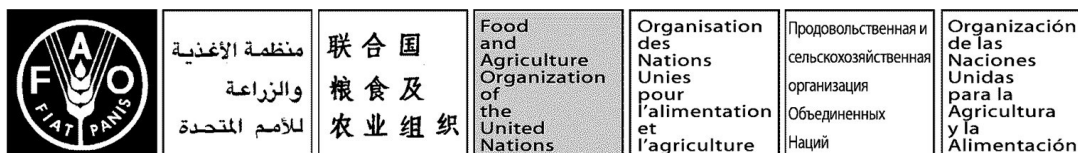


July 2025

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<b>WESTERN CENTRAL ATLANTIC FISHERY COMMISSION (WECAFC)</b>
<b>TWENTIETH SESSION (HYBRID)</b>
<b>Montego Bay, Jamaica, 8-10 July 2025</b>
<b>Analysis Options Considered for the Strategic Reorientation of the Western Central Atlantic Fishery Commission (WECAFC)</b>

**Preparation of this document**

This document was prepared by Erik J. Molenaar and David J. Die, independent consultants selected by the WECAFC Secretariat to provide expert advice on matters related to fishery management and law, as well as options for WECAFC's Strategic Reorientation. The contents of this document represent the views of the consultants and not the views of FAO or WECAFC members. The terms of reference for the respective consultant contracts are available from the WECAFC secretariat.

This final report was written after reviewing existing documents, considering the opinions of WECAFC members expressed in questionnaires circulated by WECAFC, and analyzing information collected by the consultants.

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## LIST OF ACRONYMS<sup>1</sup>

ABMT	area-based management tool
ABNJ	areas beyond national jurisdiction
CMM	conservation and management measure
CNFO	Caribbean Network of Fisherfolk Organisations
COFI	Committee on Fisheries
COP	Conference of the Parties
CRFM	Caribbean Regional Fisheries Mechanism
EAF	ecosystem approach to fisheries
EEZ	exclusive economic zone
EIA	environmental impact assessment
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
FFA	Pacific Islands Forum Fisheries Agency
ICCAT	International Commission for the Conservation of Atlantic Tunas
IFBs	legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies (in the context of the BBNJ Agreement)
IUU	illegal, unreported and unregulated
IWG	Intersessional Working Group
IWG D-G	Drafting Group of the Intersessional Working Group
LDCs	least developed countries
MGRs	marine genetic resources
MOP	Meeting of the Parties
MOU	Memorandum of Understanding
MPA	marine protected area
MSE	Management Strategy Evaluation
NEAFC	North-East Atlantic Fisheries Commission
nm	nautical miles
OSPESCA	Organización del Sector Pesquero y Acuícola del Istmo Centroamericano (Central America Fisheries and Aquaculture Organization)
RFAB	regional fisheries advisory body
RFB	regional fisheries body
RFMA	regional fisheries management arrangement
RFMO	regional fisheries management organization
RFMO/A	regional fisheries management organization or arrangement
SAG	Scientific Advisory Group
SIDS	small island developing States
SPRFMO	South Pacific Regional Fisheries Management Organization
TAC	total allowable catch
UN	United Nations

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<sup>1</sup> This list does not include acronyms used for international instruments. See Annex 2 for a List of international instruments.

UNGA	United Nations General Assembly
VME	vulnerable marine ecosystem
WECAFC	Western Central Atlantic Fisheries Commission
WTO	World Trade Organization

## 1. INTRODUCTION

Discussions on the strengthening and strategic reorientation of the Western Central Atlantic Fisheries Commission (WECAFC) go back as far as the late 1990s. At its 9<sup>th</sup> (1999) Session, the Commission

“noted that from a legal and statutory perspective it had three options:

- maintain its status quo as a body under Article VI of the FAO Constitution;
- recommend that it should be reconstituted under Article XIV of the FAO Constitution; and
- recommend that it be converted to an independent body outside the FAO framework.”<sup>2</sup>

At that session, WECAFC decided that it be maintained under Article VI of the FAO Constitution. At its 10<sup>th</sup> (2001) Session, however, the debate was reopened and this led WECAFC to recommend the preparation of “a discussion paper containing different possible options on the future strategy of WECAFC”.<sup>3</sup> At its 11<sup>th</sup> (2003) Session, WECAFC agreed to establish an intersessional working group (IWG) “to explore the feasibility of strengthening regional fisheries management as well as the costs, benefits and other implications of such action”.<sup>4</sup> In the end, however, this process did not result in a change of WECAFC’s status as a regional fisheries advisory body (RFAB) under Article VI of the FAO Constitution.<sup>5</sup>

At its 14<sup>th</sup> (2012) Session, WECAFC agreed to commence a new strategic reorientation process<sup>6</sup> in response to a proposal by 12 WECAFC Members.<sup>7</sup> Shortly thereafter, FAO’s Committee on Fisheries (COFI) instructed FAO to “initiate performance reviews of the [regional fisheries bodies (RFBs)] under its auspices that had not already been assessed.”<sup>8</sup> The WECAFC performance review was published in 2016,<sup>9</sup> but its preliminary outcomes<sup>10</sup> were presented at the 1<sup>st</sup> WECAFC Reorientation and

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<sup>2</sup> Report of the 9<sup>th</sup> (1999) WECAFC Session, at para. 46.

<sup>3</sup> Report of the 10<sup>th</sup> (2001) WECAFC Session, at para. 70.

<sup>4</sup> Report of the 11<sup>th</sup> (2003) WECAFC Session, at para. 65. See also paras 64 and 66-67 and Appendix D.

<sup>5</sup> Constitution of the Food and Agriculture Organization of the United Nations, Quebec City. Opened for signature and entered into force on 16 October 1945, as amended. Consolidated version available at <https://www.fao.org/4/x5584e/x5584e0i.htm>.

<sup>6</sup> Report of the 14<sup>th</sup> (2012) WECAFC Session, at Appendix F, component 4.

<sup>7</sup> Discussion paper in support of the WECAFC strategic reorientation process, by Teresa Amador, independent legal advisor. Background document for the 1st Preparatory Meeting on the establishment of an RFMO in the WECAFC area (FAO; final version of 12 October 2018; on file with authors), p. 6.

<sup>8</sup> Report of the 30<sup>th</sup> (2012) COFI Session, para. 72.

<sup>9</sup> Western Central Atlantic Fishery Commission: performance, planning and procedures (FAO Fisheries and Aquaculture Circular No. 1096; SLC/FIP/C1096 (Tri); Rome, FAO, 2016).

<sup>10</sup> Doc. WECAFC/XV/2014/11 ‘Draft Report of the WECAFC Performance Review’

Strategic Planning Workshop in January 2014.<sup>11</sup> This workshop recommended WECAFC to identify, at its 15<sup>th</sup> (2014) Session, whether there was scope and support to transform WECAFC from an RFAB under Article VI of the FAO Constitution into a regional fisheries management organization (RFMO) established under Article XIV of the FAO Constitution.<sup>12</sup>

At the 15<sup>th</sup> (2014) WECAFC Session, however, delegations stated that they were not authorized to take a decision on a possible transformation of WECAFC, and WECAFC “concluded that WECAFC should remain an Article VI advisory body for the immediate future.”<sup>13</sup> WECAFC nevertheless endorsed a proposal by the European Union (EU) to conduct an independent cost-benefit assessment of various strategic options.<sup>14</sup> The preliminary outcomes of this cost-benefit assessment<sup>15</sup> were discussed at the 2<sup>nd</sup> WECAFC Reorientation and Strategic Planning Workshop in December 2015.<sup>16</sup> The workshop “recognized the value of a transformation of WECAFC into an RFMO for the sustainability of fisheries in the region and that the existing subregional organizations [the Caribbean Regional Fisheries Mechanism (CRFM) and the Central America Fisheries and Aquaculture Organization (OSPESCA)] should be essential components of the RFMO and as such be embedded in its governance structure.”<sup>17</sup> At its 16<sup>th</sup> (2016) Session, WECAFC endorsed the outcomes of the workshop and agreed to launch a process to establish an RFMO – which would also create functional ties and formal relationships with CRFM, OSPESCA and the International Commission for the Conservation of Atlantic Tunas (ICCAT) – and to convene a 1<sup>st</sup> preparatory meeting in 2017.<sup>18</sup>

In support of this preparatory meeting, WECAFC issued two letters to its Members and partners seeking their opinion on the strategic reorientation of WECAFC. The first letter – of 20 May 2016 – focused on the establishment of an RFMO, areas and stocks to be covered, and its legal status, and the second letter – of 14 July 2017 – focused on

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<sup>11</sup> Report of the WECAFC Reorientation and Strategic Planning Workshop, Gosier, Guadeloupe, 29–30 January 2014 (FAO Fisheries and Aquaculture Report No. 1068; SLC/FIPI/R1068 (En); Bridgetown, Barbados, FAO, 2014).

<sup>12</sup> *Ibid.*, at Appendix C, p. 13.

<sup>13</sup> Report of the 15<sup>th</sup> (2014) WECAFC Session, at para. 28.

<sup>14</sup> *Ibid.*, at para. 40.

<sup>15</sup> The final outcomes were published in: ‘Findings of the independent cost-benefit assessment of the options for strategic re-orientation of WECAFC’ by Kjartan Hoydal (FAO Fisheries and Aquaculture Circular. No. 1117; Bridgetown, Barbados, FAO, 2016; available [here](#)).

<sup>16</sup> Report of the Second Reorientation and Strategic Planning Workshop, Port of Spain, Trinidad and Tobago, 1 - 2 December 2015 (FAO Fisheries and Aquaculture Report No. 1140; SLC/FIP/R1140 (Bi); Barbados, FAO, 2016).

<sup>17</sup> *Ibid.*, at p. v.

<sup>18</sup> Report of the 16<sup>th</sup> (2016) WECAFC Session, paras 55-56 and 61.

the RFMO establishment process.<sup>19</sup> The responses to these letters were examined in the 2018 Discussion Paper<sup>20</sup> that was commissioned to support the preparatory meeting as well.

The 1<sup>st</sup> WECAFC Preparatory Meeting for the Transformation into an RFMO was held in 2019.<sup>21</sup> In addition to the 2018 Discussion Paper, the Meeting was also supported by a Guidance Paper.<sup>22</sup> Early on in the Preparatory Meeting, WECAFC Members agreed not to engage in a discussion of the Draft Convention included in the Guidance Paper, as this was regarded as premature.<sup>23</sup> Several WECAFC Members expressed their support for retaining WECAFC as an RFAB under Article VI of the FAO Constitution, with some changes to strengthen it.<sup>24</sup> Some WECAFC Members proposed to develop a roadmap for the WECAFC reorientation process.<sup>25</sup>

This last proposal secured support at the 17<sup>th</sup> (2019) WECAFC Session, where the Commission adopted the ‘Roadmap for Progressing towards the Development of a Model for a Regional Fisheries Management Entity or Arrangement in the WECAFC Area’.<sup>26</sup> The Roadmap envisages the convening of a second, and possibly third, preparatory meeting for the development of a regional fisheries management entity or arrangement. Neither of these meetings has been held so far, however. To prepare for the meetings, the Roadmap established an ad hoc IWG led by the WECAFC Chair and two co-chairs; one nominated by CRFM and one by OSPESCA.

Under the oversight of the IWG, the WECAFC Secretariat developed and circulated a questionnaire in early 2020. The report on the findings of this questionnaire<sup>27</sup> was presented at the virtual IWG meeting on 23 October 2020.<sup>28</sup> At this meeting, the IWG

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<sup>19</sup> 2018 Discussion Paper, note 7, at p. 8

<sup>20</sup> See note 7. The responses to the two letters are set out in Annexes 1 and 2 of the Paper.

<sup>21</sup> Report of the First Western Central Atlantic Fishery Commission Preparatory Meeting for the Transformation into a Regional Fisheries Management Organization, Bridgetown, Barbados, 25-26 March 2019 (FAO Fisheries and Aquaculture Report No. 1310, SLC/FIA/R1310 (Tri); Bridgetown, Barbados, FAO, 2020).

<sup>22</sup> ‘Guidance Paper: Analysis of Substantive Themes and Draft Agreement’, included in Annex E to the Report of the 1<sup>st</sup> (2019) WECAFC Preparatory Meeting for the Transformation into an RFMO, note 21.

<sup>23</sup> Report of the 1<sup>st</sup> (2019) WECAFC Preparatory Meeting for the Transformation into an RFMO, note 21, para. 16.

<sup>24</sup> *Ibid.*, para. 17

<sup>25</sup> *Ibid.*, para. 18

<sup>26</sup> Report of the 17<sup>th</sup> (2019) WECAFC Session, at para. 59. The Roadmap is included in Annex G.

<sup>27</sup> Report on the findings of the questionnaire to inform the Western Central Atlantic Fishery Commission (WECAFC) Ad Hoc Intersessional Working Group for the Strategic reorientation of WECAFC, by Helga Josupeit, January 2021 (final version; on file with author).

<sup>28</sup> Summary Report of the Virtual Meeting of the WECAFC Ad hoc Intersessional Working Group (IWG) to Prepare for the Second Preparatory Meeting for the Strategic Reorientation of WECAFC - Friday, 23 October 2020 (on file with author).

decided to develop a second, more targeted questionnaire, and established a Drafting Group (IWG D-G) to develop specific text options for the mandate and objectives of a transformed WECAFC.<sup>29</sup> To support the IWG D-G, the EU made funds available to commission a report on the status and distribution of fish stocks in the WECAFC region. A preliminary version of this report was presented at the 11<sup>th</sup> (2022; virtual) Session of the Scientific Advisory Group (SAG),<sup>30</sup> and the final version was submitted at the 19<sup>th</sup> (2023) WECAFC Session.<sup>31</sup>

The second questionnaire was circulated in May 2021,<sup>32</sup> and 23 Members and 3 partner organizations (the Caribbean Network of Fisherfolk Organisations (CNFO), CRFM and OSPESCA) submitted responses by mid June 2021.<sup>33</sup> Unfortunately, the IWG D-G was unable to commence its substantive work before the 18<sup>th</sup> (2022; virtual) WECAFC Session. At that Session, even though WECAFC noted its disappointment with the limited progress made, Members recognized the negative impact of the COVID-19 pandemic. The Commission agreed that the IWG D-G should reconvene as soon as possible, and that the second preparatory meeting should be held before the next (19<sup>th</sup>) WECAFC Session.<sup>34</sup>

During February-July 2023, the IWG D-G developed text options for the ‘General Objective of the Commission’, the ‘General Principles’ and the ‘Functions of the Commission’, building on Articles 1, 2 and 6 of the WECAFC Statutes.<sup>35</sup> These text options were submitted to the 19<sup>th</sup> (2023) WECAFC Session,<sup>36</sup> together with an update on the strategic reorientation process.<sup>37</sup> At its 19<sup>th</sup> (2023) Session, WECAFC noted that the text options and all the specific comments made during the discussion could constitute a reasonable basis for progressing the IWG D-G’s work, but that additional

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<sup>29</sup> Ibid., para. 20.

<sup>30</sup> Doc. WECAFC/SAG/XI/2022/14 ‘Review of the Biological Data, the Stocks Spatial Distribution and the Ecological Connectivity between the Areas Beyond National Jurisdiction and the Exclusive Economic Zones in the WECAFC region’; with ‘Maps & Figures’ as a separate, unnumbered document.

<sup>31</sup> Doc. WECAFC/XIX/2023/Inf.6 ‘Arocha, F.D., Narvaez, M. & Mendoza, J. Review of biological data, spatial distribution of the stocks and ecological connectivity between areas beyond national jurisdiction and exclusive economic zones in the Western Central Atlantic Fishery Commission region. Rome, FAO; <https://www.fao.org/3/cc7301en/cc7301en.pdf>.

<sup>32</sup> Questionnaire on the Future of WECAFC, 14 May 2021 (on file with author).

<sup>33</sup> Excel spreadsheet of 14 June 2021 with separate tabs for Summary Statistics, Member’s Comments and Member Organization’s Comments (on file with author).

<sup>34</sup> Report of the 18<sup>th</sup> (2022; virtual) WECAFC Session, paras 55-56.

<sup>35</sup> Adopted by FAO Council Resolution 4/61 (November 1973), as amended lastly by FAO Council Resolution 1/131 (November 2006); available at <https://www.fao.org/wecafc/about/en/>.

<sup>36</sup> Doc. WECAFC/XIX/2023/17 ‘Strategic reorientation/implementation of the ad hoc Intersessional Working Group (IWG) Roadmap from WECAFC17 and proposed next steps’.

<sup>37</sup> Doc. WECAFC/XIX/2023/Inf.14 ‘Background and Updates on the Strategic Reorientation of the Western Central Atlantic Fishery Commission (WECAFC)’.

work was required.<sup>38</sup> The Commission “agreed to discuss the options conceptually before further developing any drafting options, noting that there is still a need to clarify the geographic scope, stocks for inclusion, and other outstanding elements.”<sup>39</sup> Moreover, the Commission agreed to revitalize the IWG D-G with broader participation, and tasked it to produce a revised version of the text options that reflects the comments made during the plenary, and to draft Terms of Reference for one or more consultant(s) to support the tasks identified in the 2019 Roadmap.<sup>40</sup> It was envisaged that the report(s) of the consultant(s) would be submitted to a second preparatory meeting to be convened before the 20<sup>th</sup> (2025) WECAFC Session.<sup>41</sup>

This paper continues with overviews of ‘WECAFC in the context of international fisheries law’ in section 2 and ‘Key fish species and stocks in the WECAFC area of competence’ in section 3. Subsequently, section 4 provides a ‘Review of Member input and discussion on WECAFC strategic reorientation’ and section 5 examines the ‘Remaining options for the WECAFC strategic reorientation’. Finally, the paper is complemented by the following two annexes: ‘Annex 1: List of documents and reports on WECAFC strategic reorientation’ and ‘Annex 2: List of international instruments’.

## **2. WECAFC IN THE CONTEXT OF INTERNATIONAL FISHERIES LAW**

### **2.1 A short introduction to WECAFC**

WECAFC is an RFAB established under Article VI(1) of the FAO Constitution pursuant to the WECAFC Statutes adopted by FAO Council Resolution 4/61 (November 1973), as amended lastly by FAO Council Resolution 1/131 (November 2006).<sup>42</sup> At the time of writing, WECAFC had 34 Members.<sup>43</sup> Of these Members, four are not coastal States (i.e. those without coastal territory within the WECAFC area of competence): Guinea, Japan, Korea (Republic of) and Spain.

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<sup>38</sup> Report of the 19<sup>th</sup> (2023) WECAFC Session, paras 58-59. The specific comments are set out in paras 66-76.

<sup>39</sup> Ibid., para. 64.

<sup>40</sup> Ibid., para. 86.

<sup>41</sup> Ibid., para. 85.

<sup>42</sup> Available at <https://www.fao.org/wecafc/about/en/>.

<sup>43</sup> These are: Antigua and Barbuda, Bahamas, Barbados, Belize, Brazil, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, European Union, France, Grenada, Guatemala, Guinea, Guyana, Haiti, Honduras, Jamaica, Japan, Mexico, Netherlands (Kingdom of the), Nicaragua, Panama, Republic of Korea, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Spain, Suriname, Trinidad and Tobago, United Kingdom, United States of America and Venezuela (Bolivarian Republic of). Based on the information available at <https://www.fao.org/wecafc/about/en/>, accessed 16 June 2025.

The WECAFC area of competence is defined in Article 3 of the WECAFC Statutes, and consists of (a) marine areas within national jurisdiction (in particular archipelagic waters, territorial seas and exclusive economic zones (EEZs) or other 200 nautical miles (nm) maritime zones); and (b) high seas. High seas account for 51% of the WECAFC area of competence, and areas within national jurisdiction 49%.<sup>44</sup> Apart from two small high seas pockets in the Gulf of Mexico, all of the high seas areas are in the eastern part of the WECAFC area of competence.

The functions of WECAFC are set out in Article 6 of the WECAFC Statutes. WECAFC's status as an RFAB is reflected, *inter alia*, in its advisory functions specified in paragraphs (g)-(i) of Article 6. As these functions do not include a mandate to adopt legally binding conservation and management measures (CMMs), WECAFC does not qualify as a regional fisheries management organization (RFMO).<sup>45</sup> Unlike Members of RFMOs like ICCAT, the Members of WECAFC are not required to pay an annual, assessed financial contribution to cover the costs of, for instance, the operation of the WECAFC Secretariat and WECAFC meetings.<sup>46</sup>

There are significant overlaps in the membership, geographical scopes and species mandates of WECAFC, CRFM, ICCAT and OSPESCA.<sup>47</sup> In view of these overlaps, concerns have been raised on unnecessary duplication and working at cross-purposes.<sup>48</sup> These concerns are envisaged to be addressed by Article 2(c) of the WECAFC Statutes, which requires the Commission to “coordinate and cooperate closely with other relevant international organizations on matters of common interest”.

## 2.2 International fisheries law

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<sup>44</sup> Cf. doc. WECAFC/XIX/2023/Inf.5, Figure 1 at p. 1.

<sup>45</sup> This contrasts, for instance, with Arts 8(b), 13 and 14 of the GFCM Agreement (Agreement for the Establishment of a General Fisheries Council for the Mediterranean, Rome, 24 September 1949. In force 20 February 1952, 126 *United Nations Treaty Series* 239; as amended in 1963, 1976, 1997 and 2014. Consolidated version available at <https://www.fao.org/gfcm/about/en/>), which provide the General Fisheries Commission for the Mediterranean (GFCM) with a mandate to adopt legally binding CMMs, and impose an obligation on Members to implement these.

<sup>46</sup> See Rules XIII(6), XIV and XV of the WECAFC Rules of Procedure (doc. WECAFC/XIX/2023/3b).

<sup>47</sup> As regards the membership, see Table 1 on p. 9 of the 2018 Discussion Paper, note 7. Reference must also be made to Art. 4 of the WECAFC Statutes, which reads: “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.”

<sup>48</sup> See, for instance, doc. COFI/2014/Inf.11, at para. 11: “This can lead to unnecessary competition or even forum-shopping amongst RFBs and may not favour a coherent or stable advisory/management framework.”

WECAFC operates principally within the domain of international fisheries law. This domain is concerned with the conservation, management and/or development of fish stocks and species,<sup>49</sup> and fisheries. The cornerstone in the current global jurisdictional framework for marine capture fisheries is provided by the UNCLOS,<sup>50</sup> which divides seas and oceans in maritime zones and specifies the basic rights and obligations of States therein.

The UNCLOS grants entitlements to fishing to States in their capacities as coastal States or flag States. Coastal States have exclusive access and jurisdiction over fisheries resources in essentially all their maritime zones, including sovereign rights in their EEZs.<sup>51</sup> The two main entitlements of flag States are their right to fish on the high seas, and their right of access to the surplus of the total allowable catch (TAC) in EEZs of coastal States.<sup>52</sup>

The exercise of these entitlements is constrained by obligations. The general obligations included in the UNCLOS have been built upon by a suite of global fisheries instruments, in particular the United Nations (UN) Fish Stocks Agreement,<sup>53</sup> legally binding and non-legally binding instruments adopted by FAO – for instance the Compliance Agreement,<sup>54</sup> the PSMA,<sup>55</sup> the Code of Conduct<sup>56</sup> the IPOA-IUU<sup>57</sup> and the Deep-sea Fisheries Guidelines<sup>58</sup> – as well as certain (parts of) UN General

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<sup>49</sup> For the purpose of this paper, ‘fish’ are understood to include molluscs and crustaceans (see, e.g., Art. 1(1)(c) of the Fish Stocks Agreement (Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, New York, 4 August 1995. In force 11 December 2001, 2167 *United Nations Treaty Series* 3; [www.un.org/Depts/los](http://www.un.org/Depts/los)) but not marine mammals.

<sup>50</sup> United Nations Convention on the Law of the Sea, Montego Bay, 10 December 1982. In force 16 November 1994, 1833 *United Nations Treaty Series* 396; [www.un.org/Depts/los](http://www.un.org/Depts/los).

<sup>51</sup> Arts 2(1), 49(1), 56(1)(a) and 77(4) of the UNCLOS.

<sup>52</sup> Arts 62(2) and 116 of the UNCLOS.

<sup>53</sup> See note 49.

<sup>54</sup> Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, Rome, 24 November 1993. In force 24 April 2003; 2221 *United Nations Treaty Series* 91; text also available at [www.fao.org/legal](http://www.fao.org/legal).

<sup>55</sup> Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, Rome, 22 November 2009. In force 5 June 2016; <https://www.fao.org/treaties/en/>.

<sup>56</sup> Code of Conduct for Responsible Fisheries. Adopted by the Twenty-eight Session of the FAO Conference, Rome, 31 October 1995, [www.fao.org/fishery/en](http://www.fao.org/fishery/en).

<sup>57</sup> International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing. Adopted by consensus by FAO’s Committee on Fisheries on 2 March 2001 and endorsed by the FAO Council on 23 June 2001; [www.fao.org/fi](http://www.fao.org/fi). <https://www.fao.org/fishery/en/governance/instruments-guidelines>.

<sup>58</sup> International Guidelines for the Management of Deep-sea Fisheries in the High Seas, Rome, 29 August 2008 (contained in Appendix F to the Report of the Technical Consultation on International

Assembly (UNGA) Resolutions, for instance on the impacts of bottom fisheries on vulnerably marine ecosystems (VMEs).<sup>59</sup> As a result, these obligations have developed into the following:

1. To avoid over-exploitation of target species by establishing CMMs which strive for maximum sustainable yield as qualified by the precautionary approach to fisheries management;
2. To strive for the optimum utilization of target species within the EEZ by providing other States with access to the surplus of the TAC;
3. To pursue the ecosystem approach to fisheries (EAF),<sup>60</sup> which is holistic-oriented and strives to balance diverse societal objectives, including food security, socioeconomic development and the conservation of resources, by considering the human and ecological processes affecting fisheries in aquatic ecosystems. EAF also takes account of (a) predator-prey relationships; (b) impacts of fisheries on non-target species and the ecosystem as a whole; and (c) impacts of oceanographic or climate processes, or pollution, on fish stocks;
4. To cooperate in relation to transboundary fish stocks and fish stocks that occur exclusively on the high seas (so-called ‘discrete high seas fish stocks’); and
5. To exercise effective jurisdiction and control over a State’s own vessels, for instance to ensure that these vessels do not engage in illegal, unreported and unregulated (IUU) fishing.

Regarding the duty to cooperate on transboundary fish stocks, the UNCLOS contains separate obligations to cooperate for the following three categories of fish stocks<sup>61</sup>:

1. Shared (or joint) fish stocks: stocks with a range of distribution that covers (in part) the EEZs of two or more coastal States;
2. Straddling fish stocks: stocks with a range of distribution that covers (in part) the EEZ(s) of one or more coastal States and the adjacent high seas; and
3. Highly migratory fish stocks: stocks of the fish species listed on Annex I to the UNCLOS (e.g. tuna and tuna-like species).

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Guidelines for the Management of Deep-sea Fisheries in the High Seas, Rome, 4-8 February and 25-29 August 2008 (*FAO Fisheries and Aquaculture Report* No. 881)).

<sup>59</sup> See paras 217-244 of UNGA Resolution 79/145, 12 December 2024, and the references therein to relevant paragraphs in earlier UNGA Resolutions.

<sup>60</sup> See, e.g., the 2003 FAO Technical Guidelines on EAF (‘The ecosystem approach to fisheries’, FAO Technical Guidelines for Responsible Fisheries, No. 4, Suppl. 2; FAO, Rome, 2003).

<sup>61</sup> In addition, the UNCLOS contains separate duties to cooperate for anadromous and catadromous stocks.

These obligations to cooperate require coastal States and high seas fishing States to seek to agree on CMMs either directly or through appropriate global, regional or subregional organizations.<sup>62</sup>

The Fish Stocks Agreement further operationalizes these obligations for straddling and highly migratory fish stocks, in which regional fisheries management organizations or arrangements (RFMO/As) play a very prominent role.<sup>63</sup> As already noted, the key distinction with RFABs such as WECAFC is that RFMO/As have a mandate to adopt legally binding CMMs. Even for straddling and highly migratory fish stocks, however, the Fish Stocks Agreement does not contain an absolute obligation to establish RFMO/As. As reflected in its Article 8(1), the ultimate objective of cooperation between coastal States and States fishing on the high seas is “to ensure effective conservation and management” of straddling and highly migratory fish stocks.

### **2.3 The roles of WECAFC under selected instruments**

One of the principal roles of WECAFC under international fisheries law is to function as a mechanism that facilitates or ensures that WECAFC Members discharge their obligations to cooperate on transboundary fish stocks – in particular shared fish stocks and straddling fish stocks – and discrete high seas fish stocks, as set out in the previous subsection.

Additional and more specific roles for WECAFC can be envisaged under specific international instruments. Whereas some instruments only envisage roles for RFMO/As, other instruments envisage roles for the broader group of RFBs, and yet others for an even broader group. An example of the last category is the BBNJ Agreement,<sup>64</sup> which envisages various roles for “legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies” (IFBs; see subsection 2.3.5).

The following subsections discuss the potential role(s) envisaged for RFABs such as WECAFC under selected international instruments.

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<sup>62</sup> Arts 63 and 64 of the UNCLOS.

<sup>63</sup> See especially Arts 8-14. Para. 60 of UNGA Resolution 79/145, 12 December 2024, calls on States individually and through RFMO/As to manage discrete high seas fish stocks “consistent with the general principles set forth” in the Fish Stocks Agreement.

<sup>64</sup> Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, New York, 20 September 2023; doc. A/CONF.232/2023/4, of 19 June 2023. Not in force; certified true copy available at [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XXI-10&chapter=21&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXI-10&chapter=21&clang=en)

### **2.3.1 *The Compliance Agreement***

The principal objective of the Compliance Agreement is to reinforce the duty of flag States to exercise effective jurisdiction and control over their vessels fishing on the high seas, and to deter reflagging of vessels as a means of avoiding compliance with international CMMs for fishing activities on the high seas.<sup>65</sup> Among the key substantive obligations are that flag States have the responsibility to ensure that their vessels do not undermine the effectiveness of international CMMs (Art. III(1)(a)) and that they do not provide an authorization for high seas fishing to vessels with a history of engagement in IUU fishing (Art. III(5)).

Even though the Compliance Agreement does not explicitly envisage a role for RFBs in its implementation, many RFMO/As have in fact implemented much of the Compliance Agreement.<sup>66</sup> This is for instance done through Lists of Authorized Vessels and IUU Vessel Lists. Such collective action at the regional level helps to create a level playing field between flag States, and addresses the well-known problem of ‘flags of convenience’.

There seems to be nothing in the Compliance Agreement that precludes WECAFC from implementing it as such, even though WECAFC’s current advisory mandate is likely to constrain the effectiveness of such implementation.

### **2.3.2 *The PSMA***

As is also reflected in its full title, the principal objective of the PSMA is to combat IUU fishing through port State measures. This objective is pursued by imposing obligations on parties to the PSMA in their capacity as port States. This includes denying entry into port, or use of port services, in case of sufficient evidence that the vessel has engaged in IUU fishing or related activities.<sup>67</sup>

The PSMA contains numerous provisions on cooperation between parties and several of these provisions also specifically require parties to cooperate with and through

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<sup>65</sup> This can be deduced from the Preamble of the Compliance Agreement.

<sup>66</sup> For an overview of some of this practice by RFMO/As see subsection 2.7 of the ‘Technical Paper on the Implementation of the FAO Compliance Agreement: Problems and Prospects’ (doc. COFI/2024/SBD/8).

<sup>67</sup> See in particular Arts 9(4) and 11(1) of the PSMA.

RFMO/As in order to implement the PSMA.<sup>68</sup> These provisions are built upon further by the Bali Strategy adopted by the 4<sup>th</sup> (2023) Meeting of the Parties (MOP) to the PSMA.<sup>69</sup> Many RFMO/As have implemented the PSMA, for instance through CMMs on port State measures to combat IUU fishing, and IUU Vessel Lists. Such collective action at the regional level helps to create a level playing field between flag States as well as port States, and addresses the problems of flags of convenience as well as ‘ports of convenience’.

There seems to be nothing in the PSMA that would preclude WECAFC from implementing it. In fact, WECAFC has already called on the PSMA’s implementation through WECAFC.<sup>70</sup> However, in case WECAFC would create its own IUU Vessel List, it would not trigger the obligation of parties to the PSMA under Article 9(4) of the PSMA because WECAFC is not an RFMO/A.

### ***2.3.3 Instruments on bottom fisheries and vulnerable marine ecosystems***

UNGA Resolution 77/145 (2024) repeats earlier calls upon States to take action immediately, individually and through RFMO/As, to implement the Deep-sea Fisheries Guidelines in order to prevent adverse impacts of bottom fisheries on VMEs.<sup>71</sup> This includes action by flag States and RFMO/As with competence to regulate bottom fisheries and their adverse impacts on VMEs – *inter alia* on collecting and exchanging relevant scientific and technical data and information – and to establish, where necessary and appropriate, RFMO/As with such competence in areas of the high seas where these do not yet exist.<sup>72</sup> States participating in negotiations to establish such RFMO/As are also urged to adopt and implement interim CMMs on bottom fisheries to prevent significant adverse impacts on VMEs.<sup>73</sup>

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<sup>68</sup> See, *inter alia*, Arts 6, 12(2), 20(3) and 21(1) of the PSMA.

<sup>69</sup> Included in Appendix 4 to the Report of the 4<sup>th</sup> (2023) PSMA MOP (FAO Fisheries and Aquaculture Report, No. 1411; NFIFP/R 1411). See in particular para. 4.

<sup>70</sup> See, for instance, Resolution WECAFC/15/2014/9 ‘on the implementation of the Port State Measures Agreement and the FAO Voluntary Guidelines for Flag State Performance in the Region’ (included in the Report of the 15<sup>th</sup> (2014) WECAFC Session, in Appendix C), under para. 2. This resolution built on the 2014 FAO/WECAFC Workshop on Implementing the PSMA (see Report of the FAO/WECAFC Workshop on Implementing the 2009 FAO Agreement on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing. Port of Spain, Trinidad and Tobago, 24–28 March 2014 (FAO Fisheries and Aquaculture Report No. 1076, Rome, 2015).

<sup>71</sup> See para. 217 and the references in paras 218-244 of UNGA Resolution 79/145, 12 December 2024, to relevant paragraphs in earlier UNGA Resolutions.

<sup>72</sup> See, e.g., paras 122 and 124 of UNGA Resolution 64/72, 4 December 2009; and para. 28 of the Deep-sea Fisheries Guidelines.

<sup>73</sup> Para. 28 of the Deep-sea Fisheries Guidelines.

Even though the relevant paragraphs of UNGA Resolutions and the Deep-sea Fisheries Guidelines refer only to regional action through RFMO/As, nothing would preclude WECAFC from implementing these instruments as well. In fact, WECAFC already engaged in several implementation actions. At its 14<sup>th</sup> (2012) Session, WECAFC established a Working Group on the Management of Deep Sea Fisheries<sup>74</sup> and at its 16<sup>th</sup> (2016) Session it adopted Recommendation WECAFC/16/2016/4 ‘On the Management of Deep Sea Fisheries in the High Seas’, which also identifies several areas that either contain VMEs or are likely to contain VMEs.<sup>75</sup> Since then, however, no further actions seem to have taken place.

### **2.3.4 The WTO Agreement on Fisheries Subsidies**

The World Trade Organization (WTO)’s Agreement on Fisheries Subsidies<sup>76</sup> was adopted in 2022. At the time of writing, the Agreement was not in force<sup>77</sup> and negotiations on issues that could not be resolved in 2022 were ongoing.

The Agreement contains three provisions on different types and categories of subsidies: (a) subsidies contributing to IUU fishing (Art. 3); (b) subsidies regarding overfished stocks (Art. 4); and (c) other subsidies. Article 3.1 prohibits a WTO Member (that is bound by the Agreement once it enters into force) from granting or maintaining any subsidy to a vessel or operator engaged in IUU fishing or related activities. A determination that IUU fishing has taken place can be made unilaterally by coastal States, flag States and RFMO/As (Art. 3.2).

Article 4.1 prohibits a WTO Member from granting or maintaining subsidies for fishing or related activities regarding overfished stocks. A determination that a stock is overfished can be made by coastal States in whose maritime zones fishing for the stock takes place or by relevant RFMO/As. Article 5.1 prohibits a WTO Member from granting or maintaining subsidies for unregulated fisheries or related activities occurring on the high seas in areas not covered by an RFMO/A.

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<sup>74</sup> Report of the 14<sup>th</sup> (2012) WECAFC Session, at para. 20 and Appendix D, which contains the ‘Resolution of the members of the Western Central Atlantic Fishery Commission on strengthening the implementation of international fisheries instruments.

<sup>75</sup> Report of the 16<sup>th</sup> (2016) WECAFC Session, at Appendix C. See also the ‘Report of the first meeting of the WECAFC Working Group on the Management of Deep-sea Fisheries’ (Christ Church, Barbados, 30 September–2 October 2014. FAO Fisheries and Aquaculture Report No. 1087. Bridgetown, FAO).

<sup>76</sup> Adopted by Ministerial Decision, Geneva, 17 June 2022 (Doc. WT/MIN(22)/33, WT/L/1144, of 22 June 2022). Not in force.

<sup>77</sup> The status of participation is available at [https://www.wto.org/english/tratop\\_e/rulesneg\\_e/fish\\_e/fish\\_e.htm](https://www.wto.org/english/tratop_e/rulesneg_e/fish_e/fish_e.htm).

The Agreement contains no provisions on intergovernmental cooperation. This presumably reflects the primacy of WTO on intergovernmental cooperation on fisheries subsidies. Accordingly, the Agreement does not envisage an implementation role for RFMO/As or other RFBs such as WECAFC. As noted above, however, the Agreement explicitly gives RFMO/As the authority to make determinations that IUU fishing has taken place and that stocks are overfished. This authority is not available to WECAFC as it is not an RFMO/A. This notwithstanding, WECAFC Members could agree that WECAFC would perform a similar role that would apply exclusively between WECAFC Members. Finally, gaps in full high seas coverage with RFMO/As will preclude WTO Members from granting or maintaining subsidies to unregulated fishing and related activities in such high seas areas. This will also apply to fishing or related activities for residual species (i.e. non-ICCAT species) in the high seas parts of the WECAFC area of competence.

### **2.3.5 The BBNJ Agreement**

The BBNJ Agreement was adopted in 2023, and was not in force at the time of writing. However, its entry into force is likely to occur in the near future.<sup>78</sup> The Agreement is the third Implementing Agreement to the UNCLOS, and focuses on the conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction (ABNJ: i.e. the high seas and the Area (the international seabed, ocean floor and subsoil thereof)). Its geographical scope is therefore also limited to ABNJ.<sup>79</sup>

The Agreement establishes a Conference of the Parties (COP) as its principal decision-making body, which will be supported by various subsidiary bodies and a secretariat. The Agreement has the following four substantive Parts:

- Part II: marine genetic resources (MGRs), including the fair and equitable sharing of benefits;
- Part III: measures such as area-based management tools (ABMTs), including marine protected areas (MPAs);
- Part IV: environmental impact assessments (EIAs); and
- Part V: capacity-building and the transfer of marine technology.

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<sup>78</sup> The Agreement will enter into force once 60 States have formally adhered to it through ratification or otherwise. 51 States had done so at the time of writing (June 2025). The status of participation is available at: [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XXI-10&chapter=21&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXI-10&chapter=21&clang=en).

<sup>79</sup> Arts 1(2) and 3 of the BBNJ Agreement. The only exception is laid down in Art. 28(2). See also Arts 18 and 22(6).

The four substantive Parts in the Agreement do not comprehensively govern all human activities in or impacts on ABNJ. For instance, Parts III and IV deal only with human activities through the tools of ABMTs (including MPAs) and EIAs. The ‘new regimes’ in Parts II to V of the Agreement must be align with the many global and regional regimes that already exist. The relationship between these existing regimes and what would eventually become the BBNJ Agreement played a key role during the negotiations and the preparatory phase.<sup>80</sup> Initially, in particular States with significant interests in fishing were concerned that the new instrument would undermine international fisheries law and the key role of RFMO/As thereunder. These concerns subsequently widened to other sectors and domains.<sup>81</sup>

The alignment between the BBNJ Agreement and existing international regimes is reflected in the so-called ‘not-undermining clause’ that is laid down in Article 5(2) of the Agreement and is operationalized further in other Parts. Article 5(2) reads:

This Agreement shall be interpreted and applied in a manner that does not undermine relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies and that promotes coherence and coordination with those instruments, frameworks and bodies.

This provision deals with the interpretation and application of the Agreement and contains both a negative and a positive component. Interpretation and application must not undermine relevant “legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies” (IFBs) and must at the same time promote coherence and coordination with those IFBs.

It remains unclear what qualifies as an IFB and what does not. While the term “legal” seems to suggest that IFBs are limited to legally binding instruments and frameworks, the term “bodies” indicates that intergovernmental organizations are not the only ones covered. There are many bodies with a substantive and geographical mandate that is ‘relevant’ to the BBNJ Agreement but that do not have the competence to adopt legally binding decisions. Pertinent examples are WECAFC and other RFABs established

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<sup>80</sup> See, in particular, para. 7 of UNGA Res. 72/249, of 24 December 2017.

<sup>81</sup> This is illustrated by Chile’s declaration, upon ratification of the Agreement, that the Agreement “shall in no way undermine the legal regimes to which Chile is a party”. The declaration explicitly mentions the Antarctic Treaty System, the South Pacific Regional Fisheries Management Organisation, the International Seabed Authority, and the International Maritime Organization. Chile’s declaration is available at [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XXI-10&chapter=21&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXI-10&chapter=21&clang=en). The United Kingdom’s declaration upon signature also refers to the Antarctic Treaty System.

under Article VI of the FAO Constitution – a legally binding instrument – which do not qualify as RFMO/As because they do not have the competence to adopt legally binding CMMs. However, rather than having to qualify as an IFB under the BBNJ Agreement as such, or as a whole, a body can qualify as an IFB for some roles under the Agreement, but not for other roles.<sup>82</sup>

The BBNJ Agreement envisages various roles for WECAFC. As regards ABMTs (including MPAs), a crucial consideration is that WECAFC does not have competence to adopt legally binding decisions on ABMTs (including MPAs) and related measures. This means that the BBNJ Agreement COP can take such decisions on fishing and related activities regarding WECAFC residual species in the WECAFC area of competence itself (Art. 22(1)(a)), rather than merely having to recommend WECAFC to take action (Art. 22(1)(c)). WECAFC will nevertheless be involved in consultations on proposals for ABMTs (including MPAs) and related measures that would apply in the WECAFC area of competence (Art. 21(2)(b)). Also, WECAFC will be invited to participate in regular consultations to enhance cooperation and coordination with and among IFBs on ABMTs (including MPAs) and related measures (Art. 22(3)).

As regards EIAs, the fact that

- (a) practically all fishing by WECAFC Members is conducted in their own coastal State maritime zones;
- (b) the impact of such fishing on the high seas component of straddling and highly migratory fish stocks seems limited; and
- (c) it seems that these established fisheries cannot be regarded as “planned activities” for the purpose of Part IV of the BBNJ Agreement,

means that the requirements on EIAs under Part IV are not immediately relevant for WECAFC and its Members.

WECAFC is a relevant IFB through which parties to the BBNJ Agreement can cooperate on capacity-building and the transfer of marine technology. In this regard, full recognition shall be given to the special needs of developing States parties, including in particular the least developed countries (LDCs) and small island developing States (SIDS) (Art. 41).

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<sup>82</sup> Cf. V. De Lucia and P.P. Nickels, “Reflecting on the Role of the Arctic Council vis-à-vis a Future International Legally Binding Instrument on Biodiversity in Areas Beyond National Jurisdiction” 11 *Arctic Review on Law and Politics* 189-214 (2020), at p. 205.

### 3. KEY FISH SPECIES AND STOCKS IN THE WECAFC AREA OF COMPETENCE

A thorough review of the biological, ecological, and spatial knowledge on fishery species in the WECAFC area was presented to the 19<sup>th</sup> (2023) WECAFC Session.<sup>83</sup> The review recognizes 69 “main” or “reference” species in the WECAFC region, of which 38 are transboundary and 31 straddling species of fishery importance. Eight of these species are shrimp, and the only other two invertebrates are the spiny lobster (*Panulirus argus*) and the Queen conch (*Aliger gigas*). All other 59 species are either bony-fishes or elasmobranchs (sharks and rays).

Among the straddling pelagic bony-fishes only two, dolphinfish (*Coryphaena hippurus*) and flyingfish (*Hyrindichthys affinis*), are not managed by ICCAT.<sup>84</sup> All other highly migratory pelagic bony-fishes, including the only four transboundary pelagics (all of genus *Scomberomorus*=mackerels) are managed by ICCAT.

Among the 19 cartilaginous fish, identified in the review, all the straddling species are subject to some management measures under ICCAT<sup>85</sup> except the tiger shark (*Galoecerdo cuvieri*). No species of transboundary elasmobranch identified in the WECAFC review is currently subject to management by ICCAT.<sup>86</sup>

All non-pelagic species, shelf or reef-associated are considered transboundary<sup>87</sup>. Among them, because of their regional fishery importance, spiny lobster and Queen conch are considered key species for WECAFC.<sup>88</sup>

At its 16<sup>th</sup> (2016) Session, WECAFC reviewed a report on bottom fishing in the high seas of the WECAFC area.<sup>89</sup> The Session focused on deep sea resources, those distributed in areas deeper than the slope. Among the actions proposed in the report were data collection, providing fishing plans and reports, and closing five areas to bottom fishing. Consistent with previous analyses conducted by WECAFC on deep sea fishery resources, more recent examination of fishing activities within the

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<sup>83</sup> See note 30.

<sup>84</sup> See note 30.

<sup>85</sup> Until the ICCAT Mallorca protocol enters into force, ICCAT doesn't have a fully established mandate to manage pelagic sharks. Once the mandate is in full force, ICCAT will take full responsibility of the management of the list of pelagic sharks included in the protocol.

<sup>86</sup> See note 30.

<sup>87</sup> See note 31.

<sup>88</sup> See note 30.

<sup>89</sup> Recommendation WECAFC/16/2016/4.

WECAFC region have not identified a single species of current fishery importance in the deep sea.<sup>90,91,92,93</sup>

### 3.1 Fishery data

The WECAFC species review provides catch data by country and species group for the period 2015-2019.<sup>94</sup> WECAFC fishery data on catch and fishing effort is incomplete regardless of the organization holding the data and there are often discrepancies between databases kept by different fishery organizations operating in the region, e.g. between FAO and ICCAT for pelagic species, FAO and national databases for other species.<sup>95,96,97</sup> Data available at FAO is in annual catches and by FAO statistical area, however, other organizations active in the area may hold data at finer time/spatial scales depending on the type of data. Numerous data gaps exist in all databases, and the procedures to fill them differ depending on the institution collecting the information. The Data Collection Reference Framework (DCRF) endorsed by WECAFC could address some of these limitations.<sup>98</sup> At its 16<sup>th</sup> (2016) Session, WECAFC agreed to establish “...a working group for fisheries data and statistics matters (FDS WG), based on the ongoing work of the WECAFC-FIRMS partnership and in support of the development of a regional database in collaboration with the Members and partners in the region”.<sup>99</sup> An MOU was signed by WECAFC, CRFM and OSPESCA in 2016 for improving fishery sustainability through strengthened coordination of monitoring activities. WECAFC and ICCAT have recently exchanged letters of agreement for the improvement of fishery statistics in their respective area of competence and held a meeting in May 2025 to advance the implementation of the objectives of such letters.<sup>100</sup>

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<sup>90</sup> WECAFC. (2015). Report of the Technical Workshop on Bottom Fisheries in the High Seas of the Western Central Atlantic. Barbados, 30 September–2 October 2014. Bridgetown, Barbados.

<sup>91</sup> See note 30.

<sup>92</sup> Thompson, A.B. and Reid, K. (2024). Review of the implementation of the International Guidelines for the Management of Deep-sea Fisheries in the High Seas. FAO Fisheries and Aquaculture Technical Paper, No. 703. Rome, FAO.

<sup>93</sup> FAO. Worldwide review of bottom fisheries in the high seas in (2016). FAO Fisheries and Aquaculture Technical Paper No. 657. Rome. <https://doi.org/10.4060/ca7692en>.

<sup>94</sup> Tables 3.8-3.15 in Arocha, F.D., Narvaez, M. & Mendoza, J. (2024),

<sup>95</sup> See note 30.

<sup>96</sup> Die D., Arocha F., Mayor C., and Fernandez M. (2024). ICCAT Workshop in the Caribbean (West Atlantic) region for the improvement of statistical data collection and reporting on small-scale (artisanal) fisheries. ICCAT. Coll.Vol.Sci.Pap. 81(11): 1-18.

<sup>97</sup> See note 30.

<sup>98</sup> WECAFC 2022. Report of the 18<sup>th</sup> session of the Commission.

<sup>99</sup> TORs of WECAFC-CRFM-OSPESCA Fisheries Data and Statistics Working Group (FDS WG). Downloaded from <https://clmeplus.org/app/uploads/2020/05/2e.pdf>.

<sup>100</sup> Exchange of Letters of Agreement between the FAO and ICCAT. (2024).

The lack of knowledge on the potential for exploitation of fishery resources in the deep sea within the WECAFC area motivated the Commission to create a Working Group on the management of Deep-Sea fisheries in 2012. The Group hosted its first and only workshop in 2014<sup>90</sup> and has been inactive since.<sup>101</sup> It is expected that this Group would have the responsibility to support WECAFC member countries to implement the Deep-sea Fisheries Guidelines which state that:

“For areas not regulated by a RFMO/A, States should, on an annual basis,

- Submit their impact assessments as well as any existing or proposed conservation and management measures to FAO, which should make them publicly available.
- States should submit vessel register or record data on at least an annual basis to RFMO/As, where applicable, or, for areas where RFMO/As do not exist, to FAO together with information on the measures they have adopted to regulate the activities of such vessels. RFMO/As and FAO should make such data and information publicly available by FAO Statistical Area.
- Comprehensive maps showing the spatial extent of existing fisheries should be compiled by RFMOs. For areas not covered by RFMOs, each flag State should develop such maps and cooperate with other States concerned and FAO in developing joint maps for relevant areas.”

A recent review of the implementation of these guidelines, however, has concluded that 1) countries are not providing this information to FAO, 2) FAO databases are currently not adequately designed to hold the information requested in the deep-sea guidelines, and 3) FAO is not mandated to collect such information or to act upon it.<sup>102</sup>

### 3.2 Stock status

The most recent review of WECAFC species provides an update of stock status in the WECAFC area for species not managed by ICCAT.<sup>103</sup> For species managed by ICCAT the reader should refer to ICCAT documents. ICCAT assessments are conducted at a spatial scale larger than the WECAFC area, however, they represent the best scientific information about stock status for ICCAT species within the WECAFC area.<sup>104</sup> FAO categorizes the status of WECAFC stocks as either fully exploited or overexploited

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<sup>101</sup> See note 88.

<sup>102</sup> See note 90.

<sup>103</sup> Tables 3.5 and 3.6 in Arocha, F.D., Narvaez, M. & Mendoza, J. (2024).

<sup>104</sup> Stock status determination for ICCAT managed species is available at <https://iccat.int/en/assess.html>.

according to the SOFIA methodology that often relies on assessments of stock status made by some of its member countries within their own EEZ or by cooperating organizations.<sup>105</sup> As a result, WECAFC has not established stock units for every species under its responsibility, and with few exceptions for some key species relies on definitions from national assessments, CRFM and OSPESCA.

The recent WECAFC species review, however, provides maps of the distribution for many of the species identified by the review as important and therefore allows for an evaluation of the spatial scale relevant to their management.<sup>106</sup> Detailed information on the biological data, ecological connectivity and spatial distribution of these selected species can be found on the recent WECAFC review.<sup>107</sup>

Here we highlight aspects of stock status, data collection and management especially relevant to the WECAFC reorientation, for some selected stocks: flyingfish, dolphinfish, spiny lobster and Queen conch. WECAFC has already acknowledged the importance of these species by creating dedicated working groups for them.<sup>108</sup> WECAFC has also established a Working Group on Anchored (or moored) Fish Aggregating Devices (aFADs) that is also supporting the fishery for dolphinfish, as this species is often caught in association with aFADs.

WECAFC has created working groups for other resources (shrimp and groundfish, sharks) but we argue that these resources are less likely to be key in determining the decision of how to reorient WECAFC, so we do not analyze them in this document.

### **3.2.1 Fourwing flyingfish (*Hirundichthys affinis*)**

Of the four species of flyingfish present in the region most of the catches are made up of Fourwing flyingfish. Although the species is distributed throughout the WECAFC region, most catches reported for the period 2015-2019 come from the southern part of the lesser Antilles, and 94% of them were reported by Barbados.<sup>109</sup> Although there is no comprehensive high-resolution spatial catch and effort for this fishery available,

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<sup>105</sup> FAO. (2011). Review of the state of world marine fishery resources. Fisheries and Aquaculture Technical Paper, No. 569.

<sup>106</sup> Figures 3.1-3.37 Arocha, F.D., Narvaez, M. & Mendoza, J. (2024).

<sup>107</sup> See note 30.

<sup>108</sup> WECAFC Working Group on Caribbean Spiny lobster - Tailored terms of reference for the WECAFC Working Group on Caribbean Spiny lobster - June 2022, WECAFC Working Group on Queen conch - Tailored terms of reference for the WECAFC Working Group on Queen Conch - July 2022, Terms of Reference of the WECAFC Working Group on Flyingfish-Dolphinfish Prepared at the first meeting of the working group, Puerto Rico, June 2024.

<sup>109</sup> Table 4.1 Arocha, F.D., Narvaez, M. & Mendoza, J. (2024).

it is safe to assume that most of the catch is caught in deep water, but within the EEZ of WECAFC Members.<sup>110</sup>

Since 2019 reported annual catch has declined substantially and has not exceeded 300 tons. Reductions on the catch of flyingfish since 2011 may be due to a combination of declines in the effort of Barbados day boats, and changes in fishing strategies forced by the increased presence of sargassum mats in the fishing grounds.<sup>111</sup>

The most recent stock assessment for this stock was conducted by CRFM and provided estimates of stock status for 2016.<sup>112</sup> It reports that the overfishing limit was exceeded for this stock during the last few years of the assessment period, and that excessive fishing pressure on the stock was producing catches well below the potential maximum sustainable yield. The report acknowledges the limitations to the data used for the assessment, and notes that the objectives of the CRFM data improvement project to enhance data collection were not being met.<sup>113</sup>

To address the challenges of the assessment and management of flyingfish, the CRFM prepared a 2020-2025 management plan for this fishery.<sup>114</sup> The plan establishes four categories of management goals for this fishery, with national and regional goals within each category:

- Sustained Fishery Resource – Stock Well-being
- Effective Fisheries Management – Ability to Achieve
- Optimal Use of Fishery for Long-term Benefit – Human Wellbeing
- Sustained Ecosystem Health – Ecosystem Well-being

CRFM explicitly takes responsibility of the implementation of the plan, but acknowledges the need of support from WECAFC.

“The CRFM is the regional advisory authority tasked with the implementation, review and evaluation of future updates of the Sub-regional Flyingfish Fisheries Management Plan. It will perform the task with technical advice from the CRFM / WECAFC Working Group on Flyingfish in the Eastern Caribbean in cooperation with Fisheries Authorities, fishers’ organizations and the fishing industry at large.”

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<sup>110</sup> Figure 4.1 Arocha, F.D., Narvaez, M. & Mendoza, J. (2024).

<sup>111</sup> Oxenford, H. A., D. Johnson, S-A. Cox and J. Franks (2019). Report on the Relationships between Sargassum Events, Oceanic Variables, and Dolphinfish and Flyingfish Fisheries. CERMES, University of the West Indies Cave Hill Campus, Barbados. 36 p.

<sup>112</sup> CRFM (2019) CRFM Fishery Report – 2019/ 2 Fishery Assessment Report - Eastern Caribbean Four-wing Flyingfish, *Hirundichthys affinis*. 224 p.

<sup>113</sup> CRFM (2019). Final technical report: Technical Support to Enhance Data and Information Management for Decision Support to the Eastern Caribbean Flyingfish. 144 p.

<sup>114</sup> CRFM. 2019. Eastern Caribbean Flyingfish Management Plan 2020 - 2025. CRFM Special Publication No. 27, 50p.

Governance constraints identified in the plan, especially relevant to the WECAFC reorientation include:

- ...lack of a regional mechanism for managing shared resources.
- Inadequate fishery information and statistics...;
- Inadequate human capacity in fishery departments...
- Inadequate development of participatory management with all stakeholders at national and subregional levels
- Illegal, unregulated and unreported (IUU) fishing.
- Lack of, or inadequate, monitoring, surveillance and enforcement;

### 3.2.2 *Common dolphinfish (Coryphaena hippurus)*

Common dolphinfish is a mid-trophic level predator, abundant throughout the WECAFC area and outside of it, as this species occurs in large areas of the tropical and subtropical Atlantic. In the WECAFC area, according to ICCAT data, dolphinfish is particularly abundant in the same areas as flyingfish in the southeastern Caribbean, but also offshore northeastern Brazil and the western Gulf of Mexico.<sup>115</sup> Two migration groups for the WECAFC area have been identified, one south and East of Puerto Rico and another north and west of Puerto Rico, including the southeast coast of the US and Bermuda.<sup>116</sup> More recent genetic work, however, supports the presence of a single panmictic stock throughout the WECAFC area.<sup>117</sup>

Fishery dynamics for dolphinfish are uncertain because of limitations in the data available and changes in fishery reporting.<sup>118</sup> There have not been any formal assessments for the entire stock, however it appears that annual relative abundance in the western Atlantic was stable for the period 1986-2018 but declined between 2019-2022.<sup>119</sup> Relative abundance, however, shows strong seasonal patterns and high interannual variation.

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<sup>115</sup> See note 30.

<sup>116</sup> Oxenford, H.A. and W. Hunte. 1986. A preliminary investigation of the stock structure of the dolphin, *Coryphaena hippurus*, in the western central Atlantic. *Fish. Bull.* 84: 451–460.

<sup>117</sup> Merten W.B., N. V. Schizas, M.T. Craig, R.S. Appeldoorn and D.L. Hammond. (2015). Genetic structure and dispersal capabilities of dolphinfish (*Coryphaena hippurus*) in the western central Atlantic. *Fish. Bull.* 113:419–429.

<sup>118</sup> Merten, W., R. Appeldoorn, A. Grove, A. Aguilar-Perera, F. Arocha, and R. Rivera. (2022). Condition of the international fisheries, catch and effort trends, and fishery data gaps for dolphinfish (*Coryphaena hippurus*) from 1950 to 2018 in the Western Central Atlantic Ocean. *Mar. Policy* 143:105189.

<sup>119</sup> Damiano M.D., M. Karnauskas, W. Merten, J. Cao (2024). Spatiotemporal dynamics of dolphinfish (*Coryphaena hippurus*) in the western Atlantic Ocean. *Fish. Bull.* 122:26–43.

Although relative abundance may have been stable in recent decades, there is concern that fishing effort has increased in both commercial and recreational fisheries catching dolphinfish.<sup>120</sup> Commercial longline effort, an important source of dolphinfish harvest, has been increasing for decades in both the EEZs and the high seas of the WECAFC area.<sup>121</sup> There is also concern regarding increased catches of schooling juvenile dolphinfish associated with floating objects, including aFADs and the increasingly abundant sargassum mats.<sup>122</sup>

A few countries in the WECAFC area have established or are considering establishing national or regional management plans or regulations for dolphinfish including quotas by fleet sector, bag limits for recreational anglers and minimum size limits.<sup>123,124,125</sup> Longline fisheries, where dolphinfish is considered a bycatch, have some regulations on gear (circle hooks) and fishing effort (limitations on number of hooks, and limited entry provisions) that indirectly impact fishing on dolphinfish. CRFM and OSPESCA have actively participated in the process of supporting monitoring, assessment and management of dolphinfish in the region, often in coordination with WECAFC. OSPESCA, however, has put most of its effort supporting dolphinfish fisheries in the Pacific, where harvest of this species is much more important for its members. OSPESCA's experience in the Pacific, however, can be an asset to the WECAFC region. The challenges of managing dolphinfish, an economically valuable pelagic straddling stock, not currently under management by an RFMO, have inspired the USA to develop a new program to implement a Management Strategy Evaluation (MSE) process for its national fishery.<sup>126</sup>

There is no regional management plan for dolphinfish in the WECAFC area, but it has developed a regional plan for aFADs that has the potential to help reach some of the regional management goals for this resource. The potential for a strengthened

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<sup>120</sup> See note 108.

<sup>121</sup> See note 109.

<sup>122</sup> See note 108.

<sup>123</sup> US South Atlantic Fishery Management Council (2003). Fishery Management Plan for the Dolphin and Wahoo Fishery of the Atlantic.

<sup>124</sup> Beltran Turiago, C.S., J. Mateo, P.P. Blanc and A. del Rio Poza. (2023). Informe de análisis y diseño: la cadena de valor del dorado (*Coryphaena hippurus*) en la República Dominicana. FAO 233 p.

<sup>125</sup> See note 118.

<sup>126</sup> NOAA (2025) Dolphinfish Management Strategy Evaluation in the U.S. Atlantic. Available at <https://www.fisheries.noaa.gov/southeast/science-data/dolphinfish-management-strategy-evaluation-us-atlantic>.

WECAFC to increase its role in supporting data collection, assessment and management of this resource has been reported for decades.<sup>127,128</sup>

### 3.2.3 *Spiny lobster (Panulirus argus)*

Adult Spiny lobsters (*Panulirus argus*) occupy many of the shallow seas of the WECAFC area, and their larvae are transported by currents that connect populations throughout the WECAFC region. Local retention of larvae is a potential mechanism promoting stock differentiation within the region. Although a five stock-structure has been proposed in 2019 WECAFC decided to recognize four stocks: North, Central America/Colombia, Central Caribbean and North Brazil.<sup>129</sup> To date there have not been assessments conducted for these unit stocks, however, there have been national assessments conducted by many of the member states.<sup>130,131</sup> Such assessments are often conducted with different methodologies, and they offer a range of perceptions on stock status for different nations from unknown, overfished, to fully fished/stable. The spiny lobster WECAFC working group has recommended that a common stock assessment methodology should be decided upon.<sup>132</sup>

Management is conducted at the national or subregional level through minimum sizes, restrictions of harvest of berried females, access restrictions, limitations on gear, seasonal and spatial closures, recreational bag limits and catch quotas.<sup>133</sup> A regional management plan was presented to WECAFC in 2018 which aimed to strengthen the subregional management initiatives by OSPESCA and CARICOM.<sup>134,135,136</sup>

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<sup>127</sup> See note 118.

<sup>128</sup> Mahon R. and H.A. Oxenford. (1999). Precautionary assessment and management of dolphinfish in the Caribbean. *Scientia Marina* 63: 429-438.

<sup>129</sup> WECAFC. (2019). Report of the second meeting of the OSPESCA/WECAFC/CRFM/CFMC Working Group on Caribbean Spiny Lobster, Santo Domingo, Dominican Republic, 21–23 March 2018. FAO Fisheries and Aquaculture Report, 1264.

<sup>130</sup> Truelove, N.K., Kough, A.S., Behringer, D.C., Paris, C.B., Box, S.J., Preziosi, R.F. & Butler, M.J. (2016). Biophysical connectivity explains population genetic structure in a highly dispersive marine species. *Coral Reefs*, 36(1): 233–244.

<sup>131</sup> Raúl, C., João, V.M.Santana, Carlos, G. B., Carlos, A. B., Marina, T. T., Juliana, C. G., . . . Israel, H. A. (2020). Towards the rebuilding of spiny lobster stocks in brazil: A review. *Crustaceana*, 93(8), 957.

<sup>132</sup> See note 124.

<sup>133</sup> See note 124.

<sup>134</sup> WECAFC (2018). MARPLESCA – Plan Regional de Manejo de la Pesquera de la Langosta Espinosa del Caribe (*Panulirus argus*). Presented at the Ninth session of the GAC, Bridgetown, Barbados, 19-20 November 2018.

<sup>135</sup> OSPESCA.2009. Reglamento para el ordenamiento regional de la pesquería de la langosta del Caribe (*Panulirus argus*). OSP-02-09.

<sup>136</sup> CARICOM. 2015. ST. GEORGE’S declaration on conservation, management and sustainable use of the Caribbean spiny lobster (*Panulirus argus*).

### 3.2.4 Queen conch (*Aliger gigas*)

Queen conch (*Aliger gigas*) is a valuable shallow-water mollusk distributed throughout the entire WECAFC region.<sup>137</sup> Its larvae spend only a few weeks in the pelagic environment before they settle back to shallow areas, so recruitment depends strongly on reproduction from nearby areas. WECAFC has not adopted a stock structure for this species. Simulations indicate that depletion of the reproductive stocks, primarily because of excessive harvesting, have led to decreases in connectivity throughout its range.<sup>138</sup> There is evidence that successful reproduction requires a threshold density of adults and that in many places in the Caribbean densities are lower than this threshold.<sup>139</sup>

Assessments of populations of Queen conch are done by estimating densities through surveys and estimating the area of conch habitat. The product of these two estimates can provide estimates of population size.<sup>139</sup>

Since 1995, CITES has put restrictions on conch exports because of the unsustainable decline of conchs in certain fishing grounds.<sup>140</sup> Export permits are granted under the condition that surveys prove adult densities exceed the reproductive threshold.<sup>141</sup>

Annual harvest of about 28,000 tons have been reported to FAO for the period 2019-2023, however, there are uncertainties in the catch of many fisheries because of unreliable data collection and differences in the conversion factors used to calculate catch by different countries.<sup>142</sup> CITES has developed a Regional Queen Conch Fisheries Management and Conservation Plan, endorsed by WECAFC, which among other goals intends to address challenges in fishery monitoring. A variety of national measures have been used to manage this resource, including seasonal and spatial closures, minimum sizes, quotas and in some cases complete bans on harvesting.

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<sup>137</sup> See note 30.

<sup>138</sup> Vaz, A. C., M. Karnauskas, C. B. Paris-Limouzy, J. C. Doerr, R. L. Hill, C. Horn, M. H. Miller, M. Neuman, K. J. McCarthy, and N. A. Farmer. 2022. Exploitation drives changes in the population connectivity of queen conch (*Aliger gigas*). *Frontiers in Marine Science* 9:841027.

<sup>139</sup> Horn, C., M. Karnauskas, J.C. Doerr, M.H. Miller, M. Neuman, R. Hill, and K.J. McCarthy. Endangered species act status review report: queen conch (*Aliger gigas*). NOAA Technical Memorandum NMFS-SEFSC-756 doi:10.25923/4ykr-1m56,

<sup>140</sup> Convention on International Trade in Endangered Species of Wild Fauna and Flora, Washington, D.C., 3 March 1973. In force 1 July 1975, 993 *United Nations Treaty Series* 243; [www.cites.org](http://www.cites.org).

<sup>141</sup> See note 134.

<sup>142</sup> WECAFC (2019). Report of the fourth meeting of the CFMC/OSPESCA/WECAFC/CRFM/CITES Working Group On Queen Conch.

In 2024 the USA listed Queen conch as threatened under the USA Endangered Species Act (ESA), because of the decline of adult stocks in many areas of its range, and the inadequate implementation on management measures used to protect its populations.<sup>143</sup> The USA has yet to implement a Queen conch recovery plan under the ESA.

#### **4. REVIEW OF MEMBER INPUT AND DISCUSSION ON WECAFC STRATEGIC REORIENTATION**

##### **4.1 Options for the WECAFC strategic reorientation advanced so far**

Based on the documentation and discussions on strategic reorientation since the late 1990s, it seems that, so far, the following options for WECAFC strategic reorientation have been advanced:

1. Transform WECAFC into an RFMO established under Article XIV of the FAO Constitution;
2. Transform WECAFC into a stand-alone RFMO outside FAO; and
3. Maintain WECAFC as an RFAB under Article VI of the FAO Constitution, but introduce changes to strengthen it.

Of these three options, it is difficult to regard the first option as a viable option. This is because, for a considerable number of years already, there has been a lack of support within FAO for establishing new bodies and creating new or additional obligations for members of existing bodies.<sup>144</sup> For this reason, this option is not considered any further in this paper.

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<sup>143</sup> US Federal registry. (2024) [Docket No. 240208–0042; RTID 0648– XR071]. Endangered and Threatened Wildlife and Plants: Listing the Queen Conch as Threatened Under the Endangered Species Act.

<sup>144</sup> See, *inter alia*, FAO Conference Resolution 13/97, of 18 November 1997, whose first preambular paragraph reflects its policy to ensure that the creation of new bodies is limited “to those that are strictly necessary”. More recently, the FAO Council’s Committee on Constitutional and Legal Matters (CCLM) recommended that the procedures to be developed “should, as far as possible, avoid the establishment of new bodies” (Report of the 119<sup>th</sup> (October 2023) CCLM Session, para. 11). See also the Report of the 117<sup>th</sup> (October 2022) CCLM Session, para. 21 where the CCLM considered that the proposed amendments “would not involve new or additional obligations” for the members of an FAO body.

## 4.2 Review of Member input

As noted in section 1, during the last five years there have been two questionnaires on the WECAFC strategic reorientation: the first, more general, questionnaire circulated in early 2020<sup>145</sup> and the second, more targeted, ‘Questionnaire on the future of WECAFC’ circulated in May 2021 (further ‘Second Questionnaire’).<sup>146</sup> Of these two, the Second Questionnaire is the most relevant; not only because it is the most recent one, but also because it seeks the opinions of WECAFC Members and the three partner organizations (CNFO, CRFM and OSPESCA) on key aspects and options relating to strategic reorientation.

The Second Questionnaire received responses from 23 Members and the three partner organizations. The Questionnaire consists of the following six questions below. Questions Nos. 1, 3 and 4 are the most important as they relate to key aspects and options relating to strategic reorientation. A summary of the responses to these three questions has been included.

1. What is your preferred overall vision for the transformation of WECAFC?  
Six options are listed, and respondents must choose one of these or formulate an alternative vision. 12 Members and all three partner organizations opted for: “WECAFC remains an advisory body, but with an expanded or strengthened role”, and three Members opted for “WECAFC stays as at present”.
2. What elements should be part of the objectives of a new entity/arrangement?  
12 elements are listed, and respondents can select as many as they wish or add other elements. All elements identified in the questionnaire received broad support by Members and partner organizations.
3. Within this overall vision, what elements should be part of the specific mandate of a new entity/arrangement?  
Seven elements are listed, and respondents can select as many as they wish or add other elements. The following three elements attracted the most support:
  - “The mandate should allow for binding measures only in the High Seas and advisory, supportive and coordinating (non-binding) in all other areas” (10 Members and two partner organizations);
  - “The mandate should not overlap with the mandate of already existing entities in the area” (15 Members and one partner organization); and

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<sup>145</sup> See note 27.

<sup>146</sup> See note 32.

- “The mandate should be broad and inclusive and take into account and be consistent with the different legal regimes and legal rights of states in the geographical area covered by the arrangement or entity” (12 Members and two partner organizations).
4. What should be the geographical coverage of the new entity/arrangement?  
Four options are listed, and respondents must choose one of these or formulate an alternative. 21 Members and three partner organizations opted for “The geographic scope should mirror the present competence area of WECAFC (FAO Area 31 and part of Area 41)”.
  5. Which species should be covered by this new entity/arrangement?  
Six options are listed and respondents can select as many as they wish or add other options. There was a broad range of views, with considerable support for all options presented except for the option to restrict attention to species that are presently unregulated or to have a mandate only for straddling/migratory stocks not included in the mandate of other RFMOs.
  6. How do you envisage the scientific functions of the new entity/arrangement?  
Eight options are listed, and respondents can select as many as they wish or add other options. All options presented received strong support from Members and partner organizations.

The overall conclusion of the responses to the Second Questionnaire seems to be that a majority of the responding WECAFC Members prefers to keep the status quo for areas within national jurisdiction, but for the high seas is open to considering a mandate to adopt legally binding CMMs on fish stocks of species that are not managed by ICCAT.

#### **4.3 Key considerations of WECAFC Members on the WECAFC strategic reorientation**

Based on the responses to the Second Questionnaire, it seems that WECAFC Members have three key considerations on the WECAFC strategic reorientation. These are that the WECAFC strategic reorientation:

1. Must not prejudice the sovereignty, sovereign rights and jurisdiction of the coastal State Members of WECAFC within their own maritime zones.

These coastal State Members of WECAFC will have to give their express consent to provide WECAFC with a mandate to adopt legally binding CMMs that apply to their coastal State maritime zones. While the need for coastal State consent must be respected, it also must be emphasized that the sovereignty, sovereign rights and jurisdiction of coastal State Members of WECAFC are constrained by the obligations set out in subsection 2.2, in particular the obligations to cooperate in relation to transboundary fish stocks and discrete high seas fish stocks.

2. Must not prejudice the authority of other RFBs and should not lead to unnecessary duplication and working at cross-purposes in relation to these RFBs.

This consideration is already reflected in Articles 2(c) and 4 of the WECAFC Statutes and applies in particular to CRFM, ICCAT and OSPESCA based on the significant overlaps in the membership, geographical scope and species mandate of WECAFC and these three RFBs.

3. Must be cost-effective.

This overarching consideration can be divided into the following more specific considerations:

- a. the limited financial and other resources available to WECAFC Members, in particular the developing States among them, some of which qualify as LDCs and/or SIDS;
- b. the need to avoid unnecessary duplication of the work of other RFBs, in particular CRFM, ICCAT and OSPESCA;
- c. the apparent limited significance of catches of fish species belong to shared fish stocks in the WECAFC area of competence, based in particular on their volume and value (see section 3); and
- d. the apparent limited significance of catches in the high seas portion of the WECAFC area of competence; based in particular on their volume and value, the proportion caught by WECAFC Members, and their possible impact on the ‘coastal’ component of the stocks (see section 3).

## **5. REMAINING OPTIONS FOR THE WECAFC STRATEGIC REORIENTATION**

In view of (a) the considerations set out in subsection 4.1; (b) the responses by a majority of the responding WECAFC Members and three partner organizations to the Second Questionnaire as summarized in subsection 4.2; and (c) the three key considerations of WECAFC Members on the WECAFC strategic reorientation set out in subsection 4.3, this section will examine the following three remaining options for the WECAFC strategic reorientation:

1. Transform WECAFC into a stand-alone RFMO outside FAO;
2. Maintain WECAFC as an RFAB under Article VI, with expanded or strengthened role; and
3. A strengthened WECAFC as an RFAB under Article VI, combined with a new high seas RFMA for non-ICCAT managed species.

## **5.1 Option 1: Transform WECAFC into a stand-alone RFMO outside FAO**

### **5.1.1 Summary**

The basic components of Option 1 are that the new RFMO – into which WECAFC is transformed – would

1. establish an intergovernmental organization outside the framework of FAO;
2. be supported by a new secretariat financed by the annual assessed contributions by its Members;
3. have the same overall geographical and species mandate as WECAFC currently has, with an explicit recognition of ICCAT's primacy over species managed by it;
4. have an advisory mandate for species and stocks occurring exclusively in the maritime zones of its coastal State Members within its geographical scope;
5. have a mandate to adopt legally binding CMMs for species and stocks not managed by ICCAT that occur in the current high seas parts of the WECAFC area of competence. If desirable, this could be complemented by a mechanism which allows this mandate to be extended to the maritime zones of a coastal State Member, provided that this coastal State has given its express consent for this; and
6. possibly have a broader membership, and continue to cooperate and coordinate closely with other relevant bodies – in particular CRFM, ICCAT and OSPESCA – and continue efforts to formalize and further operationalize such cooperation (e.g. through Memoranda of Understanding (MOUs)).

### ***5.1.2 Geographical mandate and species mandate***

The new RFMO would have the same overall geographical mandate and species mandate as WECAFC currently has, with an explicit recognition of ICCAT's primacy over species managed by it. However, as set out in subsection 5.1.3, its substantive mandate would in part be advisory and in part entitle it to adopt legally binding CMMs.

### ***5.1.3 Substantive mandate and content***

The substantive mandate of the new RFMO would have two main components:

1. an advisory mandate.

This mandate would apply to species and stocks occurring exclusively in the maritime zones of its coastal State Members (within the RFMO's geographical scope).

Species included in this mandate are spiny lobster, Queen conch, shelf groundfish, shrimp, and coastal sharks and rays. Although there is various degree of connectivity across continental and island shelves for these species, their entire harvest occurs within the maritime zones of the coastal State Members.

2. a mandate to adopt legally binding CMMs.

This mandate would apply to species and stocks not managed by ICCAT that occur in the high seas parts of the RFMO's geographical scope. If desirable, this could be complemented by a mechanism which allows this mandate to be extended for straddling and highly migratory fish stocks not managed by ICCAT which also occur in the maritime zones of a coastal State Member of the new RFMO, provided that this coastal State has given its express consent for this. Such an 'optional opt-in' mechanism could be modelled on the

mechanisms in the NAFO Convention,<sup>147</sup> the NEAFC Convention<sup>148</sup> and the SPRFMO Convention<sup>149</sup>. Whereas the first two of these mechanisms seem to have been hardly used (or at all), the SPRFMO Convention's mechanism has been actively and – arguably – successfully used for a decade,<sup>150</sup> and could therefore be considered as the preferred model.

Species (potentially) included in this mandate are flyingfish, dolphinfish and deep sea fish species and stocks occurring exclusively on the high seas (discrete high seas fish stocks). Dolphinfish is the most obvious candidate for inclusion, given that most Members are engaged in fishing for this species. Flyingfish could also be a candidate as it is harvested in significant quantities by a few Members.

In view of the limited significance of current catches of species that would fall under the mandate to adopt legally binding CMMs (see section 3), it could be desirable that the content of the new RFMO's founding treaty also devotes particular attention to the following issues:

1. reporting catch;
2. collecting and exchanging relevant scientific and technical data and information;
3. avoiding adverse impacts of bottom fisheries on VMEs, thereby implementing relevant paragraphs of UNGA Resolutions and the Deep-sea Fisheries Guidelines (see subsection 2.3.3). In addition, the RFMO would be recognized as having the competence to adopt legally binding measures associated with ABMTs (including MPAs) under Part III of the BBNJ Agreement (see subsection 2.3.5);

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<sup>147</sup> Convention on Cooperation in the Northwest Atlantic Fisheries (originally named 'Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries', Ottawa, 24 October 1978. In force 1 January 1979, 1135 *United Nations Treaty Series* 369; as amended; consolidated version available at <https://www.nafo.int/Home/NAFO-Governance>); see Art. VI(10).

<sup>148</sup> Convention on Future Multilateral Cooperation in the North-East Atlantic Fisheries (London, 18 November 1980. In force 17 March 1982, 1285 *United Nations Treaty Series* 129; as amended, consolidated version available at <https://www.neafc.org/basictexts>); see Art. 6.

<sup>149</sup> Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean (Auckland, 14 November 2009. In force 24 August 2012; text available at <https://www.sprfmo.int/about/docs/>); see Art. 20(4)(a)(ii).

<sup>150</sup> The 1<sup>st</sup> CMM (No. 1.01) on Jack mackerel (*Trachurus murphyi*) was adopted by the Commission of the South Pacific Regional Fisheries Management Organization (SPRFMO) in 2013. For the third version of this CMM (3.01) adopted in 2015, Chile gave its consent to apply the CMM also to Chile's maritime zones (see para. 1 of CMM 3.01) and has continued to do so from then on. From 2020 onwards, Ecuador also gave its consent to apply the CMM to Ecuador's maritime zones (CMM 01-2020, para. 1; see CMM 01-2025, para. 1 for the most recent version). The Peru is the remaining coastal State that has not yet given its consent.

4. new and exploratory fisheries;<sup>151</sup> and
5. perform other roles envisaged for RFMO/As under other international instruments, including the PSMA (see subsection 2.3.2) and the WTO Agreement on Fisheries Subsidies (see subsection 2.3.4), or implement international instruments that do not explicitly envisage roles for RFMO/As, such as the Compliance Agreement (see subsection 2.3.1).

#### **5.1.4 Scientific requirements**

Scientific requirements to support effective management of WECAFC resources have been highlighted by WECAFC and others many times.<sup>152</sup> Here we will focus again and those more critical to support management of dolphinfish and flyingfish as these two are prime candidates for being under the regime of legally binding CMMs. For both species, there is a need to improve:

- Monitoring of fishing effort, by including all fleets from all States that harvest these species and increasing the temporal and spatial scale of reporting. There are emerging technologies for achieving this already in use in the region (e.g. satellite-based monitoring of vessels (VMS) by USA, Costa Rica, Barbados and Brazil).<sup>153</sup>
- Biological sampling and size sampling of sample catch and explore alternatives to stock assessments, such as MSE to provide advice on harvest levels.

For dolphinfish, it is imperative to improve.<sup>154,155</sup>

- Estimates of catch from fisheries where dolphinfish is a bycatch and for nations that are known to catch it but do not currently report it or provide incomplete reports.
- Monitoring of recreational landings and discards for those fisheries with regulated discards.

#### **5.1.5 Financial implications**

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<sup>151</sup> See, *inter alia*, Art. 6(6) of the Fish Stocks Agreement.

<sup>152</sup> See note 30.

<sup>153</sup> See note 94.

<sup>154</sup> See note 118.

<sup>155</sup> Mahon (1996) Fisheries and research of tuna and tuna-like species in the Western Central Atlantic: Implications of the International Agreement on the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. FAO Fish Tech Pap. No. 357. 72 pp

This was examined in a 2016 report and the estimate provided then was of an annual budget to be covered by members of 1.5 to 1.8 million US\$ (2.0 to 2.4 million in today's US\$).<sup>156</sup> This would sustain the Secretariat of the RFMO and ensure that all necessary (basic) functions are carried out efficiently. An additional US\$ 250,000-300,000 (333,000-400,000 in today's US\$) would be required to organize the transition from the current WECAFC under Article VI to a stand-alone RFMO outside FAO. The analysis assumed that scientific research would primarily be conducted by CRFM, OSPESCA, NOAA and IFREMER. The same report provided estimates of large potential future benefits for improving the management of fisheries in the area. Such estimates, however, were calculated under the assumption that the RFMO would have a mandate to adopt legally binding CMMs for all resources in the WECAFC area. Any estimates of benefits of increased production resulting from RFMO management will need to be calculated depending on the species under legally binding CMMs.

It is useful to compare estimates provided in the 2016 report with the current annual budgets of other stand-alone RFMOs. The 2025 budget of SPRFMO is about US\$1,230,000.<sup>157</sup> The 2020 budget of SIOFA, was US\$1,109,000 (in 2025 US\$).<sup>158</sup> The 2025-2026 budget of NPFC was US\$1,146,000.<sup>159</sup>

We have excluded tuna RFMOs in this comparison because they tend to have much larger membership, and more valuable resources, thus their larger budgets. For instance, the 2025 budget of ICCAT was US\$6,172,000 for a fishery with 54 members, and resources valued at 1.6 billion US\$ at dockside.<sup>160</sup>

To put the value of WECAFC fisheries in perspective, we use as a benchmark the current annual value of the dolphinfish WECAFC fishery. We do not consider here the value of the flyingfish as the main producer and consumer of this product is Barbados. We do not consider either the potential value of deep-sea resources, as these are unlikely to be currently exploitable economically.<sup>161</sup>

Recent annual dolphinfish catches oscillate between 3,000 – 4,000 tons<sup>162</sup> and given an average value at dockside of US\$ 6,000-8,000 per ton, the catches would have a

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<sup>156</sup> See note 14.

<sup>157</sup> SPRFMO (2025). 13th SPRFMO Commission Meeting Report. Wellington, New Zealand.

<sup>158</sup> SIOFA (2020). MoP6-Doc08\_Rev2 Draft SIOFA 2020 Budget\_Rev2. More recent budgets for SIOFA are confidential.

<sup>159</sup> NPFC (2025) Proposed budgets for 2025/2026 and 2027/2028 and related assessed contributions.

<sup>160</sup> Pew Charitable Trusts 2020. Netting Billions: A global valuation of tuna.

<sup>161</sup> Berthe M. J. Vastenhou, F. Bastardie, K.H. Andersen, D.C. Speirs, and J. Rasmus Nielsen. (2023) Economic viability of a large vessel mesopelagic fishery under ecological uncertainty. *Front. Mar. Sci.* 10:1285793. doi: 10.3389/fmars.2023.1285793.

<sup>162</sup> See note 118.

value of 18-32 million US\$.<sup>163</sup> The landing estimates used here are conservative as there is evidence reported landings are a significant underestimate of the true landings.<sup>164</sup> Moreover, these value estimates may only include the landing of recreational anglers for a few countries, and do not reflect the true value of recreational fisheries for dolphinfish.

Our analysis suggests that the annual budget of this option is likely to be somewhere between one and two million US\$ a year. The final amount will depend largely on staff salaries, as these represent about two-thirds of the annual budget and depend on the location of the secretariat.

### **5.1.6 Membership**

Membership in the new RFMO might be broader than the current membership in WECAFC. Membership in the new RFMO and invitations to participate in its negotiation could either be entirely open and inclusive, or more closed and exclusive. All current WECAFC coastal States (i.e. those with coastal territory within the current WECAFC area of competence) should at any rate be entitled to become a Member of the RFMO and be invited to participate in its negotiation.<sup>165</sup> As regards non-coastal States, it seems that those that are currently WECAFC Members should be entitled to become Member to the new RFMO and be invited to participate in its negotiations. The same approach could also be taken for other high seas fishing States – and possibly entities (Taiwan) – with (recent) catches for relevant species in the envisaged high seas area.<sup>166</sup>

### **5.1.7 Relationship with FAO and legal pathway for its establishment of the new RFMO**

WECAFC Members interested in the option of establishing the new RFMO outside the auspices of FAO would need to negotiate the text of the Agreement to establish the new RFMO; possibly together with other States or entities invited to participate in the negotiations (see the previous subsection). These negotiations could be facilitated by

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<sup>163</sup> US South Atlantic Fishery Management Council. Dolphin Wahoo Advisory Panel Fishery Performance Report for Dolphin Created April 2022. Available at [https://safmc.net/documents/dwap\\_a5c\\_dolphinfpr\\_202204-pdf/](https://safmc.net/documents/dwap_a5c_dolphinfpr_202204-pdf/).

<sup>164</sup> See note 114.

<sup>165</sup> See also the notion of ‘real interest’ in Art. 8(3) of the Fish Stocks Agreement.

<sup>166</sup> Ibid.

FAO – whether only initially<sup>167</sup> or entirely – and either under the auspices of FAO as such or under the auspices of WECAFC.<sup>168</sup> Furthermore, FAO may be requested to act as Depositary for the founding treaty of the RFMO.<sup>169</sup>

As regards the time needed to conclude the negotiations on the RFMO and secure its entry into force: this is very difficult to predict accurately beforehand. The negotiations might take between 4-6 years and an equal amount of time might be needed before the RFMO's founding treaty enters into force.

### **5.1.8 Interactions with existing international bodies**

The new RFMO's founding instrument would recognize ICCAT's primacy over species managed by it and stipulate the need for close cooperation and coordination with other relevant international bodies. In addition, the new RFMO should establish informal or formal arrangements (e.g. MOUs) to operationalize this requirement with regard to CRFM, ICCAT and OSPESCA; while building on existing arrangements between those bodies and WECAFC.

## **5.2 Option 2: Maintain WECAFC as an RFAB under Article VI, with expanded or strengthened role**

### **5.2.1 Summary**

The basic components of Option 2 are that WECAFC would:

1. remain an RFAB under Article VI of the FAO Constitution, and its relationship with FAO would not change either.

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<sup>167</sup> See the Final Act of the Conference on the Southern Indian Ocean Fisheries Agreement (available at <https://siofa.org/node/3>), at para. 3.

<sup>168</sup> See the discussion on the negotiation of legally binding instruments under the auspices of the Arctic Council in subsection 5.2.2. Reference can also be made to the CAMLR Convention (Convention on the Conservation of Antarctic Marine Living Resources, Canberra, 20 May 1980. In force 7 April 1982, 1329 *United Nations Treaty Series* 47 (1983); text available at <https://www.ccamlr.org/en/organisation>), which was negotiated largely under the auspices of the Antarctic Treaty Consultative Meeting established by the Antarctic Treaty (Antarctic Treaty, Washington D.C., 1 December 1959. In force 23 June 1961, 402 *United Nations Treaty Series* 71; text also available at [www.ats.aq](http://www.ats.aq)). For various reasons, however, its final text was adopted by a stand-alone diplomatic conference.

<sup>169</sup> See, e.g., Art. 25 of the SIOFA (Southern Indian Ocean Fisheries Agreement, Rome, 7 July 2006. In force 21 June 2012; text available at <https://www.fao.org/treaties/en/>).

2. continue to be supported by the existing secretariat services provided by FAO, and WECAFC Members would not be required to pay an (annual) assessed financial contribution;
3. have the same geographical and species mandate, possibly with an explicit recognition of ICCAT's primacy over species managed by it;
4. have a strengthened substantive mandate, possibly relating to scientific research. Moreover, it might be possible to convert the non-legally binding recommendations developed by WECAFC into legally binding CMMs adopted outside WECAFC; and
5. have the same membership, and continue to cooperate and coordinate closely with other relevant bodies – in particular CRFM, ICCAT and OSPESCA – and continue efforts to formalize and further operationalize such cooperation (e.g. through (MOUs)).

### ***5.2.2 Strengthening WECAFC's substantive mandate***

As part of its task to develop text options for the 'General Objective of the Commission', the 'General Principles' and the 'Functions of the Commission', building on Articles 1, 2 and 6 of the WECAFC Statutes, the IWG D-G is considering various new functions that can be regarded as potential ways of strengthening WECAFC's substantive mandate.

As regards strengthening WECAFC's substantive mandate with the competence to adopt legally binding CMMs, this is not possible without changing WECAFC from an Article VI body into an Article XIV body under the FAO Constitution.

In theory, however, it might be possible to negotiate legally binding CMMs under the auspices of WECAFC and then subsequently adopt them by WECAFC Members in their capacity as sovereign States, rather than as WECAFC Members. This idea is modelled on the negotiation of three legally binding instruments<sup>170</sup> under the auspices of the Arctic Council. The Arctic Council is a high-level intergovernmental forum established by a non-legally binding declaration and is therefore – similar to WECAFC

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<sup>170</sup> Agreement on Cooperation in Aeronautical and Maritime Search and Rescue in the Arctic, Nuuk, 12 May 2011. In force 19 January 2013 (Arctic SAR Agreement); Agreement on Cooperation on Marine Oil Pollution Preparedness and Response in the Arctic, Kiruna, 15 May 2013. In force 25 March 2016 (MOSPA); Agreement on Enhancing International Arctic Scientific Cooperation, Fairbanks, 11 May 2017. In force 23 May 2018 (Arctic Scientific Cooperation Agreement); all texts available at <https://arctic-council.org>.

– not an international organization.<sup>171</sup> The establishment of the standing Arctic Council Secretariat in 2013 did not change the Arctic Council Members’ view that the Council is an intergovernmental forum rather than an international organization. It is also generally accepted that the Arctic Council has no mandate to adopt legally binding decisions. However, during 2009-2017, the Arctic Council was used as a venue for the negotiation of the above mentioned three legally binding instruments. These instruments were merely negotiated under the auspices of the Arctic Council but not formally adopted by it. The bi-annual Ministerial Meetings of the Arctic Council were used as the occasion for the signature of these three treaties (in 2011, 2013 and 2017 respectively).

There is also relevant practice among RFBs that can be used as a model. For instance, even though the Forum Fisheries Committee of the Pacific Islands Forum Fisheries Agency (FFA) does not have an explicit mandate to establish legally binding CMMs pursuant to the FFA’s founding treaty,<sup>172</sup> the Committee’s output has frequently been converted into a legally binding form. For instance under the framework of the Nauru Agreement<sup>173</sup> and adopted by the collective Parties to the Nauru Agreement (PNA) in their capacity as sovereign States (rather than as a member of an intergovernmental body) – and by means of the Niue Treaty<sup>174</sup>.

Also relevant is the practice by the Fisheries Committee for the West Central Gulf of Guinea (FCWC) and the Sub-Regional Fisheries Commission (SRFC). Even though both are regarded as RFABs, their founding treaties provide for the adoption of legally binding Protocols that can contain obligations. This has led to the adoption of the 2024 Protocol on Labour Standards<sup>175</sup> under the FCWC Convention,<sup>176</sup> and the adoption of

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<sup>171</sup> ‘Declaration on the Establishment of the Arctic Council, Ottawa, 19 September 1996’, available at <https://arctic-council.org>.

<sup>172</sup> South Pacific Forum Fisheries Agency Convention, Honiara, 10 July 1978. In force 9 August 1979; text available at <https://treaties.un.org/Pages/showDetails.aspx?objid=08000002800f0e0f>. But see Art. V(1)(c).

<sup>173</sup> Agreement concerning Cooperation in the Management of Fisheries of Common Interest, Nauru, 11 February 1982. In force 2 December 1982, as amended in April 2010; consolidated text available at [www.pnatuna.com](http://www.pnatuna.com).

<sup>174</sup> Niue Treaty on Cooperation in Fisheries Surveillance and Law Enforcement in the South Pacific Region, Honiara, 9 July 1992. In force 20 May 1993; text available at <https://www.ffa.int/download/niue-treaty/>.

<sup>175</sup> Protocol on Labour Standards for Crew and the Elimination of Forced Labour on Fishing Vessels in the FCWC region, Monrovia, 13 December 2024. Not in force.

<sup>176</sup> Convention for the Establishment of the Fishery Committee for the West Central Gulf of Guinea, Cotonou, 7 November 2007. Text available at <https://fcwc-fish.org/resources/fcwc-institutional-documents>. See Art. 18.

the 2012 Convention on Minimal Conditions for Access<sup>177</sup> under the SRFC Convention.<sup>178</sup>

In case WECAFC Members pursue an approach modeled on these practices, this could be used to adopt legally binding CMMs relating to the issues listed in subsection 5.1.3.

It is admitted, however, that further analysis of this approach and its (potential) implications would be necessary before seriously considering it. For instance, how would it be received by FAO, and would it need the support of all WECAFC Members or would a ‘coalition of the willing’ also be a possibility?

### **5.2.3 *Scientific and financial implications***

The current annual budget of WECAFC is about US\$ 143,000, including FAO regular program funds, and in-kind contributions from FAO headquarters and the regional office staff time.<sup>179</sup> Any increase in the activities and responsibilities of WECAFC under this option would require a corresponding increase in the budget. A similar thing can be said about any increases in scientific activities. Many of the current activities are supported now through voluntary contributions external to FAO.

## **5.3 Option 3: A strengthened WECAFC as an RFAB under Article VI, combined with a new high seas RFMA for non-ICCAT managed species**

### **5.3.1 *Summary***

The basic idea of Option 3 is to combine Option 2 – a strengthened WECAFC – with a new regional fisheries management arrangement (RFMA). This RFMA would:

1. have a COP or a MOP as its principal decision-making body, and would not establish an intergovernmental organization;

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<sup>177</sup> Convention on the Determination of the Minimal Conditions for Access and Exploitation of Marine Resources within the Maritime Areas under the Jurisdiction of the SRFC’s Members, Dakar, 8 June 2012. In force 16 September 2012; text available at <https://www.fao.org/faolex/results/details/en/c/LEX-FAOC215451/>.

<sup>178</sup> Convention establishing the Sub-Regional Fisheries Commission, 29 March 1985; as amended. Most recent version available at <https://www.fao.org/faolex/results/details/en/c/LEX-FAOC016639>. See Art. 25.

<sup>179</sup> WECAFC, 19<sup>th</sup> session. Report by the Secretary on the financial and administrative affairs of the Commission. WECAFC/XIX/2023/18.

2. not necessarily be supported by a secretariat and its parties would not necessarily be required to pay an (annual) assessed financial contribution;
3. have a substantive mandate to adopt legally binding CMMs;
4. have a species mandate that excludes fish species managed by ICCAT;
5. have a geographical mandate that is in principle limited to the high seas parts of the current WECAFC area of competence. If desirable, this could be complemented by a mechanism which allows this mandate to be extended to the maritime zones of a coastal State party to the RFMA, provided that this coastal State has given its express consent for this;
6. not have the same participation as the current WECAFC; and
7. cooperate and coordinate closely with other relevant bodies – in particular CRFM, ICCAT, OSPESCA and the strengthened WECAFC – through informal and formal arrangements (e.g. (MOUs)).

The geographical mandate of WECAFC would eventually be confined to the remaining parts of the current WECAFC area of competence (i.e. no high seas areas would remain) – by amending Article 3 of the WECAFC Statutes – but only once the negotiations on the RFMA have been concluded, and the high seas RFMA has entered into force.

These key features take full account of the responses by a majority of the responding WECAFC Members and three partner organizations to the Second Questionnaire as summarized in subsection 4.2, as well as the three key considerations of WECAFC Members on the WECAFC strategic reorientation set out in subsection 4.3. The third of these key considerations (cost-effectiveness) is reflected in the fact that the high seas RFMA would not necessarily be supported by a secretariat and its parties would not necessarily be required to pay an (annual) assessed financial contribution. In addition, the high seas RFMA would not necessarily have to be a ‘fully-fledged’ instrument<sup>180</sup> but could also be a relatively concise instrument,<sup>181</sup> tailored to the particular circumstances in the relevant high seas areas (e.g. the apparent limited significance of catches in the high seas portion of the WECAFC area of competence).

### **5.3.2 *An introduction to RFMAs***

An RFMA is consistently mentioned as a functionally equivalent alternative alongside RFMOs in the Fish Stocks Agreement.<sup>182</sup> Commonly, RFMAs are treaties

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<sup>180</sup> Such as the SIOFA, see note 185 below.

<sup>181</sup> Such as the CBS Convention, note 184 below, and the CAOFA, note 186 below.

<sup>182</sup> See the definition of RFMA in Art. 1(1)(d) of the Fish Stocks Agreement and the definition of RFMO in Art. 1(i) of the PSMA, which includes an “arrangement, as appropriate”.

(international legally binding instruments) that do not establish intergovernmental organizations but have a COP or a MOP as their principal decision-making body.<sup>183</sup> Just as RFMOs, however, these COPs or MOPs have the mandate to adopt legally binding CMMs. Pertinent examples are the 1994 CBS Convention,<sup>184</sup> the 2006 SIOFA<sup>185</sup> and the 2018 CAOFA<sup>186</sup>. Of these three, the CBS Convention and the CAOFA are not supported by a secretariat and their parties are also not required to pay an (annual) assessed financial contribution.

Whereas the SIOFA is a fully-fledged instrument that is essentially similar to the founding instrument of a modern RFMO, both the CBS Convention and the CAOFA are relatively concise instruments. As regards the CBS Convention, this is because it was adopted after the only fish stock covered by it – the straddling pollock stock – had collapsed. The CAOFA is concise because, when it was adopted, there had not yet been any fishing in the high seas portion of the central Arctic Ocean and no commercially viable fish stocks had been found there either. It was therefore decided that there was no need to establish a fully-fledged RFMO at that time. Instead, a so-called ‘step-wise approach’ was pursued by first establishing a relatively simple RFMA, which could later be replaced by a fully-fledged RFMO, if desirable.

The key features of Option 3 – an RFAB under Article VI of the FAO Constitution for areas within national jurisdiction combined with an RFMA for the high seas – has some similarities with the evolution of RFBs in the Indian Ocean. In June 1999, the FAO Council abolished the Indian Ocean Fishery Commission (IOFC)<sup>187</sup> – which had been an RFAB under Article VI of the FAO Constitution. Subsequently, various negotiation processes took place<sup>188</sup> which eventually led to the

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<sup>183</sup> An example of an RFMA established by a non-legally binding instrument is the ‘Arrangement between the Government of Australia and the Government of New Zealand for the Conservation and Management of Orange Roughy on the South Tasman Rise’ (signed on 12 January 1998 and 18 February 1998 respectively. In effect 1 March 1998, expired 28 February 1999). For a discussion see E.J. Molenaar, “The South Tasman Rise Arrangement of 2000 and other Initiatives on Management and Conservation of Orange Roughy”, 16 *International Journal of Marine and Coastal Law* 77-118 (2001).

<sup>184</sup> Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea, Washington D.C., 16 June 1994. In force 8 December 1995, 34 *International Legal Materials* 67 (1995). Text also available at <https://www.fisheries.noaa.gov/alaska/international-affairs/annual-conference-parties-convention-conservation-and-management-pollock-resources>.

<sup>185</sup> See note 169.

<sup>186</sup> Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean, Ilulissat, 3 October 2018. In force 25 June 2021; *OJ* 2019, L 73/3. Text also available at <https://vlab.noaa.gov/web/caofa>.

<sup>187</sup> FAO Council Resolution 1/116, in June 1999

<sup>188</sup> See the Final Act of the Conference on the SIOFA, note 167; and the discussion in Molenaar, note , at pp. 109-115.

1. establishment of the South West Indian Ocean Fisheries Commission (SWIOFC) as an RFAB under Article VI of the FAO Constitution in 2004,<sup>189</sup> with a mandate limited to the coastal State maritime zones of its Members (the ‘coastal track’ of the negotiations); and
2. adoption of the SIOFA in 2006 – followed by its entry into force in 2012 and its First MOP in 2013 – with a mandate limited to the high seas (the ‘high seas track’ of the negotiations). The SIOFA was not adopted under the FAO Constitution but FAO acts as its Depositary.<sup>190</sup>

### **5.3.3 Substantive mandate and content**

The substantive mandate of the strengthened WECAFC is set out under subsection 5.2.2.

The COP or MOP under the RFMA would have the mandate to adopt legally binding CMMs. As regards the content of the RFMA, it could either be fully-fledged – possibly modeled on the SIOFA – or it could be relatively concise – similar to the CBS Convention and the CAOFA. In view of the limited significance of current catches of species that would fall under the RFMA (see section 3), it could be desirable to devote particular attention to the list of issues identified in subsection 5.1.3 (e.g. avoiding adverse impacts of bottom fisheries on VMEs). The COP or MOP established by the RFMA would then be able to gradually complement this with new CMMs.

### **5.3.4 Geographical mandate and species mandate**

The geographical scope of the high seas RFMA would be limited to the high seas parts of the current WECAFC area of competence. If desirable, this could be complemented by a mechanism which allows this mandate to be extended for straddling and highly migratory fish stocks not managed by ICCAT which also occur in the maritime zones of a coastal State party to the RFMA, provided that this coastal State has given its express consent for this. Such an opt-in mechanism could be modelled on existing mechanisms used by RFMOs, in particular that of SPRFMO.<sup>191</sup>

The geographical mandate of WECAFC would eventually be confined to the remaining parts of the current WECAFC area of competence (i.e. no high seas areas

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<sup>189</sup> FAO Council Resolution 1/127, of 25 November 2004.

<sup>190</sup> Art. 25 of the SIOFA.

<sup>191</sup> See notes 147-150 and accompanying text.

would remain) – by amending Article 3 of the WECAFC Statutes – but only once the negotiations on the RFMA have been concluded, and the high seas RFMA has entered into force.

The species mandate of the strengthened WECAFC could eventually remain the same; possibly with the clarification that fish species managed by ICCAT would be excluded. As regards the high seas RFMA, its species mandate would cover all fisheries resources occurring in the geographical area covered by the RFMA, excluding fish species managed by ICCAT.

### ***5.3.5 Scientific requirements***

Monitoring and assessment requirements to support the new high seas RFMA might be similar to those described in subsection 5.1.4, and would have to be financed by the parties individually or, in case it is decided to establish a secretariat, possibly by their (annual) assessed financial contributions. WECAFC has arrangements with CRFM, OSPESCA and ICCAT that promote cooperation in the collection of data and scientific support. The new high seas RFMA should be included in these arrangements.

### ***5.3.6 Financial implications***

The financial implications of the high seas RFMA can be limited, because it does not necessarily need to be supported by a secretariat and its parties would not necessarily be required to pay an (annual) assessed financial contribution. This only depends on how the parties deal with monitoring and assessment requirements (see the previous subsection).

### ***5.3.7 Participation and membership***

Membership of the strengthened WECAFC would be different from the participation in the high seas RFMA. Once the high seas RFMA has entered into force, membership in the strengthened WECAFC would be confined to coastal States (i.e. those with coastal territory within the current WECAFC area of competence) pursuant to an amendment of Article 5 of the WECAFC Statutes.

Participation in the high seas RFMA and invitations to participate in its negotiation could either be entirely open and inclusive, or more closed and exclusive. All coastal

State WECAFC Members should probably be entitled to become party to the RFMA and be invited to participate in its negotiation. However, it seems that it would not be critical for the performance of the RFMA that all current coastal State WECAFC Members become parties. Rather, efforts should be made to ensure above all the participation of all coastal States in whose maritime zones the relevant species also occur (straddling or highly migratory fish stocks).<sup>192</sup> As regards non-coastal States, it seems that those that are currently WECAFC Members should be entitled to become party to the RFMA and be invited to participate in its negotiations. The same approach could also be taken for other high seas fishing States – and possibly entities (Taiwan) – with (recent) catches for relevant species in the envisaged high seas area.<sup>193</sup>

### ***5.3.8 Relationship with FAO and legal pathway for its establishment of the new RFMA***

As regards the high seas RFMA, there seem to be two basic options. The first is that there would be no relationship between the RFMA and FAO at all: the RFMA would not be adopted under the FAO Constitution and FAO would also not act as its Depositary. Moreover, neither FAO nor WECAFC would have any role in the RFMA's negotiations.

The second basic option would be to have some kind of relationship between the RFMA and FAO, and/or a role of FAO or WECAFC in the RFMA's negotiations. For instance:

1. Adoption under Article XIV of the FAO Constitution. This would probably only be possible if FAO views the RFMA as not establishing a new body;<sup>194</sup>
2. FAO would merely facilitate the RFMA's negotiations – whether only initially or entirely<sup>195</sup> – and either under the auspices of FAO as such or under the auspices of WECAFC<sup>196</sup>; or
3. FAO would merely act as Depositary for the RFMA.<sup>197</sup>

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<sup>192</sup> See also the notion of 'real interest' in Art. 8(3) of the Fish Stocks Agreement.

<sup>193</sup> Ibid.

<sup>194</sup> See note 144. The Compliance Agreement and the PMSA were both established under Art. XIV of the FAO Constitution. Whereas the Compliance Agreement does not establish any institutions at all, Art. 24(2) of the PSMA merely envisages that FAO convenes a meeting of the Parties within four years after the PSMA's entry into force, and that Parties shall decide on further such meetings as necessary; but does not establish a standing MOP.

<sup>195</sup> See the Final Act of the Conference on the SIOFA, note 188, at para. 3.

<sup>196</sup> See note 170 and accompanying text.

<sup>197</sup> See, e.g., Art. 25 of the SIOFA.

As regards the time needed to conclude the negotiations on the RFMA and secure its entry into force: this is very difficult to predict accurately beforehand. The negotiations might take between 2-4 years and an equal amount of time might be needed before the RFMA enters into force.

### ***5.3.9 Interactions with existing international bodies***

Both the high seas RFMA and the Statutes of the strengthened WECAFC would recognize ICCAT's primacy over species managed by it and stipulate the need for close cooperation and coordination with other relevant international bodies. In addition, they should continue existing and establish new informal or formal arrangements (e.g. MOUs) to operationalize this requirement between each other, and between each of them and CRFM, ICCAT and OSPESCA.

**ANNEX 1: LIST OF DOCUMENTS AND REPORTS ON WECAFC STRATEGIC REORIENTATION**

2014	Report of the WECAFC Reorientation and Strategic Planning Workshop, Gosier, Guadeloupe, 29–30 January 2014 (FAO Fisheries and Aquaculture Report No. 1068; SLC/FIPI/R1068 (En); Bridgetown, Barbados, FAO, 2014; <a href="http://www.fao.org/3/a-i3795e.pdf">http://www.fao.org/3/a-i3795e.pdf</a> ).
	Doc. WECAFC/XV/2014/11 ‘Draft Report of the WECAFC Performance Review’; <a href="https://www.fao.org/fishery/docs/DOCUMENT/wecafc/15thsess/default.htm">https://www.fao.org/fishery/docs/DOCUMENT/wecafc/15thsess/default.htm</a> .
	Doc. WECAFC/XV/2014/12 ‘Background, guidance and strategic options for the strategic reorientation of WECAFC: Options paper’; <a href="https://www.fao.org/fishery/docs/DOCUMENT/wecafc/15thsess/default.htm">https://www.fao.org/fishery/docs/DOCUMENT/wecafc/15thsess/default.htm</a> .
2016	‘Findings of the independent cost-benefit assessment of the options for strategic re-orientation of WECAFC’ by Kjartan Hoydal (FAO Fisheries and Aquaculture Circular. No. 1117; Bridgetown, Barbados, FAO, 2016; available <a href="#">here</a> ).
	Report of the Second Reorientation and Strategic Planning Workshop, Port of Spain, Trinidad and Tobago, 1 - 2 December 2015 (FAO Fisheries and Aquaculture Report No. 1140; SLC/FIP/R1140 (Bi); Barbados, FAO, 2016).
	Western Central Atlantic Fishery Commission: performance, planning and procedures (FAO Fisheries and Aquaculture Circular No. 1096; SLC/FIP/C1096 (Tri); Rome, FAO, 2016).
	Doc. WECAFC/XVI/2016/12 ‘Summary findings of the independent cost-benefit assessment of the options for strategic re-orientation of WECAFC’.
	Doc. WECAFC/XVI/2016/13 ‘Assessment of the recent achievements and collaboration of CRFM, OSPESCA and WECAFC, including options for a regional institutional collaborative structure within an RFMO framework’.
2018	Discussion paper in support of the WECAFC strategic reorientation process, by Teresa Amador, independent legal advisor. Background document for the 1st Preparatory Meeting on the establishment of an RFMO in the WECAFC area (FAO; final version of 12 October 2018; on file with authors).
2019	‘Guidance Paper: Analysis of Substantive Themes and Draft Agreement’, included in Annex E to the Report of the 1 <sup>st</sup> (2019) WECAFC Preparatory Meeting for the Transformation into an RFMO.
	Doc. WECAFC/XVII/2019/8 ‘Summary report of the First preparatory meeting of the Western Central Atlantic Fishery Commission (WECAFC) for the transformation into a Regional Fisheries Management Organization. Bridgetown, Barbados, 25-26 March 2019’.
	‘Roadmap for Progressing towards the Development of a Model for a Regional Fisheries Management Entity or Arrangement in the WECAFC Area’, included in Annex G to the Report of the 17 <sup>th</sup> (2019) WECAFC Session.
2020	Report of the First Western Central Atlantic Fishery Commission Preparatory Meeting for the Transformation into a Regional Fisheries Management Organization, Bridgetown, Barbados, 25- 26 March 2019 (FAO Fisheries and

	Aquaculture Report No. 1310, SLC/FIA/R1310 (Tri); Bridgetown, Barbados, FAO, 2020).
	Report on the findings of the questionnaire to inform the Western Central Atlantic Fishery Commission (WECAFC) Ad Hoc Intersessional Working Group for the Strategic reorientation of WECAFC, by Helga Josupeit, January 2021 (final version; on file with authors).
	Summary Report of the Virtual Meeting of the WECAFC Ad hoc Intersessional Working Group (IWG) to Prepare for the Second Preparatory Meeting for the Strategic Reorientation of WECAFC - Friday, 23 October 2020 (on file with authors).
2021	Questionnaire on the Future of WECAFC, 14 May 2021 (on file with authors).
	Excel spreadsheet of 14 June 2021 with separate tabs for Summary Statistics, Member's Comments and Member Organization's Comments (on file with authors).
2022	Doc. WECAFC/SAG/XI/2022/14 'Review of the Biological Data, the Stocks Spatial Distribution and the Ecological Connectivity between the Areas Beyond National Jurisdiction and the Exclusive Economic Zones in the WECAFC region'; with 'Maps & Figures' as a separate, unnumbered document.
2023	Doc. WECAFC/XIX/2023/17 'Strategic reorientation/implementation of the ad hoc Intersessional Working Group (IWG) Roadmap from WECAFC17 and proposed next steps'.
	Doc. WECAFC/XIX/2023/Inf.6 'Arocha, F.D., Narvaez, M. & Mendoza, J. Review of biological data, spatial distribution of the stocks and ecological connectivity between areas beyond national jurisdiction and exclusive economic zones in the Western Central Atlantic Fishery Commission region. Rome, FAO; <a href="https://www.fao.org/3/cc7301en/cc7301en.pdf">https://www.fao.org/3/cc7301en/cc7301en.pdf</a> .
	Doc. WECAFC/XIX/2023/Inf.14 'Background and Updates on the Strategic Reorientation of the Western Central Atlantic Fishery Commission (WECAFC)'.

## ANNEX 2: LIST OF INTERNATIONAL INSTRUMENTS

1945	FAO Constitution	Constitution of the Food and Agriculture Organization of the United Nations, Quebec City. Opened for signature and entered into force on 16 October 1945, as amended. Consolidated version available at <a href="https://www.fao.org/4/x5584e/x5584e0i.htm">https://www.fao.org/4/x5584e/x5584e0i.htm</a> .
1949	GFCM Agreement	Agreement for the Establishment of a General Fisheries Council for the Mediterranean, Rome, 24 September 1949. In force 20 February 1952, 126 <i>United Nations Treaty Series</i> 239; as amended in 1963, 1976, 1997 and 2014. Consolidated version available at <a href="https://www.fao.org/gfcm/about/en/">https://www.fao.org/gfcm/about/en/</a> .
1959	Antarctic Treaty	Antarctic Treaty, Washington D.C., 1 December 1959. In force 23 June 1961, 402 <i>United Nations Treaty Series</i> 71; text also available at <a href="http://www.ats.aq">www.ats.aq</a>
1966	ICCAT Convention	International Convention for the Conservation of Atlantic Tunas, Rio de Janeiro, 14 May 1966. In force 21 March 1969, 673 <i>United Nations Treaty Series</i> 63 (1969), as amended by Protocols adopted in 1984 and 1992, which both entered into force. Consolidated version at < <a href="http://www.iccat.int">www.iccat.int</a> >. Protocol of 18 November 2019, Palma de Mallorca. Not in force; <a href="https://www.fao.org/treaties/results/details/en/c/TRE-000262/">https://www.fao.org/treaties/results/details/en/c/TRE-000262/</a>
1973	CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora, Washington, D.C., 3 March 1973. In force 1 July 1975, 993 <i>United Nations Treaty Series</i> 243; < <a href="http://www.cites.org">www.cites.org</a> >.
	WECAFC Statutes	Statutes of the Western Central Atlantic Fisheries Commission, adopted by FAO Council Resolution 4/61 (November 1973), as amended lastly by FAO Council Resolution 1/131 (November 2006); text available at <a href="https://www.fao.org/wecafc/about/en/">https://www.fao.org/wecafc/about/en/</a> .
1978	FFA Convention	South Pacific Forum Fisheries Agency Convention, Honiara, 10 July 1978. In force 9 August 1979; text available at <a href="https://treaties.un.org/Pages/showDetails.aspx?objid=08000002800f0e0f">https://treaties.un.org/Pages/showDetails.aspx?objid=08000002800f0e0f</a>
	NAFO Convention	Convention on Cooperation in the Northwest Atlantic Fisheries (originally named 'Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries', Ottawa, 24 October 1978. In force 1 January 1979, 1135 <i>United Nations Treaty Series</i> 369; as amended; consolidated version available at <a href="https://www.nafo.int/Home/NAFO-Governance">https://www.nafo.int/Home/NAFO-Governance</a> ).
1980	CAMLR Convention	Convention on the Conservation of Antarctic Marine Living Resources, Canberra, 20 May 1980. In force 7 April 1982, 1329 <i>United Nations Treaty Series</i> 47 (1983); text available at <a href="https://www.ccamlr.org/en/organisation">https://www.ccamlr.org/en/organisation</a> .
	NEAFC Convention	Convention on Future Multilateral Cooperation in the North-East Atlantic Fisheries (London, 18 November 1980. In force 17 March 1982, 1285 <i>United Nations Treaty Series</i> 129; as amended, consolidated version available at <a href="https://www.neafc.org/basictexts">https://www.neafc.org/basictexts</a> ).
1982	Nauru Agreement	Agreement concerning Cooperation in the Management of Fisheries of Common Interest, Nauru, 11 February 1982. In force 2 December 1982, as amended in April 2010; consolidated text available at <a href="http://www.pnatuna.com">www.pnatuna.com</a> .
	UNCLOS	United Nations Convention on the Law of the Sea, Montego Bay, 10 December 1982. In force 16 November 1994, 1833 <i>United Nations Treaty Series</i> 396; <a href="http://www.un.org/Depts/los">www.un.org/Depts/los</a> .
	Niue Treaty	Niue Treaty on Cooperation in Fisheries Surveillance and Law Enforcement in the South Pacific Region, Honiara, 9 July 1992. In force 20 May 1993; text available at <a href="https://www.ffa.int/download/niue-treaty/">https://www.ffa.int/download/niue-treaty/</a> .
1985	SRFC Convention	Convention establishing the Sub-Regional Fisheries Commission, 29 March 1985; as amended. Most recent version available at <a href="https://www.fao.org/faolex/results/details/en/c/LEX-FAOC016639">https://www.fao.org/faolex/results/details/en/c/LEX-FAOC016639</a> .

1993	FAO Compliance Agreement	Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, Rome, 24 November 1993. In force 24 April 2003; 2221 <i>United Nations Treaty Series</i> 91; text also available at <a href="http://www.fao.org/treaties/en/">www.fao.org/treaties/en/</a> .
1994	CBS Convention	Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea, Washington D.C., 16 June 1994. In force 8 December 1995, 34 <i>International Legal Materials</i> 67 (1995). Text also available at <a href="https://www.fisheries.noaa.gov/alaska/international-affairs/annual-conference-parties-convention-conservation-and-management-pollock-resources">https://www.fisheries.noaa.gov/alaska/international-affairs/annual-conference-parties-convention-conservation-and-management-pollock-resources</a> .
1995	Fish Stocks Agreement	Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, New York, 4 August 1995. In force 11 December 2001, 2167 <i>United Nations Treaty Series</i> 3; text also available at <a href="http://www.un.org/Depts/los">www.un.org/Depts/los</a> .
	FAO Code of Conduct	Code of Conduct for Responsible Fisheries. Adopted by the Twenty-eight Session of the FAO Conference, Rome, 31 October 1995; text available at, <a href="http://www.fao.org/fishery/en">www.fao.org/fishery/en</a> .
1996	Ottawa Declaration	Declaration on the Establishment of the Arctic Council, Ottawa, 19 September 1996, available at <a href="https://arctic-council.org">https://arctic-council.org</a> .
2001	IPOA-IUU	International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing. Adopted by consensus by FAO's Committee on Fisheries on 2 March 2001 and endorsed by the FAO Council on 23 June 2001; <a href="http://www.fao.org/fi">www.fao.org/fi</a> ). Text available at <a href="https://www.fao.org/fishery/en/governance/instruments-guidelines">https://www.fao.org/fishery/en/governance/instruments-guidelines</a> .
2006	SIOFA	Southern Indian Ocean Fisheries Agreement, Rome, 7 July 2006. In force 21 June 2012; text available at <a href="https://www.fao.org/treaties/en/">https://www.fao.org/treaties/en/</a> .
2007	FCWC Convention	Convention for the Establishment of the Fishery Committee for the West Central Gulf of Guinea, Cotonou, 7 November 2007. Text available at <a href="https://fcwc-fish.org/resources/fcwc-institutional-documents">https://fcwc-fish.org/resources/fcwc-institutional-documents</a> . <ul style="list-style-type: none"> <li>• Protocol on Labour Standards for Crew and the Elimination of Forced Labour on Fishing Vessels in the FCWC region, Monrovia, 13 December 2024. Not in force</li> </ul>
2008	International Deep-sea Fisheries Guidelines	International Guidelines for the Management of Deep-sea Fisheries in the High Seas, Rome, 29 August 2008 (contained in Appendix F to the Report of the Technical Consultation on International Guidelines for the Management of Deep-sea Fisheries in the High Seas, Rome, 4-8 February and 25-29 August 2008 ( <i>FAO Fisheries and Aquaculture Report</i> No. 881)).
2009	PSMA	Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, Rome, 22 November 2009. In force 5 June 2016; text available at <a href="http://www.fao.org/treaties/en/">www.fao.org/treaties/en/</a>
	SPRFMO Convention	Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean (Auckland, 14 November 2009. In force 24 August 2012; text available at <a href="https://www.sprfmo.int/about/docs/">https://www.sprfmo.int/about/docs/</a> ).
2011	Arctic SAR Agreement	Agreement on Cooperation in Aeronautical and Maritime Search and Rescue in the Arctic, Nuuk, 12 May 2011. In force 19 January 2013; 50 <i>International Legal Materials</i> 1119; text also available at <a href="http://www.arctic-council.org">www.arctic-council.org</a> .
2012	Convention on Minimal Conditions for Access	Convention on the Determination of the Minimal Conditions for Access and Exploitation of Marine Resources within the Maritime Areas under the Jurisdiction of the SRFC's Members, Dakar, 8 June 2012. In force 16 September 2012; text available at <a href="https://www.fao.org/faolex/results/details/en/c/LEX-FAOC215451/">https://www.fao.org/faolex/results/details/en/c/LEX-FAOC215451/</a> .

2013	MOSPA	Agreement on Cooperation on Marine Oil Pollution Preparedness and Response in the Arctic, Kiruna, 15 May 2013. In force 25 March 2016; text available at <a href="http://www.arctic-council.org">www.arctic-council.org</a> .
2017	Arctic Scientific Cooperation Agreement	Agreement on Enhancing International Arctic Scientific Cooperation, Fairbanks, 11 May 2017. In force 23 May 2018; text available at <a href="http://www.arctic-council.org">www.arctic-council.org</a> .
2018	CAOFA	Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean, Ilulissat, 3 October 2018. In force 25 June 2021; <i>OJ</i> 2019, L 73/3. Text also available at <a href="https://vlab.noaa.gov/web/caofa">https://vlab.noaa.gov/web/caofa</a> .
2022	WTO Agreement on Fisheries Subsidies	Agreement on Fisheries Subsidies, Geneva, 17 June 2022. Not in force; doc. WT/MIN(22)/33, WT/L/1144 of 22 June 2022. The status of participation is available at <a href="https://www.wto.org/english/tratop_e/rulesneg_e/fish_e/fish_e.htm">https://www.wto.org/english/tratop_e/rulesneg_e/fish_e/fish_e.htm</a> .
2023	BBNJ Agreement	Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, New York, 20 September 2023. Not in force; certified true copy available at <a href="https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&amp;mtdsg_no=XI-10&amp;chapter=21&amp;clang=en">https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&amp;mtdsg_no=XI-10&amp;chapter=21&amp;clang=en</a> .