TAKING ACTION ON CCAMLR’S PERFORMANCE REVIEW

Submitted by ASOC
Taking Action on CCAMLR’s Performance Review

1. Introduction

Pursuant to a decision adopted by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), a Panel of experts provided a Report on CCAMLR’s performance before the Twenty-seventh Annual Meeting of CCAMLR. The primary purpose of this Performance Review was to evaluate the Commission’s performance against a set of criteria, and more generally against the objectives and principles set out in Article II of the Convention.

At last year’s Meeting of CCAMLR, ASOC thanked the members of the Panel for their work and welcomed their Report. ASOC hopes that the analysis provided by the Review Panel assists CCAMLR Members to improve the effectiveness of CCAMLR measures for the conservation of Antarctic marine living resources, and that the process initiated with this first Review leads to periodical monitoring and review of CCAMLR’s performance. In this spirit, ASOC would like to contribute by highlighting some of the recommendations that merit particular attention.

The Performance Review Report (PRR) makes an evaluation of fundamental substantive and institutional aspects of CCAMLR work, which merit thorough consideration by the Commission. ASOC is committed to addressing these important points regularly, often in the context of specific recommendations or analysis, such as in the case of issues related to IUU fishing, \(^2\) to climate change, \(^3\) marine protected areas, \(^4\) and management of the krill fishery. \(^5\)

ASOC welcomes the commitment expressed by the Commission at its Twenty-seventh Meeting, as well as by SCAF, SCIC and the Scientific Committee to undertake an assessment of priority issues described in the Report. \(^6\) In this regard, ASOC would like to contribute by highlighting a number of issues. Some of them are of a procedural nature, addressing the need to streamline and make more effective the process of reviewing the recommendations of the PRR; others concern key aspects of substance, which should be placed on next year’s agenda for review. Recommendations below are addressed to each of the key bodies with responsibilities towards this review.

2. Relevant Issues for Consideration by the Commission at this Meeting

2.1 Formal and periodic review of CCAMLR’s performance

At CCAMLR XXVII, both SCIC and the Scientific Committee made useful recommendations with regard to facilitating consideration of the Performance Review assessments. SCIC recognized that recommendations contained in the report would require ongoing consideration, and it was suggested that an audit of action taken against each recommendation in the Review Panel Report should take place at annual meetings, \(^7\) or every two or three years. \(^8\) The Scientific Committee requested its incoming Chair to form a Steering Committee to develop a ‘road map’ to tackle the Review Panel’s recommendations during the forthcoming intersessional period.

It is apparent from conclusions reflected in the Report of last year’s Commission Meeting that Members are

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3 See ASOC paper “The Need for Global and Regional Responses to Climate Change”, and Performance Review Report, particularly Chapters 3.1.2 and 3.5.2.
4 See ASOC paper, “CCAMLR’s 3-Year Challenge: Delivering a Comprehensive and Representative Protected Areas Network in the Southern Ocean”, and Performance Review Report, particularly Chapters 2.4 and 3.5.5.
8 Japan drew attention to the suggestion that the Performance Review should be conducted on a regular basis and that taking this into account, an audit of Commission actions should be conducted two or three years from now so as to fall midway between the current and the next review. See CCAMLR Report 2008, paragraph 17.16.
aware of the need to set up a clear and rational process to consider the Performance Review, which facilitates analysis of all issues raised and proper assessment of progress made in improving CCAMLR’s performance in the next few years. This should not only include improving CCAMLR performance in those areas of work that are traditional for CCAMLR, but also initiating policies that CCAMLR has failed to develop so far on relevant issues such as a strategy to conserve biodiversity, or the development of recovery plans for depleted species.

CCAMLR’s Performance review should be an ongoing process. Any assessment of recommendations of the Performance Review Report should be object of a subsequent audit and/or a new Performance Review that would consider new items but also would determine whether CCAMLR has acted upon such recommendations, and which have been the results. A new Performance Review should be foreseen to take place not later than five years since the date when the current Review was agreed (2007).

Assessment by CCAMLR of the PRR will require an additional allocation of funds, also to undertake some activities possibly in the intersessional period. In addition, recommendations stemming from this review will require an increase in funding if they are to be implemented, as will the carrying out of any mid-term audit of reforms based on the Performance Review. CCAMLR should consider the recommendations from the Performance Review Panel about expanding the use of cost recovery to reflect more fully the costs incurred in providing fishing operators with access to CCAMLR marine resources and in this manner support the costs of improved CCAMLR performance.

Consideration of the PRR should be conducted in an open manner and ensure the participation of observers in this process at all times.

In this framework, and considering the suggestions already formulated, ASOC would recommend that CCAMLR Members take the following steps at this Meeting:

(a) The Commission, the Scientific Committee, SCIC and SCAF discuss whether there are any missing criteria relevant to assessing CCAMLR’s performance that have not been included in the PRR but need to be considered jointly with criteria used in the Report.

(b) The Commission establishes a Steering Committee that sets out a road map on how to address all recommendations of the Report, which should involve all bodies of the CCAMLR regime, and facilitate the participation of observers in the assessment of the PRR.

(c) This Steering Committee should establish an Action Plan to conduct the review, which would reflect priorities identified by each Committee, ensure that overlapping or cross-cutting issues are adequately addressed among all bodies, and determine how to turn these priorities into suggestions for reform, as appropriate, including a proposal for intersessional work to address all relevant issues of the PRR in a timely manner, and to prepare the work of the Commission.

2.2 Transparency

Practice by the Commission and other bodies in past years has opened a bit towards observers. However, ASOC remains concerned that CCAMLR is not following best practices in transparency and observer participation, and urges that the Commission should adopt the recommendations on transparency under section 6.1 of the PRR, especially on the need to remove the right of veto by a single Member on the participation of observers at different levels at Commission meetings, contained in rules 30 (e), 33 (b) and 33 (a).

3. Relevant Issues for Consideration by the Scientific Committee at this Meeting

While recognizing the relevance of all aspects of the 10 general recommendations made by the Review Panel, the Scientific Committee also highlighted the lack of resources to adequately meet its objectives, due to the loss of expertise to other competing national programs, and failure of some Members to send representatives to working group meetings. Given the paramount role of science for CCAMLR and the wider Antarctic Treaty System, ASOC suggests that the Commission reflect on this important matter and encourage Members to prioritize CCAMLR science as a key component of implementing the Convention.

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9 Performance Review Report, Chapter 3.5.5.
10 Performance Review Report, Chapter 3.1.1.
In view of the lack of capacity to tackle all recommendations in one year, the Scientific Committee prioritized the recommendations made on protected areas, status of living resources and ecosystem approach. ASOC agrees that these cover important issues for CCAMLR and hopes that the Scientific Committee will be able to provide advice to the Commission on these topics at this meeting, as planned.\footnote{11 Report of the Twenty-Seventh Meeting of the Scientific Committee for the Conservation of Antarctic Marine Living Resources (SC-CAMLR-XXVII), paragraph 107.}

In addition, ASOC considers that there were other important recommendations in the Performance Review Report that should be addressed as a matter of priority since they are related to the core of the duties of the Committee. In this context, ASOC would highlight three issues:

(a) **Recommendations on the quality and provision of scientific advice** (section 3.4.1 of the PRP Report): the PRP addressed valid points that affect the functioning of the Committee and the way scientific advice is provided. For this reason, ASOC urges that consideration of these recommendations should be addressed as soon as possible and should not be postponed for a later time.

(b) **Recommendations on the extent to which CCAMLR has applied a precautionary approach**: taking into account the relevance of the precautionary approach for CCAMLR practice, ASOC believes that recommendations on this issue should be considered as a matter of priority, including the recommendation to develop and adopt precautionary approaches and responses to adverse environmental conditions, such as climate change. ASOC also invites the Scientific Committee to review the very specific observations made by the PRP in relation to the application of the precautionary approach to fisheries management.\footnote{12 Performance Review Report, paragraph 102.}

c) **Transparency.** Similarly to the Commission, the Scientific Committee should revise its rules of procedure to align them with the recommendations of the review panel regarding participation of observers. ASOC is particularly concerned about the possibility of a Commission Member to veto the participation of observers in meetings of its working groups, which has been applied a few times to exclude observers from relevant working group meetings.\footnote{13 Rule 19 (e) in conjunction with 19 (d) of the Rules of Procedure of the Scientific Committee.}

4. **Relevant Issues for Consideration by SCIC at this Meeting**

4.1 **Review process**

SCIC recognized that recommendations contained in the report would require ongoing consideration, and it identified a number of issues in the PRR, mainly relevant to compliance and enforcement, that were priorities for SCIC, and other matters that deserved being brought to the attention of the Commission by SCIC.\footnote{14 CCAMLR-XXVII, paragraphs 17.4, 17.5.} Differently from the Scientific Committee, SCIC had not identified a smaller number of issues to be considered imminently, including in the inter-sessional period. It would facilitate the organization and adequate preparation of work if SCIC identified the issues of the PRR that are to be considered inter-sessionally and at the following SCIC Meeting. In this way, background papers and proposals for new or amended Conservation Measures could be submitted in due time.

ASOC welcomes SCIC’s recommendation that at its annual meetings it would conduct an audit of action taken against each recommendation in the Review Panel Report and asked the Secretariat to maintain a record of progress to facilitate future discussions. This initiative, coupled with a clear prioritization of work referred to above, would greatly contribute to assessing CCAMLR’s performance.

4.2 **Priorities**

All aspects identified by SCIC as priorities for review are of high importance, particularly as they mostly address CCAMLR mechanisms to combat illegal, unreported and unregulated (IUU) fishing, a malady that not only greatly harms marine living resources in the Convention Area, but also impairs adequate scientific assessment and management of such resources. The review of recommendations by the Performance Review Panel, and any suggestions for improved CCAMLR effectiveness, should be checked against their contribution to better combating IUU fishing. This should be the connecting thread of CCAMLR’s improved performance.

ASOC would like to highlight that, in addressing its priorities, SCIC should at all times keep in mind the...
need to achieve greater consistency between measures in the CCAMLR regime (i.e. developing common definitions of key concepts), and to enhance cooperation with international organizations with competence over shared resources or over same actors, such as vessel owners, particularly with regard to information sharing. Coordination and cooperation within and outside the regime are essential to minimizing loopholes used by IUU fishing operators.

5. Budgetary Issues for Consideration by SCAF at this Meeting

As indicated above, consideration of the Performance Review Report and subsequent implementation of its recommendations requires adequate funding. As acknowledged by SCAF, the Commission will have to allocate a sufficient amount of funds to undertake short-term tasks, such as the assessment of the PRP, but it will have to devise as well appropriate funding mechanisms to support necessary reforms for enhanced CCAMLR performance.

6. Final remarks

- ASOC considers that a year following the delivery of the Performance Review Report, it is of the essence that CCAMLR establishes a road map on how to assess recommendations made by the Review Panel and turn them into policy changes that will enhance CCAMLR’s performance. This assessment process should lead to regular monitoring of CCAMLR’s performance, including an audit of whether recommendations have led to actual CCAMLR improvements.

- ASOC appreciates the commitment of a number of Members to act upon the Performance Review and suggest new Conservation Measures, or modification thereof, to better achieve CCAMLR objectives. ASOC is committed to regularly remind CCAMLR about the Review Panel's recommendations on priority issues such as climate change, Marine Protected Areas, monitoring of the Antarctic environment, management of krill fisheries, and IUU fishing.

- ASOC recognizes that addressing the recommendations of the Review Panel will result in an ambitious work agenda. However, CCAMLR Members should be ready to accept this challenge and commit the necessary resources to enhance CCAMLR's performance.

- ASOC shares the concern of the Review Panel about the need to improve transparency in CCAMLR and facilitate the role of observers. The assessment of the Performance Review Report should engage observers at all times, and rules of procedure of the organization should be modified to ensure that observers can attend meetings of all CCAMLR bodies.

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15 CCAMLR- XXVII, paragraph 17.6 (ii).