

POSITION PAPER

RATIONALIZATION OF REGIONAL FISHERY BODIES FOR EFFECTIVE PERFORMANCE

Summary

Regional fishery bodies have been ineffective to meet the objectives of their constituent instruments and a rationalization of these bodies is essential to improve their performance.

- Regional fishery bodies can only be as effective as the Members permit.
- The constituent instruments of the regional fishery bodies (RFBs) should be revised and modernized, to incorporate the modern concepts of fisheries management, reflected in international fisheries instruments. This implies that AU MS, members of the concerned RFBs should domesticate the instruments and incorporate them into national Law and regulations.
- Member States should endeavour to implement recommendations, disseminate best practices, and meet their financial and other obligations to the bodies
- Regional Fishery bodies should clarify responsibilities with regard to overlapping jurisdiction for species, geographical area and/or ecosystems through formal

and mutual agreements. In the extreme, this may involve the fusion of some of the bodies.

- The institutional links between Regional Economic Communities (RECs) and RFBs should be strengthened, such that RFBs are the technical partners of the RECs.

Background

Fisheries management is usually entrusted to the Ministries or Departments of Fisheries at national levels with the mandate for management and development of the sector for sustainable socio-economic benefits to the member States. However, many of the fish stocks are shared across maritime borders and both industrial and small-scale fishers fish without regard to national boundaries. It has long been recognized that national authorities alone cannot protect areas and resources that do not fall under their jurisdiction, and that international legal regimes, for shared, transboundary or straddling stocks, are the only ways by which global and regional fisheries governance can be achieved effectively.



The FAO Conference at its Second Session in 1946 discussed the idea of establishing regional fishery bodies (RFBs) in different parts of the world to help the countries of each region achieve the rational exploitation of fisheries resources and increase fish production to augment food supply.

Formal cooperation in fisheries between States in the African Continent dates back to 1967 when FAO established the Fishery Committee for the Eastern Central Atlantic (CECAF).

A regional fishery body or arrangement, refers to a mechanism through which three or more States or international organizations that are Parties to an international fishery Agreement collectively engage each other in the multilateral management of fisheries affairs falling within their area of competence.

Most bodies established before 1982 have basically advisory functions, that is, they do not have regulatory and management powers. They can adopt recommendations on management issues, which are not binding on the members. Most bodies established after the adoption of the 1982 United Nations Convention on the Law of the Sea (UNCLOS) have the authority to establish fisheries conservation and management measures (management functions) in a particular region of international waters or of highly migratory species. These regional fishery bodies, for example, Lake Victoria Fisheries Organization (LVFO), are specifically referred to as Regional Fisheries Management Organizations (RFMOs).

Empowering Regional fishery bodies:

Since the late 1980s, the international community has given guidance to regional fishery bodies so that they can do their work in a rational manner by adopting a series of binding instruments and elaborating non-binding instruments.

The 1995 United Nations Fish Stocks Agreement significantly strengthened the position of RFBs particularly RFMOs as the paradigm for the adoption of fisheries conservation and management measures.

It establishes minimum standards which are applicable not only to fishing for straddling and highly migratory stocks on the high seas but also to fishing for all fish stocks under the jurisdiction of the coastal State. It stresses that conservation and management measures should be based on the best scientific information and established on the basis of a precautionary approach.

The 1993 FAO Compliance Agreement, requests States to take effective action, consistent with international law, to deter the practice of reflagging of vessels as a means of avoiding compliance, with applicable conservation and management rules in the high seas.

The 2009 FAO Port States Measures Agreement to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA) is a major development in efforts to deal more effectively with IUU fishing. PSMA extends the port State measure provisions of the 1982 UNCLOS and entrenches these measures as a fisheries management tool. This shift in emphasis reflected several factors including:

- The increase in the number of irresponsible States over the past two decades operating open registers, offering “flags of non-compliance”;
- International impatience with flag States over their inability or unwillingness to exercise effective control over vessels flying their flags in accordance with international law;
- The realization that port State measures in respect of fishing vessels should be elaborated given their lack of presence in international law.

In addition, various non-binding instruments have assigned specific responsibilities to RFBs. The most comprehensive such document is the FAO Code of Conduct for Responsible Fisheries. The Code is made up of a number of separate but linked, documents. It continues to evolve through the formulation of international plans of action, strategies or international guidelines on specific emerging issues. The importance of the role to be played by RFBs is emphasized in the International Plan of Action on IUU Fishing (IPOA-IUU)

Scope of the Problem

Between 1984 and 2007, AU MS, often with the assistance of FAO have established seven RFBs and two fishery Arrangements. They are: Regional Fisheries Commission for the Gulf of Guinea, (COREP, 1984); Sub-Regional Fisheries Commission (SRFC, 1985); Ministerial Conference on Fisheries Cooperation among African States Bordering the Atlantic Ocean (ATLAFCO, 1991); Lake Victoria Fisheries Organization (LVFO, 1994); Fisheries Committee for West Central Gulf of Guinea (FCWC, 2007); and the fishery Arrangements within Lake Chad Basin Commission (LCBC, 1964) and Lake Tanganyika Authority (LTA, 2003). Three bodies, the Fishery Committee for the Eastern Central Atlantic CECAF, 1967), the Committee on Inland Fisheries and Aquaculture of Africa (CIFAA, 1971) and the South West Indian Ocean Fisheries Commission (SWIOFC, 2004) are established under Article VI of the FAO Constitution.

Ironically, all of these bodies except the Lake Victoria Fisheries Organization, are in principle, advisory bodies. However, in the absence of any RFMOs to cover the transboundary resources, other than tuna and tuna-like species, in their respective areas of competence, several of them have assumed management functions, making them de facto management bodies. The bodies depend on national fisheries research institutions, where they exist, for scientific advice. The bodies have made management recommendations to their members; which for the most part have not been implemented.

The main objective of all the advisory bodies is very similar namely to:

- promote regional or sub-regional cooperation in fisheries and aquaculture;
- promote the sustainable utilization of the living marine resources in their area of competence by the proper management and development of the living marine resources,
- address common problems of fisheries management and development faced by the Members.

The RFBs have attempted to achieve their objectives by:

- Keeping under review the state of the resources and the industries based on them;
- Promoting, encouraging and coordinating research in the area related to the living resources thereof and drawing up programmes required for this purpose and organize such research as may appear necessary
- Promoting the collection, interchange, dissemination and analysis or studies of statistical, biological, environmental and socio-economic data and other marine fishery information;
- Establishing the scientific basis for regulatory measures leading to the conservation and management of the fishery resources;
- Formulate such measures and make recommendations for their adoption and implementation of the measures to the members.

The expectations placed on regional fishery bodies have grown exponentially, over the years. However, despite the existence of so many regional fishery bodies in the Continent and the development and evolution of instruments aimed at empowering them, they have generally been ineffective in promoting regional cooperation, the sustainable utilization of the living marine resources or to address common problems of fisheries management and development in their areas of competence.

It was in this backdrop that the Joint Meeting of Ministers of Agriculture, Rural Development, Fisheries and Aquaculture in 2014 reiterated the recommendation of CAMFA I that institutional assessment of regional fisheries bodies and Water Basin Commissions be undertaken.

Position Statement

Regional fishery bodies have been ineffective to meet the objectives of their constituent instruments and a rationalization of these bodies is essential to improve their performance.

Actions for Reform

In the framework of the European Union funded Project “*Strengthening Institutional capacity to enhance governance of the fisheries sector in Africa*” also referred to as Fisheries Governance Project, and the Policy Framework and Reform Strategy for fisheries and aquaculture in Africa, AU-IBAR undertook institutional assessments of the performance of the four advisory bodies established outside the FAO Constitution, Lake Victoria Fisheries Organization (LVFO), and the fishery Arrangements in Lake Tanganyika Authority (LTA) and the Lake Chad Basin Commission (LCBC). The RFMOs including RFBs established under the FAO Constitution, have over the past 8 years instituted a process of undertaking comprehensive independent performance reviews. The outputs of those reviews for the three advisory bodies (CECAF, CIFAA and SWIOFC) have been taken into account in this paper.

The primary objective of the assessments of performance is to ensure that the RFB is performing at the highest possible level, to evaluate how effectively each RFB is addressing its mandate and to identify opportunities for improving the effectiveness of fisheries management,

Salient Accomplishments:

The assessments revealed that, generally, the performance of the bodies is low. When financial resources have been available, mainly through projects, many of the regional fishery bodies and arrangements, have contributed to the progress made by coastal and riverine States in a variety of subject matters including stock assessments, the introduction or improvements of logbooks, the provision of onboard observation systems, the revision of fisheries laws, the development of national research institutions, development in aquaculture, adoption of regulations on mesh size and fishing areas, improvement in data collection systems, strengthening of national institutional capacity in research and fishery administration through training courses in specific subjects in both fisheries and aquaculture.

A number of RFBs are addressing issues of Fishing Access Agreements, taking steps to enhance monitoring control and surveillance (MCS) and adopt regional plans of action on IUU-Fishing. These activities developed or elaborated with donor support, have not yet been implemented. In addition, the regional fishery bodies provide unique forum for dialogue and the exchange of experiences between scientists and technicians of member States, howbeit on a limited scale.

The Committee on Inland Fisheries and Aquaculture of Africa (CIFAA) was instrumental in the transformation of the CIFAA Sub-Committee for the Management of Fisheries of Lake Victoria into the Lake Victoria Fisheries Organization in 1994. Similarly, the Committee worked to transform its Sub-Committee for the Management of Fisheries of Lake Tanganyika into the Fishery Arrangement within the Lake Tanganyika Authority (LTA) in 2003, which entered into force in 2005.

Major challenges and obstacles:

The causes of the low performance and factors affecting the effectiveness of the RFBs are many and complex, as well as intrinsic and extrinsic or external to the bodies.

They include the presence of IUU fishing, illegal fishing practices, low investments in the sector, incoherent policies, excess capacity, poor management, weak intra-regional trade, weak coordination and cooperation in the sector (institutional and inter-state collaboration) and inadequate domestic governance. In addition:

- In some regions, the geographical area of competence and the roles and mandates of existing RFBs and Arrangements tend to overlap leading to duplication of effort, waste of resources and unnecessary competition between bodies.
- AU-Member States are members of several RFBs with similar mandates. Such multiplicity of memberships results in subscription fatigue which adversely affects the finances of some RFBs
- Inadequate human and financial resources to enable the organizations carry out mandates satisfactorily. Many bodies indicated that their budget is insufficient to conduct their agreed programmes of work.

- Absence of an umbrella structure similar to the Regional Fishery Body Secretarial Network (RSN) to facilitate exchange of information and experience between RFBs
- In view of the fact that the bodies are taking on management functions, the basic documents of the RFBs are out of date. They do not contain or emphasize such principles and policies as: the precautionary principle, ecosystem approach to fisheries, “the need to use the best scientific information available as the basis for its management recommendations”, etc. contained in UNFSA and other international instruments.
- Almost all the RFBs lack a comprehensive picture of how many vessels are fishing, what fish species are targeted and how many fish are caught. which has implications for their effective management. Furthermore, there is a paucity of assessment data for important stocks.
- There is limited links and cooperation between the RFBs and Regional Economic Community or Communities (RECs) in their area of competence. It should, however, be noted that generally, fisheries activities of RECs are diluted within broader development scopes. And several RECs lack the appropriate fishery personnel for RECs to provide an adequate framework for cooperation in fisheries management and aquaculture development
- There is limited collaboration and coordination among RFBs and quasi-absence of strategic alliances and partnerships between RFBs and other institutions, such as Large Marine Ecosystem Programs/Commission (LME) working in the same sub-region. Such strategic alliances and partnerships are essential for the dissemination of best practices and contribute to evidence- based interventions.
- Reliable fisheries data are essential to deliver sustainably managed fisheries for both fishers and society; however, several Member State, through which RFBs obtain data and information, do not have a system in place to routinely collect statistical data on the fisheries and species caught, particularly in the case of the subsistence and artisanal sectors.

Recommendations

It is important to emphasize that; regional fishery bodies can only be as effective as the Members permit. Hence:

The constituent instruments of the RFBs should be revised and modernized, to incorporate the modern concepts of fisheries management, reflected in international fisheries instruments. This implies that AU MS should domesticate the instruments and incorporate them into national Law and regulations.

Regional Fishery bodies should clarify responsibilities with regard to overlapping jurisdiction for species, geographical area and/or ecosystems through formal and mutual agreements such as Memorandum of Understanding. In the extreme, this may involve the fusion of some of the bodies.

Member States should work to reduce IUU fishing, fix domestic overcapacity, endeavor to implement recommendations, disseminate best practices, meet their financial and other obligations to the bodies

Regional fishery bodies should forge increased collaboration and partnerships among themselves for example: joint organization and participation in meetings and workshops, sharing of information and data and expertise, establishment of joint working groups, and implementation of common programmes.

At the level of Member States, decision-makers must have a clear understanding of the common interest, for an effective transcription, at the national level, of the activities of the RFBs.

Local communities need to know about these bodies and accept them. The enforcement of the measures is likely to be more effective, with their inclusion and participation, at relevant levels.

Although the collection of fishery and biological data is under the responsibility of Members at a national level, the RFBs should try to enhance and facilitate efforts to improve data collection, analysis and sharing through the adoption of standardized formats, development of

methodologies adapted to the reality of the artisanal fisheries sector, establishment of long-term sampling programs and implementation of more effective mechanisms for data sharing and processing.

As the RFBs depend on national research institutions for their scientific work, mechanisms to follow-up the research activities conducted by member countries between meetings in relation to what has been planned should be implemented. Without a follow-up mechanism, it is difficult to assess the progress achieved in the past and consequently to adequately plan future activities.

Regional fishery bodies should establish co-operative institutional mechanisms, similar to the Regional Fishery Body Secretarial Network (RSN), to facilitate for example regular meetings, capacity building and training workshops, publication of News Letters, etc. to facilitate the sharing of experiences, transfer of best practice approaches to common issues; this could include the development of synergies in their work through joint planning and implementation of such work programmes.

Regional Economic Communities (RECs) are the building blocks and implementing arms of the African Union (AU), particularly at regional levels. The mandate of the RECs is to foster regional integration for socio-economic development of their Member States. Hence, beyond their role in peace and security, RECs have the immense challenge of working with governments, civil society and the AU Commission in raising the standard of living of the people of Africa and contributing towards the progress and development of the continent through economic growth and social development. The institutional links between RECs and RFBs should be strengthened, such that RFBs are the technical partners of the RECs, as is the case between ECCAS and COREP.

Africa is surrounded by seven Large Marine Ecosystems (LMEs): Agulhas and Somali LME, Benguela Current LME, Canary Current LME, Guinea Current LME, Red Sea Current LME, and Mediterranean Sea LME. There are in the Continent and over 60 transboundary water basins, some of which have Water Basin Commissions.

These LMEs and WBCs work to progressively build the knowledge base and strengthen management capabilities at the LME or WBC scale to address transboundary environmental concerns and improve prospects for long-term sustainability of international, coastal and water-basin aquatic resources and environments. Regional fishery bodies should create strategic alliances and partnerships between them and the LME Programs/Commission and WBCs working in the same region/sub-region.

Conclusion

Africa is now at a crossroads to determine the future of its fisheries and aquaculture sector. Under a business as usual scenario, the regional fishery bodies could be left to stagnate. This will undermine the enormous benefits that could be derived from the sector as a result of improved management based on collective action. The ineffectiveness of any of the bodies to achieve its objectives fully lies not so much with the work of the body but with extraneous factors, often outside its control or influence. The inherent difficulty of solving open-access problems and the absence of the so call “political will” have greatly influenced the low performance of many of the regional bodies in terms of their mandates and one may be tempted to say that regional fishery bodies should be replaced by another approach such as the devolution of management authority and responsibility to individuals and groups. At the moment, however, there seems to be no alternative to regional fishery bodies for effective regional fisheries governance in Africa. The recommended reforms are forward looking and are based on reflective process through which the effectiveness of these bodies can be improved.

Further Reading

1. **AUC-NPCA (2014):** Policy Framework and Reform Strategy for fisheries and aquaculture in Africa
2. Report of the institutional assessment of performance of regional fisheries bodies and Water Basin Commissions in South-East Africa, December, 2014; AU-IBAR, Nairobi, Kenya

3. Report of the Consultative Meeting to validate the Terms of Reference and rules of Procedure for RFBs and Establishment of a Continental Platform for Regional Fisheries Bodies in Africa, 22-24 April, 2015, AU-IBAR, Nairobi, Kenya,
4. Rapport Final Services de Consultation pour evaluation de la performance des organisations des peches en Afrique de l'Ouest, mai 2015, AU-IBAR, Nairobi, Kenya
5. Rapport Final Services de Consultation pour evaluation de la performance des organisations des peches en Afrique Centrale, mai 2015, AU-IBAR, Nairobi, Kenya

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