

RESOLUTION 09/01
ON THE PERFORMANCE REVIEW FOLLOW-UP

The Indian Ocean Tuna Commission,

CONSIDERING the course of action agreed at the meeting of the five Tuna Regional Fisheries Management Organizations (RFMOs) held in Kobe in January 2007, and in particular the commitment to undertake Performance Reviews of each Tuna RFMOs in order to strengthen the effectiveness of the Organizations;

TAKING NOTE of the decision taken by the IOTC at its 11th Plenary session in May 2007 to undertake an IOTC Performance Review;

CONSIDERING the report of the IOTC Performance Review Panel (PRP) as analyzed by the Commission at its 13th Plenary session held in Bali (Indonesia) in March/April 2009;

RECOGNISING that a number of the recommendations arising from the PRP report can be progressed by individual Members, including through proposing draft resolutions for consideration by the Commission, while other initiatives may benefit from consideration by relevant committees of the Commission;

RESOLVES:

1. That all deficiencies in the IOTC Agreement inhibiting the Commission's ability to perform its mandate consistent with internationally-agreed principles of fisheries conservation and management must be addressed, in accordance with international law.
2. In considering options to address all deficiencies in the current Agreement, all avenues recommended by the PRP in its report should be explored by IOTC Members in order to achieve the objective determined in paragraph 1.
3. With respect to the list of recommendations arising from the PRP report and annexed to this Resolution, Members are encouraged to bring forward draft resolutions for the consideration by the Commission at its session in 2010.
4. That the Scientific Committee (SC), the Compliance Committee (CoC) and the Standing Committee on Administration and Finance (SCAF) be tasked with producing a work plan, including identifying priorities and a timetable, in accordance with Annex I.
5. The three Committees shall provide their respective work plans to the Commission for consideration at its session in 2011.
6. If necessary, in order to consider some specific issues, IOTC Heads of Delegation meetings could be convened.
7. IOTC Members can undertake inter-sessional consultations on issues of common interest related to the IOTC Performance Review.

APPENDIX I

ON THE IOTC AGREEMENT – A LEGAL ANALYSIS	
1. The final conclusion of the Panel is that the Agreement is outdated and there are many areas for improvement. The weaknesses and gaps identified are, or have a potential to be, major impediments to the effective and efficient functioning of the Commission and its ability to adopt and implement measures aimed at long-term conservation and sustainable exploitation of stocks, according to model fisheries management instruments. More fundamentally, these deficiencies are likely to prevent the Commission from achieving its basic objectives.	<i>Commission and Members</i>
2. Consequently, the Panel recommends that the IOTC Agreement either be amended or replaced by a new instrument. The decision on whether to amend the Agreement or replace it should be made taking into account the full suite of the deficiencies identified.	<i>Commission and Members</i>
ON CONSERVATION AND MANAGEMENT	
Data collection and sharing	
<i>The Panel identified a poor level of compliance by many IOTC Members. with their obligations, notably those related to the statistical requirements on artisanal fisheries and sharks, and recommends that:</i>	
3. The timing of data reporting be modified to ensure that the most recent data are available to the working parties and the Scientific Committee.	<i>Scientific Committee</i>
4. The deadline to provide data on active vessels be modified to a reasonable time in advance of the meeting of the Compliance Committee. This deadline is to be defined by the Compliance Committee.	<i>Compliance Committee</i>
5. The scheduling of meetings of the working parties and Scientific Committee be investigated based on the experience of other RFMOs. This should bear in mind the optimal delivery of scientific advice to the Commission.	<i>Scientific Committee</i>
6. The Commission task the Scientific Committee with exploring alternative means of communicating data to improve timeliness of data provision.	<i>Scientific Committee</i>
7. Non-compliance be adequately monitored and identified at individual Member level, including data reporting.	<i>Compliance Committee</i>
8. The causes of non-compliance be identified in cooperation with the Member concerned.	<i>Compliance Committee</i>

<p>9. When the causes of non-compliance are identified and all reasonable efforts to improve the situation are exhausted, any Member or non-Member continuing to not -comply be adequately sanctioned (such as market related measures).</p>	<p><i>Compliance Committee</i></p>
<p>10. There is a need to improve the quality and quantity of the data collected and reported by the Members, including the information necessary for implementing the ecosystem approach. The most immediate emphasis should be placed on catch, effort and size frequency. The Panel also recommends that:</p> <p>11. Support for capacity building be provided to developing States - the Commission should enhance funding mechanisms to build developing country CPCs' capacity for data collection, processing and reporting infrastructures, in accordance with the Commission requirements.</p>	<p><i>Scientific Committee</i></p> <p><i>Standing Committee on Administration and Finance and Finance</i></p>
<p>12. A regional scientific observer programme to enhance data collection (also for non-target species) and ensure a unified approach be established, building on the experience of other RFMOs, Regional standards on data collection, data exchanged and training should be developed.</p>	<p><i>Scientific Committee</i></p>
<p>13. Actions be taken so that fishing fleets, especially Maldives, Taiwan, Province of China and Yemen participate in data collection and reporting.</p>	<p><i>Commission</i></p>
<p>14. A relationship with Taiwan, Province of China be developed in order to have data access when needed, to all its fleet data as well as historical series, and address the problems deriving from the current legal framework.</p>	<p><i>Commission and Members</i></p>
<p>15. The Secretariat's capacity for data dissemination and quality assurance be enhanced, including through the employment of a fisheries statistician.</p>	<p><i>Standing Committee on Administration and Finance via Scientific Committee</i></p> <p><i>Commission</i></p>
<p>16. A statistical working party be established to provide a more efficient way to identify and solve the technical statistical questions.</p>	<p><i>Scientific Committee</i></p>
<p>17. The obligation incumbent to a flag State to report data for its vessels be included in a separate Resolution from the obligation incumbent on Members to report data on the vessels of third countries they licence to fish in their exclusive economic zones (EEZs).</p>	<p><i>Compliance Committee</i></p>

<i>In relation to non-target species, the panel recommends that:</i>	<i>Commission</i>
18. The list of shark species for which data collection is required in Recommendation 08/04 be expanded to include the five species identified by the Scientific Committee (blue shark, shortfin mako, silky shark, scalloped hammerhead, oceanic whitetip), and apply to all gear types.	
19. The Secretariat's capacity to provide support to developing States' Members should be enhanced.	<i>Commission and Standing Committee on Administration and Finance</i>
20. Cooperative capacity building efforts amongst Members and, as appropriate external organizations, should be encouraged.	<i>Members and Secretariat</i>
21. Innovative or alternative means of data collection (e.g. port sampling) should be explored and, as appropriate, implemented.	<i>Scientific Committee</i>
22. Avenues to collect data from non-Members should be explored.	<i>Secretariat</i>
Quality and provision of scientific advice	
23. For species with little data available, the Scientific Committee should be tasked with making use of more qualitative scientific methods that are less data intensive.	<i>Scientific Committee</i>
24. More emphasis should be given to adherence to data collection requirements.	<i>Compliance Committee</i>
25. Confidentiality provisions and issues of accessibility to data by the scientists concerned needs to be clearly delineated, and/or amended, so that analysis can be replicated.	<i>Scientific Committee</i>
26. The resources of the IOTC Secretariat should be increased. Even though some progress will be made with recruitment of the stock analysis expert, some additional professional staffing is required.	<i>Standing Committee on Administration and Finance on advice from Committees and the Commission</i>

27. To enhance the quality of scientific advice and the technical soundness of the papers being considered by the Scientific Committee and its working parties, and to encourage publication of IOTC scientific papers in relevant journals, future consideration should be given to the establishment of a scientific editorial board within the Scientific Committee	<i>Scientific Committee</i>
28. An online IOTC Data Summary should be established	<i>Secretariat</i>
29. Ongoing peer review by external experts should be incorporated as standard business practice of working parties and the Scientific Committee.	<i>Scientific Committee</i>
30. New guidelines for the presentation of more user friendly scientific reports in terms of stock assessments should be developed. In this respect, Kobe plots are considered to be the most desirable method of graphical presentation, especially to non-technical audience.	<i>Scientific Committee</i>
31. A special fund to support the participation of scientists from developing States should be established.	<i>Standing Committee on Administration and Finance</i>
32. The Commission should renew efforts to convene meetings of the Working Party on Neritic Tunas	<i>Commission</i>
Adoption of conservation and management measures	
33. As the IOTC has faced the management of the main targeted stock under its purview only through a regulation of the fishing effort; other approaches should be explored, such as those envisioned in Resolution 05/01, including catch limits, total allowable catch (TAC) or total allowable effort (TAE).	<i>Commission</i>
34. Within the system of the freezing of fishing effort in terms of number of vessels and correspondent capacity in gross tonnage, a deadline should be agreed for the implementation of fleet development plans.	<i>Commission</i>
35. IOTC should consider developing a framework to take action in the face of uncertainty in scientific advice.	<i>Scientific Committee and Commission</i>
36. IOTC should use the full range of decision making processes available to it under the Agreement.	<i>Commission</i>
37. The IOTC Agreement needs to be amended or replaced in order to incorporate modern fisheries management principles, such as the precautionary approach.	<i>Commission and Members</i>
38. Pending the amendment or replacement of the Agreement, the Commission should implement the precautionary approach as set forth in the UNFSA.	<i>Commission</i>

39. Measures to regulate shark fisheries should be considered by the Commission.	<i>Commission</i>
40. There is a need to develop and take into account modern principles for fisheries management, including ecosystem based approach, protection of marine biodiversity and reducing the harmful impacts of fishing on marine environment.	<i>Commission and Members</i>
41. These concepts should be integrated in the IOTC Agreement.	<i>Commission and Members</i>
Capacity management	
42. IOTC should establish a stronger policy on fishing capacity to prevent or eliminate excess fishing capacity.	<i>Working Party on Fishing Capacity Scientific Committee Commission</i>
43. Loopholes in the current systems of fishing capacity limitation, such as the establishment of fleet development plans and exemptions for vessels less than 24 meters, should be closed.	<i>Working Party on Fishing Capacity Commission</i>
44. IOTC should endorse the recommendation of the Scientific Committee to create a Working Group on Fishing Capacity.	<i>Commission</i>
Compatibility of management measures	
45. IOTC Members should be invited to promptly implement IOTC conservation and management measures through their national legislation.	<i>Secretariat Commission</i>
Fishing allocations and opportunities.	
46. IOTC should explore the advantages and disadvantages of implementing an allocation system of fishing quota, expressed as TAC or TAE system. Such an investigation should include consideration of how significant catches by current non-Members would be accounted for.	<i>Commission</i>

ON COMPLIANCE AND ENFORCEMENT	
Flag State duties	
47. Any amendment to or replacement of the IOTC Agreement should include specific provisions on Member's duties as flag States, drawing on the relevant provisions of the UNFSA.	<i>Commission and Members</i>
Port State measures	
48. Any amendment to or replacement of the IOTC Agreement should include specific provisions on Member's duties as port States.	<i>Commission and Members</i>
49. IOTC should explore the possible implementation of the FAO Model Scheme on Port State Measures.	<i>Commission</i>
50. The IOTC should duly note the outcome of the current process for establishment of a globally binding agreement on port State measures.	<i>Commission</i>
Monitoring, Control and Surveillance	
51. IOTC should develop a comprehensive monitoring, control and surveillance (MCS) system through the implementation of the measures already in force, and through the adoption of new measures and tools such a possible on-board regional observers' scheme, a possible catch documentation scheme as well as a possible system on boarding and inspection.	<i>Compliance Committee</i>
Follow-up on infringements	
52. The current IUU resolution should be amended to allow the inclusion of vessels flagged to Members.	<i>Commission</i>
53. IOTC should explore options concerning the possible lack of follow-up on infringements by CPCs.	<i>Compliance Committee</i>
54. IOTC should establish a sanction mechanism for non-compliance, and task the Compliance Committee to develop a structured approach for cases of infringement.	<i>Compliance Committee</i>
55. Provisions for follow-up on infringement should be included in any amended/replaced Agreement.	<i>Commission and Members</i>

Cooperative mechanisms to detect and deter non-compliance	
56. A structured, integrated approach to evaluate the compliance of each of the Members against the IOTC Resolutions in force should be developed by the Compliance Committee.	<i>Compliance Committee</i>
57. CPCs should be reminded of their duty to implement in their national legislations the conservation and management measures adopted by IOTC.	<i>Compliance Committee</i>
58. The requirement to present national reports on the implementation of IOTC measures should be reinforced.	<i>Compliance Committee</i>
59. The sense of accountability within IOTC seems to be very low; therefore more accountability is required. There is probably a need for an assessment of the performance of CPCs.	<i>Compliance Committee</i>
60. Establishment of formal mechanisms of MCS (e.g. observers programmes) should be considered	<i>Compliance Committee</i>
Market related measures	
61. As IOTC action in terms of measures relating to the exercise of rights and duties of its Members as market States are very weak, the non-binding market related measure should be transformed into a binding measure.	<i>Commission</i>
62. -The bigeye statistical document programme should be applied to all bigeye products (fresh and frozen). Catch documentation schemes for target species of high commercial value should be considered. Alternatively, expanding the scope of the current statistical document programme to address current loopholes should be considered.	<i>Commission</i>
ON DECISION MAKING AND DISPUTE SETTLEMENT	
Decision making	
63. In order to improve the IOTC practices of decision making and adoption of measures, when every effort to achieve consensus has been exhausted, invoking the procedure of voting should be explored	<i>Commission</i>
64. Amending the objection procedure so that it is more rigorous, and in line with other RFMO Conventions, featuring restricted grounds for the bases to object is recommended.	<i>Commission and Members</i>
Dispute settlement	
65. A provision on dispute settlement should be amended in line with the requirements of UNFSA.	<i>Commission and Members</i>

ON INTERNATIONAL COOPERATION	
Transparency	
66. The active vessels list should be made available on the IOTC website.	<i>Commission Secretariat</i>
67. The Commission, in consultation with the Scientific Committee, should review the availability of critical data sets used in development of scientific advice and take steps to assure that these data are held at the Secretariat and available for validation of analyses, subject to the appropriate confidentiality requirements.	<i>Commission</i>
Relationship to cooperating non Members	
68. The legal framework of the IOTC Agreement should be amended or replaced in order to enable fishing players active in the area to discharge their obligations in line with the UNFSA.	<i>Commission and Members</i>
Relationship to non cooperating non Members	
69. Although the IOTC has strengthened its action towards non-Members in order to have all important fishing players included under its remit, diplomatic approaches should be made by IOTC Members to non-Members with active vessels in the area.	<i>Commission</i>
70. When non-cooperation is identified and all reasonable efforts to improve the situation are exhausted, any non-Members continuing not to cooperate should be adequately sanctioned by, for example, market related measures.	<i>Compliance Committee</i>
Cooperation with other RFMOs	
71. IOTC should establish mechanisms for a mutual recognition of IUU lists with other RFMOs.	<i>Commission</i>
72. IOTC should develop cooperative mechanisms, such as MoUs, to work in a coordinated manner on issues of common interest, in particular non-target species and an ecosystem approach with other RFMOs especially with SIOFA.	<i>Commission</i>
73. IOTC should annually agree on a Member attending other tuna RFMO meetings as an observer on its behalf and reporting back to the Commission on matters of interest	<i>Commission</i>
Special requirements of developing States	
74. A specific fund to assist capacity building should be put in place.	<i>Standing Committee on Administration and Finance</i>

75. Members, that are Parties of UNFSA, should make use of the part VII Fund, established under UNFSA.	<i>Members</i>
Participation	
76. Financial support, in particular for attendance in the scientific activities to developing States, is needed.	<i>Standing Committee on Administration and Finance</i>
77. The legal framework of the IOTC should be amended or replaced in order to enable fishing players active in the area to discharge their obligations in line with the UNFSA.	<i>Commission and Members</i>
ON FINANCIAL AND ADMINISTRATIVE ISSUES	
Availability of resources for RFMO activities -efficiency and cost-effectiveness	
78. The IOTC Agreement as well as financial management rules should be amended or replaced in order to increase Members' as well as Secretariat's control of all the budget elements, including staff costs of the budget. This would also improve transparency.	<i>Standing Committee on Administration and Finance</i> <i>Commission and Members</i>
79. Prior to the Commission assuming full control of the budget, the Commission meeting at which the budget is considered should be held as close as possible to the commencement of the financial year to which this budget relates and if possible in advance of that year.	<i>Commission</i>
80. A fee system should be considered as a possible funding mechanism for possible new activities.	<i>Commission</i>
81. The agreed external financial audit should be implemented as soon as possible, and should include a focus on whether IOTC is efficiently and effectively managing its human and financial resources, including those of the Secretariat.	<i>Standing Committee on Administration and Finance</i> <i>Commission</i>