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PERFORMANCE REVIEW CONSIDERATIONS

(Presented by Canada)

Background

The US has proposed creating a Performance Assessment Working Group (PAWG) that would undertake a performance review to identify the strengths and weaknesses in NAFO, as urged by the United Nations General Assembly in its resolution 63/112 on Sustainable Fisheries for Regional Fishery Management Organizations (RFMOs).

The PAWG would be led by the Chair of the General Council, include the NAFO Executive Secretary, and membership open to all CPs. The role of PAWG would include the development of terms of reference (TORs) detailing the chairmanship and composition of a Panel (including a process for appointing internal and external members if supported by PAWG), assessment criteria and administrative procedures.

While the US is proposing that the final terms of reference be adopted by mail vote and that the work of the Performance Review Panel would start immediately afterwards, it is suggested that the PAWG would report to General Council at the 2010 Annual Meeting before any assessment activities occur.

The PAWG would have an expanded mandate to include a review of the terms of reference/assessments of other RFMOs, to develop a NAFO-specific TORs, as well as budgetary considerations for a Performance Review Panel and the overall assessment process.

A comprehensive package would be presented to the General Council for decision by Contracting Parties at the 2010 NAFO Annual Meeting. Subsequently, the General Council would approve the TORs and budget requirements to allow a Review Panel to commence the assessment process.

Explanatory Notes

1. Timing

While performance reviews are generally looking at past practices, NAFO is in a unique situation of undertaking its review at the time of amending its Convention. It is possible that the 75% majority position to amend the Convention will not occur until late 2011, and therefore it will be important that the review not compromise the current ratification process.

2. Criteria

PAWG should develop the detailed criteria following a thorough review of performance assessments completed by other RFMOs.

The PAWG should consider the functions and mandate of NAFO when developing TORs and assessment criteria such as:

- a) the (unamended) NAFO Convention;
- b) the criteria of other RFMO Performance Reviews (NEAFC, ICCAT, CCAMLR), and other criteria from UNSFA and FAO;
- c) relevant criteria developed through the Kobe I and II processes; and,
- d) guidance provided by the "Recommended Best Practices for Regional Fisheries Management Organizations" (aka the "model RFMO" developed by Chatham House).

In developing criteria, ecosystem-based fisheries aspects should be included in the terms of reference, including implementation of 2006 UNGA Resolution in relation to VMEs.

3. Composition of the Panel

PAWG would recommend the composition of the Review Panel based on the best practices of other RFMOs. Among the considerations would be the use of external experts. For example, ICCAT used only external experts while NEAFC used a mix of both internal and external experts. The recommendation from PAWG would be presented to the General Council for final approval.

4. Administrative Procedures

Paramount to any administrative procedures is the need for transparency. This would include making the results of any Performance Reviews public and easily available on the NAFO website.

A key issue would be public access to any report because Review Panels are independent, and the report is their product. In ICCAT the report was released simultaneously to the public and to ICCAT members, which posed challenges to the Parties in responding to media calls. In CCAMLR, the report was submitted to Parties first and in the draft South Pacific RFMO treaty, the review is made public only after it is submitted to the Commission. Another issue for PAWG to consider is the access by observers.

5. Budget Considerations

PAWG must consider budgetary requirements when developing the TORs, especially if membership in the Review Panel is from outside contracting parties. Also, the actual costs involved in completing an assessment would be part of the package presented to General Council.

Proposed Next Steps

1. Establish in early 2010 a Performance Assessment Working Group (PAWG) open to all CPs and chaired by the Chair of the NAFO General Council. The PAWG will also include the NAFO Executive Secretary.
2. Once established the PAWG will develop the specific TOR and the assessment criteria taking into account approaches to performance assessments undertaken by other RFMOs.
3. PAWG would determine the composition of the Review Panel and prepare appropriate budgets related to the operation of the Panel and the actual assessment.
4. Presentation of the TOR, budget, and Review Panel composition to the General Council for approval.