

16 July 2014

IOTC CIRCULAR 2014-73

Dear Sir/Madam,

SUBJECT: SECOND PERFORMANCE REVIEW – NOMINATIONS AND ARRANGEMENTS

At the last IOTC Session, the Commission adopted the Terms of Reference and Criteria to conduct the Second Performance Review and agreed to set up a Performance Review Panel comprising, an independent Chair with legal background, a science expert, two members from other T-RFMOs (WCPFC and ICCAT) and representatives of six IOTC Members (European Union, Japan, Maldives, Mauritius, Oman and Seychelles).

The review will focus on the effectiveness of the Commission to fulfil its mandate, in accordance with the criteria set in the attached. The report of the Review Panel will be completed and made available 60 days prior to the 20th Session of the Commission and published in the IOTC website.

In preparation for this work, I would like to propose a plan of activities to complete the review in the time allotted, which is about 18 months.

It is clear that the review panel will require a substantial amount of information that is held at the Secretariat in order to complete its work. The Secretariat will play an active role in facilitating the process, by producing a range of relevant information for each criterion that can be considered by panel members prior to the meeting of the panel. The information would be circulated to panel members according to the timeline suggested on the following pages.

In this way, there will be sufficient time for the Secretariat to compile additional information should a Member feel that further information is required to assess properly a particular issue.

I would appreciate very much your views and suggestions concerning the proposed timeline. If you agree, we can proceed to establish a timeline for the completion of the preparatory work of the Secretariat in each of the sections of the outline.

Furthermore, and as an initial step, I would like to invite you to submit to the Secretariat:

- a) Name of your designated representative to the Panel who should be well versed and has participated in the IOTC process for at least the past three years.
- b) A Member country of ICCAT and WCPFC (not affiliated with IOTC) to serve on the panel.
- c) Possible candidates (including CVs) for the independent science expert. Selection of the candidate to be decided at the first meeting, and
- d) Convenient dates for the first meeting of the Review Panel to take place in Seychelles. At this stage I would like to propose 6 – 10 October 2014.

As regards to the independent Chair with legal background, I would like to propose Mr. Terje Lobach of Norway. He participated in the first review of the IOTC (as Chair and legal reviewer) and has extensive experience of other fisheries management bodies (CV attached). He is also not part of the IOTC membership. However, I would like to invite other proposals for potential Chairs from the Members of the Panel.

Distribution

IOTC Members: European Union, Japan, Maldives, Mauritius, Oman, Seychelles,

Intergovernmental Organisations, Non-Governmental Organisations: PEW and ISSF.

This message has been transmitted by email only

Finally, as you will appreciate, we have little time to complete this important work for the Commission. I would greatly appreciate your urgent attention to this letter and request that you respond to the Secretariat (secretariat@iotc.org) by email by 28th July 2014.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D. Mauree', written in a cursive style.

D. Mauree
Chairperson

Attachments:

- **Terms of Reference**
- **CV – Terje Lobach**

TERMS OF REFERENCE AND CRITERIA TO CONDUCT THE SECOND PERFORMANCE REVIEW OF THE IOTC

1. Terms of reference for the implementation of the second performance review of the Indian Ocean Tuna Commission

Composition of the Review Panel

- a) A Chair with legal fisheries background and good understanding of Tuna Regional Fisheries Management Organisations (RFMO) not affiliated with the IOTC Membership to Chair the Review Panel and draft the report of the review.
- b) A science expert not affiliated with the IOTC Membership, and with expertise on tuna, tuna-like species and bycatch species caught by IOTC fisheries (To be determined by the Panel).
- c) Six representatives of IOTC Members as follows: EU, Japan, Maldives, Mauritius Oman and Seychelles.
- d) Two Non-Governmental Organisations: ISSF and PEW Charitable Trust.
- e) Two members (not already Members of the IOTC) from other Tuna Regional Fisheries Management Organisations: WCPFC and ICCAT.

The IOTC Secretariat will not be a part of the Review Panel but it will act as a facilitator of its activities, providing access to information and facilities that the Review Panel will require to conduct its work. Review Panel meetings will take place in the Seychelles. Member countries will cover the costs associated with the participations of their representatives. However, the attendance of developing coastal countries to the Review Panel meetings may be funded under the Meeting Participation Fund or any special fund that the Commission may set up for this purpose.

Scope of the review

The review will evaluate progress made on the recommendations arising from the first performance review. In addition it will focus on the effectiveness of the Commission to fulfil its mandate, in accordance to the criteria set forth below. The review will not include an audit of the finances of the Commission.

In doing the review, the strengths, weakness, opportunities and risks to the organisation should be evaluated.

Work schedule

The report of the Review Panel will be completed and made available no later than 60 days prior to the 20th Session of the Commission (2016) and published on the IOTC website.

2. Criteria for the second performance review of the Indian Ocean Tuna Commission

CONSERVATION AND MANAGEMENT

Status of living marine resources (08/09/2014)

- Status of fish stocks under the purview of the IOTC in relation to maximum sustainable yield or other relevant biological standards.
- Trends in the status of those stocks.
- Status of species that belong to the same ecosystems as, or are associated with or dependent upon, the IOTC species (hereinafter “non-target species”).
- Trends in the status of non-target species.

Data collection and sharing (08/09/2014)

- Extent to which the IOTC has agreed formats, specifications and timeframes for data submission, taking into account UNFSA Annex I.
- Extent to which IOTC Members and Cooperating Non-Contracting Parties, individually or through the IOTC, collect and share complete and accurate fisheries data concerning target stocks and non-target species and other relevant data in a timely manner.
- Extent to which fishing data and fishing vessel data are gathered by the IOTC and shared among Members and other RFMOs.
- Extent to which the IOTC is addressing any gaps in the collection and sharing of data as required.
- Extent to which the IOTC has set standards for the collection of socio-economic data from the fisheries, as specified in the IOTC Agreement; and extent to which this information is used to inform decisions from the Commission.
- Extent to which the IOTC has set security and confidentiality standards and rules for sharing of sensitive science and operational/compliance data.

Quality and provision of scientific advice (08/09/2014)

- Extent to which the IOTC receives and/or produces the best scientific advice relevant to the fish stocks and other living marine resources under its purview, as well as to the effects of fishing on the marine environment.
- Extent to which science data that impacts compliance processes is shared, discussed and utilised.

Adoption of Conservation and Management Measures (2015)

- Extent to which the IOTC has adopted Conservation and Management Measures for both target stocks and non-target species that ensures the long-term sustainability of the ecosystem as well as of such stocks and species and are based on the best scientific evidence available.
- Extent to which the IOTC has applied the precautionary approach as set forth in UNFSA Article 6 and the Code of Conduct for Responsible Fisheries Article 7.5, including the application of precautionary reference points and harvest control rules.
- Extent to which the IOTC has adopted and is implementing effective rebuilding plans for depleted or overfished stocks.
- Extent to which the IOTC has moved toward the adoption of Conservation and Management Measures for previously unregulated fisheries, including new and exploratory fisheries.
- Extent to which the IOTC has taken due account of the need to conserve marine biological diversity and minimise harmful impacts of fisheries on living marine resources and marine ecosystems.
- Extent to which the IOTC has adopted measures to minimise pollution, waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species, and impacts on associated or dependent species, in particular endangered species, through measures including, to the extent practicable, the development and use of selective, environmentally safe and cost-effective fishing gear and techniques.

Capacity management (08/09/2014)

- Extent to which the IOTC has identified fishing capacity levels commensurate with long-term sustainability and optimum utilisation of relevant fisheries.
- Extent to which the IOTC has taken actions to prevent or eliminate excess fishing capacity and effort, including the management and intentions expressed in the fleet development plans.

Compatibility of management measures (08/09/2014)

-
- Extent to which measures have been adopted as reflected in UNFSA Article 7.

Fishing allocations and opportunities (08/09/2014)

- Extent to which the IOTC agrees on the allocation of allowable catch or levels of fishing effort, including taking into account requests for participation from new Members or participants as reflected in UNFSA Article 11.

COMPLIANCE AND ENFORCEMENT

Flag State duties (08/09/2014)

- Extent to which IOTC Members are fulfilling their duties as flag States under the treaty establishing the IOTC, pursuant to measures adopted by the IOTC, and under other international instruments, including, inter alia, the 1982 Law of the Sea Convention, the UNFSA and the 1993 FAO Compliance Agreement, as applicable.

Port State measures (08/09/2014)

- Extent to which the IOTC has adopted measures relating to the exercise of the rights and duties of its members as port States, as reflected in UNFSA Article 23 and the Code of Conduct for Responsible Fisheries Article 8.3 and the FAO Port State Agreement (yet to enter into force).
- Extent to which these measures are effectively implemented.

Monitoring, control and surveillance (MCS) (08/09/2014)

- Extent to which the IOTC has adopted integrated MCS measures (e.g., required use of VMS, observers, catch documentation and trade tracking schemes, restrictions on transshipment, boarding and inspection schemes).
- Extent to which these measures are effectively implemented.

Follow-up on infringements (08/09/2014)

- Extent to which the IOTC, its Members and Cooperating Non-Contracting Parties follow up on infringements to management measures.

Cooperative mechanisms to detect and deter non-compliance (08/09/2014)

- Extent to which the IOTC has established adequate cooperative mechanisms to both monitor compliance and detect and deter non-compliance (e.g., compliance committees, vessel lists, sharing of information about non-compliance, joint patrols, common Minimum Terms and Conditions for access, harmonized regulatory mechanisms, boarding schemes, regional/compatible VMS equipment and operational criteria, observer schemes, with common training standards for inspectors and observers, intra-regional cooperation, etc.).
- Extent to which these mechanisms are being effectively utilised.
- Extent to which the IOTC has adopted new measures to foster (reward/penalise) compliance within IOTC and effectiveness of such measures.

Market-related measures (08/09/2014)

- Extent to which the IOTC has adopted measures relating to the exercise of the rights and duties of its Members as market States.
- Extent to which these market-related measures are effectively implemented.

Fishing Capacity (08/09/2014)

- Extent to which the IOTC has implemented and complied with the Conservation and Management Measures relating to fishing capacity, in particular, the developments plans as required by the Resolutions 03/01 and 12/11.

DECISION-MAKING AND DISPUTE SETTLEMENT

Decision-making (08/09/2014)

- Extent to which IOTC has transparent and consistent decision-making procedures that facilitate the adoption of Conservation and Management Measures in a timely and effective manner.

Dispute settlement (08/09/2014)

- Extent to which the IOTC has established adequate mechanisms for resolving disputes.

INTERNATIONAL COOPERATION

Transparency (08/09/2014)

- Extent to which the IOTC is operating in a transparent manner, as reflected in UNFSA Article 12 and the Code of Conduct for Responsible Fisheries Article 7.1.9.
- Extent to which IOTC decisions, meeting reports, scientific advice upon which decisions are made, and other relevant materials are made publicly available in a timely fashion.

Relationship to Cooperating Non-Contracting Parties (08/09/2014)

- Extent to which the IOTC facilitates cooperation between Members and Cooperating Non-Contracting Parties, including through the adoption and implementation of procedures for granting cooperating status.

Relationship to Non-Cooperating Non-Members (Non-CPCs) (08/09/2014)

- Extent of fishing activity by vessels of non-members that are not cooperating with the IOTC, as well as measures to deter such activities.

Cooperation with other RFMOs (08/09/2014)

- Extent to which the IOTC cooperates with other RFMOs, including through the network of Regional Fishery Body Secretariats.
- Extent to which IOTC works intra-regionally to adopt common regulatory principles, standards and operational schemes, and processes where appropriate, e.g., observer coverage, FADs management, access rules and appropriate financial mechanisms.

Special requirements of developing States (08/09/2014)

- Extent to which the IOTC recognizes the special needs of developing States and pursues forms of cooperation with developing States, including with respect to fishing allocations or opportunities, taking into account UNFSA Articles 24 and 25, and the Code of Conduct of Responsible Fisheries Article 5.
- Extent to which IOTC Members, individually or through the IOTC, provide relevant assistance to developing States, as reflected in UNFSA Article 26.

Participation (08/09/2014)

- Number of member coastal states / total number of coastal states.
- Number of member countries / total number of countries.
- Extent to which all fishing entities active in the area discharge their obligations in line with the UNFSA.

FINANCIAL AND ADMINISTRATIVE ISSUES

Availability of resources for IOTC activities (2015)

-
- Extent to which financial and other resources are made available to achieve the aims of the IOTC and to implement the Commission's decisions, including analysis on the payment of servicing cost from annual and extraordinary/voluntary contributions and the new Improved Cost Recovery Uplift that should be examined and evaluated in terms of any new support provided from FAO to IOTC.

Efficiency and cost-effectiveness (2015)

- Extent to which the IOTC is efficiently and effectively managing its human and financial resources, including those of the Secretariat and eligibility of the staff to all entitlements paid to FAO.
- Extent to which the IOTC is managing its budget as well as its capacity to monitor and audit annual and multiannual expenditures.
- The extent of IOTC's viability within and outside of the FAO structure in term of the cost and the benefits of breaking from the UN administrative structure and mandate.

FAO

Support to IOTC (2015)

- Extent to which the FAO supports IOTC activities and fulfilment of the IOTC objectives, notably regarding its institutional and legal obligations.

FIRST PERFORMANCE REVIEW (*08/09/2014*)

Recommendations

See paper IOTC-2014-S18-07 for the current state of play of the implementation of the first Performance Review recommendations.

CURRICULUM VITAE

TERJE LOBACH

ADDRESS (Private):

Ovre Sandviksvei 29, 5034 Bergen, Norway
Tel: +47 90 83 5495

ADDRESS (Work):

Directorate of Fisheries, Strandgaten 229, 5817 Bergen, Norway
Tel: +47 55 23 8000
Mobile: +47 90 83 5495
E-mail: terje.lobach@fiskeridir.no

DATE OF BIRTH:

06 April 1952.

MARITAL STATUS:

Married. One child.

EDUCATION:

Law degree, Bergen University, 1980.
Economical studies, 1972.

EMPLOYERS:

Directorate of Fisheries, 1996 – to date.
Ministry of Foreign Affairs, 1993 – 1996.
Directorate of Fisheries, 1982 – 1993.
Bergen Municipality, 1980 – 1982.

EXPERIENCE:

Extensive experience in bilateral and multilateral negotiations and consultancy work for a number of countries and international organizations concerning policy and management of marine living resources, as well as legal work, including drafting conventions, arrangements and legislation. Norway's representative to all relevant regional fisheries management organisations as well as to the United Nations and the Food and Agriculture Organization (the FAO). Special adviser on matters related to the UN Convention on the Law of the Sea, the UN Fish Stocks Agreement, the FAO Compliance Agreement, the FAO Agreement on Port State Measures and the FAO Code of Conduct for Responsible Fisheries, including its international plans of action. Speaker, chairperson, panellist or resource person at numerous conferences, symposia, seminars and workshops.

Norwegian government:

Negotiations and consultations, in particular concerning shared fish stocks, with the European Union (including special consultations with Denmark, United Kingdom, Ireland, Poland and

Sweden), Faroe Islands, Greenland, Iceland and the Russian Federation. Bilateral cooperation on the management of aquatic resources with Brazil.

Fisheries and agricultural counsellor to the United Kingdom and Ireland at the Royal Norwegian Embassy in London.

Representative to CCAMLR (Commission for Conservation of Antarctic Marine Living Resources), FAO (Food and Agricultural Organization of the United Nations), ICCAT (International Commission for the Conservation of Atlantic Tunas), IMO (International Maritime Organisation), International MCS (Monitoring Control and Surveillance) Network, IOC/ABE-LOS (Intergovernmental Oceanographic Commission/Advisory Body of Experts on the Law of the Sea), NAFO (Northwest Atlantic Fisheries Organization), NEAFC (North East Atlantic Fisheries Commission), SEAFO (South East Atlantic Fisheries Organisation) and to the UN (United Nations).

DOALOS/OLA (UN Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs):

Consultant: Preparing the report to the Review Conference on the UN Fish Stocks Agreement, New York, 2006.

FAO (Food and Agricultural Organization of the United Nations) as consultant/expert/speaker/author/resource person:

FAO/APFIC Workshop on Implementation of the 2009 FAO Agreement on Port State Measures to Combat IUU Fishing. Bangkok, Thailand. 2012.

Technical Meeting on Developing States Assistance to Implement the FAO Port State Agreement. Rome, Italy. 2011.

FAO/CECAF Workshop on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing for the West African Sub region, Accra, Ghana, 2009.

Technical Meeting on the Annexes to the draft Global Agreement on Port State Measures. Rome, Italy, 2008

Commission Sous Regionale Des Peches (CSRP), Workshop on Port State Measures to Combat IUU Fishing in Cooperation with FAO, Nouadhibou, Mauritania, 2008.

FAO/APRIC/SEAFDEC Regional workshop on Port State Measures to Combat IUU Fishing, Bangkok, Thailand, 2008.

FAO Regional Workshop on Port State Measures to Combat IUU Fishing, Cape Town, South Africa, 2008.

Expert Consultation to Draft a Legally Binding Instrument on Port State Measures, the United States, 2007.

FAO/IOC/IOTC Workshop on Port State Measures to Combat IUU fishing, Mauritius, 2007.

FAO/FFA Regional Workshop to Promote the Full and Effective Implementation of Port State Measures to Combat IUU Fishing, Fiji, 2006.

Expert Consultation on Port State Measures, Italy, 2002.

Expert Consultation on the Management of Shared Fish Stocks, Norway, 2002.

FAO Legal Office: Visiting Expert preparing a study on Port State Control of Foreign Fishing Vessels, Italy, 2001.

Expert Consultation on Illegal, Unreported and Unregulated Fishing, Australia, 2000.

Regional Workshop on Fisheries Monitoring, Control and Surveillance, Mauritius, 1996.

FIMLAP – Review Mission (evaluation of Fisheries Management and Legal Advice Programme), Guyana, Italy, Mexico, Saint Lucia, St. Vincent & Grenadines and Trinidad & Tobago, 1992.

NORAD (Norwegian Agency for Development Cooperation):

Mauritius: Assisting with the development of a new fisheries law and regulations. 2012 to date.

South Africa: Review of South African international obligations concerning marine fisheries and aquaculture, 2008 and 2009.

SEAFDEC (Southeast Asian Fisheries Development Centre): Assistance at a regional consultation on the Establishment of a Regional Fisheries Management Mechanism, Thailand, 2007.

SIOFA (Southern Indian Ocean Fisheries Agreement): Legal assistance to developing coastal States during the work of establishing a new regional fisheries management organisation for the Southern Indian Ocean, 2004.

SWIOFC (South West Indian Ocean Fisheries Commission): Legal assistance to developing coastal States during the work of establishing a new regional fisheries management organisation for the coastal waters of East-African States, 2001 – 2002 and 2004.

Vietnam: Drafting of a new Fisheries Law, subsidiary legislation and assisting in management considerations concerning marine and inland fisheries and aquaculture, 2000 – 2011.

South Africa: Drafting of a new Marine Resources Act and subsidiary legislation, 1997 – 1999 and 2004.

China: Advisory work concerning fisheries management, including legislation, control and enforcement, 1995 and 1996.

Zimbabwe/Zambia: Assistance concerning a fisheries agreement for Lake Kariba, 1994.

SADC (Southern African Development Community): Lecturing and training of personnel in fisheries management, Norway, 1991 and 1992.

Namibia: Drafting a new Fisheries Law and subsidiary legislation, 1990 – 1992.

Miscellaneous:

GFCM (General Fisheries Commission for the Mediterranean): Consultant; drafting the new legal framework for the organization, 2012 – 2013.

MCS Network: Drafting the MCS Network Governing Framework, 2011.

CCAMLR, Chair of the Commission, 2010 – 2012.

BCC (Benguela Current Commission): Legal Adviser and Chair of the negotiations on the BCC Convention, Angola, Namibia and South Africa. 2010 – 2011.

SEAFO Performance Review: Member of Review Panel. Walvis Bay, Namibia. 2010.

IUU Fishing in Africa Conference 2010: Speaker. Cape Town, South Africa. 2010.

International Arctic Fisheries Symposium: Panellist. Anchorage, USA. 2009.

ICSP (Informal Consultation on State Parties to UNFSA): Speaker. New York, USA. 2009.

Fridtjof Nansen Institute, International Conference: “The World Ocean in Globalization: Challenges for Marine Regions”. Author/Speaker. Oslo, Norway, 2008.

MCS Network: Global Fisheries Enforcement Training Workshop. Convener and panellist. Trondheim, Norway, 2008, Mozambique, 2011 and Costa Rica, 2014.

Indian Ocean Tuna Commission (IOTC): Performance Review Panel. Legal Adviser and Chair. Victoria, Seychelles, 2008 and 2009.

NAFO, President. 2007 – 2011.

Chatham House: Independent High-Level Panel for the Development of a Model for Improved Governance by Regional Fisheries Management Organizations: Consultant. London, United Kingdom, 2006 – 2007.

IUCN (International Union for Conservation of Nature and Natural Resources): Consultant. 2006.

CCAMLR Symposium. Future of CCAMLR. Speaker/Author. Valdivia, Chile, 2005.

Nippon Foundation Research Task Force on National Ocean Policies: Member. 2004 – 2005.

High Seas Task Force: Member of Expert Group. 2004 – 2006.

FAO: Technical Consultation to Review Port States Measures to Combat Illegal, Unreported and Unregulated Fishing. Chairperson. Rome, Italy, 2004.

OECD (Organisation for Economic Co-operation and Development): Workshop on Illegal, Unreported and Unregulated Fishing Activities. Speaker/Author. Paris, France, 2004.

NAFO: Vice-president. 2003 – 2007.

The Canadian/Norwegian/US Research and Technology Forum: Global Fisheries Challenges. Speaker/author. Washington D.C., United States. 2003.

University of Tromso: Regional Approaches to Fisheries Enforcement. Speaker/Author. Tromso, Norway. 2002.

Spanish Government: International Conference on Illegal, Unreported and Unregulated Fishing. Panellist/Author. Santiago de Compostela, Spain. 2002.
