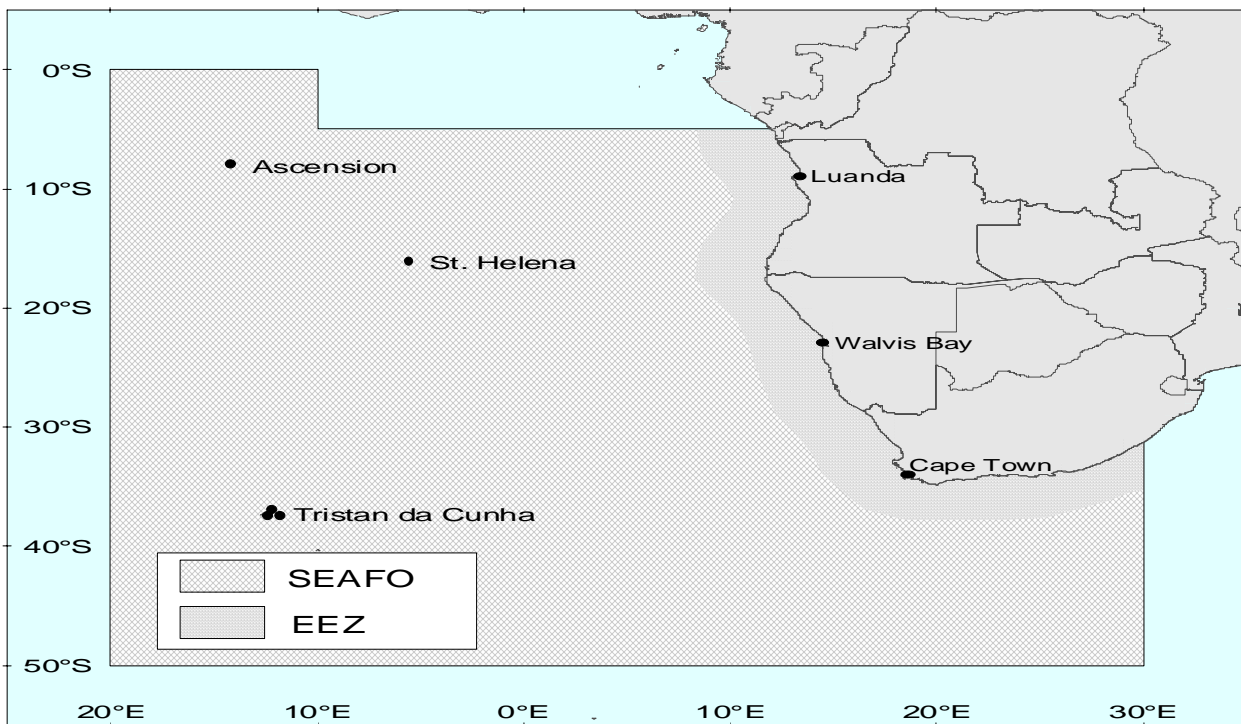




**REPORT OF THE 2ND ANNUAL MEETING OF THE
COMMISSION, 2005**



**SOUTH EAST ATLANTIC FISHERIES ORGANIZATION
(SEAFO)**



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COMMISSION, 2005**

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1. Opening of the Meeting

The 2nd Annual Meeting of SEAFO Commission was convened in Windhoek, Namibia from 3-6 October and attended by the representatives from four Contracting Parties, three Signatory States and by five Observers. The list of participants is provided in **Annex 1**.

The Chairperson, John Spencer, European Community, opened the Meeting outlining the genesis of the Organisation (**Annex 2**). In his address, the Chairperson extended a warm welcome to the Republic of Angola on becoming the latest Contracting Party to SEAFO and to the new Executive Secretary, Dr Hashali Hamukuaya. Mr. Spencer further encouraged other Signatories and States with real interest in fisheries in the region to become parties to the SEAFO Convention.

The Namibian Minister of Fisheries and Marine Resources, Dr. Abraham Iyambo made a keynote speech outlining the need for a strong organisation in the light of the current challenges facing high seas fisheries governance globally, and notably that posed by IUU fishing activities (**Annex 3**).

2. Adoption of the Agenda and Arrangements

Following discussions, a revised agenda was adopted by the Commission (**Annex 4**). It was agreed that the Press Statement would be prepared by the Executive Secretary in consultation with the Chairperson and that the draft Report of the Meeting would be circulated to Parties for their comments within two weeks of the end of this Meeting.

The Chair briefly explained the rules of procedure regarding the participation of the Observers on matter of substance.

3. Appointment of Rapporteur

It was agreed that the Executive Secretary would act as Rapporteur to the Meeting.

4. and 5. Introduction and Opening Statements of Parties and Signatories

Parties and Signatories introduced their delegations. All Contracting Parties of SEAFO – Angola, European Community, Namibia and Norway were represented. Norway, the EC, South Africa and USA presented opening statements and these are attached as **Annex 5**.

Norway informed the meeting that it represents CCAMLR while the EU informed the Meeting that it was representing ICCAT at the Meeting.

6 and 7. Introduction and Opening Statements of Observers

Observers presented the composition of their Delegations. Opening statements (**Annex 6**) were made by FAO, Southern Africa Development Community (SADC) and the Benguela Current Large Marine Ecosystem (BCLME) Program.

8. Status of the Convention in Respect of Membership

- 8.1 The Executive Secretary reported on the outcome of his contacts with both Signatories and other States with potential or real involvement in the fisheries in the SEAFO Convention Area.
- 8.2 In noting this information, the Commission encouraged all Signatories to complete their ratification process. In that regard, the United Kingdom (in respect of St. Helena and its dependencies of Tristan da Cunha and Ascension Islands) informed the Commission that it hoped to have completed its ratification procedures in the coming months. South Africa, for its part, reported that its internal ratification process was well advanced.

9. Introduction of the Chair of the SC and the Presentation of the SC report

- 9.1 The new Chairperson of the Scientific Committee, Raider Toreson, was presented to the Commission and he, in turn, outlined the salient points of the Scientific Report. He laid special emphasis on the following priorities for the Scientific Committee:
- advice and facilitate on the setting up a system of appropriate data handling;
 - carryout resource stock assessments on key stocks (orange roughy, alfonsino, sharks, swordfish, armourhead, deep sea red crab, Patagonian toothfish);
 - prepare results and make comprehensive recommendations on the resources;
 - address and make recommendations on the impacts of fishing activities on the ecosystem;
 - advice on the undertaking of fisheries and oceanographic surveys;
 - advice on appropriate management actions to ensure sustainability of fisheries and conservation of ecosystem.
- 9.2 He underlined that it was imperative for the Scientific Committee to have complete and reliable data on the extent of the fisheries and the status of the stocks. Under the current situation, the Scientific Committee considered the need to apply precautionary approach principle by freezing on current fishing effort and that all vessels active in the fisheries should have scientific observers on-board to collect data in an agreed format.

10. Consideration of the Scientific Committee Report and its Recommendations

- 10.1 The Commission endorsed the proposal to modify the Rules of Procedure of the Scientific Committee so that, as a general rule, the mandate of the Chairperson would be a three year term, renewable for a further three years.
- 10.2 It was pointed out that the one of the key species identified by the Scientific Committee was subject to conservation and management measures in another Regional Fisheries Organisation, namely, swordfish in ICCAT. Therefore it was agreed that this species would not be treated by this organisation.

- 10.2 The Commission further endorsed the proposal by the Scientific Committee to establish a Provisional Working Group which would commence its work by correspondence and would meet once inter-sessionally during 2006. The focus of the PWG would be to analyse available fisheries and oceanographic data.
- 10.3 Consideration was given to the Scientific Committee advice to freeze current fishing effort in the SEAFO area. Lengthy discussions took place in order to explore how such a general recommendation could be implemented in practice. Since only one Party had conducted fisheries in 2004, the freezing of current fishing effort could discriminate against the possibility for other Parties to deploy vessels in the area. Bearing in mind that the full provisions of the transitional arrangements had not yet been implemented, including notification of vessels intending to fish in the area, the Commission considered that the issue be deferred to the 2006 Annual Meeting when it was expected greater clarity on the extent on the fishing in the SEAFO area would be available.
- 10.4 The Commission endorsed the need to increase the level of monitoring of fishing activities within the SEAFO area for both control and scientific reasons. It consequently adopted :
- Conservation Measure 01/05 to monitor the fisheries in the SEAFO area through the introduction of obligatory satellite VMS with vessel positions communicated to the SEAFO Secretariat through the Flag State and the placing of a scientific observer on all vessels fishing in that area. (**Annex 7**)
 - Conservation Measure 02/05 on interim port state measures under which, *inter alia* port states would have to report on the results of their inspections of foreign vessels to the SEAFO Secretariat (**Annex 8**).
- 10.5 The Commission acknowledged the receipt of the Japanese data relating to its 2005 crab fishery. In response to the Japanese request to be accorded a status of co-operating non-Party, the Commission directed the Executive Secretary to inform Japan that it did not envisage the introduction of such a mechanism. All Parties strongly urged Japan to ratify the Convention and become a SEAFO Party, considering that it had actively participated in the creation of the organisations and could contribute in a positive way to the further development of the organisation through its long involvement and experience in multilateral fisheries co-operation.
- 10.6 The Observer from Japan explained that Japan will cooperate with the Organisation by implementing conservation and management measures adopted by the Commission.

11. Matters and Activities of the Commission Arising from the SEAFO Convention

- 11.1 The Commission considered that in the absence of conservation measures it was premature to establish the Compliance Committee and it, therefore, deferred the issue to the 2006 meeting.

- 11.2 The Commission acknowledged that the monitoring of Contracting Parties obligations had been deficient up to now due essentially to the absence of a Secretariat. It instructed the Executive Secretary to monitor the respect by the Parties of the current measures in the interim arrangements and to prepare a report for the 2006 Annual Meeting.
- 11.3 The deliberations in relation to observation inspection, compliance and enforcement, served as the basis for the elaboration of the conservation measures referred to in Section 10 above. Parties considered that with the present state of knowledge it was premature to envisage the adoption of such a system in full.
- 11.4 The Meeting expressed concern on unregulated, unreported fishing activities (from vessels identified in the Report of the Scientific Committee) in the area that would undermine the sustainability of the resources.

12. Executive Secretary's Report on Finance and Administration

- 12.1 The Executive Secretary referring to document (DOC/COMM/MEETING/03/05) outlined in detail the administrative and financial evolution of the SEAFO Secretariat since his appointment to the post in March 2005.
- 12.2 Parties expressed their appreciation for the thorough nature of this report and underlined its usefulness in permitting them to evaluate the current functioning of the Secretariat and its future needs in the context of the draft 2006 budget. It was agreed that this Report would serve as the basis for discussions on Agenda item 14 on the 2006 budget.
- 12.3 The Commission agreed that the Administrative Officer be placed in the Professional Category due to the high level of responsibilities entrusted to her. As such, on appointment, both the Executive Secretary and the Administrative Officer are entitled to an installation grant.

13. Draft Headquarter Agreement

The Commission considered, for the first time, the provisions of a draft Headquarters Agreement between SEAFO and the Government of Namibia (**Annex 9**). Namibia indicated that the provision whereby SEAFO staff of Namibian nationality would be exempt from Namibian taxation was not in conformity with current legislation. In response to strong concern expressed by other Parties that SEAFO staff irrespective of nationality must be exempt from Namibian taxation, Namibia confirmed that it would seek to resolve this issue at Government level.

The Parties recommended that the Chair of the Commission write to the Namibian Minister of Fisheries and Marine Resources expressing the Commission's expectations on acceptance of the adopted Headquarters Agreement that include the clause of tax exemption of the staff at the Secretariat, irrespective of their nationality.

14. Budget and Contributions for 2006

1. The Commission noted that the draft budget for 2006 provided for an increase of 10% over the 2005 level. Since the Secretariat was still in a transitional mode, the Commission exceptionally accepted this level of increase, but agreed that for future years increases would have to be more modest and in line with inflation.
2. The Commission, following the consideration of and discussions on the Executive Secretary's proposed 2006 budget, adopted the attached budget for 2006 (**Annex 10**). This budget included an increase of 5% of salary for both SEAFO staff with effect from 1 April 2006. The Executive Secretary will inform, in due time, Parties on level of their contributions.
3. In relation to premises, it was agreed that the Executive Secretary should prepare a study on the alternative accommodation options open to the Commission. This study should include a comparative analysis, on a cost benefit basis, of locating the Secretariat, in rented premises in either Walvis Bay or Windhoek, or the purchase of office accommodation in Walvis Bay or Windhoek. Additional options that may be proposed by the Namibian Government would be communicated to the Chair through email correspondence whilst other Parties are kept informed. This study should be submitted to Parties, at least three months in advance of the 2006 Annual Meeting, in order to allow Parties to consult their financial authorities. It was agreed that the Commission had as its objective to reach a decision on the premises issue at the 2006 Meeting. To facilitate this process, the Executive Secretary is mandated to negotiate the extension of the current rental contract to March 2007.
4. In relation to the proposed Terms of Reference for an external audit of the SEAFO accounts, the Commission endorsed the proposal that a full audit be undertaken by a reputable international audit company. This contract should only be for a period of three years, at which time a new audit company will be selected.

15. Cooperation with Other International Organisations

The Commission instructed the Executive Secretary to attend the Annual Meeting of the North East Atlantic Fisheries Commission (NEAFC), should it not clash with other prior engagements. In any event, and in view of similar size of Secretariat and responsibilities, it proposed that the Executive Secretary should undertake an information visit to NEAFC in order to appraise himself of their working methods, in particular in relation to catch data handling and VMS.

16. Any Other Matters

16.1 Logo

The Commission examined several proposals for a logo for the Organisation and agreed that the logo in **Annex 11** should be used by the Organisation.

16.2 Publicity Campaign

It was agreed that the Executive Secretariat would compile an information package outlining the history and development of the Organisation to be distributed in particular to the specialised media, and the public at large.

16.3 Portuguese Interpretation

The Commission agreed to provide Portuguese interpretation at its next meeting.

17. Date and Place of the Next Meeting

The Parties agreed that the third Annual Meeting of SEAFO be held in Windhoek from 2-5 October 2006, preceded by the meeting of the Scientific Committee from 27-29 September.

18. Closure of the Meeting

The Meeting was closed with the Chairperson being commended for his efficient and effective conduct of the meeting. In return the Chairperson thanked the representatives for their input and positive input, which contributed in no small measure to the good results.

APPENDIX I

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APPENDIX 2

OPENING REMARKS BY THE CHAIR OF SEAFO COMMISSION, JOHN SPENCER

Honourable Minister of Fisheries and Marine Resources
Members of Diplomatic Corps
Distinguished Delegations
Members of Media
Ladies and Gentlemen

It is my distinct honour and privilege to extend a warm welcome to you all at this official opening ceremony of the 2nd Annual Meeting of SEAFO Commission. First and foremost, permit me to express my profound thanks and gratitude to the Government and the People of Namibia for the hospitality accorded to participating Delegations. For me, being in Namibia is always a memorable experience characterised by the warm clear air, the blue skies and the unfailing hospitality of the Namibian people.

Allow me to take a few minutes to reflect on the history of SEAFO in recent years. It is over eight years ago, that the first meeting of concerned parties was convened in Windhoek to negotiate the formation of a regional fisheries management organisation to manage the fisheries resources of the high seas of the South East Atlantic Ocean. That was followed by six negotiation sessions; the last of them was on 20 April 2001 in Windhoek This meeting culminated in the signing of the Convention Text. By April 2003, the Convention entered into force after the required 3 instruments of ratifications were deposited. The entry into force of the Convention was a triumph of international law, in respect of conservation and sustainable use of living marine resources in the South East Atlantic region. After the signing of the Convention, Namibia took a laudable responsibility as a caretaker of the Interim Secretariat while the permanent organisational structures were being put in place. The period lasted until March 2005. At this juncture, I pay special tribute to Dr. Abraham Iyambo for his devoted leadership and ardent support in respect of conservation and sustainable use of living marine resources and the role he plays in international fisheries arena.

I would also like to extend both formally on behalf of the Commission, and personally, a warm welcome and congratulations to Dr. Hashali Hamukuaya in his appointment as Executive Secretary. He has already shown great enthusiasm in undertaking this onerous task and I thank him for his positive attitude, hard work and support to me as the current Chairman, in the short time since he has taken up his post. The meticulous preparation of this meeting is a reflection of this efficiency and commitment. I am sure he will contribute greatly to making SEAFO a vibrant and successful organisation.

I wish to recall the successful first meeting of the Commission in March last year in Swakopmund. It prepared the groundwork for the Organisation for the years ahead.

Among notable items adopted at that inaugural meeting were the Rules of Procedure of the Commission, Staff and Financial Regulations, 2005 budget appropriations, location of the Secretariat, and selection process for the Executive Secretary and staff. It also identified the main priorities of the Commission vis a vis the Scientific Committee for this year.

I am happy to report that since our meeting last year, significant progress was recorded in the implementation of what we have agreed. The Permanent Secretariat has been established in Walvis Bay and is successfully carrying out its mandate as envisaged in the Convention. The agreed number of staff were recruited and modern state-of-art office facilities are now at the disposal of the Secretariat. The Scientific Committee has met last week and the Commission will be presented later today with its report, including scientific advice by its newly elected Chairperson.

During the past twelve months, consultations have taken place between the Secretariat and Signatories regarding the process of ratifying the Convention. I take note that considerable progress was made by some Signatories who are at advanced stage of completing the legislative process in their countries. I take great pleasure in welcoming the Republic of Angola as the latest signatory to complete its ratification and become a SEAFO party.

Your Excellencies,
Ladies and Gentlemen,

You will agree with me that these achievements are no small feat and I am very satisfied with the progress.

With regard to the ratification of the Convention, I take this opportunity, in my capacity as Chair of the Commission to strongly encourage all remaining Signatories to accelerate the process so as to fully participate in the implementation of the Convention especially since they worked so hard for its adoption. I further urge non Parties whose vessels or nationals are actively fishing in the area to become Parties so that, together, we can strengthen the conservation and management of the resources under SEAFO's competence.

During the next 4 days, our schedule is full and demanding. To give you a flavour of our tasks at this Meeting, we shall, among others, review the recommendations and advice from the Scientific Committee. We shall consider numerous pertinent issues raised in the report of the Executive Secretary. We shall consider whether it is appropriate timing to constitute another subsidiary body of the Organisation, that is, the Compliance Committee. In addition, we will focus our attention on issues related to the setting up of the System of Observation, Inspection, Compliance and Enforcement as envisaged in the Convention. As you are aware, the Headquarters Agreement between the Government of the Republic of Namibia and SEAFO, as an Organisation,. Hopefully, we can agree on the draft text of the Agreement to be presented to the Government of Namibia. We will have time to debate and approve the 2006 budget appropriations. For the first time, we

will discuss, conservation and management measures including mechanisms of addressing the issues related to illegal, unreported, unregulated fishing. Finally, and more importantly, we shall review our own responsibilities as Contracting Parties and how well we are fulfilling those responsibilities.

By highlighting the tasks ahead of us, I am confident of your full involvement and support in establishing SEAFO at the forefront of current regional fisheries management organisations. I count on your full support during our deliberations.

It is now my great pleasure to ask to Namibian Minister of Fisheries, Mr Abraham Iyambo to pronounce the opening speech to the 2nd Annual Meeting of SEAFO.

I thank you. John Spencer

APPENDIX 3

KEYNOTE ADDRESS BY HON. ABRAHAM IYAMBO, MINISTER OF FISHERIES AND MARINE RESOURCES

Mr. Chairman
Your Excellencies Members of the Diplomatic Corps
Distinguished delegations
Esteemed Guests
Members of the Media

I am profoundly privileged to officially open the 2nd Annual Meeting of SEAFO Commission. I will focus on the challenges facing high seas fisheries governance, outside EEZ's.

The greatest threats to sustainability of fisheries resources in high seas is - the demon - the Illegal, Unreported, and Unregulated Fishing (IUU). Are we as SEAFO prepared to fight this scourge? IUU fishing undermines the effectiveness of conservation and management of world's fisheries resources. Statistics show that 25% of catches in some high seas fisheries are from IUU fishing, with the estimated value that can easily reach N\$90 billion dollar per year. Patagonian toothfish is a typical example. IUU is not an accident. – It is carefully planned, and unfortunately tolerated. Those who finance it make great profits. The perpetrators operate from all over the world, like chameleon, they change their identities and often take advantages of weak governance to have access to the resources. They are rarely brought to book and when apprehended, fines are not a deterrent.

A fundamental question is - why is IUU fishing allowed to happen at all? This question will be relevant as we deliberate on activities of SEAFO. There are available a plethora of excellent international instruments in place to deter IUU, such as UN Fish Stock Agreement, the Compliance Agreement, the Code of Conduct for Responsible Fishing and various International Plans of Actions. We have spent precious resources and time developing these instruments. Why are IUU vessels still able to offload at ports under the nose of certain Port States and find lucrative markets for their illicit cargoes? What a mockery of international instruments. The truth is, there are those who are actively breaking the laws knowing that they can get away with it.

How can we effectively combat IUU fishing? The challenges before us demand global response. It will require a collective will and wisdom. We can talk and develop prudent and well-intended plans, but if real political will is lacking for implementation, then we are wasting our time. SEAFO members states should have an unquestionable political will to fight IUU. Sharing of information in a timely manner among stakeholders is one of the keys to successfully thwart control operations. This calls for strong regional fisheries management organisations such as SEAFO. SEAFO should have teeth! I strongly believe that regional fisheries management organisations are strategically

positioned to fight many governance ills facing them. In order to do this, they need to be strong and effective institutions. Otherwise they would suffer from delivery deficiency.

I am however encouraged that many regional fisheries organisations have started to review their performances in respect of mandates. Recommendations from those reviews would, I hope, lead to improved governance, once implemented. The World Summit on Sustainable Development in 2002 through the Johannesburg Plan of Implementation has agreed to achieving, sustainable fisheries by 2015 through good governance. At FAO Committee on Fisheries in March this year, Ministers adopted a Declaration where they resolved, among others, to fight IUU fishing. Furthermore, in March this year, the UN General Assembly adopted a Resolution calling for cooperation in the fight against IUU activities. A follow-up Resolution is in the pipeline for next year. Fisheries Ministers at the St. John's Conference, Canada in May this year, have resolved to strengthen the governance of regional fisheries management organisations where they are members, and to implement a decision-making process which relies on the best scientific information available.

Since very little is known about IUU fishing in SEAFO Convention Area, we must not become complacent and assume that the area is spared by IUU fishing. Take this as a serious management challenge. I have no doubt that SEAFO can become an indispensable Organisation for cooperation and sound management. To fulfil the tenets of good governance as enshrined in the Convention, SEAFO need to have living and appropriate organisational structures in place. I am happy to see that you have included in your elaborate agenda, among others, modalities of formalising the Compliance Committee as well as the System of Observation, Inspection and Enforcement. These are essential elements and should not be unduly delayed in their establishment. To strengthen the governance of SEAFO, it high time to start formulating conservation measures. Without these measures, we will have nothing to enforce.

SEAFO can not succeed to work in isolation. I would therefore call on you to seek closer working relationship with other international organisations involved in marine affairs and ocean governance. Link with local, regional and international marine and oceanographic institutions in the SADC region such as BENEFIT and BCLME. Equally important, work closely with CCAMLR and ICCAT especially on IUU fishing. We should be a sound and pro-active institution.

When considering resources management, we should not overlook Article 3 of the Convention that calls for consideration of an ecosystem approach to fisheries management. This concept was adopted by the World Summit in Johannesburg and the world leaders called for its implementation by 2010. Although this new concept has not been fully tested, I am convinced that it is a superior management technique than the traditional single species management regime. It may be high time to consider exploratory scientific surveys to determine the abundances and distribution of commercially important resources in the SEAFO Convention.

There is an ongoing project spearheaded by FAO under the BCLME Programme assessing the feasibility of implementing the Ecosystem Approach to Fisheries Management in the region. This involves Angola, Namibia and South Africa. I am reliably informed that the results are positive so far with final recommendations expected next year.

Mr. Chairman,

I am sure that you will agree with me that the challenges before us, both regional and at global scales are monumental. They demand collective response and collective thinking. I have all the reasons to be optimistic that SEAFO can become a shining example by effectively addressing those issues. SEAFO'S strength comes from its membership. Therefore, let me underscore the importance of accelerating ratification of the Convention by Signatories. But, I also take cognisance of the sovereign rights of signatories in respect of their decision regarding when to ratify a given Convention. I take this opportunity to warmly welcome the newest member to the SEAFO family, the Republic of Angola. In the same vein, I call upon all States, with history of fishing in the Convention Area that are not member to join or agree to apply the conservation and management measures to be established by SEAFO.

Finally, I trust that my reviews will help you to focus on wider global issues as you narrow down to specific SEAFO issues. You have a very full four days ahead and a vital task to fulfil. I know, you will apply yourself with vigour to find solutions. I wish you a successful meeting and look forward to receiving the results. I hope you will find time for relaxation to enjoy the beauty of the city and to visit game farms in the surrounding areas.

With these few words, I now declare the 2nd Annual SEAFO Commission Meeting officially opened. I thank you.

APPENDIX 4

AGENDA OF THE 2ND ANNUAL MEETING OF THE COMMISSION

1. Opening of the Meeting
2. Adoption of Agenda and Arrangements
3. Election of Rapporteur
4. Introduction of Parties' Delegations
5. Opening Statements by Parties
6. Introduction and Admission of Observers
7. Opening Statements by Observers
8. Status of the Convention in Respect of Membership
9. Introduction of the Chair of the Scientific Committee and the Presentation of the Scientific Committee Report
10. Consideration of the Scientific Committee report and its recommendations
11. Matters and Activities of the Commission arising from the SEAFO Convention:
 - 11.1 Compliance Committee
 - 11.2 Contracting Parties Obligations
 - 11.3 System of Observation, Inspection, Compliance and Enforcement
12. Executive Secretary Report on Finance and Administration
13. Draft Headquarters Agreement
14. Budget and contributions for 2006
15. Cooperation with other International Organisations
16. Any Other Matters
17. Date and Place of 2006 Annual Meeting
18. Close of the Meeting

APPENDIX 5

STATEMENTS BY PARTIES AND SIGNATORIES

5.1 STATEMENT BY EUROPEAN COMMUNITY

Mr Chairman,
Distinguished Delegates,
Ladies and Gentlemen.

The European Community is very pleased to be present here at this Second Annual Meeting of SEAFO. We would like to firstly thank the Government and People of the Republic of Namibia for the very warm welcome that it has extended to our Delegation and the SEAFO Secretariat for the excellent preparation and organisation of this meeting in the wonderful surroundings of Windhoek.

In the last year this organisation has made great advances from the fledgling organisation of last year. It has moved from an organisation with an interim Secretariat that was provided by Namibia, whom we would like to take this opportunity to thank for undertaking this important task, to an organisation that has its own permanent Secretariat and Executive Secretary. Like you, Mr Chairman, the European Community would like to extend its congratulations and warm welcome to Dr. Hamukuaya following his appointment earlier this year. The task to which he has been appointed is somewhat unknown territory during which no doubt some difficulties and problems will be faced, but we have no doubt that in our Executive Secretary we have the competent person to meet these challenges.

At last years' Inaugural Meeting, important decisions and instruments laying out the future of the Organisation were adopted. These established the foundations of the organisation, which this year we have to build upon.

We welcome the fact that last week the Scientific Committee met for the first time. However, without full and reliable data, the Scientific Committee will not be able to provide the Commission with the necessary scientific advice that it needs in order to adopt the conservation measures that would be required to ensure that the fish stocks in the SEAFO Convention Area are managed in a sustainable way. Therefore, it is incumbent on the Parties and signatories to provide this information to the Executive Secretary as required in the Convention.

As we mentioned last year, we would hope that an approach to address Illegal, Unregulated and Unreported (IUU) fishing in the SEAFO Convention Area is developed sooner rather than later. As is widely recognised, this is a phenomenon that is world-wide, from which no Regional Fisheries Organisation, such as SEAFO, is spared. However, in order for this to be effective, it is essential that SEAFO itself is strengthened

by the membership of all the players in the SEAFO Convention Area. Therefore, we would call on those signatories who have not yet taken the final steps to ratify or accept the Convention, and other interested States, to do so as rapidly as possible. We also would like to congratulate Angola on completing its procedures to enable it to become a Party to SEAFO at this Annual Meeting.

The credibility of an Organisation such as SEAFO, and the means to take concrete, effective, action depends on the strength of its common, committed, membership.

The European Community would like to reiterate that it is fully committed to a strong SEAFO, and would expect the same commitment from all others around the table. With this, we look forward to working collectively with you all this week to arrive at results that will move the organisation forward from the solid foundations established last year.

Finally, Mr Chairman, we look to you to provide the strong leadership and counsel that will guide this organisation in its work this week to ensure that it achieves the objectives that have been established in its Convention. Thank you.

5.2 STATEMENT BY NORWAY

A number of international instruments have been developed during the last decade concerning the management of world fishery resources, including strengthening of the role of regional fisheries management organisations (RFMOs). In this context I would in particular like to mention the 1995 UN Fish Stocks Agreement (UNFA), the FAO Code of Conduct for Responsible Fisheries (the Code) and a number of action plans. These latter instruments are voluntary and are not intended to entail legally binding obligations. They more serve as a guidelines/toolboxes for conservation and management of fisheries, including some specific options for RFMOs such as SEAFO. SEAFO should of course use these as sources as inspiration when developing comprehensive schemes to deal with for example IUU-fishing in the area. The UN General Assembly has also for some years now annually addressed fisheries issues, among other things calling upon RFMOs to address specific topics in order to achieve sustainable fisheries within their areas of competence. Thus there are new demands and expectations concerning the performances of RFMOs. Being the first RFMO established after the adoption of UNFA, the close relationship between the SEAFO Convention and UNFA is beyond doubt. SEAFO thus has the means available to take appropriate actions within its area of competence. It should be mentioned that NAFO and NEAFC are currently examining their mandates in relation to new and extended demands, and both organisations use the SEAFO Convention as an inspiration in their work, in particular in relation to emphasises on conservation of marine biodiversity, ecosystem considerations and the precautionary approach. The SEAFO Convention was also the main text used to inspire the work of establishing an arrangement for non-tuna species in the southern Indian Ocean. Thus SEAFO has the means available – the next steps are of course implementation.

Norway is a strong supporter of regional cooperation concerning the management of marine resources, and Norway plays an active role in several RFMOs. For the time being

Norway is not fishing in the SEAFO-area. Norway has for many years been assisting the fisheries sectors in Angola, Namibia and South Africa, in particular in scientific research and fisheries management. Building on this experience and our general knowledge about fisheries management, including work in other RFMOs, our main objective now is to contribute to SEAFO becoming an effective RFMO in this part of the world. In order to achieve this it is, however, crucial that more states ratifies the SEAFO-Convention, in particular the coastal states South Africa and UK. In this regard Norway welcomes very much the recent ratification by Angola. It is further clear that other States participate in fisheries in the area, but have not yet become parties to SEAFO. Benefits should of course be accompanied by obligations. For the credibility of SEAFO, it is fundamental that all coastal states and fishing states as soon as possible becomes parties, and Norway strongly calls upon those states to do so without further delays.

We are looking forward to work with you all in the coming days, and we hope for a fruitful outcome of this meeting.

5.3 STATEMENT BY SOUTH AFRICAN

Mr Chairman,

The South African delegation wishes to express its pleasure at being able to participate at a more meaningful level in the current session of the Commission, having already participated in the Scientific Committee Meeting.

Mr Chairman, please allow me to congratulate Dr Hashali Hamukuaya for his appointment to the position of Executive Secretary of SEAFO, and congratulations also to Dr Reidar Toreson for his appointment as Chair of the Scientific Committee.

We would like to express our thanks to the Government and People of Namibia for its support to SEAFO and for the warm welcome it extends to all the members of the Commission. We would like to state that we are looking forward to being a part of the deliberations of the Commission, despite not yet having ratified the Convention. Mr Chairman, we have commenced the ratification process and I hope that by the next meeting of the Commission, the political process will have been completed and we will be able to take our place as a full member.

To all the countries of the Commission, we would like to extend a hand of co-operation to address the many challenges that lie ahead. I would like to refer particularly to the challenge of collating data from diverse sources in order to inform scientific recommendations, meeting the objectives of the Johannesburg Plan of Action emanating from the 2002 WSSD with regard to sustainable fishing and the ecosystem approach to fisheries management, and fully implementing the FAO Code of Conduct. I refer here especially to controlling IUU fishing and effectively implementing International Plans of Action to protect sharks, birds, turtles and marine mammals. We take particular note also of and support the resolutions of the FAO-CoFI with respect to the impact of trawling on seamounts located in high seas regions. With regard to IUU fishing, Mr Chairman, I

would like to mention that South Africa has recently launched a new 82m deep-sea patrol vessel, the “Sarah Baartman”. Should SEAFO wish to make use of the vessel for high seas patrols, I would recommend that the Chairman formally communicates this need to our Ministry. Obviously the financial implications would need to be discussed at that level.

Mr Chairman, we are also looking towards seeing the SADC Protocol on Fisheries finding embodiment in the decisions and outcomes of this Commission. We are enthusiastic about the strong links between various regional programmes such as the BCLME and BENEFIT as well as international ones being further developed, to the advantage of all the member countries. We see particular advantages, for example, to the deployment of research vessel capacity by the FAO and perhaps the EU in this high seas region. South Africa is fully committed to participating in appropriate research initiatives of SEAFO. Mr Chairman, we are at present replacing the vessels in our research fleet systematically in a long-term programme and hope to be in a position to provide more capacity in future.

Mr Chairman, I wish you well in your task of integrating all the contributions to this meeting in a meaningful way, and that we will all benefit from its outcomes.

Thank you, Mr Chairman.

5.4 STATEMENT BY USA

The United States is delighted to be able to attend and observe this 2nd Annual Meeting of the Commission. It is always a pleasure to be here in Namibia and to enjoy the wonderful hospitality of Windhoek and the Namibian government and people.

The United States participated actively in the negotiations leading to the establishment of SEAFO at the invitation of the government of Namibia, South Africa, Angola and the UK (in respect of the St. Helena and its Dependencies). We are extremely pleased that the convention has now entered into force.

Although not yet a member State the US remains extremely interested in the activities and mandate of SEAFO. As one of the regional fisheries organizations established subsequent to the adoption of the UN Fish Stock Agreement, SEAFO offers exciting opportunities for early implementation of provisions such as the precautionary approach, transparency, compliance, enforcement and monitoring. We concur with the remarks this morning from the esteemed Namibian Minister of Fisheries that SEAFO should indeed be the model for the future of regional fisheries organizations.

Although the United States is not a full member of SEAFO, we continue to support SEAFO for a number of reasons, including the fact that the United States

is a major market for fish harvested within the Convention Area. Recent discussions with the U.S. fishing industry confirm that, while there are no U.S. vessels currently fishing within the Convention Area, some U.S. vessels might be interested in returning to fish in the SEAFO Area. The United States will continue to monitor and assess its involvement with SEAFO.

In any event, the United States strongly supports the efforts of SEAFO to effectively conserve and manage the stocks (and related species) under its purview in accordance with the SEAFO convention, and with other relevant instruments such as the Fish Stock Agreement, the Code of Conduct and the FAO International Plans of Action.

The United States commends SEAFO for its first steps in carrying out its important mandate as stewards of the fisheries resources in the SEAFO convention area. We are delighted to be here as SEAFO leads the way into the future.

APPENDIX 6

STATEMENTS BY OBSERVERS

6.1 FAO STATEMENT

Mr. Chairman, distinguished delegates and observers:

FAO is very grateful for the invitation extended by the Secretariat of the South East Atlantic Fisheries Organization (SEAFO) to observe the Second Annual Meeting of the Commission. FAO would like to maintain a close and collaborative relationship with SEAFO, as the Organization has been doing with many regional fishery bodies (RFBs) around the world.

The role of RFBs has been increasing in importance and they are expected to play a primary role in promoting long-term sustainable and responsible fisheries.

The Twenty-sixth Session of the FAO Committee on Fisheries (COFI) and the Ministerial Meeting on Fisheries held consecutively last March underscored the important role of Regional Fisheries Management Organizations (RFMOs) and expressed its expectation that these organizations would take the lead as we move toward more responsible fisheries. In particular, COFI encouraged RFMOs to consider introducing and implementing the ecosystem approach to fisheries, requested RFMOs, as appropriate, to collect and submit information on deep-sea fisheries to FAO and noted that RFMOs would need to interact with other relevant intergovernmental organizations (IGOs) when introducing marine protected areas (MPAs) as a fisheries management tool.

Immediately after COFI and the Ministerial Meeting, the Fourth Meeting of Regional Fishery Bodies was held also in Rome. It was our great pleasure to have the new Executive Secretary of SEAFO, Dr Hamukuaya, among the participants. The Meeting also reconfirmed the important role that RFBs have to play in sustainable fisheries. Furthermore, the Meeting discussed a number of essential matters for RFBs such as external factors affecting fisheries management, the harmonization of catch documentation, relations between RFBs and the United Nations Environmental Programme (UNEP) and the status of the Fisheries Resources Monitoring System (FIRMS) of FAO.

SEAFO was the first RFMO to be established in the world to manage and conserve straddling fish stocks within the framework of the 1995 UN Fish Stocks Agreement, which as you all know, entered into force on 11 December 2001. FAO has high expectations that SEAFO will manage effectively the fisheries in this region where the fishing and associated industries are facing hard times and governments seek to ensure that sustainable fishing practices are implemented. FAO also anticipates that SEAFO will be instrumental in collecting and submitting fisheries data in a timely and coordinated manner.

We are aware that many RFBs around the world are now undergoing review processes to strengthen their mandates and conventions. This is being done so that major issues such as IUU fishing can be more effectively addressed by RFBs and as a means of ensuring that the spirit and intent of the international fisheries instruments concluded in the post-UNCED period are properly reflected and implemented by RFBs. FAO encourages these processes so that RFBs are better equipped to manage fisheries and given the central role in promoting sustainable fisheries. SEAFO is a newly born RFB and expected as a model of new RFMOs. Therefore, it is essential that members monitor international fisheries developments to ensure that the Organization maintains its leading edge.

Mr. Chairman,

I will carefully observe the proceedings of this session and appropriately report back to FAO's Fisheries Department.

Let me conclude, Mr. Chairman, by saying that I bring to the meeting greetings from FAO's Assistant Director-General for Fisheries, Mr. Ichiro Nomura. He wishes the meeting's every success in its deliberations.

Thank you very much, Mr. Chairman, for the opportunity to make this statement on behalf of FAO.

6.2 STATEMENT BY THE BCLME PROGRAM

Benguela Current Large Marine Ecosystem Programme (BCLME) is pleased to be part of the 2nd Commission meeting in Windhoek, Namibia. As partner in governance of the marine resources we hereby congratulate Dr Hashali Hamukuaya for having been appointed as CEO of the SEAFO.

The EU is congratulated for having been appointed as Chair of this important Intergovernmental Fisheries Management Organization. It is not easy task to be chairing a Scientific Committee of such an organization with a broad spectrum of membership and Norway is wished all the strength and success in this daunting task.

BCLME is prepared where possible and as a RFMO adjacent to the SEAFO area to work shoulder-to-shoulder with the Scientific Committee to provide the best Scientific information and advice to the Commission.

BCLME wishes the Commission success in its deliberations during the course of this gathering.

I thank you.

6.3 STATEMENT BY SADC SECRETARIAT

Mr Chairman, distinguished delegates, Ladies and Gentlemen

The Southern African Development Community Secretariat is very grateful for the invitation extended by the SEAFO Secretariat to observe this second meeting of the Commission. SADC Secretariat would like to thank the Government of Namibia for hosting this meeting and to warmly congratulate Dr Hamukuaya on his appointment as Executive Secretary.

Mr Chairman, the SADC Secretariat works on behalf of the fourteen Member States of the Southern African Region to facilitate the achievement of the regional development goals. Within the area of Fisheries, and specifically high seas fisheries we are guided by the SADC Protocol on Fisheries, Article 11 that directly addresses this issue through four sub-sections. Developing a sound and supportive relationship with the SEAFO Secretariat and supporting collaboration between their work and the work of our other regional fisheries programmes, is an area that the SADC Secretariat is committed to. Mr Chairman, strong collaboration is clearly required if we are to address the pressing issues facing the region; and specifically to ensure sustainable and beneficial management of the marine resources.

With these few words on behalf of the SADC Secretariat may I thank you and we look forward to working with you.

APPENDIX 7

CONSERVATION MEASURE 01/05 TO MONITOR THE FISHERIES IN THE SEAFO CONVENTION AREA

The Parties to the SEAFO Convention :

Noting that there is insufficient information regarding the fishing activities undertaken in the SEAFO Convention Area, and in order for the Scientific Committee to have the necessary information regarding fishing activities in the development of its advice;

Considering that all possible methods need to be considered in the development of an integrated observation, inspection, compliance and enforcement system as required by the SEAFO Convention, and the role that this system can play in the fight against Illegal, Unreported and Unregulated (IUU) fishing activities;

Recognising that a satellite based vessel monitoring system would constitute an effective mechanism to ensure the respect of the conservation and management measures adopted by SEAFO;

Conscious of the need to ensure that the Scientific Committee of SEAFO is provided with the appropriate information to enable it to fulfil its functions to its best capability;

Considering the importance of the collection of reliable biological and catch data for the fisheries in the SEAFO Convention Area, and that this requirement can be best achieved through the obligatory placement of scientific observers on all fishing vessels operating in the SEAFO Convention Area;

Have agreed as follows :

1. Minimum Standards For The Establishment Of A Satellite Based Vessel Monitoring System (VMS)

1.1 Each vessel fishing for species not subject to the management and conservation regimes of other competent regional fisheries organisations, operating in the SEAFO Convention Area, shall implement, by 1 April 2006, a satellite based vessel monitoring system and :

- (a) Be equipped with an autonomous system able to automatically transmit a message to the land based Fisheries Monitoring Centre (FMC) of its Flag State allowing a continuous tracking of the position of the fishing vessel by the Flag State.
- (b) The satellite tracking device fitted on board the fishing vessel shall enable the vessel to continuously collect and transmit, at any time, to the FMC of the Flag State the following data :

- The fishing vessel's identification;
 - The most recent geographical position of the fishing vessel (longitude and latitude) with a margin of error lower than 500 metres, with a confidence interval of 99%;
 - The date and time that the position of the fishing vessel has been notified.
- 1.2 Each Flag State shall take the necessary measures to ensure that the FMC receives through the VMS the messages required in paragraph 1 b).
- 1.3 Each Flag State shall ensure that the masters of the fishing vessels flying its flag shall ensure that the satellite tracking devices are permanently operational and that the information referred to in paragraph 1 b) is collected and automatically transmitted at least every 2 hours. In the event of a technical failure or non-operation of the satellite tracking device fitted on board a fishing vessel, the device shall be repaired or replaced within a month. After this period, the master of a fishing vessel is not authorised to begin a fishing trip with a defective satellite tracking device. Furthermore, when a device stop functioning or has a technical failure during a fishing trip lasting more than one month, the repair or the replacement has to take place as soon as the vessel enters a port; the fishing vessel shall not be authorised to begin a fishing trip without a satellite tracking device having been repaired or replaced.
- 1.4 Each Flag State shall ensure that a fishing vessel with a defective tracking device shall communicate to the FMC, at least daily, reports containing the information in paragraph 1 b) by other means of communication (radio, fax or telex).
- 1.5 Each Flag State shall provide a copy of the reports required in accordance with paragraphs 1.1 to 1.5 to the Executive Secretary, as soon as possible after receipt, but not later than 24 hours following the receipt of the reports and messages by the FMC.
- 1.6 Each Flag State shall ensure that the reports and messages transmitted to the Secretariat shall be in accordance with the data exchange format in the attached Annex.

2. Scientific Observers

- 2.1 All fishing vessels operating in the SEAFO Convention Area, and targeting species not subject to the conservation and management regimes of other competent regional fisheries organisations, shall carry qualified scientific observers from 1 January 2006. Flag States shall ensure that the relevant data is transmitted to Secretariat in a format specified by the Scientific Committee.

ANNEX

The first transmitted position report in the Convention Area detected by the FMC of the Flag State shall be identified as “ENT”. All subsequent position reports shall be identified as “POS” except the first position report identified outside the Convention Area which shall be identified as “EXI”.

If a Flag State so requests, the Secretariat shall confirm receipt of all electronic reports using a return message identified as “RET”.

The sequence of messages shall be as follows:

Report:	Code:	Remarks:
Entry	ENT	The first position report from a vessel detected to be inside the Convention Area
Position	POS	Position report every two hours
Exit	EXI	The first position report from a vessel detected outside the Convention Area

The reports identified above shall contain the following information :

Data Element	Code	Mandatory/ Optional	Remarks
Start Record	SR	M	System detail: indicates start of record
Address	AD	M	Message Detail; Destination SEAFO Secretariat (XSE)
Type of message	TM	M	Message detail; Message type; ENT, POS, EXI relating to entry, position or exit, as appropriate
Radio Call Sign	RC	M	Vessel Registration Detail ; International Radio Call Sign
Trip Number	TN	O	Activity Detail; Fishing trip serial number in current year
Vessel Name	NA	O	Vessel Registration Detail; Vessel name
Internal Reference Number	IR	O	Vessel Registration Detail; Unique Flag State Vessel Number: ISO-3Flag State code followed by number
External Registration Number	XR	O	Vessel Registration Detail; the side number of the vessel
Latitude (decimal)	LT	M	Activity Detail; Vessel position at time of transmission
Longitude (decimal)	LG	M	Activity Detail; Vessel position at time of transmission
Date	DA	M	Message Detail; Date of Transmission
Time	TI	M	Message Detail; Time of Transmission
End of Record	ER	M	System Detail; Indicates the end of the Record

Each data transmission shall be structured as follows:

- double slash (//) and the characters “SR” indicate the start of a message,
- a double slash (//) and the field code indicate the start of a data element,
- a single slash (/) separates the field code and the data,
- pairs of data are separated by a space,
- the characters “ER” followed by a double slash (//) indicate the end of a record.

APPENDIX 8

CONSERVATION MEASURE 02/05 ON INTERIM PORT STATE MEASURES

Each Contracting Party shall

1. maintain an effective system of port State control for fishing vessels entitled to fly the flag of another Contracting Party than the port State or a non-Contracting Party calling at its port,
2. ensure that port State inspections take place in accordance with Annex A and obtain, in the course of such inspections, at least the information listed in Annex B,
3. consult, cooperate and exchange information with other Contracting Parties, and
4. report without delay on the results of inspections to the SEAFO Secretariat.

ANNEX A

PORT STATE INSPECTION PROCEDURES OF FOREIGN FISHING VESSELS

1. Vessel identification

The port inspector(s) should:

- a) verify that the official documentation onboard is valid, if necessary, through appropriate contacts with the flag State or international records of fishing vessels;
- b) be assured that the flag, the external identification number (and IMO ship identification number when available) and the international radio call sign are correct;
- c) examine whether the vessel has changed flag and, if so, note the previous name(s) and flag(s);
- d) note the port of registration, name and address of the owner (and operator if different from the owner) and the name of the master of the vessel, including the unique ID for company and registered owner if available; and
- e) note name(s) and address(es) of previous owner(s), if any.

2. Authorization(s)

The port inspector(s) should verify that the authorization(s) to fish or transport fish and fishery products are compatible with the information obtained under paragraph 1 and examine the duration of the authorization(s) and their application to areas, species and fishing gear.

3. Other documentation

The port inspector(s) should review all relevant documentation¹ which may include various logbooks, in particular the fishing logbook, as well as stowage plans and drawings or descriptions of fish holds if available. Such holds or areas may be inspected in order to verify whether their size and composition correspond to these drawings or descriptions and whether the stowage is in accordance with the stowage plans. Where available, this documentation should also include catch documents issued by any regional fisheries management organization, trade documents or, if applicable, CITES documents.

¹ It is understood that documentation includes documents in electronic format.

4. Fishing gear

- a) The port inspector(s) should verify that the fishing gear on board is in conformity with the conditions of the authorization(s). The gear may also be checked to ensure that the mesh size(s) (and possible devices), length of nets, hook sizes etc. are in conformity with applicable regulations and that identification marks of the gear correspond to those authorized for the vessel.
- b) The port inspector(s) may also search the vessel for any fishing gear stowed out of sight.

5. Fish and fishery products

- a) The port inspector(s) should, to the greatest extent possible, examine whether the fish and fishery products on board are harvested in accordance with the conditions set out in the authorization. In doing so, the port inspector(s) should examine the fishing logbook, reports submitted, including those resulting from a vessel monitoring system (VMS), as appropriate.
- b) In order to determine the quantities and species which are fresh on ice, frozen but not packed, processed, packed or in bulk, the port inspector(s) may examine the fish in the hold or during the landing. In doing so, the port inspector(s) may open cartons where the fish has been pre-packed and move the fish or cartons to ascertain the integrity of fish holds.
- c) If the vessel is unloading, the port inspector(s) may, to the greatest extent possible, verify the species and quantities landed. Such verification may include presentation (product form), live weight (quantities determined from the logbook) and the conversion factor used for calculating processed weight to live weight. The port inspector(s) may also examine any possible quantities retained onboard.
- d) If the port inspector(s) has reasonable grounds to believe that a vessel has engaged in, or supported IUU fishing, the port inspector(s) should as soon as possible contact the flag State authorities to verify whether the fish and fishery products have been harvested or collected in the areas as recorded in the relevant documents. To this effect, the port inspector(s) may also review the quantity and composition of all catch onboard, including by sampling.

6. Report

The result of the port State inspection should be presented to the master of the vessel and a report should be completed, signed by the inspector and the master. The master should be permitted the opportunity to add any comments to the report.

ANNEX B

RESULTS OF PORT STATE INSPECTIONS

Results of port State inspections shall include at least the following information:

1. Inspection references

- inspecting authority (name of inspecting authority or the alternate body nominated by the authority);
- name of inspector;
- port of inspection (place where the vessel is inspected); and
- date (date the report is completed).

2. Vessel identification

- name of the vessel;
- type of vessel;
- external identification number (side number of the vessel) and IMO-number (if available) or other number as appropriate;
- international Radio Call Sign;
- MMSI-number (Maritime Mobile Service Identity number), if available;
- flag State (State where the vessel is registered);
- previous name(s) and flag(s), if any;
- whether the flag State is party to a particular regional fisheries management organization;
- home port (port of registration of the vessel) and previous home ports;
- vessel owner (name and address of the vessel owner);
- vessel operator responsible for using the vessel if different from the vessel owner;
- name(s) and address(es) of previous owner(s), if any; and
- name and certificate(s) of master.

3. Fishing authorization (licenses/permits)

- the vessel's authorization(s) to fish;
- State(s) issuing the authorization(s);
- areas, scope and duration of the authorization(s);
- species and fishing gear authorized; and
- transshipment records and documents² (where applicable).

4. Trip information

- date trip commenced (date when the current trip started);

² The transshipment records and documents must include the information provided for in paragraphs 1-3 of this Annex B.

- areas visited (entry to and exit from different areas);
- areas where fish and fishery products were captured or collected;
- ports visited (entry into and exit from different ports); and
- date trip ended (date when the current trip ended).

5. Result of the inspection on discharge

- start and end (date) of discharge;
- fish species;
- presentation (product form);
- live weight (quantities determined from the log book);
- relevant conversion factor;
- processed weight (quantities landed by species and presentation);
- equivalent live weight (quantities landed in equivalent live weight, as “product weight multiplied with the conversion factor”); and
- intended destination of fish and fishery products discharged.

6. Quantities retained on board the vessel

- fish species;
- presentation (product form);
- relevant conversion factor;
- processed weight; and
- equivalent live weight.

7. Results of gear inspection

- details of gear type inspected and attachments, if any.

8. Conclusions

- conclusions of the inspection including identification of the violations presumably committed and reference to the rules which have been presumably not complied with.

APPENDIX 9

SOUTH-EAST ATLANTIC FISHERIES ORGANISATION

Basic texts

HEADQUARTERS AGREEMENT BETWEEN THE SOUTH EAST ATLANTIC FISHERIES ORGANISATION

herein after called the “Organisation”

AND

THE GOVERNMENT OF THE REPUBLIC OF NAMIBIA

herein after called the “Government”

Hereinafter jointly called the “Parties”

HAVING regard to Article 5 of the Convention on the Conservation and the Management of Living Marine Resources in the South East Atlantic Ocean which provides that the headquarters of the Organisation shall be established at Windhoek, Namibia;

DESIRING to define the legal capacity, privileges and immunities of the Organisation and the privileges and immunities to be enjoyed by the staff of the Organisation in Namibia;

WISHING to provide for the privileges and immunities of certain other designated persons in the interests of facilitating the performance of the Organisation’s functions under the Convention on the Conservation and Management of Living Marine Resources in the South East Atlantic Ocean;

WHEREAS the Organisation obtained full legal personality in Article 5 of the Convention,

Therefore the Parties agreed:

1. DEFINITIONS

For the purpose of this Agreement unless expressly indicated otherwise:

“Appropriate Authorities” means the national, regional or local authorities as the context may require, in accordance with the laws of the Republic of Namibia;

“Commission” means the Commission of the Convention on the Conservation and Management of Living Marine Resources in the South East Atlantic Ocean, and includes members of, where the context so requires, the Compliance Committee, the Scientific Committee, the Secretariat, and any subsidiary bodies the Commission shall establish from time to time to assist in meeting the Organisation’s objectives;

“Children” shall include biological children, stepchildren and legally adopted children under the age 18 years or above such age but dependent on the Representative, Expert or Staff Member of the Organisation;

“Convention” means the Convention on the Conservation and Management of Fishery Resources in the South East Atlantic Ocean;

“Executive Secretary” means the Executive Secretary appointed under Article 10 of the Convention;

“Expert” means a person seconded by a Member State or non Member State performing short term or temporary projects or missions on behalf of the Commission and include a person serving on the Compliance Committee, or the Scientific Committee, or the Secretariat or any subsidiary body that the Commission shall establish from time to time in meeting the Organisation’s objective, without necessarily receiving remuneration from the Commission or any of the bodies referred to above, but does not include staff members, or consultants;

“The Government” shall mean the Government of the Republic of Namibia;

“Headquarters” means the premises of the Commission including the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, occupied by the Commission for the performance of its Official Activities;

“Official Activities” means all activities, including administrative and other activities, undertaken by the Commission pursuant to the Convention in the furtherance of its objectives;

“Offence” means an offence committed under any law of the Republic of Namibia;

“Representative” means duly authorised agents of Parties, in attendance of conferences or meetings convened by the Commission in Namibia, including delegates, alternates, advisers, technical experts and secretaries of delegations;

“Staff Member” means all persons appointed or recruited for full-time employment with the Commission including the Executive Secretary, but does not include experts or persons recruited locally and assigned on hourly rates of pay.

2. INTERPRETATION

This Agreement shall be interpreted in the light of its primary objective, as set out in the Convention, of enabling the Commission to perform its functions in the Republic of Namibia.

3. LEGAL PERSONALITY

The Commission shall have legal personality. It shall in particular have the capacity to contract, to acquire and dispose of movable property and to institute and be part to legal proceedings.

4. PREMISES

- 4.1 The Government shall provide the necessary premises for the exclusive use of the Commission, at a nominal rent to be agreed upon by the Commission, which premises shall serve as the Headquarters of the Organisation.
- 4.2 The Headquarters and archives of the Organisation shall be inviolable and shall be under the full authority of the Commission.
- 4.3 The residence of the Executive Secretary of the Organisation shall enjoy the same inviolability and protection as the Headquarters, when necessary.
- 4.4 The Government shall take all appropriate steps to protect the Headquarters against any intrusion or damage and to prevent any impairment of its dignity.
- 4.5 The Government shall arrange for the Headquarters to be supplied by the Appropriate Authorities with basic services, on terms no less favourable than those enjoyed by the Government;
- 4.6 The Commission shall inform the Government of its need for changes to location or extent of its permanent premises and of any temporary occupation of premises for the performance of its Official Activities.
- 4.7 The consent of the Executive Secretary shall be required for access to the Headquarters and shall be given under the conditions laid down by him or her. The Commission and the Appropriate Authorities shall agree under what circumstances and in what manner such consent shall be deemed to have been given.
- 4.8 The Organisation shall be responsible for the supply and maintenance of necessary office equipment.

5. IMMUNITIES OF THE COMMISSION

- 5.1 Except as otherwise provided in the Convention or in this Agreement, the activities of the Commission in Namibia shall be subject to the laws of the Republic of Namibia. In this regards, the Organisation shall cooperate at all times with the appropriate Namibian Authorities in order to prevent any abuse of the privileges and immunities and facilities provided for in this Agreement. The right of the Government to take all precautionary measures in the interests of security shall not be prejudiced by any provision in the Agreement.

- 5.2 Privileges and immunities are accorded to Staff Members and Experts to ensure the independence of the persons to whom they are accorded in the exercise of their functions to achieve the objectives of the Convention.
- 5.3 Within the scope of Official Activities the Commission and its property, premises and assets shall have immunity from suit and other legal process except:
- 5.3.1 to the extent that the Commission expressly waives such immunity from such suit and other legal process in a particular case;
- 5.3.2 in respect of any contract for the supply of goods or services and any loan or other transaction for the provision of finance and any guarantee or indemnity in respect of any other financial obligation
- 5.3.3 in respect of a motor vehicle offence, involving a motor vehicle belonging to or operated on behalf of the Commission.
- 5.3.4 in the event of attachment, pursuant to the final order of a court of law, for the salaries, wages or other recognised emoluments owed by the Commission to a Staff Member of the Commission or to an Expert.
- 5.3.5 in respect of a counter-claim directly connected with proceedings initiated by the Commission; and
- 5.3.6 in respect of the enforcement of an arbitration award made under Article 21 of the Convention.
- 5.4 The Commission's property, premises and assets, wherever situated, shall have immunity from:
- 5.4.1 any form of restrictions or controls such as a requisition, confiscation, expropriation or attachment;
- 5.4.2 any form of administrative or judicial constraint provided that motor vehicles belonging to or operated on behalf of the Commission shall not be immune from administrative or judicial constraint when temporarily necessary in connection with the prevention of, and investigation into, accidents involving such motor vehicles.
- 5.5 The above immunities shall cease to apply in relation to property, premises and assets, which have been abandoned by the Commission for a period in excess of twelve months.

6. FLAG AND EMBLEM

The Commission shall be entitled to display its flag and emblem on the premises and means of transport of the Commission and of the Executive Secretary.

7 EXEMPTION FROM TAXES

- 7.1 Within the scope of Official Activities, the Commission, its property, premises, movable assets and income, including contributions made to the Commission

- under and derived from the Convention, shall be exempted from all taxes and levies.
- 7.2 Goods imported by the Commission, including publications, motor vehicles and items for official activities shall be admitted without customs duties, import duties, taxes or fiscal charges having equivalent effect.
- 7.3 Goods and services acquired locally for official use by the Commission shall be exempted from all taxes and levies.
- 7.4 Any such goods, movable or immovable, referred to above in 7.1 and 7.2 shall be subject to national legislation upon their subsequent sale or alienation in Namibia.

8. EXEMPTION FROM CUSTOMS CONTROL RESTRICTIONS.

- 8.1 Goods imported or exported for Official Activities of the Commission shall be exempt from prohibitions and restrictions applicable to such goods on ground of national origin.
- 8.2 However, such goods shall not be capable of further alienation or resale in Namibia without the express consent of the relevant authorities.

9. EXEMPTION FROM CURRENCY AND EXCHANGE CONTROL

- 9.1 The Commission shall be exempt from currency and exchange restrictions, including those in respect of funds, currency and securities received, acquired, held or disposed of.
- 9.2 The Commission may also operate bank and other accounts for its official use in any currency and have them transferred within Namibia or to any other country.

10. COMMUNICATIONS

- 10.1 The Commission shall enjoy treatment not less favourable than that generally accorded to equivalent inter-governmental organisations on official communications and transferral of documents, in terms of rates and taxes on mail and other forms of telecommunications.
- 10.2 The Commission may employ all appropriate means of communication including messages in code or cypher.
- 10.3 The Commission may install and use a radio transmitter with the consent of the Government, and the Government shall assist in the allocation of a suitable broadcasting frequency.
- 10.4 Official communications of the Commission shall be free from censorship and other restrictions.

11. PUBLICATIONS AND INFORMATION

- 11.1 Publications and other information material imported or exported within the scope of Official Activities shall not be restricted in any way.
- 11.2 Intellectual property rights in all information collected, derived from, and published by the Commission shall exclusively vest with the Organisation.

12. COOPERATION

- 12.1 The Commission shall cooperate fully with the Appropriate Authorities to prevent any abuse of the privileges, immunities and facilities provided for in this Agreement.
- 12.2 The Government reserves its inalienable and sovereign right to take reasonable measures to preserve security and nothing in this Agreement prevents the application of legislation necessary for health, quarantine or keeping of public order.

13. REPRESENTATIVES IN ATTENDANCE OF CONFERENCES CONVENED BY THE COMMISSION

- 13.1 Representatives, unless they are citizens of, or permanently resident in, Namibia shall enjoy, the following privileges and immunities:
 - 13.1.1 immunity from arrest and detention and from confiscation of personal luggage except when found committing or attempting to commit, an offence;
 - 13.1.2 inviolability for place of residence during the course of their functions;
 - 13.1.3 immunity, which shall extend beyond the termination of their mission, from suit and other legal process in respect of acts and things done by them in the exercise of their official functions, including words written or spoken, excluding civil or administrative proceedings arising out of death, damage or personal injury caused by an act or omission in Namibia;
 - 13.1.4 inviolability for all their official papers and documents;
 - 13.1.5 exemption including exemption of the spouse of the representative from the application of laws relating to the registration of aliens, residence and or work permits;
 - 13.1.6 the same exemption from currency and exchange restrictions as is accorded to a representative of a foreign government on a temporary mission in Namibia on behalf of that government;
 - 13.1.7 the same exemptions in relation to inspection and confiscation of personal baggage, than is that accorded to government envoys;

- 13.1.8 the right to use codes and to send and receive correspondence and other papers and document by couriers or in sealed bags;
- 13.1.9 the same exemption from taxes on income that is accorded envoys; and
- 13.1.10 similar repatriation facilities, including the spouse and dependent relatives, in time of international crisis as are accorded to government envoys.
- 13.2 The provision of Article 13.1.10 shall be applicable irrespective of the relations existing between the governments, which the persons referred, to represent and is without prejudice to any immunities to which such persons may be entitled.
- 13.3 In order to assist the Government to implement the provisions of Article 13, the Commission shall, so far as possible, inform the Government of the names of representatives prior to their arrival in Namibia.
- 13.4 Privileges and immunities are accorded to Representatives of Parties and not for the personal benefit of individuals themselves, in order to safeguard the independent exercise of functions of the Commission. Notwithstanding, a Party not only has the right but is under a duty to waive the immunity of its Representative in any case where in the opinion of the Party the immunity would impede the course of justice, and it may be waived without prejudice to the purpose for which the immunity is accorded. If the Party for whom the Representative acts does not waive the immunity of the Representative, it shall make the strongest efforts to achieve an equitable solution of the matter in consultation with the Commission.
- 13.5 The Government shall treat Representatives with due respect and shall take all necessary measures to prevent encroachment on their person, freedom and dignity. Where it appears that an offence may have been committed against a Representative, the Commission and such Representative shall be entitled to expect that such steps shall be taken in accordance with the Namibian legal processes to investigate the matter and to ensure that appropriate action is taken with respect to the prosecution of the alleged offender.

14. STAFF MEMBERS

- 14.1 Staff Members of the Secretariat unless they are Namibian citizens or permanent residents in Namibia shall:
- 14.1.1 be exempt from the application of laws relating to the registration of aliens and immigration, work and or residence permit requirements the spouse and dependent children under the age of eighteen of a Staff Member shall enjoy the same exemptions;
- 14.1.2 be accorded the same exemption from currency and exchange restrictions as is accorded to an official of comparable rank forming part of a diplomatic mission in Namibia;
- 14.1.3 be exempt from customs or import duties, taxes and other fiscal charges having equivalent effect, in respect of the import of personal and household effects, including one motor vehicle provided that such goods shall be imported

- within six months of the Staff Member's first entry into Namibia. Personal and household effects and one motor vehicle may be replaced by duty free imports at such intervals as may be agreed upon by the Commission and the Government.
- 14.1.4 have similar repatriation facilities, including such facilities in respect of a spouse and children in time of international crisis as are accorded to an envoy;
- 14.2 Save for exceptional circumstances condoned by the Government, goods which have been acquired or imported by Staff Members and to which exemptions under this sub-clause 14.1.3 apply, shall not be given away, sold, lent, hired out, or otherwise disposed of or alienated except under conditions agreed in advance with the Government.
- 14.3 Furniture and personal effects including motor vehicles may be exported free of duties when leaving Namibia on the termination of the official functions of the Staff Member.
- 14.4 Staff members of the Secretariat shall:
- 14.4.1 have, even after the termination of their service with the Commission, immunity from suit or other legal process in respect of acts and things done by them in the exercise of their official functions, including words written or spoken, excluding motor vehicle offences committed by such Staff Member and civil or administrative proceedings arising out of death, damage or person injury caused by a motor vehicle belonging to or driven by him;
- 14.4.2 be exempted from all taxes in respect of salaries, and allowances paid to them by the Commission, in line with Staff Regulations.
- 14.5 In case the Executive Secretary is a Namibian national, the Government will provide him/her with appropriate travel document befitting the status of senior international civil servant to facilitate the functions during official trips.

15. EXPERTS

Experts shall, unless they are Namibian citizens or permanently resident in Namibia, enjoy the following privileges and immunities to the extent necessary for the carrying out of their functions:

- 15.1 Immunity from suit and other legal process in respect of acts done in exercise of their official functions, including words written or spoken, excluding a motor vehicle offence committed by an Expert, or administrative proceedings arising out of death damage or personal injury caused by an act or omission in Namibia by an Expert. Such immunity shall cease after the Expert's function in relation to the Commission have ceased.
- 15.2 Inviolability for all their official papers and documents;
- 15.3 The same exemption from currency and exchange restrictions as are accorded to a representative of a foreign government on a temporary mission in Namibia on behalf of that government.

- 15.4 Immunity from personal arrest and detention and from confiscation of personal; luggage except when found committing, or attempting to commit, an offence.
- 15.5 Exemption from customs and excise duties and taxes and levies in accordance with what is afforded to Staff Members in Section 15 hereof.

16. VISAS

- 16.1 All persons having official business with the Commission, and particularly:
 - 16.1.1 Representatives of Parties and their spouses,
 - 16.1.2 Staff Members of the Commission, their spouses and dependent relatives,
 - 16.1.3 Experts and consultants on missions for the Commissionshall have the right of entry into and exit from Namibia.
- 16.2 The Government shall, upon reasonable prior notification, facilitate entry into Namibian territory, sojourn on this territory and exit therefrom of all persons mentioned in clause 16.1. Visas, where required, shall be granted without wait or delay, and without fee, on production of a certificate that the applicant is a person described in the preceding paragraph.

17. WAIVING OF PRIVILEGES AND IMMUNITIES

- 17.1 The Executive Secretary has the right and duty in consultations with the Members of the Commission to waive any immunities, other than his own, and that of his spouse and dependent children under the age of eighteen years, when he or she considers such immunities to impede the course of justice, on condition that it can be waived without prejudicing the purposes for which it was accorded.
- 17.2 The immunities of the Executive Secretary and that of his spouse and dependent children under the age of eighteen years may be waived only by the Commission, in similar circumstances elucidated above.

18. NOTIFICATION OF APPOINTMENTS

- 18.1 The Commission shall inform the Government when a Staff Member or Expert takes upon relinquishes a post, where possible, prior to arrival and final departure, also in respect of an accompanying spouse and or dependent children under the age of eighteen years.
- 18.2 The Commission shall during the months of January and July and on such other occasion when necessary such as when changes occur, send to the Government a list of all Staff Members, their spouses and dependent children under the age of eighteen years accompanying them in Namibia, and Experts, clearly indicating the Namibian citizens or permanent residents.

18.3 The Government shall issue to all Staff Members and Experts after notification of their appointment, an identity card identifying him or her as a Staff Member or Expert as the case may be. This card shall be *prima facie* evidence to the Appropriate Authorities. The Commission shall return the card to the Government when the Staff Member or Expert relinquishes his or her duties. The issue and return of such identity cards shall also apply to the spouse and dependent children of Staff Members.

19. CONSULTATIONS

The Government and the Commission shall consult at the request of either of them concerning matters arising under this Agreement.

20. AMENDMENTS

No variation, alteration or amendment of this Agreement shall be of any force and effect unless reduced to writing and signed by all Parties.

21. SETTLEMENT OF DISPUTES

Any dispute between the Government and the Commission concerning the interpretation or application of this Agreement or any question affecting the relations between the Government and the Commission which is not settled by consultation or negotiation or by some other mutually acceptable method shall be referred to an arbitral tribunal constituted *mutatis mutandis* as provided for in Annex 3 of the Convention.

22. ENTRY INTO FORCE AND TERMINATION

22.1 This Agreement shall enter into force upon notification by the Parties that their respective internal requirements have been complied with.

22.2 This Agreement may be terminated by a joint decision of the Government and the Commission. In the event of the Headquarters of the Commission being moved from Namibia, this Agreement shall, after the period reasonably required for such transfer and the disposal of the property of the Commission in Namibia, cease to be in force. In either event, the date on which the Agreement terminates shall be confirmed by an exchange of notes between the Government and the Commission.

DATED ON THIS DAY OF

SIGNED:

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By and on behalf of the South East Atlantic Fisheries Organisation	By and on behalf of the Government of Namibia
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Appendix 10

Approved Budget for 2006 Financial Year (Nam. Dollar, N\$)

Budget line	Activity Description	Expenditures		Income
		Monthly	Annually	
3000	Audit and Accounting Charges		25000	
3050	Advertisement and Promotion		5000	
3200	Bank Charges	750	9000	
3300	Computer Expenses			
3300	01 Internet/Email Support	2500	30000	
3300	02 Software Upgrade		2000	
3310	Security	100	1200	
3350	VMS software and hardware		30000	
3355	Contingency		10000	
3400	Courier & Postage	170	2040	
3700	Miscellaneous /Entertainment	300	3600	
3850	Insurance of Office Equipment	500	6000	
4050	Publication of Reports & Subscription			
4050	01 Magazine and Journals	250	3000	
4050	02 Reports & Translation		25000	
4070	Meetings		240000	
4300	Office Rental	6600	79200	
4310	Rental Switchboard / PABX	1650	19800	
4400	Salary and Wages		715875	
4500	Office Expenses			
4500	01 Stationary	700	8400	
4500	02 Cleaning Materials	150	1800	
4600	Telephone and Fax	2300	27600	
4650	Travel			
4650	01 Flights	5000	60000	
4651	02 DSA	5000	60000	
4700	Cleaner / Messenger	1800	21600	
	Car allowance		18000	
6300	Office Equipment + cellphone	1000	12000	
8300	Petty cash	1000	12000	
9510	Income Tax Refunded by Staff			107,382.00
9990	Contribution by Parties			1,320,733.00
	GRAND TOTAL		1,428,115.00	1,428,115.00

APPENDIX 11

LOGO FOR THE ORGANISATION

