

## **PROPOSAL FOR ADVICE – FOR DISCUSSION**

### **Structure and conduct of performance reviews: experiences, best practices, challenges and opportunities**

#### **The EU fisheries stakeholders' perspective on the present and future role of RFMOs in the international ocean governance**

**Author: Alexandre Rodriguez (LDAC Executive Secretary)**

#### **Background**

The Long Distance Fleet Advisory Council (LDAC) was established in May 2007 and is recognized by the EU Common Fisheries Policy as an organisation aiming for a European interest. Our mission is to provide evidence-based advice to the European Commission and EU Member States on matters pertaining to the External Dimension of the CFP, namely Fisheries Agreements with Third Countries, relations with Regional Fisheries Management Organizations and Arrangements (RFMO/As) in which the EU is a contracting party, and topics related to international ocean governance being dealt with at UN or FAO level.

The LDAC represents a wealthy mix of stakeholders composed of 60% fishing sector and 40% OIG/NGOs of the fisheries value chain from 13 coastal MS, with predominance of the capture sector.

This document is produced as a result of the LDAC presentation under the theme "*Performance reviews of fisheries management organisations and arrangements*". This presentation was made before the United Nations 14<sup>th</sup> Round of Informal Consultations of States Parties to the Agreement for the Implementation of the Provisions of the UNFSA 1995 (the New York Agreement), which took place in New York on 2-3 May.

#### **Why is fisheries stakeholders' involvement crucial for international ocean governance?**

- We are the main addressees of (and affected by) the rules. Incentives are needed to foster a culture of compliance
- We are key actors for implementing and achieving UN SDGs (2-6-12-13-14)
- We play a role in policy shaping and are engaged in technical consultations with managers and decision makers
- We have a better Understanding of issues at stake and diverging interests from CPCs: we are willing to discuss short term trade-offs to achieve long term biological and economic sustainability
- We can contribute to improving scientific knowledge through vessels as "research platforms" – providing incentives for reversing the burden of the proof
- We can focus on responsible fisheries for consumers' choice and fighting IUU in terms of market Access



## **LDAC Opinion on Functioning of RFMOs and Performance Reviews**

The LDAC provides technical advice to the European Commission and MS on conservation and management proposals for fish stocks discussed at RFMOs, in order to assist them in the preparation of negotiations for Annual Meetings. We work in particular with NAFO, ICCAT and IOTC. This work also includes feedback thorough the year on RFMOs performance review processes.

The LDAC supports the opening statement made by the European Union on its contribution to the ICSP-14 that *“the RFMO/As are key instruments to ensure the States can meet their obligations under international law regarding cooperation for the conservation and sustainable management of shared stocks. In this regard, RFMO/As are an essential part of the international legal architecture to ensure the long-term conservation and sustainable management of highly migratory and straddling fish stocks as well as associated and dependent species”*.

The LDAC welcomes the fact that performance review has become a well-established practice since 2006 onwards, in accordance with the plea made at that year’s Review Conference of the 1995 UN Fish Stocks Agreement. We acknowledge that to date, all 6 tuna and 11 non-tuna RFMOs have carried out at least one performance review, with many already completed their second performance review (e.g. NAFO, ICCAT, SEAFO, CSBT...).

The LDAC issued an advice on December 2018<sup>1</sup> regarding the role of the EU in international ocean governance. This advice contains a number of recommendations linked to the performance and functioning of the RFMOs.

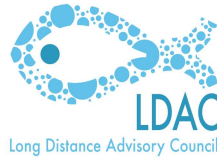
### **Conduct and structure of performance reviews:**

- RFMOs must be an example of good governance and ensure adequate and meaningful participation of key fisheries stakeholders in their PR. This will only be achieved through effective consultation procedures including technical coordination meetings. In terms of legitimacy and openness, it shall aim for access to information on the CPCs proposals; and for the presence of stakeholders in annual plenary meetings either under the CPCs delegations or in observer capacity to foster transparency of the decision making process.
- All RFMOs should make the results of their PR publicly available and be willing to articulate mechanisms for discussing the results and presenting the outcomes. There should be a follow-up road map with a timeline for implementation and assigned responsibilities to each of the competent bodies. Also, a methodology should be developed to measure progress on the achievement of the recommendations made.

---

1

[http://ldac.eu/images/documents/publications/LDAC Recommendations on EU Role in International Fisheries Governance December2018.pdf](http://ldac.eu/images/documents/publications/LDAC_Recommendations_on_EU_Role_in_International_Fisheries_Governance_December2018.pdf)



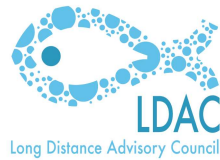
- Performance reviews must be periodic in time and independent (i.e. undertaken by external experts), in line with the UNGA Resolutions of Sustainable Fishing, and implemented regionally.

#### **Opportunities and challenges for the functioning of the RFMOs:**

- RFMOs are the competent bodies responsible to propose and implement any measures concerning the impacts of fisheries in the high sea and as such they should be fully included in the negotiation process of the future BBNJ Treaty, particularly in the context of marine protected areas.
- RFMOs need to reinforce its role as fundamental actors for implementing SDGs targets 2-8-10-12-13-14 linked to food security (zero hunger), decent work and economic growth, reduced inequality, responsible consumption and production, climate action, and life below water.
- Coordination mechanisms, based on dynamic exchange of information in the spirit of the Kobe process, must be set up (at least for Tuna RFMOs) to ensure consistency of measures. These measures will relate to crosscutting issues such as marine scientific research, fishing capacity, FAD management or monitoring, control and surveillance with the caveat of their regulatory areas.
- RFMOs should facilitate dialogue and work towards a constructive agreement on Access Conditions between Coastal States and Flag States in the resource allocation and management of straddling stocks.

#### Regarding Biodiversity and environmental sustainability, the LDAC would like to highlight the role of scientific and technical committees of RFMOs

- RFMOs must strive to adopt any recommendations related to management of fish stocks and habitats on the basis of robust and independent scientific advice rooted on a peer-reviewed process. The LDAC supports the reinforcement of capacity and resources for the development of marine scientific research in accordance with UNCLOS Part XIII arts 235-268 and Article 30 of EU CFP Regulation.
- It is crucial to allocate resources to tackle the increasing workload for scientific bodies and allow them to develop knowledge and expertise on Environmental Impact Assessment for fisheries management measures, as recommended in several performance reviews of individual RFMOs. This can also be used to inform or extrapolate initiatives to have a closer collaboration with competent authorities to assess impacts of human marine activities other than fishing.
- The RFMOs shall contribute to establish a coherent network of Marine Protected Areas and Vulnerable Marine Ecosystems within their remit in the high seas.



Also, it is very important to assess the effectiveness of closed areas for fishing and its success on meetings it conservation targets on protected features. One example would be the work related to closing 14 areas in NAFO around the high-seas of Grand Bank and Flemish Cap to protect sea pens, deep-sea coral and sponge habitats from impacts by bottom-contact fishing gears.

#### Improving MCS and fight against IUU Fishing

- RFMOs are the best “testing laboratory” to promote a regional approach to MCS, through regional observer programmes at sea (such as the one for BFT in ICCAT...) and port control and inspections schemes (for example, NAFO resolution supporting implementation of FAO PSMA).
- Reinforcing mechanisms to fight against IUU fishing, such as collaborative work on information exchange regarding IUU vessels lists across RFMOs, requirements to join to the Global Record of Fishing Vessels, measures related the prohibition of unmonitored transshipments in the high seas or the compulsory registration of IMO Number for Distant Water Fleets, amongst others.
- In particular, the LDAC would like to acknowledge the active role and efforts of Spain in this field since 2012, which has gone through an important amendment of its national Fisheries Law to allow the prosecution of nationals onboard non Spanish fishing vessels related to IUU activities and became in 2016 the first country in the world in achieving the ISO 9001 certification for its National Control and Monitoring Center on the MCS process.