

## **Report of online restitution workshop**

### ***Examination of the possibilities of raising ATLAFCO to the status of a Regional Fisheries Management Organization (RFMO)"***



**22 September 2020**

## CONTEXTE

Several natural stocks of fish, molluscs or crustaceans are distributed among the areas under the jurisdiction of the coastal States of the Atlantic coast of the African continent. Some of these stocks relate to small pelagic species of paramount importance for the food security of African populations, and others relate to demersal species which, in addition to their contribution to food security, constitute significant sources of foreign exchange for various country. Sustainable management of fisheries is central to the achievement of United Nations Sustainable Development Goal 14.

According to the information available, around 90% of the small pelagic stocks assessed by CECAF (Fisheries Committee for the Eastern Central Atlantic) are shared between several countries, usually between four and five countries. Regarding stocks of demersal species, the proportion is 55% of assessed stocks. However, in virtually all cases, the assumptions about stock limits are not based on scientific evidence but on assumptions.

With the exception of tuna and associated species from the Atlantic and deep-sea species from the South Atlantic which fall under the management mandate of **ICCAT** (International Convention for the Conservation of Atlantic Tunas) and **SEAFO** (South-East Atlantic Fisheries Organization) respectively, there is currently no regional fisheries management organization (RFMO) with a mandate to manage the main shared stocks of small pelagic and demersal exploited in the areas under national jurisdiction. There are cooperation mechanisms between countries through regional fisheries organizations such as FAO-CECAF, the SRFC (Sub-Regional Fisheries Commission), FCWC (Fisheries Committee for the Center West of the Gulf of Guinea) and the COREP (Regional Fisheries Commission of the Gulf of Guinea), or through economic integration organizations such as UEMOA (West African Economic and Monetary Union), ECOWAS (Economic Community of African States of the West), ECCAS (Economic Community of Central African States), and AU-IBAR (African Union Inter-African Animal Resources Bureau), but none of the existing mechanisms provide for the possibility of adopting measures management and conservation.

The evolution of the state of the main exploited stocks tends to indicate that the existing cooperation mechanisms are failing to establish a framework for the sustainable management of resources shared between different countries. On the basis of this observation, and taking into account the obligations imposed by the United Nations Convention on the Law of the Sea UNCLOS, the Conference of Ministers of ATLAFCO recommended at its 10th meeting held in Abidjan in August 2018 to *Examine the possibilities of raising ATLAFCO to the status of a Regional Fisheries Management Organization (RFMO)*. A study was entrusted in 2019 to the **F&S Fisheries Maritime Affairs** firm, with a view to examining the relevance and practical modalities for developing ATLAFCO towards a Regional Fisheries Management Organization (RFMO).

## OBJECTIVES AND EXPECTED RESULTS

- The restitution and sharing of analyzes and results of the study with stakeholders;
- The validation of the study and the appropriation of its results by experts from ATLAFCO member states;
- The adoption of a roadmap to initiate the process of consultations between these States for the establishment of an RFMO;
- Discussion on the main clauses of the draft founding convention of an RFMO, proposed by the study, in particular with regard to its spatial and material scope of application, its structure and the terms of decision-making;
  - The integration of the RFMO into the institutional landscape and its articulation with the mandates of other organizations and institutions dedicated to fisheries and active in the region.

## INTRODUCTION

- 1- ATLAFCO organized on September 22, 2020 between 10:00 a.m. and 2:00 p.m. (GMT), an online restitution of the study `` Examination of the possibilities of raising ATLAFCO to the status of a Regional Fisheries Management Organization (RFMO) ''
- 2- More than 69 participants took part in this meeting representing:

### Member States:

Angola, Benin, Cabo Verde, Ivory Coast, Gabon, Ghana, Morocco, Mauritania, Nigeria, Democratic Republic of Congo, Senegal, and Togo.

### International and regional organizations:


The Food and Agriculture Organization of the United Nations (FAO);  
The Regional Fisheries Commission of the Gulf of Guinea (COREP);  
The Fisheries Committee for the West-Central Gulf of Guinea (FCWC);  
The Sub-Regional Fisheries Commission (SRFC);  
The Economic Community of West African States (ECOWAS);  
The Fisheries Committee for the Central-East Atlantic (CECAF);  
The International Whaling Commission (IWC);  
The Delegation of the European Union in Dakar;  
The Japanese Fisheries Agency.

### Civil society:

The Media Observatory for Sustainable Fisheries in Africa (MOSFA);  
The Advisory Council for Distant Fisheries (LDAC) of the EU;  
The Association of African Maritime Training Institutions (REFMA)  
The West African Association for the Development of Artisanal Fisheries (WADAF)  
The African Confederation of Professional Artisanal Fisheries Organizations (CAOPA)

- 3- The list of participants is attached to **Annex I**.

## OPENING CEREMONY

- 4- Speaking at the beginning of the session, **Mr. Abdelouahed BENABBOU**, Executive Secretary of ATLAFCO, wished, on behalf of His **Excellency Moussa DOSSO**, Minister of Animal and Fishery Resources of Côte d'Ivoire and current President of ATLAFCO, a welcome to this online restitution workshop of the study relating to the examination of the possibilities of raising ATLAFCO to the status of a Regional Fisheries Management Organization (RFMO). 
- 5- He also thanked **Mr. Benoit CAILLART** and **Mr. Michel MORIN**, consultants representing the firm F&S Fisheries Maritime Affairs, which carried out the study, **Mr. Driss MESKI**, for his contribution to the drafting of the terms of reference of the said study, as well as to the participants for their presence.
- 6- He then recalled that a series of meetings with Consultants have already been organized, during which there was a commitment to work together to ensure that the different parties have a shared vision of the needs of the ATLAFCO region in terms of management and conservation of fish stocks and the means to achieve this through the creation of a new RFMO.

- 7- He then recalled that the study was commissioned by the ATLAFCO secretariat in 2019, in execution of the recommendation of the 10<sup>th</sup> Conference of ATLAFCO Ministers, held in Abidjan in August 2018.
- 8- He specified that the conclusions of the study, enriched by the remarks of the experts gathered today, will be submitted to the Ministers at the next session of ATLAFCO, for assessment and decision as to what will be done next.

9- Taking the floor, **Dr MEITE ZOUMANA Anlyou**, on behalf of Minister **Moussa Dosso** greeted all the participants and highlighted the importance of this workshop dedicated to the restitution of the study relating to the examination of the possibilities of raising ATLAFCO with the status of a Regional Fisheries Management Organization (RFMO).



10-He recalled the importance of shared fishery resources in the region, consisting mainly of pelagic and demersal stocks, as well as their alarming state and insufficient scientific data for their monitoring.

11-He then specified that the study recommended by the Conference of Ministers during its session held in Abidjan in 2018, is dictated by the desire to ensure a sustainable and effective rational management of fisheries resources in the region, through relevant legal instruments, able to reverse current trends.

12-**Dr MEITE** congratulated the Executive Secretariat of ATLAFCO for the diligent treatment of this recommendation and for this initiative aimed at sharing and discussing the conclusions of the study with the representatives of the Member States and all the parties concerned.

13-Finally, he mentioned that he was counting on the wise recommendations of the participants, which would authorize the Ministers to take the most appropriate decisions for the management and the preservation of the fishery resources of the region.

14-While wishing fruitful results, **Dr MEITE ZOUMANA Anlyou**, declared the work of the workshop open.

15-**Mr. Alain Sy TRAORE**, Director of Agriculture and Rural Development at ECOWAS, thanked ATLAFCO for the invitation of ECOWAS and at the same time conveyed the sincere thanks and greetings from His **Excellency SEKOU SANGARE**, Commissioner to ECOWAS in charge of Agriculture, Environment and Water Resources.



16-He then briefly presented ECOWAS by recalling that the Economic Community of West African States is an international organization of economic integration, created in 1975 which includes 15 member States. Its main mission is to promote cooperation and achieve economic and monetary union in West Africa.

17-He added that ECOWAS has developed its regional policy on Fisheries and Agriculture, as an integrated component in the Regional Agricultural Policy of ECOWAS (ECOWAP) whose implementation is based on 2 pillars which are: National Agricultural Investment Programs (PNIA) and Regional Agricultural Investment Programs and Food and Nutritional Security (PRIASAN).

18-He mentioned that ECOWAS pays a lot of interest to the results of this workshop, given that 12 ECOWAS member states are also members of ATLAFCO, especially since 2 regional fishing organizations, in this case, SRFC and FCWC, act in the same space.

19-In addition, **Mr. TRAORE** drew attention to the need to deepen the reflection on the relevance of the creation of an RFMO in the region, taking into account the plethora of existing regional organizations, possible conflicts of competence, and its viability

in view of the availability of financial means.

**20-**At the end of his speech, **Mr. TRAORE** wished all success to the work of the workshop, specifying that ECOWAS will remain attentive to its results.

## CONDUCT OF WORK

**21-**The moderation and the conduct of the work of the videoconference were ensured by **Mr. BENABBOU**.

**22-**He started by reviewing the videoconference agenda, which was adopted (**Annex III**).

## INTRODUCTION

### - **Role of RFMOs in the Conservation and Management of Marine Resources, Mr. Driss MESKI**



**23-** In his presentation **Mr. MESKI** emphasized the institutional role of regional fisheries management organizations (RFMOs) in the conservation and management of marine resources.

**24-** Then, he mentioned that there is a direct relationship between management tools and actions carried out by RFMOs and those for which each country is responsible. He also stressed that the gap between demand for fish and fishery resources is widening rapidly and that urgent action is taken to support the sustainability of marine resources.

**25-**Citing some examples of management measures taken by RFMOs, he recommended

- Encouraging the ratification of international agreements such as the United Nations Fish Stocks Agreement (UNFSA), the Port State Measures Agreement (PSMA), etc.
- Assistance to developing countries which are more likely to be exploited by IUU operators if they do not have the necessary resources to implement strict control measures;
- Continuation of cooperation and information exchange between RFMOs, as well as strengthening of the harmonization of measures in certain regions.

### - **Presentation of the Terms of Reference, Mr. Driss MESKI**

**26-** **Mr. MESKI** gave an overview on the terms of reference, in particular the aim, the objectives of the consultation as well as the boundaries of the consultation.

**27-** He stressed that the study aimed to examine the relevance and practical modalities to develop ATLAFCO towards a Regional Fisheries Management Organization (RFMO). It was a question of redefining or updating the mission of ATLAFCO, which involves characterizing and analyzing the baseline situation and the projected one, inherent in the future evolution of ATLAFCO.

**28-**The main specific objectives assigned to this study are as follows:

- In-depth and exhaustive diagnostic analysis of the problem of the transformation of ATLAFCO into an RFMO, highlighting the favorable factors and obstacles to such an evolution;
- Analysis of the challenges and opportunities of fisheries management in the Region, at legal and institutional levels;

- Definition of the strategy / action plan to be implemented in order to succeed in this transformation, specifying, if necessary, the partnerships to be established at the regional level, with the various institutional actors and identifying the areas and types of intervention who could be subject to it;
  - Assessment of the means to be implemented to support the change.
- 29-**Regarding the boundaries of the study, **Mr. MESKI** mentioned that the scope of the study covers on the one hand the area of geographical competence of ATLAFCO, specifying whether it is the EEZs of Member States only or if it is necessary to include the high seas, and on the other hand the following axes:
- Institutional / organizational aspects;
  - Legal compliance;
  - Interaction with other organizations, institutions, programs ... present in the Region.
  - The benefits of such a change, particularly in terms of poverty reduction with a view to sustainable management and improvement of the management capacity of the region's marine resources.

## STUDY RESULTS

### - Presentation of results and analyzes, Mr. Benoit CAILLART (F-S Marines)



- 30-**After introducing the context of the study, **Mr. CAILLART** presented the main conclusions of the study which, a few months ago, was sent to all Member States and published on the website of the ATLAFCO.
- 31-** He recalled the conclusion of the study indicating that the transformation of ATLAFCO into RFMO cannot be considered for legal reasons. Therefore, the creation of a new RFMO will have to be done by the adoption of a new convention by abandoning the option of transforming ATLAFCO as had been envisaged for a time by the Conference of its Ministers.
- 32-**A new founding convention of an RFMO is therefore to be negotiated independently of the ATLAFCO convention.
- 33-**The Executive Secretariat of ATLAFCO takes note of the conclusion of the study, abandoning the option of transforming ATLAFCO into an RFMO cannot be considered for legal reasons.
- 34-**Then, he referred to the role to be played by ATLAFCO to steer the process of preparing the founding convention of a new RFMO as well as the complementary role of RFOs / EIOs as intermediaries with their Member States.
- 35-**Interventions focused on clarifying the motivations of ATLAFCO Ministers to adopt in 2018 the recommendation that led to this study.
- 36-**Without knowing the details of the elements of reflection available to Ministers at the time, it seems, according to the Consultants, likely that the absence of effective instruments for the management of stocks shared between several coastal States aligned with the international legal requirements urged the Ministers to explore the possibility of transforming ATLAFCO, to respond to this gap in the international governance framework.
- 37-**The 2018 Conference of Ministers also took place at a time when the international community had identified a need to strengthen the level of cooperation between States, in particular during the CECAF meeting in Dakar in 2016.
- 38-**During the discussions, several speakers wondered about the relevance of an RFMO in the region, stressing that there are already in Africa several regional organizations

with expertise in fisheries and intervening at the level of the African continent (AU-IBAR, NEPAD), in the Atlantic Africa zone (FAO-CECAF, ATLAFCO), or at sub-regional levels (SRFC, ECWC, COREP). Certain economic integration organizations such as (ECOWAS, UEMOA or ECCAS) also have prerogatives in the field of fisheries.

**39-** The existence of these organizations legitimately raises the question

- i) What will be the added value of the future RFMO and
- ii) How this future RFMO will fit into the governance framework of the existing fisheries sector.

**40-** The Consultants recall:

- i) That all existing regional organizations have advisory mandates only. As a result, the opinions or recommendations offered to their Member States are not binding. The main added value of this future RFMO will be precisely to be able to adopt conservation and management rules that the coastal States, which will have sovereignly chosen to become contracting parties, will have to apply. To date, the high proportion of overfished stocks (41%) suggests that the current governance framework is not effective.
- ii) That the future RFMO is not intended to replace existing organizations; and that it will not infringe on some of their prerogatives.

With regard to the conservation and management of shared stocks, the existing regional organizations have the mandate to encourage and promote cooperation and information exchange with the general objective of contributing to the sustainability of the exploitation of the fishery stocks.

Through this mandate, the existing regional organizations will be essential partners of the future RFMO when it comes to identifying and preparing with their Member States the measures to be taken to achieve this goal of sustainability.

These regional fisheries organizations will also have a central role in helping their member states to implement the measures adopted by the RFMO. In a way, ATLAFCO plays this role when it comes to preparing the positions of African States within ICCAT with regard to the management of tuna fisheries, and helping them to implement some of them. its recommendations by playing on regional synergies (example of a regional program of on-board observers).

Finally, the future RFMO will have a mandate limited to the conservation and management of stocks exploited in maritime waters. It will not have to deal with themes falling under the mandate of existing regional organizations such as the economic and social development of the fisheries sector, the facilitation of international trade, aquaculture or inland fisheries.

**41-** The question of the financing of the future RFMO was also the subject of several interventions that already exist for some States, difficulties in honoring the contributions payable by the regional fishing organizations of which they are members.

**42-** The Consultants recognize that the issue of funding will need to be carefully considered during the upcoming negotiation process. Nonetheless, concerned states should be fully aware that membership in an RFMO entails a multi-year commitment on the part of those states to contribute to its regular budget, as is the case with other RFMOs around the world.

**43-Mr. MORIN** presented the draft convention which consists of 24 articles laying down the legal bases of the future RFMO.

**44-** He then enumerated the specific points in particular, the spatial and material field: the EEZs of the coastal States; the species or groups of species to be defined by the Commission (Art. 3 and Art. 6.4 a); structuring of the ORGP; regionalization: creation of sub-regional committees (Art. 5.2 d) and Art. 10); the objection procedure: Article 15.2 with review panel to the operation defined in the appendix to the agreement.



**45-** He also specified that this draft convention (**Annex IV**) was drawn up on the basis of various conventions that have established RFMOs. Account has been taken of the specific characteristics that this RFMO would have, in particular:

1. An area of competence exclusively in areas under the sovereignty and jurisdiction of coastal States;
2. An application to stocks that are only found at most in the waters of four to five coastal states out of the twenty-two states that could potentially become members of this RFMO.

**46-** Finally, he reviewed the communication material which consists of questions - answers (**Annex V**) by mentioning that the aim of the exercise is to consider all the questions that the parties concerned by this initiative could ask themselves in relation to the mandate of the ORGP, the adoption and application of its measures, its structuring and its insertion into the institutional landscape.

## DEVELOPMENT OF A ROADMAP / INITIATION OF THE CONSULTATION PROCESS BETWEEN STATES

- a- After rich discussions during this restitution workshop, the consultant proposed a roadmap which will begin with a communication at the next ATLAFCO Ministerial Conference, then interactive contacts with the parties concerned with a proposal for organization of an extraordinary session.
- b- During the organization of the extraordinary session of the Conference of Ministers, awareness-raising will be carried out among regional organizations and partners with press coverage.
- c- The goal of this process is the signing of a joint declaration supporting the initiative and giving a mandate to ATLAFCO to implement it.

In the event of a favorable outcome, an action plan will be drawn up for the preparation and conduct of the first negotiation meeting.

### Conclusions

**47-** At the end of the workshop, **Mr. BENABBOU** took the floor again to thank the participants for the relevance of their interventions which will undoubtedly contribute to enriching the results of the study and for their patience.

**48-** He undertook to take into account all the comments made for their presentation with the results of the study at the next ATLAFCO Ministerial Conference.

**49-** Before closing the meeting, He thanked **Dr MEITE ZOUMANA Anlyou**, Director of the Cabinet of MARF and asked him to kindly present his sincere thanks to His **Excellency Minister Moussa DOSSO**, for his involvement, his constant support and his leadership, thus allowing ATLAFCO to maintain its activities in this difficult context of the COVID-19 pandemic.

**50-** The workshop is closed at 2 p.m.



## Annex I : List of participants

N°	COUNTRY/ ORGANISATION	NAME	TITLE	E-MAIL
1	ADEPA/WAD AF	M. Moussa MBENGUE	Secrétaire Exécutif	<a href="mailto:mbenguepeche@yahoo.fr">mbenguepeche@yahoo.fr</a>
2	Ambassade du Japon-Maroc	M. Nobushige SHIMIZU	Représentant FAJ	<a href="mailto:n.shimizu17@gmail.com">n.shimizu17@gmail.com</a>
3	Angola	M. Gomes Soares VENANCIO	Directeur / Ministère de la pêche et de la mer	<a href="mailto:venanciogomes68@gmail.com">venanciogomes68@gmail.com</a>
4	Bénin	M. Antoine Gaston DJHINTO	Directeur de la Production Halieutique	<a href="mailto:adjihinto@yahoo.fr">adjihinto@yahoo.fr</a>
5	Cabo verde	M. Albertino MARTINS	Ministère de l'économie maritime	<a href="mailto:Albertino.martins@mem.gov.cv">Albertino.martins@mem.gov.c v</a>
6	CAOPA	M. Gaoussou GUEYE	Président de la CAOPA	<a href="mailto:gaoussoug@gmail.com">gaoussoug@gmail.com</a>
7	CBI	Dr. Rebecca LENT	Secrétaire Exécutive de la CBI	<a href="mailto:rebecca.lent@iwc.int">rebecca.lent@iwc.int</a>
8	CEDEAO	M. Alain Sy TRAORE	Dir. Agriculture & Rural Development	<a href="mailto:atraore@ecowas.int">atraore@ecowas.int</a>
9		Dr Amadou TALL	Consultant	<a href="mailto:amadou.tall@gmail.com">amadou.tall@gmail.com</a>
10		M. Aboubacar SIDIBE	Représentant	<a href="mailto:aboubacar.sidibe@fao.org">aboubacar.sidibe@fao.org</a>
11	Consultants	M. Papa KEBE	Consultant en pêche République du Sénégal	<a href="mailto:papa.amary@gmail.com">papa.amary@gmail.com</a>
12		M. Benoit CAILLART	Consultant	<a href="mailto:b.caillart@fs-marine.fr">b.caillart@fs-marine.fr</a>
13		M. Michel Morin	Consultant	<a href="mailto:michelcl.morin@gmail.com">michelcl.morin@gmail.com</a>
14		M. Driss MESKI	Consultant	<a href="mailto:driss.meski@outlook.com">driss.meski@outlook.com</a>

15		Mme Anaid PANOSSIAN	Experte juridique en droit de la mer et de la pêche	<a href="mailto:Anaid.panossian@gmail.com">Anaid.panossian@gmail.com</a>
16		Dr Mireille THOM	Consultant	<a href="mailto:thomireille@gmail.com">thomireille@gmail.com</a>
17	Experts	M. Papa KEBE	Expert en pêche	<a href="mailto:papa.amary@gmail.com">papa.amary@gmail.com</a>
18		M. Mohamed MERZAGUI	Expert en affaires maritimes	<a href="mailto:marmar271156@gmail.com">marmar271156@gmail.com</a>
16	COPACE	M. Ndiaga GUEYE	Secrétaire du COPACE	<a href="mailto:Ndiaga.Gueye@fao.org">Ndiaga.Gueye@fao.org</a>
17	COPACE/PES CAO	M. Sakchai MCDONOUGH	Bureau régional de la FAO pour l'Afrique Accra-Ghana	<a href="mailto:sakchai.mcdonough@fao.org">sakchai.mcdonough@fao.org</a>
18	COREP	M. Emile ESSEMA	Secrétaire Exécutif de la Commission Régionale des Pêches du Golfe de Guinée (COREP)	<a href="mailto:essemile@yahoo.fr">essemile@yahoo.fr</a>
19		M. Emmanuel SABUNI KASEREKA	Administrateur au Développement des Pêcheries et à la Programmation.	<a href="mailto:issaske@yahoo.fr">issaske@yahoo.fr</a>
20		M. Austen MOUITY	Représentant/COREP	<a href="mailto:austen2013@hotmail.fr">austen2013@hotmail.fr</a>
21	Côte d'Ivoire	M. Zoumana Anlyou MEITE	Directeur de cabinet	<a href="mailto:meitezoum55@gmail.com">meitezoum55@gmail.com</a>
22		M. Konan ANGAMAN	Technical Advisor /MIRAH	<a href="mailto:angaman.konan1@yahoo.fr">angaman.konan1@yahoo.fr</a>
23		M. Helguile SHEP	Directeur des Pêches	<a href="mailto:sheguile@yahoo.fr">sheguile@yahoo.fr</a>
24	CPCO	M. Séraphin DEDI NADJE	Secrétaire Général du CPCO	<a href="mailto:sdedi.nadje@yahoo.fr">sdedi.nadje@yahoo.fr</a>
25		Mme Viviane KOUTOB NAOTO BOUKOUNPOU	Coordinatrice de Projets	<a href="mailto:vkoutob@tm-tracking.org">vkoutob@tm-tracking.org</a>
26	CSRP	M. Mohamed Abidine Ould MAYIF	Directeur chargé des Programmes de la CSRP	<a href="mailto:mamayif@yahoo.fr">mamayif@yahoo.fr</a>
27	Délégation de l'union européenne à Dakar	M. Appriou Arnaud DUE	Délégation de l'UE à Dakar, en charge du suivi des accords de pêche avec Sénégal, Cabo Verde, Gambie et Guinée Bissau	<a href="mailto:arnaud-pierre.appriou@eeas.europa.eu">arnaud- pierre.appriou@eeas.europa.eu</a>
28	FAO	M. Piero MANNINI	Senior Liaison Officer Food and Agriculture Organization of the United Nations (FAO) Rome (Italy)	<a href="mailto:Piero.Mannini@fao.org">Piero.Mannini@fao.org</a>

29	Fisheries Agency of Japan Tokyo – Japan	M.Takaaki SAKAMOTO	Director, Overseas Fisheries Cooperation Office, FAJ	<a href="mailto:Takaaki_sakamoto720@maff.go.jp">Takaaki_sakamoto720@maff.go.jp</a>
30	Gabon	M. Georges MBA ASSEKO Davy Angueko	Conseiller du Ministre/ Ministère de l'Agriculture, de l'Élevage, de la Pêche et de l'Alimentation.	<a href="mailto:schmiche@yahoo.fr">schmiche@yahoo.fr</a> ; <a href="mailto:g.h.mbasseko@gmail.com">g.h.mbasseko@gmail.com</a> ; <a href="mailto:davyangueko@yahoo.fr">davyangueko@yahoo.fr</a>
31		M. Davy ANGUEKO	Ministère de l'Agriculture, de l'Élevage, de la Pêche et de l'Alimentation.	<a href="mailto:davyangueko@yahoo.fr">davyangueko@yahoo.fr</a>
32		Mme Alda Prudence MALEMBA épouse MAYAKA,	Directeur Général Adjoint des Pêches et de l'Aquaculture	<a href="mailto:aldaprudencemayaka@gmail.com">aldaprudencemayaka@gmail.com</a>
33		M. Godfrey BAIDOO- TSIBU	Chef de la Division du Suivi, du Contrôle et de la Surveillance	<a href="mailto:godfreytsibu.gbt@gmail.com">godfreytsibu.gbt@gmail.com</a>
33	ITPM SAFI	M. Driss ATTAS	Directeur	<a href="mailto:attasdriss@gmail.com">attasdriss@gmail.com</a>
36	ITPM/ HOCEIMA	M. Abdelaziz RHAIT	Directeur	<a href="mailto:abdelaziz.rhait@mpm.gov.ma">abdelaziz.rhait@mpm.gov.ma</a>
37	Japon	M. Yoshihiro TAKAGI	Conseiller/Japon	<a href="mailto:ytakagi8@yahoo.co.jp">ytakagi8@yahoo.co.jp</a>
38	LDAC	M. Iván LOPEZ	Président LDAC	<a href="mailto:ivan.lopez@pesqueraancora.com">ivan.lopez@pesqueraancora.com</a>
39		M. Alexander RODRIGUEZ	Secrétaire Exécutif LDAC	<a href="mailto:alexandre.rodriguez@ldac.eu">alexandre.rodriguez@ldac.eu</a>
42	OMPDA	M. André NAOUSSI	Journaliste/Coordonnateur	<a href="mailto:andrenaoussi@gmail.com">andrenaoussi@gmail.com</a>
43	RDC	M. Sylvain TUSANGA MUKANGA	Directeur des Pêches et Ressources Halieutiques	<a href="mailto:sylvaintusanga@yahoo.fr">sylvaintusanga@yahoo.fr</a> ;
44	Secrétariat/ COMHAFAT	M. Abdelouahed BENABBOU	Secrétaire Exécutif	<a href="mailto:benabboucomhafat@gmail.com">benabboucomhafat@gmail.com</a>
45		M. Atsushi ISHIKAWA	Expert/OFCF	<a href="mailto:a615@ruby.ocn.ne.jp">a615@ruby.ocn.ne.jp</a>
46		Mme Hayat ASSARA	Assistante de direction	<a href="mailto:hayat.comhafat@gmail.com">hayat.comhafat@gmail.com</a>
47		M. Abdelkrim MRABTI	Webmaster	<a href="mailto:akarim.mrabti@gmail.com">akarim.mrabti@gmail.com</a>

48		M. Abdennaji LAAMRICH	Chef du Département Coopération et Système d'Information	<a href="mailto:laamrichmpm@gmail.com">laamrichmpm@gmail.com</a>
49		Mme Amal MOUTTAKI	Chargée de projet	<a href="mailto:moutaki.comhafaf@gmail.com">moutaki.comhafaf@gmail.com</a>
50		M. Mohamed SADIKI	Chef du Département Programmes et Projets	<a href="mailto:sadiki.comhafat@gmail.com">sadiki.comhafat@gmail.com</a>
51		M. Mohammed HADDAD	Responsable financier	<a href="mailto:haddad.comhafat@gmail.com">haddad.comhafat@gmail.com</a>
52		M. Rachid REGRAGUI	Cadre	<a href="mailto:regraguicomhafat@gmail.com">regraguicomhafat@gmail.com</a>
53		Mlle Wafaa AAMOUN	Assistante	<a href="mailto:aamoum.comhafat@gmail.com">aamoum.comhafat@gmail.com</a>
54		Mme Karima Choukrani	Secrétaire	<a href="mailto:mkarima241@gmail.com">mkarima241@gmail.com</a>
55		M. BOUALI Ali	Consultant	<a href="mailto:bouali1952@gmail.com">bouali1952@gmail.com</a>
56		M. Housseine OUJEDDOU	Cadre	<a href="mailto:oujeddou.comhafat@gmail.com">oujeddou.comhafat@gmail.com</a>
57		M. Sidiya DIOUF	Directeur adjoint	<a href="mailto:dioufsidiya@yahoo.fr">dioufsidiya@yahoo.fr</a>
58	Sénégal	M. Modou MBENGUE	Bureau des licences	<a href="mailto:modoumalickmbengue@gmail.com">modoumalickmbengue@gmail.com</a>
59		M. Dienaba BEYE	Chef de service «Harmonisation de la politique et de la législation de la pêche»	<a href="mailto:dienaba.beye@spsr.org">dienaba.beye@spsr.org</a>
61		M. Domtani ALI	Directeur des Pêches	<a href="mailto:domtania@yahoo.fr">domtania@yahoo.fr</a>
62	Togo	M. Ahoedo KOSSI	Chef de la section promotion des pêches	<a href="mailto:kahoedo@yahoo.fr">kahoedo@yahoo.fr</a>

**Opening remarks by  
Mr. A. BENABBOU, Executive Secretary of ATLAFCO**

**Mr. Director of the Cabinet of MIRAH,  
Mr. Director of Agriculture and Rural Development of ECOWAS  
Mr. FAO Representative in Senegal,  
Mr. COREP Executive Secretary,  
Mr. Secretary General of the FCWC,  
Mr. Representative of the Fisheries Agency of Japan / JICA  
Mr. Secretary General of CAOPA,  
Gentlemen the consultants  
The Delegates of the Member States of ATLAFCO,  
Ladies and gentlemen,**

**Ladies and gentlemen,**

Let me first of all wish you all, on behalf of His **Excellency Moussa Dosso**, Minister of Animal and Fishery Resources of Côte d'Ivoire, President in office of ATLAFCO, welcome to this online restitution workshop of the study relating to the examination of the possibilities of raising ATLAFCO to the status of a Regional Fisheries Management Organization (RFMO).

I would also like to thank you for kindly responding to our invitation and joining us for this meeting, in this context still marked by drastic conditions of social distancing imposed by the state of health emergency following COVID- 19.

I would also like to thank the consultants for their availability and flexibility, I would like to name **Mr. Benoit Caillart** and **Mr. Michel Morin** from FS Marine Affairs, who conducted the study and Mr. Driss Meski, who assisted us in drafting the terms of reference. of the study.

**Ladies and gentlemen,**

On the occasion of the declaration sanctioning the work of the 10<sup>th</sup> Conference of Ministers of ATLAFCO, held in Abidjan in August 2018, the Ministers recommended examining the possibilities of raising ATLAFCO to the status of a Regional Management Organization. Fisheries (ORGP), thereby expressing the need for better management of the region's fishery resources.

Following this request, the ATLAFCO secretariat launched a study to examine the relevance and practical modalities for developing ATLAFCO towards an RFMO. This study was entrusted to the FS marine firm, which delivered its conclusions in November 2019.

We have already organized a series of meetings with the Consultants, during which we are committed to working together to ensure that the different parties have a shared vision of the needs of the ATLAFCO region in terms of management and conservation of stocks of fish and the means to achieve it through the creation of a new RFMO.

The conclusions of the study should be submitted to the Ministers at the next ATLAFCO session, for assessment and decision as to what will be done next. Beforehand, we must ensure their sharing and ownership by experts from Member States and all stakeholders.

It is in this context that our feedback workshop takes place, to which we have set the following objectives:

- Validate the study and allow the appropriation of its results by experts from ATLAFCO member states;
- Adopt a roadmap to initiate the process of consultations between these States for the establishment of an RFMO;
- Discuss the main clauses of the draft founding convention of an RFMO, proposed by the study, in particular with regard to its spatial scope and material of application, its structure and the terms of decision-making;
- Insert the RFMO into the institutional landscape and facilitate its articulation with the mandates of other organizations and institutions dedicated to fisheries and active in the region.

**Ladies and gentlemen,**

It is through the rational management of its fishery resources and a fierce fight against illegitimate practices on its stocks, that our region will be able to realize the full potential of the fishing sector.

Together we are able to meet this challenge.

Allow me before closing my intervention, to thank **through Dr MEITE ZOUMANA Anlyou, Dircab MIRAH**, our Presidency for its involvement, its constant support and its leadership, thus allowing ATLAFCO to maintain its activities in this difficult context.

Thank you for your attention.

**Opening remarks by  
Dr MEITE ZOUMANA Anlyou, Director of Cabinet MIRAH, representing the  
Minister of Animal and Fisheries Resources on the occasion of the videoconference on  
Tuesday, September 22, 2020.**

**The Delegates of the Member States of ATLAFCO,  
Ladies and Gentlemen, Experts,  
Dear participants,**

It is particularly pleasant for me to address you this morning, on behalf of **Mr. Moussa DOSSO**, Minister of Animal and Fisheries Resources of Côte d'Ivoire, President of the Ministerial Conference on Fisheries Cooperation between the African States bordering the Atlantic Ocean (ATLAFCO).

I would like to greet you and above all congratulate you on the theme of this conference on **"The online restitution workshop of the study Examination of the possibilities of raising ATLAFCO to the status of a Regional Fisheries Management Organization (RFMO)"**.

According to the study which is the subject of this workshop, about 90% of the small pelagic stocks assessed by the Fisheries Committee for the Eastern Central Atlantic (CECAF) are shared between several countries, most often between four and five countries.

The annual catches of sea fishing in the area from Morocco to Namibia represent on average 5 million tons, of which 71% are small pelagic species and 23% are demersal fish species.

However, the state of the stocks of small pelagic and demersal indicates that 41% of the stocks which could be the subject of an assessment are overexploited, 36% are in a state of full exploitation and 23% are deemed not to be fully exploited. . About 40% of the 100 or so stocks studied by CECAF could not be assessed due to insufficient scientific data.

As a result, the need to take measures to reverse these trends in order to enable stock recovery becomes imperative.

The ATLAFCO Conference of Ministers, aware of this situation, recommended to examine the possibilities of raising ATLAFCO to the status of a Regional Fisheries Management Organization (RFMO) during its meeting in August 2018 in order to equip itself with relevant legal instrument for the management of resources coming under the Exclusive Economic Zone of member states. This study responds to this recommendation.

I would like to take this opportunity to congratulate the Executive Secretariat of our common institution for the diligent treatment of this recommendation.

Ladies and Gentlemen, Experts

It is your responsibility to assess the relevance of the study's proposals for the creation of a regional fisheries management organization. Because, it is not a question of transforming ATLAFCO but of having a new, more binding instrument for the management of depleted fishery resources.

I would like to count on you for wise recommendations which would authorize the Ministers to take the most appropriate decisions for the management and the preservation of the fishery resources of our space.

I wish you fruitful and declare open **"the online restitution workshop of the study Examination of the possibilities of raising ATLAFCO to the status of a Regional Fisheries Management Organization (RFMO)"**.

Thank you

**Online restitution workshop of the study**  
*Examination of the possibilities of raising ATLAFCO to the status of a Regional Fisheries Management Organization (RFMO)*

**22 September 2020**

**PROGRAM 10 :00 – 12 :00 GMT**

- **Opening**
  - **Mr. A. BENABBOU**, Executive secretary of ATLAFCO
  - **Dr MEITE ZOUMANA Anlyou**, Director of cabinet MAFR (Côte d’Ivoire)
  - **Mr. Alain Sy TRAORE**, Director of Agriculture and Rural Development of ECOWAS
  
- **Introduction**
  - **Role of RFMOs in the Conservation and Management of Marine resources, Mr. Driss MESKI**
  - Terms of Reference Overview, **Mr. Driss MESKI**
  
- **Study results**
  - Presentation of study results and analyzes **Mr. Benoit CAILLART and Michel MORIN** (F-S Marines)
  - Discussions
  - Adoption of the conclusions of the study
  
- **Draft founding convention of an RFMO in the ATLAFCO region**
  - The spatial and material scope
  - The structuring of the RFMO
  - Decision-making mechanisms
  - The integration of the RFMO into the institutional landscape and its articulation with the mandates of other organizations and institutions dedicated to fishing active in the region
  - Discussion
  
- **Development of a roadmap/ initiation of the consultation process between states**
  - Conclusions
  
- **Closing**

**Experts :**

- **Benoit Caillart**
- **Michel Morin**



## **Annex IV: Draft Convention for the Establishment of the Regional Fisheries Management Organization for the Atlantic Coast**

The African States bordering the Atlantic Ocean, Parties to this Convention,

Having a common interest in ensuring the long-term conservation and sustainable use of the fishery resources in the marine waters under their sovereignty or jurisdiction,

Building on the long-standing cooperation between them within the framework of the Regional Convention on Fisheries Cooperation among African States bordering the Atlantic Ocean (ATLAFCO) and, where appropriate, within the framework of sub-regional organizations such as the Sub-regional Fisheries Commission (SRFC), the Western Central Gulf of Guinea Fisheries Committee (WGCGC) or the Gulf of Guinea Regional Fisheries Commission (COREP),

Recalling the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982, the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 December 1995,

Taking into account the Code of Conduct for Responsible Fishing adopted on 31 October 1995 by the FAO Conference and the importance for African States and their populations of the Voluntary Guidelines to ensure sustainable artisanal fisheries in the context of food security and poverty eradication adopted by the FAO Committee on Fisheries in June 2014,

Determined to deepen their cooperation for the conservation and sustainable exploitation of fishery resources that are part of straddling stocks,

Convinced that the best way to achieve this objective is through the conclusion of a multilateral convention establishing a regional fisheries management organization in accordance with Article 63 of the United Nations Convention on the Law of the Sea of 10 December 1982,

AGREE AS FOLLOWS:

### **Title I: General Provisions**

#### Article 1 - Definitions

For the purposes of this Convention:

- (a) “Party” means Contracting Party to this Convention
- (b) “1982 Convention” means the United Nations Convention on the Law of the Sea of 10 December 1982
- (c) “1995 Agreement” means the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 December 1995

#### Article 2 - Objective

The objective of this Convention is to ensure the long-term conservation and sustainable use of the marine living resources in the Convention Area.

### Article 3 - Scope of application

1. This Convention shall apply in the marine waters under the sovereignty or jurisdiction of the African States bordering the Atlantic Ocean, from Morocco to Namibia, including the archipelagic States of Cape Verde and Sao Tome and Principe.

2. Subject to the decisions to be taken by the Commission pursuant to Article 6(4)(a), this Convention shall apply to stocks of species that are found in the marine waters of several neighboring coastal States.

Species for which the International Commission for the Conservation of Atlantic Tunas has competence<sup>1</sup> shall be excluded from the scope of this Convention.

### Article 4 - Relationship with other international instruments

1. This Convention shall be interpreted and applied in a manner consistent with the 1982 Convention and the 1995 Agreement.

2. When the Organization adopts a measure that overlaps with a measure adopted within the framework of an intergovernmental organization competent for the same area, the measure adopted by the Commission shall supersede the measure previously adopted within the framework of that intergovernmental organization.

## **Title II: The structure of the organization**

### Article 5 - The Organization

1. The Contracting Parties hereby agree to establish the Regional Fisheries Management Organization for the Atlantic Coast of Africa, hereinafter referred to as "the Organization".

2. The Organization shall consist of the Commission and subsidiary bodies, which shall be:

(a) the Administrative and Financial Committee;

(b) the Scientific Committee;

(c) the Compliance Committee;

(d) to the extent decided by the Commission, sub-regional committees composed of groups of neighboring States where common stocks are found in their waters;

and any other subsidiary bodies that the Commission decides to establish to assist it in its work.

3. Each Party shall be a member of the Commission and its subsidiary bodies and shall appoint, for each one, one representative who may be accompanied by alternates, experts

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<sup>1</sup> Commission established by the International Convention for the Conservation of Atlantic Tunas adopted in Rio de Janeiro on 14 May 1966.

Online restitution workshop of the study *Examination of the possibilities of raising ATLAFCO to the status of a Regional Fisheries Management Organization* (RFMO) September 22, 2020

and advisers, except for the sub-regional committees, for which only the Parties concerned shall appoint representatives.

4. The Organization shall have legal personality and shall enjoy, in its relations with other international organizations and in the territories of the Contracting Parties, the legal capacity necessary for the performance of its functions and the fulfillment of the objectives of the Convention.

The privileges and immunities enjoyed by the Organization and its representatives in the territory of the Party where its headquarters is established shall be determined by a headquarters agreement between the Organization and the host Party.

The Headquarters of the Organization shall be in [xxxx]. It may be transferred to another place by a decision of the Commission adopted by a [three-fourths] majority of the delegations present for the vote.

A secretariat shall be established at the Headquarter.

#### Article 6 - The Commission

1. The Commission shall elect from among its members a Chairperson and a Vice-Chairperson from among the Parties. Their term of office shall be two years and may be renewed, but a member may not serve more than two terms in the same office.

The Commission shall adopt [*by consensus*] its own rules of procedure and those of its subsidiary bodies. It shall amend them, as necessary, according to the same procedure.

2. The Commission shall meet in regular session once a year at a time and place to be determined by the Commission.

3. The Commission may meet in extraordinary session at the request of at least [xxxx] of the Contracting Parties.

4. The functions of the Commission shall be as follows:

(a) It shall determine the species for which it will subsequently adopt conservation and management measures. For this purpose, it shall specify the names of the coastal States for which such measures are to be adopted.

(b) It shall adopt conservation and management measures to achieve the objective of this Convention.

To this end, it may adopt, particularly:

- (i) rules on the zones authorized for fishing, the types of vessel authorized to fish, the number of authorized vessels,
- (ii) rules on fishing gear,
- (iii) the total allowable catches which may then be divided among the Contracting Parties concerned,
- (iv) rules on the minimum dimensions of fish that can be landed.

It may also adopt multi-annual management plans to ensure that fish stocks are maintained above the level that can produce the maximum sustainable yield.

(c) It shall develop rules for the collection, verification, reporting, storage and dissemination of data;

(d) It shall adopt effective monitoring, control and surveillance mechanisms for fishing activity in the Convention Area, including measures to prevent, deter and eliminate illegal, unreported and unregulated fishing;

To this end, it may adopt mechanisms for cooperation between the Parties in order to enhance the effectiveness of the mechanisms established by each Party;

(e) It shall adopt the budget of the Organization, its rules of procedure and those of its subsidiary bodies, as well as financial regulations;

(f) It shall guide the work of the subsidiary bodies;

(g) It shall review the effectiveness of the conservation and management measures adopted by the Commission to achieve its objectives;

(h) It shall conclude, as appropriate, cooperative arrangements with other intergovernmental organizations having an interest in the long-term conservation and sustainable use of fishery resources.

#### Article 7 - The Administrative and Financial Committee

The functions of the Administrative and Financial Committee shall be to:

(a) advise the Commission on matters relating to the functioning of the Organization, including the Secretariat,

(b) in liaison with the Executive Secretariat, prepare the budget of the Organization and consider any financial questions referred to it by the Commission.

#### Article 8 - The Scientific Committee

The functions of the Scientific Committee shall be to:

(a) assess the status of fishery resources within the competence of the Organization,

(b) provide recommendations for the management of these resources to the attention of the Commission as well as to the regional subcommittees.

#### Article 9 - The Compliance Committee

The functions of the Compliance Committee shall be to:

(a) monitor and review the implementation of conservation and management measures adopted by the Commission,

(b) provide recommendations to the Commission on this subject.

#### Article 10 – The Sub-regional Committees

The functions of a sub-regional committee shall be to:

- a) assess the state of fishery resources in the coastal waters of the States members of the Committee,
- (b) provide recommendations to the Commission for the conservation and management of these resources.

#### Article 11 - The Secretariat

1. The functions of the Secretariat shall be to:
  - (a) provide the administrative secretariat of the Organization,
  - (b) prepare the work of the Commission and its subsidiary bodies,
  - (c) implement the budget of the Organization.
2. The Secretariat shall consist of an Executive Director and such staff as is necessary for its operation.

The Executive Director shall be appointed by decision of the Commission for a term of four years [*non-renewable or renewable once*].

#### Article 12 - The budget

1. The contributions to the budget of each Party shall be adopted according to a scale adopted by consensus at the first meeting of the Commission. It may be amended by consensus.

Such contributions shall be payable in the currency of the country where the Secretariat of the Organization is located.

2. External financial contributions from intergovernmental organizations, third States or individuals may be accepted by the Commission. They shall be incorporated directly into the budget.

3. The budget shall be adopted annually by the Commission on a proposal from the Administrative and Financial Committee.

It shall be adopted by consensus. In the absence of consensus, the contributions of each Party shall be calculated on the basis of the budget of the previous year so as to meet the administrative expenses of the following year.

4. Each Party shall bear the expenses of its own delegation to any meeting convened under this Convention.

5. The financial operations of the Organization shall be conducted in accordance with the financial regulations adopted by the Commission.

6. A member of the Commission that is more than [two] years in arrears shall not participate in the adoption of decisions until all amounts due have been paid.

### **Title III: Resource conservation and management**

#### Article 13 - Conservation and management principles and approaches

In giving effect to the objective of this Convention, the Organization shall apply the following principles and approaches:

- a) Decisions on the conservation and management of fishery resources shall be adopted in a transparent, accountable and inclusive manner, taking into account best international practices;
- (b) Decisions shall be based on the best scientific and technical information available;
- c) Conservation and management measures shall be defined taking into account:
  - i) the precautionary approach, as described in article 6 of the 1995 Straddling Stocks Agreement, which provides that the absence of adequate scientific information shall not be used as a reason for postponing or failing to take such measures;
  - ii) the ecosystem approach, which is an integrated approach that takes into account the functioning of marine ecosystems to ensure the long-term conservation and sustainable use of living marine resources.

#### Article 14 - Procedure for the adoption of decisions

1. As a general rule, decisions by the Commission shall be taken by consensus. Consensus means the absence of any formal objection made at the time the decision was taken.
2. Except where this Convention expressly provides that a decision shall be taken by consensus, if the Chairman considers that all efforts to reach a decision by consensus have been exhausted:
  - (a) decisions on procedural matters shall be taken by a [simple] majority of the members of the Commission present and casting an affirmative or negative vote;
  - (b) decisions on questions of substance shall be taken by a [two-thirds] majority of the members of the Commission present and casting an affirmative or negative vote.
3. When the issue arises as to whether a question under consideration is one of procedure or of substance, that question shall be treated as one of substance.

#### Article 15 - Implementation of decisions

1. Decisions on questions of substance adopted by the Commission shall become binding on the Contracting Parties in the following manner:
  - a) The Executive Director shall notify each decision to all members of the Commission within [10 calendar days];
  - b) The decision shall become binding upon all Parties sixty days after the date of the notification made in accordance with subparagraph a).

2. Subject to paragraph 3, any Party may submit an objection to a decision on a matter of substance to the Executive Director within 30 days of the date of notification. The decision shall no longer be binding on the objecting Party.

A Party that presents an objection shall at the same time:

- a) specify in detail the grounds for its objection;
- b) where appropriate, adopt alternative measures having the same date of application and equivalent effect to that expected with the measure to which it has objected;

The only admissible grounds for an objection are as follows:

- a) the decision is incompatible with the provisions of this Convention or other applicable provisions of international law contained in the 1982 Convention or the 1995 Agreement;
- b) The decision constitutes unjustified discrimination in form or in fact against the objecting Party.

3. In the event that a decision on a matter of substance is taken on the basis of a recommendation made by a sub-regional committee, only a Party member of that sub-regional committee may raise an objection.

4. Any Party that has presented an objection may withdraw it at any time. In such a case, the decision shall become binding on that Party on the date provided for by application of paragraph 1(b) or on the date of withdrawal of the objection, whichever is the later.

5. The Executive Director shall notify all Parties as soon as possible of the receipt of each objection, the reasons for the objection and, where appropriate, of the alternative measures adopted, as well as of the withdrawal of an objection, if any.

6. Where an objection is raised, a review panel shall be established within 30 days of the end of the objection period to assess whether the reasons for the objection are justified and, if so, whether the alternative measures adopted have an equivalent effect.

The review panel shall carry out its task in accordance with the procedure set out in the Annex.

If two or more Contracting Parties submit objections based on the same grounds, such objections shall be dealt with by the same Review Panel in accordance with paragraph 2 of the Annex.

If two or more Contracting Parties submit objections based on different grounds, these objections may be dealt with by the same Review Panel if the Parties agree.

Within 45 days of its establishment, the Review Panel shall issue its findings and recommendations to the Executive Director, who shall transmit them to all Contracting Parties.

7. The findings and recommendations shall be acted upon as follows:

- a) If the findings and recommendations indicate that an action is required by the objecting Party or Parties to comply with them, the objecting Party or Parties shall make known their

acceptance or rejection within one month of receipt. Failure to reply shall be deemed to constitute tacit acceptance of these findings and recommendations.

Such acceptance, explicit or tacit, or refusal shall be communicated forthwith to all Parties.

In case of refusal, an extraordinary meeting of the Commission may be convened at the request of a [*simple*] majority of the Parties, which may include the objecting Parties.

b) If the findings and recommendations indicate that an action by the Commission is necessary, a special meeting of the Commission may be convened at the request of a [*simple*] majority of the Parties, which may include the objecting Parties.

#### **Title IV: Miscellaneous and final provisions**

##### Article 16 - Signature

This convention shall be open for twelve months from [xxx] for signature by:

a) States having participated in the Working Group established by [the decision of xxxx of the ATLAFCO Conference of Ministers];

b) States on the Atlantic coast of Africa from Morocco to Namibia that have not participated in that Working Group.

##### Article 17 - Ratification, Acceptance, Approval and Accession

This Convention is subject to ratification, acceptance or approval by the signatories.

After its closure for signature, it shall be open for accession by any non-signatory State on the Atlantic coast of Africa from Morocco to Namibia.

Instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.

##### Article 18 - Entry into force

This Convention shall enter into force [xxxx] days after receipt by the depositary of the [5-7th] instrument of ratification, acceptance, approval or accession.

##### Article 19 - Reservations and exceptions

No reservations or exceptions may be made to this Convention.

##### Article 20 - Cooperating non-Contracting Parties

African States bordering the Atlantic Ocean that are not Parties to this Convention may request the Commission to obtain the status of Cooperating Non-Contracting Party.

The decision shall be taken by the Commission by a two-thirds majority of the Parties present and casting an affirmative or negative vote.



Cooperating non-Contracting Parties may send a representative to meetings of the Commission or its subsidiary bodies. Such representative may be accompanied by experts or advisers.

During the procedure for the adoption of decisions, a cooperating non-Contracting Party may not express its opposition to a consensus and, in the absence of consensus, shall not vote.

Cooperating non-Contracting Parties shall receive the same information as Contracting Parties.

#### Article 21 - Amendments

Any Party may propose amendments to this Convention. The proposed text shall be transmitted to the Executive Director at least 90 days before a meeting of the Commission. The Executive Director shall forthwith transmit this text to the other Parties.

Amendments shall be adopted by the Commission by a majority of [three quarters] of the Parties present and casting affirmative or negative votes. The adopted amendments shall be circulated forthwith by the Depositary to all Parties and the Parties shall be invited to signify their approval by written notification.

An amendment shall enter into force for all Parties one hundred and twenty days after the receipt by the depositary of a notification by which the depositary indicates that it has acknowledged receipt of the approval of the amendment by [three-fourths] of the Parties by written notification. In the event that a Party notifies the depositary of its objection within ninety days from the date of such notification, the amendment shall not enter into force for any Party.

The depositary shall without delay notify all Parties of the receipt of notifications of approval of amendments and the date of their entry into force or, as the case may be, of notifications of objection and, where applicable, of withdrawal of objection.

#### Article 22 - Depositary

The Government of [xxx] is the depositary of this Convention and any amendments thereto.

The depositary shall register this Convention with the Secretary-General of the United Nations in accordance with Article 102 of the Charter of the United Nations.

#### Article 23 - Withdrawal

Parties may, by notification to the depositary, withdraw from this Convention.

Withdrawal shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.

Withdrawal from this Convention shall not release the withdrawing Party from its financial obligations to which it was subject prior to the withdrawal becoming final.

#### Article 24 - Settlement of disputes

1. The Parties shall make every effort to settle their disputes amicably and in particular, where a dispute is of a technical nature, by recourse to an ad hoc group of experts.

2. Where a dispute is not settled by the means provided for in paragraph 1, the provisions on the settlement of disputes in Part VIII of the 1995 Agreement shall apply *mutatis mutandis*.

In witness whereof, the undersigned Plenipotentiaries, having been duly authorized by their respective Governments, have signed this Convention.

Done at [xxx] (city), on [xxxx] (date), in the English and French languages, both texts being equally authentic.

### Management Mandate

#### 1. What is the ambition in terms of geographical coverage for this future RFMO?

It is planned that this future RFMO will be able to associate all the coastal States of the Atlantic coast of the African continent, from Morocco to Namibia. Although there are no shared stocks of small pelagic or demersal species distributed throughout this area (see point 9), the association of all these coastal States will allow harmonization and consistency of approaches to the management and conservation of the various shared stocks, better responsiveness to changing stock distributions under various influences, and will certainly provide economies of scale with one RFMO rather than several sub-regional RFMOs.

In addition, the association of all coastal States in the future RFMO will provide a platform for exchange and dialogue between countries that share the same objective of environmental sustainability in the exploitation of stocks. The initiative is in line with the history and willingness of the various coastal States of the African Atlantic coast to engage in pan-African international cooperation through ICCAT, ATLAFCO and the African Union.

#### 2. Why is it envisaged that the future RFMO will have a management mandate limited to the EEZs of the coastal States of Atlantic Africa? What about the high seas?

The fisheries that will be under the mandate of the future RFMO concern small pelagic and/or demersal species that are generally distributed over the continental shelves, and therefore within the limits of the EEZs of the coastal States because of the bathymetric profile of the western part of the African coast. There are no significant fisheries for these species in the high seas, and therefore no need for management and conservation measures. Therefore, the inclusion of high seas areas in the scope of the future RFMO is not relevant.

Known high seas fisheries, i.e. tuna fisheries and deep-sea fisheries in the South-East Atlantic are already covered by the RFMO mandate (ICCAT and SEAFO respectively).

#### 3. Coastal States will be the only legitimate ones to become contracting parties to the new RFMO. What about other flag States exploiting resources in the EEZs of African countries? (EU, Russia, China, Belize, etc.)

To the extent that the future RFMO will only consider fisheries in areas under the jurisdiction of coastal States, coastal States will continue to have sovereignty to decide on the management and conservation measures to be applied.

Fishing vessels flying the flag of other States or entities (EU, China, Russia, Belize etc.) access fishing grounds in EEZs under various forms of fisheries agreements to exploit a surplus determined sovereignly by coastal States. Under the Law of the Sea Convention, nationals of other States fishing in the EEZ of a coastal State must comply with the laws and regulations of that coastal State. As a result, flag States of distant-water fishing fleets have no competence to decide on management and conservation measures in EEZs, and thus to become Contracting Parties to the future RFMO.

#### 4. Exactly what shared stocks will the future RFMO have under its mandate?

It will be up to the decision-making body (the Commission, see question 13) of the future RFMO to decide on the basis of proposals from its contracting parties on the basis of

principles and criteria that will have been defined in advance. It does not seem appropriate to establish from the outset a list of stocks falling within the management mandate of the future RFMO, since needs may change over time. Nevertheless, it can be expected that the Contracting Parties may wish to adopt management and conservation measures as a matter of priority for shared small pelagic and/or demersal stocks which are of particular importance for the food security of African populations, given the need to achieve the sustainable development objectives (SDOs) adopted by the United Nations, and in particular SDO 14.

#### **5. How will a new RFMO improve the framework for the management of shared small pelagic and/or demersal species resources compared to the current framework?**

At present, there is no regional fisheries management organization with a mandate to adopt binding management and conservation measures. While the current management framework for shared resources allows States to cooperate, either bilaterally or through sub-regional organizations, there is no adequate provision for such cooperation to be translated into management and conservation measures and to be regularly organized. The current status of some shared resources reinforces the perception that the current management framework is not sufficiently effective to prevent overexploitation.

The establishment of a new RFMO will improve the framework for the management of shared resources by allowing the adoption of management and conservation measures that coastal State Contracting Parties will be obliged to implement. The establishment of the new RFMO will also institutionalize the framework of cooperation between the contracting parties with precise rules and modalities, allowing for the sustainability of the cooperation mechanism.

#### **6. The international community is currently negotiating an agreement for the management of marine biological biodiversity in areas of the high seas under the auspices of the United Nations (the BBNJ Agreement). How can this initiative be linked to the creation of the new RFMO?**

There is no connection between the two, they are two clearly disconnected initiatives. The future BBNJ agreement will only concern areas of the high seas, which are excluded from the mandate of the future RFMO.

### **Adoption and implementation of management and conservation measures**

#### **7. What rule will prevail for the adoption of the measures of the future RFMO? Consensus? Voting?**

It is too early to answer this question. The rules for the adoption of measures by the contracting parties will be discussed during the negotiations of the founding convention of the future RFMO. However, the rules for the adoption of measures of the future RFMO should not deviate from the rules and practice in force in the various RFMOs, with the search for consensus as a priority.

However, the most modern RFMOs provide that, in the event that consensus cannot be reached, decisions may be taken by vote in order to adopt appropriate measures for the sustainable management of the stocks in question.

**8. The RFMO will adopt conservation and management measures that are binding on its contracting parties. What happens if a Contracting Party disagrees with a measure adopted? Will it be obliged to implement it?**

The founding convention of the future RFMO will have to incorporate an objection procedure that will allow a contracting party to object to an adopted measure if it considers that its legitimate interests are being prejudiced. If the objection procedure finds in favor of that contracting party, it will naturally not be obliged to implement the measure concerned. The measure will nevertheless remain applicable to those Contracting Parties that have not objected.

The objection procedure will be incorporated in the founding Convention of the future RFMO, and will therefore be discussed during the preparatory negotiations. The practical conditions and modalities will be defined at that time. The convention may, for example, provide for the objection to be subject to a specific review by a review panel to ensure that it does not contravene the objectives of the RFMO.

**9. Stocks shall be shared between up to 4 or 5 coastal States depending on the scientific knowledge available. Will these coastal States have to involve other Contracting Parties in their discussions even if these other Contracting Parties have no particular interest in the exploitation of these stocks?**

Indeed, some fisheries concern stocks shared between a few coastal States (4 to 5 maximum, often 2 to 3). According to current knowledge, no stock is distributed from the North to the South of the African continent apart from the specific case of tunas excluded from the scope of the future RFMO.

In order to give Contracting Parties having a genuine interest in the stocks to be managed the possibility of discussing among themselves the management and conservation measures to be applied, without having to involve other Contracting Parties not concerned in their discussions, the founding Convention of the future RFMO will provide for the possibility of setting up Regional Sub-Committees by decision of the Commission. Thus, only Contracting Parties with a genuine interest in the stocks concerned will be able to become members of these Regional Sub-Committees, but not others.

The Regional Sub-Committees will submit management and conservation measures to the Commission for adoption. The founding Convention will incorporate a clear linkage between these Regional Sub-Committees and the Commission so that the proposals of the Regional Sub-Committees will only be challenged in the Commission for valid substantive reasons.

It should be noted that the establishment of Sub-Committees is a common practice in most existing RFMOs. For example, ICCAT has set up four specialized sub-commissions (tropical tunas, northern temperate tunas, southern temperate tunas, other species) to propose to the Commission recommendations specific to identified species/groups of species or geographical areas. The GFCM also works with a regional approach (the GSAs) with the same objective of giving the parties concerned the initiative on the stocks that concern them.

**10. If a contracting party to the future RFMO does not apply the measures adopted despite the fact that these measures are mandatory and it has not objected, what happens?**

As with all RFMOs, a Compliance Committee will be responsible for assessing compliance with management and conservation measures by each contracting party, and will report to the Commission.

In the event that cases of non-compliance are found, the Commission and its members will enter into a dialogue with the Contracting Party identified under the objective of remedying the situation.

## **Establishment and structuring of the RFMO**

### **11. How will the process of preparation and adoption of the founding convention of the new RFMO be carried out in practice?**

The negotiation process for the adoption of the founding convention of the new RFMO will begin once the coastal States concerned have formally adopted the principle, for example by means of a decision adopted by the ATLAFCO Conference of Ministers. This decision, taken at the highest level, will endorse the establishment of an international working group in which each coastal State will be represented.

This working group will be responsible for preparing and adopting the text of a new founding convention. This process is likely to take several years. However, it is advisable to limit it in time (4-5 years for example?) to avoid it dragging on for too long.

The study recommends that the ATLAFCO Executive Secretariat should steer this preparatory process because of its mandate and geographical coverage. Steering means supervising the progress of the negotiations of the future convention and acting as its secretariat.

At the end of this process, a founding convention will be submitted for ratification by the various States concerned. The convention will enter into force when a sufficient number of ratifications (to be defined) have been deposited.

### **12. What will happen if a coastal State decides not to become a Contracting Party to the future RFMO?**

First of all, it should be recalled that each coastal State concerned will be involved in the process of preparing the new convention. The objective of this preparation process will be to arrive at a consensus draft text, and will therefore be an opportunity for each State to ensure that its concerns are satisfactorily addressed.

Should a coastal State nevertheless decide not to ratify the Convention, this will remain its sovereign choice. Non-ratification by a coastal State could weaken the future RFMO. It is therefore a situation that should be avoided as much as possible. That said, pending ratification of the Convention by a given State, it could nevertheless be associated with the work as a cooperating non-Contracting Party.

### **13. How will this new RFMO be structured?**

The RFMO will be structured like most existing RFMOs.

The future RFMO will need to include a governing body, to be called a Commission, which will have decision-making authority. Each State Party will be represented on it. All

members will elect from among its members a Chair for the Commission and one or more Vice-Chairs.

Subsidiary bodies, responsible for preparing the work of the Commission, shall complement this structure. These subsidiary bodies are as follows:

- an Administrative and Financial Committee responsible for preparing the decisions of the Commission in these matters;
- a Scientific Committee responsible, notably, for advising on the state of the resources within the competence of the organization, for making recommendations on conservation and management measures to be taken by the Commission, and for carrying out any study related to the purpose of the organization which the Commission may entrust to it;
- a compliance committee to review whether the binding conservation and management measures adopted by the Commission are being properly implemented by States Parties and complied with by fishing vessels;
- most likely, sub-regional committees to prepare the work of the Commission on topics of specific interest to a number of specific States, i.e. when one or more fish stocks occur entirely within the waters of that group of States;
- an executive secretariat.

Such an organization must have legal personality within the meaning of international law and there will therefore be a headquarters agreement with the State where its executive secretariat will be established.

#### **14. An RFMO shall base its decisions on scientific advice. Is there a mechanism for the regular provision of such advice?**

The mechanism for the provision of scientific advice remains to be identified. At this stage, a linkage with the work of CECAF would seem to be an appropriate and relevant solution to avoid duplication of effort. Other options could be considered as appropriate.

#### **15. How will the future RFMO be financed?**

The ordinary functioning of the future RFMO will be financed by mandatory contributions from its contracting parties. Financial regulations will define the rules for the distribution of the budget. The budget of the future RFMO may be supplemented by extraordinary contributions from its contracting parties and/or by grants from development partners, in particular to finance specific activities decided by the Commission (ad-hoc working groups, for example).

#### **Insertion of the new RFMO into the current institutional framework**

#### **16. There are already regional fisheries organizations in the area (SRFC, 021 810 0000192033072087 79. FCWC, COREP, ATLAFCO, FAO-CECAF). What will happen if an RFMO is established? Same question for economic integration organizations (ECOWAS, WAEMU, ECCAS)?**

The new RFMO will not replace existing regional fisheries organizations, it will complement them. Regional fisheries organizations will indeed be in the best position to assist their Member State Contracting Parties to interact with the RFMO in identifying measures to be taken and to promote coherent and coordinated implementation of the measures adopted in relation to stock management and conservation measures. In this

regard, it will be desirable that the founding Convention of the new RFMO should provide for the possibility of concluding cooperation agreements with the various regional fisheries organizations.

In addition, the RFMO will act exclusively in the field of management and conservation of marine resources falling under its mandate. It will not intervene in the field of economic and social development of the marine fisheries sector (product development, transfer of technology, training, etc.). Nor will it intervene in the fields of aquaculture and inland fisheries. These are areas in which the regional fisheries organizations are active.

With regard to economic integration organizations, the creation of a new RFMO will be likely to further their objectives by facilitating the integration of the actions of their member States that are contracting parties to the RFMO for the management and conservation of certain shared marine resources of particular importance. Economic integration organizations will thus be able to focus on measures to unify the economic policies of the various Member States, including measures relating to the facilitation of intra-regional trade in fishery and aquaculture products.