



REPORT OF THE SECOND PERFORMANCE REVIEW PANEL

October 2016

EXECUTIVE SUMMARY

The first performance review of SEAFO was conducted by an independent review panel in 2010. In 2015 SEAFO members agreed to undertake a second independent review in 2016 with the review criteria closely following that of the first performance review. The independent review panel for this second review consists of a fisheries management expert nominated by the Food and Agriculture Organization of the United Nations (FAO), a fisheries scientist nominated by the International Council for the Exploration of the Sea (ICES), and two SEAFO Contracting Parties, European Union and South Africa. The SEAFO Secretariat supported and facilitated the review. The Panel met in Swakopmund, Namibia in April 2016 and concluded its report to the Commission in July 2016.

Note: In preparing this report the 2nd review panel (2ndRP) was conscious of the excellent explanatory information in the 1st review report and decided, where appropriate it was useful to review and incorporate much of this information as it provides a good background for new delegates to the Commission. As such the 2nd review panel would like to acknowledge and thank the 1st review panel (1stRP) for its excellent work and note that as appropriate the explanatory text has been updated and retained in this report.

The review criteria agreed by SEAFO is Annex 1 to this report. This report reviews the progress of implementation the recommendations of the 1stRP. The report then builds on and does not repeat the work of the 1stRP.

The Panel took into consideration in developing recommendations for the Commission, the nature of the fishery in this RFMO including;

- the number of vessels and the catch from the fishery;
- the membership of SEAFO (7 contracting parties) and;
- the relatively young age -of the RFMO (2004).

As with the last review the recommendations reflect that SEAFO is an organisation with limited fishing at this time but with the responsibility for the stewardship of the fish stocks and benthic flora across the whole of the SEAFO convention area.

The panel is encouraged by the work that the members have done to progress the recommendations of the 1st review report (1stRR) which have strengthened the Commission. The panel is also encouraged by the precautionary approach the members have continued to employ, but noted that this approach was not applied systematically. The panel also noted that a different strategy to encourage exploratory fishing and potentially further develop the resources in the SEAFO waters may need to be considered.

The report follows the structure of the 1st RP report so that members can where necessary cross reference the two reports. The Report has five chapters.

- Chapter 1: Introduction
- Chapter 2: SEAFO Background
- Chapter 3: Relationship with SEAFO and other international fisheries instruments
- Chapter 4: Performance review Analysis and Recommendations
- Chapter 5: Compendium of Recommendations.

The Review panel has made forty four (44) recommendations and these recommendations deal with:

- Science, Conservation and Management

- Compliance and Enforcement
- Decision making and dispute settlement,
- International cooperation; and
- Financial, Administrative and Staffing issues.

Some of the key findings of the 2nd Review Panel was pleased that most of the recommendations from the first review report had been addressed but SEAFO and as appropriate changes made to procedures operations. The Review Panel notes that generally this small Commission is very well run and is well structured to deal with current and potential fishing activities in its waters. The key findings of the 2nd Review Panel report include the following:

Science, Conservation and management

Given the present low fishing effort and low commercial interest in the fisheries, the present *raison d'être* for SEAFO may be to ensure that a legal regulatory framework is in place regarding fisheries in the convention area in order to ensure 1) that all fisheries activities in the convention area are subject to principles as laid down in international agreements, 2) that any future developments of the fisheries in the area is done with due consideration of the need to ensure the sustainability of such fisheries and 3) that any fisheries activities do not damage other components of the marine ecosystem which may be sensitive to fisheries impacts. The scientific underpinning of the Commission work by the Science Committee (SC) may consider whether to focus its work on 2) and 3) above. This means that SC could consider to invest effort into evaluating candidate rules for exploratory fishing and evaluations if and when there is new interest to exploit fisheries resources in the area and in continuing its work to monitor fisheries impacts on the ecosystem and to evaluate candidate measures to implement an ecosystem approach to fisheries management within SEAFO.

The panel was pleased to note that SEAFO now prepared a stock status report and is of the view that work should continue to update this report and that SEAFO should consider developing an ecosystem status report to compliment the stock status report. This would allow the Commission to identify criteria for maximum ecosystem impacts in relationship to habitats and bycatch. The 2ndRP is however conscious that there is currently limited fishing effort and is aware of the cost of operating this commission and as such any developments should be assessed and prioritised by the Commission. An approach to economising scientific resources could be to make a risk based approach to the status of stocks the ecosystem and maximum impact.

The SC should be tasked with providing scientific advice to the SEAFO annual meeting that includes management advice on options for harvest levels of the commercially fished stocks. If this occurs the Commission will be better placed to discuss and decide appropriate management approaches and harvest levels for these species. The two major changes to the Commission since the last review, the amalgamation of the SCC and the SC and the development of the system of observation and compliance are both viewed as positive moves for SEAFO.

Compliance and enforcement

As noted above the development by SEAFO of the System of Observation, Inspection, Compliance and Enforcement is viewed as a very positive development within SEAFO. The panel was also pleased to see that the document was viewed as a "living document" and that it had been reviewed and improved in 2015. The Panel thought the System could be

further strengthened by;

- parties providing copies of inspection reports;
- including information on gears and technologies used in the fishery in the System; and
- developing detailed procedures to follow-up detected infringements

SEAFO should consider the usefulness of compliance observing on vessels in the convention area as this would address any compliance shortcomings SEAFO may have and would mean that a program was in place should fishing activity in the region suddenly increase. If there is an increase in fishing activity and catch SEAFO should also consider the development and implementation of catch documentation for key species.

Decision making and dispute settlement

The Panel are satisfied that the decision and dispute provisions and process in SEAFO are appropriate.

International cooperation

The Panel suggests that SEAFO continues to pressure the UK to join the Commission as it has territories in the Convention Area and has obligations under 116-119 of the UNCLOS. The recent BREXIT vote and the exit of the UK from the EU may encourage UK interest in RFMOs.

The Panel found current cooperation and liaison with other international and regional organisations appropriate and noted that an ongoing relationship with SIOFA may be beneficial.

The Panel encourages ongoing contributions to the Special Requirements Fund.

Financial and administrative issues

The Secretariat is well run under its Executive Secretary Dr Ben Van Zyl and the panel has made some suggestions on actions that the Secretariat may take to better inform the members of the work of the Secretariat. Of real concern to the review panel are the staff regulations, salary scales and the inability of the Commission to deal with the volatility in the Namibian dollar in setting and maintaining salaries at parity. Since 2009 the Namibian dollar has weakened from 8 NAD to the USD to 15 NAD to the USD and as such staff has effectively had a 50% pay reduction. Of equal concern is the lack of a structure to progress pay points and to the capacity to ensure that staff has adequate insurance, medical and superannuation coverage. Organisations have a duty of care to their staff and the current arrangements in SEAFO in respect to staff would not meet the normal requirements of duty of care in most international organisations.

The Panel made series of recommendations with respect to staff regulations and staff pay and conditions and believes these should be addressed immediately by SEAFO.

Given that this is a small Commission the timely payment by Contracting Parties of their contributions is absolutely critical for the smooth operation of the Commission and it should work to build up a reserve fund that is sufficient to ensure the efficient operation of the Commission.

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ACRONYMS AND ABBREVIATIONS

ALDFG	Abandoned, Lost or otherwise Discarded Fishing Gear
BCC	Benguela Current Commission
CCAMLR	Commission for the Conservation of Antarctic Marine Living Resources
CDS	Catch Documentation Scheme
COFI	Committee on Fisheries of the Food and Agriculture Organization
Convention	Convention on the Conservation and Management of Fishery Resources in the South East Atlantic Ocean
1982 Convention	United Nations Convention on the Law of the Sea
CPUE	Catch per Unit Effort
EEZ	Exclusive Economic Zone
FAO	Food and Agriculture Organization of the United Nations
FFA	Pacific Islands Forum Fisheries Agency
FP	Focal Point
ICCAT	International Commission for the Conservation of Atlantic Tuna
ICES	International Council for the Exploration of the Sea
IPOA	International Plan of Action
IUU	Illegal, Unreported and Unregulated Fishing
MCS	Monitoring, Control and Surveillance
MSY	Maximum Sustainable Yield
NAFO	North-west Atlantic Fisheries Organization
NAMMCO	North Atlantic Marine Mammal Commission
NASCO	North Atlantic Salmon Conservation Organization
NEAFC	North-East Atlantic Fisheries Commission
RFMO	Regional Fisheries Management Organisation
SADC	Southern African Development Community
SEAFO	South-east Atlantic Fisheries Organisation
SIOFA	Southern Indian Ocean Fisheries Organisation
SSC	Sub-Committee of the Scientific Committee
TAC	Total Allowable Catch
UNFSA	United Nations Fish Stocks Agreement
VME	Vulnerable Marine Ecosystem
VMS	Vessel Monitoring System
WCPFC	Western and Central Pacific Fisheries Commission

1. INTRODUCTION

1.1 International background

The international background to the establishment of SEAFO was well described by the 1stRP and as noted it is updated and repeated for new delegates who may not be aware of the evolution of SEAFO.

The discovery of high value fish stocks above the continental slope of coastal States in the South East Atlantic, notably deep sea crab in Namibia and Angola and orange roughy and alfonso in Namibia and South Africa and pelagic sharks in most of the area, provided the impetus for the establishment of a new regional fisheries management organisation (RFMO) for the conservation and management of those stocks. The process to establish the South East Atlantic Fisheries Organisation (SEAFO) began in 1997, when negotiations were initiated to develop a draft Convention with the objective of ensuring the long-term conservation and sustainable use of marine resources in the high seas of the southeast Atlantic.

The process initially involved the four coastal States in the region: Angola, Namibia, South Africa and the United Kingdom (on behalf of St. Helena and its dependencies, Tristan da Cunha and Ascension Island). In December 1997 it was opened to those with distant water fishing interests in the region, according to the Food and Agriculture Organization (FAO) catch data: the European Union, Japan, Norway, Russia and the United States. Iceland, Poland, Republic of Korea and Ukraine also participated in the negotiations, reflecting the desire of the participants for openness and the inclusion of all States with an interest in the fisheries concerned. The negotiating process lasted four years and spanned seven negotiating sessions.

The text of the Convention on the Conservation and Management of Fishery Resources in the South East Atlantic Ocean (the Convention) was adopted in November 2000, although the signing ceremony was delayed until April, 2001 to allow more time for internal consultations, particularly in Angola, and for the relevant documents to be translated into Portuguese. The Convention entered into force in April, 2003 and the Commission had its inaugural meeting in March 2004. It became fully functional from March 2005 with the establishment of the permanent Secretariat in Walvis Bay, Namibia. The Scientific Committee was established in 2004, the Compliance Committee in 2007 and the Standing

Committee on Administration and Finance in 2009. There are currently seven Contracting Parties to SEAFO: Angola, the European Union, Japan, Namibia, Norway, South Africa and Korea. In addition, States that have signed but not acceded to the Convention are Iceland, and the United Kingdom of Great Britain and Northern Ireland in respect of St. Helena and its dependencies and the United States of America.

The Convention is one of the first RFMOs modelled on the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of the Straddling Fish Stocks and Highly Migratory Fish Stocks (UNFSA). (*Source 1st Review Panel report*)

1.2 SEAFO Performance Review

1.2.1 The Panel

In 2015 the Commission agreed that the 2nd Review Panel (2ndRP) should follow the format of the 1stRP and consist of four international experts, with two external experts and two Contracting Parties representing the Parties. The EU and South Africa were nominated to represent SEAFO on the panel. Panel members were:

1. Professor Glenn Hurry (Australia), a fisheries management expert nominated by FAO, who also served as the Chair of the Review Panel;
2. Mr Poul Degnbol (Denmark), a fisheries scientist nominated by the International Council for the Exploration of the Sea (ICES);
3. Mr Orlando Fachada; former Head of the EU Delegation to SEAFO, Directorate-General for Maritime Affairs and Fisheries of the EU; and
4. South Africa (nominated but did not participate).

The Secretariat provided insights and clarification on issues and questions which was extremely useful for the review team. The Secretariat also provided welcome support and facilitated the activities of the review team and assisted in reviewing the report for factual accuracy.

1.2.2 Criteria for the Performance Review

The Criteria agreed upon by the Commission to form the basis for the 2nd Performance Review are in Annex 1. They are largely similar to those adopted for the 1st review and for reviews of other RFMOs. The Criteria relate to conservation and management, compliance and enforcement, decision-making and dispute settlement, international cooperation and financial and administrative issues.

1.2.3 The modus operandi of the Performance Review Panel

The 2ndRP reviewed the recommendations from the 1stRP to determine the content and purpose of the recommendations, their process for acceptance and implementation and what if anything was outstanding and still relevant to this review. Many of these recommendations have been acted on by the Commission and Secretariat and as appropriate changes implemented. The review team considered changes and developments internationally and regionally since the first review in 2011 and how these impacted on the Commissions in achieving its mandate and objectives in sustainably managing the fish stocks and related species in the SEAFO area.

The 2ndRP has limited its recommendations to those that add value to the work of SEAFO and where recommendations were not necessary this has been noted.

The 2ndRP met during the week of the 11th-15 April 2016 at the SEAFO offices in Swakopmund Namibia. All subsequent discussions were conducted by electronic media.

1.2.4 The structure of the report

Following the format of the 1stRR, this report consists of five sections. The first three sections provide introductory and background information relating to SEAFO and describe the relationship between the SEAFO Convention and other international fisheries instruments and initiatives. Section 4 addresses the Performance Review Criteria by providing:

- An outline of the issues under review;
- panel commentary issues and the first review recommendations; and
- recommendations for consideration by the Commission.

A compendium of the Panel's recommendations is then included for ease of reference in Section 5.

2. SEAFO BACKGROUND

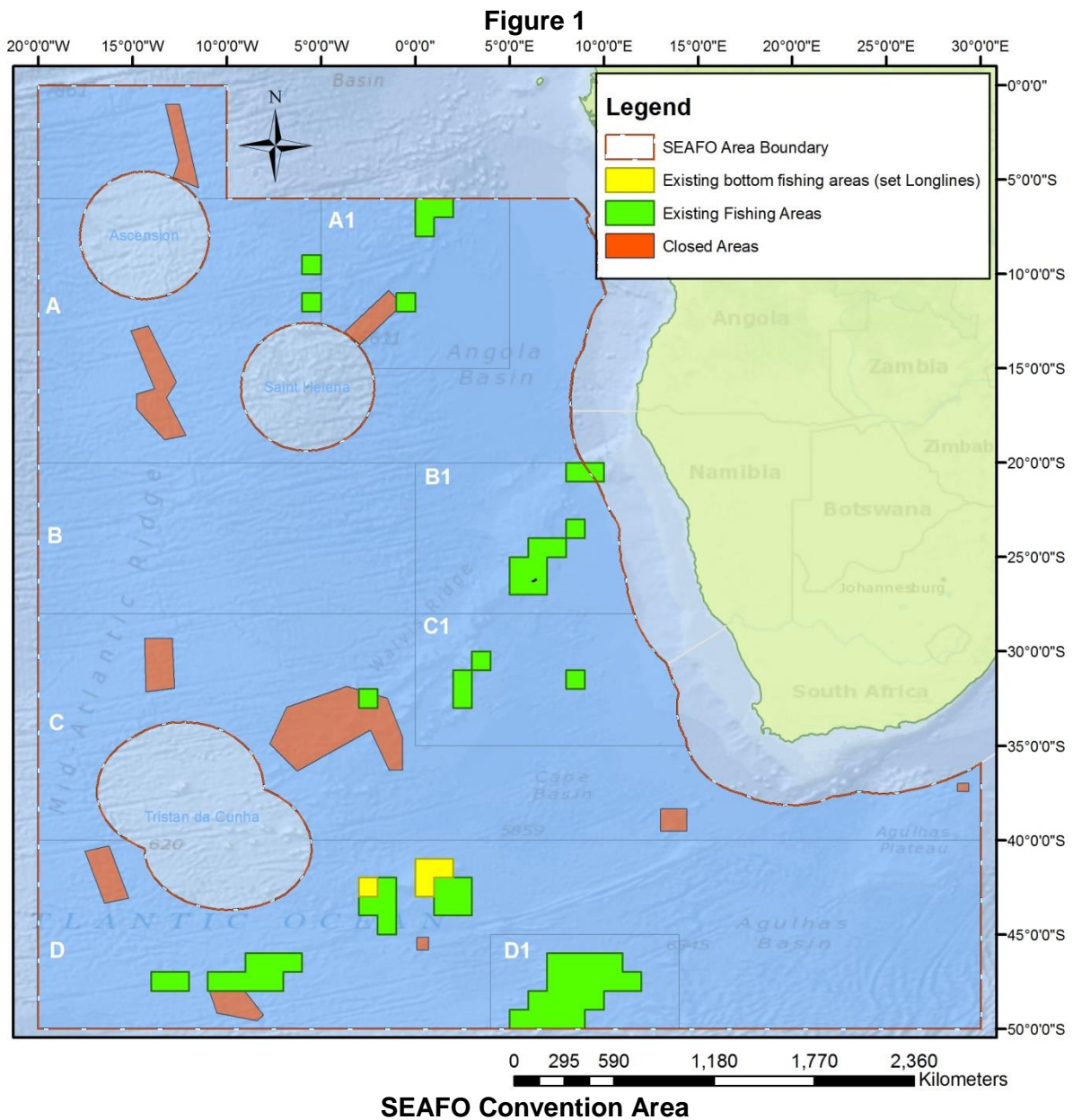
2.1 Introduction to SEAFO

2.1.1 Area of Competence and fisheries

This section is repeated from the first review for ease of reference by any new delegates to the Commission. (*Source Based on text from the 1st Review report and updated*)

The SEAFO Area of Competence (Convention Area) lies in the Southeast Atlantic Ocean beyond national exclusive economic zones (EEZs) of the coastal states of Angola, Namibia, South Africa and United Kingdom (in respect of St. Helena and its dependencies of Accession Islands and Tristan da Cunha). Specifically, it is demarcated by the line beginning at the outer limit of the Angolan EEZ at a point 6° South, then west to the meridian 10° West, then north to the equator, then west to the meridian 20° West, then south to a parallel 50° South, then east to the meridian 30° East, then north to the east coast of South Africa (Figure 1). This area generally corresponds with FAO Statistical Area 47 in the South East Atlantic.

Oceanographically, the northern boundary of the SEAFO Convention Area is bounded by the South Atlantic Equatorial Current that flows westward along the equatorial area. On the western boundary, the area is characterised by an open end of the South Atlantic gyre. The eastern boundary consists of the Benguela and Angolan Currents along the African continent. The Benguela Current flows in a north to north-westerly direction (~15-35°S) and is a major east boundary upwelling system that is very productive in inshore areas and characterised by cool surface temperatures. The warm Angolan Current flows in a southerly direction along the Angolan coast and meets the Benguela Current roughly around 17-15°S commonly referred to as the Angola/Benguela front. The frontal area is characterised by offshore flow into the SEAFO area that transport primary production. The warm Agulhas Current flows south of the African continent in a westerly direction where it meets up with the Benguela Current.



Warm eddies are formed in this area and transported north-westerly into the SEAFO area. The southern boundary of the Convention Area is dominated by the Southern Ocean Current and is also influenced by the Antarctic Convergence Zone

The prominent topographic features inside the Convention Area include the Walvis Ridge, which extends from around 18°S off the Namibian coast into a south-westerly direction towards the mid-Atlantic ridge; the Agulhas Ridge, which extends from around 35°S south of Cape Town in a south-westerly direction and the mid-Atlantic Ridge, at around 15°W that runs through the entire SEAFO region from north to south. There are also numerous

seamounts, rises, banks and plateaus in the Convention Area; notably among these are Mount Vema and Meteor Rise.

Article 6(12) of the Convention requires the Commission to take account of measures established by other organisations which affect living marine resources in the Convention Area, and seek to ensure consistency with such measures. Therefore, the Commission does not address species that are managed by the International Commission for the Conservation of Atlantic Tuna (ICCAT), the Indian Ocean Tuna Commission (IOTC), the Commission for the Conservation of Southern Bluefin Tuna (CCSBT), the South West Indian Ocean Fisheries Arrangement (SWIOFA) or the International Whaling Commission. The extent of fisheries resources in the Convention Area is not well known because of the limitations of reliable data and this has not improved in the time between the 2 reviews.

Available data indicate that the following species are or have been caught in varying degrees of tonnage in SEAFO waters, mainly by distant water fishing nations and to lesser extent by Namibia and South African companies over the last 20 years: alfonsino (targeted by bottom trawls no catch since 2013), orange roughy (targeted by bottom trawls), tuna and tuna like species (targeted by bottom and pelagic trawls and also bycatch in longlines), deep sea red crab (harvested by pots), deep water shrimps (bycatch in bottom trawls), swordfish, wreckfish, Patagonian toothfish, Argentines, boarfish, grunts (African striped & bigeye), octopus and lobster.

In 2015, the Commission adopted total allowable catches (TACs) for 2016:

Patagonian Toothfish: TAC to be 264 tons for Sub-area D, and zero tons for the remainder of the SEAFO Convention Area (CA)

Deep Sea Crab: TAC to be 190 tons in Division B1, and 200 tons for the remainder of the SEAFO CA

Orange Roughy: 4 ton bycatch in division B1 and a TAC of 50 tons for the rest of the SEAFO CA.

Alfonsino: 200 tons of which a max of 132 tons can be taken in division B1

Armourhead/Boarfish: 143 tons for the SEAFO CA

:

In 2015 there were only small targeted catches of Patagonian Toothfish and Deep Sea Crabs and limited by-catch of other species from these 2 fisheries.

2015 SEAFO Catch by species

Species	Quota	Actual catch 2015
Toothfish	264 tonnes	51 tonnes
Deep sea Crabs	190 tonnes B1 200 tonnes rest	104 tonnes
Orange roughy	4 tonnes bycatch 50 tonnes TAC	N/F (no fishing)
Alfonsino	200 tonnes	N/F
Boarfish/AH	143 tonnes	N/F

2.1.2 Objective and Responsibilities

The objective of the SEAFO Convention is to:

Article 2: Ensure the long-term conservation and sustainable use of the fishery resources in the Convention Area through the effective implementation of the Convention.

In order to achieve this, the Convention (Article 3) sets out a number of general principles for good modern fisheries management consistent with international law and agreements.

These principles include:

- *“adopt measures, based on the best scientific evidence available, to ensure the long term conservation and sustainable use of fishery resources;*
- *apply the precautionary approach;*
- *take account of the impact of fishing operations on ecologically related species such as seabirds, cetaceans, seals and marine turtles;*
- *adopt measures for species belonging to the same ecosystem as, or associated with or dependent upon, the harvested fishery resources;*
- *ensure that fishery practices and management measures take due account of the need to minimize harmful impacts on living marine resources as a whole; and*
- *protect biodiversity in the marine environment.”*

In addition to these general principles as SEAFO has evolved, biologists within the SC have developed new species profiles on species not considered as target or main by-catch species at the beginning of SEAFO.

2.1.3 Structure of the Organisation

The structure of the Organisation remains the same and is shown in Figure 2. It is described below and comprises the:

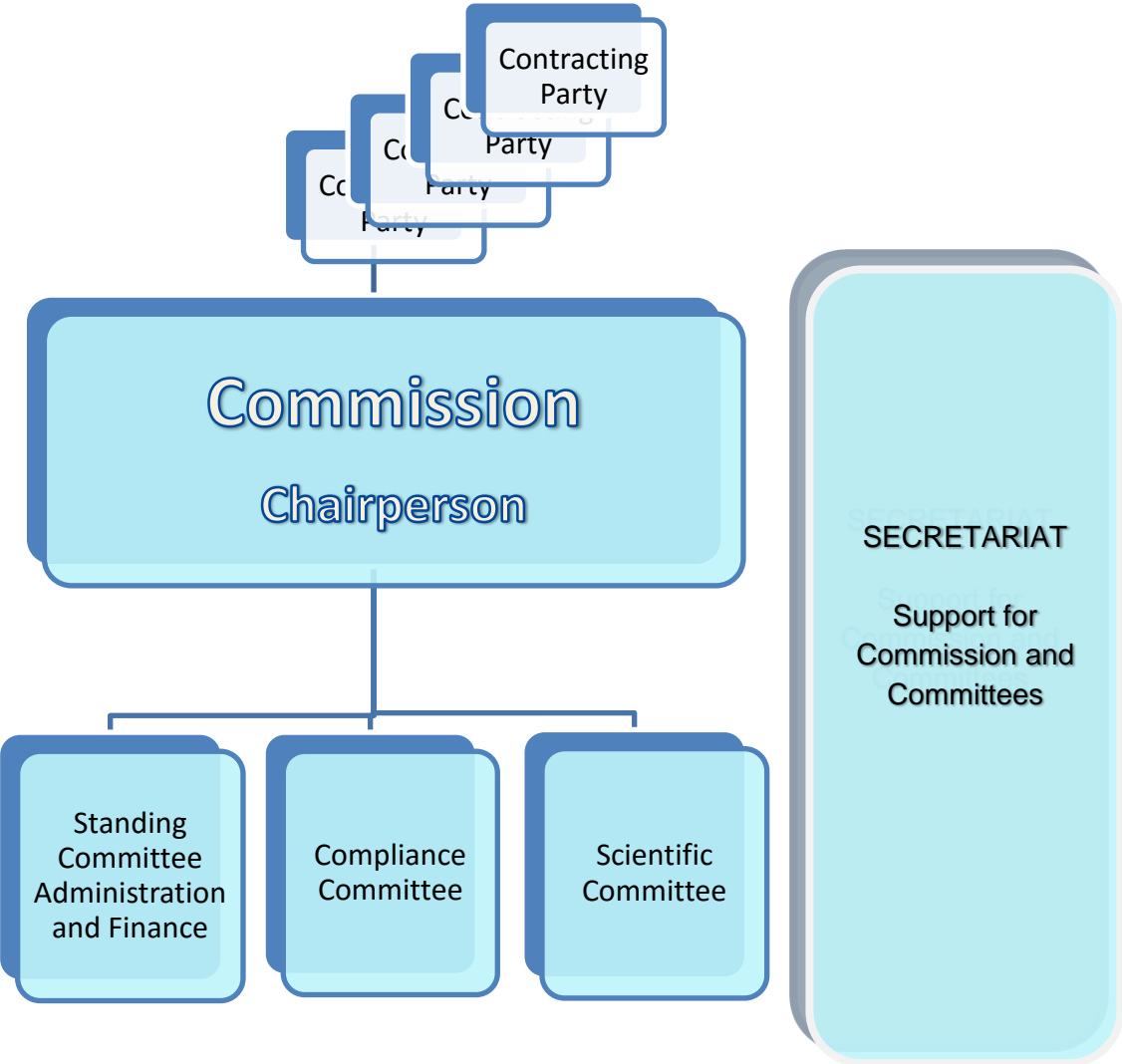
- Contracting Parties;
- Commission;
- Compliance Committee;
- Scientific Committee;
- Standing Committee on Administration and Finance; and
- Secretariat.

SEAFO has legal personality and enjoys in the territory of each Contracting Party such legal capacity as may be necessary to perform its functions and achieve the objective of the Convention. The privileges and immunities of the Organisation and its staff are determined by the Headquarters Agreement. The Secretariat moved from Walvis Bay, and is now co-located in a building that also houses the Benguela Current Commission (BCC) and Namibian Ministry of Fisheries and Marine Resources in Swakopmund Namibia.

2.1.3.1 Commission

The Commission is the main decision-making body of SEAFO and has a wide range of functions identified by article 10 of the Convention. It is responsible, among other things, for providing direction to the Secretariat, identifying conservation and management needs, formulating and adopting conservation and management measures, determining TACs and/or levels of fishing effort, promoting proper scientific research and establishing appropriate mechanisms for effective monitoring, control, surveillance (MCS) and enforcement.

**Figure 2
Structure of the Organisation**



2.1.3.2 Compliance Committee

The Compliance Committee was established in 2007 in accordance with Article 9 of the Convention, to provide the Commission with information, advice and recommendations on the implementation of and compliance with conservation and management measures. In performing its functions, the Committee is to conduct activities as the Commission directs and to coordinate compliance activities undertaken by or on behalf of SEAFO, coordinate with the Scientific Committee on matters of common concern and perform such other tasks as the Commission directs.

2.1.3.3 Scientific Committee

The Scientific Committee was established in 2005 pursuant to article 10 of the Convention, to provide the Commission with scientific advice and recommendations for the formulation of conservation and management measures for fishery resources, and to encourage and promote cooperation in scientific research in order to improve knowledge of the living marine resources of the Convention Area.

The Scientific Committee established a Scientific Sub-Committee (SSC) in 2006 to create a forum for collating data and assessing the fish stocks in the SEAFO area, to be considered by the Scientific Committee for review and approval. However following the 1st Review Panel report this SSC was disbanded as it was not considered to add real value to the work in the Commission.

2.1.3.4 Standing Committee on Administration and Finance

The Standing Committee on Administration and Finance was established in 2009 to provide the Commission with information, advice and recommendations on issues pertaining to the administration and finances of the Organisation. Matters regarding finance and budget are addressed in article 12 of the Convention.

2.1.3.5 Secretariat

The Secretariat in 2016 consists of an Executive Secretary appointed by the Commission, Compliance and Data Manager and an Administrative Officer as required under Article 11 of the Convention. Staff contracted to the Commission have the status of international civil servants whose terms and conditions of work are governed by regulations determined by the Commission. The regulations and terms of employment of staff in all RFMOs should in principle be consistent and in line with the conditions of international civil servants. (Section 4.5.2)

3. RELATIONSHIP BETWEEN THE SEAFO CONVENTION AND OTHER INTERNATIONAL FISHERIES INSTRUMENTS AND INITIATIVES

3.1 Introduction

Several international instruments concerning the management of world fishery resources have been developed over the last twenty years. These include the legally binding UNFSA and the 1993 FAO Compliance Agreement. A key voluntary fisheries instrument is the 1995 FAO Code of Conduct for Responsible Fisheries (the Code of Conduct) including the international plans of action (IPOAs) elaborated under it: the 2001 FAO IPOA to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU), and the 1999 IPOAs for Reducing Incidental Catch of Seabirds in Longline Fisheries (IPOA-Seabirds), the Conservation and Management of Sharks (IPOA-Sharks) and the Management of Capacity (IPOA-Capacity). Other applicable instruments relating to Port State Measures are the voluntary 2005 FAO Model Scheme on Port State Measures to Combat IUU Fishing (the Model Scheme).

The latest of these important agreements to enter in force is the global, legally binding FAO Agreement on Port State Measures to Prevent, Deter and Eliminate IUU Fishing (FAO Agreement on Port State Measures) adopted by the FAO Conference in November 2009. This instrument entered into force 5 June 2016, with 25 parties ratifying or accepting the Agreement on 5 May 2016. As at 30 August 2016 33 parties have ratified or acceded to the Port State agreement. Included in these 33 parties are the SEAFO members; EU, Norway, Korea, and South Africa along with the US and Iceland. Angola has signed but is yet to ratify the agreement. Namibia is yet to sign the agreement and the UK may have to sign on behalf of its Territories.

The instruments, activities and outcomes described above are indicative of evolving demands and expectations concerning the role and the performance of RFMOs, including SEAFO. They are described in greater detail below, where it is shown that the voluntary fisheries instruments serve as guidelines or toolboxes for the conservation and management of fisheries, including some specific options for States and RFMOs such as SEAFO. *(source updated from the 1st Review Report)*

3.2 The SEAFO Convention and the UNFSA

The SEAFO Convention is one of the first conventions developed and ratified after the adoption of the UNFSA. As such the Convention is consistent with the provisions of the UNFSA. The objective and general principles of the SEAFO Convention Articles 2 and 3 are patterned after and consistent with the requirements of the UNFSA.

Panel Considerations

SEAFO Convention is consistent with the requirements and provision of the UNFSA.

3.3 Other instruments and initiatives relevant to implementation of the SEAFO Convention

3.3.1 The FAO Compliance Agreement

The FAO Compliance Agreement, which forms an integral part of the Code of Conduct, was finalized prior to the UNFSA, and some of the provisions are overlapping. It applies to “international conservation and management measures” adopted and applied in accordance with the 1982 Convention. It is thus not limited to species covered by the UNFSA. The focus of the Compliance Agreement is the authorization of fishing on the high seas and the development of the concept of flag State responsibility and of mechanisms to ensure the free flow of information on high seas fishing operations. As at 30 August 2016 of the SEAFO Contracting Parties and observers, Angola, the European Union, Japan, Korea, Namibia, Norway and the US are parties to the FAO Compliance Agreement.

Panel Considerations

SEAFO management arrangements comply with the requirements of the Compliance Agreement.

3.3.2 The FAO Code of Conduct

The Code of Conduct, which was adopted in 1995, provides a framework for national and international efforts to ensure sustainable exploration of aquatic living resources in harmony with the environment. In relation to RFMOs such as SEAFO, articles 7 and 8 in particular give adequate and important guidance. Article 7 includes provisions on management objectives, framework and procedures, data gathering and management advice, application of the precautionary approach and the establishment of management measures as well as their implementation. Article 8 deals with fishing operations and contains provisions on the duties of the flag State and the port State. The overall objective is to promote a framework for sustainable development, foster protection of the aquatic environment and the maintenance of biodiversity while making a contribution to the safety of fishing operations. It should be noted that FAO has supplemented many of these principles by developing specific technical guidelines.

3.3.2.1 IPOA-Capacity

While environmental factors have adversely affected some fish stocks, excessive levels of fishing capacity are believed to be the primary cause of fisheries declines. Moreover, fishing overcapacity is also known to have contributed to the problem of IUU fishing, particularly in cases where excess capacity has been exported through re-flagging to States which do not exercise effective control over their fishing vessels and/or do not comply with their flag State obligations.

Excess fishing capacity is addressed in many ways, including by input regulations such as fishing seasons/days, closed areas, permitted gears and vessel-related restrictions as well as output regulations such as rights-based measures. Coordinated efforts are, however, essential. FAO adopted the IPOA-Capacity in 1999, with the objective for States and RFMOs to achieve an efficient, equitable and transparent management of fishing capacity. The IPOA-Capacity specifies several actions to be taken for assessing and monitoring capacity, preparing and implementing national plans, international considerations and immediate actions for major international fisheries requiring urgent measures.

Panel Considerations

SEAFO is currently not in the situation where it is necessary to adjust or restrict capacity in this fishery.

3.3.2.2 IPOA-Seabirds

There are concerns about incidental catch of seabirds in the longline fisheries. According to the IPOA-Seabirds, States should, either individually or through appropriate RFMOs, conduct assessments of these fisheries to determine if a problem exists with respect to the incidental catch of seabirds. If a problem is identified, initiatives should include the adoption of mitigation measures, plans for research and development, awareness campaigns and data collection programmes. The IPOA-Seabirds also contains an annex describing some optional technical and operational measures for reducing the incidental catch of seabirds in longline fisheries.

Panel Considerations

SEAFO has implemented the IPOA by adopting measures with the aim of reducing incidental by-catch of seabirds in the Convention Area, cf. Conservation Measure 15/09. The measure was updated in Conservation Measure 25/12. By catch interaction is monitored by the scientific observers and reported through their reports to the Secretariat. This information is considered by the SC and recommendations made to the Commission for consideration and if necessary strengthening of the measures.

3.3.2.3 IPOA-Sharks

Significant global work on sharks is underway in the RFMOs and under the GEF ABNJ program. Concerns continue to be expressed on the increase in shark catches and the development of shark trunk markets, as sharks often have a long stock recovery time, if over-fished, and low recruitment relationship. Assessment of shark stocks and biological information is limited and hampered by lack of data in many fisheries. In order to address these concerns FAO adopted in 1999 the IPOA-Sharks calling on States to take a number of actions to ensure the conservation and management of sharks and their long-term sustainable use, including developing national plans which should contain shark stocks assessments based on consistent data collection. Such data should be made available to, among others, relevant RFMOs. It is recognised that sharing such information is particularly important in relation to straddling, highly migratory and discrete high seas shark stocks.

Panel Considerations

The SEAFO Convention area overlaps with the ICCAT Convention Area, the CCSBT Convention Area and the IOTC Convention Area. ICCAT is responsible for managing species appearing in Annex 1 to the 1982 Convention, which include oceanic sharks, while SEAFO has the regional responsibility for all other shark species. IOTC is not responsible for shark species but can regulate sharks caught in tuna and tuna-like fisheries. The Commission has implemented the IPOA by adopting Conservation Measure 04/06 on the Conservation of Sharks Caught in Association with Fisheries Managed by SEAFO and Recommendation 1/2008 which places a voluntary ban on the catch of deep water sharks.

3.3.2.4 IPOA-IUU

Combating IUU fishing has been one of the main issues on the international fisheries agenda for the last decade. IUU fishing is identified as a major threat to fisheries conservation and marine biodiversity. A number of initiatives have been taken by global organisations, many regional bodies and States to counteract such activities. In this context in particular the IPOA-IUU is important. It is a voluntary instrument - a comprehensive toolbox that contains several suggested measures for combating IUU fishing, including those to be used by flag States, coastal States, port States and RFMOs. The IPOA-IUU calls on States, through RFMOs, to take various actions, such as developing boarding and inspection schemes, implementing vessel monitoring systems (VMS) and observer programmes, identifying vessels that are engaged in IUU fishing, regulating transshipment operations as well as adopting port inspection schemes, certification and/or trade documentation schemes and other market-related measures.

Panel Considerations

The SEAFO Convention contains several provisions relevant to the fight against IUU fishing, in particular Article 9 establishing the Compliance Committee, Article 14 on flag State duties, Article 15 on port State duties and measures taken by a port State, Article 16 on observation, inspection, compliance and enforcement and Article 22 on non-parties to the Convention.

At its annual meeting in 2013 the Commission adopted the “System of Observation, Inspection, Compliance and Enforcement”. This living document was updated in 2015. The scope of the SAEFO System for Observation Inspection, compliance and enforcement, is as stated: *Unless otherwise stated, this System of Observation, Inspection, Compliance and Enforcement, hereafter designated as the System, shall apply to all fishing vessels and fishing research vessels operating or intending to operate in the Convention Area.* The System therefore lays out all of the rules and regulations for vessels wishing to fish, research or support fishing operations in the SEAFO convention area. In other RFMOs this would take the approach of either Conservation measures or rules and regulations relating to fishing. The SEAFO approach is somewhat unique but is very good and comprehensive to all aspects of observing, licensing, inspection and enforcement in SEAFO and provides a solid foundation against which the members can measure the compliance of all parties that have vessels fishing in SEAFO waters. The panel concludes that SEAFO has taken appropriate action to implement the IPOA IUU.as required.

3.3.3 FAO Model Scheme on Port State Measures to Combat IUU Fishing (Model Scheme)

As a follow-up to the IPOA-IUU, FAO adopted in 2005 the Model Scheme on Port State Measures to Combat IUU Fishing, describing basic and minimum standards for subsequent action to be taken in particular within RFMOs. The FAO Model Scheme is a voluntary instrument, and these principles and guidelines do not prevent RFMOs and/or States from adopting additional and eventually stricter measures. The FAO Model Scheme contains information to be required by a port State prior to allowing access to a foreign fishing vessel, designation of ports where landing might take place, port inspection procedures, result indicators of port inspections, elements of training programmes for port State inspectors and an outline of an information system on port State inspections.

3.3.4 The 2009 FAO Agreement on Port State Measures

The FAO Agreement on Port State Measures is based on the FAO Model Scheme and takes on board some additional tools already used by some RFMOs, such as actions based on IUU vessel lists, cooperation between port States and flag States as well as applying port State measures to transhipped fish and fish products. The application of such measures will now be extended from a regional to a global level, including the indirect establishment of a global IUU vessel list as actions are linked to such a list established by any RFMO.

The FAO agreement establishes a step by step process for the port State to allow or deny entry and the use of its ports, which is more comprehensive and goes further than the SEAFO rules. Furthermore the agreement does not apply to container vessels that are not carrying fish, or if carrying fish, only fish that have been previously landed.

Based on the notification as well as other information it may require to determine whether the vessel has engaged in IUU fishing, the port State shall decide whether to authorise or to deny entry into its port. A port State shall, however, deny access if it has sufficient proof that a vessel has engaged in IUU fishing, and in particular if the vessel is on an IUU vessel list established by an RFMO.

A vessel that has entered a port shall not be permitted to use that port if the vessel does not have an authorisation required by the flag State or a coastal State, or if there is clear evidence that the fish on board was taken in contravention of coastal State measures. Furthermore, use shall be denied if the flag State, on request, fails to confirm that the fish onboard was taken in accordance with requirements of an RFMO or the port State has reasonable grounds to believe that IUU fishing had taken place, unless the vessel can establish otherwise.

Panel Consideration

The 2nd Review Panel is pleased to note that SEAFO Contracting Parties that have signed the FAO Agreement on Port State Measures are Angola, the European Union Norway, Korea, and South Africa. In addition, Iceland and the United States, signatories to the SEAFO Convention, have also signed the FAO Port States Agreement.

The principles of the FAO Agreement on Port State Measures have been incorporated into the SEAFO regulatory framework, through Conservation and Management Measures that were lately developed and incorporated in the System of Observation, Inspections, Compliance and Enforcement. (4.2.2).

3.3.5 Global calls and initiatives

There are two global fora where fisheries and fisheries related issues are discussed on a regular basis and guidance given to States and RFMOs, namely the UN General Assembly and FAO. In addition, fisheries management has been on the agenda of the 1992 United Nations Conference on Environment and Development and the 2002 World Summit on Sustainable Development.

Panel Consideration

Comment: Where possible and depending on available resources, the SEAFO Executive Secretary attends these conferences if the agenda adds value to the work of SEAFO. UNGA initiatives such as VMEs have been adopted by SEAFO and measures taken to protect these areas to the extent of the knowledge of SEAFO members.

4. PERFORMANCE REVIEW: ANALYSIS AND RECOMMENDATIONS

4.1 Science, Conservation and Management

Since the 2010 review some conservation measures have been revised and MCS measures, initially codified as separate Conservation Measures, have been integrated into the SEAFO System (most recent version 2015). The species specific measures include TACs for target species or former target species: Patagonian toothfish (*Dissostichus eleginoides*), Deep-Sea Red Crab (*Chaceon erythrae*), Orange roughy (*Hoplostethus atlanticus*), Alfonsino (*Beryx splendens*) and Pelagic armourhead (*Pseudopentaceros richardsoni*) (CM 31/15 TACs for 2016) and by-catch rules for sharks (CM 04/06), turtles (CM 14/09) and sea birds (CM 25/12). Habitat related measures have been adopted in relation to bottom fishing and VMEs (CM 30/15).

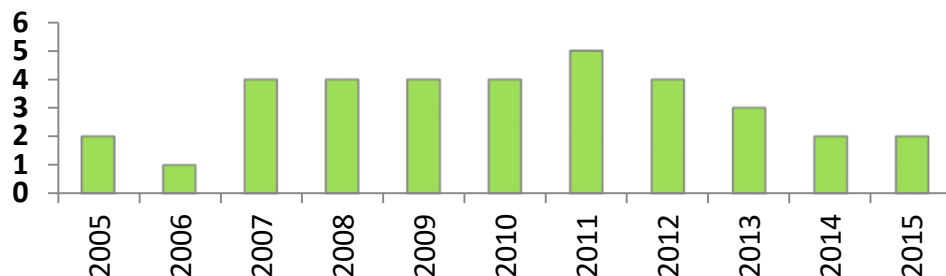
Currently, the only commercially targeted species are Patagonian toothfish and deep-sea red crabs, neither of which is confined to the Convention Area. However, it should be noted that the deep-sea red crab species *Chaceon erythrae* found in the Convention area is different from the red-crab species (*chaceon maritae*) found in the 200 mile EEZ's of the coastal states.

4.1.1 Status of living marine resources

In 2014 and 2015 only the Patagonian tooth fish and the Deep-sea Red crab were subject to targeted fisheries with one vessel targeting each (SC report 2015). The catches in 2014 and 2015 for Patagonian toothfish were 74 tonnes (of which 68 retained) and 52 respectively, taken by a Japanese vessel, while for Deep sea Red crab they were 135 tonnes (by a Namibian vessel) and 104 tonnes (by a Korean vessel). The TACs for the two species in 2016 are 264 t and 390 t respectively.

This is an important reduction both in overall volume and in the spread of species and vessels since the start of SEAFO and since the performance review in 2010 (see graph below showing the number of species targeted in each year).

Number of species targeted each year in SEAFO waters



In the most recent years the TACs for the two remaining target species has not been taken (SC report 2015).

The stock status reports of the Scientific Committee serve as the primary source of scientific underpinning for Commission decisions regarding the TACs.

In the early stages of considering avenues for stock status the Scientific Committee was looking into biological parameters of important species, which might form the basis for assessment of exploitation state or identify these as vulnerable (SC report 2010). Species profiles have been produced for four species: Patagonian toothfish (*Dissostichus eleginoides*), Orange roughy (*Hoplostethus atlanticus*), Alfonsino (*Beryx splendens*), Pelagic armourhead (*Pseudopentaceros richardsoni*). No species profile has been made for Deep-sea Red crab.

The SC seems initially to have considered information regarding life history parameters and vulnerability to fishing as an important basis to assess the status of stocks and provide advice regarding sustainable fisheries to the Commission. The species profiles were developed to investigate this.

Such information could potentially provide guidance regarding risks but might be difficult to develop further into quantitative estimates of, say, total outtakes which would be sustainable. The SC therefore considered that further work towards stock assessments and/or harvest control rules was required.

The performance review of 2010 recommended status reports to be made (recommendation 1 below). Since then, stock status reports have been developed for five

target or former target species (Patagonian toothfish (*Dissostichus eleginoides*), Deep-Sea Red Crab (*Chaceon erythrae*), Orange roughy (*Hoplostethus atlanticus*), Alfonsino (*Beryx splendens*) and Pelagic armourhead (*Pseudopentaceros richardsoni*). These are updated every second year, most recently Patagonian toothfish and Deep-sea Red crab Stock status reports were updated in 2015.

The stock status reports include descriptions of the fisheries and the biological aspects of the stock, it presents the data available and the analysis/ stocks assessment status done on basis of these data and discusses ecosystem impacts of the fisheries. The stock status report ends up with a discussion of current management measures and management advice to the Commission.

So far, it has not been possible to provide stock assessments in any classical sense for any of the stocks due to lack of data and/or the short time series available. In the 2014 stock status reports candidate Harvest Control Rules (HCR) were presented and advice was provided on that basis.

The HCR used was based on the empirical HCR used for Greenland halibut stock by NAFO and is similar for Patagonian toothfish, Deep-sea crab and Pelagic armourhead. It projects the TAC from last year with the slope of a CPUE measured from commercial fisheries or surveys, where the forward projection is direct if the CPUE is increasing but is two times the slope if the CPUE is decreasing. The TAC change between years is constrained within +/- 5% of the TAC. There is thus a precautionary element in the asymmetric response to increases versus decreases and in constraining TAC changes.

For Orange Roughy there has been no directed fishery for some years and the SC has not had a basis for identifying a HCR. The SC has recommended a zero TAC for directed fisheries linked to a maximum bycatch rule and a bycatch TAC of 4 tonnes in B1 and a precautionary TAC of 50 tonnes for the remainder of the SEAFO area. The SC further considers that a HCR should be developed to “facilitate recovery”

For Alfonsino, the HCR has been set according to the approach developed by ICES regarding stocks where only catch information is available (ICES Category 5).

In its 2015 meeting the SC discussed progress in stock status evaluation and concluded that “*The SC concluded the discussion by advising that the application of HCRs for TAC*

advice has to be continued, but that in parallel exploratory stock assessments should also be conducted. In the future, with enhanced data provision and extended time series, it is conceivable that valid assessments can be achieved for some stocks, hence also TAC advice based on assessments rather than HCRs may become possible. Another very important reason for encouraging stock assessments is that assessments may provide potentially valuable information for monitoring stocks and evaluations of the appropriateness of the HCRs and their application.” (SC report 2015 p 9).

The Commission has subsequently based its setting of TACs on the advice of the SC, based on these HCRs, which in effect means that the Commission has adopted the HCRs as a valid basis for its TAC decisions. The SC recommendation (for two years) and the annual TACs in the last couple of years are:

SEAFO TACs 2015 and 2016

	SC recommendation for 2015	2015 TAC decided at annual meeting 2014	SC recommendation for 2016	2016 TAC decided at annual meeting 2015
Patagonian toothfish	For 2014 and 2015: 276 t in D 0 t in the remainder of SEAFO CA	As recommended	264 t for D 0 t for remainder SEAFO CA	As recommended
Deep sea Red crab	For 2014 and 2015: 200 t in B1 200 t in remainder of SEAFO CA	As recommended	190 t for B1 200 t for remainder SEAFO CA	As recommended
Orange roughy	For 2015 and 2016: No directed fishery in B1, bycatch limit in B1 4t. A precautionary TAC of 50 t for remainder of SEAFO CA	As recommended	Not updated (2015 recommendation included 2016)	As recommended
Alfonsino	For 2015-2016: 200 t for SEAFO CA of which max 132 t may be taken in B1	As recommended	Not updated (2015 recommendation included 2016)	As recommended
Pelagic armourhead	For 2015-2016: 143 t	As recommended	Not updated (2015 recommendation included 2016)	As recommended

Panel Considerations

The compilation and regular update of stock status reports is a very positive move forward and makes the information basis and the scientific analysis, on which Commission decisions regarding TACs are based, transparent.

The stock status reports include the information which is required (as available) both to inform decisions regarding TACs and regarding the wider impacts of the targeted fisheries on the ecosystem.

Given the low fisheries effort, that only two stocks are targeted and that the TAC has not been taken for these stocks in recent years, it may be worthwhile considering whether further work to get a stock-assessment-based underpinning of recurrent TAC advice should be the highest priority for the SC as long as this situation exists. As discussed in section 2.1.2, the present *raison d'être* for SEAFO may be to ensure that a legal regulatory framework is in place regarding fisheries in the convention area in order to ensure 1) that all fisheries activities in the convention area are subject to principles as laid down in international agreements, 2) that any future developments of the fisheries in the area is done with due consideration of the need to ensure the sustainability of such fisheries and 3) that any fisheries activities do not damage other components of the marine ecosystem which may be sensitive to fisheries impacts.

If, in the present situation with low fisheries effort and low commercial interest in the fisheries, this is the role of SEAFO, then SC may consider whether to focus its work on 2) and 3) above. This means that SC could consider to invest effort into evaluating candidate rules for exploratory fishing and evaluations if and when there is new interest to exploit fisheries resources in the area and in continuing its work to monitor fisheries impacts on the ecosystem and to evaluate candidate measures to implement an ecosystem approach to fisheries management within SEAFO.

One way to free resources for this and to ensure that the TAC discussions in SC and the Commission are not the main focus of work would be to move towards multiannual TACs, for instance quotas valid for 3 consecutive years. The data available from the fisheries do not justify annual updates of TACs in terms of new information available and there seems not to be any other rationale for annual TAC updates presently.

Another contribution to freeing resources could be to introduce a risk-based approach so that efforts are concentrated on species and fisheries where risks are considered highest while lower risk stocks and fisheries are monitored to the level necessary to be able to take action if risks are increased. The first step would be to make a risk assessment of the present species and fisheries. Regarding species this could relate to assessments and/or qualitative judgements of productivity and susceptibility in a productivity – susceptibility analysis (PSA, for discussion and further references see ICES WKLIFE III report 2013, section 4), based on which one can decide which species(s) are most at risk and focus on those. Regarding fisheries, the risks to be assessed or judged are – beyond those already covered by the species analysis – related to the impacts of the fishing method and fishing practices on the wider marine ecosystem including bottom habitats and fauna and other biota which are ecologically linked to the species exploited.

Performance Review 2010 Panel Recommendations

- The Scientific Committee should develop a strategy for the development of a status report, including a general overview, of the fishery resources in the Convention Area. The report should include information on the stock structure, total abundance, distribution of the biomass between zones and the fishing pressure by zone. Red crab should be given first priority for such a status report.

Review panel 2016 remark: This has been implemented. Given the present status of fisheries and stocks in the convention area there may be a case for developing an ecosystem status report, see recommendations regarding an ecosystem approach from the 2016 review.

- The transboundary nature of several fishery resources is recognised and scientific cooperation for evaluating of the status of the resources with other organisations should be encouraged, e.g. in the form of joint working groups with the CCAMLR for Patagonian toothfish and with Namibia and Angola for red crab.

Review 2016 remark: The SC is observant and reports consistently about relevant work in neighbouring organisations. For the Deep-sea red crab, the SC has noted that the species in the SEAFO area is not the same as the one exploited within the EEZ's and that there therefore is no case for joint assessments. For Patagonian toothfish the stock and the fisheries is, as noted by the SC in its stock status report, an extension of the fisheries in CCAMLR and there is thus a case for joint assessments and coordinated management decisions. However, the stock and the

fisheries in the CCAMLR area are much larger than what is presently the case within the SEAFO area and the SEAFO status reports take into consideration the assessments made in CCAMLR of this larger stock. This may be sufficient to ensure consistency in the present situation.

Performance Review 2016 Recommendations

1. The SC should continue its work on updating the Stock Status reports for stocks targeted by fisheries or where there may be future commercial interest, with an emphasis on the species specific information as required for the Commission to fulfil its role as responsible for fisheries harvesting target species sustainably in the convention area.
2. For those potential target species where there are no current fisheries this could be based on a risk assessment rather than attempting to move to a full-fledged stock assessment in a situation where no data are available from non-existing fisheries.

4.1.2 Ecosystem approach

The Commission has instigated a reporting system regarding biota associated with Vulnerable Marine Ecosystems (VME). Observers on fishing vessels are required to report bycatches of sponges and corals. An identification guide has been developed to support the observers in this task. Stock status reports includes information of the ecosystem impacts of fisheries.

The Commission has taken specific measures to protect bottom habitats from impacts from bottom-touching fishing gear and to protect VMEs from fisheries impacts (CM 30/15) and to reduce impacts on other biota such as sharks (CM 04/06), turtles (CM 14/09) and sea birds (CM 25/12).

The measures regarding bottom fishing activities and VMEs (CM 30/15) include an identification of specific areas where bottom trawling and/or longlining can take place as well as areas which are closed to all fishing activities. There are also protocols for data reporting, for exploratory fishing and for encounters of VME biota.

Panel Considerations

As discussed above, it may in the present situation be a major role of the Commission to ensure that an ecosystem approach is taken in international management of fisheries within the Convention area.

The Commission has taken important measures to collect relevant data, monitor and regulate fisheries with a potential impact on VMEs and regarding by-catches. These measures are in themselves a large contribution to an ecosystem approach.

In order for the Commission to further proceed in this respect it may be relevant to take a comprehensive approach with a focus on the ecosystem itself (or specific spatial components thereof) which ultimately are linked to criteria for maximum acceptable ecosystem impact regarding specific aspects of the ecosystem. These aspects may include biodiversity, bottom habitat integrity, integrity of food web structure etc.

To support the Commission in this the SC could provide Ecosystem status report(s) providing any existing information and providing recommendations in relation to maximum impact criteria as decided by the Commission.

In developing criteria for maximum acceptable impact the Commission may want to request the SC to put forwards considerations about potential candidates.

The extent of VMEs is only poorly known in the SEAFO CA. It is not achievable to map these in any useful sense by direct observation. Inference about potential areas can be made from bathymetric maps, but large areas of the CA are not well covered with bathymetric data. As a consequence, and as a precautionary measure, fairly large areas have been closed to all fishing where more specific information might have made it possible to focus such closures better on potential VME areas. There may not presently be strong commercial interest to have more targeted (and thus smaller) closures, but in case such interest should emerge in the future more information would be needed in order to decide on specific areas.

Performance Review 2010 Panel Recommendations

- The Commission should expressly define priorities for the work of the Scientific Committee based on concerns relating to both the ecosystem in general and the fishery resources in particular.

2016 Review panel comment: The Commission should consider its role in view of the present extent of fishing activities and reorient priorities for the SC accordingly

- While ecosystem-related priorities are highly relevant they should not overshadow other major tasks.

2016 review panel comment: Given the changes in fishing activities and the present low level of these the RP is of the opinion that ecosystem-related priorities may actually be the main priority for the Commission.

Performance Review 2016 Recommendations

- 3 The SC should develop Ecosystem status reports regarding the interactions between fisheries and the marine ecosystem within the convention area. This could be one for the convention area or a set of reports for different subsystems within the area. The Ecosystem status report(s) should provide information and scientific advice as required by the Commission to fulfil its role in relation to ensuring that fisheries impacts on the marine ecosystem are acceptable. In order to use available resources efficiently on this task a risk based assessment, as discussed in the context of fish species, could be extended to fisheries and also include the wider ecosystem effects of fisheries.
- 4 The Commission should identify criteria for maximum acceptable ecosystem impacts of fisheries in relation to inter alia habitat impacts and incidental bycatch.
- 5 In order to initiate this process, the Commission should request the SC to consider candidates for maximum acceptable impact which are relevant, measurable and can be monitored.
- 6 Means to provide better data to indicate potential VME areas should be investigated

4.1.3 Data collection and sharing

The Commission has followed the recommendations of the Scientific Committee closely in adopting measures relating to data needs and data submission, and has established data requirements that are based on control and enforcement needs.

The Scientific Committee has developed sampling protocols and data requirements for future assessments which have allowed the Commission to establish rules for the collection of logbooks, observers and other data requirements. Turtle, coral and sponge identification keys have been developed.

A Data Manager position was established and filled in 2012.

Data bases covering observer and VMS data are in place and a regular data reporting and quality assurance system is in place. A log book form has been identified in 2015 and data from that will be incorporated in a data base. The SC and the Commission has not made remarks about insufficiency regarding data access in their recent reports.

Panel Considerations

Data collection, reporting and availability is up to the standards as necessary to support scientific, assessments, compliance monitoring and commission decision making needs.

Performance Review 2010 Panel Recommendations

- The transparency of the scientific data should be improved by providing more information in the report of the Sub-Committee of the Scientific Committee (SSC) or alternatively, or in addition, by providing this information on the SEAFO website. Panel 2016 comment: this has been implemented
- The Scientific Committee should give a high priority to the completion of identification keys for fish. This is necessary for an observer programme. Panel 2016 comment: this has been implemented
- Emphasis should be placed on extending the database for existing fisheries. The Panel notes that the scientific observers will provide essential data for this database. Panel 2016 comment: this has been implemented

Performance Review 2016 Recommendations

The 2016 Review Panel does not have specific recommendations regarding data

4.1.4 Quality and provision of scientific advice

The objective of SEAFO as defined in article 2 of the Convention is “...to ensure the long-term conservation and sustainable use of the fishery resources in the Convention Area...”. The measures adopted to achieve this goal should, according to article 3, be “based on the best scientific evidence available”.

The Scientific Committee has been tasked to provide this evidence and to promote the necessary research for this according to article 10: “The functions of the Scientific Committee shall be to provide the Commission with scientific advice and recommendations for the formulation of conservation and management measures for fishery resources covered by this Convention, and to encourage and promote cooperation in scientific research in order to improve knowledge of the living marine resources of the Convention Area.”

The work of the Scientific Committee is thus the key source of scientific underpinning for Commission decisions for the management regarding targeted stocks, bycatch species and an ecosystem approach

The Scientific Committee has addressed this role by

- Provision of Stock Status reports for commercially targeted (or formerly targeted) stocks – these are updated annually for those stocks where a targeted fishery is taking place
- Recommendations regarding TACs for targeted or formerly targeted stocks – provided as part of the Stock Status reports
- Providing advice on data collection of relevance to scientific assessment
- Review and compile data of relevance to scientific assessment
- Development of identification guides regarding target species, bycatch species and VME fauna for observers and other staff involved in data collection
- In its annual report to address any other issues of a scientific nature which are raised including reporting from surveys and reporting from relevant scientific activities in Contracting Party states and organisation
- Organise dissemination and exchange fora for scientific information.

Panel Considerations

The quality of Stock status reports is up to the best standards given the information and data available. The data and the analysis provided are presented in a transparent way.

The recommendations by the Scientific Committee regarding single stock exploitation, based on HCRs or (for orange roughy) setting precautionary limits in the absence of targeted fishing, are sensible. It is, in the present situation of low fisheries effort targeting only two stocks, not worthwhile to pursue a base for scientific advice which is based on formal stock assessments. However, the consideration made by the SC – that stock assessments “*may provide potentially valuable information for monitoring stocks and evaluations of the appropriateness of the HCRs and their application*” is valid. This implies that stock assessments for this specific purpose do not need to focus on short term predictions but rather on medium term stock trends and to provide a basis for an evaluation of HCRs with a view to make them more specific to the stocks involved than the presently used HCRs which are generalised.

The Stock status reports includes sections on ecosystem impacts of fisheries. The SC has also provided analysis and recommendations regarding bottom fishing impacts and by-catches of non-fish biota. The SC has also developed data collection formats and identification guides in this respect. This work has been instrumental for decisions regarding management measures in respect of an ecosystem approach.

There are cases where the SC has not arrived at consensus but the reports reflect a majority and a minority view.

Such differences of opinion may be based in different interpretations of the data which are entirely based on different judgement as to the most adequate scientific methodology to use for a specific data set. Where this is the case, it is important that both interpretations are presented in a fully transparent way so that a scientific peer has the basis for making his or her own judgement. For a non-technical readership, it is important that the SC, for instance by its chair, also presents the scientific basis for discrepancies in a language which can be understood by that readership. In those cases, where the SC work is to support a Commission decision, it is however necessary that in the end, the SC makes a call and present one conclusion by the SC, while observing full transparency regarding

different possible interpretations and including a discussion of the uncertainties associated with the conclusion made. Otherwise the SC is doing a disservice to the Commission. The present rules of procedure for the SC do not include guidance of how the SC should come to a conclusion under these circumstances, on the contrary, it is just stated that majority and minority views should be presented.

There may also be cases where differences in opinion may originate from either some politically motivated guidance from governments to the national scientists or from scientists on their own deliberately or unconsciously introducing bias in their judgement. Such influence is frequent in science mandated to advice governmental decision making and scientific advisory bodies are for this reason setting up safeguards to protect the scientists involved against undue external pressure and to ensure that bias does not influence analysis and recommendations. Among the mechanisms that have been found to be effective in this respect is a requirement for the scientific body to provide a collective opinion with individual contributions anonymised and a requirement for independent peer review regarding major or controversial analysis and recommendations. It is also an important element that scientists as far as possible do not have a stake in the outcome of the recommendations, meaning that scientists involved should not subsequently serve as negotiators and decision makers on the subject in question.

Performance Review 2010 Panel Recommendations

- The basis for the Scientific Committee advice should be transparent and clear to all involved. In this regard, the report of the Scientific Committee should clearly describe the information on which its advice is based and the report of the SSC should document all assessments relevant to such advice.
 - *2016 Review Panel comment: The Stock status reports have solved this issue and fulfils these criteria*
- The Scientific Committee should have a clear set of scientific criteria on which to formulate its advice. Such criteria should be based on those in international fisheries instruments as agreed by the Commission, for example the objective to maintain or restore stocks to levels that can produce the maximum sustainable yield (MSY) with the aim of achieving these goals for depleted stocks on an urgent basis and where possible not later than 2015 as stated in the 2002 Johannesburg Plan of Implementation.

- *2016 Review panel comment: In the present situation, with a low catch and low fisheries, any formal establishment of MSY related reference points may not be possible. They may also be unnecessary as an approach where vulnerable elements of the ecosystem are protected may also ensure that targeted fisheries are exploiting single stocks within MSY limits. As an alternative, criteria relating to ecosystem impact may be relevant.*
- When there is no scientific basis, the Commission should provide clear instructions to the Scientific Committee on the interpretation and implementation of the precautionary approach.

2016 Review Panel comment: This may develop into a chicken-and-egg situation where the Commission does not think it has the technical basis for providing such instructions while the SC does not want to make such decisions as it may be seen that the SC makes political decisions. Therefore, this is best developed in a dialogue where the SC may present candidate criteria for implementation of a precautionary approach in different situations, the Commission may then consider these and provide new guidance or questions in this regard to SC.

- The Commission should provide explicit guidance for the Scientific Committee on priorities for its advice. Consideration of such priorities might be facilitated through a modification of the structure of the Scientific Committee, such as more extensive use of focused expert groups working either by correspondence or at meetings. *2016 Review Panel comment: The need for prioritisation is addressed under the recommendations regarding stock status and ecosystem approach above.*
- The structure of the Scientific Committee report and the readership of the various scientific reports should be analysed and the reports be redesigned to be fit for purpose taking the following considerations into account.

2016 Review Panel comment: The SC has dismantled its subcommittee, the SSC, so the recommendations below regarding the division between the SC and the SSC reports are not directly relevant anymore. However, there is a point that there are two target readerships for the Stock status reports (peer scientists and the Commission respectively) which have very different requirements to what they need to get from the report. The division of tasks between the scientists and the Commission as well as the clarity of information would be improved these two

requirements were addressed separately. It may be unnecessarily cumbersome to make two separate reports for these two readerships, but one could alternatively think of having information and recommendations targeting the Commission presented in a separate section of the report for the Commission while the technical rationale for that is then presented in detail in another section. The dialogue between the SC and the Commission, feed back to the SC and understanding of SC recommendations and relevant implications of Commission decisions regarding conservation and harvesting policy benefits from a presentation of the SC recommendations to the Commission and discussion on that basis prior to deliberations in the Commission.

- a. The Scientific Committee report should be an advisory report, with the Commission and highly interested stakeholders as its primary readership. It should include a summary of the scientific information that underpins the advice.

2016 Review Panel comment: See suggestion above, this would be equivalent to the section of the SC report targeting the Commission.

- b. The SSC report should present the technical assessments that form the basis for the deliberations by the Scientific Committee. The readership of that report is the Scientific Committee and the wider science community.
2016 Review Panel comment: See suggestion above, this would be equivalent to the section of the SC report including the technical background for the recommendations

- c. There should be similar technical reports available as background analysis for other topics that require review by the Scientific Committee.

2016 Review Panel comment: The RP agrees that any other analysis reviewed by the SC should be available as a technical report and be transparently available.

- d. The Secretariat should create a series of working papers, or research documents, which should be coded and a copy kept for future reference. Papers that are not properly coded may be discarded after the meeting.
2016 Review Panel comment: This is largely instigated as any papers that are referenced or used in the SC report is kept.

- The roles and functions of the Scientific Committee and SSC should be clarified, duplication of work avoided and decision-making clarified as described in section 4.3.1.

2016 Review Panel comment: this is not relevant anymore as the SSC is dissolved

- A review should be undertaken to explore arrangements for giving the Secretariat the responsibility to compile data and produce working papers for the Scientific Committee and SSC, with a view to attaining a smooth workflow. The review should also identify the role of the coordinating scientists in this regard.

2016 Review Panel comment: The roles of the Secretariat and scientists have been clarified and the Secretariat serves the role described today.

- The Contracting Parties should support the scientific coordinators to allow efficient use of meeting time at the Scientific Committee.

2016 Review Panel comment: This should always be a given. The RP is not aware of incidents where Contracting Parties have prevented scientists from contributing properly to work in the SC.

Performance Review 2016 Recommendations

- 7 The SC should modify its rules of procedure to include guidance on how to proceed in order for the SC to provide conclusions which are helpful to the Commission in cases where there may be different opinions of a scientific nature between scientists,
- 8 The basis for analysis and recommendations by SC, which has important economic, social or political implications for fisheries or member states, should be subject to independent peer review as is normal in science in order to provide trust in the integrity of the advice and recommendation in question. Peer review should apply regarding the scientific soundness of methods to be applied. In cases where a methodology is implemented repeatedly on updated data sets, such as a stock status which is using peer reviewed methodology on a data set which has just been updated with recent data, the SC should be in a position to internally review whether the prescribed methodology has been applied according to standards. Independence of peer reviewers can be judged on basis of the normal criteria used in science including that the reviewer or the organisation he or she is affiliated to

should not have an interest in the matter under scrutiny and that there are no relations in terms of organisation, family or economy to any scientists involved in the analysis in the first place.

- 9 The RP recommends that rules of procedure are amended to ensure that scientists are not asked to have a double role in doing both scientific analysis and negotiating Commission decisions on the same matter. Members of the SC or scientists which have provided analysis serving as an input to the SC should never have double roles by also serving as negotiators or delegates to the Commission. Members of the SC may be available at Commission meetings as resource persons and may be asked by the Commission chair to explain SC analysis and recommendations, but they should never be called upon by national delegates of the Commission to substantiate a specific national viewpoint in the Commission.
- 10 The SC reports (including the Stock status reports) should contain a section which contains information and recommendations directed to the Commission in a language fit to inform operational decision making. Such information and recommendations should always be backed by sections which in a transparent way presents the technical background in a language fit for scientific peers.

4.1.5 Adoption of conservation and management measures

SEAFO Contracting Parties have a mandate under article 3 of the Convention to adopt measures for living marine resources that ensure the long-term conservation and sustainable use of those resources and are based on the best scientific evidence available. Contracting Parties are also bound to apply the precautionary approach, take due account of the impact of fishing operations on ecologically related species and ensure that practices and measures take due account of the need to minimise harmful impacts on living marine resources as a whole and protect biodiversity in the marine environment.

The Commission has taken a number of conservation and management measures. MCS measures, initially codified as separate Conservation Measures, have been integrated into the SEAFO System (most recent version 2015). The species specific measures include TACs for target species or former target species: Patagonian toothfish (*Dissostichus eleginoides*), Deep-Sea Red Crab (*Chaceon erythraeae*), Orange roughy (*Hoplostethus atlanticus*), Alfonsino (*Beryx splendens*) and Pelagic armourhead (*Pseudopentaceros richardsoni*) (CM 31/15 TACs for 2016) and by-catch rules for sharks (CM 04/06), turtles

(CM 14/09) and sea birds (CM 25/12). Habitat related measures have been adopted in relation to bottom fishing and VMEs (CM 30/15).

The Commission, following the advice of the Scientific Committee, has consistently applied a precautionary approach in the adoption of conservation and management measures. The advice from the SC has largely been followed.

The main areas of measures relate to:

- Closing of areas for all fishing and protocols for opening such areas for fishing
- A default closure of the CA for bottom fisheries and in this context opening of specific areas to allow bottom fishing and protocols to open such areas for fishing
- Setting annual TACs for target or former target species
- Measures to reduce bycatch of sharks, turtles and seabirds
- Requirements to report incidents of encounter of organisms associated with VMEs
- Move on rules in cases of such encounters

Panel Considerations

The conservation and management measures taken by the Commission are adequate in the present situation of low fisheries effort and only two stock targeted.

The present rules in place for expansion of existing fishing areas enables such expansion to take place in a responsible way.

The areas closed to all fisheries have been identified on basis of information which in some cases is not sufficiently specific to enable closures to clearly target potential VME areas. The protocol for opening parts of these areas to fisheries which may have low impact is such that it in practice may be economically impossible to follow it.

The Commission may want to address some issues to refine these measures to prepare for a situation where there may be more interest for commercial fisheries in the area:

- To develop further the ecosystem approach as discussed above under that heading
- To take any moves possible to identify potential VME areas more precisely than is the case today, so that management measures regarding areas set aside to protect these can be more focused.

- To develop rules for exploratory fisheries further so that it becomes possible in practice to expand fisheries without putting the health of the ecosystem or stocks at risk.

Performance Review 2010 Panel Recommendations

- Effort should be placed in collection of data and information in order to build up time series for usage in the assessment of the resources in the Convention Area.
- *2016 Review Panel comment: This has been implemented*

- The Commission is encouraged to continue with the initiatives of collecting relevant data through scientific observers onboard fishing vessels as adopted through conservation measures since 2005.
- *2016 Review Panel comment: There is 100% observer coverage regarding scientific data collection*

- The Commission should continue its policy that ensures that the fisheries should not be allowed to expand faster than acquisition of information necessary to provide a basis for sustainable utilization.
- *2016 Review Panel comment: This policy has been continued*

- In the presence of a high level of uncertainty regarding stock dynamics in the Convention Area it is recommended that the Commission's major management approach continue to be based on precaution in order to avert potential risks linked with unsustainable resources exploitation, while accumulating sufficient and essential data and information for stock management. A suitable prototype for the SEAFO to use is the CCAMLR's new exploratory fisheries approach and regulatory framework as it was developed for a situation associated with large levels of uncertainty, incomplete knowledge of stock potential and distribution, large geographical area from which data was to be collected under limited fishing.
- *2016 Review Panel comment: The Commission has instigated protocols for expansion of existing fisheries areas which requires data to be collected and only expanding on basis of information.*

- The conservation and management measures should be supported by an effective implementation regime and a robust enforcement mechanism in order for them to

have the desired effect. *2016 Review Panel comment: There are as yet no sanctions in place which undermines the implementation of management measures, this is discussed in section 4.2.4 below.*

Performance Review 2016 Recommendations

- 11 The SC and the Commission to consider ways by which more precise information about potential VMEs can be obtained with a view to focus area closures to protect any potentially vulnerable areas.
- 12 The Commission to consider a revision of protocols for opening of areas closed to all fisheries in order to enable decisions to be made on basis of data which can realistically be collected without jeopardising the health of ecosystems and fish stocks.

4.1.6 Capacity management

Since the establishment of SEAFO, the following fleets have been operating in the Convention Area:

- pole and line, longliners and purse seiners (tuna and tuna like species);
- longliners (toothfish);
- pot fisheries (red crab); and
- bottom and middle-water trawl fisheries (orange roughy, dory's and boarfish etc).

Tuna fleets are operating in the Area under ICCAT and IOTC management.

In 2015 only one trap fishing vessel and one long liner were operating under SEAFO measures.

Panel Considerations

With the reduction in fisheries and the adoption of the list of authorised vessels updated by CPC's following the last review there is no longer issues with capacity management for SEAFO managed fisheries.

Performance Review 2010 Panel Recommendations

- The Commission should establish rules that assure that the list of authorised vessels better reflects the actual capacity deployed in the Convention Area.

2016 Review Panel comment: This has been done and is part of the SEAFO System requirements (Article 4) "Authorisation and Notification to fish", which requires each member to annually advise SEAFO or vessels authorised to fish in the convention area.

Performance Review 2016 Recommendations

The RP has no further recommendations regarding Capacity Management

4.2 Compliance and Enforcement

4.2.1 Flag State Duties

Article 14 of the SEAFO Convention sets out the general flag State responsibilities of the parties, drawing heavily on articles 18 and 19 of the UNFSA. In addition, according to Article 16 of the Convention a System of Observation, Inspections, Compliance and Enforcement (the System) was adopted by the Commission, notably to strengthen the effective exercise of the flag State duties.

Annual compliance reviews performed in the Compliance Committee also contribute to verify and ensure that Contracting Parties fulfil their flag State obligations.

Panel Consideration

The adoption of the SEAFO System in 2013, revised in 2015, and the annual compliance reviews performed by the Compliance Committee have significantly contributed to the verification and achievement of Contracting Parties obligations as flag States, including the reporting of fisheries data such as catch, effort, biological sampling data, observer reports, port inspection reports and VMS data.

Performance Review 2016 Recommendations

13 Given the positive results on compliance and the relatively reduced number of fishing vessels operating in the Convention area, the panel doesn't have any particular recommendation on flag State duties. However, if the number of active vessels in the Convention area sharply increases or if the general level of compliance within SEAFO worsens, the Commission should examine the possibility of developing new mechanisms within the System to facilitate flag States to ensure that their vessels comply with the principles of the Convention and conservation, management and control measures adopted by the Commission.

4.2.2 Port State Measures

Article 15 of the SEAFO Convention reflects the duties of SEAFO Contracting Parties as port States. It incorporates article 23 of the UNFSA with the addition of reporting and information requirements if a vessel of a flag State Contracting Party is found by a Port State Contracting Party to have violated SEAFO measures.

The principles of the FAO Agreement on Port State Measures have been incorporated into the SEAFO regulatory framework, through Conservation and Management Measures that were lately developed and incorporated in the System of Observation, Inspections, Compliance and Enforcement. These measures apply to all vessels (not limited to foreign vessels) that have been engaged in fishing or fishing related activities in the Convention Area (with exceptions relating to container ships) seeking entry to Contracting Party's ports, within the coastal States, which have areas of national jurisdiction adjacent to the Convention Area. In practical terms, only the mentioned ports are used by vessels operating in SEAFO framework. Notwithstanding, two Contracting Parties without ports in areas adjacent to the SEAFO Convention Area haven't signed or ratified the FAO Agreement on Port State Measures but endeavour to apply SEAFO Port States measures in the very unlikely event that their Ports are used in SEAFO operations.

As at 30 August 33 parties have ratified or acceded to the FAO Agreement on Port State Measures and included in these 33 parties are the SEAFO members; EU, Norway, Korea, and South Africa along with the US and Iceland. Angola has signed but is yet to ratify the agreement. All SEAFO members should ratify or accede to this agreement. .

Panel Consideration

The Compliance Committee has concluded that Port State control obligations are currently fulfilled. However, the Compliance Committee highlighted that inspection reports concerning vessels landing catches from the SEAFO Convention Area should always be made available, in due time, to the Committee in accordance to the System's obligations.

Performance Review 2016 Recommendations

- 14 The Panel recommends that inspection reports should always be made available in due time to the Secretariat.
- 15 The Commission should examine the opportunity to create and implement follow-up mechanisms on Port State infringements.

4.2.3 Monitoring, Control and Surveillance (MCS)

The System of Observation, Inspections, Compliance and Enforcement fully integrates MCS measures in SEAFO legislation.

Panel Consideration

The System of Observation, Inspections, Compliance and Enforcement is a living and evolving document that could be updated or amended whenever necessary to incorporate new requirements aiming the improvement of the level of compliance or incorporate missing provisions according to the Convention or other international fishing management legislation.

Consistent with Article 14 (3) (g) of the Convention, measures to permit access by observers, with compliance purposes, from other Contracting Parties to carry out functions as agreed by the Commission should be developed by flag States. These measures could be examined by the Commission and, if necessary, be integrated in the System in order to facilitate the implementation of flag State duties and contribute to the improvement of the SEAFO compliance outcome.

The Commission considered that the inspection programme at sea envisaged in Article 16 (3) (b) of the Convention is realistically integrated in the System, notably taking into account

costs involved, the relatively low fishing activities in the SEAFO Convention area and the completeness of the MCS provisions of the System.

Despite the adoption of the System, it remains to be established a dedicated observer programme with compliance purposes consistent with the provisions of the Article 16 (3) (c) of the Convention. In this context, the Commission could evaluate and precise the opportunity/need to implement such observer programme, notably taking into account its viability and necessity to address compliance shortcomings. Notwithstanding, the panel considered that given the relatively low fishing activities in the SEAFO Convention Area and the MCS provisions of the System, notably concerning Port State Measures, scientific observer programme, VMS monitoring and possible board inspection at sea, the implementation of such programme seems, at this stage, not worthwhile.

The System currently does not include a section for gear configuration and this could be useful. Guidance on gear configuration could lead if necessary to development of Conservation and Management Measures on gear configuration.

Performance Review 2016 Recommendations

16 SEAFO should continue examining the usefulness of implementing a comprehensive observer programme, with compliance purposes, as set out in Article 16(3)(c) of the Convention. This analysis should take into account the viability to implementing such a programme and its necessity in order to further address compliance shortcomings and also the potential conflict with compliance and scientific observing.

17 The Commission could also evaluate the opportunity to integrate in the System, measures to permit access by observers, with compliance purposes, from other Contracting Parties to carry out functions as agreed by the Commission.

18 If the fishing activity in the Convention Area sharply increases, the Commission should also examine the possibility to develop within the Compliance Committee an annual country by country compliance review complementary to the annual Compliance Committee compliance performance review undertaken on the basis of measure by measure assessments.

19 Consideration could be given to including in the System guidance an illustrated description of fishing methods and gears used in SEAFO and this would make the guide more complete. This could lead to if necessary the development of conservation and Management Measures for gear configuration and for mesh and hook size and/or numbers.

4.2.4. Follow-up on Infringements

As noted in the first Performance Review, pursuant to article 13(4) of the Convention, each Contracting Party must transmit to the Commission an annual statement of compliance measures it has implemented, including a scheme of incentives and/or the imposition of sanctions for any violation. Furthermore, article 14(3)(a) requires flag States to take measures to ensure that they investigate immediately and report fully on actions taken in response to an alleged violation by a vessel flying its flag.

Procedures for follow-up on infringements detected under a system of observation, inspection, compliance and enforcement that includes standards of investigation, reporting procedures, notification of proceedings, incentives and/or sanctions and other enforcement actions, pursuant to Article 16 (3)(d) of the Convention have yet to be developed.

Furthermore, the functions of the Compliance Committee, unless otherwise decided by the Commission, are to provide the Commission with information, advice and recommendations on the implementation of, and compliance with, conservation and management measures. These functions are elaborated in the Committee's terms of reference in article 9 of the Convention, but do not include any additional guidance on how to follow up on infringements.

Panel Consideration

Although the SEAFO Convention contains obligations for its Contracting Parties to follow up alleged infringements there is still no procedure in place to follow-up detected infringements.

The description of duties could include providing the date of submission of the report of infringements and requiring the report to contain an indication of the current status of the case (e.g. case pending, under appeal, still under investigation). Any incentives, sanctions

or penalties imposed should be described in specific terms (e.g. incentive/remedial measures, level of fines, value of forfeited fish and/or gear, written warning) and should include an explanation if no action has been taken.

Performance Review 2016 Recommendations

20 SEAFO should develop more detailed procedures and requirements for follow-up on detected infringements through the application of the System and the annual compliance review performed by the Compliance Committee and endorsed by the Commission in accordance with Article 16 (3) (d) of the Convention.

4.2.5 Cooperative mechanisms to detect and deter non-compliance

As noted in the first Performance Review, SEAFO Contracting Parties are to adopt measures in respect of vessels flying their flag that permit access by observers from other Contracting Parties to carry out functions as agreed by the Commission, pursuant to article 14(3)(g) of the Convention. The Panel is not aware of any Contracting Party that has implemented this provision.

According to article 16(3)(c) of the Convention the Commission established a System for observation, inspection, compliance and enforcement. However, an observer programme with arrangements for placing observers by a Contracting Party on vessels flying the flag of another Contracting Party with the latter's consent is not yet included in the System.

Article 22 of the SEAFO Convention addresses non-parties and contains obligations and options for Contracting Parties to deter non-compliance by non-parties, including the exchange of information between Contracting Parties and with other RFMOs as well as to take measures to deter activities which undermine the effectiveness of conservation and management measures adopted by the Commission. However, according to available information there are no fishing activities by Non-Parties of SEAFO in the Convention Area.

Also noted by the first Performance Review, RFMOs have established specific schemes designed to combat IUU fishing, which include the listing of vessels found to be involved in such activities within the relevant RFMO's area of competence, so-called negative lists. The schemes set out procedures for the establishment and maintenance of lists of fishing

vessels found to have engaged in fishing activities in a manner that has diminished the effectiveness of conservation measures.

SEAFO has such a scheme in place that is included in the System, on establishing a list of vessels presumed to have carried out IUU fishing activities. The scheme sets out activities that should be taken into account when a vessel is considered for the inclusion on a list, procedures for listing and de-listing, measures to be taken against listed vessels as well as recognition of IUU vessel lists established by CCAMLR, NAFO and NEAFC. It should be noted that NAFO, NEAFC and CCAMLR recognise the SEAFO IUU Vessel List, available on the SEAFO website.

Furthermore, Port State Measures, of Chapter II of the System allowing or denying the entry and the use of Contracting Parties' ports within the coastal States, which have areas of national jurisdiction adjacent to the Convention Area are already in force. In this context, advance notification must be required before access to port is granted. Based on the notification as well as other information it may require to determine whether the vessel has engaged in IUU fishing, the port State shall decide whether to authorise or to deny entry into its port. A port State shall, however, deny access if it has sufficient proof that a vessel has engaged in IUU fishing, and in this regard in particular if the vessel is on an IUU vessel list established by an RFMO.

SEAFO Contracting Parties are further obliged to report on any sighting of fishing vessels flying the flag of a non-Contracting Party operating in the Convention Area, cf. Chapter VII of the System

Panel Consideration

The panel reiterates that SEAFO has in place adequate mechanisms for detecting and deterring IUU fishing. These mechanisms could, however, be further improved in the future by taking on board, on a regular basis, innovation worldwide recognised global initiatives to fight IUU fishing.

Currently the fishing activities in the Convention Area are notably monitored by reporting requirements, Port State Measures, scientific observer programme, VMS monitoring.

Performance Review 2016 Recommendations

- 21 The Commission should examine the opportunity to develop and adopt measures for observation to give effect to Article 14(3)(g) (give access of observers, with compliance purposes, from other Contracting Parties) and article 16(3)(c) (observer programme with compliance purposes) of the SEAFO Convention.
- 22 SEAFO should consider amending the article 28 of the System in order to recognise IUU vessel lists of all relevant RFMOs, notably SIOFA.

4.2.6 Market Related Measures

As highlighted in the first Performance Review, the Commission discussed the possible introduction of a Catch Documentation Scheme (CDS) for *Dissostichus* spp (Patagonian toothfish) in a SEAFO context, similar to that established by CCAMLR. This CDS is designed to track the landings and trade flows of Patagonian toothfish, and to restrict access to markets for toothfish from IUU fishing. This enables the CCAMLR to identify the origin of toothfish entering the markets of all parties to the scheme, and helps determine whether the fish are caught in a manner consistent with CCAMLR's measures.

This system requires specific control by port States. A fishing vessel must provide a prior notification, including a declaration that they have not been engaged in IUU fishing, which also must be confirmed by the flag State of the vessel. Fishing vessels failing to make such a declaration shall be denied port access. If there is evidence that the vessel has fished in contravention of CCAMLR conservation measures, the catch shall not be allowed to be landed or transhipped.

Mindful that all SEAFO Contracting Parties, except for Angola, are also Contracting Parties of CCAMLR, the SEAFO Commission noted that for those Contracting Parties there is no need for a specific SEAFO scheme. The Commission encouraged Angola to cooperate with CCAMLR if Patagonian toothfish are landed in its ports or enter its market.

Panel Consideration

The Panel highlights once again the Commission's discussion in 2009 concerning CDS, and confirms that there seems to be no need currently to establish specific market related measures for species managed by SEAFO. However, if fishing activities sharply increase in

SEAFO Convention Area, the Commission could examine the need to implement market related measures.

Performance Review 2016 Recommendations

23 If fishing activities sharply increase in SEAFO, the Commission should evaluate the need and consider the prospect to develop a Catch Documentation Scheme for relevant species in harmony to CDSs already in force in other RFMOs. In this context the Commission should closely follow the ongoing FAO works on Catch Documentation Scheme.

4.3 Decision-making and dispute settlement

4.3.1 Decision-making (Articles 17 and 23)

Article 17 of the Convention describes the decision making framework for the Commission. Article 17 requires decisions of the Commission on matters of substance to be taken by consensus of the Contracting Parties present, and other decisions by simple majority.

Article 23 describes the process where conservation and management and control measures become binding within sixty days. It also elaborates an opting out procedure requiring the Contracting Party that does not wish to be bound by the measure to notify the Commission that it is unable to accept the measure, its reasons and proposals for alternative measures which it will implement. Where this happens, any Contracting Party may request a meeting of the Commission to review the measure, and Contracting Parties have the right to declare that they are no longer bound by the measures within thirty days following such meeting. Pending the outcomes of the meeting, any Contracting Party may request an *ad hoc* expert panel to be convened to recommend interim measures which are binding in specified circumstances.

The Rules of Procedure for the Scientific Committee, Compliance Committee and the Committee on Administration and Finance clearly and comprehensively elaborate decision-making procedures for those subsidiary bodies. These rules were reviewed following a recommendation from 1RP.

Panel Consideration

The 1st Review recommended that the Commission undertake a review of the Scientific Committee Rules of Procedure in respect of the establishment of subsidiary bodies and decision-making for the generation and update of data, assessments and analyses. This review was undertaken and one useful outcome was to amalgamate the Sub-committee and the Committee on Science as the subcommittee was redundant.

The Scientific Committee is a science process and should be attended by scientists who can fairly advise the Commission on issues of science, ecology and stock assessment. The Science Committee must be free from political interference and if managers who are not contributing scientists attend the SC they should attend as observers on their delegations and not as the delegate. The review panel has made recommendations under Section 4.1 above to further strengthen the science process.

The Panel noted that the Commission continues to function relatively smoothly under consensus decision-making for conservation and management and control measures, and Article 23 has not been invoked. While a consensus approach to decision-making may effectively weaken the final outcome in some cases, this has not been apparent in SEAFO practice.

The Review Panels only concern is that to date the Commission has not taken measures to determine and agree by consensus what decisions require a decision by consensus and those which can be taken by a simple majority.

Performance Review 2016 Recommendations

24 The Commission should review Article 17 utilising as a guide the WCPFC Rules of procedure Rules 21-30 (Annex 2) and determine what issues must be decided by consensus and those that can be taken by a simple majority.

25 Once this is decided the Commission should also agree to a voting procedure.

26 The Commission should ensure the SC process stays free from political influence.

4.3.2 Dispute settlement

A compulsory dispute settlement process is described in article 24 of the Convention which generally incorporates requirements of articles 28, 29 and 30 of the UNFSA. It obliges the Contracting Parties to cooperate to prevent disputes as a first step, then to consult with a view to resolving the dispute. It establishes a process relating to technical disputes, which are to be referred to an *ad hoc* expert panel to be established in accordance with procedures adopted by the Commission at its first meeting. Where a dispute has not been resolved within a reasonable time, it must be submitted for binding decision at the request of any Contracting Party in accordance with Part XV of the 1982 Convention or, for disputes relating to straddling stocks, Part VIII of the 1995 Agreement, whether or not the parties to the dispute are parties to those instruments.

Between 2011 and 2016 there have been no disputes between Contracting Parties of SEAFO.

Panel Consideration

The 1st RP recommended that procedures be developed to establish a dispute panel if a dispute arises. This work was undertaken by SEAFO and is described in the SEAFO document on Dispute Settlement.

The dispute resolution process adequately meets the requirements of SEAFO.

Performance Review 2016 Recommendations

No recommendations are made or deemed necessary.

4.4 International Cooperation

4.4.1 Transparency

Transparency is a hallmark of the organisation and it has good practices in place to ensure representation at its meetings. There are the Annual meetings of the Commission and of the Science, Compliance and the Finance committees. All of these Committees have nominated chairs and all are supported with documentation from members and the

Secretariat. The Commission has a very good website and the papers and reports of meetings are readily available to observers and members alike.

Part VI of the Rules of Procedure (Rules 33-38) governs the attendance of observers at meetings and these rules are clear and transparent. They provide that observers may be invited to attend meetings of the Commission from signatories of the Convention, non-Contracting Parties, FAO and inter-governmental organisations. (Rule 33 (a) and (b)) Non-governmental organisations may also be invited unless the majority of Contracting Parties object. (Rule 33(c)) Where Contracting Parties had not considered inviting an observer for its next meeting, the Executive Secretary may draw the Contracting Parties' attention to his view that the work would be facilitated at the meeting by the attendance of an observer and a decision may be taken in accordance with the Rules. (Rule 34)

The Rules regarding attendance at public and private sessions of the Commission are clear and open, allowing attendance unless otherwise restricted by Contracting Parties. (Rule 35) The Chair may invite observers to address the Commission unless there is an objection (Rule 36) and the submission of information documents to Contracting Parties on matters under consideration in the Commission is permitted. Observers must be granted timely access to documents subject to confidentiality rules of the Commission, and a clear process for the issuance of invitations to observers is provided in Rule 38. Since 2015, the Compliance report is now available on the Commission website.

Panel Consideration

The Panel noted that there were no recommendations on transparency from the last meeting and notes that the Secretariat continues to improve the website and ensures that papers are available in a timely manner.

Performance Review 2016 Recommendations

The panel made no recommendations and was encouraged by the professionalism and commitment of SEAFO to transparency and openness.

4.4.2 Relationship to non-Contracting Parties cooperating with SEAFO

As noted in the first RR, cooperation with non-parties is governed by Article 22 of the Convention, which generally implements Part V of the UNFSA. It generally obliges the Contracting Parties to request non-parties whose vessels fish in the Convention Area to cooperate fully with the Organisation either by becoming party to or by agreeing to apply the conservation and management measures. It encourages the exchange of information and take measures to deter fishing activities by fishing vessels of non-parties which undermine the effectiveness of the Commission's conservation and management measures. The Commission is empowered to invite non-parties to send observers to its meetings, or to the meetings of any subsidiary bodies of the Organisation.

Some States that participated in the negotiations to establish SEAFO have not become Contracting Parties of the Organisation. They are States that have signed the Convention but not taken further steps to ratify it, notably the coastal State of the United Kingdom, as well as Iceland and the United States.

Since the last review the Republic of Korea has acceded to the SEAFO Convention and is a full and participating member. Japan joined the Commission in 2010. The United Kingdom is the outstanding non-member and parties should continue to lobby UK on behalf of St Helena and its Territories to join SEAFO. The recent decision by the UK to leave the EU may facilitate a rethink by the UK of its attendance in global RFMO meetings.

Panel Consideration

Following recommendations and action by the Commission Korea is now a member of the Commission. The United States and Iceland remain interested observers. The one party who has territories with coastal waters in this convention area is the United Kingdom and although they are not fishing and the fishing industries of the territories are with the EEZs (lobster) they are a coastal state to this Convention area.

Panel Recommendations

- 27 The Commission should as a priority continue its efforts to encourage the United Kingdom on behalf of St Helena and its Territories to complete the ratification process to become a Contracting Party to the Convention. Particular emphasis should be put on the fact that St Helena and her Territories are coastal states

and have waters adjacent to the waters of SEAFO and as such have responsibilities to co-operate under UNCLOS. (Articles 116-119 UNCLOS).

4.4.3 Relationship to non-cooperating non-Contracting Parties

Since 2011 SEAFO through its Compliance Committee has continued to monitor vessels for IUU activity and has encouraged vessels operating in the area to report any suspicious activity. SEAFO continues to have its IUU vessels listed as IUU with CCAMLR, NAFO and NEAFC and incorporates vessels listed from these organisations on the SEAFO list of IUU vessels. Discussion with the Secretariat and the 2ndRT suggests that the SEAFO should investigate complimentary listing IUU vessels with SIOFA once that organisation has been established. The SEAFO IUU vessel list is on the SEAFO webpage.

Many fishing vessels in the Convention Area are fishing for species that are not under the SEAFO mandate (mainly ICCAT and IOTC). These vessels are monitored by ICCAT and IOTC.

Panel Consideration

As noted previously, fishing by vessels from non-cooperating non-Contracting Parties in the Convention Area is not to be a major problem. Where it occurs, the Secretariat takes action as directed by the Commission, and the IUU vessel list effectively serves as a deterrent to vessels seeking to undermine conservation and management measures. A stronger relationship between the compliance staff of ICCAT, IOTC, and CCSBT with SEAFO should be encouraged as sharing information on suspect vessels and activities may be useful.

Performance Review 2016 Recommendation

28 SEAFO should continue to monitor any future fishing activities by vessels from non-cooperating non-Contracting Parties in the Convention Area that may take place, and take action as appropriate.

29 SEAFO Secretariat should move to establish relationships between compliance staff in ICCAT, IOTC and CCSBT.

4.4.4 Cooperation with other international organisations

As noted, SEAFO is mandated by Article 18 of the Convention to cooperate, as appropriate, with the FAO and with other specialized agencies and organisations on matters of mutual interest. It must also seek to develop cooperative working relationships with other inter-governmental organisations which can contribute to their work and the Commission is empowered to enter into agreements with these other organisations

The Commission cooperates with international and regional organisations in a structured and methodical manner. The agenda for Commission meetings continues to routinely contain an item relating to such cooperation, where Contracting Parties are nominated to represent SEAFO at the upcoming meetings of regional or international organisations and those previously nominated report on the meetings attended during the preceding year. This is an economical and practical approach, and takes into account the human and budgetary constraints that do not allow the Secretariat to attend all such meetings. Cooperation has occurred in recent years with the following organisations:

Meetings, workshops at FAO and the UN including the Regional Fishery Body Secretariats Network meeting facilitated by the FAO at COFI and also meetings of other appropriate RFMOs/RFB including CCAMLR, ICCAT, NAFO, NEAFC, NAMMCO, and the Benguela Current Commission (BCC).

Since the last review cooperation between the SEAFO Secretariat, the BCC and Namibian Ministry of Fisheries has continued to strengthen with the organisations now co-located in a building in Swakopmund. BCC sends observers to SEAFO Commission meetings and SEAFO continues to attend the BCC Management Board as an observer. Once SIOFA is fully established it may be useful for SEAFO to establish good links to that organisation.

In addition, there is ongoing communication and cooperation with relevant RFBs through exchanging information on VMS reports, fishing activities and lists of IUU and authorized fishing vessels.

The SEAFO webpage shows links to a number of important organisations: FAO, the Pacific Islands Forum Fisheries Agency (FFA), CCAMLR, ICCAT, NEAFC, NAFO, the North Atlantic Marine Mammal Commission (NAMMCO) and the North Atlantic Salmon Conservation Organization (NASCO).

There are no formal Memoranda of Understanding or agreements between SEAFO and other organisations and the panel see no need for such arrangements.

Panel Consideration

The current process of liaison with other international and regional organisations and the information on any outcomes is adequate. SEAFO liaises well with other appropriate organisations and is encouraged to continue with its current approach. This negates the need for any formal MoU type arrangements.

The 1st RR recommended that the Secretariat should update the linkages site on the SEAFO webpage to reflect important areas of cooperation with other organisations (such as the sharing of IUU vessel lists and the cooperation with BCC) and to ensure that the list is complete and reflects all organisations with which SEAFO cooperates or which are important to its work. This work has now been completed and the information reflected on the SEAFO website.

Performance Review 2016 Recommendations

There are no recommendations on this issue.

4.4.5 Special requirements of developing States

Special requirements of developing States have been addressed by SEAFO in its Convention, and SEAFO continues to secure funding through the UN Special Assistance Fund. SEAFO has a Special Requirements Fund and this fund receives voluntary contributions and the funds are mainly utilized for capacity building for developing state delegates. There are two main types of voluntary contributions, contributions from Norway to the Special Requirements Fund and specific project funds from the EU. All of these funds are banked in the Commission accounts and managed in accordance with established procedures by the Secretariat.

Article 21 of the SEAFO Convention addresses the recognition of the special requirements of developing States in the region. It requires Contracting Parties to give full recognition to the special requirements of developing States in the region in relation to conservation and

management of fishery resources and the development of such resources, and has comprehensive provisions based generally on Articles 24 and 25 of the UNFSA.

In particular, Article 21(4) provides that cooperation with developing States in the region is to include the provision of financial assistance, assistance relating to human resources development, technical assistance, transfer of technology, and activities directed specifically towards:

- improved conservation and management of the fishery resources covered by this Convention through collection, reporting, verification, exchange and analysis of fisheries data and related information;
- stock assessment and scientific research; and
- MCS, compliance and enforcement, including training and capacity-building at the local level, development and funding of national and regional observer programmes and access to technology and equipment.

Guidelines and operational procedures for the fund have been developed and agreed as well as criteria for selection and evaluation by the Secretariat.

Panel Consideration

The Review Panel considers that SEAFO has addressed the issues relating to the special requirements of developing States in a realistic and proactive manner that meets the objectives and requirements of the Convention, as well as the practical needs of developing State Contracting Parties to ensure their active participation in and support of the work of SEAFO. SEAFO acts both as catalyst to encourage its Contracting Parties to apply for available support from other sources, and as a source for supporting specified activities with or without the Fund. The principles, guidelines and operational procedures for the Fund are comprehensive and well-constructed.

Performance Review 2016 Recommendations

- 30** The Panel encourages further contributions to be made to the Special Requirements Fund or by any other means.

4.5 Financial and Administrative Issues

In this section the Review Panel considered a number of issues including; finance and general administration, staff conditions of service and regulations. The review Panel considered that the finance and general administration practices are in good shape however, staff salaries and conditions of the panel believes are worthy of serious consideration and appropriate action by Commission members.

4.5.1 Finance and Administration issues

SEAFO has very sound and transparent financial regulations and has adopted very good financial management processes and budgeting systems with the correct checks and balances to avoid any internal fraud. The SEAFO Financial Regulations governs the financial administration of the Commission by the Secretariat and members. The accounting system has been developed on Excel spread sheets and is suitable for managing the budget of SEAFO. The Secretariat prepares annually the draft budget accompanied by projections for the ensuing financial year and submits these 60 days prior to the meeting. The draft budget is accompanied by details both of the appropriations made for the previous year and estimated expenditure against those appropriations, together with such information as may be required by Contracting Parties of the Commission or deemed necessary or desirable by the Executive Secretary.

At each annual meeting, the Standing Committee on Administration and Finance scrutinizes the draft budget prepared by the Secretariat and then prepares the final budget proposals to the Commission. The Commission then adopts the budget by consensus. The review panel notes:

- The Secretariat still produces paper reports and meeting papers and the Review Panel is of the opinion that it is more cost effective to move all the Commission papers and records to electronic copies and means. To facilitate this change, meeting papers should be reduced to documents ensuring clear and smooth progress of the meetings.
- The Commission should consider its meeting structure and it may be more effective for the meeting to commence on Tuesday with the Finance and Administration

meeting and Compliance meetings held on Monday. In this way once the meeting starts it has all the information and recommendations it needs to deal with the decisions it has to take.

- Given the nature and size of this small RFMO it is essential that no party to the Convention ever gets into arrears with their payments as it will seriously compromise the ability of the Commission to do its work and to pay its staff. The Commission should consider establishing an operational reserve in the order of one third of the annual budget of the Commission so that the Commission can continue to operate and not become insolvent.
- The Secretariat provides the rapporteur for the meeting. The meeting record is not a complex record and it may help if the Commission moves to have the record of the meeting finalised before the meeting ends. If this is not possible, then it would help if the Commission established a timeframe and process for the early comment and clearance of the record. It is suggested that a process that saw the Chair having 2 weeks to clear the draft, the members having 6 weeks to comment, and the Secretariat then has a month to finalise the report may work for SEAFO.
- In terms of general administration, the Panel believes that the Secretariat should institute a process of numbering its Circulars and sending these more formally to members. This approach provides a reference for members who can check and make sure they have received all correspondence from the Secretariat.
- The review panel noted that if fishing does not increase in volume at some stage the Commission might consider reviewing its mandate and evaluate if it may be appropriate for consideration to be given to using the existing SEAFO as the base for a broader Atlantic Commission for non-tuna stocks.

Panel Consideration

All expenditure and financial processes of SEAFO are audited annual by external auditors and to date the Audit reports have been clean with no qualifications noted. The general administration processes in SEAFO are sound.

Performance Review 2016 Recommendation

- 31 That the Secretariat institutes a process of using numbered Circulars when communicating with members to ensure a more formal process of communication
- 32 All correspondence and meeting papers reports be sent and stored electronically
- 33 The Commission considers changing the schedule for its annual meetings to begin on Tuesday with Finance and Administration and Compliance meetings held on Monday.
- 34 The Commission either finalises the report of the annual meeting at the meeting or develops a process and timeframe for clearing meeting reports
- 35 The Commission considers establishing an operational reserve fund
- 36 When appropriate SEAFO considers extending its mandate to cover non tuna fisheries in the broader Atlantic.

4.5.2 Staff Regulations and staff remuneration

(Please note: In raising issues of staff salaries and conditions of service these are the Review panel's views and thoughts on the subject. The staff are very supportive of SEAFO and to a fair degree accepting of the situation. However, it is the panels clear view these regulations and conditions need urgent review and attention.)

It should not be lost on the Members of this Commission that it was not the Secretariat who started the Commission but the members. The staff are international civil servants and were recruited later to serve the Commission members. Staff recruited to work in SEAFO Secretariat has a right to have an expectation that they will to the degree possible enjoy the salaries and conditions of service provided to Secretariat staff in other RFMOs and International Civil Service Organisations.

As with most international organisations there is a mix of developed and developing country members and while the developed country members may feel that the salaries offered to the Professional staff is fair compensation, the developing country members may find it difficult to accept as the salaries can be far higher than in their country and can be far higher than in the country where the organisation is based. This is however, the nature of these organisations and the professional positions are competitive international civil service

positions and to attract and retain good staff the salaries and conditions offered must be at parity with other international organisations.

The benefits and conditions that normally apply to staff in an RFMO include:

- Professional salaries in line with the FAO salaries for comparable positions paid in US dollars and adjust annually to cost of living.
- Local staff salaries based on local government equivalents and adjusted annually for cost of living.
- Salary scales for both local and professional staff.
- Superannuation of pension contributions
- Tax free status
- Medical/Insurance coverage for staff and family including in remote regional medical evacuation coverage
- Arrival and departure allowances
- Rent allowances
- Reunion airfares
- Education allowances; and if appropriate
- Cost of living adjustment

It is not to suggest that all of these allowances need to be made available; but to point out to members what is generally considered appropriate even in smaller international organisations such as SEAFO.

There are however, some real omissions in the SEAFO arrangements that the review panel believes that members should move urgently to address.

Currently the situation in SEAFO is as follows:

- A salary point for the Executive Secretary that does not reflect the requirements of the position. For real comparison look at the SIOFA a similar organisation where the Executive Secretary position will be advertised at a P5 equivalent and not the base P2 offered in SEAFO.
- There is no pay scale for Professional or domestic staff. The local staff member has been on the same salary since commencement 9 years ago.
- Salaries are made in Namibian dollars and the Namibian dollar has fallen from 8 ND to the US dollar to 15 ND to the US dollar in the last 5 years. As such the

salaries do not retain parity and purchasing power and significant reduction in real salary, notably for foreign members of the staff.

- Staff have to take out private health/medical and travel insurance
- There is no pension/superannuation allowance
- There is no education allowance and
- There is not rent assistance.

Panel Consideration

While the panel accepts that it may not be possible for the commission to address all these issues some of these will need to be addressed urgently if the Commission is to replace the ES that it has with one of similar experience and quality.

Performance Review 2016 Recommendations

- 37 The panel recommends that SEAFO immediately reviews the staff regulations including the salaries and conditions of staff to ensure that they are in line with the most recent and modern RFMOs, including those regulations being developed for SIOFA.
- 38 Salaries should be calculated in US dollars converted monthly to Namibian dollars for payment. For current professional staff their salaries must be adjusted back to parity for when they joined the organisation. Whether SEAFO considers payment of arrears is up to the Commission but staff of any international organisation should not be put in a position where they lose 50% of the actual value of their salaries due to currency fluctuations.
- 39 The classification of the ES position be immediately reviewed and upgraded to a P5 equivalent.
- 40 The Chair each year undertakes a formal review of the ES performance against an agreed criteria so that the salary for the ES can be progressed through pay points
- 41 The ES conducts performance reviews for the staff for the same purpose.
- 42 The Commission adopts salary scales for all staff positions
- 43 The Commission either pays or contributes significantly to the cost of medical/ health and travel insurance.
- 44 The Commission reviews and considers the other potential allowances and conditions listed above.

Headquarters agreement

The Headquarters Agreement was signed during September 2009 by the Hon. Minister of Fisheries and Marine Resources of Namibia and the Chairperson of SEAFO. The Headquarters agreement is similar to other Headquarters agreements for RFMOs and grants the appropriate privileges and immunities necessary for the Commission to operate safely and professionally in Namibia.

5. A COMPENDIUM OF THE PANEL RECOMMENDATIONS

SCIENCE CONSERVATION AND MANAGEMENT

Status of living marine resources

1. The SC should continue its work on updating the Stock Status reports for stocks targeted by fisheries or where there may be future commercial interest, with an emphasis on the species specific information as required for the Commission to fulfil its role as responsible for fisheries harvesting target species sustainably in the convention area.
2. For those potential target species where there are no current fisheries this could be based on a risk assessment rather than attempting to move to a full-fledged stock assessment in a situation where no data are available from non-existing fisheries.

Ecosystem approach

3. The SC should develop Ecosystem status reports regarding the interactions between fisheries and the marine ecosystem within the convention area. This could be one for the convention area or a set of reports for different subsystems within the area. The Ecosystem status report(s) should provide information and scientific advice as required by the Commission to fulfil its role in relation to ensuring that fisheries impacts on the marine ecosystem are acceptable. In order to use available resources efficiently on this task a risk based assessment, as discussed in the context of fish species, could be extended to fisheries and also include the wider ecosystem effects of fisheries.
4. The Commission should identify criteria for maximum acceptable ecosystem impacts of fisheries in relation to inter alia habitat impacts and incidental bycatch.
5. In order to initiate this process, the Commission should request the SC to consider candidates for maximum acceptable impact which are relevant, measurable and can be monitored.
6. Means to provide better data to indicate potential VME areas should be investigated

Data collection and sharing

1. No recommendations

Quality and provision of scientific advice

7. The SC should modify its rules of procedure to include guidance on how to proceed in order for the SC to provide conclusions which are helpful to the Commission in cases where there may be different opinions of a scientific nature between scientists,
8. The basis for analysis and recommendations by SC, which has important economic, social or political implications for fisheries or member states, should be subject to independent peer review as is normal in science in order to provide trust in the integrity of the advice and recommendation in question. Peer review should apply regarding the scientific soundness of methods to be applied. In cases where a methodology is implemented repeatedly on updated data sets, such as a stock status which is using peer reviewed methodology on a data set which has just been updated with recent data, the SC should be in a position to internally review whether the prescribed methodology has been applied according to standards. Independence of peer reviewers can be judged on basis of the normal criteria used in science including that the reviewer or the organisation he or she is affiliated to should not have an interest in the matter under scrutiny and that there are no relations in terms of organisation, family or economy to any scientists involved in the analysis in the first place.
9. The RP recommends that rules of procedure are amended to ensure that scientists are not asked to have a double role in doing both scientific analysis and negotiating Commission decisions on the same matter. Members of the SC or scientists which have provided analysis serving as an input to the SC should never have double roles by also serving as negotiators or delegates to the Commission. Members of the SC may be available at Commission meetings as resource persons and may be asked by the Commission chair to explain SC analysis and recommendations, but they should never be called upon by national delegates of the Commission to substantiate a specific national viewpoint in the Commission.
10. The SC reports (including the Stock status reports) should contain a section which contains information and recommendations directed to the Commission in

a language fit to inform operational decision making. Such information and recommendations should always be backed by sections which in a transparent way presents the technical background in a language fit for scientific peers.

Adoption of conservation and management measures

11. The SC and the Commission to consider ways by which more precise information about potential VMEs can be obtained with a view to focus area closures to protect any potentially vulnerable areas.
12. The Commission to consider a revision of protocols for opening of areas closed to all fisheries in order to enable decisions to be made on basis of data which can realistically be collected without jeopardising the health of ecosystems and fish stocks.

Capacity management

No recommendations

COMPLIANCE AND ENFORCEMENT

Flag State Duties

13. Given the positive results on compliance and the relatively reduced number of fishing vessels operating in the Convention area, the panel doesn't have any particular recommendation on flag State duties. However, if the number of active vessels in the Convention area sharply increases or if the general level of compliance within SEAFO worsens, the Commission should examine the possibility of developing new mechanisms within the System to facilitate flag States to ensure that their vessels comply with the principles of the Convention and conservation, management and control measures adopted by the Commission.

Port State Measures

14. The Panel recommends that inspection reports should always be made available in due time to the Secretariat.
15. The Commission should examine the opportunity to create and implement follow-up mechanisms on Port State infringements.

Monitoring, Control and Surveillance

16. SEAFO should continue examining the usefulness of implementing a comprehensive observer programme, with compliance purposes, as set out in Article 16(3)(c) of the Convention. This analysis should take into account the viability to implementing such a programme and its necessity in order to further address compliance shortcomings and also the potential conflict with compliance and scientific observing.
17. The Commission could also evaluate the opportunity to integrate in the System, measures to permit access by observers, with compliance purposes, from other Contracting Parties to carry out functions as agreed by the Commission.
18. If the fishing activity in the Convention Area sharply increases, the Commission should also examine the possibility to develop within the Compliance Committee an annual country by country compliance review complementary to the annual Compliance Committee compliance performance review undertaken on the basis of measure by measure assessments.
19. Consideration could be given to including in the System guidance and illustrated description of fishing methods and gears used in SEAFO and this would make the guide more complete. This could lead to if necessary the development of conservation and Management Measures for gear configuration and for mesh and hook size and/or numbers.

Follow-up on Infringements

20. SEAFO should develop more detailed procedures and requirements for follow-up on detected infringements through the application of the System and the

annual compliance review performed by the Compliance Committee and endorsed by the Commission in accordance with Article 16 (3) (d) of the Convention.

Cooperative Mechanisms to Detect and Deter Non-compliance

21. The Commission should examine the opportunity to develop and adopt measures for observation to give effect to Article 14(3)(g) (give access of observers, with compliance purposes, from other Contracting Parties) and article 16(3)(c) (observer programme with compliance purposes) of the SEAFO Convention.
22. SEAFO should consider amending the article 28 of the System in order to recognise IUU vessel lists of all relevant RFMOs, notably SIOFA.

Market Related Measures

23. If fishing activities sharply increase in SEAFO, the Commission should evaluate the need and consider the prospect to develop a Catch Documentation Scheme for relevant species in harmony to CDSs already in force in other RFMOs. In this context the Commission should closely follow the ongoing FAO works on Catch Documentation Scheme.

DECISION MAKING AND DISPUTE SETTLEMENT

Decision-making

24. The Commission should review Article 17 utilising as a guide the WCPFC Rules of procedure Rules 21-30 (Annex 2) and determine what issues must be decided by consensus and those that can be taken by a simple majority.
25. Once this is decided the Commission should also agree to a voting procedure.
26. The Commission should ensure the SC process stays free from political influence.

<p>Dispute settlement</p> <p>No Recommendations</p>
<p>INTERNATIONAL COOPERATION</p>
<p>Transparency</p> <p>No Recommendations</p>
<p>Relationship to non-Contracting Parties cooperating with SEAFO</p> <p>27. The Commission should as a priority continue its efforts to encourage the United Kingdom on behalf of St Helena and its Territories to complete the ratification process to become a Contracting Party to the Convention. Particular emphasis should be put on the fact that St Helena and her Territories are coastal states and have waters adjacent to the waters of SEAFO and as such have responsibilities to co-operate under UNCLOS. (Articles 116-119 UNCLOS).</p>
<p>Relationship to non-cooperating non-Contracting Parties</p> <p>28. SEAFO should continue to monitor any future fishing activities by vessels from non-cooperating non-Contracting Parties in the Convention Area that may take place, and take action as appropriate.</p> <p>29. SEAFO Secretariat should move to establish relationships between compliance staff in ICCAT, IOTC and CCSBT.</p>
<p>Cooperation with other international organisations</p> <p>22. No Recommendations</p>
<p>Special requirements of developing States</p>

30. The Panel encourages further contributions to be made to the Special Requirements Fund or by any other means.

FINANCIAL AND ADMINISTRATIVE ISSUES

Financial and Administration issues

31. That the Secretariat institutes a process of using numbered Circulars when communicating with members to ensure a more formal process of communication
32. All correspondence and meeting papers reports be sent and stored electronically
33. The Commission considers changing the schedule for its annual meetings to begin on Tuesday with Finance and Administration and Compliance meetings held on Monday.
34. The Commission either finalises the report of the annual meeting at the meeting or develops a process and timeframe for clearing meeting reports
35. The Commission considers establishing an operational reserve fund
36. When appropriate SEAFO considers extending its mandate to cover non tuna fisheries in the broader Atlantic.

Staff regulations and remuneration

37. The panel recommends that SEAFO immediately reviews the staff regulations including the salaries and conditions of staff to ensure that they are in line with the most recent and modern RFMOs, including those regulations being developed for SIOFA.
38. Salaries should be calculated in US dollars converted monthly to Namibian dollars for payment. For current professional staff their salaries must be adjusted back to parity for when they joined the organisation. Whether SEAFO considers payment of arrears is up to the Commission but staff of any international organisation should not be put in a position where they lose 50% of the actual value of their salaries due to currency fluctuations.
39. The classification of the ES position be immediately reviewed and upgraded to a P5 equivalent.
40. The Chair each year undertakes a formal review of the ES performance against

an agreed criteria so that the salary for the ES can be progressed through pay points

41. The ES conducts performance reviews for the staff for the same purpose.
42. The Commission adopts salary scales for all staff positions
43. The Commission either pays or contributes significantly to the cost of medical/ health and travel insurance.
44. The Commission reviews and considers the other potential allowances and conditions listed above.

Annex 1



CRITERIA FOR THE PERFORMANCE REVIEW

Objectives

The objectives of the work to be carried out by the Review Panel shall be:

- To assess the performance of SEAFO since 2011 against the objectives set out in the Convention and any other international instruments relevant to the conservation and management of living marine resources in the Convention Area.
- Consideration should also be given to the developments in fisheries and ocean management that have taken place, notably during the period covered by the Review.

The Review shall be conducted on the basis of the criteria provided in table below:

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 time frames for data submissions, notably taking into account Annex 1 of the 1995 UN Fish Stocks Agreement. • 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 based on the best scientific advice available to ensure the long-term conservation and sustainable use of living marine resources. • Extent to which SEAFO has applied a precautionary approach as set forth in the Article 6 of the 1995 UN Fish Stocks Agreement and Article 7.5 of the Code of Conduct for Responsible Fisheries, including the application of precautionary reference points. • Extent to which consistent/compatible management measures have been adopted as set out in Article 7 of the 1995 UN Fish Stocks Agreement. • Extent to which SEAFO successfully allocates fishing opportunities consistent with the Article 20 of the SEAFO Convention and Article 11 of the 1995 UN Fish Stocks Agreement. • 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. • Extent to which SEAFO has adopted and is implementing effective rebuilding plans for depleted or overfished stocks including guidance for stocks under moratoria.
	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.

		<ul style="list-style-type: none"> • 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 UNFSA and the 1993 FAO Compliance Agreement, as applicable. • Extent to which these measures are effectively implemented.
	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 2009 FAO Port State Measures Agreement. • 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 and 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, notably to combat IUU fishing. • Extent to which these measures are being effectively utilised.
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 the SEAFO Scientific Committee is reaching its objectives and advising the Commission. • Extent to which the Commission is following the Scientific Commission recommendations. • Extent to which SEAFO has transparent and consistent decision making procedures that facilitate the adoption of conservation measures in

		<p>a timely and effective manner.</p> <ul style="list-style-type: none"> • Existence of an informal mechanism of cooperation between Contracting Parties 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 Article 112 of the UN Fish Stocks Agreement and the Article 7.1.9 of the Code of Conduct for Responsible Fisheries. • 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 SEAFO	<ul style="list-style-type: none"> • Extent to which non-Contracting Parties have undertaken fishing activities in the SEAFO Regulatory Area. • 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, and also encouraging them to become Contracting Parties or to implement voluntarily SEAFO conservation measures.
	Cooperation with international organisations	<ul style="list-style-type: none"> • Extent to which SEAFO cooperates with other international organisations and other relevant 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 Part VII of the 1995 UN Fish Stocks Agreement and the Article 5 of the Code of Conduct for Responsible Fisheries. • Extent to which SEAFO Contracting Parties, individually or through the Commission, provide relevant assistance to Developing States, notably reflecting Article 26 of UN Fish Stocks Agreement.
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.
	Staff matters	<ul style="list-style-type: none"> • To evaluate staff regulations, notably regarding

		career progression, cost of living and related benefits, Namibian Dollar fluctuations and competitiveness with other RFMOs,
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To assist the Performance review exercise, the SEAFO Secretariat will provide the Panel with background reports and other material relevant to each criterion.

ANNEX 2 WCPFC Rules of Procedure on Decision Making

VII. DECISION-MAKING

Voting rights

Rule 21

Each member of the Commission shall have one vote, unless otherwise provided in the Convention.

Decision-making

Rule 22

1. As a general rule, decision-making in the Commission shall be by consensus. For the purposes of these rules, “consensus” means the absence of any formal objection made at the time the decision was taken.
2. If all efforts to reach a decision by consensus have been exhausted, decisions by voting in the Commission on questions of procedure shall be taken by a majority of those present and voting. Decisions on questions of substance shall be taken by a three-fourths majority of those present and voting provided that such majority includes a three-fourths majority of the members of the South Pacific Forum Fisheries Agency present and voting and a three-fourths majority of non-members of the South Pacific Forum Fisheries Agency present and voting and provided further that in no circumstances shall a proposal be defeated by two or fewer votes in either chamber. When the issue arises as to whether a question is one of substance or not, that question shall be treated as one of substance unless otherwise decided by the Commission by consensus or by the majority required for decisions on questions of substance.
3. If it appears to the Chairman that all efforts to reach a decision by consensus have been exhausted, the Chairman shall fix a time during that session of the Commission for taking the decision by a vote. At the request of any member, the Commission may, by a majority of those present and voting, defer the taking of a decision until such time during the same session as the Commission may decide. At that time, the Commission shall take a vote on the deferred question. This rule may be applied only once to any question.
4. Elections of individuals shall be conducted in accordance with article 20 of the Convention. In the event of a vote, notwithstanding the provisions of rule 24, the election shall be conducted by secret ballot. If no candidate obtains in the first ballot the necessary majorities of the votes cast, a second ballot restricted to the two candidates obtaining the largest number of votes shall be taken. If in the second ballot the votes are equally divided, the balloting shall be continued until one candidate secures the necessary majorities of the votes cast.
5. For the purposes of these rules, and subject to rules 21 and 34, the phrase “those present and voting” means members of the Commission present and casting an affirmative or negative vote. Members of the Commission who abstain from voting shall be considered as not voting.

Decisions requiring a consensus

Rule 23

Decisions on questions of substance arising under the following provisions of the Convention shall be taken by consensus: article 9, paragraph 8 (adoption, and amendment, of rules of procedure), article 10, paragraph 4 (decisions relating to the allocation of total allowable catch or the total level of fishing effort), article 17, paragraph 2 (adoption of financial regulations), article 18, paragraphs 1 and 2 (adoption of the budget and a scheme for assessment of contributions to the budget), and article 40 (amendments to the Convention).

Method of voting

Rule 24

The Commission shall vote by show of hands or by standing, but any member of the Commission may request a roll-call. The roll-call shall be taken in the alphabetical order of the names of the members of the Commission participating in that session, beginning with the member whose name is drawn by lot by the Chairman. The name of each member of the Commission shall be called in any roll-call, and one of its representatives shall reply “yes”, “no” or “abstention”. The result of the voting shall be inserted in the record in the alphabetical order of the names of the members.

Conduct during voting

Rule 25

After the Chairman has announced the commencement of voting, no member of the Commission may interrupt the voting, except that members of the Commission may interrupt on a point of order in connection with the actual conduct of voting.

Explanation of vote

Rule 26

Members of the Commission may make brief statements consisting solely of explanations of their votes before the voting has commenced or after the voting has been completed. The Chairman may limit the time to be allowed for such statements. A member of the Commission sponsoring a proposal or motion shall not speak in explanation of vote thereon, except if it has been amended.

Division of proposals and amendments

Rule 27

A member of the Commission may move that parts of a proposal or of an amendment should be voted on separately. If objection is made to the request for a division, the motion for division shall be voted upon. Permission to speak on the motion for division shall be given only to two speakers in favour and two speakers against. If the motion for division is carried, those parts of the proposal or of the amendment which are approved shall then be put to the vote as a whole. If all operative parts of the proposal or of the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.

Order of voting on amendments

Rule 28

When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the Commission shall first vote on the amendment furthest removed in substance from the original proposal and then on to the amendment next furthest removed therefrom and so on until all the amendments have been put to the vote. Where, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon. A motion is considered an amendment to a proposal if it adds to, deletes from or revises part of the proposal.

Order of voting on proposals

Rule 29

If two or more proposals relate to the same question, the Commission shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted. The Commission may, after each vote on a proposal, decide whether to vote on the next proposal.

Taking decisions inter-sessionally

Rule 30

1. When necessary, a matter may be decided during the period between meetings by voting electronically via the Internet (e.g. email, secure Web site) or other means of communication (intersessional vote). Normally, such means of taking decisions shall be applied to matters of procedure, such as in deciding to convene a special session (Rule 3). However, in exceptional circumstances, where an urgent decision is necessary after efforts to reach a decision by consensus have been exhausted or as otherwise decided, such means of taking a decision may be applied to matters of substance.

2. When it is necessary to decide any matter during the period between meetings, the Chairman, on his or her initiative, or at the request of a member that has made a proposal, may move adoption without delay of such proposal by intersessional vote. The Chairman, in consultation with the Vice-Chairman, shall decide on the necessity of considering the proposal inter-sessionally, and the Chairman shall decide whether the proposal raises a matter of procedure or a matter of substance.

3. In any case in which the Chairman determines that it is not necessary to consider a motion proposed by a member inter-sessionally, the Chairman shall promptly so inform that member of such determination and the reasons therefor, at which time the proposer may request an intersessional vote on the Chairman's determination, to be subject to the majority decision rule for questions of procedure set forth in the Convention.

4. In cases in which the Chairman has concurred on the necessity of considering a proposal moved by a member inter-sessionally, the Executive Director shall promptly transmit the proposal and both determinations made by the Chairman under paragraph 2 to members via the official contacts provided for in rule 7, requesting that responses be returned within 40 days.

5. Members shall promptly acknowledge receipt of any request for an intersessional vote. If no acknowledgment is received within 10 days of the date of transmittal, the Executive Director

shall retransmit the request and shall use all additional means available to ensure that the request has been received.

6. Members shall respond within 40 days of the date of transmittal of a proposal, indicating whether they cast an affirmative vote, cast a negative vote, or abstain from voting. If no reply from a member is received within 40 days of transmittal, that member shall be recorded as having abstained.

7. The result of a decision taken by intersessional vote shall be ascertained by the Executive Director at the end of the voting period and promptly announced to all members. If any explanations of votes are received, these shall also be transmitted to all members. Subject to paragraphs 6 and 7 of article 20 of the Convention, if the proposal is adopted, it shall become binding 60 days after its adoption.

8. No proposal transmitted by the Executive Director for an intersessional vote shall be subject to amendment during the voting period.

9. A proposal that has been rejected by intersessional vote shall not be reconsidered by way of an intersessional vote until after the following meeting of the Commission, but may be reconsidered at that meeting.