

**Report of the Performance Review
of the South West Indian Ocean Fisheries Commission**

SWIOFC Performance Review

Table of Contents

Item	Page
Executive Summary.....	iv
1- Introduction.....	1
1.1- The Performance Review.....	1
1.1.1- The background.....	1
1.1.2- The Terms of Reference.....	3
1.1.3- Methodology of the Performance Review.....	4
1.2- The Commission.....	5
1.2.1- Background and brief history of SWIOFC.....	5
1.2.2- SWIOFC objective and mandate.....	7
1.2.3- Area of competence.....	8
1.2.4- Species and fisheries covered.....	9
1.2.5- Membership.....	9
1.2.6- Institutional structure.....	9
1.2.7- SWIOFC relationship with FAO.....	11
1.2.8- Relationship with other organizations in the region.....	15
2- The Statutes of SWIOFC and their relation with other International fisheries instruments and initiatives.....	18
3- The impact of SWIOFC in the promotion of the sustainable utilization of the living marine resources in its area of competence, by the proper management and development of the living marine resources.....	20
a) Data collection, analysis and sharing.....	20
b) Promotion and coordination of fisheries research.....	21
c) Assessment of the state of the fisheries and of the condition of exploited stocks.....	21
d) Provision of fisheries management advice, based on the best scientific information available and taking due account of environmental, social and economic concerns.....	23
e) The ecosystem approach to fisheries management.....	24
f) The application of the precautionary approach in the provision of Management Advice.....	25
g) Provision of advice on Monitoring, Control and Surveillance, especially with regard to issues of sub-regional and regional nature, including the promotion of new instruments, such as the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing	25
h) Capacity building.....	27
4- The relevance of SWIOFC activities to the needs of its members.....	27
5- The degree of ownership of the Commission by its members and the level of their commitment.....	28
6- SWIOFC decision-making process and practices.....	28
7- The SWIOFC Secretariat.....	29
8- Options for SWIOFC financing.....	30
Appendix I- Abridged CV of the Performance Review Expert.....	31
Appendix IIa- The Performance Review Questionnaire (English).....	32
Appendix IIb- The Performance Review Questionnaire (French).....	35

Appendix III- List of SWIOFC Members and Stakeholders to whom the questionnaire was sent.....	39
Appendix IV- Summary of responses to the SWIOFC Performance Review Questionnaire..	40
Appendix V- Resolution 13/97 "Review of Fao Statutory Bodies" adopted by the FAO Conference On 18 November 1997.....	44
Appendix VI- Statutes of the South West Indian Ocean Fisheries Commission (Adopted on 25 November 2004).....	52
Appendix VII- SWIOFC rules of procedure.....	56
Appendix VIII- Evolution of the status of the stocks in SWIOFC Area.....	63

Executive Summary

The importance of conducting performance reviews of Regional Fisheries Management Organizations (RFMOs), as well as Regional Fishery Bodies (RFBs), with a view to strengthen regional governance, modernize mandates and adopt improved approaches to management has been emphasized by the Committee of Fisheries, as well as by the FAO Conference, since 2007. With the overall aim, therefore, of improving the effectiveness of The South West Indian Ocean Fisheries Commission (SWIOFC), an independent review of its performance was conducted, during 2011, through interviews with key stakeholders and desk study. The main conclusions and recommendations are as follows:

- 1) The attendance of the 12 members of SWIOFC in the Scientific Meetings ranged between 10 and 11 (85% on average), fluctuating between 9 and 11 (83.3%, on average) in the Commission Meetings, a rate of presence extremely positive and which reflects a high degree of interest of members in the meetings of the organization and a clear sense of ownership.
- 2) Although an increased participation of SWIOFC members in financing the work of the Commission is desirable, this will have to be achieved in a very pragmatic, gradual and well planned manner, and taking full account of the diverse socio-economic realities faced by different SWIOFC members. The majority of members and stakeholders who responded the questionnaire advocated for a “middle-ground” alternative, with SWIOFC remaining as a FAO (semi-autonomous) body, but also making use of funding coming from both member countries as well as donors. A similar divergence of opinions was also clear during the interviews done in Male.
- 3) The work done by the Secretariat was highly praised by all respondents to the questionnaire and by the interviewees. The infrastructure, as well as human and financial resources, available to SWIOFC Secretariat, however, should be reinforced. The Secretariat should also deal exclusively with SWIOFC issues, a view which was supported by most of the respondents to the questionnaire.
- 4) Most of SWIOFC members and stakeholders who responded to the questionnaire emphasized the need to move the Secretariat to a coastal Member State of the Commission. This view was also expressed by almost all members interviewed in Male, Maldives, during the Fifth Session of the Commission. In their opinion, such a change is crucial to improve communication between the Secretariat and SWIOFC members, as well as to enhance their sense of ownership of the Commission. There are positive and negative aspects about this strategy. On the one hand it would certainly help to strengthen the sense of ownership by members and it is likely to improve communication between meetings. On the other hand, however, it would certainly increase the risk of instability with regard to the dependence on members to fulfill their financial obligations to the Commission.
- 5) SWIOFC has played a crucial role in promoting and facilitating collaboration and cooperation in the region with regard to fisheries issues, serving as a platform for the development of several regional projects, such as SWIOFP, ASCLME and EAF-Nansen Project. This role has been recognized and appraised by SWIOFC members and stakeholders who, in their responses to the questionnaire, awarded SWIOFC ability to promote cooperation among members and with other relevant regional institutions, programmes or arrangements with the highest rank among all. A similar view was expressed by all members interviewed in Male,

with many highlighting, as well, the importance of the national fisheries management plans, done with the help of SWIOFP, but with the crucial coordination of SWIOFC.

- 6) The Statutes and the Rules of Procedure of SWIOFC are relatively recent and, although rather succinct, relatively up to date and consistent with modern principles of fisheries management and governance as expressed in international legal instruments (including both soft and hard law), since the United Nations Convention on the Law of the Sea (the 1982 UN Convention).
- 7) An important aspect of SWIOFC Statutes, stemming from its advisory nature as an Article VI(1) FAO statutory body, is the fact that the Commission cannot impose any obligation on its members. Both during the interviews with representatives of SWIOFC countries, as well as in the responses to the questionnaire, several members expressed their view that one of the main limitations faced by the Commission was its lack of enforcement powers, and advocated to change that condition by amending the SWIOFC statutes. Although some basic obligations on members could, and probably should, be incorporated into the SWIOFC texts (such as a financial contribution to the Commission by members), because the area of competence of the Commission is restricted to the EEZ of member States and, in many instances, to discrete coastal stocks, the adoption of mandatory conservation measures by the Commission is not possible under the scope of the present statutes. That is to say, a new agreement would have to be prepared and agreed upon in order to achieve this objective. Such an agreement may be within or outside the scope of FAO depending on the structure and nature of the mandatory powers sought by the member countries.
- 8) SWIOFC has not done much in terms of data collection, analysis and sharing by itself. Most of the work done by SWIOFC has been related to the provision of advice and coordination on institutional and organizational matters, needs and processes, including methods and protocols, for data collection, analyses and reporting, by member States, at country level. During the interviews done in Male, some members suggested that SWIOFC could undertake the responsibility of gathering, compiling and validating the “official” FAO fisheries statistical information coming from the region.
- 9) In spite of its relatively short history SWIOFC, has already played a very important role in the region in the promotion and coordination of fisheries research. The identification of data gaps and research priorities to be conducted by members has been one of the main tasks of the Scientific Committee. The establishment of an *ad hoc* Steering Committee for the South West Indian Ocean Fisheries Project (SWIOFP), during the Third Session of the Commission, and of an *ad hoc* EAF- Nansen Project Steering Committee and an *ad hoc* EAF Working Group, under the Scientific Committee, demonstrate the prominent role the Commission has played in the promotion and coordination of fisheries research in the region.
- 10) Unlike other Regional Fisheries Bodies, SWIOFC has not usually done any assessment of the stocks covered by its mandate. This has been commonly undertaken nationally, with the support of regional Projects. The data available, however, indicate an appreciable deterioration of the condition of the stocks in SWIOFC region, from 2005 to 2009, a trend which is not dissimilar to the rest of the world. The region, however, still has a larger proportion of fisheries resources that are considered to be underexploited, in comparison with the global situation.
- 11) When compared to other regions, the “assessment of shared stocks” may be of lower relevance in the Southwest Indian Ocean than the “shared assessment of stocks”. SWIOFC

has served much more as a forum for the scientists, managers and policymakers of the region to share information on the management of fisheries than to provide comprehensive advice on the actual management of the exploited stocks. Although such a limitation is understandable, particularly in light of the significant amount of financial and human resources required for such a task, there is very little follow-up between meetings on how the condition of the examined stocks has evolved, a deficiency that should be rectified. Without a follow-up mechanism, it is difficult to assess how the stocks have evolved in time and to evaluate the efficiency and improvement needs of the management strategies adopted.

- 12) The EAFM is incorporated in SWIOFC Statutes as one of its fundamental principles and the Commission has contributed to its promotion, primarily by serving as a platform for the development of specific projects which have the EAFM as its main objective, notably the EAF- Nansen project.
- 13) Although the Precautionary Approach (PA) has also been included in SWIOFC Statutes as one of its basic principles, the activities of both the SC and the Commission in regard to promoting the PA to fisheries management have been rather limited to date. This is clearly an area where SWIOFC can and should do much more, in order to fulfil its role in the regional coordination on fisheries.
- 14) Despite SWIOFC has not taken any direct action for the promotion of MCS in the region, it has served as an important forum for sharing information on the issue and has thus helped to promote a better regional coordination of MCS activities that are being done by other organizations (e.g. IOC, SADC, etc.), as well as by SWIOFC member countries. It should be noted, however, that coordination on this matter is hampered by the different MCS capabilities of the various countries in the region.
- 15) Although SWIOFC has not promoted any significant capacity building in the region, it has again served as a means for the promotion and coordination of capacity building initiatives, mainly through workshops which have been organized by other institutions and projects, such as SIDA, SWIOFP, EAF- Nansen Project, etc.
- 16) One problem that was pointed out by the respondents to the questionnaire was the weak coordination and communication from SWIOFC between annual meetings. This limitation is also linked to the lack of a follow-up mechanism, mentioned in item 11, above, as well as to the limited financial and human resources available to the SWIOFC secretariat, cited in item 3.
- 17) The SWIOFC decision-making process was considered to be transparent and inclusive by the respondents to the questionnaire as well as by those interviewed in Male. The fact that SWIOFC has only an advisory role, with no powers to adopt mandatory measures, evidently facilitates the consensus and although a voting procedure is established, there has never been a single instance when a decision required voting for its approval.
- 18) There is a great need to improve transparency within the Commission in terms of availability of, and accessibility to, documentation. Although the reports of the Commission Meetings and the Meetings of the Scientific Committee are available on the FAO website, the background documents used during those meetings and referred to in the reports are not readily available. This practice should be revised and all documents used or referred to during meetings should be made publicly available on the homepage of the Commission

which is housed on the FAO website. There is also a need to update the website, since at present it presents information that is several years old.

1- Introduction

1.1- The Performance Review

1.1.1- The background

At the Twenty-seventh Session of the Committee on Fisheries, held in 2007, COFI members emphasized the importance of conducting performance reviews of Regional Fisheries Management Organizations (RFMOs) and Regional Fishery Bodies (RFBs). Several members stressed the need to develop common criteria for the evaluation of core functions and obligations, while recognizing that flexibility was needed for each RFMO or RFB to decide independently upon the methodology, criteria and frequency of reviews.¹

At its Twenty-eighth Session, March 2 to 6, 2009, many members of COFI referred to the performance reviews being undertaken by Regional Fisheries Organizations and Arrangements (RFMO/As) and urged those organizations that had already taken such reviews to implement recommendations, if they had not done so already, so as to strengthen regional governance, modernize mandates and adopt improved approaches to management. Many members also encouraged RFMO/As that had not undertaken reviews to do so.²

The Immediate Plan of Action (IPA) for FAO's renewal (2009-11), based on the Independent External Evaluation (IEE) and adopted by the FAO Conference, during its Thirty-fifth (Special) Session, held in November 2008, emphasized the importance of strengthening FAO statutory bodies³, so that they can enjoy more financial and administrative authority within the framework of FAO and a greater degree of self-funding by their Members. The IPA Action Matrix in regard to "Statutory Bodies, Conventions, Treaties, Codex, etc." reads as follows (IPA 2.69):

Undertake a review with a view to making any necessary changes to enable those statutory bodies which wish to do so to exercise financial authority to mobilize additional

¹ Report of the twenty-seventh session of the Committee on Fisheries. Rome, 5-9 March, 2007. *FAO Fisheries Report*. No. 830. Rome, FAO. 2007. Para.86

² Report of the twenty-eighth session of the Committee on Fisheries. Rome, 2-6 March 2009. *FAO Fisheries and Aquaculture Report*. No. 902. Rome, FAO. 2009. Para.15.

³ Statutory bodies include a large number of committees and commissions established under Articles VI and XIV of the FAO Constitution dealing for most part with technical and scientific matters. As a general rule, bodies established under Article VI are part of FAO. They do not have a 'life of their own'. Article XIV, on the other hand, are said to have a 'life of their own'. For example, Article XIV Bodies may adopt regulatory measures relating to fisheries management directly binding upon the Members of the concerned body and may have autonomous budget.

funding from their members, while remaining within the framework of FAO and maintaining a reporting relationship with it”.

In the same document, the Action Matrix on “Resource Mobilization and Management Strategy” reads (IPA 3.17):

Review treaties, conventions, agreements and similar bodies and instruments established under Articles VI, XIV and XV of the FAO Constitution, with a view to their developing a greater degree of self-funding from their members (see also 2.69). Present report to Council and reports to the parties to the agreements”. The IPA 3.17 further calls for the review to be undertaken between 2010 and 2012.

In its report to the One Hundred and Thirty-sixth Session of the FAO Council, held in June 2009, the Programme Committee of FAO underlined the importance of reviews being undertaken as foreseen in the IPA (action 2.69), aimed at addressing issues regarding the autonomy of statutory bodies, with particular reference to Article XIV bodies, placed under the framework of FAO and their relationship with FAO.⁴ A preliminary review of statutory bodies had been considered by the Committee on Constitutional and Legal Matters (CCLM) of FAO at its Eighty-eighth Session, in September 2009. The preliminary review identified how some of the bodies, currently operating under the framework of FAO as Article XIV bodies, or which could be established under this framework, could be entrusted with additional administrative and financial autonomy.⁵ In particular, the CCLM document identified areas where relaxation or adjustment of existing procedures could be envisaged, subject to further review by the concerned statutory bodies.⁶

In its report to the One Hundred and Thirty-ninth Session of the FAO Council, held in May 2010, the Programme Committee requested the FAO Secretariat to provide, for its following session, in October 2010, a comprehensive list of statutory bodies covered by the review (mostly Article XIV bodies) and a discussion paper highlighting the key issues, impacts, and guidance sought from the Programme Committee on this matter.⁷

In its report to the One Hundred and Fortieth Session of the FAO Council, from 29 November to 3 December, 2010, the Programme Committee noted that, as a result of a review of the matter by CCLM and the Council, the FAO Secretariat would initiate a process of

⁴ <ftp://ftp.fao.org/unfao/bodies/council/cl136/k4879E.doc>.

⁵ <ftp://ftp.fao.org/docrep/fao/meeting/017/k5829e.pdf>

⁶ The areas identified and reviewed by the preliminary review included: a) external relations; b) budgetary and financial issues; c) human and resources matters; d) channels of communication with governments; e) relations with donors; f) travel authorizations; g) organization of meetings; h) participation of observers and other stakeholders in meeting of statutory bodies; and i) the issue of the reporting relationship with FAO.

⁷ <http://www.fao.org/docrep/meeting/018/k7985e.pdf>

consultation with the membership of Article XIV bodies on relevant issues regarding their relationship with FAO, including possible adjustments to existing procedures. This consultation process would be carried out on the basis of the review by CCLM, and would be supplemented by a questionnaire.⁸

Although latest developments concern primarily bodies created by convention or agreement under Article XIV of the FAO Constitution, FAO statutory bodies established under article VI of the Constitution, such as The South West Indian Ocean Fisheries Commission (SWIOFC), are also undertaking independent reviews with the overall aim to improving their effectiveness. To this end, it could be envisaged that some of the observations stemming from the above mentioned CCLM review and consultation would be extended to bodies established under Article VI.

1.1.2- The Terms of Reference

Under the overall supervision of the Director, Policy and Economics Division (FIP), the Senior Evaluation Officer, OEDD- Office of Evaluation, and the Fishery and Aquaculture Officer (FIPI), and in close collaboration with the Senior Fishery Officer in the FAO Subregional Office for Southern and East Africa (SAFR) and Headquarter technical officers, an independent external expert was hired to conduct a technical performance review of the South West Indian Ocean Fisheries Commission through interviews with key stakeholders and conducting of a desk study which would be aimed at identifying necessary actions to improve the effectiveness and impact of the Commission. The interviews should address (inter alia):

- ✓ the relevance of activities of the Commission to the needs of its members;
- ✓ the degree of ownership of the Commission by its members;
- ✓ the degree of cooperation/ overlap (if any) of the mandate and activities of the Commission with those of other regional institutions;
- ✓ the impact/ sustainability of activities;
- ✓ the decision-making processes and practices;
- ✓ the structure and management of the Secretariat and distribution of tasks between the Secretariat and members;
- ✓ the degree of involvement of non-governmental stakeholders in the processes;
- ✓ financial options for resourcing the bodies.

⁸ <http://www.fao.org/docrep/meeting/020/k9398e.pdf>

The Expert (Appendix I) had not been previously involved with SWIOFC work, but he did have expertise in fisheries management and policy, including specific experience with RFMO reviews and evaluations. He was required to communicate the report and recommendations of the technical performance review to the Secretariat of SWIOFC, which should then distribute the report and recommendations to the members of the Commission. The report was required to be concise and succinct and not be over 30 pages in length, excluding annexes. The SWIOFC Secretariat was responsible to provide logistics support and to collaborate with the Expert, providing him with assistance as deemed necessary.

1.1.3- Methodology of the Performance Review

Interviews were first done with FAO officers, in Rome, from February 15- 17. The following officers were interviewed:

- ✓ Mr. Jean-François Pulvenis, FIPX Director, Room F405
- ✓ Mr. Kevern Cochrane, FIRX Director, Room F608
- ✓ Mr. Antonio Tavares, LEGA Chief (constitutional matters), Room A455
- ✓ Mr. Luca Garibaldi, Fishery Statistician, Room F218
- ✓ Ms. Tullia Aiazzi, OEDD (evaluation), Room B455
- ✓ Mr. Marc Taconet, information officer, Room F311
- ✓ Ms. Florence Poulain, FIEL Fishery Liaison Officer, Room F411

From March 13 to 16, the expert did a field trip to Male, Maldives, where he had the opportunity to participate in the Fifth Session of the South West Indian Ocean Fisheries Commission. During the meeting, he could interview SWIOFC Secretary, Mr. Aubrey Harris, and several delegations of member countries⁹, as well as representatives from the [Southwest Indian Ocean Fisheries Project \(SWIOFP\)](#) and from the Swedish Board of Fisheries (<https://www.fiskeriverket.se>), who were also participating in the meeting. In order to carry out the interviews with SWIOFC stakeholders, a questionnaire (Appendix IIa, b) was developed, on the basis of the objectives of the Commission, as laid down in its statutes, and on the Terms of Reference of the Performance Review. The questionnaire was then sent to all SWIOFC members, as well as to the main stakeholders (Appendix III), with a deadline of July 31st. All responses received were then compiled and analyzed to prepare the present report (Appendix IV). All responses were kept confidential.

⁹ Comoros, Kenya, Madagascar, Mauritius, Seychelles, and Tanzania

1.2- The Commission

1.2.1- Background and brief history of SWIOFC

The history of SWIOFC began about 13 years ago, when, in June 1999, the FAO Council, at its Hundred and Sixteenth Session, through Resolution 1/116, decided to abolish the Indian Ocean Fishery Commission (IOFC), together with all its subsidiary bodies, including the Committee for the Development and Management of Fisheries in the South West Indian Ocean (SWIO). That decision followed the wish expressed by IOFC itself, through a recommendation, adopted at its Eleventh Session, in February 1999, calling for its abolition and advocating, at the same time, that SWIO be established as an Article XIV body under the FAO Constitution. Resolution 1/116 also authorized the Director-General to convene *ad hoc* meetings of the members of the former Committee (Comoros, France on behalf of its overseas territories, Kenya, Madagascar, Mauritius, Mozambique, Seychelles, Somalia and Tanzania), in order to complete the process of establishment of the new body and to take such interim action that might be required regarding the management of the fisheries resources of the areas covered by the former committee, pending the formal establishment of the new organization during the period preceding their formal conversion into an Article XIV body.

The decision from IOFC followed a former agreement by the Committee on Fisheries, at its Twenty-second Session, in 1997, that FAO regional fishery bodies "*should be reviewed and evaluated in depth by their members on a case by case basis, taking full account of regional and membership differences in determining what measures might be taken to facilitate the strengthening of each body as appropriate*".

As a result of Resolution 1/116, two ad hoc Technical Meetings on the Future of the Southwest Indian Ocean Committee were held by FAO, the first one in Albion, Mauritius, from 24 to 27 January 2000¹⁰, and the second one in Antananarivo, Madagascar, on 11 and 12 July 2000¹¹. During the first meeting there was unanimous agreement by the participants to recommend the establishment of a Regional Fisheries Body under Article XIV of the FAO Constitution and a first draft instrument to this effect was thus prepared. At the second meeting, the draft agreement was refined to the point that the holding of an Intergovernmental

¹⁰ Attended by Comoros, Kenya, Madagascar, Mauritius, Mozambique, Seychelles and Tanzania, with observers from the Southern African Development Community (SADC) and Commission de l'océan Indien (COI)

¹¹ Attended by Comoros, France, Kenya, Madagascar, Mauritius, Mozambique, Seychelles, Tanzania, and the European Union, with an observer from the Commission de l'océan Indien (COI)

Consultation was then recommended by the participants, in order to formally finalize and adopt it.

The First Intergovernmental Consultation on the establishment of the South West Indian Ocean Fisheries Commission was then held, in St Denis, La Reunion, from 6 to 9 February 2001¹², followed by a Second Consultation, held in Antananarivo, Madagascar, from 25 to 29 September of the same year¹³. During these Consultations significant progress and substantial changes were done to the text of the draft agreement. A marked shift, however, happened from the first to the second consultation, in regard to the relation of the future body with FAO. While the text stemming from the first consultation made it clear that it should be a FAO Article XIV(1) body¹⁴, during the second consultation participants became divided between the high seas fishing nations, which advocated an agreement outside the framework of FAO, and developing coastal States, which did not accept such change of course.

The next step in the process was an informal meeting at the FAO HQ, in Rome, in February 2003¹⁵, after the meeting of the Committee on Fisheries (COFI), followed by the Third Intergovernmental Consultation, held in Nairobi, Republic of Kenya, from 27 to 30 January 2004¹⁶. During the Third Consultation, in order to break the impasse with regard to whether the Southwest Indian Ocean Fisheries Commission should exist under the aegis of the FAO framework or outside it, the delegations decided to divide the agreement into two different instruments: one for the areas under the jurisdiction of coastal states, and another one for the high seas¹⁷. In the first case, the Consultation agreed that the new fisheries body, aiming at the

¹² Attended by delegates from Australia, Comoros, European Union, France, Kenya, Madagascar, Mauritius, Mozambique, Namibia, New Zealand, Seychelles, South Africa and Tanzania, with an observer from the Norwegian Agency for Development Cooperation

¹³ Attended by delegates from Australia, China, Comoros, European Union, France, Iran, Japan, Kenya, Madagascar, Mauritius, Mozambique, Namibia, New Zealand, Seychelles, South Africa, Tanzania and United Kingdom, with observers from Russia, Commission de l'océan Indien (COI), and the Norwegian Agency for Development Co-operation (NORAD).

¹⁴ Then, Article IV.1.b: The Members of the Commission shall be such Members and Associate Members of FAO that accept this Agreement in accordance with the provisions of Article XIV.1

¹⁵ Attended by delegates from Australia, Comoros, China, European Union, France, Kenya, Korea, Japan, Spain, Mauritius, Mozambique, Namibia, New Zealand, Seychelles and Tanzania

¹⁶ Attended by delegates from Australia, Comoros, Egypt, European Union, France, Italy, Japan, Kenya, Mauritius, Mozambique, Namibia, New Zealand, Seychelles, Somalia and Tanzania, with observers from the International Union for the Conservation of Nature, the Norwegian Agency for Development Co-operation (NORAD), the Swedish International Development Aid Agency (SIDA) and the United Nations Development Programme

¹⁷ The desire of the coastal States participating in the 3rd Intergovernmental Consultation was summarised as follows, in the Report: *It seems clear from the responses that the coastal states of the Southwest Indian Ocean are seeking some form of consultative mechanism that would assist them in developing their coastal fisheries and in confronting common problems of development and management in the region. In some ways, such a consultative mechanism could be seen as a follow-up to the former Committee for the Development and*

management and development of coastal fisheries, should have advisory powers only and therefore should be established under Article VI(1) of the FAO Constitution. In the case of the high seas, however, the Consultation agreed that a regional fisheries management organization or arrangement should be established, with the necessary powers to take binding decisions on conservation and management measures of the exploited resources. During the same Consultation, a draft FAO Council Resolution for the SWIOFC, under Article VI(1) of the FAO Constitution, with its statutes attached, was much advanced, leaving only a few provisions to be finalized at the following meeting.

Finally, during the Fourth Intergovernmental Consultation on the establishment of a South West Indian Ocean Fisheries Commission¹⁸, held in Mahé, Republic of Seychelles, from July 13th to 16th, after few editorial revisions, the draft Resolution for the establishment of the South West Indian Ocean Fisheries Commission, as well as its Statutes, were unanimously adopted and then submitted to the FAO Council for approval, as a Regional Fisheries Body under Article VI(1) of the FAO Constitution¹⁹. Then, on November 25th, 2004, the FAO Council, at its Hundred and Twenty-seventh Session, adopted Resolution 1/127, establishing the South West Indian Ocean Fisheries Commission (SWIOFC). The SWIOFC held its First Session in Mombasa, Kenya, from 18 to 20 April 2005. Ironically, the SWIOFC developed from the desire of the FAO Article VI Indian Ocean Fisheries Commission to become a FAO Article XIV body, but after five and a half years of negotiations, the SWIOFC was again established as a FAO Article VI(1) body.

1.2.2- SWIOFC objective and mandate

According to its statute, the purpose of the Commission is to “promote the sustainable utilization of the living marine resources of the area of the Commission (see Section 1.2.3), by the proper management and development of the living marine resources, and address common problems of fisheries management and development faced by the Members of the Commission”. As a body created under Article VI(1), of the FAO constitution, SWIOFC has only an advisory

Management of Fisheries Resources in the Southwest Indian Ocean. It could also draw on the experience of groupings of coastal states, such as those in the Forum Fisheries Agency.

¹⁸ Attended by delegates from Australia, European Union, France, Kenya, Madagascar, Mauritius, Mozambique, New Zealand, Seychelles, Tanzania and Yemen, with observers from the Indian Ocean Tuna Commission (IOTC) and the South West Indian Ocean Fisheries Project (SWIOFP)

¹⁹ After the completion of the work in relation to SWIOFC, the Consultation continued to work on the development of a second instrument applicable to the high seas: the Southern Indian Ocean Fisheries Agreement (SIOFA), finalized during a fifth consultation, held in Kenya, in 2005, with its final act happening in Rome, in 2006.

and coordination role (“to advise on the formulation and implementation of policy and to coordinate the implementation of policy”), with no mandatory powers. The scope of the mandate of the Commission, however, is an issue that has been much debated among members, with different views (see Section 2).

1.2.3- Area of competence

The area of competence of the Commission, according to its statutes, includes “all the waters of the South West Indian Ocean within the national jurisdiction of coastal States within the area of competence, being all waters of the Indian Ocean bounded by a line drawn as follows: from a point on the high water mark on the East African coast at latitude $10^{\circ} 00' N$, thence due east along this parallel to the longitude $65^{\circ} 00' E$, thence due south along this meridian to the equator, thence due east along this parallel to the longitude $80^{\circ} 00' E$, thence due south along this meridian to a parallel $45^{\circ} 00' S$, thence due west along this parallel to the longitude $30^{\circ} 00' E$, thence due north along this meridian to the coast of the African Continent” (Figure 1).

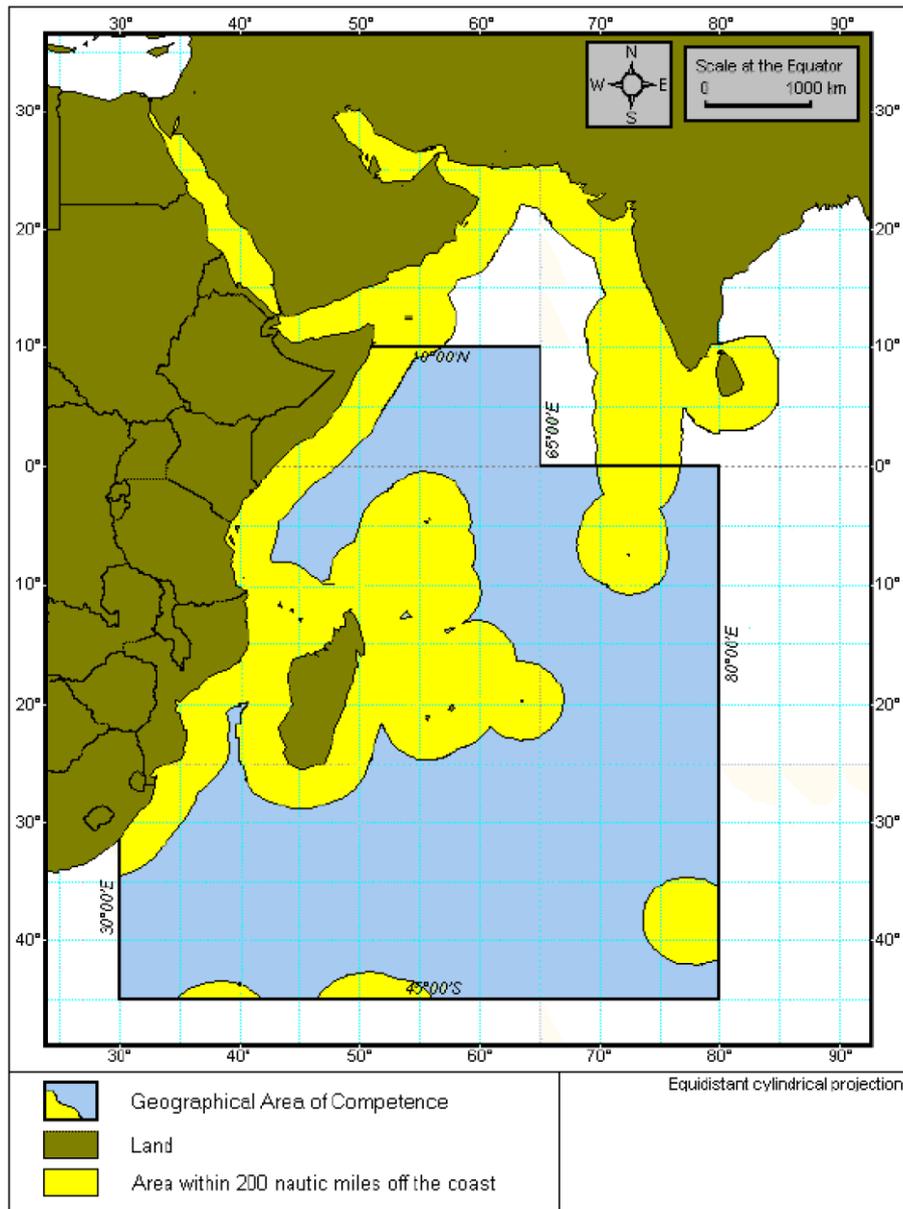


Figure 1- The geographical area of competence and possible EEZ external limit (200 nautical miles) of the South West Indian Ocean Fisheries Commission.

1.2.4- Species and fisheries covered

According to its statutes, the mandate of SWIOFC covers all living marine resources, but without prejudice to the management responsibilities and authority of other competent fisheries and other living marine resources management organizations or arrangements in the area. Since the second meeting of the Scientific Committee, the species have been considered aggregated in 8 focus groups: spiny and rock lobsters; coastal tunas and related species; penaeid shrimp; sharks; slopewater snappers; octopus; sea-cucumber; and bivalve mollusks; and 3 non-focus groups: small pelagics, demersal fish and reef fish. The focus-groups of species/ complexes were chosen because of their regional distribution, their assessment status, or economic importance. All countries were then required

to pay special attention to these groups in making their national assessments, presented at every meeting of the Scientific Committee.

1.2.5- Membership

SWIOFC presently has 12 members, all of them are either coastal States or have territories situated wholly or partly within the area of the Commission. The SWIOFC Members are: Comoros, France, Kenya, Madagascar, Maldives, Mauritius, Mozambique, Seychelles, Somalia, South Africa, Tanzania and Yemen. Since its foundation on November 25th 2004, SWIOFC has held 4 sessions of the Scientific Committee and 5 sessions of the Commission. The attendance of the 12 members of SWIOFC in the Scientific Meetings ranged between 10 and 11 (85% on average), fluctuating between 9 and 11 (83.3%, on average) in the Commission Meetings, a rate of presence extremely positive and which reflects a high degree of interest of members in the meetings of the organization.

1.2.6- Institutional structure

SWIOFC's governing body is the Commission, composed by its 12 members, which meets at least once every 2 years. From 2004 to 2011 (8 years), as already mentioned in the previous section, the Commission met 5 times, the last one, in Maldives, from March 13 to 16, 2011. During its first Session, held in Mombasa, Kenya, 18–20 April 2005, the Commission approved its Rules of Procedure (Appendix VII), establishing a Scientific Committee (SC), which met 4 times, the last one in Seychelles, from November 29 to December 2, 2010. Another body created by the Rules of Procedure was the “The Bureau”, formed by the Chairperson and Vice-Chairperson of the Commission, with the function of acting as a steering committee during Sessions of the Commission and in the intersessional period.

During its First Session, the SWIOFC Scientific Committee decided to create a Working Party on Data Collection and Statistics, with the following terms of reference:

- ✓ Advise the SC on the status of data collection from relevant fisheries and fish stocks (*within the Commission area*).
- ✓ Recommend to the SC preferred methods and protocols for data requirements, data collection, data analyses and data reporting.
- ✓ Review and advise on institutional and organizational systems, needs and processes relating to fisheries data needs at national and regional levels.

- ✓ Work collaboratively with the South West Indian Ocean Fisheries Project (SWIOFP²⁰) on fisheries data issues.
- ✓ Undertake other data related activities as required by the SC.

The Working Party on Data Collection and Statistics, afterwards renamed “Working Party on Fisheries Data and Statistics (WPFS)”, met twice in April 2007 and April 2008.

More recently, following a recommendation from the Third Session of the Scientific Committee, the Working Group on Demersal and Small Pelagic Fishes was created and met for the first time, in October 2010, in Mombasa, Kenya.

The work of the Commission and of the Scientific Committee, including its subsidiary bodies, is supported by a SWIOFC Secretariat, which is comprised basically of the Executive Secretary, and a shared personal assistant. It does not have its own premises, being housed in the FAO Subregional Office for Southern Africa (SFS), located in Harare, in Zimbabwe, a country that is not a member of SWIOFC and which is not even coastal to the Indian Ocean. As in the case of other FAO Regional Fisheries Bodies, the Executive Secretary is part of the FAO staff and does have several other functions besides those related to SWIOFC. The limitations of the SWIOFC Secretariat in terms of personnel and infra-structure, associated with the fact that it is not located within a member country of the organization, do have inevitable negative consequences in terms of its operational efficiency. This aspect, together with the need to strengthen SWIOFC Secretariat, is discussed in a more detailed manner in Section 7.

1.2.7- SWIOFC relationship with FAO

As a FAO statutory body established under Article VI(1) of the FAO Constitution, SWIOFC is a part of the Organization and therefore dependent on it for its work. The SWIOFC Secretary is appointed by the Director General of FAO and responds administratively to him. All reports and recommendations stemming from the Commission meetings shall be transmitted to the Director-General, its activities need to be included in the Programme of Work and Budget of the Organization and any decision adopted by it, which might have political or financial

²⁰ As discussed later in this document (Section 1.2.8), there has been always a strong linkage between the SWIOFC and SWIOFP, since their inception, which incidentally happened at about the same time, since the preparation of the SWIOFP for submission to the Global Environmental Facility (GEF) (<http://www.thegef.org/gef/>) spanned mainly from 2002 to 2005. The SWIOFP is one of the three projects being sponsored by GEF to undertake multidisciplinary research in the Agulhas and Somali Currents large marine ecosystem.

implications, shall be submitted to the FAO Council and Conference. Finally, an analysis of the work done by SWIOFC shall also be presented annually to the Director-General of the FAO Conference (FAO, 2007²¹).

Partly because of its nature, since its foundation the activities carried out by SWIOFC have been financed either directly by FAO, such as the work done by the Secretariat, or by extra-budgetary funds provided by international agencies, such as SIDA (Swedish International Development Cooperation Agency), or by specific projects, such as SWIOFP or EAF- Nansen Project. Even the participation of members in meetings has been historically largely covered by these means, with a few exceptions. The reasons for this apparent reluctance of SWIOFC members to take upon themselves the primary financial responsibility for their participation in the work of the Commission may be found in a number of reasons, which includes the historical role FAO has had in the region, the harsh socio-economic situation of many SWIOFC members, among others.

As discussed in Section 1.2.1, however, the very foundation of the SWIOFC was motivated by a significant change of FAO policy towards its Regional Fisheries Bodies, particularly after 1997. At the Twenty Second Session of the FAO Committee on Fisheries (COFI), held in March of that year, taking into account the need to strengthen FAO regional fishery bodies and bearing in mind the financial and resource implications involved, the Committee was invited to consider the adoption of the following recommendation, among others (FAO, 1997)²²:

- ✓ FAO should establish a mechanism/ process for these bodies to meet a greater share of their operating costs with a view to ultimately becoming financially less dependent on the FAO regular budget, re-establishing Article VI bodies under new agreements adopted under Article XIV of the FAO Constitution, as appropriate, in order to have greater decision-making powers and capacity as well as greater administrative and financial autonomy;

The Committee agreed to the recommendations as a means of achieving enhanced fisheries management, while emphasizing the need for effective regional fishery organizations and arrangements in the framework of the Code of Conduct for Responsible Fisheries. It also agreed that FAO regional fishery bodies should be reviewed and evaluated in depth by their members, on a case by case basis, taking full account of regional and membership differences, in determining what measures might be taken to facilitate the strengthening of each body, as appropriate.

²¹ FAO. 2007. 71st Session of the Executive Committee of the Asia-Pacific Fishery Commission (APFIC). FAO and its Regional Fishery Bodies. APFIC: ExCo/07/Inf.6

²² Strengthening FAO Regional Fishery Bodies, Committee on Fisheries, Twenty-second Session, Rome, Italy, 17-20 march 1997

In June of the same year, the FAO Council, in reviewing the report of the Twenty-second COFI Meeting, emphasized the need for effective regional fishery organizations and arrangements and agreed that FAO regional fishery bodies should be reviewed and evaluated by their respective members.

Then, in November 1997, during its Twenty-ninth Session, the FAO Conference adopted Resolution 13/97 (Appendix V) on the “Review of FAO Statutory Bodies”. In its preamble, the Conference acknowledged the need to enhance the efficiency of the Organization and its governance in a time of “financial challenge” and the consequent necessity to eliminate Statutory Bodies that were considered to be obsolete, as well as to ensure more flexible task-oriented and time-bound working arrangements for those that remain. It also encouraged regional commissions established under Article VI to seek more extra-budgetary resources to supplement those made available to them under FAO Regular Programme Budget, taking into account, nevertheless, the economic capacity of the regions concerned and of their members. To this aim, it recognized the importance of moving towards increased self-financing for Statutory Bodies that have regional focus and of enhancing the responsiveness of those bodies to the needs of their members. In the operative part of the resolution, the FAO Conference abolished several bodies as well as subsidiary bodies, such as, in the case of the Indian Ocean Fisheries Commission (IOFC), the Commission for Management of Indian Ocean, which was a rather natural consequence of the entry into force of the Indian Ocean Tuna Commission (IOTC)²³, in March of 1996.

Two years later, during the Twenty-third Session of COFI, as it had been agreed during the precedent session, a “progress report on the implementation of Conference Resolution 13/97” (FAO, 1999)²⁴ was presented to its members, describing the activities developed by FAO Regional Fisheries Bodies, in response to the aforementioned resolution. On that occasion, the Committee was informed that at a meeting of the Indian Ocean Fishery Commission (IOFC), held on 17 February 1999, its members had recommended the abolition of the Commission. The remainder of this history, which culminated with the establishment of SWIOFC in 2004, is narrated in Section 1.2.1.

More recently, however, in September 2005, already in the context of FAO’s reform process, the Inter-departmental Working Group (IDWG) on Regional Commissions, created by

²³ <http://www.iotc.org>

²⁴ Committee on Fisheries, Twenty-third Session. Rome, Italy, 15-19 February 1999. Progress Report on the Implementation of Conference Resolution 13/97 (Review of Fao Statutory Bodies and the Strengthening of FAO Regional Fishery Bodies)

the Director General of the FAO to suggest improvements, including strengthening, of the regional statutory bodies (FAO, 2007)²⁵, recommended that Article VI commissions and Article XIV bodies (all bodies established under the FAO, not only fishery bodies), should:

- ✓ Review the policies, mandates and statutes and consider whether there are alternative mechanisms;
- ✓ Ensure that the officers are fully involved in agenda setting, that bodies are meeting members' needs and that the highest regional priorities are being addressed;
- ✓ Ensure that secretariats are adequately funded and have full-time secretaries;
- ✓ Encourage members to participate at own expenses in sessions and encourage the soliciting of extra-budgetary funding;
- ✓ Encourage members to evaluate the strategic direction, goals, outcomes and overall performance of each commission or body;
- ✓ Enhance the participation of members in the work of commission and bodies, considering their capacity to participate.

The push from FAO for Article-VI Regional Fisheries Bodies to become more independent, including in terms of budget by self-funding from their members, therefore, initiated in 1997, has been confirmed and reiterated. Although this strategy might seem meritorious, since it could, at least in principle, enhance the effectiveness of the Commission and increase the degree of ownership by members, in practice it seems more wishful thinking than a realistic approach. In the case of the vast majority of Regional Fisheries Bodies constituted under Article VI, such as CECAF and SWIOFC, the reality is that most of the work accomplished by them would not have been possible if it were not for the resources allocated by FAO and international donors, such as SIDA and NORAD, including through field projects, such as SWIOFP and EAF- Nansen, in the case of the Indian Ocean. Therefore, although an increased participation of SWIOFC members in financing the work of the Commission is desirable, this will have to be achieved in a very pragmatic, gradual and well planned manner, and taking full account of the diverse socio-economic realities faced by different SWIOFC members. Incidentally, this approach is very much in line with Conference Resolution 13/97, which establishes, in its article 5, that regional commissions under Article VI of the FAO Constitution should seek more extra-budgetary resources to supplement the resources made available to them under the FAO Regular Programme Budget, but taking into account the economic capacity of the regions concerned and of their Members.

In the questionnaire circulated to SWIOFC members, when asked how the work of SWIOFC could be improved in the future, most of the respondents emphasized the need to

²⁵ FAO. 2007. 71st Session of the Executive Committee of the Asia-Pacific Fishery Commission (APFIC). FAO and its Regional Fishery Bodies. APFIC: ExCo/07/Inf.6

ensure adequate staffing and funding for the Secretariat, besides moving it to a coastal Member State of the Commission. This view was also expressed by almost all members interviewed in Male, Maldives, during the Fifth Session of the Commission. In their opinion, such a change is crucial to improve communication between the Secretariat and SWIOFC members, as well as to enhance their sense of ownership of the Commission. One possible way to achieve this could be to use future field projects, such as SWIOFP, to provide the initial infrastructure and personnel required to its functioning. A new project, entitled “South West Indian Ocean Fisheries Governance and Shared Growth”, to be possibly financed by the World Bank and being presently examined by SWIOFC members, could serve as a platform for this purpose.

When asked, however, whether SWIOFC should become a more independent body with its own budget, based on the contribution of its members, the responses showed a much wider range of views, with opinions going from No to Yes. The majority of the respondents, however, advocated for a “middle-ground” alternative, with SWIOFC remaining as a FAO (semi-autonomous) body, but also making use of funding coming from both member countries as well as donors. A similar divergence of opinions was also clear during the interviews done in Male, where many favoured some level of contribution by members, while some cautioned that a FAO independent budget, although desirable, would not be realistic.

In conclusion, SWIOFC should definitely seek alternatives to secure more extra-budgetary funds to supplement the resources made available to it under the FAO Regular Programme Budget, including through self-financing by its members. This should be achieved, nevertheless, in a pragmatic, gradual and well planned manner, taking full account of the different socio-economic realities faced by the different members. Clearly, the present socio-economic situation of many SWIOFC members might not allow them to participate in the financing of the Commission in a significant manner. Although this avenue should be pursued, in order to enhance the effectiveness of the work carried out by the Commission and to raise the degree of ownership by its members, this needs to be achieved in a way that would not disturb or discontinue the work presently carried out by it.

Meanwhile, FAO does not seem to have much choice but to keep doing its best to support the work of the Commission, not only with its own budgetary resources, but also as a facilitator to attract extra-budgetary funds from international donors and field projects, in order to ensure SWIOFC can continue to operate in an effective manner.

1.2.8- Relationship with other organizations in the region

Since its first session, held in Mombasa, Kenya, in April 2005, SWIOFC has strived to establish a close collaboration with other organizations in the area. Under a specific item of the agenda (Collaboration with other regional organizations and Programmes), this issue was addressed on the basis of a document prepared by the Secretariat, which provided a structure for discussion on the subject. The importance of these cooperative efforts were portrayed as “a duty for all regional organizations, programmes and projects because of the shortage of human and financial resources”, in the face of the complex socio-economic and technical issues confronted by the fisheries sector in the region. The following reasons were presented to emphasize the need for regional collaboration and coordination:

- to prevent duplication and consequently wastage of human and financial resources;
- to reduce costs and increase effectiveness;
- to ensure broad stakeholder involvement and endorsement;
- to improve decision-making and consensus;
- to increase transparency;
- to provide a better regional product.

Among the concrete ways to foster cooperation and collaboration in the region, the following opportunities were identified: joint organization and participation in meetings and workshops, sharing of information and data, establishment of joint committees and working groups, joint planning and implementation of programmes, among others. On that occasion, the several regional organizations attending the Session introduced themselves and presented their fisheries-related activities, as well as possible regional collaborations that could be envisaged. The attendance of regional organizations and programmes in the first session of SWIOFC, as well as in the four subsequent ones, was as follows:

First Session: the Agulhas Somali Current Large Marine Ecosystem (ASCLME), the Indian Ocean Commission (IOC), the World Conservation Union (IUCN), the Southern African Development Community (SADC), the Swedish International Development Cooperation Agency (SIDA), the South West Indian Ocean Fisheries Project (SWIOFP), the United Nations Development Programme (UNDP), and the Regional Seas Programme of the United Nations Environment Programme (UNEP);

Second Session: The World Conservation Union (IUCN), the Swedish Board of Fisheries, the South West Indian Ocean Fisheries Project (SWIOFP), the Regional Seas Program of the United Nations Environment Programme (UNEP), the

Oceanographic Research Institute (ORI), New Partnership for African Development (NEPAD);

Third Session: the Indian Ocean Tuna Commission (IOTC), the Indian Ocean Commission Monitoring Control and Surveillance Project (IOC-MCS), the Swedish International Development Cooperation Agency (SIDA), the South West Indian Ocean Fisheries Project (SWIOFP), the Regional Programme for the Sustainable Management of the Coastal Zones of the Indian Ocean (ReCoMap) and the World Bank;

Fourth Session: the African Union Strategic Fund for Fisheries, the Agulhas Somali Current Large Marine Ecosystem project (ASCLME), the Council for Scientific and Industrial Research, the Indian Ocean Tuna Commission (IOTC), the Indian Ocean Commission, the Nairobi Convention, the Swedish Board of Fisheries, the South West Indian Ocean Fisheries Project (SWIOFP), the Oceanographic Research Institute, and the World Bank

Fifth Session: the Agulhas Somali Current Large Marine Ecosystem project (ASCLME), the Swedish Board of Fisheries, the South West Indian Ocean Fisheries Project (SWIOFP), the Global Environmental Facility (GEF), and the World Bank

Of all these organizations and projects, the only one that has been present in all SWIOFC meetings is the South West Indian Ocean Fisheries Project (SWIOFP). It has also been, by far, the main organization with which the SWIOFC has cooperated. The following nine countries, all SWIOFC members, participate in the SWIOFP project: Comoros, France, Kenya, Madagascar, Mauritius, Mozambique, Seychelles, South Africa, and Tanzania. The main objectives of the project include the identification and study of the exploitable offshore fish stocks within the SWIO area, aiming to understand the relationship between environmental and anthropogenic impacts, to develop the region's institutional and human capacity in fisheries and marine science through training and career building, and to implement a regional fisheries management programme and associated harmonized legislation, in collaboration with SWIOFC. SWIOFP is a science-based project designed to generate essential information to assist the participating countries to sustainably develop their fisheries and utilize the living marine resources present in their respective exclusive economic zones (EEZs). The Project is structured in six primary components, with a respective coordinating country, as follows:

1. Data gap analysis, data archiving and information technology (Kenya)
2. Assessment and sustainable utilization of crustaceans (South Africa)
3. Assessment and sustainable utilization of demersal fishes (Tanzania)
4. Assessment and sustainable utilization of pelagic fish (Seychelles)
5. Mainstreaming biodiversity in national and regional fisheries management (Mauritius)
6. Strengthening regional and national fisheries management (all countries).

During the first session of the SC, the collaboration between SWIOFC and SWIOFP was discussed and the need to strengthen the link between both organizations was reflected in the Terms of Reference of the Working Party on Data Collection and Statistics, which were consistent with the activities planned by the SWIOFP component on data gap analysis, data archiving and information technology.

Then, during its Second Session, SWIOFC formally agreed to further link up SWIOFC and SWIOFP through a Committee established within the Commission, which would assume the function of a high level ‘political’ Steering Committee for SWIOFP. This decision was then also agreed by SWIOFP, with an *ad hoc* SWIOFP Steering Committee being formally established during SWIOFC Third Session. SWIOFC has also collaborated with several other Organizations and projects in the Region, including, *inter alia*:

- ✓ FAO/ SIDA Project, which made possible the attendance of several SWIOFC members in the meetings of the SC and the Commission, as well as their participation in various workshops and forums²⁶;
- ✓ cooperation with IOC and SADC, on MCS initiatives in the region;
- ✓ a good working relationship with IOTC, with SWIOFC Secretariat attending most of its meetings and vice-versa;
- ✓ EAF-Nansen Project;
- ✓ Investment Fund for Africa;
- ✓ United Nations Environment Programme (UNEP).

In conclusion, SWIOFC has played a crucial role in promoting and facilitating collaboration and cooperation in the region with regard to fisheries issues, serving as a platform for the development of several regional projects, such as SWIOFP, ASCLME and EAF-Nansen Project. This role has been clearly recognized and appraised by SWIOFC members and stakeholders who, in their responses to the questionnaire, awarded SWIOFC ability to promote cooperation among members and with other relevant regional institutions, programmes or arrangements with the highest rank among all the questions (8.6). They also identified such a SWIOFC ability and function as its strongest point. A similar view was expressed by all members interviewed in Male, with many highlighting, as well, the importance of the national

²⁶ e.g.: a) Bycatch, particularly in shrimp trawling, and the ecosystem approach to fisheries management, Maputo, Mozambique, November 2005; b) Shrimp fishery management, Antananarivo, Madagascar, October 2005; c) Small scale fisheries registration, Antananarivo, Madagascar, May 2006; d) Safety at sea for small-scale fisheries in the South West Indian Ocean, Moroni, Comoros, December 2006; e) Assessing the relative importance of sea turtle mortality due to fisheries, Zanzibar, April 2006; f) Managing the interaction of sea turtles and shrimp fisheries, Mahajanja, Madagascar, 2007; g) Regional forum of Heads of Operation of monitoring, control and surveillance, Maputo, Mozambique, October 2007; among others.

fisheries management plans, done with the help of SWIOFP, but with the crucial coordination of SWIOFC.

2- The Statutes of SWIOFC and their relationship with other international fisheries instruments and initiatives

The Statutes of SWIOFC (Appendix VI) were adopted on November 25, 2004; and the Rules of Procedure were adopted during its First Session, in 2005. The basic texts of the Commission, therefore, are relatively recent and, although rather succinct, they are relatively up to date. Their contents are in conformity with modern principles of fisheries management and governance as expressed in international legal instruments (including both soft and hard law), since the United Nations Convention on the Law of the Sea²⁷ (the 1982 UN Convention).

The SWIOFC objectives and functions, defined in Article 4 of its Terms of Reference, are comprehensive, compatible with its legal nature and mission and reasonably in conformity with the basic principles of fisheries governance, required to ensure the sustainability of exploited stocks. This last aspect is much reinforced by its general principles, established in Article 5, which require the Commission to have due regard for, and promote the application of, the provisions of the FAO Code of Conduct on Responsible Fisheries, including the precautionary approach and the ecosystem approach to fisheries management. The main limitation concerning the functions attributed to the Commission by its statutes is the scarcity of resources that are available in order for the Commission to carry out its functions. Thus, although some functions (such as those related to the promotion of coordination²⁸) require less financial and human resources and are therefore achievable, other functions (such as the recommendation to review the state of the fishery resources in the area and to provide a sound scientific basis to assist Members in taking fisheries management decisions) are much more complex and intensive in terms of the human and financial resources required, as well as technical skills. Many of these latter functions, therefore, are not presently being fully discharged by the Commission (this is further discussed in Section 3).

An important aspect of SWIOFC Statutes, stemming from its advisory nature as an Article VI(1) FAO statutory body, is the fact that the Commission cannot impose any obligation on its

²⁷ Notably, a) the 1993 FAO Compliance Agreement; b) the 1995 United Nations Fish Stocks Agreement; c) the 1995 FAO Code of Conduct for Responsible Fisheries and its International Plans of Action (IPOAs) for Reducing the Incidental Catch of Seabirds in Longline Fishing (IPOA-Seabirds), for the Conservation and Management of Sharks (IPOA-Sharks), for the Management of Fishing Capacity (IPOA-Capacity) and to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU); d) 2009 FAO Agreement on Port State Measures; and e) United Nations General Assembly (UNGA) Resolutions on Sustainable Fisheries.

²⁸ e.g. a) to contribute to improved governance through institutional arrangements that encourage cooperation (a); to promote, encourage and coordinate research (d); to promote the collection, exchange, dissemination and analysis of fisheries-related data (e); to promote liaison with all competent institutions within the area (k).

members. Both during the interviews with representatives of SWIOFC countries, as well as in the responses to the questionnaire sent, several members expressed their view that one of the main limitations faced by the Commission was its lack of enforcement powers, and advocated to change that condition by amending the SWIOFC statutes. Although some basic obligations on members could, and probably should, be incorporated into the SWIOFC texts (such as a financial contribution to the Commission by members, as discussed in Section 1.2.7), because the area of competence of the Commission is restricted to the EEZ of member States and, in many instances, to discrete coastal stocks, the adoption of mandatory conservation measures by the Commission is arguably incompatible with international law. That is, the 1982 UN Convention on the Law of the Sea establishes in Article 56 that a coastal State has sovereign rights within its exclusive economic zone for the purpose of exploring and exploiting, conserving and managing the natural resources, even though in exercising its rights and performing its duties in the EEZ, the coastal State shall have due regard to the rights and duties of other States (Article 56(2)). It is not possible, therefore, to give SWIOFC mandatory powers to manage the living marine resources present in the EEZ of a coastal State, without infringing on the 1982 UN Convention. The different legal regime applicable to the high seas and to the EEZ was precisely the reason why the early negotiations of SWIOFC eventually split into two different instruments: the SWIOFC, restricted only to the EEZ, and the Southern Indian Ocean Fisheries Agreement (SIOFA), which was to deal exclusively with the high seas. Evidently, the member States of SWIOFC are sovereign to agree on whatever they want, among themselves²⁹, with regard to the rules applicable to the living resources of their EEZ, which may differ from those contained in the 1982 UN Convention. There are, nevertheless, two important caveats to be noted in this regard: a) whatever rules they agree will apply exclusively to them³⁰, i.e. they cannot be binding to third States or other international organizations; and b) this cannot be achieved by means of amending the present statutes of SWIOFC, as an Art. VI(1) FAO body. That is to say, a new agreement would have to be prepared and agreed upon in order to achieve this objective. Such an agreement may be within or outside the scope of FAO depending on the structure and nature of the mandatory powers sought by the member countries.

In Article 8 of the SWIOFC Statutes, and in Rule VII, of the Rules of Procedure, Intergovernmental organizations, as well as international non-governmental organizations, provided they have special competence in the field of activity of the Commission, are allowed to

²⁹ *Pacta sunt servanda* (Art. 26) of the 1969 Vienna Convention on the Law of the Treaties

³⁰ *Pacta tertiis* (Art. 34) of the 1969 Vienna Convention on the Law of the Treaties

attend Sessions of SWIOFC, its subsidiary bodies, and ad hoc meetings in an observer capacity. This is an important aspect to ensure transparency.

Although there is no procedure for dispute settlement in SWIOFC statutes or in its Rules of Procedure, this can be seen as understandable in view of the advisory nature of the Commission. In cases where a consensus cannot be reached, Rule VI regulates the voting procedures which are governed by the provisions of Article II.10 of the FAO Constitution.

Finally, there is no mention in the SWIOFC basic texts on the special requirements and needs of developing States, a lapse, however, that might be related to the fact that almost all member States of SWIOFC fall into this category.

In conclusion, SWIOFC Statutes and Rules of Procedure are relatively recent and, although not much detailed, seem to be well in line with the overall international legal framework governing marine fisheries.

3- The impact of SWIOFC in the promotion of the sustainable utilization of the living marine resources in its area of competence, by the proper management and development of the living marine resources.

a) Data collection, analysis and sharing

SWIOFC has not done much in terms of data collection, analysis and sharing by itself. Most of the work done by SWIOFC has been related to the provision of advice and coordination on institutional and organizational systems, needs and processes, including methods and protocols, for data collection, analyses and reporting, by member States, at country level. This strategy, however, is in precise conformity with the terms of reference of the Working Party on Fisheries Data and Statistics (WPFS), established during the First Session of the SWIOFC Scientific Committee (see Section 1.2.6). The WPFS, during its 2 sessions held so far, received national reports from each of the countries, examined the status of fisheries catch and effort data and statistics and data management systems in place and made specific recommendations aiming at their improvement and regional standardization, including by drawing up minimum data requirements for effective fisheries for specific fisheries types (e.g. industrial shrimp, artisanal shrimp, trap fisheries, demersal line, beach seine fisheries, and tuna, shark and small pelagic fisheries). The main problems faced by the countries in data collection are expectedly related to the lack of funds.

During the interviews done in Male, some members suggested that SWIOFC could undertake the responsibility of gathering, compiling and validating the “official” FAO fisheries statistical information coming from the region. In this regard, it is important to note that

SWIOFC is already playing a very important role in coordinating and promoting interaction between different regional projects related to the collection of fisheries data in the region, such as the South West Indian Ocean Fisheries Project (SWIOFP), the Western Indian Ocean Fisheries Database (WioFish), a fisheries metadata management system to collate available information from small-scale fisheries of the Western Indian Ocean countries, the FishCode-STF project and the Fishery Resources Monitoring System (FIRMS).

b) Promotion and coordination of fisheries research

In spite of its relatively short history SWIOFC, has already played a very important role in the region in the promotion and coordination of fisheries research. As already discussed in Section 1.2.8, this has been one of the strongest points of the Commission, duly recognized and appreciated by member countries. The identification of data gaps and research priorities to be conducted by members has been one of the main tasks of the Scientific Committee. Furthermore, since its establishment SWIOFC has served as a platform for the development or integration of several regional projects, such as FAO/ SIDA (now discontinued), SWIOFP, ASCLME and EAF-Nansen Projects. Presently, together with SWIOFP, SWIOFC is already working on the proposal of a new project for possible financing from the World Bank, entitled *South West Indian Ocean Fisheries Governance and Shared Growth*.

The establishment of an *ad hoc* Steering Committee for the South West Indian Ocean Fisheries Project (SWIOFP), during the Third Session of the Commission, and of an *ad hoc* EAF- Nansen Project Steering Committee and an *ad hoc* EAF Working Group, under the Scientific Committee, demonstrate the prominent role the Commission has played in the promotion and coordination of fisheries research in the region.

c) Assessment of the state of the fisheries and of the condition of exploited stocks

The condition of the stocks reported in the fourth session of the Scientific Committee, in 2010, and their evolution in the SWIOFC region from 2005 to 2009 are presented in Appendix VIII (Figures 2 and 3), against the global situation in 2006 and 2008. In the SWIOFC region, the number of stocks under exploited or moderately exploited decreased from 45% to 31% (-14%), while the fully exploited stocks increased from 29% to 36% (+7%). The number of stocks overexploited, depleted or recovering, in turn, increased from 25% to 34% (+9%). These percentages clearly show an appreciable deterioration of the condition of exploited stocks over the past 5 years, a trend which is not dissimilar to the situation in the rest of the world, although the

region still has a larger proportion of fisheries resources that are considered to be underexploited, in comparison with the global situation.

Unlike other Regional Fisheries Bodies, SWIOFC has not usually done any assessment of the stocks covered by its mandate. During the meetings of the Scientific Committee, member countries usually present the status of their fisheries resources as well as the research and management actions taken on key species group. This information is then conveyed to the Commission Meeting which then takes note of it and may make recommendations of a general nature, such as the need for member countries to improve their national systems of data collection and analysis, the necessity to develop and implement national management plans, incorporating the EAF, etc.

As pointed out in a working document prepared by FAO for the Third Inter-Governmental Consultation on the Establishment of the South West Indian Ocean Fisheries Commission³¹ most of the stocks in the region have a rather limited distribution and are in many instances restricted to the jurisdiction of a single State. Therefore, as noted in the referred document, when compared to other regions, the “assessment of shared stocks” may be of lower relevance in the Southwest Indian Ocean than the “shared assessment of stocks”. Furthermore, because of the variety of fishing gears used, the fisheries resources exploited in the region almost invariably consist of many different species, thus limiting the applicability of traditional methods of stock assessment, based on single species.

SWIOFC has, therefore, served much more as a forum for the scientists, managers and policymakers of the region to share information on the management of fisheries than to provide comprehensive advice on the actual management of the exploited stocks. This limitation was already noticed in Section 2³². Although such a limitation is understandable in light of the significant amount of financial and human resources required for such a task, there is very little follow-up between meetings on how the condition of the examined stocks has evolved, a deficiency that should be rectified. A more systematic mechanism to follow-up the condition of the exploited stocks from one meeting to the other should be implemented. Without a follow-up mechanism, it is difficult to assess how the stocks have evolved in time and to evaluate the efficiency and improvement needs of the management strategies adopted. The need of a follow-up mechanism to assess the implementation of SWIOFC management recommendations by member countries was highlighted by several representatives that were interviewed in Male,

³¹ Possible options regarding issues central to the negotiations for the establishment of a South West Indian Ocean Fisheries Commission (SAFR/DM/SWIO/04/4)

³² 2- The Statutes of SWIOFC and its relation with other International fisheries instruments and initiatives

during the Fifth Session of the Commission. As it was pointed out at that opportunity, the countries in the region face great difficulties to improve their assessment capabilities and this is necessary in order to update their knowledge of the level of exploitation of fish populations and the status of their fisheries. This handicap severely compromises their ability to sustainably manage their own and the region's fisheries resources.

More recently, the establishment of the Working Group on Demersal and Small Pelagic Fishes in the Scientific Committee of SWIOFC indicates a drive by the Commission towards a more ample and systematic involvement in the assessment of the condition of the exploited stocks in the area. The WG first met in October 2010, with the objective of assessing the state of the stocks of the small pelagic and demersal resources in the SWIOFC area and to provide recommendations on fisheries management and exploitation options aimed at ensuring their optimal and sustainable use for the benefit of coastal countries. Since this was its first meeting, the WG overviewed the data and information available on demersal and small pelagic fish resources in the different countries which might be useful to carry out stock assessment and examined some methods of assessing the status of stocks for those species for which data are available. The recommendation from the SC for a greater involvement of the trainees in the EAF- Nansen/ SWIOFP stock-assessment training course in these efforts also shows clearly the potential for such an initiative to broaden the scope of activities presently carried out by the Commission. It is important to note, however, that this would not have been possible if it were not for the funding provided by the EAF Nansen project. This dependence on external funds for carrying out most of its activities is an intrinsic limitation of SWIOFC that cannot be solved in the near future, as has already been noted in Section 1.2.7.

d) Provision of fisheries management advice, based on the best scientific information available and taking due account of environmental, social and economic concerns

As already discussed in the previous section, SWIOFC does not provide species-specific fisheries management advice, since it does not carry out any assessment of the exploited stocks in the area and because of the multi-species nature of the fisheries under its purview. The advice provided by SWIOFC, therefore, has been rather general in nature and more focused on the fisheries level than on the fish species.

Although the ecosystem approach to fisheries, to a certain extent, has been taken into account in the work of the Commission (see next Section), the environmental, social and economic concerns, however, have not yet been considered, except in a very marginal manner.

Another aspect raised in the previous section as well, which is also directly applicable to the provision of management advice, is the urgent need to have a follow-up mechanism in place that could allow the Commission to monitor the condition of the stocks on a regular basis.

e) The ecosystem approach to fisheries management

As already pointed out in Section 2, the need to apply the “Ecosystem Approach to Fisheries Management (EAFM)” is explicitly stated in SWIOFC Statutes as one of its general principles. In its First Session, the SC already included the EAFM explicitly in its agenda, and examined the issue further in conjunction with two workshops³³ that were held within the framework of the Commission, with the support from FAO and SIDA. In 2008, under the auspices of the EAF- Nansen Project, and as a follow-up to the workshop held in Maputo²⁸, in 2005, “the SWIOFC Managers and Decision-Makers Workshop on the Implementation of an Ecosystem Approach to Fisheries (EAF) in the South West Indian Ocean” was held, in Durban, South Africa, from 22 to 26 June 2008. On that occasion, the EAF-Nansen project: "Strengthening the Knowledge Base for, and implementing an Ecosystem Approach to Marine Fisheries in Developing Countries" was also presented.

Finally, during the last meeting of the SC in its Fourth Session held in Seychelles from November 29 to December 2 2010, the EAFM was again included as a specific item of the agenda, being largely addressed in the context of the activities conducted in the region by the EAF- Nansen project. The report presented to the Scientific Committee described the activities of the project including surveys conducted with the R/V Dr Fridtjof Nansen and capacity building for EAF, as well as planned work on the establishment of a baseline for EAF implementation in the region.

In conclusion, the EAFM is incorporated in SWIOFC Statutes as one of its fundamental principles and the Commission has contributed to its promotion, primarily by serving as a platform for the development of specific projects which have the EAFM as its main objective, notably the EAF-Nansen project.

f) The application of the precautionary approach in the provision of Management Advice

Like the Ecosystem Approach to Fisheries Management, the Precautionary Approach (PA) has also been included in SWIOFC Statutes as one of its basic principles. However, the

³³ A workshop on “Bycatch, particularly in shrimp trawling, and the ecosystem approach to fisheries management”, held in Maputo, from 15 to 24 November 2005; and a workshop on “Assessing the relative importance of sea turtle mortality due to fisheries”, held in Zanzibar, from 25 to 28 April 2006

activities of both the SC and the Commission in regard to promoting the PA to fisheries management have been rather limited to date. Accordingly, apart from references in national reports or organizational statements (e.g. IUCN), in all the reports of the Scientific Committee and the Commission there is only one single mention to the Precautionary Approach and this is in the report of the Second Session, from 2006³⁴.

This is clearly an area where SWIOFC can and should do much more, in order to fulfil its role in the regional coordination on fisheries. Although the Commission, at least so far, has not worked directly on the assessment of the stocks and, consequently, has not provided species-specific management advice, it could and should promote the development of a framework for the application of the Precautionary Approach for the fisheries in the region, which should be then incorporated in the national fisheries management plans. This is an aspect that should be considered in the preparation of any future project, such as the one presently being planned to be possibly financed by the World Bank (*South West Indian Ocean Fisheries Governance and Shared Growth*; see Sections 1.2.7 and 3b).

g) Provision of advice on Monitoring, Control and Surveillance, especially with regard to issues of subregional and regional nature, including the promotion of new instruments, such as the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing

Monitoring, Control and Surveillance (MCS) is an issue that has been addressed during Commission meetings, since its First Session in 2005. On that occasion, the Indian Ocean Commission (IOC) provided an overview of the MCS Pilot Project then being implemented within IOC member States (Seychelles, Mauritius, Comoros, Madagascar and France on behalf of La Réunion). During the Second, Third and Fourth Sessions of the Commission, MCS was addressed as a specific item of the agenda: Monitoring, Control and Surveillance at the Regional Level.

During the Second Session, the status of MCS in the South West Indian Ocean was reviewed and discussed, including possible initiatives over the next three to five years (e.g. establishing an enabling fisheries protocol for non-SADC countries, establishing clear mandates and functions, updates of national legislation, standardization of training and operating procedures, joint operations, observer programs, national information systems, extensive use of Vessel Monitoring Systems and making the best use of existing information).

³⁴ 19. The session reflected on these findings considering factors such as the nature of the information available, concern as to the extent of stocks that were overexploited or depleted, the context of these results in relation to upcoming fisheries agreements, and of **the precautionary principle**.

During its Third Session, the Commission was informed of a forum on illegal, unreported and unregulated (IUU) fishing held in Mozambique, in October 2007, with the financial support of DFID/SADC and FAO/SWIOFC. On that occasion, the Indian Ocean Commission (IOC), SWIOFC and IOTC exchanged ideas and experiences to foster greater regional cooperation. At the same time Mozambique invited the Commission to consider setting up a Network of heads of MCS Operations for the coastal States of eastern and southern Africa, which could provide an electronic mechanism for informal communications and would complement the International MCS Network, while keeping a regional focus. In the same session, the IOC reported on progress achieved in the region by its MCS Pilot Project, including port state control measures, institutional aspects, fisheries management, fisheries legislation and upgrading of information systems.

During the Fourth Session, some members noted that a lot of vital information on MCS regional planning had been shared through the Forum of Heads of MCS Operation and encouraged its continuation. The need for a joint fishery information centre to be established in the region with a registry of all vessels and a central VMS³⁵ was also recognized. The Commission noted, however, that initiatives already existed in SADC and the Indian Ocean Commission (IOC) to that effect. The IOTC fishing vessel record, which provides the history of the vessels requesting a license for tuna and tuna like species, was also noted, along with the fact that IOTC Members had agreed to implement a port inspection scheme. The Commission was also informed of an IOC/FAO/IOTC/SWIOFC training scheme on port state inspections that had taken place in 2007 and 2008, and which included several members of both IOTC and SWIOFC.

In conclusion, although SWIOFC has not taken any direct action for the promotion of MCS in the region, it has served as an important forum for sharing information on the issue and has thus helped to promote a better regional coordination of MCS activities that are being done by other organizations (e.g. IOC, SADC, etc.), as well as by SWIOFC member countries. It should be noted, however, that coordination on this matter is hampered by the different MCS capabilities of the various countries in the region. While the most advanced States have a well developed system in place, others do not have even a basic set of regulations to control their fisheries, a situation that hinders the adoption of common policies at a regional level.

h) Capacity building

³⁵ This aspect was highlighted as well by several members of SWIOFC during the interviews done in Male, in the margins of the Fifth Commission Session.

Although SWIOFC has not promoted any significant capacity building in the region, it has served as a means for the promotion and coordination of capacity building initiatives, mainly through workshops which have been organized by other organizations and projects, such as SIDA, SWIOFP, EAF- Nansen Project, etc³⁶. It is important to note, however, that all efforts done in terms of data collection and analysis, even at a country level, have significantly helped to build capacity in the region, by means of improved training of national researchers and scientists involved in SWIOFC work. During the interviews done with representatives of member countries, in Male, during the Fifth Session of the Commission, the need for a more extensive capacity building efforts by SWIOFC was noted, particularly in the following areas: socio-economic aspects, handling and conservation of fish, including the use of ice, market measures, fishing technologies, including the use of FADs, the role of women on fishing activities, safety at sea, and data collection, including the standardization of formats.

4) The relevance of SWIOFC activities to the needs of its members

When asked in the questionnaire how they assessed the relevance of SWIOFC activities to the needs of its members, all respondents deemed SWIOFC activities as relevant, although the responses did vary from “virtually no relevance” to “of significant relevance”. That is, there was a marked difference in the ability of SWIOFC to address the needs of the various members, and this can be seen as stemming from their divergent socioeconomic realities. However, the relatively high score provided for this question (7.4), combined with the high degree of ownership (which is discussed in the next session) and the important and well recognized role played by the Commission in the coordination of fisheries issues in the region, all testify to the relevance of the activities carried out by SWIOFC, and the ability of the Commission to address the needs of its members. The great relevance of SWIOFC to the needs of member countries was also highlighted by several delegations during the interview done with representatives of different countries, present in Male, for the Fifth Session of the Commission.

5) The degree of ownership of the Commission by its members and the level of their commitment

³⁶ See footnote 22

The high degree of ownership of the Commission by its members is clearly reflected in the very low rate of absence; both in the meetings of the Scientific Committee as well as of the Commission (see Section 1.2.5). The relatively high score also given by respondents to this specific question (7.4) also reflects a good sense of ownership by SWIOFC Members, which seems to be reinforced by their participation in other field projects, such as SWIOFP.

One problem that was pointed out by the respondent members, however, was the weak coordination and communication from SWIOFC between annual meetings. This limitation is also linked to the lack of a follow-up mechanism, as already discussed in Sections 3d and 3e, as well as to the limited financial and human resources available to the SWIOFC secretariat.

6) SWIOFC decision-making process and practices

The SWIOFC decision-making process was considered to be transparent and inclusive by the respondents to the questionnaire as well as by those interviewed in Male. The fact that SWIOFC has only an advisory role, with no powers to adopt mandatory measures, evidently facilitates the consensus and although a voting procedure is established, there has never been a single instance when a decision required voting for its approval.

The mechanisms for the communication of the decisions made by the Commission, however, were deemed deficient and requiring improvement. According to the interviews, communication between the Secretariat and members should improve, particularly intersessionally.

There is, however, a great need to improve transparency within the Commission in terms of availability of, and accessibility to, documentation. Although the reports of the Commission Meetings and the Meetings of the Scientific Committee are available on the FAO website, the background documents used during those meetings and referred to in the reports are not readily available. This practice should be revised and all documents used or referred to during meetings should be made publicly available on the homepage of the Commission which is housed on the FAO website. There is also a need to update the website, since at present it presents information that is several years old.

7) The SWIOFC Secretariat

The work done by the Secretariat was highly praised by all respondents to the questionnaire as well as by the interviewees. The need to strengthen its human and financial resources was, however, also highlighted. At the present time, the Secretariat is literally a “one-man band”, a fact that enhances the merit of all the achievements of the Commission since its foundation. In addition, it must be recognised that the Secretariat of SWIOFC is not exclusively allocated to the work of the Commission, and the Secretary has numerous other regular tasks related to the FAO Sub-regional Office for Southern and East Africa (SAFR), in Harare, Zimbabwe, where the SWIOFC is housed. Besides having a full-time Secretariat, as suggested by the Inter-departmental Working Group (IDWG) on Regional Commissions, created by the Director General of the FAO (see Section 1.2.7), the interviewees suggested that it should be supplemented by at least two professionals, one with fisheries science expertise and another one with a background on legal matters. According to the views expressed, a better staffed Secretariat would be much more able to proactively search for extra-budgetary funds to complement SWIOFC regular budget.

The relocation of the SWIOFC Secretariat to a coastal Member State was also a recommendation of several countries who responded to the questionnaire. This option was preferred instead of the creation of a node (a local liaison office). The relocation of the SWIOFC Secretariat to a member country would require not only a proper facility but it would also have to be accompanied by a scheme of financial contributions by members to ensure it is going to be fully able to perform its duties. A SWIOFC Secretariat that is independent of FAO would require an independent budget not only to maintain the office (power, water, phone, etc.), but also to pay the staff (although the personnel might eventually be provided by FAO). As pointed out, a new project to be possibly financed by the World Bank (*South West Indian Ocean Fisheries Governance and Shared Growth*) could be a way to launch such initiative (see Section 1.2.7).

There are positive and negative aspects about this strategy. On the one hand it would certainly help to strengthen the sense of ownership by members and it is likely to improve communication between meetings. This seems to be an important point, since the need to improve communication between the Secretariat and members, in order to make member countries more responsive to the Commission, was one of the aspects emphasized in the responses to the Questionnaire sent by members as well as by the interviews. On the other hand, however, it would certainly increase the risk of instability with regard to the dependence on members to fulfill their financial obligations to the Commission.

8) Options for SWIOFC financing

Presently, SWIOFC has basically two sources of funding to finance its activities: a) the FAO Budget, which covers all Secretariat expenses and is provided for in the Programme of Work of the Organization; and b) resources coming from donors or through field projects, such as SIDA, SWIOFP, EAF-Nansen Project, etc. A third possible source of financing, as already discussed in Sections 1.2.7 and 7, would be through self-financing by its members. As pointed out, though, this is an alternative that should be sought for in a pragmatic and phased manner, and taking due account of the different socio-economic realities faced by the different members of the Commission, in order to avoid unwanted instabilities or discontinuity of the work presently carried out by the Commission.

1- Personal information

Name: Fábio Hissa Vieira Hazin

Birth date: 04/06/1964, Recife/PE- Brazil

Nationality: Brazilian

Professional Address: Universidade Federal Rural de Pernambuco, Departamento de Pesca,
Av. Dom Manuel de Medeiros, s/n,
Dois Irmãos, CEP: 52.171-900, Recife- PE, Brasil
Telephone: 55 (81) 330206500 Fax: 330206501
e-mail: fhvhazin@terra.com.br/fhvhazin@ufrpe.br

Home address: Rua Desembargador Célio de Castro Montenegro, 32, Apto. 1702,
Monteiro, Recife, PE- Brazil
Telefone: 55 (81) 34424866

2- Professional background

2010 Rhodes Academy Course on the Law of the Sea

2000 **Pos-doctor** on Stock Assessment of Highly Migratory Fish Stocks

National Marine Fisheries Service/ Southeast Fisheries Science Center, Miami, EUA

1991- 1994 **Doctor of Science on** Marine Science and Technology/ Fisheries Oceanography
Tokyo University of Marine Science and Technology, Tokyo, Japan

1989- 1991 **Master of Science on** Marine Science and Technology/ Fisheries Oceanography
Tokyo University of Marine Science and Technology, Tokyo, Japan

1988- 1989 **Specialization course on** Longline Fishing Technology.
Tokyo University of Marine Science and Technology, Tokyo, Japan

1982- 1987 **Graduation on** Fisheries Engineering
Universidade Federal Rural de Pernambuco, UFRPE, Recife, Pernambuco, Brazil

3- Field of activity

Fisheries policy and management, Fisheries science, Fisheries oceanography

4- Presently assigned duties

- 1- Associate Professor (since 1992) and Director of the Fisheries and Aquaculture Department of the Federal Rural University of Pernambuco (since 2004)
- 2- Chairman of the International Commission for the Conservation of Atlantic Tunas- ICCAT (since 2007)
- 3- Chief Scientist of Brazil in the International Commission for the Conservation of Atlantic Tunas- ICCAT (since 1998)
- 4- Scientific Coordinator of the Saint Peter and Saint Paul Archipelago Research Station (since 1998)
- 5- President of the Brazilian Society of Fisheries Engineering (Since 2007)
- 6- President of the State Committee for the prevention of Shark Attacks (Since 2004)
- 7- Chairman of CITES Working Group on Introduction from the Sea (Since 2010)
- 8- Chairman of NAFO Performance Review
- 9- FAO Consultant for the SWIOFC Performance Review
- 10- FAO Consultant for SWIOFC Performance Review
- 11- Chairman of WCPFC Performance Review

5- Recently assigned duties

Chairman of the FAO Technical Consultation to draft a legally binding instrument on Port State Measures (2008- 2009)

6- Language skills

- 1- Portuguese, English, Spanish, French and Japanese

7- Participation in more than 100 International meetings, in the past 10 years, including the past 6 FAO/ COFI Meetings, several FAO Expert and Technical Consultations, past 11 ICCAT SCRS Meetings and Commission Meetings, Meetings of the UNICPOLOS, UNFSA Review Conference, etc.

8- Authorship of 105 papers published in scientific journals, 22 Book Chapters and 5 books (Editor).

Appendix II.a (English)

Performance Review of SWIOFC

1. The background.

At the Twenty-seventh Session of the Committee on Fisheries (COFI), March 5 to 9, 2007, members emphasized the importance of conducting performance reviews of Regional Fishery Bodies (RFBs). The Independent External Evaluation (IEE) and Implementation Plan of Action for FAO's renewal (IPA), which was endorsed by the 35th (Special) Session of the Conference in November 2008, have also emphasized the importance of strengthening FAO statutory bodies. The IPA relevant Action Matrix reads as follows:

Undertake a review with a view to making any necessary changes to enable those statutory bodies which wish to do so to exercise financial authority to mobilize additional funding from their members, while remaining within the framework of FAO and maintaining a reporting relationship with it". (IPA 2.69)

Review treaties, conventions, agreements and similar bodies and instruments established under Articles VI, XIV and XV of the FAO Constitution, with a view to their developing a greater degree of self-funding from their members (see also 2.69). Present report to Council and reports to the parties to the agreements". (IPA 3.17)

The IPA 3.17 calls for the review to be undertaken between 2010 and 2012.

At its Fourth Session, Mombasa, Kenya, from 23 to 25 September 2009, members of the South West Indian Ocean Fisheries Commission (SWIOFC) emphasised their responsibility towards the effective functioning of the Commission. Members wished for a review of the Commission's performance to be undertaken at the earliest convenience. Members of SWIOFC also agreed that a methodology would be developed to assess the performance of the Commission.

2. The questionnaire.

With the objective of assessing the performance of SWIOFC, the attached questionnaire was developed, with the objective of allowing a compilation of the views on the past performance of the Commission and, particularly, on possible ways to improve it in the future, from official governments and other stake-holders. The questions were structured in a way to allow the assessment of the performance of the Commission in regard of its basic objectives and functions, as established in its statute, specifically in Article 4, in particular: "to promote the sustainable utilization of the living marine resources of the area of the Commission, by the proper management and development of the living marine resources".

To the extent possible, rates should be given to every question, from 0 to 10, going from the worst performance (0) to the best (10). Besides the rate, it is essential that, for each question the respondents explain their reply in detail, trying to diagnose the reasons for their response as well as, and even more important, suggestions of possible ways to resolve the problems detected or to improve the situation, towards the strengthening of the Commission, keeping in mind that this is the ultimate objective of the Performance Assessment.

The **deadline** for sending the answers is **June 30th, 2011**. These should be sent by **email or post** directly to:

Fabio Hissa Virea HAZIN
External Reviewer
Rua Desembargador, Célio de Castro
Montenegro, 32, Apt. 1702, Monteiro
Recife-Pe, Brazil
CEP: 520 70 -008
Tel: +55 81 33 20 6500
Mobile: +55 81 99726348
Email: fhvhazin@terra.com.br

SWIOFC Performance Review Questionnaire

Section I: The evolving context and challenges.

1) How do you assess the performance of SWIOFC in the following areas:

- a) Data collection, analysis and sharing;**
- b) Promotion and coordination of fisheries research;**
- c) Assessment of the state of the fisheries and of the condition of the exploited stocks;**
- d) Provision of fisheries management advice, based on the best scientific information available and taking due account of environmental, social and economic concerns;**
- e) Capacity building;**
- f) Monitoring, Control and Surveillance;**
- g) Port State measures;**
- h) The ecosystem approach to fisheries management;**
- i) The precautionary approach;**
- j) Promoting cooperation among members and with other relevant regional institutions, programmes or arrangements. In this context, how do you assess the interaction/ cooperation between SWIOFC and SWIOFP and between SWIOFC and IOTC?**

Section II: The effectiveness of the existing arrangements in addressing the issues identified in Section I.

- 1) How do you assess the relevance of SWIOFC activities to the needs of its members?**
- 2) How do you assess the degree of ownership of the Commission by its members and the level of their commitment?**
- 3) How do you assess the impact of the activities carried out within the framework of SWIOFC on the sustainable utilization of the living marine resources in the area of the Commission?**
- 4) To what extent has your country adhered to the recommendations and advices of the Commission and its Scientific Commission?**
- 5) What is the present situation of the main fishery resources in the areas under the national jurisdiction of your country and how has it evolved since the establishment of the Commission in 2005? Has SWIOFC contributed to the present situation and in which ways?**
- 6) How do you assess SWIOFC decision-making process and practices? Are they inclusive and transparent? How could they be improved?**
- 7) How do you assess the work of SWIOFC Secretariat overall and how it could be improved? Do you consider the structure and management of the Secretariat as adequate? Would there be a need in your opinion to relocate the Secretariat in one of the member States in order improve its efficiency, or at least to create a special “node” in one of these countries? Do you think the distribution of tasks between the Secretariat and SWIOFC members has been adequate?**
- 8) What is your evaluation of the role and contribution to SWIOFC of the FAO Fisheries and Aquaculture Department, other relevant Rome-based units (such as the Legal Office) and other FAO-led field programmes and activities?**
- 9) How do you assess the degree of involvement of non-governmental stakeholders in SWIOFC related processes and activities?**
- 10) In your opinion, what are the strongest and the weakest points of SWIOFC?**

Section III: The future of SWIOFC.

- 1) How do you think the overall work of SWIOFC could be improved in the future?**
- 2) Do you think SWIOFC should become a more autonomous body with its own budget, based on the contribution of its members?**

Do you have any further points on which you would like to comment?

Appendix II.b (French)

Evaluation de la performance de la CPSOOI

1. Contexte

A sa 27^{ème} session, tenue du 5 au 9 mars 2007, le Comité des pêches (COFI) a souligné la nécessité d'évaluer la performance des organes régionaux des pêches. L'Evaluation externe indépendante (EEI) et le Plan d'action immédiate (PAI) pour le renouveau de la FAO, approuvés à la 35^{ème} session extraordinaire de la Conférence de la FAO en novembre 2008, ont également indiqué qu'il y avait lieu de renforcer les organes statutaires de la FAO.

La Matrice des actions du Plan d'action immédiate prescrit les mesures suivantes:

« Entreprendre une évaluation en vue d'apporter les changements permettant aux organes statutaires qui le souhaitent d'exercer les pouvoirs financiers nécessaires à la mobilisation de fonds supplémentaires auprès de leurs membres tout en continuant à opérer dans le cadre de la FAO et en maintenant des liens hiérarchiques avec l'Organisation. » (PAI 2.69)

« Examiner les traités, conventions, accords et organes et instruments similaires institués au titre des Articles VI, XIV et XV de l'Acte constitutif de la FAO dans la perspective d'un autofinancement accru fondé sur les contributions de leurs membres (voir aussi 2.69). Faire rapport au Conseil et aux parties aux accords. » (PAI 3.17)

Le paragraphe 3.17 du PAI recommande d'effectuer l'évaluation entre 2010 et 2012.

A la quatrième session de la CPSOOI, tenue à Mombasa (Kenya) du 23 au 25 septembre 2009, les membres de la Commission ont insisté sur le fait que l'efficacité du fonctionnement de la Commission relevait de leur responsabilité. Ils ont souhaité qu'une évaluation des performances de la Commission soit entreprise dès que possible. Ils ont également décidé qu'une méthodologie serait élaborée pour cette évaluation.

2. Le questionnaire

Le questionnaire ci-joint a été élaboré à l'intention des responsables gouvernementaux et autres parties intéressées, qui sont invités à donner leurs points de vue sur la performance de la Commission jusqu'à ce jour et plus particulièrement sur les améliorations qui peuvent y être apportées. Les questions sont structurées de manière à permettre une évaluation par rapport aux objectifs fondamentaux, énoncés dans les statuts de la Commission, notamment à l'Article 4 : « promouvoir l'utilisation durable des ressources biologiques marines de la zone de la Commission en assurant la gestion et le développement adéquats de ces ressources ».

Dans la mesure du possible, les personnes répondant au questionnaire attribueront pour chaque question une note d'appréciation allant de 0, pour la performance la plus médiocre, à 10, pour indiquer une performance optimale. Outre cette notation, il importera d'établir, pour

chaque question, un diagnostic détaillé expliquant les raisons de l'appréciation fournie et, plus particulièrement, des suggestions quant aux moyens de résoudre les problèmes détectés ou d'améliorer la situation, tout en gardant à l'esprit l'objectif ultime de cet exercice, à savoir le renforcement de la Commission.

Les réponses aux questions devront parvenir au plus tard **le 30 juin 2011**. Celles-ci devraient être envoyées **par courriel ou par la poste directement à:**

Fabio Hissa Virea HAZIN
Examineur externe
Rua Desembargador, Célio de Castro
Montenegro, 32, Apt. 1702, Monteiro
Recife-Pe, Brazil
CEP: 520 70 -008
Tél: +55 81 33 20 6500
Mobile: +55 81 99726348
Courrier électronique: fhvhazin@terra.com.br

Questionnaire d'évaluation de la performance de la CPSOOI

Section I: L'évolution du contexte et les défis

1) Comment évaluez-vous la performance de la CPSOOI dans les domaines suivants:

- a) Collecte, analyse et partage des données ;**
- b) Promotion et coordination de la recherche sur la pêche ;**
- c) Evaluation de la situation de la pêche et de l'état des stocks exploités ;**
- d) Fourniture d'avis sur la gestion des pêches sur la base des meilleures informations scientifiques disponibles et en tenant compte des préoccupations environnementales, sociales et économiques ;**
- e) Renforcement des capacités ;**
- f) Suivi, contrôle et surveillance ;**
- g) Mesures de l'état du port ;**
- h) Approche écosystémique de la gestion des pêches ;**
- i) Approche de précaution ;**
- j) Promotion de la coopération entre les membres et avec d'autres institutions, programmes ou arrangements régionaux concernés. A cet égard, comment évaluez-vous l'interaction/la coopération entre la CPSOOI et le SWIOFP et entre la CPSOOI et la CTOI ?**

Section II: Efficacité des arrangements existants pour le règlement des problèmes relevés dans la Section I.

- 1) Comment évaluez-vous la pertinence des activités de la CPSOOI par rapport aux besoins de ses membres ?**
- 2) Comment évaluez-vous le degré d'appropriation de la Commission par ses membres et leur niveau d'engagement ?**
- 3) Comment évaluez-vous l'impact des activités menées dans le cadre de la CPSOOI concernant l'utilisation durable des ressources biologiques marines dans la zone de la Commission ?**
- 4) Dans quelle mesure votre pays a-t-il appliqué les décisions et les conseils de la Commission et de son Comité scientifique ?**
- 5) Quelle est la situation des principales ressources halieutiques dans les zones relevant de la juridiction nationale de votre pays et comment a-t-elle évolué depuis la création de la Commission en 2005 ? La CPSOOI a-t-elle contribué à cette situation et de quelle manière ?**
- 6) Comment évaluez-vous le processus et les pratiques de décision de la CPSOOI ? Sont-ils non exclusifs et transparents ? Comment pourrait-on les améliorer ?**
- 7) Comment évaluez-vous le travail de la CPSOOI en général et quelles améliorations pourraient y être apportées ? Pensez-vous que la structure et la gestion du Secrétariat soient adéquates ? Serait-il nécessaire, à votre avis, de transférer le siège du Secrétariat dans l'un des Etats membres afin d'améliorer son efficacité ou, au moins, de créer un « pôle » spécial dans l'un de ces pays ?
Jugez-vous satisfaisante la répartition des tâches entre le Secrétariat et les membres de la CPSOOI ?**
- 8) Comment évaluez-vous le rôle et la contribution au sein de la CPSOOI du Département des pêches et de l'aquaculture, d'autres unités concernées basées à Rome (comme le Bureau juridique) et des divers programmes et activités de terrain dirigés par la FAO ?**
- 9) Comment évaluez-vous le degré de participation des acteurs non gouvernementaux dans les processus et activités liés à la CPSOOI ?**
- 10) Quels sont, à votre avis, les principaux atouts et points faibles de la CPSOOI ?**

Section III: L'avenir de la CPSOOI

- 1) Comment pourrait-on, selon vous, améliorer le travail de la CPSOOI en général ?**
- 2) Pensez-vous qu'il serait souhaitable que la CPSOOI devienne un organe plus autonome disposant de son propre budget fondé sur les contributions de ses membres ?**

Souhaitez-vous soulever d'autres points et faire des observations à ce sujet ?

Appendix III

List of SWIOFC Members and Stakeholders to whom the questionnaire was sent

- 1) COMORES
- 2) FRANCE
- 3) KENYA
- 4) MADAGASCAR
- 5) MALDIVES
- 6) MAURITIUS
- 7) MOZAMBIQUE
- 8) SEYCHELLES
- 9) SOMALIA
- 10) SOUTH AFRICA
- 11) UNITED REPUBLIC OF TANZANIA
- 12) YEMEN
- 13) EAF-NANSEN
- 14) AGULHAS SOMALI CURRENTS LARGE MARINE ECOSYSTEMS (ASCLME)
- 15) AU-IBAR
- 16) BENGUELA CURRENT COMMISSION (BCC)
- 17) COI-OIC
- 18) COMESA
- 19) EUROPEAN COMMISSION
- 20) GLOBAL ENVIRONMENT FUND (GEF)
- 21) INDIAN OCEAN TUNA COMMISSION (IOTC)
- 22) IUCN
- 23) MRAG
- 24) NEPAD
- 25) OCEANOGRAPHIC RESEARCH INSTITUTE (ORI)
- 26) SADC
- 27) SEAFO
- 28) SOUTH WEST INDIAN OCEAN FISHERIES PROJECT (SWIOFP)
- 29) SWEDISH BOARD OF FISHERIES (SWEDMAR)
- 30) UNITED NATIONS ENVIRONMENT PROGRAMME (UNEP)
- 31) WIOMSA
- 32) WORLD BANK
- 33) WWF

Appendix IV

Summary of responses to the SWIOFC Performance Review Questionnaire

Respondents: 4 Member States + 3 other stakeholders

Section 1: The evolving context and challenges.

1) How do you assess the performance of SWIOFC in the following areas:

A) Data collection, analysis and sharing:

Rating: 6.6/ Range: 5.0- 8.0

Although SWIOFC has not developed specific efforts to gather data, a task which is up to member States, it has encouraged and supported data gathering by member States and has contributed significantly for the compilation, analysis and dissemination of the available information on the fish stocks and associated fisheries in the region.

B) Promotion and coordination of fisheries research.

Rating: 5.0/ Range: 4.0- 6.0

SWIOFC has not done much in regard of promotion and coordination of fisheries research, an aspect certainly reflected in the rating of this item (5.0), the lowest among all. To a large extent, this task has been conducted in the region by SWIOFP. The Commission, nevertheless, has helped to identify research priorities and stocks requiring more attention.

C) Assessment of the state of the fishery and of the condition of the exploited stocks.

Rating: 7.6/ Range: 4.0- 10.0

Until recently, SWIOFC had not been much involved in the assessment of the exploited stocks in the region. Nevertheless, it has served as a forum where the status of the main stocks and the state of the fisheries have been presented and reviewed, in a regional basis.

D) Provision of fisheries management advice, based on the best scientific information available and taking due account of environmental, social and economic concerns.

Rating: 6.2/ Range: 5.0- 8.0

SWIOFC has not provided management advice at a species level, and the environmental, social and economic concerns have not yet been taken in due account. This task has been undertaken mainly by regional Projects, such as SWIOFP and EAF Nansen programmes, particularly by means of the development of national management plans.

E) Capacity building.

Rating: 6.4/ Range: 5.0- 8.0

Although SWIOFC has not done much capacity building by itself, due to a lack of funds for this aim, it has helped to encourage, support and coordinate several capacity building initiatives within the region, linked to Projects such as SWIOFP, ASCLME and EAF Nansen, in various areas, such as fisheries statistics, stock assessment, assessment of by-catch, EAF Management and safety at sea.

F) Monitoring, Control, Surveillance (MCS).

Rating: 5.5/ Range: 4.0- 8.0

SWIOFC has not been much involved in Monitoring, Control and Surveillance (MCS), although some MCS initiatives have been encouraged by the Commission.

G) Port State Measures

Rating: 6.0/ Range: 4.0- 8.0

Except for some support provided to members during the negotiation, in FAO, of the Port State Measures Agreement, very little has been done by SWIOFC in this regard.

H) The ecosystem approach to fisheries management

Rating: 7.8/ Range: 7.0- 9.0

Most of the efforts carried out in the region in regard of the Ecosystem Approach to Fisheries Management have been led by the EAF- Nansen Project and SWIOFP. SWIOFC, nevertheless, has strongly endorsed the EAF and has fully supported those initiatives.

I) The precautionary approach.

Rating: 6.4/ Range: 4.0- 8.0

The Precautionary approach is somewhat encompassed by the Ecosystem Approach to Fisheries Management, discussed above. Very little, however, has been done by SWIOFC aiming at specifically implementing the Precautionary Approach. This is also linked to the fact that the Commission has not provided management advice at a species level, as also noted above, as well as to its strictly advisory nature, with no enforcement powers.

J) Promoting cooperation among members and with other relevant regional institutions, programmes or arrangements. In this context, how do you assess the interaction/cooperation between SWIOFC and SWIOFP and between SWIOFC and IOTC?

Rating: 8.6/ Range: 8.0- 10.0

Conclusion: This is undoubtedly the strongest point of SWIOFC, which plays a prominent coordination role in the region, an aspect clearly reflected in the rating of this item (8.6), the highest among all. SWIOFC has been able to act as a platform to support the development and to help the coordination between various regional projects, such as SWIOFP, which Steering Committee is spearheaded by SWIOFC, and EAF- Nansen Project, as well as the ASCLME programme. SWIOFC has also improved cooperation with IOTC.

Section II: The effectiveness of the existing arrangements in addressing the issues identified in Section 1.

1) How do you assess the relevance of SWIOFC activities to the needs of its members?

Rating: 7.4/ Range: 4.0- 10.0

Although SWIOFC activities are deemed relevant to all member countries, the assessment on how they address their actual needs varies from virtually none to a significant extent, certainly reflecting the marked differences in the needs of the various members.

2) How do you assess the degree of ownership of the Commission by its members and the level of their commitment?

Rating: 7.4/ Range: 6.0- 9.0

There seems to be a fairly good sense of ownership by SWIOFC Members, which seems to be reinforced by their participation in SWIOFP. Coordination and communication between annual meetings, however, could be improved.

3) How do you assess the impact of the activities carried out by SWIOFC for the sustainable utilization of the living marine resources of the area of the Commission?

Rating: 6.9/ Range: 5.0- 8.0

The assessment of the impact of the activities carried out by SWIOFC for the sustainable utilization of the living marine resources of the area of the Commission ranged from very little to commendable. The lack of enforcement powers coupled with the absence of a follow-up mechanism were highlighted as the main limitations. On the other hand, coordination with regional projects, such as SWIOFP, ASCLME and the EAF Nansen programme was quoted as a driver for an increasing impact in the future.

4) To what extent has your country adhered to the decisions and advice stemming from the sessions of the Scientific Committee and of the Commission?

Rating: 6.5/ Range: 5.0- 8.0

To a large degree, the answers to this question mirrored the previous one, also ranging from close to none to a great extent. The complexity of the activities to be carried out at country level, coupled with the lack of internal resources, as well as to the absence of a follow-up mechanism were identified as the key setbacks for countries to fully adhere to SWIOFC recommendations.

5) How is the present condition of the main fishery resources of your country which are included in the SWIOFC purview and how have they evolved since the inception of the Commission in 2005? What has been the contribution of SWIOFC for their present condition?

Rating: 7.0/ Range: 5.0- 8.0

The responses to this question were rather vague, probably indicating some difficulties the respondents may have had to accurately assess the actual contribution of SWIOFC for the present condition of the main fishery resources under the purview of the Commission. Nevertheless, SWIOFC guidance in areas such as the collection of fisheries data, management strategies and the EAFM was pointed out as a very positive contribution for the sustainability of the exploited stocks.

6) How do you assess SWIOFC decision-making process and practices?

Rating: 7.3/ Range: 6.0- 8.0

SWIOFC decision-making process was considered to be transparent and inclusive, but the mechanisms for the communication of the decisions made by the Commission were deemed deficient and requiring improvement.

7) How do you assess the work of SWIOFC Secretariat overall and how could it be improved? Do you believe the structure and management of the Secretariat is adequate? Do you think there is a need to relocate the Secretariat to, or create a node in one of the member states in order to improve its efficiency?

Rating: 7.2/ Range: 6.0- 9.0

The work done by the Secretariat was highly praised, but the need to strengthen its human and financial resources was highlighted. The relocation of the SWIOFC Secretariat to a coastal Member State was recommended, instead the creation of a node. The establishment of permanent working parties to support the work of the Scientific Committee was suggested as well. Finally, the need to improve communication between the Secretariat and the Focal Points was also emphasized, in order to make member countries more responsive to the Commission.

8) What is your evaluation of the role and contribution to SWIOFC of the FAO Fisheries and Aquaculture Department, other relevant Rome-based units (such as the Legal Office) and other FAO-led field programmes and activities?

Rating: 6.7/ Range: 4.0- 8.0

Judging from the vagueness of the answers received, either this question was not well understood by the respondents or they do not have a clear idea on the role of FAO in SWIOFC.

9) How do you assess the degree of involvement of non-governmental stakeholders in SWIOFC related processes and activities?

Rating: 5.2/ Range: 4.0- 6.0

The assessment on the NGO involvement ranged from none to fair, being in general considered rather shy, however, as indicated by the low rating.

10) In your opinion, what are the strongest and weakest points of SWIOFC?

SWIOFC strongest point is its capacity to coordinate fisheries management issues among members, serving, as well, as a platform for the development of several regional projects, such as SWIOFP, ASCLME and EAF Nansen Programmes. The sense of ownership by its members has also been highlighted as one of the main Commission assets.

SWIOFC main weakest points were the lack of enforcement powers, coupled with the absence of a follow-up mechanism. The Secretariat location, as well as the associated difficulties to communicate with members and the limited financial and human resources were emphasized as well. Finally, a weak participation by NGOs and by the private sector was also pointed out.

Section III: The future of SWIOFC

1) How do you think the overall work of SWIOFC could be improved in future?

SWIOFC should ensure adequate staffing and funding for the Secretariat and should move it to a coastal Member State. The Scientific Committee should be strengthened.

2) Do you think SWIOFC should become a more independent body with its own budget, based on the contribution of its members?

The responses to this question have clearly shown the wide range of views within the Commission on this regard, with opinions ranging from NO to YES, but with the majority of them arguing for a “middle-ground” alternative, with SWIOFC remaining as an FAO (semi-autonomous) body, but also making use of funding coming from both member countries and donors.

Appendix V

RESOLUTION 13/97 "REVIEW OF FAO STATUTORY BODIES" ADOPTED BY THE FAO CONFERENCE ON 18 NOVEMBER 1997

Review of FAO Statutory Bodies

THE CONFERENCE,

Conscious of the continuing need to enhance the efficiency of the Organization and its governance in a time of financial challenge, to eliminate Statutory Bodies that are obsolete, to ensure more flexible task-oriented and time-bound working arrangements for those that remain and to limit the creation of new Bodies to those that are strictly necessary,

Recognising the importance of moving towards increased self-financing for Statutory Bodies that have regional focus, and of enhancing the responsiveness of those bodies to the needs of their Members:

1. **Decides** to abolish the Bodies listed in Annex A to this Resolution;
2. **Recommends** to the parent Bodies concerned that their Subsidiary Bodies listed in Annex B be abolished and calls on those parent Bodies to take the necessary action unless they consider, taking into account the financial and programme implications, that there are overriding reasons for retaining any such Bodies in existence and to report to the Council through the Programme and Finance Committees on the actions taken and, where appropriate, on the reasons for retaining any of the Subsidiary Bodies recommended for abolition;
3. **Requests** the Director-General to consult with the organizations listed in Annex C with a view to securing alternative arrangements for, or the abolition of, the joint Bodies listed in that Annex as deemed appropriate and authorises their abolition, as appropriate;
4. **Recommends** to the Codex Alimentarius Commission that it continue its review of the usefulness of its Subsidiary Bodies set out in Annex D;
5. **Encourages** regional commissions established under Article VI of the Constitution to seek more extra-budgetary resources to supplement the resources made available to them under the FAO Regular Programme Budget, **taking into account** the economic capacity of the regions concerned and of their Members;
6. **Calls on** the Contracting Parties to Conventions and Agreements establishing regional bodies under Article XIV of the Constitution to seek where appropriate, increasingly to provide such Bodies with their own financial resources, whether through cooperative programmes or other voluntary contributions, or through the establishment of autonomous budgets financed from mandatory contributions;

7. **Decides** that in future, Statutory Bodies should be established only where strictly necessary and where the work to be undertaken cannot be carried out by *ad hoc* groups, and that the Terms of Reference of all new Bodies created should provide for a periodic review of their usefulness;
8. **Further decides** that, to this end, the following factors should be taken into account in establishing new technical Bodies and in the establishment of new Subsidiary Bodies:
 - a. Centrality to the FAO mandate and the Organization's current priorities as expressed by FAO Members and reflected in planning documents;
 - b. Clarity of the definition of the task, which should normally be of limited duration;
 - c. Positive impact of the Body's work at the level of FAO Members;
 - d. FAO's comparative advantage, thereby avoiding overlap and creating synergy with the work of other Bodies;
 - e. Proportion of the FAO Membership to which the work of the proposed body is of importance with due regard to the economic capacity of less-advantaged members, including least developed countries and small-island developing states;
 - f. Willingness of their Members to contribute financially and through non-monetary inputs to the work of the Body, especially where the Body will serve a more limited number of countries, with due regard to the economic capacity of their less advantaged members and the availability of other financial support;
9. **Requests** all Statutory Bodies to examine how their Rules of Procedure and working methods could be streamlined to facilitate positive inter-action among participants at meetings, to promote a task-orientation and to strengthen the involvement of civil-society partners;
10. **Further requests** the Secretariat to prepare information notes to facilitate review by the Council, following discussion in the Programme and Finance Committees, of (a) possibilities for streamlining procedures and avoiding repetitious discussion in Bodies at various levels, taking full account of the experience of other international organizations; and (b) modalities for greater civil society involvement;
11. **Decides** that, in general, Executive Committees should cease to be listed as formal Statutory Bodies in the Directory of FAO Statutory Bodies, except for the Executive Committee of the Codex Alimentarius Commission.

(Adopted on 18 November 1997)

Appendix V/ ANNEX A

GLOBAL BODIES

Commissions and Committees

- Commission on Fertilizers (FERT)
- FAO Olive Production Committee (OP)
- FAO Fertilizer Industry Advisory Committee of Experts (FIAC)
- Panel of Experts on Improved Weed Management
- Panel of Experts on Agricultural Engineering
- FAO Statistics Advisory Committee of Experts (SAC)
- Consultative Group on Tropical Forests Action Programme
- FAO Advisory Committee on Forestry Education (ACFE)

REGIONAL BODIES

Commissions and Committees

- Committee on Forest Development in the Tropics (FDT)
- Commission on African Animal Trypanosomiasis
- Regional Commission on Farm Management for Asia and Far East
- Regional Commission on Food Security for Asia and Pacific
- Regional Fisheries Advisory Commission for South-West Atlantic (CARPAS)
- Near East Regional Economic & Social Policy Commission (ESPC/NE)

Expert Committees and Panels

- Panel of Experts on Development Aspects of African Trypanosomiasis Control Programme
- Panel of Experts on Ecological/Technical Aspects of Programme for Control of African Animal Trypanosomiasis and Related Development

Appendix V/ ANNEX B

GLOBAL BODIES

Commissions and Committees

- Working Group of FAO Commission on Genetic Resources for Food and Agriculture (CGFRA)
- Sub-Group on Rice Grading and Standardization of the Committee on Commodity Problems (CCP:R)
- Sub-Group on Statistics of Inter-governmental Group on Oilseeds, Oils and Fats of the Committee on Commodity Problems (CCP:OF)
- Inter-governmental Group on Cocoa of the Committee on Commodity Problems (CCP:CC)
- Sub-Group on Cocoa Grading of the Committee on Commodity Problems (CCP:CC)
- Advisory Working Party on Hard Fibre Research of the Committee on Commodity Problems (CCP:HF)
- Sub-Group on Statistics of Inter-governmental Group on Bananas of the Committee on Commodity Problems (CCP:BA)
- Sub-Group of Exporters of Inter-governmental Group on Bananas of the Committee on Commodity Problems (CCP:BA)
- Steering Sub-Group of Inter-governmental Group on Citrus Fruit of the Committee on Commodity Problems (CCP:CI)
- Inter-governmental Group on Wine and Vine Products of the Committee on Commodity Problems (CCP:WI)
- Sub-Group of Exporters of Inter-governmental Group on Tea of the Committee on Commodity Problems (CCP:TE)
- Sub-Group on Promotion of Inter-governmental Group on Tea of the Committee on Commodity Problems (CCP:TE)
- Sub-Group on Statistics of Inter-governmental Group on Tea of the Committee on Commodity Problems (CCP:TE)
- Sub-Committee on Programmes to Assist Developing Coastal States in Managing and Developing Fisheries in their Economic Zones (COFI:EEZ)
- COFI Sub-Committee on Fishery Education and Training (FET)

Expert Committees and Panels

- *Ad Hoc* Working Party on Fertilizer Statistics of the FAO/Fertilizer Industry Advisory Committee of Experts (FIAC)
- Sub-Committee of *Ad Hoc* Working Party on Fertilizer Statistics of the FAO/Fertilizer Industry Advisory Committee of Experts (FIAC)
- *Ad Hoc* Working Party on Fertilizer Marketing and Credit of the FAO/Fertilizer Industry Advisory Committee of Experts (FIAC)
- Technical Sub-Committee of of the FAO/Fertilizer Industry Advisory Committee of Experts
- *Ad Hoc* Working Party on Economics of Fertilizer Use of the FAO/Fertilizer Industry Advisory Committee of Experts (FIAC)
- Panel of Experts: Group on Registration Requirements of the Joint FAO/UNEP Panel of Experts on Pesticide Specifications, Registration Requirements, Application Standards and Prior Informed Consent (PIC)

- Panel of Experts: Group on Pesticides Specifications of the Joint FAO/UNEP Panel of Experts on Pesticide Specifications, Registration Requirements, Application Standards and Prior Informed Consent (PIC)
- Panel of Experts: Application Standards of the Joint FAO/UNEP Panel of Experts on Pesticide Specifications, Registration Requirements, Application Standards and Prior Informed Consent (PIC)

REGIONAL BODIES

Commissions and Committees

- Working Party on Aquaculture of Committee for Inland Fisheries of Africa (CIFA)
- Working Party on Stock Assessment of Committee for Inland Fisheries of Africa (CIFA)
- Working Party on Floodplain Fisheries of Committee for Inland Fisheries of Africa (CIFA)
- Sub-Committee for the Development and Management of Fisheries of Lake Victoria (CIFA)
- Working Party on Pollution and Fisheries of Committee for Inland Fisheries of Africa (CIFA)
- Sub-Committee for Protection and Development of Fisheries in the Sahelian Zone (CIFA)
- Working Party on Wildlife Management and National Parks of the African Forestry and Wildlife Commission (AFWC)
- Joint Working Party on Fish Technology and Marketing of the Asia-Pacific Fishery Commission (APFIC)
- Working Party on Aquaculture and Inland Fisheries of the Asia-Pacific Fishery Commission (APFIC)
- Working Party on Marine Fisheries of the Asia-Pacific Fishery Commission (APFIC)
- Joint Working Party Fishery Statistics and Economics of the Asia-Pacific Fishery Commission (APFIC)
- Working Party on Fishery Resources of the Commission for Inland Fisheries of Latin America (COPESCAL)
- Working Party on Fishery Technology of the Commission for Inland Fisheries for Latin America (COPESCAL)
- Working Party on Aquaculture of the Commission for Inland Fisheries for Latin America (COPESCAL)
- Committee on Forestry Research of the Latin American and Caribbean Forestry Commission (LACFC)
- Sub-Com I: Working Party on Introduction of Exotic Species into Europe of the European Inland Fisheries Advisory Commission (EIFAC)
- Sub-Com I: Working Party on Fishing Gear Selectivity of the European Inland Fisheries Advisory Commission (EIFAC)
- Sub-Com I: Working Party on Crayfish of the European Inland Fisheries Advisory Commission (EIFAC)
- Sub-Com I: Working Party on Eel of the European Inland Fisheries Advisory Commission (EIFAC)
- Sub-Com I: Working Party on Aging of Coarse Fish of the European Inland Fisheries Advisory Commission (EIFAC)
- Sub-Com I: Working Party on Stocking of the European Inland Fisheries Advisory Commission (EIFAC)

- Sub-Com I: Working Party on Fishery Resources of the European Inland Fisheries Advisory Commission (EIFAC)
- Sub-Com I: Working Party on Brackish Water Fisheries & Aquaculture of the European Inland Fisheries Advisory Commission (EIFAC)
- Sub-Com. II: Working Party on the Influence of Fisheries Management Practices on Environment of the European Fishery Advisory Commission (EIFAC)
- Sub-Com II: Working Party on Aquatic Resources Management in Aquaculture of the European Fishery Advisory Commission (EIFAC)
- Sub-Com II: Working Party on Fish Diseases & Withdrawal Period for Drugs of the European Fishery Advisory Commission (EIFAC)
- Sub-Com III: Working Party on the Prevention & Control of Bird Predation of the European Fishery Advisory Commission (EIFAC)
- Sub-Com III: Working Party on Fish-Farm Effluents of the European Fishery Advisory Commission (EIFAC)
- Sub-Com III: Working Party on Effects of Physical Modifications of Aquatic Habitat on Fish Population of the European Fishery Advisory Commission (EIFAC)
- Working Party on Management of Mountain Watersheds of the European Forestry Commission (EFC)
- Working Party on Fisheries Economics & Statistics of the General Fisheries Council for the Mediterranean (GFCM)
- Working Party on Artificial Reefs & Mariculture of the General Fisheries Council for the Mediterranean (GFCM)
- Working Party on Fisheries Statistics of the Regional Fisheries Advisory Commission for the Southwest Atlantic (CARPAS)
- *Ad Hoc* Working Party on Fishery Economic Development in South-West Atlantic of the Regional Fisheries Advisory Commission for the Southwest Atlantic (CARPAS)
- Working Party on Biological Research & Evaluation of Fisheries Resources of the Regional Fisheries Advisory Commission for the Southwest Atlantic (CARPAS)
- ACMRR/CARPAS Joint Working Party on Scientific Evaluation of State of Stocks in Southwest Atlantic
- **Commission for Management of Indian Ocean Tuna of the Indian Ocean Fishery Commission (IOFC)**
- Working Party on Assessment of Marine Fishery Resources of the Western Central Atlantic Fishery Commission (WECAF)
- Working Party on Fishery Economics & Planning of the Western Central Atlantic Fishery Commission (WECAF)
- Sub-Committee on Management of Resources within Limits of National Jurisdiction of the Fishery Committee for Eastern Central Atlantic (CECAF)
- Sub-Committee on Fishery Development of the Fishery Committee for Eastern Central Atlantic (CECAF)
- Working Party on Resources Evaluation of the Fishery Committee for Eastern Central Atlantic (CECAF)
- Working Party on Fishery Statistics of the Fishery Committee for Eastern Central Atlantic (CECAF)
- Research Group on the Standing Technical Committee of the European Commission for the Control of Foot-and-Mouth Disease (EUFMD)

Appendix V/ ANNEX C

GLOBAL BODIES

Commissions and Committees

- Joint ECE(UN)/Codex Alimentarius Group of Experts on Standardization of Quick Frozen Food
- Joint ECE(UN)/Codex Alimentarius Group of Experts on Standardization of Fruit Juices

Expert Committees and Panels

- FAO/UNEP Panel of Experts on Integrated Pest Control
- Joint FAO/UNEP Panel of Experts on Animal Genetic Resources Conservation and Management
- FAO/IAEA Panel of Experts on Nuclear Techniques in Soil Fertility, Irrigation and Crop Production Studies
- FAO/IAEA Panel of Experts on the Radiation Preservation of Food
- FAO/IAEA Panel of Experts on the Use of Isotope and Irradiation in Entomology and Related Fields
- FAO/IAEA Panel of Experts on Application of Mutations and Tracers in Modern Genetics for Plant Breeding
- FAO/IAEA Panel of Experts on the Application of Nuclear Techniques in Animal Science
- FAO/IAEA Panel of Experts on Isotope-aided Studies of Agrochemicals and Residues
- FAO/Unesco/ILO Joint Advisory Committee on Agricultural Education, Science and Training
- Joint FAO/WHO Expert Committee on Nutrition (FAO/WHO/NU)
- IMO/FAO/Unesco - IOC/WMO/WHO/UN/UNEP Joint Group of Experts on Scientific Aspects of Marine Environment Protection (GESAMP) - *(Note: as this is an inter-agency consultative body it is to be delisted as a statutory entity not discontinued.)*
- Working Group on Impacts of Coastal Aquaculture (GESAMP)
- Task Force on Integrated Coastal Area Development (GESAMP)

REGIONAL BODIES

Commissions and Committees

- Joint FAO/WHO/OAU Regional Food and Nutrition Commission for Africa (FAO/WHO/FNAC)
- FAO/ECE Working Party on Economics of the Agri-Food Sector & Farm Management (ECA)
- FAO/ECE Working Party on Relations Between Agriculture & Environment (ECA)
- FAO/ECE/CES Study Group on Food and Agricultural Statistics in Europe

Appendix V/ ANNEX D

- Codex Committee on Cocoa Products and Chocolate
- Codex Committee on Sugars
- Codex Committee on Processed Fruit and Vegetables
- Codex Committee on Meat Hygiene
- Codex Committee on Processed Meat and Poultry Products
- Codex Committee on Edible Ices
- Codex Committee on Soups and Broths
- Codex Committee on Cereals, Pulses and Legumes
- Codex Committee on Vegetables Proteins

Appendix VI

Statutes of the South West Indian Ocean Fisheries Commission (Adopted on 25 November 2004)

THE COUNCIL,

NOTING the wishes expressed to the FAO Council, at its One Hundred and Sixteenth Session in June 1999, by the former members of the Committee for the Development and Management of Fisheries Resources in the South West Indian Ocean, i.e. Comoros, France, Kenya, Madagascar, Mauritius, Mozambique, Seychelles, Somalia and Tanzania, for the establishment of a regional organization to promote the sustainable development, conservation, rational management and best utilization of fisheries resources in the region with special emphasis on fisheries targeted at non-tuna species;

TAKING INTO CONSIDERATION that the coastal States have established areas of national jurisdiction in accordance with the United Nations Convention on the Law of the Sea of 10 December 1982, and general principles of international law, in the exercise of their sovereign rights for the purpose of exploring and exploiting, conserving and managing the living marine resources in those areas;

NOTING the objectives and purposes stated in Chapter 17 of Agenda 21 adopted by the United Nations Conference on Environment and Development in 1992;

RECOGNIZING the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 and taking into account the Code of Conduct for Responsible Fisheries, 1995;

RECOGNIZING FURTHER the economic and geographical considerations and the special requirements of developing States, including small-island developing States, and their coastal communities, for equitable benefit from living marine resources;

RECOGNIZING FURTHERMORE that the coastal States in the region face common or similar problems in the development and proper utilization of the fisheries resources in their coastal waters, and need a mechanism for international cooperation in facing these common or similar problems, which would be furthered by the establishment of an advisory commission on fisheries management and development;

HEREBY ESTABLISHES under Article VI.1 of the Constitution of the Organization a fisheries advisory commission, to be known as the South West Indian Ocean Fisheries Commission, the Statutes of which are attached to this Report as *Appendix E*.

STATUTES OF THE SOUTH WEST INDIAN OCEAN FISHERIES COMMISSION (SWIOFC)

1. Area of Competence

The area of competence of the Commission shall be all the waters of the South West Indian Ocean within the national jurisdiction of coastal States within the area of competence, being all waters of the Indian Ocean bounded by a line drawn as follows: from a point on the high water mark on the East African coast at latitude 10° 00 N, thence due east along this parallel to the longitude 65°00 E, thence due south along this meridian to the equator, thence due east along this parallel to the longitude 80° 00 E, thence due south along this meridian to a parallel 45° 00 S, thence due west along this parallel to the longitude 30° 00 E, thence due north along this meridian to the coast of the African Continent, as shown in the map in the Annex to these Statutes.

2. Species

The Commission shall cover all living marine resources, without prejudice to the management responsibilities and authority of other competent fisheries and other living marine resources management organizations or arrangements in the area.

3. Membership

The Commission shall be composed of such Members and Associate Members of the Organization that are coastal States, whose territories are situated wholly or partly within the area of the Commission, and that notify in writing to the Director-General their interest in becoming a member of the Commission.

4. Objectives and functions of the Commission

Without prejudice to the sovereign rights of coastal States, the Commission shall promote the sustainable utilization of the living marine resources of the area of the Commission, by the proper management and development of the living marine resources, and address common problems of fisheries management and development faced by the Members of the Commission. To this end, the Commission shall have the following functions and responsibilities:

- a. to contribute to improved governance through institutional arrangements that encourage cooperation amongst members;
- b. to help fishery managers in the development and implementation of fishery management systems that take due account of environmental, social and economic concerns;
- c. to keep under review the state of the fishery resources in the area and the industries based on them;
- d. to promote, encourage and coordinate research related to the living marine resources in the area and draw up programmes required for this purpose, and to organize such research as may be necessary;
- e. to promote the collection, exchange, dissemination and analysis or study of statistical, biological, environmental and socio-economic data and other marine fishery information;
- f. to provide a sound scientific basis to assist Members in taking fisheries management decisions;
- g. to provide advice on management measures to member governments and competent fisheries organizations;
- h. to provide advice and promote co-operation on monitoring, control and surveillance, including joint activities, especially as regards issues of a regional or sub-regional nature;
- i. to encourage, recommend and coordinate training in the areas of interest of the Commission;
- j. to promote and encourage the utilization of the most appropriate fishing craft, gear, fishing techniques and post harvesting technologies;
- k. to promote liaison with all competent institutions within the area served by the Commission and adjacent waters, including in particular any agreement or arrangement for the management and conservation of the high seas non-tuna fisheries resources of the Southern Indian Ocean, the Indian Ocean Tuna Commission, the South East Atlantic Fisheries Organization and the Commission for the Conservation of the Antarctic Marine Living Resources;
- m. to draw up its plan of work;
- n. to carry out such other activities as may be necessary for the Commission to achieve its objectives, as defined above.

5. General Principles

The Commission shall have due regard for and promote the application of the provisions of the FAO Code of Conduct on Responsible Fisheries, including the precautionary approach and the ecosystem approach to fisheries management.

6. Institutions

1. Meetings of the Commission shall be held at least once every two years, taking into account the provisions of paragraph 10 below.
2. The Commission shall establish a Scientific Committee to consider the state of fisheries in the area of competence and to advise on the scientific basis for possible regulatory measures to be considered for adoption by the members of the Commission. The Commission shall define the functions of the Scientific Committee.
3. The Commission may establish, on an *ad hoc* basis, such other committees or working parties as it may consider necessary on problems of major importance or of a specialized nature.
4. The establishment of any subsidiary body shall be subject to the determination by the Director-General that the necessary funds are available in the relevant chapter of the budget of the Organization. Before taking any decision involving expenditure in connection with the establishment of subsidiary bodies the Commission must have before it a report from the Director-General on the administrative and financial implications thereof.

7. Reporting

The Commission shall submit to the Director-General reports on its activities and recommendations at such appropriate intervals as to enable the Director-General to take them into consideration when preparing the draft Programme of Work and Budget of the Organization and other submissions to the Conference, Council or Committees of the Council. The Director-General shall bring to the attention of the Conference through the Council recommendations adopted by the Commission which have policy implications or which affect the programme or finances of the Organization. Copies of each report of the Commission shall be circulated to Members of the Commission and to other Member Nations and Associate Members of the Organization and international organizations for their information, as soon as they become available.

8. Observers

1. Any Member Nation or Associate Member of the Organization that is not a member of the Commission may, upon its request, be represented in an observer capacity at meetings of the Commission.
2. States which, while not Members of the Organization, are members of the United Nations, any of its Specialized Agencies or the International Atomic Energy Agency may, upon their request, and with the approval of the Commission be represented in an observer capacity in accordance with the provisions adopted by the Conference of the Organization relating to the granting of observer status to Nations.
3. The Commission shall provide for the participation of intergovernmental and, on request, international non-governmental organizations having special competence in the field of activity of the Commission in its meetings as observers in accordance with its Rules of Procedure.
4. Participation of international organizations in the work of the Commission and relations between the Commission and such organizations shall be governed by the relevant provisions of the Constitution and General Rules of the Organization as well as the rules on relations with international organizations adopted by the Conference and Council of the Organization.

9. Rules of Procedure

The Commission may adopt and amend its own rules of procedure which shall be in conformity with the Constitution and General Rules of the Organization and with the Statement of Principles Governing Commissions and Committees adopted by the Conference. The rules of procedure and amendments thereto shall come into force upon approval by the Director-General.

10. Co-operation with any agreement or arrangement for the management and conservation of the high seas fisheries resources of the Southern Indian Ocean

The Commission, acting through the Director-General, shall establish close working relations with any agreement or arrangement for the management and conservation of the high seas fisheries resources of the Southern Indian Ocean. Such working relations shall, in particular:

- a. provide, as far as possible, for the holding of back-to-back meetings with any such agreement or arrangement;
- b. ensure, as far as possible, the informed and effective participation of members of the Commission that are Contracting Parties to any such agreement or arrangement in meetings of such agreement or arrangement;
- c. Ensure that the Commission is adequately informed on the activities of any such agreement or arrangement.

Appendix VII

SWIOFC RULES OF PROCEDURE

Adopted by the SWIOFC at its First Session (18–20 April 2005)

RULE I

Membership

1. The Commission shall be composed of such Members and Associate Members of the Food and Agriculture Organization of the United Nations (hereinafter referred to as “the Organization”) that are coastal States, whose territories are situated wholly or partly within the area of competence of the Commission, and that notify in writing to the Director-General their interest in becoming a member of the Commission.
2. Each Member of the Commission shall, before the opening of each Session, communicate to the Director-General the name of its representative, who should, as far as possible, have responsibilities related to marine fishery management and development.

RULE II

Officers

1. The Commission shall elect, at the end of every Session, a Chairperson and a maximum of three Vice-Chairpersons who shall remain in office until the election of the new Chairperson and new Vice-Chairpersons.
2. The Chairperson, or in his absence a Vice-Chairperson, shall preside at Sessions of the Commission and exercise such other functions as may be required to facilitate the work of the Commission. The Vice-Chairperson acting as Chairperson shall have the same powers and duties as the Chairperson.
3. In the event that both the Chairperson and the Vice-Chairperson are unable to serve, the Director-General or his representative shall act as Chairperson, until an ad hoc Chairperson is elected.
4. The Director-General shall appoint, from among the staff of the Organization, a Secretary of the Commission who shall be administratively responsible to him.

RULE III

The Bureau

The Chairperson and Vice-Chairperson of the Commission (hereinafter referred to as the Bureau) will act as a steering committee during Sessions of the Commission and in the intersessional period.

RULE IV

Sessions

1. The Commission shall hold regular Sessions at least once every two years.
2. Extraordinary Sessions of the Commission shall be held at such other times as the Commission may decide, or at the request of the Bureau of the Commission, provided that adequate funds are available for such extraordinary Sessions in the Programme of Work and Budget of the Organization, or from extrabudgetary funds.
3. The Sessions of the Commission shall be convened by the Director-General, who shall decide on the place where they are to be held, in consultation with the Chairperson and the competent authorities of the host country, taking into account the views expressed by the Commission.
- 4³⁷. Notice of the date and place of each Session of the Commission shall be communicated at least two months before the Session to all Members of the Commission, to such Member Nations and Associate Members of the Organization that are not Members of the Commission and to such non-Member Nations of the Organization and international organizations as may have been invited to attend the Session.
5. Each Member of the Commission shall have one representative who may be accompanied by alternates and advisers. An alternate or adviser shall not have the right to vote except when substituting for a representative.
6. Sessions of the Commission shall be held in closed proceedings³⁸ unless the Commission decides otherwise.
7. A majority of the Members of the Commission shall constitute a quorum.

RULE V

Agenda

1. The Director-General, in consultation with the Chairperson, shall prepare a provisional agenda for each Session of the Commission.
2. The first item on the provisional agenda shall be the adoption of the agenda. No matter referred to the Commission by the Conference or Council of the Organization may be omitted from the agenda.
3. Any Member of the Commission may request the Director-General to include specific items in the provisional agenda.

³⁷ Mauritius raised that this text may not be consistent with the text of the Statutes.

³⁸ To verify by the FAO legal Office if this substitution is acceptable.

- 4³⁹. The provisional agenda shall be circulated by the Director-General at least two months before the date on which the opening of the Session is scheduled to take place, to all Members of the Commission, to such Member Nations and Associate Members of the Organization that are not Members of the Commission and to such non-Member Nations of the Organization and international organizations as may have been invited to attend the Session.
5. Any Member of the Commission and the Director-General may, after the dispatch of the provisional agenda, but not later than one month before the date on which the opening of the Session is scheduled to take place, propose the inclusion of specific items in the agenda. Such proposals shall be accompanied by a written explanation of the reasons why the inclusion of the items in the agenda is considered desirable. These items shall be placed on a supplementary list, which shall be dispatched by the Director-General to all Members of the Commission, other Member Nations and Associate Members of the Organization attending the Session and to such non-Member Nations and international organizations invited to the Session, failing which the items shall be communicated to the Chairperson for submission to the Commission.
 6. Documents to be submitted to the Commission at any Session shall be furnished by the Director-General to the Members of the Commission, the other Members of the Organization attending the Session and to the non-Member Nations and international organizations invited to the Session, at the time the agenda is dispatched, or as soon as possible thereafter.
 7. Subject to paragraph 2 of this Rule, the Commission may, at any Session, decide by a two thirds majority to amend the agenda by the deletion, addition or modification of any item.

RULE VI

Voting Procedures

1. Subject to paragraph 2 of this Rule, each Member of the Commission shall have one vote.
2. Voting by Member Organizations of the Organization that are Members of the Commission shall be governed by the provisions of Article II.10 of the Constitution of the Organization.
3. Decisions of the Commission shall be taken by a majority of the votes cast, unless otherwise provided in these Rules.
4. Upon the request of any Member of the Commission, voting shall be by roll-call, in which case the vote of each Member shall be recorded.
5. When the Commission so decides, voting shall be by secret ballot.
6. Voting in the Commission shall be carried out *mutatis mutandis* in accordance with the pertinent provisions of Rule XII of the General Rules of the Organization.

³⁹ Cf. footnote 25.

RULE VII

Observers

1. Any Member or Associate Member of the Organization that is not a Member of the Commission may, upon request communicated to the Director-General, attend Sessions of the Commission, its subsidiary bodies or ad hoc meetings, in an observer capacity. Such Members of the Organization or Associate Members may submit memoranda and participate without vote in the discussions.
2. States which, while not Members of the Organization, are Members of the United Nations, any of its Specialized Agencies or the International Atomic Energy Agency may, upon their request and with the approval of the Commission, attend Sessions of the Commission, its subsidiary bodies, and ad hoc meetings in an observer capacity. The status of States invited to such Sessions or meetings shall be governed by the relevant provisions adopted by the Conference of the Organization.
3. Intergovernmental organizations having an interest in the work of the Commission may⁴⁰ be invited to attend Sessions of the Commission, its subsidiary bodies, and ad hoc meetings in an observer capacity.
4. International non-governmental organizations having special competence in the field of activity of the Commission may⁴¹, upon request communicated to the Director-General, be invited to attend Sessions of the Commission, its subsidiary bodies or ad hoc meetings, in an observer capacity.
5. Participation of international organizations in the work of the Commission and the relations between the Commission and such organizations shall be governed by the relevant provisions of the Constitution and the General Rules of the Organization as well as by the rules on relations with international organizations adopted by the Conference and Council of the Organization. All such relations shall be dealt with by the Director-General.

RULE VIII

Records and Reports

1. At each Session, the Commission shall approve a report embodying its views, recommendations and decisions including, when requested, a statement of minority views. Such other records for its own use as the Commission may on occasion decide shall also be maintained.
2. The conclusions and recommendations of the Commission shall be transmitted to the Director-General at the close of each Session, and he shall circulate them to Members of the Commission and to nations and international organizations that were represented at the

⁴⁰ Substitution suggested by Mauritius and accepted.

⁴¹ Substitution suggested by Mauritius and accepted.

Session and, upon request, to other Members and Associate Members of the Organization for their information.

3. Recommendations having policy, programme or financial implications for the Organization shall be brought by the Director-General to the attention of the Conference through the Council.
4. The Director-General may request Members of the Commission to supply information to him in order to keep the Commission informed on action taken by its Members on the basis of its recommendations.

RULE IX

Scientific Committee

1. The Commission shall establish a Scientific Committee to consider the state of fisheries in the area of competence of the Commission and to advise on the scientific basis for possible regulatory measures to be considered for adoption by Members of the Commission.
2. The Scientific Committee⁴² shall be composed of scientists to the extent possible. Each Member of the Commission shall have the right to appoint a representative and an alternate, if needed, both with suitable qualifications, who may be accompanied by experts and advisers.
3. The Members of the Commission shall finance the participation of their representatives, alternates, experts and advisers at Scientific Committee meetings, as well as at its working parties. The Members of the Commission shall also finance any out of Session work carried out within the framework of the Scientific Committee. The Commission may finance the participation of experts invited to participate in meetings of the Scientific Committee or its working parties in their individual capacity.
4. The Scientific Committee shall elect, preferably by consensus, a Chairperson and a Vice-Chairperson from among its members for a term of two years. The Chairperson and the Vice-Chairperson shall be eligible for re-election.
5. The Chairperson of the Scientific Committee shall have, during the meetings of the Scientific Committee, the same powers and duties as the Chairperson of the Commission has in relation to the Sessions of the Commission itself.
6. Meetings of the Scientific Committee shall be convened by the Chairperson of the Scientific Committee after consultation with the Chairperson of the Commission and the Director-General.
7. The Secretary of the Commission shall act as Secretary to the Scientific Committee.
8. The Scientific Committee shall:

⁴² Changes made for the Scientific Committee to be more flexible within the context of the region.

- a) Recommend policies and procedures for the collection, processing, dissemination and analysis of fishery data.
- b) Facilitate the exchange and critical review among scientists of information on fisheries of relevance to the Commission.
- c) Develop and coordinate cooperative research programmes involving Members of the Commission in support of fisheries management.
- d) Assess and report to the Commission on the status of stocks of relevance to the Commission and the likely effects of further fishing and of different fishing patterns and intensities.
- e) Formulate and report to the Commission or to individual Members of the Commission, as appropriate, on recommendations concerning fisheries conservation, management and research.
- f) Carry out other technical activities and consider any other matter referred to it by the Commission.

RULE X

Other Subsidiary Bodies

1. The Commission may establish, on an ad hoc basis, such other subsidiary bodies⁴³ as it deems necessary for the accomplishment of its task.
2. Membership in such other subsidiary bodies may be made up of all or selected Members of the Commission or of individuals appointed in their personal capacity.
3. The Commission may recommend to the Director-General the convening of ad hoc meetings, either of representatives of members of the Commission or of experts serving in an individual capacity, in order to study problems that because of their specialized nature could not fruitfully be discussed during the normal Sessions of the Commission.
4. Experts who are to serve in their personal capacity as members of any subsidiary body or who are to be invited to attend ad hoc meetings shall be chosen by the Commission unless the Commission decides otherwise, and shall be appointed by the Director-General in accordance with established procedures.
5. The terms of reference of the subsidiary bodies and the questions to be discussed by ad hoc meetings shall be determined by the Commission.
6. The establishment of subsidiary bodies and the convening of ad hoc meetings shall be subject to the availability of the necessary funds in the relevant chapter of the approved budget of the Organization, or to the availability of extrabudgetary funds. The determination of such availability shall be made by the Director-General.
7. Before taking any decision involving expenditures in connection with the establishment of subsidiary bodies or the convening of an ad hoc meeting, the Commission shall have before it a report from the Director-General on the administrative and financial implications thereof.

⁴³ South Africa suggested that such a subsidiary body may include a Compliance Committee.

8. Each subsidiary body and ad hoc meeting shall elect its own officers.
9. The Rules of Procedure of the Commission shall apply mutatis mutandis to its subsidiary bodies and ad hoc meetings.

RULE XI

Expenses

1. Expenses incurred by representatives of Members of the Commission, their alternates or advisers, when attending Sessions of the Commission, committees, working parties or ad hoc meetings, as well as the expenses incurred by observers at Sessions, shall be borne by the respective governments or organizations.
2. Expenses of experts invited by the Director-General to attend Sessions or meetings in their individual capacity shall be borne by the Organization.
3. Any financial operations relating to the Commission and its subsidiary bodies shall be governed by the appropriate provisions of the Financial Regulations of the Organization.

RULE XII

Languages

English and French shall be the working languages of the Commission.

RULE XIII

Amendment and Suspension of Rules of Procedure

1. Amendment of, or addition to, these Rules may be adopted by a two-thirds majority of the membership of the Commission provided that 24 hours' notice of the proposal for the amendment or addition has been given. Amendments or additions to these Rules shall come into force upon approval by the Director-General.
2. Any of the above Rules of the Commission, other than Rules I.1; II.4; IV.1, 2, 3, 5 and 7; V.2; VI. 1, 2 and 3; VII; VIII.3 and 4. X.5, 6 and 7; XI and XIII. 1 and 2, may be suspended by the Commission by a two-thirds majority of the votes cast, provided that 24 hours' notice of the proposal for the suspension has been given. Such notice may be waived if no Member of the Commission objects.

Appendix VIII

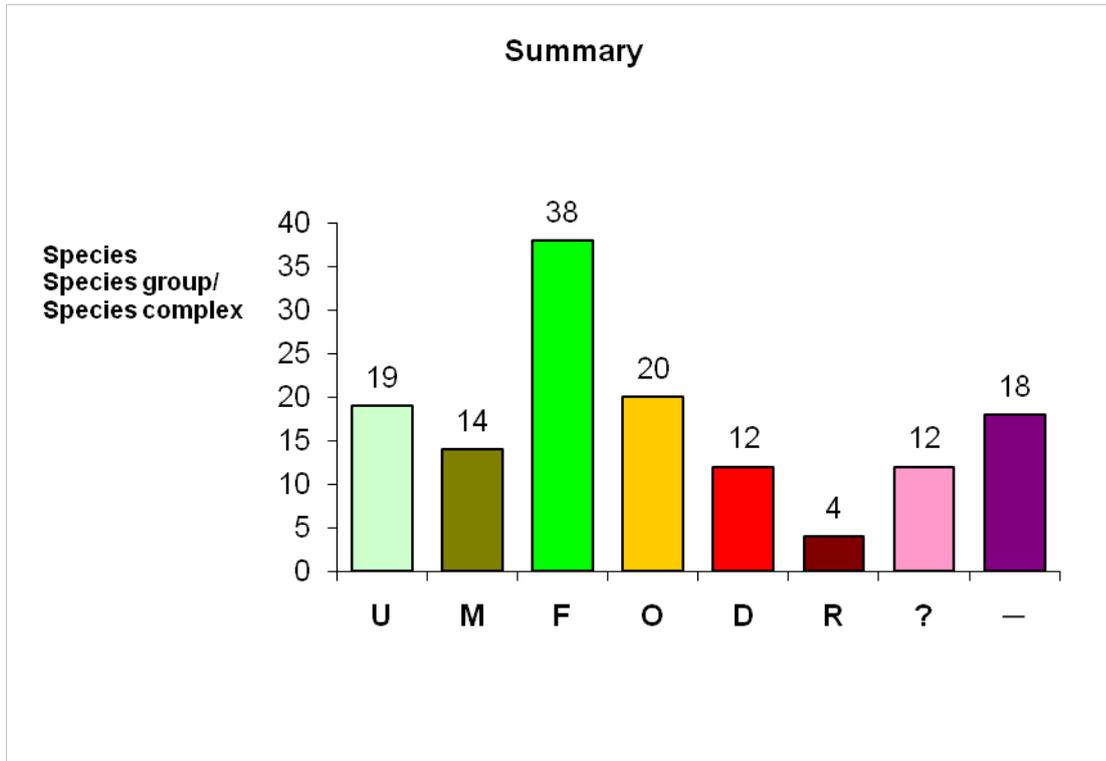


Figure 2- Summary of the regional status of fisheries resources (in number) based on the national tables of 11 countries (from 4th Session of SWIOFC- SC).

—	No information provided
?	Unknown
U	Underexploited, undeveloped or new fishery. Believed to have a significant potential for expansion in total production.
M	Moderately exploited, exploited with a low level of fishing effort. Believed to have some limited potential for expansion in total production.
F	Fully exploited. The fishery is operating at or close to an optimal yield level, with no expected room for further expansion.
O	Overexploited. The fishery is being exploited at above a level which is believed to be sustainable in the long term, with no potential room for further expansion and a higher risk of stock depletion/collapse.
D	Depleted. Catches are well below historical levels, irrespective of the amount of fishing effort exerted.
R	Recovering. Catches are again increasing after having been depleted or a collapse from a previous high occurred.

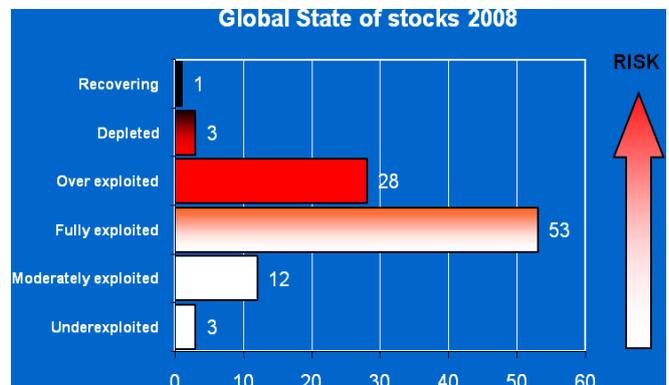
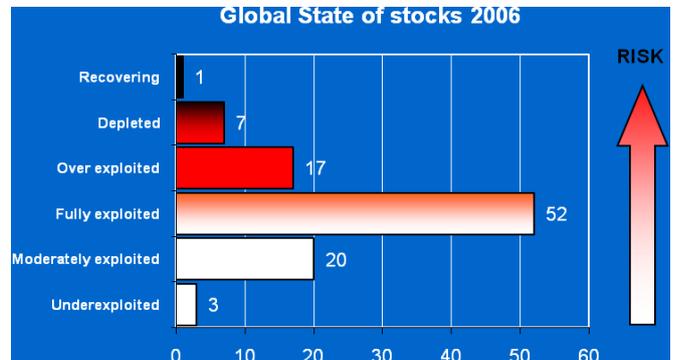
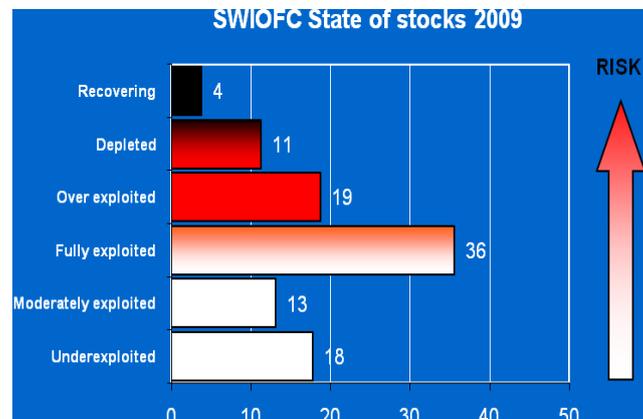
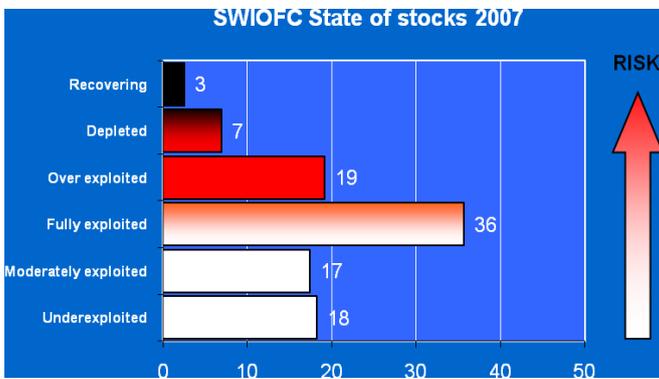
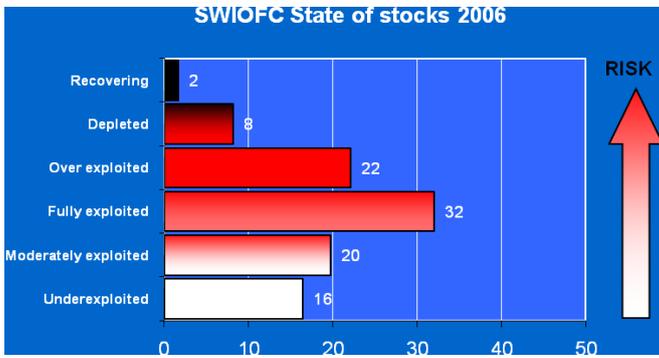
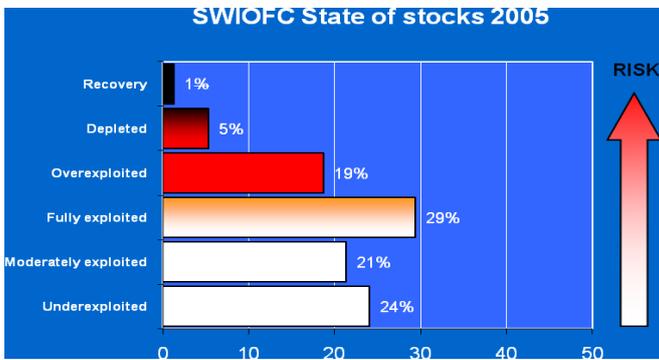


Figure 3- Comparison between the evolution of the state of the stocks (in %) in SWIOFC area and globally (From SIOFC Fifth Session).