly, Colombia, Cuba and Venezuela have indicated informally to the WECAFC Secretariat to be willing to contribute to the RFMO. The exact contributions required are not yet known, but annual contributions to the autonomous budget of the RFMO will likely be in the order of USD 1 /tonne of fish landed. More information on the budgetary requirements of a RFMO under FAO's Constitution can be found in section 12.

¹³⁷ FAO Strategic Objectives
www.fao.org/docrep/018/mg994e/mg994e.pdf

The 39th session of the FAO Conference adopted **Resolution 11/2015**¹³⁸ on the *Review of Statutory Bodies*, in particular with reference to Article XIV Bodies reinforcing Resolution 13/97 and requiring that any proposal to establish a new body under the FAO Constitution **shall be accompanied by a detailed document that justifies the establishment** setting forth the information which is assessed below with regard to WECAFC.

Table 10. Elements of the proposal to establish a new body under FAO versus WECAFC

FAO elements of the proposal to establish a new body (Res. 11/2015)	WECAFC
The objectives that are to be achieved through the establishment of the body.	<p>The objective of the RFMO would be similar to other RFMO's, i.e. to bring together countries that have a common interest in managing particular fish stocks or the fish resources of a particular area, and which adopt binding CMMs.</p> <p>The performance review of WECAFC (2013-2014) shows that it is functioning efficiently considering its limited budget and human resources available, but also that there is a need for regional management and conservation.</p>
The manner in which the body will carry out its functions and any impact that its creation may have.	<p>The functions of the RFMO are expected to be similar as those performed by GFCM (see Section 3 above). The creation of the RFMO under Article XIV of the FAO Constitution will contribute to the implementation of the SO of the Organization in the wider Caribbean region, with emphasis on SO 2, and will further contribute to the implementation of the CCRF, FAO CA, FAO PSMA and FAO technical guidelines (see section 9 above). Partnerships with other RFMO's to combat IUU fishing jointly can be made, e.g. through IUU vessel lists, VMS, regional vessel registries and other MCS measures.</p> <p>Moreover, WECAFC as a RFMO will be better equipped to support the achievement of the Sustainable Development Goals (SDG) in the region, and particularly SDG 14.¹³⁹ Also FAO can more effectively address the SAMOA Pathway paragraphs related to natural resources/fisheries in the Caribbean¹⁴⁰ through a RFMO that would be coordinating the effective sharing of responsibilities towards straddling and highly migratory fish stocks by its member states.</p>
The financial implications of the establishment of the body for the current biennium, as well as a forecast of the financial implications for the future biennia.	<p>The idea is that the costs of the secretariat would be assumed by the members of the RFMO so the current part-time secretary and office space that are presently provided by FAO will be paid by the members. The transformation process is expected to take 5 years to 6 years and it will require 2 special sessions (preparatory meetings) of the members to discuss and agree on the various constituent instruments (see section 10.4 below). The total estimated cost is 300 000- 400 000 USD for which the Secretariat has received support from EU DG MARE and the CLME+ project. The transition process would thus not have a budgetary impact on this biennium (2018-2019).</p> <p>The 17th Session of WECAFC in the 1st half of 2019 will still require FAO regular budget allocations (similar budget to the 16th Session - 80 000 [800 000?] USD) and significant support from the host country (USA).</p> <p>The annual contributions by the membership to the autonomous budget of an RFMO regardless of its legal nature/status are estimated to be between 1.2 to 1.8 million USD annually, depending on the choices made by the members. If an IGO option is chosen then FAO's financial support to the RFMO establishment process will terminate in 2019 or ultimately in 2020 after the 2nd Preparatory Meeting. The abolishment of WECAFC as art VI RFB will be initiated on request of the members after the 1st or 2nd Preparatory Meeting. WECAFC's Secretariat will be maintained by FAO until the Inaugural meeting of the new RFMO. If an Article XIV RFMO is preferred then FAO's current level of support to WECAFC is expected to be maintained until 2022 (next 5 years). From the inaugural meeting (expected in 2020) the RFMO members will be expected to maintain the secretariat and cover its operational and administrative costs.</p>

¹³⁸ www.fao.org/3/a-mo153e.pdf

¹³⁹ <https://sustainabledevelopment.un.org/?menu=1300>

¹⁴⁰ Adopted by Resolution of the General Assembly on 14/11/2014

www.un.org/ga/search/view_doc.asp?symbol=A/RES/69/15&referer=http://www.sids2014.org/index.php?menu=1537&Lang=E

FAO elements of the proposal to establish a new body (Res. 11/2015)	WECAFC
A specific assessment of whether the objectives of the proposed statutory body could be met through a different type of working arrangement, such as the organization of ad hoc technical consultations or other task-oriented and time-bound arrangements.	The nature of an RFMO makes it impossible to carry out the same functions and duties through ad hoc consultations or time-bound arrangements. The members of the RFMO need to meet frequently in order to share information and collaborate on regional fisheries management and conservation. Notwithstanding the above, it is common practice that RFB and RFMO subsidiary bodies (e.g. committees and working groups) are of an ad hoc nature and address short-term problems or needs.
Whether there are any existing statutory bodies covering the same, similar or related fields as those to be addressed by the proposed new statutory body, on current or future programmes of the Organization.	There are many FAO statutory bodies in other regions that cover similar and related fields, such as GFCM, IOTC, APFIC, CACFish and a similar process of a transformation of an RFB into an RFMO is on-going in Eastern Africa with SWIOFC. The establishment of an RFMO in the WECAFC area, which could be seen as an extension of the current role and functions of WECAFC, would be in-tune with international developments and the obligations from LOSC, 1982 and UNFSA.

If WECAFC members opt for transforming WECAFC into an RFMO under Article XIV of the FAO Constitution they can choose between a small RFMO or a large RFMO (common type) where every member country and the EU have each 1 vote. The latter is the traditional structure. The various options have been previously assessed¹⁴¹ and should be discussed at the 1st preparatory meeting.

A decision to establish a FAO Article XIV body will first have to be formally communicated to FAO by one of the Member-states. FAO will internally review the decision in terms of ensuring that the formal internal processes for setting up the new Commission are set in motion. FAO Article XIV body agreements are normally adopted by the FAO Council on the recommendation of a technical conference or series of technical meetings comprising Member Nations. They enter into force on the deposit of the required number of instruments of acceptance in accordance with the agreed provisions (to be decided by the Members).

In parallel with the establishment of the Article XIV body, the current Article VI body (i.e. WECAFC) will have to be abolished by the members through a formal process.

10.2 WECAFC becomes an independent RFMO

FAO has facilitated the establishment of independent IGOs such as the Southern Indian Ocean Fisheries (SIOFA),¹⁴² the Network of Aquaculture Centres in Asia and Pacific (NACA),¹⁴³ and the Aquaculture Network for the Americas (RAA).¹⁴⁴ The agreement to establish SIOFA was adopted by a Conference of Plenipotentiaries held on 7 July 2006 at the Headquarters of the FAO and has entered into force in 21 June 2012.¹⁴⁵

On the other hand, many RFMOs have also been established without assistance from FAO.

¹⁴¹ See section 4.12 of WECAFC/XVI/2016/13

www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/13e.pdf

¹⁴² www.siofa.org/ and www.fao.org/fishery/rfb/siofa/en

¹⁴³ www.enaca.org/ and www.fao.org/fishery/rfb/naca/en

¹⁴⁴ www.fao.org/fishery/rfb/raa/en

¹⁴⁵ www.siofa.org/sites/siofa.org/files/documents/SIOFA_AGREEMENT_1.pdf

The **establishment process of an independent IGO and framework** are generally similar. First there must be an agreement to hold negotiations on the instrument, based on a perceived need by Member-states for such an organization and recognition of the potential benefits from membership. They would also need to commit financial and human resources to the negotiating process. Such a process can involve several meetings over a few years. According to the terms of the instrument, a **conference of plenipotentiaries** would need to be convened for signature and ratification by the agreed number of parties before the instrument enters into force. The members would then be responsible for financially sustaining the organization.

10.3 Risks and benefits of the two types of RFMOs

In the decision-making process of transforming WECAFC into an RFMO WECAFC Member-states should consider the risks and benefits of creating an RFMO under Article XIV of the FAO Constitution or as an independent IGO.

The institutional, political, social, economic and environmental risks as well as the institutional and administrative benefits of each option were previously assessed from a legal perspective and with regard to the transformation process of the Indian Ocean Tuna Commission (IOTC).¹⁴⁶ These have been summarized in the study presented last year¹⁴⁷ and are presented in the tables below.

Table 11. Main risks of an RFMO under Art. XIV of the FAO Constitution versus an independent IGO

Institutional and Political Risks	
RFMO under Art. XIV of FAO Constitution	RFMO as independent IGO
Fairly low as the RFB would transform into a RFMO within the FAO governance framework. A transformation process can therefore be rather smooth and current Members will be able to continue participation in the preparation process of the RFMO. The political risks are also low because the same member countries can continue to participate in the RFMO. A one-member one-vote approach and application of FAO's legal framework and procedures will guarantee agreed and transparent processes and neutrality of the RFMO secretariat. FAO would ensure that political differences within the region would not cause exclusion of potential members and that partnerships with CRFM, OSPESCA and ICCAT for tuna stocks, and other RFBs and RFMOs, would be strengthened and extended.	Higher a complete new and independent governance structure will have to be established, which may cause disruption in delivering the current functions of WECAFC. It is anticipated that FAO will continue to support WECAFC until the Members request FAO for abolishment of WECAFC as a RFB. The political risks involved in this option may be higher as other IGOs established in the region have tended to exclude some countries for a variety of reasons. Moreover, the cultural, socio- economic, language and political situation is highly diverse among the WECAFC members. Consequently it is likely that the negotiation process of an IGO RFMO agreement will take longer and may develop into an agreement that does not include all current WECAFC Members.
Social, Economic and Environmental Risks	
RFMO under Art. XIV of FAO Constitution	RFMO as independent IGO
It is foreseen that these will be reduced compared to the current situation. The RFMO will be able (through increasing the scientific basis for decision-making, capacity building support and agreeing on binding and harmonized fisheries management measures) to contribute to more sustainable fisheries, higher value generation and in the mid-to long-term food and employment security in fisheries.	Similar reduced risks when compared with the present situation.

¹⁴⁶ See: WECAFC/XV/2014/12, Report prepared by Dr. Judith Swan (February 2014)
www.fao.org/fishery/docs/DOCUMENT/wecafc/15thsess/12e.pdf
 Cost and Benefit of the IOTC within and outside of FAO, Report prepared by Prof Glenn Hurry, IOTC–2016–S20–05[E]
 (April, 2016)
www.iotc.org/documents/cost-and-benefit-indian-ocean-tuna-commission-iotc-within-and-outside-food-and-agricultu-1

¹⁴⁷ WECAFC/XVI/2016/13
www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/13e.pdf

The benefits of a RFMO under FAO relate largely to the existing structure and knowledge available, large technical and legal expertise, neutrality and the available office network that FAO has and which can contribute to the effective functioning of the RFMO. The benefits of an IGO-RFMO relate to greater flexibility in operations and procedures, more ownership by members, less bureaucracy, cheaper staffing, and probably lower costs of running projects.

Table 12. Institutional and administrative benefits of an RFMO under Art. XIV of the FAO Constitution versus an independent IGO¹⁴⁸

Institutional Benefits	
RFMO under Art. XIV of FAO Constitution	RFMO as independent IGO
<ul style="list-style-type: none"> • Well-known institutional structure which has been tested and implemented widely; • Automatic access to established human resource, administrative and financial systems, practices and procedures; [yes but you need to insert the converse of a lighter touch and more flexible approach and the ability to pick and choose procedures from several different IGOs including for instance UN]; • Legal services available to members; • Security and access to a comprehensive set of privileges and immunities established between FAO and member countries; • Establishment process clearly outlined in the FAO's regulations and practice; • Access to an established regional framework of offices and staff which provides a safety net when working in the field and is helpful for delivery in-country activities, such as meeting organizations, paying tickets and per-diems etc; • Easy access to technical staff/expertise within FAO on a range of fisheries matters; • Status within the international community as a FAO/UN organization; • Article XIV bodies where members pay their way with autonomous budgets, have a certain degree of autonomy to decide on budgets, work programs and expenditure; • Some countries may still feel that being part of the FAO system provides them with some level of support and protection when dealing with developed countries; • FAO will ensure neutrality of the body, which is considered important in a region with standing conflicts between potential member countries; • FAO ability to assist if things go wrong; • FAO can potentially act as an intermediary with member and non-member countries over issues such as non-payment of fees and non-engagement; • Some potential donors may be more interested to work through a body which is linked to/under FAO, as FAO will ensure the use of funds following internationally agreed procedures; • Buffer for developing countries in dealing with pressure from developed countries; • Facilitates the support of poor members by wealthier members, including through an agreed formula for contributions; • Facilitates joint statements within the UN General Assembly and opportunity to influence through FAO developments at global level; • Rapid access to FAO data and information generated at global level and within the region. [I think FAO is equally good at providing this quickly to IGOs too]. 	<ul style="list-style-type: none"> • A key issue is the the increased sense of ownership and responsibility that members have in establishing an organization they are responsible for; • Ability to fully determine the budget and financial structure of the organization; • Ability to engage directly with fishing entities fishing in the region; • Ability to enter directly into third party agreements for extra budgetary funding; • Capacity to enter independently into agreements with countries and organizations for cooperation and information sharing; • Capacity to participate in international meetings and workshops and represent members' views on issues in an unrestrained manner; • Possibility to design, set-up and structure of systems that suits all members; • Possibility to negotiate with the host country of the secretariat the set of privileges and immunities for the secretariat staff; • Flexibility in handling/carrying-out activities in the member countries; • Organize visibility and media campaigns for fisheries measures independently of FAO; • Status as an independent IGO; • Participate in UN General Assembly meetings and other UN conferences and present statements and opinion independently – higher profile than being bmerged in an FAO statement; • Access to other donor funds not available to UN/FAO?; • Use of own data and information generated independently from FAO for management decision-making processes; • Own communications policy, website, security appropriate to the size of organisation.

¹⁴⁸ This table reproduced with some amendments the table presented under section 4.13 of WECAFC/XVI/2016/13.

Administrative Benefits	
RFMO under Art. XIV of FAO Constitution	RFMO as independent IGO
<ul style="list-style-type: none"> Financial and administrative support systems and documentation are regularly updated and provide the framework for the provision of a professional and auditable process; The FAO office network in the region facilitates linkage/ collaboration with other sectors, transfers of funds and monitoring of activities as necessary; The Human Resource systems provide a consistent global approach to salary scales and entitlement and a rigorous recruitment and staff management system; FAO conducts a system of rolling audits of its work units; Benefits to staff as members of the UN systems for pay and conditions; FAO has an established IT network and support capacity; Use can be made of FAO's media service. 	<ul style="list-style-type: none"> The right to recruit and select staff independently- the Executive Secretary is selected solely by members; Members determine salary scales and benefits for staff - in general, the cost of staff salaries and conditions of service will be lower than those paid at FAO rates; No cost of the support services (between 5.9% and 13%) charged by FAO; No burden of FAO bureaucracy and the time spent in financial circuits; The possibility to enter into third party agreements for extra budgetary funding without additional costs being charged by FAO and improved ability to generate external income for projects; It could be difficult to explain in the government, and particularly to the ministries of finance, that contributions should be made to the FAO for the Article XIV body, while the members are already paying their normal membership contribution to FAO; a challenge that an IGO would not have; Quicker and more efficient admin related to per diems flights etc – probably lower cost too.

10.4 Roadmap for completing the WECAFC strategic reorientation process

The transformation process is expected to take five to six years. Since it was agreed at the 16th WECAFC's session to launch a process to establish a RFMO in the WECAFC area of competence but WECAFC's members have not yet decided on the legal status of such RFMO (a statutory body under Article XIV of the FAO Constitution or as an independent IGO), this decision is expected to be taken at either the **17th session of WECAFC** to be held in the USA in April/May 2019 or the 1st Preparatory Meeting for the establishment of an RFMO towards the 1st quarter of 2019.

The **RFMO establishment process** will likely require **two special sessions (preparatory meetings)** of the members for discussion and agreement *on inter alia* the following constituent instruments and additional relevant information for the setting up and operation of the RFMO: the draft Agreement; RoP; Financial Regulations; budget for the first financial period of the RFMO; scheme and scale of contributions by members to the administrative/autonomous budget of the RFMO; 1st Programme of Work of the RFMO; and proposals for establishment of sub-commissions or other subsidiary bodies. **Funding is available for both meetings if held before 2020.**

At the 16th session it was agreed that a **1st preparatory meeting of the Members would be held in 2017**. In view of this meeting the Members and observers were requested to submit to the Secretariat "technical, legal and stakeholder questions and areas of concern to be addressed at the preparatory meeting". Members and observers were requested to endeavour to have participation by relevant experts in the 1st preparatory meeting.¹⁴⁹

The WECAFC Secretariat prepared a project proposal for EU DG MARE to "Support to the establishment of a RFMO for WECAFC" for an amount of 111 000 USD, which got approved in December 2016, was finalized in June 2017 and has become operational in August 2017. This project is expected to cover most of the costs of the 1st Preparatory Meeting in 2018 or 2019.

A draft roadmap for the WECAFC strategic reorientation process was presented and discussed at the 16th Session.¹⁵⁰ The Commission took note of the options provided and recognized that the timeframe presented would require adaptation and flexibility. The implementation of the roadmap was affected

¹⁴⁹ See paragraph 61, Report of the 16th Session of WECAFC www.fao.org/3/a-i6031t.pdf

¹⁵⁰ WECAFC/XVI/2016/14, February 2016 [ftp://ftp.fao.org/FI/DOCUMENT/wecafc/16thsess/14e.pdf](http://ftp.fao.org/FI/DOCUMENT/wecafc/16thsess/14e.pdf)

by FAO's decision in July 2016 to transfer the WECAFC Secretary from Barbados to Belize in early 2017. Following this transfer, and the subsequent departure of the WECAFC Secretary from the region at the end of 2017 and the assumption of duties by the new WECAFC Secretary in mid-2018 again in Barbados the roadmap required amendment. An updated version of the draft roadmap is presented in the tables below for each option.

Table 13. Updated Roadmap for WECAFC transformation into a FAO Art. XIV RFMO

2016-2017	Implementation of the agreed Programme of Work 2016-2017; organization of various working group meetings, studies and projects.
August 2017	The project from EU DG MARE to "Support to the establishment of a RFMO for WECAFC" becomes operational.
November 2017	8th session of the SAG of WECAFC.
November 2017 onwards	Implementation of the ICM-Fisheries updated workplan.
November 2018	The draft discussion paper is circulated to the Members and partners. The final version will become a working document for the 1st preparatory meeting on the establishment of the RFMO.
1st half 2019	Special Session of WECAFC/1st Preparatory Meeting to discuss and decide inter alia on: legal status of the RFMO; stocks coverage; area of competence; organisational structure; and funding. The meeting should discuss and draft preliminary versions of the following: <ul style="list-style-type: none"> - Agreement; - RoP and Financial Regulations, including the scheme and scale of contributions to the administrative/autonomous budget of the RFMO, to be adopted by the Article XIV body after its entry into force; 1st Programme of Work of the RFMO; and proposals for establishment of sub-commissions or other subsidiary bodies.
April/ May 2019	17th Session of WECAFC – an update on the status of the process is provided to the Members.
August-September 2019	If there would be (informal) consensus on the way forward, then one Member on behalf of the Member-states attending the 17th session of WECAFC, submits a request to FAO expressing the desire to establish the RFMO under Article XIV of the FAO Constitution and that FAO supports the process to this effect.
2nd half 2019	FAO formally informs the WECAFC Members of the request for establishment of an Article XIV RFMO and, when it enters into force the abolition of WECAFC as an Article VI statutory body.
2020	Special Session of WECAFC/2 nd Preparatory Meeting to further negotiate, finalize and endorse the: <ul style="list-style-type: none"> - Agreement; - RoP and Financial Regulations, including the scheme and scale of contributions to the administrative/autonomous budget of the RFMO, to be adopted by the Article XIV body after its entry into force; 1st Programme of Work of the RFMO; and proposals for establishment of sub-commissions or other subsidiary bodies.
2020	One member on behalf of the Member-states attending the 2nd Preparatory Meeting, and after having reached informal consensus, submits the final Agreement to the Director General of FAO and requests FAO to review and endorse it at the appropriate levels.
June 2020	The CCLM of FAO reviews the proposed Agreement and passes it to the FAO Council or FAO Conference for endorsement. All WECAFC Members are Member of the FAO Conference, and some of the FAO Council. In either of the two the decision to abolish WECAFC as an Article VI statutory body, and establish it as an Article XIV statutory body is made. The abolition would take effect upon entry into force of the Article XIV statutory body.
Sept 2020	The FAO Director General notifies the WECAFC Members of the endorsement of the Agreement and invites them to become Member of the Commission through depositing an "instrument of acceptance" of the agreement. It is also possible to have a provisional entering into force upon signature. Members will decide on the approach.
Oct 2020/ 2021	The Members follow internal processes of ministerial/cabinet approval of the Agreement and inform the WECAFC Secretariat on progress made.
Oct 2020/2022	Inaugural Session of the new RFMO/Final session of WECAFC as Article VI body <ul style="list-style-type: none"> - the inaugural session can be organized after a minimum number of members have accepted the agreement (n° to be determined in the Agreement); - Those WECAFC Members that have not accepted the agreement by this session will participate as observers in the RFMO sessions until they accept the agreement.

Table 14. Updated Roadmap for WECAFC transformation into an IGO RFMO

2016-2017	Implementation of the agreed Programme of Work 2016-2017; organization of various working group meetings, studies and projects.
August 2017	The project from EU DG MARE to “Support to the establishment of a RFMO for WECAFC” becomes operational.
November 2017	8th session of the SAG of WECAFC.
November 2017 onwards	Implementation of the ICM-Fisheries workplan.
November 2018	The draft discussion paper is circulated to the Members and partners. The final version will become a working document for the 1st preparatory meeting on the establishment of the RFMO.
1st half 2019	Special Session of WECAFC/1st Preparatory Meeting to discuss and decide inter alia on: legal status of the RFMO; stocks coverage; area of competence; organisational structure; and funding. The meeting should discuss and draft preliminary versions of the following: - Convention; - RoP and Financial Regulations, including the scheme and scale of contributions to the administrative/autonomous budget of the RFMO, to be adopted by the Article XIV body after its entry into force; 1st Programme of Work of the RFMO; and proposals for establishment of sub-commissions or other subsidiary bodies.
2019	17th Session of WECAFC – an update on the status of the process is provided to the Members.
2019	If there would be (informal) consensus on the way forward, then one Member on behalf of the Member-states attending the 17th session of WECAFC, submits a request to FAO expressing the desire to establish an IGO RFMO to replace WECAFC and that FAO continues supporting WECAFC (as currently is the case) until the new IGO has been formally established.
2nd half 2019	FAO formally informs the WECAFC Members of the request for abolition of WECAFC as an Article VI statutory body.
2020	Special Session of WECAFC/2 nd Preparatory Meeting to further negotiate, finalize and endorse the: - Convention; - RoP and Financial Regulations, including the scheme and scale of contributions to the administrative/autonomous budget of the RFMO, to be adopted by the IGO after its Convention enters into force; 1st Programme of Work of the RFMO; and proposals for establishment of sub-commissions or other subsidiary bodies.
June 2020	The CCLM of FAO reviews the request for abolition of WECAFC, endorses a resolution to this effect and passes it to the FAO Council or FAO Conference for adoption. All WECAFC Members are Member of the FAO Conference, and some of the FAO Council. In either of the two (Council/Conference) the decision to abolish WECAFC can be adopted. The abolition would take effect upon entry into force of the IGO RFMO. In the meantime, no further sessions of the WECAFC or its SAG sessions would be held anymore.
July 2020	The CLME+ SAP interim- mechanism for sustainable fisheries will be amended to exclude WECAFC as party and allow entry to the Task-force/arrangement that is coordinating the establishment of the IGO. This step needs further clarification/decision by the Members.
First half 2021	The depositary of the new Convention notifies the potential Members of the Agreement and invites them to become Member of the Commission through depositing an “instrument of acceptance”/ratification of the Convention.
Second half 2021	The members follow internal processes of ministerial/cabinet approval of the Convention and inform the depositary in a timely manner.
2022/2024	Inaugural Session of the new IGO RFMO.

11. DECISION MAKING PROCESS

The WECAFC Secretariat is subject to the direction and supervision of FAO senior management and WECAFC Members that come together for the purpose of addressing their common interests and desire to obtain sustainable benefits or address other objectives from their fisheries. In addition, being a FAO RFB, the organization is also under the scrutiny of the COFI, FAO’s Regional Conference for Latin America and the Caribbean and under the supervision of FAO senior technical staff and management of the FAO Fisheries and Aquaculture Department. Presently as a RFB the decision making power is limited to the adoption of voluntary measures and recommendations.

As highlighted in the Performance Review (2013-2014) the WECAFC's decision-making process is extremely transparent. All work plans are presented and discussed in the SAG for review and adoption by the WECAFC Commission. The financial aspects are under FAO rules and monitoring. Information on budget allocations, extra-budgetary resources and Members' needs are made available to the Members in background documents to the Sessions. Working documents are provided in the three official languages and made available well before the sessions to enable the Members to participate effectively and be well prepared for the sessions.

A brief comparative assessment is provided below of the decision-making process in WECAFC, GFCM and NEAFC.

Table 15. Decision making process of WECAFC, GFCM and NEAFC

RFBs	General Objective
WECAFC Rule IX, RoP	Each Member has one vote in the Commission. Decisions of the Commission shall be taken by a majority of the votes cast, unless otherwise provided in the RoP. A majority of members of the Commission constitutes a quorum.
GFCM Article 6, Agreement Rule X, RoP	Each Member has one vote, except in the case of the European Union as a Regional Economic Integration Organization which is entitled to exercise in any meeting a number of votes equal to the number of its Member-States that are entitled to vote in such meeting, following the FAO rules. ¹⁵¹ Decisions of the Commission are taken by a simple majority of the votes cast, except that a two-thirds majority of the members present and voting is required in the case of recommendations on CMM and for the implementation of the recommendations. A majority of the total membership of the Commission constitutes a quorum.
NEAFC Article 8, 9 Convention Chapter 6, RoP	Each member has one vote in the Commission. Decisions are made by a simple majority, or, if a qualified majority is specifically required, by a two-thirds majority of the votes of all CPs present and casting affirmative or negative votes. No vote can be taken unless there is a quorum of at least two-thirds of the CPs. If there is an even split of votes on any matter that is subject to a simple majority decision, the proposal is rejected. A vote may in an emergency be taken by post or other means of written communication, and the RoP provide the procedures for this.

WECAFC has also formalized its collaboration with the CRFM and OSPESCA through mechanisms aimed at involving these RFBs in its decision making process which resulted in the development of joint activities under which various management plans have been adopted as recommendations by WECAFC (see section 8.2 above). The formalization of this collaboration has increased synergies among them and reduced costs, increasing effectiveness of interventions, and avoiding duplication and overlap of activities.

The involvement of members in the decision making process is also evident from the two letters addressed to them (in May 2016 and June 2017, respectively) requesting their opinion on the strategic reorientation of WECAFC and their participation on the process through the formulation of specific questions on matters mentioned under paragraph 55 of the 16th Session Report,¹⁵² which are addressed under this discussion paper.

The Legal Office of FAO has demonstrated its availability to assist WECAFC members in the reorientation process as they have done with IOTC and GFCM in their transformation from Article VI to Article XIV statutory body.

12. BUDGETARY IMPLICATIONS FOR MEMBERS

As a result of the establishment of the RFMO in the WECAFC area of competence it is expected that the costs of the Secretariat will be assumed by the members of the RFMO so the current part-time secretary and office space that are presently provided by FAO will be paid for by the members.

¹⁵¹ Article II of the FAO Constitution.

¹⁵² Report of the 16th Session of WECAFC www.fao.org/3/a-i6031t.pdf

The total estimated cost of the strategic reorientation and subsequent transition process into an RFMO is between 300 000- 400 000 USD. About half of these costs have already been made for the WECAFC Reorientation and Strategic Planning Workshop, held in Guadeloupe, 29-30 January 2014 and the 2nd WECAFC Strategic reorientation Workshop, held in Trinidad and Tobago on 1-2 December 2015. These two workshops were supported by FAO, France, Trinidad and Tobago and the EU DG Mare. For the next steps in the transition process (the preparatory meetings for the RFMO) the Secretariat has mobilized resources and support is confirmed from the EU DG MARE (111 000 USD) and the CLME+ project (100 000 USD). The transition process would therefore not have an impact on FAO's regular programme allocation to WECAFC this biennium.

The 17th Session of WECAFC, which is expected to be held in the USA on the first half of 2019, will still require regular budget allocations (similar budget to the 16th Session - 80 000 [80 000 or 800 000?]USD). The authorities in the USA, similarly as those of Trinidad and Tobago (in 2014) and France/EU (in 2016) will contribute significantly as host to the organization of the session (covering venue, interpretation and part of the travel costs).

The annual contributions by the Members to the autonomous budget of the RFMO, regardless of its legal status, are estimated around 1.2 to 1.8 million USD, depending on what duties and responsibilities the members assign to the secretariat of the RFMO. Whichever of the two RFMO options is chosen the minimum budget is 1.2 million USD annually.

- If members opt for an RFMO under Article XIV of the FAO Constitution, then FAO's current level of support to WECAFC is expected to be maintained until four years after the inaugural meeting of the RFMO. At the inaugural meeting a certain number of members will have ratified the agreement and it is assumed that a majority of the potential members will be contributing to the RFMO within four years, allowing the RFMO to become financially viable in this period.
- If members opt for an independent IGO then FAO's financial support to the WECAFC Secretariat will terminate as soon as the inaugural session of the new RFMO, established by convention, has taken place. The FAO conference will then be requested to officially abolish WECAFC as RFB under article VI of the FAO Constitution.

The information package that was prepared by the WECAFC Secretariat and the Executive Committee in early 2014 and shared with the members for comments before the 15th session, included information on the budget required by an RFMO and the potential contributions by members. The example of contributions calculations presented was based on the GFCM schedule of contribution and based on a combination of equal shares, production and wealth components. Following discussions at the 2nd WECAFC Strategic Reorientation Workshop (2015) and the 16th session (2016) it was felt unlikely that a similar scheme of contributions could be applied in the WECAFC area. The reasons given included that the CRFM and OSPESCA member countries are already contributing to these organizations towards regional fisheries management, and that paying twice for similar services would not be possible. Also it was mentioned that the ongoing thought economic situation in various Caribbean SIDS does not allow them to enter into new financial obligations.

In this respect, the independent cost-benefit assessment compared the costs of a full-fledged RFMO for the WECAF area, based on examples from GFCM and NEAFC. It was noted that a contribution to regional fishery management of USD 1/tonne of fishery product harvested in the WECAFC area could be sufficient for operating an RFMO with a small secretariat, if it would cooperate closely with the other RFBs and RFMOs active in the same area. It was further noted that currently the CRFM members contribute some USD 4 per tonne of fishery product to sub-regional fishery management. OSPESCA members are in the process of increasing their annual contribution, through SICA, to sub-regional fisheries management by that organization.

The contributions by CRFM and OSPESCA members to the (sub)-regional fisheries management currently add-up to nearly 1 million USD annually. It is recognized that the combined CRFM and OSPESCA member countries produce together nearly 20 percent of the fish harvested in the WECAFC area.

This means that any further financial contributions from CRFM and OSPESCA members to the new RFMO will be very small and that their contributions to the sub-regional RFBs should be considered as in-kind contribution to the WECAFC-RFMO.

If the institutional set-up of the new RFMO will be fairly similar as presented in section 8.1 above and the duties and responsibilities of the RFMO and its secretariat will be limited to those listed in section 3 (objectives of the RFMO) above, it is likely that the secretariat can remain small.

Table 16. An estimation of the costs of the operational and staffing costs of this small RFMO option

Cost items	WECAFC as RFMO (USD)
Staff	600 000
Executive Secretary	
Admin assistant/translator	
Scientific and data base manager	
MCS officer	
Premises, office, travel	140 000
Communication, IT	40 000
Meetings	220 000
Science	200 000
Translation services	-
Consultancies/external expertise	-
Total expenditure	1 200 000
Contributions	
FAO	-
Member Nations	1 100 000
Host State agreement (offices)	100 000
Trust funds	-
Contributions total	1 200 000

From the inaugural meeting of the RFMO onwards the members will be expected to start contributing to the RFMO and cover its operational and administrative costs in both options. The WECAFC secretariat support can remain in place a few more years in the article XIV option, but not more than four.

If members opt for the RFMO under Article XIV of the FAO Constitution, then the financial, administrative and operational procedures and associated costs will need to be followed by the RFMO. This will have its consequences for the daily operations of the RFMO. More information on these matters is available in the “Assessment of the recent achievements and collaboration of CRFM, OSPESCA and WECAFC including options for a regional institutional collaborative structure within an RFMO framework”, WECAFC/XIV/2016/13, May, 2016” and the *Progress Report on Delegations of Authority to Bodies under Article XIV of the Constitution, taking into account their differentiated nature* (www.fao.org/3/a-mm728e.pdf) prepared by the Finance Committee of FAO in January 2015.

Annex IV presents the FAO reported capture fisheries production by WECAFC members in the WECAFC area. It is clear from this annex that a handful of members together produce 85 percent of the total harvest in the area: USA (48 percent), Mexico (14 percent), Brazil (12 percent), Venezuela (9 percent) and Cuba (2 percent). The CRFM members (excluding Anguilla and Montserrat –as they are counted towards UK) all together produce some 11 percent and the OSPESCA members produce some 3 percent of the total fisheries production in the WECAFC area. The EU members together harvest some 2 percent of the fish in the WECAFC area.

Considering the above and that the host country would be expected to support the RFMO secretariat with some USD 100 000 annually it is clear that the large producer countries would be expected to cover the remaining 1.1 million USD annually required budget of the RFMO. A basis for negotiation of the contributions per member is presented in table 16 below. The Table 16 presents the largest fish producing countries in the WECAFC area and estimated contributions to the WECAFC, which could serve as a basis for discussion at the 1st preparatory meeting.

Table 17. Estimated contributions by largest fish producing countries to the RFMO autonomous budget

A WECAFC member	Percentage of contribution to budget	Total estimated annual contribution
United States of America	48%	528 000
Mexico	14%	154 000
Brazil	12%	132 000
European Union	10%	110 000
Venezuela	9%	99 000
Cuba	2%	22 000
Colombia	1%	11 000
All other members together*	4%	44 000
total	100%	1 100 000

* note: this would imply an estimated annual contribution of USD 2000 by each of these members

The estimations in the table above do not take in consideration a difference in wealth between member countries, something which is often used in the budget calculations of other RFMOs (see also FAO Fisheries and Aquaculture Circular 1117¹⁵³) and are merely based on production levels and a base fee. A minimum contribution of a minimum of USD 2000 was considered useful by various delegations at the earlier meetings, as this would cover the travel to and participation by the respective members in the annual session of the RFMO. Membership of WECAFC as RFMO without any financial contribution was largely considered undesired in the same meetings, as this may lead to low levels of ownership, a feeling of not being full members, and limited participation in RFMO activities .

Delegates of some of the members have indicated at the strategic reorientation meetings and informally to the FAO/WECAFC secretariat that their governments would be able to agree with similar levels of contributions as presented in table 16 above.

The scheme of contributions to the RFMO budget will have to be discussed and agreed upon by the Preparatory Meetings and there is a wide variety of options available. At the 1st Preparatory Meeting the above table and various other options may be presented. Future members would be invited to present their own proposal before the 1st Preparatory Meeting to the Secretariat for including it in the meeting package.

¹⁵³ www.fao.org/3/a-i6377e.pdf

13. CONCLUSIONS AND RECOMMENDATIONS

As highlighted in the WECAFC's Performance Review the coordination and collaboration role played by WECAFC in its area of competence is complex considering the wide range of countries and territories and the diversity of the region (sizes, development status, culture, economics, political situation, traditions, languages, etc). WECAFC has played an important role in establishing collaboration between these countries and territories.

Previous studies have concluded that there is a need for an RFMO in the WECAFC area of competence, with authority to adopt and implement binding CMMs on regionally shared and straddling stocks and ABNJ stocks. Various strategic reorientation meetings were held, the outcomes were presented and discussed at the 16th WECAFC session in 2016, when it was agreed to launch the process to establish a RFMO.

It is imperative that prior to deciding on the institutional arrangements of the new RFMO WECAFC's members are convinced that such changes are necessary, justified and beneficial to them and their regions or the sub-regions. The present discussion paper aimed to contribute to that process.

The WECAF's Statutes make reference to important **international principles**, namely the precautionary and ecosystem approach to fisheries management. Its **objectives** are broad and enable the Commission to provide advice on the conservation, management and development of fisheries as well as on the sustainable use of the marine and aquatic resources in the widest sense. However the WECAFC's Statutes do not take into account the more recent international legal instruments, and this should be reviewed in line with Resolution WECAFC/14/2012/1 on strengthening the implementation of international fisheries instruments. WECAFC's objective should also be subject to the provisions of LOSC, 1982 and its mandate enlarged to relay the Blue Growth Initiative. In order to promote the efficiency of the Commission it is also recommended that the obligations of coastal and flag States are clearly delineated.

The **objective of the new RFMO** would be similar to many other RFMO's, being to bring together countries that have a common interest in managing particular fish stocks or fish resources of a particular region, and which adopt common management rules that apply to all parties. With regard to the specific functions of the new RFMO it is recommend that the following are established or strengthened in its constituency instrument:

- **Collection of scientific data and information** in support of decision making processes and monitoring, as well as the evaluation of implementation and impact of fisheries management measures, are among the most important tasks to be carried out by a RFMO for the management and conservation of the fish stocks under its area of competence. Both GFCM and ICCAT provide good examples to be followed by WECAFC. The establishment of a forum similar to NEAFC is recommended for consultation and exchange of information on the state of the fishery resources in the WECAFC area of competence. The RFMO could also facilitate resource mobilization for scientific work by existing national and sub-regional institutions and RFBs, as well as play a role in coordination and exchange of findings from scientific research between all members. A similar approach is taken by the GFCM and ICCAT.
- **Fisheries Management and conservation:** fisheries for highly migratory species, straddling stocks, regionally shared stocks, as well as fisheries in ABNJ areas require a regional approach, with coordination through a RFMO. The nature and the scope of the decisions to be adopted by the new RFMO should be broader than those presently taken by WECAFC in order to promote the sustainable management of stocks through specific measures based in the best scientific information.
- **MCS and enforcement:** the mandate of the new RFMO should include specific responsibilities in the WECAFC area of competence with regard to *inter alia* the maintenance of a regional record of authorised vessels, the establishment of a list of IUU vessels, the development of a

regional scheme on port state measure. It should also include monitoring of the implementation of the CMMs, namely through regional [as above: consideration of scientific or compliance] observers schemes and VMS [may need to be careful not to limit the scope to just VMS, there may be other (eg satellite based, electronic reporting systems) technologies to help with MCS that may be more appropriate for the region or particular Contracting Parties], and specific procedures for inspection, control and enforcement.

- **Capacity building:** the new RFMO should promote capacity building on *inter alia* stock assessments, fisheries statistics, fisheries inspections, [as above training of observers] VMS and the development of the sector. In general, RFMOs establish dedicated funds that support staff of developing countries Member-states to participate in capacity building programmes. The characteristic of WECAF's membership (from the 34 members of WECAFC 15 are SIDS, 7 small island overseas territories of European Member States and 3 are LIFDS) needs to be taken into account in the design of the new RFMO. These SIDS and LIFDCs have generally limited capacity to manage their fisheries and heavily rely on WECAFC for capacity building and supporting regional harmonization of fisheries management measures. GFCM provides a good example on how to address the special requirements of developing states CPs. The actions supported by the SAMOA Pathway constitute a good basis together with the implementation of the SSF Voluntary Guidelines.
- **Trade:** previous studies have concluded that the role of the market is currently underestimated in the fisheries management decision-making processes in the WECAFC's area of competence. It is recommended that the new RFMO is empowered to adopt multilaterally agreed trade-related measures in accordance with international law and consistent with the WTO in a fair, transparent and non-discriminatory manner.

At the **16th session of WECAFC** the Commission recognized the value of establishing an RFMO in the **WECAFC area of competence**, being the Western Central Atlantic (area 31) and the Northern part of the South West Atlantic (area 41) to collaborate in fisheries management and conservation in the **ABNJ of straddling stocks, deep sea fish stocks and highly migratory species** that are not under the mandate of ICCAT (paragraph 58).

It is recommended that in line with the relevant provision of LOSC, 1982 and UNFSA the new RFMO could initially focus on conservation and management of the living resources in the **ABNJ while supporting its Member-States in their EEZ**, and then strengthen arrangements for the conservation and management of the resources under national jurisdiction in accordance with the sovereign rights of coastal States. It is also recommended that the **stocks to be covered** by the RFMO and to which CMMs will apply should include the Straddling Fish Stocks, the Deep sea fishing stocks and the Highly Migratory Species that are not covered by ICCAT.

The **future membership** of WECAFC should include both coastal and flag states and take into account the specific role of non-coastal member states of WECAFC and how they could be better incorporated in the new RFMO and in the process of adopting binding CMMs in the region.

The success of an RFMO will depend on the members' willingness and ability to collaborate and bring positive results to the fish stocks and catches. The results will depend on issues, such as the availability of accurate scientific information, an effective decision-making structure and the members' ability to adopt and implement appropriate measures.

The formalization of the collaboration between WECAFC, CRFM and OSPESCA has increased synergies among them and reduced costs, increasing effectiveness of interventions, and avoiding duplication and overlap of activities. The ICM-Fisheries is supposed therefore to be an interim solution for the period until the new RFMO is established in the WECAFC area of competence.

The RFMO should not try to duplicate functions that can be performed by others or cover areas that are better dealt with at national- or sub-regional level (e.g. aquaculture, reef fish stocks fisheries management, research and education in fisheries). When WECAFC becomes an RFMO, CRFM and OSPESCA roles and mandates would remain largely unaffected. Changes are expected however in the decision-making processes as greater coordination among these RFBs and the new RFMO would be required. Moreover, collaboration on scientific advice and stock assessments will need to be strengthened. The new RFMO should reinforce the structural linkages (functional ties and formal relationships) with CRFM, OSPESCA and also with ICCAT for tuna and tuna-like species.

With regard to the legal nature of the new RFMO this discussion paper provides an overview of the main differences between an RFMO under Article XIV of the FAO Constitution and an independent IGO and identifies the benefits and concerns as well as the risks of both options.

Pursuant to FAO Resolutions 13/97 and 11/2015 the requirements and elements to establish a new RFMO under Article XIV of the FAO Constitution have been assessed against the characteristic of WECAFC.

The benefits, immunities and privileges of being under FAO are significant. It is recommended that these should be considered and evaluated by WECAFC's members, when assessing the option of becoming an RFMO under Article XIV or moving towards independence, against the concerns.

A decision to establish a FAO Article XIV statutory body will first have to be formally communicated to FAO by one of the concerned Member-states. FAO will internally review the decision in terms of ensuring that the formal internal processes for setting up the new Commission are set in motion. FAO Article XIV statutory body agreements are normally adopted by the FAO Council on the recommendation of a technical conference or series of technical meetings comprising Member Nations. They enter into force on the deposit of the required number of acceptances in accordance with the agreed provisions (to be decided by the Members).

The **establishment process of an independent IGO and framework** are generally similar. First there must be agreement to hold negotiations on the instrument, based on a perceived need by Member-states for such an organization and recognition of the potential benefits from membership. They would also need to commit financial and human resources to the negotiating process. Such a process can involve several meetings over a few years. According to the terms of the instrument, a **conference of plenipotentiaries** would need to be convened for signature and ratification by the agreed number of parties before the instrument enters into force. The members would then be responsible for financially sustaining the organization. An updated roadmap for completing the WECAFC's strategic reorientation process is provided.

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Recommendation WECAFC/16/2016/2 “on spiny lobster management and conservation in the WECAFC area”
Recommendation WECAFC/16/2016/3 “on the sub-regional fisheries management plan for flyingfish in the Eastern Caribbean”
Recommendation WECAFC/16/2016/4 “on the management of deep sea fisheries in the high seas”
Recommendation WECAFC/16/2016/5 “on the management of shrimp and groundfish resources in the WECAFC area”

WECAFC Cooperation Arrangements

- **MoU with CRFM, OSPESCA and FAO/WECAFC**

MoU for Interim Coordination of Sustainable Fisheries with CRFM, OSPESCA and FAO/WECAFC (from 27/01/2016)

WECAFC/SAG/VIII/2017/7 (October 2017)

- **Loi for the establishment of the Consortium on Billfish**

Consortium established in support of the Management and Conservation of Billfish Resources in the Western Central Atlantic

- **With other projects/organisations**

Caribbean Fishery Management Council (CFMC);

UNDP/GEF CLME+ Project - Catalysing Implementation of the Strategic Action Programme for the sustainable management of shared Living Marine Resources in the CLME+ Region;

Centre for Resource Management and Environmental Studies (CERMES);

Ifremer - Institut français de recherche pour l'exploitation de la mer (French Research Institute for Exploitation of the Sea);

Caribbean Network of Fisherfolk Organizations (CNFO);

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International Game Fish Association (IGFA)

FAO

- Report of the 32th session of COFI (Rome, 11-15 July, 2016)
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- Report of the 34th Regional Conference for Latin America and the Caribbean (Mexico City, Mexico, 29 February to 3 March, 2016)
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- Reykjavik Declaration (2001) adopted at the Reykjavik Conference on Responsible Fisheries in the Maritime Ecosystem (1-4 October 2001)
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- Resolution 13/97 on the review of FAO Statutory Bodies setting forth the procedures relating to their establishment and abolition
- Resolution 11/2015 on the
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- 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 (1995); in force since 11/12/2001
- Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (1993); in force since 24/04/2003
- Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (2009); in force since 05/06/2016

International Voluntary instruments

- FAO Code of Conduct for Responsible Fisheries (1995)
- FAO Technical Guidelines on the Ecosystem Approach to Fisheries (2003)
- FAO International Guidelines for the Management of Deep-sea Fisheries in the High Seas (2008)
- FAO International Guidelines on Bycatch Management and Reduction of Discards (2010)
- The Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (2015)
- FAO Voluntary Guidelines on Flag State Performance (2015)

Regional Fisheries Bodies

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Rec GFCM/33/2009/8 - on the establishment of a list of vessels presumed to have carried out IUU fishing in the GFCM area repealing recommendation GFCM/30/2006/4

Rec GFCM/40/2016/1 - on a regional scheme on port State measures to combat IUU fishing activities in the GFCM area of application

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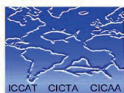
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North East Atlantic Fisheries Commission (NEAFC)



- CHAPTER II - Control Measures
- CHAPTER III - Monitoring of Fisheries
- CHAPTER IV - Inspections at Sea
- CHAPTER V - Port State Control of Foreign Fishing Vessels
- CHAPTER VI - Infractions
- CHAPTER VII – Measures to Promote Compliance by Non-Contracting Party Fishing Vessels
- NEAFC Scheme of Control and Enforcement

International Commission for the Conservation of Atlantic Tunas (ICCAT)



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- ICCAT Joint Scheme of International Inspection
- Port Inspection Scheme
- ICCAT Regional Observer Programme for Bluefin Tuna

Pacific Islands Forum Fisheries Agency (FFA)



Central America Fisheries and Aquaculture Organization (OSPESCA)



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 Report prepared by Prof Glenn Hurry

ANNEX 1 – MEMBER-STATES AND PARTNER RESPONSES TO THE 1ST LETTER ISSUED BY WECAFC

Country responses to the WECAFC's Chairperson letter from 20/05/2016¹⁹¹ (before the 16th session)

From the 34 Member-States of WECAFC 13 have expressed their opinion of which: 5 favoured WECAFC as an Art. XIV body, 2 favoured WECAFC as an IGO and the remaining 6 required additional information before providing a definitive opinion or did not favour any of the options.

COUNTRY ¹⁹²	AREA AND STOCKS TO BE COVERED	LEGAL OPTIONS		
		Status quo RFB (ART. VI)	RFMO - ART. XIV	RFMO- IGO
Barbados	<i>Definitive position to be provided after a detailed assessment of the document</i>			
Brazil	Regionally shared stocks; Straddling stocks; deep-sea fish stocks; highly migratory fish stocks exploited in the region and not yet covered by another RFMO such as ICCAT. EEZ?		✓ Formal link to FAO is important particularly to DCs	
Colombia	Not addressed		✓ One single organism with a mandate to adopt legally binding decisions	
Costa Rica	ABNJ in area 31 and the northern part of area 41 alone; EEZs for regionally shared stocks; straddling stocks; deep sea fish stocks and highly migratory species not covered by ICCAT		✓ Technical knowledge, neutrality and network of FAO	
Dominica	Area 31 and the northern part of area 41. Straddling stocks, deep sea fish stocks and highly migratory species that are not covered by ICCAT. With regard to shared stocks in the EEZ an RFMO can improve their management but stock assessments are required to determine which stocks are shared regionally		RFMO- whether under FAO or outside its framework requires further assessment	
Dominican Republic	ABNJ in area 31 and the northern part of area 41 alone		RFMO- whether under FAO or outside its framework requires further information from the 16th session	
European Union	First step focus on straddling stocks in the whole WECAF region. In parallel progress in the knowledge of deep sea fisheries and stocks would be needed before envisaging any enlargement of WECAF scope.			✓ Higher cost efficiency and less contributions from Parties since no fees would be charged for FAO servicing
Guyana	Not in a position to pronounce on what is required			
Saint Kitts and Nevis	ABNJ in area 31 and the northern part of area 41. Straddling stocks, deep sea fish stocks and highly migratory species that are not covered by ICCAT require regional management under an RFMO.		Required additional time	
The Netherlands	High seas in the area 31 and northern part of area 41. Straddling stocks, deep sea fish stocks and highly migratory species that are not covered by ICCAT should be managed within the same RFMO to create synergies in the fisheries management scheme.			Primary preference

COUNTRY ¹⁹²	AREA AND STOCKS TO BE COVERED	LEGAL OPTIONS	
Trinidad and Tobago			√ Extremely beneficial to have the continued support, guidance and expertise of the FAO. In addition, it was stated that this option is more likely to have a smooth transition and shorter conversion time frame than the establishment of an IGO.
USA	Straddling, deep sea, and highly migratory species (not already under ICCAT's mandate) in the ABNJ of areas 31 and the northern part of 41, plus certain transboundary stocks (such as sharks, queen conch, spiny lobster, shrimp, and dolphin fish). EEZ?		<i>Remain open to any of the options.</i>
Venezuela	<i>Not addressed</i>		

ANNEX 2 – MEMBER STATES AND PARTNERS RESPONSES TO THE 2nd LETTER ISSUED BY WECAFC

Summary of Specific Questions from Member-states and partners with regard to paragraph 55 of the 16th session report or on the RFMO establishment process, as per letter from WECAFC (14/ July/2017) to be addressed in the discussion paper

A. Member countries

Bahamas (01/08/2017)

- ✓ **Competency/regulatory area:** Is the operation of a WECAFC RFMO feasible if the purview of the RFMO is limited to either high seas fisheries, straddling stocks or both? Here consideration should be given to funding mechanisms and the proportion of countries that would have an interest.
- ✓ **Stocks coverage:** How will management goals (stated or implicit) that differ between territories and which affect stocks that span multiple jurisdictions be resolved if a WECAFC RFMO has jurisdiction over the species concerned? For example, sharks, whales and turtles may be targeted by some territories. Some territories have outlawed the harvesting of these species to contribute to the rebuilding of local and international stocks whereas some countries continue to harvest the species concerned.

Suriname (17/08/2017)

- ✓ **Articulation with other RFMO and budget:** In the Atlantic Ocean there are RFMOs, such as the CRFM and the ICCAT. What are the benefits for Member States when the WECAFC establish an RFMO in the same area as the CRFM and the ICCAT and how much will be the Member States contribution per year? The WECAFC as a RFMO will have a management mandate and can adopt fisheries conservation and management measures that are binding for the Member States. Will the measures adopted not conflict with the adopted measures taken by other RFMO's and be ambiguous? Which fish species will be managed by the WECAFC in the same area as the other RFMO?

Venezuela (22/08/2017)

- ✓ **Stocks coverage:** Emphasized that the species to be regulated by this RFMO would be those not included in the lists of ICCAT and therefore suggests not to include sharks in these species since, as the Commission stated in its communication without number dated 25 July 2017, this species is being considered for inclusion in the list of species to be regulated by this Commission, in accordance with the provisions of its Preamble, in the unified proposals to amend the Convention.
- ✓ **Decision making process:** knowing that many of the WECAFC Member Countries belong to other RFMOs, there is a concern to make clear what would be the position of these organizations within the decision-making process of the various countries in the WECAFC meetings? , it is important to know how the process for decision-making or approval of resolutions will be, whether it has been piecemeal by consensus or by simple majority?
- ✓ **Budgetary implications for members:** Taking into account the economic situation of the majority of the Member Countries of WECAFC, has an adequate formula been considered that benefits both the countries and the Commission for an appropriate payment?, when defining the quota to cancel has already been thought, From what date should the membership fee be cancelled? And in case of delays, from how many months or years would be considered arrears?

Other questions:

- ✓ **Implementation and enforcement:** How will the new Commission use the regulations previously established by WECAFC? Will they be taken as a basis for establishing new criteria for the management of fisheries covered or will it be based on the work of a scientific body previously appointed by the members? Which mechanisms will be used to carry out the control and follow-up of the implementation of the decisions or recommendations approved in the meetings of this Committee.
- ✓ **Non-members:** How will the treatment and delimitations be for non-cooperating Members
- ✓ **Collection of statistic information:** how is information to be collected and reported? What parameters will be used for the unification and obtaining thereof.
- ✓ **Articulation with other RFMO:** Will it open the possibility for the Commission to enter into a MoU with other fisheries organizations in order to specify how common themes can be worked together?

Dominican Republic (no date)

- ✓ **Stocks coverage:** which stocks would be included in the mandate of the new organization?
- ✓ **National sovereignty aspects:** What will happen to the management of those species that are already managed under the mandate of each government? Which measures would be considered sovereign of a nation and which would correspond to the mandate of the new RFMO? If WECAFC as an advisory body includes all the marine areas of the Caribbean coastal states and a large part of the High Seas space. If WECAFC became an RFMO, what would be the implications in international law and policy, particularly for marine areas under national jurisdiction? Notwithstanding the sovereignty of States, it would be important to know how the projects and their Funds will be. Would existing regional mechanisms be taken into account?
- ✓ **Budgetary implications from members:** Given the current number of RFMOs in the Caribbean region, what would be the costs associated with establishing and operating a new RFMO? What new financial commitments will be required for Member States? Would such commitments be the same for small and medium-sized economies as for larger and stronger economies such as South Korea and the European Union? Incurring in new financial commitments related to the participation of the Dominican Republic in RFMOs would not be appropriate or adjusted to the financial reality of the fishing sector in the country.
- ✓ **Articulation with other RFMO:** Some areas and species are already being managed under regional arrangements through the CRFM or Ospesca. Would any temporary arrangement be envisaged for WECAFC to operate under a strategy and plan of action to complement efforts already underway towards improved governance of marine fisheries? Besides being part of the WECAFC, the country is also part of OSPESCA, which functions as RFMO and therefore take actions and decisions binding between the States. Therefore, the concern arises in the decisions that may affect in some way the countries of OSPESCA, in the sense of what would be the procedures or ways that these issues would be addressed by WECAFC-OSPESCA?

St. Kitts (24/08/2017)

No comments.

Honduras (28/08/2017)

Agrees with OSPESCA

2. RFMO**OSPESCA (08/08/2017)**

Consider the importance of joining efforts with WECAFC to work on issues of fisheries management and development in OSPESCA member countries, since seven of them, except El Salvador, have jurisdictional waters in the Caribbean.

- ✓ **Budgetary implications for members:** While the € 100 000 DG-MARE project will provide the basis for the new RFMO, the operation of WECAFC will require other permanent financial sources. What strategy has been put in place to ensure the financial sustainability of the new long-term RFMO? Have you considered the possibility of going to the private sector, academic and / or international cooperation? In the event that it has been proposed to allocate annual quotas to countries, approximately how much would the quotas be, or how would the method of calculating them be calculated?
- ✓ **Articulation with other RFMO in the area:** 1) When WECAFC is constituted in an RFMO, either under Article XIV of the FAO Constitution or as an independent body, these alliances could involve overlapping functions that could affect OSPESCA's governance model, which is based on the issuance of mandatory binding regional regulations for the eight member countries of OSPESCA? How would it be ensured that there would be no risk of overlapping of functions between WECAFC and OSPESCA; 2) In the case of the Central American region and the Dominican Republic, what specific topics or areas of work do you consider that OSPESCA and WECAFC (constituted as RFMOs) should jointly address during the next five years?

NAFO (21/08/2017)

It is not clear to me how to respond to a general call for questions from a NAFO perspective on “issues in relation to competency area, stocks coverage, budgetary implications for Members, institutional structure, membership, decision making processes, national sovereignty aspects, its objectives and any other relevant matters that the Members may wish to consider”, since we could send you volumes of material!! **Possibly an easier way would be for Dr. Amador to look over our main instruments** (i.e. NAFO Convention, NAFO Rules of Procedure and Financial Regulations, and NAFO Conservation and Enforcement Measures – found at this link: www.nafo.int/Home/NAFO-Governance -- and our Staff Rules – at this link -- www.nafo.int/Portals/0/PDFs/key-publications/staff-rules.pdf?ver=2016-02-09-162641-227), **since these instruments are intended to address the general questions that the WECAFC Commission has raised, and then pose specific questions on them to us.** I should add that under our recently-updated Convention we will have to have a Headquarters Agreement with our host country, Canada – currently this issue of NAFO's privileges and immunity in Canada are addressed by Canadian domestic legislation (order in council found at this link -- www.nafo.int/Portals/0/PDFs/key-publications/order-in-council.pdf?ver=2016-02-09-122647-213).

ICCAT (26/07/2017)

I will bring these matters to the attention of ICCAT members for discussion intersessionally and at our next Annual meeting to be held from 14-22 November 2017. I will also share any views expressed in a follow-up communication with you.

Articulation with other RFMOs: As you are of course aware, **the area of competence of WECAFC falls within the ICCAT Convention area, defined in Article 1 of the *International Convention for the Conservation of Atlantic Tunas***, as “all waters of the Atlantic Ocean, including the adjacent Seas”. Given this overlap, the decision by your members to establish a new RFMO will have **several implications including, budgetary, areas of competence, the demarcation of the objectives, coverage of species and the mandate of ICCAT as defined Article 1 of the ICCAT Convention referred to above.**

I note with some concern that the mandate of the Recreational Fisheries Working Group of WECAFC includes the drafting of a “Billfish management and conservation plan for the Wider Caribbean Region”. For your information, ICCAT also regulates billfishes, specifically, blue marlin (*Makaira nigricans*), white marlin (*Tetrapturus albidus*), sailfish (*Istiophorus albicans*), spearfish (*Tetrapturus pfluegeri* and *T. belone*) and recommendations on the same are in effect. I also note with serious concern that the WECAFC decision to establish a Marine Protected Area in the Caribbean region, over an area which

overlaps with ICCAT's area of competence indicated above. Practically, any associated protective measures to ensure the integrity of such an MPA, will have significant implications for ICCAT and its members.

In this regard, I respectfully draw your attention to the objective of ICCAT which is embedded in the preamble of its constitutive instrument which states: "The Governments... considering their mutual interest in the populations of tuna and tuna-like fishes found in the Atlantic Ocean, and desiring to cooperate in maintaining the population of these fishes at levels which will permit the maximum sustainable catch for food and other purposes". Over five decades, this general objective has been supplemented and defined by a comprehensive suite of specific ICCAT decisions and binding recommendations related to tuna and tuna-like species, associated or dependent species, as well as endangered, threatened or protected species.

Article 9(1) c) UNFSA

1. In establishing subregional or regional fisheries management organizations or in entering into subregional or regional fisheries management arrangements for straddling fish stocks and highly migratory fish stocks, States shall agree, inter alia, on:
 - (a) the relationship between the work of the new organization or arrangement and the role, objectives and operations of any relevant existing fisheries management organizations or arrangements; and

I also draw your attention particularly to Article 9(1)(c) above, which requires States seeking to establish a new RFMO to agree on the relationship with the role, objectives and operations of any relevant existing RFMOs. ICCAT is, without doubt, an existing RFMO for the purposes of Article 9 in the establishment of the proposed RFMO in the WECAFC area of competence.

In addition, there is an obligation pursuant to Article 7 of the UN Fish Stocks Agreement to ensure compatibility of conservation and management measures within and between the high seas and areas under the jurisdiction of a coastal State. Compatibility requires a RFMO, and States, inter alia, to take into account and implement previously agreed conservation measures already established by an existing RFMO or organization, applied and enforced in respect of the same stocks in accordance with the United Nations Convention on the Law of the Sea, 1982. On this point, Article 7.2 of the UN Fish Stocks Agreement is pertinent ...

On compatibility, the International Tribunal for the Law of the Sea (ITLOS) in the Request for an advisory opinion submitted by the Sub-Regional Fisheries Commission (Case No. 21) has considered that: the obligation to cooperate in the management of straddling fish stocks and highly migratory species should promote the objective of optimum utilization of such species within exclusive economic zones and that, "[t]he measures taken pursuant to such obligation should be consistent and compatible with those taken by the appropriate regional organization" (paragraph 207 (iii)).

At a practical level, **the establishment and operation of a new RFMO that overlaps with an existing one with competence over the same stocks will certainly have implications for members of both organizations in areas such as institutional decision-making processes, financial contributions, reporting obligations, and compliance and monitoring mechanisms.** No doubt, these are matters which will receive detailed consideration before WECAFC members formally decide to establish a new RFMO in area which overlaps with ICCAT's competence. In this regard, I draw your attention to an ITLOS ruling, in Case No. 21, which states that the obligation to cooperate in the management of highly migratory fish stocks is a "due diligence" obligation which must be undertaken in good faith:

210. The Tribunal observes that the obligation to “seek to agree...” under Article 63, paragraph 1, and the obligation to cooperate under Article 64, paragraph 1, of the Convention are “due diligence” obligations which require the States concerned to consult with one another in good faith, pursuant to Article 300 of the Convention.

The consultations should be meaningful in the sense that substantial effort should be made by all States concerned, with a view to adopting effective measures necessary to coordinate and ensure the conservation and development of shared stocks. I am aware that some Contracting Parties of ICCAT are also members of WECAFC and may have participated in the initial decision at the WECAFC 16th Session. However, I do not believe that such an institutional representation is sufficient to satisfy the due diligence test emphasised by ITLOs in Case No. 21.

CRFM (September, 2017) on behalf of its 17 Member States

1. The studies done so far as part of the re-orientation process have dismissed the option of retaining WECAFC as an advisory body with little analysis or discussion, and a presumption that an RFMO is the only viable option. More thought should be given to the benefits of a strengthened and properly resourced WECAFC as an advisory body. ***The question is why can't WECAFC, functioning as an advisory body, achieve the higher level of cooperation among the States and improved the conservation and management status of stocks in the region, bearing in mind that the stocks in question are national stocks (under absolute sovereignty or sovereign rights of States) rather than high sea stocks?***
2. UNCLOS separates the ocean space into three broad maritime jurisdictional zones, where States have significantly different rights and obligations, namely: (1) zones under sovereignty (encompassing internal waters, archipelagic waters and territorial seas); (2) zones under sovereign rights (EEZ and the continental shelf); and (3) high seas (all parts of the sea that are not included in zones under sovereignty or sovereign rights). ***Will the RFMO be subject to the relevant provisions of UNCLOS particularly the rights and obligations of Coastal States in respect of these jurisdictional zones?***
3. Most species of concern, although shared, are nonetheless found in zones mentioned above, which are governed by the doctrine of State sovereignty over their natural resources. Some of the living marine resources in question are found largely or exclusively within either the coastal States' internal waters, territorial seas and archipelagic waters, in which the State has absolute sovereignty to use and regulate resources subject to the duty not to cause harm to other States; or within the exclusive economic zones (EEZ) and continental shelf, where the coastal State has the sovereign right to explore, exploit, conserve and manage the living marine resources, subject to the conservation duties imposed by the Law of the Sea Convention, and the duty to cooperate to ensure compatibility of management measures on the high seas and in waters under national jurisdiction in respect of straddling and highly migratory stocks. ***If the RFMO is subject to the rights and duties enshrined in UNCLOS what arrangements will be put in place to ensure these rights are respected?***
4. The area of competency of WECAFC as an advisory body encompasses all the maritime zones of the Caribbean coastal states as well as significant high seas space (9.4 million km²). ***(i) What maritime areas would be within the RFMO's mandate? (ii) How feasible would it be to establish an RFMO where the convention area encompasses all the WECAFC mandate area but with regulatory powers limited to the resources in the area beyond national jurisdiction?***
5. ICCAT is the competent body for conservation and management of tuna and tuna like species in the Atlantic and adjacent seas, thus covering the entire WECAFC area. ***How would ICCAT and the new RFMO delineate their responsibilities to avoid overlap?***
6. On the high seas, UNCLOS grants to all States the freedom of fishing, which is balanced by a duty to co-operate to manage the resources and a duty to adopt measures to control the fishing activities of their nationals operating on the high seas. Most RFMOs are concerned primarily with conservation and management of high seas resources. The CRFM States are generally supportive of an RFMO

aimed at conservation and management of the high seas resources within the WECACF area that are not under ICCAT's mandate. ***What are the specific high seas resources that would be under the RFMO's competence and what are their present state of development and management?***

7. The marine living resources that would fall within the competence of the RFMO should be clearly identified. The existing documents prepared by FAO imply that all key commercial stocks would be included in the RFMO's regulatory powers. Furthermore, most of the species identified, analyzed and discussed in the reports done by FAO and in need of improved management are species and fisheries occurring largely or exclusively within areas under the absolute jurisdiction of coastal States: ***(i) Exactly which marine species and marine ecosystems would be subjected to the regulatory powers of the RFMO? and; (ii) How will the species to be regulated by the RFMO be determined?***
8. If the maritime areas and/or species under state sovereignty are to be considered for inclusion in the mandate of the proposed RFMO, what processes are proposed to ensure adequate consultation and informed consent by States? What level of State representative would normally be required to commit the State given the nature of the decision?
9. Based on the cost benefit analysis and related studies done in support of the re-orientation process, most of the decline in catches and claims of overfishing in the region is due to the decline in catches of the Gulf Menhaden and Venezuelan Round sardinella fisheries: ***(i) Bearing in mind that a decline in catches does not necessarily mean the stocks are overfished, what is the status of these resources? (h) Are they over-fished? how are they being managed at this time? Would these stocks be within the regulatory mandate of the RFMO?***
10. One of the main challenges/ constraint to improved conservation and management of stocks in the region, is the inadequacy of scientific data regarding the stocks and marine ecosystems. ***How will the RFMO ensure that adequate scientific data and information is available over the range of the stocks to be managed? What practical actions would be pursued?***
11. Another related major constraint facing the Caribbean SIDS in particular is inadequate capacity to conduct the range of activities required to understand and manage the fisheries and marine ecosystems and WECAFC has been providing significant support in this area. ***How and to what extent will the RFMO support capacity building needs of these States?***
12. WECAFC is currently made up of SIDS, other developing States and developed countries including the EU. ***How will the special needs and interests of the SIDS and other developing coastal States be protected and address?***
13. The RFMOs are concerned primarily with living marine resource conservation and management. CARICOM States are concerned with the sustainable use and development of the resources as well as resource management and conservation. ***To what extent will the RFMO continue to provide development assistance to the CARICOM States?***
14. If some coastal states decided not to participate in the RFMO, how will this affect: ***(i) the efficacy of the RFMO's work, and; (ii) the interests of the coastal states in the fisheries that are regulated by the RFMO?***
15. To what extent will the Members of the RFMO be required to: ***(i) Collect and share accurate data concerning marine living resources and ecosystems? Enforce and ensure compliance with the management and conservation decisions of the RFMO? And (iii) what additional resources will they (particularly the SIDS) to obtain from the RFMO to carry out these actions and achieve such objectives?***
16. If the SIDS and other developing States with limited financial and institutional resources are unable to comply with the obligations mentioned above, what options are available to the RFMO to ensure compliance?

ANNEX 3 – ATTENDANCE OF MEMBERS IN WECAFC SESSIONS (1975-2016)

Members of WECAFC	1975 20 - 23 Oct	1978 22 - 26 May	1980 18 - 22 Nov	1983 9 - 13 May	1985 17-19 July	1987 27-31 July	1990 8 - 14 Nov	1995 20 – 24 Nov
	1st Session	2nd Session	3rd Session	4th Session	5th Session	6th Session	7th Session	8th Session
Host Countries	Trinidad	Panama	Cuba	Nicaragua	St. Lucia	Mexico	SVG	Venezuela
Antigua and Barbuda					√		√	
Bahamas	√*	√			√			
Barbados					√		√	
Belize						√	√	√
Brazil	√	√			√	√		
Canada*	√	√	√				√	
Colombia	√	√	√		√			√
Costa Rica*				√				√
Cuba	√	√	√	√		√	√	√
Dominica					√		√	√
Dominican Republic**			√*				
European Community				√*	√*	√		
France (French Antilles & IFREMER)	√	√	√	√	√	√	√	√
Grenada			√		√		√	
Guatemala				√	√			
Guinea					√			
Guyana			√			√	√	√
Haiti					√		√	
Honduras								
Italy	√							
Jamaica		√	√		√	√	√	√
Japan		√						
Korea (Republic of)	√	√	√	√	√	√	√	
Mexico		√	√	√	√	√	√	√
Netherlands	√		√	√		√		
Nicaragua		√	√	√	√	√	√	√
Panama		√	√		√	√	√	
Poland	√							
Saint Kitts and Nevis					√			
Saint Lucia			√	√	√	√	√	√
Saint Vincent and the Grenadines			√*		√*		√	
Spain	√	√	√	√			√	√
Suriname							√	
Trinidad and Tobago	√		√		√	√		

Members of WECAFC	1975 20 - 23 Oct	1978 22 - 26 May	1980 18 - 22 Nov	1983 9 - 13 May	1985 17-19 July	1987 27-31 July	1990 8 - 14 Nov	1995 20 – 24 Nov
	1st Session	2nd Session	3rd Session	4th Session	5th Session	6th Session	7th Session	8th Session
Host Countries	Trinidad	Panama	Cuba	Nicaragua	St. Lucia	Mexico	SVG	Venezuela
United Kingdom	√	√	√					
United States of America		√	√	√	√	√		√
USSR	√*							
Venezuela		√		√	√	√	√	√
TOTAL	11	14	16	11	21	16	19	11

Members of WECAFC	1999 27– 30 Sept	2001 24 – 27 Oct	2003 21– 24 Oct	2005 21 – 28 Oct	2008 21 -24 Oct	2012 06- 09 Feb	2014 26-28 March	2016 20-24 June
	9th Session	10th Session	11th Session	12th Session	13th Session	14th Session	15th Session	16th session
Host Countries	St. Lucia	Barbados	Grenada	Trinidad	Colombia	Panamá	Trinidad	Guadeloupe
Antigua and Barbuda		√	√	√	√	√	√	√
Bahamas	√		√		√	√	√	√
Barbados	√	√		√		√	√	√
Belize			√		√		√	√
Brazil	√	√	√	√		√		√
Canada*								
Colombia		√		√	√			√
Costa Rica*							√**	√
Cuba	√	√	√	√			√	√
Dominica	√	√			√	√	√	√
Dominican Republic**	√	√	√	√
European Community		√	√	√	√	√	√	√
France (French Antilles & IFREMER)	√	√	√	√	√	√	√	√
Grenada	√	√	√	√	√	√	√	√
Guatemala							√	√
Guinea								
Guyana			√		√		√	√
Haiti						√	√	√
Honduras	√			√	√	√		√
Italy								
Jamaica	√	√	√				√	√
Japan							√	√
Korea (Republic of)							√	
Mexico	√					√		
Netherlands		√				√	√	√
Nicaragua	√	√	√		√	√	√	
Panama					√	√	√	√
Poland								

Members of WECAFC	1999 27– 30 Sept	2001 24 – 27 Oct	2003 21– 24 Oct	2005 21 – 28 Oct	2008 21 -24 Oct	2012 06- 09 Feb	2014 26-28 March	2016 20-24 June
	9th Session	10th Session	11th Session	12th Session	13th Session	14th Session	15th Session	16th session
Host Countries	St. Lucia	Barbados	Grenada	Trinidad	Colombia	Panamá	Trinidad	Guadeloupe
Saint Kitts and Nevis			√	√	√	√	√	√
Saint Lucia	√	√	√	√	√	√	√	√
Saint Vincent and the Grenadines	√	√	√	√			√	√
Spain	√						√	
Suriname	√	√	√	√	√	√	√	√
Trinidad and Tobago	√	√	√	√		√	√	
United Kingdom			√				√	√
United States of America	√	√	√	√	√	√	√	√
USSR								
Venezuela	√	√	√	√	√		√	√
TOTAL	18	18	19	16	18	20	29	28

Notes:

* Canada and Costa Rica were invited to attend the WECAFC sessions as observers.

√* Other observer countries at the time.

** Dominican Republic became a member of WECAFC in 2006.

√** Costa Rica became a member in 2013

ANNEX 4 – REPORTED FISH PRODUCTION IN THE WECAFC MANDATE AREA PER MEMBER COUNTRY IN THE PERIOD 2011-2015

Country (Country)	2011	2012	2013	2014	2015	Average 2011 -2015	% of total	Sub-regional RFB membership
Antigua and Barbuda	3 055	5 951	4 605	3 114	3 000	3 945	0%	CRFM
Bahamas	15 313	16 756.83	12 765	11 878.22	11 295.29	13 601.668	1%	CRFM
Barbados	1 830	1 372	2 988	3 000	3 100	2 458	0%	CRFM
Belize	5 814	5 900	6 316	4 098	3 430	5 111.6	0%	CRFM/OSPESCA
Colombia	2 069	2 329	3 856	5 369	5 555	3 835.6	0%	
Costa Rica	416	415	511	527	530	479.8	0%	CRFM
Cuba	2 757	0 723	20 415	2 950	22 234	21 815.8	1%	
Dominica	664	625	547	750	945	706.2	0%	CRFM
Dominican Republic	13 032	12 711	12 623	12 940	10 659	12 393	1%	OSPESCA
France (incl. OTs)	18 189	5 009	14 591	4 156	13 683	5 125.6	1%	
Grenada	2 322	2 263	2 695	2 850	2 707	2 567.4	0%	CRFM
Guatemala	440	358	524	400	492	442.8	0%	OSPESCA
Guyana	42 385	53 044	48 468	36 946	35 858	43 340.2	3%	CRFM
Haiti	15 930	15 910	15 910	15 910	15 910	15 914	1%	CRFM
Honduras	9 081	10 098	9 704	6 457	8 609	8 789.8	1%	OSPESCA
Jamaica	17 458	14 801	17 513	14 506	16 327	16 121	1%	CRFM
Japan	1 274	1 809	1 285	622	2 305	1 459	0%	
Korea, Republic of	663	658	506	334	232	478.6	0%	
Mexico	197 036.01	221 138.7	190 548.1	1 667.7	61 254	6 328.904	14%	
Netherlands +Ots	1 663	1 667	1 663	1 123	1 126	1 448.4	0%	
Nicaragua	14 133	15 928	19 887	26 182	25 415	20 309	1%	OSPESCA
Panama	1 046	1 057	4 709	2 332	1 000	2 028.8	0%	OSPESCA
Saint Kitts and Nevis	1 740	2 099	1 733	714	896	1 436.4	0%	CRFM
Saint Lucia	1 878	2 066	2 090	2 096	2 083	2 042.6	0%	CRFM
Saint Vincent/ Grenadines	3 286	2 184	1 712	2 189	2 300	2 334.2	0%	CRFM
Spain	13 130	8 657	11 170	3 830	3 416	8 040.6	1%	

Country (Country)	2011	2012	2013	2014	2015	Average 2011 -2015	% of total	Sub-regional RFB membership
Suriname	34 900	38 644	38 719	37 708	43 915	38 777.2	3%	CRFM
Trinidad and Tobago	13 116	12 024	13 212	13 000	12 700	12 810.4	1%	CRFM
USA + Puerto Rico and USVI	845 308.24	808 462.8	698 534.1	578 576.9	722 818.2	730 740.042	48%	
UK + OTs	6 521	6 694	6 492	5 083	5 459	6 049.8	0%	
Venezuela, Boliv Rep of	125 920	126 320	127 000	127 961	170 763	135 592.8	9%	
Totals Area 31 (tonnes)	1 432 369.25	1 427 674	1 293 291	1 169 270	410 016	46 524.214		
Total Brazil (Northern part area 41)						180 000	12%	
Total WECAFC area						1 526 524.214	100%	

ANNEX/ANNEXE/ANEXO – D

**Individual letters from Member countries and organizations/
Lettres individuelles des pays membres et des organisations/
Cartas individuales de países miembros y organizaciones**

COLOMBIA

From: ALEJANDRO JARAMILLO GOMEZ <alejandro.jaramillo@cancilleria.gov.co>

Sent: 01 March 2019 01:04 PM

To: Thompson, Sonya (FAOSLC) <Sonya.Thompson@fao.org>

Cc: WECAFC-Secretariat <WECAFC-Secretariat@fao.org>; CAROLINA DIAZ ACOSTA <carolina.diaz@cancilleria.gov.co>; DIANA MERCEDES CARVAJAL TOSCANO <diana.carvajal@cancilleria.gov.co>

Subject: RE: REMINDER: GCP/SLC/015/EC - Discussion Paper for the Transformation of WECAFC into a RFMO and First Preparatory Meeting of WECAFC Reorientation, Bridgetown, Barbados, 25-26 March 2019

Estimada Sra. Thompson:

Con respecto al ultimo mensaje enviado, me permito corregir lo siguiente:

“Después de analizar todos los factores y las implicaciones que se desprenden de este proceso, consideramos que **no** nos encontramos en una posición donde podemos apoyar la creación de una OROP. Aunque somos conscientes de los beneficios, las limitaciones presupuestales y de capacidad son mayores. Por lo tanto, consideramos que por el momento, la COPACO debe continuar como un órgano de asesoría”.

Cordial saludo,



Asesor GIT de Asuntos Económicos

Alejandro Jaramillo Gómez

alejandro.jaramillo@cancilleria.gov.co

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De: ALEJANDRO JARAMILLO GOMEZ

Enviado el: jueves, 28 de febrero de 2019 7:03 p. m.

Para: Thompson, Sonya (FAOSLC) <Sonya.Thompson@fao.org>

CC: WECAFC-Secretariat@fao.org; CAROLINA DIAZ ACOSTA <carolina.diaz@cancilleria.gov.co>; DIANA MERCEDES CARVAJAL TOSCANO <diana.carvajal@cancilleria.gov.co>

Asunto: RE: REMINDER: GCP/SLC/015/EC - Discussion Paper for the Transformation of WECAFC into a RFMO and First Preparatory Meeting of WECAFC Reorientation, Bridgetown, Barbados, 25-26 March 2019

Estimada Sra. Thompson:

Espero este mensaje la encuentre bien.

A continuación los comentarios de parte de Colombia con respecto al documento elaborado por la Secretaría de la COPACO:

Felicitaciones a la Secretaría de la COPACO por el excelente trabajo en la elaboración del documento. Brinda un análisis detallado y robusto con respecto al proceso de transformación de la COPACO y sin duda, contribuirá significativamente en las discusiones relacionados a este. Aborda cada uno de los temas relevantes, brinda recomendaciones para cada uno de ellos y ofrece distintas alternativas.

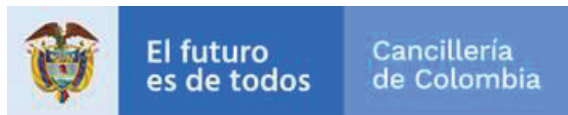
Consideramos que es fundamental el trabajo de la COPACO para promover la efectiva conservación, ordenamiento y desarrollo de los recursos marinos vivos en el Océano Atlántico Centro-Occidental. Colombia está comprometida con este propósito y contribuirá en dicho esfuerzo siempre y cuando sea posible.

Después de analizar todos los factores y las implicaciones que se desprenden de este proceso, consideramos que nos encontramos en una posición donde podemos apoyar la creación de una OROP. Aunque somos conscientes de los beneficios, las limitaciones presupuestales y de capacidad son mayores. Por lo tanto, consideramos que por el momento, la COPACO debe continuar como un órgano de asesoría.

Amablemente solicitamos que estos comentarios sean tenidos en cuenta en las próximas discusiones, incluyendo en la próxima Reunión Preparatoria sobre la Reorientación de la COPACO que se llevará a cabo del 25 al 26 de marzo de 2019 en Bridgetown, Barbados.

Cordial saludo,

Asesor GIT de Asuntos Económicos



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GOVERNMENT OF ANTIGUA AND BARBUDA
MINISTRY OF AGRICULTURE, FISHERIES AND BARBUDA AFFAIRS

FISHERIES DIVISION

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Parham Fisheries Complex: (268) 562-4920/21 Urlings Fisheries Complex: (268) 562-4917/18
Point Wharf Fish Processing Plant: (268) 562-5737/38

February 28, 2019

Ref. FD 83/45

Dr. Yvette Diei-Ouadi
WECAFC Secretariat
Food and Agriculture Organization of the United Nations
Sub-regional Office for the Caribbean
2nd floor, United Nations House, Marine Gardens, Hastings
Christ Church, BB 11000, Barbados

Dear Madam,

RE: THE WECAFC STRATEGIC REORIENTATION PROCESS

We are pleased to refer to your letter dated 8 January 2019 regarding the *Discussion Paper in Support of the WECAFC Strategic Reorientation Process*, by Teresa Amador, independent legal advisor (hereinafter Discussion Paper), in which members of WECAFC were invited to submit their comments on the Discussion Paper by 28 February 2019.

The Fisheries Division of Antigua and Barbuda hereby submits its preliminary opinion on the Discussion Paper and the establishment of an RFMO in the Caribbean Region.

The Member States attending the 16th Session of WECAFC had many fundamental questions and concerns regarding the proposal to transform WECAFC from an advisory body into an RFMO. The meeting agreed that these questions and concerns should be submitted in writing to the WECAFC Secretariat which would review and provide responses that would allow the States to better understand, evaluate and make a determination regarding the best option for the reorientation and strengthening of WECAFC, including whether or not the establishment of an RFMO is justified.

The Member States of CRFM compiled a comprehensive list of questions, which was submitted to FAO/WECAFC by the CRFM Secretariat on behalf of the Member States. It is our opinion that many of the questions submitted have not been adequately answered in the Discussion Paper.

Having carefully reviewed the Discussion Paper and the reorientation process to date, noting that the questions submitted have not been adequately dealt with, and taking into account all the circumstances and arrangements in the region, we are not convinced that the transformation of WECAFC into an RFMO, whether under Article XIV of FAO or an independent inter- governmental organization, is necessary, justified or beneficial to our country, the sub-regions, or the Wider Caribbean region at this time.

As you are aware, the Ministerial Council of the CRFM having carefully considered the issues under discussion in respect of the reorientation of WECAFC, decided, *inter alia*, that while it would be acceptable to establish an RFMO that would have competency over the ABNJ and its marine living resources within the WECAFC mandate area, the Council “*Strongly rejected the establishment of an RFMO that would have competence over the conservation and management of marine living resources that are within areas under the sovereignty or jurisdiction of States.*”

Over the past decades there have been gradual shifts in fisheries governance in the OECS from one that is “*top-down*” and *centralised* to one that is “*participatory*” and *devolved*. This shift in governance comes from recognition of the potential benefits to be gained from greater involvement of stakeholders in the decision-making and management regime. Antigua and Barbuda has invested heavily in this approach particularly with respect to the queen conch and Caribbean spiny lobster fisheries and has seen much improvement in their overall management and status. This is borne out by the recent successes of the CRFM-JICA CARIFICO Project. This also raises the issue of how can a “*bottom up*” approach to local and national governance (i.e., co-management) fits into a regional approach to governance which is “*top down*” and reduces the role of stakeholders.

It is our opinion that the original mandate given by 14th Session of WECAFC is still valid. This envisages strengthening the organization by, *inter alia*, increasing financial resources and staff at the Secretariat to better support the Member States and their organisations to effectively and efficiently develop and manage their fisheries in a sustainable manner in keeping with their national and sub-regional objectives. It is our opinion that to date the studies conducted and recommendations arising from them have been too narrowly focused on making the case for transforming WECAFC into an RFMO and have not given due consideration to the options available for strengthening WECAFC to better support the sustainable development of fisheries and aquaculture in the countries in accordance with their identified needs and priorities.

Respectfully,



Ian Horsford
Chief Fisheries Officer (Ag.)

cc: Hon. Dean Jonas, Minister of Agriculture, Fisheries and Barbuda Affairs Permanent Secretary,
Ministry of Agriculture, Fisheries and Barbuda Affairs Permanent Secretary, Ministry of
Foreign Affairs

COMMENTS ON THE RFMO DISCUSSION PAPER

General Comments

1. The way the paper is organized almost seems upside down. It appears that what is considered in the first sections are summarized issues which are detailed in later sections which leaves the reader asking a lot of questions in the beginning of the paper.
2. The mandate of WECAFC as indicated in the document appears to be very broad and there is discussion about it integrating working together with CRFM, OSPESCA and ICCAT. However what about it working together with other organisations like it is doing now under the SAP ICM and agreements like CITES and SPAW which may have fisheries related species on their annexes. Do not feel that this is adequately addressed in the document.
3. It is my understanding that the document is seeking to address questions pertaining to the text in italics below:

At the *16th session of WECAFC* (Guadalupe, June 2016) the Commission endorsed the outcomes of the *2nd Reorientation and Strategic Planning Workshop* and **agreed to launch a process to establish a RFMO and to clarify issues in relation to competency area, stocks coverage, budgetary implications for Members, institutional structure, membership, decision making processes, national sovereignty aspects, its objectives and any other relevant matters that the Members may wish to consider.** The Commission further noted **that such an RFMO**

I am not too sure if the issues of national sovereignty aspects were fully addressed, as well as stocks coverage (which also relates back to the issue of national sovereignty aspects).

4. Use of these resources to support the preparatory meeting can only be justified in the context of the CLME+ Project vis a vis the donor and GEF agency if the preparatory meeting contributes to permanent solutions for enhanced fisheries management within EEZs (CLME+ region) as proposed in the following recommendation found on page 24 of the document:
5. Does the establishment of an RFMO have an impact (negative or positive) on the establishment of a Permanent Coordination Mechanism as is being investigated under the CLME+ Project?

Specific comments:

1. Section 3.2 of the document recognizes the limitations of human and institutional capacity of WECAFC Member States to implement its recommendations, however how this can be achieved is not adequately addressed.
2. Section 3.5 - This section and other sections highlights the issue of trade and how an RFMO can benefit its Member States but this is not really discussed in depth through the document. Think that this is an important point for this region and more focus should be placed there.
3. Page 31 – the Sustainable Fisheries ICM is mentioned here for the first time however no context is provided. It was later noticed that context and background on the Sustainable Fisheries ICM was provided later in the document (please refer to comment 1 under general comments)
4. Page 35 – the last set of Sustainable Fisheries ICM meetings took place: August 2018 – Miami, March 2018 – Dominican Republic, October 2017 – Miami.
5. Page 35 -The CLME+ SAP actions says “Evaluate the needs and the options, agree on the mandate & operationalise a Regional Fisheries Management Organisation (RFMO) or alternative arrangement for the management of shared living marine resources”
6. Table 10 – third row of table, see comment 4 under the general comments on how the CLME+project funds can be used.

7. Table 13 – Roadmap Table, it is my recollection that it was agreed that no specific dates would be associated with the roadmap activities at one of the previous meetings to discuss the proposed RFMO.
8. I am not too clear regarding the suggestion of the USD 2,000/annum that other states are to pay to support the RFMO. Does this amount relate to the cost of them attending the meetings of the RFMO?



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28 February 2019

Dr. Yvette Diei-Ouadi
WECAFC Secretariat
Food and Agriculture Organization of the United Nations
Sub regional Office for the Caribbean
2nd floor, United Nations House, Marine Gardens, Hastings
Christ Church, BB 11000, Barbados

Dear Dr. Yvette Diei-Ouadi,

RE: THE WECAFC STRATEGIC REORIENTATION PROCESS

The CRFM presents its compliments and refers to your letter dated 8 January 2019 regarding the *Discussion Paper in Support of the WECAFC Strategic Reorientation Process*, by Teresa Amador, independent legal advisor (hereinafter referred to as the Discussion Paper), in which we were invited to submit any comments we may have on the Discussion Paper by 28 February 2019.

The CRFM Secretariat, having consulted with our Member States, hereby submits its preliminary opinion on the Discussion Paper and the establishment of an RFMO in the Caribbean Region.

The WECAFC Member States attending the 16th Session of the Commission had many fundamental questions and concerns regarding the proposal to transform WECAFC from an advisory body into an RFMO. The meeting agreed that these questions and concerns should be submitted in writing to the WECAFC Secretariat which would review and provide responses that would allow the States to better understand, evaluate and make a determination regarding the best option for the reorientation and strengthening of WECAFC, including whether or not the establishment of an RFMO is justified.

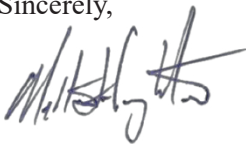
The CRFM Member States compiled a comprehensive list of questions, which was submitted to FAO/WECAFC Secretariat by the CRFM Secretariat on behalf of the Member States. It is our opinion that many of the questions submitted have not been adequately answered in the Discussion Paper.

Having carefully reviewed the Discussion Paper and the reorientation process to date, noting that the questions submitted have not been adequately answered or the answers provided have not allayed the serious concerns of our Member States, and taking into account all the circumstances and existing arrangements in the region, we are not convinced that the transformation of WECAFC into an RFMO, whether under Article XIV of FAO or an independent inter-governmental organization, is necessary, justified or beneficial to our countries, the sub-regions, or the Wider Caribbean region at this time.

As you may be aware, our policy makers, the Ministerial Council of the CRFM, have been closely engaged with the reorientation process over the past 3 years. And having carefully considered the issues and recommendations under discussion in respect of the reorientation of WECAFC, the Council decided, *inter alia*, that while it would be acceptable to establish an RFMO that would have competency over the ABNJ and its marine living resources within the WECAFC mandate area, they “Strongly rejected the establishment of an RFMO that would have competence over the conservation and management of marine living resources that are within areas under the sovereignty or jurisdiction of States” (11th Meeting of the Council, May 2017). The 12th Meeting of the Council held in May 2018, returned to the issue and reaffirmed their earlier decision regarding the RFMO. In summary, the CRFM Member States reject any arrangement that will impinge on their sovereignty and exclusive jurisdiction over their marine resources or will not squarely support their needs and national and regional development objectives..

It is our opinion that the original mandate given by 14th Session of WECAFC in respect of the reorientation is still valid. This mandate which was co-sponsored by some of the CRFM States in attendance arose from a recognized need to “improve the functioning of WECAFC in terms of addressing its mandate and promises to its members”, and envisaged strengthening the organization by, *inter alia*, increasing financial resources and staff at the Secretariat to better support the Member states and their organisations to effectively and efficiently develop and manage their fisheries in a sustainable manner in keeping with their national and sub-regional objectives. It is our opinion, which we have expressed at previous meetings and workshops on the reorientation, that to date the studies conducted and recommendations arising from them have been too narrowly focused on making the case for transforming WECAFC into an RFMO and have not given due consideration to the options available for strengthening WECAFC to better support the sustainable development and conservation of fisheries and aquaculture in the countries in accordance with their identified needs and priorities.

Sincerely,



Milton Haughton
Executive Director

Copied: Ms. Annick VanHoutte, FAO, Rome

Mr. Reinaldo Morales Rodriguez, Regional Director, OSPESCA

Dr. Susan Singhrenton, Deputy Executive Director

DISCUSSION PAPER IN SUPPORT OF THE WECAFC STRATEGIC REORIENTATION PROCESS

To clarify issues in relation to WECAFC's objectives, competency area, stocks coverage, budgetary implications for Member states, institutional structure, membership, decision making processes, national sovereignty aspects and its objectives

INTRODUCTION

The Western Central Atlantic Fishery Commission (WECAFC)¹ was established in 1973 by Resolution 4/61 of the FAO Council under Article VI (1) of the FAO Constitution. WECAFC's Statutes were amended by the FAO Council at its 74th Session (in December 1978) and 131st Session (in November 2006). The main governing body of WECAFC is the Commission, which is composed of all members. The general objective of the Commission is to promote the effective conservation, management and development of the living marine resources of its area of competence, in accordance with the FAO Code of Conduct for Responsible Fisheries (CCRF),² and to address common problems of fisheries management and development faced by members of the Commission.

The WECAFC **strategic reorientation process** started in 2012 at the *14th session of WECAFC* (Panama, February 2012)³ following a period of relative inactivity (2008-2011). Delegations of 12 WECAFC Member-states⁴ formally requested FAO "to carry-out a strategic reorientation of the functions and mandate of the Commission" taking into account the following considerations: the limitations of the Secretariat in terms of legal and technical capacity for supporting such a process; the long standing experience of FAO in relation to regional fishery bodies (RFBs); the neutral role of FAO as a United Nations specialized agency; and the vital importance of maintaining the current momentum for change. In addition the *30th Session of COFI* (Rome, July 2012)⁵ instructed FAO "to initiate performance reviews of the RFBs under its auspices that had not already been assessed." In the response the FAO WECAFC Secretariat and the Bureau of the Commission arranged for and supported the Performance Review of WECAFC (from October 2013 to January 2014).⁶

Overall the **Performance Review** found that the role of WECAFC is appreciated with regard to the implementation of the CCRF and the relevant instruments, especially the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA). It also concluded that WECAFC largely depends on the Secretariat in terms of supporting, initiation and implementation of the activities. However, the coordination of an RFB in such a complex and diverse region would require more human resources than those actually made available to WECAFC.

The main recommendations were to increase the availability of financial resources and the number of staff working in the WECAFC Secretariat. The review of the level of implementation of the work plan as adopted by the *14th session of WECAFC* showed that more than 80 percent of the envisaged activities had been implemented, and the reasons for shortcomings in the implementation have generally been caused by external factors. The review also underlined the regional-level coordination function of WECAFC and that further strengthening and increased institutionalization of this function is needed in the future.

¹ www.wecafc.org/en/

² www.fao.org/3/a-v9878e.pdf

³ Report of the 14th Session of the WECAFC (Panama City, Panama, 6-9 February 2012) www.fao.org/docrep/017/i2677t/i2677t00.htm

⁴ The member states included: Antigua and Barbuda, Bahamas, Dominica, Grenada, Haiti, Nicaragua, Netherlands, Panama, St Kitts and Nevis, St Lucia, Suriname and Trinidad and Tobago.

⁵ Paragraph 72 –Report of the 30th session of the COFI (Rome, 9-13 July 2012) www.fao.org/3/a-i5096t.pdf

⁶ WECAFC Performance, Planning and Procedures, FAO Fisheries and Aquaculture Circular SLC/FIP/C1096 (Tri) www.fao.org/3/a-i5096t.pdf

The Performance Review, together with the **WECAFC Strategic Plan (2014–2020)** and the **revised Rules of Procedure (RoP)** were discussed and reviewed by WECAFC members at the *1st Reorientation and Strategic Planning Workshop* (Guadeloupe, January 2014)⁷ which was attended by delegations from nine members of the Commission.

The documents were further reviewed, finalized and approved by the *15th session of WECAFC* (Trinidad and Tobago, March 2014).⁸ Delegations were not authorized by their governments to take a decision on the possible transformation of WECAFC. It was however agreed that WECAFC has an important role to play in regional fisheries management and conservation and that it should not be abolished. The option of WECAFC abolishment was consequently removed from the process. After extensive discussion, in which cost aspects and stakeholder involvement were the main issues, “*it was concluded that WECAFC should remain an Article VI advisory body for the immediate future*”. The Commission endorsed, as a way forward an independent cost–benefit assessment of the three options for WECAFC reorientation, being:

1. WECAFC should remain a regional level fisheries advisory commission as a FAO Article VI body and continue to coordinate joint work with the (sub-) regional advisory/management bodies;
2. WECAFC should become a RFMO as an FAO Article XIV body, with a mandate to manage the fisheries in a sustainable manner through the adoption of legally binding decisions;
3. WECAFC should become a RFMO established outside of FAO’s legal framework, i.e. as an Intergovernmental Organization (IGO) with a mandate to manage fisheries in a sustainable manner through the adoption of legally binding decisions.

At the 15th session the Commission also adopted the **WECAFC Strategic Plan (2014–2020)**,⁹ the process of which embraced the ongoing collaboration with other sub-regional fishery bodies, fisherfolk organizations, civil society organizations, research institutions, development banks and projects, and which considered information from the Performance Review (2013–2014).¹⁰

At the *2nd Reorientation and Strategic Planning Workshop* (Trinidad and Tobago, December 2015),¹¹ the attending delegations from twenty-five members of the Commission recognized the value of a transformation of WECAFC into an RFMO for the sustainability of fisheries in the region which would have “*an umbrella function and should not replace effective existing institutions (CRFM and OSPESCA) at sub-regional level*”. As such, these RFBs should be embedded in the governance structure of the new RFMO.

The *34th FAO Regional Conference for Latin America and the Caribbean* (Mexico, March 2016),¹² acknowledged the improvements in the functioning and performance of WECAFC and recognized its increased collaboration with CRFM and OSPESCA. The Conference “*took note of the potential benefits*

⁷ Report of the 1st Reorientation and Strategic Planning Workshop (Gosier Guadeloupe, 29–30 January 2014).
FAO Fisheries and Aquaculture Report No. 1068 SLC/FIPI/R1068 (En)
www.fao.org/3/a-i3795e.pdf

⁸ Report of the 15th Session of the WECAFC (Port of Spain, Trinidad and Tobago, 26–28 March 2014)
www.fao.org/3/a-i3790t.pdf

⁹ Approved with minor amendments at the 15th Session of WECAFC
See Part II: www.fao.org/3/a-i5096t.pdf

¹⁰ The implementation of the recommendations of the Performance Review are expected to be discussed at the 17th session of WECAFC since it was not possible to include that agenda item on the 16th session. The plan is to establish a monitoring system for implementation of regional management and conservation plans.

¹¹ Report of the 2nd Reorientation and Strategic Planning Workshop (Port of Spain, Trinidad and Tobago, 1–2 December 2015)
FAO Fisheries and Aquaculture Report No. 1140, SLC/FIP/R1140 (Bi)
www.fao.org/3/a-i5584be.pdf

¹² Paragraph 57 - Report of the 34th Regional Conference for Latin America and the Caribbean (Mexico City, Mexico, 29 February to 3 March, 2016) LARC/16/REP
www.fao.org/3/a-mq197e.pdf

for the region if WECAFC were to be transformed into a RFMO, and agreed that an RFMO could develop very positive synergies among members to boost effective regional cooperation in fisheries”. It requested also that the 16th session of WECAFC consider the possibility of providing adequate resources to support the process of transforming WECAFC into an RFMO, should members so desire.

At the **16th session of WECAFC** (Guadalupe, June 2016)¹³ the Commission endorsed the outcomes of the *2nd Reorientation and Strategic Planning Workshop* and **agreed to launch a process to establish a RFMO and to clarify issues in relation to competency area, stocks coverage, budgetary implications for Members, institutional structure, membership, decision making processes, national sovereignty aspects, its objectives and any other relevant matters that the Members may wish to consider.** The Commission further noted **that such an RFMO should not replace existing RFBs, but instead establish functional ties and formal relationships with CRFM, OSPESCA and ICCAT** and agreed that the process should ensure **effective stakeholder participation and capacity building**, as well as a mechanism for effective stakeholder participation in decision making once the RFMO is established.

During 2016 - 2017 WECAFC issued two letters to its members and partners seeking their express opinion on the strategic reorientation of WECAFC. The first letter (from 20 May 2016) enquired about the establishment of and RFMO, areas and stocks to be covered and its legal status. On the 2nd letter WECAFC (from 14 July 2017) requested its members and partners for questions to be answered in the RFMO establishment process.

This discussion paper is intended to build further on the findings and recommendations of the various studies elaborated previously and assist the WECAFC’s members in the process of establishing a RFMO. As agreed at the 16th session of WECAFC this paper aims to clarify issues in relation to *competency area, stocks coverage, budgetary implications for Members, institutional structure, membership, decision making processes, national sovereignty aspects, its objectives and any other relevant matters that the Members may wish to consider.*¹⁴ It also addresses the opinions expressed by Members and other stakeholders in reply to the letters of the WECAFC chairpersons of May 2016 and July 2017. Annex I provides an overview of the views expressed by Member-states prior to the 16th session. Annex II compiles the questions raised by Member-states and partners regarding the RFMO establishment process. The annexes should be consulted in tandem with the main text when indicated.

2. BACKGROUND

The table below identifies the WECAFC Member-states, their status with regard to the main international agreements and their membership of other RFBs. As highlighted in the table the majority of WECAFC’s Member-states are Parties to UN Law of the Sea Convention (LOSC, 1982) and UNFSA, which calls upon countries to collaborate through RFMOs to ensure effective conservation and management of the targeted stocks (see Section 9 below).

¹³ Report of the 16th Session of WECAFC (Guadeloupe, 20–24 June 2016) www.fao.org/3/a-i6031t.pdf

The session was attended by 28 members of the Commission. Observers from 4 RFBs and 4 intergovernmental organizations also participated.

¹⁴ Paragraph 55 of the Report of the 16th Session of WECAFC www.fao.org/3/a-i6031t.pdf

Table 1. WECAFC Members-States, international agreements¹⁵ and RFMOs

Member State	LOSC, 1982 ¹⁶	UNFSA ¹⁷	FAO CA ¹⁸	PSMA ¹⁹	CRFM	OSPESCA	ICCAT
Antigua & Barbuda	02/1989	X	X	X	02/2002	X	X
Bahamas	07/1983	01/1997	X	10/2016	02/2002	X	X
Barbados	10/1993	09/2000	10/2000	02/2016	02/2002	X	12/2000
Belize	08/1983	07/2005	07/2005	X	02/2002	2000	07/2005
Brazil	12/1988	03/2000	03/2009	11/2009	X	X	04/1969
Colombia	X	X	X	X	X	X	X
Costa Rica	09/1992	06/2001	X	12/2015	X	1991	NM ²⁰
Cuba	08/1984	X	X	03/2016	X	X	NM ²¹
Dominica	10/1991	X	X	05/2016	02/2002	X	X
Dominican Republic	07/2009	X	X	X	NM ²²	2013	X
European Union	04/1998	12/2003	08/1996	07/2011	X	X	11/1997
France	04/1996	12/2003	X	07/2016	X	X	12/1997 ²³
Grenada	04/1991	X	X	06/2016	02/2002	X	X
Guatemala	02/1997	X	X	X	X	1991	11/2004
Guinea	09/1985	09/2005	X	06/2016	X	X	06/1991
Guyana	11/1993	X	X	03/2016	02/2002	X	NM ²⁴
Haiti	07/1996	X	X	X	02/2002	X	X
Honduras	10/1993	X	X	X	X	1991	01/2001
Jamaica	03/1983	X	X	X	02/2002	X	X
Japan	06/1996	08/2006	06/2000	05/2017	X	X	08/1967
Mexico	03/1983	X	03/1999	X	X	X	05/2002
Netherlands	06/1996	12/2003	X	X	X	X	X
Nicaragua	05/2000	X	X	X	X	1991	03/2004
Panama	07/1996	12/2008	X	11/2016	X	1991	12/1998
Republic of Korea	01/1996	02/2008	04/2003	01/2016	X	X	08/1970
Saint Kitts and Nevis	01/1993	X	06/1994	12/2015	02/2002	X	X
Saint Lucia	03/1985	08/1996	10/2002	X	02/2002	X	X
St.VincentGrenadines	10/1983	10/2010	X	06/2016	02/2002	X	11/2006
Spain	01/1997	12/2003	X	X	X	X	NM ²⁵
Suriname	07/1998	X	X	X	02/2002	X	NM ²⁶
Trinidad & Tobago	04/1986	09/2006	X	X	02/2002	X	03/1999
UK	07/1997	12/2001	X	X	X	X	01/1998 ²⁷
USA	X	08/1996	12/1995	02/2016	X	X	05/1997
B.Rep of Venezuela	X	X	X	X	X	X	11/1983

¹⁵ As of 15 October 2017¹⁶ United Nations Convention on the Law of the Sea (1982); in force since 16/11/1994
www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf¹⁷ Agreement for the Implementation of the provisions of the UNCLOS relating to the conservation and management of straddling fish stocks and Highly migratory Fish Stocks (1995); in force since 11/12/2001
www.un.org/depts/los/convention_agreements/convention_20years/1995FishStockAgreement_ATahindro.pdf¹⁸ Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (1993); in force since 24/04/2003 www.fao.org/fileadmin/user_upload/legal/docs/012s-e.pdf¹⁹ Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (2009); in force since 05/06/2016 www.fao.org/3/a-i5779e.pdf²⁰ Not a Member, but a Cooperating non-contracting party.²¹ Cuba was a member of the Commission from 15-01-1975 to 31-12-1991.²² The CRFM Member States cooperate with the Dominican Republic through a MoU. 60 France (St-Pierre et Miquelon).²³ France (member since 7-11-1968) withdrew from the Commission following the access of the European Community on 14-11-1997. However, France retains membership as of 24-12-97 on behalf of its overseas territories not covered by the Treaty of Rome. See Note 2 of www.iccat.es/en/contracting.htm²⁴ Status of Cooperating non-contracting party according to www.iccat.es/en/contracting.htm²⁵ Spain (member since 21-3-1969) withdrew from the Commission following the access of the European Community on 14-XI-1997. See Note 2 of www.iccat.es/en/contracting.htm²⁶ Status of Cooperating non-contracting party according to www.iccat.es/en/contracting.htm²⁷ United Kingdom (O. territories). U.K. (member since 10-XI-1995) withdrew from the Commission following the access of the European Community on 14-XI-1997. However, the UK retains membership as of 19-I-1998 on behalf of its overseas territories not covered by the Treaty of Rome. See Note 2 of www.iccat.es/en/contracting.htm

The reasons for the strategic reorientation of WECAFC, which started in 2012,²⁸ have been identified as being:

- the substantial changes in the institutional environment in which WECAFC operates (e.g. other subregional fishery bodies such as the CRFM and the OSPESCA) got stronger and more efficient in recent years;
- an overlap in mandates with these other RFBs which requires greater partnerships;
- the current WECAFC mandate is very broad and receives only limited funding from members and FAO;
- the WECAFC Statutes and Rules of Procedure cause less efficient functioning of the Commission in a time of rapid developments and changes in the region.
- In 2013, an additional reason was provided, being that WECAFC needs to address the Caribbean Large Marine Ecosystem (CLME) Strategic Action Programme (SAP) process outcomes and start supporting its implementation.

The COFI at its 31st session identified the main weaknesses of the RFBs and stressed that FAO will continue to provide a framework and technical support for the RFBs established under Article VI and XIV of its Constitution. **However it was stressed that “ultimately these bodies exist for, and by, their members” and it is therefore for the members of these bodies, not FAO, to drive this change.**²⁹

In assisting its Member-States in **driving the strategic reorientation of WECAFC** several studies have been elaborated in order to assess the three options, which were discussed and endorsed at the WECAFC’s sessions and are briefly referred to above.

The “*Background, guidance and strategic options for the strategic re-orientation of WECAFC: Options paper*”³⁰ provides the institutional and financial aspects of WECAFC, describes the relevant FAO developments, elaborates on the legal, financial and administrative implications for continuing as a FAO Article VI body, or transforming into a FAO Article XIV body or an independent RFB. It was addressed by the 15th session of WECAFC.

The preliminary outcomes of the “*Findings of the independent cost-benefit assessment of the options for strategic reorientation of WECAFC*”³¹ were discussed at the 2nd Reorientation and Strategic Planning Workshop. The assessment discussed the status and trends of marine fisheries in the WECAFC area, regional fisheries bodies and RFMOs active in the area, international fisheries instruments and the role of RFMOs and the costs and benefits of the three options mentioned above. It concluded that the establishment of an RFMO, either under FAO or outside FAO’s framework would create significant economic, social and environmental benefits at limited costs to the WECAFC members. The “Summary findings of the independent cost-benefit assessment of the options for strategic re-orientation of WECAFC”, were presented to and endorsed by the 16th session of WECAFC.³²

²⁸ See paragraph 2 Report of the 1st WECAFC Reorientation and Strategic Planning Workshop www.fao.org/3/a-i3795e.pdf

²⁹ See Paragraph 16, RFBs established under the FAO Framework – COFI/2014/Inf.11 (May, 2014) www.fao.org/3/a-mk346e.pdf

³⁰ WECAFC/XV/2014/12, Report prepared by Dr. Judith Swan (February 2014) www.fao.org/fishery/docs/DOCUMENT/wecafc/15thsess/12e.pdf

³¹ Report prepared by Dr Kjartan Hoydal (February 2016) www.fao.org/3/a-i6377e.pdf

³² WECAFC/XVI/2016/12, May, 2016 www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/12e.pdf

The “*Assessment of the recent achievements and collaboration of CRFM, OSPESCA and WECAFC including options for a regional institutional collaborative structure within an RFMO framework*”³³ is an addition to the independent cost benefit study. It assesses the existing collaboration between the main RFBs in the Western Central Atlantic Region, and discusses how the creation of a RFMO would help this collaboration and improve the status and management of shared stocks among WECAFC member countries. The study collected and analysed information on the recent achievements of CRFM, OSPESCA and WECAFC, recent experiences in sub-regional collaboration, identified shared and transboundary stock status and options for management, costs and benefits of the management of these specific fisheries and the role of other stakeholders. The study was discussed at the 16th session of WECAFC, which recognised that “*it advanced the discussion and that there were some gaps in the document that still need to be addressed*”.³⁴

At its 32nd session, in July 2016, COFI reiterated the calls for support to the WECAFC region³⁵ and further elaborated on the RFBs established within the FAO framework.³⁶

In the sections 3 and 7 below, a comparative assessment is presented between WECAFC and GFCM, NEAFC, FFA and ICCAT with regard to their respective **objectives and membership**. GFCM is the only statutory body established under Article XIV of the FAO Constitution that is used in this comparison.³⁷ The others are independent IGOs.

3. OBJECTIVES

The **objectives and principles** of WECAFC are outlined respectively in Article 1 and 2 of its Statutes adopted in 1973 and last revised in 2006 by Resolution 1/131.³⁸ They are broad and enable the Commission to provide advice to its members on the conservation, management and development of fisheries as well as on the sustainable use of the marine and aquatic resources in the widest sense.

The **General Fisheries Commission for the Mediterranean (GFCM)**³⁹ is one of the oldest RFMO, which was established in 1949 under the provisions of Article XIV of the FAO Constitution. The GFCM Agreement⁴⁰ was amended four times, the last in 2014 and its RoP were last amended in 2015.⁴¹ The GFCM has a broad mandate – it is responsible for the management of living marine resources in the Mediterranean and Black Sea and for the sustainable development of aquaculture.⁴²

The **North-East Atlantic Fisheries Commission (NEAFC)**⁴³ is the RFMO for the North-East Atlantic, one of the most abundant fishing areas in the world. It was set up under the framework of the Convention on Future Multilateral Cooperation in the North-East Atlantic Fisheries, which entered into

³³ WECAFC/XVI/2016/13 Report prepared by Ms. Helga Josupeit (April 2016)
www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/13e.pdf

³⁴ See paragraph 53, Report 16th Session WECAFC
www.fao.org/3/a-i6031t.pdf

³⁵ See paragraph 141 of the Report of the 32th session of COFI (11-15 July, 2016)
www.fao.org/3/a-i6882e.pdf

³⁶ COFI/2016/Inf.16 www.fao.org/3/a-mq842e.pdf

³⁷ Other fisheries agreements and RFMOs established under article XIV of FAO's Constitution include a tuna RFMO (IOTC), various general RFMO's (RECOFI, APFIC), an inland fisheries RFMO (CACFish), the Compliance Agreement and the PSMA. The comparison only included GFCM, as it is a well-established RFMO

³⁸ Revised WECAFC Statutes adopted by Resolution 1/131 (2006)
www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/statutes.pdf

³⁹ www.fao.org/gfcm/en/

⁴⁰ Agreement for the Establishment of the GFCM.
www.fao.org/3/a-ax825e.pdf

⁴¹ RoP GFCM: www.fao.org/3/a-ax822e.pdf

⁴² The GFCM Secretariat is based in Rome, Italy. More information about the Commission and its membership can be found at:
www.fao.org/3/a-mk346e.pdf

⁴³ www.neafc.org/

force on 17 March 1982.⁴⁴ The Convention was amended in 2006. The amendments, which came into force in 2013, broadened the objectives of the Convention including taking into account the need to conserve biodiversity. The area covered by the NEAFC Convention stretches from the southern tip of Greenland, east to the Barents Sea, and south to Portugal. The mandate of NEAFC is to ensure the long-term conservation and optimum utilization of the fishery resources in the Convention Area, providing sustainable economic, environmental and social benefits and in doing so desiring to safeguard the marine ecosystems in which the resources occur, and accordingly to encourage international cooperation and consultation with respect to these resources.

The International Commission for the Conservation of Atlantic Tunas (ICCAT)⁴⁵ was established under the International Convention for the Conservation of Atlantic Tunas⁴⁶ which entered into force in 1969. The ICCAT is an inter-governmental fishery organization responsible for the conservation of tunas and tuna-like species in the Atlantic Ocean and its adjacent seas. ICCAT compiles fishery statistics from its members and from all entities fishing for these species in the Atlantic Ocean, coordinates research, including stock assessment, on behalf of its members, develops scientific-based management advice and produces relevant publications. Similarly as for GFCM and NEAFC above also ICCAT provides a mechanism for Contracting Parties (CPs) to agree on management measures. Special collaboration arrangements have been established between WECAFC and ICCAT (*see section 8.2 below*).

The **Pacific Islands Forum Fisheries Agency (FFA)**⁴⁷ was established to assisting countries to sustainably manage their fishery resources that fall within their 200 miles Exclusive Economic Zones (EEZs). FFA is an advisory body providing expertise, technical assistance and other support to its members who make sovereign decisions about their tuna resources and participate in regional decision making on tuna management through agencies such as the Western and Central Pacific Fisheries Commission.⁴⁸ The FFA strengthens national capacity and regional solidarity so its members can manage, control and develop their tuna fisheries now and in the future, aiming at the highest levels of social and economic benefits through the sustainable use of their offshore fisheries resources. The mission of FFA is to drive regional cooperation to create and enable the maximum long term social and economic benefit from the sustainable use of their shared offshore fishery resources conservation and optimum utilization of the living marine resources of the South Pacific region and in particular of the highly migratory species, and also desiring to facilitate collection, analysis, evaluation and dissemination of relevant statistical scientific and economic information of such resources.

⁴⁴ This Convention (which replaces the original North-East Atlantic Fisheries Convention of 1959, which in turn had replaced the 1946 Convention for the Regulation of Meshes and Fishing Nets and the Size Limits of Fish) was adopted on 18 November 1980 and entered into force in 1982. Amendments were adopted by the Commission in 2006 and entered into force on 29 October 2013.

⁴⁵ www.neafc.org/system/files/Text-of-NEAFC-Convention-04.pdf

⁴⁶ www.iccat.es/en/

⁴⁷ www.iccat.es/Documents/Commission/BasicTexts.pdf

⁴⁸ www.ffa.int/

⁴⁸ The FFA Secretariat is based in Honiara and its members are Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu, Vanuatu.
www.ffa.int/members#2/-18.6/2.0

Table 2. General objectives of WECAFC, GFCM, NEAFC, ICCAT, and FFA

RFBs	General Objective
WECAFC Art. 1 Statutes	Without prejudice to the sovereign rights of coastal States, the Commission shall promote the effective conservation, management and development of the living marine resources of the area of competence of the Commission, in accordance with the FAO CCRF, and address common problems of fisheries management and development faced by Members of the Commission.
GFCM Art. 2 (2) Agreement	The main objective of GFCM is to ensure the conservation and sustainable use, at the biological, social, economic and environmental level, of living marine resources, as well as the sustainable development of aquaculture in its area of application (Mediterranean and in the Black Sea, Art. 3(1)).
NEAFC Art. 2 Convention	The main objective of NEAFC is to ensure the long-term conservation and optimum utilisation of the fishery resources in the Convention Area (Art. 1 a)), providing sustainable economic, environmental and social benefits. To this end, NEAFC adopts management measures for various fish stocks and control measures to ensure that they are properly implemented. NEAFC also adopts measures to protect other parts of the marine ecosystem from potential negative impacts of fisheries.
ICCAT Art. IV(1) Convention	In order to carry out the objectives of this Convention the Commission shall be responsible for the study of the populations of tuna and tuna-like fishes (the Scombriformes with the exception of the families Trichiuridae and Gempylidae and the genus Scomber) and such other species of fishes exploited in tuna fishing in the Convention area as are not under investigation by another international fishery organization.
FFA Art. III (1), (2) Convention	The objective of the FFA is to enable Member Countries to manage, conserve and use the tuna resources in their EEZ and beyond, through enhancing national capacity and strengthening regional solidarity. To this end, the Member Countries establish additional international machinery, in order to reach effective cooperation for the conservation and optimum utilization of the highly migratory species of the region, providing for cooperation between coastal states in the region and all states involved in the harvesting of such resources.

In line with *inter alia* the UNFSA (1995), the CCRF (1995) and the Reykjavik Declaration (2001),⁴⁹ the WECAFC Statutes make reference to important international principles, namely the precautionary and ecosystem approach to fisheries management. The Performance Review (2013-2014) concluded that the objectives, principles and functions of WECAFC are still adequate. However, the WECAFC's Statutes do not take into account the more recent international legal instruments, and this should be reviewed in line with Resolution WECAFC/14/2012/1⁵⁰ under which Member-States agreed to take actions and measures to strengthen the implementation of the FAO CA, the UNFSA and the PSMA.

It has also been previously proposed⁵¹ that the mandate of WECAFC should be enlarged to relay the Global Blue Growth Initiative,⁵² thus placing stronger emphasis on the socio-economic role of fisheries in support to food security and nutrition and the environmental role in mitigating climate change effects.

The objective of the new RFMO would be similar to many other RFMO's, being to bring together countries that have a common interest in effectively managing and conserving particular fish stocks or the fish resources of a particular region, and that adopt common management rules that apply to all parties.

⁴⁹ Adopted by Conference on Responsible Fisheries in the Marine Ecosystem held in Reykjavik from 1 to 4 October 2001. www.fao.org/docrep/meeting/004/Y2211e.htm

⁵⁰ www.fao.org/fishery/docs/DOCUMENT/wecafc/resolution.pdf

⁵¹ See project proposal and concept note for the 15th Session of WECAFC www.fao.org/fishery/docs/DOCUMENT/wecafc/15thsess/ref14e.pdf

⁵² www.fao.org/zhc/detail-events/en/c/233765/

Recommendations: the overall objective of WECAFC should be reviewed to take into account more recent international legal instruments, which have entered into force since the adoption of WECAFC's Statutes. This is in line with WECAFC **Resolution 14/2012/1** on strengthening the implementation of international fisheries instruments (see Section 9 below). Its objective should be consistent with the provisions of LOSC, 1982.

In the subsequent sub-sections the specific mandates of these RFBs are briefly assessed with regard to the main functions of an RFMO.

3.1 Scientific advice and information sharing

The collection of scientific data and information in support of decision making processes and monitoring, as well as the evaluation of implementation and impact of fisheries management and conservation measures, are among the most important tasks to be carried out by a RFMO. An RFMO in the WECAFC region could fill an important gap in harmonization of methodologies for stock assessments and will coordinate the generation of fisheries scientific advice among all countries in the region, in close collaboration with research and educational institutions of the members and the sub-regional organizations.

Table 3. Specific functions of WECAFC, GFCM, NEAFC, ICCAT, and FFA on scientific advice and information sharing

RFBs	Scientific Advice and Information Sharing
WECAFC Art. 4 and 6 e), f) g) Statutes	<p>The Commission shall have the following functions and responsibilities:</p> <ul style="list-style-type: none"> e. to promote, coordinate and, as appropriate, organize or undertake research related to the living marine resources in the area of competence of the Commission, including on the interactions between fisheries and the ecosystem, and design programmes required for this purpose; f. to promote, coordinate and, as appropriate, undertake the collection, exchange and dissemination of statistical, biological, environmental and socio-economic data and other marine fishery information as well as its analysis or study; g. to provide the necessary support and advice to enable Members to ensure that fishery management decisions are based on the best available scientific evidence
GFCM Art. 8 a), b) v), d) Agreement	<p>In accordance with its objectives [Art.2] and general principles [Art. 5], the Commission shall exercise the following functions:</p> <ul style="list-style-type: none"> a) regularly review and assess the state of living marine resources; b) formulate and recommend, in accordance with the provisions of Article 13 [decision making], appropriate measures, including: <ul style="list-style-type: none"> v) to ensure, if possible through electronic means, the collection, submission, verification, storing and dissemination of data and information, consistent with relevant data confidentiality policies and requirements; d) regularly review the socioeconomic aspects of the fishing industry, including by obtaining and evaluating economic and other data and information relevant to the work of the Commission.⁵³

⁵³ For more information see section 3.5 below.

RFBs	Scientific Advice and Information Sharing
<p>NEAFC Art. 4 (2), (3), Art. 9 (1),(2), Art.11(2) and 16(2) Convention</p>	<p>2. When making recommendations the Commission shall in particular:</p> <ul style="list-style-type: none"> a) ensure that such recommendations are based on the best scientific evidence available; b) apply the precautionary approach; c) take due account of the impact of fisheries on other species and marine ecosystems, and in doing so adopt, where necessary, conservation and management measures that address the need to minimize harmful impacts on living marine resources and marine ecosystems; and d) take due account of the need to conserve marine biological diversity. <p>3. The Commission shall provide a forum for consultation and exchange of information on the state of the fishery resources in the Convention Area and on the management policies, including examination of the overall effects of such policies on the fishery resources and, as appropriate, other living marine resources and marine ecosystems.</p> <p>1. The Commission may by a qualified majority make recommendations providing for the collection of statistical information relating to fisheries conducted beyond areas under the jurisdiction of Contracting Parties.</p> <p>2. The Commission may also make recommendations providing for the collection of statistical information relating to fisheries conducted within an area under the jurisdiction of a Contracting Party, provided that the recommendation receives the affirmative vote of that Contracting Party.</p> <p>2. The Commission may publish or otherwise disseminate reports of its activities and other information relating to the fisheries in the Convention Area. The Commission may request each Contracting Party any available scientific and statistical information needed for the purposes of this Convention and such additional information as may be required under Article 9.</p>
<p>ICCAT Art. IV (2), Art. VI and Art. IX (2) (a) (b) Convention</p>	<p>The carrying out of the Commission responsibilities shall include:</p> <ul style="list-style-type: none"> (a) collecting and analysing statistical information relating to the current conditions and trends of the tuna fishery resources of the Convention area; (b) studying and appraising information concerning measures and methods to ensure maintenance of the populations of tuna and tuna-like fishes in the Convention area at levels which will permit the maximum sustainable catch and which will ensure the effective exploitation of these fishes in a manner consistent with this catch; (c) recommending studies and investigations to the CPs; (d) publishing and otherwise disseminating reports of its findings and statistical, biological and other scientific information relative to the tuna fisheries of the Convention area. <p>To carry out the objectives of this Convention the Commission may establish Panels on the basis of species, group of species, or of geographic areas. Each Panel in such case:</p> <ul style="list-style-type: none"> a) shall be responsible for keeping under review the species, group of species, or geographic area under its purview, and for collecting scientific and other information relating thereto; b) may propose to the Commission, upon the basis of scientific investigations, recommendations for joint action by the CPs; c) may recommend to the Commission studies and investigations necessary for obtaining information relating to its species, group of species, or geographic area, as well as the co-ordination of programmes of investigation by the CPs. <p>The Commission may request the CPs to furnish any available statistical, biological and other scientific information the Commission may need for the purposes of this Convention, or may obtain such information on a voluntary basis direct from companies and individual fishermen.</p>
<p>FFA Art. V (1) (a), (b), Art. VII (a)-(d) and IX (a)-(d) Convention</p>	<p>Subject to direction of the Committee the Agency shall:</p> <ul style="list-style-type: none"> (a) collect, analyse, evaluate and disseminate to Parties relevant statistical and biological information with respect to the living marine resources of the region and in particular the highly migratory species; (b) collect and disseminate to Parties relevant information concerning management procedures, legislation and agreements adopted by other countries both within and beyond the region; (c) collect and disseminate to Parties relevant information on prices, shipping, processing and marketing of fish and fish products; (d) provide, on request, to any Party technical advice and information, assistance in the development of fisheries policies and negotiations, and assistance in the issues of licenses, the collection of fees or in matters pertaining to surveillance and enforcement. <p>The Parties shall provide the Agency with available and appropriate information including:</p> <ul style="list-style-type: none"> (a) catch and effort statistics in respect of fishing operations in waters under their jurisdiction or conducted by vessels under their jurisdiction; (b) relevant laws, regulations and internal agreements; (c) relevant biological and statistical data; and (d) action with respect to decision taken by the Committee.

The Performance Review of WECAFC (2013-2014) concluded that its members regard the current role of WECAFC as advisory body in the area Scientific Advice and Information Sharing insufficient to actually improve the stock status for the mid-to long term.

The two existing sub-regional RFBs, CRFM and OSPESCA, can be instrumental in generating scientific advice for the areas and species covered by them. As such their intense collaboration with their respective membership and high interest in scientific information could be highly beneficial for the new RFMO to build on (see section 8.2 below).

Recommendations: Through the establishment of a forum similar to the NEAFC for consultation and exchange of information on the state of the fishery resources in the WECAFC area of competence the advisory role of WECAFC should be strengthened. The new RFMO could also facilitate resource mobilization for scientific work to be undertaken by existing national and sub-regional institutions and regional RFBs, as well as play a role in coordination and exchange of scientific research findings between all members. A similar approach is taken by the GFCM, which relies on working groups and projects to support the generation of scientific advice. Another good example is the establishment of panels on the basis of species, group of species, or of geographic areas under ICCAT to build upon (see rule 12 of ICCAT's RoP⁵⁴ with regard to the establishment of panels their membership and participation).

The currently established and formalized way of working, with joint WECAFC Working Groups with CRFM and OSPESCA, that generate scientific advice and share information, could largely continue. However, to ensure sustainability of the working groups a joint funding mechanism or joint programming approach may be needed.

3.2 Fisheries management and conservation

It has been mentioned various times by national delegations at regional fora of CRFM, OSPESCA and WECAFC that fish stocks that can be managed at national level should be managed at such level. It is also clear that the management of those stocks that are shared and transboundary in a sub-region should be coordinated at that level. Fisheries for highly migratory species, straddling stocks, regionally shared stocks, as well as fisheries in Areas Beyond National Jurisdiction (ABNJ) require in their turn a regional approach, with coordination through an RFMO. A major issue relates to the question why countries do not effectively implement fisheries management and conservation related decisions and recommendations adopted under competent RFMO at the regional and sub-regional levels in a timely manner. In general, the key constraints are political will, the availability of resources and the limited human and institutional capacity. Going forward these fundamental weaknesses must be addressed to achieve significant progress, and have to be addressed in the establishment process of the RFMO.

Regional decision-making based on the best available scientific advice will be possible through an RFMO which is empowered to adopt legally binding Conservation and Management Measures (CMMs) provided there are resources and human and institutional capacity.⁵⁵

⁵⁴ Available at: www.iccat.int/en/contracting.html

⁵⁵ CMMs means measures to conserve and manage living marine resources that are adopted and applied consistently with the relevant rules of international law including those reflected in the LOSC, 1982 (Article 1 a) of the PSMA).

Table 4. Specific functions of WECAFC, GFCM, NEAFC, ICCAT, and FFA on fisheries management

RFBs	Fisheries Management
WECAFC Art. 4 and 6 m),n) Statutes	The Commission shall have the following functions and responsibilities h) to provide advice on management measures to member governments and competent fisheries organizations; m) to promote and facilitate harmonizing of relevant national laws and regulations, and compatibility of conservation and management measures; n) to assist its Members in and facilitate, as appropriate and upon their request, the conservation, management and development of transboundary and straddling stocks under their respective national jurisdictions.
GFCM Art. 8 b) i), iii) iv) Agreement	In accordance with its objectives and general principles, the Commission shall exercise the following functions: b) formulate and recommend, in accordance with the provisions of Article 13[decision making], appropriate measures, including: i) for the conservation and management of living marine resources found in the area of application; iii) to adopt multiannual management plans applied in the totality of the relevant sub-regions based on an ecosystem approach to fisheries to guarantee the maintenance of stocks above levels which can produce maximum sustainable yield, and consistent with actions already taken at the national level; iv) to establish fisheries restricted areas for the protection of vulnerable marine ecosystems, including but not limited to nursery and spawning areas, in addition to or to complement similar measures that may already be included in management plans;
NEAFC Art. 7 NEAFC Convention	In the exercise of its functions the Commission may consider <i>inter alia</i> measures for: a) the regulation of fishing gear and appliances, including the size of mesh of fishing nets; b) the regulation of the size limits of fish that may be retained on board vessels, or landed or exposed or offered for sale; c) the establishment of closed seasons and of closed areas; d) the improvement and increase of fishery resources, which may include artificial propagation; e) ...; f) the regulation of the amount of fishing effort and its allocation to Contracting Parties.
ICCAT	No specific measures found
FFA Art. V (2) (a) (d) Convention	2. In particular the Committee shall promote intra-regional co-ordination and co-operation in the following field; (a) harmonization of policies with respect to fisheries management; (d) co-operation in respect of onshore fish processing.

WECAFC has adopted recommendations on fisheries in its area of competence with regard to *inter alia*: management and planning [WECAFC/15/2014/3](#); using fish aggregating devices (FADs) [WECAFC/15/2014/2](#); on the establishment of a regional closed season for fisheries for Nassau Grouper [WECAFC/15/2014/1](#); queen conch management [WECAFC/16/2016/1](#), flying fish management [WECAFC/16/2016/3](#), and spiny lobster management [WECAFC/16/2016/2](#). The recommendations from WECAFC 16 in 2016 related to queen conch and flying fish include regionally approved management and conservation plans that are time-bound and have various measures combined to increase the impact of the measures. Implementation of these measures is actively pursued by many countries in the region.

Pursuant to Article 8 of the GFCM Agreement, the GFCM has adopted multiannual management plans to achieve the sustainable management of specific stocks, which are coherent with the precautionary approach to fisheries management, consistent with the maximum sustainable yield and provide other specific management measures.⁵⁶

⁵⁶ See REC.CM-GFCM/40/2016/4 establishing a multiannual management plan for the fisheries exploiting European hake and deep-water rose shrimp in the Strait of Sicily (GSA 12 to 16) - (Part. II (4)) www.cbd.int/doc/meetings/mar/soiom-2016-01/other/soiom-2016-01-gfcm-01-en.pdf and REC. GFCM/37/2013/1 on a multiannual management plan for fisheries on small pelagic stocks in the GFCM-GSA 17 (Northern Adriatic Sea) and on transitional conservation measures for fisheries on small pelagic stocks in GSA 18 (Southern Adriatic Sea) (Part I (1)) www.fao.org/3/a-ax394e.pdf

Recommendations: the nature and the scope of the decisions to be adopted by the new RFMO should support the sustainable management of stocks through specific measures based on the best scientific information. These could include the establishment of fisheries restricted areas for the protection of vulnerable marine ecosystems, the regulation of gears and size limits and the limitation of the fishing capacity of the members.

The current management recommendations and resolutions issued by WECAFC are non-binding and thus voluntary. They are however formulated in a way that would facilitate making the recommendations binding, if the members of the new RFMO would decide so.

In fact, the current recommendations follow the format and style used by GCFM, IOTC and ICCAT and draft recommendations for 2018 use similar wording as those, to harmonize various management measures (e.g. authorized vessel lists and IUU vessel lists) with those of other RFMO's.

While WECAFC members and partner agencies widely agree that adoption and implementation of the WECAFC recommendations is substantial, this is not being monitored at present and making them binding would significantly improve implementation by members.

A monitoring framework to measure progress regarding the implementation of management measures is required and it would be useful if the 17th session could discuss and agree on such a framework.

3.3 MCS and enforcement

A RFMO will be able to support Monitoring, Control and Surveillance (MCS) activities of its CMMs in collaboration with regional and national enforcement agencies. An RFMO will also be empowered to monitor compliance with recommendations and create a transparent playing field for the members, allowing them to combat IUU fishing effectively and ensuring the responsible use of the living marine resources. This would include the adoption of legally binding decisions on *inter alia*: record of vessels authorised to operate in the WECAF's area of competence; establishment of a VMS programme; adoption of regional observer schemes and inspection schemes; and port State measures.

Table 5. Specific functions of WECAFC, GFCM, NEAFC, ICCAT, and FFA on MCS and enforcement

RFBs	MCS and enforcement
WECAFC Art. 4 and 6 i Statutes)	The Commission shall have the following functions and responsibilities: i) to provide advice on MCS, and to promote cooperation on these matters, including joint activities, especially as regards issues of a regional or sub-regional nature;
GFCM Art. 8 b) vi), vii), 14 (2) and 18(2) Agreement	In accordance with its objectives (Art. 2) and general principles (Art. 5), the Commission shall exercise the following functions: b) formulate and recommend, in accordance with the provisions of Article 13 [decision making], appropriate measures, including: vi) to take action to prevent, deter and eliminate IUU fishing, including mechanisms for effective MCS; vii) to resolve situations of non-compliance, including through an appropriate system of measures. The Commission shall define this system of measures and the way to implement them in its RoP; To assess whether the recommendations are uniformly implemented, the Commission shall use the information reported annually by each CP providing information on the monitoring and control of their fisheries. The Commission, through the Secretariat, shall exchange information with respect to vessels engaged in fishing or fishing related activities in the Agreement area that are flying the flags of non-Contracting Parties to this Agreement and identify and address, as appropriate, including through the application of sanctions, consistent with international law, which shall be defined in the RoP, cases of activities by non-Contracting Parties adversely affecting the objective of the Agreement. Sanctions may include non-discriminatory market-related measures.

RFBs	MCS and enforcement
NEAFC Art. 8 NEAFC Convention	1. The Commission may by a qualified majority make recommendations concerning measures of control relating to fisheries conducted beyond areas under the jurisdiction of CPs for the purpose of ensuring the application of this Convention and any recommendations adopted thereunder. 2. The Commission may also make recommendations concerning measures of control relating to fisheries conducted within an area under the jurisdiction of a CP, provided that the Contracting Party in question so requests and the recommendation receives its affirmative vote.
ICCAT Art. VIII, (1) a) and Art. IX (1) Convention	The Commission may, on the basis of scientific evidence, make recommendations designed to maintain the populations of tuna and tuna-like fishes that may be taken in the Convention area at levels which will permit the maximum sustainable catch. The Commission may require the CPs at any time to transmit a statement of the action taken by it for the purpose of ensuring the enforcement of the ICCAT Convention.
FFA Art. V (2) (c) Convention	2. In particular the Committee shall promote intra-regional co-ordination and co-operation in the following field; c) co-operation in surveillance and enforcement.

The GFCM adopts every year binding recommendations linked to MCS aspects in order to come to grips with IUU fishing in the region. These recommendations include an authorized vessel list,⁵⁷ an IUU list of vessels,⁵⁸ port State measures,⁵⁹ VMS⁶⁰ and a process leading to the identification of cases of non-compliance.⁶¹

At its annual meeting of 15 November 2006, NEAFC adopted in accordance with Article 8 of its Convention, a recommendation on a *Scheme of Control and Enforcement*⁶² which has been subsequently amended (the last amendment was adopted at the 37th Annual Meeting, in November 2018). The scheme applies to all vessels used or intended for use for fishing activities conducted on fisheries resources in the Regulatory Area (Art. 2) and covers: Control Measures; Monitoring of Fisheries; Inspections at Sea; Port State Control of Foreign Fishing Vessels; Infringements; and Measures to Promote Compliance by Non-Contracting Party Fishing Vessels.

ICCAT adopts based on Article VIII of its Convention, specific recommendations which are every year compiled by the Secretariat together with ICCAT's resolutions,⁶³ and include on monitoring and compliance *inter alia*, the Joint Scheme of International Inspection,⁶⁴ the Port Inspection Scheme⁶⁵ and the Regional Observer Programme.⁶⁶

⁵⁷ Rec GFCM/33/2009/6 - concerning the establishment of a GFCM record of vessels over 15 meters authorized to operate in the GFCM area amending the recommendation GFCM/29/2005/2
www.fao.org/3/a-ax888e.pdf

⁵⁸ Rec GFCM/33/2009/8 - on the establishment of a list of vessels presumed to have carried out IUU fishing in the GFCM area repealing recommendation GFCM/30/2006/4
www.fao.org/3/a-ax890e.pdf

⁵⁹ Rec GFCM/40/2016/1 - on a regional scheme on port State measures to combat IUU fishing activities in the GFCM area of application
<http://extwprlegs1.fao.org/docs/pdf/mul166785.pdf>

⁶⁰ Rec GFCM/33/2009/7 - concerning minimum standards for the establishment of a VMS in the GFCM area
www.fao.org/3/a-ax889e.pdf

⁶¹ Rec GFCM/38/2014/2- amending and repealing Recommendation GFCM/34/2010/3 concerning the identification of non-compliance
www.fao.org/3/a-ax390e.pdf

⁶² www.neafc.org/mcs/scheme

⁶³ Compendium of the Management Recommendations and Resolutions adopted by ICCAT for the Conservation of Atlantic Tunas and Tuna-Like Species (2017)
www.iccat.int/Documents/Recs/COMPENDIUM_ACTIVE_2017_ENG.pdf

⁶⁴ www.iccat.int/en/Inspection.htm

⁶⁵ www.iccat.int/en/portinspection.htm

⁶⁶ www.iccat.int/en/ROPbft.htm

Recommendation: the mandate of the new RFMO should include specific responsibilities with regard to *inter alia*: the maintenance of a regional record of vessels authorised to operate in the WECAFC area of competence, the establishment of a list of vessels presumed to have carried out IUU fishing in the WECAFC area of competence, the development of a regional scheme on port state measure to combat IUU fishing activities in the WECAFC area of competence. It should also include monitoring of the implementation of the CMMs, namely through consideration of regional observers' schemes or Electronic Monitoring Schemes and VMS, and specific procedures for inspection, control and enforcement.

It is common for an RFMO to establish and maintain a Compliance Committee to measure progress towards implementation of management and conservation measures and also in terms of maintaining transparent processes and procedures to handle IUU fishing. The new RFMO should establish such a committee as well, or develop the current Regional Working Group on IUU Fishing into such a compliance committee; amending its TORs and scope.

3.4 Capacity building

A RFMO can extend the particular role played by FAO/WECAFC in capacity building on *inter alia* stock assessments, fisheries statistics, fisheries inspections, training of observers, VMS and the development of the sector. In general, RFMOs establish dedicated funds that support staff of developing country member states to participate in capacity building programmes.

The GFCM Agreement foresees the development of institutional capacity and human resources, particularly through education, training and vocational activities in areas of competence of the Commission (Article 8 e). The special requirements of developing States CPs are specially recognized under its Article 17. In the recognition of such requirements the GFCM Agreement provides for the possibility that expenses incurred by delegates, their alternates, experts and advisers when attending, as government representatives, sessions of the Commission and its subsidiary bodies, as well as the expenses incurred by observers at sessions, could be borne by the budget of the Commission subject to the availability of funds (Art. 12 (3)). No such provision was found in the legal framework of the other RFBs and RFMOs (in the case of NEAFC it has not needed this provision so far due to the nature of its Contracting Parties). However, in practice ICCAT has some arrangements in place to support participation of developing country members in various of its activities.

From the 34 members of WECAFC some 15 members are Caribbean Small Island Developing States (SIDS), 7 are small island overseas territories of European Member States and 3 are Low Income Food Deficit Countries (LIFDS). These SIDS and LIFDCs have generally limited capacity to manage their fisheries and heavily rely on WECAFC for capacity building and supporting regional harmonization of fisheries management measures to increase their effect. These characteristic of WECAFC's membership needs to be taken into account in the design of the new RFMO.

The General Assembly of the United Nations in its small island developing States (SIDS) Accelerated Modalities of Action (SAMOA) Pathway adopted in 2014,⁶⁷ highlights that small island developing States remain a special case for sustainable development in view of their unique and particular vulnerabilities and that they remain constrained in meeting their goals in all three dimensions of sustainable development. The SAMOA pathway highlights that SIDS have large maritime areas and have shown notable leadership in the conservation and sustainable use of those areas and their

⁶⁷ www.sids2014.org/index.php?menu=1537

resources. The pathway supports SIDS efforts to develop and implement strategies for the conservation and sustainable use of those areas and resources.⁶⁸ This is of relevance for WECAFC, as one third of WECAFC members are SIDS, and the call by the SAMOA pathway is to work through relevant regional fisheries management organizations and arrangements, and to ensure that the SIDS should not bear too high economic costs for the regional cooperation.

The Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (SSF Voluntary Guidelines)⁶⁹ have a capacity-building component, which will enable SSF fishers to cope with the changing environment – This voluntary instrument, as well as the ‘tenure guidelines’,⁷⁰ can be best implemented through the overarching mechanism of the new RFMO.

Recommendations: the constituent instrument of the new RFMO should include provisions on the special requirements of Developing States CPs and provide for specific measures to address the special needs of SIDS and LIFDCs where the small-scale fisheries (SSF) is the most important sub-sector of the fisheries sector.

3.5 Trade

Previous studies have concluded that the role of the market is currently underestimated in fisheries management decision-making processes in the region. The Queen Conch example shows that the market can impose its values and norms on the production side. The spiny lobster fishing practices are also under discussion in the main importing countries (USA and EU). In some markets the main importers are posing new standards that aim to increase safety at sea, reduce bad practices and support sustainable fishing. An RFMO could work together with importers and environmental NGOs to improve the communication of values, build capacity in trade related matters and avoid market distortions that work against fish producers in the WECAFC area.

To facilitate trade in fish and fish products WECAFC promotes the implementation of internationally accepted sanitary and phytosanitary standards (Article 6 l) of its Statutes).

The GFCM is required to regularly review the socioeconomic aspects of the fishing industry, including by obtaining and evaluating economic and other data and information relevant to the work of the Commission (Article 8 d) of its Agreement).

The International Plan of Action to Prevent, Deter and Eliminate IUU fishing (IPOA-IUU)⁷¹ requires States to cooperate, including through RFMOs, to adopt appropriate multilaterally agreed trade-related measures, consistent with the World Trade Organization (WTO), that may be necessary to prevent, deter and eliminate IUU fishing for specific fish stocks or species. These multilateral trade-related measures

⁶⁸ The SAMOA pathway strongly supports inter alia actions to promote and support national, subregional and regional efforts to assess, conserve, protect, manage and sustainably use the oceans, seas and their resources by supporting research and the implementation of strategies on coastal zone management and ecosystem-based management, including for fisheries management, and enhancing national legal and institutional frameworks for the exploration and sustainable use of living and non-living resources, to implement fully and effectively the regional seas programmes in which SIDS participate and to promote the conservation, sustainable use and management of straddling and highly migratory fish stocks, including through measures that benefit small island developing States that are adopted by relevant regional fisheries management organizations and arrangements.

⁶⁹ The Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (FAO, 2015)
www.fao.org/3/a-i4356e.pdf

⁷⁰ The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security are available at:
www.fao.org/tenure/voluntary-guidelines/en/

⁷¹ www.fao.org/3/a-y1224e/index.html

may be used to support cooperative efforts to ensure that trade in specific fish and fish products does not in any way encourage IUU fishing or otherwise undermines the effectiveness of CMMs which are consistent with LOSC, 1982.

In line with the IPOA-IUU the NEAFC Scheme of Control and Enforcement⁷² allows for NEAFC CPs to adopt appropriate multilaterally agreed non-discriminatory trade related measures, consistent with the WTO, that may be necessary to prevent, deter, and eliminate the IUU fishing activities identified by the Commission.

Recommendation: it is recommended that the new RFMO is empowered to adopt multilaterally agreed trade-related measures in accordance with international law and consistent with the WTO in a fair, transparent and non-discriminatory manner. These measures should include a scheme of transparency and traceability of fisheries products, multilateral catch documentation and certification requirements as well as import and export controls or prohibitions. MoUs could be established with CITES to collaborate on the conservation of the CITES listed species that are under the mandate of the RFMO.

4. GEOGRAPHIC AREA OF COMPETENCE

The issue of the Commission's area of competence has been assessed in detail in previous studies and discussed among WECAFC's members.

The previous assessments concluded that **51 percent of the current WECAFC's geographic area of competence (9.4 million Km²) is in ABNJ** not managed by any country or organisation at the moment. The creation of an RFMO in that area will ensure that resources such as deep sea fish stocks and straddling stocks, which are currently not exploited or are exploited without the knowledge of WECAFC Member-states, will come under a common management and conservation regime determined by the members which "*should be considered a priority considering the limited surveillance and monitoring of fisheries resources and activities in the ABNJ area*".⁷³ Specifically with regard to the transboundary nature of various straddling stocks, the previous studies concluded that it makes sense that the new RFMO will cover both high seas area in Area 31 and the northern part of Area 41.⁷⁴

An RFMO in the WECAFC region would also be entitled to make recommendations concerning fisheries of shared stocks, straddling stocks and highly migratory species undertaken within the EEZs of its Member-states, provided that the Members in question request such recommendations and it receives their affirmative vote.

WECAFC members had an opportunity to give their opinion about this issue in reply to the letter issued by WECAFC, on 20 May 2016. Among the 34 Member-states, 13 have expressed their opinion as follows: 11 favoured the Commission competence over the ABNJ (in Area 31 and North Area 41) of which 6 favoured the Commission competence area to include the EEZs of the members and 5 countries suggested that the RFMO only covers the ABNJ.⁷⁵

⁷² www.mapama.gob.es/es/pesca/temas/control-e-inspeccion-pesquera/NEAFC_Scheme_2014_y-recomendaciones_tcm7-326885.pdf

⁷³ See Page 46, Findings of the independent cost-benefit assessment of the options for strategic reorientation of WECAFC (February 2016) www.fao.org/3/a-i6377e.pdf

⁷⁴ See Page 57, WECAFC/XVI/2016/13 (April 2016) www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/13e.pdf

⁷⁵ Official responses were received from the following Member-states: Barbados, Brazil, Colombia, Costa Rica, Dominica, Dominican Republic, EU, Guyana, Saint Kitts and Nevis, The Netherlands, Trinidad and Tobago and Venezuela.

At the *16th session of WECAFC*, held in June 2016, the Commission recognized the value of establishing an RFMO in the WECAFC area of competence, being the Western Central Atlantic (area 31) and the Northern part of the South West Atlantic (area 41) to collaborate in fisheries management and conservation in the ABNJ (paragraph 58).

Additional questions were raised on this issue by Member-states and partners following the letter on “Request to WECAFC Members for questions to be answered in the RFMO establishment process” sent by WECAFC’s chairperson on 14 July 2017 to all members and key partner agencies. The letter was circulated in English and Spanish and received by the end of September 2017 responses from: Bahamas, CRFM, Dominican Republic, France, Honduras, ICCAT, NAFO OSPESCA, Saint Kitts and Nevis, Suriname and Venezuela. A number of members informed the Secretariat that their comments and questions were integrated in the responses from CRFM and/or OSPESCA (*see Annex 2*).

Recommendation: the new RFMO could initially focus on conservation and management of the living resources in the ABNJ (Article 118 of LOSC, 1982 and Article 13 of UNFSA), while supporting its Member-states in the management and conservation of the shared and transboundary stocks in their respective EEZs, and then strengthen arrangements for the conservation and management of the resources under national jurisdiction in accordance with the sovereign rights of coastal States for the purpose of exploring and exploiting, conserving and managing the living marine resources within their EEZ (Articles 55 of LOSC, 1982).

5. STOCKS COVERAGE

According to previous studies the present status and management of shared stocks of economic relevance shows that the WECAFC area supplies fish and fisheries products for an estimated 94 million people representing 1.6 percent of total world capture fisheries production.⁷⁶ Many commercially targeted fish stocks are overfished or fully exploited at present. The main fish producers are USA, Mexico, Brazil, CRFM, Venezuela, OSPESCA, the European Union (EU) and Cuba. The USA, Mexico, Venezuela and Brazil produce together some 80 percent of the fish in the region. The WECAFC region is a net importer of fish and fisheries products- imports of fish and fish products are 8.8 billion USD higher than exports. The fisheries sector provides direct employment to 1.3 million people in the region and it is estimated that 4.5 million people depend directly or indirectly on the sector for their livelihoods. IUU fishing in the WECAFC area is estimated at between 20 and 30 percent of the total reported production levels.⁷⁷

The independent cost benefit study⁷⁸ showed that WECAFC is the overarching organization in the region. CRFM and OSPESCA represent a majority of the WECAFC members, but in terms of production only cover some 20 percent of total catches in the region. Most of the commercially interesting fish stocks are shared, transboundary, straddling or highly migratory species, which require **collaboration among the WECAFC’s Member-states on stock assessment and establishment of CMMs**. This is one of the key duties of an RFMO.

The study considered five commercially important fisheries target species/stocks (Queen Conch, spiny lobster, shrimp, dolphin fish and sharks) and concluded that for the sustainable fishing of these stocks the establishment of an RFMO would be essential. Apart from these shared regional stocks, the **straddling fish stocks and deep sea fish stocks** in the ABNJ of areas 31 and the northern part of

⁷⁶ www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/13e.pdf

⁷⁷ See Page 2, WECAFC/XVI/2016/12 (May, 2016)

www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/12e.pdf

⁷⁸ www.fao.org/3/a-i6377e.pdf

41 require coverage by an RFMO. The highly migratory species (e.g tuna and tuna like) are difficult to manage in the Caribbean region if few countries in this region are Member and/or actively involved in ICCAT. The role of the RFMO with regard to these regional stocks has been summarized as:⁷⁹ Coordinate collaboration on research and scientific advice generation on the stocks and their fisheries; Conduct regional stock assessments; Build capacity for stock assessments and fisheries management among the members; Support sustainable fisheries development and responsible fisheries investments among the member; Develop management and conservation plans supported by (binding) management recommendations; Monitor and evaluate the implementation and impact of the management recommendations; Facilitate regional coordination in fisheries activities monitoring and enforcement.

It should however be noted that, as pointed out by the FAO's Legal Office, there is no clear link between the legal status of WECAFC and the current situation in terms of stocks and fisheries in the WECAFC area of competence.

WECAFC members had an opportunity to give their opinion about this issue in reply to the letter issued by WECAFC, on 20 May 2016. Among the 34 Member-states, 13 have expressed their opinion of which 11 countries favoured the coverage of the regionally shared stocks; straddling stocks, deep sea fish stocks and highly migratory species not covered by ICCAT, 1 raised concerns except for the shared stocks and one country did not express its views on the subject-matter.

At the *16th session of WECAFC* the Commission recognized the value of establishing an RFMO in the WECAFC area of competence to collaborate in fisheries management and conservation in the ABNJ of **straddling stocks, deep sea fish stocks and highly migratory species** that are not under the mandate of ICCAT (paragraph 58). It also noted with concern "*the very limited information currently available about deep sea fish stocks and their respective catches in the WECAFC area*" and adopted **Recommendation WECAFC/16/2016/4** on the management of Deep Sea Fisheries in the High Seas.⁸⁰

Additional questions were raised on this issue by Member-states following the letter issued by WECAFC on 14 July 2017), as per Annex 2.

Recommendation: the stocks to be covered by the RFMO and to which CMMs will apply should include all the Straddling Fish Stocks, all the deep sea fishing stocks⁸¹ and the highly migratory species (Article 64 and Annex I LOSC, 1982) that are not covered by ICCAT (Article 8, UNFSA) taking into account the biological characteristics of the stocks concerned and the nature of the fisheries involved (Article 9 (1) a), UNFSA). Detailed stock assessments would be required to ensure that adequate scientific data and information is available over the range of the stocks to be managed.

6. NATIONAL SOVEREIGNTY ASPECTS

On the high seas, LOSC, 1982 grants to all States the freedom of fishing (Article 87 (1) e)) and Article 116), which is balanced by a duty to co-operate to manage the resources and a duty to adopt measures to control the fishing activities of their national vessels operating on the high seas (Articles 117 and 118). The UNFSA subjects coastal States and States fishing on the high seas to the obligation of cooperating in relation to straddling fish stocks and highly migratory fish stocks

⁷⁹ See Page 73, WECAFC/XVI/2016/13 (April 2016) www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/13e.pdf

⁸⁰ 16th Session of the WECAFC www.fao.org/3/a-i6031t.pdf

⁸¹ Straddling fish stocks are stocks which occur both within an EEZ and in an area beyond and adjacent to the zone, while highly migratory fish stocks typically swim long distances across the high seas and more than one EEZ.

either directly or through an appropriate subregional or regional RFMO “*taking into account the specific characteristics of the sub-region or region, to ensure effective conservation and management of such stocks*” (Article 8 n.º 1). Relevant coastal States and States fishing for the stocks on the high seas regarding which CMMs have been adopted shall cooperate by becoming members of the relevant subregional or regional RFMO, or agreeing to apply the CMMs established by such RFMO (Article 8 n.º 3, UNFSA).

The general objectives of WECAFC have been established “*without prejudice to the sovereign rights of coastal States*” (Article 1, WECAFC Statutes).

In the areas under national jurisdiction coastal States have “*sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone*” (Article 56 (1) a), LOSC, 1982).

With the purpose of promoting the conservation of the living resources coastal States are required in their EEZ to determine the allowable catch of such resources and at the same time to promote their optimum utilization (Articles 61 and 62 of LOSC, 1982). In these areas flag States are required to “*comply with the conservation measures and with the other term and conditions established in the laws of the Coastal States*” (Articles 58 n.º 3 and 62 n.º 4, UNCLOS).

With regard to the new RFMO, and within their EEZ, coastal States are required to:

- Cooperate with the RFMO in the adoption of CMMs to ensure that “*the maintenance of the living resources in the EEZ is not endangered by over-exploitation*” (Article 61 n.º 2, LOSC, 1982);
- Contribute and exchange on a regular basis available scientific information, catch and fishing effort and other data relevant to the conservation of fish stocks (Article 61, n.º 5).

Recommendation: the new RFMO should have responsibilities over the living resources in the ABNJ and in the EEZ in accordance with international law.

7. MEMBERSHIP

The Statutes proved that “The Commission shall be composed of such Members and Associate Members of the Organization that are coastal States, whose territories are situated wholly or partly within the area of the Commission or States whose vessels engage in fishing in the area of competence of the Commission and that notify in writing to the Director-General of the Organization of their desire to be considered as members of the Commission”.

A very important feature of WECAFC is that it is the Regional Fishery Body (RFB) that includes all the countries of the region. Besides it includes also, in line with Article 5 of its Statutes, several non-coastal fishing States, including Japan, Republic of Korea, Spain and the UK. Other advisory RFBs comprised of coastal States only (e.g. SWIOFC, Pacific Islands Forum Fisheries Agency) use their regional organization as a platform for developing common regional standards and minimum terms and conditions of fisheries access for foreign fishing fleets.

Table 6. Membership of GFCM, NEAFC, ICCAT and FFA

Other RFBs	Membership
GFCM Art.4 (1) (ii), Art. 18(1) and Art. 23(7) Agreement	<p>1. Membership in the Commission shall be open to Members and Associate Members of the Organization and such non-member States as are members of the United Nations or any of its specialized agencies,</p> <p>a) that are:</p> <p>ii) States or Associate Members whose vessels engage in fishing, or intend to conduct fishing, in the area of application for stocks covered by this Agreement;</p> <p>1. The Commission, through the Secretariat, may invite non-C Ps whose vessels engage in fishing in the area of application, with particular reference to coastal States, to cooperate fully in the implementation of its recommendations, including by becoming cooperating non-C Ps. The Commission may accept by consensus of its CPs any application for granting cooperating non-Contracting Party status provided however, that if, after every effort has been made, a consensus cannot be reached, the matter will be put to a vote and the cooperating non-Contracting Party status will be granted by a two-thirds majority of its CPs.</p> <p>7. Acceptance of this Agreement by non-C Ps may be made subject to reservations which shall become effective only upon approval by two thirds of the CPs. CPs whose relevant competent authorities have not replied within three months from the date of the notification shall be deemed to have accepted the reservation. Failing such approval, the nation or regional economic integration organization making the reservation shall not become a party to this Agreement. The Director-General of the Organization shall notify forthwith all C Ps of any reservations.</p>
NEAFC Art. 20(1)(3)(4) Convention	<p>1. This Convention shall be open for signature from 18 November 1980 to 28 February 1981 by the following Parties: Bulgaria, Cuba, Denmark in respect of the Faroe Islands, the European Economic Community, Finland, the German Democratic Republic, Iceland, Norway, Poland, Portugal, Spain, Sweden and the Union of Soviet Socialist Republics.</p> <p>3. Any of the Parties referred to in paragraph 1, which has not signed this Convention may accede thereto at any time after it has entered into force in accordance with paragraph 2.</p> <p>4. Any state not referred to in paragraph 1, except a Member State of the European Economic Community, may accede to this Convention at any time after it has entered into force in accordance with paragraph 2, provided that an application for accession of that State meets with the approval of three-fourths of all the Contracting Parties.</p> <p>At the 22nd Annual Meeting of NEAFC in November 2003 "Guidelines for the expectation of future new Contracting Parties with regard to fishing opportunities in the NEAFC Regulatory Area"⁸² were adopted, which also refer to the possibility of participating as non-contracting party in the work of NEAFC.</p>
ICCAT Art. III (3) and Art. XIV Convention	<p>3. Except as may otherwise be provided in this Convention, decisions of the Commission shall be taken by a majority of the C Ps, each CP having one vote. Two-thirds of the CPs shall constitute a quorum.</p> <p>1. This Convention shall be open for signature by the Government of any State which is a Member of the United Nations or of any Specialized Agency of the United Nations. Any such Government which does not sign this Convention may adhere to it at any time.</p> <p>To become a C P, an instrument of adherence to the <u>International Convention for the Conservation of Atlantic Tunas</u> must be deposited with the Director-General of FAO. Membership becomes effective on the date that the instrument is deposited.</p> <p>The Commission can also grant the special status of Non-contracting cooperating party. Such non-contracting cooperating parties have many of the same rights and obligations that CPs have.</p> <p>The procedures and criteria for attaining this status are laid out in the 2003 <u>Recommendation by ICCAT on criteria for attaining the status of Cooperating non-Contracting Party. Entity or Fishing Entity in ICCAT</u>. Those wishing to attain Cooperating Status should make their application through the Secretariat 90 days before the annual meeting, which usually takes place in November of each year.</p>
FFA Art. II(a)(b) and Art. X(1)(2)(4) FFA Convention	<p>Membership of the Agency shall be open to:</p> <p>(a) members of the South Pacific Forum</p> <p>(b) other states or territories in the region on the recommendation of the Committee and with the approval of the Forum.</p> <p>1. This Convention shall be open for signature by members of the South Pacific Forum.</p> <p>2. This Convention is not subject to ratification and shall enter into force 30 days following the eighth signature. Thereafter it shall enter into force for any signing or acceding state thirty days after signature or the receipt by the depositary of any instrument of accession.</p> <p>4. States or territories admitted to membership of the Agency in accordance with Article II (b) shall deposit an instrument of accession with the depositary.</p>

⁸² www.neafc.org/becomingacp

Indeed, the 34 Members of WECAFC include all Caribbean SIDS, Central and South American countries bordering the Caribbean basin, the European Union (EU), the USA and various Distant Water Fishing Nations (DWFN). The DWFN are those allowed under Article 62 n.º of LOSC, 1982 to have access to the surplus of the allowable catch where the coastal State does not have the capacity to harvest the entire allowable catch.

At the *2nd WECAFC's Reorientation Workshop* it was recognised that “*the fisheries by DWFN in large area of high seas of WECAFC is affecting the availability of fish (particularly pelagic and straddling resources) in the EEZs of the of the member states of WECAFC*”. It was also concluded that the establishment of an RFMO would ensure better collaboration between the States in the region, which has the potential to increase fisheries production, employment and incomes in the Caribbean.⁸³

On this regard one of the options identified in the previous studies for the establishment of the new RFMO⁸⁵ is through a small framework, which allows for a membership composed of the large producing countries in the region (USA, Venezuela, Brazil, Mexico, Cuba, Colombia) and relevant regional organisations (CRFM, OSPESCA, and the EU). Under this framework the CRFM, OSPESCA and the EU would represent their members and vote on behalf of them.⁸⁵ In addition, under this option it was proposed that the DWFNs would not be members, but could participate as observers, which would change the position of present WECAFC member States such as Japan, Republic of Korea and the UK. The small-RFMO option can be seen in practice within NEAFC where the EU represents its members and no DWFN can become member.

Recommendation: the future membership of WECAFC should include both coastal and flag states and take into account the specific role of non-coastal member states of WECAFC and how they could be better incorporated in the new RFMO and in the process of adopting binding CMMs in the region.

8. INSTITUTIONAL STRUCTURE

This section provides an overview of the institutional structure of WECAFC, its collaboration with the Sub-regional RFBs (CRFM, OSPESCA), which are observers, and ICCAT and their respective institutional structure.

WECAFC institutional structure. The institutional structure of WECAFC is based on its Statutes and RoP. The Statutes provide for the general objective, principles and functions of the Commission (Articles 1, 2 and 6, respectively) and the RoP set out the operational procedures of its different bodies. The Performance Review (2013-2014) concluded that the WECAFC's institutional structure has been relatively stable in recent decades. The attendance of the Commission's session has been good in recent years (see annex III). The Scientific Advisory Group (SAG) was established by the *9th session of WECAFC* in 1999. The Bureau was established in the revised RoP of 2008 and was assigned a greater role at the *14th session of WECAFC* (2012). The *15th session of WECAFC* (2014) reviewed and adopted the Revised RoP, which enlarge the scope and transformed the Bureau into an Executive Committee. Working Groups (WGs) have changed over time along with the priorities of the members. The WECAFC Secretariat is provided by FAO and hosted by the FAO Sub-regional Office for the Caribbean in Barbados.

⁸³ Paragraph 6 of the Report of the 2nd Reorientation and Strategic Planning Workshop .
www.fao.org/3/a-i5584be.pdf

⁸⁴ See Page 63, of WECAFC/XVI/2016/13
www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/13e.pdf

⁸⁵ It is not clear whether the current legal frameworks of the EU, CRFM and OSPESCA allow for full representation of the members by these institutions on all issues in another organization.

Table 7. Institutional Structure of WECAFC⁸⁶

WECAF Body	Mandate and Composition
Commission (Article 1, 7 Statutes; Rule VII, RoP)	Is the main governing body composed of all members- every member country and the EU have each 1 vote (34 members). The general objective of the Commission is to promote the effective conservation, management and development of the living marine resources of the area of competence of the Commission, in accordance with the FAO CCRF, and address common problems of fisheries management and development faced by its members. Meetings of the Commission have been held every two years.
The Executive Committee (Rule IV, RoP)	The Executive Committee is in charge of: <ul style="list-style-type: none"> - proposing a strategy and work plan with the assistance of the Secretariat, for the Commission's review, and monitoring its implementation; - ensuring that policies and decisions of the Commission are operationalized; - coordinating and monitoring the work of the Technical Advisory Committee and Working Groups. It reports to the Commission and It meets at least once a year.
SAG (Rule XII, RoP)	The SAG is an advisory body to the Commission constituted of no more than seven scientists with suitable scientific qualifications and experience in fisheries who serve in their personal capacity. Its functions are to: <ul style="list-style-type: none"> - Provide scientific advice to WECAFC ad hoc working groups and the Commission; - Review and contribute to the report to the Commission on the status of stocks in the area covered by the Commission; - Review and contribute to the report on the situation, trends and prospects of fisheries in the WECAFC Region; - Consider any other matters referred to it by the Commission and the WECAFC ad hoc working groups. The SAG conducts its work on a regular basis particularly in the year when the Commission meets.
Secretariat (Rule VI, RoP)	The Secretariat is responsible for implementing the policies and activities of the Commission and for carrying out the duties and performing its functions and responsibilities established under Rule VI (4) and reports thereon to the Commission.
WGs	Ad-hoc WGs are established by the Commission to provide fishery management advice and recommendations, based on the best available scientific information. Most WGs are joint with other regional partner institutions, such as the CRFM, OSPESCA, the Caribbean Fisheries Management Council (CFMC) and with the French Research Institute for Exploration of the Sea (IFREMER). The WGs have specific terms of reference (ToR) and meet on a regular basis, the timing of which is decided by the members. The essential role played by WECAFC WGs in the implementation of the Programme of Work was highlighted at the 16th Session of the Commission. ⁸⁷

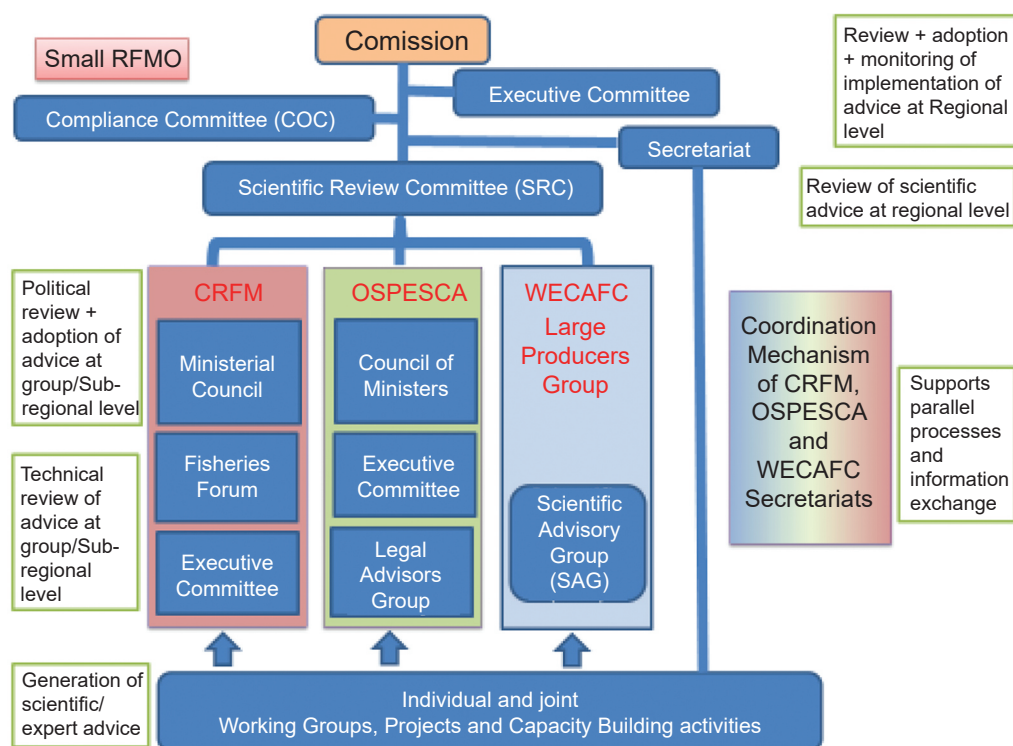
The overarching bodies to which the WECAFC currently reports are the Regional Conference of FAO for Latin America and the Caribbean (LARC) and the FAO Committee of Fisheries (COFI), both bodies meet once every two years. Technical assistance to WECAFC and its members is also given by FAO headquarters and the Regional Office for Latin America. The WECAFC Secretariat is an active member of the Regional Fishery Body Secretariats Network (RSN), which meets biennially. The RSN was established to facilitate on-going information exchange among RFB Secretariats. In part this is facilitated by the distribution of a quarterly newsletter, which is published by FAO and based on contributions from the RFBs.⁸⁸

The discussions at the 16th session of WECAFC emphasized that an RFMO in the WECAFC area should be based on existing institutional structures and partnerships, have a small secretariat and be cost-effective. In either of the two options (IGO and Art XIV) the institutional set-up could be kept largely similar to the current Interim Coordination Mechanism for Sustainable Fisheries. A potential RFMO institutional set-up that was favoured by various delegations at the 16th session was the following:

⁸⁶ See Figure 11 with the organizational structure and governance for WECAFC as Article VI statutory body, WECAFC/ XVI/2016/13 www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/13e.pdf

⁸⁷ See Paragraphs 12 www.fao.org/3/a-i6031t.pdf

⁸⁸ www.fao.org/fishery/topic/18244/en



The above institutional set-up was presented as one of the options in document WECAFC/XVI/2016/13 “assessment of the recent achievements and collaboration of CRFM, OSPESCA and WECAFC, including options for a regional institutional collaborative structure within an RFMO framework”.

8.1 WECAFC collaboration with other RFMOs

There is a multitude of organizations working on fisheries related issues in the WECAFC area of competence at national, sub-regional and regional level. The collaboration among the RFBs in the WECAFC’s area of competence has significantly strengthened in recent years- 19 of the 34 WECAFC Members are member of other RFMOs in the Atlantic or elsewhere.

In the Western Central Atlantic region, which is also called the wider Caribbean region or FAO Fishing Area 31, ICCAT is the only RFMO, which solely deals with tuna and tuna-like species. There are however three RFBs besides WECAFC- namely CRFM, OSPESCA and OLDEPESCA.⁸⁹ The first two are linked to regional economic cooperation commissions – the Caribbean Community (CARICOM) and Central American Integration System (SICA) and the latter is not included in this assessment since it has not been active in the WECAFC region in the last six years. WECAFC is the oldest RFB in the Western Central Atlantic (established in 1973) and has the widest membership (34 members).

At the **16th Session** the Commission noted the importance of **taking into account the sub-regional and local peculiarities**. In this respect, the Commission “*noted that such an RFMO should not replace existing RFBs, but instead establish functional ties and formal relationships with CRFM, OSPESCA and ICCAT. The Commission considered it important to build on the positive momentum created by WECAFC and sub-regional partners in recent years*”.⁹⁰ In the same session the Commission also adopted the **WECAFC Strategic Plan (2014-2020)**, the process of which embraces the on-going collaboration with other sub-regional fishery bodies, fisherfolk organizations, civil society organizations, research institutions, development banks and projects.

⁸⁹ The Latin American Organization for Fisheries Development OLDEPESCA www.fao.org/fishery/rfb/oldepesca/en. It is noted that OLDEPESCA has not been active in recent years and may be abolished in 2019/2020.

⁹⁰ See Paragraph 56 www.fao.org/3/a-i3790t.pdf

The overlaps in membership between WECAFC, CRFM and OSPESCA and between WECAFC and ICCAT have been previously identified⁹¹ and are summarised above (*see Table 1*). **From the 34 Member-states of WECAFC 1 belongs to CRFM, OSPESCA and ICCAT,⁹² 3 belong to CRFM and ICCAT,⁹³ 4 belong to OSPESCA and ICCAT,⁹⁴ 10 belong only to CRFM,⁹⁵ 2 belong only to OSPESCA,⁹⁶ 10 belong only to ICCAT⁹⁷ and 4 belong to none of the other RFBs.⁹⁸**

Presently WECAFC coordinates joint work with CRFM, OSPESCA and ICCAT. The interim coordination mechanism for sustainable fisheries (ICM-Fisheries) is being tested since 2014, formalized through an MoU in January 2016, and is likely to show improvements in harmonization of policy and legal frameworks for fisheries, cooperation on relevant scientific and fisheries management projects, participation in each other's activities and sharing of data, information and findings.

To ensure the proper articulation between WECAFC and the other RFBs in the region the following different mechanisms have been developed and are briefly assessed below: Joint WGs; MoU for the ICM Fisheries; and the Consortium on Billfish Management and Conservation (CBMC), which are briefly addressed below.

Joint Working Groups

WECAFC, CRFM and OSPESCA are all RFBs that promote fisheries management and conservation recommendations and coordination of decisions and recommendations on fisheries and stocks. They have competences and responsibilities for fisheries management and conservation of fish stocks, respectively within the SICA and CARICOM regions and the Western Central Atlantic (FAO area 31 and northern part of area 41) including in the ABNJ.

WECAFC, CRFM and OSPESCA are already collaborating on regional projects and in the execution of work under the **joint WGs** that were established by the 14th and 15th Sessions of WECAFC which have contributed to exchange of information on fisheries resources and the fisheries activities in the region and to generate fisheries advice in support of management and decision making by their members. There is also on-going collaboration with other organizations/projects including: the Caribbean Fisheries Management Council (CFMC);⁹⁹ the Caribbean Large Marine Ecosystem project (CLME+);¹⁰⁰ the Centre for Resource Management and Environmental Studies (CERMES);¹⁰¹ and IFREMER.¹⁰² The following joint WGs currently exist and most have been active in the last 3 years:

- OSPESCA/WECAFC/CRFM/CRFM WG on Caribbean Spiny Lobster;
- WECAFC/OSPESCA/CRFM/CFMC WG on Recreational Fisheries;
- CRFM/OSPESCA/WECAFC/CRFM/CITES WG on Queen Conch;
- CRFM/WECAFC/JICA/IFREMER Working Group on fisheries using FADs;
- CRFM/WECAFC Working Group on flying fish in the eastern Caribbean;
- WECAFC WG on the management of deep sea fisheries;
- CFMC/WECAFC/OSPESCA/CRFM Spawning Aggregations WG;

⁹¹ See Figures 9 and 10 of WECAFC/XVI/2016/13
www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/13e.pdf

⁹² Belize.

⁹³ Barbados, S. Vincent & Grenadines and Trinidad & Tobago.

⁹⁴ Guatemala, Honduras, Nicaragua and Panamá.

⁹⁵ Antigua & Barbuda, Bahamas, Dominica, Grenada, Guyana, Haiti, Jamaica, Saint Kitts and Nevis, Saint Lucia and Suriname.

⁹⁶ Costa Rica, Dominican Republic.

⁹⁷ Brazil, European Union, France, Guinea, Japan, Mexico, Republic of Korea, UK, USA and B.Rep of Venezuela.

⁹⁸ Colombia, Cuba, Netherlands and Spain.

⁹⁹ www.caribbeanfmc.com/

¹⁰⁰ www.clmeproject.org/

¹⁰¹ www.cavehill.uwi.edu/cermes/about-us.aspx

¹⁰² <https://wwz.ifremer.fr/en/>

- WECAFC/ IFREMER/CRFM Working Group on Shrimp and Groundfish in the northern Brazil-Guianas shelf;
- WECAFC/CITES/OSPESCA/CRFM/CFMC Working Group on Shark management and conservation;
- Regional Working Group on IUU Fisheries; and
- WECAFC-FIRMS/CRFM/OSPESCA Fishery Data and Statistics Working Group.

At the **16th Session** the Commission considered the intersessional activities of the WGs¹⁰³ and debated whether they should be maintained or abolished including the joint WGs with CRFM, OSPESCA, IFREMER and CFMC. It concluded that all the existing WGs should be maintained and their terms of reference reviewed by each session and re-focused (as necessary) with a view to broaden their scope and encompass cross-cutting issues.¹⁰⁴

The joint activities, especially during the last two years, resulted in various management plans, which were adopted as Recommendations by the 16th Session of WECAFC.¹⁰⁵

Memorandum of Understanding for the ICM-Fisheries:

On 27 January 2016, **CRFM, OSPESCA and FAO/WECAFC signed a MoU**,¹⁰⁶ which formalizes the earlier collaboration started in 2012 through the joint WGs in order to facilitate, support and strengthen the coordination of actions among the three RFBs to increase the sustainability of fisheries in the Western Central Atlantic region

The MoU establishes specific objectives of collaboration including: to promote coordination and mutual cooperation in the areas identified as priorities in the CRFM-OSPESCA joint Action Plan, covered by the joint WGs, or identified in the CLME+ Project and CLME+ SAP that are of relevance to the mandate/scope of work of the Parties; to ensure a free flow of mutually useful information (including data) concerning fish stocks, fisheries activities and the Caribbean and North Brazil Shelf Large Marine Ecosystems;¹⁰⁷ to facilitate the work among the Members of the Parties towards harmonization of their respective policy and legal frameworks for fisheries; to cooperate on relevant scientific and fisheries management projects of mutual interest; to establish reciprocal observer arrangements (according to their respective internal rules and procedures) and to share reports.

The MoU establishes an Interim Coordination Arrangement for Sustainable Fisheries (ICM- Fisheries). The ICM will enable better coordination of these working groups and ensure that the members are better informed and have more opportunities to participate in Working Group activities.

¹⁰³ Intersessional activities of WGs and matters referred to the attention of the Commission, WECAFC/XVI/2016/4 (April, 2016) www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/4e.pdf

¹⁰⁴ See Paragraphs 11, 12 and 13 www.fao.org/3/a-i6031t.pdf

¹⁰⁵ Recommendation WECAFC/16/2016/1 “on the regional plan for the management and conservation of Queen conch in the WECAFC area – addendum to recommendation WECAFC/15/2014/3; Recommendation WECAFC/16/2016/2 “on spiny lobster management and conservation in the WECAFC area”; Recommendation WECAFC/16/2016/3 “on the sub-regional fisheries management plan for flyingfish in the Eastern Caribbean”; Recommendation WECAFC/16/2016/4 “on the management of deep sea fisheries in the high seas”; Recommendation WECAFC/16/2016/5 “on the management of shrimp and groundfish resources in the WECAFC area”.

¹⁰⁶ The MoU was signed during the First Steering Committee Meeting of the Project which took place in Cartagena, Colombia from 26 to 28 January 2016 www.fao.org/fishery/nems/40814/en www.fao.org/3/a-bc123e.pdf

¹⁰⁷ This initiative is supported through the UNDP/GEF Catalysing Implementation of the Strategic Action Programme for the Sustainable Management of shared Living Marine Resources in the Caribbean and North Brazil Shelf Large Marine Ecosystems (CLME+) Project. This 5 year regional project seeks to support the implementation of a 10 year politically endorsed Strategic Action Programme for the Sustainable Management of the Shared Living Marine Resources of the Caribbean and North Brazil Shelf Large Marine Ecosystems (CLME+SAP); through the full implementation of ecosystem based management/an ecosystem approach to fisheries within the CLME+ region.

This MoU shows that cooperation and partnership has strengthened significantly in recent years between the two CARICOM and SICA fisheries bodies and FAO. The WECAFC Secretariat coordinates its implementation in close cooperation with CRFM and OSPESCA and the CLME+ Project Coordination Unit.

The ICM organized so far 8 meetings before and after its formal establishment, on average twice per year. The last three meetings were on 24 June 2016 (Guadeloupe), 28 February 2017 (Barbados) and 18 August 2018 (Miami). The meetings are generally organized back-to-back with a regional working group meeting or CLME+ meeting, in which all three secretariats participate. The WECAFC Secretary chaired the first meetings and in October 2017 the chairmanship was handed over to CRFM Executive Director for the next upcoming meetings. The latest workplan of the ICM can be found in Annex A to the Update on the ICM presented at the 8th SAG session last held in Mexico (Merida 3-4 November 2017).¹⁰⁸

An important shortcoming that should be highlighted is that no RFMO exist in this region. The three RFBs operating in fishing Area 31 or the northern part of Area 41 have no regulatory powers in spite of the powers of the Council of Ministers of OSPESCA (see section 8.2.2, below). It has to be considered however, that even if these two RFBs would have binding functions and if these decisions would be fully implemented, the majority of the catch of the shared stocks would not be covered under these arrangements since CRFM and OSPESCA in terms of production only cover some 20 percent of total catches in the region.

The ICM is supposed therefore to be an interim solution for the period until a RFMO is established in the WECAFC area of competence.

Consortium on Billfish Management and Conservation

The Consortium on Billfish Management and Conservation (CBMC) for the Western Central Atlantic was formally established in March 2016, through a Letter of Intent (LoI)¹⁰⁹ between FAO/WECAFC, CRFM, OSPESCA, the Caribbean Network of Fisherfolk Organizations (CNFO)¹¹⁰ and Conservation International (CI)¹¹¹ the International Game Fish Association (IGFA).¹¹² The ICCAT has not yet signed the LoI despite great participation of ICCAT experts in the WGs meetings.

The main purpose of the CBMC is to support the implementation of the World Bank/Global Environment Facility (GEF) financed, WECAFC executed, Caribbean Billfish Project, and to foster better management and conservation of the billfish resources in the Western Central Atlantic. Since its establishment the CBMC has met four times. The main achievements to date are its contribution to the development process of the Caribbean billfish management and conservation plan, the organization of several regional studies on billfish resources and values, the review of various billfish study reports and the increase in visibility of and awareness among the public and fisheries stakeholders in particular on billfish stocks and the value that is generated by the billfish fisheries sub-sectors (small-scale, recreational and industrial).

It has to be considered that when WECAFC becomes an RFMO, CRFM and OSPESCA roles and mandates would remain largely unaffected. Changes are expected of course in decision-making processes as greater coordination among these RFBs and the new RFMO would be required. Moreover, collaboration, scientific advice and stock assessments will need to be strengthened.

¹⁰⁸ WECAFC/SAG/VIII/2017/7 (October 2017)

www.fao.org/3/a-bs250e.pdf

¹⁰⁹ www.fao.org/in-action/commonoceans/news/detail-events/en/c/385778/

¹¹⁰ www.cirp.org.tt/cnfo/

¹¹¹ www.conservation.org/Pages/default.aspx

¹¹² www.igfa.org/

Recommendation: the new RFMO should not replace existing RFBs, but rather build on and further strengthen the structural linkages (functional ties and formal relationships) with CRFM, OSPESCA and with ICCAT for tuna stocks.

8.1.1 CRFM

The CRFM¹¹³ was established, as a specialised institution of the CARICOM, by means of an international agreement signed on 4 February 2002, which entered into force on the same day.¹¹⁴ The organization adopted its own rules of procedure on 5 August 2002¹¹⁵ and was officially inaugurated in Belize City, Belize, on 27 March 2003 where it is headquartered.

The CRFM is an inter-governmental organization that promotes and facilitates coordinated actions for the management, conservation and the responsible utilization of the region's fisheries and other aquatic resources for the economic and social benefits of the current and future population of the region. More specifically it promotes the following main objectives (Article 4; Agreement): the efficient management and sustainable development of marine and other aquatic resources within the jurisdictions of Member States; the promotion and establishment of co-operative arrangements among interested States for the efficient management of shared, straddling or highly migratory marine and other aquatic resources; the provision of technical advisory and consultative services to fisheries divisions of Member States in the development, management and conservation of their marine and other aquatic resources.

The CRFM governance structure has been presented in detail in a previous study.¹¹⁶ It consists of three main organs, namely the Ministerial Council, the Caribbean Fisheries Forum and the Technical Unit/Secretariat (Article 6, CRFM Agreement). Membership is open to Member-states and Associated Members of CARICOM.¹¹⁷

8.1.2 OSPESCA

OSPESCA was created in 1995 as the agency of the SICA with the aim of promoting the sustainable and coordinated development of fisheries and aquaculture in the context of the Central American integration process, defining, approving and implementing policies, strategies, programs and regional projects. headquarters are based in San Salvador

It was established by the Council of Ministers of SICA, which under Article 22 of the Protocol of Tegucigalpa,¹¹⁸ has the power to adopt binding decisions, but still the SICA countries have to ratify any management measures decided by the Council.

The main activities of OSPESCA are: to promote strategies of integration policy for fisheries and aquaculture; to promote and monitor the Regional Framework Treaty on fisheries and aquaculture; to coordinate inter-institutional and intersectoral efforts of regional fisheries development in Central

¹¹³ www.crfm.net/

¹¹⁴ www.crfm.net/index.php?option=com_k2&view=item&layout=item&id=2&Itemid=116

¹¹⁵ www.caricom-fisheries.com/LinkClick.aspx?fileticket=D%2bL1OJk32pk%3d&tabid=125

According to the founding document of the CRFM the Ministerial Council and the Caribbean Fisheries Forum should normally each establish their own RoP (CRFM Agreement, Arts 7 (4) and 8 (2), respectively). Instead, a single document was adopted covering both bodies.

¹¹⁶ See Figure 1 WECAFC/XVI/2016/13 www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/13e.pdf

¹¹⁷ Current Member-states of CRFM are: Anguilla, Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saint Lucia, Saint Kitts and Nevis, Saint Vincent/Grenadines, Suriname, Trinidad and Tobago, Turks and Caicos Is. The CRFM Member-states cooperate with the Dominican Republic through a MoU.

¹¹⁸ www.internationaldemocracywatch.org/attachments/224_Tegucigalpa_protocol.pdf

American, with an ecosystem and interdisciplinary approach; to work together to harmonize and implement the laws on fisheries and aquaculture; to formulate and promote strategies, programs, projects, agreements or regional agreements on fisheries and aquaculture; to encourage regional fisheries and aquaculture producers organization; to coordinate an appropriate and coordinated regional participation in international fora related to the fisheries and aquaculture.

The governance structure of OSPESCA has been presented in detail in a previous study.¹¹⁹ Members of OSPESCA are: the Council of Ministers, which is the highest authority responsible for regional policy decisions; The Committee of Deputy Ministers, which is the Executive level of the Organization and directs, orients, monitors and evaluates the implementation of policies, programmes and regional projects; The Commission of Directors of fisheries and aquaculture, which is the scientific and technical level, responsible for ensuring scientific and technical regional brackets; two organizations of civil society that represent small-scale and large-scale fishing and aquaculture producers and assume an advisory role – Artisanal Fishermen of Central America Confederation (CONFEPESCA) and Industrial marine and aquaculture Central American Organization (OECAP). The executive committee meets every second year. Technical review is provided by the scientific working groups.¹²⁰

8.1.3 ICCAT

ICCAT is an inter-governmental fishery organization responsible for the conservation of tunas and tuna-like species in the Atlantic Ocean and its adjacent seas. Information on its objectives and functions as well as membership have been provided above (*see sections 3 and 7*).

At the last WECAFC session the Commission was informed of the ICCAT governance process and recommendations relevant for the WECAFC region. The Members learned and discussed about the functioning of ICCAT, and in particular, its compliance scheme, the activities of its scientific committee, the status of cooperating non contracting parties, costs of membership and the extensive technical assistance to developing countries. Reference was made to the duty of States that have ratified LOSC, 1982 and/or the UNFSA to collaborate in the management and conservation of fish stocks in the ABNJ. Members of WECAFC that are not (yet) contracting parties of ICCAT were encouraged to do so. Various Members (Grenada, Guyana, and Suriname) informed the Commission that they were in the process of becoming a party to ICCAT.

The scope of the ICCAT Convention is under review and its amendments were expected to be finalized at the 25th session of the Commission, which took place in Marrakesh from 14 to 22 November 2017; however, conclusion on the amendments could not be reached and discussions continue in 2018.

9. ROLE OF RFMOS IN THE IMPLEMENTATION OF INTERNATIONAL AGREEMENTS

In order to ensure the long-term benefits of sustainable use of living marine resources and marine ecosystems the international community has, based in LOSC, 1982, adopted several international fisheries instruments, legally binding and voluntary. WECAFC has called upon its members to strengthen the implementation of these instruments through **Resolution WECAFC/14/2012/1**.¹²¹ The Performance Review (2013-2014) highlighted the important role of WECAFC in the implementation of the CCRF and relevant instruments, especially the PSMA.

¹¹⁹ See Figure 2 WECAFC/XVI/2016/13 www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/13e.pdf
See also: www.sica.int/ospesca/estructura-organizativa.aspx?IdEnt=47

¹²⁰ Current Member-states of OSPESCA are: Belize, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, and Panama.

¹²¹ ftp://ftp.fao.org/FI/DOCUMENT/wecafc/resolution.pdf

These instruments and the CCRF emphasize the crucial role that RFBs are expected to play in good global fishery governance and call on them to undertake a number of activities. Under the **LOSC, 1982** RFBs are expected to promote agreement between States for the conservation and development of shared stocks and the conservation of straddling stocks, as well as the conservation and optimum utilization of highly migratory stocks. **To date 91 percent of the WECAFC Members (31 out of 34) are a Party to the LOSC, 1982 (see Table 1 above).**

Under the **UNFSA**, RFBs and arrangements are expected to assist or facilitate their members to *inter alia* agree and comply with CMMs, evaluate the scientific advice they obtain, review the status of stocks, agree on standards for collection, reporting, verification and exchange of data on fisheries for the stocks, compile and disseminate statistical data, and establish as appropriate mechanism for an effective MCS. **To date 53 percent of the WECAFC Members (18 out of 34) are a Party to the UNFSA (see Table 1 above).**

The **FAO Compliance Agreement** calls upon Parties to join the RFBs or arrangements with a view to achieve compliance with international CMMs and envisages that RFBs facilitate the exchange among its Parties of information relating to the implementation of the Agreement. **To date 29 percent of the WECAFC Members (10 out of 34) are a Party to the FAO CA (see Table 1 above).**

RFMOs are defined by the **PSMA** as “*an intergovernmental fisheries organizations or arrangements, as appropriate, that has the competence to establish conservation and management measures*”. RFMO play a key role in the implementation of the PSMA, which calls upon Parties to exchange information with RFMOs and to cooperate through them in the effective implementation of the Agreement. These includes the assessment of evidence of IUU fishing, the development of procedures for identification of “*ports of non-compliance*”, and communication and notification requirements. **Resolution WECAFC/15/2014/9¹²²** calls upon its members to become a Party to the PSMA and to implement the *FAO Voluntary Guidelines on Flag State Performance¹²³* through cooperation and collaboration in sharing information and identifying priorities, harmonizing, to the greatest extent possible, measures and actions and monitoring progress. **To date 50 percent of the WECAFC Members (17 out of 34) are a Party to the PSMA (see Table 1 above).**

Besides the CCRF there are also important voluntary instruments that attribute tasks and responsibilities to the RFMOs including: the IPOA-IUU (2001); the FAO Technical Guidelines on the Ecosystem Approach to Fisheries (2003);¹²⁴ the Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication; the FAO International Guidelines for the Management of Deep-sea Fisheries in the High Seas (2008);¹²⁵ and the FAO International Guidelines on Bycatch Management and Reduction of Discards (2010).¹²⁶ The WECAFC has made and continues to make efforts to inform, create awareness on and build capacity for national level implementation of these instruments.

10. A RFMO: UNDER ART. XIV OF THE FAO CONSTITUTION VERSUS AN INDEPENDENT IGO

RFBs are mechanisms through which States work together to ensure long-term sustainability of shared fishery resources. They provide a forum for lesson-learning, discussion, negotiation and joint-action as well as an enabling environment to increase technical and scientific assistance and coordinate work with key actors in the same area of competence, including other RFBs and arrangements.

¹²² www.wecafc.org/en/recommendations-and-resolutions/resolutions.html#

¹²³ www.fao.org/3/a-i4577t.pdf

¹²⁴ www.fao.org/3/a-y4470e.pdf

¹²⁵ <ftp://ftp.fao.org/docrep/fao/011/i0816t/i0816t.pdf>

¹²⁶ www.fao.org/docrep/015/ba0022t/ba0022t00.pdf

Previous studies have concluded that the establishment of an RFMO would enable countries in the WECAFC area to harmonize fisheries management measures, but also to develop and implement arrangements for mandatory reporting and information sharing, joint vessel boarding and inspection schemes, joint observer programmes, VMS and to build technical capacity among the members to allow higher production in fisheries, while increasing sustainability at the same time. The key benefits of a transition of WECAFC into an RFMO identified in the *Independent cost-benefit assessment* were:

- Stocks: rehabilitation of some key commercially targeted stocks, reduced IUU fishing and an increase in ecosystem services;
- Fisheries production: increase in production with 320 thousand tonnes within 10 years;
- Fisheries value: off-vessel value of fisheries products will increase 20, adding an estimated 700 million USD to the current 3.2 billion USD;
- Employment: additional direct employment in the fisheries sector for some 250 to 300 thousand people;
- Food security: Increased supply of fish for an additional 20 to 25 million people (at current per capita consumption levels);
- Trade: the negative trade balance for fish and fisheries products will improve in favour of the region;
- High seas: an area of 9.4 million km² of High Seas will be brought under management – claiming ownership over the fisheries resources in this area;
- Other stakeholders: certain tourism sectors (e.g. scuba diving and recreational fishing) will continue to generate significant incomes for the region.

Globally the FAO lists 31 RFBs of which 11 have been established under the legal framework of FAO in accordance with the provisions of either Article VI or Article XIV of the FAO Constitution. From these, 6 are **Article VI Statutory Bodies** (RFBs) including the WECAFC¹²⁷ and 5 are **Article XIV Statutory Bodies** (RFMOs).¹²⁸

In accordance with the **Principles and Procedures** which should govern Conventions and Agreements concluded under Article XIV of the FAO Constitution and Commissions and Committees established under Article VI of the FAO Constitution, the FAO Conference stressed that Article XIV of the Constitution applies to conventions and multilateral agreements concluded under the aegis of FAO with “*the express purpose of creating contractual obligations for those who become parties to them*”. The corollary to this principle, in the understating of the FAO Conference, is that any agreement concluded under Article XIV of the Constitution among Member-states of FAO should entail financial or other obligation going beyond those already assumed under the Constitution of FAO. Failing this, there would be no grounds for such an agreement, at least not in the legal form prescribed under Article XIV of the FAO Constitution.¹²⁹

¹²⁷ The Commission for Inland Fisheries and Aquaculture of Latin America and the Caribbean (COPESCAALC); The Committee on Inland Fisheries and Aquaculture of Africa (CIFAA); The European Inland Fisheries and Aquaculture Advisory Commission (EIFAAC); The Fishery Committee for the Eastern Central Atlantic (CECAF); The South West Indian Ocean Fisheries Commission (SWIOFC).

¹²⁸ The Asia-Pacific Fishery Commission (APFIC); The Central Asian and Caucasus Regional Fisheries and Aquaculture Commission (CACFish); The Regional Commission for Fisheries (RECOFI); GFCM and IOTC.

¹²⁹ See Section O paragraphs 3 and 5 of the Basic Texts of the FAO, Vol II, 2015 Edition
www.fao.org/3/a-mp046e.pdf

Table 8. Main differences between Art VI, Art XIV Statutory Bodies and IGO

Article VI Statutory Bodies	Article XIV Statutory Bodies	IGO
Constituent instrument: Statutes They are created by a decision of the FAO Conference, Council or by the Director-General under the authority of the Conference/Council.	Constituent instrument: International agreement under Article XIV of the FAO Constitution negotiated and concluded within FAO in accordance with the procedures set forth in the Constitution, the General Rules of the Organization and its Principles.	Constituent instrument: Independent international instrument, such as a treaty or agreement.
No independent legal personality.	No independent legal personality – FAO is the entity vested with legal personality to enter into legally binding agreements and its ultimately liable for their proper implementation.	Legal personality, provided this is set out in the agreement or treaty.
Advisory role only to their Member states – can issue non-binding recommendations on management issues and adopt authoritative recommendations.	Regulatory powers to their Member-states including the power to adopt CMMs that are binding on their members and wider advisory role.	Advisory and regulatory powers.
No functional autonomy. May establish on an ad hoc basis such subsidiary body as it deems appropriate for the accomplishment of its tasks.	Functional “semi” autonomy within the FAO framework– “life of its own”. ¹³⁰ They can adopt or amend their RoP and Financial Regulations but these must be consistent with the general institutional framework of FAO and be approved by the Director-General; They can create subsidiary bodies, subject to the availability of funds.	Functional authority and other competencies as the parties wish to negotiate.
Funded by FAO Regular Programme to support core activities. ¹³¹ Activities may also be financed by donor-assisted extra budgetary support, if available, in accordance with FAO regulations and rules.	Must have an autonomous budget, with assessed contributions and voluntary extra budgetary (trust funds) for the implementation of its programmes of work. Very limited Regular Programme (RP) funds. ¹³² Extra-budgetary funds are subject to the FAO rules and regulations, including the financial regulations. FAO is accountable to donors for the management and use of any contributions received.	Autonomous budget from assessed contributions and donor support to implement the programme or work.

At the 16th session of the WECAFC in 2016 it was agreed to launch “*a process to establish a RFMO in the WECAFC area of competence*”. The legal status of such RFMO can assume one of the following options, which remains to be decided, and are briefly assessed in sub-sections 10.1 and 10.2 below:

- WECAFC becomes a RFMO as an FAO Article XIV body, with a mandate to manage the fisheries in a sustainable manner through the adoption of legally binding decisions.
- WECAFC becomes a RFMO established outside of FAO’s legal framework, i.e. as an independent IGO with a mandate to manage fisheries in a sustainable manner through the adoption of legally binding decisions.

¹³⁰ CCLM 99/7 (September, 2014) www.fao.org/3/a-ml631e.pdf

See document PC 104/9, paragraph 8: “As a general rule, bodies established under Article VI are part of the Organization. They do not have a ‘life of their own’. Article XIV, on the other hand, makes provision for the negotiation within meetings convened by, or on behalf of the Director-General, and the subsequent adoption by the Conference or the Council of conventions and agreements. These instruments are said to have a ‘life of their own’ and usually provide for obligations extending beyond those set out in the Constitution and the other Basic Texts of FAO. For instance, these bodies may adopt regulatory measures directly binding upon the Members of the concerned body and may have autonomous budgets”.

¹³¹ WECAFC activities are funded from the FAO Regular Programme, FAO TCP and in-kind by other organizations.

¹³² CCLM 88/3 (September, 2009) [ftp://ftp.fao.org/docrep/fao/meeting/017/k5829e.pdf](http://ftp.fao.org/docrep/fao/meeting/017/k5829e.pdf)

CCLM also concluded that Article XIV bodies where members pay their way with autonomous budgets have a certain degree of autonomy to decide on budgets, work programme and expenditure, including signing some agreements, communicating with members, traveling arrangements and participation in meetings.

10.1 WECAFC becomes a RFMO under Article XIV of the FAO Constitution

As confirmed by the Council of FAO¹³³ the constituent instruments of Article XIV bodies do not vest them with legal personality, i.e. the capacity to enjoy rights and assume obligations of their own and, therefore, they have to act through FAO or draw on the legal capacity of FAO.

The relationship between FAO and Article XIV statutory bodies is complex and dynamic.¹³⁴ It has been assessed in detail by the FAO Committee on Constitutional and Legal Matters (CCLM) which, in 2009 under CCLM 88/3,¹³⁵ identified the **following advantages of operating under FAO**: automatic access to established human resource; administrative and financial systems and practices and procedures; legal services; benefits of security and access accruing from a comprehensive set of privileges and immunities established between FAO and its member countries; an established regional framework of offices and staff; status within the international community as a FAO/UN organisation; benefits of staff members of the UN system for pay and conditions.

On the other hand there are **concerns with regard to *inter alia***, flexibility in delegating responsibilities to Article XIV bodies, human resources and recruitment process, translation, corporate identity, reporting arrangements, budgeting and accounting process which should be taken into account in this process.

These benefits, immunities and privileges are significant and should be considered and evaluated by WECAFC's members against the concerns when assessing the option of becoming and RFMO under Article XIV or moving towards independence.

At its 29th session the FAO Conference adopted **Resolution 13/97**¹³⁶ *on the review of FAO Statutory Bodies* setting forth the procedures relating to their establishment and abolition. “*In the future Statutory Bodies should be established only where strictly necessary and where the work to be undertaken cannot be carried out by ad hoc groups*”. It further requires that the ToR of all new bodies created “*should provide for a periodic review of their usefulness*”. To this end the Conference adopted a list of factors to be taken into account in establishing a new statutory body which are assessed below with regard to WECAFC:

¹³³ 127th Session of the FAO Council- CL 127/REP paragraph 90: The Council agreed that the legal status of bodies established under Article XIV of the FAO Constitution has to be seen in such a way as to reconcile, in a suitable manner, the requirements of functional autonomy of such bodies and the fact that they are placed and operate under the framework of FAO. The constituent instruments of bodies under Article XIV of the FAO Constitution do not entrust them with legal personality, i.e. capacity to hold rights and obligations of their own, and, therefore, they have to act through FAO or drawing on the legal capacity of FAO.

<ftp://ftp.fao.org/docrep/fao/meeting/009/j3893e.pdf>

¹³⁴ See RFBs established under the FAO Framework – COFI/2014/Inf.11
www.fao.org/3/a-mk346e.pdf

¹³⁵ CCLM 88/3 (September, 2009)
Preliminary Review of the Statutory Bodies with a view to allowing them to exercise greater financial and administrative authority while remaining within the framework of FAO <ftp://ftp.fao.org/docrep/fao/meeting/017/k5829e.pdf>

¹³⁶ See Addendum IV to the Basic Texts of the FAO, Vol II, 2015 Edition
www.fao.org/3/a-mp046e.pdf
www.fao.org/3/a-w7475e/W7475e0f.htm

Table 9. Requirements to establish a new technical body under FAO versus WECAFC

FAO requirements to establish a new body (Res. 13/97)	WECAFC
Centrality to the FAO mandate and the Organization's current priorities as expressed by FAO Members and reflected in planning documents.	The WECAFC is presently central to the FAO mandate as an Article VI Statutory Body. WECAFC is contributing to FAO's Strategic Framework and particularly addresses Strategic Objective (SO) ²¹³⁷ contributing also to the other SO as outlined in the endorsed WECAFC Strategic Plan (2014-2020). An abolishment of WECAFC as a RFB in favour of a transformation into a RFMO under FAO's Constitution would mean a continuation of the current programme, while adding to the advisory and capacity building tasks important regulatory powers on regional management.
Clarity of the definition of the task, which should normally be of limited duration.	The RFMO tasks are not of limited duration; the RFMO is expected to play a long-term role in fisheries scientific advisory services, capacity building for fisheries management and regional fisheries management and conservation.
Positive impact of the Body's work at the level of FAO Members.	The establishment of a RFMO to cover the area identified under section 4 above would fill a gap in RFMO coverage in the Atlantic Ocean. It would further have a positive impact at the level of FAO members by addressing their need to comply with the requirements of LOSC, 1982, UNFSA, FAO CA and PSMA as summarised under Section 9 above. This new RFMO will contribute significantly to deterring and eliminating IUU fishing and promoting a more responsible utilization of the fisheries resources in the region.
FAO's comparative advantage, thereby avoiding overlap and creating synergy with the work of other Bodies.	In a wider Caribbean region, with a range of ongoing conflicts between countries in the region (e.g. on maritime border disputes, trade- and political disputes), FAO has played an important neutral advisory role in fisheries through WECAFC for over 47 years. A RFMO under FAO's Constitution would continue to provide such neutral role, building on well-established partnerships with the sub-regional organizations, members and donors. As indicated above, 6 RFBs and 5 RFMOs have been established under Articles VI and XIV of the FAO Constitution respectively which demonstrates FAO has sufficient in-house experience on this subject to provide (if members so decide) the necessary administrative and operational support to this new RFMO. In case WECAFC would be transformed into a RFMO, a clear partnership arrangement should be made with CRFM and OSPESCA as well as with ICCAT (see section 8.2 above) and neighbouring RFMOs (e.g. NAFO, SEAFO and NEAFC), in order to increase the effectiveness of approaches. The exact mandate of the RFMO would have to take into consideration the mandates of the other RFBs and RFMOs.
Proportion of the FAO Membership to which the work of the proposed body is of importance with due regard to the economic capacity of less-advantaged members, including least developed countries and small-island developing states.	Currently WECAFC has 34 members, including 15 Caribbean SIDS, and 7 small island overseas territories of European countries and 3 LIFDCs. These SIDS and LIFDCs have generally limited capacity to manage their fisheries and heavily rely on WECAFC for capacity building and supporting regional harmonization of fisheries management measures to increase the effect of these.
Willingness of their Members to contribute financially and through non-monetary inputs to the work of the Body, especially where the Body will serve a more limited number of countries, with due regard to the economic capacity of their less advantaged members and the availability of other financial support.	The Caribbean SIDS and Central American members of WECAFC that are organized under CRFM (CARICOM) and OSPESCA (SICA) already contribute annually some USD 5/tonne of fish landed towards sub-regional fisheries management by these RFBs. These countries are hesitant to pay more, particularly if those countries that produce most fish in the region do not contribute their fair share. The USA, Brazil, Trinidad and Tobago, EU, France and the Netherlands have indicated publicly in various WECAFC meetings to be willing to contribute to a RFMO. Similarly, Colombia, Cuba and Venezuela have indicated informally to the WECAFC Secretariat to be willing to contribute to the RFMO. The exact contributions required are not yet known, but annual contributions to the autonomous budget of the RFMO will likely be in the order of USD 1 /tonne of fish landed. More information on the budgetary requirements of a RFMO under FAO's Constitution can be found in section 12.

¹³⁷ FAO Strategic Objectives
www.fao.org/docrep/018/mg994e/mg994e.pdf

The 39th session of the FAO Conference adopted **Resolution 11/2015**¹³⁸ on the *Review of Statutory Bodies*, in particular with reference to Article XIV Bodies reinforcing Resolution 13/97 and requiring that any proposal to establish a new body under the FAO Constitution **shall be accompanied by a detailed document that justifies the establishment** setting forth the information which is assessed below with regard to WECAFC.

Table 10. Elements of the proposal to establish a new body under FAO versus WECAFC

FAO elements of the proposal to establish a new body (Res. 11/2015)	WECAFC
The objectives that are to be achieved through the establishment of the body.	<p>The objective of the RFMO would be similar to other RFMO's, i.e. to bring together countries that have a common interest in managing particular fish stocks or the fish resources of a particular area, and which adopt binding CMMs.</p> <p>The performance review of WECAFC (2013-2014) shows that it is functioning efficiently considering its limited budget and human resources available, but also that there is a need for regional management and conservation.</p>
The manner in which the body will carry out its functions and any impact that its creation may have.	<p>The functions of the RFMO are expected to be similar as those performed by GFCM (see Section 3 above). The creation of the RFMO under Article XIV of the FAO Constitution will contribute to the implementation of the SO of the Organization in the wider Caribbean region, with emphasis on SO 2, and will further contribute to the implementation of the CCRF, FAO CA, FAO PSMA and FAO technical guidelines (see section 9 above). Partnerships with other RFMO's to combat IUU fishing jointly can be made, e.g. through IUU vessel lists, VMS, regional vessel registries and other MCS measures.</p> <p>Moreover, WECAFC as a RFMO will be better equipped to support the achievement of the Sustainable Development Goals (SDG) in the region, and particularly SDG 14.¹³⁹ Also FAO can more effectively address the SAMOA Pathway paragraphs related to natural resources/fisheries in the Caribbean¹⁴⁰ through a RFMO that would be coordinating the effective sharing of responsibilities towards straddling and highly migratory fish stocks by its member states.</p>
The financial implications of the establishment of the body for the current biennium, as well as a forecast of the financial implications for the future biennia.	<p>The idea is that the costs of the secretariat would be assumed by the members of the RFMO so the current part-time secretary and office space that are presently provided by FAO will be paid by the members. The transformation process is expected to take 5 years to 6 years and it will require 2 special sessions (preparatory meetings) of the members to discuss and agree on the various constituent instruments (see section 10.4 below). The total estimated cost is 300 000- 400 000 USD for which the Secretariat has received support from EU DG MARE and the CLME+ project. The transition process would thus not have a budgetary impact on this biennium (2018-2019).</p> <p>The 17th Session of WECAFC in the 1st half of 2019 will still require FAO regular budget allocations (similar budget to the 16th Session - 80 000 [800 000?] USD) and significant support from the host country (USA).</p> <p>The annual contributions by the membership to the autonomous budget of an RFMO regardless of its legal nature/status are estimated to be between 1.2 to 1.8 million USD annually, depending on the choices made by the members. If an IGO option is chosen then FAO's financial support to the RFMO establishment process will terminate in 2019 or ultimately in 2020 after the 2nd Preparatory Meeting. The abolishment of WECAFC as art VI RFB will be initiated on request of the members after the 1st or 2nd Preparatory Meeting. WECAFC's Secretariat will be maintained by FAO until the Inaugural meeting of the new RFMO. If an Article XIV RFMO is preferred then FAO's current level of support to WECAFC is expected to be maintained until 2022 (next 5 years). From the inaugural meeting (expected in 2020) the RFMO members will be expected to maintain the secretariat and cover its operational and administrative costs.</p>

¹³⁸ www.fao.org/3/a-mo153e.pdf

¹³⁹ <https://sustainabledevelopment.un.org/?menu=1300>

¹⁴⁰ Adopted by Resolution of the General Assembly on 14/11/2014

www.un.org/ga/search/view_doc.asp?symbol=A/RES/69/15&referer=http://www.sids2014.org/index.php?menu=1537&Lang=E

FAO elements of the proposal to establish a new body (Res. 11/2015)	WECAFC
A specific assessment of whether the objectives of the proposed statutory body could be met through a different type of working arrangement, such as the organization of ad hoc technical consultations or other task-oriented and time-bound arrangements.	The nature of an RFMO makes it impossible to carry out the same functions and duties through ad hoc consultations or time-bound arrangements. The members of the RFMO need to meet frequently in order to share information and collaborate on regional fisheries management and conservation. Notwithstanding the above, it is common practice that RFB and RFMO subsidiary bodies (e.g. committees and working groups) are of an ad hoc nature and address short-term problems or needs.
Whether there are any existing statutory bodies covering the same, similar or related fields as those to be addressed by the proposed new statutory body, on current or future programmes of the Organization.	There are many FAO statutory bodies in other regions that cover similar and related fields, such as GFCM, IOTC, APFIC, CACFish and a similar process of a transformation of an RFB into an RFMO is on-going in Eastern Africa with SWIOFC. The establishment of an RFMO in the WECAFC area, which could be seen as an extension of the current role and functions of WECAFC, would be in-tune with international developments and the obligations from LOSC, 1982 and UNFSA.

If WECAFC members opt for transforming WECAFC into an RFMO under Article XIV of the FAO Constitution they can choose between a small RFMO or a large RFMO (common type) where every member country and the EU have each 1 vote. The latter is the traditional structure. The various options have been previously assessed¹⁴¹ and should be discussed at the 1st preparatory meeting.

A decision to establish a FAO Article XIV body will first have to be formally communicated to FAO by one of the Member-states. FAO will internally review the decision in terms of ensuring that the formal internal processes for setting up the new Commission are set in motion. FAO Article XIV body agreements are normally adopted by the FAO Council on the recommendation of a technical conference or series of technical meetings comprising Member Nations. They enter into force on the deposit of the required number of instruments of acceptance in accordance with the agreed provisions (to be decided by the Members).

In parallel with the establishment of the Article XIV body, the current Article VI body (i.e. WECAFC) will have to be abolished by the members through a formal process.

10.2 WECAFC becomes an independent RFMO

FAO has facilitated the establishment of independent IGOs such as the Southern Indian Ocean Fisheries (SIOFA),¹⁴² the Network of Aquaculture Centres in Asia and Pacific (NACA),¹⁴³ and the Aquaculture Network for the Americas (RAA).¹⁴⁴ The agreement to establish SIOFA was adopted by a Conference of Plenipotentiaries held on 7 July 2006 at the Headquarters of the FAO and has entered into force in 21 June 2012.¹⁴⁵

On the other hand, many RFMOs have also been established without assistance from FAO.

¹⁴¹ See section 4.12 of WECAFC/XVI/2016/13

www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/13e.pdf

¹⁴² www.siofa.org/ and www.fao.org/fishery/rfb/siofa/en

¹⁴³ www.enaca.org/ and www.fao.org/fishery/rfb/naca/en

¹⁴⁴ www.fao.org/fishery/rfb/raa/en

¹⁴⁵ www.siofa.org/sites/siofa.org/files/documents/SIOFA_AGREEMENT_1.pdf

The **establishment process of an independent IGO and framework** are generally similar. First there must be an agreement to hold negotiations on the instrument, based on a perceived need by Member-states for such an organization and recognition of the potential benefits from membership. They would also need to commit financial and human resources to the negotiating process. Such a process can involve several meetings over a few years. According to the terms of the instrument, a **conference of plenipotentiaries** would need to be convened for signature and ratification by the agreed number of parties before the instrument enters into force. The members would then be responsible for financially sustaining the organization.

10.3 Risks and benefits of the two types of RFMOs

In the decision-making process of transforming WECAFC into an RFMO WECAFC Member-states should consider the risks and benefits of creating an RFMO under Article XIV of the FAO Constitution or as an independent IGO.

The institutional, political, social, economic and environmental risks as well as the institutional and administrative benefits of each option were previously assessed from a legal perspective and with regard to the transformation process of the Indian Ocean Tuna Commission (IOTC).¹⁴⁶ These have been summarized in the study presented last year¹⁴⁷ and are presented in the tables below.

Table 11. Main risks of an RFMO under Art. XIV of the FAO Constitution versus an independent IGO

Institutional and Political Risks	
RFMO under Art. XIV of FAO Constitution	RFMO as independent IGO
Fairly low as the RFB would transform into a RFMO within the FAO governance framework. A transformation process can therefore be rather smooth and current Members will be able to continue participation in the preparation process of the RFMO. The political risks are also low because the same member countries can continue to participate in the RFMO. A one-member one-vote approach and application of FAO's legal framework and procedures will guarantee agreed and transparent processes and neutrality of the RFMO secretariat. FAO would ensure that political differences within the region would not cause exclusion of potential members and that partnerships with CRFM, OSPESCA and ICCAT for tuna stocks, and other RFBs and RFMOs, would be strengthened and extended.	Higher a complete new and independent governance structure will have to be established, which may cause disruption in delivering the current functions of WECAFC. It is anticipated that FAO will continue to support WECAFC until the Members request FAO for abolishment of WECAFC as a RFB. The political risks involved in this option may be higher as other IGOs established in the region have tended to exclude some countries for a variety of reasons. Moreover, the cultural, socio- economic, language and political situation is highly diverse among the WECAFC members. Consequently it is likely that the negotiation process of an IGO RFMO agreement will take longer and may develop into an agreement that does not include all current WECAFC Members.
Social, Economic and Environmental Risks	
RFMO under Art. XIV of FAO Constitution	RFMO as independent IGO
It is foreseen that these will be reduced compared to the current situation. The RFMO will be able (through increasing the scientific basis for decision-making, capacity building support and agreeing on binding and harmonized fisheries management measures) to contribute to more sustainable fisheries, higher value generation and in the mid-to long-term food and employment security in fisheries.	Similar reduced risks when compared with the present situation.

¹⁴⁶ See: WECAFC/XV/2014/12, Report prepared by Dr. Judith Swan (February 2014)
www.fao.org/fishery/docs/DOCUMENT/wecafc/15thsess/12e.pdf
 Cost and Benefit of the IOTC within and outside of FAO, Report prepared by Prof Glenn Hurry, IOTC–2016–S20–05[E]
 (April, 2016)
www.iotc.org/documents/cost-and-benefit-indian-ocean-tuna-commission-iotc-within-and-outside-food-and-agricultu-1

¹⁴⁷ WECAFC/XVI/2016/13
www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/13e.pdf

The benefits of a RFMO under FAO relate largely to the existing structure and knowledge available, large technical and legal expertise, neutrality and the available office network that FAO has and which can contribute to the effective functioning of the RFMO. The benefits of an IGO-RFMO relate to greater flexibility in operations and procedures, more ownership by members, less bureaucracy, cheaper staffing, and probably lower costs of running projects.

Table 12. Institutional and administrative benefits of an RFMO under Art. XIV of the FAO Constitution versus an independent IGO¹⁴⁸

Institutional Benefits	
RFMO under Art. XIV of FAO Constitution	RFMO as independent IGO
<ul style="list-style-type: none"> • Well-known institutional structure which has been tested and implemented widely; • Automatic access to established human resource, administrative and financial systems, practices and procedures; [yes but you need to insert the converse of a lighter touch and more flexible approach and the ability to pick and choose procedures from several different IGOs including for instance UN] • Legal services available to members; • Security and access to a comprehensive set of privileges and immunities established between FAO and member countries; • Establishment process clearly outlined in the FAO's regulations and practice; • Access to an established regional framework of offices and staff which provides a safety net when working in the field and is helpful for delivery in-country activities, such as meeting organizations, paying tickets and per-diems etc; • Easy access to technical staff/expertise within FAO on a range of fisheries matters; • Status within the international community as a FAO/UN organization; • Article XIV bodies where members pay their way with autonomous budgets, have a certain degree of autonomy to decide on budgets, work programs and expenditure; • Some countries may still feel that being part of the FAO system provides them with some level of support and protection when dealing with developed countries; • FAO will ensure neutrality of the body, which is considered important in a region with standing conflicts between potential member countries; • FAO ability to assist if things go wrong; • FAO can potentially act as an intermediary with member and non-member countries over issues such as non-payment of fees and non-engagement. • Some potential donors may be more interested to work through a body which is linked to/under FAO, as FAO will ensure the use of funds following internationally agreed procedures; • Buffer for developing countries in dealing with pressure from developed countries; • Facilitates the support of poor members by wealthier members, including through an agreed formula for contributions; • Facilitates joint statements within the UN General Assembly and opportunity to influence through FAO developments at global level; • Rapid access to FAO data and information generated at global level and within the region. [I think FAO is equally good at providing this quickly to IGOs too] 	<ul style="list-style-type: none"> • A key issue is the the increased sense of ownership and responsibility that members have in establishing an organization they are responsible for; • Ability to fully determine the budget and financial structure of the organization; • Ability to engage directly with fishing entities fishing in the region; • Ability to enter directly into third party agreements for extra budgetary funding; • Capacity to enter independently into agreements with countries and organizations for cooperation and information sharing; • Capacity to participate in international meetings and workshops and represent members' views on issues in an unrestrained manner; • Possibility to design, set-up and structure of systems that suits all members; • Possibility to negotiate with the host country of the secretariat the set of privileges and immunities for the secretariat staff; • Flexibility in handling/carrying-out activities in the member countries; • Organize visibility and media campaigns for fisheries measures independently of FAO; • Status as an independent IGO. • Participate in UN General Assembly meetings and other UN conferences and present statements and opinion independently – higher profile than being bmerged in an FAO statement; • Access to other donor funds not available to UN/FAO? • Use of own data and information generated independently from FAO for management decision-making processes. • Own communications policy, website, security appropriate to the size of organisation.

¹⁴⁸ This table reproduced with some amendments the table presented under section 4.13 of WECAFC/XVI/2016/13

Administrative Benefits	
RFMO under Art. XIV of FAO Constitution	RFMO as independent IGO
<ul style="list-style-type: none"> Financial and administrative support systems and documentation are regularly updated and provide the framework for the provision of a professional and auditable process; The FAO office network in the region facilitates linkage/ collaboration with other sectors, transfers of funds and monitoring of activities as necessary; The Human Resource systems provide a consistent global approach to salary scales and entitlement and a rigorous recruitment and staff management system; FAO conducts a system of rolling audits of its work units; Benefits to staff as members of the UN systems for pay and conditions; FAO has an established IT network and support capacity; Use can be made of FAO's media service. 	<ul style="list-style-type: none"> The right to recruit and select staff independently- the Executive Secretary is selected solely by members; Members determine salary scales and benefits for staff - in general, the cost of staff salaries and conditions of service will be lower than those paid at FAO rates; No cost of the support services (between 5.9% and 13%) charged by FAO; No burden of FAO bureaucracy and the time spent in financial circuits; The possibility to enter into third party agreements for extra budgetary funding without additional costs being charged by FAO and improved ability to generate external income for projects. It could be difficult to explain in the government, and particularly to the ministries of finance, that contributions should be made to the FAO for the Article XIV body, while the members are already paying their normal membership contribution to FAO; a challenge that an IGO would not have. Quicker and more efficient admin related to per diems flights etc – probably lower cost too.

10.4 Roadmap for completing the WECAFC strategic reorientation process

The transformation process is expected to take five to six years. Since it was agreed at the 16th WECAFC's session to launch a process to establish a RFMO in the WECAFC area of competence but WECAFC's members have not yet decided on the legal status of such RFMO (a statutory body under Article XIV of the FAO Constitution or as an independent IGO), this decision is expected to be taken at either the **17th session of WECAFC** to be held in the USA in April/May 2019 or the 1st Preparatory Meeting for the establishment of an RFMO towards the 1st quarter of 2019.

The **RFMO establishment process** will likely require **two special sessions (preparatory meetings)** of the members for discussion and agreement *on inter alia* the following constituent instruments and additional relevant information for the setting up and operation of the RFMO: the draft Agreement; RoP; Financial Regulations; budget for the first financial period of the RFMO; scheme and scale of contributions by members to the administrative/autonomous budget of the RFMO; 1st Programme of Work of the RFMO; and proposals for establishment of sub-commissions or other subsidiary bodies. **Funding is available for both meetings if held before 2020.**

At the 16th session it was agreed that a **1st preparatory meeting of the Members would be held in 2017**. In view of this meeting the Members and observers were requested to submit to the Secretariat "technical, legal and stakeholder questions and areas of concern to be addressed at the preparatory meeting". Members and observers were requested to endeavour to have participation by relevant experts in the 1st preparatory meeting.¹⁴⁹

The WECAFC Secretariat prepared a project proposal for EU DG MARE to "Support to the establishment of a RFMO for WECAFC" for an amount of 111 000 USD, which got approved in December 2016, was finalized in June 2017 and has become operational in August 2017. This project is expected to cover most of the costs of the 1st Preparatory Meeting in 2018 or 2019.

A draft roadmap for the WECAFC strategic reorientation process was presented and discussed at the 16th Session.¹⁵⁰ The Commission took note of the options provided and recognized that the timeframe presented would require adaptation and flexibility. The implementation of the roadmap was affected

¹⁴⁹ See paragraph 61, Report of the 16th Session of WECAFC www.fao.org/3/a-i6031t.pdf

¹⁵⁰ WECAFC/XVI/2016/14, February 2016 [ftp://ftp.fao.org/FI/DOCUMENT/wecafc/16thsess/14e.pdf](http://ftp.fao.org/FI/DOCUMENT/wecafc/16thsess/14e.pdf)

by FAO's decision in July 2016 to transfer the WECAFC Secretary from Barbados to Belize in early 2017. Following this transfer, and the subsequent departure of the WECAFC Secretary from the region at the end of 2017 and the assumption of duties by the new WECAFC Secretary in mid-2018 again in Barbados the roadmap required amendment. An updated version of the draft roadmap is presented in the tables below for each option.

Table 13. Updated Roadmap for WECAFC transformation into a FAO Art. XIV RFMO

2016-2017	Implementation of the agreed Programme of Work 2016-2017; organization of various working group meetings, studies and projects.
August 2017	The project from EU DG MARE to "Support to the establishment of a RFMO for WECAFC" becomes operational.
November 2017	8th session of the SAG of WECAFC.
November 2017 onwards	Implementation of the ICM-Fisheries updated workplan.
November 2018	The draft discussion paper is circulated to the Members and partners. The final version will become a working document for the 1st preparatory meeting on the establishment of the RFMO.
1st half 2019	Special Session of WECAFC/1st Preparatory Meeting to discuss and decide inter alia on: legal status of the RFMO; stocks coverage; area of competence; organisational structure; and funding. The meeting should discuss and draft preliminary versions of the following: <ul style="list-style-type: none"> - Agreement; - RoP and Financial Regulations, including the scheme and scale of contributions to the administrative/autonomous budget of the RFMO, to be adopted by the Article XIV body after its entry into force; 1st Programme of Work of the RFMO; and proposals for establishment of sub-commissions or other subsidiary bodies.
April/ May 2019	17th Session of WECAFC – an update on the status of the process is provided to the Members.
August-September 2019	If there would be (informal) consensus on the way forward, then one Member on behalf of the Member-states attending the 17 th session of WECAFC, submits a request to FAO expressing the desire to establish the RFMO under Article XIV of the FAO Constitution and that FAO supports the process to this effect.
2nd half 2019	FAO formally informs the WECAFC Members of the request for establishment of an Article XIV RFMO and, when it enters into force the abolition of WECAFC as an Article VI statutory body.
2020	Special Session of WECAFC/2 nd Preparatory Meeting to further negotiate, finalize and endorse the: <ul style="list-style-type: none"> - Agreement; - RoP and Financial Regulations, including the scheme and scale of contributions to the administrative/autonomous budget of the RFMO, to be adopted by the Article XIV body after its entry into force; 1st Programme of Work of the RFMO; and proposals for establishment of sub-commissions or other subsidiary bodies.
2020	One member on behalf of the Member-states attending the 2nd Preparatory Meeting, and after having reached informal consensus, submits the final Agreement to the Director General of FAO and requests FAO to review and endorse it at the appropriate levels.
June 2020	The CCLM of FAO reviews the proposed Agreement and passes it to the FAO Council or FAO Conference for endorsement. All WECAFC Members are Member of the FAO Conference, and some of the FAO Council. In either of the two the decision to abolish WECAFC as an Article VI statutory body, and establish it as an Article XIV statutory body is made. The abolition would take effect upon entry into force of the Article XIV statutory body.
Sept 2020	The FAO Director General notifies the WECAFC Members of the endorsement of the Agreement and invites them to become Member of the Commission through depositing an "instrument of acceptance" of the agreement. It is also possible to have a provisional entering into force upon signature. Members will decide on the approach.
Oct 2020/ 2021	The Members follow internal processes of ministerial/cabinet approval of the Agreement and inform the WECAFC Secretariat on progress made.
Oct 2020/2022	Inaugural Session of the new RFMO/Final session of WECAFC as Article VI body <ul style="list-style-type: none"> - the inaugural session can be organized after a minimum number of members have accepted the agreement (n° to be determined in the Agreement); - Those WECAFC Members that have not accepted the agreement by this session will participate as observers in the RFMO sessions until they accept the agreement.

Table 14. Updated Roadmap for WECAFC transformation into an IGO RFMO

2016-2017	Implementation of the agreed Programme of Work 2016-2017; organization of various working group meetings, studies and projects.
August 2017	The project from EU DG MARE to “Support to the establishment of a RFMO for WECAFC” becomes operational.
November 2017	8th session of the SAG of WECAFC.
November 2017 onwards	Implementation of the ICM-Fisheries workplan.
November 2018	The draft discussion paper is circulated to the Members and partners. The final version will become a working document for the 1st preparatory meeting on the establishment of the RFMO.
1st half 2019	Special Session of WECAFC/1st Preparatory Meeting to discuss and decide inter alia on: legal status of the RFMO; stocks coverage; area of competence; organisational structure; and funding. The meeting should discuss and draft preliminary versions of the following: - Convention; - RoP and Financial Regulations, including the scheme and scale of contributions to the administrative/autonomous budget of the RFMO, to be adopted by the Article XIV body after its entry into force; 1st Programme of Work of the RFMO; and proposals for establishment of sub-commissions or other subsidiary bodies.
2019	17th Session of WECAFC – an update on the status of the process is provided to the Members.
2019	If there would be (informal) consensus on the way forward, then one Member on behalf of the Member-states attending the 17th session of WECAFC, submits a request to FAO expressing the desire to establish an IGO RFMO to replace WECAFC and that FAO continues supporting WECAFC (as currently is the case) until the new IGO has been formally established.
2nd half 2019	FAO formally informs the WECAFC Members of the request for abolition of WECAFC as an Article VI statutory body.
2020	Special Session of WECAFC/2 nd Preparatory Meeting to further negotiate, finalize and endorse the: - Convention; - RoP and Financial Regulations, including the scheme and scale of contributions to the administrative/autonomous budget of the RFMO, to be adopted by the IGO after its Convention enters into force; 1st Programme of Work of the RFMO; and proposals for establishment of sub-commissions or other subsidiary bodies.
June 2020	The CCLM of FAO reviews the request for abolition of WECAFC, endorses a resolution to this effect and passes it to the FAO Council or FAO Conference for adoption. All WECAFC Members are Member of the FAO Conference, and some of the FAO Council. In either of the two (Council/Conference) the decision to abolish WECAFC can be adopted. The abolition would take effect upon entry into force of the IGO RFMO. In the meantime, no further sessions of the WECAFC or its SAG sessions would be held anymore.
July 2020	The CLME+ SAP interim- mechanism for sustainable fisheries will be amended to exclude WECAFC as party and allow entry to the Task-force/arrangement that is coordinating the establishment of the IGO. This step needs further clarification/decision by the Members.
First half 2021	The depositary of the new Convention notifies the potential Members of the Agreement and invites them to become Member of the Commission through depositing an “instrument of acceptance”/ratification of the Convention.
Second half 2021	The members follow internal processes of ministerial/cabinet approval of the Convention and inform the depositary in a timely manner.
2022/2024	Inaugural Session of the new IGO RFMO.

11. DECISION MAKING PROCESS

The WECAFC Secretariat is subject to the direction and supervision of FAO senior management and WECAFC Members that come together for the purpose of addressing their common interests and desire to obtain sustainable benefits or address other objectives from their fisheries. In addition, being a FAO RFB, the organization is also under the scrutiny of the COFI, FAO’s Regional Conference for Latin America and the Caribbean and under the supervision of FAO senior technical staff and management of the FAO Fisheries and Aquaculture Department. Presently as a RFB the decision making power is limited to the adoption of voluntary measures and recommendations.

As highlighted in the Performance Review (2013-2014) the WECAFC's decision-making process is extremely transparent. All work plans are presented and discussed in the SAG for review and adoption by the WECAFC Commission. The financial aspects are under FAO rules and monitoring. Information on budget allocations, extra-budgetary resources and Members' needs are made available to the Members in background documents to the Sessions. Working documents are provided in the three official languages and made available well before the sessions to enable the Members to participate effectively and be well prepared for the sessions.

A brief comparative assessment is provided below of the decision-making process in WECAFC, GFCM and NEAFC.

Table 15. Decision making process of WECAFC, GFCM and NEAFC

RFBs	General Objective
WECAFC Rule IX, RoP	Each Member has one vote in the Commission. Decisions of the Commission shall be taken by a majority of the votes cast, unless otherwise provided in the RoP. A majority of members of the Commission constitutes a quorum.
GFCM Article 6, Agreement Rule X, RoP	Each Member has one vote, except in the case of the European Union as a Regional Economic Integration Organization which is entitled to exercise in any meeting a number of votes equal to the number of its Member-States that are entitled to vote in such meeting, following the FAO rules. ¹⁵¹ Decisions of the Commission are taken by a simple majority of the votes cast, except that a two-thirds majority of the members present and voting is required in the case of recommendations on CMM and for the implementation of the recommendations. A majority of the total membership of the Commission constitutes a quorum.
NEAFC Article 8, 9 Convention Chapter 6, RoP	Each member has one vote in the Commission. Decisions are made by a simple majority, or, if a qualified majority is specifically required, by a two-thirds majority of the votes of all CPs present and casting affirmative or negative votes. No vote can be taken unless there is a quorum of at least two-thirds of the CPs. If there is an even split of votes on any matter that is subject to a simple majority decision, the proposal is rejected. A vote may in an emergency be taken by post or other means of written communication, and the RoP provide the procedures for this.

WECAFC has also formalized its collaboration with the CRFM and OSPESCA through mechanisms aimed at involving these RFBs in its decision making process which resulted in the development of joint activities under which various management plans have been adopted as recommendations by WECAFC (see section 8.2 above). The formalization of this collaboration has increased synergies among them and reduced costs, increasing effectiveness of interventions, and avoiding duplication and overlap of activities.

The involvement of members in the decision making process is also evident from the two letters addressed to them (in May 2016 and June 2017, respectively) requesting their opinion on the strategic reorientation of WECAFC and their participation on the process through the formulation of specific questions on matters mentioned under paragraph 55 of the 16th Session Report,¹⁵² which are addressed under this discussion paper.

The Legal Office of FAO has demonstrated its availability to assist WECAFC members in the reorientation process as they have done with IOTC and GFCM in their transformation from Article VI to Article XIV statutory body.

12. BUDGETARY IMPLICATIONS FOR MEMBERS

As a result of the establishment of the RFMO in the WECAFC area of competence it is expected that the costs of the Secretariat will be assumed by the members of the RFMO so the current part-time secretary and office space that are presently provided by FAO will be paid for by the members.

¹⁵¹ Article II of the FAO Constitution.

¹⁵² Report of the 16th Session of WECAFC www.fao.org/3/a-i6031t.pdf

The total estimated cost of the strategic reorientation and subsequent transition process into an RFMO is between 300 000- 400 000 USD. About half of these costs have already been made for the WECAFC Reorientation and Strategic Planning Workshop, held in Guadeloupe, 29-30 January 2014 and the 2nd WECAFC Strategic reorientation Workshop, held in Trinidad and Tobago on 1-2 December 2015. These two workshops were supported by FAO, France, Trinidad and Tobago and the EU DG Mare. For the next steps in the transition process (the preparatory meetings for the RFMO) the Secretariat has mobilized resources and support is confirmed from the EU DG MARE (111 000 USD) and the CLME+ project (100 000 USD). The transition process would therefore not have an impact on FAO's regular programme allocation to WECAFC this biennium.

The 17th Session of WECAFC, which is expected to be held in the USA on the first half of 2019, will still require regular budget allocations (similar budget to the 16th Session - 80 000 [80 000 or 800 000?]USD). The authorities in the USA, similarly as those of Trinidad and Tobago (in 2014) and France/EU (in 2016) will contribute significantly as host to the organization of the session (covering venue, interpretation and part of the travel costs).

The annual contributions by the Members to the autonomous budget of the RFMO, regardless of its legal status, are estimated around 1.2 to 1.8 million USD, depending on what duties and responsibilities the members assign to the secretariat of the RFMO. Whichever of the two RFMO options is chosen the minimum budget is 1.2 million USD annually.

- If members opt for an RFMO under Article XIV of the FAO Constitution, then FAO's current level of support to WECAFC is expected to be maintained until four years after the inaugural meeting of the RFMO. At the inaugural meeting a certain number of members will have ratified the agreement and it is assumed that a majority of the potential members will be contributing to the RFMO within four years, allowing the RFMO to become financially viable in this period.
- If members opt for an independent IGO then FAO's financial support to the WECAFC Secretariat will terminate as soon as the inaugural session of the new RFMO, established by convention, has taken place. The FAO conference will then be requested to officially abolish WECAFC as RFB under article VI of the FAO Constitution.

The information package that was prepared by the WECAFC Secretariat and the Executive Committee in early 2014 and shared with the members for comments before the 15th session, included information on the budget required by an RFMO and the potential contributions by members. The example of contributions calculations presented was based on the GFCM schedule of contribution and based on a combination of equal shares, production and wealth components. Following discussions at the 2nd WECAFC Strategic Reorientation Workshop (2015) and the 16th session (2016) it was felt unlikely that a similar scheme of contributions could be applied in the WECAFC area. The reasons given included that the CRFM and OSPESCA member countries are already contributing to these organizations towards regional fisheries management, and that paying twice for similar services would not be possible. Also it was mentioned that the ongoing thought economic situation in various Caribbean SIDS does not allow them to enter into new financial obligations.

In this respect, the independent cost-benefit assessment compared the costs of a full-fledged RFMO for the WECAF area, based on examples from GFCM and NEAFC. It was noted that a contribution to regional fishery management of USD 1/tonne of fishery product harvested in the WECAFC area could be sufficient for operating an RFMO with a small secretariat, if it would cooperate closely with the other RFBs and RFMOs active in the same area. It was further noted that currently the CRFM members contribute some USD 4 per tonne of fishery product to sub-regional fishery management. OSPESCA members are in the process of increasing their annual contribution, through SICA, to sub-regional fisheries management by that organization.

The contributions by CRFM and OSPESCA members to the (sub)-regional fisheries management currently add-up to nearly 1 million USD annually. It is recognized that the combined CRFM and OSPESCA member countries produce together nearly 20 percent of the fish harvested in the WECAFC area.

This means that any further financial contributions from CRFM and OSPESCA members to the new RFMO will be very small and that their contributions to the sub-regional RFBs should be considered as in-kind contribution to the WECAFC-RFMO.

If the institutional set-up of the new RFMO will be fairly similar as presented in section 8.1 above and the duties and responsibilities of the RFMO and its secretariat will be limited to those listed in section 3 (objectives of the RFMO) above, it is likely that the secretariat can remain small.

Table 16. An estimation of the costs of the operational and staffing costs of this small RFMO option

Cost items	WECAFC as RFMO (USD)
Staff	600 000
Executive Secretary	
Admin assistant/translator	
Scientific and data base manager	
MCS officer	
Premises, office, travel	140 000
Communication, IT	40 000
Meetings	220 000
Science	200 000
Translation services	-
Consultancies/external expertise	-
Total expenditure	1 200 000
Contributions	
FAO	-
Member Nations	1 100 000
Host State agreement (offices)	100 000
Trust funds	-
Contributions total	1 200 000

From the inaugural meeting of the RFMO onwards the members will be expected to start contributing to the RFMO and cover its operational and administrative costs in both options. The WECAFC secretariat support can remain in place a few more years in the article XIV option, but not more than four.

If members opt for the RFMO under Article XIV of the FAO Constitution, then the financial, administrative and operational procedures and associated costs will need to be followed by the RFMO. This will have its consequences for the daily operations of the RFMO. More information on these matters is available in the “Assessment of the recent achievements and collaboration of CRFM, OSPESCA and WECAFC including options for a regional institutional collaborative structure within an RFMO framework”, WECAFC/XIV/2016/13, May, 2016” and the *Progress Report on Delegations of Authority to Bodies under Article XIV of the Constitution, taking into account their differentiated nature* (www.fao.org/3/a-mm728e.pdf) prepared by the Finance Committee of FAO in January 2015.

Annex IV presents the FAO reported capture fisheries production by WECAFC members in the WECAFC area. It is clear from this annex that a handful of members together produce 85 percent of the total harvest in the area: USA (48 percent), Mexico (14 percent), Brazil (12 percent), Venezuela (9 percent) and Cuba (2 percent). The CRFM members (excluding Anguilla and Montserrat –as they are counted towards UK) all together produce some 11 percent and the OSPESCA members produce some 3 percent of the total fisheries production in the WECAFC area. The EU members together harvest some 2 percent of the fish in the WECAFC area.

Considering the above and that the host country would be expected to support the RFMO secretariat with some USD 100 000 annually it is clear that the large producer countries would be expected to cover the remaining 1.1 million USD annually required budget of the RFMO. A basis for negotiation of the contributions per member is presented in table 16 below. The Table 16 presents the largest fish producing countries in the WECAFC area and estimated contributions to the WECAFC, which could serve as a basis for discussion at the 1st preparatory meeting.

Table 17. Estimated contributions by largest fish producing countries to the RFMO autonomous budget

A WECAFC member	Percentage of contribution to budget	Total estimated annual contribution
United States of America	48%	528 000
Mexico	14%	154 000
Brazil	12%	132 000
European Union	10%	110 000
Venezuela	9%	99 000
Cuba	2%	22 000
Colombia	1%	11 000
All other members together*	4%	44 000
total	100%	1 100 000

* note: this would imply an estimated annual contribution of USD 2000 by each of these members

The estimations in the table above do not take in consideration a difference in wealth between member countries, something which is often used in the budget calculations of other RFMOs (see also FAO Fisheries and Aquaculture Circular 1117¹⁵³) and are merely based on production levels and a base fee. A minimum contribution of a minimum of USD 2000 was considered useful by various delegations at the earlier meetings, as this would cover the travel to and participation by the respective members in the annual session of the RFMO. Membership of WECAFC as RFMO without any financial contribution was largely considered undesired in the same meetings, as this may lead to low levels of ownership, a feeling of not being full members, and limited participation in RFMO activities .

Delegates of some of the members have indicated at the strategic reorientation meetings and informally to the FAO/WECAFC secretariat that their governments would be able to agree with similar levels of contributions as presented in table 16 above.

The scheme of contributions to the RFMO budget will have to be discussed and agreed upon by the Preparatory Meetings and there is a wide variety of options available. At the 1st Preparatory Meeting the above table and various other options may be presented. Future members would be invited to present their own proposal before the 1st Preparatory Meeting to the Secretariat for including it in the meeting package.

¹⁵³ www.fao.org/3/a-i6377e.pdf

13. CONCLUSIONS AND RECOMMENDATIONS

As highlighted in the WECAFC's Performance Review the coordination and collaboration role played by WECAFC in its area of competence is complex considering the wide range of countries and territories and the diversity of the region (sizes, development status, culture, economics, political situation, traditions, languages, etc). WECAFC has played an important role in establishing collaboration between these countries and territories.

Previous studies have concluded that there is a need for an RFMO in the WECAFC area of competence, with authority to adopt and implement binding CMMs on regionally shared and straddling stocks and ABNJ stocks. Various strategic reorientation meetings were held, the outcomes were presented and discussed at the 16th WECAFC session in 2016, when it was agreed to launch the process to establish a RFMO.

It is imperative that prior to deciding on the institutional arrangements of the new RFMO WECAFC's members are convinced that such changes are necessary, justified and beneficial to them and their regions or the sub-regions. The present discussion paper aimed to contribute to that process.

The WECAF's Statutes make reference to important **international principles**, namely the precautionary and ecosystem approach to fisheries management. Its **objectives** are broad and enable the Commission to provide advice on the conservation, management and development of fisheries as well as on the sustainable use of the marine and aquatic resources in the widest sense. However the WECAFC's Statutes do not take into account the more recent international legal instruments, and this should be reviewed in line with Resolution WECAFC/14/2012/1 on strengthening the implementation of international fisheries instruments. WECAFC's objective should also be subject to the provisions of LOSC, 1982 and its mandate enlarged to relay the Blue Growth Initiative. In order to promote the efficiency of the Commission it is also recommended that the obligations of coastal and flag States are clearly delineated.

The **objective of the new RFMO** would be similar to many other RFMO's, being to bring together countries that have a common interest in managing particular fish stocks or fish resources of a particular region, and which adopt common management rules that apply to all parties. With regard to the specific functions of the new RFMO it is recommend that the following are established or strengthened in its constituency instrument:

- **Collection of scientific data and information** in support of decision making processes and monitoring, as well as the evaluation of implementation and impact of fisheries management measures, are among the most important tasks to be carried out by a RFMO for the management and conservation of the fish stocks under its area of competence. Both GFCM and ICCAT provide good examples to be followed by WECAFC. The establishment of a forum similar to NEAFC is recommended for consultation and exchange of information on the state of the fishery resources in the WECAFC area of competence. The RFMO could also facilitate resource mobilization for scientific work by existing national and sub-regional institutions and RFBs, as well as play a role in coordination and exchange of findings from scientific research between all members. A similar approach is taken by the GFCM and ICCAT.
- **Fisheries Management and conservation:** fisheries for highly migratory species, straddling stocks, regionally shared stocks, as well as fisheries in ABNJ areas require a regional approach, with coordination through a RFMO. The nature and the scope of the decisions to be adopted by the new RFMO should be broader than those presently taken by WECAFC in order to promote the sustainable management of stocks through specific measures based in the best scientific information.
- **MCS and enforcement:** the mandate of the new RFMO should include specific responsibilities in the WECAFC area of competence with regard to *inter alia* the maintenance of a regional record of authorised vessels, the establishment of a list of IUU vessels, the development of a

regional scheme on port state measure. It should also include monitoring of the implementation of the CMMs, namely through regional [as above: consideration of scientific or compliance] observers schemes and VMS [may need to be careful not to limit the scope to just VMS, there may be other (eg satellite based, electronic reporting systems) technologies to help with MCS that may be more appropriate for the region or particular Contracting Parties], and specific procedures for inspection, control and enforcement.

- **Capacity building:** the new RFMO should promote capacity building on *inter alia* stock assessments, fisheries statistics, fisheries inspections, [as above training of observers] VMS and the development of the sector. In general, RFMOs establish dedicated funds that support staff of developing countries Member-states to participate in capacity building programmes. The characteristic of WECAF's membership (from the 34 members of WECAFC 15 are SIDS, 7 small island overseas territories of European Member States and 3 are LIFDS) needs to be taken into account in the design of the new RFMO. These SIDS and LIFDCs have generally limited capacity to manage their fisheries and heavily rely on WECAFC for capacity building and supporting regional harmonization of fisheries management measures. GFCM provides a good example on how to address the special requirements of developing states CPs. The actions supported by the SAMOA Pathway constitute a good basis together with the implementation of the SSF Voluntary Guidelines.
- **Trade:** previous studies have concluded that the role of the market is currently underestimated in the fisheries management decision-making processes in the WECAFC's area of competence. It is recommended that the new RFMO is empowered to adopt multilaterally agreed trade-related measures in accordance with international law and consistent with the WTO in a fair, transparent and non-discriminatory manner.

At the **16th session of WECAFC** the Commission recognized the value of establishing an RFMO in the **WECAFC area of competence**, being the Western Central Atlantic (area 31) and the Northern part of the South West Atlantic (area 41) to collaborate in fisheries management and conservation in the **ABNJ of straddling stocks, deep sea fish stocks and highly migratory species** that are not under the mandate of ICCAT (paragraph 58).

It is recommended that in line with the relevant provision of LOSC, 1982 and UNFSA the new RFMO could initially focus on conservation and management of the living resources in the **ABNJ while supporting its Member-States in their EEZ**, and then strengthen arrangements for the conservation and management of the resources under national jurisdiction in accordance with the sovereign rights of coastal States. It is also recommended that the **stocks to be covered** by the RFMO and to which CMMs will apply should include the Straddling Fish Stocks, the Deep sea fishing stocks and the Highly Migratory Species that are not covered by ICCAT.

The **future membership** of WECAFC should include both coastal and flag states and take into account the specific role of non-coastal member states of WECAFC and how they could be better incorporated in the new RFMO and in the process of adopting binding CMMs in the region.

The success of an RFMO will depend on the members' willingness and ability to collaborate and bring positive results to the fish stocks and catches. The results will depend on issues, such as the availability of accurate scientific information, an effective decision-making structure and the members' ability to adopt and implement appropriate measures.

The formalization of the collaboration between WECAFC, CRFM and OSPESCA has increased synergies among them and reduced costs, increasing effectiveness of interventions, and avoiding duplication and overlap of activities. The ICM-Fisheries is supposed therefore to be an interim solution for the period until the new RFMO is established in the WECAFC area of competence.

The RFMO should not try to duplicate functions that can be performed by others or cover areas that are better dealt with at national- or sub-regional level (e.g. aquaculture, reef fish stocks fisheries management, research and education in fisheries). When WECAFC becomes an RFMO, CRFM and OSPESCA roles and mandates would remain largely unaffected. Changes are expected however in the decision-making processes as greater coordination among these RFBs and the new RFMO would be required. Moreover, collaboration on scientific advice and stock assessments will need to be strengthened. The new RFMO should reinforce the structural linkages (functional ties and formal relationships) with CRFM, OSPESCA and also with ICCAT for tuna and tuna-like species.

With regard to the legal nature of the new RFMO this discussion paper provides an overview of the main differences between an RFMO under Article XIV of the FAO Constitution and an independent IGO and identifies the benefits and concerns as well as the risks of both options.

Pursuant to FAO Resolutions 13/97 and 11/2015 the requirements and elements to establish a new RFMO under Article XIV of the FAO Constitution have been assessed against the characteristic of WECAFC.

The benefits, immunities and privileges of being under FAO are significant. It is recommended that these should be considered and evaluated by WECAFC's members, when assessing the option of becoming an RFMO under Article XIV or moving towards independence, against the concerns.

A decision to establish a FAO Article XIV statutory body will first have to be formally communicated to FAO by one of the concerned Member-states. FAO will internally review the decision in terms of ensuring that the formal internal processes for setting up the new Commission are set in motion. FAO Article XIV statutory body agreements are normally adopted by the FAO Council on the recommendation of a technical conference or series of technical meetings comprising Member Nations. They enter into force on the deposit of the required number of acceptances in accordance with the agreed provisions (to be decided by the Members).

The **establishment process of an independent IGO and framework** are generally similar. First there must be agreement to hold negotiations on the instrument, based on a perceived need by Member-states for such an organization and recognition of the potential benefits from membership. They would also need to commit financial and human resources to the negotiating process. Such a process can involve several meetings over a few years. According to the terms of the instrument, a **conference of plenipotentiaries** would need to be convened for signature and ratification by the agreed number of parties before the instrument enters into force. The members would then be responsible for financially sustaining the organization. An updated roadmap for completing the WECAFC's strategic reorientation process is provided.

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Recommendation WECAFC/16/2016/2 “on spiny lobster management and conservation in the WECAFC area”
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Recommendation WECAFC/16/2016/4 “on the management of deep sea fisheries in the high seas”
Recommendation WECAFC/16/2016/5 “on the management of shrimp and groundfish resources in the WECAFC area”

WECAFC Cooperation Arrangements

- **MoU with CRFM, OSPESCA and FAO/WECAFC**

MoU for Interim Coordination of Sustainable Fisheries with CRFM, OSPESCA and FAO/WECAFC (from 27/01/2016)

WECAFC/SAG/VIII/2017/7 (October 2017)

- **Loi for the establishment of the Consortium on Billfish**

Consortium established in support of the Management and Conservation of Billfish Resources in the Western Central Atlantic

- **With other projects/organisations**

Caribbean Fishery Management Council (CFMC);

UNDP/GEF CLME+ Project - Catalysing Implementation of the Strategic Action Programme for the sustainable management of shared Living Marine Resources in the CLME+ Region;

Centre for Resource Management and Environmental Studies (CERMES);

Ifremer - Institut français de recherche pour l'exploitation de la mer (French Research Institute for Exploitation of the Sea);

Caribbean Network of Fisherfolk Organizations (CNFO);

Conservation International

International Game Fish Association (IGFA)

FAO

- Report of the 32th session of COFI (Rome, 11-15 July, 2016)
FIAP/R1167 (En)
- Report of the 34th Regional Conference for Latin America and the Caribbean (Mexico City, Mexico, 29 February to 3 March, 2016)
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- Regional Fisheries Bodies established under the FAO Constitution
COFI/2014/Inf.11 (May 2014)
- Reykjavik Declaration (2001) adopted at the Reykjavik Conference on Responsible Fisheries in the Maritime Ecosystem (1-4 October 2001)
C 2001/INF/25
- Resolution 13/97 on the review of FAO Statutory Bodies setting forth the procedures relating to their establishment and abolition
- Resolution 11/2015 on the Review of Statutory Bodies
- FAO Strategic Objectives

FAO - CCLM

Preliminary Review of the Statutory Bodies with a view to allowing them to exercise greater financial and administrative authority while remaining within the framework of FAO

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CCLM 99/7 (September 2014)

Decision-making procedures in Bodies under Article XIV of the FAO Constitution

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Preliminary Review of the Statutory Bodies with a view to allowing them to exercise greater financial and administrative authority while remaining within the framework of FAO

CCLM 88/3 (September 2009)

International Legally Binding Instruments

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- 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 (1995); in force since 11/12/2001
- Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (1993); in force since 24/04/2003
- Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (2009); in force since 05/06/2016

International Voluntary instruments

- FAO Code of Conduct for Responsible Fisheries (1995)
- FAO Technical Guidelines on the Ecosystem Approach to Fisheries (2003)
- FAO International Guidelines for the Management of Deep-sea Fisheries in the High Seas (2008)
- FAO International Guidelines on Bycatch Management and Reduction of Discards (2010)
- The Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (2015)
- FAO Voluntary Guidelines on Flag State Performance (2015)

Regional Fisheries Bodies

General Fisheries Commission for the Mediterranean (GFCM)



Rec GFCM/33/2009/6 - concerning the establishment of a GFCM record of vessels over 15 meters authorized to operate in the GFCM area amending the recommendation GFCM/29/2005/2

Rec GFCM/33/2009/8 - on the establishment of a list of vessels presumed to have carried out IUU fishing in the GFCM area repealing recommendation GFCM/30/2006/4

Rec GFCM/40/2016/1 - on a regional scheme on port State measures to combat IUU fishing activities in the GFCM area of application

Rec GFCM/33/2009/7 - concerning minimum standards for the establishment of a VMS in the GFCM area

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REC.CM-GFCM/40/2016/4 - establishing a multiannual management plan for the fisheries exploiting European hake and deep-water rose shrimp in the Strait of Sicily (GSA 12 to 16) - (Part. II (4))

REC. GFCM/37/2013/1 - on a multiannual management plan for fisheries on small pelagic stocks in the GFCM-GSA 17 (Northern Adriatic Sea) and on transitional conservation measures for fisheries on small pelagic stocks in GSA 18 (Southern Adriatic Sea) (Part I (1))

North East Atlantic Fisheries Commission (NEAFC)



- CHAPTER II - Control Measures
- CHAPTER III - Monitoring of Fisheries
- CHAPTER IV - Inspections at Sea
- CHAPTER V - Port State Control of Foreign Fishing Vessels
- CHAPTER VI - Infringements
- CHAPTER VII – Measures to Promote Compliance by Non-Contracting Party Fishing Vessels
- NEAFC Scheme of Control and Enforcement

International Commission for the Conservation of Atlantic Tunas (ICCAT)



- Compendium of the Management Recommendations and Resolutions adopted by ICCAT for the Conservation of Atlantic Tunas and Tuna-Like Species (2017)
- ICCAT Joint Scheme of International Inspection
- Port Inspection Scheme
- ICCAT Regional Observer Programme for Bluefin Tuna

Pacific Islands Forum Fisheries Agency (FFA)



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Caribbean Regional Fisheries Mechanism (CRFM)



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 Report prepared by Prof Glenn Hurry

ANNEX 1 – MEMBER-STATES AND PARTNER RESPONSES TO THE 1ST LETTER ISSUED BY WECAFC

Country responses to the WECAFC's Chairperson letter from 20/05/2016¹⁹¹ (before the 16th session)

From the 34 Member-States of WECAFC 13 have expressed their opinion of which: 5 favoured WECAFC as an Art. XIV body, 2 favoured WECAFC as an IGO and the remaining 6 required additional information before providing a definitive opinion or did not favour any of the options.

COUNTRY ¹⁹²	AREA AND STOCKS TO BE COVERED	LEGAL OPTIONS		
		Status quo RFB (ART. VI)	RFMO - ART. XIV	RFMO- IGO
Barbados	<i>Definitive position to be provided after a detailed assessment of the document</i>			
Brazil	Regionally shared stocks; Straddling stocks; deep-sea fish stocks; highly migratory fish stocks exploited in the region and not yet covered by another RFMO such as ICCAT. EEZ?		✓ Formal link to FAO is important particularly to DCs	
Colombia	Not addressed		✓ One single organism with a mandate to adopt legally binding decisions	
Costa Rica	ABNJ in area 31 and the northern part of area 41 alone; EEZs for regionally shared stocks; straddling stocks; deep sea fish stocks and highly migratory species not covered by ICCAT		✓ Technical knowledge, neutrality and network of FAO	
Dominica	Area 31 and the northern part of area 41. Straddling stocks, deep sea fish stocks and highly migratory species that are not covered by ICCAT. With regard to shared stocks in the EEZ an RFMO can improve their management but stock assessments are required to determine which stocks are shared regionally		RFMO- whether under FAO or outside its framework requires further assessment	
Dominican Republic	ABNJ in area 31 and the northern part of area 41 alone		RFMO- whether under FAO or outside its framework requires further information from the 16th session	
European Union	First step focus on straddling stocks in the whole WECAF region. In parallel progress in the knowledge of deep sea fisheries and stocks would be needed before envisaging any enlargement of WECAF scope.			✓ Higher cost efficiency and less contributions from Parties since no fees would be charged for FAO servicing
Guyana	Not in a position to pronounce on what is required			
Saint Kitts and Nevis	ABNJ in area 31 and the northern part of area 41. Straddling stocks, deep sea fish stocks and highly migratory species that are not covered by ICCAT require regional management under an RFMO.		Required additional time	
The Netherlands	High seas in the area 31 and northern part of area 41. Straddling stocks, deep sea fish stocks and highly migratory species that are not covered by ICCAT should be managed within the same RFMO to create synergies in the fisheries management scheme.			Primary preference

COUNTRY ¹⁹²	AREA AND STOCKS TO BE COVERED	LEGAL OPTIONS	
Trinidad and Tobago			√ Extremely beneficial to have the continued support, guidance and expertise of the FAO. In addition, it was stated that this option is more likely to have a smooth transition and shorter conversion time frame than the establishment of an IGO.
USA	Straddling, deep sea, and highly migratory species (not already under ICCAT's mandate) in the ABNJ of areas 31 and the northern part of 41, plus certain transboundary stocks (such as sharks, queen conch, spiny lobster, shrimp, and dolphin fish). EEZ?		<i>Remain open to any of the options.</i>
Venezuela	<i>Not addressed</i>		

ANNEX 2 – MEMBER STATES AND PARTNERS RESPONSES TO THE 2nd LETTER ISSUED BY WECAFC

Summary of Specific Questions from Member-states and partners with regard to paragraph 55 of the 16th session report or on the RFMO establishment process, as per letter from WECAFC (14/ July/2017) to be addressed in the discussion paper

A. Member countries

Bahamas (01/08/2017)

- ✓ **Competency/regulatory area:** Is the operation of a WECAFC RFMO feasible if the purview of the RFMO is limited to either high seas fisheries, straddling stocks or both? Here consideration should be given to funding mechanisms and the proportion of countries that would have an interest.
- ✓ **Stocks coverage:** How will management goals (stated or implicit) that differ between territories and which affect stocks that span multiple jurisdictions be resolved if a WECAFC RFMO has jurisdiction over the species concerned? For example, sharks, whales and turtles may be targeted by some territories. Some territories have outlawed the harvesting of these species to contribute to the rebuilding of local and international stocks whereas some countries continue to harvest the species concerned.

Suriname (17/08/2017)

- ✓ **Articulation with other RFMO and budget:** In the Atlantic Ocean there are RFMOs, such as the CRFM and the ICCAT. What are the benefits for Member States when the WECAFC establish an RFMO in the same area as the CRFM and the ICCAT and how much will be the Member States contribution per year? The WECAFC as a RFMO will have a management mandate and can adopt fisheries conservation and management measures that are binding for the Member States. Will the measures adopted not conflict with the adopted measures taken by other RFMO's and be ambiguous? Which fish species will be managed by the WECAFC in the same area as the other RFMO?

Venezuela (22/08/2017)

- ✓ **Stocks coverage:** Emphasized that the species to be regulated by this RFMO would be those not included in the lists of ICCAT and therefore suggests not to include sharks in these species since, as the Commission stated in its communication without number dated 25 July 2017, this species is being considered for inclusion in the list of species to be regulated by this Commission, in accordance with the provisions of its Preamble, in the unified proposals to amend the Convention.
- ✓ **Decision making process:** knowing that many of the WECAFC Member Countries belong to other RFMOs, there is a concern to make clear what would be the position of these organizations within the decision-making process of the various countries in the WECAFC meetings? , it is important to know how the process for decision-making or approval of resolutions will be, whether it has been piecemeal by consensus or by simple majority?
- ✓ **Budgetary implications for members:** Taking into account the economic situation of the majority of the Member Countries of WECAFC, has an adequate formula been considered that benefits both the countries and the Commission for an appropriate payment?, when defining the quota to cancel has already been thought, From what date should the membership fee be cancelled? And in case of delays, from how many months or years would be considered arrears?

Other questions:

- ✓ **Implementation and enforcement:** How will the new Commission use the regulations previously established by WECAFC? Will they be taken as a basis for establishing new criteria for the management of fisheries covered or will it be based on the work of a scientific body previously appointed by the members? Which mechanisms will be used to carry out the control and follow-up of the implementation of the decisions or recommendations approved in the meetings of this Committee.
- ✓ **Non-members:** How will the treatment and delimitations be for non-cooperating Members
- ✓ **Collection of statistic information:** how is information to be collected and reported? What parameters will be used for the unification and obtaining thereof.
- ✓ **Articulation with other RFMO:** Will it open the possibility for the Commission to enter into a MoU with other fisheries organizations in order to specify how common themes can be worked together?

Dominican Republic (no date)

- ✓ **Stocks coverage:** which stocks would be included in the mandate of the new organization?
- ✓ **National sovereignty aspects:** What will happen to the management of those species that are already managed under the mandate of each government? Which measures would be considered sovereign of a nation and which would correspond to the mandate of the new RFMO? If WECAFC as an advisory body includes all the marine areas of the Caribbean coastal states and a large part of the High Seas space. If WECAFC became an RFMO, what would be the implications in international law and policy, particularly for marine areas under national jurisdiction? Notwithstanding the sovereignty of States, it would be important to know how the projects and their Funds will be. Would existing regional mechanisms be taken into account?
- ✓ **Budgetary implications from members:** Given the current number of RFMOs in the Caribbean region, what would be the costs associated with establishing and operating a new RFMO? What new financial commitments will be required for Member States? Would such commitments be the same for small and medium-sized economies as for larger and stronger economies such as South Korea and the European Union? Incurring in new financial commitments related to the participation of the Dominican Republic in RFMOs would not be appropriate or adjusted to the financial reality of the fishing sector in the country.
- ✓ **Articulation with other RFMO:** Some areas and species are already being managed under regional arrangements through the CRFM or Ospesca. Would any temporary arrangement be envisaged for WECAFC to operate under a strategy and plan of action to complement efforts already underway towards improved governance of marine fisheries? Besides being part of the WECAFC, the country is also part of OSPESCA, which functions as RFMO and therefore take actions and decisions binding between the States. Therefore, the concern arises in the decisions that may affect in some way the countries of OSPESCA, in the sense of what would be the procedures or ways that these issues would be addressed by WECAFC-OSPESCA?

St. Kitts (24/08/2017)

No comments.

Honduras (28/08/2017)

Agrees with OSPESCA

2. RFMO**OSPESCA (08/08/2017)**

Consider the importance of joining efforts with WECAFC to work on issues of fisheries management and development in OSPESCA member countries, since seven of them, except El Salvador, have jurisdictional waters in the Caribbean.

- ✓ **Budgetary implications for members:** While the € 100 000 DG-MARE project will provide the basis for the new RFMO, the operation of WECAFC will require other permanent financial sources. What strategy has been put in place to ensure the financial sustainability of the new long-term RFMO? Have you considered the possibility of going to the private sector, academic and / or international cooperation? In the event that it has been proposed to allocate annual quotas to countries, approximately how much would the quotas be, or how would the method of calculating them be calculated?
- ✓ **Articulation with other RFMO in the area:** 1) When WECAFC is constituted in an RFMO, either under Article XIV of the FAO Constitution or as an independent body, these alliances could involve overlapping functions that could affect OSPESCA's governance model, which is based on the issuance of mandatory binding regional regulations for the eight member countries of OSPESCA? How would it be ensured that there would be no risk of overlapping of functions between WECAFC and OSPESCA; 2) In the case of the Central American region and the Dominican Republic, what specific topics or areas of work do you consider that OSPESCA and WECAFC (constituted as RFMOs) should jointly address during the next five years?

NAFO (21/08/2017)

It is not clear to me how to respond to a general call for questions from a NAFO perspective on “issues in relation to competency area, stocks coverage, budgetary implications for Members, institutional structure, membership, decision making processes, national sovereignty aspects, its objectives and any other relevant matters that the Members may wish to consider”, since we could send you volumes of material!! **Possibly an easier way would be for Dr. Amador to look over our main instruments** (i.e. NAFO Convention, NAFO Rules of Procedure and Financial Regulations, and NAFO Conservation and Enforcement Measures – found at this link: www.nafo.int/Home/NAFO-Governance -- and our Staff Rules – at this link -- www.nafo.int/Portals/0/PDFs/key-publications/staff-rules.pdf?ver=2016-02-09-162641-227), **since these instruments are intended to address the general questions that the WECAFC Commission has raised, and then pose specific questions on them to us.** I should add that under our recently-updated Convention we will have to have a Headquarters Agreement with our host country, Canada – currently this issue of NAFO's privileges and immunity in Canada are addressed by Canadian domestic legislation (order in council found at this link -- www.nafo.int/Portals/0/PDFs/key-publications/order-in-council.pdf?ver=2016-02-09-122647-213).

ICCAT (26/07/2017)

I will bring these matters to the attention of ICCAT members for discussion intersessionally and at our next Annual meeting to be held from 14-22 November 2017. I will also share any views expressed in a follow-up communication with you.

- ✓ **Articulation with other RFMOs:** As you are of course aware, **the area of competence of WECAFC falls within the ICCAT Convention area, defined in Article 1 of the *International Convention for the Conservation of Atlantic Tunas***, as “all waters of the Atlantic Ocean, including the adjacent Seas”. Given this overlap, the decision by your members to establish a new RFMO will have **several implications including, budgetary, areas of competence, the demarcation of the objectives, coverage of species and the mandate of ICCAT as defined Article 1 of the ICCAT Convention referred to above.**

I note with some concern that the mandate of the Recreational Fisheries Working Group of WECAFC includes the drafting of a “Billfish management and conservation plan for the Wider Caribbean Region”. For your information, ICCAT also regulates billfishes, specifically, blue marlin (*Makaira nigricans*), white marlin (*Tetrapturus albidus*), sailfish (*Istiophorus albicans*), spearfish (*Tetrapturus pfluegeri* and *T. belone*) and recommendations on the same are in effect. I also note with serious concern that the WECAFC decision to establish a Marine Protected Area in the Caribbean region, over an area which

overlaps with ICCAT's area of competence indicated above. Practically, any associated protective measures to ensure the integrity of such an MPA, will have significant implications for ICCAT and its members.

In this regard, I respectfully draw your attention to the objective of ICCAT which is embedded in the preamble of its constitutive instrument which states: "The Governments...considering their mutual interest in the populations of tuna and tuna-like fishes found in the Atlantic Ocean, and desiring to cooperate in maintaining the population of these fishes at levels which will permit the maximum sustainable catch for food and other purposes". Over five decades, this general objective has been supplemented and defined by a comprehensive suite of specific ICCAT decisions and binding recommendations related to tuna and tuna-like species, associated or dependent species, as well as endangered, threatened or protected species.

Article 9(1) c) UNFSA

1. In establishing subregional or regional fisheries management organizations or in entering into subregional or regional fisheries management arrangements for straddling fish stocks and highly migratory fish stocks, States shall agree, inter alia, on:
 - (a) the relationship between the work of the new organization or arrangement and the role, objectives and operations of any relevant existing fisheries management organizations or arrangements; and

I also draw your attention particularly to Article 9(1)(c) above, which requires States seeking to establish a new RFMO to agree on the relationship with the role, objectives and operations of any relevant existing RFMOs. ICCAT is, without doubt, an existing RFMO for the purposes of Article 9 in the establishment of the proposed RFMO in the WECAFC area of competence.

In addition, there is an obligation pursuant to Article 7 of the UN Fish Stocks Agreement to ensure compatibility of conservation and management measures within and between the high seas and areas under the jurisdiction of a coastal State. Compatibility requires a RFMO, and States, inter alia, to take into account and implement previously agreed conservation measures already established by an existing RFMO or organization, applied and enforced in respect of the same stocks in accordance with the United Nations Convention on the Law of the Sea, 1982. On this point, Article 7.2 of the UN Fish Stocks Agreement is pertinent ...

On compatibility, the International Tribunal for the Law of the Sea (ITLOS) in the Request for an advisory opinion submitted by the Sub-Regional Fisheries Commission (Case No. 21) has considered that: the obligation to cooperate in the management of straddling fish stocks and highly migratory species should promote the objective of optimum utilization of such species within exclusive economic zones and that, "[t]he measures taken pursuant to such obligation should be consistent and compatible with those taken by the appropriate regional organization" (paragraph 207 (iii)).

At a practical level, **the establishment and operation of a new RFMO that overlaps with an existing one with competence over the same stocks will certainly have implications for members of both organizations in areas such as institutional decision-making processes, financial contributions, reporting obligations, and compliance and monitoring mechanisms.** No doubt, these are matters which will receive detailed consideration before WECAFC members formally decide to establish a new RFMO in area which overlaps with ICCAT's competence. In this regard, I draw your attention to an ITLOS ruling, in Case No. 21, which states that the obligation to cooperate in the management of highly migratory fish stocks is a "due diligence" obligation which must be undertaken in good faith:

210. The Tribunal observes that the obligation to “seek to agree...” under Article 63, paragraph 1, and the obligation to cooperate under Article 64, paragraph 1, of the Convention are “due diligence” obligations which require the States concerned to consult with one another in good faith, pursuant to Article 300 of the Convention.

The consultations should be meaningful in the sense that substantial effort should be made by all States concerned, with a view to adopting effective measures necessary to coordinate and ensure the conservation and development of shared stocks. I am aware that some Contracting Parties of ICCAT are also members of WECAFC and may have participated in the initial decision at the WECAFC 16th Session. However, I do not believe that such an institutional representation is sufficient to satisfy the due diligence test emphasised by ITLOs in Case No. 21.

CRFM (September, 2017) on behalf of its 17 Member States

1. The studies done so far as part of the re-orientation process have dismissed the option of retaining WECAFC as an advisory body with little analysis or discussion, and a presumption that an RFMO is the only viable option. More thought should be given to the benefits of a strengthened and properly resourced WECAFC as an advisory body. ***The question is why can't WECAFC, functioning as an advisory body, achieve the higher level of cooperation among the States and improved the conservation and management status of stocks in the region, bearing in mind that the stocks in question are national stocks (under absolute sovereignty or sovereign rights of States) rather than high sea stocks?***
2. UNCLOS separates the ocean space into three broad maritime jurisdictional zones, where States have significantly different rights and obligations, namely: (1) zones under sovereignty (encompassing internal waters, archipelagic waters and territorial seas); (2) zones under sovereign rights (EEZ and the continental shelf); and (3) high seas (all parts of the sea that are not included in zones under sovereignty or sovereign rights). ***Will the RFMO be subject to the relevant provisions of UNCLOS particularly the rights and obligations of Coastal States in respect of these jurisdictional zones?***
3. Most species of concern, although shared, are nonetheless found in zones mentioned above, which are governed by the doctrine of State sovereignty over their natural resources. Some of the living marine resources in question are found largely or exclusively within either the coastal States' internal waters, territorial seas and archipelagic waters, in which the State has absolute sovereignty to use and regulate resources subject to the duty not to cause harm to other States; or within the exclusive economic zones (EEZ) and continental shelf, where the coastal State has the sovereign right to explore, exploit, conserve and manage the living marine resources, subject to the conservation duties imposed by the Law of the Sea Convention, and the duty to cooperate to ensure compatibility of management measures on the high seas and in waters under national jurisdiction in respect of straddling and highly migratory stocks. ***If the RFMO is subject to the rights and duties enshrined in UNCLOS what arrangements will be put in place to ensure these rights are respected?***
4. The area of competency of WECAFC as an advisory body encompasses all the maritime zones of the Caribbean coastal states as well as significant high seas space (9.4 million km²). ***(i) What maritime areas would be within the RFMO's mandate? (ii) How feasible would it be to establish an RFMO where the convention area encompasses all the WECAFC mandate area but with regulatory powers limited to the resources in the area beyond national jurisdiction?***
5. ICCAT is the competent body for conservation and management of tuna and tuna like species in the Atlantic and adjacent seas, thus covering the entire WECAFC area. ***How would ICCAT and the new RFMO delineate their responsibilities to avoid overlap?***
6. On the high seas, UNCLOS grants to all States the freedom of fishing, which is balanced by a duty to co-operate to manage the resources and a duty to adopt measures to control the fishing activities of their nationals operating on the high seas. Most RFMOs are concerned primarily with conservation and management of high seas resources. The CRFM States are generally supportive of an RFMO

aimed at conservation and management of the high seas resources within the WECACF area that are not under ICCAT's mandate. ***What are the specific high seas resources that would be under the RFMO's competence and what are their present state of development and management?***

7. The marine living resources that would fall within the competence of the RFMO should be clearly identified. The existing documents prepared by FAO imply that all key commercial stocks would be included in the RFMO's regulatory powers. Furthermore, most of the species identified, analyzed and discussed in the reports done by FAO and in need of improved management are species and fisheries occurring largely or exclusively within areas under the absolute jurisdiction of coastal States: ***(i) Exactly which marine species and marine ecosystems would be subjected to the regulatory powers of the RFMO? and; (ii) How will the species to be regulated by the RFMO be determined?***
8. If the maritime areas and/or species under state sovereignty are to be considered for inclusion in the mandate of the proposed RFMO, what processes are proposed to ensure adequate consultation and informed consent by States? What level of State representative would normally be required to commit the State given the nature of the decision?
9. Based on the cost benefit analysis and related studies done in support of the re-orientation process, most of the decline in catches and claims of overfishing in the region is due to the decline in catches of the Gulf Menhaden and Venezuelan Round sardinella fisheries: ***(i) Bearing in mind that a decline in catches does not necessarily mean the stocks are overfished, what is the status of these resources? (h) Are they over-fished? how are they being managed at this time? Would these stocks be within the regulatory mandate of the RFMO?***
10. One of the main challenges/ constraint to improved conservation and management of stocks in the region, is the inadequacy of scientific data regarding the stocks and marine ecosystems. ***How will the RFMO ensure that adequate scientific data and information is available over the range of the stocks to be managed? What practical actions would be pursued?***
11. Another related major constraint facing the Caribbean SIDS in particular is inadequate capacity to conduct the range of activities required to understand and manage the fisheries and marine ecosystems and WECAFC has been providing significant support in this area. ***How and to what extent will the RFMO support capacity building needs of these States?***
12. WECAFC is currently made up of SIDS, other developing States and developed countries including the EU. ***How will the special needs and interests of the SIDS and other developing coastal States be protected and address?***
13. The RFMOs are concerned primarily with living marine resource conservation and management. CARICOM States are concerned with the sustainable use and development of the resources as well as resource management and conservation. ***To what extent will the RFMO continue to provide development assistance to the CARICOM States?***
14. If some coastal states decided not to participate in the RFMO, how will this affect: ***(i) the efficacy of the RFMO's work, and; (ii) the interests of the coastal states in the fisheries that are regulated by the RFMO?***
15. To what extent will the Members of the RFMO be required to: ***(i) Collect and share accurate data concerning marine living resources and ecosystems? Enforce and ensure compliance with the management and conservation decisions of the RFMO? And (iii) what additional resources will they (particularly the SIDS) to obtain from the RFMO to carry out these actions and achieve such objectives?***
16. If the SIDS and other developing States with limited financial and institutional resources are unable to comply with the obligations mentioned above, what options are available to the RFMO to ensure compliance?

ANNEX 3 – ATTENDANCE OF MEMBERS IN WECAFC SESSIONS (1975-2016)

Members of WECAFC	1975 20 - 23 Oct	1978 22 - 26 May	1980 18 - 22 Nov	1983 9 - 13 May	1985 17-19 July	1987 27-31 July	1990 8 - 14 Nov	1995 20 – 24 Nov
	1st Session	2nd Session	3rd Session	4th Session	5th Session	6th Session	7th Session	8th Session
Host Countries	Trinidad	Panama	Cuba	Nicaragua	St. Lucia	Mexico	SVG	Venezuela
Antigua and Barbuda					√		√	
Bahamas	√*	√			√			
Barbados					√		√	
Belize						√	√	√
Brazil	√	√			√	√		
Canada*	√	√	√				√	
Colombia	√	√	√		√			√
Costa Rica*				√				√
Cuba	√	√	√	√		√	√	√
Dominica					√		√	√
Dominican Republic**			√*				
European Community				√*	√*	√		
France (French Antilles & IFREMER)	√	√	√	√	√	√	√	√
Grenada			√		√		√	
Guatemala				√	√			
Guinea					√			
Guyana			√			√	√	√
Haiti					√		√	
Honduras								
Italy	√							
Jamaica		√	√		√	√	√	√
Japan		√						
Korea (Republic of)	√	√	√	√	√	√	√	
Mexico		√	√	√	√	√	√	√
Netherlands	√		√	√		√		
Nicaragua		√	√	√	√	√	√	√
Panama		√	√		√	√	√	
Poland	√							
Saint Kitts and Nevis					√			
Saint Lucia			√	√	√	√	√	√
Saint Vincent and the Grenadines			√*		√*		√	
Spain	√	√	√	√			√	√
Suriname							√	
Trinidad and Tobago	√		√		√	√		

Members of WECAFC	1975 20 - 23 Oct	1978 22 - 26 May	1980 18 - 22 Nov	1983 9 - 13 May	1985 17-19 July	1987 27-31 July	1990 8 - 14 Nov	1995 20 – 24 Nov
	1st Session	2nd Session	3rd Session	4th Session	5th Session	6th Session	7th Session	8th Session
Host Countries	Trinidad	Panama	Cuba	Nicaragua	St. Lucia	Mexico	SVG	Venezuela
United Kingdom	√	√	√					
United States of America		√	√	√	√	√		√
USSR	√*							
Venezuela		√		√	√	√	√	√
TOTAL	11	14	16	11	21	16	19	11

Members of WECAFC	1999 27– 30 Sept	2001 24 – 27 Oct	2003 21– 24 Oct	2005 21 – 28 Oct	2008 21 -24 Oct	2012 06- 09 Feb	2014 26-28 March	2016 20-24 June
	9th Session	10th Session	11th Session	12th Session	13th Session	14th Session	15th Session	16th session
Host Countries	St. Lucia	Barbados	Grenada	Trinidad	Colombia	Panamá	Trinidad	Guadeloupe
Antigua and Barbuda		√	√	√	√	√	√	√
Bahamas	√		√		√	√	√	√
Barbados	√	√		√		√	√	√
Belize			√		√		√	√
Brazil	√	√	√	√		√		√
Canada*								
Colombia		√		√	√			√
Costa Rica*							√**	√
Cuba	√	√	√	√			√	√
Dominica	√	√			√	√	√	√
Dominican Republic**	√	√	√	√
European Community		√	√	√	√	√	√	√
France (French Antilles & IFREMER)	√	√	√	√	√	√	√	√
Grenada	√	√	√	√	√	√	√	√
Guatemala							√	√
Guinea								
Guyana			√		√		√	√
Haiti						√	√	√
Honduras	√			√	√	√		√
Italy								
Jamaica	√	√	√				√	√
Japan							√	√
Korea (Republic of)							√	
Mexico	√					√		
Netherlands		√				√	√	√
Nicaragua	√	√	√		√	√	√	
Panama					√	√	√	√
Poland								

Members of WECAFC	1999 27– 30 Sept	2001 24 – 27 Oct	2003 21– 24 Oct	2005 21 – 28 Oct	2008 21 -24 Oct	2012 06- 09 Feb	2014 26-28 March	2016 20-24 June
	9th Session	10th Session	11th Session	12th Session	13th Session	14th Session	15th Session	16th session
Host Countries	St. Lucia	Barbados	Grenada	Trinidad	Colombia	Panamá	Trinidad	Guadeloupe
Saint Kitts and Nevis			√	√	√	√	√	√
Saint Lucia	√	√	√	√	√	√	√	√
Saint Vincent and the Grenadines	√	√	√	√			√	√
Spain	√						√	
Suriname	√	√	√	√	√	√	√	√
Trinidad and Tobago	√	√	√	√		√	√	
United Kingdom			√				√	√
United States of America	√	√	√	√	√	√	√	√
USSR								
Venezuela	√	√	√	√	√		√	√
TOTAL	18	18	19	16	18	20	29	28

Notes:

* Canada and Costa Rica were invited to attend the WECAFC sessions as observers.

√* Other observer countries at the time.

** Dominican Republic became a member of WECAFC in 2006.

√** Costa Rica became a member in 2013

ANNEX 4 – REPORTED FISH PRODUCTION IN THE WECAFC MANDATE AREA PER MEMBER COUNTRY IN THE PERIOD 2011-2015

Country (Country)	2011	2012	2013	2014	2015	Average 2011 -2015	% of total	Sub-regional RFB membership
Antigua and Barbuda	3 055	5 951	4 605	3 114	3 000	3 945	0%	CRFM
Bahamas	15 313	16 756.83	12 765	11 878.22	11 295.29	13 601.668	1%	CRFM
Barbados	1 830	1 372	2 988	3 000	3 100	2 458	0%	CRFM
Belize	5 814	5 900	6 316	4 098	3 430	5 111.6	0%	CRFM/OSPESCA
Colombia	2 069	2 329	3 856	5 369	5 555	3 835.6	0%	
Costa Rica	416	415	511	527	530	479.8	0%	CRFM
Cuba	2 757	0 723	20 415	2 950	22 234	21 815.8	1%	
Dominica	664	625	547	750	945	706.2	0%	CRFM
Dominican Republic	13 032	12 711	12 623	12 940	10 659	12 393	1%	OSPESCA
France (incl. OTs)	18 189	5 009	14 591	4 156	13 683	5 125.6	1%	
Grenada	2 322	2 263	2 695	2 850	2 707	2 567.4	0%	CRFM
Guatemala	440	358	524	400	492	442.8	0%	OSPESCA
Guyana	42 385	53 044	48 468	36 946	35 858	43 340.2	3%	CRFM
Haiti	15 930	15 910	15 910	15 910	15 910	15 914	1%	CRFM
Honduras	9 081	10 098	9 704	6 457	8 609	8 789.8	1%	OSPESCA
Jamaica	17 458	14 801	17 513	14 506	16 327	16 121	1%	CRFM
Japan	1 274	1 809	1 285	622	2 305	1 459	0%	
Korea, Republic of	663	658	506	334	232	478.6	0%	
Mexico	197 036.01	221 138.7	190 548.1	1 667.7	61 254	6 328.904	14%	
Netherlands +Ots	1 663	1 667	1 663	1 123	1 126	1 448.4	0%	
Nicaragua	14 133	15 928	19 887	26 182	25 415	20 309	1%	OSPESCA
Panama	1 046	1 057	4 709	2 332	1 000	2 028.8	0%	OSPESCA
Saint Kitts and Nevis	1 740	2 099	1 733	714	896	1 436.4	0%	CRFM
Saint Lucia	1 878	2 066	2 090	2 096	2 083	2 042.6	0%	CRFM
Saint Vincent/ Grenadines	3 286	2 184	1 712	2 189	2 300	2 334.2	0%	CRFM
Spain	13 130	8 657	11 170	3 830	3 416	8 040.6	1%	

Country (Country)	2011	2012	2013	2014	2015	Average 2011 -2015	% of total	Sub-regional RFB membership
Suriname	34 900	38 644	38 719	37 708	43 915	38 777.2	3%	CRFM
Trinidad and Tobago	13 116	12 024	13 212	13 000	12 700	12 810.4	1%	CRFM
USA + Puerto Rico and USVI	845 308.24	808 462.8	698 534.1	578 576.9	722 818.2	730 740.042	48%	
UK + OTs	6 521	6 694	6 492	5 083	5 459	6 049.8	0%	
Venezuela, Boliv Rep of	125 920	126 320	127 000	127 961	170 763	135 592.8	9%	
Totals Area 31 (tonnes)	1 432 369.25	1 427 674	1 293 291	1 169 270	410 016	46 524.214		
Total Brazil (Northern part area 41)						180 000	12%	
Total WECAFC area						1 526 524.214	100%	



DEPARTMENT OF MARINE RESOURCES
 Ministry of Agriculture and Marine Resources
 P. O. Box N-3028
 Nassau, Bahamas

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 E-mail: fisheries@bahamas.gov.bs

MAMR/FIS/

28 February 2019

Dr. Yvette Diei-Ouadi
 WECAFC Secretariat
 Food and Agriculture Organization of the United Nations
 Sub-regional Office for the Caribbean
 2nd floor, United Nations House, Marine Gardens, Hastings
 Christ Church, BB 11000, Barbados

Dear Dr. Diei-Ouadi,

RE: THE WECAFC STRATEGIC REORIENTATION PROCESS

I refer to your letter dated 8 January 2019, which related to the Discussion Paper in Support of the WECAFC Strategic Reorientation Process by Teresa Amador, independent legal advisor. The members of WECAFC were invited to submit their comments on the matter by 28 February 2019.

The Department of Marine Resources of The Bahamas takes this opportunity to submit its preliminary thoughts on the Discussion Paper and the establishment of an RFMO in the Wider Caribbean Region.

At the 16th Session of WECAFC, many of the representatives from Member States indicated that they had many fundamental questions and concerns regarding the proposal to transform WECAFC from an advisory body into an RFMO. In response, It was agreed that the questions and concerns raised should be submitted in writing to the WECAFC Secretariat. The Secretariat in response would provide answers which would allow the States to better understand, evaluate and make a determination regarding the best option for the reorientation and strengthening of WECAFC, including whether or not the establishment of an - RFMO is justified.

The Member States of CRFM compiled a comprehensive list of questions, which was submitted to FAO/WECAFC by the CRFM Secretariat on behalf of the Member States. Following much debate, it is our opinion that many of the questions submitted have not been adequately answered in the Discussion Paper.

Having carefully reviewed the contents of the Discussion Paper and the reorientation process to date; noting that the questions submitted have not been adequately dealt with, and taking into account all the circumstances and arrangements in the region, we are not convinced that the transformation of WECAFC into an RFMO, (whether under Article XIV of FAO or an independent inter-governmental organization), is necessary, justified or beneficial to our country, the sub-regions, or the wider Caribbean region at this time.

As you are aware, the Ministerial Council of the CRFM, having carefully considered the issues under discussion in respect of the reorientation of WECAFC, decided, *inter alia*, that while it would be acceptable to establish an RFMO that would have competency over the ABNJ and its marine living resources within the WECAFC mandate area, the Council "strongly rejected the establishment of an RFMO that would have competence over the conservation and management of marine living resources that are within areas under the sovereignty or jurisdiction of States."

It is our opinion that the original mandate given by 14th Session of WECAFC is still valid. This envisages strengthening the organization by, *inter alia*, increasing financial resources and staff at the Secretariat to better support the Member States and their organisations to effectively and efficiently develop and manage their fisheries in a sustainable manner in keeping with their national and sub-regional objectives. It is our opinion that to date, the studies conducted and recommendations arising from them have been too narrowly focused on making the case for transforming WECAFC into an RFMO and have not given due consideration to the options available for strengthening WECAFC to better support the sustainable development of fisheries and aquaculture in the countries in accordance with their identified needs and priorities.

We thank you for your due consideration of the matters raised herein.

Sincerely

A handwritten signature in black ink, appearing to read 'Edison Develeaux', with a stylized, flowing script.

Edison Develeaux

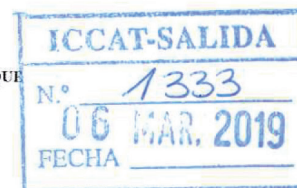
Ag DIRECTOR OF FISHERIES

INTERNATIONAL COMMISSION FOR THE
CONSERVATION OF ATLANTIC TUNAS



COMISIÓN INTERNACIONAL PARA LA
CONSERVACIÓN DEL ATÚN ATLÁNTICO

COMMISSION INTERNATIONALE POUR LA
CONSERVATION DES THONIDES DE L'ATLANTIQUE



Madrid, 6 March 2019

SUBJECT: DISCUSSION PAPER FOR THE PROCESS OF TRANSFORMATION OF THE WESTERN CENTRAL ATLANTIC FISHERIES COMMISSION (WECAFC) INTO A REGIONAL FISHERIES MANAGEMENT ORGANIZATION (RFMO)

Dear Sir/Madam,

Following your letter dated 08/01/2019 (FI 26/4), the Secretariat circulated to the ICCAT Contracting Parties and Collaborators (CPCs) the additional correspondence received from FAO regarding the process of transformation of the Western Central Atlantic Fisheries Commission (WECAFC) into a Regional Fisheries Management Organization (RFMO).

As a general note, ICCAT members have long seen WECAFC as a valuable forum for countries of the Wider Caribbean to coordinate the sustainable management of fishing resources managed by ICCAT. It is also recognized that within its current work in that region, WECAFC has been tackling a number of issues that are broadly relevant to ICCAT- including work related to FADs; combating IUU fishing; and improving science and data collection, particularly for billfish and sharks, though such data are not being provided to ICCAT.

There are a number of central questions and important considerations previously raised in our correspondence to WECAFC and discussed during the 2017 ICCAT Annual Meeting that still need to be addressed in any evolution of WECAFC's scope or mandate. In fact, we would like to note that several of those issues are not fully addressed in this discussion document (e.g. a management plan for billfishes has been put forward but not discussed with ICCAT). However, we recognize that this may be just the beginning of a lengthy process, starting with discussions that will take place at WECAFC's Strategic Reorientation meeting on March 25-26.

That said, ICCAT would like to highlight its strong interest in ensuring that there will be no conflict or ambiguity between the two organizations' mandates and competences, wherever WECAFC may end up as a result of its reorientation.

What follows is a brief summary of some aspects that raise concern:

1. The Commission further noted that such an RFMO should not replace existing RFBs, but instead establish functional ties and formal relationships with CRFM, OSPESCA and ICCAT and agreed that the process should ensure effective stakeholder participation and capacity building, as well as a mechanism for effective stakeholder participation in decision making once the RFMO is established.

Comment: The Secretariat is awaiting a draft MoU for consideration, following some discussions held between the Executive Secretaries of the two Organizations.

2. Item 3.2 *Fisheries management and conservation*

Comment: No specific measures were found for ICCAT in the document.

3. *ICCAT adopts, based on Article VIII of its Convention, specific recommendations which are every year compiled by the Secretariat together with ICCAT's resolutions.*

Comment: Resolutions should read “Conservation and Management Measures”, which comprise resolutions (non-binding) and Recommendations (binding).

4. *No such provision was found in the legal framework of the other RFBs and RFMOs (in the case of NEAFC it is inherent to its membership). However, in practice, ICCAT has some arrangements in place to support the participation of developing country members in various of its activities.*

Comment: Article III bis e) of the proposed new Convention text includes the specific need for capacity building.

5. *In the Western Central Atlantic region, which is also called the wider Caribbean region or FAO Fishing Area 31, ICCAT is the only RFMO, which solely deals with tuna and tuna-like species.*

Comment: Not strictly true, ICCAT deals with sharks and the term tuna-like species includes billfish.

6. *The ICCAT has not yet signed the Lol despite great participation of ICCAT experts in the WGs meetings.*

Comment: There are some concerns that elements of the project may not be strictly in keeping with ICCAT conservation and management measures.

7. *The scope of the ICCAT Convention is under review and its amendments were expected to be finalized at the 25th session of the Commission, which took place in Marrakesh from 14 to 22 November 2017; however, conclusion on the amendments could not be reached and discussions continue in 2018.*

Comment: Agreement has been reached, but formal adoption still pending. A final legal/translation review was held 28-29 January 2019.

8. *Comment by Venezuela: Stocks coverage: Emphasized that the species to be regulated by this RFMO would be those not included in the lists of ICCAT and therefore suggests not to include sharks in these species since, as the Commission stated in its communication without number dated 25 July 2017, this species is being considered for inclusion in the list of species to be regulated by this Commission, in accordance with the provisions of its Preamble, in the unified proposals to amend the Convention.*

Comment: A Recommendation defining “ICCAT Species” is part of the agreed package put forward by the Convention Amendment Group, a waiting formal adoption by ICCAT but agreed by the members and includes pelagic shark species.

Finally, I would like to highlight that this process can be an excellent opportunity for ICCAT and WECAFC to identify ways to further strengthen their cooperation and collaboration that will benefit both organizations, and the fishing resources managed by ICCAT.

Please accept the assurances of my highest consideration.

Executive Secretary

Camille Jean Pierre Manel



Cc:

- Yvette Diei-Ouadi, Annick Van Houtte and Sonya Thompson

- Commission Officers:

Commission Chair:	R. Delgado	COC Chair:	D. Campbell
First Vice Chair:	S. Depypere	PWG Chair:	N. Ansell
Second Vice Chair:	Z. Driouich	STACFAD Chair:	H.A Elekon
SCRS Chair:	G. Melvin	SCRS Vice-Chair:	R. Coelho



**DOCUMENTO DE DISCUSIÓN COMO APOYO
AL PROCESO DE REORIENTACIÓN
ESTRATÉGICA DE LA COPACO**

COMENTARIOS

El Salvador, 22 de febrero de 2019

Dirección Especializada del Sistema de la Integración Centroamericana

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INTRODUCCIÓN

En el año 2012, se aprobó en la 14 sesión de la Comisión de Pesca para el Atlántico Centro Occidental (COPACO) de la Organización de las Naciones Unidas para la Alimentación y la Agricultura (FAO), el proceso de reorientación de dicha comisión a una Organización Regional para el Ordenamiento Pesquero (OROP).

Los estudios y análisis realizados a la fecha consideraron la presentación de tres opciones validadas a través de una evaluación costo-beneficio.

1. La COPACO deberá permanecer como una comisión de asesoramiento pesquero a nivel regional como órgano del Artículo VI de la FAO y continuar coordinando el trabajo conjunto con las organizaciones de asesoría/gestión (sub-) regionales.
2. La COPACO deberá convertirse en una OROP como órgano de la FAO Artículo XIV, con un mandato de ordenamiento de las pescas de una manera sostenible la adopción de decisiones jurídicamente vinculantes.
3. La COPACO deberá convertirse en una OROP establecida fuera del marco jurídico de la FAO, ej: como una Organización Intergubernamental (OIG) con el mandato de ordenamiento pesquero de una manera sostenible mediante la adopción de decisiones jurídicamente vinculantes.

El 2º Taller de Reorientación y Planeación Estratégica, realizado en Trinidad y Tobago en diciembre de 2015, reconoció el valor de la transformación de la COAPCO en una OROP para la sostenibilidad de la pesca con una función de paraguas y no deberán remplazar las eficaces instituciones existentes (CRFM y OSPESCA) a nivel subregional.

En atención a las opiniones expresadas por los países miembros y las organizaciones que laboran en la región, se elaboró el documento titulado “Documento de discusión como apoyo al proceso de reorientación estratégica de la COPACO”, el cual pretende aclarar aspectos en relación con áreas de competencia como lo son: i) cobertura de las poblaciones; ii) implicaciones financieras para los miembros; iii) estructura institucional; iv) membresía; v) procesos de toma de decisiones; vi) aspectos de soberanía nacional; y vii) objetivos; así como una serie de recomendaciones integrando los comentarios de la Secretaría de la COPACO, el Departamento de Pesca y Acuicultura, y la Oficina Jurídica de la FAO; con el propósito de avanzar en la construcción de los resultados y recomendaciones de los estudios previamente elaborados.

La Dirección Regional SICA/OSPESCA, en atención a sus funciones, presenta a consideración de las autoridades de pesca y acuicultura de sus países miembros las opiniones en torno al documento presentado por la Secretaría de la COPACO.

Consideraciones referentes a los puntos presentados

El documento en referencia esboza una serie de puntos y recomendaciones de las cuales se presenta la opinión de la Dirección Regional Especializada de los Asuntos de OSPESCA adscrita a la Secretaría General del Sistema de la Integración Centroamericana (SICA/OSPESCA).

1. Objetivos

Los objetivos de la COPACO deben ser actualizado de acuerdo a los instrumentos internacionales y la situación mundial de la pesca y acuicultura como señala la recomendación, pero se plantee o no su transición a una OROP, ello debe ser realizado, por lo cual es una acción que debe emprender la Secretaría para su presentación a los países miembros.

1.1 Asesoría científica e intercambio de información

La recomendación en cuanto a la asesoría científica e intercambio de información, indica el proceso que la COPACO actualmente utiliza mediante sus grupos de trabajo y las relaciones con CRFM y OSPESCA; a la cual podemos incluir el rol del Comité Científico Asesor (SAG). En este punto se destaca el establecimiento de un mecanismo de financiamiento y el enfoque de programación conjunta.

1.2 Ordenamiento pesquero y conservación

Sin duda, la transformación de las decisiones de la COPACO de voluntarias a vinculantes, es una acción que ayudará a la mejor gobernanza en la región, lo cual puede ser implementado mediante la OROP.

1.3 SCV y cumplimiento

En referencia a las acciones de SCV y cumplimiento, es importante que, a través de la OROP, se fortalezcan los mecanismos ya establecidos para el seguimiento del cumplimiento, así como de los grupos de trabajo y redes establecidas para ello.

1.4 Fomento de capacidades

Uno de los aspectos fundamentales de la nueva OROP, es atender las necesidades de los países como lo ha venido haciendo la COPACO; como son la de los PEIDs y PBIDAs, así como las directrices de la pesca en pequeña escala. Sin embargo, siendo una recomendación, no se observa cómo será el proceso para ello en la nueva OROP. Ello conlleva claridad en los objetivos y funciones de la OROP, por lo cual se ve diferenciada a solo las acciones de ordenación pesquera.

1.5 Comercio

En los aspectos de comercio se busca brindar a la nueva OROP un amplio margen al otorgarle acciones sobre controles y prohibiciones de importaciones y exportaciones, lo cual puede ser contraproducente para las acciones de cada Estado miembro. En este contexto la nueva OROP puede ejercer el papel de instancia certificadora de los productos de la pesca y la acuicultura, lo que sería significativo para el comercio de los productos pesqueros de la región.

2. Área de competencia geográfica

No se presenta claramente como las acciones de la nueva OROP fortalecerán las disposiciones para la conservación y ordenamiento de los recursos bajo jurisdicción nacional, lo cual puede entrar en contradicción con lo establecido en el documento sobre respecto a la jurisdicción de las otras OROP y gobiernos. Aprobar una acción sobre este punto, sin conocer la forma y fondo puede ser contraproducente para la misma OROP y países miembros.

Es importante en este aspecto definir la relación entre la nueva OROP y el Mecanismo Permanente de Coordinación de Políticas (MPCP) que impulsa el Proyecto CLME+ y que tiene por objetivo promover y facilitar la cooperación y coordinación efectivas de políticas y programas sobre protección, conservación, gestión, uso y desarrollo sostenibles del medio ambiente marino y de los recursos costeros, marinos y pesqueros, así como de las actividades económicas asociadas dentro de la región CLME+.

El MPCP espera trabajar sobre las aguas jurisdiccionales, por lo cual es preciso coordinar y definir la necesidad de ambas organizaciones, y de ser así, sus interacciones, ya que ambas al final requerirán de recursos provenientes a los países.

3. Cobertura de las poblaciones

De igual manera que para el caso de las AFJN, en la ZEE deben estar definidas las poblaciones de peces que atenderá la OROP y cuál será su ámbito de trabajo sobre las mismas, ya que la exploración y extracción de los recursos contenidos en las mismas son de derecho, jurisdicción y deber del Estado ribereño.

En tal sentido, es recomendable el análisis para la definición de las pesquerías y especies objeto de atención por la OROP.

4. Aspectos de soberanía nacional

Es importante un análisis a profundidad de las acciones de la OROP en la ZEE de los países, de manera que en un futuro no se den problemas de interpretación en el ámbito de la soberanía de los países miembros.

5. Membresía

Es importante definir con claridad en cuanto la incorporación y papel de los estados de pabellón en la nueva OROP, de manera a evitar problemas de interpretación posteriores, por lo cual es menester trabajar en ello.

A su vez, es importante que se considere de manera prevalente los derechos de los estados costeros en desarrollo.

6. Estructura institucional

6.1 Colaboración de la COPACO con otras OROP

Si bien se indica que no se deben reemplazar las ORP existentes, no se expresa de manera concreta cómo será la cooperación de la nueva ORP con las existentes. Esto es fundamental cuando en el aspecto sobre área de competencia, cobertura de especies, entre otros aspectos.

7. ORP Bajo el Artículo XIV de la Constitución de la FAO

De acuerdo a lo expresado, la mejor opción para convertirse la COPACO en una OROP es en atención al Artículo XIV de la Constitución de la FAO, al ser sus decisiones de carácter vinculante mediante la adopción de MOC.

Sin embargo, se debe considerar que los países son responsables del aporte económico para el funcionamiento de la OROP y tiene dependencia de la FAO por no tener personería jurídica.

Otro punto importante a tomar en cuenta que no necesariamente la conversión de la COPACO en un OROP, llevará a lograr una mayor producción en la pesca como fue indicado en el estudio costo-beneficio, ya que muchas de ellas dependen de la capacidad de los países para la implementación y cumplimiento de los acuerdos vinculantes y no de la OROP por sí misma.

8. Implicaciones Presupuestarias

Uno de los puntos de mayor relevancia y de análisis son las implicaciones económicas que tiene la creación de la OROP y su mantenimiento por parte del aporte de los países.

Las contribuciones de los países a las organizaciones de pesca en la región han sido consideradas, dando un mayor porcentaje a los países de mayor producción pesquera en la región. Sin embargo, ello no implica el análisis de las situaciones propias de cada uno, lo cual puede incidir significativamente en sus aportes a la nueva OROP.

Si bien, los recursos aportados a la OROP durante los cuatro primeros años bajo la figura del Artículo XIV provienen de la FAO, luego de dicho año deben ser responsabilidad de los países quienes ya deberán haber ratificado el acuerdo, lo que dependerá de la voluntad política en cada país. Lo cual no ha sido siempre la deseada como el caso de la Red de Acuicultura de las Américas (RAA).

Es recomendable que antes de iniciar el proceso se establezca el porcentaje a ser aportado por cada país y la confirmación de por lo menos las autoridades ejecutivas que es factible desde el aspecto presupuestario cumplir con dichos compromisos.

Recomendaciones

El documento para la discusión presenta un análisis de los estudios y la factibilidad de la reorientación de la COPACO a una OROP, con recomendaciones para su definición y acciones a seguir.

Es importante que antes de poder seguir con las acciones para la creación de la OROP se definan puntos cruciales que se han venido señalando como son:

- Ámbito geográfico de actuación de la OROP.
- Definición de las pesquerías y especies que regule la nueva OROP.
- Recursos financieros para su operatividad. Analizar la factibilidad de los aportes en función de las capturas de acuerdo a las pesquerías objetivo.
- Calidad de miembros y su accionar ante las decisiones de ordenación y operatividad.
- Calidad de apoyo al fortalecimiento de los países en desarrollo, PBIDAs y PEIDs.
- Debe prevalecer en la nueva OROP los derechos de los estados costeros en desarrollo.
- Relaciones con las organizaciones pesqueras existentes.



Ministry of Agriculture, Fisheries, Physical Planning, Natural Resources and Co-operatives

Department of Agriculture, Fisheries, Natural Resources and Co-operatives
5th Floor, Sir Stanislaus James Building
Castries, Saint Lucia



Communications on this subject should be addressed to:
THE PERMANENT SECRETARY

March 12, 2019

Dr. Yvette Diei-Ouadi
WECAFC Secretariat
Food and Agriculture Organization of the United Nations
Sub regional Office for the Caribbean
2nd floor, United Nations House, Marine Gardens, Hastings
Christ Church, BB 11000, Barbados

Dear Dr. Yvette Diei-Ouadi,

RE: THE WECAFC STRATEGIE REORIENTATION PROCESS

Reference is made to your letter dated 8 January 2019 regarding the Discussion Paper in Support of the WECAFC Strategie Reorientation Process, by Teresa Amador, independent legal advisor (hereinafter Discussion Paper), in which members of WECAFC were invited to submit their comments on the Discussion Paper in advance of the regional meeting to be held on March 25 - 26, 2019 in Barbados.

The Department of Agriculture, Fisheries, Natural Resources and Co-operatives is pleased to submit its preliminary opinion on the Discussion Paper and the proposal to establish a Regional Fisheries Management Organisation (RFMO) in the Caribbean Region.

Having carefully reviewed the Discussion Paper and the reorientation process to date and taking into account all the circumstances and arrangements in the region, we are not convinced that the transformation of WECAFC into a RFMO, whether under Article XIV of FAO or as an independent inter-governmental organisation, is necessary, justified or beneficial to Saint Lucia, the sub-regions, or the Wider Caribbean region at this time.

The Member States attending the 16th Session of WECAFC had many fundamental questions and concerns regarding the proposal to transform WECAFC from an advisory body into an RFMO. The meeting agreed that these questions and concerns should be submitted in writing to the WECAFC Secretariat, which would review and provide responses that would allow the States to better understand, evaluate and make a determination regarding the best option for the reorientation and strengthening of WECAFC; including whether or not the establishment of an RFMO is justified.

Telephone: (758) 452-2526 Email: ps.agriculture@govt.lc Website: www.moa.malff.com Fax: (758) 453-6314

The Member States of CRFM compiled a comprehensive list of questions, which was submitted to FAO/WECAFC by the CRFM Secretariat on behalf of the member countries. It is our opinion that many of the questions submitted have not been adequately answered in the Discussion Paper.

As you are aware, the Ministerial Council of the CRFM having carefully considered the issues under discussion in respect of the reorientation of WECAFC, decided, *inter alia*, that while it would be acceptable to establish an RFMO that would have competency over the ABNJ and its marine living resources within the WECAFC mandate area, the Council” Strongly rejected the establishment of an RFMO that would have competence over the conservation and management of marine living resources that are within areas under the sovereignty or jurisdiction of States.”

Further, it is our opinion that the original mandate given by the 14th Session of WECAFC remains valid. This envisages strengthening the organisation by, *inter alia*, increasing financial resources and staff at the Secretariat to better support the member countries and their organisations to effectively and efficiently develop and manage their fisheries in a sustainable manner in keeping with their national and sub-regional objectives.

It is also our opinion that to date, the studies conducted and recommendations arising from the reorientation exercise has been too narrowly focused on making the case for transforming WECAFC into an RFMO and have not given due consideration to the options available for strengthening WECAFC to better support the sustainable development of fisheries and aquaculture in the member countries in accordance with their identified needs and priorities.

We look forward to a renewed process that will be in accordance with member countries’ priorities.

I take this opportunity to renew to you the assurances of our highest consideration.

Sincerely,



 Barrymore Felicien (Mr.)
PERMANENT SECRETARY (Ag.)

Copied: Mrs. Sarita Williams-Peter, Chief Fisheries Officer

Mr. Milton Haughton, Executive Director, Caribbean Regional Fisheries Mechanism



United States Department of State

*Bureau of Oceans and International
Environmental and Scientific Affairs*

Washington, D.C. 20520

March 1, 2019

Ms. Yvette Diei-Oadi
Executive Secretary
Western Central Atlantic Fisheries Commission

Dear Ms. Diei-Ouadi:

Thank you very much for seeking views on the discussion paper in support of the WECAFC strategic reorientation process. The United States is pleased to provide our comments on the document and WECAFC's strategic reorientation.

The United States has long seen WECAFC as a valuable forum for countries of the Wider Caribbean to coordinate the sustainable management of our shared fisheries resources. Therefore, we are supportive of the process being undertaken to explore options for a strengthened legal framework to help WECAFC achieve this goal. We appreciate the discussion document that was prepared by Ms. Teresa Amador at the request of FAO outlining issues and recommendations for WECAFC members to consider in this process. Although we note that some areas within the paper are in need of clarity, we found the proposed models for improving coordination and cooperation in the region very informative, and think they will be helpful to spark thinking on the next steps.

As demonstrated by the discussion paper, formalized cooperation in the Wider Caribbean region on fisheries management can take a number of forms and could provide significant benefits to the region. We believe that any strengthened mechanism must be inclusive of all interested stakeholders and promote agreement on coherent policies and measures that will be effectively implemented by all who are affected. We continue to see the value and benefit of building on the existing cooperative arrangements in the Wider Caribbean through mechanisms that can facilitate common management of key resources.

Upon review of the discussion paper, we remain open to the various options for a legal framework that can strengthen cooperative management in the WECAFC region. As indicated in the document, there are many useful examples, including both independent RFMOs and RFMOs established under the FAO Constitution, to consider. We continue to think that the first step needs to be a thoughtful discussion regarding priorities for the organization. Rather than settling first on the legal structure, we think it's necessary to understand where the WECAFC member countries see the most urgent needs for – or greatest benefits from – strengthened cooperation.

Among the important considerations for strategic reorientation of WECAFC is the scope of such a future body, particularly with respect to geographic area and fish stocks. Our top priority is that a strengthened or re-oriented WECAFC can serve to ensure sustainable management of the species under its mandate throughout their range. There will therefore be a strong link between the decisions about which species

fall under the strengthened mandate, and the geographic area. We welcome further discussion of these issues with an intent to refine the list of species and integrate the principles of ecosystem-based management into this process. Another important consideration will be how best to ensure that any new mechanism for cooperation builds on existing organizations to prevent redundancy and conflict.

The United States believes that the strategic reorientation process can be an excellent opportunity for WECAFC and other organizations in the region – including OSPESCA, CRFM, and ICCAT – to identify ways to strengthen cooperation and collaboration in science and management that will benefit these organizations and the species they manage. Improved coordination and cooperation, while avoiding unnecessary duplication of effort, will help to advance and leverage our complementary goals for the ultimate benefit of these bodies and their members.

Moving forward in this process, there are a number of central questions and important considerations that still need to be addressed in any evolution of WECAFC's scope or mandate. We recognize that this may be just the beginning of a lengthy process, starting with discussions that will take place at the *1st Preparatory Meeting of the WECAFC Reorientation*, which is scheduled for March 25-26, 2019. We look forward to discussing these issues further with WECAFC members and our regional partners.

To that end, we have some questions about certain items listed in the proposed agenda for this meeting. We would like to better understand the issues intended for discussion under item 16 ("Draft Convention and Agreement") and item 18 ("Draft Rules of Procedures; Financial Regulations, including the scheme and scale of contributions to the budget of the autonomous RFMO, to be adopted after its entry into force; 1st Programme of Work of the RFMO; and proposals for establishment of sub-commissions or other subsidiary bodies"). Given a number of threshold issues still to be discussed and considered by the Members, we would consider it quite premature to delve into specific drafting or planning issues at this time. We would appreciate greater clarity about the nature of these two points.

Many thanks again for the excellent preparations for this meeting and the opportunity to comment. We look forward to the discussions in Bridgetown.

Sincerely,



Deirdre M. Warner-Kramer
Acting Deputy Director,
Office of Marine Conservation



GOVERNMENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO
MINISTRY OF AGRICULTURE, LAND & FISHERIES
Fisheries Division

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 Phone: 623-6028, 623-8525 Fax: 623-8542

1st March 2019

Dr. Yvette Diei-Ouadi

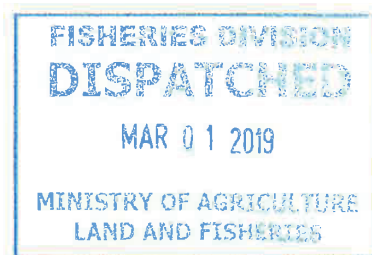
WECAFC Secretariat

Food and Agriculture Organization of the United Nations

Sub-regional Office for the Caribbean

2nd floor, United Nations House, Marine Gardens, Hastings

Christ Church, BB 11000, Barbados



Dear Dr. Diei-Ouadi,

Re: The WECAFC Strategic Reorientation Process

Reference is made to your letter dated 8 January 2019 regarding the *Discussion Paper in Support of the WECAFC Strategic Reorientation Process*, by Teresa Amador, independent legal advisor (hereinafter Discussion Paper), in which members of WECAFC were invited to submit their comments on the Discussion Paper by 28 February 2019.

The Fisheries Division of the Ministry of Agriculture, Land and Fisheries of Trinidad and Tobago is pleased to submit its preliminary and general comments on the Discussion Paper and the establishment of an RFMO in the Caribbean Region.

Yours sincerely,


 Director
 DIRECTOR OF FISHERIES

Discussion Paper in Support of the WECAFC Strategic Reorientation Process

TRINIDAD AND TOBAGO's Comments

28 February 2019

The following are preliminary and general comments on the WECAFC strategic reorientation process. Further discussion on and assessment of the proposal on the process is required in-country and as such it is expected that more detailed comments will be proffered.

1. Trinidad and Tobago is generally in favour of the establishment of an RFMO that may cover the WECAFC area, in accordance with international law, for conservation and management of shared species/stocks that are not covered by ICCAT.
2. Effective conservation and management of shared fisheries resources is much more likely to be achieved under an institution that legally binds States to adopt and implement measures.
3. **3. Objectives-3.4 Capacity building:** It is agreed that capacity building must be a key component/ focus of any new RFMO and it is noted that 12 of the 34 WECAFC member States (35 percent) do not have RFMO experience. The success of any RFMO would be dependent on the State of readiness of its members to implement fisheries conservation and management measures - this includes the legal framework, institutional arrangements and fisheries management systems including monitoring, control surveillance and enforcement.
4. **5. Stocks coverage:** The species/stocks being considered for coverage under any new RFMO should be identified for clarity. The opportunity for future amendment of the species/stock list should feature in the new RFMO's legal framework.
5. **6. National sovereignty aspects:** 31 of the 34 WECAFC member States (91 percent), are signatory to UNCLOS, under which States are duty-bound to cooperate on the conservation and management of fish stocks. A majority of the WECAFC member States (18 out of 34, 53 percent) are signatory to the UNFSA which obligates these States to form RFMOs for the conservation and sustainable use of straddling and highly migratory stocks on the high seas; of the three States not signatory to UNCLOS, two are members of an RFMO (ICCAT) and one of these two is signatory to the UNFSA. It is also noted that 51 percent of WECAFC's geographic area of competence is in ABNJ.
6. **7. Membership:** There is lack of clarity with respect to the recommendation on future membership, at the end of Section 7, as it references WECAFC and not a new RFMO.
7. **8. Institutional structure:** The perceived relationships among CRFM, OSPESCA, ICCAT and any new RFMO need to be further articulated, particularly given the overlap in geographic areas of ICCAT and the proposed RFMO as well as the future role of the CRFM as the implementing agency of the Caribbean Community Common Fisheries Policy.
8. **11. Decision making process:** The WECAFC strategic reorientation process should include national stakeholder consultation and given that any decision on the matter would be taken at the highest levels of Government.
9. **12. Budgetary implications for members:** The financial implications of the reorientation of WECAFC to member States are not clear based on the vague institutional arrangements outlined and lack of clarity in respect of the scope.



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ANY REPLY OR SUBSEQUENT REFERENCE TO THIS COMMUNICATION
 SHOULD BE ADDRESSED TO THE **PERMANENT SECRETARY** AND THE
 FOLLOWING REFERENCE QUOTED.

REF: FD 22/3

February 28, 2019

Dr. Yvette Diei-Ouadi
 WECAFC Secretariat
 Food and Agriculture Organization of the United Nations
 Sub-regional Office for the Caribbean
 2nd floor, United Nations House, Marine Gardens, Hastings
 Christ Church, BB 11000, Barbados

Dear Dr. Diei-Ouadi,

RE: THE WECAFC REORIENTATION PROCESS

Reference is made to your letter dated 8 January 2019 regarding the subject *at caption*. Please see below the Jamaica Fisheries Division's preliminary comments on the Discussion Paper and the establishment of a RFMO in the Caribbean Region.

As you are aware, Jamaica, as well as other CRFM Member States raised many questions and concerns regarding the proposal to transform WECAFC from an advisory body into a RFMO at the 16th Session of WECAFC. The meeting agreed that CRFM States should provide questions and concerns to the WECAFC Secretariat for feedback. The meeting fully recognized that the question and feedback process was an important intervention that will facilitate better understanding of the issues and assist CRFM States to evaluate and determine the best option for the reorientation of WECAFC. In accordance with the above-mentioned agreement, the CRFM Secretariat submitted a comprehensive list of questions on behalf of CRFM Member States.

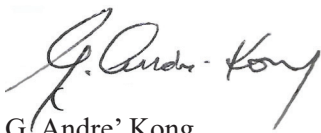
Having carefully examined the Discussion Paper, it is our opinion that many of the questions submitted have not been adequately answered. Further, having considered the reorientation process to date and taking into account all the circumstances and arrangements in the region, Jamaica is not convinced that the transformation of WECAFC into a RFMO is necessary, justified or beneficial to our country and the region.

Communications to the Fisheries Division should be directed to:
 FISHERIES DIVISION 2C NEWPORT EAST, KINGSTON 11, JAMAICA
 MAILING ADDRESS: P.O. Box 470, KINGSTON 13, JAMAICA
 TELEPHONE: (876)948-9014 • (876)948-6933 • (876)967-2081 • (876)967-1601 • FAX: (876)924-9182
 WEBSITE: <http://www.micaf.gov.jm>
 EMAIL 1: fisheries@micaf.gov.jm • EMAIL 2: fisheriesjamaica@live.com
 AQUACULTURE BRANCH TWICKENHAM PARK, P.O. Box 833, SPANISH TOWN, ST. CATHERINE
 TELEPHONE: (876) 984-9343 • (876) 984-9444 FAX: (876) 984-5194

As you are aware, the CRFM Ministerial Council was very clear in its pronouncement that while it would accept the establishment of a RFMO with competency over the ABNJ within the WECAFC mandate area, the Council “Strongly rejected the establishment of a RFMO that would have competence over the conservation and management of marine living resources that are within areas under the sovereignty or jurisdiction of States.”

Jamaica is of the view that the original mandate given by 14th Session of WECAFC is still valid. Serious consideration should be given to strengthening WECAFC by, among other things, increasing financial resources and staff at the Secretariat to better support the Member States and their organisations to effectively and efficiently develop and manage their fisheries. We find it rather unfortunate that to date the studies conducted and recommendations arising from them have been narrowly focused on making the case for transforming WECAFC into a RFMO. We see very little evidence of due consideration to all the options available for strengthening WECAFC to better support the sustainable development and management of fisheries and aquaculture in accordance with identified needs and priorities of Member states. At a minimum, it is expected that any assessment and/or recommendations relevant to the reorientation of WECAFC should include the options advanced by the CRFM Ministerial Council. Jamaica is indeed still hopeful that this will be realized .

Sincerely



G. Andre' Kong

Director, Fisheries Division

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ANNEX/ANNEXE/ANEXO – E

Available in English only

GUIDANCE PAPER: ANALYSIS OF SUBSTANTIVE THEMES AND DRAFT AGREEMENT

I. INTRODUCTION

1. The 16th Session of WECAFC Commission agreed to “launch a process to establish a Regional Fisheries Management Organization (RFMO) and to clarify issues in relation to competency area, stocks coverage, budgetary implications for Members, institutional structure membership, decision making processes, national sovereignty aspects and its objectives.” The current paper has been prepared to help guide discussions at the 1st Preparatory Meeting for the WECAFC reorientation, to be held in Barbados on March 25-26, 2019.¹ A central focus of the Preparatory Meeting will be on whether WECAFC should continue as an advisory body under Article VI of the FAO Constitution² or become a Regional Fisheries Management Organization (RFMO), either as an Intergovernmental Organization (IGO) or under Article XIV of the FAO Constitution.³
2. As is evident from the historical summary in Part II below, the WECAFC reorientation process has involved extensive discussions at WECAFC Sessions and workshops about what future form the Commission might assume and how its functions might be reoriented. These deliberations have been supported and supplemented by a number of written inputs from experts, most recently a detailed Discussion Paper⁴ prepared in October 2018 (hereafter the “Discussion Paper”).
3. It is not the purpose of the current paper to repeat or revisit the analysis and conclusions of the in-depth work that has already been undertaken. Instead, its goal is to help move the reorientation process to the next stage, by putting on the table for discussion detailed options concerning legal form, institutional structure and governance arrangements if the decision to transform WECAFC into an RFMO is pursued. These detailed options are set forth in part IV in the form of a draft model convention.
4. At the same time, however, it needs to be recognized that decisions about the form of an organization require clarity and consensus around substance. What is the organization hoping to accomplish? How wide or narrow should its mandate be? What can it realistically achieve given capacity and financial constraints? etc. Considerable effort has been directed during the reorientation process to addressing such questions. It would appear, nonetheless, that there remains a need to reach agreement and closure on some key issues of substance before credible choices between different formal options can be made. Part III of this report discusses these issues, and offers observations on how different options may affect the final shape of any Agreement or Convention that is eventually adopted.

¹ The meeting will take place in Barbados 25-26 March, 2019

² It is important to note that Article VI bodies of the FAO Constitution while not adopting binding decisions may adopt authoritative recommendations that most of their Members implement.

³ It is noteworthy that during various stages of the reorientation discussions different points of view on this issue have been expressed. For example, the European Union and the United States appear to favor the establishment of a RFMO³ which will cover straddling fish stocks, deep sea and highly migratory species not covered under ICCAT’s mandate, as well as some transboundary stocks such as sharks, queen conch, spiny lobster, shrimp and dolphin fish. By contrast, Member countries of the CRFM have queried whether it would be preferable to maintain WECAFC as an advisory body since, in their view, the stocks in question are under absolute sovereignty of the States rather than high seas stocks.

⁴ Discussion Paper in support of the WECAFC Strategic Reorientation Process (12 October 2018)

II. BRIEF HISTORICAL REVIEW OF THE REORIENTATION PROCESS

5. *Creation and objectives of WECAFC*. The Western Central Atlantic Fishery Commission (“WECAFC” or the “Commission”) was established in 1973 by Resolution 4/61 of the FAO Council under Article VI (1) of the FAO Constitution. WECAFC’s Statutes were amended by the FAO Council at its 74th Session (December 1978) and at the 131st Session in November 2006.
6. The general objective of the Commission is as follows: “[W]ithout prejudice to the sovereign rights of coastal States, the Commission promotes the effective conservation, management and development of the living marine resources of the area of competence of the Commission, in accordance with the FAO CCRF,⁵ and address common problems of fisheries management and development faced by Members of the Commission”.
7. *Initiation of strategic reorientation (WECAFC 14th Session, 2012)*. During the 14th Session of WECAFC (Panamá, February 2012),⁶ WECAFC Members approved the Work Programme of the Commission, which included as Component 4 “to carry-out a strategic reorientation of the functions and mandate of the Commission”.
8. *Performance review process (2013-14)*. The 30th Session of COFI (Rome, July 2012)⁷ instructed FAO “to initiate performance reviews of the Regional Fisheries Bodies (RFBs) under its auspices that had not already been assessed.” In the response, the FAO WECAFC Secretariat and the Bureau of the Commission arranged for and supported the Performance Review of WECAFC (from October 2013 to January 2014).⁸
9. The WECAFC Performance Review included a survey based on a questionnaire distributed to over 300 stakeholders in the region in English, French and Spanish. A total of 71 responses were received. Of these, 21 were submitted by WECAFC Members, representing 64 percent of the 33 Members. The reorientation process was one of the issues addressed in the survey. Analysis of the survey responses indicated that: “the transformation into a Regional Fisheries Management Organization (RFMO)⁹ was shown as the last priority of responding Members (but ranked significantly higher for non-Members), the priority rated significantly higher than midpoint so should be regarded as a clear option for further consideration by WECAFC Members”.¹⁰
10. *1st Reorientation and Strategic Planning Workshop (2014)*. The WECAFC 1st Reorientation and Strategic Planning Workshop held in Guadeloupe in September 2014 reviewed the preliminary outcomes of the WECAFC performance reviews and the options for WECAFC’s improvement and strategic reorientation. The Workshop recommended to the 15th session of WECAFC to identify whether there is support for the establishment of a Regional Fisheries Management Organization (RFMO) in the region and request (if appropriate) FAO to engage with the Members in the process of transition of WECAFC from a FAO Article VI advisory body to an FAO Article XIV RFMO should the Commission decide to go that route.

⁵ FAO, Code of Conduct on Responsible Fisheries

⁶ SLC/SLM/FIRF/R1000 (TRI) www.fao.org/3/i2677t/i2677t.pdf

⁷ Rome, Italy 9-13 July 2012 www.fao.org/3/a-i3105e.pdf

⁸ WECAFC Performance, Planning and Procedures, FAO Fisheries and Aquaculture Circular SLC/FIP/C1096 (Tri) www.fao.org/3/a-i5096t.pdf

⁹ An RFMO, is an intergovernmental regional fishery body or arrangement with authority to establish binding conservation and management measures (Gilman et al. 2014). Some RFMOs manage all the fish stocks found in a specific area, for example GFCM, while others focus on particular highly migratory species, for example, IOTC.

¹⁰ WECAFC/XV/2014/12, Pages 1 and 2 www.fao.org/fishery/docs/DOCUMENT/wecafc/15thsess/default.htm

11. *WECAFC 15th session (2014)*. During 15th session of WECAFC (Trinidad and Tobago, March 2014) delegates at the meeting were not authorized by their governments to take a decision on the possible transformation of WECAFC. “*After extensive discussion, in which cost aspects and stakeholder involvement were the main issues, it was concluded that WECAFC should remain an Article VI advisory body for the immediate future*”.¹¹ The Commission endorsed as a way forward an independent cost-benefit assessment as proposed by the European Union.
12. *2nd Strategic Reorientation Workshop (2015)*. At the 2nd Strategic Reorientation Workshop, held in Trinidad and Tobago in December 2015,¹² the attending delegations from twenty-five Members of the Commission “saw value in a move towards an RFMO, but some participants cautioned that development could be slow and that even an RFMO will need some years to make an impact on fisheries stocks and fisheries production”. The workshop also recognized that “the success of an RFMO will depend on the Members ability to bring positive results to the fish stocks and catches. The results will depend on issues such as the availability of accurate scientific information, an effective decision-making structure and the Members’ ability to adopt and implement appropriate measures. In this respect more analysis of the common problems and how they can be addressed would be useful.” Workshop participants also observed that “[t]he existing subregional RFBs (CRFM and OSPESCA) should be essential components of a RFMO and as such should be embedded in its governance structure”.
13. *16th session of WECAFC (2016)*. At the 16th session of WECAFC (Guadalupe, June 2016)¹³ attended by 28 Members, the Commission agreed to launch a process to establish an RFMO and to clarify issues in relation to *competency area, stocks coverage, budgetary implications for Members, institutional structure, membership, decision making processes, national sovereignty aspects, its objectives and any other relevant matters that the Members may wish to consider*.
14. *Solicitation of views and Discussion Paper (2016-2018)*. During 2016 – 2017, WECAFC issued two letters to its Members and partners seeking their express opinions on the strategic reorientation of WECAFC. The first letter, dated 20 May 2016, enquired about the establishment of an RFMO, areas and stocks to be covered and legal status. The second letter, dated 14 July 2017, requested Members and partners for questions to be answered in the RFMO establishment process.
15. In October 2018 a Discussion Paper¹⁴ was prepared for Members of the Commission to build further on the findings and recommendations of the various studies elaborated previously, to take into account the views solicited from Members and partners in response to the 2016 and 2017 letters, and to assist WECAFC’s Members in the process of establishing a RFMO. The paper provided comparative analysis and recommendations in relation to competency area, stocks coverage, budgetary implications for Members, institutional structure, membership, decision-making processes, national sovereignty aspects, and other relevant matters that the Members may wish to consider.
16. The Discussion Paper indicated that the objective of the new RFMO would be similar to many other RFMOs, bringing together countries that have a common interest in managing particular fish stocks or fish resources in a particular region, and which adopt management rules that apply to all parties. It was recommended that the new RFMO concentrates on:

¹¹ SLC FIPI/FIRF/R1069 (Tri) www.fao.org/3/a-i3790t.pdf

¹² SLC//FIRF/R1140 (Bi) www.fao.org/3/a-i5584be.pdf

¹³ SLC/FIA/R1162(Tri) www.fao.org/3/a-i6031t.pdf

¹⁴ Discussion Paper in support of the WECAFC Strategic Reorientation Process (12 October 2018)

- a. The collection of scientific data and information;
- b. Introducing fisheries management and conservation measures;
- c. Introducing competence on MCS and enforcement in particular regional record of authorized vessels, the establishment of a list of IUU vessels, the development of a regional scheme on port state measures, as well as monitoring the implementation of CMM, through regional observer schemes and VMS, and specific procedures for inspection, control and enforcement.
- d. Promoting capacity building; and
- e. Adopting multilaterally agreed trade-related measures in accordance with international law and consistent with World Trade Organization (WTO) in a fair, transparent and non-discriminatory manner.

III. KEY SUBSTANTIVE THEMES¹⁵ TO ADDRESS IN CONSIDERING INSTITUTIONAL ALTERNATIVES

17. This part discusses a number of substantive themes, organized in the following three subsections:

- A. Objectives and functions of the Commission;
- B. Scope of application; and
- C. Membership of the Commission.

A. Objectives and functions of the Commission

18. Threshold questions are: What is the purpose of the Commission? What does the Commission intend to do? What is the role of the Commission with respect to the management of fisheries at national/regional level?

19. Currently, the objective of WECAFC is:

“Without prejudice to the sovereign rights of coastal States, the Commission promotes the effective conservation, management and development of the living marine resources of the area of competence of the Commission, in accordance with the FAO CCRF,¹⁶ and address common problems of fisheries management and development faced by Members of the Commission.”

20. When considering a possible future mandate for the Commission it is important to note that a RFMO needs to be equipped with the capacity to make binding decisions with respect to the long-term conservation and sustainable use of either all the fishery resources in the Area of Competence of the Commission or certain specific stocks. In either case, the agreement should clearly state that the Commission “will ensure”, or that the Commission “shall be responsible for...” for certain outcomes. For example:

“The objective of the Commission is to ensure the long-term conservation and sustainable use of the fishery resources in the Convention Area and, in so doing, to safeguard the marine ecosystems in which these resources are found.”

21. To operationalize such an objective, and to make it more than just an empty aspiration, WECAFC Members will need to guarantee that they will be capable of providing reliable information with respect of the Area of Competence of the Commission or the specific stocks the Commission will cover.

¹⁵ The term “themes” is used here to refer to the critical issues the Members of the Commission need to resolve before deciding on its formal structure. These themes reflect the experience of a number of Regional Fisheries Bodies (RFB).

¹⁶ FAO, Code of Conduct on Responsible Fisheries.

22. This principle leads us to three essential questions: (i) *What scientific role will the Commission play?* (ii) *Will the Commission have the mandate to issue Conservation and Management Measures¹⁷ (CCM)?* (iii) *Is the Commission going to be in charge of Monitoring, Control and Surveillance (MCS)?*

(i) *What scientific role will the Commission play?*

23. Pursuant to the WECAFC Statutes, Article 6 the Commission's current role is:

“(e) to promote, coordinate and, as appropriate, organize or undertake research related to the living marine resources in the area of competence of the Commission, including on the interactions between fisheries and the ecosystem, and design programmes required for this purpose;

(f) to promote, coordinate and, as appropriate, undertake the collection, exchange and dissemination of statistical, biological, environmental and socio-economic data and other marine fishery information as well as its analysis or study;

(g) to provide the necessary support and advice to enable Members to ensure that fishery management decisions are based on the best available scientific evidence.”

24. The Commission has a Scientific Advisory Group (SAG) (Rule IX) with the obligation to:

(a) Provide scientific advice to WECAFC ad hoc working groups and the Commission;

(b) Review and contribute to the report to the Commission on the status of stocks in the areas covered by the Commission;

(c) Review and contribute to the report on the situation, trends and prospects of fisheries in the WECAFC region; and

(d) Consider any other matters referred to by the Commission and the WECAFC ad hoc working groups.

25. WECAFC Members declared in the Report of the WECAFC Performance Review¹⁸ that:

“[T]he SAG can only provide policy guidance. It is too small to be a proper scientific body for such a large region. Most scores with regard to the fishing level of the resources are influenced by data limitations. This observation underlines the fact that statistics are very poor in the region, especially for those fisheries resources considered as not economically important. It becomes evident that the SAG is potentially a powerful mechanism, which is underutilized as present”.

26. Despite this assertion, efforts so far to reform the SAG have not borne fruit. The Secretariat proposed at the 14th Session to transform the SAG into a Technical Advisory Committee, with an expanded mandate that would embrace both technical and scientific matters and extend to consideration of institutional matters and formulating recommendations for the Commission and its

¹⁷ Pursuant to the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (FAO Compliance Agreement) “international conservation and management measures” means: “measures to conserve or manage one or more species of living marine resources that are adopted and applied in accordance with the relevant rules of international law as reflected in the 1982 United Nations Convention on the Law of the Sea. Such measures may be adopted either by global, regional or subregional fisheries organizations, subject to the rights and obligations of their Members, or by treaties or other international agreements”.

¹⁸ SLC/FIP/C1096 (Tri) page 6 www.fao.org/3/a-i5096t.pdf

Members on conservation and management measures. However, the amendment was not accepted by Commission Members and the Rules of Procedure maintained the SAG.¹⁹ In short, at that point WECAFC Members were not willing to introduce a mechanism to formulate recommendations which would have impacts on Member countries. Although different alternatives for the scientific work of WECAFC were presented in working document WECAFC/XVI/2016/13, to the Sixteenth Session of the Commission,²⁰ Members of the Commission expressed no final position²¹ on this matter.

27. In order to improve the scientific role of WECAFC, the October 2018 Discussion Paper recommends²² three courses of action. All three of these are sound suggestions, but require further “unpacking” by the Commission in terms of their detailed implications and feasibility before they can be operationalized:

- ***To provide a forum of consultation and exchange of information similar to the one established under the North-East Atlantic Fisheries Commission (NEAFC).*** Although this idea is laudable there are three immediate issues that that would require consideration by WECAFC Members before moving in this direction:
 - ▶ First, NEAFC is a much smaller organization²³ than WECAFC, and therefore it is much easier for it to manage the interchange of information among Members.
 - ▶ A second, and fundamental, constraint refers to the difficulties in accessing quality information – one of the main problems that WECAFC Members have recognized over the years is that statistics are very poor in the region especially for those fisheries resources considered not economically important. The existence of a mechanism for interchange of information would not resolve the critical issue on how information is collected by the WECAFC Members.
 - ▶ The third issue relates to the financial implications. Are some WECAFC Members willing to provide the financial means for some other countries to improve their information intake? How much that would cost? Would that be applicable to all resources or some specific resources? Currently, WECAFC in coordination and partnership with other RFBs as well as donors have been conducting specific projects that operate different Working Groups (WGs) based on species or themes depending on the specific donor interest.²⁴ However, if WECAFC were to aspire to become a comprehensive and sustained regional source of reliable information for its area of competence or with regard to specific stocks, this would require a significant financial investment. WECAFC Members should explore how financing for this activity will be obtained.²⁵
- ***To facilitate resource mobilization through adoption of an RFMO organization form.*** Document WECAFC/XVI/2016/13, presented to the Sixteenth Session of the Commission observes that the RFMO structure facilitates resource mobilization. In other words, the functioning of an effective RFMO may cost more, but it also has an enhanced capacity to attract funding. However, while this indeed may be the case, the basis for the conclusion that an RFMO is a better mechanism to mobilize funds is not well articulated in the Document, and before making decisions based on this proposition, the Commission may wish to seek more evidence to confirm it. It could also be observed that WECAFC has been able to mobilize funds for its activities over the years without being a RFMO.

¹⁹ SLC/FIPI/FIRF/R1069, Fifteenth Session of the Commission, Port of Spain, Trinidad and Tobago, 26-28 March 2014. Page 5. www.fao.org/3/a-i3790t.pdf

²⁰ SLC/FIA/r1162 (TRI) paragraph 53 www.fao.org/3/a-i6031t.pdf

²¹ “The document advanced the discussion there were some gaps in the document that still need to be addressed”

²² SLC/FIA/r1162 (TRI) Page 16 www.fao.org/3/a-i6031t.pdf

²³ Contracting Parties of NEAFC are: Denmark, European Union, Iceland, Norway and the Russian Federation

²⁴ Spiny lobster, recreational fisheries, billfish, Queen conch, flying fish etc.

²⁵ As mentioned At the 2nd Reorientation and Strategic Planning Workshop (Trinidad and Tobago December 2015 (paragraph 24) “scientific advice requires sustainable funding”.

- ***To create panels on the basis of species.*** The idea of establishing panels to obtain scientific information on specific species is a very strong one in terms of how to structure the management of information within the Commission. Again, however, it does not resolve the principal issue of how to overcome the constraints some WECAFC Members face in terms of improving access to reliable and sufficient information, either on living marine resources in general or with regard to specific species.

28. If WECAFC Members decide that the Commission should play a significant scientific role with respect to the state of living marine resources in the area of competence of the Commission, the governing agreement (either under Article XIV or as an IGO) would include language such as:

“The Commission shall:

- a) Regularly review and assess the state of living marine resources;*
- b) Regularly review the socioeconomic aspects of the fishing industry;*
- c) Encourage, recommend, coordinate and undertake research and activities, including cooperative projects in the areas of fisheries and the protection of living marine resources.”*

29. Again, the introduction of this role would imply that funding issues would need to be addressed, in particular with respect to the special requirements of developing States Contracting countries.

(ii) *Will the Commission have the mandate to issue Conservation and Management Measures²⁶ (CMM)?*

30. One of the arguments in favor of the transformation of WECAFC into a RFMO is the fact that an RFMO may be able to issue binding recommendations with regard to CMM. This is especially important with respect to certain shared stocks where the majority of the catch takes place outside the mandates areas of OSPESCA and the CRFM.²⁷

31. In this regard it is essential to note that not all RFMO are made equal, since the basic structures of the institutions vary, as do the interests and capacities of their members. As indicated by Hilborn et al in 2015²⁸ “the primary determinants of success of a [management institution] relates to institutional structure and incentives for participants.” As identified by Mitchell in 2009 one of the factors that can affect the success of the specific RFMO is “the type and number of actors relevant to addressing the problem, those actors’ interest and motivation, distribution of power and their availability to an appropriate institutional forum”. Recent studies have also demonstrated that RFMOs have “generally failed to prevent over-exploitation of the resources they were established to manage, and have neither achieved rebuilding of overexploited stocks nor prevented the degradation of the marine ecosystems in which fishing occurs (Polacehck, 2012)”.²⁹ As observed by the Legal Office in the Summary findings of the independent cost-benefit assessment of the options for strategic re-orientation of WECAFC (page 3, footnote 2), “the efficiency and impact of the work of the Commission ultimately depends on the interest and willingness of Member Nations.” In short, it is obvious that establishing a RFMO does not guarantee the success of the operation.

²⁶ Id. 18

²⁷ WECAFC/XVI/2016/13 page 31 www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/Inf1Rev1e.pdf

²⁸ Hilborn, R. Orensanz, J.M, Parma A.M. Institutions, Incentives and the future of fisheries (2005), as quoted in “A Standardized Benchmarking Framework for RFMO Performance” Annika Nordin Saltman, Master of Marine Affairs, University of Washington 2015.

²⁹ A recent quantitative assessment of the effectiveness of 18 RFMOs, based on a two-tiered approach, concentrating first on their performance on paper and secondly in practice. The latter based on biomass and fishing mortality reference points and biomass trends though time. Results show low performance of RFMO for both assessments. (Failing the high seas: a global evaluation of RFMO, Sarika Cullis-Suzuki, 2010).

32. In considering the transformation of WECAFC into an RFMO with a CMM mandate, therefore, WECAFC Members need to take into account:

- The capacity of WECAFC to obtain the best scientific evidence available to issue CMM;
- How WECAFC will establish a mechanism to monitor the implementation of the CMM³⁰ (analyzed in (iii) below); and
- The relative capacities, motivations and interests of its members to support and abide by such measures, as discussed in the paragraph above.

33. For WECAFC to be able to issue binding recommendations the agreement should include language similar to, for example, the NAFO Convention.³¹

“The Commission adopts:

(a) Conservation and management measures to achieve the objective of the Convention,

(b) Conservation and management measures to minimize the impact of fishing activities on living resources and their ecosystems,

(c) Total allowable catches and/or levels of fishing effort and determine the nature and extent of participation in fishing;

(d) Measures for the conduct of fishing for scientific purposes as referred to in paragraph 6(d)

(e) Measures for the collection, submission and verification access to and use of data as referred to in subparagraph 6 (e) and

(f) Measures to ensure adequate flag State performance. “

34. The GFCM agreement provides another useful example:

“The Commission shall formulate and recommend appropriate measures, including:

i) for the conservation and management of living marine resources found in the area of application;

ii) to minimize impacts for fishing activities on living marine resources and their ecosystems;

iii) to adopt multiannual management plans applied in the totality of the relevant subregions based on an ecosystem approach to fisheries to guarantee the maintenance of stocks above levels which can produce maximum sustainable yield, and consistent with actions already taken at the national level;

iv) to establish fisheries restricted areas for the protection of vulnerable marine ecosystems, including but not limited to nursery and spawning areas, in addition to or to complement similar measures that may already be included in management plans;

v) to ensure, if possible through electronic means, the collection, submission, verification, storing and dissemination of data and information, consistent with relevant data confidentiality policies and requirements”.

³⁰ The Discussion Paper October 2018 recognizes that the existing recommendations of WECAFC use the style of GFCM, IOTC, ICCAT recommendations but that in effect there is a lack of monitoring mechanisms for those recommendations.

³¹ Convention on Cooperation in the Northwest Atlantic Fisheries, June 2017. Article 6, paragraph 8.

vi) to take action to prevent, deter and eliminate illegal, unreported and unregulated fishing, including mechanisms for effective monitoring, control and surveillance;

vii) to resolve situations of non-compliance, including through an appropriate system of measures. The Commission shall define this system of measures and the way to implement them in its Rules of Procedure.

(iii) What role will the Commission play with respect to Monitoring, Control and Surveillance (MCS)?

35. With respect to Monitoring Control and Surveillance (MCS) a Regional Working Group on Illegal Unreported and Unregulated fisheries (RWG-IUU) was established in 2015 as a joint working group of WECAFC, the Caribbean Regional Fisheries Mechanism (CRFM) and the Organization for Fisheries and Aquaculture of Central America (OSPESCA). A primary objective of the RWG-IUU is to improve coordination and cooperation between national organizations and institutions responsible for fisheries related MCS in support of their common efforts to prevent, deter and eliminate IUU fishing.
36. It is mentioned in WECAFC/XVI/2016/13, presented to the Sixteenth Session of the Commission³² that WECAFC could play a role in MCS compliance, particularly with respect to “specific responsibilities in the WECAFC area of competence with regard to *inter alia* the maintenance of a regional record of authorised vessels, the establishment of a list of IUU vessels, the development of a regional scheme on port state measure.” The Discussion Paper observes that such a function could also include “monitoring of the implementation of the CMMs, namely through regional observers schemes and VMS, and specific procedures for inspection, control and enforcement”.³³ However, further consideration is required on the practical opportunities and constraints that WECAFC as an RFMO might face in carrying out this function. One particular concern raised by the CRFM Members how is the new WECAFC could obtain funds necessary to support SIDS and other developing States to be able to assure compliance.³⁴
37. In the event WECAFC Members consider the organization is able to fulfill the role of MCS and enforcement, the agreement could include provisions similar to the ones included in the NAFO Convention³⁵ such as:

“Measures for appropriate cooperative mechanisms for effective monitoring, control and surveillance, and enforcement of the conservation and management measures adopted by the Commission including:

- (a) Reciprocal rights for boarding and inspection by Contracting Parties within the regulatory area and flag State prosecution and sanctions on the basis of evidence resulting from such boarding and inspection;*
- (b) Minimum standards for inspection of fishing vessels by Contracting Parties in ports where fisheries resources or products derived from fishery resources originated in the Regulatory Area are landed;*
- (c) Without prejudice to any measures a Contracting Party may itself take in this regard, measures for the prevention, deterrence and elimination of IUU fishing.”*

³² Page 30

³³ Discussion Paper page 58

³⁴ Comment provided by CRFM on behalf of 17 Member States, September 2017

³⁵ Id. 32

B. Scope of Application

38. This section address two sets of issues related to scope that are relevant as consideration of the appropriate legal agreement goes forward: what will be the area of competence of the Commission and what stocks should be within the mandate of the Commission?

(i) What will be the area of competence of the Commission?

39. The Discussion Paper recommends that “the RFMO could initially focus on conservation and management measures of the living resources in the Areas Beyond National Jurisdiction (ABNJ) while supporting its Member-States in the management and conservation of the shared and transboundary stocks in their respective EEZs and then strengthen arrangements for the conservation and management of the resources under national jurisdiction in accordance with the sovereign rights of coastal states for the purpose of exploring and exploiting, conserving and managing the living marine resources within the EEZ”.

40. During the 16th Session of the WECAFC the Commission³⁶ recognized “the value of establishing an RFMO in the WECAFC area of competence, being the Western Central Atlantic (area 31) and the Northern Part of the South West Atlantic (area 41) to collaborate in fisheries management and conservation in the areas Beyond National Jurisdiction (ABNJ) of straddling stocks, deep sea fish stocks and highly migratory species that are not under the mandate of ICCAT”.

41. Once WECAFC Members make a decision on the area of competence, the agreement will need to include language to define the area. For example, the GFCM defines the area of application³⁷ as:

“1. The geographical area of application of this Agreement comprises all marine waters of the Mediterranean Sea and the Black Sea.

2. Nothing in this Agreement, nor any act or activity carry out in pursuance of this Agreement, shall constitute recognition of claims or position of any Contracting Party concerning legal status and extent of waters and zones by any such Contracting Party.”

42. The Indian Ocean Tuna Commission defines the Area of Competence:³⁸

“The area of competence of the Commission (hereinafter referred to as the “Area”) shall be the Indian Ocean (defined for the purpose of this Agreement as being FAO statistical areas 51 and 57 as shown on the map set out in Annex A to this Agreement) and adjacent seas, north of the Antarctic Convergence, insofar as it is necessary to cover such seas for the purpose of conserving and managing stocks that migrate into or out of the Indian Ocean”.

(ii) What stocks should be within the mandate of the Commission?

43. During the 16th Session of the WECAFC the Commission³⁹ agreed that “statistical information is essential for the functioning of a Regional Fishery Body (RFB) and that a future RFMO in the WECAFC region will have serious challenges if Members pay insufficient attention to stocks and fisheries data and statistics, including the quality of information”.⁴⁰ The Commission recognized “the value of establishing an RFMO in the WECAFC area of competence, being the Western

³⁶ Id. 14

³⁷ Article 3 of the GFCM www.fao.org/gfcm/en/

³⁸ Article II (Area of Competence)

³⁹ Id. 14

⁴⁰ Paragraph 7

Central Atlantic (area 31) and the Northern Part of the South West Atlantic (area 41) to collaborate in fisheries management and conservation in the Areas Beyond National Jurisdiction (ABNJ) of straddling stocks and highly migratory species that are not under the mandate of ICCAT”.⁴¹

44. The Discussion Paper recommends including straddling stocks and highly migratory species that are not under the mandate of ICCAT as well as all deep sea fishing stocks.⁴² However, the Discussion Paper also recognizes that this is not an issue that has been resolved by Commission Members. In this regard the responses provided to the letters sent in 2016 and 2017 indicate that the European Union (EU) and the United States appear to favor the establishment of a RFMO which will cover straddling fish stocks, deep sea, and highly migratory species not covered under ICCAT’s mandate as well as some transboundary stocks such as sharks, queen conch, spiny lobster, shrimp and dolphin fish. Member countries of the CRFM, by contrast, expressed the view that the stocks in question are under absolute sovereignty of the States rather than being high seas stocks, and hence queried whether sufficient consideration had been given to maintaining WECAFC as an advisory body.
45. Members of the Commission should decide on what stocks should be covered and whether to include a general provision relating to: “all fishery resources in the Area of Competence of the Commission” or specific stocks, such as, straddling fish stocks, deep sea, and highly migratory species not covered under ICCAT’s mandate as well as some transboundary stocks such as sharks, queen conch, spiny lobster, shrimp and dolphin fish. It is also important to note that some RFMOs such as CCAMLR has as a mandate to manage the commercial harvesting of Antarctic marine living resources but that in accordance with the Ecosystem Approach to Fisheries (EAF) also monitors harvest, dependent and associated species⁴³ and other RFMOs such as ICCAT have responsibilities over target species and species taken as by catch (associated species) indicating that: “the Commission shall be responsible for the study of the population of tuna and tuna like fishes... and such other species of fishes exploited in tuna fishing in the Convention area as are not under the investigation by another international fishery organization.”⁴⁴ Other RFMOs have a more general mandate for the conservation and management of target species.⁴⁵
46. One added problem that Commission Members will need to address is that how to resolve the fact that a specific stock, such as tuna, may be managed under the jurisdiction of more than one RFMO. As indicated by ICCAT in their response to the 2017 letter, Commission Members will need to define how to best articulate the obligations under ICCAT and the new RFMO. This can be done under a bilateral arrangement between concerned RFMOs.
47. Once Members of the Commission decide on the stocks covered by the agreement the agreement will include language to define those stocks. For example, the GFCM agreement says that the GFCM covers “all living resources” in the area, while the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean covers “all stocks of highly migratory fish in the Convention area except sauries”.

⁴¹ Paragraph 58

⁴² Recommendation WECAFC/16/2016/4 on the management of deep sea fisheries in the high seas”
www.fao.org/fi/static-media/MeetingDocuments/WECAFC16/8e.pdf

⁴³ CCAMLR 2013 www.fao.org/fishery/docs/DOCUMENT/FIGIS_FIRMS/2013/2bCCAMLR.pdf

⁴⁴ ICCAT 2007 www.fao.org/fi/static-media/MeetingDocuments/cwp/cwp_22/ICCAT.pdf

⁴⁵ CCSBT, IPH and PSC, as indicated in “A Standardized Benchmarking Framework for RFMO Performance” Annika Nordin Saltman, Master of Marine Affairs, University of Washington 2015.

C. Membership of the Commission

48. As indicated by Lodge “continued cooperation and long-term stability are crucial to effective management by RFMOs”.⁴⁶ As Mitchell⁴⁷ indicates “the type and number of actors relevant to addressing the problems of the Commission, their interest and motivation, the distribution of power among them and their ability to an appropriate institutional forum as well as the broader interdependencies among states and long-term policy trends have been identified as conditions that affect the successful management and conservation of fisheries resources”. The research on economic evaluation of RFMOs shows that larger membership competing for a fish stock results in higher relative gains from full cooperation, but there is much lower likelihood of larger RFMOs being able to reach that level of cooperation.
49. The Statutes of WECAFC in section 5 indicate that: “The Commission shall be composed of such Members and Associate Members of the organization that are coastal States, whose territories are situated wholly or partly within the area of the Commission or States whose vessels engage in fishing in the area of competence of the Commission and that notify in writing to the Director General of the Organization of their desire to be considered as Members of the Commission”. As indicated in the Discussion Paper the 34 Members of WECAFC include “all Caribbean SIDs, Central and South American countries bordering the Caribbean basin, the European Union, the United States of America and various Distant Water Fishing Nations (DWFN), which pursuant to article 62 of UNCLOS have access to the surplus of the allowable catch where the coastal State does not have the capacity to harvest the entire allowable catch”.
50. With respect to the membership in the new structure for WECAFC it is important to note that the CFRM (on behalf of 17 Member States) have questioned what will happen in case some coastal States decide not to participate in the RFMO, how this will affect: “(1) the efficacy of the RFMO’s work and (2) the interest of the coastal states in the fisheries that are regulated by the RFMO”.

IV. DRAFT MODEL AGREEMENT

The Discussion Paper clarified the main differences between an Article VI body, an Article XIV body and IGO.⁴⁸ The Discussion Paper also provided detail on the risks and benefits of the two types of RFMO.⁴⁹ These will not be revisited here. Instead, this section includes a draft agreement for a RFMO in the form of an IGO. The draft has been prepared taking into account other Conventions/agreements and in particular the NAFO Convention, which addresses many of the issues that need to be resolved within WECAFC.

The draft also includes commentary setting forth what alterations to the Agreement would be required if the WECAFC Members decide instead to establish an RFMO under Article XIV of the FAO Constitution.⁵⁰ Once the WECAFC Members have reached a decision on the key substantial themes addressed in section III of this report, they will be able to navigate through the draft Convention and start defining where further tailoring may be required in order to meet their needs and expectations.

⁴⁶ Lodge, M.W., Anderson D. Lobach T, Munro G, Sainsbury K, Willock, A. 2007. Recommended Best Practices for RFMO: Report on an independent panel to develop a model for improved governance by RFMOs, as quoted in “A Standardized Benchmarking Framework for RFMO Performance” Annika Nordin Saltman, Master of Marine Affairs, University of Washington 2015.

⁴⁷ Mitchell, R. (2009) International Politics and the Environment, as quoted in “A Standardized Benchmarking Framework for RFMO Performance” Annika Nordin Saltman, Master of Marine Affairs, University of Washington 2015.

⁴⁸ Discussion Paper, page 40.

⁴⁹ Id. Page 46.

⁵⁰ The FAO Basic Texts, Volume II, Part O, include the Principles and Procedures, which should Govern Conventions and Agreements Concluded under Articles XIV and VX of the Constitution, and Commissions and Committees Established under Article VI of the Constitution.

DRAFT CONVENTION - WECAFC (RFMO)⁵¹

Preamble:

The Contracting Parties:

RECALLING the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982, 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 of 4 August 1995, and the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas of 24 November 1993;

TAKING INTO ACCOUNT the Code of Conduct for Responsible Fisheries adopted by the 28th Session of the Conference of the Food and Agriculture Organization of the United Nations on 31 October 1995 and related instruments adopted by the Food and Agriculture Organization of the United Nations;

RECOGNIZING the economic and social benefits deriving from the sustainable use of fishery resources;

DESIRING to promote the long term conservation and sustainable use of the fishery resources of the [Convention Area];

CONSCIOUS of the need for international cooperation and consultation with respect to those fishery resources;

MINDFUL that effective conservation and management of these fishery resources should be based on the best available scientific advice and the precautionary approach;

COMMITTED to apply an ecosystem approach to fisheries management in the [Convention Area] includes safeguarding the marine environment, conserving its marine biodiversity, minimizing the risk of long term or irreversible adverse effects of fishing activities, and taking account of the relationship between all components of the ecosystem;

FURTHER COMMITTED to conduct responsible fishing activities and to prevent, deter and eliminate IUU fishing;

Comment: The Preamble is taken from the NAFO Convention⁵² as it includes some of the same issues that are of concern to the WECAFC Members. This Convention has been recently amended in 2017 to apply the ecosystem approach to fisheries management (EAF) and to align it with recently approved international instruments (Port State Measures Agreement). The Convention Area will need to be defined by the Members of the Commission.

In case an Article XIV body is established, the Preamble shall specify that the convention or agreement is established within the framework of the FAO.

⁵¹ Note that the term Convention will also be used in the case of an Article XIV body under the FAO Constitution as indicated in Annex D of the Report of the Ninth Session of the Conference as amended by Resolution no. 8/91 of 26th Session of the Conference.

⁵² Convention on Cooperation in the Northwest Atlantic Fisheries, (June 2017).

HAVE AGREED as follows:

Article 1: Use of terms

For the purposes of this Agreement:

- a) “1982 Convention” means the United Nations Convention on the Law of the Sea 10 December 1982;
- b) “1995 Agreement” means 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 of 4 December 1995;
- c) “coastal State” means a Contracting Party having an Exclusive Economic Zone (EEZ) within the Convention Area;
- d) “Contracting Party” means any State or regional economic integration organization which has consented to be bound by this Convention, and for which the Convention is in force;
- e) “Convention Area” means [...]
- f) “fishery resources” means all fish, molluscs and crustaceans within the Convention Area excluding:
 - species over which coastal States may exercise sovereign rights;
 - in so far as they are managed under other international treaties, [anadromous and catadromous stocks and highly migratory species];
- g) “fishing” means searching for, attracting, locating, catching, taking or harvesting of living marine resources or any activity which can reasonably be expected to result in attracting, locating, catching, taking or harvesting of living marine resources;
- h) “fishing related activities” means any operation in support of, or in preparation for fishing activities, including landing, packaging, processing, transshipping or transporting of fish, as well as provisioning of personnel, fuel, gear and other supplies. It does not include any operation related to emergencies involving the health and safety of crew members or the safety of a vessel.
- i) “fishing vessel” means any vessel that is or has been engaged in fishing activities, and includes fish processing vessels and vessels engaged in transshipment or any other activity in preparation for or related to fishing activities, or in experimental or exploratory fishing activities;
- j) “flag State” means:
 - a State or entity whose vessels are entitled to fly its flag; or
 - a regional economic integration organization in which vessels are entitled to fly the flag of a member State of that regional economic integration organization
- k) “illegal, unreported and unregulated fishing (“IUU fishing”) refers to the activities set out in paragraph 3 of the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing;
- l) “living resources” means living components of marine ecosystems;

- m) “marine biological diversity” means the variability among living marine organisms and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems;
- n) “maximum sustainable yield” means the highest theoretical equilibrium yield that can be continuously taken (on average) from a stock under existing (average) environmental conditions without affecting the reproduction process;
- o) “nationals” includes both natural and legal persons;
- p) “port State” means any State receiving fishing vessels in its ports, offshore terminals or other installations for, inter alia, landing, transshipping, refuelling or re-supplying;
- q) “regional economic integration organization” means a regional economic integration organization to which its member States have transferred competence over matters covered by this Convention, including the authority to make decisions binding on its member States in respect of those matters; and
- r) “Regulatory Area” means that part of the Convention Area beyond areas under national jurisdiction (ABNJ)
- s) “Straddling stocks” means stocks which occur both within the Exclusive Economic Zone (EEZ) and in areas beyond and adjacent to the EEZ.

Comment: It is essential the Members of the Commission decide on the Convention Area as well as the fishery resources covered by the Convention. This draft refers to “all fishery resources” but WECAFC Members may decide to apply the Convention only to specific species/stocks. There has been some comment as to the fact that the Convention may apply to “straddling fish stocks, deep sea and highly migratory stocks not covered under ICCAT, transboundary stocks such as sharks, queen conch, spiny lobster shrimp and dolphin fish”. The draft Convention, as in the case of NAFO, foresees the existence of a “Regulatory Area” which is an ABNJ in which binding recommendations will apply.

Article 2: Objective

The objective of the Convention is to ensure the long-term conservation and sustainable use at the biological, social and economic and environmental level of [fishery resources in the Convention Area] and, in doing so, to safeguard the marine ecosystems in which these resources are found.

Comment: The draft reflects a general application of the Convention since it includes “all fishery resources.” However, the objective could, if WECAFC members decide, be limited to specific species/stocks. In that case the relevant “stocks” could be defined “as the population of which are located in the Convention Area or migrate into or out of the Convention Area”.

It is recommended to include the sentence: “to safeguard the marine ecosystems in which these resources are found” since it reflects the importance of the Ecosystem Approach to Fisheries.

Article 3: Convention Area

1. This Convention applies to [...]
2. Nothing in this Convention shall constitute recognition of the claims or positions of any of the members of the Commission concerning the legal status and extent of waters and zones claimed by any such members.

Comment: The Convention Area needs to be defined by the WECAFC Members. It is important to note that some Conventions, such as the NAFO Convention, define different subareas such as, scientific and statistical, subareas, divisions and subdivisions. It is also important to note that this in draft, as in the NAFO Convention, the concept of “Regulatory Area” has been used to define where the binding recommendations will be implemented.

Article 4: General Principles

In giving effect to the objective of this Convention, Contracting Parties individually or collectively, as appropriate, shall:

- a) promote the optimum utilization and long-term sustainability of fishery resources;
- b) adopt measures based on the best scientific advice available to ensure that fishery resources are maintained at or restored to levels capable of producing maximum sustainable yield (MSY);
- c) apply the precautionary approach in accordance with Article 6 of the 1995 Agreement;
- d) take due account of the impact of fishing activities on other species and marine ecosystems and in doing so, adopt measures to minimize harmful impact on living resources and marine ecosystems;
- e) take due account of the need to preserve marine biological diversity;
- f) prevent or eliminate overfishing and excess fishing capacity, and ensure that levels of fishing effort do not exceed those commensurate with the sustainable use of the fishery resources;
- g) ensure that complete and accurate data concerning fishing activities within the Convention Area are collected and shared among them in a timely manner;
- h) ensure effective compliance with management measures and that sanctions for any infringements are adequate in severity; and
- i) take due account of the need to minimize pollution and waste originating from fishing vessels as well as minimize discards, catch by lost or abandoned gear, catch of species not subject to a directed fishery and impacts on associated or dependent species, in particular endangered species.

Article 5: Establishment of the Commission

1. For the purpose of this Convention the Contracting Parties agree to establish a Commission (the Commission), which shall function in accordance with the provisions of this Convention.

2. The Commission shall have legal personality and shall enjoy in its relations with other international organizations and in the territories of the Contracting Parties such legal capacity as may be necessary to perform its functions and achieve its ends.
3. The privileges and immunities, which the Commission and its officers shall enjoy in the territory of a Contracting Party, shall be determined by agreement between the Commission and the member concerned.
4. Each Contracting Party shall be a member of the Commission and shall appoint one representative to the Commission who may be accompanied by alternative representatives, experts and advisers.
5. Subject to paragraph 6, each Contracting Party shall have one vote. Decisions of the Commission shall be taken by a majority of the votes cast, except as otherwise provided by this Agreement. A majority of the total membership of the Commission shall constitute a quorum.
6. A regional economic integration organization that is a Contracting Party to the Commission shall be entitled to exercise, in any meeting of the Commission or of any subsidiary body of the Commission, a number of votes equal to the number of its Member States that are entitled to vote in such meeting.
7. The Commission shall elect a Chairperson and a Vice-Chairperson for a term of two years. Each shall be eligible for re-election but shall not serve for more than four years in succession in the same capacity. The Chairperson and Vice-Chairperson shall not be representatives of the same Contracting Party.
8. The Chairperson of the Commission shall serve as the President and principal representative of the Commission.
9. The President shall convene the annual meeting of the Commission at such time and place as the Commission may determine.
10. Any Contracting Party may request a special meeting of the Commission. The President shall thereupon convene such meeting at such time and place as the Chairperson may determine.
11. The headquarters of the Commission shall be in [...]
12. In order to achieve the objective of this Convention and to carry out the functions the Commission will have a:
 - (a) Scientific Council
 - (b) The Secretariat
 - (c) Technical and Compliance Committee

Comment: As indicated in the Discussion Paper (page 40) the establishment of an IGO requires the negotiation of an instrument (Convention/Agreement) that provides legal personality to the entity. In the case of an Article XIV body under the FAO Constitution the legal personality is provided by FAO, which is the entity vested with legal personality to enter into legally binding agreements. However as clarified by the FAO Committee on Constitutional and Legal Matters (CCLM) in September 2014⁵³ when referring to Article XIV bodies, the instruments that establish Article XIV bodies “have a life on their own” and usually provide for obligations extending beyond those set out in the Constitution and other Basic Texts of FAO; for example these bodies may adopt regulatory measures directly binding upon the Members of the concerned body and may have autonomous budgets. Article 5 of this draft creates the Commission and provides its legal personality to operate. Article XIV bodies also draw privileges and immunities from FAO.

In case the Committee Members would decide to transform WECAFC into an article XIV body then the Convention will include language to indicate that objective, such as:

“The Contracting Parties:

Hereby agree to transform the Western Central Atlantic Fisheries Commission (WECAFC) established by Resolution 4/61 of 1973 under Article VI-1 of the Constitution of the Food and Agriculture Organization (FAO Constitution) to a Commission within the framework of the Food and Agriculture Organization of the United Nations, under Article XIV of the FAO Constitution.”

*With respect to **membership** if WECAFC Members decide to establish a RFMO under Article XIV of the FAO Constitution pursuant to that provision the Convention will need to include provisions to open the membership of those organizations to “Member Nations of the Organization, and such non-member States as are members of the United Nations, and any of its specialized agencies or the International Atomic Agency, and regional economic integration organizations, including Member Organizations, to which their Members States have transferred competence over matters within the purview of the conventions, agreements, supplementary conventions and agreements, including the power to enter into treaties in respect thereto, which may become parties thereto and the number of acceptances by Member Nations necessary to bring such convention, agreement, supplementary convention or agreement into force, and thus to ensure that it will constitute a real contribution to the achievement of its objectives.” This would require including language similar to that found in the GFCM relating to membership as follows:*

“Membership:

Membership in the Commission shall be open to Members and Associate Members of the Organization and such non-member States as are members of the United Nations or any of its specialized agencies,

(a) that are:

- i) coastal States or Associate Members situated wholly or partly within the area of application;
- ii) States or Associate Members whose vessels engage in fishing, or intend to conduct fishing, in the area of application for stocks covered by this Agreement; or
- iii) regional economic integration organizations of which any State referred to in subparagraphs (i), or (ii) above is a member and to which that State has transferred competence over matters within the purview of this Agreement;

(b) and that accept this Agreement in accordance with the provisions of Article 23 below.”

⁵³ CCLM 97/7 (September 2014) www.fao.org/bodies/cclm/cclm97/en/

Article XIV of the FAO Constitution also include rules applicable to approval of non-member States of the FAO that are members of the United Nations, any of its specialized agencies or the International Atomic Energy or by a regional economic integration organization that is not a Member Organization may become a party thereto, the voting rights to be exercised by such organizations and other terms of participation. Pursuant to this provision the Convention will need to include language similar to the one of the GFCM as follows:

“Acceptance:

1. This Agreement shall be open to acceptance by Members or Associate Members of the Organization.
2. The Commission may, by a two-thirds majority of its membership, admit to membership such other States that are members of the United Nations, or any of its specialized as have submitted an application for membership and a declaration made in a formal instrument that they accept this Agreement as in force at the time of admission.
3. Participation in the activities of the Commission by Contracting Parties which are not Members or Associate Members of the Organization shall be contingent upon the assumption of such proportionate share in the expenses of the Secretariat as may be determined in the light of the relevant provisions of the Financial Regulations and Rules of the Organization.
4. Acceptance of this Agreement by any Member or Associate Member of the Organization shall be effected by the deposit of an instrument of acceptance with the Director-General of the Organization and shall take effect on receipt of such instrument by the Director-General.
5. Acceptance of this Agreement by non-members of the Organization shall be effected by the deposit of an instrument of acceptance with the Director-General of the Organization. Membership shall become effective on the date on which the Commission approves the application for membership, in conformity with the provisions of paragraph 2 of this Article.
6. The Director-General of the Organization shall inform all Contracting Parties of the Commission, all Members of the Organization and the Secretary-General of the United Nations of all acceptances that have become effective.
7. Acceptance of this Agreement by non-Contracting Parties may be made subject to reservations, which shall become effective only upon approval by two thirds of the Contracting Parties. Contracting Parties whose relevant competent authorities have not replied within three months from the date of the notification shall be deemed to have accepted the reservation. Failing such approval, the nation or regional economic integration organization making the reservation shall not become a party to this Agreement. The Director-General of the Organization shall notify forthwith all Contracting Parties of any reservations.”

Article 6: Functions of the Commission

1. The Commission shall:
 - (a) adopt and may amend the Rules for the conduct of its meetings and for the exercise of its functions, including rules of procedure, financial regulations and other regulations;
 - (b) establish such subsidiary bodies as it considers desirable for the exercise of its functions and direct their activities;

- (c) supervise the organizational, administrative, financial and other internal affairs of the Organization, including relations among its constituent bodies;
 - (d) appoint an Executive Secretary on such terms and conditions as it may determine;
 - (e) direct the external relations;
 - (f) approve the budget;
 - (g) adopt rules to provide for the participation of representatives of inter-governmental organizations, non-Contracting Parties and non-governmental organizations as observers at its meetings, as appropriate. Such rules shall not be unduly restrictive and shall provide for timely access to reports and records of the Commission;
 - (g) exercise such other functions and carry out such other activities consistent with this Convention as it may decide;
 - (h) guide the Scientific Council in identifying tasks and priorities for its work; and
 - (i) develop appropriate procedures in accordance with international law to assess the performance by Contracting Parties of their obligations pursuant to Articles 11 and 12.
2. The Commission shall, in collaboration with the Scientific Council:
- (a) regularly review the status of fish stocks and identify actions required for their conservation and management;
 - (b) collect, analyze and disseminate relevant information;
 - (c) assess the impact of fishing activities and other human activities on living resources and their ecosystems;
 - (d) develop guidelines for the conduct of fishing activities for scientific purposes; and
 - (e) develop guidelines for the collection, submission, verification, access to and use of data.
3. In applying the principles set out in Article 4, the Commission shall, in relation to the Regulatory Area adopt:
- (a) conservation and management measures to achieve the objective of this Convention;
 - (b) conservation and management measures to minimize the impact of fishing activities on living resources and their ecosystems;
 - (c) total allowable catches and/or levels of fishing effort and determine the nature and extent of participation in fishing; measures for the conduct of fishing for scientific purposes as referred to in subparagraph 2(d);
 - (d) measures for the collection, submission, verification, access to and use of data and
 - (e) measures to ensure adequate flag State performance.

4. The Commission shall adopt measures for appropriate cooperative mechanisms for effective monitoring, control, surveillance and enforcement of the conservation and management measures adopted by the Commission including:
 - (a) reciprocal rights of boarding and inspection by Contracting Parties within the Regulatory Area and flag State prosecution and sanctions on the basis of evidence resulting from such boardings and inspections;
 - (b) minimum standards for inspection of fishing vessels by Contracting Parties in ports where fishery resources or products derived from fishery resources originating in the Regulatory Area are landed;
 - (c) follow-up actions as provided for in Articles 11, 12 or 13 on the basis of evidence resulting from such inspections; and
 - (d) without prejudice to any measures a Contracting Party may itself take in this regard, measures for the prevention, deterrence and elimination of IUU fishing.

Comment: Functions of the Commission can be identical, independently from the legal form that the Commission may take. These functions draw upon the NAFO Convention, and assume that the Commission applies to "all fishery resources".

In case WECAFC Members decide to be specific about the stocks covered then it may be appropriate to consider this alternative language:

1. The Commission shall promote cooperation among its Members with a view to ensuring, through appropriate management, the conservation and optimum utilization of stocks covered by this Agreement and encouraging sustainable development of fisheries based on such stocks.
2. In order to achieve these objectives, the Commission shall have the following functions and responsibilities, in accordance with the principles expressed in the relevant provisions of the United Nations Convention on the Law of the Sea:
 - a) to keep under review the conditions and trends of the stocks and to gather, analyse and disseminate scientific information, catch and effort statistics and other data relevant to the conservation and management of the stocks and to fisheries based on the stocks covered by this Agreement;
 - b) to encourage, recommend, and coordinate research and development activities in respect of the stocks and fisheries covered by this Agreement, and such other activities as the Commission may decide appropriate, including activities connected with transfer of technology, training and enhancement, having due regard to the need to ensure the equitable participation of Members of the Commission in the fisheries and the special interests and needs of Members in the region that are developing countries;
 - c) to adopt, on the basis of scientific evidence, conservation and management measures, to ensure the conservation of the stocks covered by this Agreement and to promote the objective of their optimum utilization throughout Convention Area;
 - d) to keep under review the economic and social aspects of the fisheries based on the stocks covered by this Agreement bearing in mind, in particular, the interests of developing coastal states;
 - e) to consider and approve its programme and autonomous budget, as well as the accounts for the past budgetary period.

3. The Commission may adopt decisions and recommendations, as required, with a view to furthering the objectives of this Agreement.”

In case WECAFC Members decide for an Article XIV body under the FAO Constitution then language should be included to reflect the connection between the Convention and the FAO, such as:

“a) to transmit to the Director-General of FAO (hereinafter referred to as the “Director-General”) reports on its activities, programme, accounts and autonomous budget and on such other matters as may be appropriate for action by the Council or the Conference of FAO;

b) to adopt its own Rules of Procedure, Financial Regulations and other internal administrative regulations as may be necessary to carry out its functions; and

c) to carry out such other activities as may be necessary to fulfill its objectives as set out above.”

Article 7: The Scientific Council

1. Each Contracting Party shall be a member of the Scientific Council and may appoint representatives who may be accompanied at any of its meetings by alternates, experts and advisers.
2. The Scientific Council shall elect a Chairperson and a Vice-Chairperson for a term of two years. Each shall be eligible for re-election but shall not serve for more than four years in succession in the same capacity.
3. Any special meeting of the Scientific Council may be called by the Chairperson at his or her own initiative, upon the request of a coastal State, or upon the request of a Contracting Party with the concurrence of another Contracting Party at such time and place as the Chairperson may determine.
4. The Scientific Council shall, consistent with the objective and principles of the Convention:

provide a forum for consultation and cooperation among the Contracting Parties to study and

 - (a) exchange scientific information and views on fishing activities and the ecosystems in which they occur, and to study and appraise the current and future status of fishery resources including environmental and ecological factors affecting them;
 - (b) promote cooperation in scientific research among Contracting Parties to fill gaps in scientific knowledge;
 - (c) compile and maintain statistics and records;
 - (d) publish or disseminate reports, information and materials pertaining to the fishing activities in the Convention Area and their ecosystems; and
 - (e) provide scientific advice to the Commission as required by the Commission.

Article 8: The Secretariat

1. The Secretariat shall provide services to the Commission, the Scientific Council, the Technical and Compliance Committee and their subsidiary bodies to facilitate the exercise of their functions.
2. The chief administrative officer of the Secretariat shall be the Executive Secretary.
3. The employees of the Secretariat shall be appointed by the Executive Secretary in accordance with such rules and procedures as the Commission may adopt in consultation with the Scientific Council, as appropriate.
4. Subject to the general supervision of the Commission, the Executive Secretary shall have full authority over managing employees and employee-related issues of the Secretariat and shall perform such other duties and functions as the Commission may prescribe.

Comment: Note that in the case of an RFMO under Article XIV of the FAO Constitution the Director-General of FAO normally appoints the Executive Secretary, with the approval of the Commission and the employees of the secretariat are part of FAO personnel, subject to FAO HR Regulations and Rules.

Article 9: Technical and Compliance Committee

1. The functions of the Technical and Compliance Committee shall be to:
 - (a) provide the Commission with information, technical advice and recommendations relating to the implementation of, and compliance with, conservation and management measures;
 - (b) monitor and review compliance with conservation and management measures adopted by the Commission and make such recommendations to the Commission as may be necessary; and
 - (c) review the implementation of cooperative measures for monitoring, control, surveillance and enforcement adopted by the Commission and make such recommendations to the Commission as may be necessary.
2. In carrying out its functions, the Committee shall:
 - (a) provide a forum for exchange of information concerning the means by which they are applying the conservation and management measures adopted by the Commission on the high seas and complementary measures in waters under national jurisdiction;
 - (b) receive reports from each member of the Commission relating to measures taken to monitor, investigate and penalize violations of provisions of this Convention and measures adopted pursuant thereto;
 - (c) consider and investigate such other matters as may be referred to it by the Commission, including developing and reviewing measures to provide for the verification and validation of fisheries data;
 - (d) make recommendations to the Commission on technical matters such as fishing vessel and gear markings;

- (e) in consultation with the Scientific Council, make recommendations to the Commission on the fishing gear and technology which may be used;
 - (f) report to the Commission its findings or conclusions on the extent of compliance with conservation and management measures; and
 - (g) make recommendations to the Commission on matters relating to monitoring, control, surveillance and enforcement.
3. The Committee may establish, with the approval of the Commission, such subsidiary bodies as may be necessary for the performance of its functions.
 4. The Committee shall exercise its functions in accordance with such guidelines and directives as the Commission may adopt.

Comment: The idea of introducing a Technical and Compliance Committee is based on the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean.

Article 10: Budget

1. Each Contracting Party shall pay the expenses of its own delegation to any meetings held pursuant to this Convention.
2. The Commission shall establish the amount of the annual contributions due from each Contracting Party pursuant to the annual budget on the following basis:
 - (a) 10 percent of the budget shall be divided among the coastal States in proportion to their nominal catches in the Convention Area in the year ending two years before the beginning of the budget year;
 - (b) 30 percent of the budget shall be divided equally among all the Contracting Parties;
 - (c) 60 percent of the budget shall be divided among all Contracting Parties in proportion to their nominal catches in the Convention Area in the year ending two years before the beginning of the budget year; and
 - (d) the annual contribution of any Contracting Party which has a population of less than 300,000 inhabitants shall be limited to a maximum of 12 percent of the total budget. When this contribution is so limited, the remaining part of the budget shall be divided among the other Contracting Parties in accordance with subparagraphs (a), (b) and (c).
 - (e) The nominal catches referred to above shall be the reported catches of the fishery resources specified in the financial regulations adopted by the Commission pursuant to subparagraph 5 (a) of Article VI.
3. The Executive Secretary shall notify each Contracting Party of the amount of its contribution due as calculated pursuant to paragraph 2, and as soon as possible thereafter, each Contracting Party shall pay its contribution to the Organization.

4. Contributions shall be payable in the currency of the country in which the headquarters of the Organization is located.
5. No later than sixty days before the annual meeting, the Executive Secretary shall submit the draft annual budget to each Contracting Party together with the schedule of contributions.
6. A Contracting Party acceding to this Convention shall contribute in respect of the year it accedes an amount proportional to the number of complete months remaining in the year calculated from the day of its accession.
7. Unless the Commission decides otherwise, a Contracting Party that has not fully paid its contributions for two consecutive years shall have its right of casting votes and presenting objections suspended until such time as it has discharged its financial obligations to the Organization.
8. The financial affairs of the Commission shall be audited annually by external auditors to be selected by the Commission.

Comment: These provisions are derived from the NAFO Convention. It is clear that the contributions are clarified in the Convention. In case WECAFC Members decide to form an Article XIV body under the FAO Constitution, then there are two sets of provisions that will need to be include – one relating to budget and another to expenses. The examples below are drawn from the GFCM agreement:

Financial arrangements

1. At each regular session, the Commission shall adopt its autonomous budget for three years, which may be reviewed on a yearly basis at the regular session. The budget will be adopted by consensus of its Contracting Parties, provided however that if, after every effort has been made, a consensus cannot be reached in the course of that session, the matter will be put to a vote and the budget shall be adopted by a two-thirds majority of its Contracting Parties.
2. Each Contracting Party shall undertake to contribute annually its share of the autonomous budget based on the scale of contributions determined in accordance with a scheme which the Commission shall adopt or amend by consensus. The scheme shall be set out in the Financial Regulations.
3. Any non-member of the Organization that becomes a Contracting Party shall be required to make such contribution towards the expenses incurred by the Organization with respect to the activities of the Commission as the Commission may determine.
4. Contributions shall be payable in freely convertible currencies unless otherwise determined by the Commission with the concurrence of the Director-General of the Organization.
5. The Commission may accept donations and other forms of assistance from organizations, individuals and other sources for purposes connected with the fulfillment of any of its functions. The Commission may also accept voluntary contributions generally or in connection with specific projects or activities of the Commission, which shall be executed by the Secretariat. Voluntary contributions, donations and other forms of assistance received shall be paid into a trust fund to be established and administrated by the Organization in conformity with the Financial Regulations and Rules of the Organization.
6. A Contracting Party which is in arrears in the payment of its financial contributions to the Commission shall have no vote in the Commission if the amount of its arrears equals or exceeds the amount of the contributions due from it for the two preceding calendar years. The Commission may, nevertheless, permit such a Contracting Party to vote if it is satisfied that the failure to pay was due to conditions beyond the control of the Contracting Party but in no case shall it extend the right to vote beyond a further two calendar years.”

Expenses

1. The expenses of the Secretariat, including publications and communications and the expenses incurred by the Chairperson and Vice-Chairpersons of the Commission, when performing duties on behalf of the Commission between sessions of the Commission, shall be determined and paid from the budget of the Commission.
2. The expenses of research and development projects undertaken by individual Contracting Parties, whether independently or upon recommendation of the Commission, shall be determined and paid by the Contracting Parties concerned.
3. The expenses incurred in connection with cooperative research or development projects undertaken, unless otherwise available, shall be determined and paid by the Contracting Parties in the form and proportion to which they shall mutually agree.
4. The expenses of experts invited to attend meetings of the Commission and its subsidiary bodies in their individual capacity shall be borne by the budget of the Commission.
5. The expenses of the Commission shall be paid out of its autonomous budget except those relating to such staff and facilities as can be made available by the Organization. The expenses to be borne by the Organization shall be determined and paid within the limits of the biennial budget prepared by the Director-General and approved by the Conference of the Organization in accordance with the Financial Regulations and Rules of the Organization.
6. Expenses incurred by delegates, their alternates, experts and advisers when attending, as government representatives, sessions of the Commission and its subsidiary bodies, as well as the expenses incurred by observers at sessions, shall be borne by the respective governments or organizations. In recognition of the special requirements of developing States Contracting Parties, according to Article 17 and subject to the availability of funds, the expenses could be borne by the budget of the Commission.

Article 11: Contracting Party Duties

1. Each Contracting Party shall:
 - (a) implement this Convention and any conservation and management measures or other obligations binding on it and regularly submit to the Commission a description of the steps it has taken to implement and comply with such measures or obligations including outcomes of proceedings referred to in Article 12 (2 e);
 - (b) co-operate in furthering the objective of this Convention;
 - (c) take all necessary actions to ensure the effectiveness of and to enforce the conservation and management measures adopted by the Commission;
 - (d) collect and exchange scientific, technical, and statistical data and knowledge pertaining to living resources and their ecosystems in the Convention Area including complete and detailed information on commercial catches and fishing effort and take appropriate actions to verify the accuracy of such data;
 - (e) perform biological sampling on commercial catches;
 - (f) make such information as may be required by the Commission, the Scientific Council and the Technical and Compliance Committee available in a timely manner;

- (g) without prejudice to the jurisdiction of the flag State, to the greatest extent possible, take actions or cooperate with other Contracting Parties, to ensure that its nationals and fishing vessels owned or operated by its nationals conducting fishing activities comply with the provisions of this Convention and with the conservation and management measures adopted by the Commission; and
 - (h) without prejudice to the jurisdiction of the flag State, to the greatest extent possible, when provided with the relevant information, investigate immediately and fully and report promptly on actions it has taken in response to any alleged serious infringement by its nationals, or foreign flagged fishing vessels owned or operated by its nationals, of this Convention or any conservation and management measure adopted by the Commission.
2. Each coastal State Contracting Party shall regularly submit to the Commission a description of the actions, including enforcement actions, it has taken for the conservation and management of straddling stocks found in waters under its jurisdiction within the Convention Area.

Article 12: Flag State Duties

1. Each Contracting Party shall ensure that fishing vessels entitled to fly its flag:
 - (a) comply with the provisions of this Convention and with the conservation and management measures adopted by the Commission and that such vessels do not engage in any activity that undermines the effectiveness of such measures;
 - (b) do not conduct unauthorized fishing activities within areas under national jurisdiction in the Convention Area; and
 - (c) do not engage in fishing activities in the Regulatory Area unless they have been authorized to do so by that Contracting Party.
2. Each Contracting Party shall ensure that fishing vessels entitled to fly its flag:
 - (a) comply with the provisions of this Convention and with the conservation and management measures adopted by the Commission and that such vessels do not engage in any activity that undermines the effectiveness of such measures;
 - (b) do not conduct unauthorized fishing activities within areas under national jurisdiction in the Convention Area; and
 - (c) do not engage in fishing activities in the Regulatory Area unless they have been authorized to do so by that Contracting Party.

Article 13: Port State Duties

1. Actions taken by a port State Contracting Party pursuant to this Convention shall take full account of its rights and duties under international law to promote the effectiveness of conservation and management measures adopted by the Commission.
2. Each port State Contracting Party shall implement the measures concerning inspections in port adopted by the Commission.
3. Nothing in this Article shall affect the sovereignty of a Contracting Party over ports in its territory.

Comment: It is important to recognize the application of the Port State Measures Agreement (PSMA).

Article 14: Implementation of Commission Decisions

1. Each measure adopted by the Commission pursuant to Article 6, paragraphs 3 and 4 shall become binding on each Contracting Party in the following manner:
 - (a) the Executive Secretary shall within five working days of adoption transmit the measure to each Contracting Party specifying the date of transmittal for the purposes of paragraph 2; and
 - (b) subject to paragraph 2, unless otherwise specified in the measure, it shall become binding on each Contracting Party sixty days following the date of transmittal.
2. Where any Contracting Party presents an objection to a measure by delivering it to the Executive Secretary within sixty days of the date of transmittal specified pursuant to subparagraph 1(a), any other Contracting Party may similarly present an objection prior to the expiration of an additional twenty day period, or within fifteen days after the date of transmittal specified in the notification to the Contracting Parties of any objection presented within that additional twenty day period, whichever shall be later. The measure shall then become binding on each Contracting Party, except any that has presented an objection. If, however, at the end of such extended period or periods, objections have been presented and maintained by a majority of Contracting Parties, the measure shall not become binding, unless any or all of the Contracting Parties nevertheless agree as among themselves to be bound by it on an agreed date.
3. Any Contracting Party that has presented an objection may withdraw it at any time and the measure shall then become binding on it.
4. (a) Any time after the expiration of one year from the date on which a measure enters into force, any Contracting Party may notify the Executive Secretary of its intention not to be bound by the measure and, if that notification is not withdrawn, the measure shall cease to be binding on it at the end of one year from the date of receipt of such notification by the Executive Secretary.
- (b) Any time after a measure has ceased to be binding on a Contracting Party pursuant to subparagraph (a), the measure shall cease to be binding on any other Contracting Party on the date the Executive Secretary receives notification of its intention not to be bound.
5. Any Contracting Party that has presented an objection to a measure pursuant to paragraph 2 or given notification of its intention not to be bound by a measure pursuant to paragraph 4 shall at the same time provide an explanation for its reasons for taking this action. This explanation shall specify whether it considers that the measure is inconsistent with the provisions of this Convention, or that the measure unjustifiably discriminates in form or fact against it. The explanation shall also include a declaration of the actions it intends to take following the objection or notification, including a description of the alternative measures it intends to take or has taken for conservation and management of the relevant fishery resources consistent with the objective of this Convention.
6. The Executive Secretary shall immediately notify each Contracting Party of:
 - (a) the receipt or withdrawal of any objection pursuant to paragraph 2 or 3;
 - (b) the date on which any measure becomes binding pursuant to paragraph 1;

- (c) the receipt of any notification pursuant to paragraph 4; and
 - (d) each explanation and description of alternative measures received pursuant to paragraph 5.
7. Any Contracting Party that invokes the procedure set out in paragraphs 2, 4 or 5, may at the same time submit the matter to ad hoc panel proceedings. Annex II shall apply *mutatis mutandis*.
 8. Where a Contracting Party does not submit the matter to ad hoc panel proceedings pursuant to paragraph 7, the Commission shall decide by simple majority mail vote, whether to submit that Contracting Party's explanation made pursuant to paragraph 5 to such proceedings. Where the Commission decides to submit the matter to such proceedings, Annex II shall apply *mutatis mutandis*.
 9. Where, pursuant to paragraph 8, the Commission decides not to submit the matter to ad hoc panel proceedings, any Contracting Party may request a meeting of the Commission to review the measure adopted by the Commission and the explanation made pursuant to paragraph 5.
 10. An ad hoc panel constituted pursuant to paragraph 7 or 8 shall review the explanation made pursuant to paragraph 5 and the measure to which it relates and make recommendations to the Commission on:
 - (a) whether the explanation provided by the Contracting Party pursuant to paragraph 5 is well founded, and if so, whether the measure should accordingly be modified or rescinded, or where it finds that the explanation is not well founded, whether the measure should be maintained; and
 - (b) whether the alternative measures set out in the explanation made by the Contracting Party pursuant to paragraph 5 are consistent with the objective of this Convention and preserve the respective rights of all Contracting Parties.
 11. No later than thirty days following the termination of the ad hoc panel proceedings pursuant to this Article, the Commission shall meet to consider the recommendations of the ad hoc panel.
 12. Where the procedures set out in paragraphs 7 to 11 have been concluded, any Contracting Party may invoke the dispute settlement procedures set out in Article 15.

Article 15: Settlement of Disputes

1. In the event of a dispute between two or more of Contracting Parties concerning the interpretation or application of this Convention, the Parties concerned shall consult among each other with a view to seeking solutions by negotiation, mediation, inquiry or any other peaceful means of their own choice.
2. If the parties concerned cannot reach agreement in accordance with paragraph 15.1, they may jointly refer the matter to a committee composed of one representative appointed by each of the parties of the dispute, and in addition the Chairperson of the Commission. The findings by such committee, while not binding in character, shall constitute the basis for renewed consideration by the Contracting Parties concerned of the matter out of which disagreement arose.
3. Any dispute concerning the interpretation or application of this Agreement not resolved under paragraphs 15.1 and 15.2 may, with the consent in each case of all parties to the dispute, be referred for settlement to arbitration. The results of the arbitration procedure shall be binding upon the parties.
4. In cases where the dispute is referred to arbitration, the arbitral tribunal shall be constituted as provided in Annex to this Agreement. The Annex forms an integral part of this Agreement.

Comment: This is a very general clause on settlement of dispute modeled on the GFCM. WECAFC Members can design a more specific settlement of disputes clause. However, it is important to note that in case WECAFC Members decide to establish an Article XIV body pursuant to the FAO Constitution inclusion of a settlement of disputes clause is a requirement.⁵⁴

Article 16: Co-operation with non-Contracting Parties

1. Where a vessel entitled to fly the flag of a non-Contracting Party engages in fishing activities in the Regulatory Area, the Commission shall request the flag State to cooperate fully with the Organization either by becoming a Contracting Party or by agreeing to apply the conservation and management measures adopted by the Commission. Contracting Parties shall:
 - (a) exchange information on fishing activities in the Regulatory Area by vessels entitled to fly the flag of any non-Contracting Party and on any action they have taken in response to such fishing activities;
 - (b) take measures consistent with this Convention and international law to deter fishing activities of vessels entitled to fly the flag of any non-Contracting Party that undermine the effectiveness of the conservation and management measures adopted by the Commission;
 - (c) advise any non-Contracting Party to this Convention of any fishing activity by its nationals or vessels entitled to fly its flag that undermine the effectiveness of the conservation and management measures adopted by the Commission; and
 - (d) seek co-operation with any non-Contracting Party that has been identified as importing, exporting or re-exporting fishery products derived from fishing activities in the Convention Area.
2. Contracting Parties shall:
 - (a) exchange information on fishing activities in the Regulatory Area by vessels entitled to fly the flag of any non-Contracting Party and on any action they have taken in response to such fishing activities;
 - (b) take measures consistent with this Convention and international law to deter fishing activities of vessels entitled to fly the flag of any non-Contracting Party that undermine the effectiveness of the conservation and management measures adopted by the Commission;
 - (c) advise any non-Contracting Party to this Convention of any fishing activity by its nationals or vessels entitled to fly its flag that undermine the effectiveness of the conservation and management measures adopted by the Commission; and
 - (d) seek co-operation with any non-Contracting Party that has been identified as importing, exporting or re-exporting fishery products derived from fishing activities in the Convention Area.

⁵⁴ CCLM 97/7 (September 2014) www.fao.org/bodies/cclm/cclm97/en/

Article 17: Co-operation with Other Organizations

The Commission shall:

- (a) cooperate, as appropriate, on matters of mutual interest, with the Food and Agriculture Organization of the United Nations, with other specialized agencies of the United Nations and with other relevant organizations;
- (b) seek to develop cooperative working relationships and may enter into agreements for this purpose with intergovernmental organizations that can contribute to its work and have competence for ensuring the long-term conservation and sustainable use of living resources and their ecosystems. It may invite such organizations to send observers to its meetings or those of any of its subsidiary bodies; it may also seek to participate in meetings of such organizations as appropriate; and
- (c) cooperate with other relevant regional fisheries management organizations taking note of their conservation and management measures.

Article 18: Relation to Other Agreements

1. This Convention shall not alter the rights and obligations of Contracting Parties that arise from other Agreements compatible with this Convention and that do not affect the enjoyment by other Contracting Parties of their rights or the performance of their obligations under this Convention.
2. Nothing in this Convention shall prejudice the rights, jurisdiction and duties of Contracting Parties under the 1982 Convention or the 1995 Agreement. This Convention shall be interpreted and applied in the context of and in a manner consistent with the 1982 Convention and the 1995 Agreement.

Article 19: Amendments to the Convention

1. Any Contracting Party may propose amendments to this Convention to be considered and acted upon by the Commission at its annual meeting or at a special meeting. Any such proposal shall be sent to the Executive Secretary at least ninety days prior to the meeting at which it is proposed to be acted upon, and the Executive Secretary shall immediately transmit the proposal to each Contracting Party.
2. Adoption of a proposed amendment shall require three-fourths majority of the votes of all Contracting Parties. The text of any amendment so adopted shall be transmitted by the Depositary to each Contracting Party.
3. An amendment shall take effect for all Contracting Parties one hundred and twenty days following the date of transmittal specified in the notification by the Depositary of receipt of written notification of approval by three-fourths of all Contracting Parties unless within ninety days of the date of transmittal specified in the notification by the Depositary of such receipt, any other Contracting Party notifies the Depositary that it objects to the amendment, in which case the amendment shall not take effect for any Contracting Party. Any Contracting Party that has objected to an amendment may at any time withdraw that objection. If all objections to an amendment that has been approved by three-fourths of all Contracting Parties are withdrawn, the amendment shall take effect for all Contracting Parties one hundred and twenty days following the date of transmittal specified in the notification by the Depositary, of receipt of the last withdrawal.
4. Any party that becomes a Contracting Party to the Convention after an amendment has been adopted in accordance with paragraph 2 shall be deemed to have approved that amendment.

5. The Depositary shall promptly notify all Contracting Parties of the receipt of notifications of approval of amendments, the receipt of notifications of objection or withdrawal of objections, and the entry into force of amendments.
6. Notwithstanding paragraphs 1 through 5, the Commission may by a two-thirds majority vote of all Contracting Parties:
 - (a) taking into account the advice of the Scientific Council, if it considers it necessary for management purposes, divide the Regulatory Area into scientific and statistical Subareas, regulatory Divisions and Subdivisions, as appropriate. The boundaries of any such Subareas, Divisions and Subdivisions shall be set out in Annex I;
 - (b) at the request of the Scientific Council, if it considers it necessary for management, scientific or statistical purposes, modify the boundaries of the scientific and statistical Subareas, Divisions and Subdivisions set out in Annex I, provided that each coastal State affected concurs in such action.

Comment: In the case of a Convention under Article XIV of the FAO Constitution the language for the amendment shall be comparable to the following:

Amendments

1. The Commission may amend this Agreement by a two-thirds majority of all the Contracting Parties. Subject to paragraph 2 below, amendments shall come into force as from the date of their adoption by the Commission.
2. Amendments involving new obligations for Contracting Parties shall come into force after acceptance by two-thirds of the Contracting Parties and with respect to each Contracting Party only on acceptance of it by that Contracting Party. The instruments of acceptance of amendments involving new obligations shall be deposited with the Director-General of the Organization, who shall inform all the Members of the Organization, as well as the Secretary-General of the United Nations, of the receipt of acceptance and the entry into force of such amendments. The rights and obligations of any Contracting Party that has not accepted an amendment involving additional obligations shall continue to be governed by the provisions of this Agreement as they stood prior to the amendment.
3. Amendments to this Agreement shall be reported to the Council of the Organization which shall have the power to disallow any amendment which it finds to be inconsistent with the objectives and purposes of the Organization or the provisions of the Constitution of the Organization. If the Council of the Organization considers it desirable, it may refer the amendment to the Conference of the Organization which shall have the same power.

Article 20: Ratification, Acceptance and Approval

1. This Convention shall be open for signature at [...] It shall thereafter be open for accession.
2. This Convention shall be subject to ratification, acceptance or approval by the Signatories and the instruments of ratification, acceptance or approval shall be deposited with the Government of [...] , referred to in this Convention as “the Depositary”.
3. This Convention shall enter into force upon the first day of January following the deposit of instruments of ratification, acceptance or approval by not less than [...]; at least one of which exercises fisheries jurisdiction in waters forming part of the Convention Area.

4. Any party which has not signed this Convention may accede thereto by a notification in writing to the Depositary. Accessions received by the Depositary prior to the date of entry into force of this Convention shall become effective on the date this Convention enters into force. Accessions received by the Depositary after the date of entry into force of this Convention shall become effective on the date of receipt by the Depositary.
5. The Depositary shall inform all Signatories and all Contracting Parties of all ratifications, acceptances or approvals deposited and accessions received.
6. The Depositary shall convene the initial meeting of the Organization to be held not more than six months after the coming into force of the Convention, and shall communicate the provisional agenda to each Contracting Party not less than one month before the date of the meeting.

Article 21: Denunciation

1. A Contracting Party may denounce this Convention by written notification to the Depositary on or before 30 June of any year. The denunciation shall take effect on 31 December of that same year. The Depositary shall without delay notify all other Contracting Parties.
2. Any other Contracting Party may thereupon by written notification to the Depositary no later than thirty days following notification pursuant to paragraph 1 also denounce the Convention with effect on 31 December of that year. The Depositary shall without delay notify all other Contracting Parties.

Article 22: Termination

This Agreement shall be automatically terminated if and when, as the result of withdrawals, the number of Contracting Parties drops below [...], unless the remaining Contracting Parties unanimously decide otherwise.

Article 23: Registration

1. The original of the present Convention shall be deposited with _____, which shall communicate certified copies thereof to all the Signatories and to all the Contracting Parties.
2. The Depositary shall register the present Convention and any amendment thereof with the Secretariat of the United Nations.

V. ROADMAP⁵⁵

Updated Roadmap for WECAFC transformation into a FAO Art. XIV RFMO

March 2019	Special Session of WECAFC/1st Preparatory Meeting to discuss and decide <i>inter alia</i> on: legal status of the RFMO; stocks coverage; area of competence; organisational structure; and funding. The meeting should discuss and draft preliminary versions of an Agreement
April/ May 2019	17th Session of WECAFC – an update on the status of the process is provided to the Members.
August-September 2019	If there would be (informal) consensus on the way forward, then one Member on behalf of the Member-states attending the 17th session of WECAFC, submits a request to FAO expressing the desire to establish the RFMO under Article XIV of the FAO Constitution and that FAO supports the process to this effect.
2nd half 2019	FAO formally informs the WECAFC Members of the request for establishment of an Article XIV RFMO and, when it enters into force the abolition of WECAFC as an Article VI statutory body.
2020	Special Session of WECAFC/2nd Preparatory Meeting to further negotiate, finalize and endorse the: - Agreement - RoP and Financial Regulations, including the scheme and scale of contributions to the administrative/autonomous budget of the RFMO, to be adopted by the Article XIV body after its entry into force; 1st Programme of Work of the RFMO; and proposals for establishment of sub-commissions or other subsidiary bodies.
2020	One Member on behalf of the Member-states attending the 2nd Preparatory Meeting, and after having reached informal consensus, submits the final Agreement to the Director General of FAO and requests FAO to review and endorse it at the appropriate levels.
June 2020	The CCLM of FAO reviews the proposed Agreement and passes it to the FAO Council or FAO Conference for endorsement. All WECAFC Members are Member of the FAO Conference, and some of the FAO Council. In either of the two the decision to abolish WECAFC as an Article VI statutory body, and establish it as an Article XIV statutory body is made. The abolition would take effect upon entry into force of the Article XIV statutory body.
Sept 2020	The FAO Director General notifies the WECAFC Members of the endorsement of the Agreement and invites them to become Member of the Commission through depositing an “instrument of acceptance” of the agreement. It is also possible to have a provisional entering into force upon signature. Members will decide on the approach.
Oct 2020/ 2021	The Members follow internal processes of ministerial/cabinet approval of the Agreement and inform the WECAFC Secretariat on progress made
Oct 2020/2022	Inaugural Session of the new RFMO/Final session of WECAFC as Article VI body - the inaugural session can be organized after a minimum number of Members have accepted - the agreement (n° to be determined in the Agreement) Those WECAFC Members that have not accepted the agreement by this session will participate as observers in the RFMO sessions until they accept the agreement.

⁵⁵ This roadmap is an updated version of the roadmap presented in the Discussion Paper of 2018.

Updated Roadmap for WECAFC transformation into an IGO RFMO

March 2019	<p>Special Session of WECAFC/1st Preparatory Meeting to discuss and decide inter alia on: legal status of the RFMO; stocks coverage; area of competence; organisational structure; and funding.</p> <p>The meeting should discuss and draft preliminary versions of the Convention.</p>
2019	17th Session of WECAFC – an update on the status of the process is provided to the Members.
2019	If there would be (informal) consensus on the way forward, then one Member on behalf of the Member-states attending the 17th session of WECAFC, submits a request to FAO expressing the desire to establish an IGO RFMO to replace WECAFC and that FAO continues supporting WECAFC (as currently is the case) until the new IGO has been formally established.
2nd half 2019	FAO formally informs the WECAFC Members of the request for abolition of WECAFC as an Article VI statutory body.
2020	<p>Special Session of WECAFC/2nd Preparatory Meeting to further negotiate, finalize and endorse the:</p> <ul style="list-style-type: none"> - Convention; - RoP and Financial Regulations, including the scheme and scale of contributions to the administrative/autonomous budget of the RFMO, to be adopted by the IGO after its Convention enters into force; 1st Programme of Work of the RFMO; and proposals for establishment of sub-commissions or other subsidiary bodies.
June 2020	<p>The CCLM of FAO reviews the request for abolition of WECAFC, endorses a resolution to this effect and passes it to the FAO Council or FAO Conference for adoption. All WECAFC Members are Member of the FAO Conference, and some of the FAO Council. In either of the two (Council/Conference) the decision to abolish WECAFC can be adopted. The abolition would take effect upon entry into force of the IGO RFMO.</p> <p>In the meantime, no further sessions of the WECAFC or its SAG sessions would be held anymore.</p>
July 2020	The CLME+ SAP interim- mechanism for sustainable fisheries will be amended to exclude WECAFC as party and allow entry to the Task-force/arrangement that is coordinating the establishment of the IGO. This step needs further clarification/decision by the Members.
First half 2021	The depositary of the new Convention notifies the potential Members of the Agreement and invites them to become Member of the Commission through depositing an “instrument of acceptance”/ratification of the Convention.
Second half 2021	The members follow internal processes of ministerial/cabinet approval of the Convention and inform the depositary in a timely manner.
2022/2024	Inaugural Session of the new IGO RFMO.

This is the report of the First Western Central Atlantic Fishery Commission (WECAFC) Preparatory Meeting for the Transformation into a Regional Fisheries Management Organization (RFMO) held in Bridgetown, Barbados, on 25 and 26 March 2019.

The workshop was convened in keeping with the decision of the 16th Session of the WECAFC (Guadeloupe, France, 20–24 June 2016/WECAFC 16) to “launch a process to establish a Regional Fisheries Management Organization (RFMO), and to clarify issues in relation to competency area, stocks coverage, budgetary implications for Members, institutional structure, membership, decision-making processes, national sovereignty aspects, its objectives and any other relevant matters that the Members may wish to consider”.

The workshop was made possible through the generous support provided by the European Union (Member Organization) under Trust Fund project GCP/SLC/015/EC and the Global Environment Facility-funded Caribbean and North Brazil Shelf Large Marine Ecosystems (CLME+) Project.

Ce document est le rapport de la Première réunion préparatoire pour la transformation de la Commission des pêches pour l'Atlantique Centre-Ouest (COPACO) en une organisation régionale de gestion des pêches en une organisation régionale de gestion des pêches (ORGP), qui s'est tenue à Bridgetown (La Barbade) les 25 et 26 mars 2019.

L'Atelier a été organisé conformément à la décision de la seizième session de la COPACO, (Guadeloupe (France), du 20 au 24 juin 2016/COPACO 16) «de lancer un processus en vue d'établir une Organisation régionale de gestion des pêches (ORGP) et de clarifier les points en rapport avec la zone de compétence, la couverture des stocks, les incidences budgétaires pour les Membres, la structure institutionnelle, l'adhésion, les processus décisionnels, les aspects ayant trait à la souveraineté nationale, les objectifs et toute autre question pertinente que les membres pourraient envisager de soulever».

L'atelier a pu être organisé grâce au généreux appui fourni par l'Union européenne (Organisation Membre) au titre du Projet de fonds fiduciaire GCP/SLC/015/EC et par le Projet relatif aux Grands écosystèmes marins des Caraïbes et du plateau Nord-Brésil (CLME+) financé par le Fonds pour l'environnement mondial (FEM).

Este es el primer informe de la Primera reunión preparatoria de la Comisión de Pesca para el Atlántico Centro Occidental (COPACO) para la transformación en una organización regional de ordenación pesquera (OROP), celebrada en Bridgetown, Barbados, los días 25 y 26 de marzo de 2019.

El taller fue convocado de conformidad con la decisión de la 16.ª reunión de la COPACO (Guadalupe, Francia, 20-24 de junio de 2016/WECAFC 16) a fin de “iniciar un proceso para establecer una organización regional de ordenación pesquera (OROP), y de aclarar las cuestiones en relación con el área de competencia, las poblaciones, las consecuencias presupuestarias para los miembros, la estructura institucional, la composición, los procesos de toma de decisiones, aspectos de la soberanía nacional, sus objetivos y otras cuestiones pertinentes que los miembros tal vez desearan considerar”.

El taller fue posible gracias al generoso apoyo brindado por la Unión Europea (Organización Miembro) a través del proyecto de Fondo Fiduciario GCP/SLC/015/CE y el Proyecto financiado por el Fondo Mundial para el Medio Ambiente para los grandes ecosistemas marinos del Caribe y la plataforma del norte de Brasil (CLME+).

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