Report of the

Expert Consultation on Legal & Administrative Facets in Implementation of BOB RPOA-IUU

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26 March 2026

Report of
Expert Consultation on Legal & Administrative Facets in Implementation of BOB RPOA-IUU

An Academic Exploration with Professionals & Practitioners

BOBP-IGO Secretariat, Chennai

26 Mar 2026 I 1030 – 1700 Hours

Bay of Bengal Programme Inter-Governmental Organisation (BOBP-IGO)
91, Saint Mary's Road, Abiramapuram, Chennai - 600 018. INDIA

About the Organisers

Food and Agricultural Organization of the United Nations (FAO)

FAO is a specialized UN agency founded in 1945 to combat global hunger and promote sustainable agricultural development. Headquartered in Rome, FAO works with governments and international organizations to improve food security, nutrition, and rural livelihoods. It plays a key role in fisheries and aquaculture governance, developing international agreements

Bay of Bengal Inter Governmental Organisation (BOBP-IGO)

The BOBP-IGO is a regional fisheries advisory body with Bangladesh, India, the Maldives and Sri Lanka as its contracting parties. It is mandated to enhance cooperation amongst its member countries and other countries (especially, Indonesia, Malaysia, Myanmar and Thailand) for sustainable fisheries management in the Bay of Bengal region. The BOBP-IGO Secretariat is located in Chennai. The Department of Fisheries, Government of India is the nodal agency from India and the hosting agency.

Global Environmental Facility (GEF)

The Global Environment Facility (GEF) is an international financial mechanism established in 1991 to support projects addressing global environmental challenges, including biodiversity conservation, climate change, international waters, land degradation, and pollution. The GEF provides grants and technical support to developing countries through partnerships with governments, international organizations, and civil society institutions.

Norwegian Agency for Development Cooperation (NORAD)

Norwegian Agency for Development Cooperation (NORAD) is the Norwegian government's agency for international development cooperation. NORAD supports projects and programmes related to sustainable development, climate change, biodiversity conservation, fisheries, poverty reduction, governance, and humanitarian assistance through funding, technical cooperation, and capacity-building initiatives worldwide.

Report Preparation

This report on the "Report of the Expert Consultation on "Legal & Administrative Facets in Implementation of BOB RPOA-IUU An Academic Exploration with Professionals & Practitioners".

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Acronyms

ABNJ	Areas Beyond National Jurisdiction
ALDFG	Abandoned, Lost, and Discarded Fishing Gear
BBNJ	Biodiversity Beyond National Jurisdiction
BOBLME	Bay of Bengal Large Marine Ecosystem
BOBP-IGO	Bay of Bengal Programme Inter-Governmental Organisation
CCRF	Code of Conduct for Responsible Fisheries
CDS	Catch Documentation Scheme
CMFRI	Central Marine Fisheries Research Institute
EEZ	Exclusive Economic Zone
EAFM	Ecosystem Approach to Fisheries Management
FAO	Food and Agriculture Organization
FSI	Fishery Survey of India
GEF	Global Environment Facility
IMO	International Maritime Organization
IMBL	International Maritime Boundary Line
IPOA-IUU	International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing
ITLOS	International Tribunal for the Law of the Sea
IOTC	Indian Ocean Tuna Commission
IUU	Illegal, Unreported and Unregulated
MCS	Monitoring, Control and Surveillance
MZI Act	Maritime Zones of India Act
NPOA-IUU	National Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing

NPOA-MCS	National Plan of Action on Monitoring, Control and Surveillance
NPOA-SSF	National Plan of Action for Small-Scale Fisheries
NORAD	Norwegian Agency for Development Cooperation
PSMA	Port State Measures Agreement
RFAB	Regional Fisheries Advisory Body
RFMO	Regional Fisheries Management Organization
RPOA-IUU	Regional Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing
SDG	Sustainable Development Goal
SIOFA	Southern Indian Ocean Fisheries Agreement
SOPs	Standard Operating Procedures
SSF	Small-Scale Fisheries
TAC	Technical Advisory Committee
UNCLOS	United Nations Convention on the Law of the Sea
UNODC	United Nations Office on Drugs and Crime
VMS	Vessel Monitoring System
WTO	World Trade Organization

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Background and Introduction

Dr. P. Krishnan, Director, BOBP IGO, gave a background to the session. He said that FAO is the international UN organization responsible for developing International Plans of Action (IPOAs) across thematic areas. Combating IUU fishing is one such area, alongside a few other instruments. All countries, in principle, agree to this overarching policy framework.

Following the IPOA, the logical next step is the development of National Plans of Action (NPOAs). In the case of IUU fishing, Sri Lanka, Maldives, and Bangladesh have already developed their NPOAs, while India currently has a draft under preparation. The Bay of Bengal Programme Inter-Governmental Organisation (BOBP-IGO) has been supporting this process.

However, given that fisheries activities transcend national boundaries, it is clear that national-level plans alone are insufficient. This necessitates a regional framework, leading to the development of a Regional Plan of Action (RPOA). Globally, this is the fifth such regional plan.

BOBP-IGO, a regional fisheries body established in 1978 as a UN initiative and later transformed into an intergovernmental organization in 2003, comprises four member countries. FAO serves as the depository of its agreement.

The RPOA-IUU under BOBP-IGO was developed through extensive consultations over three years across multiple countries. A draft was finalized and agreed in principle by 2021 but was not immediately presented for formal ratification. The process was revived in 2023, and by November 2025, all the four countries had endorsed and adopted the RPOA.

The RPOA outlines 20 agreed actions and is set for implementation over the period 2025–2030, aligning with SDG targets and other international commitments. BOBP-IGO will serve as the Secretariat for implementation, which is consistent with similar arrangements in other regions, although some variations exist (e.g., ASEAN and other Southeast Asian arrangements with separate secretariats).

The RPOA is closely aligned with key international instruments, including the IPOA-IUU, the Code of Conduct for Responsible Fisheries (CCRF), the Voluntary Guidelines for Small-Scale Fisheries (SSF Guidelines), and the Port State Measures Agreement (PSMA).

A key factor enhancing the significance of this RPOA is its integration with the Phase II of the Bay of Bengal Large Marine Ecosystem (BOBLME) Project. This regional project, funded by GEF and NORAD and implemented by FAO, includes IUU fishing as a major component. Countries have agreed that initial implementation of the RPOA will be supported under this project, with funding secured at least until 2028.

While the RPOA defines actions, it does not set quantitative targets. In contrast, the BOBLME project establishes a measurable goal of achieving a 20% reduction in IUU fishing by 2028 across the broader Bay of Bengal region, which includes additional countries such as Thailand, Malaysia, and Indonesia.

IUU fishing operates at the intersection of sovereignty, sovereign rights, and responsibilities, and is closely linked to the livelihoods of coastal communities. It also contributes to transboundary conflicts. The RPOA is therefore envisioned not as a regulatory burden, but as a cooperative solution framework.

BOBP-IGO functions in close collaboration with national governments, with its governing council comprising senior officials such as Ministers or Secretaries of Fisheries. This ensures that all processes are undertaken with strong national ownership and confidence.

Given that the IPOA process began nearly a decade ago and regional discussions started in 2019, the current focus is not on revising the RPOA text, but on effective implementation under existing conditions.

BOBP-IGO has been actively supporting member countries in aligning national laws with international commitments. This includes:

- Legal readiness assessments for implementing the Ecosystem Approach to Fisheries (EAFM), including collaborative work with the Government of India and FAO.
- Supporting the development and legal alignment of National Plans of Action for Small-Scale Fisheries (NPOA-SSF).
- Conducting gap analyses related to the Port State Measures Agreement (PSMA).

These efforts are carried out in close partnership with governments, with all outputs undergoing national validation processes prior to publication.

The BOB RPOA-IUU

The structure of the Bay of Bengal RPOA-IUU begins with contextual framing, outlining its alignment with international instruments, followed by a set of 20 agreed actions for implementation.

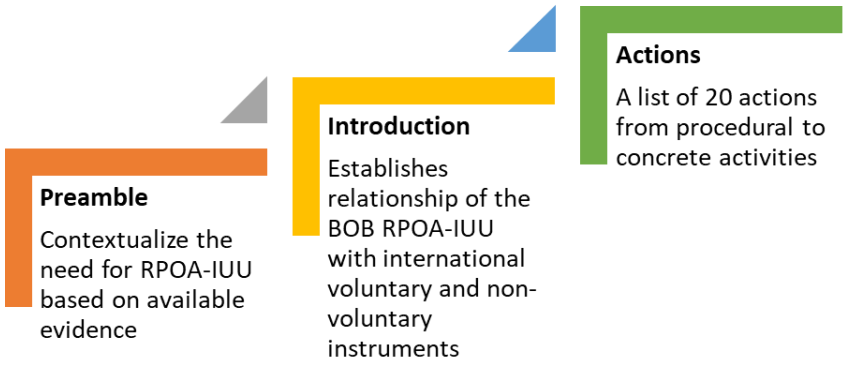


Figure 1: Structure of BOB RPOA-IUU

A thematic classification of the 20 actions under the RPOA has been developed to support implementation. While this classification is not explicitly part of the RPOA text, it serves as a practical framework to guide discussions and operationalization. The classification is being refined in preparation for upcoming institutional processes.

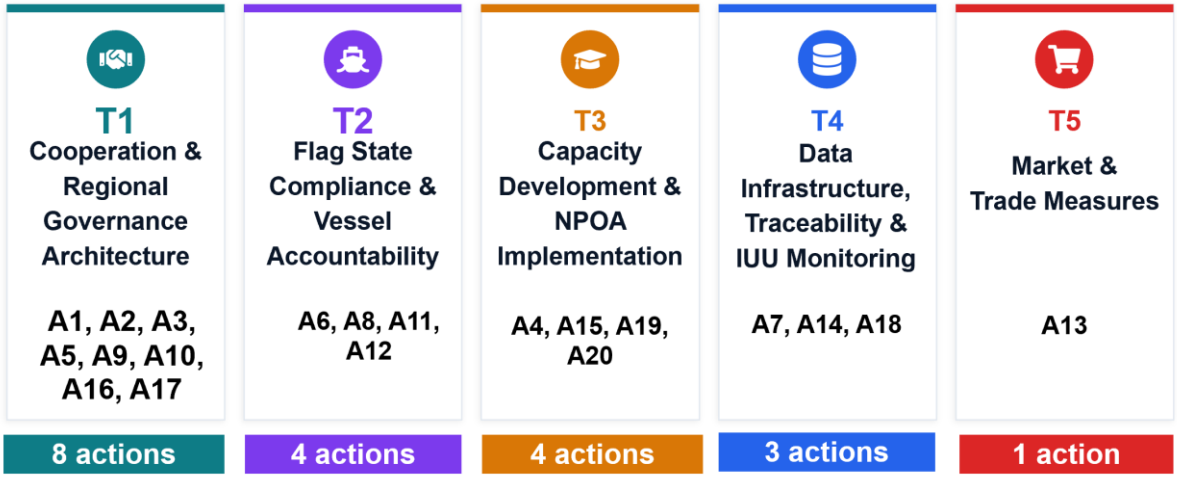


Figure 2: Thematic classification of BOB RPOA-IUU Actions

The next Technical Advisory Committee (TAC) meeting is scheduled for 16–18 April, 2026. This statutory body of BOBP-IGO includes heads of national scientific institutions such as FSI and CMFRI, along with representatives from similar institutions in member countries and other nominated experts. This will be followed by the Governing Council meeting on 28–30 May in Mumbai, where senior government representatives - Ministers, Secretaries, or their nominees - will participate.

The understanding developed through current discussions will inform the preparation of an implementation document, which will be presented to both the TAC and the Governing Council for formalization. In this context, it is important to develop a clear and informed perspective to provide appropriate inputs.

For implementation purposes, the 20 actions have been grouped into five thematic workstreams:

Actions in the RPOA-IUU

1. Cooperation, Regional Governance, and Architecture (8 actions)

This includes the formal adoption of the RPOA and designation of BOBP-IGO as the Secretariat, which has already been completed. Ongoing and upcoming actions include notification of national focal points, strengthening inter-agency cooperation at national, regional, and international levels, and informing stakeholders and relevant organizations about the RPOA.

Additional priorities include reviewing and implementing National Plans of Action on Monitoring, Control, and Surveillance (NPOA-MCS), which are currently under development; preparing national inspection plans; harmonizing port State measures; establishing joint regional MCS mechanisms; and creating formal inter-agency collaboration frameworks involving fisheries, ports, coast guard, immigration, and marine police. Mechanisms for information sharing will also be established.

2. Flag State Compliance and Vessel Accountability (4 actions)

Actions under this theme include aligning national policies with international standards for vessel marking and identification, including gear marking. FAO guidelines exist in this area, though national variations need to be harmonized.

Additional measures include compliance with international standards on abandoned, lost, and discarded fishing gear (ALDFG), and establishing or strengthening national IUU vessel lists, with improved harmonization and data sharing at the regional level.

3. Capacity Development and NPOA-IUU Implementation (4 actions)

This focuses on developing and implementing NPOA-IUU, utilizing regional MCS toolboxes, and strengthening capacity for monitoring, control, surveillance, and data sharing. It also includes building capacity for flag State and port State measures, as well as periodic evaluation of implementation progress.

4. Data Infrastructure, Traceability, and IUU Monitoring (3 actions)

Key actions include establishing a regional record of fishing vessels. FAO maintains a Global Record of Fishing Vessels on a voluntary basis, three member countries are already contributing, and India is expected to join shortly. A regional record is considered essential for effective information sharing.

Other actions include developing harmonized catch documentation schemes in line with international guidelines, and monitoring the magnitude and impact of IUU fishing.

5. Market-Related Measures (1 action)

This focuses on adopting international best practices for traceability. Traceability is increasingly influencing global trade, and there is a need for harmonized regional approaches to ensure consistency and compliance.

The implementation of these workstreams would follow a phased approach:

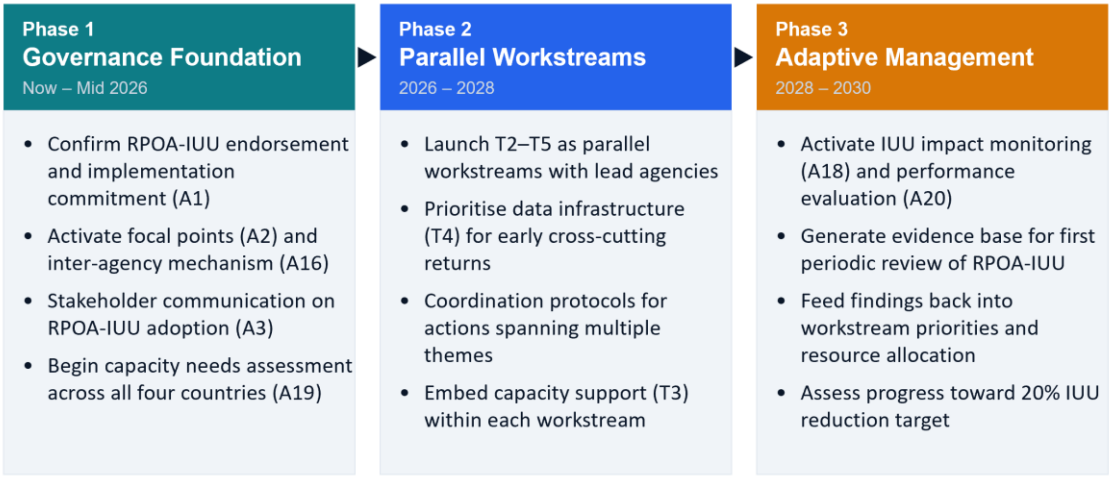


Figure 3: The Three Phases of Implementation

Dr. P. Krishnan explained that the meeting was to gather perspectives from experts to understand how governments may view the implementation process. A key objective was to identify immediate actions that can be undertaken within existing frameworks. At the same time, guidance is sought on areas requiring strengthening, particularly in addressing legal gaps. Such inputs will support the preparation of recommendations to governments, enabling necessary adjustments that can strengthen implementation in the long term.

Based on preliminary internal discussions, a set of questions had been developed. These are intended as starting points and may be refined, expanded, or replaced based on expert inputs. The questions had been grouped into seven broad categories:

A. Legal Character of the Instrument

B. Jurisdiction, Spatial Scope & Alignment with International Obligations

C. BOBP-IGO Institutional Authority

D. Domestic Integration, Functional Mapping & Inter-Agency Authority

E. Due Process & Liability

F. Data Sharing & Evidentiary Validity

G. Financial Commitments

He next posed two foundational questions for initial reflections and then went on to the detailed sets of questions.

1. *What forms of legal backing—legislative, regulatory, or policy-based are required to ensure that enforcement remains sustainable, consistent, and legally defensible beyond the immediate BOBLME project period (2026–2028)?*
   The concern is to avoid a situation where implementation is driven primarily by project funding and momentum, but later faces legal or institutional challenges that hinder continuity.

2. What are the implications for the domestic administrative and legal framework, including whether implementation creates novel obligations on the State, its agencies, or its citizens that go beyond what is currently provided for under existing domestic law?

   Specifically, does implementation create new obligations for the state, its agencies, or its citizens that go beyond existing domestic legal provisions?

Because of the multiple, sometimes parallel discussions, the discussions are reported without identifying the speakers.

Starting off, it was noted that that targets are specified only within the project framework and not within the voluntary guidelines. This raises an important question: in the absence of clearly defined targets within the voluntary instrument, what is the basis on which the instrument itself will be structured?

This initiative has emerged through a consultative process at the ministerial level. Therefore, a fundamental question arises regarding the legal character of the instrument - how it is to be understood in legal terms.

Second, there was a reference to the tension between sovereignty and livelihood. From the perspective of international law, particularly definitions of "instrument" under treaty frameworks (such as those reflected in international conventions), sovereignty is typically grounded in formal legal agreements.

However, livelihood concerns are not solely determined by formal legal structures. They are also shaped by customary practices and socio-economic realities. This creates a distinction between legally defined sovereignty and the broader, often informal, dimensions of livelihood, which may not neatly fit within the same legal framework.

Third, with regard to the alignment with small-scale fisheries, it is important to consider the scope of the instrument. If the instrument applies across maritime zones—including Exclusive Economic Zones (EEZs) as well as Areas Beyond National Jurisdiction (ABNJ)—then its implications may extend beyond national legal frameworks.

In such a case, there may be a need to re-examine how maritime zones are treated within national contexts, particularly in relation to conflicts or overlaps. This is especially relevant in the case of India, and potentially for other member countries such as Sri Lanka, Maldives, and Bangladesh, depending on their respective legal and policy approaches.

In India, unlike some other countries where the legal framework is more developed, the Ministry of Fisheries historically did not have a dedicated law governing fishing activities beyond territorial waters. This includes both the Exclusive Economic Zone (EEZ), beyond 12 nautical miles, and the high seas.

In such a situation, the absence of a specific law has, in practice, also shaped the regulatory space. However, this position is now evolving. The Government of India has recently introduced guidelines and regulations covering both deep-sea fishing and activities within the EEZ. In the absence of a dedicated fisheries legislation, these measures have been issued under broader maritime legal frameworks.

These guidelines incorporate key elements such as combating IUU fishing, data sharing, monitoring, control and surveillance (MCS), and related regulatory interventions.

With respect to definitions, the RPOA-IUU adopts the definition of illegal fishing as provided under the International Plan of Action (IPOA-IUU). In the Indian context, there is currently no standalone legal definition of IUU fishing in statutory law.

However, policy documents such as the National Marine Fisheries Policy (2017) reference the IPOA-IUU framework. Similarly, emerging regulatory frameworks and policy discussions indicate that a National Plan of Action on IUU fishing is under development, which is expected to formally incorporate and define IUU fishing. At present, while there is no singular, comprehensive legal definition, India generally follows and accepts internationally recognized definitions and practices in addressing IUU fishing.

With respect to IUU fishing, it was mentioned that a concrete jurisprudential reference exists only in limited decisions, where the regime and the definition of IUU fishing are touched upon (e.g. ITLOS decision). Even there, only three elements are broadly identified, and there is general agreement around them: the manner and method of fishing, the gear used, and the intent—whether deliberate or negligent. However, whether negligent use falls within IUU fishing remains a grey area, and there has been reluctance to address it definitively. Some states, nevertheless, do include such aspects within their national legislation.

There are also broader complexities in fishing practices across jurisdictions, making the issue even more unclear. Given this ambiguity, it may not be productive to delve too deeply into definitional debates. Instead, a practical approach would be to rely on existing understandings of IUU fishing as reflected in relevant international instruments to which India is a party. From these, one can identify commonly accepted elements and develop a working definition for present purposes. Such a definition must be carefully framed to avoid conflict with existing frameworks, including FAO instruments and other applicable legal provisions, and should align with ongoing work within national institutions such as the Department of Fisheries.

At present, these frameworks are still evolving, and what exists are largely statements of intent rather than binding agreements. Instruments like IPOAs and RPOAs reflect this—they are not legally binding but derive their strength from the extent to which states commit to implementing projects and targets under them. Their effectiveness ultimately depends on the level of participation and compliance by member states.

From a legal perspective, it is important to understand how different actors engage with these frameworks whether as international lawyers, academics, or practitioners. For implementing agencies, especially those receiving funding from bodies such as the FAO or other sources, there is an obligation to adhere sincerely to the conditions attached to such funding. This applies across sectors, including maritime governance.

A key consideration is the identification of maritime zones and the applicable legal regimes within them. It is important to note that national jurisdiction has limits, and there are reservations about extending domestic frameworks to areas beyond national jurisdiction. In particular, the BBNJ framework does not directly address IUU fishing, except in limited contexts related to environmental protection.

Areas beyond national jurisdiction lie outside the territorial reach of states, and domestic laws cannot be directly applied there. At best, states can regulate vessels flying their flag by imposing standards through national legislation and ensuring compliance through mechanisms such as port state measures and maritime safety and security regulations.

One of the central challenges in addressing IUU fishing under international law is enforcement, particularly the boarding of vessels. Even if a vessel is suspected of engaging in IUU fishing, a state cannot board it without proper authorization. Boarding is permissible only with the consent of the flag state or under the provisions of a regional agreement where states have mutually agreed to such enforcement actions. Without this, boarding constitutes a violation of international law. Given this legal context, extending national or regional frameworks into areas beyond national jurisdiction becomes highly complex.

It was pointed out that when earlier drafts of regional instruments were discussed, frameworks like BBNJ were not yet in place. At that time, the primary operational mechanisms in such areas were through regional fisheries management organizations, which operate based on agreed mandates among member states. However, there has been a recognition of the need to keep such frameworks flexible and open to future developments. Countries in the region, including Maldives, Sri Lanka, and India, are at different stages of developing their legal and policy frameworks on these issues. As these evolve, there may be greater clarity and scope for action. Until then, activities in areas beyond national jurisdiction will remain limited, with a cautious approach guided by existing legal constraints and emerging trends.

At this stage, the RPOA represents a stated intent by the participating countries. The task now is to guide countries on how to operationalize this intent in terms of what can be implemented immediately, what can be pursued in the medium term, and what may need to be deferred to a longer-term horizon.

It is also important to recognize that certain international frameworks such as the BBNJ Agreement explicitly exclude fisheries and fisheries-related activities. These frameworks primarily address marine genetic resources and related areas, and therefore may not be directly applicable to fisheries governance.

A. Legal Character of the Instrument

1. What is the legal status of a voluntary regional instrument once endorsed by a country? Does endorsement create any legal or quasi-legal obligations?
2. How does the BOB RPOA-IUU differ from treaties in terms of domestic applicability and enforceability?
3. What approach should be adopted in case of inconsistency between RPOA measures and existing international commitments?

While the RPOA itself was a voluntary instrument and only reflects a collective statement of intent, its effectiveness and practical value would depend entirely on the extent to which it is translated into concrete actions and implementation programmes. If the document remains at the level of intent without corresponding action, it is likely to remain symbolic. Therefore, emphasis must be placed on defining implementation pathways, programmes, and measurable outputs. It was important to clarify that the commitments being discussed are based on what countries themselves have expressed. These are not binding obligations, but rather indicative of intent. When countries articulate such positions, they signal a willingness to strive toward certain outcomes, rather than committing to strict, enforceable targets.

This distinction is significant. If commitments were framed as firm obligations, countries would be subject to scrutiny regarding achievement of targets within defined timelines something they are generally not prepared to accept. As a result, issues such as baseline data and measurable indicators remain complex and unresolved.

As an intergovernmental process, the scope of action is inherently limited by what member states are willing to endorse. It is not a question of willingness alone, but of structural constraints countries may not agree to commitments that go beyond their current capacities or political comfort.

Therefore, it is essential to ground targets and actions in what is realistically achievable. This may involve framing commitments in terms of progressive or “working” targets, rather than rigid benchmarks.

The RPOA should be understood as a policy document—an expression of intent. On its own, it does not produce outcomes unless it is translated into actionable steps. Implementation will require identifying specific actions, securing agreement from governments, and aligning these with existing national priorities.

Countries are unlikely to make explicit financial commitments in formal settings such as regional meetings. Instead, the approach will involve identifying a set of actions and mapping these

against existing national schemes and programmes. In many cases, relevant activities are already underway within countries, albeit under different frameworks and funding streams.

The role of the RPOA, therefore, is partly to consolidate and reference these ongoing efforts, rather than to create entirely new initiatives. Some actions may also be supported through project-based funding mechanisms.

It is also recognized that countries may selectively implement actions based on their capacities and priorities. This is a common approach across regions, where national implementation often reflects existing activities, with documentation and reporting aligned to regional frameworks.

At the same time, there is a need to balance practicality with ambition. While it is important to remain grounded in existing capacities, the framework should not be overly constrained by current limitations. Differences across regions in terms of data systems, monitoring capacity, and institutional strength must be acknowledged.

Ultimately, the process will continue to evolve through technical discussions and high-level consultations among member countries, including upcoming meetings where further deliberations on implementation will take place.

Reworking the MZI Act was considered an important and essential step. Fishery management inventory (FMInv) scores that had been developed across four countries to assess gaps in fisheries governance, to identify deficiencies in laws and regulations, and could be revisited particularly in terms of those indicators related to IUU fishing.

The concept of illegality itself depended on the existence of a legal framework; without such a system, activities cannot strictly be termed illegal. This makes it equally important to consider the “unreported” and “unregulated” dimensions of IUU fishing. In the context of the present discussion, which is focused on India, it was suggested that these inventory scores could be used to identify regulatory and legal gaps within the country.

While acknowledging the legal limitations in extending domestic legal frameworks to such areas when they are not explicitly covered under existing provisions, a practical reality was highlighted: many countries’ fishers, including those from India, are already operating in ABNJ, often without adequate legal backing. Recent amendments to the MZI Act have begun to address this issue to some extent, for instance by introducing requirements such as permissions or passes for operations in these areas. However, he stressed that the legal protection available to Indian fishers operating in ABNJ remains limited, especially when compared to larger, technologically advanced fleets from countries such as China, Korea, and European nations that are active in regions like the Central Arabian Sea and the Bay of Bengal.

Indian vessels are relatively small and less equipped, which places them at a disadvantage. Prior to recent regulatory developments, there were virtually no provisions to protect Indian fishers in the high seas. In the event of an incident, they had little to no legal recourse. In contrast, countries like Maldives and Sri Lanka appear to have more developed legal provisions governing their fishing activities in ABNJ. This underscores the need for a systematic gap assessment, particularly for India, to better understand where its legal and regulatory frameworks fall short.

A clarification was made that the document under consideration is a policy document. This raised the question of whether it is intended to be a binding legal instrument—either at the regional level or within national policy frameworks of India and other BOBP member countries.

In response, it was explained that for a framework to be legally binding, member states must explicitly confer authority upon an organization to adopt binding resolutions, as is the case with bodies like the Indian Ocean Tuna Commission (IOTC). In such cases, member states are obligated to implement decisions because they have formally delegated that authority. However, BOBP-IGO does not have, and is unlikely to receive, such authority. Instead, its role is to suggest options and actions, which member countries may voluntarily agree upon and implement.

These suggested actions may span policy formulation, legislative measures, and administrative or executive actions. This approach aligns with the language commonly found in international agreements, where states commit to taking necessary steps to develop policies, regulations, and administrative mechanisms. In this context, the document would function as a set of voluntary guidelines, offering advisories on existing gaps and possible actions.

It was pointed out that from a legal standpoint, voluntary guidelines have limited enforceability. Their status in international law is weak, as they do not create binding obligations. Historical examples, such as voluntary commitments made in the context of nuclear testing, illustrate that such declarations may not necessarily be upheld. This is particularly relevant in sectors like fisheries, which are closely tied to issues of sovereignty. States are often reluctant to cede authority, especially in areas where sovereign rights are central.

In areas beyond national jurisdiction, no state can exercise sovereignty. This principle underpins existing international frameworks, including those governing seabed resources and other global commons. Given this, the role of states is largely confined to regulating their own vessels and promoting responsible practices rather than enforcing rules universally.

One practical approach suggested is to guide and instruct national fishers toward sustainable practices. This could involve encouraging adherence to best practices, discouraging harmful or indiscriminate fishing methods, and fostering a sense of responsibility among stakeholders. Since there is often a lack of comprehensive data on regulated and unregulated fishing activities, especially in high seas contexts, such guidance can serve as an initial step.

The emphasis, therefore, is on encouraging states to voluntarily adopt certain standards and practices. These could include modifying existing practices, eliminating harmful patterns, and promoting shared responsibility among stakeholders. While not legally binding, such measures can still influence behaviour if widely accepted and implemented.

It was also noted that voluntary frameworks do not typically provide a basis for judicial enforcement. For example, while courts in India may take cognizance of international treaties under certain constitutional provisions, this is generally limited to signed or ratified agreements. Voluntary guidelines, by contrast, are unlikely to be enforceable through legal mechanisms.

Given this, the importance of policy-level guidance becomes clear. The objective should be to develop practical, implementable guidelines that can be adopted by stakeholders, particularly at the state level, since fisheries fall under state jurisdiction within India. Coastal states have authority over territorial waters, while the central government governs activities in the Exclusive Economic Zone.

BOBP-IGO's role, therefore, is to advise governments on gaps in existing policies and legal frameworks and to suggest possible areas for reform. This includes identifying missing elements in policy, law, and practice, and recommending ways to address them. There are ongoing capacity-building and development activities supported through project funding. These include

training programs for fishers, government officials, and other stakeholders, aimed at strengthening sustainable fisheries management.

The discussion also touched on the concept of baselines for assessing progress in reducing IUU fishing. Earlier studies, conducted around 2015 with support from FAO and national governments, established initial baselines for participating countries in the BOBLME project. However, there was a significant delay—nearly nine years—before the BOBLME Phase II project implementation began in 2024. As a result, the original baseline of the extent of IUU fishing may no longer fully reflect current conditions.

Given resource constraints, countries have agreed to treat the earlier baseline as a reference point for the present. Progress will be assessed at the end of the project period, around 2028, by comparing current conditions with the earlier baseline. This comparison will help evaluate both the impact of national-level developments over the intervening years and the specific contributions of the project.

Overall, the framework is designed to support sustainable fishing practices through non-binding, cooperative mechanisms, emphasizing guidance, capacity-building, and incremental progress rather than enforceable legal obligations.

Drawing on remarks, particularly concerning areas beyond national jurisdiction (ABNJ) and drawing from traditional doctrines of jurisdiction in international law, it was noted that the legal framework has historically been resistant to allowing states to exercise territorial-type jurisdiction in high seas or ABNJ contexts. However, international law does recognize forms of functional jurisdiction in specific contexts. For instance, in search and rescue operations, states are permitted to exercise certain limited authorities without invoking full territorial jurisdiction. Building on this analogy, similar functional approaches might be explored to address illegal, unreported, and unregulated (IUU) fishing in ABNJ.

While conventional enforcement measures - such as boarding or seizing vessels - may not be legally feasible due to jurisdictional and liability constraints, alternative, softer legal pathways could be explored. One such avenue could involve framing interventions through a human rights lens, though this idea requires further development. Littoral or neighbouring states, acting in agreement, could potentially establish cooperative frameworks that enable a form of functional jurisdiction over certain activities in ABNJ. Such arrangements would not rely on traditional enforcement mechanisms but could still contribute meaningfully to combating IUU fishing.

Where there is sufficient political will, states have historically demonstrated the ability to navigate around rigid jurisdictional constraints and develop innovative legal solutions. In this regard, the emerging BBNJ regime and the growing use of marine protected areas (MPAs) as potential entry points for crafting new governance approaches that incorporate ABNJ into broader regulatory frameworks was given as an example.

This suggestion of alternative routes and approaches was appreciated. For instance, cooperation among states in naval contexts was already there; even where certain legal constraints exist, they do not entirely prevent cooperation; states still find ways to work together. Similarly, the thought should be about what comparable approaches can be developed in this context. It would be useful to articulate these possibilities more explicitly.

It was pointed out that a degree of regulatory oversight already exists in areas beyond national jurisdiction (ABNJ) in the form of regional fisheries management organizations such as the Indian

Ocean Tuna Commission (IOTC). Member states had delegated authority to these bodies to regulate specific fisheries. In the case of tuna fisheries, the IOTC has established binding regulations that apply to vessels operating in ABNJ. These include requirements such as catch reporting, whereby vessels report to their flag states, and this information is subsequently transmitted to the IOTC.

These mechanisms demonstrate that governance structures are already in place, and that ABNJ is not entirely unregulated. However, there were significant gaps in coverage. While the IOTC regulates tuna and some associated species, it does not extend to all fisheries. For instance, species such as squid remain outside the scope of such regulatory frameworks, with no comparable measures for monitoring or control.

Thus, existing regulatory frameworks, such as those highlighted, demonstrate how governance in areas beyond national jurisdiction (ABNJ) can function without relying strictly on traditional jurisdictional approaches. Building on this, it was reiterated that while conventional enforcement mechanisms may be difficult to apply in ABNJ, alternative pathways could be explored. These could include the development of environmental regulations agreed upon by littoral states, as well as the use of human rights-based approaches or other non-traditional legal mechanisms to address IUU fishing. It was also suggested that states may often be reluctant to enter into formally binding obligations but may be willing to cooperate in areas where they have shared interests.

Reflecting on the practical challenges of advancing regulatory measures, particularly in the Indian context, it was noted that issues of trust, livelihoods, and entrenched fishing practices complicate efforts to drive behavioural change. This raises questions about the extent to which governments are willing to acknowledge problems and undertake necessary reforms. Many existing instruments such as Regional Plans of Action (RPOAs) and National Plans of Action (NPOAs) are inherently non-binding. While they outline actions and may be linked to budgetary provisions, they function largely as policy guidance or advisory frameworks rather than enforceable legal commitments. Nonetheless, there remains scope to push for more structured approaches, such as the creation of commissions or other institutional mechanisms, even within a largely non-binding policy environment.

India's recent regulatory developments, specifically the introduction of rules under existing legislation, were influenced by requirements of the IOTC. Without such measures, Indian vessels risked being classified as non-compliant or illegal under IOTC frameworks. These rules serve as a stopgap arrangement, enabling the government to regulate vessels operating in areas beyond national jurisdiction (ABNJ) and the Exclusive Economic Zone (EEZ), particularly by introducing mechanisms such as vessel authorization (or "passes") and compliance with quotas and reporting requirements.

However, India currently lacks a comprehensive fisheries law covering the 12–200 nautical mile zone, and that the present approach relies on piecemeal regulatory fixes. Hence there was a need for a robust, long-term legal framework that integrates domestic fisheries regulation with international obligations, including those relating to ABNJ.

In the absence of such legal backing, some Indian vessels had previously been identified as engaging in illegal or non-compliant activities by the IOTC, often due to repeated violations or operations in foreign waters. While the new rules provide some level of protection and regulatory

clarity, a more comprehensive legislative solution remains essential for effective governance in the long term.

On the broader context of IUU fishing in ABNJ, it was noted that the issue is increasingly recognized within international legal discourse, including under frameworks such as ITLOS. The current focus is less on asserting jurisdiction and more on strengthening cooperation among states, which is gaining prominence as a practical pathway forward.

Operational challenges in enforcement, particularly the distinction between flagged and unflagged vessels, were raised. While boarding vessels flying a national flag requires the consent of the flag state, vessels without nationality (stateless vessels) present fewer legal barriers to enforcement. This creates an opportunity for more direct action in certain cases. Hence it was suggested that responses should evolve in a gradual, step-by-step manner, building on what is currently feasible.

The discussion also drew parallels with other domains, such as marine pollution. For instance, in the case of oil spills, compensation mechanisms exist when damage affects coastal or fisheries interests. Similar arguments could be extended to fisheries, particularly where high seas fishing activities negatively impact resources within Exclusive Economic Zones (EEZs), potentially opening up ecosystem-based or liability-driven approaches.

While Regional Plans of Action (RPOAs) are voluntary, they can still include practical enforcement-oriented measures, such as listing vessels engaged in IUU fishing. But does listing of vessels have legal impacts, could it be taken under the existing legal regime? What were implications of such listing (for example a list of TN vessels crossing the IMBL) and a common regionally shared list.

While such instruments are formally non-binding, their practical significance should not be underestimated. Recent policy developments, including budgetary announcements related to fisheries, suggested that governments are increasingly incentivizing activities such as fishing beyond national waters. However, such incentives may be constrained by emerging international norms, particularly those relating to sustainability and subsidy disciplines.

A key point emphasized was the growing influence of international frameworks and standards, such as the Sustainable Development Goals (SDGs) and WTO agreements. Regardless of whether instruments are legally binding, countries are often compelled to comply due to trade pressures, global expectations, and evolving regulatory regimes. Examples include requirements linked to subsidies, traceability, labour standards, and carbon-related measures such as carbon border adjustment mechanisms. These external pressures effectively blur the distinction between binding and non-binding instruments in practice.

The was also increasing importance of human rights considerations; these are evolving and may further shape compliance expectations across sectors, including fisheries. Rather than the narrow focus on ABNJ, that policy approaches should be more holistic and inclusive, integrating both national and international dimensions of fisheries governance. Reporting mechanisms were important as most international and regional agreements include some form of reporting and compliance system. Similar mechanisms should be strengthened or expanded, including within FAO-led processes, with regional bodies playing a supportive role in guiding countries, assisting with implementation, and helping develop strategies and action plans. Countries like India, which aspire to global leadership, must demonstrate responsibility by aligning with international commitments and supporting smaller or more vulnerable states in the region.

The focus then turned to the legal status and practical implications of voluntary regional instruments, situating them within broader international legal and policy developments.

It was noted that the WTO Agreement on Fisheries Subsidies (AFS) has important indirect implications, particularly for fisheries that currently fall outside regulatory frameworks. The agreement may incentivize countries to establish at least minimal regulatory mechanisms so that they can justify the continuation of subsidies. In this context, even the existence of a regulatory framework, regardless of its enforcement strength, can be significant.

The fact remains that a substantial proportion of fisheries in the region remain unregulated. While regional fisheries management organizations such as the IOTC cover certain species, particularly tuna, a large number (~80%) of species fall outside these frameworks. Given that many fisheries (~60%) are shared across countries, there is a strong rationale for developing cooperative regulatory approaches. This has been one of the underlying motivations for countries to come together under voluntary instruments such as RPOAs.

It was pointed out that that fisheries governance operates within a highly interconnected legal landscape, where multiple regimes such as those relating to trade, conservation, biodiversity, and fisheries interact. For example, the protection of certain species under international conventions (e.g. CITES) can trigger trade or conservation restrictions, thereby influencing fisheries practices. Similarly, evolving legal interpretations suggest that fishing outside established regulatory frameworks may increasingly be viewed as IUU fishing.

The different bases of jurisdiction relevant to fisheries governance: flag state (vessel-based), port state, and coastal state (zone-based) jurisdiction were discussed. Each of these requires an appropriate legal framework, and gaps in any one area can create enforcement challenges. Issues such as flags of convenience and weak links between vessels and flag states further complicate regulatory efforts.

Thus, fisheries governance cannot be addressed through a single legislative instrument. In the Indian context, multiple laws apply, and comprehensive governance would require coordination across these frameworks. Certain foundational laws are unlikely to be amended, which is why new and standalone frameworks such as those relating to BBNJ are being developed.

It was suggested that disaster management should be part of every sectoral plan of action and hence should also be part of the RPOA.

The advantage of integrating IUU-related measures with broader objectives such as safety, security, and disaster risk management was highlighted. For example, tools like transponders and Vessel Monitoring Systems (VMS) can be promoted under safety frameworks, while simultaneously serving as effective mechanisms for monitoring and controlling IUU fishing.

Drawing a comparison between countries, it was noted that in Sri Lanka, the installation of such systems has largely been made mandatory as part of fisheries management, resulting in high levels of adoption. In contrast, in India, even when such technologies are provided free of cost, there are challenges in ensuring uptake, partly due to how they are framed and implemented. There were examples such as from Australia, where advanced monitoring systems enable authorities to track vessel movements in real time within maritime zones.

Policy contradictions can undermine regulatory efforts. For instance, if national policy frameworks operate on the assumption that fisheries are underexploited and seek to expand capacity, this may conflict with efforts to regulate or restrict fishing practices. Such tensions

make it difficult to implement control measures effectively. Recognizing the diversity of small-scale fisheries in the region was also important. Unlike developed countries, where small-scale fisheries may be limited in scope, developing countries often have multiple categories with distinct characteristics. This makes it difficult to create universal frameworks or binding international treaties tailored to small-scale fisheries, as the challenges are not uniform globally. Thus, regional approaches may be more appropriate, given that neighbouring countries often share similar challenges. At the same time, policy design must account for geographic and socio-economic differences, such as those between peninsular and island states.

While regional agreements could, in practice, take precedence over broader international frameworks in specific contexts, particularly where they address fisheries more directly. The BBNJ Agreement does not prohibit fishing in ABNJ) but rather seeks to regulate it, which creates both opportunities and risks in terms of how access and licensing are managed.

Fisheries governance was complex and multi-dimensional: fisheries can be viewed differently depending on the institutional lens—as a commodity, a food security resource, or a conservation concern. This is further complicated by the presence of highly migratory and straddling fish stocks, which move across jurisdictions. Hence, the governance approaches must be context-specific and disaggregated, rather than attempting to apply a single framework universally. Oversimplification had to be avoided and it was necessary to separately address different types of fisheries, legal regimes, and management objectives. A practical, evidence-based approach to policy development was recommended. This would involve identifying the types of fishing activities taking place, mapping existing legal frameworks, and diagnosing key challenges across countries. A structured data collection—such as through questionnaires—could support regional dialogue and help build a clearer understanding of shared problems, ultimately informing more effective and coordinated responses.

The need to differentiate between the dynamics of IUU fishing in the Arabian Sea and the Bay of Bengal was pointed out, as the nature of the problem varies significantly across regions. In the Arabian Sea, the issue is largely linked to the scale and intensity of fishing fleets impacting resources. In contrast, in the Bay of Bengal, a major concern is the illegal transgression of fishermen across maritime boundaries, particularly involving small-scale fishers from neighbouring countries.

A significant number of such transgressions occur, leading to arrests of hundreds of mostly small-scale fishers. In this context, any meaningful approach to addressing IUU fishing in the region must begin with tackling cross-border transgressions. It was important to clearly distinguish between the components of IUU fishing-illegal, unreported, and unregulated as each requires different responses. In the Bay of Bengal context, illegal fishing linked to boundary transgressions is the most immediate and visible issue. Hence, littoral states in the Bay of Bengal should first arrive at a shared understanding and consensus on preventing such transgressions. Establishing this baseline cooperation would be a necessary first step toward addressing broader IUU concerns.

It was pointed that the situation was more complex than presented. The Bay of Bengal experiences all dimensions of IUU fishing, not only illegal activities linked to transboundary movement but also unreported and unregulated fishing. Additionally, transgressions were not limited to a single bilateral context but occur across multiple maritime boundaries in the region.

While countries are aware of these challenges, acknowledgment does not automatically translate into effective resolution. The persistence of transgressions reflects both structural issues, such as overlapping or contested maritime boundaries, and practical enforcement challenges. A specific concern was regarding detained fishers: a number of fishermen remain held abroad, with efforts underway to secure their release. This underscores the human and livelihood dimensions of transboundary fishing issues.

Also, small-scale fishers often operate based on livelihood imperatives rather than legal boundaries. In practice, fishers may cross maritime borders in search of better catches, with limited regard for jurisdictional constraints. This reflects the disconnect between formal legal frameworks and ground-level realities. There were also challenges related to, data and reporting. Fishers typically do not self-report their catches accurately, and fisheries data is often reconstructed indirectly through market channels or landing sites rather than through direct reporting mechanisms.

Voluntary mechanisms such as catch documentation systems, which are intended to improve monitoring and traceability of fisheries were being planned as pilot projects as part of this effort. Long-standing challenges such as IUU fishing have persisted historically and are unlikely to disappear entirely, even under strong legal regimes. Instead, the focus is on incremental and practical progress.

Given resource and funding constraints, interventions will be limited in scope and implemented as pilot actions rather than large-scale, nationwide programs. These pilots are intended to generate demonstrable results, which can then be scaled up if proven effective. The purpose of the initiative is to create actionable and scalable solutions, rather than attempting comprehensive coverage from the outset. The expectation is that successful pilot outcomes will encourage broader adoption at the national and regional levels. The role of the framework is to function as an enabling instrument, providing guidance and support to governments in designing and implementing appropriate measures.

The regional process should focus on common issues shared across all participating countries, rather than delving into context-specific disputes. In this regard, earlier guidance to avoid overcomplicating the discussion by engaging deeply with bilateral tensions was reiterated.

Transboundary fishing is not unique to the India–Sri Lanka context. Similar instances occur between other neighbouring countries, such as India and Bangladesh. However, these situations often receive less attention and are sometimes managed more quietly, including through responses by fisher associations that discourage such practices. Hence, the regional initiative should concentrate on areas where collective action is feasible, while allowing country-specific or bilateral issues to be addressed through appropriate channels.

It was noted that the RPOA is intended to function as an umbrella mechanism built upon National Plans of Action. It is not designed to directly override or replace national initiatives, but rather to support and align them at the regional level. It was pointed out that in practice, many instances of cross-border fishing such as those between India and Sri Lanka or India and Bangladesh are not consistently classified or reported as illegal fishing in international processes. For example, listings of Indian vessels under mechanisms such as the IOTC are often based on broader reporting processes rather than being directly linked to specific bilateral transgression issues. As a result, there appears to be a disconnect between on-the-ground realities of transboundary fishing and how such activities are categorized within formal IUU frameworks. Hence, the

question was will such transgressions be explicitly treated as IUU fishing under the regional framework, or will they continue to be addressed indirectly or remain underemphasized?

This, was a key policy choice. Countries may either choose to formally recognize and incorporate these issues within the RPOA or continue to treat them as sensitive matters that are handled outside the formal framework. This had significant implications for how the RPOA is designed and implemented.

Sri Lanka has a licensing mechanism for allowing foreign businesses, but expressed uncertainty about whether some countries are effectively allowing fishing to occur too easily, almost like an uncontrolled situation. It was described as a crisis where, in practice, anyone can fish despite the existence of licensing systems, raising questions about how meaningful or effective these processes actually are. In principle, countries could allow foreign vessels to fish in their waters, particularly if they lack domestic capacity, and could generate revenue through licensing arrangements. However, such provisions did not exist among member countries. It was emphasized that even countries with relatively limited capacity, such as Maldives, are frequently approached with such proposals, but the implication was that they should resist allowing foreign fishing access through licensing.

B. Jurisdiction, Spatial Scope & Alignment with International Obligations

- How should the spatial scope of the Plan (EEZs and adjacent ABNJ) be interpreted in light of UNCLOS provisions on sovereign rights, jurisdiction, and high seas freedoms?

- What enforcement limitations exist in ABNJ, and how should regional cooperation address these within the UNCLOS framework?

- How should implementation of the Plan be aligned with existing binding international obligations (UNCLOS, RFMO conservation measures, PSMA)?

The next set of questions focused on jurisdiction, spatial scope, and alignment with international obligations. It was acknowledged much of the questions on how the spatial scope of EEZs and adjacent areas should be interpreted in the light of UNCLOS provisions, sovereign rights, jurisdiction, and freedoms, as well as what enforcement limitations exist in areas beyond national jurisdiction and how regional cooperation could address these within the UNCLOS framework had already been discussed.

The discussion then shifted to how implementation of the plan could be aligned with existing binding international obligations. It was noted that instruments such as the PSMA had already been signed by several countries, with India close to signing, and that all countries were already aligned with UNCLOS and RFMO conservation measures. The question raised was how to clearly demonstrate that the plan aligns with these existing frameworks.

A clarification was sought, and it was explained that since the RPOA-IUU is voluntary, aligning its actions with binding instruments could make it easier to present and implement. Instead of framing actions as new obligations under the RPOA, they could be presented as supporting implementation of existing commitments, such as PSMA or UNCLOS measures, thereby reducing the perception of additional burden.

An example was provided using IOTC vessel listings. It was explained that maintaining vessel lists under the RPOA could be framed as contributing to existing IOTC resolutions, which are already binding, though currently limited to tuna fisheries. Extending similar practices to other fisheries would not constitute a new obligation but rather an expansion of existing compliance efforts. This approach would make countries more receptive, as it would be seen as additional support rather than an entirely new requirement.

Further discussion addressed concerns about jurisdiction and scope, with participants questioning whether expanding such measures would go beyond existing mandates. It was clarified that elements such as vessel listing and catch documentation are already present in national policies and plans but are primarily implemented for fisheries regulated by bodies like the IOTC.

A practical approach was suggested: instead of attempting to cover all fisheries at once, which would be an enormous task, efforts could begin with a few additional species beyond those already regulated, such as mackerel. Over a defined period, measures like vessel listing and documentation could be extended incrementally. If countries agree under the RPOA-IUU framework, these actions could then be supported through capacity development initiatives, making implementation more feasible and structured.

It was observed that, given the voluntary nature of the framework, it would not be appropriate to immediately ask countries to share data. Instead, if countries are only asked to review or consider sharing data, they may question the purpose and intended use of such data, and a clear response would be required.

It was noted that countries have agreed to the program in principle but may not yet fully understand its operational implications. Using examples such as commercially significant species like mackerel, it was pointed out that these species have strong market linkages and wide distribution, which could raise concerns about whether related data might be treated as sensitive and therefore not shared.

Another argument was that, on the contrary, including additional species within the management regime would be in the interest of countries, as it would expand regulatory coverage and strengthen oversight. This would not necessarily create resistance but could instead be seen as beneficial.

When questioned about the regional benefits, the response emphasized that expanding the number of species and areas under regulatory frameworks would enhance overall governance. It would also encourage data sharing practices that may not have existed previously, thereby strengthening regional cooperation. At the same time, the possibility that countries might be reluctant to share certain data was acknowledged. However, it was suggested that this concern may not materialize in practice. Ultimately, any proposals would remain subject to agreement by countries, and all submissions would be considered within that context, with the understanding that such questions and concerns are likely to arise during discussions.

There was some concern that the discussion was conflating issues that should be kept separate. It was emphasized that regulation within the EEZ is a fundamental requirement that is currently lacking and should be addressed directly, rather than being confused with issues relating to ABNJ, which are conceptually distinct. The relevance of focusing on species such as mackerel was questioned, as it is not a distinct fishery but one among many species caught across different gears.

In response, it was clarified that the broader intention was to identify practical starting points for action under the framework. Measures such as catch documentation and vessel listing were acknowledged as complex and time-consuming, and the idea was to package a limited set of actions that could be realistically implemented. The emphasis was on selecting a few areas where support could be provided, particularly through capacity development, while reassuring countries that these were not entirely new obligations but extensions of existing practices already familiar to them.

It was reiterated that a comprehensive legal framework would address many of these issues more effectively. It was noted that multiple drafts of a national fisheries law had been developed over the past 15 years but had failed to progress due to shortcomings in technical quality. Hence, efforts should focus on correcting and advancing such legislation rather than pursuing interim or piecemeal measures. It was felt that with sufficient expertise and political will, a proper law could be developed within a relatively short time frame, and this process should be prioritized.

The discussion then shifted to whether regional or interim arrangements could complement longer-term legal reforms. It was clarified that the regional framework is advisory in nature and cannot itself create binding legal obligations such as national laws. Instead, it can support and complement existing mechanisms, helping countries operationalize commitments in the short term while broader legal processes continue.

There was also recognition that the framework is intended to be complementary to existing international instruments rather than introducing entirely new rules. It was suggested that presenting it as an extension or reinforcement of existing obligations could make it more acceptable to countries, as it would not be perceived as adding new burdens.

A question was raised whether aligning the framework with binding international obligations could create potential conflicts. In response, it was explained that the approach has been to use existing international agreements as a basis for structuring the framework, making it easier for administrators to adopt by framing actions as part of fulfilling established commitments rather than introducing new ones. However, it was acknowledged that the framework has not yet undergone detailed legal scrutiny to fully assess potential conflicts.

It was suggested that, in principle, the framework should not create creeping legislation (new or expanded rights or jurisdictions beyond what is already established under international law). Any expansion, such as including additional species, should remain within the scope of existing mandates and be justified by objectives such as sustainability or regional priorities.

It was pointed out that the framework naturally aligns with existing international instruments, as it derives from broader global instruments, and therefore the concern about alignment may not be particularly significant.

Further observations highlighted that there is generally a presumption of alignment with existing frameworks, and that expanding the scope of action—such as including additional species—would be acceptable as long as it remains consistent with core objectives like sustainability and is supported by scientific evidence and precautionary principles.

On a broader legal perspective, it was emphasized that the question of alignment is important, particularly in the light of the evolving legal character of voluntary instruments. While such frameworks may initially be non-binding, over time, through state practice and interpretation, they can acquire binding significance. From a dispute settlement perspective, this makes it

important to anticipate potential conflicts with existing obligations, even if none are immediately apparent. Hence, further research could be undertaken to examine possible areas of conflict and ensure that the framework remains coherent and legally robust in the long term.

One of the participants responded by making three key remarks. First, pointing to a specific action in the shared document, it was noted that it already provides a direct answer to the issue being discussed. Once member countries agree to certain instruments referenced there, they are effectively bound to follow them, and cannot selectively opt out. Second, potential legal considerations were highlighted, referring to provisions under the Vienna Convention on the Law of Treaties, particularly the principles that agreements must be honoured and that obligations cannot be imposed on non-parties. If all countries are not party to the referenced instruments, this could raise complications. In the event of future disputes, questions could arise regarding the evidentiary value of shared data and documentation. Concerns such as data sharing, availability of evidence, and the possibility of "creeping" expansion of obligations or jurisdiction were identified as issues that may need to be examined proactively rather than deferred.

At the same time, another speaker downplayed these concerns, arguing that focusing excessively on hypothetical legal risks was unnecessary. They stressed that the purpose of the exercise is to anticipate practical solutions rather than overemphasize potential future disputes. Since the framework is already in an advanced stage and functions as a voluntary, non-binding instrument, it cannot be treated like a formal legal treaty.

It was further clarified that the framework represents a collective statement of intent rather than a legally enforceable agreement. It does not establish mechanisms such as dispute settlement, voting procedures, or binding obligations, and therefore concerns about litigation or enforceability were seen as overstated. The voluntary and consensus-based nature of the framework allows countries flexibility, including the ability to adapt or withdraw from specific elements over time.

An immediate priority was identified as to understand how the actions agreed under the RPOA can be implemented within existing national frameworks. Given India's federal structure, the strategy must differ, engagement will need to be more with state governments rather than solely with the central government. Implementation must align with each country's social structure and legal system.

There were critical legal and institutional gaps. Some actions cannot be carried out without amendments to existing laws or the introduction of new legislation. These gaps should be identified, documented, and gradually addressed—either by nudging governments, providing draft frameworks, or helping build momentum so that reforms emerge over time. Rather than waiting for governments to initiate, demand and "appetite" for such reforms should be actively created. At the same time, the objective remains clear: sustainable fisheries management. This is already an international obligation, and countries are expected to move toward it, even if progress is incremental and voluntary.

C. BOBP-IGO Institutional Authority

- Given that BOBP-IGO is an advisory body and not an RFMO, what is the legal basis for its role as Secretariat for RPOA-IUU implementation? What institutional adaptations are needed?

- What limitations arise compared to an RFMO with regulatory authority (e.g. IOTC), and how can these be addressed within the existing BOBP-IGO Agreement?

Since the RPOA is a voluntary instrument, implementation depends on institutional mechanisms rather than enforcement authority. Unlike Regional Fisheries Management Organizations (RFMOs), which may have regulatory mandates, BOBP IGO functions as an advisory body. Therefore, its role is to facilitate, advise, and support rather than enforce. In practice, this means identifying priority actions, assigning timelines, and aligning them with available funding sources. For example, certain actions can be implemented through ongoing projects, while others may require external funding from agencies such as FAO or other donors. The Secretariat's role is to coordinate these efforts, mobilize resources, and ensure that activities are consistent with national and regional policies.

It is important to distinguish between project-based work and the RPOA itself. Projects have defined budgets, timelines, and outputs, whereas the RPOA is broader, flexible, and ongoing. The Secretariat may act as an implementing or executing agency for specific activities, but the RPOA remains a voluntary, long-term framework.

Institutionally, one option is to establish a dedicated secretariat or unit for the RPOA, separate from project structures, given their different mandates and funding streams. This would allow for clearer coordination, reporting, and accountability.

Funding remains a challenge. Member country contributions are often modest, so implementation may require external funding or innovative resource mobilization. The Secretariat can play a role in securing such funds and aligning them with agreed actions. The RPOA text itself is intentionally broad and flexible. It does not prescribe timelines or binding commitments, allowing countries to implement actions at their own pace—even to the extent that no action may occur in a given period. However, this flexibility also necessitates careful planning to ensure credibility and continuity, especially as government representatives and priorities change over time.

RFAB were compared with RFMO highlighting key differences. RFMOs have binding regulatory authority, while advisory bodies like BOBP IGO do not. Instead, advisory bodies rely on coordination, knowledge-sharing, and voluntary compliance. Many such bodies operate globally, often supported by technical experts and legal advisors, even if their leadership is not primarily legal in nature.

One key challenge was the absence of independent enforcement competence. While the Secretariat may facilitate coordination, a strong compliance structure is still necessary. Without enforcement authority, ensuring adherence to agreed actions becomes difficult. To address this, it may be useful to consider strengthening the institutional framework—possibly through an annex or additional mechanism that enhances compliance and accountability, even within a voluntary system.

It was pointed out that since the framework is voluntary, the Secretariat's role is primarily facilitative. It provides support, coordination, and advisory inputs, while implementation decisions remain with the countries. A practical approach could involve structured reporting mechanisms. For example, countries could be encouraged to share updates on actions taken in response to Secretariat advisories. This need not be a strict compliance mechanism but rather a reflective process to track progress. The Secretariat can compile these inputs, present them at

Governing Council meetings, and facilitate discussions. This creates a cycle of reporting, review, and dialogue without imposing enforcement.

D. Domestic Integration, Functional Mapping & Inter-Agency Authority

- How should countries integrate RPOA outputs (e.g. vessel registry, SOPs, CDS, IUU vessel list) into their national legal and administrative systems? What are the pathways—statutory, regulatory, or administrative?
- How can key outputs of the RPOA-IUU be mapped onto existing national institutional mandates to avoid overlaps and gaps in implementation?
- What legal arrangements are required within countries to clearly assign authority among fisheries, navy, coast guard, port and customs agencies for inspection, enforcement, and compliance actions?
- Does the current governance structure (Governing Council reporting and working group mechanism) provide adequate oversight for RPOA implementation?
- Should formal compliance or review mechanisms be established, and if so, what form should they take peer review, self-assessment, or independent evaluation?
- Is third-party evaluation (e.g. by FAO) advisable to enhance credibility and accountability?

The discussion next looked at the need to identify clear legal and administrative pathways statutory, regulatory, and administrative through which the key outputs of the RPOA-IUU can be operationalized within national systems. Emphasis was placed on mapping these outputs onto existing institutional mandates in order to avoid overlaps, duplication, and implementation gaps.

It was noted that an important consideration is the allocation of authority among relevant national agencies. These include the navy, coast guard, customs authorities, and judicial bodies, all of which play roles in inspection, enforcement, and compliance. The discussion highlighted the need for clarity in defining responsibilities across these institutions.

Questions were raised regarding whether current governance structures provide adequate oversight. Suggestions included the possibility of involving international organizations such as FAO in advisory or oversight roles, as well as exploring mechanisms for accountability such as peer review, self-assessment, or capacity evaluation frameworks.

On operationalizing the framework, one option discussed was whether existing governance mechanisms are sufficient, or whether new institutional arrangements such as dedicated working groups should be established to track progress more effectively. In this context, the idea of requiring Action Taken Reports (ATRs) from national governments was considered as a means of monitoring implementation.

The discussion then turned to the complexity of institutional coordination, particularly in India. It was observed that the primary point of contact is typically the Ministry of Fisheries; however, multiple agencies hold overlapping or related mandates. For instance, vessel registration may fall under the Directorate General of Shipping, while fisheries departments at the state level maintain separate records of fishing vessels.

This fragmentation creates challenges in data integration and regulatory clarity. While national systems may include comprehensive databases such as centralized records of fishing vessels maintained by fisheries departments these do not always align with broader maritime registries. For example, shipping registries may record vessels without specifying their functional use, such as whether they are engaged in fishing or other activities. In federal systems like India, vessel registration and fisheries management are often handled at the state level, resulting in decentralized data systems. Although unified databases may exist (ReALCRaft), discrepancies and gaps remain in terms of classification and functional identification of vessels.

Concerns were also raised about the misuse of fishing vessels for illicit activities. It was noted that fishing vessels are sometimes involved in smuggling, trafficking, and unauthorized transshipment. These activities are difficult to monitor, as vessels may not accurately declare their operations. This underscores the need for improved monitoring mechanisms and data verification processes.

The issue of transshipment was specifically discussed as a complex regulatory area. While transshipment may be legally permitted under certain conditions, it can also be used to conceal illegal, unreported, and unregulated (IUU) fishing activities. Monitoring such practices is particularly challenging when they occur outside ports, such as in open waters.

Next, the discussion focused on the operational and legal complexities of implementing actions under the Regional Plan of Action to combat IUU fishing (RPOA-IUU), particularly in relation to vessel registration, institutional coordination, and data systems.

Participants clarified that a register of fishing vessels, in its current form, is essentially a list of vessels operating in the Exclusive Economic Zone (EEZ) and on the high seas. However, such a register is limited in scope, as it primarily identifies vessels rather than capturing their full operational or functional details. It was noted that vessel identification typically relies on registration numbers, which can be used to retrieve ownership and registration details from national databases.

A key point of discussion was that maritime zones do not inherently restrict vessel usage. A vessel registered for operation in territorial waters may also operate in the EEZ or even the high seas, provided it has obtained the necessary authorizations. Access to different maritime zones depends on permissions such as access passes or letters of authorization issued by the relevant authorities. In federal systems like India, this creates a division of responsibility: state governments regulate vessels in territorial waters, while the central government governs activities in the EEZ and beyond.

Participants highlighted that regulatory and governance arrangements differ across countries. For instance, while India operates within a federal framework with multiple layers of authority, other countries in the region may have more centralized systems. In some cases, countries like Sri Lanka have clearer legal demarcations specifying which categories of vessels are permitted to operate in different maritime zones. This variation shows up the challenge of harmonizing regional approaches.

The discussion then turned to the purpose and utility of a regional record of fishing vessels. It was emphasized that such a record is not intended to replace national registration systems or serve as a licensing mechanism. Instead, its primary function is informational and cooperative. For example, if a fishing vessel from one country is detected in another country's waters, whether

accidentally or otherwise, the regional record allows authorities to identify the vessel and access its details through a shared database.

This concept aligns with Action 7 of the RPOA-IUU, which calls for the establishment and maintenance of a regional record of fishing vessels. Participants noted that this record should be maintained by the regional secretariat and designed to ensure compatibility with the FAO Global Record of Fishing Vessels. The scope would likely include vessels of 12 meters and above, as well as support vessels involved in fishing operations.

It was further discussed that creating such a regional record would require the development of a centralized database housed within the secretariat. This database would need to be interoperable with existing national systems and aligned with global standards. However, significant practical challenges were acknowledged, including differences in national data formats, institutional capacities, and legal frameworks.

Participants emphasized that national governments would remain responsible for authorizing which vessels are used for fishing. While a country may have a large number of registered vessels, only a subset may be actively engaged in fishing activities. Identifying this subset is crucial and can only be done at the national level.

The issue of unique vessel identifiers, such as IMO numbers, was also raised. While such identifiers may be applicable to larger vessels, they are not universally assigned to all fishing vessels, particularly smaller ones. This further complicates efforts to standardize regional data systems.

The discussion acknowledged that the establishment of a regional database and related systems would depend on available financial and technical resources. While the need for such infrastructure is recognized, its implementation may need to be phased over time, with some activities deferred to later stages depending on funding and capacity.

The discussion moved to clarifying institutional pathways and responsibilities for implementing the Regional Plan of Action on IUU fishing (RPOA-IUU), particularly in relation to establishing a regional record of fishing vessels and aligning this with national systems.

Participants examined how key outputs of the RPOA-IUU could be mapped onto existing legal, regulatory, and administrative frameworks within countries to avoid duplication and gaps. It was emphasized that clear designation of competent national authorities, along with defined coordination mechanisms across agencies such as fisheries departments, shipping authorities, and enforcement bodies, would be essential for effective implementation.

On the proposal for maintaining a regional database of fishing vessels, it was clarified that while national governments retain responsibility for maintaining their own registries, the RPOA mandates the creation of a regional record to be facilitated by the intergovernmental body. This regional database would not replace national systems but would serve as an interoperable platform aligned with global standards, particularly for identification and information-sharing purposes in cases of suspected IUU fishing.

Concerns were raised regarding the practicality of this approach. Participants highlighted issues such as data confidentiality, varying national legal constraints on sharing vessel information, and the reliability of existing national databases. In particular, it was noted that national registries may suffer from duplication, inconsistent categorization, and limited accessibility, which could undermine the effectiveness of a regional system built upon them.

The discussion also underscored the distinction between an advisory role and an operational mandate. While the intergovernmental organization traditionally provides guidance to member states, the RPOA assigns it a more active role in establishing and maintaining a regional record. This raised questions about technical capacity, financial resources, and the extent of authority required to fulfil such a function.

It was further noted that any regional database would depend entirely on the willingness of member states to share data, with conditions on access and use determined by the data-providing countries. As such, the system would likely evolve incrementally, with partial participation and varying levels of data disclosure.

Participants suggested that a practical approach would involve developing a standardized database structure compatible with global systems, while allowing flexibility for countries to control data sharing. Establishing a single national focal point or competent authority for data submission was identified as a key step to streamline communication and ensure accountability.

Participants went to the next task which was to go through action number 9, questions related to which were based on potential legal challenges with respect to this action. Action 7 concerns global vessels, action 8 relates to marking of the vessels, and action 9 is about developing national inspection plans. This includes harmonizing these plans across the region and establishing standard operating procedures regarding port state measures in line with the minimum standards laid out in the PSMA. For example, countries like Bangladesh, Sri Lanka, and Maldives are members of PSMA, while India is not. Port state measures are not uniform—protocols, staffing, and designations vary. There are global efforts to harmonize methods, and here it is about establishing a standard operating procedure, which would be a minimum threshold. Countries can adopt higher standards beyond that.

Action 10 considers establishing a joint regional MCS, including enforcement procedures, inspection schemes, patrols, and observer programs. Countries would need to agree to cooperative measures, such as allowing Coast Guards to board vessels in other national waters, but this can only happen through specific bilateral or multilateral agreements. For this, a protocol would require departmental consultation, consent from the Navy, and notification to the relevant council. Without all these steps, operationalization would not occur.

Concerns were raised about the practicality of these actions. For instance, can the Sri Lankan Navy or Coast Guard board an Indian vessel? While such arrangements exist in other regions like the Pacific, the context is different here. Local fishermen might not accept it.

Examples were provided from regional programs: a joint training program with UNODC included Navy, Coast Guard, and Fisheries personnel from multiple countries. Training covered vessel boarding, inspection, and handling of high-risk situations. A pool of trained personnel now exists, though operational deployment depends on each country's consent.

Data collection and compilation have precedents: BOBP is designated by FAO to collect and collate data from four countries, with their consent, for stock assessments. Maintaining a list of vessels is a fair, transparent, non-discriminatory, and provisional exercise. The organization is not responsible for data collection, verification, or enforcement—it simply maintains the information provided voluntarily by countries.

Regarding data sharing, the key points were that voluntary provision of data is acceptable; there is no legal barrier if the data is provided voluntarily. The organization receiving the data is not

responsible for verifying its accuracy—it only maintains the data as a repository. Language in requests for data should be diplomatic: request data, state it will be maintained, and do not impose collection obligations. Data may be sanitized by governments, and the IGO is not responsible for verification.

The discussion focused on the listing of fishing vessels and how it relates to existing efforts by RFMO. It was clarified that RFMOs operate with a spatial or species-specific scope. For example, IOTC covers tuna and tuna-allied species, so only vessels fishing these species appear on their lists. The BOBP-IGO mechanism, however, aims to provide a complete list of all vessels above 12 meters, including those fishing tuna, non-tuna, or remaining idle in port, based on records maintained by the government. Unlike IOTC, which represents only one regional fisheries agency (RFA), this initiative covers the broader fleet.

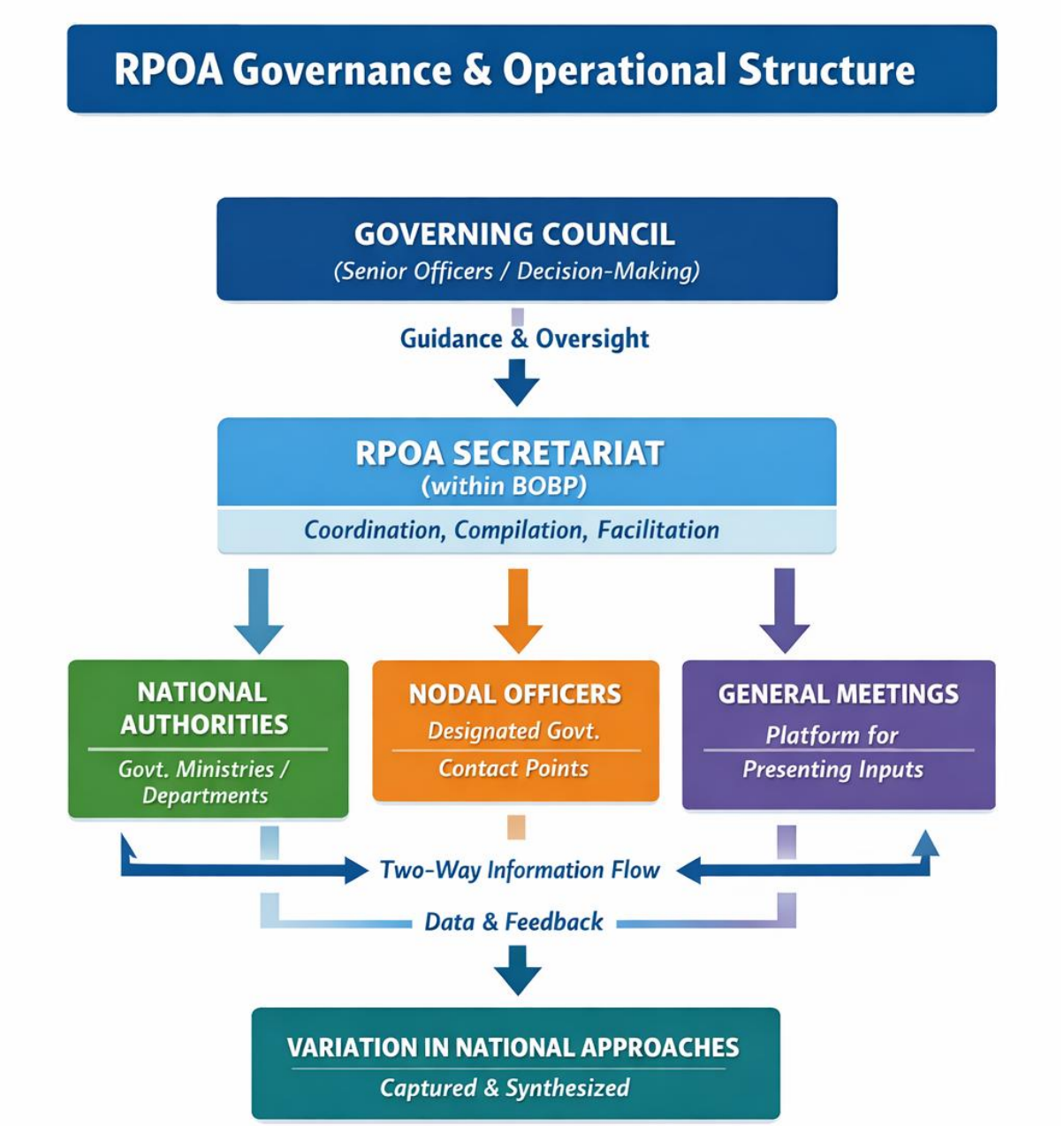
The process was described as being stepwise: a dashboard and structure are developed with the government, and countries provide data to populate it. The mechanism does not verify the accuracy of the data but signals completeness as entries are submitted. The goal is to identify potential legal or institutional complications and ensure robustness in the system from the outset.

Clarifications were sought regarding vessel eligibility for IMO numbers. All vessels, including those engaged in fishing, auxiliary, carrier, supply, or support activities, above 12 meters are considered eligible. It was emphasized that eligibility is distinct from actually having an IMO number. Eligibility depends on minimum criteria, such as vessel capacity and equipment. Certain smaller vessels or those without required facilities may not qualify. The discussion noted that eligibility lists may change over time, and the system must account for such variations.

It was also stressed that communication and reporting should follow official records. Examples were provided to illustrate how administrative records are used when some details, such as ownership or lineage, are unavailable. The team agreed not to attempt correcting selection data but to ensure that information is handled carefully, ethically, and accurately in official communications.

With reference to the governance structure and institutional mechanisms for implementing the RPOA-IUU, the current system was described as comprising three layers: a statutory technical advisory committee including representatives from scientific institutions, the Governing Council, and the government. The Governing Council consists of government delegates who do not formally declare government decisions but provide recommendations. Government approval is obtained separately, ensuring that final authority rests with the member states. Comparisons were drawn to other regional projects, such as the BOBLME project, which operates through a working group within a secretariat structure.

The following organogram was suggested: The RPOA secretariat is envisioned as a subset of the broader bureau structure, functioning under the guidance of the Governing Council. Information will flow both ways between the secretariat and national authorities. Inputs from nodal officers are compiled and presented at general meetings to capture variations in approaches among countries. Following statutory channels is essential, including obtaining government feedback through designated nodal officers. Senior officers in the Governing Council play a key role in decision-making, distinct from those handling operational or project-level activities.



The discussion highlighted the principle of due process and natural justice in listing fishing vessels on IUU lists. The secretariat's role is limited to maintaining and sharing information provided by member countries without passing judgment or verifying accuracy. Listing implications are significant, including potential blacklisting and trade consequences, making voluntary compliance and careful handling of data essential. The secretariat is not responsible for enforcement; it acts primarily as a depositor and coordinator of information.

Action 10, concerning the establishment of joint regional MCS and enforcement procedures, was discussed in the context of legal feasibility. Implementation depends on enabling national laws, which vary across member states. Some countries can act immediately under existing provisions, while others may require legal changes. The secretariat's role is to sensitize governments, explore feasibility, and coordinate actions, without overstepping sovereign authority.

Examples were cited of regional cooperative arrangements, such as the Southern Indian Ocean Fisheries Agreement (SIOFA), where member states have legal provisions allowing joint boarding and information sharing. These arrangements demonstrate that legal frameworks can support voluntary and treaty-based cooperation. It was concluded that initial steps under the voluntary RPOA should focus on achievable actions, while more complex legal agreements may require multi-year processes. Clear documentation of steps, responsibilities, and enabling provisions is essential for transparency and accountability.

E. Due Process & Liability

- Are existing laws sufficient to enable coordinated enforcement, or are specific legal provisions required to operationalize joint or multi-agency actions?

- What due process safeguards (notice, hearing, review, appeal) are required for actions such as IUU vessel listing, denial of port entry, or enforcement based on shared information? How do principles of natural justice-audi alteram partem and nemo judex in causa sua-apply?

- How should liability be determined in cases of wrongful enforcement actions or incorrect vessel identification? What remedies should be available to affected parties?

The discussion focused on whether formal review mechanisms are needed and how the institutional structure should function. The consensus was that formal, legalistic review mechanisms are not necessary, as the framework is voluntary and not treaty-based. Introducing processes such as notice, hearings, appeals, or adjudication would overcomplicate the system and create political and sovereignty concerns.

Instead, the framework should rely on basic principles of natural justice, such as fairness and the opportunity to be heard, which are already handled at the national level. The regional mechanism itself should not act as a legal authority.

F. Data Sharing & Evidentiary Validity

- What is the legal status of data generated or shared through regional systems (vessel registries, monitoring platforms) in national enforcement proceedings?

- Under what conditions can such data be admitted as evidence in courts or administrative tribunals? What authentication and chain-of-custody standards apply?

- How can implementation of the Plan support compliance with international seafood trade requirements (e.g. EU IUU Regulation, US SIMP, traceability standards)? Can the BOB RPOA-IUU serve as a platform for demonstrating regional due diligence?

The discussion focused on the legal nature, use, and limitations of data shared within an intergovernmental framework, particularly in relation to confidentiality, evidentiary value, and institutional responsibility.

A central point of agreement was that all data within the system must be described as *"provided by the respective nodal agencies."* This formulation is critical because it clarifies that the receiving body neither generates nor verifies the data. Instead, it functions purely as a repository

or facilitator of information exchange. Consequently, the organization does not certify the accuracy or authenticity of the data.

The data shared is confidential and restricted to member states. It is not intended for public dissemination and should not be accessible outside the agreed institutional framework. Technological safeguards such as controlled access systems and audit trails were suggested to reinforce this confidentiality.

A key outcome of the discussion is the recognition that such data is non-actionable in its current form. It constitutes raw or "dumb" data, meaning it cannot, by itself, be used as evidence in a court of law. Analogies were drawn to information obtained under transparency mechanisms such as RTI, which serve as preliminary inputs but require further verification through official records before acquiring evidentiary value.

The organization's legal role is strictly limited. As a consultative intergovernmental body, it cannot act as an expert authority on the data nor provide certification of its validity. Its function is confined to collecting, maintaining, and facilitating access to data submitted by sovereign states. Responsibility for the accuracy and legal use of the data remains entirely with the originating countries.

The discussion further clarified that even if member states agree to share data more openly, such agreement alone does not make the data legally admissible as evidence. For data to acquire evidentiary status, two conditions must be met. One was that States must enter into a legally binding data-sharing agreement specifying terms of access, authentication, and use. And the second was that the data must be admissible under the domestic evidence laws of the concerned jurisdictions. Without alignment with national legal frameworks, such data cannot be relied upon in judicial proceedings.

Even under strengthened arrangements, the likely role of shared data would be corroborative rather than primary evidence. Its primary utility lies in supporting decision-making, informing policy, guiding enforcement strategies, and facilitating cooperation among states.

The discussion also highlighted an important strategic implication: clarifying the non-actionable nature of the data can encourage greater participation by member states. When assured that data sharing does not expose them to legal risks or external scrutiny, countries may be more willing to contribute information to the system.

The discussion further examined whether data held within the system could be used to settle legal disputes, particularly in courts of law. The central clarification was that all such data must be explicitly described as *"data provided by the respective nodal agencies."* This phrasing establishes that the receiving body does not verify, validate, or certify the data, but merely stores and facilitates access to it.

It was strongly emphasized that the data is confidential and restricted to member states. It is not intended for public use and should not be disclosed beyond the agreed institutional framework. Even other government entities or external actors cannot automatically access it; access must be governed by nodal ministries and controlled systems.

A key legal conclusion is that the data, in its current form, is non-actionable. It is essentially raw or "dumb" data that cannot independently serve as evidence in judicial proceedings. The organization holding the data has no knowledge of its accuracy and does not assume

responsibility for its truthfulness. Its role is limited to that of a repository or intermediary, not a certifying authority.

An analogy was drawn with information obtained through transparency mechanisms such as RTI. While such information may be useful, it is not sufficient as legal evidence unless supported by original records and further verification. Similarly, the shared data can only act as a starting point for inquiry, not as proof in itself.

The discussion also clarified that the organization cannot act as an expert witness regarding the data, since it neither generates nor validates it. At most, it can provide general technical or conceptual explanations, but not attest to the correctness of specific datasets.

From an institutional perspective, the body in question functions as a consultative intergovernmental mechanism with limited legal personality. It cannot exercise sovereign functions such as certifying sensitive data for legal use. Any such authority rests solely with the member states.

On the question of making data legally usable, it was agreed that this would require a separate, legally binding data-sharing agreement among states. Such agreements typically include extensive conditions governing access, permissions, restrictions on onward sharing, and certification procedures. However, even if such agreements are in place, admissibility in court is not guaranteed.

A critical legal constraint identified is that domestic evidence laws ultimately determine admissibility. Even if states agree that certain data may be used as evidence, courts may reject it unless national laws explicitly recognize such data as admissible. Therefore, international agreements alone are insufficient; alignment with domestic legal frameworks is essential.

At best, the data may serve as corroborative evidence, supporting other verified and admissible materials. It cannot function as primary evidence. Its principal value lies in policy-making, governance, and administrative decision-making, where it can inform strategies, regulatory frameworks, and cooperative actions among states.

Finally, the discussion highlighted a practical insight: clearly communicating the non-actionable nature of the data can reduce concerns among states and encourage greater participation in data sharing. By assuring states that their sovereignty is protected and that the data will not be used against them in legal proceedings, the system can function more effectively as a cooperative platform.

The discussion extended to the use of emerging technologies—particularly satellite-based monitoring systems (e.g., third-party platforms like Skylight)—and their role in supporting regional fisheries governance. While such systems can detect activities like illegal, unreported, and unregulated (IUU) fishing, it was clarified that data generated through these platforms is generally not considered legally actionable in most jurisdictions.

Even in cases where courts in some countries have begun admitting satellite or AI-based evidence, this remains an exception rather than the norm. Participants emphasized that legal systems are still cautious about such technologies. Without clear standards for data provenance, authentication, and chain of custody, such digital evidence is unlikely to be accepted as primary evidence. At best, it may serve as corroborative support alongside formally verified records.

A broader principle emerged: no single dataset whether from nodal agencies or advanced monitoring systems can independently establish a legal case. Judicial processes require multiple layers of verified and admissible evidence. Therefore, expectations that technological tools alone can deliver enforceable outcomes were considered misplaced

G. Financial Commitments

- Are existing endorsement processes followed by countries sufficient under their respective domestic legal frameworks, or do additional measures need to be taken?

- What is the legal basis for allocating public financial resources towards implementation of a voluntary regional instrument? How does this interact with national budgetary and financial rules?

- Are additional approvals or mandates required under national financial and administrative rules to support long-term implementation beyond the current project funding cycle (2025–2030)?

A key concern raised was whether countries, after signing a voluntary regional instrument, would undertake meaningful domestic action or treat participation as merely symbolic.

It was noted that financial accountability mechanisms within governments, such as budget approvals and cabinet notes require clear articulation of costs and benefits. Without defined national-level activities, governments are unlikely to allocate resources. This creates a gap between regional commitments and domestic implementation.

A recent example highlighted a positive shift: government officials requesting detailed inputs on national-level implications, budget requirements, and planned activities linked to regional commitments. This indicates increasing expectations that participation in regional frameworks must translate into tangible actions and budgetary provisions.

However, a structural issue persists: many activities are currently driven by externally funded projects rather than sustained national investment. As a result, once project funding ends, implementation risks stagnation unless countries integrate actions into their own administrative and financial systems.

Participants cautioned against overly ambitious positioning of the regional framework. As an intergovernmental and consultative body, its role is inherently limited. It is not a fully empowered international organization with broad mandates, but rather a focused mechanism addressing specific issues (e.g., IUU fishing).

It was emphasized that the framework should remain pragmatic and acceptable to member states with credible outputs but not over-assertive. Transparency should be balanced with political and diplomatic realities.

International reporting and engagement were also discussed critically. It was observed that global reports and narratives are often shaped by external institutions and are not entirely neutral. Therefore, engagement with international platforms and funders should be handled carefully, with appropriate disclaimers and strategic communication.

The ultimate value of the system lies not in legal enforcement but in Policy formulation, administrative planning, Capacity building and regional cooperation.

Data, whether from governments or technological systems should be treated as inputs for governance, not as standalone legal instruments.

The discussion concluded with a reflection on the broader political economy of fisheries governance. Concerns were raised that global and national policy trends may increasingly favour industrial and corporate fishing models, potentially marginalizing traditional and small-scale fishers. It was noted that technological and regulatory frameworks may indirectly support this shift, traditional knowledge systems are often undervalued despite their effectiveness and policy choices must carefully balance modernization with social justice and livelihood protection.

Summary of answers to questions derived from the discussion

A. Legal Character of the Instrument

1. What is the legal status of a voluntary regional instrument once endorsed by a country? Does endorsement create any legal or quasi-legal obligations?

The RPOA remains a voluntary policy instrument even after endorsement and reflects only a collective statement of intent. It does not create binding or quasi-legal obligations, but signals a willingness by countries to work toward certain outcomes. Implementation depends entirely on whether countries translate these intentions into action.

2. How does the BOB RPOA-IUU differ from treaties in terms of domestic applicability and enforceability?

Unlike treaties, the RPOA does not create legally enforceable obligations and cannot be directly applied within domestic legal systems. Courts are unlikely to recognize or enforce it because it is not a ratified international agreement. Instead, it functions as policy guidance and advisory direction.

3. What approach should be adopted in case of inconsistency between RPOA measures and existing international commitments?

The text indicates that the RPOA is designed to align with existing international obligations, rather than conflict with them. Actions under the RPOA can be framed as supporting implementation of binding instruments such as UNCLOS or PSMA. However, it is acknowledged that further legal scrutiny may be required to anticipate and address potential inconsistencies.

B. Jurisdiction, Spatial Scope & Alignment with International Obligations

4. How should the spatial scope of the Plan (EEZs and adjacent ABNJ) be interpreted in light of UNCLOS provisions on sovereign rights, jurisdiction, and high seas freedoms?

Within EEZs, states exercise sovereign rights, whereas in ABNJ no state can claim sovereignty. As a result, governance in ABNJ is limited to flag-state control and cooperative arrangements. The text suggests that functional jurisdiction approaches may be explored to address gaps.

5. What enforcement limitations exist in ABNJ, and how should regional cooperation address these within the UNCLOS framework?

Traditional enforcement actions such as boarding or seizure are legally constrained in ABNJ due to jurisdictional and liability concerns. Enforcement often depends on flag-state consent, except in the case of stateless vessels. Therefore, regional cooperation must rely on softer or alternative mechanisms rather than direct enforcement

6. How should implementation of the Plan be aligned with existing binding international obligations (UNCLOS, RFMO conservation measures, PSMA)?

The RPOA is intended to be implemented in a way that supports existing binding obligations, rather than creating new ones. Framing actions as extensions of commitments under UNCLOS, PSMA, or RFMO measures makes them more acceptable to countries. This approach reduces the perception of additional burden and facilitates implementation.

C. BOBP-IGO Institutional Authority

7. Given that BOBP-IGO is an advisory body and not an RFMO, what is the legal basis for its role as Secretariat for RPOA-IUU implementation? What institutional adaptations are needed?

BOBP-IGO operates as an advisory intergovernmental body and derives its role from member state consent rather than delegated legal authority. Its function is to facilitate, advise, and coordinate, not to impose obligations. The Secretariat supports implementation by identifying actions and aligning them with national priorities.

8. What limitations arise compared to an RFMO with regulatory authority (e.g. IOTC), and how can these be addressed within the existing BOBP-IGO Agreement?

Unlike RFMOs, BOBP-IGO does not have regulatory or enforcement authority over member states. It relies entirely on voluntary compliance and cooperation, which can limit effectiveness. The absence of enforcement competence creates challenges for ensuring adherence to agreed actions.

D. Domestic Integration, Functional Mapping & Inter-Agency Authority

9. How should countries integrate RPOA outputs (e.g. vessel registry, SOPs, CDS, IUU vessel list) into their national legal and administrative systems? What are the pathways—statutory, regulatory, or administrative?

Implementation requires identifying statutory, regulatory, and administrative pathways within national systems. Actions must be aligned with existing laws, policies, and priorities of each country. Without such alignment, the RPOA risks remaining at the level of intent.

10. How can key outputs of the RPOA-IUU be mapped onto existing national institutional mandates to avoid overlaps and gaps in implementation?

RPOA outputs must be mapped onto existing institutional mandates to ensure clarity in implementation. This helps avoid overlaps, duplication, and gaps across agencies. Clear designation of responsible authorities is essential for operational effectiveness.

11. What legal arrangements are required within countries to clearly assign authority among fisheries, navy, coast guard, port and customs agencies for inspection, enforcement, and compliance actions?

Effective implementation requires clear allocation of roles among agencies such as fisheries departments, navy, coast guard, and customs. Fragmentation of mandates, especially in federal systems, creates coordination challenges. Strengthening inter-agency coordination is therefore necessary.

12. Does the current governance structure (Governing Council reporting and working group mechanism) provide adequate oversight for RPOA implementation?

The current structure includes a technical advisory committee, Governing Council, and government-level approval, which together provide oversight. However, the Governing Council primarily offers recommendations rather than binding decisions. Final authority remains with national governments, making follow-through critical

13. Should formal compliance or review mechanisms be established, and if so, what form should they take—peer review, self-assessment, or independent evaluation?

The text suggests that formal, legalistic compliance mechanisms are not necessary given the voluntary nature of the framework. Instead, softer approaches such as reporting, review, and dialogue mechanisms are preferred. Tools like Action Taken Reports can help track progress without imposing enforcement.

14. Is third-party evaluation (e.g. by FAO) advisable to enhance credibility and accountability?

The involvement of external organizations like FAO is discussed as a potential advisory or supportive role. Such engagement could strengthen oversight and credibility. However, there is no indication that third-party evaluation is required or mandatory.

E. Due Process & Liability

15. Are existing laws sufficient to enable coordinated enforcement, or are specific legal provisions required to operationalize joint or multi-agency actions?

There are significant legal and institutional gaps, indicating that existing laws may not be sufficient. Some actions require amendments or new legislation for proper implementation. Current approaches often rely on partial or piecemeal regulatory measures.

16. What due process safeguards (notice, hearing, review, appeal) are required for actions such as IUU vessel listing, denial of port entry, or enforcement based on shared information? How do principles of natural justice—audi alteram partem and nemo judex in causa sua—apply?

Due process requirements such as notice and hearing are expected to be handled within national legal systems, not at the regional level. The regional framework should not function as a legal authority. Instead, it relies on principles of natural justice, including fairness and the opportunity to be heard.

17. How should liability be determined in cases of wrongful enforcement actions or incorrect vessel identification? What remedies should be available to affected parties?

The Secretariat does not assume liability because it does not verify or certify data. Responsibility for accuracy and legal consequences rests with the originating states and their agencies. The text does not outline a specific regional liability or remedies framework.

F. Data Sharing & Evidentiary Validity

18. What is the legal status of data generated or shared through regional systems (vessel registries, monitoring platforms) in national enforcement proceedings?

Data shared through the system is considered non-actionable and not legally binding. It is treated as information provided by nodal agencies and maintained by the Secretariat. The Secretariat acts only as a repository and facilitator, not as a validating authority.

19. Under what conditions can such data be admitted as evidence in courts or administrative tribunals? What authentication and chain-of-custody standards apply?

Such data is generally not admissible as evidence unless supported by a binding agreement and recognized under domestic law. It requires proper authentication and legal validation to be used in proceedings. At best, it can serve as corroborative evidence rather than primary proof.

20. How can implementation of the Plan support compliance with international seafood trade requirements (e.g. EU IUU Regulation, US SIMP, traceability standards)? Can the BOB RPOA-IUU serve as a platform for demonstrating regional due diligence?

International pressures from frameworks such as SDGs and WTO agreements influence compliance even in non-binding contexts. The RPOA can help countries demonstrate responsible practices and due diligence. It also supports alignment with evolving global regulatory expectations

G. Financial Commitments

21. Are existing endorsement processes followed by countries sufficient under their respective domestic legal frameworks, or do additional measures need to be taken?

Endorsement alone is not sufficient for implementation, as it does not guarantee action. Practical outcomes depend on whether commitments are translated into specific national activities. Without this, the framework risks remaining symbolic.

22. What is the legal basis for allocating public financial resources towards implementation of a voluntary regional instrument? How does this interact with national budgetary and financial rules?

Funding is typically linked to existing national programmes and schemes, rather than new financial commitments. Governments require clear justification through budgetary processes before allocating resources. External or project-based funding also plays an important role

23. Are additional approvals or mandates required under national financial and administrative rules to support long-term implementation beyond the current project funding cycle (2025–2030)?

Long-term implementation requires integration into national administrative and financial systems. Reliance on short-term project funding creates risks of discontinuity. Therefore, additional approvals and sustained commitments may be needed beyond the project cycle.

PROSPECTUS

Context

The BOB RPOA-IUU is a voluntary instrument and the BOBP-IGO will be the secretariat for implementing the Plan. However, while voluntary, the plan draws strength from global voluntary and non-voluntary instruments, making it, what we believe, 'quasi-binding' on the countries once it is being implemented - considering the activities and outputs from the implementation of the BOB RPOA-IUU such as development of a Regional Record of Fishing Vessels; List of IUU vessels; National vessel databases (validated and shared); Monitoring frameworks for IUU magnitude; Information-sharing platform/mechanism; Standard Operating Procedures (SOPs); Joint fisheries monitoring, control and surveillance procedure; Regional Working Group, etc. That is, the Plan may create **de facto obligations at the administrative and operational level**, even in the absence of formal legal binding force.

These outputs need long-term commitments from the countries as well as formalization within national legal and policy framework including budgetary support to successfully complete.

This creates a key question:

How a voluntary regional instrument can be translated into enforceable and sustainable national actions without creating inconsistencies with domestic legal frameworks or international obligations.

Overarching Question:

When a voluntary regional instrument such as the BOB RPOA-IUU is proposed to be implemented and enforced by its member countries:

- **first,** what legal backing — legislative, regulatory, or treaty-based — is required to ensure that enforcement is sustainable, consistent, and legally defensible beyond the immediate project period; and

  second, what are the implications for the domestic administrative and legal framework, including whether implementation creates novel obligations on the State, its agencies, or its citizens that go beyond what is currently provided for under existing domestic law?

Therefore, in this context, we would like to explore the possible issues concerning effective implementation of the BOB RPOA-IUU. Our approach is two pronged – first, how the actions agreed under the RPOA can be implemented immediately within the existing institutional and legal frameworks in the member countries and second, what are the critical gaps in the operationalization of the agreed actions under RPOA, which the countries should take note of, for necessary internal consideration.

We have listed 23 questions, grouped into SEVEN broad areas for the purpose of discussion during the brainstorming session. The list is only indicative, and the experts will have an open discussion on incidental issues, as the discussion progresses.

A. Legal Character of the Instrument

1. What is the legal status of a voluntary regional instrument once endorsed by a country? Does endorsement create any legal or quasi-legal obligations?
2. How does the BOB RPOA-IUU differ from treaties in terms of domestic applicability and enforceability?
3. What approach should be adopted in case of inconsistency between RPOA measures and existing international commitments?

B. Jurisdiction, Spatial Scope & Alignment with International Obligations

4. How should the spatial scope of the Plan (EEZs and adjacent ABNJ) be interpreted in light of UNCLOS provisions on sovereign rights, jurisdiction, and high seas freedoms?
5. What enforcement limitations exist in ABNJ, and how should regional cooperation address these within the UNCLOS framework?
6. How should implementation of the Plan be aligned with existing binding international obligations (UNCLOS, RFMO conservation measures, PSMA)?

C. BOBP-IGO Institutional Authority

7. Given that BOBP-IGO is an advisory body and not an RFMO, what is the legal basis for its role as Secretariat for RPOA-IUU implementation? What institutional adaptations are needed?
8. What limitations arise compared to an RFMO with regulatory authority (e.g. IOTC), and how can these be addressed within the existing BOBP-IGO Agreement?

D. Domestic Integration, Functional Mapping & Inter-Agency Authority

9. How should countries integrate RPOA outputs (e.g. vessel registry, SOPs, CDS, IUU vessel list) into their national legal and administrative systems? What are the pathways—statutory, regulatory, or administrative?
10. How can key outputs of the RPOA-IUU be mapped onto existing national institutional mandates to avoid overlaps and gaps in implementation?
11. What legal arrangements are required within countries to clearly assign authority among fisheries, navy, coast guard, port and customs agencies for inspection, enforcement, and compliance actions?
12. Does the current governance structure (Governing Council reporting and working group mechanism) provide adequate oversight for RPOA implementation?
13. Should formal compliance or review mechanisms be established, and if so, what form should they take—peer review, self-assessment, or independent evaluation?
14. Is third-party evaluation (e.g. by FAO) advisable to enhance credibility and accountability?

E. Due Process & Liability

15. Are existing laws sufficient to enable coordinated enforcement, or are specific legal provisions required to operationalize joint or multi-agency actions?
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G. Financial Commitments

21. Are existing endorsement processes followed by countries sufficient under their respective domestic legal frameworks, or do additional measures need to be taken?
22. What is the legal basis for allocating public financial resources towards implementation of a voluntary regional instrument? How does this interact with national budgetary and financial rules?
23. Are additional approvals or mandates required under national financial and administrative rules to support long-term implementation beyond the current project funding cycle (2025–2030)?

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