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COMMITTEE ON THE PEACEFUL USES OF THE
SEA-BED AND THE OCEAN FLOOR BEYOND THE
LIMITS OF NATIONAL JURISDICTION

REPORT ON REGULATORY FISHERY BODIES

Note by the Secretariat

The attached report* has been prepared by the secretariat of the Food and Agriculture Organization (FAO) in accordance with the request made by the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction at its July-August 1971 session. It will be submitted to the FAO Committee on Fisheries at its seventh session in April 1972 as indicated by the Conference of FAO at its sixteenth session.

* Owing to the limited number of copies of the report which are available in English, French and Spanish, this note is also being issued without the attachment.

REPORT ON REGULATORY FISHERY BODIES

prepared by

FAO Department of Fisheries



FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

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INTRODUCTION AND SUMMARY

1. At the session it held in Geneva from 19 July to 27 August 1971, the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor Beyond the Limits of National Jurisdiction resolved to request the Food and Agriculture Organization of the United Nations (FAO) to prepare a report on regulatory fishery bodies and to submit such report to its next session.
2. In accepting the request, the representative of FAO noted that delegations had referred specifically to a factual report on the scope, composition, functions and activities of existing regional fishery bodies, with particular reference to conservation measures, including limitation and apportionment of catches, and to enforcement schemes. In answer to a delegation which had expressed the wish that FAO would provide a realistic assessment of the achievements of fishery bodies, he pointed out that his Organization could not attempt to evaluate the successes and failures of these bodies, but would endeavour to provide enough factual information to enable delegations to make their own assessments.
3. Several delegations suggested, and the Committee agreed, that the report should be restricted to "regulatory" fishery bodies and should not cover regional bodies concerned essentially with the promotion and coordination of scientific research. As will be seen from Section 7 of the report, it is only in exceptional cases that conservation measures adopted by fishery bodies are directly binding on their member countries. Consequently, a rather liberal interpretation had to be given to the term "regulatory". The report covers in fact all those bodies whose main function it is to ensure the rational management of the living resources of the sea and, to this affect, to formulate conservation measures for submission to member nations.
4. In preparing this report, full use has been made of the proceedings and publications issued by the fishery bodies concerned. Account has also been taken of relevant reports prepared previously by FAO. These include in particular a paper on "International Fishery Bodies" submitted to the first session of the FAO Committee on Fisheries in June 1966, (document COFI/66/6) and a report on "Exploitation and Conservation of Living Marine Resources" prepared in pursuance of General Assembly resolution 2413 (XXIII) by the Secretary-General of the United Nations in collaboration with the Director-General of FAO (document E/4842).
5. Mention should also be made of the document on "Conservation problems, with special reference to new technology", which the Committee also requested FAO to prepare. The document provides some information on the status of certain stocks as a result of management action by regulatory bodies.
6. Section 1 of this report offers a brief historical review of international cooperation with respect to conservation of the living resources of the sea. Although there exist a number of agreements and conventions that were concluded, as the need arose, for the purpose of laying down specific conservation measures, the establishment of standing regulatory bodies has proved in many cases the only way to ensure a flexible and dynamic management system.
7. Section 2 describes the various problems attendant upon the delimitation of the area of competence of individual fishery bodies and stresses the desirability for such area to be, wherever possible, large enough to encompass the entire range of the populations constituting the resource or resources with which the body is concerned. The observation is made that in most cases the area of competence of regulatory bodies includes waters in which States are entitled under international law to exercise jurisdiction over fisheries. The remark is also

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made that nearly all seas and oceans of the world are covered by one or more fishery bodies. It is emphasized, however, that the problem of geographic coverage cannot be considered in isolation and that attention must be paid at the same time to the composition of fishery bodies, to the scope and nature of their functions and to the stocks of fish they are concerned with.

8. Section 3 indicates that several regulatory fishery bodies were set up to deal with individual species or groups of like species, but that ever increasing fishing on an industrial scale and the need to take into account the inter-actions of a number of different fisheries tend to lead to the creation of a type of body which deals with all species to be found in a given area. Regulatory bodies responsible for only one type of fish (e.g., tuna) or marine mammal (e.g., seals and whales) can still have an important rôle to play on account of the biology of the species concerned, when stocks are found over a wide geographic area encompassing the areas covered by several regional bodies.

9. Section 4 refers to the constitutional characteristics of fishery bodies as regards eligibility for membership. While the States concerned would normally include those whose nationals and vessels fish or carry out research in the geographic area served by a body and the coastal States in that area, it is not always possible for all those States to become full members. The various conditions to be met under existing conventions in order to participate in the activities of fishery commissions and their subsidiary bodies are described in some detail.

10. Section 5 relates to actual participation of the States concerned in the work of fishery bodies. While under present rules of international law, acceptance of all rights and duties as a member of such bodies is entirely voluntary, there is significant evidence (see also Annex II to this Report) of States' willingness to collaborate in the rational exploitation of common resources.

11. Section 6 explains how the joint expenses required to cover the operative costs of fishery bodies are assessed among member countries. Bodies established within the framework of FAO are serviced by the Organization and the financial support of the United Nations Development Programme is being sought for cooperative survey and development programmes, especially in the interest of developing countries. In the case of bodies set up outside the framework of FAO, joint expenses are shared either equally or on the basis of the amount of catches, membership in subsidiary bodies or other criteria.

12. Section 7 relates to the regulatory powers of fishery bodies. The various factors that can or must be considered by regulatory bodies when formulating conservation measures are examined, as well as the voting requirements at the time of adoption of the measures. An analysis is then made of the binding force of conservation measures. There are a number of cases where fishery bodies are only empowered to make recommendations. Situations in which measures are directly binding on member countries are exceptional. In between these two extremes, the conventions establishing six regulatory fishery bodies, mostly in the Atlantic Ocean, provide that recommendations will become binding for member countries which do not object to them within a given time-limit. Some information is provided on this latter procedure.

13. Section 8 deals with the numerous conservation measures that have been adopted so far by fishery bodies and implemented by their member countries. Such measures are divided into those that control the size or some other characteristic of the fish caught and those that control the total amount of fishing. As the latter measures are likely to be given ever greater attention in the years ahead, the important question of apportionment of the total catch among member countries is considered in some detail, with particular reference to agreements already reached and to current discussion of this matter by several fishery bodies.

14. Section 9 considers the problem of enforcement of conservation measures. The enforcement of any measure adopted by regulatory fishery bodies and accepted by member countries is in the first instance the responsibility of each member country with respect to vessels flying its flag. Efforts were and are still being made to supplement national enforcement systems by some form of international policing, especially within the framework of regulatory bodies. A description is given of the international control systems already set out in the conventions establishing several fishery bodies and of the schemes of joint enforcement recently adopted by two regulatory bodies in the North Atlantic. Reference is also made to current negotiations regarding the international inspection of whaling operations.

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Section 1

HISTORICAL BACKGROUND

15. International cooperation in fisheries does not constitute a recent and novel development in the history of relations among nations. Already in the eighteenth century, several treaties were concluded with a view to solving inter alia fishery problems, which, at that time, were mainly related to fishing rights, to the safety of fishing vessels and to rescue operations. Particular mention may be made of the 1713 Treaty of Utrecht and also of the 1783 Treaty of Versailles which terminated the American War of Independence.

16. However, it was not before the twentieth century that States found it necessary to conclude international agreements to deal more specifically with management of the living resources of the sea through the establishment of intergovernmental regulatory bodies.

17. At the outset, reference should be made to the establishment in 1902 of the International Council for the Exploration of the Sea, even though this body was not intended to adopt regulatory measures but only to encourage and coordinate scientific investigations.

18. The earliest attempts to bring about international management of specific stocks date back to the period immediately preceding the First World War. Thus, in 1911, a Convention was signed by Japan, Russia, the United Kingdom and the United States for the preservation and protection of fur seals in the North Pacific Ocean. The Convention contained a series of conservation measures without providing for the establishment of a standing body, which, in many other cases, has proved the only way to ensure a flexible and dynamic management system.

19. The 1921 Agreement between Italy and the Kingdom of the Serbs, Croates and Slovenes for the regulation of fishing in the Adriatic constitutes the first international instrument which provided for the establishment of a permanent regulatory fishery body. In 1923, Canada and the United States concluded a Treaty for the Protection of the Pacific Halibut, which set up an International Fisheries Commission. This Commission became subsequently the International Pacific Halibut Commission.

20. In 1927, the Assembly of the League of Nations requested its Economic Committee to "study, in collaboration with the International Council for the Exploration of the Sea the question whether and in what terms, for what species and in what areas, international protection of marine fauna could be established". The League of Nations was advised by the International Council for the Exploration of the Sea that "fishery problems were so localized as to be of interest only to those nations whose fishermen have access to the localities and fisheries concerned and, if and when the necessity for regulation of any of the local fisheries arose, it would be a matter for treatment by agreement between the nations interested and between them alone." No reference was made to the content of such agreements nor to the institutional aspects of the problem.

21. Although a Convention was signed in 1930 by Canada and the United States to provide for the establishment of the International Pacific Salmon Fisheries Commission, regulatory measures were not promulgated by that Commission before the end of the Second World War. In fact, that period coincides with a rapid development of fishing operations that were to lead to the creation, by the States concerned, of a number of regulatory fishery bodies.

22. At its very earliest sessions, in 1946 and 1947, the FAO Conference recommended that FAO should take action to initiate the formation of regional fishery bodies and it listed the sea areas that should be given primary consideration. The Indo-Pacific Fisheries

Council was set up in 1948 and the General Fisheries Council for the Mediterranean in 1949. Other fishery bodies were established outside the framework of FAO, e.g., the International Whaling Commission in 1946, the Inter-American Tropical Tuna Commission and the International Commission for the Northwest Atlantic Fisheries in 1949.

23. The factors which were conducive to the successful operation of regulatory fishery bodies were examined in some detail by the International Technical Conference on the Conservation of the Living Resources of the Sea which was convened by the United Nations in 1955 in preparation for the United Nations Conference on the Law of the Sea held in Geneva in 1958. Although the Convention on Fishing and Conservation of the Living Resources of the High Seas, which was opened for signature by that Conference, does not refer to inter-governmental fishery bodies, the rôle that such bodies might play was stressed in two resolutions adopted by the Conference. The first resolution recognizes the usefulness of "international conservation organizations" and encourages States to create them as a means of establishing conservation régimes in general, of negotiation and implementation of conservation measures in the situations envisaged in Articles 4, 5, 6 and 7 of the Convention on Fishing and Conservation of the Living Resources of the High Seas, and of settlement of disagreements that might arise in this connection. The second resolution, more limited in scope, contains a recommendation to coastal States to cooperate with competent "international conservation organizations" in cases where stocks of fish inhabit seas under the jurisdiction of these States and also the adjacent high seas.

24. There are now over twenty regulatory fishery bodies in operation (see Annexes). Those recently established include the Fishery Committee for the Eastern Central Atlantic and the Indian Ocean Fishery Commission set up in 1967 within the framework of FAO and the International Commission for the Conservation of Atlantic Tunas and the International Commission for the Southeast Atlantic Fisheries, established in 1966 and 1969, respectively, by international conventions concluded under the auspices of FAO.

25. The need to promote cooperation and the coordination of work among regulatory fishery bodies, so that the conservation and rational exploitation of the living resources of the sea can be carried out effectively wherever required, is a matter of increasing concern to all States. Indeed, the importance of the matter has been recognized by the member nations of FAO, as it has already been, and will continue to be, under review by the FAO's Committee on Fisheries and more especially its Sub-Committee on the Development of Cooperation with International Organizations Concerned with Fisheries.

Section 2

AREA OF COMPETENCE

26. An examination of the area of competence of the various regulatory fishery bodies (see Annex 1) would tend to indicate that each one of the main seas and oceans of the world is covered by one or more bodies. There are in fact very few areas that are not yet served by a fishery commission. Reference could perhaps be made in this respect to the Western Central Atlantic and also, in the absence of precise geographical limits for the area of competence of the Indo-Pacific Fisheries Council and of the Permanent Commission for the South Pacific, to the Central and Southern Pacific. It should be emphasized, however, that the problem of geographic coverage cannot be considered in isolation and that attention must be paid at the same time to the composition of fishery bodies, the stocks of fish they are concerned with and the scope and nature of their functions. These points will be examined in subsequent sections.

27. The International Whaling Commission is the only body which, under the terms of the Convention establishing it, is concerned with the conservation and management of a resource in all oceans where the resource occurs. In all other cases, the geographical area under the purview of individual fishery bodies is limited.

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28. In some instances, the areas of competence are clearly defined, either because the bodies were established to cover a particular sea (e.g., the Joint Commission for Black Sea Fisheries and the General Fisheries Council for the Mediterranean) or because the area is precisely delineated by longitude and latitude (e.g., the International Commission for the Northwest Atlantic Fisheries, the North-East Atlantic Fisheries Commission, the FAO Fishery Committee for the Eastern Central Atlantic and the International Commission for the Southeast Atlantic Fisheries).

29. In many cases, the area of competence is defined only in general terms, without any specific limitations geographically: for example, the Eastern Pacific Ocean for the Inter-American Tropical Tuna Commission; the North Pacific Ocean and adjacent seas for the International North Pacific Fisheries Commission; the Indo-Pacific area for the Indo-Pacific Fisheries Council; or the Indian Ocean and adjacent seas (but excluding the Antarctic area) for the Indian Ocean Fishery Commission. Difficulties that arise from possible overlapping of areas could be solved through arrangements or agreements between the bodies concerned.

30. The absence of well defined geographical limits may sometimes be advantageous in that it allows flexibility in taking account of surveys and investigations into the biology of the species concerned. It should, however, be noted that each time member countries are requested to provide data, to coordinate or conduct research, or each time a regulatory body needs to formulate conservation measures, a specific area may have to be defined. For example, the Regional Fisheries Advisory Commission for the Southwest Atlantic has agreed on the delimitation of an area for statistical purposes in the South-west Atlantic and the Inter-American Tropical Tuna Commission has defined a regulatory area for yellowfin tuna in the Eastern Pacific. The areas so defined do not necessarily coincide with the areas of general competence of the commissions concerned.

31. Ideally, the area of competence should be large enough to encompass the entire range of the populations constituting the resource or resources with which the commission is concerned. However, this is not always possible on account of the wide migrations of certain resources.

32. Most conventions setting up regulatory fishery bodies include in their area of competence the waters in which States are entitled under international law to exercise jurisdiction over fisheries. Several of these conventions specify that this does not "prejudice the status of the territorial sea" (e.g., Convention establishing the Joint Commission for Black Sea Fisheries) or, in a more comprehensive way, "affect the rights, claims or views of any Contracting Party in regard to the limits of the territorial sea or to the extent of jurisdiction over fisheries under international law" (e.g., Convention establishing the International Commission for the Southeast Atlantic Fisheries). The inclusion of all waters in the area of competence of regulatory fishery bodies allows for a more rational approach to problems of research and management of migratory resources.

33. There are, however, a few conventions which specifically exclude the territorial sea of member countries from the convention area. These are those establishing the International Commission for the Northwest Atlantic Fisheries, the International North Pacific Fisheries Commission and the Japanese-Soviet Fisheries Commission for the Northwest Pacific. It should also be observed in this respect that a common feature of all international control systems adopted so far by regulatory fishery bodies to ensure the implementation of conservation measures recommended by them is that they do not apply to the territorial sea or to waters in which States are entitled under international law to exercise jurisdiction over fisheries (see Section 9 below). The coastal States are responsible for the control of the application of conservation measures in those waters.

Section 3

SPECIES COVERED

34. A number of regulatory fishery bodies are only concerned, under the terms of the conventions establishing them, with individual species or groups of like species. Such is the case of the bodies set up to deal with whales on a world scale, with halibut in the North Pacific, with salmon in the North Pacific and in the Baltic Sea, with fur seals in the North Pacific, with seals in the Northeast Atlantic and with tunas in the Eastern Pacific and in the Atlantic.

35. In fact, the first regulatory conventions ever concluded were for the protection and restoration of one species only. The first agreement concerning pelagic sealing, for example, was adopted before the First World War and the first conventions on Pacific halibut, Pacific salmon, and whales, were concluded between the two World wars.

36. The functions of most fishery bodies set up after the Second World War, however, cover all fishery resources in their area of competence. Ever increasing fishing on an industrial scale and growing fishery research throughout the world tend to lead to the creation of that type of regulatory fishery body which deals not only with one species but with all those to be found in a particular area. For instance, one of the reasons why the North-East Atlantic Fisheries Commission was established in 1959 to replace the Permanent Commission set up in 1946 to serve the North-East Atlantic was to increase the species coverage. It may be observed in this regard that proper conservation measures in a given area need to take into account the inter-actions of a number of different fisheries. To take one example, the cod fisheries of the North Sea cannot be managed in isolation. Any action concerning the cod stocks must consider the effects of the fisheries on abundance of sand lance or herring which are major sources of food to the cod, the effects of predation of cod on the stocks of small fish, and hence on the fisheries on them, as well as the fact that some quantities of small cod may be caught by fisheries primarily for other species.

37. Regulatory fishery bodies set up to deal with all fishery resources within their areas of competence do not always find it practicable to cover effectively all the species of fish supporting international fisheries in the area for which they are responsible. This may be due to the inadequacy of national research programmes or to insufficient staff and financial stringencies. It will therefore be understood that regulatory fishery bodies dealing with only one type of fish can still have an important rôle to play in areas where any single species is of great economic importance and calls for special research and control measures. Another reason for the continued usefulness of such bodies may well derive from the biology of the species concerned, when stocks are to be found over a wide geographic area covered by several regional bodies normally responsible for all species. The establishment of the International Commission for the Conservation of Atlantic Tunas is a case in point.

Section 4

ELIGIBILITY FOR MEMBERSHIP

38. The effectiveness of regulatory fishery bodies depends to a great extent on the participation and collaboration of all States concerned. Such States would normally include not only those whose nationals and vessels fish in the geographic area served by the fishery commission, but also the coastal States in that area. As regards the latter, reference may be made to the 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas, which provides that coastal States are entitled to take part on an equal footing in any system of research and regulation for purposes of conservation in an area of the high seas adjacent to their territorial sea, even though their nationals do not fish there.

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39. The provisions of the relevant conventions concerning eligibility for membership do not always make it possible for all States concerned to participate in the activities of regulatory bodies. In a few cases the fishery bodies are land-oriented, since only States whose territories are situated in the area of competence may become members. In other instances, especially with respect to the northern part of the Pacific Ocean, the relevant conventions do not provide expressly for the possibility of later accessions, but this should not necessarily be interpreted as excluding the acceptance of new members. It should be observed that these conventions were often concluded at a time when it was not anticipated that States other than the original members would wish to enter the fishery concerned. The admission of new members might possibly entail the need for negotiating a new convention.

40. Several conventions provide that under certain conditions membership of the fishery body is open to States other than the coastal States in the area of competence or to States other than the original members. Thus, any States whose nationals participate in fisheries in the area covered by the Inter-American Tropical Tuna Commission may become members of the Commission subject to the unanimous consent of the contracting parties. The Agreements establishing the General Fisheries Council for the Mediterranean and the Indo-Pacific Fisheries Council are open to acceptance by any Member Nation or Associate Member of FAO; any non-member nation of FAO which is a Member of the United Nations may be admitted as a member of these Councils by a two-thirds majority of the members of the Council concerned. Membership of the International Commission for the Conservation of Atlantic Tunas is open to any State which is a Member of the United Nations, or of any specialized agency of the United Nations. The Convention establishing the International Commission for the Southeast Atlantic Fisheries contains a similar clause and provides in addition that any other State unanimously invited by the Commission to become a party to the Convention may adhere to it.

41. Lastly, a few commissions are open to any State which adheres to the relevant convention simply by addressing the required notification to the depositary government. They include the International Whaling Commission, the International Commission for the Northwest Atlantic Fisheries and the North-East Atlantic Fisheries Commission.

42. It may also be of interest to mention that a number of fishery commissions may establish subsidiary bodies for each of the regions into which their area of competence may be divided or with respect to any stock of fish in that area. The composition of these subsidiary bodies is of particular importance as they are normally empowered to propose conservation measures to their parent body. While in some cases any member of the commission concerned may become a member of the subsidiary body, in other instances the composition of the body is subject to determination by the commission, e.g., the International Commission for the Northwest Atlantic Fisheries, the North-East Atlantic Fisheries Commission and the International Commission for the Southeast Atlantic Fisheries. However, in these cases, member countries which have a coastline in the area covered by the subsidiary body or which exploit the stock concerned, have the right to be represented on the subsidiary body.

43. Most conventions establishing regulatory fishery bodies contain provisions to enable member countries to withdraw. They usually provide that member countries may do so after an initial period of a stated number of years, provided advance notice normally six months or one year, is given.

Section 5

PARTICIPATION

44. Although it is largely recognized that the living resources of the sea constitute common property and that, where necessary, fishery bodies should develop conservation measures based on scientific findings, acceptance of all rights and duties as a member of such bodies is

entirely voluntary. Under existing rules of international law, neither the States whose nationals or vessels carry out fishing operations on the high seas in the area of competence of a fishery body, nor the coastal States in cases where a stock or stocks of fish inhabit both the fishing areas under their jurisdiction and areas of the adjacent high seas, may be compelled to become members of the body or to comply with any conservation measure it may formulate. Therefore, the mere fact that membership of a regulatory body is open to all interested States does not ensure that all these States will take part in the activities of the body concerned. In fact, the 1958 United Nations Conference on the Law of the Sea could only adopt recommendations on the subject, urging States concerned to cooperate.

45. Despite these shortcomings, the situation is rather remarkable in practice and there is significant evidence of States' willingness to collaborate in the rational exploitation of common resources. It can be stated that in many cases all the States with a substantial interest in a fishery have chosen to become members of the relevant regulatory body. Two bodies recently established within the framework of FAO, the Indian Ocean Fishery Commission and the Fishery Committee for the Eastern Central Atlantic, have a membership of twenty-nine and twenty-seven States, respectively.

46. There are, however, a number of exceptions. Reference has already been made to the few fishery bodies which are open only to States whose territories are situated around the area of coverage. Mention could also be made of cases where one or more States which fish substantially in a specific area or for a given species, are not members of the regulatory body concerned, e.g., in the North Pacific or with respect to whales or to tuna in the Eastern Pacific, in the Atlantic and in the Indian Ocean.

47. The convention establishing regulatory fishery bodies usually do not contain provisions on the question of non-participating countries. An exception is the Convention setting up the North-East Atlantic Fisheries Commission. It provides that it is the duty of the Commission to consider, at the request of any member country, representations made to it by a State which is not a party to the Convention for the opening of negotiations on the conservation of fish stocks in the Convention area.

48. As the work of a regulatory fishery body may be seriously jeopardized by the lack of participation of certain fishing countries, special efforts are usually made to secure their cooperation. For example, when the Inter-American Tropical Tuna Commission decided to recommend to member countries joint action with a view to regulating fishing for yellowfin tuna in the Eastern Pacific, it also recommended that member countries should take such action as might be necessary to induce countries whose vessels engaged in such fisheries, but which were not parties to the Inter-American Tropical Tuna Convention, to cooperate in implementing the conservation measures. In addition, the 1965 intergovernmental meeting on yellowfin tuna regulation adopted a resolution requesting the assistance of FAO in ensuring the adherence to the Convention of all countries fishing in the Eastern Pacific Ocean. At several of its annual meetings, the International Whaling Commission appealed to certain countries to adhere to the Convention for the Regulation of Whaling.

49. In most cases, the conventions establishing fishery bodies or the bodies' rules of procedure provide for the possibility of inviting non-member countries to be represented at meetings by observers. In practice, such countries often avail themselves of this opportunity and this goes some way towards ensuring the cooperation of all countries concerned.

50. It may be added that in some cases countries do wish, in a first phase, to familiarize themselves with the conservation problems involved and thus prefer to attend a few meetings in an observer capacity before deciding to apply for full membership.

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Section 6

FINANCING

51. The financial implications of membership in a regulatory fishery body are two-fold. First, there are the expenses relating to the attendance of representatives, experts and advisers of member countries at meetings of the body concerned and its subsidiary organs. These expenses are borne by the member countries individually. Secondly, there are the joint expenses required to cover the operative costs and also, in a few cases (e.g., Inter-American Tropical Tuna Commission), the cost of independent research carried out by the staff of the body. By way of illustration, the budget of selected bodies for the fiscal year 1970-1971 is given below:

International Whaling Commission	16.000 \$ U.S.
North Pacific Fur Seal Commission	16.000 \$ U.S.
North-East Atlantic Fisheries Commission	32.000 \$ U.S.
International North Pacific Fisheries Commission	73.500 \$ U.S.
International Commission for the Northwest Atlantic Fisheries	125.000 \$ U.S.
Inter-American Tropical Tuna Commission	480.000 \$ U.S.

52. There are different ways in which joint expenses are assessed among member countries. In this regard, fishery bodies may be divided into three main categories.

(a) Bodies established within the framework of FAO

53. The fishery bodies established under Article VI of the FAO Constitution (Regional Fisheries Advisory Commission for the Southwest Atlantic, Fishery Committee for the Eastern Central Atlantic and Indian Ocean Fishery Commission) do not have an autonomous budget based on mandatory contributions, so that membership of the body does not entail payment of any regular contribution over and above the contributions of member countries to the budget of FAO. The secretariat is provided by FAO. However, if members of the body consider that certain joint activities should be undertaken, they can make voluntary contributions to a trust fund administered by the Director-General of FAO.

54. Two other bodies (Indo-Pacific Fisheries Council and General Fisheries Council for the Mediterranean) were set up by international agreements concluded under Article XIV of the FAO Constitution. In practice, these bodies are financed by FAO and their Secretariat is provided by the Organization, so that membership of the body entails payment of regular contributions only for countries that are not member nations of FAO. It should be noted, however, that these bodies may undertake cooperative projects financed by member countries or have autonomous budgets.

55. Mention should also be made of the possibility, for the bodies established within the framework of FAO, of obtaining the financial support of the United Nations Development Programme (UNDP) for cooperative work in their area of competence, especially in the interest of developing countries. Steps have already been taken to plan and implement an International Indian Ocean Fishery Survey and Development Programme under the overall coordination of the Indian Ocean Fishery Commission, with the support of the UNDP and of the developed countries of the Commission.

(b) Bodies whose expenses are shared equally by member countries

56. The equal sharing, by member countries, of the operative costs of the body concerned is probably the most simple method of assessment. This solution was adopted with respect to all fishery bodies comprising two or three member countries. The four member countries of the North Pacific Fur Seal Commission and the fourteen member countries of the International Whaling Commission also contribute to the expenses in equal shares.

57. The principle of equal contributions may not be appropriate in cases where the fishing interests or the fishing operations of individual member countries vary considerably. This is especially true when the amount of the budget is relatively high. In such cases, other criteria may be required.

(c) Bodies whose expenses are not shared equally by member countries

58. When the Inter-American Tropical Tuna Commission was established in 1949, it had only two member countries: Costa Rica and the United States. The relevant Convention provides that "the proportion of joint expenses to be paid by each High Contracting Party shall be related to the proportion of the total catch from the fisheries covered by this Convention utilized by that High Contracting Party". For the fiscal year 1951-52, for example, the United States contributed 99.8 per cent of the budget.

59. A more sophisticated system of assessment was devised with respect to the expenses of four regulatory fishery bodies operating in the Atlantic Ocean (International Commission for the Northwest Atlantic Fisheries, North-East Atlantic Fisheries Commission, International Commission for the Conservation of Atlantic Tunas and International Commission for the South-east Atlantic Fisheries). Each member country pays a flat rate up to a given amount and it contributes to the remainder of the budget either on the basis of its catches in the area concerned or depending on the number of subsidiary bodies of which it is a member. The two latter criteria are sometimes used simultaneously.

Section 7

REGULATORY POWERS

60. The main objective of the functions entrusted to regulatory fishery bodies is the formulation of conservation measures designed to preserve and develop the living resources in their area of competence. An analysis of the characteristics of these measures requires consideration of two series of problems. The first one relates to the decision-making process of fishery bodies and the second one concerns the scope and nature of conservation measures.

1. Formulation of conservation measures

61. The complexity of the problems raised by the formulation of conservation measures is due to the multiplicity of factors that have to be taken into account. These aspects include not only the scientific findings on which conservation measures must be based, but also considerations of a political, economic and legal nature. The procedures laid down in the relevant conventions with respect to the adoption of conservation measures reflect the efforts made to conciliate the various factors involved.

62. Nearly all conventions establishing regulatory fishery bodies provide explicitly or implicitly that conservation measures have to be formulated on the basis of the results of scientific investigations. In most cases, scientific research is carried out by member countries and the fishery body limits itself to promoting, coordinating or planning national research programmes. In some cases, fishery bodies may, in addition and where necessary, make investigations independently. In a few instances (Inter-American Tropical Tuna Commission, International Pacific Halibut Commission and International Pacific Salmon Fisheries Commission), the fishery bodies themselves undertake research with their own staff.

63. Economic factors, which may often have a considerable importance, are seldom mentioned in the relevant conventions as one of the elements to be taken into account when formulating conservation measures. However, the International Whaling Convention provides that the Commission it establishes shall take into consideration the interests of the whaling industry and of the consumers of whale products. The International North Pacific Fisheries Commission

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is required to make allowance "for the effect of strikes, wars, or exceptional economic or biological conditions which may have introduced temporary declines in or suspension of productivity, exploitation, or management of the stock of fish concerned." It may also be mentioned that the International Pacific Salmon Fisheries Commission has set up an Advisory Committee including the representatives of the various branches of the industry, which is given full opportunity to examine, and to be heard on, all proposed orders, regulations or recommendations. Lastly, a Protocol to the Convention establishing the International Commission for the Northwest Atlantic Fisheries, entered into force in December 1971, enables the Commission to propose conservation measures on the basis of economic and technical considerations.

64. Examination of the scientific and, as the case may be, economic bases for the formulation of a conservation measure is only the first step to the formal adoption of the measure by the regulatory body. Certain procedures have been devised to safeguard the political freedom of choice of individual member countries. These procedures relate mainly to the right to propose a measure and to voting arrangements.

65. The relevant conventions often lay down conditions as regards the right to propose a measure. This right can conceivably be granted to the fishery body itself, to its subsidiary bodies and to each member country directly. This is not always the case. For example, the International Commission for the Northwest Atlantic Fisheries does not act on his own initiative but only on the recommendation of one or more of its Panels. In some cases, a proposal put forward by one member country alone must be supported by other member countries before being discussed by the fishery body.

66. As regards voting, the requirements vary depending mainly on the size of the membership. Regulatory fishery bodies comprising two or three member countries can only take decisions by a unanimous vote. It should be specified, however, that each one of two member countries of the International Pacific Salmon Fisheries Commission and of the International Pacific Halibut Commission is represented by three commissioners and that all decisions of the Commissions must be made by a concurring vote of at least two of the commissioners of each member country. It should also be noted that when a member country of the International North Pacific Fisheries Commission is not concerned with a conservation measure, it cannot take part in the voting.

67. In the case of fishery bodies with a large membership, a two-third or three-fourth majority is usually required for the adoption of conservation measures. However, the recommendations formulated by fishery bodies established within the framework of FAO only require a simple majority.

2. Scope of conservation measures

68. Regulatory fishery bodies do not possess supra-national powers and the conservation measures they formulate and adopt are not directly binding on individual fishermen without legislative action being taken to this effect by member countries. In fact, these measures are seldom binding on the member countries themselves. However, in a few cases, conservation measures are automatically binding on member countries. This occurs only within the framework of regulatory bodies which have a limited membership and in which the decision to adopt a given measure requires the unanimous vote of the member countries. Thus, the North Pacific Fur Seal Commission may determine the total number of seals which may be taken at sea for research purposes as well as the number to be taken by each member country; the Mixed Commission for Black Sea Fisheries may adopt measures concerning the species and dimensions of fish that may be caught in the Black Sea; the International Pacific Salmon Fisheries Commission may issue orders for the adjustment of closing or opening of fishing periods and areas in any fishing season as well as emergency orders required to carry out its functions; the Japanese-Soviet Fisheries Commission for the North-west Pacific may fix the total annual catch of a stock of fish and determine the annual catch of such stock by each member country.

69. Situations in which measures adopted by regulatory fishery bodies are directly binding on member countries are exceptional. In contrast, there are a number of cases where fishery bodies are only empowered to make recommendations which neither have nor are intended to have any binding force on member countries. For example, member countries merely undertake to "respect, to the extent possible, the recommendations made by the Commission" (Japan-Republic of Korea Joint Fisheries Commission) or recognize that "it is highly desirable that each Party carry out such conservation recommendations, and provide for necessary restraints on its own nationals and fishing vessels" (International North Pacific Fisheries Commission). This method, both flexible and easily acceptable by States, is being used exclusively or concurrently with other methods by a majority of the existing fishery bodies. It has proved efficacious in several cases. For instance, over a period of more than forty years, the two member countries of the International Pacific Halibut Commission have always accepted its recommendations.

70. In between these two extremes - capacity to make mere recommendations or to take binding decisions - the conventions establishing six regulatory fishery bodies, mostly in the Atlantic Ocean, provide that recommendations will become binding if member countries do not object to them.

71. Briefly, this system functions as follows: member countries may lodge an objection to the recommended conservation measure within a given period (from three to six months as the case may be) of being notified of it. If no objection is made during that period, the recommendation becomes legally binding upon all member countries. If, on the contrary, one member country objects to the conservation measure, the entry into force of the recommendation is postponed for an additional period during which the other member countries may reconsider their attitude in the light of this new situation. At the end of the additional period, the recommendation becomes binding upon all member countries that have not objected to it. If, however, objections are too numerous, the recommendation does not become effective, except that certain member countries may agree among themselves to give effect to it. It may be added that the Convention establishing the International Commission for the Conservation of Atlantic Tunas contains provisions whereby, in cases in which few member countries lodge an objection, their objections will be deemed to have been withdrawn unless they are reaffirmed within an additional period.

Section 8

CONSERVATION MEASURES

72. As discussed in another document (Conservation problems, with special reference to new technology) prepared for the Committee, there are a large number of measures that can be adopted in order to conserve fish resources. All of these have at some time been adopted by one or more of the International bodies. It is convenient, as in the document mentioned above, to divide the measures into those that control the size or other characteristic (age, sex, etc.) of the fish caught, and those that control the total amount of fishing.

1. Control of the composition of the catch

73. The characteristic that is most often controlled is the size of fish. Protection of the small animals can increase the weight caught by allowing them to grow to a better size before being harvested.

74. One of the measures aimed at protecting the smaller fish which are often prescribed by a number of regulatory fishery bodies concerns the size of meshes. In practice, specific measures depend on local conditions and may vary according to fishing areas, species, fishing seasons, types of nets (seines, trawls, gill nets), fabrics used (e.g. cotton, hemp, sisal, manila, polyester fibres) or size of vessels. In some cases, the relevant regulations apply only to a fixed percentage of the nets on board (e.g. Japanese-Soviet Fisheries

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Commission for the Northwest Pacific). It may also be mentioned that considerable attention was devoted by the commissions operating in the North Atlantic to the question of attachment of topside chafing gear on the cod end of trawl.

75. Measures designed to regulate the selectivity of fishing gear and equipment, particularly with respect to mesh sizes, are often complemented by regulations concerning the size or minimum weight of fish that may be landed. In the Northeast Atlantic alone, thirteen species (cod, haddock, hake, plaice, witch, lemon sole, sole, turbot, brill, megrim, whiting, dab and salmon) are subject to this type of regulation. Similar measures have been adopted with regard to Norway lobsters in the Skagerak-Kattegat, various species of sturgeon, turbot and shad in the Black Sea, halibut in the North Pacific, herring in part of the Northwest Pacific, bearded seals in the Barents Sea-White Sea area, and blue whales, sei whales, Bryde's whales, fin whales and sperm whales.

76. Protection of other vulnerable members of the population may also be recommended, for example the killing of female whales which are accompanied by calves is prohibited. Such protection may also be achieved by the prohibition of all fishing in certain areas (such as nursery grounds) or in certain seasons, but such regulations are more often introduced to control the total amount of fishing and are discussed in the following section.

2. Control of the amount of fishing

77. While control of the size or other characteristics of fish caught can improve catches at a given level of fishing, without control of the total amount of fishing conservation will be only partial, and most bodies have considered some form of such control.

78. The oldest and most traditional form of such control is the prohibition of the more destructive types of fishing. This was already the subject of international agreements early in the nineteenth century (e.g., an Agreement of 2 August 1839 between France and Great Britain).

79. The Sealing Commission for the Northeast Atlantic prohibits the taking of marine animals by the use of poisonous substances, as well as means and methods which involve substantial losses of wounded animals. As regards fishing for salmon, the North-East Atlantic Fisheries Commission has imposed a total ban on the use of any trawl net, monofilament net or troll; the Japanese-Soviet Fisheries Commission for the Northwest Pacific has prohibited long-line fishing in certain areas and prescribed the length of drifting nets set in the sea by fishing vessels. With respect to herring, the North-East Atlantic Fisheries Commission prohibits the use of purse seines in the Celtic Sea. Particularly destructive methods have also been banned with respect to fishing for halibut. For example, the International Pacific Halibut Commission prohibits the use of dory fishing and the use of bottom set nets and trawl nets of the type customarily used in the commercial fisheries for demersal species.

80. One of its disadvantages is that it prevents the cost of fishing from being reduced in proportion to the reduction of fishing mortality and also the number of units, even of the permitted gear, may rise to such a high level, that more direct controls are necessary. However, in certain cases, failing such direct controls, it may be better to regulate fishing gear rather than to allow fishing to go unrestricted.

81. The most drastic control is the prohibition of any catching of a particular species. Thus the regulatory bodies concerned have prescribed a total and permanent ban on the catch of certain marine mammals that are particularly threatened. They include blue whales, hump-back whales, grey whales, right whales and, in certain areas, walrus.

82. Complete prohibitions are rather exceptional and are not readily acceptable to States. In contrast, regulations on the establishment of closed seasons or closed areas constitute measures on which agreement may be reached more easily and they are frequently resorted to in practice by fishery bodies.

83. Closed areas may be prescribed for an unlimited period or for a given number of years. Thus, special areas, nurseries or sanctuaries were established by the fishery bodies concerned with respect to halibut in part of the Bering Sea; herring in part of the Northwest Pacific; sturgeon in the Northwestern Black Sea; blue whales, baleen whales, sperm whales and humpback whales in wide areas of the Antarctic, and the Pacific and Atlantic Oceans; and salmon in several parts of the Northeast Atlantic. Some of these, e.g. for halibut were used as much to protect small fish as to limit the total amount of fishing.

84. A somewhat similar situation arises in the North Pacific Ocean as a result of the so-called "abstention principle" applied within the framework of the International North Pacific Fisheries Commission. When adequate scientific evidence can be adduced to show that a resource or stock is limited and so regulated as to maintain it at the most productive level, member countries which have not participated in the past in the exploitation of that stock are required to refrain from doing so. Thus, Japan and Canada abstain from certain fisheries in various areas of the North Pacific.

85. More frequently, fishery bodies establish closed seasons during a limited period in every year. Measures of this type have been adopted with respect to whales in various oceans and seas; hake, seals and salmon in part of the Northwest Atlantic; salmon, herring, Greenland seals and hooded seals in wide areas of the Northeast Atlantic; halibut, salmon, and fur seals in the North Pacific; harp seals in the East Ice (Barents Sea); and yellowfin tuna in the Eastern Central Pacific.

86. However, closed seasons, or closed areas do not prevent an increase in the number or power of the vessels engaged in the fishery, and such an increase can result in the total amount of fishing increasing to an undesirably high level. Some commissions therefore adjust the length of the open season to the catches, such that the fishing operations must stop once a given quantity has been caught, e.g., whales, and yellowfin tuna in the Eastern Central Pacific. Such a system is essentially one method of implementing an overall limit to the total catch.

87. The most direct control of the amount of fishing is to set a limit to the amount of catch, or the fishing effort, e.g., as measured by the number of vessels.

88. Regulations have been adopted by a few bodies to limit the number of fishing vessels in a given area (e.g. Japanese-Soviet Fisheries Commission for the Northwest Pacific with respect to salmon, herring and crab and International Commission for the Northwest Atlantic Fisheries with respect to salmon). Such limitation may be based on the type of fishing vessels (e.g., Japan-Republic of Korea Joint Fisheries Commission or on their size (e.g., Inter-American Tropical Tuna Commission in the case of small fishing vessels operating after the closure of the season).

89. Control of the total catch is more common, and it would appear from an examination of the present activities of regulatory fishery bodies, that this type of measure will be given ever greater attention in the years ahead. It should be noted that not all fishery bodies were granted the necessary authority in this respect. Efforts are presently being made, or contemplated, to clarify the legal position and to overcome obstacles of a constitutional nature, especially with regard to bodies operating in the Northeast Atlantic and in the Indian Ocean.

90. The catch level is usually set at around the level of the sustainable yield, i.e., that yield which can be taken from the stock without depleting it, though for certain depleted stocks less than this yield may be recommended to allow the stocks to be rebuilt.

91. When difficulties arise concerning the determination of the exact amount of the total catch quota, fishery bodies may recommend transitory measures, such as limiting catches to a level not exceeding the level reached at a given date in the past (e.g., International

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Commission for the Northwest Atlantic Fisheries in regard to salmon). In one case a fishery body prescribed that the maximum catch was not to exceed 12 to 15 per cent of stocks (the Mixed Commission for Black Sea Fisheries with respect to rhombinae).

92. Global catch quotas have already been established concerning a number of species, including all baleen whales in the Antarctic; fin whales, sei whales, Bryde's whales, sperm whales, salmon, halibut and fur seals in the North Pacific; haddock, yellowtail, flounder, and salmon in the Northwest Atlantic; hooded seals and harp seal pups in the West Ice; rhombinae in the Black Sea; crabs in the Northwest Pacific; and yellowfin tuna in the Eastern Pacific.

93. It is expected that similar measures will be taken by the North-East Atlantic Fisheries Commission with respect to important species in its area of competence (herring, cod, haddock) as soon as the obstacles of a constitutional nature referred to above will have been removed.

94. The establishment of global quotas may prevent the depletion of the stock, but does not guarantee a successful fishery, since the total capacity of the fleet is uncontrolled, and will tend to increase as fishermen compete to obtain the maximum share of the limited quota. This will cause an increasingly costly and inefficient fishery. Also the resulting division of the total catch may become inequitable.

95. Under the circumstances, it is likely that the most modern and best equipped fishing vessels are in a privileged position and small fishermen may find themselves penalized. For example, in the past few years a global catch quota was set for yellowfin tuna in the Eastern Pacific by the Inter-American Tropical Tuna Commission. Fishermen of any nation are free to take any portion of this overall quota if they are capable of doing so. As the fishing fleet of one member country is by far the largest and most efficient, it accounts for about 90% of the quota.

96. A possible remedy to this inequality of opportunity consists of allowing small fishing vessels to continue fishing even after the global quota has been reached. However, less developed countries prefer in general the establishment of a system of national quotas so as to be able to expand their fishing activities. Few fishery bodies have actually the authority to apportion the total quota among their member countries. In such cases, the relevant conventions seldom lay down criteria regarding the determination of national shares.

97. A distinction may be made in this regard between bodies which comprise only a limited number of member countries and those which have a larger membership. In the case of the first category, it has proved easier to reach agreement either because the relevant conventions provide criteria (e.g., International Pacific Salmon Fisheries Commission, North Pacific Fur Seal Commission and Japan-Republic of Korea Joint Fisheries Commission) or as a result of negotiations (e.g., Japanese-Soviet Fisheries Commission for the Northwest Pacific and Sealing Commission for the Northeast Atlantic). In the case of bodies with a large membership, the agreements on the apportionment of catches have so far been negotiated and concluded by the countries directly concerned outside the framework of the relevant body.

98. It should be pointed out, however, that the question of national shares is being actively considered among others by two important fishery bodies operating in the Atlantic (Inter-national Commission for the Northwest Atlantic Fisheries, and North-East Atlantic Fisheries Commission). Criteria for the establishment of such shares will probably vary from one body to another and from one area to another.

99. In these discussions it has been generally agreed that national shares could take into account both the actual catches taken in previous years and the special interests of each country. Thus, countries with developing fisheries or coastal States might have larger shares than the catches of previous years would warrant.

100. The International Commission for the Northwest Atlantic Fisheries has already devoted considerable attention to this matter. At its 17th meeting in 1967, it set up a Standing Committee on Regulatory Measures to consider possible measures for the regulation of fishing and the economic and administrative problems involved in the application of such measures. The Committee formulated guidelines that the Commission should take into account when recommending the apportionment of a global quota among its member countries. Shares would be based mainly on historical performance. The portion of the overall quota to be allocated on the basis of past performance would amount to approximately eighty per cent. The balance of about twenty per cent would then be used on the one hand to provide for the new entrants and non-member countries and on the other hand to satisfy any special claims by member countries with developing fisheries, with a coastline in the area concerned or with fleets incapable of being diverted to other fisheries. The suggestion was also made that the economic situation of member countries should be taken into account.

101. The length of time to be taken into consideration when computing that portion of the shares that will be based on historical performance, was discussed in considerable detail. The Committee suggested that the average catches during two distinct periods, namely the last ten years and the last three years be taken into account. No agreement has been reached yet on the respective weight to be given to these two periods. While the Committee had suggested that equal weight be given, several member countries would prefer to attach greater importance to the longer period.

102. As to the portion of the shares that will be based on factors other than historical performance, it was agreed that there should be a sliding scale, by which the lower the level of the total allowable catch, the greater might be the degree of preference of countries having special claims.

103. It was emphasized that any scheme which would eventually be adopted would have to be flexible and that shares would be periodically reviewed and adjusted in the light of experience and new developments. It was also generally agreed that if a country exceeded its quota in any year, its share for the subsequent year should be reduced. Some countries thought that it would be sufficient to reduce the quota for subsequent years by the amount of the excess, but others considered that the reduction should be at least twice as great.

Section 9

ENFORCEMENT OF CONSERVATION MEASURES

104. The mere adoption of conservation measures by regulatory fishery bodies is at best only a partial solution to the problem of rational management of the living resources of the sea, unless action is also taken to ensure the observance of these measures by individual fishermen. This may raise a number of difficulties in practice, especially on the high seas, since it is not easy to control fishing vessels over often distant and extensive fishing grounds. Moreover the very nature of certain conservation measures makes it hard to detect infringements, particularly after they have been committed.

105. The enforcement on the high seas of any measures adopted by regulatory fishery bodies is in the first instance the responsibility of each member country with respect to the vessels flying its flag. It is, indeed, a basic principle of the law of the sea that vessels on the high seas enjoy immunity, in time of peace, from any control by the authorities of States other than the flag States.

106. However, the need to supplement national enforcement systems by some form of international policing, especially within the framework of regulatory fishery bodies, has made itself felt over the years. It stems from the fact that some member countries are not in

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a material or financial position to impose effective control over their own vessels, especially when they are engaged in long-distance fishing, and that the stringency of national systems tends to vary. In addition, an international control system may have a considerable influence on the fishermen themselves since, quite apart from any deterrent effect that it may have, it gives them greater assurance that the fishermen of other member countries will be subject to the same degree of control.

107. In the case of several regulatory fishery bodies with a limited membership (International Pacific Halibut Commission, International Pacific Salmon Fisheries Commission, North Pacific Fur Seal Commission, Japanese-Soviet Fisheries Commission for the Northwest Pacific), international control systems were already set out explicitly in the conventions establishing these bodies. With certain differences of detail, the conventions prescribe a procedure whereby duly authorized officials of any member country may, on the high seas, search and seize vessels of other member countries which are acting in violation of the convention or of the regulatory measures adopted under it. Such vessels must be delivered as promptly as practicable to the authorized officials of the member country having jurisdiction over them. Only the authorities of that country may conduct prosecutions and impose penalties.

108. As regards regulatory bodies with a presently or potentially larger membership, the situation is different in several respects. In the first place, the relevant conventions which contain provisions on international control, do not specify the type of enforcement system that will be applied but usually limit themselves to enabling the regulatory body to deal with international measures of control on the high seas. This is so either because the original convention already contained such an enabling provision (e.g. North-East Atlantic Fisheries Commission and International Commission for the Southeast Atlantic Fisheries) or because the convention was subsequently amended to authorize the regulatory body to deal with methods of inspection (e.g., International Whaling Commission and International Commission for the Northwest Atlantic Fisheries). The fundamental difference between conventions that embody a detailed international control system and those that merely enable the commission they establish to deal with the matter is that in the latter case international control systems drawn up by the commissions do not automatically bind member countries, since these commissions are not vested with the power to make decisions. They may, however, make recommendations of a potentially binding nature, as such recommendations enter into force for individual member countries which do not object to them within a given time limit (see Section 7 above).

109. Another characteristic of the international schemes of joint enforcement adopted so far by regulatory bodies with a large membership (North-East Atlantic Fisheries Commission and International Commission for the Northwest Atlantic Fisheries) is that they do not provide for the seizure or arrest of offending vessels and persons. The authorized officers of one member country on board vessels flying its flag can only board and inspect the fishing vessels of other member countries and report to these countries on any violation of conservation measures.

110. The enforcement system contemplated with respect to whaling would seem to deserve special consideration.

111. Neither the Whaling Convention nor its Schedule provided for international inspection of whaling operations. At the Seventh Meeting of the International Whaling Commission in 1955, Norway proposed the placing on each factory ship operating in the Antarctic of an observer, appointed and paid by the Commission, who should not be of the same nationality as the ship on which he was to serve. The Commission noted that it could not take action on this proposal so long as Protocol designed to amend the Convention with a view to enabling the Commission to deal with methods of inspection had not been adopted and had not entered into force. The Protocol came into force on 4 May 1959 and the Commission again took up the matter of international inspection at its Eleventh Meeting in June of the same year. Discussions centered on the nationality of the observers and on the question whether the Commission should consult flag States before appointing observers to their factory ships. The Commission formally accepted

the principle of an "Observer Scheme" for States carrying out pelagic whaling in the Antarctic and requested States concerned to work out the details of a scheme for the Commission's approval.

112. In 1963 the five States then carrying out pelagic whaling adopted the text of an "Agreement Concerning an International Observer Scheme for Factory Ships engaged in Pelagic Whaling in the Antarctic". However, this Agreement which was concluded outside the International Whaling Commission and has now formally expired, never entered into force.

113. As one of the reasons given for not implementing the International Observer Scheme was its limitation to pelagic whaling in the Antarctic, the Commission endeavoured to broaden the scope of possible future inspection activities. At its Eighteenth Meeting in 1966, it accepted the proposal that a working group be established to draw up a new observer scheme to cover all whaling operations at sea and at land stations. Discussions continued at the Nineteenth Meeting and at the Twentieth Meeting, in June 1968, and the Commission proposed to its member countries that they envisage applying the principles of the International Observer Scheme not only to the Antarctic but to all sea areas where whaling is carried out, as well as to land stations.

114. As these efforts had not led to practical results, the Chairman of the Commission invited all the member countries engaged in whaling to a special meeting held immediately prior to the Twenty-Third Meeting in 1971 to consider measures to implement an international observer scheme. This group recommended, and the Commission agreed, that all member countries should implement an international observer scheme for the 1971/72 season. It was also agreed that the scheme should be carried out on a regional basis, covering the North Pacific, Antarctic pelagic whaling the North Atlantic and Southern Hemisphere land stations, and that interested governments should meet promptly to work out details. By the end of 1971, a number of agreements on enforcement had been concluded or initialled.

115. The need to complement the enforcement of conservation measures on the high seas by inspection on shore is not peculiar to whaling operations. It may be mentioned in this connexion that at its Second Meeting in December 1971, the International Commission for the Conservation of Atlantic Tunas gave preliminary consideration to the problem of international enforcement. While, in its view, the Scheme of Joint Enforcement adopted by the International Commission for the Northwest Atlantic Fisheries was acceptable in principle, it noted that in many cases inspection at ports of landing on transshipment would probably prove more effective than on the high seas. However, as the Atlantic Tuna Convention refers to the setting up of a system of international enforcement to be applied outside waters in which States are entitled under international law to exercise jurisdiction over fisheries, international inspection at ports would require amending the Convention or adopting a separate agreement.

116. In spite of the limitations inherent in the international control systems now in force or currently being planned, these systems already constitute significant evidence of member countries' willingness to ensure the implementation of conservation measures formulated by regulatory fishery bodies.

LEGEND
LEGENDE
LISTA DE ORGANISMOS

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BSSSC	Baltic Sea Salmon Standing Committee Comité permanent pour la protection du saumon de la mer Baltique
CARPAS	Regional Fisheries Advisory Commission for the Southwest Atlantic Commission consultative régionale des pêches pour l'Atlantique Sud-Ouest Comisión Asesora Regional de Pesca para el Atlántico Sudoccidental
CECAF	FAO Fishery Committee for the Eastern Central Atlantic Comité FAO des pêches pour l'Atlantique Centre-Est Comité FAO de Pesca para el Atlántico Centro-Oriental
GFCM	General Fisheries Council for the Mediterranean Conseil général des pêches pour la Méditerranée Consejo General de Pesca del Mediterráneo
IATTC	Inter-American Tropical Tuna Commission Commission interaméricaine du thon tropical Comisión Interamericana del Atún Tropical
ICCAT	International Commission for the Conservation of Atlantic Tunas Commission internationale pour la conservation des thonidés de l'Atlantique Comisión Internacional para la Conservación del Atún Atlántico
ICNAF	International Commission for the Northwest Atlantic Fisheries Commission internationale des pêcheries de l'Atlantique Nord-Ouest Comisión Internacional de Pesquerías del Atlántico Noroeste
ICSEAF	International Commission for the Southeast Atlantic Fisheries Commission internationale des pêches pour l'Atlantique Sud-Est Comisión Internacional de Pesquerías del Atlántico Sudoriental
INPFC	International North Pacific Fisheries Commission Commission internationale des pêcheries du Pacifique Nord Comisión Internacional de Pesca del Norte del Pacífico
IOFC	Indian Ocean Fisheries Commission Commission des pêches pour l'océan Indien Comisión de Pesca para el Océano Indico
IPFC	Indo-Pacific Fisheries Council Conseil indo-pacifique des pêches Consejo de Pesca del Indo-Pacífico
IPHC	International Pacific Halibut Commission Commission internationale du flétan du Pacifique Comisión Internacional de Pesquerías del Hipogloso del Pacífico
IPSFC	International Pacific Salmon Fisheries Commission Commission internationale de la pêche du saumon dans le Pacifique Comisión Internacional de Pesquerías del Salmón del Pacífico
IWC	International Whaling Commission Commission internationale de la baleine Comisión Ballenera Internacional

JKFC Japan-Republic of Korea Joint Fisheries Commission
Commission mixte nippo-coréenne des pêcheries

JSFC Japanese-Soviet Fisheries Commission for the Northwest Pacific
Commission nippo-soviétique des pêcheries du Pacifique Nord-Ouest
Comisión Nipo-Soviética de Pesquerías del Pacífico Noroeste

MCBSF Mixed Commission for Black Sea Fisheries
Commission mixte des pêcheries de la mer Noire
Comisión Mixta para las Pesquerías del Mar Negro

NEAFC North-East Atlantic Fisheries Commission
Commission des pêcheries de l'Atlantique Nord-Est
Comisión de Pesquerías del Atlántico Nordeste

NPFSC North Pacific Fur Seal Commission
Commission du phoque à fourrure du Pacifique Nord
Comisión sobre las Focas de Piel del Pacífico Septentrional

PCSP Permanent Commission of the Conference on the Use and Conservation
of the Marine Resources of the South Pacific
Commission permanente de la Conférence sur l'utilisation et la
conservation des ressources marines du Pacifique Sud
Comisión Permanente de la Conferencia sobre la Explotación y Conservación
de las Riquezas Marítimas del Sur del Pacífico

SCNEA Sealing Commission for the Northeast Atlantic
Commission du phoque de l'Atlantique Nord-Est

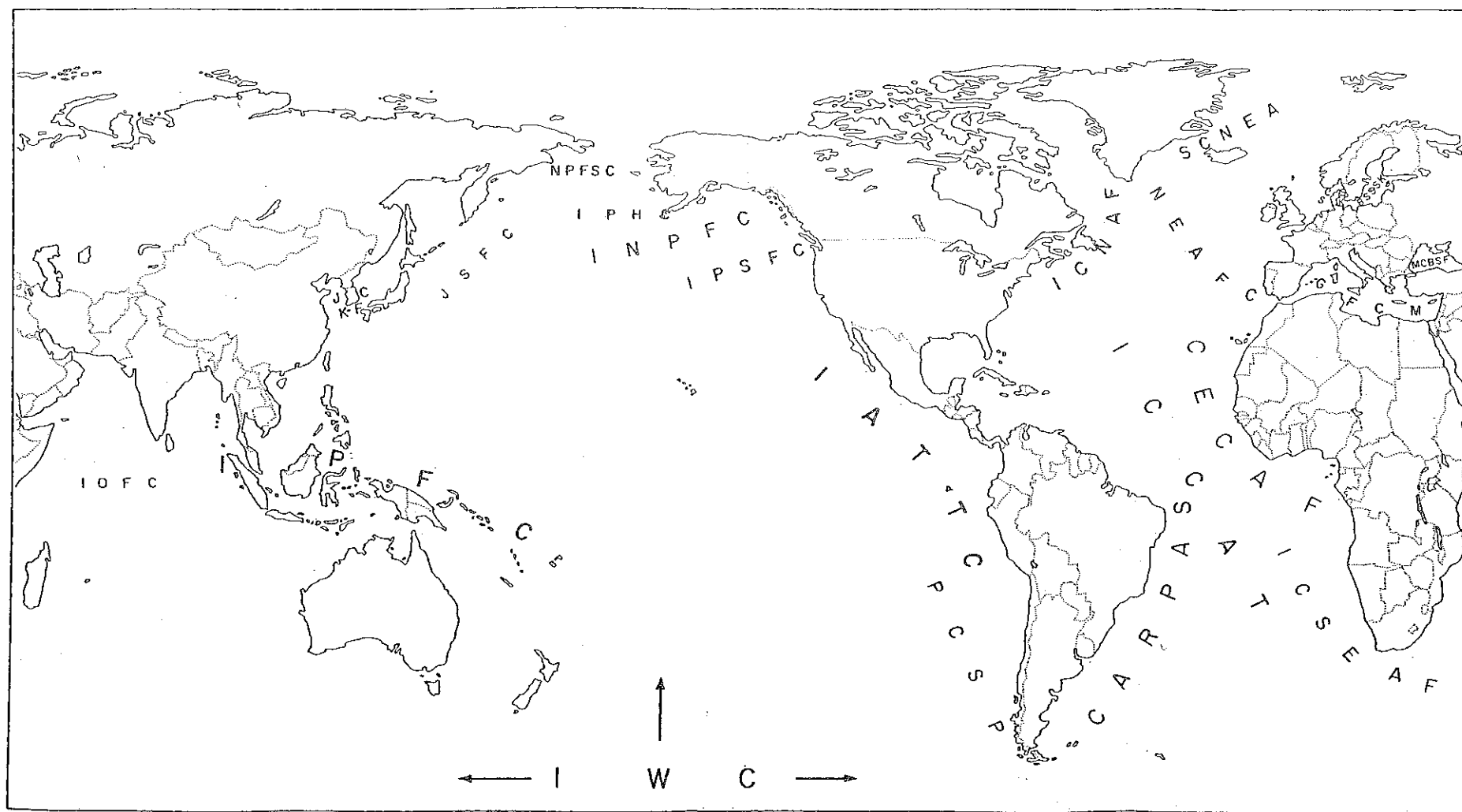
SCSK Shellfish Commission for the Skagerak-Kattegat
Commission des crustacés du Skagerak-Kattegat

AREA OF COMPETENCE OF REGULATORY FISHERY BODIES

ZONE DE COMPETENCE DES ORGANES DE REGLEMENTATION DES PECHEES

ZONA DE COMPETENCIA DE LOS ORGANISMOS PARA LA REGULACION DE LA PESCA

Annex I
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Anexo I

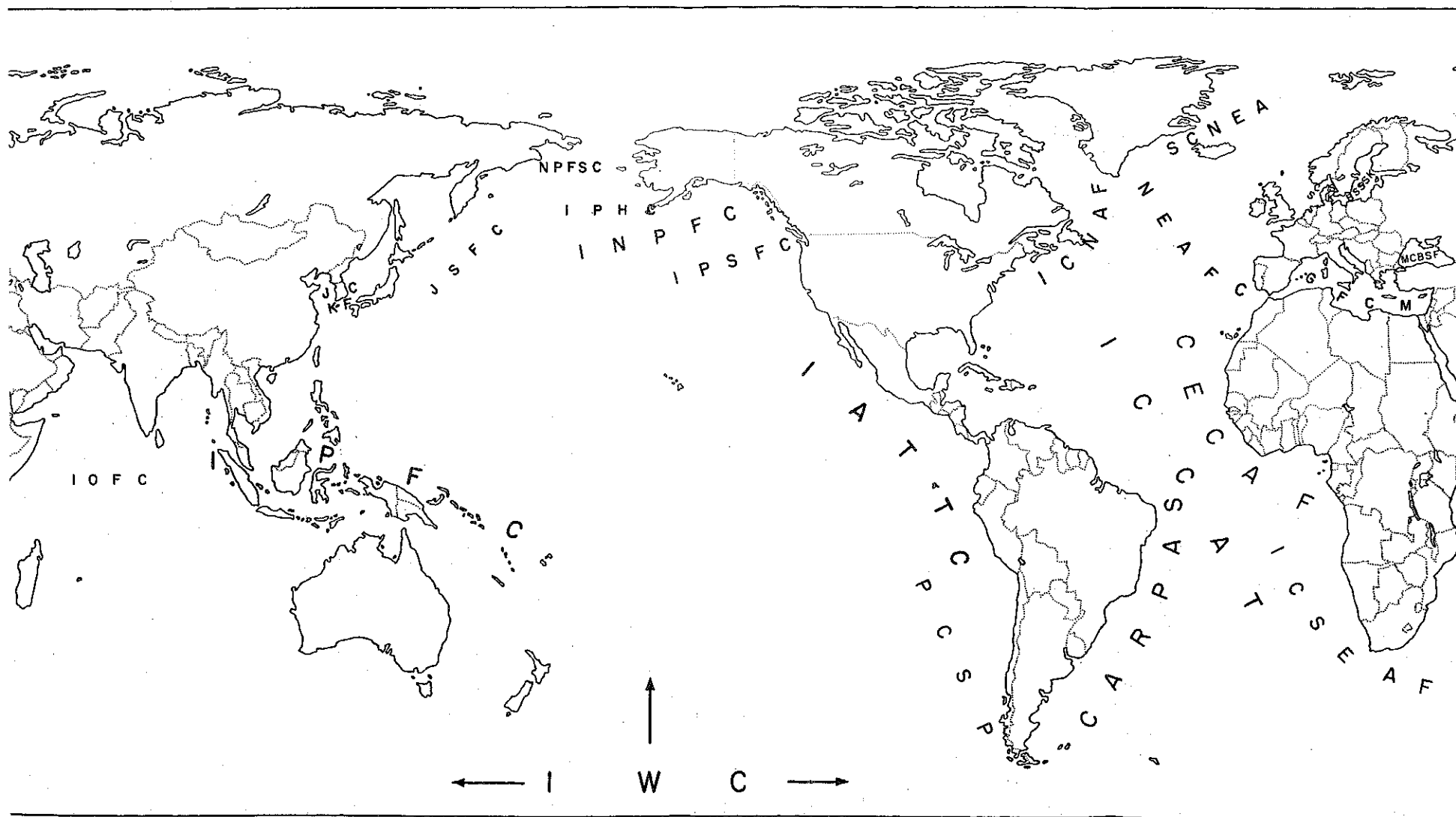


AREA OF COMPETENCE OF REGULATORY FISHERY BODIES

ZONE DE COMPETENCE DES ORGANES DE REGLEMENTATION DES PECHEES

ZONA DE COMPETENCIA DE LOS ORGANISMOS PARA LA REGULACION DE LA PESCA

Annex I
Annexe I
Anexo I



MEMBERSHIP IN REGULATORY FISHERY BODIES

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MEMBERSHIP IN REGULATORY FISHERY BODIES

	BSSSC	CARPAS	CECAF	GFCM	IATTC	ICCAT	ICNAF	ICSEAF	INPFC	IOFC	IPFC	IPHC	IPSFC	IWC	JKFC	JSFC	MCBSF	NEAFC	NPFSC	PCSP	SCNEA	SCSK
Guinea			X																			
Iceland							X							X				X				
India										X	X											
Indonesia										X	X											
Iraq										X												
Ireland																		X				
Israel				X						X												
Italy			X	X			X															
Ivory Coast			X																			
Japan			X		X	X	X	X	X	X	X			X	X	X			X			
Jordan										X												
Kenya										X												
Khmer Republic											X											
Korea (Rep. of)			X			X				X	X				X							
Kuwait										X												
Lebanon				X																		
Liberia			X																			
Libyan Arab Republic				X																		
Madagascar										X												
Malaysia										X	X											
Malta				X																		
Mauritania			X																			
Mauritius										X												
Mexico					X									X								
Monaco				X																		
Morocco			X	X		X																
Netherlands										X	X							X				

MEMBERSHIP IN REGULATORY FISHERY BODIES

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ANNEX III - Summary of Information on Regulatory Fishery Bodies

Body	Date established and auspices	Headquarters	Eligibility for membership	Area of competence	Resources covered	Functions
BSSSC	1962 International Convention	Meets in member countries in rotation	Signatory States and others by unanimous agreement of Contracting Parties	Baltic Sea, including Gulf of Bothnia and Gulf of Finland	Salmon (<i>Salmo salar</i>)	To foster the development of salmon stocks, fish-breeding methods and the rational exploitation of the salmon population.
CARPAS	1961 Resolution of FAO Conference under Article VI-1 of FAO Constitution	Rio de Janeiro Brazil	FAO Member Nations whose territory borders on Western Atlantic south of Equator	South West Atlantic	All	To develop organized approach in respect of rational exploitation of resources; to encourage cooperative investigations
CECAF	1967 Resolution of FAO Council under Article VI-2 of FAO Constitution	FAO, Rome, Italy	FAO Member Nations selected on basis of geographic location, fishing or research activities or other interest in fisheries of Eastern Central Atlantic	Eastern Central Atlantic between Cape Sparte and the Congo River	All	To promote rational utilization of resources; to encourage scientific research and training; to collect and disseminate information
GFCM	1949 International Agreement under aegis of FAO (Article XIV of FAO Constitution)	FAO, Rome, Italy	FAO Member Nations and other Members of United Nations (if approved by two-thirds majority of GFCM)	Mediterranean Sea and contiguous waters	All	To formulate various aspects of the problems of development and proper utilization of resources; to encourage research and development; to assemble and disseminate information
IATTC	1949 International Convention	La Jolla, California, United States	Signatory States and others by unanimous agreement of Contracting Parties	Eastern Pacific Ocean	Yellowfin and skipjack tuna, fish used as bait for tuna and other fish taken by tuna vessels	To carry out research on tuna by own research staff; to recommend joint action for conservation

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Body	Date established and auspices	Headquarters	Eligibility for membership	Area of competence	Resources covered	Functions
ICCAT	1966 International Convention	Madrid, Spain	Members of United Nations or of any specialized agency of the United Nations	Atlantic Ocean, including the adjacent Seas	Tuna and tuna-like fishes and other species exploited in tuna fishing	To carry out studies; to recommend conservation action
ICNAF	1949 International Convention, as amended	Dartmouth, Nova Scotia, Canada	Signatory States and others by giving notification of adherence	Northwest Atlantic, (eastern limit approximately 42°W Long., southern limit approximately 39° N. Lat.), Excluding territorial sea	All, but with particular reference to cod group, flatfish and rosefish	To carry out studies and research; to propose action for stock conservation through closed areas and seasons, size limitation, gear control, catch limits
ICSEAF	1969 International Convention	Not yet fixed	States represented at Conference which adopted the Convention, Members of the United Nations or of any specialized agency of the United Nations, other States unanimously invited by ICSEAF	Southeast Atlantic south of the Congo River, (southern limit parallel 50°South, eastern limit meridian 40° East)	All fish and other living resources, subject to arrangements with other bodies	To carry out studies and research; to make recommendations for joint action, through closed areas and seasons, size limitations, gear control, total catch limits and other measures
INPFC	1952 International Convention	Vancouver B.C., Canada	Signatory States	All waters of North Pacific and adjacent seas. Excluding territorial waters	All, with particular reference to halibut, herring and salmon	To study fish stocks; to recommend joint conservation action; to administer abstention system

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Body	Date established and auspices	Headquarters	Eligibility for membership	Area of competence	Resources covered	Functions
IOFC	1967 Resolution of the FAO Council under Article VI-1 of the FAO Constitution	FAO, Rome, Italy	FAO Member Nations	Indian Ocean and adjacent seas, but excluding the Antarctic area	All	To promote programmes of fishery development and conservation; to encourage research and development activities; to examine management problems
IPFC	1948 International Agreement under aegis of FAO (Article XIV of FAO Constitution)	FAO Regional Office, Bangkok, Thailand	FAO Member Nations and other Members of the United Nations (if approved by two- thirds majority of IPFC)	Indo-Pacific area	All	To formulate various aspects of the problems of development and proper utilization of resources; to encourage research and development; to assemble and disseminate information
IPHC	1953 International Convention	Seattle, Washington, United States	Signatory States	Territorial sea and high seas off western coast of Canada and United States	Halibut (Hippoglossus)	To study halibut stocks; to adopt conservation measures such as catch regulation, size control, open or closed seasons, vessel and gear control, licensing
IPSFC	1930 International Convention as amended	New Westminster, B.C., Canada	Signatory States	Fraser river and its tributaries, territorial sea and high seas off the estuary	Sockeye and pink salmon	To carry out investigations; to adopt conservation measures such as gear control, catch regulation, apportionment of catches
IWC	1946 International Convention as amended	London, United Kingdom	Signatory States and States giving notification of adherence	All waters in which whaling is prosecuted by factory ships, land stations and whale catchers	Whale stocks	To promote or carry out studies and research; to adopt conservation measures such as open and closed seasons or areas, size limitation, catch limits

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Body	Date established and auspices	Headquarters	Eligibility for membership	Area of competence	Resources covered	Functions
JKFC	1965 International Agreement	Meets in member countries in rotation	Signatory States	Joint resources survey and regulation zones off the coast of Korea	All	To recommend scientific investigations and conservation measures, including provisional regulatory measures
JSFC	1956 International Treaty	Meets in member countries in rotation	Signatory States	Northwest Pacific, including Sea of Japan, Sea of Okhotsk and Bering Sea, and excluding territorial waters	All, with particular reference to salmon, trout and herring	To coordinate joint scientific research programmes, to adopt joint conservation measures, including amount of total catch
MCBSF	1959 International Convention	Meets in member countries in rotation	Black Sea States	Black Sea	All	To coordinate scientific research, to develop industrial fishing techniques, to formulate conservation measures
NEAFC	1959 International Convention	London, United Kingdom	Signatory States and others giving notification of adherence	Northeast Atlantic and Arctic Oceans and their dependent seas, (western limit approximately 42° W. Long., southern limit 36°N. Lat., eastern limit 51° E. Long.)	All	To keep all fisheries under review, to recommend conservation measures in respect of mesh sizes, size limitation, gear control, closed seasons and areas, amount of total catch or fishing effort
NPFSC	1957 International Interim Convention as amended	Washington, D.C., United States	Signatory States	North Pacific Ocean	Fur Seals	To formulate and coordinate research programmes, to recommend conservation measures in respect of size, sex and age composition of the seasonal commercial kill from a

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Body	Date established and auspices	Headquarters	Eligibility for membership	Area of competence	Resources covered	Functions
NPFSC (contd.)						herd, to make recommendations regarding methods of sealing
PCSP	1952 International Agreement as supplemented	Secretariat located for four years in each member country in rotation	Signatory States	South Pacific	All	To promote research, to adopt conservation measures including protection of species, open and closed seasons and areas, gear control
SCNEA	1957 International Agreement	Meets in member countries in rotation	Signatory States and others acceding to the Agreement with the consent of the Contracting Parties	Northeastern Atlantic east of Cape Farewell, including the Greenland and Norwegian Seas, the Denmark Strait, the area of Jan Mayen Island and the Barents Sea	Stocks of seals, including the Greenland seal, the hooded seal and the walrus	To formulate proposals in respect of scientific research and conservation measures, including closed seasons and areas, and total catch quotas
SCSK	1952 International Agreement	Meets in member countries in rotation	Signatory States	Skagerak and Kattegat waters (bounded on the west by a line from Lindesnes light to Hanstholm light and on the east by the 13th meridian east of Greenwich)	Deep-sea prawns, European lobsters, Norway lobsters and crabs	To coordinate scientific and practical research, to recommend conservation measures