

SOUTH EAST ATLANTIC FISHERIES ORGANIZATION (SEAFO)



REPORT OF THE 5th ANNUAL MEETING OF THE COMMISSION, 2008

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1. Opening of the Meeting

- 1.1 The 5th Annual Meeting of SEAFO Commission was convened in Windhoek, Namibia from 6-9 October 2008 and attended by the representatives from five Contracting Parties and three Observers. The list of participants is provided in **Annex 1**.
- 1.2 The Meeting was called to order by the Chairperson, Mr. Frans Tsheehama (Namibia). In his opening remarks, the Chairperson warmly welcomed the delegates and expressed his wishes for a successful Meeting. He further extended special welcome to the Republic of South Africa for becoming a Contracting Party of SEAFO.

2. Adoption of Agenda and Meeting Arrangements

The Meeting adopted the agenda (**Annex 2**).

3. Introduction and Opening Statements of Parties and Signatories

- 3.1 The Heads of Delegations introduced members of their delegations. All SEAFO Contracting Parties — Angola, European Community, Namibia, Norway and South Africa were represented. Representing Signatory State was a delegation from the Republic of Korea.
- 3.2 All Contracting Parties presented opening statements (**Annex 3**).

4. Introduction and Admission of Observers

Observers present were Japan, FAO and WWF and all made opening statements (**Annex 4**).

5. Status of the Convention in Respect of Membership

- 5.1 The Acting Executive Secretary informed the Meeting that the Republic of South Africa has deposited its instrument in June 2008 thereby became the 5th Contracting Party of SEAFO. No other notifications were received in this regards.
- 5.2 Members welcomed South Africa as a new Contracting Party of SEAFO. Norway urged the United Kingdom as a coastal State bordering SEAFO Convention Area to emulate South Africa's example. The Commission further urged all States fishing in the Area, notably Japan and the Republic of Korea, to become Parties thereby contribute positively to the furtherance of SEAFO's objectives within the Organisation.
- 5.3 The Chairperson reported on the outcomes of contacts made intersessionally with the authorities of Japan and the Republic of Korea in respect of ratification.

- 5.4 In response to the Chair's letters, both Japan and the Rep. of Korea pointed out that they are taking concrete steps towards ratification of SEAFO Convention and pledged that the process is anticipated to be completed not later than December 2009.
- 5.5 In noting positive developments by Japan and the Republic of Korea towards ratifications, Members encouraged the two flag States to complete the ratification process so that their vast experiences in multilateral fisheries arrangements can contribute to the work of the Organisation.
- 5.6 The Commission underscored that those who benefit from the resources in the region should, in conformity with international obligations, fully participate in the work of the Organisation as Contracting Parties.

6. Status of the Headquarters Agreement

- 6.1 After many years of intense negotiations, the Commission adopted the Headquarters Agreement (**Annex 5**).
- 6.2 The agreed section 14.2.2 of the Agreement reads as follows: "*Unless they are Namibian citizens or permanent residents in Namibia, be exempted from all taxes in respect of salaries and allowances paid to them by the Commission, notwithstanding anything contained in any rule, policy or regulations of the Commission.*"
- 6.3 It was also agreed that the Secretariat will be based in Walvis Bay.
- 6.4 The Namibian delegation informed the Meeting that the Namibian Minister of Fisheries and Marine Resources will sign the Agreement on behalf of the Namibian Government. The Chairperson of SEAFO Commission will sign on behalf of the Organisation.

7. Report of the Scientific Committee (SC)

- 7.1 The Chairperson of the SC, Mr. Phil Large (EU), presented the report of his Committee including recommendations and advice.
- 7.2 He emphasised that catch statistics have not sufficiently improved to undertake stock assessments. Thus, the recommendations and advice presented are largely based on limited knowledge and taking into account, among others, the ecosystem approach to fisheries management and precautionary approach principle.
- 7.3 The complete recommendations and advice by the SC are contained in Section 8 of the SC Annual Report, 2008.

8. Consideration of the Scientific Committee Report

- 8.1 In considering the overall report of the SC, several delegations expressed their concerns on the lack of data, in particular landings, discard, effort and observer data and urge Parties to fulfil their obligations and obtain and submit to the Secretariat outstanding fisheries statistics to build up time series required for stock assessments.

- 8.2 Realising the need to enhance knowledge and understanding of the ecosystems and biodiversities in the Convention Area (CA), in particular along the Walvis Ridge and in SEAFO closed areas, the Commission reiterated its full support for the South Atlantic Mar-Eco Project. In this regards, the Commission encourages coastal States party to SEAFO to be assisted by the Secretariat in preparing a joint submission to potential partners (e.g. FAO/Nansen Program) in sourcing the required resources to conduct scientific surveys.
- 8.3 The Commission expressed great appreciation for the joint Spanish/Namibia scientific survey that was carried out during the intersessional period and produced valuable information on the ecosystems and living marine resources of Ewing and Valdivia seamounts within the SEAFO CA. The Commission encourage Parties to conduct similar scientific surveys particularly those aimed at mapping vulnerable marine ecosystems (VME's) in line with the adopted conservation measures and agreed protocols.
- 8.4 The Commission approved the recommendations by the SC and set a precautionary Total Allowable Catch (TAC) in the SEAFO CA for the first time for orange roughy of 100 metric tons and for alfonsino of 200 metric tons for 2009. These actions were necessitated by inadequate knowledge of population size and sustainable catch levels of these resources in the CA.
- 8.5 The Commission maintained the TACs for 2009 for (i) deep sea red crab at 200 tons in SEAFO Sub-Division B1 and 200 tons in the remainder of the CA and (ii) for the Patagonian toothfish at 260 tons for the whole CA.
- 8.6 As part of International Plan of Action to protect sharks, the Commission agreed with the recommendation of the SC to ban deep-water shark directed fisheries in SEAFO CA until additional information becomes available to identify sustainable harvesting levels.
- 8.7 The Commission approved the implementation of catch sampling forms (Appendix IV of 2008 SC Report) and the observer summary reports forms (Appendix V of 2008 SC Report) and that these forms should be used henceforth (SEAFO Secretariat to distribute to CPs).
- 8.8 The Commission agreed that all proposals for scientific surveys in SEAFO closed areas be submitted to SC for scrutiny and comment before consideration for approval by the Commission and that the Commission will respond promptly in a prescribed time set by the Commission.
- 8.9 To protect vulnerable marine ecosystems (VMEs) from significant adverse impacts and in response to the United Nations General Assembly Resolution on sustainable fisheries (A/Res/61/105), SEAFO has adopted a conservation measure (12/08, **Annex 6**) relating to bottom fishing activities in all existing and new bottom fishing areas outside SEAFO closed areas.
- 8.10 The Commission approved that SC convene a special workshop in 2009 that would further elucidate on bottom fishing / VMEs taking into account conservation measure 12/08 and also to provide a forum to facilitate the further development of South Atlantic Mar-Eco research plans regarding the mapping of VME's.
- 8.11 The Commission approved that exploratory fishing should not be allowed in existing closed areas.

- 8.12 The Commission approved the hiring of a consultant to develop a simple pictorial identification key for benthos including corals and sponges (to be used mainly by observers at sea) and to work with scientific institutes in the region to develop local expertise in this field.
- 8.13 The Commission approved SEAFO to participate in EU initiated and funded project TXOTX (Technical eXperts Overseeing Third Country eXpertise). The primary objectives of TXOTX are to: (i) collate information from all RFMOs/RFOs and Fisheries Partnership Agreements on the extent of scientific research programmes being undertaken by various actors (ii) analyse the data available and methodologies applied in assessment and management procedures regionally in order to identify data and research gaps and opportunities for greater research coordination that may be promoted by the EU in support of scientific advice to fishing management (iii) develop recommendations on how to improve with third parties in order to enhance research and resource status.
- 8.14 As recommended by SC, the Commission adopted the new SEAFO list of species (**Annex 7**), which now includes mackerel.
- 8.15 The Commission urged Parties to provide the names of their designate SEAFO scientific co-ordinators not later than 31 December 2008 to be responsible for the establishment of, *inter alia*, sampling protocols and requirements, including fish identification keys, monitoring the performance of the scientific observers system, coordination in the provision of historical data, electronic transmission of observer data, training of scientific observers and data quality control.

9. Performance Review of the Organisation

- 9.1 At its 4th Annual Meeting in 2007, the Commission decided that a Performance Review of the Organisation be conducted not later than 2010. At this Meeting, and for the purpose of advancing the process, the Commission decided that the Review be conducted during 2010 with the results to be presented at the Annual Meeting of that year.
- 9.2 The Commission further took into account NEAFC's and CCAMLR's models presented by the Secretariat and decided to apply, to large extent, CCAMLR's review criteria, adjusted to fit SEAFO's circumstances (**Annex 8**).
- 9.3 Regarding the composition of the Review Panel, the Commission decided that it would consist both internal and external members whose number will be determined at the next Annual Meeting.

10. Consideration of Procedures for Exploratory Fishing

The adopted conservation measure 12/08 (ref. Section 8.9 above and **Annex 6**) has sufficiently covered protocols regarding exploratory fishery, and as such, this agenda item was not pursued further.

11. Compatibility of Conservation Measures for Straddling Fish Stocks

- 11.1 The importance of ensuring the compatibility of conservation measures adopted for straddling fish stocks in SEAFO CA and in areas under national jurisdiction was deliberated by the Meeting, taking into account provisions of Article 19 of the SEAFO Convention.
- 11.2 Some members expressed that Article 19 has adequately covered the issue while others stated that there is a need for the Commission and the coastal States to develop and agree on standards for reporting and exchanging data on fisheries for the stocks concerned.

12. Catch Documentation Scheme (CDS)

- 12.1 The Meeting focussed considerable attention on the pro and cons of introducing trade and market related measure, in particular, the Catch Documentation Scheme.
- 12.2 While realising the advantages of introducing CDS, Members expressed concerns on the current capacity of the Secretariat to successfully implement the scheme. In this regards, the Commission directed the Secretariat to investigate what would be required for it to successfully manage the CDS and report back at the next Annual Meeting.
- 12.3 It was further noted that toothfish catches, irrespective of where they are caught are reported to CCAMLR. In this regards, the Commission directed the Secretariat to liaise with CCAMLR and find out if there are reported landings from SEAFO CA.

13. Protection of Marine Environment During Fishing Operations

- 13.1 The Meeting deliberated on the issue of protecting marine environment to ensure minimisation of harmful impacts on living marine resources and the protection of biodiversity in marine environment (in line with Article 3 of SEAFO Convention).
- 13.2 In discussing the matter, and taking into account the current level of fishing effort, as well as the enforcement implications, Members agreed that the impacts are most probably minimal unlike in Antarctic Area where fishing activities are intense in a crucially fragile environment.
- 13.4 In discussing the impacts of lost, abandoned or discarded fishing gear and related marine debris and the adverse impact such debris and derelict fishing gear have on, *inter alia*, habitats and other marine species, the Commission referred the matter to the SC for advice at the next year's Meeting.

14. Enhance MCS capacity

- 14.1 The Commission discussed whether to develop a measure on procedures for high seas boarding and inspection as enshrined in Article 16(3)(b).
- 14.2 Concerns were raised if SEAFO has administrative and enforcement capacities and if Parties are in position to implement such procedures at this time. Furthermore, the cost implications need to be evaluated especially when the fishing is so small.
- 14.3 In the meantime, the Commission agreed that the provisions under UNFSA can be used to inspect fishing vessels in high seas.

15. Report of the Compliance Committee

The Chairperson of the Compliance Committee Mr. Bonny Amutse (Namibia) presented the report of his Committee (**Annex 9**)

16 Consideration of the Compliance Committee Report

- 16.1 In considering the report of the Compliance Committee, the Commission expressed serious concern about the lack of available fisheries statistics.
- 16.2 The Commission agreed with all the recommendations and advice of the Compliance Committee including the following:
 - a) Urge Parties to submit catch, effort, discard, biological sampling data, observer reports, port inspection reports and VMs data.
 - b) Urge Parties to provide the list of their flagged vessels for listing in SEAFO Authorised Vessel List.
 - c) Recommend strongly that Parties establish VMS linkage with the Secretariat
 - d) The Secretariat should send a strong letter to the Togolese authority urging Togo to join SEAFO and to adhere to all conservation and management measures adopted by the Commission. The letter should also state that in future SEAFO will declare any Togolese flagged vessel fishing in SEAFO CA in the manner that undermines conservation and management measures adopted by the Commission as IUU fishing vessel
 - e) Urge Japan to comply with the adopted measures including not to fish in closed areas
 - f) Direct the Secretariat to consult Rep. of Korea to clarify inconsistency in its landed catches.
- 16.3 The observer from the Republic of Korea explained that the difference in reported catches was due to conversion factor and also catch of non-SEAFO species and Korea expressed that their data would need more review by Korean scientists and the Secretariat

17 Report on Administration and Finance

The Acting Executive Secretary presented a report of the activities of the Organisation during the intersessional period.

Administration:

- a) In reviewing the conditions of personnel at the Secretariat, and taking into account inflation and the cost of living in the country, the Commission decided to increase staff salary by 10%, effective from 1 January 2009.
- b) The Commission agreed to pay cash equivalent for annual leave days accrued to the Acting Executive Secretary in line with Staff Regulation no. 34. The Commission further agreed to compensate Acting Executive Secretary for the term of his service in line with Staff Regulation no. 57.

Finance:

- a) In reviewing Parties' contributions to 2008 budget, Angola and South Africa are yet to make their payments. Both delegates assured the Meeting that efforts will endeavour to make the payment before the year-end.
- b) The Commission has directed the Secretariat to draw from the Investment Fund to cover the activities of the Organisation should the contribution from Angola and South Africa not materialised in time.
- c) After discussions, the 2008 budget was amended and approved, and following scrutiny, the 2009 budget was adopted (**Annex 10**).
- d) The Acting Executive Secretary presented proposals received from two external auditors to audit the funds of the Organisation. In evaluating the proposals, the Commission decided to retain PriceWaterHouseCoopers taking into account, its competitive price and satisfactory service provided during the past three years.
- e) After reviewing the Auditor's Report, the Commission endorsed the report for the financial year ended 31 December 2007.
- f) The Meeting spent considerable time in discussing financial contribution by Parties taking into account the provisions of Article 12(3) that states, among others, *that the contribution by each Party shall be according to a combination of equal basic fee, and a fee based on total catch of the species covered by the Convention. The Commission shall amend the proportion in which these contributions are applied taking in to account the economic status of each Party.* In this respect, the Commission decided that there is a need to develop a proposal on the issue for discussion and decision at the next Annual Commission Meeting.
- g) The Commission recognised the need to establish a Standing Committee on Administration and Finance (SCAF). In this regards, it adopted terms of reference for SCAF (**Annex 11**).

18 Cooperation With Other International Organisations

- a) As directed by the Commission at the 4th Annual Meeting, the Acting Executive Secretary reported that membership modalities for SEAFO in Coordinated Working Party on Fisheries Statistics (CWP) were completed and SEAFO was admitted as a member on 13 February 2008.
- b) The Acting Executive Secretary reported progress made in respect of establishing the Benguela Current Commission (BCC) with the Secretariat functional in Windhoek and closer working relationship with SEAFO anticipated. SEAFO is accorded *ex-officio* status in the Management Board of BCC.
- c) EC reported back from the Annual Meeting of NEAFC Commission (2007) where NEAFC adopted conservation and management measures for all fisheries in its Regulatory Area. In addition, the Commission also adopted measure to close certain areas and modified other closed areas in the Regulatory Area in order to protect deep-water corals. The modified IUU B-List was also adopted.
- d) EC reported back from Annual Meeting of NAFO (General Council and Fisheries Commission, 2008) where management measures for fish stocks, including shrimp, were adopted. NAFO adopted important provisions in relation to encounters of VMEs and subsequent action of vessels in such situations. It agreed on an exploratory fisheries protocol which would apply to any previous un-fished area in the NAFO zone. Further, NAFO adopted modification / amendment of its Convention.
- e) Norway provided a report back from the 26th Annual Meeting of CCAMLR (2007). Prominent issues discussed at the meeting were related to IUU fishing, CCAMLR's response to UNGA Resolution on vulnerable marine ecosystems (VMEs) and bottom fishing, the increasing participation in krill fisheries and the initiation of the Performance Review of CCAMLR. In respect of proposed joint listing of IUU vessels among RFMO's (SEAFO, NAFO, NEAFC and CCAMLR), there was no consensus for the proposal within CCAMLR. Thus the joint listing is only in force between NAFO, NEAFC and SEAFO.
- f) South Africa reported back from a Meeting of the Agreement on the Conservation of Albatrosses and Petrels (ACAP, 2008). New mitigation techniques in both demersal longline and trawl fisheries and revised existing advice on mitigation measures for pelagic longline fisheries were discussed and agreed. Status of albatrosses and petrels was reviewed, noting that four species are currently categorized as critically endangered, five as endangered, 10 species as vulnerable and seven as near threatened.
- g) The Acting Executive Secretary reported on FAO organised sub-regional workshop on port State measures to combat IUU fishing he attended in Cape Town. The workshop was relevant to SEAFO in that combating IUU in SEAFO Area would largely dependent on the ability of port States in the region to fulfil their obligations under international law. Members of SADC coastal States attended the workshop and contacts were made with participants who are directly involved in MCS matters at operational levels.
- h) The Acting Executive Secretary also reported on the workshop on Ecosystem Approach to Fisheries management organised by FAO / South West Indian Ocean

Fisheries Commission (SWIOFC, June 2008, Durban, South Africa). The workshop provided an opportunity to discuss at a regional level, the concept and practice of EAF and to consider the way forward in implementing EAF.

- i) The Acting Executive Secretary attended a SADC Ministerial Conference held in Windhoek (July) where seven ministers responsible for marine fisheries signed a Statement of Intent and committed to tighten port inspection scheme of foreign vessels to combat IUU fishing activities in the region.
- j) The Commission re-nominated the respective Parties to represent SEAFO at 2007/2008 meetings of international organisations.

19 Recruitment of the Executive secretary.

At this Meeting, the Heads of Delegations contacted interviews of five short-listed candidates for the vacant post of Executive Secretary of SEAFO. The successful candidate was offered the job. The Commission decided that if the first choice candidate will not be available, the post should be offered to the next best candidate. If he/she is not available, then the post be offered to the third candidate. The new Executive Secretary is expected to start either on 1 December 2008 or 1 January 2009 and the 2008 budget had been adjusted accordingly (**Annex 10**).

20 Election of the Chairperson of SEAFO Commission

The term of office for Mr. Frans Tsheehama (Namibia) as a Chairperson came to an end at the conclusion of the Meeting. The Commission agreed on the rotational procedure for office bearers, in alphabetical order. Norway will serve as the Chair for the next two years (2009 – 2010). The delegation of Norway informed the Meeting that the name of the Chairperson will soon be forwarded to Parties, through the Secretariat, once the internal consultation is finalised.

21 Date and Place of 2009 Annual Meetings

The Commission decided that the Annual Meeting of the Commission will be held on 5-8 October 2009 in Namibia at a venue to be communicated to Parties by the Secretariat in due course.

22 Any Other Matter

- a) Developing States party to SEAFO Convention voiced their concerns in respect of fulfilling their responsibilities and duties in the implementation of the Convention. They requested SEAFO to consider providing assistance in line with Article 21 of the Convention.
- b) In response, developing States party to SEAFO responded positively but requested that a proposal for such Fund be developed by the Secretariat and submitted to the parties in advance of the next Commission.

- c) A delegate of Norway, on behalf of other Parties, thanked the Chairperson for successfully guiding the Meeting and the Acting Executive Secretary for the service rendered during the last three years and wishing him well in his future endeavours.

23 Closure of the Meeting

The Chairperson closed the Meeting and commended the Parties for the efficient and effective conduct of the Meeting. He thanked delegates for their positive input, which contributed in no small measure to the success of the Meeting. He also thanked the Secretariat for preparing and organising the Meeting. Finally the Chairperson thanked, former executive Secretary of SEAFO for the service rendered to the Organisation and wish him well.

ANNEX 1

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ANNEX 2

Agenda of the 5th Annual Meeting of the Commission

Windhoek, Namibia 6-9 October 2008

Venue: Safari Hotel, Windhoek

1. Opening of the Meeting
2. Adoption of Agenda and Meeting Arrangements
3. Opening Statements by Parties
4. Introduction and Admission of Observers
5. Status of the Convention in Respect of Membership
6. Status of the Headquarters Agreement
7. Report of the Scientific Committee (SC)
8. Consideration of the Scientific Committee Report
9. Performance Review of the Organisation
10. Consideration of Procedures for Exploratory Fishing
11. Compatibility of Conservation Measures for Straddling Fish Stocks
12. Catch Documentation Scheme (CDS)
13. Protection of Marine Environment During Fishing Operations
14. Enhance MCS Capacity
15. Report of the Compliance Committee
16. Consideration of the Compliance Committee Report
17. Report on Administration and Finance
 - a. Administration
 - b. Finance
18. Cooperation with Other International Organisations
 - a. Reports of SEAFO Representatives at 2006/2007 Meetings of Others International Organisations
 - b. Nominations of Parties to represent SEAFO at 2007/8 Meetings of International Organisations
 - c. Report Back From the Meetings Attended by the Executive Secretary
19. Recruitment of the Executive Secretary
20. Election of the Chairperson of SEAFO Commission
21. Date and Place of 2009 Annual Meeting
22. Any Other Matters
23. Closure of the Meeting

ANNEX 3

OPENING STATEMENTS BY PARTIES AND SIGNATORIES

5.1 Statement by Angola

Sua Excia SR. Presidente, distintos delegados, distintos convidados, Minhas senhoras e meus Senhores.

Gostaria em primeiro lugar afirmar que é uma grande satisfação para a delegação angolana participar mais uma vez numa das Reuniões Anuais da Comissão da SEAFO, particularmente na 5ª reunião, e em nome de Angola gostaria de agradecer o Governo da Namíbia e o Secretariado da Organização pela calorosa hospitalidade e as condições criadas para a realização com êxito dos nossos trabalhos nesta bela sala de conferências do hotel SAFARI.

Gostaria de igual modo agradecer os cientistas e outros peritos pelo excelentes documentos que serão submetidos á apreciação do Comissão, os quais darão conhecimento dos trabalhos científicos realizados, da situação da organaização sobre alguns aspectos pertinentes sobretudo os relacionados com a gestão dos recursos marinhos vivos da Zona da Convenção e finalmente das questões administrativas e financeiras da SEAFO.

Sr, Presidente

Permita-me recorder que Angola continua a considerar a nossa Organização SEAFO como um forum apropriado para analisar e discutir todas as questões que estragulam a gestão responsável e sustentável dos recurso da Zona da Convenção.

A Convenção da SEAFO representa uma oportunidade para os países membros e não mebros para participarem na gestão dos recursos para além da Zona Económica Exclusiva, pois os nossos recursos são transfronteiriços altamente migratórios e desconhecem barreiras de qualquer tipo que seja.

A organização tem dado passos significativos sobretudo em termos de tomadas de medidas de gestão e de conservação dos reursos do Alto mar. Ultimamente deu-se ainda um passo muito importante com a com criação do Comité de aplicação, órgão muito esperado, que realizará a sua 1ª sessão de trabalho amanhã.

A organização está num caminho certo, mais para se tornar uma organização regional de gestão das pescarias efectiva e eficaz com credibilidade reconhecida internacionalmente é relevante que mais estados aderem e ractifiquem a Convenção da SEAFO. Neste contexto, Gostaria de aproveitar para felicitar os colegas de África do Sul que ractificaram a Convenção em Agosto deste ano.

Neste quadro, Angola compromete-se em continuar a colaborar dentro das suas possibilidades em prol do reforço da organização SEAFO, pelo que espera ser contemplada em todas formas de assistência e projectos que os países membros possam beneficiar.

Chamamos mais uma vez a atenção dos países desenvolvidos não membros da Convenção que exploram os recursos da zona para tornarem-se membros de pleno direito e com base na sua experiência acumulada contribuir para a gestão responsável e sustentável dos referidos recursos, cujo a exploração constitui uma fonte importante de receitas dos países aqui representados.

Para terminar felicitamos o Dr. Hashali Hamukuaya, Secretario Executivo, por tudo o que fez para levar a SEAFO até ponto de organização em que se encontra actualmente e desejamos-lhe muitos sucessos nas suas novas funções.

Muito obrigado pela vossa especial atenção.

5.2 Statement by European Community

Mr Chairman,
Distinguished Delegates,
Ladies and Gentlemen.

The EC Delegation is very pleased to be here again in Windhoek for the 5th Annual Meeting of SEAFO. We would like to thank Namibia for hosting this meeting.

Firstly, I would like to thank Dr Hamukuaya for his commitment and excellent work he has done as an Executive Secretary of SEAFO. I would like to wish him all the best in his new endeavours.

I would like to take this opportunity to welcome the South African delegation to our club. Membership of the coastal states is indispensable for the good functioning of this organisation.

As in previous years the European Community considers that the focus of our discussions should remain on the continued strengthening of the organisation and its conservation and management mechanism. We eagerly anticipate the outcomes of the 1st meeting of the Compliance Committee which should serve as a vehicle to further consolidate monitoring and compliance measures.

In this respect, we are particularly concerned about the lack of appropriate catch reporting and would like to encourage parties to provide data for catches of species in the SEAFO area, including sharks and seabirds, as specified in conservation measures 04/06 and 05/06 respectively. The EC would equally advocate an introduction of a Catch Documentation Scheme for toothfish at the appropriate time.

At our 2006 meeting, SEAFO showed international leadership and innovation in the adoption of measures to protect vulnerable marine environment, which was recognised in the UN General Assembly of November 2006. It is therefore only appropriate to take a further step in adopting measures to protect the Vulnerable Marine Ecosystems, similar to those adopted in NAFO earlier this year.

I would like to assure you that the European Community will work with all parties towards a successful performance review exercise to be completed by 2010 reflecting our commitment to strengthening and improvement of the work of various Regional Fisheries Management Organisations across the world.

Finally, I am very glad to see representatives of Japan and Korea here and I hope they will be able to join us next year as Members of the SEAFO Convention.

With that said, I would like to underline our willingness to work co-operatively with all the Parties around the table to arrive at a successful and fruitful outcome at the end of the Meeting.

Thank you.

5.3 Opening Statement by Namibia

Namibia as a host nation welcomes all the countries and non-governmental organizations to the Land of the Brave (Namibia). We applaud the South East Atlantic Fisheries Organization (SEAFO) secretariat for the well organized meeting. Thank you, Dr. Hamukuaya for your generosity to assist in these efforts.

Ladies and Gentlemen, Namibia as a Contracting Party to the Commission is encouraging those states currently fishing in the Convention Area to ratify and accede to the SEAFO. The requirement of the Convention regarding adherence to measures is of utmost importance as this will affirm protection and sustainable long-term usage of resources in the Convention Area. Protection of vulnerable marine ecosystems such as seamounts in the Convention Area are of paramount importance; a mandatory system of observer coverage for vessels legally operating in the Convention Area should be adhered to; the installation of VMS in vessels operating in the Convention Area is a needed monitoring tool; as well as the prohibition of transshipment at sea affirms the data requirement for purposes of scientific research and management. All these need to be adhered to within the framework of Contracting Party obligations. Perpetual and sustainable utilization of high seas resources should be maintained through generations.

We realize that living resources within Exclusive Economic Zones (EEZs) have come to be used at their fullest potential. And the only two alternatives, if we are to provide for needed proteins is to look into the expansion of aquaculture (which is not in SEAFO domain) and second to this is the so-called “untapped high seas frontiers”. High seas

fisheries resources need to be managed prudently on a sustainable basis because these are the areas where long lived species are found which, when exploited beyond the limit of their population viability can become subjects of extinction. Long lived species have a delayed maturity stage and thus take long to reproduce and their bear few young. The SEAFO like other Regional Fisheries Management Organizations (RFMOs) has proven to be a vehicle toward the conservation and wise management of species on the high seas while they are being exploited.

RFMOs such as the SEAFO play an important role in setting a scene for international cooperation regarding the conservation and management of fish stocks. SEAFO has proven to be the only realistic means of governing fish stocks that occur either as straddling or shared stocks between the EEZs of adjacent coastal states and the high seas, or exclusively on the high seas in our region or Convention Area. Therefore, to strengthen the SEAFO in order to conserve and manage fish stocks more effectively remains the major challenge facing the governance of the Convention area.

Because deep sea fishing is a relatively new activity and requires considerable resources in terms of investment and technology, few countries have so far developed policies and plans specifically related to managing it, even in their own waters. This pertains mainly to developing nations and Namibia is very much pleased by the fact that the currently being debated and formulated guidelines on high seas deep fisheries has addressed the plight of developing nations and small island states to be accorded the much needed assistance in order to monitor, control, surveillance, research and exploit the resources on these frontiers. We believe that once these become operational Namibia and others developing states will be accorded such assistance when dealing with the SEAFO resources.

Thank you very much, Namibia believes that this Commission meeting will be successful and add to development of the SEAFO.

5.4 Statement by Norway

Mr. Chairman, distinguished representatives, ladies and gentlemen.

It's a pleasure for Norway to once again meet in beautiful Namibia and to participate at an annual SEAFO meeting.

To become an effective RFMO, with the required credibility it is crucial that more states ratifies the SEAFO-Convention. Norway very much welcomes South Africa as a member of SEAFO and looks forward to work together with our South African friends also in this organisation. Norway urges the remaining non-member coastal State in the region, namely the UK also to ratify the Convention. Furthermore it is 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. It is fundamental that all fishing states as soon as possible become parties, and Norway strongly calls upon those states to do so without further delays.

SEAFO took in 2006 some important steps to implement ecosystem considerations and to protect biodiversity in the marine environment by closing 10 marine areas with prominent seamounts. These actions by SEAFO have been welcomed in several international forums. At this meeting we have to bring this process a step further by agreeing on a due process for addressing the calls by the UN General Assembly, in particular concerning vulnerable marine areas and bottom fisheries, and Norway has tabled a proposal in this regard.

Monday last week Norway submitted an additional proposal, which is closely connected to the first proposal, containing operational procedures for fishing in existing and in new bottom fishing areas, including guidance to define vulnerable marine ecosystems as well as a definition of when a vessel encounters a VME. It seems like this paper has not been distributed by the secretariat as requested, neither to the Scientific Committee nor to the heads of delegations. Norway regrets that this did not happen, but hopefully it will guide our discussion during this week anyway.

All in all, the Norwegian delegation is prepared to work hard for the next days to achieve a favourable outcome also from this year's annual meeting.

5.5 Opening Statement by South Africa

Thank you Mr. Chairperson,

Heads of Delegations and their teams

NGO's and representatives

Ladies and Gentlemen,

Chairperson, Sir, on behalf of the South African Delegation, Mr Saasa Pheeha Deputy Director: Demersal Fisheries Management, and myself, Ntobeko Bacela, Director: Inshore Fisheries Management in South Africa, I would first like to take this opportunity to extend a special word of thanks to the Government and the People of the Republic of Namibia for the warm hospitality they have accorded us since the inception of SEAFO. They have done this flawlessly and with humility year after year and not only to South Africa but to all other States represented here today.

South Africa wishes to express gratitude and appreciation to the Office of the Executive Secretary for their sterling work. We wish the outgoing Executive Secretary well beyond his tenure. South Africa acknowledges the role that has been played by all states over the past years in negotiating for the formation of a Regional Fisheries Management Organisation that will manage the fisheries resources of the High Seas of the South East Atlantic Ocean. South Africa has consistently expressed its commitment to supporting and participating in SEAFO. We are determined, although steadily to give effect to our stated commitment. The call by the Commission on South Africa to ratify the

Convention, has been received positively by the people of South Africa. The Chair might wish to pronounce further on our new status later.

The ravages of poverty and dependence of coastal communities on fishing for meeting basic livelihood needs add more urgency to more substantive participation of South Africa within SEAFO, which we view as opening opportunities elsewhere beyond our Exclusive Economic Zone.

South Africa holds Namibia highly for their role not only as hosts but also acting with determination as a contracting party which was demonstrated in the manner with which they acted against one of their own regarding Illegal, Unreported and Unregulated (IUU) fishing together with the Mozambique Government.

In August 2008, South Africa was humbled at being afforded the opportunity to host the Agreement for the Conservation of Albatrosses and Petrels (ACAP). In this event, and as demonstration of our voluntary commitment to upholding the principles of the SEAFO convention and the Code of Conduct for Responsible Fisheries, we launched the National Plan of Action (NPOA) for Reducing the Incidental Catch of Sea Birds in Long Line Fisheries within our territorial waters.

We are currently working on the NPOA for Sharks and Fishing Capacity. We are also engaged at elucidating the ecosystems approach to fisheries management, for which some of the elementary considerations are being implemented already. We are also moving ahead to establish an integrated working group to dedicate its efforts the latter effect. South Africa acknowledges the challenges and responsibilities that lie ahead and we count on the support of all members in this and other RFMO's elsewhere. Chair person, Sir, we are committed to Implement management and conservation measures of All other RFMOs that we are party to and their incorporation in all our permit conditions.

I thank you.

ANNEX 4

OPENING STATEMENTS BY OBSERVERS

6.1 Statement by Japan

Mr. Chairman, Distinguish Delegates, Ladies and Gentlemen.

We, Japanese delegation are very pleased to have been invited to the 5th Annual Meeting of SEAFO in this beautiful Namibia again this year. Also, we would like to express our sincere appreciation for the excellent preparations made by the Secretariat for this meeting.

We are here as an observer and not a full-fledged member of the organization again this year. We guess this is somewhat disappointing to some of you. But, we are pleased to say that since we received chairman's letter, October last year, urging Japan to become a member, there have been some progress in Japan in this regard. At this moment, consultations are underway within the government as a step towards ratifying or acceding to the Convention thereby becoming a Contracting Party before the end of next year. We will explain to you in more detail under relevant agenda item if we are allowed to do so.

Mr. chairman, now that Japan's ratification of accession is forthcoming, we, as an active fishing state in the region, would further strive to contribute to SEAFO so that it would play a much more important role for the conservation and sustainable utilization of fisheries resources in this region based on scientific findings.

In this connection, Mr. Chairman, we strongly hope that Japanese delegation would be allowed to participate, to the extent possible, in the deliberations, particularly, on conservation and management issues so that stable operations of our fishing vessels can be secured in the years to come.

We look forward as always to working constructively with other delegations around the table for successful outcome of this meeting.

Thank you.

6.2 Statement by WWF

WWF would like to express gratitude for the opportunity to participate in the 5th Annual Commission Meeting and congratulates SEAFO for progressive steps taken towards furthering the objectives of an Ecosystem Approach to Fisheries Management in the region. We would also like to congratulate South Africa on becoming a member of the commission.

WWF is encouraged by the Convention's commitment to the precautionary approach and to adopting, where necessary, conservation and management measures for vulnerable and/or non-target species. In this regard, WWF would like to take this opportunity to suggest the establishment of a Bycatch or Ecosystem Working Group or Sub-committee. WWF commits itself to supporting SEAFO in the establishment of a more structured way of assessing and mitigating impacts on vulnerable species in the region. Furthermore, we would also like to support the Scientific committee's recommendation to prohibit the targeting of deepwater sharks in the convention area.

Moreover, the move to protect vulnerable habitats, such as sea mounts, is also highly commended and places SEAFO as a leader in the implementation of an ecosystem approach and in the global move towards offshore marine protected areas. We thus strongly support the view taken by the commission that mapping be a condition for the resumption of fishing in these areas and that vulnerable habitats remain permanently closed to fishing.

Although we are encouraged by the VMS data submitted to the commission this year, WWF remains concerned about the lack of fishing effort, non-target catch and biological information available to the commission limiting its ability to effectively meet its objectives and encourages Parties to fulfill this obligation.

WWF once again thanks the Commission for its geniality and wishes the delegates all the best for their deliberations over this week. WWF will be following these discussions closely and remains committed to assisting in any way we can.

Thank you

6.3 Opening Statement by FAO

FAO is very grateful for the invitation extended by the Secretariat of the South East Atlantic Fisheries Organization (SEAFO), to observe its Fifth Annual Commission Meeting held in Windhoek, Namibia. FAO also wishes to express its gratitude for the warm hospitality provided by the Namibian authorities.

Regional Fisheries Management Organizations (RFMOs) play a unique role in facilitating international cooperation for the conservation and management of fish stocks. RFMOs represent the only realistic means of governing fish stocks that occur either as straddling or shared stocks between zones of national jurisdiction or between these zones and the high seas, or exclusively on the high seas. Therefore, to strengthen RFMOs in order to conserve and manage fish stocks more effectively remains the major challenge facing international fisheries governance. The Twenty-seventh Session of the FAO Committee on Fisheries (COFI 27) held in March 2007 in Rome discussed this matter, as a stand-alone Agenda item for the first time in the history of COFI. Many Members requested that FAO continue supporting RFMOs and continue its work on issues of concern such as overcapacity, improvement of fleet statistics and the issues of countries and vessels that undermine the effectiveness of RFMOs. Immediately after the session of COFI, the First Meeting of Regional Fishery Body Secretariats Network (RSN 1) was also held in Rome

and reconfirmed the global perception that Regional Fishery Bodies (RFBs) have a significant role to play in implementing the Code of Conduct for Responsible Fisheries.

One of the decisions made during COFI 27 is that FAO should convene meetings to prepare technical guidelines including standards for the management of deep-sea fisheries in the high seas. An Expert Consultation on International Guidelines for the Management of Deepwater High Seas Bottom Fisheries was held in Bangkok, Thailand, from 11 to 14 September 2007, in order to review the first draft of the guidelines prepared by the FAO Secretariat based on the discussion made during a more technical Expert Consultation on Deep-sea Fisheries in the High Seas held in November 2006. The draft guidelines were then discussed in the two sessions of a Technical Consultation on the International Guidelines for the Management of Deep-sea Fisheries in the High Seas at FAO Headquarters, Rome, Italy, 4-8 February 2008 and 25-29 August 2008, and International Guidelines have been agreed upon on 29 August 2008. This new international instrument is the first of its kind in terms of integrating fisheries management and conservation requirements. The Guidelines call upon FAO to undertake a number of tasks. FAO is coordinating closely with relevant partners in organizing the support required to undertake these follow up activities.

Many distinguished delegates will be also aware that COFI, acknowledging the urgent need for a comprehensive suite of port State measures, agreed to proceed with the development of a legally-binding agreement on port State measures based on the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated (IUU) Fishing and the 2005 FAO Model Scheme on Port State Measures to Combat IUU Fishing. An FAO Expert Consultation to Draft a Legally-binding Instrument on Port State Measures was held in Washington D.C., USA, from 4 to 8 September 2007 and elaborated a draft Agreement on Port State Measures to Prevent, Deter and Eliminate IUU Fishing. This document formed the basis of negotiations at a Technical Consultation on Port State Measures held in Rome from 23 to 27 June 2008. The process is ongoing. A resumed session of the Technical Consultation is scheduled to be held in Rome from 26 to 30 January 2009, where the outcome of an Informal Open-ended Technical Meeting to Review the Annexes of the Draft Legally-Binding Instrument on Port State Measures to Prevent, Deter and Eliminate IUU Fishing, 25-27 November 2008 will also be reviewed. The forthcoming Twenty-eighth Session of COFI (COFI 28) in March 2009 will be informed about progress with the development of the binding instrument.

I would also like to report that an Expert Consultation on the Development of a Comprehensive Global Record of Fishing Vessels was held in Rome from 25 to 28 February 2008. The Expert Consultation strongly endorsed the need for a Global Record of Fishing Vessels and that development should be progressed with urgency. As a result of the recommendations made by the Expert Consultation, a series of interim activities is underway to further consider a variety of technical issues and to promote and raise international and stakeholder awareness about the Record, and to refine its institutional development. The report of the Expert Consultation and the outcome of the interim activities will be presented to COFI 28.

I also wish to refer to the High-Level Conference on World Food Security: the Challenges of Climate Change and Bioenergy held in Rome from 3 to 5 June 2008. While the main focus was soaring food prices and food security, it was also the first opportunity for FAO to address the issue on climate changes and fisheries substantially. FAO organized an Expert Workshop on Climate Change Implications for Fisheries and Aquaculture from 7 to 9 April 2008 and presented a technical background document for the Conference. This could be interpreted as “a scoping study” to identify the key issues on climate change as endorsed by COFI 27. It is expected that any potential follow-up action is to be discussed during COFI 28.

SEAFO is among the latest and most advanced instruments toward more responsible and sustainable fisheries, which all fishery communities in the world are carefully and expectedly watching. Therefore, it is highly expected that SEAFO will continue playing a significant role in regional action to secure sustainable and more responsible fisheries management in the South Atlantic Ocean. FAO has been keeping a close and effective working relationship with SEAFO and desires to continue such collaboration. In this respect, it has been FAO’s pleasure as well to receive the instrument of ratification from South Africa in June 2008.

We are now in the mid of preparation for COFI 28 and the Second Meeting of the Regional Fishery Body Secretariats Network (RSN 2), both scheduled to be held in March 2009, and expect active participation of SEAFO in those meetings as it has done so far.

Finally, I would like express our heartfelt appreciation for Dr Hashali Hamukuaya, his hard work and cooperation with FAO. We wish him every success in the future

In conclusion, I would like to convey to the meeting greetings from FAO’s Assistant Director-General for Fisheries and Aquaculture, Mr Ichiro Nomura. He wishes the meeting every success in its deliberations.

ANNEX 5

HEADQUARTERS AGREEMENT

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 Swakopmund, 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 unless they are Namibian citizens or permanent residents in Namibia, be exempted from all taxes in respect of in respect of salaries, and allowances paid to them by the Commission, notwithstanding anything contained in any rule, policy or regulations of the Commission.

- 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 Commission
shall 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:

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

ANNEX 6

CONSERVATION MEASURE 12/08 ON BOTTOM FISHING ACTIVITIES IN THE SEAFO CONVENTION AREA

This is an interim measure addressing the 2006 UN General Assembly Resolution on Sustainable Fisheries (A/RES/61/105).

This measure applies in all existing and new bottom fishing areas outside SEAFO closed areas, cf. Conservation Measure 06/06.

Article 1. Use of terms

1. The term ‘bottom fishing activities’ means fishing activities where the fishing gear is likely to contact the seafloor during the normal course of fishing operations.
2. The term "existing bottom fishing areas" initially means areas where VMS data and/or other available geo-reference data indicating bottom fishing activities have been conducted within a reference period of 1987 to 2007. This shall be revised regularly in accordance with Article 2.4.
3. The term "new bottom fishing areas" means all other areas within the Regulatory Area that are not defined as existing bottom fishing areas. Fisheries conducted in new bottom fishing areas are regarded as “exploratory fisheries”.

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Article 2. Identification of existing bottom fishing areas

11. SEAFO shall proceed to map existing bottom fishing areas within the Convention Area for bottom fishing activities. Mapping of bottom trawling activity shall be given priority.
22. Contracting Parties with vessels involved in bottom fishing activities in the period of 1987-2007 shall, for the purpose of Paragraph 1, submit comprehensive maps of existing fishing areas to the Executive Secretary. Maps shall be based on VMS data and/or other available geo-reference data and expressed in as precise spatial and temporal resolution as possible. Contracting Parties may, in the future, consider the possibility of refining these maps on the basis of haul-by-haul information, if available.

33. The Executive Secretary, assisted by the Scientific Committee, shall compile maps submitted by Contracting Parties pursuant to Paragraph 2. The Executive Secretary shall on that basis, as well as on any other data available to it, produce a comprehensive map of existing fishing areas. The Executive Secretary shall forward this map to the Scientific Committee for review and comment and thereafter to the Commission.
44. The comprehensive map of existing bottom fishing areas referred to in Paragraph 3 shall be revised regularly to incorporate any new relevant information.

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6Article 3. Bottom fishing activities in new bottom fishing areas

11. All bottom fishing activities in new bottom fishing areas or with bottom gear not previously used in the area concerned, shall be considered as exploratory fisheries and shall be conducted in accordance with an Exploratory Bottom Fisheries Protocol to be adopted by the Commission as soon as possible. Until such a protocol is adopted the interim protocol set out in Annex 1 shall apply.
22. Before exploratory bottom fishing can take place, a detailed proposal shall be submitted by the Contracting Party to the Scientific Committee for scrutiny. The Committee will provide a recommendation to the Commission who will decide if the exploratory fishing may proceed. The exploratory bottom fishing activities shall be subject to the assessment procedure set forth in Article 4, with the understanding that particular care shall be taken in the evaluation of risks of the significant adverse impact on vulnerable marine ecosystems, in line with the precautionary approach.
13. Contracting Parties shall provide promptly a report of the results of such activities to the Secretary for circulation to all Contracting Parties.
4. Contracting Parties shall ensure that vessels flying their flag conducting exploratory fisheries have a scientific observer on board. Observers shall collect data in accordance with a Vulnerable Marine Ecosystem Data Collection Protocol to be adopted by the Commission as soon as possible. Until such a protocol is adopted, the interim protocol set out in Annex 2 shall apply.

Article 4. Assessment of bottom fishing activities

1. On the basis of best available scientific information, the Scientific Committee shall identify vulnerable marine ecosystems in the Convention Area and map sites where these vulnerable marine ecosystem are known to occur or likely to occur and provide such data and information to the Executive Secretary for circulation to all Contracting Parties
- 2 Proposed bottom fishing activities in the Convention Area shall be subject to assessment by the Scientific Committee, based on the best available scientific

information, to determine if such activities, taking account of the history of bottom fishing in the areas proposed, would have significant adverse impacts on vulnerable marine ecosystems.

3. Assessments shall follow the procedures below:

- (i) Each Contracting Party proposing to participate in bottom fishing shall submit to the Executive Secretary information and an initial assessment, where possible, of the known and anticipated impacts of its bottom fishing activities on vulnerable marine ecosystems, in advance of the next meeting of the Scientific Committee. These submissions shall also include the mitigation measures proposed by the Contracting Party to prevent such impacts. The Executive Secretary shall promptly forward these submissions to the Scientific Committee and the Commission.
 - (ii) The submission of such information shall be carried out in accordance with guidance developed by the Scientific Committee, or, in the absence of such guidance, to the best of the Contracting Party's ability.
 - (iii) The Scientific Committee shall undertake an assessment, according to procedures and standards it develops, and provide advice to the Commission as to whether the proposed bottom fishing activity would have significant adverse impacts on vulnerable marine ecosystems and, if so, whether mitigation measures would prevent such impacts. The Scientific Committee may use in its assessment additional information available to it, including information from other fisheries in the region or similar fisheries elsewhere.
4. The Commission shall, taking account of advice and recommendations provided by the Scientific Committee, concerning bottom fishing activities, including data and information arising from reports pursuant to Article 5 adopt conservation and management measures to prevent significant adverse impacts on vulnerable marine ecosystems, that may include:
- (a) allowing, prohibiting or restricting bottom fishing activities;
 - (b) requiring specific mitigation measures for bottom fishing activities;
 - (c) allowing, prohibiting or restricting bottom fishing with certain gear types, or changes in gear design and/or deployment; and/or
 - (d) any other relevant requirements or restrictions to prevent significant adverse impacts to vulnerable marine ecosystems.
5. The Commission shall annually ask the Scientific Committee to provide advice to Commission on the timing and requirement for assessment of a previously assessed bottom fishery.

Article 5. Encounters with vulnerable marine ecosystems

Contracting Parties shall require that vessels flying their flag cease bottom fishing activities in any site in the Convention Area where, in the course of fishing operations, evidence of vulnerable marine ecosystems is encountered, and report the encounter, including the location, and the type of ecosystem in question, to the Executive Secretary so that appropriate measures can be adopted in respect of the relevant site. Such sites will then be treated in accordance with Article 4.

The encounter protocol and operational procedures given as Annex 3 shall be followed.

Article 6. Review

The Commission shall review this Conservation Measure at its Annual Meeting in 2010. The Commission shall biannually thereafter examine the effectiveness of these provisions in protecting vulnerable marine ecosystems from significant adverse impacts.

Annex 1

Interim Exploratory Bottom Fishing Protocol for New Bottom Fishing Areas

Until the Commission adopts a new protocol in accordance with Article 3, paragraph 1 of this Recommendation, exploratory bottom fisheries shall not commence until the following information has been provided to the Executive Secretary by the relevant Contracting Party:

- (a) A harvesting plan which outlines target species, dates and areas. Area and effort restrictions shall be considered to ensure fisheries occur on a gradual basis in a limited geographical area.
- (b) A mitigation plan including measures to prevent significant adverse impact to vulnerable marine ecosystems that may be encountered during the fishery.
- (c) A catch monitoring plan that includes recording/reporting of all species caught. The recording/reporting of catch shall be sufficiently detailed to conduct an assessment of activity, if required.
- (d) A data collection plan to facilitate the identification of vulnerable marine ecosystems/species in the area fished.

The Executive Secretary shall promptly forward this information to all Contracting Parties and the Scientific Committee.

Annex 2

Interim Vulnerable Marine Ecosystem (VME) Data Collection Protocol

Observers on fishing vessels in the SEAFO Convention Area who are deployed pursuant to Article 3, paragraph 6 of this Conservation Measure shall:

1. Monitor any set for evidence of VMEs and the presence of vulnerable marine species.
2. Record the following information for identification of VMEs: vessel name, gear type, date, position (latitude/longitude), depth, species code, trip-number, set-number, and name of the observer on datasheets, if possible.
3. Collect representative biological samples from the entire catch.
(Biological samples shall be collected and frozen when requested by the scientific authority in a Contracting Party).
4. Collect samples to the scientific authority of a Contracting Party at the end of the fishing trip.

ANNEX 3

Interim operational procedures for fishing in existing and new bottom fishing areas

Pursuant to Article 5 of the SEAFO Conservation Measure on bottom fishing activities in the SEAFO Convention Area, the Commission has adopted the following interim measure:

1. Definition of encounter

An encounter is defined to be, above threshold levels as set out in Paragraph 4, with indicator species of coral identified as antipatharians, gorgonians, cerianthid anemone fields, lophelia, and sea pen fields or other VME elements. Any encounter with a VME indicator species or merely detecting the presence of an element itself is not sufficient to identify a VME. That identification shall be made on a case-by-case basis through assessment by relevant bodies.

2. Existing bottom fishing areas

- 2.1 Vessels shall quantify catch of VME indicator organisms, i.e. coral and sponge. Observers deployed shall identify corals, sponges and other organisms to the lowest possible taxonomical level and apply the sampling protocol found in Annex 2 and SEAFO catch sampling forms. Observers shall submit SEAFO trip summary reports to Contracting Parties and the Secretariat.
- 2.2 If the quantity of VME elements or indicator species caught in a fishing operation (such as trawl tow or set of a gillnet or longline) is beyond the threshold defined in Paragraph 4 below, the following shall apply:
 - a. The vessel master shall report the incident to the Contracting Party, which without delay shall forward the information to the Executive Secretary. The Executive Secretary shall archive the information and report it to all Contracting Parties. The Contracting Parties shall immediately alert all fishing vessels flying their flag.
 - b. The vessel master shall cease fishing, haul the gear, and move away at least 2 nautical miles from the endpoint of the tow/set in the direction least likely to result in further encounters. Any further tows or sets shall be parallel to the tow/set when the encounter was made. The master shall use his or her best judgment based on all available sources of information.
 - c. The Executive Secretary shall make an annual report on single and multiple encounters in discrete areas within existing fishing areas to the Scientific Committee. The Scientific Committee shall evaluate and, on a case-by-case basis the information and provide advice to the Commission on whether a VME exists. The advice shall be based on annually updated

assessments of the accumulated information on encounters and the Scientific Committee's advice on the need for action, using FAO guidelines for management of deep-sea fisheries in the high seas as a basis.

3. New fishing areas

- 3.1 Vessels shall quantify catch of VME indicator organisms, i.e. coral and sponge. Observers deployed shall identify corals, sponges and other organisms to the lowest possible taxonomical level and apply the sampling protocol found in Annex 2 and SEAFO catch sampling forms. Observers shall submit SEAFO trip summary report to Contracting Parties and the Secretariat.
- 3.2 If the quantity of VME element or indicator species caught in a fishing operation (such as trawl tow or set of a gillnet or longline) is beyond the threshold defined in paragraph 4 below, the following shall apply:
 - a. The vessel master shall report the incident without delay to its Contracting party, which shall forward the information to the Executive Secretary. The Executive Secretary shall archive the information and without delay transmit it to all Contracting Parties. The Contracting Parties shall issue an immediate alert to all vessels flying their flag.
 - b. The Executive Secretary shall at the same time request Contracting Parties to implement an interim closure of two miles radius around the reporting position. The reporting position is that provided by the vessel, either the endpoint of the tow/set or another position that the evidence suggests is closest to the exact encounter location.
 - c. The Scientific Committee at its next meeting shall examine the interim closure. If the Scientific Committee advises that the area consists of a VME, the Executive Secretary shall request Contracting Parties to maintain the closure until such time that the Commission has acted upon the advice from the Scientific Committee. If the Scientific Committee does not conclude that the proposed area is a VME, the Executive Secretary shall inform Contracting Parties which may re-open the area to their vessels.
2. The vessel shall cease fishing, haul the gear, and move away at least 2 nautical miles from the endpoint of the tow/set in the direction least likely to result in further encounters. Any further tows or sets shall be parallel to the tow/set when the encounter was made. The master shall use his or her best judgment based on all available sources of information.
3. The Executive Secretary shall make an annual report on archived reports from encounters in new fishing areas to the Scientific Committee. This report shall also include reports from the exploratory fishing activities that were conducted in the last year. The Scientific Committee shall evaluate the information and provide advice to the Commission on the appropriateness of temporary closures

and other measures. The advice shall be based on annually updated assessments of the accumulated information on encounters as well as other scientific information. The Scientific Committee advice shall reflect provisions outlined in the FAO guidelines for management of deep-sea fisheries in the high seas.

4 Threshold levels

For both existing and new fishing areas, an encounter with primary VME indicator species is defined in the interim as a catch per set (e.g. trawl tow, longline set, or gillnet set) of more than 100 kg of live coral and/or 1000 kg of live sponge. These thresholds are set on a provisional basis and may be adjusted as experience is gained in the application of this measure.

ANNEX 7

Table 1. Main commercial species in the revised SEAFO Species List.

FAO 3 Alfa Code	Species	Latin Name	Transboundary
TOP	Patagonian toothfish	<i>Dissostichus eleginoides</i>	Yes
ORY	Orange Roughy	Hoplostethus spp	Unknown
ALF	Alfonsino	Family Berycidae	Unknown
CGE	Deep-sea Red Crab	Chaceon spp.	Unknown
MAC	Mackerel	Scomber scombrus	Unknown
EDR	Armourhead	Pseudopentaceros spp.	Unknown
BOC	Boarfish		Unknown
ORD	Oreo dories	Family Oreosomatidae	Unknown
CDL	Cardinal Fish	Epigonus spp.	Unknown
OCZ	Octopus	Family Octopodidae	Unknown
SQC	Squid	Family Ommastrephidae	Unknown
WRF	Wreckfish	<i>Polyprion americanus</i>	Unknown
SKA	Skates	Family Rajidae	Unknown
SKH	Sharks (deep-sea)	Order Selachomorpha	Unknown

ANNEX 8

CRITERIA FOR REVIEWING THE PERFORMANCE OF SEAFO

Area	General criteria	Detailed criteria
1. <i>Conservation and management</i>	Status of living marine resources	<ul style="list-style-type: none"> • Status of marine living resources under the purview of SEAFO. • Trends in the status of those resources. • Status of species that belong to the same ecosystems as, or are associated with or dependent upon, targeted marine living resources. • Trends in the status of those species.
	Ecosystem approach	<ul style="list-style-type: none"> • Extent to which SEAFO decisions take account of and incorporate an ecosystem approach to management.
	Data collection and sharing	<ul style="list-style-type: none"> • Extent to which SEAFO has agreed formats, specifications and timeframes for data submissions. • Extent to which SEAFO Contracting Parties, individually or through SEAFO, collect and share complete and accurate data concerning marine living resources and other relevant data in a timely manner. • Extent to which fishing and research data and fishing vessel and research vessel data are gathered by SEAFO and shared among Contracting Parties. • Extent to which SEAFO is addressing any gaps in the collection and sharing of data as required.
	Quality and provision of scientific advice	<ul style="list-style-type: none"> • Extent to which SEAFO receives and acts on the basis of the best scientific advice relevant to the marine living resources under its purview, as well as to the effects of harvesting, research, conservation and associated activities, on the marine ecosystem.
	Adoption of conservation and management measures	<ul style="list-style-type: none"> • Extent to which SEAFO has adopted conservation and management measures for marine living resources that ensure the conservation, including rational use, of those resources and are based on the best scientific evidence available. • Extent to which SEAFO has applied a precautionary approach as set forth in the Code of Conduct for Responsible Fisheries Article 7.5, including the application of precautionary reference points. • Extent to which SEAFO has moved toward the adoption of conservation and management measures for previously unregulated fisheries, including new and exploratory fisheries. • Extent to which SEAFO has taken due account of the need to conserve marine biological diversity and minimise harmful impacts of harvesting, research, conservation and associated activities on marine living resources and marine ecosystems. • Extent to which SEAFO has adopted measures to minimise pollution, waste, discards, catch by lost or abandoned gear, catch of non-target marine living resources, and impacts on associated or dependent species through measures including, to the extent practicable, the development and use of selective, environmentally safe and cost-effective fishing gear and

		techniques.
	Capacity management	<ul style="list-style-type: none"> • Extent to which SEAFO has identified fishing capacity levels commensurate with the conservation, including rational use, of marine living resources. • Extent to which SEAFO has taken actions to prevent or eliminate excess fishing capacity and effort. • Extent to which SEAFO monitors the levels of fishing effort, including taking into account annual notifications for participation by Contracting Parties.
2. <i>Compliance and enforcement</i>	Flag State duties	<ul style="list-style-type: none"> • Extent to which SEAFO Contracting Parties are fulfilling their duties as Flag States under the Convention establishing SEAFO, pursuant to measures adopted by SEAFO, and under other international instruments, including, <i>inter alia</i>, the 1982 Law of the Sea Convention, 1995 UN Fish Stocks Agreement and the 1993 FAO Compliance Agreement, as applicable.
	Port State measures	<ul style="list-style-type: none"> • Extent to which SEAFO has adopted measures relating to the exercise of the rights and duties of its Contracting Parties as Port States, as reflected in the Code of Conduct for Responsible Fisheries Article 8.3. • Extent to which these measures are effectively implemented.
	Monitoring, control and surveillance (MCS)	<ul style="list-style-type: none"> • Extent to which SEAFO has adopted integrated MCS measures (e.g. required use of VMS, observers, catch documentation and trade tracking schemes, restrictions on transshipment, boarding and inspection schemes). • Extent to which these measures are effectively implemented.
	Follow-up on infringements	<ul style="list-style-type: none"> • Extent to which SEAFO, its Contracting Parties follow up on infringements to management measures.
	Cooperative mechanisms to detect and deter non-compliance	<ul style="list-style-type: none"> • Extent to which SEAFO has established adequate cooperative mechanisms to both monitor compliance and detect and deter non-compliance (e.g. compliance committees, vessel lists, sharing of information about non-compliance). • Extent to which these mechanisms are being effectively utilised.
	Market-related measures	<ul style="list-style-type: none"> • Extent to which SEAFO has adopted measures relating to the exercise of the rights and duties of its Contracting Parties as Market States for marine living resources.
3. <i>Decision-making and dispute settlement</i>	Decision-making	<ul style="list-style-type: none"> • Efficiency of Commission meetings and working groups in addressing critical issues in a timely and effective manner. • Extent to which SEAFO has transparent and consistent decision-making procedures that facilitate the adoption of conservation measures in a timely and effective manner. • Existence of an informal mechanism of cooperation between Members based on reciprocities.
	Dispute settlement	<ul style="list-style-type: none"> • Extent to which SEAFO has established adequate mechanisms for resolving disputes.
4. <i>International cooperation</i>	Transparency	<ul style="list-style-type: none"> • Extent to which SEAFO is operating in a transparent manner, taking into account the Code of Conduct for Responsible Fisheries Article 7.1.9. • Extent to which SEAFO decisions, meeting reports, scientific advice upon which decisions are made, and other relevant materials are made publicly available in a timely fashion.

	Relationship to non-Contracting Parties cooperating with various SEAFO measures	<ul style="list-style-type: none"> • Extent to which SEAFO facilitates cooperation between Contracting Parties and non-Contracting Parties, including through encouraging non-Contracting Parties to become Contracting Parties or to implement voluntarily SEAFO conservation measures.
	Relationship to non-cooperating non-Contracting Parties	<ul style="list-style-type: none"> • Extent to which SEAFO provides for action in accordance with international law against non-Contracting Parties undermining the objective of the Convention, as well as measures to deter such activities, as well as encouraging them to become Contracting Parties or to implement voluntarily SEAFO conservation measures.
	Cooperation with other international organisations	<ul style="list-style-type: none"> • Extent to which SEAFO cooperates with other international organisations.
	Special requirements of Developing States	<ul style="list-style-type: none"> • Extent to which SEAFO recognises the special needs of Developing States and pursues forms of cooperation with Developing States, taking into account the Code of Conduct for Responsible Fisheries Article 5. • Extent to which SEAFO Contracting Parties, individually or through the Commission, provide relevant assistance to Developing States.
5. <i>Financial and administrative issues</i>	Availability of resources for activities	<ul style="list-style-type: none"> • Extent to which financial and other resources are made available to achieve the aims of SEAFO and to implement SEAFO's decisions.
	Efficiency and cost-effectiveness	<ul style="list-style-type: none"> • Extent to which SEAFO is efficiently and effectively managing its human and financial resources, including those of the Secretariat. • Extent to which the schedule and organisation of the meetings could be improved.

ANNEX 9

REPORT OF THE FIRST MEETING OF SEAFO COMPLIANCE COMMITTEE

6-8 October 2008, Windhoek

1. OPENING OF THE MEETING

- 1.1 The inaugural meeting of SEAFO Compliance Committee was held back-to-back with the Annual Meeting of SEAFO Commission in Windhoek, Namibia on 07 and 08 October 2008.
- 1.2 The meeting was called to order by Dr. Hashali Hamukuaya, Acting Executive Secretary of SEAFO who introduced the provisional agenda. Following discussion, the agenda was adopted (Annex 1).

2. ADOPTION OF THE AGENDA AND MEETING ARRANGEMENTS

The Meeting adopted the agenda (Appendix 1).

3.4. INTRODUCTION OF PARTIES DELEGATIONS AND ADMISSION OF OBSERVERS

Delegates from SEAFO Contracting Parties – Angola, European Union, Namibia, Norway and South Africa, attended the meeting and the Heads of Delegations introduced members of their delegations. Four observers – Rep. of Korea, Japan, FAO and WWF were admitted and also introduced their delegations

5. ELECTION OF OFFICE BEARERS

- 5.1 Considering that the Rules of Procedure of the Commission also apply to any subsidiary body, and taking into account Rule # 8 concerning the appointment of the Chairperson and Vice-Chairperson, the Acting Executive Secretary invited the nomination of the Chairperson of the Committee. The Committee agreed to implement a system of rotation on alphabetical order for office bearers.
- 5.2 Norway nominated Namibia and the nomination was seconded by EU and by Angola. Namibia accepted the nomination and introduced Mr. Bonny Amutse as the Chair. Norway was nominated and accepted the Vice-Chair. The Acting Executive Secretary handed-over the chairing responsibilities to Mr. Amutse.

4. COMPLIANCE COMMITTEE TERMS OF REFERENCE (TOR)

The Compliance Committee ToR adopted by the Commission at its 2007 Annual Meeting were presented to the Committee for information.

5. RULES OF PROCEDURE FOR THE COMPLIANCE COMMITTEE

The Rules of Procedure for the Commission were presented to the Committee as a template for drafting the Committee's own Rules of Procedure. Following discussion, the Committee decided to summarise its Rules of Procedure with the following text: *"The Rules of Procedure applicable to the conduct of the business of the Commission shall apply mutatis mutandis, except as regards officers, to the Compliance Committee, but they may be supplemented by additional rules of procedure or by-laws for the exercise of its functions and duties provided for in Article 9 of the Convention"*.

6. STATUS OF COMPLIANCE OF PARTIES CONCERNING SEAFO CONSERVATION AND MANAGEMENT MEASURES

8.1 The ex-Executive Secretary introduced this item on the basis of document DOC/CC/MEETING/05/2008. Members expressed deep concerns about the lack of data submission by Contracting Parties, noting that the availability of data is essential in respect of compliance. In particular, the absence of the observer data and inspection reports were identified as a major impediment to the assessment of compliance and consequently to long-term conservation and sustainable use of the resources under the jurisdiction of SEAFO. Furthermore the members expressed their concerns regarding the lack of notifications to the Secretariat. It is in this light that the Committee recommends that the Commission urge Parties to comply fully with relevant conservation measures in force.

8.2 The Committee reviewed the latest SEAFO Vessel Register. Some members expressed concern whether all Parties have sent their flagged vessels to the Secretariat. The Committee recommends that the Commission urges Contracting Parties to provide the list of their flagged vessels in line with the adopted conservation measure.

8.3 The Committee reviewed information on up-to-date Final IUU Vessel List of CCAMLR, IUU List of NAFO and the B-List of NEAFC taking into account the joint listing procedures between SEAFO and these RFMOs

8.4 Reviewing progress made in respect of linking VMS of Contracting Parties to the VMS at the Secretariat, the Committee appreciated progress made by EU (Spain and Portugal) whose flagged vessels are linked to the SEAFO VMS. It was also

noted that some of EU flagged vessels, although linked to SEAFO VMS, were targeting non-SEAFO species as reflected in port inspection report in Walvis Bay. The Committee is recommending strongly to the Commission to ensure that all Parties have established linkage to SEAFO VMS without any further delay.

8.5 The Committee expressed concern on the implementation of conservation measure 09/07 related to port State inspection scheme.

7. STATUS OF COMPLIANCE BY NON-PARTIES WITH SEAFO CONSERVATION AND MANAGEMENT MEASURES

9.1 The Committee, reviewed information regarding the fishing activities of the Togolese flagged vessels in SEAFO Convention Area and the subsequent correspondence between the Togolese Government and the Chairperson of SEAFO Commission. Members expressed serious concerns that the excuse expressed by Togo was not sufficient to exclude its flagged vessel from being listed in a draft SEAFO List in conformity with conservation measure 09/07. After considerable discussion, the Committee recommended that the Secretariat send a strong letter to the Togolese Authority urging Togo to join SEAFO and to adhere to all conservation and management measures adopted by the Commission. In the letter, it must be stated clearly that in future SEAFO will declare any Togolese flagged vessel fishing in the Convention Area in the manner that undermines conservation and management measures adopted by the Commission, as IUU fishing vessel.

9.2 In reviewing the activities of the Japanese flagged vessel, the observer from Japan, expressed regret that its flagged vessel had fished in one of SEAFO's closed areas and promised to take action to ensure that the incidence it will not happen again. The observer emphasized that Japan will continue to comply to conservation and management measures adopted by SEAFO including the submission of fishery data. Members agreed that from now on, any violation will be dealt with strictly in accordance with the adopted conservation measure on IUU fishing. The Committee recommends that the Commission urge Japan to fully comply with the measures adopted, including adherence not to fish in closed areas.

9.3 The fishing activities of the two fishing vessels flagged by the Rep. of Korea were reviewed. Members expressed concerns about the lack of VMS linkage to the Secretariat by the Korean flagged vessel. The observer from the Rep. of Korea stated that they have encountered technical difficulties in establishing the linkage. The Committee recommends the Commission to urge the Rep. of Korea to establish the linkage without further delay.

Members also expressed concerns on the difference of catch reported and landed weight of toothfish by one of the Korean flagged vessel. Explanation from the observer from Korea that the difference is due to conversion factor was hardly acceptable by the members. The Committee recommends that the Secretariat follow-up the issue with the Korean authority to clarify inconsistencies

9.4 The Committee expressed satisfaction to learn that both the Rep. of Korea and the Japanese longline fishing vessels have bird-scaring lines when fishing south of 30 degree latitude.

8. RECOMMENDATION ON ADDITIONAL MEASURES ON COMPLIANCE

The Compliance Committee expressed serious concern about the lack of available fisheries data such as catch, effort, discard, biological sampling data, observer reports, port inspection reports and VMs data. Such information is essential for future work of the Compliance and Scientific committees. Particularly as new measures have been introduced to regulate bottom fishing activities and the protection of VMEs. Consistent with this, the Compliance Committee strongly recommends that the Contracting Parties take steps to provide the necessary data.

9. ANY OTHER MATTER

There were no other matters raised for consideration by the committee

12. ADOPTION OF THE REPORT AND ADJOURNMENT

The report was adopted on 08 October 2008

Appendix 1

Agenda of the 1st Annual Meeting of the Compliance Committee Windhoek, Namibia 6 to 9 October 2008

Venue: Safari Hotel, Windhoek

1. Opening of the Meeting
2. Adoption of Agenda and Meeting Arrangements
3. Introduction of Parties Delegations
4. Introduction and Admission of Observers
5. Election of Officers
6. Compliance Committee Terms of Reference
7. Rules of Procedure for the Compliance Committee
8. Status of Compliance of Parties Concerning SEAFO Conservation and Management Measures

9. Status of Compliance of non-Parties Concerning SEAFO Conservation and Management Measures
10. Recommendations of Additional Measures on Compliance
11. Any Other Matters
12. Adoption of the Report and Adjournment

ANNEX 10

REVISED 2008 BUDGET AND APPROVED 2009 BUDGET

	Budget-line	Activity description	Allocation	Revised	Allocation
			2008	2008	2009
EXP.	3000/000	Accounting Fees	27000	27000	30000
	3050/000	Advertising & Promotions	10000	10000	10000
	3200/000	Bank Charges	12000	12000	12000
	3300/000	Computer Expenses	4000	4000	4000
	3301/000	Software Upgrade	5000	5000	5000
	3302/000	Internet lease Line	62000	62000	62000
	3303/000	Rent - Internet ¹	5000	5000	5000
	3304/000	VMS - Related Costs	78000	78000	83840
	3310/000	Security/Alarm	1200	1200	1200
	3355/000	Contingency	8000	8000	8000
	3400/000	Courier & Postage	6500	6500	6500
	3700/000	Miscellaneous	2400	2400	2400
	3850/000	Insurance	15900	15900	13000
	4051/000	Reports and Translation	50000	50000	30000
	4070/000	Meetings & Conferences	130000	130000	143000
	4200/000	Printing & Stationery	6000	6000	6000
	4300/000	Rent Paid	96200	87785	96200
	4310/000	Maintenance Switchboard	7000	7000	7000
	4315/000	Maintenance Copier/Fax ²	2550	2550	2550
	4400/000	Salaries	833175	833175	916493
	4400/001	Removal Expenses	0	100000	0
	4400/002	Installation grant	0	50000	0
	4500/000	Office expenses	1800	1800	1800
	4600/000	Telephone and Fax	21000	21000	21000
	4650/000	Travel – Flights	100000	100000	120000
	4700/000	Wages – Casual	15000	15000	16500
	4710/000	Car Allowance	18900	18900	18900
	6250/010	Computer Equipment	3000	3000	0
	6300/000	Office Equipment	3000	3000	0
	8300/000	Petty cash	5000	5000	5000
	000/000	Staff costs ³		832512	
	000/000	Performance Review Consultant⁴			80000
	TOTAL EXPENDITURE		1529625	2503722	1707383
INCOME	9510/000	SEAFO Staff PAYE	108684		108684
	1200/000	Contributions by Parties	1420941		1598699
	TOTAL INCOME		1529625		1707383

¹Internet Rental in 2007FY was included in Internet Lease Line budget

²Maintenance Copier/Fax in 2007FY was charged from printing and stationary

³Staff expenses agreed by intersessionally by the Heads of Delegations as well as payments for leave days and service allowance payable to the Executive Secretary in line with Staff Regulations (no. 34 and 57).

⁴ Consultant to prepare an pictorial identification key for corals and sponges.

ANNEX 11

TERMS OF REFERENCE ESTABLISHING A STANDING COMMITTEE ON ADMINISTRATION AND FINANCE OF THE SOUTH EAST ATLANTIC FISHERIES ORGANISATION (SEAFO)

Establishes, in accordance with Article 5 of the SEAFO Convention, a Standing Committee on Administration and Finance (SCAF).

The functions of the SCAF shall be to:

- 1) Examine the audited statements, examining draft budget for ensuing year, and make such recommendations as may be relevant in this respect
- 2) Propose amendments to Rules of Procedure, Staff and Financial Regulations when necessary
- 3) Recommend time and place of the meetings of the Commission and its subsidiary bodies
- 4) Advise on publications of the Organisation
- 5) Draw the attention of the Commission on any matter of administrative and financial nature
- 6) Perform such other matters as the Commission may direct

The SCAF shall meet during the Annual Meeting of the Commission.