



Planning for the 2nd IPHC Performance Review

PREPARED BY: IPHC SECRETARIAT (D. WILSON & S. KEITH; 10 JANUARY 2017)

PURPOSE

To provide the Commission with a draft process, terms of reference and assessment criteria for undertaking a 2nd Performance Review of the IPHC in 2017.

BACKGROUND

The Performance Review process is based upon the principles discussed at the 26th Session of the FAO Committee on Fisheries (COFI26), held in 2005. During that session the importance of establishing principles to review the performance of regional fishery management organisations (RFMOs) in meeting their objectives as well as the obligations and principles in relevant international instruments was highlighted.

At the 4th Meeting of Rights-based Fisheries Bodies (RFBs) in 2005, participants addressed in greater depth the role of RFBs and external factors affecting fisheries management, partly in response to the proposal made at COFI26. In this context, COFI had stressed the need to develop a process to assess the performance of RFMOs as well as to promote best practices across RFMOs. It was considered that the proposed performance reviews should be independent and recognize the diversities of RFMOs, but should not be an efficiency assessment of secretariats.

The United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea (ICP), which facilitates the review by the United Nations General Assembly (UNGA) of developments in ocean affairs and the law of the sea, addressed the role of RFMOs at its 6th Session in 2005. The important role of RFMOs was underlined, and a strengthening of their role and modernization of their operation was advocated. The meeting indicated that the point was not to focus on deficiencies or performance or gaps in coverage of RFBs, but to support the trend of enhancement of the performance of RFBs.

The ICP outcome was followed by the 2005 UNGA Resolution on Sustainable Fisheries (UNGA 60/31), which encouraged States through their participation in RFMOs to initiate processes for their performance review and welcomed the work of FAO in the development of general objective criteria for such reviews. It called for further efforts by RFMOs, as a matter of priority, to strengthen and modernise their mandates to include an ecosystem approach to fisheries management and biodiversity considerations. The Resolution also emphasized the importance of decision-making processes in RFMOs and encouraged the incorporation of a precautionary approach and the adoption of related measures.

The review conference on the UN Fish Stocks Agreement (UNFSA), held in New York in May 2006, reviewed and assessed the adequacy of the provisions of the Agreement and proposed means of strengthening the substance and methods of their implementation. The review and assessment of key issues included the strengthening of RFMOs mandates and measures to implement modern approaches to fisheries management reflected in the Agreement. In addition, the conference recommended a systematic review and assessment of RFMO performance. As a result, actions were agreed that should be taken by States individually and

through RFMOs to strengthen mechanisms for international cooperation, including performance reviews. States were to:

- a. urge RFMOs of which they were members to undergo performance reviews on an urgent basis;
- b. encourage an element of independent evaluation in such reviews; and
- c. ensure that the results are made publicly available.

The UNGA Resolution on Sustainable Fisheries (UNGA 61/105) considered by the 61st Session in 2006 continued to call on RFMOs to strengthen their mandates and the measures they adopt to implement modern approaches to fisheries management. This reflected the recommendation of the 7th Meeting of the ICP in 2006, that implementation of an ecosystem approach could be achieved through, inter alia, where appropriate, strengthening RFMOs, adapting their mandates and modernizing their operations in accordance with international law. Moreover, the UNGA Resolution urged States through RFMOs to undertake performance reviews. It also addressed the process and the criteria for such reviews. RFMOs were encouraged to include some element of independent evaluation and make the results publicly available.

International Pacific Halibut Commission

Noting that the 1st Performance Review of the IPHC occurred in 2011-12, and that the generally agreed best practice among RFMOs requires a Performance Review to be undertaken every 3-5 years, the IPHC has agreed to undertake a 2nd Performance Review of the IPHC in 2017.

In its January 2014 progress report, the Commission noted that:

“Performance reviews are an important tool to help ensure the Commission continues to fulfill its mission and maintain accountability to its stakeholders and community. The Commission has benefitted significantly from the 2012 performance review and intends to continue the work stemming from that review...”

“One fundamental best practice that stands out in the literature is the need to review performance on a regular basis. The Commission intends to make periodic performance reviews a regular feature of its operations. Future reviews may be structured as broad looks or as more focused evaluations, depending on conditions and developments at the time. They may be performed by internal or external reviewers. Key to a successful review program is to track all recommendations, actions, and outcomes, so that each review builds on its predecessors.”

“The Commission also continues to solicit comment and advice from stakeholders on its ongoing performance review process.”

92nd Session of the IPHC Interim Meeting (IM092): Update

At the 92nd Session of the IPHC Interim Meeting (IM092) held in November 2016, the Commission considered how best to move forward with a 2nd Performance Review of the IPHC. The Commission made the following comment:

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(Para. 76) The Commission **NOTED** paper IPHC-2016-IM092-15 which provided the Commission with a draft process for undertaking a 2nd Performance Review of the IPHC in 2017.

(Para. 77) The Commission **REQUESTED** that the IPHC Secretariat finalize the draft performance review terms of reference and criteria, as well as provide a proposed process and budget to conduct the review, to be considered at the 2017 Annual Meeting (AM093) for implementation during 2017. The plan should include anticipated Commissioner and IPHC Secretariat support, as well as recommendations regarding the use of outside contractors to conduct the review.

DISCUSSION

Other RFMOs have based their performance reviews on the same or similar criteria, which generally include the following elements:

- a. Legal analysis of the Convention/Agreement to ensure its adequacy relative to current best practice principles of fisheries management;
- b. Conservation and management (status of living marine resources; quality and provision of scientific advice; data collection and sharing; adoption of conservation and management measures, including measures adopted at the coastal State level; compatibility of conservation and management measures; fishing allocations);
- c. Consistency between scientific advice and conservation and management measures adopted;
- d. Compliance and enforcement (flag State duties; monitoring, control and surveillance activities; port State measures; follow-up on infringements; cooperative mechanisms to detect and deter non-compliance; market-related measures);
- e. Decision-making and dispute settlement;
- f. International cooperation (transparency; relationship to cooperating non-members; relationship to non-cooperating non-members, cooperation with other RFMOs and special requirements of developing States); and
- g. Efficiency and transparency of financial and administrative management.

Noting that not all of the above elements would apply to the IPHC, a revised set of criteria for evaluation in 2017 is provided at [Appendix A](#) for the Commission's consideration and possible endorsement, along with a proposed budget.

RECOMMENDATIONS

That the Commission:

- 1) **NOTE** paper IPHC-2017-AM093-18, which provides the Commission with a draft process for undertaking a 2nd Performance Review of the IPHC in 2017.
- 2) **RECOMMEND** that the IPHC Secretariat finalise the draft performance review terms of reference and criteria to conduct the review, and implement the 2nd Performance

Review throughout 2017, for presentation to the Commission at its 94th Annual Meeting in 2018.

ADDITIONAL DOCUMENTATION / REFERENCES

FAO (Food and Agriculture Organization of the United Nations). 2015. Fisheries and Aquaculture Circular The implementation of performance review reports by regional fishery bodies 2004–2014. ISSN 2070-6065

(<http://www.fao.org/publications/card/en/c/4a6d5533-785a-4d6a-8827-c1af46abdf50/>)

Appendices

[Appendix A](#): DRAFT: Terms of reference and criteria to conduct the 2nd Performance Review of the International Pacific Halibut Commission (IPHC), as well as a proposed process and budget.

APPENDIX A

DRAFT: TERMS OF REFERENCE AND CRITERIA TO CONDUCT THE 2ND PERFORMANCE REVIEW OF THE INTERNATIONAL PACIFIC HALIBUT COMMISSION (IPHC), AS WELL AS A PROPOSED PROCESS AND BUDGET.

1. Terms of reference for the implementation of the 2nd Performance Review of the International Pacific Halibut Commission (PRIPHC02)

1.1 Scope of the review:

The review will evaluate progress made on the recommendations arising from the 1st performance review of the IPHC. In addition, it will focus on the effectiveness of the Commission to fulfil its mandate, in accordance with the criteria set forth below. In conducting the review, the strengths, weakness, opportunities and risks to the organisation shall also be evaluated.

1.2 Composition of the Review Panel:

Chairperson: An independent Chairperson with legal fisheries background and a good understanding of Regional Fisheries Management Organisations (RFMO). The Chairperson should not be directly affiliated with any IPHC Contracting Party.

Contracting Parties: Four representatives of IPHC Contracting Parties: two from each.

Science Advisor: A science expert not affiliated with the IPHC Contracting Parties, and with expertise on groundfish and the ecosystems affected by Pacific halibut fisheries.

RFMOs: At least two members from other Regional Fisheries Management Organisations: e.g. Inter-American Tropical Tuna Commission (IATTC), North Pacific Fisheries Commission (NPFC), North Pacific Anadromous Fish Commission (NPAFC).

NGOs: Two Non-Governmental Organisations (e.g. PEW Charitable Trust, Birdlife International (BL)).

IPHC Secretariat: The IPHC Secretariat will not be a part of the Review Panel but it will act as a facilitator of its activities, providing access to information and facilities that the Review Panel will require to conduct its work.

1.3 Meeting locations:

Two (2) in-person Review Panel meetings will take place, one in the USA (at the seat of the Commission in Seattle) and one in Canada (location to be decided by Canada). Contracting Parties will cover the costs associated with the participation of their representatives. However, the attendance of other Panel Members to the Review Panel meetings may be funded under

the Commission's travel budget. Additional meetings may be required, as determined by the Panel, and will be conducted via electronic means facilitated by the IPHC Secretariat.

1.4 Work schedule

The report of the Review Panel will be completed and made available no later than 30 days prior to the 94th Session of the IPHC Annual Meeting (AM094) in 2018, and published on the IPHC website so as to maximize transparency.

1.5 Budget

Budget Item	Details	Costs US\$
FY2017		
1 st Meeting of the PRIPHC02 (IPHC Offices, Seattle, USA)	4-day meeting: Catering (breaks/lunch) Meeting room/equipment provided by hosts.	1,500
Independent Chairperson: fees	5 days	5,000
Travel: 6 independent Panel members	Various to Seattle (flights [\$6,000], accommodation [\$9,000]; meals [\$1,650])	16,650
Legal review of the IPHC Convention	Desk analysis of the legal framework of the IPHC (5 days) by an International Fisheries Legal Expert	5,000
	Sub-Total	28,150
FY2018		
1 st Meeting of the PRIPHC02 (TBD, Vancouver, CAN)	4-day meeting: Catering (breaks/lunch) Meeting room/equipment provided by hosts.	1,500
Independent Chairperson: fees	5 days	5,000
Travel: 6 independent Panel members	Various to Vancouver (flights [\$6,000]; accommodation [\$9,000]; meals [\$1,965])	16,965
	Sub-Total	23,465
	Total	51,615

2. Criteria for the 2nd Performance Review of the International Pacific Halibut Commission (PRIPHC02)

Criteria 1: *Legal analysis of the Convention* to ensure its adequacy relative to current global best practice principles of fisheries management

Criteria 2: *Conservation and management* (status of living marine resources; quality and provision of scientific advice; data collection and sharing; adoption of fishery Regulations, also known in other RFMO's as Conservation and Management Measures, including measures adopted at the national level; compatibility of fishery Regulations)

- i. Status of living marine resources

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- Status of Pacific halibut stock under the purview of the IPHC in relation to relevant biological standards.
 - Trends in the status of the stock.
 - Status of species that belong to the same ecosystems as, or are associated with or dependent upon, Pacific halibut (hereinafter “non-target species”).
 - Trends in the status of non-target species.
- ii. Quality and provision of scientific advice
- Extent to which the IPHC receives and/or produces the best scientific advice relevant to the fish stocks and other living marine resources under its purview, as well as to the effects of fishing on the marine environment.
 - Extent to which the IPHC obtains and evaluates scientific advice, reviews the status of the stock, promotes the conduct of relevant scientific research and disseminates the results thereof.
- iii. Data collection and sharing
- Extent to which the IPHC has agreed formats, specifications and timeframes for data submission, taking into account UNFSA Annex I.
 - Extent to which IPHC Contracting Parties, individually or through the IPHC, collect and share complete and accurate fisheries data concerning target stocks and non-target species and other relevant data in a timely manner.
 - Extent to which fishing data and fishing vessel data are gathered by the IPHC and shared among Contracting Parties and other relevant bodies.
 - Extent to which the IPHC is addressing any gaps in the collection and sharing of data as required.
 - Extent to which the IPHC has set standards for the collection of socio-economic data from the fisheries; and extent to which this information is used to inform decisions by the Commission.
 - Extent to which the IPHC has set security and confidentiality standards and rules for sharing of sensitive science and operational/compliance data.
- iv. Consistency between scientific advice and fishery Regulations adopted;
- Extent to which the IPHC has adopted fishery Regulations for both Pacific halibut, and proposed regulations for non-target species to relevant bodies, that ensure the long-term sustainability of the ecosystem as well as of such stocks and species and are based on the best scientific evidence available.
 - Extent to which the IPHC has applied the precautionary approach as set forth in UNFSA Article 6 and the Code of Conduct for Responsible Fisheries Article 7.5, including the application of precautionary reference points and harvest control rules.
 - Extent to which the IPHC has adopted and implemented effective rebuilding plans for depleted or overfished stocks.
 - Extent to which the IPHC has taken due account of the need to conserve marine biological diversity and minimise harmful impacts of fisheries on living marine resources and marine ecosystems.
 - Extent to which the IPHC has adopted measures to minimise pollution, waste, discards, catch by lost or abandoned gear, catch of non-target species, both

fish and non-fish species, and impacts on associated or dependent species, in particular endangered species, through measures including, to the extent practicable, the development and use of selective, environmentally safe and cost-effective fishing gear and techniques.

- v. Compatibility of management measures
 - Extent to which measures have been adopted as reflected in UNFSA Article 7.
- vi. Fishing allocations and opportunities
 - Extent to which the IPHC agrees on the allocation of allowable catch or levels of fishing effort, including taking into account requests for participation from new Contracting Parties or participants as reflected in UNFSA Article 11.

Criteria 3: *Compliance and enforcement* (flag State duties; monitoring, control and surveillance activities; port State measures; follow-up on infringements; cooperative mechanisms to detect and deter non-compliance; market-related measures)

- i. Flag State duties
 - Extent to which IPHC Contracting Parties are fulfilling their duties as flag States under the Convention establishing the IPHC, pursuant to measures adopted by the IPHC, and under other international instruments, including, *inter alia*, the 1982 Law of the Sea Convention, and the UNFSA, as applicable.
- ii. Port State measures
 - Extent to which the IPHC has adopted measures relating to the exercise of the rights and duties of its members as port States, as reflected in UNFSA Article 23 and the Code of Conduct for Responsible Fisheries Article 8.3 and the FAO Port State Agreement.
 - Extent to which these measures are effectively implemented.
- iii. Monitoring, control and surveillance (MCS)
 - Extent to which the IPHC has adopted integrated MCS measures (e.g. required use of VMS, observers, catch documentation and trade tracking schemes, restrictions on transshipment, boarding and inspection schemes).
 - Extent to which these measures are effectively implemented.
- iv. Follow-up on infringements
 - Extent to which the IPHC Contracting Parties follow up on infringements to management measures.
- v. Cooperative mechanisms to detect and deter non-compliance
 - Extent to which the IPHC has established adequate cooperative mechanisms to both monitor compliance and detect and deter non-compliance (e.g. compliance committees, vessel lists, sharing of information about non-compliance, joint patrols, common Minimum Terms and Conditions for access, harmonised regulatory mechanisms, boarding schemes, regional/compatible VMS equipment and operational criteria, observer

schemes, with common training standards for inspectors and observers, intra-regional cooperation, etc.).

- Extent to which these mechanisms are being effectively utilised.
 - Extent to which the IPHC has adopted new measures to foster (reward/penalise) compliance within IPHC and effectiveness of such measures.
- vi. Market-related measures
- Extent to which the IPHC has adopted measures relating to the exercise of the rights and duties of its Members as market States.
 - Extent to which these market-related measures are effectively implemented.

Criteria 4: *Decision-making and dispute settlement*

- i. Decision-making
- Extent to which IPHC has transparent and consistent decision-making procedures that facilitate the adoption of management regulations in a timely and effective manner.
- ii. Dispute settlement
- Extent to which the IPHC has established adequate mechanisms for resolving disputes among Contracting Parties.

Criteria 5: *International cooperation* (transparency; relationship to non-Contracting Parties; cooperation with other RFMOs)

- i. Transparency
- Extent to which the IPHC is operating in a transparent manner, as reflected in UNFSA Article 12 and the Code of Conduct for Responsible Fisheries Article 7.1.9.
 - Extent to which IPHC decisions, meeting reports, scientific advice upon which decisions are made, and other relevant materials are made publicly available in a timely fashion.
- ii. Relationship to non-Contracting Parties
- Extent to which the IPHC facilitates cooperation among Contracting Parties and non-Contracting Parties which exploit the Pacific halibut stock, including through the adoption and implementation of procedures for granting Cooperating Non-Contracting Party status.
 - Extent of fishing activity by vessels of non-Contracting Parties that are not cooperating with the IPHC, as well as measures to deter such activities.
- iii. Cooperation with other RFMOs
- Extent to which the IPHC cooperates with other RFMOs, including through the network of Regional Fishery Body Secretariats.
 - Extent to which IPHC works intra-regionally to adopt common regulatory principles, standards and operational schemes, and processes where

appropriate, e.g. observer coverage, gear management, access rules and appropriate financial mechanisms.

iv. Participation

- Extent to which all fishing entities active in the Convention area, and the stock range, discharge their obligations in line with the UNFSA.

Criteria 6: *Efficiency and transparency of financial and administrative management*

i. Availability of resources for IPHC activities

- Extent to which financial and other resources are made available to achieve the aims of the IPHC and to implement the Commission's decisions.

ii. Efficiency and cost-effectiveness

- Extent to which the IPHC is efficiently and effectively managing its human and financial resources.
- Extent to which the IPHC is managing its budget as well as its capacity to monitor and audit annual and multiannual expenditures.
- Extent to which the IPHC Rules of Procedure and the IPHC Financial Regulations comply with international best practice.

iii. Advisory structure

- Extent to which the IPHC has an adequate and effective set of subsidiary bodies which provide it with sound advice, and in accordance with best practice governance processes.