



GENERAL FISHERIES COMMISSION FOR THE
MEDITERRANEAN
COMMISSION GÉNÉRALE DES PÊCHES POUR
LA MÉDITERRANÉE



**STRENGTHENING THE
GFCM COMPLIANCE COMMITTEE AND
COMMITTEE ON FINANCE AND ADMINISTRATION**

**Judith Swan
Consultant
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EXECUTIVE SUMMARY

The objective of this document is to review the need for and possible means of strengthening the Compliance Committee (CoC) and the Committee for Administration and Finance (CAF) of the General Fisheries Commission for the Mediterranean and Black Sea (GFCM) against the background of the work of the *ad hoc* Task Force towards a possible revision of the GFCM Agreement, bearing in mind the increasing autonomy of FAO Article XIV bodies.

To assist in developing considerations for strengthening the two Committees, this document sets out the functions and composition, as well as relevant work, of the committees responsible for compliance and for finance and administration of the International Commission for the Conservation of Atlantic Tunas (ICCAT), the Indian Ocean Tuna Commission (IOTC) and the North-East Atlantic Fisheries Commission (NEAFC). In drawing from the experience of these bodies, the similarities and differences in the mandates and programmes in the respective organizations are considered and an analysis is provided to indicate the practices of the other bodies that could be considered as useful for the CoC.

A general comparison is made of the budgets, staff, meetings and members of the organizations reviewed, and the current FAO initiative in relation to strengthening the autonomy of Article XIV bodies is described.

Areas where COC and CAF should be strengthened are indicated, and identification is encouraged of the role and functions of each Committee; the Members' roles and responsibilities and the duties of the Secretariat in managing information.

To ensure the effective discharge of the strengthened roles and functions, the meeting time of both Committees should be expanded to two to three days as practiced in other RFMOs, and intersessional meetings should be allowed as appropriate.

Possible functions, structures and tasks for the Committees are presented.

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1. Introduction

The objective of this document is to review the need for and possible means of strengthening the Compliance Committee (CoC) and the Committee for Administration and Finance (CAF) of the General Fisheries Commission for the Mediterranean and Black Sea (GFCM) against the background of the work of the *ad hoc* Task Force towards a possible revision of the GFCM Agreement, bearing in mind the increasing autonomy of FAO Article XIV bodies.

The GFCM, having regard to its Performance Review,¹ set up the Task Force and directed it to describe the main elements necessary to assist the Commission in identifying the necessary modifications to the GFCM Agreement and associated procedural and financial Rules. The aim was to make GFCM more effective by addressing functional and structural issues.²

The terms of reference of the Task Force included compliance and enforcement and financial and administrative issues. These terms of reference, and relevant recommendations of the GFCM Performance Review, are shown in Appendix 1.

The Task Force, at the time of writing, had held consultations in three sub-regions: Western and Central Mediterranean, Eastern Mediterranean and Black Sea, based on questionnaires that had been prepared to serve as the basis for discussion. It had also held expert meetings on the Scientific Advisory Committee (SAC) and the Committee on Aquaculture (CAQ).

To assist in developing considerations for strengthening the two Committees, this document sets out the functions and composition, as well as relevant work, of the committees responsible for compliance and for finance and administration of the International Commission for the Conservation of Atlantic Tunas (ICCAT), the Indian Ocean Tuna Commission (IOTC) and the North-East Atlantic Fisheries Commission (NEAFC). In drawing from the experience of these bodies, the similarities and differences in the mandates and programmes in the respective organizations are considered and an analysis is provided to indicate the practices of the other bodies that could be considered as useful for the CoC.

2. Committees responsible for Compliance

2.1 Functions and composition

The functions and composition of GFCM CoC and committees responsible for compliance of other regional fisheries management organizations (RFMOs) are described below.

2.1.1 GFCM Compliance Committee

The GFCM CoC is comprised of all GFCM Members. It meets, usually for half a day, during the annual Sessions of GFCM as required by its Terms of Reference. *Ad hoc* working groups may be formed at that time to elaborate specific issues to be developed and considered by the Commission.

The Terms of Reference of the CoC, first agreed in 2007, describe its functions as follows.

- a) Review compliance with conservation and management measures adopted by the Commission and make such recommendations to the Commission as may be necessary to ensure their effectiveness;
- b) Review the implementation of measures of monitoring, control, surveillance (MCS), and enforcement adopted by the Commission as may be necessary to ensure their effectiveness;
- c) Define, develop and make recommendations to the Commission concerning the phased development and implementation of the GFCM Control and Inspection scheme;

¹ GFCM:XXXV/2011/Inf.8.

² http://151.1.154.86/GfcmWebSite/GFCM/TaskForce/ToRs_Task_Force-EN.pdf.

- d) Monitor, review and analyze information pertaining to the activities of Non-Contracting Parties and their vessels which undermine the objectives of the Agreement including, in particular, IUU fishing, and recommend actions to be taken by the Commission to discourage such activities;
- e) Perform such other tasks as directed by the Commission.³

Under these functions, the CoC is mainly empowered to review and recommend. Recommendations may be made on compliance with conservation and management measures, the GFCM Control and Inspection Scheme and activities of Non-Contracting Parties, but not on the implementation of MCS measures adopted by the Commission.

There are some concerns with these functions as written. The CoC may "recommend" in two paragraphs,⁴ but in another it is empowered to "define, develop and make recommendations". Only one function permits monitoring and analysis.⁵ In another,⁶ CoC is charged with reviewing the implementation of MCS measures as may be necessary to "ensure their effectiveness". It may be asked how can a simple review ensure such effectiveness, with no authority to make recommendations or decisions?

"Ensuring effectiveness" is a worthy goal, but it could be questioned whether the attainment of this standard can ever be reached by a subsidiary body. Only one other compliance committee reviewed in this document had a function that referred to ensuring effectiveness, and a clear framework for carrying out a review towards that end was given.⁷

In general, the functions of the CoC to review and make recommendations are restrictive, both in the context of the potential value of the Committee to the work of GFCM and when compared with the functions of committees of other RFMOs. For example,

Reviews and recommendations may be undertaken on:

- compliance with conservation and management measures
- activities of Non-Parties

Reviews may be undertaken on:

- implementation of MCS

Definition, development and recommendations may be made on:

- phased development and implementation of the GFCM Control and Inspection scheme

Other possible areas for review and recommendations not included in the terms of reference would include implementation of, and compliance with, decisions of the Commission (not restricted to management measures), follow-up on infringements, sanctions for non-compliance, application of the Agreement and

³ See COC:VI/2012/Inf.2.

⁴ (a), (d).

⁵ (d).

⁶ (b).

⁷ A function of the IOTC Compliance Committee is to: 3.1 Review each individual CPC's compliance with conservation and management resolutions adopted by the Commission and make such recommendations to the Commission as may be necessary to ensure their effectiveness, notably in relation to:

- i) The mandatory statistical requirements and all issues related to obligatory reporting and data providing, including non targeted species;
- ii) The level of CPC's conformity with conservation resolutions;
- iii) The CPC's conformity with the resolutions concerning the limitation of the fishing capacity;
- iv) The status of implementation of resolutions for monitoring, control, surveillance and enforcement adopted by the Commission (Port inspections, VMS, follow-up on infringements and market related measures);
- v) The reporting on authorised as well as active vessels in IOTC area of competence, in particular in relation to the fishing effort limitation IOTC Resolutions.

functioning of the CoC.⁸ In addition, the CoC could be given responsibility to develop mechanisms and schemes as appropriate.

However, on a practical level, CoC does not generally make recommendations, *inter alia* because there is no reasonable meeting time for review, let alone formulation of recommendations, and inadequate information is provided by Members. Any strengthening of the role of the CoC should be accompanied by a significantly expanded time for holding its sessions.

2.1.2 The committees responsible for compliance in ICCAT, IOTC and NEAFC

The ICCAT Conservation and Management Measures Compliance Committee⁹ is comprised of all Contracting Parties. It meets biennially during the regular meetings of the Commission over a two-week time period, and has held annual intersessional meetings, normally comprising four days, since 2009. The IOTC Compliance Committee¹⁰ consists of IOTC Members and Cooperating non-contracting Parties (CPCs) and meets over a three to four day period. The NEAFC Permanent Committee on Control and Enforcement (PECCOE)¹¹ is comprised of NEAFC Contracting Parties and meets twice or more each year, each time for at least two days, during the Annual Meeting of the Commission and intersessionally.

The terms of reference for the compliance committees of ICCAT, IOTC and NEAFC generally do not require them to "ensure the effectiveness" of measures. Instead, their functions are primarily of a monitoring, evaluation and advisory nature, and their tasks are to review, make recommendations in certain areas and develop specified measures and approaches, as described below. The committees responsible for compliance of those RFMOs have functions to, *inter alia*:

Review:

- the status of implementation of, and compliance with, conservation and management measures, the implementation of the Port Inspection Scheme and other enforcement activities conducted by Contracting Parties (ICCAT);
- compliance with conservation and management measures and make recommendations to the Commission as may be necessary to ensure their effectiveness (IOTC);
- *and evaluate* the effectiveness of the recommendations and measures established by the Commission (NEAFC).

Make recommendations on:

- identification of, and how to address problems related to the implementation of, and compliance with, conservation and management measures (ICCAT and IOTC);
- international inspection and enforcement schemes if considered necessary (ICCAT);
- suitable and effective measures to ensure proper application of the provisions of the Convention (ICCAT).

Develop:

- *and recommend* suitable and effective measures to ensure proper application of the provisions of the Convention (ICCAT);
- and co-ordinate the North Atlantic format (NEAFC);
- a structured, integrated approach to evaluate the compliance of each of the Members against the Resolutions in force (IOTC);

⁸ For example, see the ICCAT Terms of Reference, 3.1.5.

⁹ Mandate and Terms of Reference adopted by the Commission for the ICCAT Conservation and Management Measures Compliance Committee. ICCAT Report, 1994-1995 Annex 4-15.

¹⁰ Resolution 10/09 concerning the Functions of the Compliance Committee.

¹¹ Established at the Nineteenth Annual Meeting of NEAFC, November, 2000.

- a scheme of incentives and sanctions and a mechanism for their application to encourage compliance by all CPCs (IOTC).

The functions described above for review, recommendations and development of measures, approaches and a scheme are wide-ranging and give the respective committees specific responsibilities that reflect the need for expert consideration and analysis in matters of compliance. This is complemented by adequate meeting time in each case.

2.1.3 Analysis

At sub-regional consultations of the Task Force, a stronger mandate for CoC, and its inclusion in the GFCM Agreement, was proposed. As shown above, the stated functions of the CoC are relatively weak and in some cases illogical.

The functions of the committees responsible for compliance of the other RFMOs are all broader and deeper than those of the CoC. Although they are in some cases tailored to address a wider-range of activities such as allocations, centralized VMS and regional inspection and observer programmes, these functions may serve as a basis for developing a stronger role for CoC.

For example, functions could be considered which would authorize CoC to make evaluations, propose solutions for problems, develop and make recommendations to ensure the proper functioning of the Committee,¹² compliance with decisions of the Commission and the application of the Convention/Agreement, and to develop a scheme of incentives and sanctions to encourage compliance. The CoC could be given responsibility to develop mechanisms and schemes as appropriate.

However, consideration of strengthening the role of the CoC should also take into account the time allocated for meetings, to ensure effective implementation of the functions. In this regard, the possibility of meeting intersessionally as well as for a longer time period during, or in parallel with, the GFCM Sessions should be considered.

2.2 Work of the Committees responsible for compliance

The work of the GFCM CoC and committees responsible for compliance of other RFMOs is described below, including the issues of enforcement and sanctions.

2.2.1 GFCM Compliance Committee

To carry out its work, the CoC generally considers the following agenda items at its annual sessions, described in detail below:

- status of implementation of GFCM decisions by Members;
- status of data and information submissions by members and management of GFCM databases by the Secretariat;
- identification of non-compliance with GFCM decisions; and
- follow-up on the compendium of GFCM decisions.

The CoC serves mainly as an "information conduit" in relation to these items – but with scarce information provided by Members. There is little scope for the CoC to fulfill, in any meaningful way, its current functions of making recommendations on compliance with conservation and management measures and the development and implementation of the GFCM Control and Inspection scheme. Minimal attention is currently given to enforcement and sanctions, as shown below.

¹² For example, see the ICCAT Terms of Reference, 3.1.5.

An additional concern is that the agenda items do not accurately reflect the functions of the CoC. The agenda item on a review of the status of implementation of “GFCM decisions” by Members is broader than the mandate to review two areas only - compliance with conservation and management measures and implementation of monitoring, control, surveillance (MCS), and enforcement.

2.2.1.1 Status of implementation of GFCM decisions by Members

As noted above, the focus of this agenda item should be the implementation of GFCM conservation and management measures, consistent with the CoC mandate. However, the title indicates that the broader range of “GFCM decisions” is considered.

The CoC is expected to review the status of implementation of decisions, and according to meeting documentation, “formulate and forward its advice to the Commission on action to be taken in situations of lack or incomplete implementation of measures associated with these decisions, as well as to suggest measures to improve their effectiveness.”¹³ (Non-compliance with the measures is addressed in a separate agenda item.)

Members should report annually to the Secretariat on the implementation of GFCM measures, at least thirty days prior to each GFCM Session, using a specified format.¹⁴ For each measure, information is sought on the implementing policy, legal or institutional framework; reference to national law (if applicable); progress on operational implementation; and remarks, including constraints. This is essentially a self-assessment.

In practice, the difficulties with this reporting system and consequent lack of effectiveness are well recognized. The Report of the Fifth Session of the Compliance Committee¹⁵ describes the unevenness of reporting in terms of content and the relatively few responses received,¹⁶ consistent with previous years. Consequently, substantive discussion in the CoC and the Commission is usually limited to taking note of the report and no further analysis or measures are taken.

Some constraints identified by the CoC in the past have included the need for more time to review the implementation of decisions by Members and the unavailability of technical and financial resources in some Members to comply with reporting requirements. Suggested solutions at the Fourth Session of the CoC included convening the Committee's session at a different period to that of the Commission and for a longer duration, and to call upon FAO regional projects for additional support in capacity building. These sentiments were also expressed in Task Force sub-regional consultations.

The recommendations of the GFCM Performance Review in this regard, also echoed in Task Force sub-regional consultations, were to identify and assess the reasons for the failure of Members to provide required information and data and recommend solutions and priorities for consideration by the Commission. The routing of requests by the Secretariat for information should ensure that they are accorded the highest priority and Members should review their response mechanisms at national level to ensure that full and timely responses are provided to such requests and routinely to comply with GFCM obligations.

2.1.2.2 The status of data and information submissions by Members and management of GFCM databases by the Secretariat

The CoC considers the data and information submissions required of Members, most recently in relation to the following areas considered at the Fifth Session of the CoC.¹⁷ Although the Secretariat has established databases and systems as directed by the Commission, they suffer from the failure by Members to submit data as noted below.

¹³ COC:IV/2010/2.

¹⁴ In accordance with Resolution GFCM/2008/1.

¹⁵ COC:VI/2012/Inf.6.

¹⁶ Only seven reports had been received by 4 May 2011, ten days before the Fifth Session of CoC.

¹⁷ COC/V/2011/3.

- Authorized vessel list: Quality and frequency of data, frequency of updates varied; roughly 40% of vessels have not been assigned a GFCM Unique Identifier.
- List of vessels, gear fishing in the Fisheries Restricted Area in the Gulf of Lions: A provisional list was submitted.
- List of demersal trawlers equipped with a codend having a minimum mesh size: One Member submitted information.
- Regional Fleet Register database: Six Members submitted data.

GFCM also has a mechanism to report and list IUU fishing vessels, but this is not used.

At the Fifth Session, the Secretariat invited the Committee to provide guidance for further action and follow up, and as appropriate to identify Members that have not met their obligations.¹⁸ No Members were so identified, but during discussion, some delegations clarified the status of and processes for their information submissions to GFCM, others noted internal difficulties in sending data as required. It was considered that the Regional Projects should consider priorities for, and means to strengthen compliance with, data submission requirements to help relevant countries build their technical capacity.

The role of GFCM in this work has also become one of information conduit, with no effective decisions or actions taken due largely to the lack of submissions by Members. This adversely affects the ability of the Commission to carry out enforcement actions or sanctions.

2.2.1.3 Identification of non-compliance with decisions

In 2010, the CoC considered a draft recommendation proposed by the EU on the identification of non-compliance, which was considered, amended and adopted by the Commission.¹⁹ It tasked the CoC to identify each year, *inter alia*, Members that have not met their obligations under the GFCM Agreement in respect of GFCM conservation and management measures and Cooperating non-Members that have failed to discharge their obligations under international law.

The identifications are to be based on a review of all available information required by GFCM decisions including, for example: catch or effort data, trade information etc. In deciding whether to make identification, the CoC is to consider all relevant evidence and information available. It is also tasked to evaluate the responses of the Member or Cooperating non-Member, together with any new information, and propose to the GFCM to decide upon the revocation of the identification, or the continuation of the identification status, of the Member or Cooperating non-Member.

This is similar to a procedure used in ICCAT, which reviews actions taken by CPCs in response to letters of concern/identification, and could provide a useful role for the CoC. However, there are differences in mandate, species, activities and membership between the two RFMOs, and it is proving more difficult for GFCM to implement.

Other concerns are that it exceeds the mandate of the CoC by requiring an evaluation, it is difficult to obtain information without a robust information system, many Members do not have the capacity to implement this and the exceptionally short duration of CoC meetings.

Discussion on the identification of non-compliance with GFCM decisions was deferred in 2011 at the CoC and the GFCM Session until the Sixth Session of the CoC, in order to allow the Contracting Parties to improve compliance and seek assistance through cooperation projects. The importance of implementing GFCM Recommendations in national law was addressed at the GFCM Session, noting the challenges of a difficult and long legal process and the fact that non-implementation did not necessarily result in noncompliance. It seems unlikely that this measure will gain much traction in the short term.

¹⁸ In accordance with Recommendation GFCM/34/2010/3.

¹⁹ Recommendation GFCM/34/2010/3.

The Performance Review made a number of recommendations relating to compliance and enforcement, which could usefully be considered in future. They are shown in paragraphs 24-36 of Appendix 1, and concern Flag State duties, Port State measures, MCS, follow-up on infringements and cooperative mechanisms to detect and deter non-compliance.

2.2.1.4 Compendium of GFCM Decisions

The updated Compendium of GFCM decisions, together with the related CD ROM, produced under the mandate of the CoC, were considered by the Thirty-fifth Session as being useful in implementing GFCM Recommendations.

2.2.2 The committees responsible for compliance in ICCAT, IOTC and NEAFC

The work of the committees responsible for compliance in ICCAT, IOTC and NEAFC varies according to their functions. The most recent agenda of these committees reflects in general the patterns of work in the past few sessions. They contain the items shown below in Figure 1, which are all more elaborate than the agenda of the CoC.

This is because these RFMOs, among them, adopt measures not necessarily required by GFCM such as quota allocations, catch limits, minimum size, cage farming, statistical requirements and catch documentation schemes. Reviews include information from statistical data summaries, compliance summaries and compliance tables, inspection schemes, regional observer programs, port inspections and catch verification and certification schemes.

Figure 1
Some agenda items in recent meetings of committee responsible for compliance

ICCAT ²⁰	IOTC	NEAFC
Review of actions taken by CPCs in response to letters of concern/identification		
Review of implementation of and compliance with the ICCAT requirements ²¹	Overview of the implementation of IOTC Conservation of Management Measures ²²	Scheme of Control and Enforcement, ²³ including

²⁰ Held November 2010. At the February, 2011 Intersessional meeting of the Conservation and Management Measures Compliance Committee, the following items were considered, which had a more technical nature: 4. Review and approval of fishing, inspection and capacity reduction plans 5. Consideration and review of other requirements of the multiannual recovery plan for eastern Atlantic and Mediterranean bluefin tuna. 6. Determination of procedures for the implementation of the ROP-BFT for the 2011 season 7. Consideration and review of requirements established by other conservation and management measures, in particular those requirements which formed the basis of letters of concern and identification approved during the 2010 annual meeting 8. Review of active ICCAT Conservation and Management Measures and Monitoring and Control Measures to clarify issues of interpretation, to determine priorities for consideration by the Compliance Committee, or to recommend other pertinent actions to the Commission 9. Consideration of Guidelines for an ICCAT Schedule of Compliance Actions and possible establishment of a Compliance Task Force.

²¹ The following sub-items are considered under this item: CPC Statistical data summaries; CPC Compliance summaries; Compliance Tables.

²² The following sub-items are considered under this item: A. General review of the implementation of CMMs; B. Implementation of the Regional Observer Program for at-sea transshipments; C. Review of reference fishing capacity and fleet development plans.

²³ The following sub-items are considered under this item, but as appropriate are placed in the above table where they correspond to items of another RFMO: Overall compliance evaluation; Port State Control; Cooperative non-Contracting Party Status; Non-Contracting Party activities in the Reporting Area; IUU activities in the RA; Data Security and confidentiality and proposal for a NEAFC certification scheme.

ICCAT ²⁰	IOTC	NEAFC
	National Reports on the Progress of Implementation of Conservation and Management Measures	Overall compliance evaluation
	Country based Compliance Reports ²⁴	
Review of the ICCAT Regional Observer Programs (ROP) and consideration of any necessary actions (transshipment, bluefin vessels and farms)		Port State Control
Actions required in relation to issues of non-compliance by Contracting Parties		
		Proposal for a NEAFC certification scheme
	Review of the provisional IUU Vessels List and information relating to illegal fishing activities in the IOTC Area of competence	IUU activities in the Reporting Area
	Review additional information related to IUU fishing activities in the IOTC Area of competence	Non-contracting parties activities in the Reporting Area
	Review of requests for access to the status of Cooperating Non-Contracting Party	Cooperative non-Contracting Party Status

All committees review compliance with conservation and management measures, but the review is generally more elaborate than that undertaken by GFCM and based on more comprehensive reports and documents. Another common activity of the committees is to consider IUU fishing activities. To support such consideration, most Commissions have active IUU vessel lists, centralized VMS and observer programmes.

The committees responsible for compliance of these organizations review annually compliance with conservation and management measures, but the review is generally more elaborate.

The functions of each of ICCAT, IOTC and NEAFC require them to review compliance with conservation and management measures. NEAFC has the broadest mandate, requiring information, technical advice and proposals:

ICCAT. Review all aspects of compliance with ICCAT conservation and management measures in the ICCAT Convention Area, with particular reference to compliance by ICCAT Contracting Parties

IOTC. Review all aspects of CPCs individual compliance with IOTC conservation and management resolutions in the IOTC Area.

²⁴ This is based on Resolution 10/09. The following sub-items are considered under this item: A. Review of the country based Compliance Reports - Review of individual CPC Compliance Status against IOTC Conservation and Management Measures, Identification of eventual non-compliance cases, CPC information on its Compliance Status (reasons, problems, etc.) and discussion on follow-up on individual compliance status (inter-sessional process, and 2012 Compliance Committee discussions); and B. Discussion on format, content and deadlines for the compliance questionnaire and report.

NEAFC. Provide the Commission with information, technical advice and proposals relating to the implementation of, and compliance with, recommendations and measures established under specified Articles of the Convention.

All three committees make recommendations to their Commissions. The subject matter of some recent recommendations is shown below in Figure 2. The recommendations of the ICCAT committee are not as clearly stated in its reports as in those of the other Committees; those that have focused on the compliance with the Recovery Plan and Catch Documentation Program and the expansion of the authorized vessel list to include vessels of 20 meters in length overall or greater are indicated.

It is difficult to identify common themes in the recommendations, given the differences in the mandates, species, development and operations of the committees. In all cases, however, determining compliance with conservation and management measures forms a major part of their work.

Figure 2
Some recommendations made by committees responsible for compliance

ICCAT	IOTC	NEAFC
<p>Compliance with the Multi-Annual Recovery Plan for Bluefin Tuna in the Eastern Atlantic and Mediterranean including recommendations on:</p> <ul style="list-style-type: none"> • the reduction of fishing capacity, for which revised capacity management plans were reviewed; • a data exchange format and protocol in Relation to the VMS for the Bluefin Tuna Fishery in the ICCAT Convention Area. <p>Consideration of the requirements and compliance with the ICCAT Bluefin Tuna Catch Documentation Program regarding the bluefin tuna catch document system, for which agreement was reached on the future interpretation of measures.</p> <p>Expanding requirements of the ICCAT Record of Vessels to include vessels of 20 Meters in length overall or greater authorized to operate in the Convention Area.</p>	<p><i>Country based compliance reports:</i> The Committee recommended that the Commission:</p> <ul style="list-style-type: none"> • agree to the development and distribution of letters of concern, highlighting areas of non-compliance to relevant CPCs, and to maintain transparency in the process, each letter of concern should also be circulated via an IOTC circular. • note the list of issues identified by the Chair of the Committee during the Compliance Committee meeting. • consider endorsing a template for use in developing letters of concern. <p><i>Review of the provisional IUU vessels list and of the information relating to illegal fishing activities in the IOTC Area of Competence</i> Recommendations were made concerning the listing or delisting of several vessels on the IUU Vessel List.</p> <p><i>Review of additional information related to IUU fishing activities in the IOTC Area of Competence:</i> The Committee recommended that the Commission provide guidance</p>	<p>Non-Contracting Party status of several States</p> <p>Possible amendments to the Scheme regarding procedures for the listing of IUU vessels.</p> <p>Harmonization of communication security procedures with NAFO.</p> <p>The need for NEAFC to create an overarching Recommendation on security and confidentiality, in line with ISO 27001 standard.</p> <p>The Secretariat should undertake a review of “reporting to the NEAFC Secretariat”, regarding redfish in the Irminger Sea and adjacent waters.</p> <p>Evaluation by PECCOE of the effectiveness of the systems in place for verification of catches of redfish in the Irminger Sea and adjacent waters during the April meeting of 2012 and inclusion of its findings in the yearly report to the Annual Meeting of NEAFC.</p> <p>The possible way forward on the use of electronic logbooks.</p> <p>Proposal for a NEAFC catch certification scheme.</p>

ICCAT	IOTC	NEAFC
	<p>concerning the status of the information provided by observers participating in the IOTC at sea transshipment program, in particular, the confidentiality rules to be applied, and the procedure to be followed upon receiving information from observers regarding irregular activities by fishing vessels involved in transshipment operations.</p> <p><i>Other matters</i> Update on progress regarding Resolution 09/01 - On the performance review follow-up Recommendation/s.</p>	

The ICCAT and IOTC committees both prepare tables upon which to base their consideration of implementation of and compliance with conservation and management measures. ICCAT has a Table of Actions by the Compliance Committee Regarding Cases of Non-Compliance, in which it lists, for successive years, Potential Issues of Noncompliance, Response/explanation by CPC and Actions Taken. Actions taken in respect of non-compliance may include the following: a letter of concern, encouraging participation in future meetings and indicating that failure to respond may result in further actions being considered by the Commission. The Commission may then take sanctions or other action. Trade-related measures may be taken,²⁵ as well as interim suspension or reduction of quota due to non-transmission of reports.²⁶

IOTC compliance reports by country are highly detailed, including remarks by the Compliance Committee.²⁷ The Chair may indicate points for discussion by the Committee where there has not been compliance, for example:

- Has not reported a list of designated ports and competent authorities as required by Res. 10/11.
- Has not reported size frequency data for the coastal fisheries as required by Res. 10/02.

IOTC also has provided requirements for a summary report on possible infractions observed under the regional observer programme,²⁸ and the Secretariat must indicate to CPCs where raw data and other reports show evidence of possible infractions of IOTC regulations by LSTLVs/carrier vessels flagged to that CPC. The CPCs may respond, and the Compliance Committee must review all cases and decide whether there was any infraction.

IOTC has also developed a template for a letter of concern to be sent to a CPC where there is evidence of non-compliance or partial compliance, similar to the practice of ICCAT.

Concerning sanctions, IOTC has the necessary framework in which to apply market related measures, following an appropriate process.²⁹ Reductions in future quota allocation have been proposed as deterrents for non-compliance, but the process is still to be implemented. The Compliance Committee, under its revised

²⁵ [02-17] Recommendation by ICCAT regarding Bolivia pursuant to the 1998 Resolution concerning the unreported and unregulated catches of tuna by large-scale longline vessels in the Convention area [02-20] Recommendation by ICCAT concerning the trade sanction against St. Vincent and the Grenadines [03-18] Recommendation by ICCAT for bigeye tuna trade restrictive measures on Georgia [04-13] Recommendation by ICCAT concerning the lifting of trade sanctions against Equatorial Guinea.

²⁶ [11-15] Recommendation by ICCAT on Penalties Applicable in case of Non Fulfillment of Reporting Obligations.

²⁷ The template was adopted as Appendix XI in the 2011 Report of the Fifteenth Session of IOTC. IOTC-2011-S15-R[E].

²⁸ See IOTC-2012-CoC09-08c[E].

²⁹ Resolution 10/10.

terms of reference, must develop a scheme of incentives and sanctions and a mechanism for their application to encourage compliance by all CPCs. This is expected to commence in 2012, led by a small working group of CPCs.

The IOTC Compliance Committee's new terms of reference are well focused on compliance, and should ensure an improvement in the effectiveness of the Committee.³⁰

In the NEAFC committee, an overall compliance evaluation is given, based on information from different documents concerning activities such as transshipments and port State control. The NEAFC Convention requires Contracting Parties to apply sanctions, and the Scheme of Control and Enforcement requires each Contracting Party to report to the Secretary by 1 March each year for the previous calendar year the status of the proceedings relative to infringements of NEAFC measures.

The infringements must continue to be listed on each subsequent report until the action is concluded in accordance with the relevant provisions of national laws. The report must indicate the current status of the case (i.e. case pending, under appeal, still under investigation, etc) and any sanctions or penalties imposed must be described in specific terms (i.e. level of fines, value of forfeited fish and/or gear, written warning given, etc.). It is to include an explanation if no action has been taken.

In addition to market-related measures and penalties at regional level and sanctions and penalties at national level, the other RFMOs have IUU vessel lists which may also serve as a sanction.

Each of the committees has various databases, variously including IUU vessel lists, authorized vessel lists, transshipment information, VMS data and observer data, as well as other required reports from Contracting Parties. Similar to the situation in GFCM, problems are encountered because Members do not always furnish required data and information. This situation is addressed through the detailed compliance reports, capacity development at national level and positive action by the Secretariats in working with Members to improve their reporting.

³⁰ They are to:

3.1 Review each individual CPC's compliance with conservation and management resolutions adopted by the Commission and make such recommendations to the Commission as may be necessary to ensure their effectiveness, notably in relation to:

- i) The mandatory statistical requirements and all issues related to obligatory reporting and data providing, including non targeted species;
- ii) The level of CPC's conformity with conservation resolutions;
- iii) The CPC's conformity with the resolutions concerning the limitation of the fishing capacity;
- iv) The status of implementation of resolutions for monitoring, control, surveillance and enforcement adopted by the Commission (Port inspections, VMS, follow-up on infringements and market related measures);
- v) The reporting on authorised as well as active vessels in IOTC area of competence, in particular in relation to the fishing effort limitation IOTC Resolutions;

3.2 The Compliance Committee shall also be tasked to:

- i) Compile reports, with the help of the IOTC Secretariat, based on information submitted by CPCs in accordance to the various Resolutions adopted by the Commission and, which will form the basis for the compliance examination process;
- ii) Develop a structured, integrated approach to evaluate the compliance of each of the Members against the IOTC Resolutions in force. The Chairman of the Compliance Committee, assisted by the IOTC Secretariat, will identify, select and transmit the significant non compliance issues to each CPC and submit them for discussion at the Compliance Committee meeting;
- iii) Issue its opinion on the compliance status of each CPC at the end of the meeting. Non compliance with the IOTC conservation and management resolutions will lead to a declaration of non compliance by the Compliance Committee and recommend suitable actions for consideration of the Commission;
- iv) Develop a scheme of incentives and sanctions and a mechanism for their application to encourage compliance by all CPCs,
- v) Perform such other tasks as directed by the Commission.

However, the level of submission of data and information is significantly higher in the other RFMOs and there is more active use of the databases. This may be due to a range of reasons, for example the mandates of the respective RFMOs concern high value tuna species or the membership is comprised of developed countries. These considerations should not be used as excuses to conserve and manage species falling within the mandate of GFCM.

2.2.3 Analysis

The sub-regional consultations of the Task Force emphasized the importance of the role of the CoC in compliance. Clear themes emerged from the discussions during the three reported sub-regional consultations (at the time of writing) of the Task Force in relation to compliance and enforcement. The following issues were discussed in at least two of the three consultations.

- There was a strong view that the role of COC should not be limited to presenting a report to the Commission on the status of implementation of measures, and that reorganization and reconsideration of its role should be effected.
- It was also suggested that the role of COC should appear in the GFCM Agreement, and *inter alia* require members to inform COC of the relevant compliance and enforcement actions they had taken, and that the Bureau should review the role of COC annually.
- Interestingly, in addressing measures rather the role of the COC, recommendations were made in two of the consultations that there should be a phased development of centralized VMS and a joint inspection scheme. Mindful that a GFCM scheme for port State measures, which are known to produce positive, cost-effective outcomes, has been adopted but not implemented, any further steps should be taken carefully to ensure acceptance and implementation.
- In three consultations market-related measures and a penalty scheme were recommended. These are useful tools in other RFMOs, but market-related measures are used mainly in relation to high-value species where they would significantly affect profitability. Penalties are usually related to quota allocations, so for example the Member that does not comply with reporting would not qualify for their share of allocations in the following year. The Performance Review Panel had concluded that market-related measures may not be appropriate for GFCM because of the mixed-species, rather than single high-value species nature of the fisheries. However, innovative approaches may be developed to suit GFCM circumstances for market-related measures and a penalty scheme.
- Suggestions were also made during the consultations that CoC should play the role of a mediator in the event of non-compliance. In considering this role, Members should take into account the full membership and agenda of the CoC due to its other responsibilities. CoC is comprised of all GFCM Members, and it is not a full-time body with agreed mediation processes and personnel. Members may wish to consider a dispute settlement mechanism within the GFCM that provides for a mediation mechanism. Such mechanisms in other RFMOs provide for different steps to the process, such as resolution by negotiation, inquiry, mediation, etc., or if the dispute is of a technical nature parties may refer it to an *ad hoc* expert panel established under procedures adopted by the Commission. Otherwise a dispute may be submitted for binding decision in accordance with procedures in Part XV of the 1982 Convention or, where the dispute concerns one or more straddling stocks, by provisions set out in Part VIII of the 1995 UN Fish Stocks Agreement.

The three interdependent challenges for the GFCM CoC seem to be encouraging reporting and implementation, ensuring compliance and a working within a realistic timeframe. The committees responsible for compliance in the other RFMOs share these challenges but have set some good examples for overcoming them.

Not all of them may be applicable to the work of GFCM, but as a start it would be important to consider new terms of reference for the CoC, as well as obligations on Members with respect to implementation and

compliance and on the Secretariat for managing information. For example, a more transparent and incentive-driven process for assessment of implementation could be developed, rather than relying on countries' self-assessments – which are seldom provided.

Identification of the reasons for non-compliance, as recommended in the Performance Review, would be important to the reform of the CoC. Capacity development would be important both for the Secretariat and Members in order to fulfil future obligations.

Importantly, the CoC currently does not have sufficient time to scrutinize and discuss the available information on implementation and compliance, let alone develop programmes or schemes to strengthen compliance; this in itself is a disincentive to Members for providing full information.

Another essential step would be to determine the consequences of identification of non-compliance pursuant to Recommendation GFCM/34/2010/3. Sanctions, penalties and a process for following up infringements should be considered as appropriate.

Although the other RFMOs use an impressive array of information and compliance tools, not all may be applicable to GFCM. Identification of those that are relevant could be useful.

3. Committees responsible for Finance and Administration

Finance and administration issues are dealt with by the GFCM Committee on Finance and Administration (CAF), the ICCAT Standing Committee on Finance and Administration (STACFAD), the IOTC Standing Committee on Administration and Finance (SCAF) and the NEAFC Finance and Administration Committee (FAC).

The organizations vary in terms of their budgets, meetings and personnel as shown in Figure 3. Information on the Northwest Atlantic Fisheries Organization (NAFO) was added because of its similarity to GFCM in the Secretariat's size and number of meetings.

Figure 3
Level of budget, staffing, number of meetings and members for select RFMOs in 2011

RFMO	Budget US\$ millions	Extra- budgetary Funds ³¹	Permanent Staff	Number of Meetings	Number of Members
GFCM	... ³²	... ³³	7 ³⁴	38 ³⁵	24

³¹ Information not available for GFCM, NEAFC and NAFO.

³² 2011 figures not available.

³³ 2011 figures not available.

³⁴ In addition, two security guards are contracted by GFCM.

³⁵ This includes, for 2011-2012 GFCM intersessional meetings, meetings in the frameworks of Task Force activities and meetings in the framework of enhanced collaboration with Members and Institutions. Further, the GFCM hosted several external meetings at its headquarters in Palazzo Blumenstihl, amongst which the FAO Workshop for the Development of a Global Database for Vulnerable Marine Ecosystems (VMES) and the workshop of the CREAM Project of IAMZ-CIHEAM. In addition, there were 17 Meetings at which GFCM was represented in 2011-12

ICCAT	(2,9 million euros)	US\$ 383,000 ³⁶	27	18	48
IOTC	2,1	13,700	11 ³⁷	8	28
NEAFC	... ³⁸		4	10	5
NAFO	1,9		10	14	12

3.1 GFCM Committee on Finance and Administration

The GFCM Committee on Finance and Administration was established in 2009. It consists of all GFCM Members, meets for half a day during the annual GFCM Session and has the following functions:

- review administrative matters relating to the Executive Secretary and his staff and make appropriate recommendations to the Commission;
- review compliance with the rules of procedures and financial rules;
- review the implementation of the budget adopted at the previous Session of the Commission and analyse and make recommendations on the draft budget to be adopted at the current Session of the Commission; and
- perform such other administration and financial matters as may be referred to it by the Commission.

A number of issues were raised in the first Session including the use of arrears, the costs of additional staff and the importance of reflecting priorities in the work plan. After in-depth discussion, the CAF agreed that a small informal group would work on a budget proposal and serve to facilitate the understanding of decisions on budget related issues, while taking into consideration the work plan priorities of the SAC and the CAQ.

In 2012, the CAF's business will address the conclusions of the Task Force on administrative and financial issues, reports from the Secretariat on administrative and financial issues, activities and functioning of the Secretariat, including staffing issues, the status of ratification of the Amendments to the GFCM Agreement, a review of Member contributions to the autonomous budget. In addition the 2011 financial situation and provisional GFCM budget and Member contributions for 2012 and 2013 will be considered, as well as a draft Resolution on rules and norms for hosting the GFCM statutory meetings

During the Task Force sub-regional consultations concerning finance and administration matters, three consultations focused on the need for fairness and equitable rules in relation to the autonomous budget.

Concerning fair and equitable rules in relation to the autonomous budget, and identification of the roles and responsibilities, this is supported by the terms of reference for CAF which include its authority to "analyse and make recommendations on the draft budget to be adopted at the current Session of the Commission." This is important because it gives the CAF an active role not only in preparing the budget but also in determining its contents, and enhances transparency.

However, the word "adopted" suggests that it is a foregone conclusion that the budget will be adopted, possibly without change. It would be better to refer to "considered" by the ... Commission.

³⁶ For 2009. 2011 figures not available. However, an ICCAT press release reported that, in 2011, ICCAT spent almost €132,000 on capacity-building activities. It was not confirmed that the funds were extra-budgetary, but it is standard for RFMOs to fund capacity-building activities in this manner. The funds had been used to facilitate participation in scientific meetings, training workshops, sampling and observer programs, and to recover historical logbook data. In 2011 a Recommendation had been adopted to allow the funding of delegates from developing States to attend Commission and related inter-sessional meetings, to allow fuller participation in decision making.

³⁷ In addition, the Seychelles Fishing Authority (SFA) has seconded the services of a Systems Administrator to the Commission.

³⁸ 2011 figures not available.

It would also be useful to consider requiring a "programme of work and budget" rather than simply a budget.

Development of the budget is currently the responsibility of the Secretariat, and Members have no input under the Terms of Reference of CAF to recommend the structure, composition, process or other elements of this activity. Current practice is that the Secretariat tables the draft budget and there is little opportunity for discussion; Members, or independent experts, have very limited or no input and in the end "rubber stamp" the document prepared by the Secretariat.

It is widely recognized³⁹ that, for this and other functions, the GFCM Chairperson and GFCM Secretary have been performing in an exemplary manner the duties expected of them, but their role and responsibilities should be more clearly spelled out in the GFCM Agreement or in the Rules of Procedure. They should be developed on the basis of the functions of these organs, and any strengthening of the bodies and processes that is an outcome of the review of the Task Force.

One way to strengthen transparency and to share functions and workload is to give the Bureau of CAF or a smaller appointed group responsibility for intersessional activity including participating in the process to develop the draft budget, and monitoring the implementation of an approved budget as appropriate.

The authority of the CAF itself could be expanded to "analyse and make recommendations on the draft budget to be considered at the current Session of the Commission; examine the operation and implementation of the budget during the intersessional period". This is consistent with IOTC Rules, described below. Other elements of the IOTC Rules which would enhance transparency and should be considered for incorporation in the CAF, are:

- The CAF may draw to the attention of the Commission any matter of an administrative or financial character.
- The CAF may appoint from amongst its members a smaller, informal group to give preliminary consideration, in consultation with the Executive Secretary, to matters before it.
- The CAF shall prepare a report of each meeting of the Committee for transmission to the Commission.

The CAF has strict limitations in considering administrative matters. Current best practices in RFMOs are to give authority to such committees are given to consider and make recommendations on "administrative matters", which would involve all such matters of the Organization. For example, the NEAFC committee reviewed a process for payment plans of members' contributions. CAF may only consider "administrative matters relating to the Executive Secretary and his staff". This could exclude consideration of new institutional arrangements involving the recruitment of personnel who are not yet staff members of the Executive Secretary.

It was suggested at two of the Task Force Consultations that GFCM should explore possibilities to receive extra-budgetary support. The FAO initiative in relation to Article XIV bodies described in section 4 below has flagged the issue of relations between the bodies and donors or external organizations, in the context of exploring greater autonomy for the bodies. This is therefore an appropriate course of action in the broader context of FAO, as well as to meet objectives of the GFCM.

It was also put forward to the Task Force that the roles and responsibilities of the GFCM Chair and Executive Secretary should be in the Rules of Procedure. In fact, they already appear in the Rules of Procedure as shown in Appendix 2. They generally appear to be sound.

Similar to the situation in CoC, the Terms of Reference are not adequate to address the issues being considered in CAF meetings. For example, as drafted they do not extend to general administrative issues, activities and functioning of the Secretariat. They should be redrafted accordingly.

CAF would need a longer period of time to conduct its meetings and carry out its tasks effectively.

³⁹ Including in the Bucharest Task Force Consultation for the Black Sea sub-region.

3.2 Committees responsible for Finance and Administration in ICCAT, IOTC and NEAFC

The terms of reference for committees responsible for finance and administration in ICCAT, IOTC and NEAFC are shown in Figure 4.

Figure 4
The terms of reference for committees responsible for finance and administration in ICCAT, IOTC and NEAFC

ICCAT	IOTC	NEAFC
<p>Rules of Procedure Rule 13 - Committees</p> <p>1. There shall be a Standing Committee on Finance and Administration on which each member country of the Commission may be represented. The Committee shall advise the Commission on matters relating to the Executive Secretary and his staff, on the budget of the Commission, on the time and place of meetings of the Commission, on publications of the Commission and on such other matters as may be referred to it by the Commission. The Committee shall choose its own Chairman.</p>	<p>Resolution 02/09 Establishment of the Standing Committee on Administration and Finance (SCAF)</p> <p>1. The Indian Ocean Tuna Commission hereby establishes in accordance with Article XII.5 of the Agreement a standing Committee on Administration and Finance (SCAF).</p> <p>2. The Standing Committee shall advise the Commission on such matters of an administrative and financial character as are remitted to it by the Commission and shall annually:</p> <p style="margin-left: 20px;">a. examine the operation of the budget for the current year; and</p> <p style="margin-left: 20px;">b. examine the draft budget for the ensuing year.</p> <p>3. The Standing Committee may draw to the attention of the Commission any matter of an administrative or financial character.</p> <p>4. The Standing Committee may appoint from amongst its members a smaller, informal group to give preliminary consideration, in consultation with the Executive Secretary, to matters before it.</p> <p>5. The Standing Committee shall prepare a report of each meeting of the Committee for transmission to the Commission.</p>	<p>NEAFC Rules for the Finance and Administration Committee</p> <p>The terms of reference of the Finance and Administration Committee, appointed in accordance with paragraph 19 of the Rules of Procedure, shall be to advise the Commission on the annual budget, expenditure, contributions, amendments to these rules, staff matters, administrative matters and such other matters as the Commission may direct.</p>

All committees meet annually, during the period of the annual meeting.⁴⁰ For NEAFC, the committee consists of four representatives (or delegate and advisers) from different Contracting Parties appointed by the Commission.

⁴⁰ The Report of the 30th Annual Meeting for NEAFC, in 2011, notes that The President stated that he wanted the Finance and Administration Committee (FAC) to hold meetings in the margins of the Annual Meeting.

For ICCAT and IOTC, all Contracting Parties may participate. They variously consider administrative and financial reports from the Secretariat, financial implications of activities and programmes, mechanisms for financial assistance to developing States and a programme of work and budget.

The agenda items for these committees are straightforward and quite similar. They consist variously of reviewing the administrative and financial reports and/or progress reports from the Secretariat, a programme of work and budget, contributions from Members (arrears, contribution scheme etc) and a mechanism for financial assistance to developing states.

Recommendations generally relate to recruitment of staff, adoption of the programme of work and budget, and establishment of special funds, for example for attendance at meetings by participants from developing countries. The performance reviews of both ICCAT and IOTC encouraged those RFMOs to strengthen efforts in providing efforts to developing States, with expanded participation of donors, and this has been followed up. The SCAF of IOTC will consider rules and procedures for the administration of its meeting participation fund at its 2012 session.

Importantly, the IOTC is following up a recommendation in its performance review that 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.⁴¹

3.3 Analysis

The terms of reference of the CAF are severely limited in matters that it can consider, when compared to the current best practices in committees of other organizations and given the need for greater transparency, inter alia to: provide for a programme of work and budget; increase Members' as well as Secretariat's control of budget elements; allow for intersessional input of the CAF to the budget development process; provide for monitoring of the operation of the budget; and allow for the consideration of all administrative matters of the Organization, and not just those relating to the Secretary and his staff.

Intersessional activity by the CAF could be provided through its Bureau or appointment of a small working group. Consideration should be given to expanding the time period during which the CAF meets, in line with other committees, to ensure effective and transparent review and input by GFCM Members to financial and administrative matters.

4. FAO initiative in relation to Article XIV bodies

The FAO Legal Office has undertaken an initiative in relation to bodies established under Article XIV of the FAO Constitution. Recent developments on this issue include a one-day consultation workshop held in January, 2012 on Article XIV bodies, and five topics were reviewed: administrative issues, budgetary and financial issues, visibility and identity issues, rules and procedures applicable to observers and the reporting relationship between statutory bodies and Governing Bodies. These were essentially topics which had been identified in the course of preliminary reviews of Article XIV statutory bodies mandated by FAO Governing Bodies.⁴²

The January, 2012 consultation workshop showed that a number of bodies have developed administrative procedures and practical arrangements, and at times creative solutions, to accommodate functional requirements of concern for their membership and secretaries. FAO management acknowledged the differentiated nature of Article XIV statutory bodies and the need to ensure more flexible procedures and

⁴¹ See IOTC-2012-SCAF09-06[E].

⁴² Reviews of Article XIV bodies can be found in the following documents which are available on the FAO Website: PC 108/10 (2011), PC 104/9 and CL 140/8 PARA 27-28, CCLM 88/3 (2009), CL 137/5 AND CL 137/REP, para.53, CL 127/REP, para 91-92.

working arrangements to allow them to enhance their responsiveness to the needs of their respective membership.

During the consultation workshop, a questionnaire was also discussed and was sent to the membership of statutory bodies. As underlined by the FAO Council at its 143rd Session in November and December 2011, in responding to the questionnaire Members are invited to take into special account the desirability of maintaining consistency between the activities of the Article XIV statutory bodies and the overall policies and activities of the Organization, including in achieving savings and efficiency gains. Members are invited to seek the views of the constituencies of the relevant bodies under Article XIV, as appropriate and, as far as possible, to ensure consistency between the views presented by their delegations within the Governing Bodies of FAO and within the relevant statutory bodies under Article XIV. Members are also invited to keep in mind the differentiated situation of bodies established under Article XIV, as well as their specific functional requirements.

The questionnaire focused on the following areas that were addressed at the consultation workshop:

- Administrative and financial issues relating to greater autonomy and authority for Article XIV bodies, including in their relations with external organizations and donors;
- Identity and visibility including the use of the FAO logo;
- Reporting relationship with FAO governing bodies,⁴³ concerning the effectiveness of the existing reporting relationship and relevance of such reporting; and
- Participation of observers and other stakeholders.

Article XIV bodies, for their part, have been challenged in the past by FAO rules for administrative and financial issues.⁴⁴

It is clear from these early developments that greater autonomy for Article XIV bodies is under active consideration. Future efforts to strengthen GFCM should take this into account. In particular, developments relating to administrative and financial issues, including possible new rules governing relations with external organizations and donors should be noted.

5. Areas where CoC and CAF should be strengthened

The above analyses have indicated that strengthening should be considered for CoC and CAF in several respects.

⁴³ The 36th Session of the FAO Conference (Rome, 17-24 November 2009) approved the following definition of Governing Bodies (C 2009/REP, para. 142): "The Governing Bodies of FAO are the bodies which directly, or indirectly through their parent bodies, contribute within their respective mandates, to (a) the definition of the overall policies and regulatory frameworks of the Organization; (b) the establishment of the Strategic Framework, the Medium-Term Plan and the Programme of Work and Budget and (c) exercise, or contribute to the oversight of the administration of the Organization. The Governing Bodies comprise the Conference, the Council, the Programme Committee, the Finance Committee, the Committee on Constitutional and Legal Matters, the Technical Committees referred to in Article V, paragraph 6 (b) of the Constitution and the Regional Conferences (i.e. for Africa, Asia and the Pacific, Europe, Latin America and the Caribbean, and the Near East)."

⁴⁴ For example, the Report of the Eighth Session of the IOTC Standing Committee on Administration and Finance (IOTC-2011-SCAF8-R) referred to delays in FAO recruitment procedures (SSAF8.01 para 13) and reported that the Committee recommended that the Commission consider developing and transmitting a letter of concern to FAO, outlining the IOTC's dissatisfaction with the fact that FAO did not send an official representative to the 15th Session of the IOTC. (SCAF8.03, para 22) Regarding the Programme of Work and budget for 2011 and 2012, noting the absence of a representative from FAO, the Committee recommended that the Commission consider requesting FAO provide a report at the next Session detailing its contribution to the Commission, and that the progress report of the Secretariat should also reflect the contributions received from FAO. (SCAF8.04 para 31)

Both CoC and CAF have mandates that are weak and bordering on illogical, and which often do not correspond to the work actually done. An interrelated problem for both Committees is the serious lack of meeting time, with no real intersessional activity. They have effectively become half-day "information conduits" or "rubber stamps". This does not inspire Members to provide information and data, take the necessary steps to implement and comply with GFCM decisions or scrutinize and strengthen the finance and administration activities of the Commission.

Consideration should be given to identifying in the Agreement or Rules of Procedure as appropriate:

- the role and functions of each Committee;
- the Members' roles and responsibilities;
- the duties of the Secretariat in managing information.

Further consideration should be given to expanding the meeting time of both Committees to two to three days, as practiced in other RFMOs, and allowing for intersessional meetings as appropriate.

Concerning the CoC, functions could be considered which would authorize it to make evaluations, propose solutions for problems, develop and make recommendations to ensure the proper functioning of the Committee, monitor, review and make recommendations on compliance with decisions of the Commission and the application of the Convention/Agreement, and develop mechanisms and schemes, such as a scheme of incentives and sanctions to encourage compliance.

A number of compliance tools have been suggested, including in consultations of the Task Force, and a revitalized CoC should consider, recommend and guide their implementation in view of the circumstances particular to GFCM. Important steps in this regard would be to identify reasons for non-compliance and determine the consequences of non-compliance identified pursuant to Recommendation GFCM/34/2010/3. Sanctions, penalties and a process for following up on infringements should be considered as appropriate.

Identification of the reasons for non-compliance, as recommended in the Performance Review, would be important to the reform of the CoC. Capacity development would be important both for the Secretariat and Members in order to fulfil future obligations.

Concerning the CAF, its terms of reference should, at minimum: provide for a programme of work and budget; increase Members' as well as Secretariat's control of budget elements; allow for intersessional input by the CAF into the budget development process; provide for monitoring of the operation of the budget; and allow for the consideration of all administrative matters of the Organization, and not just those relating to the Secretary and his staff.

Intersessional activity by the CAF could be provided through its Bureau or appointment of a small working group. Consideration should be given to expanding the time period during which the CAF meets, in line with other committees, to ensure effective and transparent review and input by GFCM Members to financial and administrative matters.

6. Suggested action by the Commission

The Commission is invited to review the recommendations in this document, which are based on the recommendations in the GFCM Performance Review, the work of the Task Force, the work and objectives of GFCM and best practices of other RFMOs, and to provide general guidance on the strengthening of the CoC and the CAF through amendment to the GFCM Agreement, Rules of Procedure and other processes and mechanisms as appropriate.

**TERMS OF REFERENCE FOR THE TASK FORCE AND
RECOMMENDATIONS OF THE GFCM PERFORMANCE REVIEW
IN RELATION TO COMPLIANCE AND ENFORCEMENT, AND FINANCE AND ADMINISTRATION**

I. TERMS OF REFERENCE FOR THE TASK FORCE

Compliance and enforcement:

- Definition and current usage of the following terms: coastal State, flag State, port State, non-compliant flag state, IUU fishing, cooperating non-members, and non-cooperating non-Members.
- Best practices to strengthen the compliance through port State measures, including the identification of gaps and weaknesses of the GFCM recommendation 2008/1 on a regional scheme for port state measures.
- Overview and best practices of follow-up schemes on infringements of conservation and management measures.
- Innovative elements and procedures to facilitate compliance by the Parties, in particular cooperative mechanisms to detect and deter non-compliance, notably in terms of enhanced accountability.
- Identification of technical and administrative gaps in the capacity of Members to provide the information required by GFCM, together with advice on technical and capacity-building solutions.
- Identification of gaps in the current setting of technical equipments and mechanisms for Monitoring, Control and Surveillance (MCS) as established by GFCM and advice on solutions, including also the use of high seas control and the development of a framework for joint high seas inspections, monitoring programmes and observer programmes.

Financial and administrative matters:

- A draft roadmap and elements for implementing the financial audit, underlining those aspects of the audit that could entail a review of the GFCM agreement.
- Analysis of impact and added-value of extra-budgetary activities currently being financed.
- List of possible alternative funding mechanisms for extra-budgetary supported activities.

2. RELEVANT RECOMMENDATIONS OF THE GFCM PERFORMANCE REVIEW

COMPLIANCE AND ENFORCEMENT
<p>Flag State duties</p> <p>24. An assessment of the implementation of the flag State duties in the Recommendations should be carried out, and recommendations made for effective implementation by Members of these flag State duties</p> <p>25. Flag States' roles and duties should be included in any revision to or replacement of the GFCM Agreement, drawing on relevant provisions of the UNFSA, the IPOA-IUU and the FAO Port State Measures Agreement.</p>
<p>Port State measures</p> <p>26. The CoC should establish the level of compliance by Members with the Recommendation on port State measures and as appropriate develop mechanisms and priorities to strengthen the compliance.</p>
<p>Monitoring, control and surveillance (MCS)</p> <p>27. GFCM should as a priority address and solve the problem of the weak and uneven implementation by Members of requirements under existing MCS measures. One mechanism could be to establish a task force to evaluate MCS in the GFCM Area of Competence and make recommendations for its</p>

strengthening.

28. As the implementation by Members of MCS measures improves, GFCM should consider a more comprehensive MCS system to implement the longer-term components of the Control and Enforcement Scheme such as high seas inspection, port inspection, monitoring programmes and observer programmes.

Follow-up on infringements

29. Mechanisms should be considered to ensure that Members and cooperating non-Members follow up on infringements to conservation and management measures, and submit information as required under relevant Recommendations.
30. GFCM should consider a sanction mechanism for non-compliance, and task the CoC to develop a structured procedure for cases of infringement.
31. Provisions for follow-up on infringements should be included in any amended/replaced GFCM Agreement.

Cooperative mechanisms to detect and deter non-compliance

32. The reasons for the failure of Members to provide required information should be identified and assessed, and solutions and priorities recommended, for consideration by the Commission. As appropriate, the technical and human weaknesses of some Members in this regard should also be identified and proposals made for addressing them through subregional or other projects.
33. The routing of requests by the Secretariat for information should ensure that they are accorded the highest priority and Members should review their response mechanisms at national level to ensure that full and timely responses are provided to such requests and routinely to comply with GFCM obligations.
34. The possible consequences of identification of non-compliance pursuant to Recommendation GFCM/34/2010/3 should be made clear.
35. Sub-regional meetings should be held to identify reasons why there is stronger compliance and enforcement of GFCM Recommendations and decisions by some Members and to propose solutions for strengthened compliance by other Members.
36. The timing and duration of CoC Sessions should be reviewed to ensure that there is adequate time to enable the Committee to fulfil its functions.

FINANCIAL AND ADMINISTRATIVE ISSUES

56. A full institutional review and assessment of existing GFCM human resources, their organization, duties and general focus (on administrative or technical tasks), together with recommendations for meeting evolving needs, should be undertaken. It should take into account FAO rules regarding staff recruitment and employment and should involve a review of the objectives and programmes of GFCM, priority needs identified by the Commission, the means of assuring optimum productivity and options for recruiting personnel such as permanent staff, FAO programmes (e.g. visiting experts, junior professionals, interns, volunteers). It should further consider the effectiveness of support by the Members to the work of GFCM through national scientists, experts, administrators and focal points, consider financial sources available and recommend related actions and measures to strengthen the Secretariat. The review may be carried out by a task force led by the CAF.
57. The Commission should consider the overall costs and benefits of holding meetings in Rome or in

Member countries and as appropriate agree on the types of meetings to be held in Rome, categories of expenses to be borne by host countries and staff productivity in an effort to limit the budgetary and human resource implications to the Secretariat of holding meetings outside Rome,.

58. The Secretariat should be moved as soon as possible to the new GFCM headquarters in Rome, Italy to strengthen functional autonomy, build esprit de corps and consider related changes such as amending the email address of staff to name@gfcm.org.
59. Members should ensure that their contributions to the autonomous budget are paid on time.
60. The current status of extrabudgetary contributions for specific GFCM projects should appear clearly on the relevant project website.
61. Funding mechanisms for extrabudgetary-supported activities should be explored, such as a fee system that applies to projects in which a Member may participate and derive some benefits.
62. The agreed external financial audit should be implemented within the next two years.

FUNCTIONS, ROLES AND RESPONSIBILITIES OF THE EXECUTIVE SECRETARY AND CHAIRS

ICCAT	IOTC	NEAFC	GFCM
EXECUTIVE SECRETARY			
<p>ICCAT Convention: Art. VII</p> <p>...The Executive Secretary... shall have authority with respect to the selection and administration of the staff of the Commission. He shall also perform, inter alia, the following functions as the Commission may prescribe:</p> <ul style="list-style-type: none"> (a) Coordinating the programmes of investigation by the Contracting Parties; (b) Preparing budget estimates for review by the Commission; (c) Authorising the disbursement of funds in accordance with the Commission's budget; (d) Accounting for the funds of the Commission; (e) Arranging for do-operation with the organizations referred to in Article XI of this Convention; (f) Preparing the collection and analysis of data necessary to accomplish the purposes of the Convention particularly those data relating to the current and maximum sustainable catch of tuna stocks; (g) Preparing for approval by the Commission scientific, 	<p>IOTC Rules of Procedure Rule V: The Secretariat</p> <p>5. The Secretary shall be responsible for implementing the policies and activities of the Commission and shall report thereon to the Commission. In the exercise of his functions, the Secretary will have direct relations with all Members of the Commissions as well as with the FAO Secretariat at all levels</p> <p>6. The duties of the Secretary shall include:</p> <ul style="list-style-type: none"> a) communication of information received from Members; b) receipt, collection, circulation, drafting and presentation of documents, reports, papers and resolutions for the sessions of the Commission, the sub-commissions, the Scientific Committee and other subsidiary bodies; c) maintaining records of the proceedings; d) facilitating the collection of data necessary to accomplish the objectives of the Commission; e) administering and reporting to the Commission on the financial and staffing resources of the 	<p>NEAFC Rules of Procedure Chapter 4.</p> <p>16. The Secretary shall be the executive officer of the Commission. All communications to and from the Commission shall be addressed to or emanate from the Secretary. Communications to Contracting Parties shall be addressed to their appointed representatives. He shall be responsible to the Commission for, <i>inter alia</i>, the following functions:</p> <ul style="list-style-type: none"> (a) the management of the Commission's office; (b) transmitting to Contracting Parties, in English, reports of the proceedings of the Commission; (c) notifying Contracting Parties, without undue delay, of the recommendations adopted by the Commission under the Convention; (d) notifying Contracting Parties of any objections to, withdrawals from or terminations of recommendations and of the entry into force of any recommendations or agreement between Contracting Parties to give effect to a recommendation; (e) informing Contracting Parties of the relevant legislative measures 	<p>GFCM Rules of Procedure RULE V: The Secretariat</p> <p>1. The Secretariat shall consist of the Executive Secretary and such staff responsible to him as may be appointed in accordance with the Agreement and other relevant rules and procedures as appropriate.</p> <p>2. The Executive Secretary shall be appointed by the Director General following the approval of the Commission in accordance with the selection procedure agreed upon by the Committee.</p> <p>3. The Executive Secretary shall be responsible for the implementation of the policies and activities of the Commission and shall report thereon to the Commission</p> <p>4. The procedure for the selection and appointment of the GFCM Executive Secretary is provided in Annex 1</p> <p>5. The duties of the Executive Secretary shall include:</p> <ul style="list-style-type: none"> (a) receive and transmit the Commission's official communications; (b) maintain contacts with appropriate government officials, fishery institutions and

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<p>administrative and other reports of the Commission and its subsidiary bodies.</p> <p>Article X, ICCAT Convention 4. The Executive secretary of the Commission shall notify each Contracting Party of its yearly assessment. ..</p> <p>7.... the Executive secretary shall submit to each Contracting Party a draft biennial budget together with a schedule of proposed assessments.⁴⁵</p> <p>ICCAT Rules of Procedure, financial regulations</p> <p>Executive Secretary duties relating to calling meetings, agenda, votes, appointment of staff, delegation, reports and records, budget, trust funds, Accounts, Custody of funds, Investment of funds</p>	<p>Commission; f) performance of such other duties as the Commission may assign.</p>	<p>and agreements concluded by other Contracting Parties; (f) preparing draft budgets and draft budgets estimates, calculating and notifying Contracting Parties of the contributions due, and for the receipt and disbursement of all monies received by the Commission for the conduct of its financial affairs; (g) preparing a draft provisional agenda which shall be communicated to the President, representatives of Contracting Parties and invited observers not less than 60 days before the date of the meeting; (h) notifying Contracting Parties of any proposed amendments to the Convention; (i) providing secretarial services for all meetings of the Commission and of its Committees; (j) performing such other functions as may be assigned to him by the Commission.</p>	<p>international organizations concerned with the development, conservation, rational management and utilization of fisheries, as well as the sustainable development of aquaculture in the Region of the Commission, to facilitate consultation and cooperation on all matters pertaining to the objectives of the Commission, (c) maintain an active and effective network of national focal points for routine communication on progress and results of the activities of the Commission; (d) prepare and implement work programmes, prepare budgets and ensure timely reporting to the Commission; (e) authorize disbursement of funds in accordance with the Commission's autonomous budget and account for the funds of the Commission's autonomous budget; (f) participate in the formulation of proposals regarding the budget and programme of work or other activities of the Commission financed by the regular budget of the Organization; (g) stimulate interest among Members of the Commission and potential donors in the activities of the Commission and in possible</p>

*Chairperson is referred here as Chairperson of the Commission since non Rules of Procedure has been found for the Committee on Finance and Administration.

⁴⁵ ICCAT, Convention

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			<p>financing or in implementing cooperative projects and complementary activities;</p> <p>(h) promote, facilitate and monitor the development of databases for fisheries assessment and monitoring and technical, biological and socio-economic research to provide a sound basis for fisheries management and aquaculture development;</p> <p>(i) coordinate the Members' programmes of research, when required;</p> <p>(j) participate, as appropriate, in the oversight of activities of projects carried out under the general framework of the Commission or its subsidiary bodies;</p> <p>(k) organize sessions of the Commission and its subsidiary bodies and other related ad hoc meetings;</p> <p>(l) prepare, or arrange for the preparation, of background documents and papers and a report on the Commission's activities and the programme of work for the submission to the Commission at its regular sessions, and arrange for the subsequent publication of the report and the proceedings of the Commission as well as its subsidiary bodies and related ad hoc meetings;</p> <p>(m) take such appropriate steps as may be required to ensure</p>

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			coordination between the activities of the Commission and those carried out by the Organization through its Fisheries and Aquaculture Department, with particular reference to all matters having policy, financial or programme implications.
CHAIRPERSON			
<p>Rule 7: Functions of Chairman and Vice-Chairmen</p> <p>The powers and duties of the Chairman shall be:</p> <p>(a) To declare the opening and closing of each meeting of the Commission and the Council.</p> <p>(b) To direct discussions in meetings and to ensure observance of these rules.</p> <p>(c) To accord the right to speak and to limit the time allowed to speakers.</p> <p>(d) To rule on points of order, subject to the right of any Delegate to request that any ruling by the Chairman shall be submitted to the Commission or the Council for decision.</p> <p>(e) To call for votes and to announce results.</p> <p>(f) To sign on behalf of the Commission or the Council a report of the proceedings of each meeting of the Commission or the Council, for transmission to members of the Commission.</p> <p>(g) Generally to perform any</p>	<p>Rule VIII: Functions of the Chairperson and Vice-Chairpersons</p> <p>1.the Chairperson shall exercise the functions conferred on him/her in the Agreement and in these rules and in particular shall:</p> <p>a) declare the opening and closing of each plenary meeting of the Commission;</p> <p>b) direct the discussions at such meetings and ensure observance of these rules, accord the right to speak, put questions to the vote and announce decisions;</p> <p>c) rule on points of order;</p> <p>d) subject to these Rules, have control over the proceedings of the meeting.</p> <p>3. The chairperson or the Vice-Chairperson acting as Chairperson has a right to vote if he is acting as only representative of his country</p> <p>4. In the interval between two sessions of the Commission, the Chairperson shall exercise the functions assigned to him/her by the Agreement or the Rules of Procedure, as well as any function</p>	<p>Chapter 2 - President and Vice Presidents</p> <p>6. The President shall have the following powers and responsibilities:</p> <p>(a) convene the regular and extraordinary meetings of the Commission in accordance with Article 3(6) of the Convention;</p> <p>(b) preside at each meeting of the Commission;</p> <p>(c) open and close each meeting of the Commission;</p> <p>(d) make rulings on points of order raised at meetings of the Commission, provided that each representative retains the right to request that any such decision be submitted to the Commission for approval;</p> <p>(e) put questions and notify the Commission of the results of votes;</p> <p>(f) approve a provisional Agenda for the meeting after consultation with representatives and the Secretary;</p> <p>(g) sign, on behalf of the Commission, the reports of each</p>	<p>Rule VIII: Functions of the Chairperson and Vice-Chairpersons in connection with meetings of the Commission</p> <p>1. The Chairperson shall exercise the functions conferred on him elsewhere in these Rules and, in particular, shall:</p> <p>(a) declare the opening and closing of each plenary meeting of the Commission;</p> <p>(b) direct the discussions at such meetings and ensure observance of these Rules, accord the right to speak, put questions and announce decisions;</p> <p>(c) rule on points of order;</p> <p>(d) subject to these Rules, have complete control over the proceedings of the session;</p> <p>(e) appoint such committees of the session, as the Commission may direct.</p> <p>2. In the absence of the Chairperson, or at his request, his functions shall be exercised by the ViceChairperson or, in the absence of the latter, by the second Vice-</p>

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<p>function assigned to him by the Commission or by the Council, or in the Convention.</p>	<p>entrusted to him/her by the Commission.</p>	<p>meeting for transmission to its members, representatives and other interested persons as official documents of the proceedings; and (h) exercise other powers and responsibilities as provided in these rules and make such decisions and give such directions to the Secretary as will ensure that the business of the Commission is carried out effectively and in accordance with its decisions.</p> <p>7. Two Vice-Presidents shall be elected from among the Contracting Parties for a term of three years and shall be eligible for re-election. The Vice-Presidents shall remain in office until their successors are elected but may resign at any time. In the event of an office of Vice-President falling vacant, the Commission shall elect a new Vice-President at the next meeting. One Vice-President shall be designated First Vice-President and the other Second Vice-President, but both shall have equal status. In the event of the office of President falling vacant the First Vice-President shall act as President until a new President is elected; he shall also act as President whenever the President is unable to act. A Vice President who is a member of a delegation shall not act in that capacity while he</p>	<p>Chairperson.</p> <p>3. The Chairperson, or the Vice-Chairpersons when acting as Chairpersons, shall not vote and another member of their delegations shall represent their governments.</p> <p>4. The Executive Secretary shall temporarily exercise the functions of the Chairpersons in the event that the Chairperson and the Vice-Chairpersons should be unable to serve.</p> <p>5. The Commission may adopt rules, consistent with the present Rules, clarifying the functions of the Chairperson and Vice-Chairpersons, with particular reference to any functions performed during the inter-session period.</p>

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		<p>is acting as President; the Contracting Party of which he is a representative shall have the right during any such period to appoint another person to represent it in his place.</p> <p>8. The same Contracting Party shall not provide the President and one or both Vice-Presidents.</p>	