

Regional Fisheries Management Organisations (RFMOs): Who are they, what is their geographic coverage on the high seas and which ones should be considered as General RFMOs, Tuna RFMOs and Specialised RFMOs?

by
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Introduction

Regional Fisheries Management Organisations (RFMOs) form one of the most important building blocks of fisheries management for the high seas. Among the positive developments regarding fisheries management that is regularly highlighted at fora such as the UN General Assembly and the Food and Agricultural Organization of the United Nations (FAO) is the growing number of RFMOs that have legal competence to adopt binding conservation and management measures for the high seas, and thereby the increasingly comprehensive coverage of the high seas by RFMO Convention Areas.

However, in various international fora relating to fisheries and law of the sea it is notable that the different types of RFMOs tend to cause some confusion in this context. The term RFMO is sometimes used for organisations that do in fact not adopt legally binding management measures and in other cases organisations that do adopt such measures are not always included in discussions on RFMOs. Furthermore, there is a tendency to classify RFMOs on the basis of any issue being discussed, rather than on a more universally applicable basis. This can for example lead to some RFMOs being given labels that are misleading, such as an RFMO that primarily deals with pelagic fisheries being labelled as a “deep-sea-fisheries RFMO”.

The purpose of this short article is to attempt to clarify what type of organisations should be considered to be RFMOs; to clarify the basic types of RFMOs that have legal competence for the high seas; and provide an overview of the geographic extent of the main types of RFMOs.

There are many different international management regimes around the world that apply only to areas under national jurisdiction. Some of these have formal institutional structures and other less so. An argument can be made for considering such management regimes to be RFMOs. The myriad of bilateral, trilateral and multilateral fisheries management agreements that only relate to areas under national jurisdiction is such that it would be difficult to establish an exhaustive list of RFMOs if these were included, and the number of RFMOs would then also vary greatly between any two years. Therefore, this article will only look at organisations that have legal competence for the high seas.

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What is an RFMO?

The first step in clarifying the picture is to define what we mean by the term “RFMO”. The FAO organises a forum called the Regional Fisheries Body Secretariats Network, which currently has 49 participating international bodies. The flora of regional fisheries bodies is very diverse: some of these are advisory bodies; some adopt legally binding conservation and management measures; some are focused on inland fisheries; some are focused on coastal fisheries; some are focused on the high seas; some are focused on promoting development of domestic fisheries sectors; some are focused on promoting cooperation between states regarding fisheries issues; etc.

One thing the regional fisheries bodies all have in common is that they are important for the purpose they serve. However, they are not all RFMOs. RFMOs are only a sub-set of the regional fisheries bodies.

For the purposes of this overview, we can define an RFMO as an inter-governmental organisation which fulfils two conditions. Firstly, it has competence under international law to adopt legally binding conservation and management measures regarding fisheries. Secondly, the area to which this legal competence applies includes a part of the high seas.

Such RFMOs thereby are organisations that provide a forum for states to fulfil their duty to cooperate regarding fisheries in the high seas, as set out in the 1982 UN Law of the Sea Convention and described further in the 1995 UN Fish Stocks Agreement.

This definition means that the number of RFMOs is significantly lower than the 49 bodies that currently participate in the Regional Fisheries Body Secretariats Network, due to the non-inclusion of those that do not adopt legally binding measures and/or do not have competence for high seas fisheries.

Three basic types of RFMOs

Distinguishing RFMOs from other regional fisheries bodies is not enough to have clarity on what RFMOs are and what geographic coverage they have. Looking at a map of the geographic coverage might suggest that RFMOs already have complete coverage of the high seas. However, this does not tell the whole story. The scope of what fisheries the RFMOs have a mandate for is very different.

It is useful to identify three different basic types of RFMOs:

- General RFMOs,
- Tuna RFMOs, and
- Specialised RFMOs.

The fact that these three basic types of RFMOs have a significantly different scope means that, for the result to be useful, their geographic coverage needs to be looked at separately.

Here below, we will examine each of the three basic types of RFMOs individually.

General RFMOs

Several RFMOs have a scope that is very wide. These are referred to as “General RFMOs”. Rather than having legal competence regarding specific species or groups of species, they can adopt measures for most fisheries in their respective areas.

For example, the recently established North Pacific Fisheries Commission has competence for “all fish, mollusks, crustaceans and other marine species caught by fishing vessels within the Convention Area” with the exception of those that are explicitly excluded. A similar provision setting out the mandate of the North East Atlantic Fisheries Commission actually excludes only resources “in so far as they are dealt with by other international agreements”, making the scope even wider.

General RFMOs have competence regarding all fishery resources that are not explicitly excluded from their competence. Exactly how this is set out in their legal mandate is not uniform, but the same principle of general application makes them different from other RFMOs.

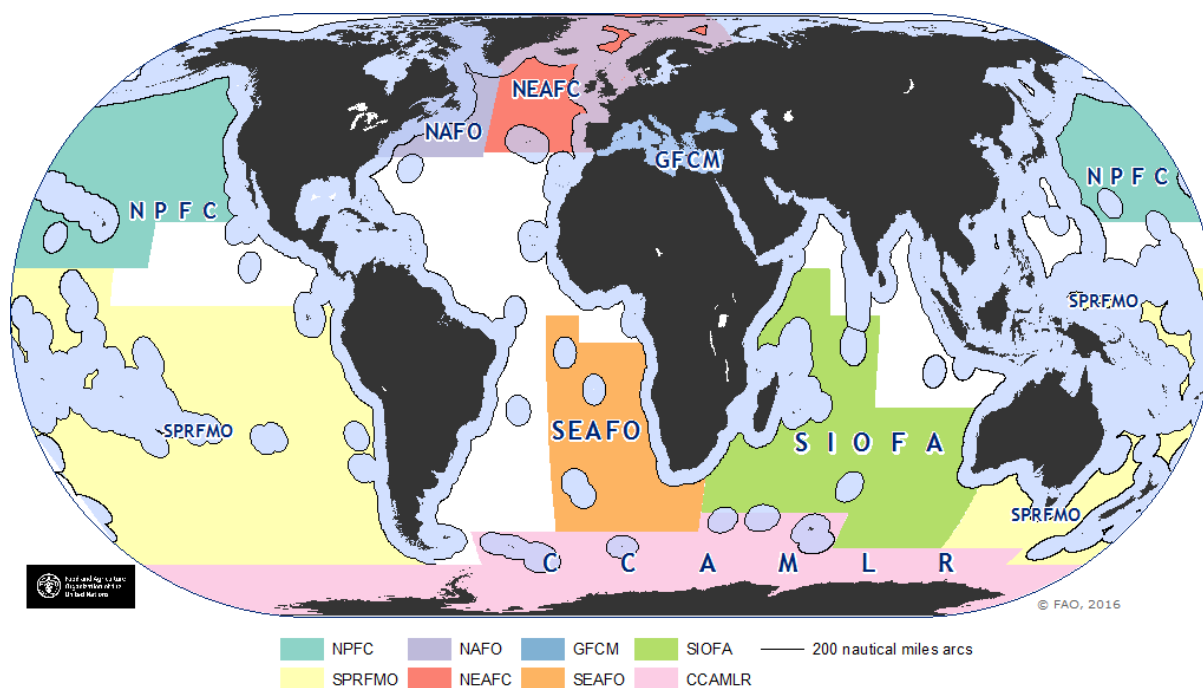
One general RFMO can manage many different types of fishing activities, such as bottom fishing, pelagic and benthopelagic fishing. These fisheries use many different types of fishing gear and target many different stocks and species, some of which straddle the high seas and areas under national jurisdiction while others are discrete high seas stocks.

The period since the 1995 UN Fish Stocks Agreement was adopted has seen several new General RFMOs established, resulting in there now being such organisations in place in most areas of the high seas.

At the time of writing (July 2016) there are 8 General RFMOs:

- The Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR)
- The General Fisheries Commission for the Mediterranean (GFCM)
- The North East Atlantic Fisheries Commission (NEAFC)
- The North Pacific Fisheries Commission (NPFC)
- The Northwest Atlantic Fisheries Organization (NAFO)
- The South East Atlantic Fisheries Organisation (SEAFO)
- The South Indian Ocean Fisheries Agreement (SIOFA)
- The South Pacific Regional Fisheries Management Organisation (SPRFMO)

The geographic coverage of General RFMOs can be seen on the map below. This demonstrates that most areas of the high seas where there are significant fisheries are subject to the competence of General RFMOs to set legally binding conservation and management measures.



Map 1. The geographic coverage of General RFMOs. The map was prepared by the FAO.

It should be noted that CCAMLR is more than a General RFMO, as its mandate goes beyond fisheries management. However, whatever else it is, CCAMLR does serve the function of a General RFMO and is therefore rightfully included on a list of such organisations.

In addition to the 8 existing General RFMOs, there are initiatives ongoing relating to the possibility of establishing a new RFMO or converting an existing advisory body to an RFMO in at least two separate regions. It is therefore likely that the near future will see the number of General RFMOs grow even further and the proportion of the high seas that are not subject to the competence of a General RFMO get even lower.

Having said that, it should be noted that the aim should not be geographic coverage for the sake of geographic coverage, but rather to ensure that there is an appropriate management framework in place for significant high seas fisheries. For regions where there are not significant levels of high seas fisheries, or where there are unrelated obstacles to establishing General RFMOs, it may not be worthwhile making the effort to establish and maintain such an organisation. The point where the geographic coverage of General RFMOs can be said to be comprehensive does therefore not necessarily have to be when absolutely all parts of the high seas are covered by General RFMOs.

In fact it can be argued that the current coverage, while clearly not fully geographically comprehensive, is actually close to being comprehensive in practice if one takes account of areas with low levels of high seas fishing and areas where there are unrelated obstacles to establishing General RFMOs.

Tuna RFMOs

There is a very good reason for why General RFMOs are not the only type of RFMO. Some fisheries have special characteristics that make it more appropriate to manage them through

separate organisations. This certainly applies to fishing for species such as tuna, which are highly migratory and require management bodies that cover larger areas than most General RFMOs do.

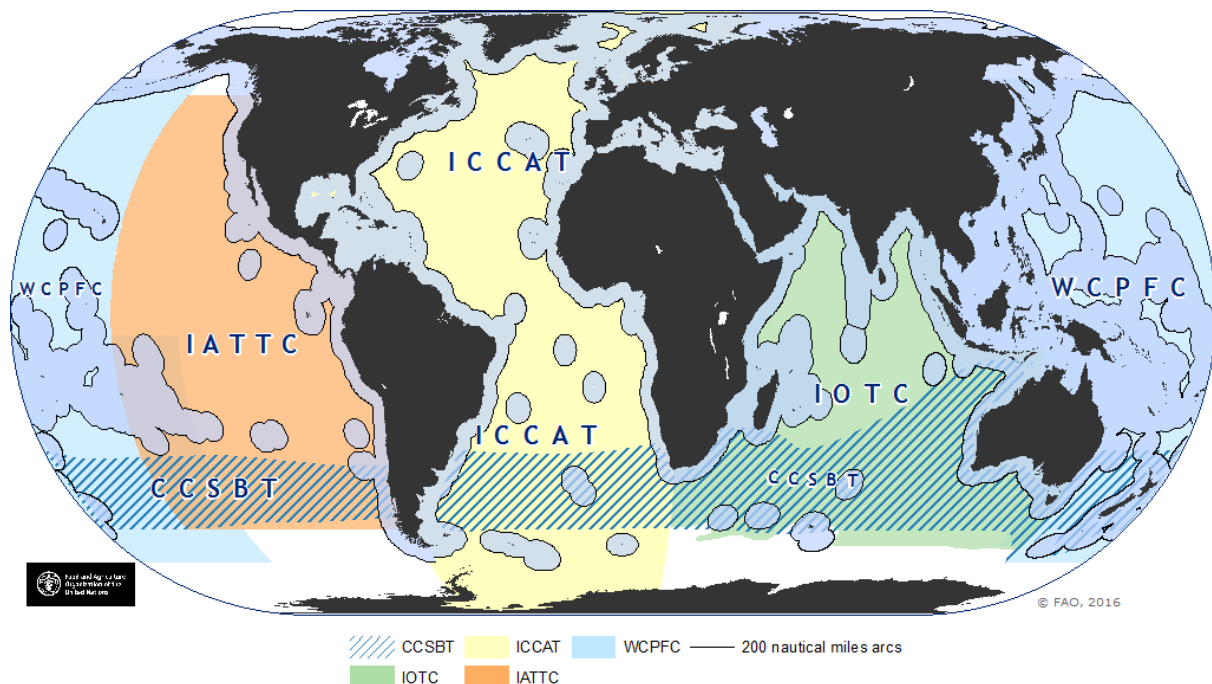
Because of the distinct nature of tuna fisheries, all over the world specific RFMOs have been established explicitly to manage fisheries for tuna and tuna-like species. With one exception, Tuna RFMOs are not species-specific RFMOs, but address the management of fisheries for many different species of tuna.

While the scope of General RFMOs is that it applies to all fisheries resources that are not explicitly excluded from their mandate, Tuna RFMOs have a narrower mandate that relates to “tunas and tuna-like species”, “highly migratory fish stocks” or similar.

At the time of writing (July 2016) there are 5 Tuna RFMOs:

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

The geographic coverage of Tuna RFMOs can be seen on the map below. This demonstrates that Tuna RFMOs already cover the areas of the high seas where the management of tuna fisheries is relevant. The geographic coverage of Tuna RFMOs can therefore be said to be comprehensive.



Map 2. The geographic coverage of Tuna RFMOs. The map was prepared by the FAO.

The Tuna RFMOs operate in different regions of the world. However, experience has shown that several of the same principles apply to them all and several of the challenges they face are common challenges or even joint challenges. For this reason a process of cooperation and coordination among the five Tuna RFMOs (the so-called “Kobe-process”) was established some years ago.

It can be argued that Tuna RFMOs are simply a sub-set of Specialised RFMOs, and that RFMOs should therefore be put into the two types of “General” and “Specialised”. While this may be technically correct, it does not serve the purpose of adding clarity to the picture of what types of RFMOs exist. The Tuna RFMOs are a very distinct group and significantly different from the Specialised RFMOs. It therefore certainly serves the interests of adding clarity to maintain Tuna RFMOs as a separate type of RFMO.

Specialised RFMOs

Like Tuna RFMOs, Specialised RFMOs are different from General RFMOs in that they have a narrower legal mandate that relates to specific types of fisheries or species that are explicitly included in their mandate.

The North Atlantic Salmon Conservation Organization (NASCO) and the North Pacific Anadromous Fish Commission (NPAFC) are examples of Specialised RFMOs. They clearly fulfil the criteria to be considered as RFMOs as they have legally binding measures regarding fisheries in the high seas. However, they have very specific mandates that relate to anadromous fish. Another example would be the Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea (CCBSP).

In addition to these three, which should be considered as RFMOs as they have a legal mandate to set conservation and management measures for the high seas, there are a number of other organisations that could potentially be considered as RFMOs. The North Atlantic Marine Mammal Commission (NAMMCO) is one such organisation. It is a regional organisation with a mandate relating to management that includes the high seas. However, NAMMCO’s scope relates to marine mammals and not fish. Similarly, the International Whaling Commission has a management mandate for whales, and is also not a regional organisation but a global one. These examples demonstrate that it is possible to come to different conclusions regarding which organisations should be considered as Specialised RFMOs.

It should be noted in this context that Specialised RFMOs deal with specific issues as they arise. This means that there is not really any such thing as comprehensive or limited geographic coverage of Specialised RFMOs. There is no reason to aim for global coverage of any particular type of Specialised RFMO. Rather, they should be established and maintained as issues for them to address arise.

This fact, along with the different nature of the existing Specialised RFMOs and the uncertainty on what organisations should be considered as Specialised RFMOs, means that no map has been produced for this overview to show the geographic coverage of Specialised RFMOs. It suffices to say that at the time of writing (July 2016) there are at least 3, and possibly 4, 5 or even more, Specialised RFMOs.

Conclusion

There are many intergovernmental organisations that work on fisheries issues, which are referred to in FAO terminology as Regional Fishery Bodies. However, most of them should

not be considered as RFMOs. For the purpose of this overview, which is looking to competence for management on the high seas, RFMOs are only the organisations that have legal competence to adopt binding conservation and management measures for fishing on the high seas.

RFMOs are of three different basic types:

- General RFMOs,
- Tuna RFMOs, and
- Specialised RFMOs.

General RFMOs have a mandate that relates to all fishery resources that have not been explicitly excluded from their scope, while the other two types have a mandate for those species that have been explicitly included in their scope.

At the time of writing (July 2016), there are 8 General RFMOs, 5 Tuna RFMOs and at least 3, and possibly 4, 5 or even more, Specialised RFMOs. This means a total of at least 16 RFMOs.

The geographic coverage of RFMOs is nearing the point of being comprehensive, after a number of General RFMOs have been established in recent years.

For General RFMOs, the geographic coverage is not quite comprehensive, but is getting close to that and might in fact possibly be considered for practical purposes as comprehensive. Tuna RFMOs have had a comprehensive coverage for some time and Specialised RFMOs are of such a nature that the question of the comprehensiveness of their geographic coverage is not really applicable.