Indian Ocean Tuna Commission

COST AND BENEFIT OF THE INDIAN OCEAN TUNA COMMISSION (IOTC) WITHIN AND OUTSIDE OF THE FOOD AND AGRICULTURE ORGANISATION (FAO)

Report Prepared by: Prof Glenn Hurry

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Glossary of Abbreviations and Terms

IOTC	Indian Ocean Tuna Commission
IPTDP	Indo-Pacific Tuna Development and Management Program established in Sri Lanka in 1982, a UNDP Project, executed by FAO to collect statistics, facilitate research and assessment of tuna and tuna-like species in the Indian Ocean and South-east Asia
ICRU	Improved Cost Recovery Uplift- a charge imposed by the FAO to recover the direct costs of security, IT, email, GRMS and help desk activities. This charge was levied at different rates depending on the services, but will disappear and be replaced by a centralised charge of 7%.
Benefits at Standard	A charge assessed to cover the cost of entitlements of professional staff in FAO projects. The method of calculation is based on adding the actual costs of the entitlements paid to officers at each project, by each grade, and an average cost per officer is determined and applied to the budgets of each project or work unit. The benefits include cost of home leave, education grants for the children of staff and other minor benefits. These are general benefits that accrue to staff in the FAO system although they do not apply to locally recruited FAO staff.
PSC	The Project Services Cost (PSC) is used across the FAO on both projects and programme budgets to recover the costs of the global resource management systems (GRMS) that underpins the FAO administrative operations
GRMS	Global resource management system is the name given to the framework of support systems for administration and finance in the FAO
WECAFC	Western Central Atlantic Fisheries Commission
CCCSBT	Commission for the Conservation of Southern Bluefin Tuna
IATTC	Inter-American Tropical Tuna Commission
ICCAT	International Commission for the Conservation of Atlantic Tuna
WCPFC	Western and Central Pacific Fisheries Commission
CRFM	Caribbean Regional Fisheries Mechanism
NAFO	North Atlantic Fisheries Organisation
NPFAC	North pacific Anadromous Fish Commission
SRFC	Sub-Regional Fisheries Commission
RECOFI	Regional Commission for Fisheries
APFIC	Asia Pacific Fisheries Commission
CECAF	Fisheries Commission of the Eastern Atlantic

GFCM	General Fisheries Commission of the Mediterranean
UNJSPF	United Nations Joint Staff Pension Fund
ILO	International Labor Organisation
WIPO	World Intellectual Property Organisation
WHO	World health Organisation
UPU	Universal Postal Union
WMO	World Meteorological Organisation
UNEP	United Nations Environment Program
IPPC	International panel on Climate Change
STAN	English interpreter Service of the UPU
IARC	International Agency for research on Cancer
UPOV	International Union for the protection of New Plant Varieties
ISSA	International Social Security Association

Chapter I Introduction

The issue of separation from the FAO and/or more autonomy is as old as the IOTC but was seriously considered by members and the FAO from 2004-2007. During this period significant investigatory work was undertaken on this issue to determine the changes and work that would need to be completed for the IOTC to transit to an independent organisation. Many of these papers and concepts are still current today and have been referenced for this study.

In 2004 the issue confronting the IOTC was largely about how to integrate and manage the catch of Taiwan Province of China (TPoC) into the management, science and assessments for the Indian Ocean tuna stocks. It was felt at the time that if this could be done then it would make the IOTC a more efficient and effective organisation.

The opportunity to separate in 2004-2007 was not unilaterally supported by members or by the executive in the FAO at the time and was not pursued to its conclusion. Two papers lodged at that time remain important today and they are:

1. The FAO paper from the Committee on Constitutional and Legal Matters (CCLM 82/2) which provided a legal interpretation on the process for the change in nature of a Statutory Body under Article XIV of the FAO Constitution. This paper will continue to be important in any debates about separating the IOTC from the FAO; and
2. The letter from the G77 attached to CCLM 82/2 outlining the reasons they did not agree with the proposed changes. Again this letter is important as it contains a number of concerns that the G77 had about the IOTC leaving FAO and these may or may not still be current.

The 1st Performance Review of the IOTC which was completed in 2009, made a number of recommendations. Many of these have been addressed; however, two critical issues raised in the report are still outstanding; the IOTC Agreement is now out dated and needs to be modernized, and concerns about the financial management arrangements between the IOTC and the FAO remain and these need to be addressed so that the parties can move forward.

I. The legal framework of the IOTC Agreement:

"The analysis of the legal text of the IOTC Agreement identified a series of gaps and weaknesses which can be summarized as follows:

> *The IOTC Agreement is outdated as it does not take account of modern principles for fisheries management. The absence of concepts such as the precautionary approach and an ecosystem based approach to fisheries management are considered to be major weaknesses. The lack of clear delineation of the functions of the Commission or flag State and port State obligations provide examples of significant impediments to the effective and efficient functioning of the Commission.*
>
> *The limitation on participation to this RFMO, deriving from IOTC's legal status as an Article XIV Food and Agricultural Organisation of the United Nations (FAO) body, conflicts with provisions of United Nations Fish Stocks Agreement (UNFSA) and prevents major fishing players in the Indian Ocean from discharging their obligations to cooperate in the work of the Commission.*
>
> *The IOTC relationship to FAO, most notably in the budgetary context, negatively affects the efficiency of the work of the Commission, with neither Members nor the Secretariat in full control of the budget. This also raises questions relating to the level of transparency in the Commission's financial arrangements.*

The Panel recommends that the IOTC Agreement either be amended or replaced by a new instrument. The decision on whether to amend the Agreement or replace it should be made taking into account the full suite of deficiencies identified in the Review."

"Financial arrangements

The Panel analysis revealed that the relationship of IOTC to FAO in terms of financial issues is negatively affecting the workings of the Organisation. Under this arrangement, the budget is not entirely under control of its Members or the Secretariat. While the Secretariat is a budget holder, execution of the budget depends on FAO, which puts both a constraint on and reduces transparency in IOTC's financial management. All contributions and donations from Members to the autonomous budget have to be deposited in a Trust Fund which is administered by the FAO Director General. Moreover, the Finance Committee of FAO has the power to disallow the IOTC financial regulations and amendments thereto if it finds them inconsistent with the FAO Financial Regulations. This arrangement limits the ability of the Secretariat to manage the budget independently, and overall, limits the control of IOTC Members over it. It should also be noted that FAO has not provided any contributions to the IOTC as foreseen in Article VIII.3 of the Agreement. It is therefore clear that a modification of the financial management status quo is needed."

A review on the progress for implementing the recommendations of the 1st Performance Review shows that while a number of the recommendations including the introduction of the precautionary principle have been implemented, the key recommendations above relating to the legal arrangements have not been implemented to date, although some effort has been made to provide a better understanding of the budgetary arrangements in the FAO and to provide some flexibility in relation to the financial arrangements.

The Terms of Reference (ToR) for this study "Cost and benefit of the IOTC within and outside the FAO"; lists the drivers for the study as;

"….FAO provides certain services to IOTC including treasury and financial management, payroll, staff classification and recruitment, procurement and contracting for high value goods and services. FAO imposes a charge against IOTC funds to cover the costs of the services that FAO claims it provides.

FAO directly manages more than 2/3 of the IOTC budget (staff related costs and servicing costs), which includes staff entitlements and insurances that are integrated in the FAO global regime. There is no clarity on the way that this expenditure is managed and if all staff is benefiting from all FAO staff entitlements and insurances. Moreover, an audit to this expenditure has not been possible to be undertaken so far.

Recently, FAO also imposed new costs to the IOTC - Improved Cost Recovery Uplift (ICRU) - to recover, according to FAO, the costs of central services provided by Security and Information Technology relating to field personnel.

All extra-ordinary contributions to the IOTC secretariat to implement fisheries development, capacity building, science or any other actions related to the IOTC mandate are also subject to the above mentioned contribution costs, despite the non-involvement or support from FAO to the achievement of the above mentioned actions.

Annual and extraordinary contributions to IOTC are subjected to FAO financial requests that delay the payment and impose specific rules risking creating treasury problems to the secretariat."

As part of the review the consultant is to:

- provide an analysis of the major tuna RFMOs,
- develop options and structures for the IOTC outside of FAO
- develop options for the IOTC to remain within the FAO
- study and review staff entitlement plans in other RFMOs and organisations and provide a comparative analysis; and
- consider the current status of CCLM 88/3 and IPSAS

This report addresses these issues in a practical way so that members can gain the best value from the study. The report has been structured with introductory sections on past activities and considerations to give the report context and then there are 3 Chapters:

- Costs and Benefits as an Article XIV organisation inside the FAO,
- Costs and Benefits as an Article XIV organisation inside the FAO but with more autonomy; and
- Costs and Benefits outside of the FAO as an independent organisation.

Costs

The definition of costs is reasonably well understood and tangible *"the price of something: the amount of money that is needed to pay for or buy something; : an amount of money that must be spent regularly to pay for something (such as running a business or raising a family)"* is one of many definitions. Costs can be allocated to items and tasks and estimated based on examples of costs for similar services.

Benefits

Benefits are somewhat less tangible and as such what might be seen as a benefit to one person may not be seen as a benefit to another person or group and as such agreeing on "benefits" may be difficult. Benefits can also be seen as available services and a good example is FAO's audit program and security services; in one sense they are a benefit as they provide some scrutiny of the expenditure and the safety of staff and on the other had they can be viewed as services available to organisations. For this report these types of services have been considered as benefits as they provide an advantage in existing, however, there is an alternative argument. The general definitions include *"Something that is advantageous or good; an advantage, helpful or good effect";* and the estimations of benefits in this report have been on the basis that the benefits provide and advantage. Whether everyone agrees in all cases that a benefit is actually a benefit will be open to debate, however, in all cases they are included on the basis that they provide an advantage.

In addition there are "staff benefits" which are allowances and payments made to staff for rent, education allowances, post adjustments etc; and while these provide a benefit to staff they are a "cost" to the organisation.

In reading this report it is important to keep the IOTC in perspective within the FAO system; the IOTC is an Article XIV body of the FAO and was established in 1996 and as such has legal and administrative rights and responsibilities that accrue though Article XIV association under the FAO constitution. The IOTC has 15 staff and an annual budget of $3 million. The FAO is a major UN organisation with 186 member countries, an annual budget of $1.2 billion USD, some 4,200 staff including full-time and project staff and at any time manages around 3,500 projects.

What is important and fundamental for the future health and progress of the IOTC is that following this review, the IOTC members and the FAO agree on a way forward and that the uncertainty and that has influenced the working relationship between the FAO and the IOTC over a number of years ceases and the IOTC moves on with doing what it should do best......sustainably managing the tuna stocks of the Indian Ocean.

Chapter 2 A brief history of tuna management in the Indian Ocean and the establishment of the IOTC as an Article XIV body of the FAO

In 1967 following FAO Council Resolution 2/48 the FAO established under Article VI-I the Indian Ocean Fisheries Commission (IOFC) noting at the time that it was not an official treaty/convention or agreement. Four committees were established under the Commission, including, in 1968, an Indian Ocean Tuna Committee. These Committees were expected to evolve into independent regional arrangements, or disappear, by the time the IOFC itself completed its work in 1999.

Aware of the need to plan for the period following the IOFC, at the 9th session of the Tuna Committee in December 1986 the Commission established an ad-hoc working group (called an "intergovernmental consultation") to develop a proposal for future arrangements. This Group met twice, in 1987 and early 1988, and presented its conclusion to the Tuna Committee at its 10th session in 1988. In line with the decisions of the Committee, the FAO engaged in the preparation of an agreement for a future Indian Ocean Tuna Commission.

The proposal and text was developed by FAO and a consultation was conducted at the first conference of the parties that met in Rome in April 1989 to adopt a convention for the management of Indian Ocean tuna. That conference agreed on the need for the Indian Ocean Tuna Commission but failed to agree on the text. The reasons for failing to agree were: 1) the delegation by EU member states of the fisheries management responsibilities to the EU wished to participate formally and the EU had yet to be recognized by the FAO and, as such, the EU could not become a party and; 2) the members asked for more autonomy in the management of the Indian Ocean Tuna Commission. Both issues were addressed intersessionally and the issue of the EU resolved so that they could participate in the second session in 1992. The issue of autonomy had been discussed in the FAO Conference in November 1991 and amendments made to the basic texts to allow flexibility under Article XIV (FAO Fisheries Report 482) and this was discussed further at the second Conference of the Parties in June in 1992 and accepted. At the second Conference it was agreed to adopt the text of the Agreement and this was adopted by the FAO at its 105th Session in Rome in November 1993. The Agreement entered into force in March 1996 with the tenth instrument of acceptance by the Director-General of FAO from Republic of Korea on 27 March 1996.

In the meantime, the need for coordination of research, data collection and assessment in the Indian and Pacific Oceans have been discussed in the context of joint meetings between the IOFC and the sister organization for the Southeast Asia region, the Indo-Pacific Fishery Commission (IPFC). In 1982 UNDP funded an Indo-Pacific Tuna Development and Management Programme (IPTP) based in Sri Lanka that provided a coordination role for the collection of basic fishery data until the Secretariat of the future IOTC became fully operational by the end of the 1990's.

The objectives of the IOTC Agreement are specified in Article V of the Agreement

"The Commission shall promote cooperation among its Members with a view to ensuring, through appropriate management, the conservation and optimum utilization of stocks covered by this Agreement and encouraging sustainable development of fisheries based on such stocks."

The IOTC is an Article XIV body of the FAO, however, it is also considered globally as an autonomous Regional Fisheries Management Organisation (RFMO) responsible for the management of the tuna stocks in the Indian Ocean and as part of the network of five tuna RFMOs (tRFMOs). Administratively, the FAO system manages the IOTC as a "project" that is renewed every 3 years for continuation. The IOTC members, however, see it very much as an ongoing and autonomous tuna RFMO and not a project subject to renewal, and this is in part related to the commitments they gave in ratifying the treaty for the IOTC.

Today the IOTC Secretariat is based in the Seychelles under a Headquarters Agreement between the Seychelles government and the FAO. This agreement stipulates the support that will be provided by the Seychelles government and the privileges, immunities and conditions the IOTC and its staff will enjoy while based in the Seychelles. The IOTC Secretariat currently has 15 staff positions, of which nine are professional staff positions and 6 are General Service staff. All of these staff are FAO employees and enjoy the benefits and conditions that flow to FAO staff worldwide as part of the broader UN Common system.

Consideration

As can be seen through the short history outlined above, the FAO was a central figure in establishing the IOTC. Without the initial Tuna Committee in the Indian Ocean and the effort to draft and bring into being the convention/ agreement and its ratification, management of these important tuna stocks may well have been delayed for many years. FAO took a central role providing the initial text for the convention and facilitating the process of adoption when no other country was in a position to provide such leadership. Furthermore, in the 1980's countries had significant regard for the FAO and did not see any difficulty in agreeing to the Article XIV route for establishment.[1] There is no evidence of any other motive on behalf of the FAO or the members of the IOFC at the time except to work collaboratively to establish a Commission to manage fish stocks in the Indian Ocean consistent with the provisions of the UN Law of the Sea (Articles 65 and 116-119).

Interestingly, however, the discussions at the 11th session of the IOFC in 1990 when considering the draft IOTC agreement the members agreed to establish the IOTC under Article XIV but stressed that it needed considerable autonomy and that this could only be achieved by amending Article XIV. It would appear that those original members may well have had similar concerns as the members today in that they felt there needed to be more autonomy for the members of the Commission to manage its day to day business outside of the formal FAO system. This is reflected in the frequent reference by the IOTC to the functional autonomy that Article XIV bodies require in order to be effective and efficient.

What benefits accrue to members of organisations established under Article XIV of the FAO Constitution?

As noted above "benefits" can be difficult to agree however, without FAO involvement throughout the 1970's and 1980's the evolution of the IOTC may well have taken a lot longer to achieve. Article XIV organisations and their relationship with and responsibilities to the FAO were studied in some detail in CCLM 88/3 released by the FAO in 2009.

Article XIV association with the FAO provides to these bodies:

- automatic access to established human resource, administrative and financial systems, practices and procedures
- legal services
- benefits of security and access accruing from a comprehensive set of privileges and immunities established between FAO and members countries
- an established regional framework of offices and staff, and
- status within the international community as a FAO/UN organisation
- benefits to staff as members of the UN systems for pay and conditions
- Article XIV bodies where members pay their way with autonomous budgets, have a certain degree of autonomy to decide on budgets, work programs and expenditure.

These benefits, immunities and privileges are significant and have obviously been both useful and important to the IOTC in facilitating its development and should be considered and evaluated in any move towards independence.

[1] Alejandro Anganuzzi, former Coordinator of IPTP, Science Manager of IOTC, and Executive Secretary of IOTC, pers.comm.

Chapter 3: Previous discussions about leaving the FAO 2004-2007; changes and developments

The 2004-2007 discussion between IOTC members and the FAO concerning finding a better administrative structure and efficiencies for the IOTC had a number of triggers including:

- the inability of the current system to address the integration of fishing entities fishing in the Indian Ocean at that time,
- The perceived interference of the FAO in the IOTC management with IOTC members questioning if and how they added value to the process.
- The lack of flexibility and autonomy operating in the FAO system; and
- The cost of operating under the FAO system.

These discussions culminated with decisions taken at the 2005 Commission meeting in Mahe in the Seychelles which is recorded in the minutes of that meeting as follows:

"9) MATTERS ARISING FROM THE EIGHTH SESSION

a) Further consideration of the issues raised by Documents IOTC-S7-02-10 and IOTC-S8-03-9E (paragraph 37).

47. The Chairman reported that the following decisions relating to improving the effectiveness and efficiency of IOTC which had been agreed during a meeting of the Heads of Delegations:

i. Noting that in the last three Sessions and in bilateral contacts during the inters-sessional period conducted by the Chairperson, the Members of the Commission had held discussions regarding the possible recourse to the use of resolutions to improve the effectiveness and efficiency of the organisation. However, no consensus was or could be reached as to the nature of these resolutions.

ii. Therefore it was agreed that it was necessary for the Commission to develop an alternative approach to ensure the IOTC could attain its objectives and operate in a more effective and efficient manner.

iii. The Commission unanimously agreed therefore to pursue the following course of action to attain that objective:

- *A Special Session of the Commission would be convened for 20 – 24 February 2005 to explore ways to achieve a more effective and efficient organisation, notably through a change in the relationship between the IOTC and the FAO, in accordance with the provisions of Article XX of the Agreement.*
- *The Chairperson and Executive Secretary were authorised to take all necessary steps to organise this Special Session in accordance with Article VI.5 of the Agreement and Rule II of the rules of procedure*
- *In foreseeing the necessary amendments to the IOTC Agreement, Rules of Procedure and Financial Rules, it is the intention of the Commission that no new obligations for the Members will be created.*
- *It was stressed that it is the Commission's desire to maintain a close relationship with FAO, and to this effect, a document will also be prepared containing a draft Cooperation Agreement between the two organisations.*

- *For this Special Session, separate documents would be prepared containing a set of draft minimum amendments to the Convention, rules of procedure and financial rules, accompanied by background documents. In addition, a draft declaration would be prepared for adoption at the Special Session to the effect that the amendments to the Agreement are not considered to create new obligations.*

- *The Session would have to deal with transitional issues, including staff and budgetary issues. It is trusted that FAO could assist in that transition period.*

iv. The Commission authorised the Executive Secretary, in consultation with the Chairperson, to undertake all the necessary administrative and financial steps for the preparatory work for the Special Session to be carried out, including the selection of a legal consultant and such other assistance as the Secretary considers necessary.

v. It was noted that this Special Session will not involve additional costs to the organisation and the exact location has to be decided.

48. FAO indicated that it has taken note of these decisions and that FAO will collaborate and cooperate in the process. FAO pointed out that many members will be participating in the process in a dual capacity, since they are also members of FAO Council which will have to review the results of this process. FAO also indicated that in the meantime, it will take steps to improve the operation of the Secretariat, including the administrative and financial accountability and transparency.

b) Clarification of the relationship between IOTC and FAO

49. FAO presented IOTC-2005-S9-07 containing an extract from the report of the FAO Council, in its 127th Session, held in November of 2004 dealing with the legal status of bodies established under Article XIV of the FAO Constitution."

The move to become an independent organisation outside of the FAO was supported by the majority of the members of the IOTC and this is evident in the minutes from the 3rd Special Session of the IOTC in Goa in May 2006. The Secretariat began to prepare Rules of Procedures and other supporting documentation to establish an independent Commission but one with strong links to the FAO.

In addition to the issue of fishing entities the other issues of concern to those members in favor of change in 2006 were largely focused on the financial control that the FAO could exercise over the IOTC members and budget. The issues are captured in the text of the 1st Performance Review:

"Financial arrangements

The Panel analysis revealed that the relationship of IOTC to FAO in terms of financial issues is negatively affecting the workings of the Organisation. Under this arrangement, the budget is not entirely under control of its Members or the Secretariat. While the Secretariat is a budget holder, execution of the budget depends on FAO, which puts both a constraint on and reduces transparency in IOTC's financial management. All contributions and donations from Members to the autonomous budget have to be deposited in a Trust Fund which is administered by the FAO Director General. Moreover, the Finance Committee of FAO has the power to disallow the IOTC financial regulations and amendments thereto if it finds them inconsistent with the FAO Financial Regulations. This arrangement limits the ability of the Secretariat to manage the budget independently, and overall, limits the control of IOTC Members over it. It should also be noted that FAO has not provided any contributions to the IOTC as foreseen in Article VIII.3 of the Agreement. It is therefore clear that a modification of the financial management status quo is needed."

The concerns of members not in favor of change included issues such as:

- Security as part of the FAO framework,
- FAO's ability to assist if things go wrong,

- FAO provides a buffer for developing countries in dealing with pressure from developed countries and Distant Water Fishing Nations or (DWFN) in deciding issues within the Commission, in effect they felt threatened and the FAO presence was re-assuring. To this end the G77 statement to the FAO and IOTC at the time is relevant and included the following…. "*The G-77 Members of IOTC view with concern a proposal which, although presented as a means of improving the efficiency and effectiveness of IOTC, would in fact place the high value Indian Ocean Tuna stock under the direct control of a limited number of Members carrying out large- scale operations in the region. They note that a commission outside the United Nations System would not offer the same guarantees of sovereign equality of all Members, independence, impartiality, objectivity and multilateralism."*

Following the Goa meeting in 2007 the momentum for the establishment of an independent tuna Commission for the Indian Ocean seemed to begin to unravel and the move from the FAO began to lose the universal support it had enjoyed. Two developments influenced members and prevented the IOTC becoming an independent organisation. 1) The FAO produced legal advice in the form of FAO CCLM 82/2 (attachment 1) and 2) as part of that advice there was a letter from the G77 attached to CCLM 82/2 outlining their concerns with the separation from the FAO and effectively withdrawing its support from the process.

The legal advice has no doubt been well studied by IOTC members and there is alternative legal opinion. The fact remains however, that this FAO legal opinion remains current. If the IOTC members are contemplating a further move towards independence then a serious analysis of this legal opinion and discussion with the FAO legal section and ADG Fisheries would need to occur as the legal advice suggests that the options open to the IOTC members are restricted and would need to follow a formal process.

The issues raised in the letter from the G77 may or may not still exist but again clarification would be essential in any decision to discuss further the issue of independence.

At the FAO Councils 132 Session in Rome in 2007 the issue of Article XIV bodies and the IOTC was discussed in some detail following initial advice to the Council from the CCLM. The council endorsed the following recommendations (FAO CL 132/RP):

> *"120. The Council endorsed the conclusions of the CCLM that the situation which had arisen was complex and unprecedented and, therefore, that it was essential to make a complete review of the matter, keeping in mind all the implications of any possible option, including the fact that any decision in that respect would set a precedent in international law impacting upon other organizations of the United Nations System. The Council endorsed the CCLM request that an informal group of legal experts of all the IOTC Members, CCLM Members, as well as representatives of relevant organizations of the United Nations system as appropriate, should examine the matter. The CCLM would subsequently review the work of the informal group and provide its advice to the Council.*
> *121. The Council noted the concerns voiced during the debates regarding the efficiency and effectiveness of IOTC which were the stated reasons for the process under way. The Council concluded that such concerns and reasons should be addressed, as a matter of priority, through discussions between the FAO Secretariat and concerned IOTC Members, and that the Secretariat would report on the outcome of such discussions to the CCLM and any other appropriate body."*

What has happened since the 2004-2007 discussions?

Without wanting to investigate this 2004-2007 process further, in discussions with some who were involved at the time and viewing the organisation and its issues today, some changes have occurred and some issues have remained the same.

The things have stayed the same:

- TPoC was and remains the largest longline fishery in the Indian Ocean and continues to be the dominant longline operator to this day. There have been some developments since 2007 in relation to TPoC with selected "experts" from TPoC being able to attend IOTC sessions as observers and to contribute data. China has assumed responsibility for the TPoC catch in the Indian Ocean and pays a portion of its budget for that purpose. However, the issue of the IOTC being able to deal permanently with TPoC and in particular their level of catch and effort remains outstanding.
- Costs of operating inside the FAO system remain a concern to some IOTC members
- Members still do not feel they have sufficient autonomy or more functional autonomy within the current framework
- Except for the issues raised in the 1st Performance Review of the IOTC, there does not appear anywhere a detailed description of why or in what way members felt the IOTC was inefficient or ineffective and what they wanted to do to improve it and the issues that continue to reoccur in discussions include control over budget, FAO costs, external audit and unpredictable salary cost fluctuations.
- Leaving the security of the FAO framework may or may not still be an issue to member countries.

Those things that have changed

- In relation to the issue of administration and relationship with the FAO, the FAO makes a serious effort to attend sessions of the IOTC at a very senior level in order to better explain the FAO and its ongoing relationship with Article XIV bodies.
- The IOTC Secretariat has much better access the FAO financial and administrative online services and systems and this clearly helps to improve its control of administrative and financial processes, operations and the timeliness of payments.
- The FAO continues to grant the IOTC a concessional rate on Project Services Costs (PSC) and recently on Improved Cost Recover Uplift (ICRU) charges.
- The operating environment of the IOTC and its members has been made more difficult with the emergence of piracy in the Indian Ocean (although this has dissipated to some extent) and ongoing civil unrest in a number of member countries.
- Following the FAO Councils endorsement of recommendations at its 132 Session in 2007, in 2009 the FAO CCLM produced CCLM 88/3 (attachment 2) which was a preliminary review of allowing Article XIV bodies to exercise more administrative and financial control, yet remain within the FAO system.
- The FAO Council consider the recommendations of CCLM 88 at its 137th Session and endorsed the recommendations as follows:

> *"53. The Council noted that the CCLM had examined a preliminary review of Statutory Bodies with a view to allowing them to exercise greater financial and administrative authority while remaining within the framework of FAO. The Council expressed satisfaction at the comprehensive nature of the preliminary review and stressed that its implementation should be seen as an on-going process to be carried out in the course of the next few years. The Council invited the Secretariat to take action in respect of matters within its authority and consult the relevant Governing Bodies with regard to matters which would need to be considered by the Membership. The Council endorsed the recommendation of the CCLM that, in the context of that process, the Membership of relevant Statutory Bodies, with particular reference to bodies*

under Article XIV or Article VI enjoying substantial functional autonomy, should be invited to consider the preliminary review and offer their views on the issues addressed therein. (FAO Council 137th Session)"

In January 2015 the FAO produced Finance Committee (FC) paper (FC 157/17) "***Progress Report on Delegations of Authority to Bodies under Article XIV of the Constitution, taking into account their differentiated nature".*** This paper is attached for your reference (attachment 3).

FC 157/17 provides and update on FC 148/21 "**Review of Article XIV Statutory Bodies with a view to allowing them to exercise greater financial and administrative authority while remaining within the framework of FAO". Appendix ii of 148/21 is attached** (attachment 4) **as it provides a link from CCLM 88 through to FC 157/17** the progress to granting greater levels of delegation to Article XIV bodies of FAO. Both of these Finance Committee papers are important to this paper and are reviewed more thoroughly in Chapter 7 "Option 2" below.

Committee on Constitutional and Legal Matters (CCLM) 88/3

CCLM 88/3 was prepared for consideration at CCLM 88 in September 2009 following the endorsement of recommendations by the FAO Council in 2007. This paper is useful for the review considerations as it outlines the responsibilities of organisations established under Article XIV to the FAO as the parent body.

The following observations are drawn from the FAO paper CCLM88/3:

- The FAO has legal and financial obligations under the broader UN system of agencies for the performance and operations of bodies constituted under Article XIV.
- The FAO believes that some Article XIV bodies with autonomous budgets now enjoy a certain level of autonomy and this extends to deciding on budgets and work programs, signing some agreements, communicating with member governments, travel arrangement and the participation in meetings.
- Staff and Human Resource matters are the purview of the FAO as staff responsibility is part of a broader UN Common system of benefits and conditions and as such there is little scope to provide further autonomy in this area.
- Financial arrangements are part of an established FAO/UN framework which includes auditing and financial reporting under the International Public Sector Accounting Standards (IPSAS) and as such there again is limited scope to provide flexibility or autonomy within this system.
- FAO considers a number of areas where more flexibility might be possible including Part B of the report (paras 44-48) the CCLM paper considers budget and financial issues for those organisations with autonomous budgets, (such as the IOTC) the issues of standard costs and project servicing costs are mentioned but not resolved and the focus is on improving financial reporting.
- Part E (para 63-66) deals with extra budgetary funding including the right to sign agreements but does not address the issues of on-costs attributed to the management of these funds which is an issue for IOTC members.
- The other areas with potential flexibility are more peripheral areas such as external relationship rules, attendance at meetings, travel, the relationship with donors and translation costs and services. These areas are important but in some sense the benefits of them have already been applied in the IOTC.

The issues raised in CCLM88/3 will be discussed further as they apply to other considerations in this paper. However, to be fair in a large multi-national intergovernmental UN organisation which the FAO is, it is a lot more sensible to have a standard set of rules that apply to all parts of the organisation than to create exceptions and special arrangements that apply to small organisations such as the IOTC, as they are far easier to administer and monitor.

Chapter 4 The 1st IOTC Performance Review recommendations

The 1st Performance review of the IOTC is an excellent document and many of the recommendations have been accepted and progressed. However, of interest to this study are the core recommendations on the future structure of the IOTC and the panels concerns on financial matters. These recommendations and concerns are still at the heart of the issues between the IOTC and the FAO. Regardless of what final option is taken by the IOTC on its future, the issues will need to be resolved. The key outstanding issues and recommendation from the 1st Performance Review are:

The legal framework of the IOTC Agreement:

"The analysis of the legal text of the IOTC Agreement identified a series of gaps and weaknesses which can be summarized as follows:

> *The IOTC Agreement is outdated as it does not take account of modern principles for fisheries management. The absence of concepts such as the precautionary approach and an ecosystem based approach to fisheries management are considered to be major weaknesses. The lack of clear delineation of the functions of the Commission or flag State and port State obligations provide examples of significant impediments to the effective and efficient functioning of the Commission.*
>
> *The limitation on participation to this RFMO, deriving from IOTC's legal status as an Article XIV Food and Agricultural Organisation of the United Nations (FAO) body, conflicts with provisions of United Nations Fish Stocks Agreement (UNFSA) and prevents major fishing players in the Indian Ocean from discharging their obligations to cooperate in the work of the Commission.*
>
> *The IOTC relationship to FAO, most notably in the budgetary context, negatively affects the efficiency of the work of the Commission, with neither Members nor the Secretariat in full control of the budget. This also raises questions relating to the level of transparency in the Commission's financial arrangements.*

The Panel recommends that the IOTC Agreement either be amended or replaced by a new instrument. The decision on whether to amend the Agreement or replace it should be made taking into account the full suite of deficiencies identified in the Review."

"Financial arrangements

The Panel analysis revealed that the relationship of IOTC to FAO in terms of financial issues is negatively affecting the workings of the Organisation. Under this arrangement, the budget is not entirely under control of its Members or the Secretariat. While the Secretariat is a budget holder, execution of the budget depends on FAO, which puts both a constraint on and reduces transparency in IOTC's financial management. All contributions and donations from Members to the autonomous budget have to be deposited in a Trust Fund which is administered by the FAO Director General. Moreover, the Finance Committee of FAO has the power to disallow the IOTC financial regulations and amendments thereto if it finds them inconsistent with the FAO Financial Regulations. This arrangement limits the ability of the Secretariat to manage the budget independently, and overall, limits the control of IOTC Members over it. It should also be noted that FAO has not provided any contributions to the IOTC as foreseen in Article VIII.3 of the Agreement. It is therefore clear that a modification of the financial management status quo is needed."

Action has progressed on many of the recommendations in the 1st IOTC Performance Review including the adoption of the precautionary approach, and the FAO has made an effort to improve the understanding and availability of the FAO financial arrangements and systems, however, these core issues and recommendations and still seem to be at the heart of the management issues between the IOTC and the FAO.

Chapter 5: Review of other RFBs, RFMOs and UN related agencies listed in the Terms of Reference.

Background

Globally the FAO lists some 31 Regional Fisheries Bodies (RFB's) of which nine are FAO Article XIV bodies similar to the IOTC and 22 are standalone autonomous bodies supported by their members.

1 Article VI and Article XIV Regional Fisheries Bodies

Of the Article VI and XIV fisheries bodies the study considered the business models of:

- The Regional Commission for Fisheries (RECOFI)
- Asia Pacific Fisheries Commission (APFIC)
- Fisheries Commission for the Eastern and Central Atlantic (CECAF)
- Western Central Atlantic Fisheries Commission (WECAFC) and
- The General Fisheries Commission of the Mediterranean (GFCM).

These regional fisheries bodies (RFB) are described separately then conclusions drawn as to any business models or practices that may be of use when considering the future of the IOTC.

The Regional Commission for Fisheries (RECOFI)

RECOFI is a very small RFB with seven members that came into effect on 26 February 2001 as an Article XIV body of FAO. RECOFI is responsible for the management of fish stocks and the sustainable development of aquaculture in a defined area of the Red Sea bounded by Ras Dhbat Ali and Ras Al-Fasteh. The objective of RECOFI is as follows "The *purpose of the Regional Commission for Fisheries (RECOFI) is to promote the development, conservation, rational management and best utilization of living marine resources, as well as the sustainable development of aquaculture within its area of Agreement."*

The Commission Secretariat is provided by the FAO from the FAO Regional Office for the Near East and North Africa in Cairo and the Commission meets every two years. The Commission is a FAO project and does have a trust fund established to receive contributions to its budget. The FAO does not charge PSC in relation to this trust fund and it is assumed that this happens as the fund never exceeds $100,000 USD. Until recently the RECOFI members only paid $5,000 annually and this has just been raised to $15,000 per annum but only if the arrears owing to REC OFI are settled and that is yet to occur. To date the FAO have contributed the cost of the Secretariat and much of the work that has been undertaken has been funded by the budget of the FAO regional office on a case by case basis. The FAO have made a major contribution to the RFB in an attempt to see it properly established.

The current membership of RECOFI is; Bahrain, Iraq, Iran (Islamic Rep. of), Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates.

Observations

The scale, scope and maturity of RECOFI are very different to that of the IOTC and as such there are few if any lessons that can be applied to the current IOTC situation. However, it is difficult to understand why these member countries, all with significant wealth, will not or cannot contribute to a reasonable budget to support the organisation. One reason may be that fish and aquaculture as industries are not of significant interest at this stage to these countries.

Asia Pacific Fisheries Commission (APFIC)

This is one of the oldest Regional Fisheries Bodies originally established as the Indo-Pacific Fisheries Council (IPFC) in 1948 as an Article XIV regional fisheries body. IPFC had a number of name changes then in 1994 it became the Asia Pacific Fisheries Commission (APFIC) that we know today.

The mandate of APFIC is broadly to: *"promote the full and proper utilization of living aquatic resources by the development and management of fishing and culture operations and by the development of related processing and marketing activities in conformity with the objectives of its Members",* and this achieved through a Commission of members who meet every 2 years, an Executive Commission that meets annually and a Secretariat provided and funded through the FAO Regional Office in Bangkok.

APFIC is <u>not</u> an FAO project. The budget for APFIC is provided by the FAO and it does not have an autonomous budget provided by the members. The costs of APFIC are borne by the FAO Regional Programme, although the APFIC members do have some say and influence on the work programme and priority areas.

However, APFIC lacks the fundamental criteria to operate as a RFMO in that it is not bound by a convention area, it does not have a coherent or focused membership based on an economic or geographical grouping- it has a rambling membership covering the continents, and the membership is not bound by any common interest in a stock or management area. APFIC does not have any standing technical committees or an ongoing science program.

The current membership of APFIC includes; Australia, Bangladesh, Cambodia, China, France, India, Indonesia, Japan, Malaysia, Myanmar, Nepal, New Zealand, Pakistan, Philippines, Republic of Korea, Sri Lanka, Timor-Leste, Thailand, United Kingdom, United States of America, Viet Nam.

Observations

There appears to be little that can be drawn from the APFIC experience that would guide the IOTC into the future and in many respects the IOTC and its members are well advanced of the situation of APFIC and its membership. One task that APFIC seems to do well is capacity building with member countries particularly in developing a better understanding of good fisheries management practices, science and compliance. There may be scope for some synergies in this area with the IOTC and potential to share programs and costs.

Fisheries Commission of the Eastern and Central Atlantic (CECAF)

The Fishery Committee for the Eastern Central Atlantic (CECAF) was established in 1967, as an Article VI body of the FAO. The constitution of CECAF was updated in 2003 with FAO Council adopting the changes in October 2003. The area of competence for CECAF is for the coastal; and high-seas waters of the West African coastal states from Cape Spartel, Morocco to the mouth of the Congo River.

CECAF has 34 member states which include the West African states whose waters are part of the Commissions area of competence and also distant water fishing countries and countries with an interest in the area including the EU, Spain and the USA. CECAF is responsible for the small pelagic stocks, artisanal and demersal stocks in this area and the objective of CECAF is to; *"promote the sustainable utilization of the living marine resources within its area of competence by the proper management and development of the fisheries and fishing operations"* and this is achieved through the Committee of CECAF which meets every two years.

CECAF is funded by the FAO who funds projects for the Secretariat on a case by case basis where possible. Extra budgetary funding is provided by donor countries and through international organisations. The Performance Review of CECAF in 2012 highlighted a number of concerns about funding and on its reliance on the FAO.

The following observations were made:
"According to some of the respondents, the degree of ownership could be enhanced if member countries were to contribute financially with the Committee, even if in a voluntary basis. Others cautioned, however, that this would not be possible at present for many CECAF members. The possibility of some degree of participation by members in the budget of the organization, to be established in a phased manner, however, should be evaluated by the Committee (see Recommendation 6).
85. Another means to enhance the sense of ownership could be perhaps an improved Communication between the Secretariat and CECAF members, particularly between meetings, a deficiency that has been pointed out in many responses to the questionnaire."

The current membership of CECAF includes; Angola, Benin, Cameroon, Cabo Verde, Dem. Rep. of the Congo, Congo, Côte d'Ivoire, Cuba, Equatorial Guinea, European Union, France, Gabon, Gambia, Ghana, Greece, Guinea, Guinea-Bissau, Italy, Japan, Republic of Korea, Liberia, Mauritania, Morocco, Netherlands, Nigeria, Norway, Poland, Romania, Sao Tome and Principe, Senegal, Sierra Leone, Spain, Togo, United States of America.

Observations

While CECAF remains a large and potentially important RFB, it is not at the level of maturity of the IOTC, and as such much of its operational and management framework does not easily translate to the IOTC. Again with the current membership it is interesting that there seems to be little interest in moving to a self-funding model and this raises the question of why? Is it as the Performance review suggest that some members cannot afford the cost, is it that members believe that the FAO will continue to pay or is it just that there are too many RFBs and RFMOs and members find it hard to justify the costs and membership of the different bodies.

Western Central Atlantic Fisheries Commission (WECAFC) (Article VI)

WECAFC was established in 1973 by the FAO Council under Article VI (1) of the FAO Constitution. The WECAFC agreement was amended by the FAO Council in December 1978 and again in November 2006. WECAFC has 34 member countries and is responsible for fisheries management and development of resources in the Caribbean. WECAFC shares responsibilities for some of these resources with other regional fisheries bodies with significant collaboration between these bodies in research, management and funding.

The general objective of the Commission is to *"promote the effective conservation, management and development of the living marine resources of the area of competence of the Commission, in accordance with the FAO Code of Conduct for Responsible Fisheries, and address common problems of fisheries management and development faced by members of the Commission"*.

At the time of writing this report, the WECAFC is undertaking a similar study to this IOTC one to understand better the issues of remaining with the FAO system or creating an independent organisation. WECAFC budget for 2014-15 biennium was provided thought the FAO Regular program and Technical Program and amounted to $110,000 USD. In addition to this WECAFC members were able to raise some $9 million USD from partner and donor organisations to progress the work of the agency. Of this funding some $5.6 million came through Global Environment Fund (GEF) programs.

The membership of WECPFC includes; Antigua and Barbuda, Bahamas, Barbados, Belize, Brazil, Colombia, Cuba, Dominica, Dominican Republic, European Union, France, Grenada, Guatemala, Guinea, Guyana, Haiti, Honduras, Jamaica, Japan, Mexico, Netherlands, Nicaragua, Panama, Republic of Korea, Saint Kitts and Nevis, Saint Lucia, Saint Vincent/Grenadines, Spain, Suriname, Trinidad and Tobago, United Kingdom, United States of America, Boliv Rep of Venezuela.

Observations

This is one RFB that seems to be seriously moving towards an independently supported RFB model. The IOTC members should review the paper currently being prepared by Consultants for the WECAFC members on the costs and benefits of establishing WECAFC as an independent organisations and compare findings with this report.

General Fisheries Commission of the Mediterranean (GFCM).

The GFCM is established under the provisions of Article XIV of the FAO. The GFCM started as a Council in 1952, when the Agreement for its establishment came into force, and became a Commission in 1997. The objective of the GFCM is "*to promote the development, conservation, rational management and best utilization of living marine resources as well as the sustainable development of aquaculture in the Mediterranean, the Black Sea and connecting waters".* The GFCM has 24 member countries including the European Union. These members contribute to its autonomous budget to finance the functions of the GFCM. The budget for the first year of the new triennium agreed in 2015 was for $2,359,564 (USD).

The GFCM is mainly responsible for the management of small pelagic and demersal and sedentary stocks in the Mediterranean and Black seas and for the sustainable development of aquaculture and as such has a broad mandate. The Secretariat for the GFCM is located in Rome and has 12 staff.

The Article XIV concerns that are central to the current situation between IOTC and FAO are also issues of concern to the GFCM. The GFCM has concerns with the "project" status attributed to the GFCM, the flexibility in delegating responsibility to Article XIV bodies, recruitment, translation, corporate identity, reporting arrangements and the budgeting and accounting processes. However, the GFCM also recognizes the strengths that go with association as an Article XVI body and these include; the FAO institutional framework, and in particular the assistance to developing countries, FAO support from systems, professional FAO based staff and the regional network, privileges and immunities of the FAO Common system.

The current membership of GFCM includes; Albania, Algeria, Bulgaria, Croatia, Cyprus, European Union, Egypt, France, Greece, Israel, Italy, Japan, Lebanon, Libya, Malta, Monaco, Montenegro, Morocco, Romania, Slovenia, Spain, Syrian Arab Republic, Tunisia, Turkey, with Ukraine and Georgia being cooperating non-members.

Observations

The GFCM's concerns around being an Article XIV organisation of FAO are not dissimilar to those of the IOTC. Therefore if it gets to the point of having a broader discussion with the FAO on improving Article XIV arrangements and autonomy, including the GFCM in these discussions may well be useful.

Conclusions

These five RFBs are all quite different in scope and in practice to the IOTC. The body closest to the IOTC is the GFCM which interestingly is going through similar considerations about efficiency and effectiveness but without, it seems the same strained relationship with the FAO.

A number of these bodies (RECOFI, CECAF and WECAFC) receive financial support from the FAO through their regional programs or through project support. Both IOTC and GFCM which are more mature in terms of structure and development are stand-alone organisations which are supported by a budget paid for and provided by their member countries. In discussions with the FAO the reason for the ongoing support is that the FAO will support these organisations until they mature to the point that they can be self-supporting and as they mature and have a greater member financial support the level of FAO support can be withdrawn. The FAO indicates that encouragement is being given to the members of these organisations to increase the level of member financial support.

The IOTC may benefit from the current WECAFC study and as noted if there is a broader discussion with the FAO on flexibility in the Article XIV arrangements including some of these RFBs in the discussion may be helpful.

In researching these organisations a very good FAO Paper came to light from 1997; FAO Fisheries Circular No. 916 FIPL/C916 “The Role of FAO Regional Fishery Bodies in Conservation and Management of Fisheries”.

The paper makes the following observation *“Of the present FAO regional fishery bodies, some are potentially management bodies and are ready to undertake management functions either as independent fisheries management organizations or as management bodies operating under Article XIV of the FAO Constitution (IOTC model). These are GFCM, CECAF, the Gulfs Committee of IOFC and APFIC Committee on Marine Fisheries.”*

Even at that point in time the IOTC was seen as an advanced model and research today shows that this is still the case. While these are good organisations in their own right the IOTC is more aligned to the other four tRFMOs than to the traditional FAO RFBs and as such in moving forward there may be more lessons to be learned in looking in more detail at the success of the tRFMOs.

3 Other bodies listed in Annex 1 of the ToR

The bodies listed under Annex 1 included:

- International Social Security Association (ISSA)
- International Union for the Protection of New varieties of Plants (UPOV)
- International Agency for Research on Cancer (IARC)
- Translation Services (STOP), (STAR) and (STAN); and
- Intergovernmental Panel on Climate Change (IPCC)

The International Social Security Association. (ISSA)

The ISSA is an international organisation created under the auspices of the International Labor Organisation (ILO) in 1927. The organisation now has 340 member organisations from 217 countries and territories and has its headquarters in Geneva Switzerland. While the ISSA was establish under the auspices of the ILO, and they are headquartered together in Geneva, it is of a size and mandate that allows it to operate largely as a seperate organisation. In “ *The ISSA is accorded General Category consultative status by the United Nations Economic and Social Council (ECOSOC)[2]. This accreditation by the United Nations has been given in recognition of the fact that the ISSA's work conforms to the spirit, charter and principles of the UN [3]. The privileges that come with this title afford to the ISSA the right to attend, and contribute in a substantive manner to, UN General Assembly special sessions, as well as international conferences called by the UN and other intergovernmental bodies.”*

In 2012 the ISSA and the ILO signed their first ever Memorandum of Understanding (MoU) in order to deliver improved services to the members of both agencies through collaboration and sharing. *“Based on the specific mandate and competency of each organization, the MoU focuses on the positive complementarities that can be achieved through improved collaboration in a partnership relationship. Positively, the implementation of the MoU will allow both the ISSA and the ILO to provide a broader range of relevant and quality services including knowledge, advice and platforms as regards both policy questions and administrative processes,* *primarily related to the question of extension of social security coverage. Ultimately, it will ensure a greater impact of the work of both the ISSA and the ILO on social security development worldwide."*

The main organs of the ISSA are the General Assembly that consists of delegates appointed by member organizations who meet every three years and the Council that meets at each session of the General Assembly and comprises a delegate from each country. The Bureau meets twice annually and provides day to day direction to the ISSA and comprises the President, Treasurer, Secretary General and elected representatives of the four geographical regions. The Secretary General manages the Secretariat of the ISSA which is based in Geneva and delivers the program of work of the ISSA Council and Bureau. Since its creation, the ISSA Secretariat has been based at the ILO headquarters, and has worked closely with the ILO in the development of social security.

The conditions of employment at the ISSA follow those of the ILO and the United Nations remuneration system. As part of this study the ISSA and the Australian organisations that are members of the ISSA and the ISSA were contacted to provide information on the ISSA budget and Secretarial arrangements. However, no further information was available from Australian sources and the ISSA responded as follows: *"Thank you for your interest in the activities of the International Social Security Association (ISSA). However, I wish to inform you that due to the large number of requests we receive, it is only possible for us to reply to members of the ISSA."*

Observations

The staff conditions of service in the ISSA are those applying to the staff of the ILO and consistent with the UN Common System. This is a very large organisation with some 217 countries and territories that has been in existence since 1927. The scope and mandate of the ISSA are international and its purview of importance to governments and the international community. The scope and size of this organisation is a magnitude larger than the IOTC. While it is useful to compare the structure and governance of an organisation of this size and global reach to the future structure of the IOTC, it is difficult to see how the two organisations can be compared.

The International Union for the Protection of New Varieties of Plants (UPOV)

UPOV was established under the auspices of the World Intellectual Property Organisation (WIPO) by the adoption of the International Convention for the Protection of new Varieties of Plants in 1961 and came into force in 1968. In a somewhat unique arrangement the Secretary General of the WIPO is also the titular head of the UPOV, but with the day to day operational responsibilities and management undertaken by the Deputy Director General of UPOV. The organisations (WIPO and UPOV) are headquartered together in Geneva Switzerland. Today UPOV has 74 member countries and the Convention is applied in 91 countries. UPOV has legal personality.

WIPO is a Specialized Agency of the United Nations and in 1982 a cooperation agreement (the WIPO/UPOV Agreement) was signed between UPOV and the WIPO. Under this Agreement, *"the Council of UPOV appoints as Secretary-General of UPOV the Director General of WIPO. The Vice Secretary-General is responsible for the delivery of the results indicated in the approved program and budget. Under the Agreement, WIPO satisfies the requirements of UPOV with regard to provision of space, personnel administration, financial administration, procurement services and other administrative support. UPOV indemnifies WIPO for any service rendered to, and any expenditure incurred on behalf of, UPOV".*

Further the UPOV website provides the following information*: "UPOV is funded by contributions and extra budgetary funds (funds in trust) from members of the Union. UPOV operates within the framework of a biennial program and budget. The proposed program and budget covers estimates for income and expenditure for the financial period to which it relates. It is submitted by the Secretary-General to the Consultative Committee for discussion, comments and recommendations, including possible amendments. The Council* *adopts the program and budget after consideration of the proposed program and budget and the recommendations of the Consultative Committee."*

Members of UPOV are members of the Union. There are two permanent organs of UPOV; the Council (members of the Union) and the Office of the Union (Secretariat). The Office of the Union has 11 staff and the Secretary General is paid by the WIPO and does not take any salary for his role in UPOV. UPOV's 2014 budget was 3,396,977 Swiss francs or $3,426,669 USD. The funds are managed through a trust fund. The staff salaries, entitlements and conditions and service are closely aligned to those currently enjoyed by members of the IOTC including UN (WIPO) salaries, access to the UNJSPF, after service health care (ASHC). The UPOV budget is an accrual budget that adheres in its preparation to the International Public Service Accounting Standards (IPSAS) system of reporting. Under the 1982 UPOV/WIPO Agreement, WIPO provides the accommodation and services to UPOV and these costs are recovered at an agreed rate.

Observations

UPOV seems to be a very similarly structured organisation to the IOTC except that it has legal personality and enjoys an excellent working relationship with its parent organisation. WIPO and UPOV obviously operate very professionally and effectively as joint but separate agencies. The relationship seems to be well established, mature and well understood between the parties and the role of the Secretary General as head of both organisations no doubt helps in this process. However, on review it would suggest that the level of professionalism and maturity of staff on both sides must also play a significant role in the success of these two well regarded organisations enjoy in working together.

The International Agency for Research on Cancer (IRAC)

The International Agency for Research on Cancer was established in May, 1965, through a resolution of the XVIIIth World Health Assembly, as an extension of the World Health Organization (WHO). The objective of the International Agency for Research on Cancer is to*: "promote international collaboration in cancer research. The Agency shall serve as a means through which Participating States and the World Health Organization, in liaison with the International Union Against Cancer and other interested international organizations, may cooperate in the stimulation and support of all phases of research related to the problem of cancer".*

IRAC importantly is governed by its own governing bodies, the IARC Governing Council (GC) and the IARC Scientific Council (SC). *"IARC's general policy is directed by a Governing Council, composed of the Representatives of Participating States and of the Director-General of the World Health Organization. The IRAC research programme is reviewed by a Scientific Council. The Governing Council elects IARC's Director, who normally serves for a five-year term."* The Governing Council of IRAC meets every year in ordinary session the week prior to the WHO World Health Assembly.

Members of the Scientific Council are appointed as experts and not as representatives of Participating States. The role or purpose of the Scientific Council is to make periodical evaluations of IARC's activities, to make recommendations on the programme of permanent activities and to prepare special projects to be submitted to the Governing Council.

The IRAC programme is supported by a Secretariat which is the administrative and technical organ of the Agency. The Secretariat is under the leadership of the Director and consists of technical and administrative staff. The Director of IARC is elected by, and reports to, the Governing Council. The Director oversees the day-to-day operation of the Agency. Today IRAC has 25 member countries and draws its 300 staff from more than 50 different countries.

The activities of IRAC are mainly funded by the regular budget contributions paid by member states. The regular budget for the 2016-2017 biennium was approved in May 2015 at a level of €43 413 599 or $47,413,762 USD. In addition to the regular budget IRAC attracts substantial extra budgetary funding and this allows for grants to be made roughly at a value of one third of IRAC's overall budget. The budget covers all support services including; administrative services, budget and finance, human resources, grants office, information technology in addition to clerical, technical and laboratory expertise.

The staff of the IRAC is appointed as staff of the WHO and as such enjoys the general conditions of service and entitlements accorded to staff in UN agencies including access to the UNJSPF and the WHO Staff Health Insurance Scheme as part of the UN Common System. The funds and assets of the Agency are treated as trust funds under Article VI (6.6 and 6.7) of the Financial Regulations of the World Health Organization. These funds are managed and administered by the Director of IRAC and are accounted for separately from the funds and assets of the World Health Organization and administered in accordance with the financial regulations adopted by the Governing Council.

Observations

This large organisation is global in its mandate and deals with an issue that has global reach and importance. IRAC from its beginning has enjoyed support from the highest levels of government and has been constituted as an extension of the WHO and not separate to it. However within the WHO system it operates as a separate but linked body. The organisations seem to work well together and the WHO Director General is an integral part of the IRAC construct.

The staff of IRAC through the WHO enjoys access to the salaries and conditions accorded to staff within the UN Common System and as such align well with those salaries and entitlements that accrue to IOTC staff as part of the FAO.

It is difficult to see how the business model of the IRAC could be applied to the current FAO/IOTC situation as it would seem to have been constructed to fit the WHO/IRAC situation at a point in time. The global reach and mandate and the level of funding of this organisation is quite different to the IOTC. The IRAC as such it enjoys a far higher level of political support and attention globally. What appears obvious however, is the professional relationship that these two bodies enjoy that concentrates on the bigger picture of the task at hand and the importance of their mandates and not on the ongoing operational issues that cause difficulties for the IOTC and the FAO.

Universal Postal Union (UPU) Translational Services (STOP, STAN and STAR)

Information on the English Translations Service (STAN) is available through the UPU website and the main aspects of it are outlined below. No information could be found on STOP and STAR with the only reference on STAR being to the UPU Global Satellite Management System which is not appropriate to this study.

The UPU became a specialized agency of the United Nations (UN) on 1 July 1948 and *"contributes to the development of UN policies and activities that have a direct link with its mandate and missions to promote social and economic development"*. The UPU works collaboratively and on joint projects and initiatives with other UN specialized agencies. French is the official language of the UPU. English was added as a working language in 1994, and these days the majority of the UPU's documents and publications are available in the UN official languages.

The three key organs of the UPU are the Union made up of members that meets as a Congress, the International Bureau, and the Postal Technology Centre. The Secretariat, which is part of the International Bureau is the UPU's headquarters and is located in Berne (Switzerland). It has a staff of about 250 employees drawn from about 50 different countries. *"The Bureau provides logistical and technical support to the UPU's bodies. It serves as an office of liaison, information and consultation, and promotes technical cooperation among Union members. In recent years, the International Bureau has taken on a stronger leadership role in certain activities. These include the application of postal technology through its Postal Technology Centre, the development of postal markets through potential growth areas such as direct mail and EMS, and the monitoring of quality of service on a global scale."* The UPU through the Postal Technology Centre has established a number of regional support centres in different parts of the world to support its information technology activities.

The budget for the UPU is agreed by the Union and managed by the Bureau with the expenses financed jointly by the member countries, based on an agreed contribution system. Since 1992, UPU has followed the practice of "zero growth", maintaining its annual budget at or below the level of inflation. The organization has an annual budget amounting to approximately 37 million Swiss francs or $37.246 million USD. This zero growth budget is however supplemented by extra budgetary funding that in 2011 was running at around $17 .2 million USD annually.

The employee benefits that accrue to all staff including the STAN staff are recorded as follows:

– *"Short-term employee benefits including salary and other allowances, assignment grants, education grants for dependent children, paid annual leave, paid sick leave and medical and accident insurance.*
– Post-employment benefits including separation benefits (repatriation grants, repatriation travel and shipment of personal effects), disability benefits, survivor's insurance, supplementary benefits for elected officials and death benefits.
– Defined benefit plans including the Provident Scheme and after-service health insurance (ASHI).
– Termination benefits including an indemnity payable to staff members holding permanent or fixed-term contracts whose appointment is terminated by the Union prior to the end of their contract."

The defined benefit plans of the UPU are described in full in their Financial Report to Congress in 2011*(Congress–Doc 35.Add 1.Annex 1)* and the description is included in full as it provides for IOTC members clarity on how the schemes actually work.

The Union operates two defined benefit plans providing pension and ASHI benefits as follows:

"– *Provident Scheme*: The Provident scheme of the Universal Postal Union provides retirement, death, disability and related benefits for the staff of the UPU International Bureau and staff of the translation services (who are employed on the same basis as other IB staff). The Scheme is organized as a foundation within the meaning of articles 80 et seq. of the Swiss Civil Code, and comes under the supervision of *Amt Für Sozialversicherung und Stiftungsaufsicht des Kantons Berne*. It is audited by the External Auditor appointed by the Government of the Swiss Confederation. The Scheme's administration costs incurred by the UPU Secretariat are borne by the Union. The costs of remunerating the actuary and investing funds in connection with the Scheme are borne by the Scheme itself.
The Provident Scheme consists of a Provident Fund and a Pension Fund, administered separately by a Management Board consisting of the Chairman of the CA, the Director General of the International Bureau, and a staff member designated by the active participants. The Pension Fund is a closed fund providing retirement and disability benefits to those persons who were members of the Provident Scheme at 31 December 1963. All other staff and retirees are covered by the Provident Fund. Both staff members and the UPU make contributions. At present, each staff member pays 8.8% and the UPU pays 17.6% of their pensionable remuneration. The UPU is responsible for any unfunded liability.

– *After-service health insurance (ASHI)*: The Union also has a contractual obligation to provide after service medical benefits to its staff members in the form of insurance premiums for the medical and accident insurance plan. The present value of the defined benefit obligations for this insurance is determined using the projected unit credit method, including discounting the estimated future cash outflows using a discount rate based upon both CHF high-grade corporate and Swiss Government bonds. The plan is unfunded and no assets are held in a long-term employee benefits fund. Retiring staff members and their spouses, dependent children and survivors are eligible for ASHI coverage if they continue to participate in the scheme after separation from service. In accordance with the Union's Staff Regulations and Rules, a share of 50% of the monthly medical insurance premium, including coverage for spouses and dependent children, is paid by the Union. Actuarial valuations are prepared annually for the Provident Scheme and after-service health insurance using the projected unit credit method. The latest actuarial valuations were prepared as at 31 December 2011."

English Language Translation Service (STAN)

According to UPU documents, *"The English Language Group of the UPU is an autonomous body that employs the staff of the English Translation Service of the International Bureau of the Union. Under Article 2(2) of the Regulations of the English Translation Service the Management Committee of the Service or its chairman acts as the Group's "spokesman". Article 5(1) provides that the Union's "International Bureau shall, in its capacity as authorized agent of the [Group], ensure the operation and administration of the [Service] on the basis of the provisions of the Union's Acts and of the decisions taken by the Executive Council and by the [Service's] Management Committee or its Chairman". Under Article 7 the staff of the Service "has the same status as international civil servants and the same conditions of service as staff members of the UPU International Bureau ..."."*

Decisions taken on the performance, staffing and budget for STAN are decided by the English Translations Service (STAN) Management Committee. In the 2013 report of the minutes of the Management Committee STAN was recorded as having four (4) full time staff and utilized contract staff to cover services during busy periods.

As can be seen above STAN staff are accorded all the staff conditions and services accorded to other staff in the International Bureau and these appear to be broadly consistent with the UN Common System. However, instead of being members of the UNJSPF, staff of the UPU including those of STAN have access for pensions to the UPU Provident Fund and can contribute to health insurance at a discount rate of 50% for after service health care.

Observations

The conditions and benefits that accrue to STAN staff are the same as those available to UPU staff and are consistent with the broader UN system as UPU is a UN body. The UPU was established in 1948 and as such would have developed at or around the same time as the UN itself and the FAO. The UPU provides pensions through its Provident fund and after service health care and its size and budget would allow it to do this.

From what can be determined, the service for translation STAN is a very small part of the overall UPU business. UPU has an annual budget and extra budgetary funds of some $55,400,000 USD annually and it can be assumed that no charges are levied on the STAN for accommodation and costs as it is such a small part of the overall budget.

It is difficult to compare STAN (four staff) as part of the UPU (250) and an annual budget of some $54 million USD to the IOTC situation. Again the magnitude of the parent organisation and its importance globally no doubt helps it attract significant funding. What is consistent though is that the staff salary nd conditions are consistent with the UN Common system.

The International Panel on Climate Change (IPCC)

The Intergovernmental Panel on Climate Change (IPCC) was established by the United Nations Environment Programme (UNEP) and the World Meteorological Organization (WMO) in 1988. The IPCC is a scientific body under the auspices of the United Nations (UN).The role of the IPCC is "*to provide the world with a clear scientific view on the current state of knowledge in climate change and its potential environmental and socio-economic impacts*". The IPPC is located in Geneva Switzerland at the WMO headquarters. The IPCC is administered in accordance to UNEP, WMO and UN rules and procedures, including codes of conduct and ethical principles (including UN Ethics, WMO Ethics Function, Staff Regulations and 2012/07-Retaliation). The IPCC is an intergovernmental body. It is open to all member countries of the United Nations (UN) and WMO. Currently 195 countries are Members of the IPCC.

The IPCC reviews and assesses the most recent scientific, technical and socio-economic information produced worldwide relevant to the understanding of climate change. It does not conduct any research nor does it monitor climate related data or parameters. The work of the IPPC is contributed by scientists from all over the world on a voluntary basis and as such a review of this research is an essential part of the IPCC process, to ensure an objective and complete assessment of current information.

The IPCC through the Panel takes major decisions at Plenary Sessions attended by government representatives. The IPCC has a Secretariat and 13 staff and a budget or around $7.5 million annually.

The staff of the IPCC are engaged under the conditions applicable to the WMO and are on WMO contracts and the conditions and contracts are consistent with those applied to other UN based organisations. In this case the staff are covered for pensions under the UNJSPF and their health coverage is under the WMO Health Insurance scheme.

Following a proposal of the IPCC first session in November 1988, an IPCC Trust Fund was established in 1989 by the Executive Director of the UNEP and the Secretary-General of World Meteorological Organization (WMO). The IPCC Trust Fund is refreshed by member contributions in line with a budget agreed by the Panel. The trust Fund finances the Panel and its activities. The IPCC Trust Fund is administered, by mutual agreement between the WMO and the UNEP under the Financial Regulations of the WMO, consistent with the International Public Sector Accounting Standards (IPSAS) the responsibility and accountability for financial reporting on the IPCC Trust Fund resides with the IPCC itself.

Article 1 of the Memorandum of Agreement with UNEP and WMO (1988*) "no administrative support charges shall be imposed by WMO on any expenditure incurred by the trust fund"*. As such, WMO does not appear to charge IPCC for the operational costs, but rather for agreed additional or incremental costs. These additional or incremental costs of administrative services which are provided by WMO to IPCC are agreed between WMO and UNEP in the form of a separate Memorandum of Agreement signed in 1989. (attachment 5)

The 1989 MOA is supported by an annex which outlies the initial funds to be paid and the financial relations and reads as follows:

MEMORANDUM
OF AGREEMENT
FP/4102-01-2011

This Memorandum of Agreement (MOA) is concluded between the United Nations Environment Programme (UNEP) and the World Meteorological Organization (WMO) of 41, Avenue Giuseppe-Motta, Case Postale No. 5, CH-1211 Geneva 20, Switzerland. Whereas UNEP and WMO signed a Memorandum of Understanding on the of April 1989 in which they agree to support financially the Secretariat of the Intergovernmental Panel on Climate Change (IPCC),

1. Under this agreement, UNEP will provide a contribution to support the activities of the Secretariat and the Panel in its first two years. It is agreed that the contribution shall be paid as two equal annual lump sums into a trust fund established and administered by WMO for the purpose of financing the Panel and its activities. it being understood that no administrative support charges shall be imposed by WMO on any expenditure incurred by the trust fund.

2. Activities, outputs and budget for the trust fund as a whole are outlined in the Annex to this MOA.

3. UNEP will make a convertible cash contribution to the IPCC over the two-year period equal to SFR. 250,000 and SFR. 100,000 equivalent in non-convertible roubles distributed equally over the two years.

4. WMO will provide SFR. 125,000 each year, office accommodation for the Secretariat and administrative support towards the cast of the IPCC.

5. WMO shall be permitted to charge the convertible currency cost incurred under this MOA under the global advance for UNEF activities undertaken by WMO. UNEP will arrange through UNEPCOM and the Centre for International Projects for all activities undertaken in USSR to be financed out of its rouble contribution.

6. WMO will account for all expenditures incurred by the trust fund annually together with yearly statements of expenditure for all other UNEP projects.

7. It shall be understood that expenses shall be charged in the first instance to voluntary contributions of governments and only when sufficient funds are not available will the contributions of UNEP and WMO be utilized in equal proportions.

Observations

In reviewing the IPCC it is again evident that the global scope and mandate of this organisation accords it political support and flexibility far beyond that which can be accorded to the IOTC. That is not to say that the business model is not of interest to this report. The current arrangements are very clearly established by the WMO and the UNEP, two large professional organisations, committed to the success of the IPCC and with a relationship underpinned by a MoA. The MoA between the parties is attached in full with the annexes as it provides clarity between the parties on expectations and costs and was agreed from the outset and does not appear to have varied over time.

The staff salaries and conditions are consistent with the UN Common System and as such similar to the IOTC. IPSAS applies and internal audit is provided by the WMO and external audit is outsourced to the Government Audit office in a member country.

Due to the international importance and public scrutiny of the work of this program and its currency to world events it will continue to attract funding, coverage and support into the foreseeable future. The strength of the organisation is in the professional way it co-ordinates and reviews work placed before it by numerous scientists.

The other observations to be made is the professionalism and support these organisations provide to each other and a sense that they work together to ensure that the relationship works for the greater good.

Conclusions

All of these bodies have a number of attributes in common with each other that are diffident to the IOTC and FAO situation;

- All of the bodies are international
- All have substantial mandates of interest to their member countries and the international community

- All these agencies have substantial memberships and/or budgets.
- All appear to be bodies more in partnership and harmony with their parent organisations and with mature relationships.
- A number of these bodies have legal personality

Where there are similarities are with the UN Common system that applies to staff in the IOTC as it is structured today.

In moving forward there may be lessons in looking at these five organisations to improve the IOTC:

- The maturity and professionalism of the relationship between the parties. They seem to relate well and get on with meeting their mandate and not arguing about their relationship.
- Some have clear MoA based arrangements about costs and support that are renewed regularly.
- There is a sense in looking at these organisations that they want the arrangements to work and they work together to that end in a flexible way.

2 Tuna RFMOs (tRFMOs)

Characteristics and operating costs of tRFMOs

There are five tuna Regional Fisheries Management Organisations (tRFMOs):

- the Indian Ocean Tuna Commission (IOTC);
- the Commission for the Conservation of Southern Bluefin Tuna (CCSBT);
- the International Commission for the Conservation of Atlantic Tuna (ICCAT),
- the Inter American Tropical Tuna Commission (IATTC) and
- the Western and Central Pacific Fisheries Commission (WCPFC).

With the exception of the IOTC all of these are autonomous bodies, some created prior to the adoption of the UN Law of the Sea Convention (UNCLOS), all with similar conventions and mandates and all have established working relationships with the FAO.

Table 1: Characteristics of tRFMOs

tRFMO	% of world tuna catch	No of Members	No of CNMs	No of staff	Total budget
IATTC	13%	21	4	45	$9,746,240
ICCAT	10%	50	4	26	$3,808,091*
CCSBT	Less than 1%	7*	2	7	$1,732,885#
IOTC	20%	28	3	15	$3,066,995
WCPFC	58%	26	15#	23	$7,345,178

*CCSBT membership is for the extended Commission
#WCPFC CNMs includes Participating Territories
*Converted at UN rates 31 Dec 2014 (.82)
#Converted at UN Rates Dec 2014 (1.22)

Of the five tRFMOs, FAO salaries and staff conditions apply in three of them (CCSBT, ICCAT and IOTC), the WCPFC is the latest of the tRFMOs to be established and the salary and conditions of the Executive Director are loosely equivalent to an FAO D1 level. The staff of the WCPFC are paid on a salary and conditions scale which was developed using the Council of Regional Organisations in the Pacific (CROP) classifications and conditions whilst general services staff are paid on a locally developed salary scale appropriate for FSM based staff.

IATTC was established in 1949 and as such many of the staff classifications and salaries and conditions were developed at a time when the FAO was developing and well before many of the other UN agencies existed. The IATTC staff are hired and paid based upon the U.S. Office of Personnel Management General Schedule (GS) conditions and classifications. The scientific staff are paid at levels commensurate to their positions, and for example, Senior Scientists are paid at a GS 12 or above; Associate Scientists are paid between a GS 9 and GS 11; and Assistant Scientists are paid between a GS 5 and GS 7. These staff payments include an annual increase, calculated by the US government, to cover the estimated cost of living increase (COLA). These tables can be located at: http://www.opm.gov/oca/12tables/indexGS.asp

Table 2 below collates the total salaries and allowances for professional and general service tRFMO staff to illustrate variances. ICCAT staff cannot be broken down by classification as their budget reporting is different to that of the other tRFMOs. However, the gross ICCAT figures from both of the Chapters that include salaries and staff conditions (Chapter1 and 8) are included in a separate column for your information. Table 3 then provides the same breakdown and comparison for all other costs.

With both these table readers should be aware that it is difficult to get an accurate comparison as budgeting is different and the tRFMOs preform and budget for different tasks i.e. WCPFC contracts out its science and data entry and as such, these tables and the figures they contain should be treated with caution. However, the gross figures and characteristics do provide a guide and comparison to staff and to operational costs.

Table 2: tRFMO Administrative Cost for staff salary and benefits in USD

Item	IOTC	CCSBT	IATTC	WCPFC	ICCAT
		conv@1.22			conv@.82
1) No of Prof Staff	9	4	28	10	16 Chapter 1 staff
2) Prof Staff salary costs total	785,214	413,881	3,050,321	964,822	Inclusive of benefits see below
Average cost	**87,246**	**103,470**	**108,940**	**96,482**	**N/A**
3) Prof Staff benefit and conditions costs	1,249,465	162,737	735,260	1,249,735	Total costs 1,535,103
Average cost	**138,829**	**40,684**	**26,259**	**124,973**	**N/A**
Total	**226,075**	**144,154**	**135,199**	**221,455**	**95,943**
4) No General Service/Local staff	6	3	17	13	10 Chapter 8 staff
5) General service staff salary costs	63,350	79,813	929,375	287,555	Included below as all up costs
Average	**10,558**	**26,604**	**54,669**	**22,119**	
6) General service staff benefit costs	82,569	18,035	328,360	65,925	1,105,818
Average	**13,671**	**6,011**	**19,315**	**5,071**	
Total	**24,229**	**32,615**	**73,984**	**27,190**	**110, 581**
Total staff (1+4)	15	7	45	23	26
Total costs (2+3+5+6)	2,180,598	674,466	5,043,313	2,568,037	2,640,920
Average all staff	145,373	96,353	112,073	116,653	101,573

Notes: 1) ICCAT staff costs are under Chapter 1 and Chapter 8 of the ICCAT budget. There is no distinction between professional and general service staff and the costs are inclusive if entitlements and salary. As such the only ICCAT comparison that could be made was by comparing the gross payments and dividing by the number of staff which is not particularly helpful. 2) WCPFC contracts out science and some data entry as such these costs are not included 3) CCSBT GS staff are not all full time 4) IATTC costs reflect employing staff in the US on US conditions and AIDCP5) IOTC salaries slightly higher as they have a greater ratio of professional to local staff and high location costs

Table 3: Operating costs for tRFMOs (USD)

Cost item	IOTC	CCSBT	ICCAT	IATTC	WCPFC
Included extra budgetary costs		conv@1.22	conv @.82		
Travel	181,471	67,868	182,801	487,261	210,000
General operating expenses	98,885	112,377	244,696	517,523	336,530
Capital expenditure	15,775		49,003		82,200
Maintenance	0	0	46,199		234,200
Meeting expenses	249,018	484,606	475,118		582,500
Science and research program costs	55,500 (capacity blg)	191,229	617,502	3,228,362	1,254,200
Technical and compliance service costs	55,500 (capacity blg)				1,899,629
Consultants /Reviews/ misc etcs	102,000 60,000 (MPF)	143,442	8,490	12,777	142,000
FAO Project Service Costs	132,937				
ICRU	124,036				
Total	1,075,122	999,524	1,633,957	4,245,923	3,153,829

What conclusions can be drawn for these tables?

Caution needs to be exercised when comparing these figures for the reasons mentioned above that they don't compare easily across the Commissions. However, some comparisons may be drawn.

Staff

- The general costs of staff across the Commissions is fairly similar when one takes into account the ratio of professional to general service staff and the cost of supporting staff in the two remote island locations Pohnpei FSM and Victoria, Seychelles.
- The WCPFC and IOTC staff costs would be on average very similar if one adds in the costs of a stock assessment science staff to the WCPFC budget.
- Only the staff of the IOTC benefit from the UN Joint Staff Pension Fund. Staff in the other tRFMOs contribute either to selected private funds or contribute to their own private funds.

Operational and other costs

- The quantum of these costs varies depending on location and the Headquarters agreement with the host country. In this area the IOTC is very well served as the Seychelles government picks up the Headquarters cost and maintenance costs and also provides an IT staff member to the IOTC.
- WCPFC has a large maintenance cost for its compound and staff housing in its budget.
- Those tRFMOs who invest in large science, observer and tagging programs have higher immediate budgets in these areas.

Other observations

- The two tRFMOs that should be compared are the IOTC and the WCPFC as they have similar characteristics and locational issues. When you compare their costs they are similar.
- There seems to be little difference in the actual operation of the IOTC to the other tRFMOs.
- RFB's and RFMOs can and do run w a greater or lesser degree efficiently and effectively as Article XIV bodies or as autonomous bodies and there is no evidence or studies that indicate that one structure is intrinsically better than the other. All of the RFB's work to a greater or lesser degree, depending largely on the alignment of:
    - Adequate coverage of all fishing and coastal states and entities,
    - Well-constructed and implementable rules, regulations and conservation measures
    - A strong innovative and proactive science base supported by good and timely data
    - Effective monitoring of their implementation,
    - Good administrative and staffing rules,
    - Committed and well led Secretariat staff and;
    - Committed and progressive delegates who understand the business they are trying to manage, and who can put "common good" outcomes for the fishery ahead of self-interest.

All of the tRFMOs operate largely in the same manner and deal with similar membership and issues they are in this way remarkably similar. The fact that the IOTC is an Article XIV body should not in itself impact on its effectiveness and efficiency.

Perhaps the outstanding questions to ask are ...*"What is the real job of the IOTC";* then if the answer to this is ….." *To manage the tuna and related stocks in the Indian Ocean sustainably for this and future generations*" the follow-on question is "*what is it that we are not doing that is leading us to be ineffective or inefficient in meeting that goal*".

What is <u>not</u> obvious is the link between the FAO costs to the IOTC and the belief that the IOTC is ineffective or inefficient.

Chapter 6: Option 1: Cost and Benefits of continuing as an Article XIV Body of the FAO.

The current cost structure of the IOTC is included in the budget documents for the IOTC. The budget is agreed by the members of the IOTC and is funded by contributions made by members to an agreed cost attribution formula. The overall budget for any given year can also be enhanced by extra budgetary contributions and these are normally made by members to fund specific projects of priority interest to member countries. These extra budgetary projects are managed by the Commission staff and often undertaken by contractors or consultants (attachment 6 2014 IOTC Budget).

6.1 Costs: the budget costs explained

To explain the costs in the current budget one needs to break them down into a number of well understood budget categories: These categories are somewhat different to the groups used in the ToR, as you will see below the FAO charges to the IOTC are aggregated to cover a number of costs centres and in the case of benefits and allowances it is aggregated and then averaged as such it is not possible to view budget line items at a micro level. However, comparative costs have been able to be drawn from these figures that ca inform this study.

- Administrative Expenditure
    - Professional Salaries
    - General Services Salaries
    - Benefits and Allowances
- Operating Expenditures
- Extra –budgetary funding
- Services Provided by FAO

To help understand the relationship between the IOTC and the FAO for administrative and personnel management systems tasks, a table of these tasks has been prepared and is (attachment 7).

1 Administrative Expenditure

Professional Salaries

The professional salaries paid to the staff at the IOTC are the same as salaries paid to staff throughout the FAO and are therefore consistent with the salaries and conditions paid under the UN Common system. These salaries are matched to positions and the grade of the position as determined by the IOTC and the FAO prior to the position being advertised (job sizing). The reason for this is so that positions at equal levels and with equivalent responsibilities and tasks are rewarded equally throughout the UN system. As noted previously two other tRFMOs use this same system of salaries and classifications within their organisations to set base salaries. The IATTC is a very old Commission and the salaries in that organisation are set utilizing U.S. Office of Personnel Management General Schedule (GS) conditions and classifications. The WCPFC system compliments the situation in the Pacific, with the Executive Directors salary equivalent to an FAO D1 level and the professional staff paid on a salary and conditions scale which was developed using the Council of Regional Organisations in the Pacific (CROP) classifications and conditions.

General Service salaries are paid to locally recruited staff who do not hold professional positions. These include clerical staff and administrative office support staff. The General Service (GS) salaries for IOTC staff are taken from the UN Common system where the UN surveys countries and regions and sets the base for GS salary payments.

Table 2 above is useful in considering salaries, as the difference in the range for the basic salary component between the four tRFMOs who have comparable budgets. The base salary is from $87,246 (IOTC) to $108,980 (IATTC). As such the IOTC base salaries are at the lower end of the scale and would appear to be within the bounds of acceptable costs.

Staff Benefits and Allowances

The various benefits and conditions form an important component of all Professional and General Service salaries in the UN Common system. The basic principles of the benefits and allowances package are accepted by all the tRFMOs however, the concepts are applied in different ways that best meet the locations and circumstances of each individual RFMO. FAO Finance Committee paper FC 108/11(b) is (attachment 8) as it provides an excellent overview of what these benefits are and how they are applied in the FAO system.

Basic or net salaries paid to married officers or officers with partners and children are at a higher rate than those paid to single officers. This benefit is an artefact of the UN Common system and is considered as dependency benefits (D for those with dependents) and (S for those without) and impacts the base salary level paid to staff and also the level at which other benefits and allowances are paid.

The major components of benefits and allowance include, post adjustment, dependency benefits paid for spouse and children, assignment and relocation costs for new and existing staff, rental subsidies, education grants, security costs, travel for home leave and education, health, insurance and medical coverage. Table 2 shows that for the four tRFMOs with comparable budgets the range of the average for benefits and allowance is from $26,259 (IATTC) to $138,829 (IOTC). The two tRFMOs that can be closely and more accurately compared, the WCPFC and the IOTC had very similar costs ($124,973 vs $138,829) and the variation probably reflects the mix of married and single staff at the time and the cost of rent for staff at Commission headquarters.

Commonly the main components of the benefits and allowances paid to staff as part of their salary package includes the cost of living adjust or post adjustment that is a formula that balances out the salaries paid in each location with those paid in New York so that the actual or purchasing power of the salary is the same in Victoria, Seychelles, as it is in New York. Rental subsidies under the FAO/UN system are paid on a sliding scale over a three year period to compensate staff for the cost of housing in these new locations. The FAO based systems have a common formula for this, however, in other tRFMOs the amounts paid and the period of payment varies with the WCPFC renting the houses and carrying the liability to ensure that it has suitable housing for staff.

The pension and health costs for the IOTC staff paid to the UNJSPF and to the FAO health system are recorded as a joint line item. In the 2014 budget the cost was $303,874 of which $75,500 was contributed to health cover and $228,374 to the UNJSPF.

The IOTC budget contains costs for rental subsidies and this is recorded under the line item *"Employer Contributions to the FAO Entitlement Fund"*. This line item includes the rental subsidy and the Benefits at Standard (BaS) costs and in total for 2014 this cost was $545,955. The rental subsidy component was $132,500 and the BaS cost was $414,451.

The discussion or concern amongst IOTC members does not seem to be about the level of salaries and conditions paid to members but more about how the FAO charges the FAO project under a cost called Benefits at Standard (BaS). As pointed out above some costs are directly attributable and as such are charged at actual costs and this includes rental subsidies, health and pension costs. Other costs are not easy to attribute directly are averaged by classification and hence the charge Benefits at Standard or (BaS).

Benefits at Standard (BaS)

Benefits at Standard are a charge assessed to cover the cost of entitlements of professional staff in FAO projects. The method of calculation is based on adding the actual costs of the entitlements paid to officers at each project, by each grade, and an average cost per officer is determined and applied to the budgets of each project or work unit. The benefits include dependency benefits, cost of home leave, and education grant for the staff children importantly for the IOTC assignment and relocation costs for new and existing staff, and other minor benefits.

BaS is therefore an average cost and not an actual cost. BaS is the most efficient way for the FAO to recover this set of costs by attributing them by officer by level by project.

As an example of how BaS is calculated, when a P4 position is added to the IOTC staff profile and a person recruited to fill that position the FAO costs the position based on the base salary cost for a P4 and then the average costs for a P4 in the FAO system for benefits at standard. To do this annually the actual costs of all P4 positions for benefits and allowances covered under this charge are added together and then averaged across the number of P4 positions in the system. If you had say 1000 P4 positions in any given year and the costs of these benefits in total was $1,000,000 the average cost charged for Benefits at Standard for each position would be $1,000.

Why do this and not simply charge the actual cost for the actual position? Good question but there is a logical reason for this. This method of attributing costs actually takes any bias out of the system. The rationale is that if confronted with apposition where you can employ a married person with five children of which three are in high school or you can employ a married person with no children or a single officer if the budget of the organisation is tight there might be a tendency to take the cheaper option and therefore the person with the five children would be unfairly disadvantaged. However, if the cost is a standard cost regardless of the benefits at standard that will accrue for the position then the person will be recruited on merit. Merit, fairness and equity are all essential principles in recruitment of staff.

One anomaly in this process is that the BaS charge is applied to all FAO professional staff, however, the locally recruited professional staff in the Seychelles do not benefit from the educational allowances.

Note: The assessment and purpose of Benefits at Standard is important to understand. While it may be fashionable to criticize the averaging model it is a useful in as much as it does eliminate biases from the recruitment process. When IOTC members look at the costs of leaving the IOTC they will need to remember that today's staff profile is only a snap shot in time and that profile and the associated staff costs can vary year by year depending on who is recruited and who leaves.

Increased Cost Recovery Uplift (ICRU)

The other FAO cost that appears under Administrative costs is ICRU. This charge was implemented by the FAO in 2014 and following questions from the IOTC members on its purpose and application explained to members in: **IOTC CIRCULAR 2014–85 / CIRCULAIRE CTOI 2014–85 (attachment 9).** The charge applies only to staff costs linked to staff members and consultants and has two components; 1) security which is normally charged at 4.5% and 2) IT normally charged at 1.4%.

The FAO explanation for implementing ICRU is to recover the operational costs of the organisation that are not free. The costs covered under ICRU include charges for security that has been increased and enhanced since 9/11 and the ongoing costs of IT. The costs were explained as follows:

"As you are aware, in 2011 the FAO Conference was concerned about FAO's persistent under-recovery of the costs of administrative and operational support for funds held in

trust by the Organization. The Conference urged the Director-General to vigorously pursue improving cost recovery, including in areas such as country-level costs, security, and information systems and technology, and to develop new mechanisms building on the experience of other UN agencies. Therefore, ICRU was developed and approved by the FAO Council in December 2011 for phased implementation by 2014. The final phase was the application of ICRU to funds held in trust for work taking place outside of FAO headquarters from 1 January 2014, including the funds administered for IOTC Secretariat in the Seychelles"

Following the letter from the IOTC Chairman to the FAO, the FAO agreed to reduce the ICRU charge applied to the IOTC for security from 4.8% to 1.5% reflecting the difference in the Seychelles situation and support from the Seychelles government to the existing situation in Africa. However the FAO maintained the IT charge at the rate of 1.4%. The reduction in the ICRU saved the IOTC $62,646 in 2014. ICRU is generally applied by the FAO to staff expenditure in the normal budget of the IOTC and also to staff costs for staff engaged under any extra budgetary funding that is provided to the IOTC and deposited in the IOTC Trust fund. Currently the IOTC has an exemption for ICRU and Project Services Cost charges on extra budgetary funds contributed for the purpose of supporting the Management Participation Fund (MPF).

There is frustration for both the FAO and the IOTC members surrounding these charges.

The IOTC feels that it is in many ways independent of the FAO processes and has its own staff and process much of its own work for financing and staffing and as such should not be subject to these charges. While there is some truth in this and it is reflected in lower Project Services Costs (PSC) and ICRU, it ignores the fact that the IOTC members in signing and ratifying the IOTC agreement and agreeing to establish the IOTC as an Article XIV body of the FAO, did so and accepted the rules and costs that accrue with that arrangement.

However of real concern to members is that the ICRU and PSC are charged to extra budgetary funds. IOTC members fundamentally feel that this is unfair and given that most of the work to manage these extra budgetary funds and to contract out and monitor the work and performance of contractors in completing this work, is managed by the IOTC it is hard not to have a fair amount of sympathy for their position.

The FAO on the other hand is pulled both ways. On one hand it has members attending the FAO Conference and Council instructing the Director General (DG) to recover costs and approving these new charges and then members from the same countries go to the meeting of organisations such as the IOTC decrying the imposition of these new charges.

The reality of the situation is often in the mind of the person telling the story but if there is some common ground in this argument it is probably found in fact. The FAO is a large multi-national organisation with some 4,200 general programme and project staff that runs some 3,500 projects worldwide and has a budget of some $1.5 billion annually. The organisation has operational costs and on costs which have to be recovered and recovered fairly and equitably from all projects and programmes within the system.

2 Operating expenses

Project Services Costs (PSC)

The operating costs from the IOTC as outlined in the budget are actual costs including the FAO costs, utilized to ensure that the IOTC is able to meet its programme of work set by the members at the annual meeting. The budget when first approved is the estimated budget for the Commission and this is then amended at the end of each financial year to reflect any savings that have accrued.

Again the issue for members is not the budget for operating expenses but that the FAO levies the PSC charge. PSC is normally charged at the rate of 13% of project expenditure. Under a special arrangement negotiated with the then DG of the FAO the PSC charges applied to the IOTC project are 4.5% instead of the nominal 13%, reflecting the location and membership of the IOTC and that much of the clerical work was performed in the Seychelles The PSC is applied across the FAO on both projects and programme budgets to recover the costs of the global resource management systems (GRMS) that underpins the FAO administrative operations. The difference in the PSC charge for the IOTC from 13% to 4.5% represents a significant saving for the IOTC each year. Table 4 below sets out these savings for the years 2011-2015.

Table 4: IOTC Project Servicing Costs (PSC) savings 2011-2015

Year	Total expenditure	PSC Expenditure	PSC if 13%	Savings
2011	1,976,156	88,927	256,900	167,973
2012	2,187,347	98,431	284,355	185,924
2013	2,611,862	117,534	339,542	222,008
2014	2,824,064	127,083	367,128	240,045
2015	2,766,502	124,493	359,645	235,152

Extra budgetary funds

These are funds that are provided to the IOTC for specific projects or initiatives outside of the normal assessed contributions for membership. These funds are channeled through the FAO and deposited into the IOTC Trust fund. PSC and ICRU are then applied as appropriate on expenditure. At this time the IOTC has an exemption for the Meeting Participation Fund (MPF) extra budgetary contributions with the levy set at zero. There is scope to argue for a reduction for all extra budgetary funds where expenditure is primarily geared towards capacity building for developing countries.

Will these charges change over time?

During discussion with the FAO there is a view that this regime of charges will change in the coming years. At Finance Committee (FC) 157 in Rome 9-13 March 2015, the FC 157/10 *FAO Cost Recovery Policy* (attachment 10) This paper outlines in detail the proposed changes to the cost recovery policy in the FAO and is the policy developed from FAO FC 156/7 *Comprehensive Financial Framework for cost Recovery* (attachment 10). The FAO proposed to implement transitional cost recovery arrangements from 16 January 2016. Under these new arrangements it is proposed to implement two charges Direct Operational and Support Costs (DOSC) and Indirect Support Cost rates (ISC) these new charges will replace the current ICRU and PSC charges. The attached papers should be read carefully by IOTC members as they drive future FAO cost recovery policy.

General issues and concerns with the IOTC budget process

Non-payment of assessed contributions

The 2014 IOTC budget was $3,066,995 (Table 2 IOTC-2015-SCAF12-03E). The member countries assessed contributions for that year were $3,066,996, however, only $2,511,897 was actually paid by members to the IOTC to support the budget, leaving a shortfall of $555,099 in 2014. This annual underpayment is only part of the story as over the life of the IOTC members are indebted to the IOTC budget to the tune of $2.1 million USD. This does not mean that the IOTC is in debt $2.1 million as it has coped and ensured that its expenditure did not exceed the payments made. However it could do much more for its members if all outstanding payments were made.

IOTC-2015-SCAF12-09E notes as follows:

"The problem of lack of contributions was compounded by increases in the assessed contributions of non-paying countries. Countries like Eritrea and Sudan moved from low-income to middle-income countries and their share of the contributions became proportionally larger. Yemen became a member in 2013, at a middle-income level, and never paid. Iran and Pakistan stopped paying in 2006 and 2010. As a result, the unpaid contributions became a larger proportion of the budget.

*5. The current deficit stands at around 1.4 million US$ and it is a recurring deficit which continues grow. The FAO has described the IOTC "Project" account as in "serious deficit". The FAO financial regulations (**202.6.7 Obligations against extra-budgetary funds) indicates that** Budget Holders may incur commitments and obligations in accordance with the purposes, limitations and rules and resource partner agreements governing each Trust Fund or Special Fund and to the extent that funds have actually been received or are otherwise available. The Organization (**i.e. FAO**) makes no financial commitments and disburses no funds under a Trust Fund until funds have been received. Advance financing arrangements may be made in exceptional circumstances, as provided in Financial Rules 202.6.8 and Rule 202.6.13. "*

It is understood that through the FAO, approaches have been made to those members who are in debt for 2014 and at this time the overall arrears owing to the IOTC from members has been reduced to around $381,000. However, the cumulative debt to the IOTC from members is still in the order of $2.1 million dollars. This does not mean the IOTC is $2.1 million in debt as it has managed to cover its payments in spite of the non-payment of contributions, but it is money owing by members to the Commission.

The issue of non-payment of assessed contributions is a real problem for a number of RFBs and RFMOs. Rarely is there a legitimate reason for non-payment, however, non-payment restricts the work of the agency and causes difficulties for the Secretariats in meeting the work program set by Commission members. If members of Commission do not have the capacity to pay then this should be negotiated as part of agreeing to membership. However, once a country becomes a member there should be no excuse for late payment. Non-payment is a practice that needs to cease immediately in all Commissions. Commissions with large financial reserves can cope with a small level of legitimate late payment; however Commissions with limited reserves cannot cope and then have to rely on other members or organisations to help out.

Discussions in the IOTC on expenditure of late reflect the concept of "contributions based expenditure" meaning that the IOTC cannot expend any more money than it receives and this approach is entirely consistent with the FAO explanation outlined above.

The FAO as noted above makes no financial commitments nor disburses funds from the Trust fund until the funds have been received. As such it does not operate as a "banker of last resort" for organisations whose members do not or will not pay their assessed contributions.

Capital Reserve Fund (IOTC-2015-SCAF12-09E)

For many years the IOTC like the other tRFMOs operated with funds in reserve. This is good management practice and allows for a safety net in case members are late paying their contributions or something unforeseen occurs. On an annual budget or around $3 million a reserve fund of around 30% or $1 million would be expected to be held in reserve by the organisation as good practice.

In 2010 the IOTC took a decision to utilize the $1 million they had in reserve to fund a meeting participation fund (MPF) to ensure that members from developing countries can attend all meetings of the IOTC. While this in itself is a very sound idea the MPF needs to have renewable funding and not funding only from the capital reserves of the IOTC. In 2010 the contribution to the MPF from the reserves was $200,000 and then this was repeated annually until the reserves of the IOTC were fully expended.

It is difficult to understand how this was allowed to happen because without reserves and with members not paying their assessed contributions, the organisation will have a constant deficit. If the IOTC was a private company it could technically be insolvent. This is not good business practice and definitely not one allowed or followed in the other tRFMOs. The other four tRFMOs all have substantial reserves as they are well aware that they do not have a parent organisation such as the FAO to fall back on if they get into difficulties. Thinking there is a financial safety net to fall back on in the FAO may not reflect reality as the FAO has no obligation to pay unless there are funds in the IOTC Trust fund.

The IOTC paper, IOTC-2015-SCAF12-09E, (Capital Reserve Fund) was tabled at the 2015 Commission meeting but not substantively discussed. What was agreed was to add to the budget, a deficit contingency fund to ensure that the Commission receives sufficient funds to meet the intended activities and functions for that year. It is important to note that the contingency fund is not to be used to compensate for those members who do not pay. Further discussion will be needed on the Capital Reserve Fund before it is adopted.

The Meeting Participation Fund (MPF)

The MPF is a sound idea. The WCPFC has mandatory provision for the funding of meeting participation for developing country members. The funding is part of the normal budget and as such it is not reliant on drawing down from reserves or on voluntary contributions. From 2014 the IOTC has included a budget for the MPF in the annual budget. However, this is only for $60,000 and the annual cost of the fund is in the order of $200,000. This year the IOTC has been fortunate to have considerable extra budgetary funds paid into the MPF. However, this is not a sound practice and whether this will continue into the long term is unknown and at some point in time the IOTC may have to levy full budget costs for the MPF. A useful example for the IOTC would be to study the WCPFC budget and convention that requires that funding be made available for at least one member from each developing country to be able to attend every meeting of the Commission.

As noted elsewhere the G77 members in the past have been concerned about leaving the framework of the FAO and if a suitable arrangement is not in place to ensure attendance at IOTC meetings of all developing countries this concern will probably deepen as they will see attendance and decisions about their fish taken with them not being able to be present.

6.2 Benefits

What are the benefits of staying inside the FAO system?

The credible benefits that accrue to the IOTC from remaining inside the FAO system

In looking at the history of the IOTC it is fair to say that if the FAO had not funded and encouraged the development of the IOTC then it probably would have been longer in its gestation. What the FAO provided at that time was a global mandate and legal and administrative framework, a broad base of membership from countries in the regional and a regional network of offices. As such the FAO was able to legitimately bring together the major parties and develop a process that ultimately led to the creation of the IOTC. The main benefits associated with FAO membership and a comparison to the non-Article XIV tRFMOs is discussed below.

Institutional benefits

One of the major benefits of the FAO systems is the representational advantage of FAO. Both staff and members believe that being part of the FAO provides:

- a safety net when working in the field and in particular in difficult times when members are experiencing internal political and military differences. The FAO has regional offices that can assist and being able to travel as FAO staff members provides a level of comfort and security.
- a safety net for developing countries who feel that being part of the FAO system provides them with level of support and protection when dealing with developed countries. This sentiment is expressed in the 2007 G77 letter to the FAO. Whether this concern still exists is unknown and can only be tested by speaking directly to all member countries. This report may well provide the opportunity to have these discussions as part of the 2nd Review process and the outcomes can then inform the final direction members take.
- The FAO can and does act as an intermediary with member and non-member countries over issues such as non-payment of fees and non-engagement. (Discussions with Iran for example)
- The FAO system now provides specialist services in security assessment and security training. These services while not as important in the Seychelles as they are in Africa (ICRU security costs were reduced for this reason), they are very important for IOTC staff and members travelling in countries where security and health issues are a grave concern and as such are included as a benefit.

Administrative benefits

Article XIV bodies such as the IOTC benefit from access to all of the FAO administrative and financial systems. The IOTC has direct, access to these systems from the IOTC Headquarters in the Seychelles and as such much of the information is entered into these systems in real time by the staff of the IOTC. In addition, the FAO provides:

- Financial and administrative support systems and documentation are regularly updated and provide the framework for the provision of a professional and auditable process;
- The HR systems provide a consistent global approach to salary scales and entitlement and a rigorous recruitment and staff management system;
- FAO conducts a system of rolling audits of its work units. However, it should be noted that there has only been one audit of the IOTC and that IOTC members have concerns that the transparency of the outcomes.
- FAO has an extensive IT network and support capacity.
- Help desk services for all systems and for IT

Staff benefits and allowances

Staff benefits and allowances are mentioned in the ToR for this project and as such are important in any consideration. The FAO provides staff with a well-documented salaries scale, and associated benefits and allowances. These allowances are covered above and as such are not repeated here. Then important aspects of salaries, benefits and allowances to this debate are as follows;

- A number of staff at the IOTC have been there for long periods and have expectations of salaries, benefits and pensions as part of their career planning. Sudden changes to these entitlements and in particularly those effecting, health cover, education allowances or rental subsidies would cause significant concerns to staff.
- The FAO salaries and benefits offer lifelong pension benefits to staff and flow-on benefits to spouses. In reviewing all of the organisations listed in the ToR for this review it is only those organisations such as the IOTC/FAO and the ILO that are UN linked agencies who have access for their staff to the UNJSPF. The only other types of organisations who provide this type of lifelong pension fund are

normally governments in developed countries or very large multi-national organisations. . The staff of the four tRFMOs who are not part of the UN system receive superannuation of pension contributions that are either paid to selected private funds contracted by the organisations as is the case of ICCAT or invest privately in funds of their own choosing (WCPFC). However in both models, the contributions are made to endowment funds that pay only until the contributions are exhausted or allow the contributor to withdraw the funds on retirement.

- Health care cover can be purchased privately and would mirror most aspects of the current system. The only provision that could not be made is for after work health cover and transitional arrangements would need to be made so that staff members could migrate to their own private cover on retirement.

The current pension contributions of staff would be preserved in the UNJSPF until retirement but the after service health care would lapse. There does not appear to be any way to have these benefits replicated through a private fund. The only avenue for the IOTC would be to appeal to the UNJSPF and ask that their organisation be included in the fund. Both WCPFC and ICCAT have previously asked the UNJSPF to consider membership for their staff but both have been rejected as their staff procedures do not mirror those of the UN Common system and they do not have individual privileges and immunities from each member country. FAO staff has contacted the UNJSPF office to see if there is a case for existing staff to continue with the fund however, at the time of finalizing this report there has been no response from the FAO.

Are these benefits unique to Article XIV Organsiations of the FAO and are they important in the context of the other tRFMOs?

Two aspects of these benefits are unique to the IOTC as an Article XIV body and do not accrue as benefits to the other tRFMOs.

The institutional benefits of the global FAO network and the security and safety the network provides for IOTC staff and meetings are no doubt of comfort to the staff. The only other tRFMO that has member countries with internal problems similar to those of the IOTC is ICCAT. In an email exchange with ICCAT the Secretariat advised that issues similar to those confronting the IOTC (Ebola and the Middle East) were handled without significant difficulties and with the member countries.

The other aspect that is not replicated in the other tRFMOs are the pension and after service health care arrangements that are provided to staff through the FAO system. In any transition these entitlements would be lost as it is not possible to purchase them from private providers to mirror the entitlements of the UN Common system.

Chapter 7: Option 2: The costs and benefits of continuing as an Article XIV Body of the FAO but with increased flexibility and autonomy

There has been considerable thought inside the FAO into granting more autonomy to Article XIV organisations (CCLM88, FC 148/21 and FC 157/17) and as such this option draws on these papers and considers whether further flexibility could be granted to the IOTC while remaining in the FAO framework.

Under Article XIV, the FAO DG follows a number of procedures and guidelines when establishing a new organisation. Depending on whether the body is to be self-funded or whether it will rely on the FAO for funding the autonomy accorded to the organisation may vary. However, what does not change regardless of the autonomy is that the DG is responsible for the conduct of these organisations to the FAO Conference and is responsible on reporting on their performance to that body.

The DG remains responsible for the financial and budgetary performance of the organisation and for ensuring that it's financial, HR and management processes align with those of the FAO. Therefore while some autonomy for budget management, communication and staff recruitment has been passed onto Secretariats and members the DG under the current system must retain his or her mandate and oversight. These arrangements are similar for other international organisations that are aligned with UN Agencies and this can be seen in the discussion on these organisations above.

In the two Finance Committee (FC) papers referenced in this report the FAO notes:

"The subsidiary Committees of the Council have recognized that the matter of allowing bodies under Article XIV of the Constitution to exercise greater financial and administrative authority while remaining within the framework of FAO is of a complex nature, given the differentiated nature of these bodies, as well as different views of the Membership as to the degree of autonomy to be recognized to them. Based on the review, it is accordingly essential to identify the Article XIV bodies which would benefit from greater financial administrative authority while remaining within the framework of FAO. It is suggested that these be identified on the basis of the following criteria: funding mechanisms, functional needs and legal authority, as defined in the constituent instruments, the conditions of appointment of their secretaries and their accountability to the bodies in question. As a general guiding principle, increased delegation of authority to Article XIV bodies could be considered, provided that the secretariats of those bodies be adequately staffed and appropriate oversight mechanisms by the Organization were in place."

This paragraph highlights that the Article XIV bodies are different and not all at the same stage of development, and then goes on to lay down the criteria to be considered for each body when considering greater autonomy and key amongst them is; "*that the secretariats of those bodies be adequately staffed and appropriate oversight mechanisms by the Organization were in place".*

In respect to budget audit and financial issues the view of the FAO is much clearer;

"Budgetary, audit and financial issues

8. With respect to Project Servicing Cost, in 2011, the Conference reaffirmed the Organization's policy of full cost recovery that had been approved by the Council in 2000, in line with Financial Regulation 6.7 and urged the Director-General to vigorously pursue improving administrative and operational support cost recovery from extra-budgetary activities. The policy provides also that longterm trust fund accounts (e.g. Commissions established within the framework of FAO, including Article XIV bodies) will be subject to case-by-case estimate of the actual level of varied indirect support costs and charged accordingly. In 2004, the Finance Committee took also a very restrictive approach to the matter"

Where there is some flexibility to grant autonomy to Article XIV bodies is in the following areas:

- External relations
- Conclusion of agreements with other organisations
- Selection of staff
- General Service staff recruitment
- Communication with Governments;
- Travel scheduling and arrangements and
- Relations with donors.

While these issues are important and freeing them up somewhat assists in the day to day management of the IOTC and other bodies, they don't get to the heart of the issues that concern the IOTC members.

Key issues for autonomy for IOTC members

As mentioned above there are a number of issues listed in the ToR for this project that are of obvious concern to the IOTC members and they are:

- Financial management
- FAO charges under PSC and ICRU
- The Benefits at Standard as standard staff costs for professional staff
- Charges under Benefits at Standard that apply to locally recruited staff
- Contracting
- PSC and ICRU costs applied to extra budgetary funds

There is a difference between the position of the FAO and the IOTC on issues of concern and the desire for more autonomy. The ongoing reason for this may well be found in the following paragraph from FC 157/17 …..".*finally, it may be of interest to mention in the general section of this document that the Council, at its 146th Session, when approving the report of the 148th Session of the Finance Committee, noted the Finance Committee's concurrence with the criteria for increased delegations of authority for Article XIV Bodies, proposed in document FC 148/21, and the need for a differentiated approach to these bodies. The Council also stressed, "given FAO's general accountability for the operation of Article XIV bodies, the need for a prudent approach by recognizing the functional requirements of these bodies, while ensuring, in a pragmatic manner, the observance of FAO's policies and procedures".*

How has the IOTC benefited from flexibility and autonomy?

The FAO have been careful to approach the flexibility and autonomy for Article XIV bodies on a case by case basis in the belief that the "one model fits all approach" will not work as the organisations are fundamentally different, have different members and mandates and are at different stages of development. In a straight financial sense, as mentioned above there have been concession granted to the IOTC for PSC (13% reduced to 4.5%) ICRU (5.9 to 2.9%) and zero on extra budgetary funding to the MPF.

The other autonomy the IOTC has includes the mandate to create its own budget and financial rules and regulations, select its own Executive Secretary in consultation with the DG, select staff for the organisation, plan and undertake travel and arrange meetings.

Looking constructively at the problem

There are three main issues to be addressed;

- the FAO's legal and financial responsibility for the conduct of these Article XIV bodies and that is recognized.
- The second is a question as to whether the IOTC would pass the criteria for more flexibility and autonomy as laid down in FC 148/21.

- The third issue is even more challenging and that is what would this extra autonomy be and how would it be achieved.

FC 148/21 notes: *Based on the review, it is accordingly essential to identify the Article XIV bodies which would benefit from greater financial administrative authority while remaining within the framework of FAO. It is suggested that these be identified on the basis of the following criteria: funding mechanisms, functional needs and legal authority, as defined in the constituent instruments, the conditions of appointment of their secretaries and their accountability to the bodies in question. As a general guiding principle, increased delegation of authority to Article XIV bodies could be considered, provided that the secretariats of those bodies be adequately staffed and appropriate oversight mechanisms by the Organization were in place."*

So let's consider the IOTC against the above criteria. It is important to note that FC 148.21 is very vague about what these criteria actually mean and how you would demonstrate that they can be met and as such it is very difficult to credibly assess the IOTC against them, however the below may provide some useful insight.

Does the IOTC have funding mechanisms?

The strength of the current IOTC model is that the IOTC is fully funded by its members and it attracts substantial extra budgetary funding for specific projects. The IOTC has three staff dedicated to the financial management of the IOTC and who enter much of the financial information that stimulates payments and budget information to the FAO systems. The staff are well versed in the use of the FAO financial systems and the IOTC staff prepare the financial reports to the IOTC members. The IOTC staff work with FAO to prepare contracts for external work and manage much of the extra budgetary funding.

The weakness for the IOTC is in the substantial arrears in payments of annual levies by some member countries of the IOTC. Following the creation of the MPF, the IOTC does not have any substantial savings or reserves to buffer non-payment. The IOTC has yet to take a decision to create a Capital Reserve Fund.

Therefore while it could be concluded that the IOTC has the correct processes for a self-funding mechanism and these are agreed, it really struggles to deal with the increasing level of non-payment of assessed contributions.

If the IOTC is to assume further financial autonomy members will need to develop a far greater understanding of the financial process that underpin the day to day operation of the IOTC. Along with this must come a far greater commitment to pay assessed contributions annually and to over time ensure that all debts are finalized.

The IOTC will not deliver effective or efficient performance to its members if it does not have sufficient funds to do so.

Does the IOTC have functional needs for more autonomy?

The IOTC is remote and removed from the FAO headquarters in Rome. However, in discussions with IOTC finance staff there is no indication that the location results in the delay of payments through the FAO system. Yes, the system takes time to process payments and to get allowances and payments to people, however there is a time lag in most systems from entry to payment. The experience in the WCPFC is that if member countries nominated people who are to travel to meetings on time then problems with timely payments to delegates would largely disappear.

One of the strengths that may flow from greater level of independence, responsibility and accountability for these functions is greater sense of ownership of the IOTC by its members. No longer will there be anyone else to blame for the costs and the members will have to own all of these tasks, functions, outcomes and deal with any issues themselves. The current discussions about the budget, the non- payment of levies, the creation of the Capital Reserve fund and the acceptance of the deficit contingency line in the budget this year all show an emerging maturity in the IOTC.

However, there is an issues in that there is no legal capacity in the IOTC and as such it would continue to rely on the FAO legal office for advice on contracts and commitments, and if the payments need to be checked and verified inside the FAO systems procedures would need to be amended and approved and these may be in conflict with FAO audit and legal requirements.

What members seem to be seeking in part is greater clarity and transparency over the IOTC budgets and financial arrangements. Whether this is an issue of lack of explanation by the FAO or by the IOTC Secretariat is difficult to determine, however it should be noted that there are two very good papers FC 108/11(b) and IOTC Circular 2014/85 that both provide a good insight into costs and hopefully this report then fills in some of the other gaps.

The IOTC could move to have an annual audit of expenses and budgets outside of the FAO system to inform members on income and expenditure and this would be entirely consistent with other Commission and may provide some confidence to members and a better understanding of the budget expenditure.

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Is there a demonstrated functional need for greater autonomy? If there is it's not evident in the discussion had around this issue and it is a difficult case to build. There is considerable autonomy granted to the IOTC under the current arrangements with the FAO. The only issues as mentioned is that the IOTC may well become a stronger organisation with more direct responsibility for its finances and less reliance on the FAO.

Does the IOTC have Legal Authority?

The IOTC would seem to have legal authority to undertake functions currently performed functions delegated by the FAO. Legal authority in the sense that the FAO agreement attributes the following responsibilities to the members of the IOTC;

- *to consider and approve its programme and autonomous budget, as well as the accounts for the past budgetary period;*
- *to transmit to the Director-General of FAO (hereinafter referred to as the "Director-General") reports on its activities, programme, accounts and autonomous budget and on such other matters as may be appropriate for action by the Council or the Conference of FAO;*
- *to adopt its own Rules of Procedure, Financial Regulations and other internal administrative regulations as may be necessary to carry out its functions; and*
- *to carry out such other activities as may be necessary to fulfil its objectives as set out above.*

In addition to the above the IOTC Agreement states:

"The Commission may adopt and amend, as required, the Financial Regulations of the Commission by a two-thirds majority of its Members, which Financial Regulations shall be consistent with the principles embodied in the Financial Regulations of FAO. The Financial Regulations and amendments thereto shall be reported to the Finance Committee of FAO which shall have the power to disallow them if it finds that they are inconsistent with the principles embodied in the Financial Regulations of FAO."

The FAO CCLM 88 assessment of the IOTC was that it did not have legal personality and as such the legal personality would reside with the FAO. As noted above there is alternative legal advice and any further debate on the issues would require legal debate between the IOTC members and the FAO.

Legal personality is a concept that international organisations that are said to have legal personality have rights and obligations under international law. Such rights include; entering into contracts, agreements with countries and sign agreements on funding for example. The following definition is useful; "*International Organizations are established by States through international agreements and their powers are limited to those conferred on them in their constituent document. International organizations have a limited degree of international personality, especially vis-à-vis member States. They can enter into international agreements and their representatives have* *certain privileges and immunities. The constituent document may also provide that member States area legally bound to comply with decisions on particular matters.*

The powers of the United Nations are set out in the United Nations Charter of 1945. The main political organ is the General Assembly and its authority on most matters (such as human rights and economic and social issues) is limited to discussing issues and making recommendations. The Security Council has the authority to make decisions that are binding on all member States when it is performing its primary responsibility of maintaining international peace and security. The main UN judicial organ is International Court of Justice (ICJ), which has the power to make binding decisions on questions of international law that have been referred to it by States or give advisory opinions to the U.N." (https://www.ilsa.org/.../intlawintro).

However, if this is understood correctly legal authority and legal personality are different and for this discussion the IOTC would seem to have the legal authority make payments and perform other functions delegated under the agreement with the FAO.

The other observation that can be made is that the IOTC agreement can be modified to reflect greater autonomy, as the limitations drafted into the current agreement were drafted before the IOTC became a functioning Commission and as such with the benefit of having watched its progress the FAO could modify the current agreement and grant greater autonomy and flexibility if it felt it was necessary and desirable.

Is the IOTC Secretary accountable?

The IOTC Agreement states that the Secretaries role will include:

"The Secretary of the Commission (hereinafter referred to as the "Secretary") shall be appointed by the Director-General with the approval of the Commission, or in the event of appointment between regular sessions of the Commission, with the approval of the Members of the Commission. The staff of the Commission shall be appointed by the Secretary and shall be under the Secretary's direct supervision. The Secretary and staff of the Commission shall be appointed under the same terms and conditions as staff members of FAO; they shall, for administrative purposes, be responsible to the Director-General. 2. The Secretary shall be responsible for implementing the policies and activities of the Commission and shall report thereon to the Commission. The Secretary shall also act as Secretary to other subsidiary bodies established by the Commission, as required."

The Secretary has a number of responsibilities and accountabilities including implementing the work program and policies of the IOTC members and reporting to them on the outcomes, reporting the progress of the IOTC to the DG of the FAO, and representing the Commission in international and regional forums.

All of these responsibilities are part of the Secretary's accountability to the FAO and to members.

What extra autonomy could be granted and how would this be achieved?

Given that the FAO has legal and financial responsibilities for the conduct of the IOTC and all Article XIV bodies, they are extremely cautious on granting flexibility in legal, administrative and financial arrangements to these bodies. To date however, there has been considerable flexibility accorded to the IOTC. The question is whether this is actually understood by members as no doubt delegates change over time and sometimes the mistake is made that everyone understands and issue because it has been around and discussed for long time, but what it really needs is for information about the issue to be regularly refreshed so that new entrants better understand.

In reviewing the external organisations it is interesting to note that they all operated reasonably independently but in harmony with their parent organisation. At least one has legal personality and others have MoUs outlining the relationship and responsibilities between them and their parent organisations. While noting the FAO legal advice and concern in 2007, the question remains if it is possible to grant the IOTC legal personality to allow the IOTC to enter into agreements, and to develop a MoA with the FAO to allow the IOTC to operate independently but within the framework established under the MoA (see UNEP/WMO/IPCC MoA) and remain as part of and accountable to the FAO.

In effect this option is trying to provide the IOTC with the "best of both worlds", the benefits to staff and members of FAO membership and the flexibility and ownership that flows from independence. As such this option may have little attraction to members or the FAO but in trying help in dealing with what is a difficult issue the following provides a framework for this option.

Therefore this proposal has three elements that could define a new style of organisation and arrangement between the IOTC and the FAO.

- Grant independence to the IOTC within the FAO framework by establishing legal personality for the IOTC and establish a Memorandum of Agreement (MoA).
- Eliminate charges applied to extra budgetary funds and minimize ICRU and PSC charges where possible.
- modernize of the IOTC Convention consistent with the UN Fish Stocks agreement and construct a convention that can effectively manage flag and port state responsibilities and fishing entities.

Grant autonomy or independence to the IOTC within the FAO system

As mentioned above when studying the business models of a number of the international agencies such as the IPCC, UPOV and the IRAC they are in a way similar to the IOTC situation is as much as they are linked to parent organisations. The differences seem to be in the global mandate they have, their size and scope and in the positive relationship they enjoy with the parent organisation. Some of these organisations have legal personality in their own right (UPOV) and some have MoA's (IPCC) under which they operate.

The FAO were concerned in 2007 that any greater autonomy to one Article XIV organisation could cause a flow on effect to others and that it may also have ramifications for other UN agencies. The concern of the FAO is noted as it is an important consideration. However, the question is whether a similar arrangement with UPOV and the IPCC could be created for the IOTC to allow it to remain harmoniously within the FAO system.

What would be required is a more thorough study of these international agencies and interviews with their Secretariats as their websites are limited and the reality of the relationship may be different to how they are being interpreted. At the same time the FAO would need to legally review its position to Article XIV bodies by comparing them to the legal frameworks that exist in the other agencies to seek synergies. The FAO may decide that the legal constraints in the FAO convention are such that granting autonomy or independence to manage their own funds, budget, performance and sign agreement is not possible, however the IOTC while relatively small in relation to some of the agencies above is a mature self-funding agency as are UPOV and IPCC. This approach may provide a unique way for the IOTC to remain within the FAO framework while having a greater degree of independence but still be accountable and required to report on its progress and issues to the FAO Conference.

Extra budgetary costs, ICRU and PSC

The FAO on a case by case basis applies ICRU and PSC charges to any extra budgetary funds accumulated by the IOTC. The IOTC members feel that this is fundamentally unfair and restricts the willingness of members and donors to contribute additional funds for specific projects. FAO has made some concessions in this area already with the ICRU costs reduced from 5.9% to 2.9% for all IOTC expenditure and has recently set the level to zero for contributions to the MPF. The IOTC has 32 member countries and two cooperating non-member countries Senegal and South Africa, it appears that18 members of the IOTC and the two cooperating non-members are developing countries and a number small island developing states. Extra budgetary funding primarily goes to the capacity building in these developing states or to developing a better understanding of the Indian Ocean stocks.

Of the ongoing costs ICRU and PSC, if the IOTC was granted permission to both enter and approve its expenditure and manage and expend its own extra budgetary funds and projects under a MoA then it is feasible that some of the PSC and ICRU costs could be further eliminated. Some costs would remain for access to the basic systems but the need for FAO interaction for approvals would be eliminated. To provide the FAO with certainty and accountability the IOTC processes would have to be independently audited each year and a copy of the audit report provided to the FAO. Why you ask? The reason is twofold; the FAO still has a legal and financial responsibility for the IOTC as an Article XIV body, and in order for staff to retain access to the UN Common system and pension fund personnel and financial practices have to be consistent with those used in the UN system. .

If it was agreed that there was not to be any on-costs applied to these extra budgetary funds the IOTC members feel they would be in a good position to lobby members and institutions for funds that could then be applied to a range of priority tasks in the IOTC.

Modernizing the Convention

This recommendation was one of the main recommendations of the 1st Performance Review and to date it has not been acted upon. The recommendation reads as follows:

The IOTC Agreement is outdated as it does not take account of modern principles for fisheries management. The absence of concepts such as the precautionary approach and an ecosystem based approach to fisheries management are considered to be major weaknesses. The lack of clear delineation of the functions of the Commission or flag State and port State obligations provide examples of significant impediments to the effective and efficient functioning of the Commission.

This recommendation is not contingent to the review and it should be modernized to reflect the UN Fish Stocks agreement (UNFSA) and modern practice in RFMOs. However, it is included here for two reasons, it is important to reflect the changes in the fish stocks agreement as these provisions help eliminate IUU be requiring anyone fishing in the waters of the IOTC to be members or non-members of the IOTC and as such free riders are eliminated. Secondly a new convention could also contain provision to deal with fishing entities which are not included in the current convention.

What would the costs be for Option 2?

As explained on page 57 below the costs of staying in the FAO or becoming independent are largely the same ($39,000). Under Option 2 the following scenario should apply to costs:

- IOTC salary and staff costs would remain the same as the benefits and conditions would apply as they do under Option 1.
- The heads agreement would remain in place
- The IOTC would continue to use the FAO systems but the FAO staff would not have to check and approve the IOTC payments
- The PSC and ICRU costs may be negotiated downwards as the interaction for FAO staff is reduced

- If the convention could be amended so that fishing entities could be members then TPoC membership would add approximately $150,000 to the budget
- The IOTC would need to conduct and internal audit each year at a cost of around $35,000 pa.
- The IOTC would need to purchase a project and financial management package to manage the extra budgetary and project funding that is outside the FAO system. The cost of this is minimal and may run to $5,000 pa.
- The IOTC would need to develop appropriate financial management arrangements that satisfy the FAO processes for both payments made through the FAO systems and extra budgetary fund management
- IOTC staff recruitment processes will need to remain consistent with FAO processes as staff are paid through and benefit from FAO salaries and conditions of service; and
- The only startup cost would be to negotiate the MoA with the FAO and this again should not be an expensive exercise. If it required a special meeting the cost would be in the order of $60,000.

While at times this seems to be a complex matter once it is broken down the processes are fairly simple and very good examples of best practice in a number of areas can be found in the other tRFMOs.

What are the benefits of Option 2?

The benefits of Option 2 are the maintenance of the FAO financial and administrative systems, and the salaries and conditions for staff along with the other benefits ascribed above for membership to the FAO system. If this option was adopted then some of the IOTC members would have the independence that they feel they need for financial and administrative arrangements while others would still benefit from the comfort and security of operating from within the FAO framework.

This option would maintain the staff conditions including access to the FAO health benefits and the UNJSPF and this would clearly be seen as a benefit to staff. In addition staff could also seek transfer and promotion to other positions within the UN system.

There is also a benefit to members in this option of feeling as a first step they have been able to move towards independence and autonomy without actually leaving the safety net of the FAO and this may appeal to some member countries that are nervous.

Consideration

This proposal is a tangible option as it is framed and as noted it may not be welcomed or supported but it is a way of providing some independence and flexibility while remaining inside the FAO system., To work it would require professionalism, good will and commitment from both parties and as mentioned above this is the hallmark of the relationships between the external organisations studied above in Chapter 5.

If the FAO was to decide that it was not possible to grant autonomy or a level of independence such as that enjoyed by UPOV and IPCC then it could still consider the charges to extra budgetary funds and the modernizing of the convention for the IOTC separately.

However, if Option 2 is not possible then that will take us to the third option……leaving the FAO.

Chapter 8: Option 3: The costs and benefits of the IOTC outside of the FAO framework.

Chapter 6 above provides the costs associated with staying with the FAO along with the savings that accrue from the reduction in levies that the IOTC currently enjoys. This chapter looks at what it would cost to establish the IOTC outside of the FAO framework and then the ongoing costs of the IOTC as a stand-alone tRFMO. In 2004-2007 the IOTC Secretariat undertook considerable work on all aspects of establishing and independent organisation. Much of that work is still current today and the papers are still available although some may now be dated. In discussions with the Executive Secretary of the IOTC at that time, his view was that the costs associated with establishing and independent IOTC were minimal and he felt that the only potential staff increase might be for an additional finance officer and then the others cost would probably largely be the same.

This chapter does not deal with the legal advice contained in CCLM 88/2 or the alternative legal advice. If the IOTC members and the FAO decided that it was in the best interests of both agencies to separate and for the IOTC to become independent then it is assumed that a mature and reasonable discussion would then occur as to the legal aspects of separation and the best approach to facilitate a practical and reasonable outcome.

The 1st IOTC Review noted the following concerning member's views on the financial arrangements in the IOTC:

"Financial arrangements

The Panel analysis revealed that the relationship of IOTC to FAO in terms of financial issues is negatively affecting the workings of the Organisation. Under this arrangement, the budget is not entirely under control of its Members or the Secretariat. While the Secretariat is a budget holder, execution of the budget depends on FAO, which puts both a constraint on and reduces transparency in IOTC's financial management. All contributions and donations from Members to the autonomous budget have to be deposited in a Trust Fund which is administered by the FAO Director General. Moreover, the Finance Committee of FAO has the power to disallow the IOTC financial regulations and amendments thereto if it finds them inconsistent with the FAO Financial Regulations. This arrangement limits the ability of the Secretariat to manage the budget independently, and overall, limits the control of IOTC Members over it. It should also be noted that FAO has not provided any contributions to the IOTC as foreseen in Article VIII.3 of the Agreement. It is therefore clear that a modification of the financial management status quo is needed."

The costs of establishing the IOTC as an independent body outside of the FAO.

If a decision was taken to establish the IOTC outside of the FAO it will need to be a decision that fits comfortably with both parties as the process of separation will only happen with good will and cooperation on both sides. In reality if agreement is reached to separate it will be a 12-24 month process and during that process the IOTC will still need to operate a "business as usual" approach and meet its commitments to the FAO and to its members.

The first steps

The first step in this process will be to decide on a timeframe and to establish a working group of both FAO and IOTC staff to shepherd the process through. There are a number of legal/financial and administrative documents and process that will need to be amended and accepted before any changes can be made. The issues discussed below are not an exhaustive list of the work that will need to be progressed to make sure the IOTC can become and independent organisation; however, they are probably the main issues. Much of the documentation that is needed will be available from other tRFMOs but it will still need to be developed and modified for the IOTC situation before it will be accepted by the members.

Legal issues

The following is an indicative list of the legal issues that will need to be addressed;

- A new convention will need to be drafted and accepted then ratified by members
- New Rules of Procedures, staff regulations and financial regulations will need to be drafted and accepted by members
- The Headquarters Agreement will need to be re-negotiated with the Seychelles government
- Legal processes for separation from the FAO will need to be agreed with the FAO and arrangements commenced

Financial Arrangements

Changes to current financial arrangements will include the following activities, however it should be noted that new financial rules and regulations were developed for the IOTC in 2006:

- Drafting and acceptance of new financial regulations and procedures
- Establishment of bank accounts
- Auditing procedures
- Acquisition and implementation of financial management systems such as Quickbooks or MYOB

There may be an issue with how the IOTC deals with the outstanding contributions under the current IOTC Convention. The $2.1 million is owed by members to the IOTC and that debt should be structured to carry over as owing to a new and independent IOTC or preferably members should settle the outstanding debt before being allowed in as members of the new organisation.

Administrative arrangement

The administrative changes will include:

- Drafting and acceptance of the Staff regulations and conditions of service
- Implementing new staff contracts
- Develop staff recruitment procedures
- Find and implement new arrangements for pensions and health and medical coverage
- Purchase computer software and licenses
- Reviewing and upgrading IT if required
- Deciding on pension and health care arrangements

What would the start-up costs potentially be?

The costs are somewhat hard to estimate accurately as it would depend on the capacity of the working group to undertake some of the tasks. However in a scenario where some of these tasks need to be contracted out the following costs may be attributed.

I Cost of the Working Group

The working group will include current serving officers of both the FAO and the IOTC. However current serving officers have a full time job and while this group will be charged with guiding the process and will be able to do some of the work there will need to be at least one fulltime professional staff member allocated to progressing this work and a General Service officer to arrange meetings, travel and disseminate documents. Using the current average IOTC costs, this would cost in the order of $250,000 per annum.

2 Special meetings of the Commission

It is hard to imagine that this work can be progressed satisfactorily in the normal meeting of the IOTC as such there will be a need for up to 3 special sessions of the parties over a 2 year period. The costs of a meeting is normally around $60,000 and may be more depending on the capacity of developing country members to attend and the willingness of members to host and meet some of the on ground costs. As such meeting may costs as much as $100,000.

3 Drafting and negotiating the new Convention

This will require specialist legal skills as the new Convention will need to include the provisions of the UN Fish Stocks agreement and this may change the current Agreement. There are a limited number of people with the skills and understanding to develop a Convention. The task may take 18 months to complete and require attendance at all 3 of the special meetings. The cost of this task is estimated at $200,000.

4 Purchase of software and operating systems and training

In discussion with the WCPFC Finance Manager, he notes that the annual purchasing of software is not high but that annual license fees area round $67,000. In addition to an IT Manager in the professional ranks, they contract 3 small IT companies annually to provide specialist advice at a cost of around $100,000. The only other ongoing cost is that the WCPFC invests $100,000 annually in the ongoing development of an information management system or IMS. Once completed much of this system may well be of use to the IOTC.

5 Up-grading IT capacity

This is a cost that cannot be estimated as the capacity of the current IOTC system to manage additional programs and process is unknown. Whether it would require new servers or modernizing is unknown and this would need to be reviewed if the members decided to make a change.

6 Establish a Capital Reserve Fund

All the tRFMOs except for the IOTC have substantial capital reserves and most through the adoption of sound business practices have regulations that determine how much must be held in the operating accounts for the organisations. IOTC paper 2015-SCAF12-09(E) is an excellent paper to start the debate to establish this fund. In the TRFMOs for example in 2014 ICCAT had an available balance of it working capital fund of €3,570,895, CCSBT had net asset of $1.5 million (AUD) and WCPFC held $1.78 million in the Working Capital Fund.

The IOTC working paper 9 (E) seeks the establishment of a Capital Reserve Fund of $1 million dollars. This would seem to be a sensible goal given that the annual budget is in the order of $3 million. This fund would importantly provide a buffer against assessed contributions that are not paid and these currently total some $2.1 million.

Additional costs for establishing an independent IOTC

Therefore, if you add these extra budgetary costs together the overall potential start-up costs if the assessment made above on key tasks and processes is correct would total in the order of $2 million dollars for the 24 month startup period.

Table 5: Initial Start-up costs for an independent IOTC

Task	Year 1	Year 2	Total costs
Working party	250,000	250,000	$500,000
Special meetings	100,000	200,000	$300,000
Drafting and negotiating new convention	100,000	100,000	$200,000
Software and licenses	nil	$75,000 then annually $50,000	$75,000
Upgrade of Computer system			Unknown without review but may be OK
Establishment of Capital Reserve Fund	$500,000	$500,000	$1,000,000
		Total cost	$2,075,000

Note: the Capital reserve fund should be established regardless of separation

Ongoing costs post the establishment of an independent IOTC.

The ongoing costs are those costs that the IOTC would need to bear annually as an independent organisation. The 2014 budget for the IOTC is (attachment 7). This budget shows annual expenditure of $3,066,995 and this is the full cost of operating the IOTC for 1 year and includes $60,000 for the MPF.

Staff salary, benefits and allowance costs

The two organisations that should be compared closely in this process of estimating ongoing costs are the IOTC and the WCPFC. The reasons are that they are both island based Secretariats, both difficult for members to travel too (the WCPFC more so), both have high staff rents, the costs of recruiting and exiting staff is high and the post adjustment is high. Table 2 above is informative as it demonstrates that in 2014 the average staff cost for professional staff in the IOTC was $226, 075 and for WCPFC $221,455. The General Service staff costs are also similar IOTC $24,229 and the WCPFC $27,190.

The conclusion that could logically be drawn form this is that in recreating the IOTC independently the average staff costs (including salaries benefits and allowance) for professional and GS staff will largely be the same. The reason for this is that the staff conditions and costs will remain in any package of staff salaries, benefits and allowances. As noted above three tRFMOs base their salaries and conditions on the UN system and it would seem logical for the IOTC to continue to do the same.

Potential ongoing additional staff costs in salaries and allowances:

In discussions with the Executive Secretary who was involved in the 2004-07 discussions he felt that the IOTC may require and additional financial position. However in discussing arrangements with the current IOTC staff and comparing workloads with the WCPFC this does not seem necessary. The rationale for this is that the WCPFC currently processes an average of 140 financial transactions per month with a Finance Manager and three local staff. The IOTC currently enters 40 transactions per month with a Finance Manager and three local staff. This work load would increase slightly with payroll functions and payments to delegates who are travelling, however even if it was to double to 80 transactions per month it is still well below the current WCPFC workload. The additional staff costs that may be accrued by the IOTC would include:

- The cost of a legal service provider, either staff or on contract,

- Depending on the outcome of negotiations on the Headquarters Agreement the IOTC may need to recruit the current IT manager who is provided by the Seychelles government at a professional level IT Manager, as the ongoing success of the agency will rely on the strength of its IT performance. Members also have a high level of sensitivity about the security of their data.
- Consistent with the WCPFC approach, changes in the staff regulations may be necessary to avail locally recruited professional staff to education and rent allowances consistent with other professional staff.
- In the WCPFC rental allowance does not cease after three years as it currently does in the IOTC but is paid for the length of tenure in the WCPFC. If this change was implemented it will have an impact on the allowances paid as the Seychelles is a high cost location for rents.

These potential additional costs are tabulated in Table 6 for ease of reference with the figures based on real costs for IOTC staff and costs attributed from like activities in the WCPFC.

Table 6: Potential additional costs to the IOTC under an independent model.

Costs	Staff	Current cost	Future Cost	Total
Rent ongoing		BaS	50,000	50,000
IT Manager	226,000	Provided by HQ Agreement		226,000
Additional IT support		Provided by FAO (ICRU)		50,000
Rent and Education allowance to local professional staff		nil		45,000
Audit costs			35,000	35,000
Legal Services		FAO	50,000	50,000
			Total additional	$456,000

Note: Rental costs are difficult to calculate as it depends on staff requirements; IT Manager position costed at average professional cost for IOTC; Legal costs and audit costs estimated on the WCPFC costs.

Will any of these costs be off-set by savings from the current FAO levies for ICRU, PSC and BaS?

In Chapter 6 above there are detailed explanations of the FAO charges, how they are applied and the saving currently accruing to the IOTC. There are three potential FAO based charges that could result in savings for the IOTC under an independent model. The charges are for ICRU, PSC and BaS and they are discussed below. With regard to the other staff related costs and charges such as pensions and health services and rent allowances if similar benefit and allowances provisions were adopted by the IOTC these costs would still apply in the new model.

Table 7: 2014 FAO Charges to IOTC

Charge	Amount	Saving Y/N
ICRU	$57,047	Yes
PSC	$133,924	Yes
BaS	$414,451	No

ICRU

This charge has been levied under the direction of the FAO Conference to cover the cost of security assessments under the FAO/UN Security assessment framework and for IT costs. If the IOTC became an independent organisation, the ICRU cost of around $60,000 annually would be a saving. Some of the funding may be needed to ensure security on the houses of staff. However, it is a saving, as the funds would no longer be paid to the FAO and as such can be offset against additional costs for charges such as IT and software licenses.

Project Services Costs

The project services costs (PSC) for the IOTC in the year 2014 were $133,924. The PSC charge is levied on the projects across the FAO to cover the costs of maintenance of the global resource management systems (GRMS) that underpins the FAO administrative operations. These systems include payroll, HR systems, finance management systems and reporting systems. They are the background systems that support the FAO administratively and they need to be developed and maintained for the organisation to operate.

In an independent IOTC model, the levy of $133,924 would be an annual saving and could be used as an offset against additional costs.

Benefits at Standard (BaS)

This amount has been factored into the assessed average salary, benefits and allowance for staff at the IOTC. The current payment covers dependency benefits, education allowances, post adjustment, recruitment and repatriation of staff, and reunion travel for staff (home leave). The amount paid in 2014 was $414, 451. This amount in one sense is a saving as it is not paid to the FAO however, as discussed above the costs of the staff salary benefits and services would remain the same and as such these costs would still need to be covered. If the new scheme of staff salaries, benefits and allowances were adopted consistent with the current IOTC arrangements or the WCPFC system then there costs would largely the same and as such would not constitute a saving.

There may be a tendency to argue that on a staff by staff basis there may be an actual saving as BaS was an average charge and this may well be the case at a specific point in time. However, and this is an important consideration; the current situation with staff and their entitlements to rent allowances and benefits only represents a snap shot in time and the actual costs will change as the staff profile and personal change over time.

After considering this charge and discussing it in detail with the IOTC there is a common view that this charge would not be a saving and the value could be higher or lower over time depending on circumstances.

Observations on Costs

As can be seen above apart from the initial start-up costs of establishing an independent organisation, if you were to remove the IT Manager position from the calculations the additional costs would be in the order of $230,000 and the potential savings would be in the order of $191,000. The difference is estimated at around $39,000 dollars annually.

If TPoC was allowed a form of membership under an independent IOTC as is allowed in other tRFMOs then an additional $150,000 pa would be paid to the IOTC by way of assessed contributions.

Therefore the costs for the IOTC to stay or to go are somewhat irrelevant to this process as the costs will largely be the same as those that are being paid now by members to support the organisation.

The benefits accruing from an independent IOTC

As the difference in the costs of staying or going is largely irrelevant then the discussion could then revolve around then benefits that would accrue from this new arrangement. The benefits would seem to be as follows:

- Independence and the control and flexibility to make your own decisions, control your own finances and to decide your own destiny within the bounds of a new convention. Some members may consider that these benefits are already available to IOTC members and to a degree that is true. However, some members obviously feel the current arrangements are restrictive.
- A stronger sense of ownership of the IOTC by the members as it is their own organisation
- Capacity to deal with all entities fishing in the Indian ocean including TPoC.
- More direct control over financial management and the payment of accounts and entitlements
- Greater transparency and understanding of the costs associated with running a tRFMO
- Annual auditing and reporting on accounts
- A new modernized Convention that reflects the UN Fish Stocks Agreement including the flexibility to include fishing entities
- Ability to negotiate with governments and donors and sign agreements for funds
- Greater control over contracting and project management

These are the main benefits that would flow from establishing the IOTC as an independent organisation. Some would argue that some of these benefits are in part already available to the IOTC under the current arrangements with the FAO. However, it would also be arguable that independence gives you greater scope to deal with all issues of relevance to the IOTC and in a sense if <u>all</u> of the IOTC members are unhappy with the FAO relationship and the restrictions of the Article XIV arrangements then maybe leaving is the best outcome.

Are there any disadvantages in leaving the FAO?

The benefits of an independent IOTC are listed above and to some members will be significant. Other members may want to know if there are possible disadvantages in leaving the current system. Under Option 1 Staying with the FAO, a number of benefits were listed that would remain if members elect to stay under the current arrangements. These were listed under Institutional, Administrative and Staff benefits and allowances. Of these the ones that seem to be the greatest loss in leaving the FAO are the institutional benefits that flow from the associated with the FAO and the safety net the broader FAO system provides particularly for developing countries and small island developing states (SIDS). Most of the administrative systems and staff benefits and entitlements can be recreated or even borrowed from other tRFMOs. As pointed out above however, the one disadvantage to staff will be in the loss of access to the UNJSPF as the conditions that flow from access to this fund cannot be purchased from private fund.

The institutional benefits that flow from being and Article XIV body of the FAO include:

- A safety net when working in the field and in particular in difficult times when members are experiencing internal political and military differences. The FAO has regional offices that can assist and being able to travel as FAO staff members provides a level of comfort.
- A safety net for developing countries who feel that being of the FAO provides them with level of support and protection when dealing with developed countries. This sentiment is expressed in the 2007, G77 letter to the FAO.
- The FAO can and does act as an intermediary with member and non-member countries over issues such as non-payment of fees and non-engagement.
- The FAO system now provides specialist services in security assessment and security training.

The members of the IOTC will need to consider these benefits and determine their importance.

Chapter 9: Conclusions

There is no evidence from this study that there is significant cost differential in staying as an Article XIV body of the FAO or leaving and becoming an independent organisation similar in structure and purpose to the other tRFMOs. Apart from the initial startup costs the ongoing costs will be largely the same and may be slightly higher in an independent model depending on the approach taken with the staff profile for IT, finance and HR and the salaries, benefits and entitlements granted to staff.

The final decision by members and the FAO can then be taken on the benefits that exist from staying with the FAO or accrue to a new independent organisation. There are benefits under both systems and they need to be carefully weighed in taking a final decision. The final decision taken will need to be by consensus and all members will need to be comfortable with any change.

1. Should the IOTC decide to stay with the FAO then it is important that all of the existing issues that currently place a strain on the relationship between the IOTC and the FAO are dealt with in an orderly and professional manner. As with a number of the other organisations studied as part of this review it may be useful to develop a very clear MoA that accurately explains the relationship and the responsibilities that both agencies have to maintaining a strong professional working relationship.
2. Should the IOTC decide to leave the FAO it will be important that this change has universal support from the members of the IOTC and that the change is supported by the Executive of the FAO. For such a change to be successful it will need to occur through a mature and professional discussion and be guided by the legal opinion of the FAO as to the best course of action to be followed.

The following quote comes to mind at times like this *"I can almost hear the ticking of the second hand off destiny"* General Douglas MacArthur.

Good luck