

**39<sup>th</sup> ANNUAL MEETING OF NAFO - SEPTEMBER 2017****Second Performance Review of NAFO – REVISED Terms of Reference****1. Scope and objectives**

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

1. To evaluate **how NAFO has responded to the outcome of 2011 NAFO Performance Review** (PR 1), taking into consideration the work and practices of NAFO's bodies, subsidiary bodies and working groups to date, and also the implementation of the action plan resulting from the recommendations of the 2011 NAFO Performance Review.
2. To identify areas where improvements are needed to strengthen the organization in order to advance the objectives of the **NAFO Convention and the subsequent 2007 amendments**.
3. To assess the functioning and efficiency of all **NAFO bodies, subsidiary bodies and working groups**, taking into account, among other:
  - a. The cooperation between Commission and Scientific Council in the context of the joint COM-SC working groups.
  - b. The findings mentioned in the Fisheries Commission's paper on "Improving Efficiency of NAFO Working Group Process" (FC Doc. 15-18).

**2. Criteria**

Within the scope and objectives outlined above, the review shall be performed on the basis of seven groups of criteria provided in the Annex, in no order of preference, which should be used to point both to achievements and to areas which could be improved:

- Follow-up to the 2011 NAFO Performance Review.
- Conservation and management.
- Compliance and enforcement.
- Governance including decision-making, dispute settlement, transparency and confidentiality.
- Science.
- International cooperation.
- Financial and administrative issues.

**3. Review Panel composition**

The Review Panel shall be composed of six (6) experts; three (3) external experts and three (3) internal experts.



### **a. External experts**

None of the three external experts should have participated in the work of NAFO.

The external experts should cover the following qualifications and experience:

- One expert on the legal framework of international fisheries instruments and organizations.
- One expert on fisheries management.
- One expert on fisheries science.

All three (3) external experts should have an appropriate level of education and long experience relevant to the category in which they are nominated, as well as a very good command of written and spoken English.

One of the three (3) external experts shall be assigned the task of Coordinator of the Review Panel by the remaining experts, if possible by consensus of the Panel. The Coordinator will be liaising with CPs and the chairs of any relevant NAFO body or working group.

Selection of external experts:

1. All CPs will be invited to nominate three (3) external experts each: one in each of the fields mentioned above (i.e. legal issues, fisheries management and fisheries science). If possible, nominations will include some background and/or CVs.
2. The Secretariat will compile a list of candidates received from CPs, by field of expertise and attaching the background and/or CVs provided.
3. If there are not at least two qualified nominees in each category, the Secretariat may re-open the nomination process for an additional 30 days to solicit additional candidates.
4. The Secretariat will distribute the list by field, i.e. in three lists.
5. CPs will select and rank a maximum of 3 experts per field among the candidates, in order of preference.
6. The Secretariat will consolidate the ranking from the CPs. It will prepare a composite list of candidates by assigning a value to each candidate in inverse relationship to the order of each of the three lists (i.e. 3 points for candidate ranked first; 2 points for candidate ranked second and 1 point for candidate ranked third).
7. The Commission Chair will convey to CPs the results of the selection in accordance with the outcome of the ranking process.

### **b. Internal experts**

The three (3) internal experts shall have a background in at least one of the fields mentioned in point 3 (a) above for external experts. Ideally, their main field of expertise shall not coincide. They shall be nationals of one of NAFO's CPs.

They shall be selected as follows:

1. All CPs will be invited to nominate one internal expert each, including, if possible, some background and/or CV.
2. The Secretariat will compile and distribute a list of candidates received from CPs and attaching the background and/or CV provided.
3. CPs will rank all candidates in the list, in order of preference.
4. The Secretariat will consolidate the ranking from the CPs. It will prepare a composite list of

candidates by assigning each candidate a value in inverse relationship to the order of each CP ranking (i.e. if there are 10 candidates, then 10 points for candidate ranked first, 9 points for candidate ranked second, and so forth).

5. The Commission Chair will convey to CPs the results of the selection in accordance with the outcome of the ranking process.

#### 4. Administration

Meeting(s) of the Review Panel shall be held at the NAFO Headquarters in Dartmouth, Nova Scotia, Canada or via WebEx/videoconference.

The Contracting Parties shall be invited to submit, in confidentiality, views, orally or in writing, relevant to consider by the review panel. In addition, other relevant stakeholders may be invited to submit views on relevant issues to be considered by the panel.

The travel costs of the external experts shall be reimbursed and they shall receive a per diem to cover their accommodation and subsistence costs. In addition, the experts may receive a fee for the work undertaken.

CPs whose candidates are chosen as internal experts shall pay for the participation of those experts to meeting(s) of the Panel.

The Secretariat shall provide administrative assistance to the Panel.

#### 5. Work schedule and report of the Review Panel

The work schedule will include the following main steps:

- **October – November 2017:** Selection of Panel Review experts.
- **December 2017:** Panel Review experts are contacted by the Secretariat for availability.
- **January – June 2018:** Review Panel work, including at least two meetings face-to-face and WebEx / videoconference meetings as required.
- **1 July 2018:** Review Panel makes a provisional report available for review by the NAFO Secretariat and CPs for comments.
- **15 July 2018:** Deadline for comments by CPs to the Review Panel's provisional report.
- **15 July – 1 August 2018:** The Secretariat compiles and aggregates all CP comments to the provisional report.
- **2 August 2018:** The Secretariat circulates a final draft report to CPs, for adoption at the NAFO Annual Meeting in 2017.
- **Annual Meeting 2018:** Panel Coordinator presents the final draft report at the NAFO Annual Meeting.
- **After Annual Meeting 2018:** If adopted by the NAFO Commission, the second Performance Review report is uploaded to the public part of the NAFO website and disseminated widely by the Secretariat.

## Criteria for Reviewing the Performance of NAFO

Area	General criteria	Detailed criteria
<b>1. 1st Performance Review</b>	<i>Follow-up to the 1st Performance Review</i>	Review of actions taken by NAFO in response to the 1 <sup>st</sup> PR recommendations and assessment of their effectiveness.
<b>2. Conservation and management</b>	<i>Status of living marine resources</i>	Status of fish stocks under the purview of NAFO in relation to maximum sustainable yield or other relevant biological standards.
		Trends in the status of those stocks.
		Status of species that belong to the same ecosystems as, or are associated with or dependent upon, targeted marine living resources ("non-target species").
		Trends in the status of non-target species.
	<i>Ecosystem approach and precautionary approach</i>	Extent to which NAFO decisions take account of and incorporate the ecosystem approach and the precautionary approach to fisheries management.
	<i>Data collection and sharing</i>	Extent to which NAFO has agreed formats, specifications and timeframes for data submissions, taking into account Annex 1 of the 1995 UN Fish Stocks Agreement.
		Extent to which NAFO Contracting Parties, individually or through NAFO, collect and share complete and accurate data concerning marine living resources (i.e. both fish stocks and non-target species) and other relevant data in a timely manner, including analysis of trends in fishing activities over time.
		Extent to which fishing and research data and fishing vessel and research vessel data are gathered by NAFO and shared among Contracting Parties and with other relevant international bodies.
		Extent to which NAFO is addressing any gaps in the collection and sharing of data as required.

Area	General criteria	Detailed criteria
	<i>Quality and provision of scientific advice</i>	Extent to which NAFO produces 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.
	<i>Adoption of conservation and management measures</i>	Extent to which NAFO has adopted measures based on the best scientific advice available to ensure the long-term conservation and sustainable use of marine living resources in the Convention Area.
		Extent to which NAFO has applied a precautionary approach as set forth in Article 6 of the 1995 UN Fish Stocks Agreement, 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 NAFO successfully allocates fishing opportunities consistent with the NAFO Convention and Article 11 of the 1995 UN Fish Stocks Agreement.
		Extent to which NAFO has moved toward the adoption of conservation and management measures for previously unregulated fisheries, including new and exploratory fisheries.
		Extent to which NAFO has taken due account of the need to conserve marine biological diversity and minimize harmful impacts of fishing activities and research on living marine resources and marine ecosystems.

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		Extent to which NAFO 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 NAFO has adopted and is implementing effective rebuilding plans for depleted or overfished stocks including guidance for stocks under moratoria.
	<i>Capacity management</i>	Extent to which NAFO has identified fishing capacity levels commensurate with the conservation objectives of the NAFO Convention.
		Extent to which NAFO has taken actions to prevent or eliminate excess fishing capacity and effort.
	<i>Reporting requirements</i>	Analysis of NAFO's reporting obligations to improve efficiency, avoid redundancy and reduce unnecessary burdens on CPs.
<b>3. Compliance and enforcement</b>	<i>Flag State duties</i>	Extent to which NAFO Contracting Parties are fulfilling their duties as flag States under the NAFO Convention, pursuant to measures adopted by NAFO, and under other international instruments, including, inter alia, the 1982 Law of the Sea Convention, 1995 UN Fish Stocks Agreement and the 1993 FAO Compliance Agreement, as applicable.
	<i>Port State measures</i>	Extent to which NAFO has adopted measures relating to the exercise of the rights and duties of its Contracting Parties as port States, as reflected in Article 23 of the 1995 UN Fish Stocks Agreement, as well as the minimum standards set out in the 2009 FAO Agreement on Port State Measures to Combat IUU Fishing.

Area	General criteria	Detailed criteria
		Extent to which these measures are effectively implemented.
	<i>Monitoring, control and surveillance (MCS)</i>	Extent to which NAFO has adopted integrated MCS measures (e.g. required use of boarding and inspection schemes, VMS, observers, catch documentation and/or trade tracking schemes, and restrictions on transshipment).
		Extent to which these measures are effectively implemented.
	<i>Follow-up on infringements</i>	Extent to which NAFO and its Contracting Parties follow up on infringements to conservation and management measures.
	<i>Cooperative mechanisms to detect and deter non-compliance</i>	Extent to which NAFO 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.
	<i>Market-related measures</i>	Extent to which NAFO has adopted measures relating to the exercise of the rights and duties of NAFO Contracting Parties as market States for marine living resources under the purview of NAFO.
		Extent to which these measures are being effectively implemented.
<b>4. Governance including decision-making, dispute settlement, transparency and confidentiality.</b>	<i>Decision-making</i>	
		Extent to which NAFO has transparent, consistent and adequate decision-making procedures that facilitate the adoption of

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		conservation and management measures in a timely and effective manner.
		Extent to which those procedures are effectively implemented.
	<i>Dispute settlement</i>	Extent to which NAFO has established adequate mechanisms for resolving disputes.
	<i>Transparency</i>	Extent to which NAFO is operating in a transparent manner, taking into account Article 12 of the 1995 UN Fish Stocks Agreement and Article 7.1.9 of the Code of Conduct for Responsible Fisheries
		Extent to which NAFO decisions, meeting reports, scientific advice upon which decisions are made, and other relevant materials are made publicly available in a timely fashion.
		Extent to which the NAFO website caters for the online communication needs of NAFO CPs and the public in general.
	<i>Confidentiality</i>	Extent to which NAFO has set security and confidentiality standards and rules for sharing sensitive scientific and operational/compliance data.
<b>5. Science</b>	<i>Quality and provision of scientific advice</i>	Extent to which the Scientific Council (SC) produces the best scientific advice relevant to the living marine resources under the purview of NAFO, as well as to the effects of fishing on the marine environment.
		Extent to which scientific advice is presented in a standardised way
		Extent to which scientific advice is accessible to and understandable for non-scientists and the general public



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		Extent to which the structure, processes, procedures, resources and expertise of the SC and of the Secretariat meet the needs of NAFO, in particular as regards highly demanding data and technical requirements of the most recent modelling platforms.
	<i>Best available science</i>	Extent to which best available science is used by the SC.
<b>6. International cooperation</b>	<i>Relationship with non-contracting parties</i>	Extent to which non-Contracting Parties have undertaken fishing activities in the NAFO Regulatory Area.
		Extent to which NAFO facilitates cooperation with non-Contracting Parties, including encouraging non- Contracting Parties to become Contracting Parties or to implement NAFO conservation and management measures voluntarily.
		Extent to which NAFO 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.
	<i>Cooperation with other international organizations</i>	Extent to which NAFO cooperates with Regional Fisheries Management Organizations and other international organisations, including the network of Regional Fishery Body Secretariats.
	<i>Special requirements of developing States</i>	Extent to which NAFO recognises the special needs of developing States and cooperates with developing States, taking into account Part VII of the 1995 UN Fish Stocks Agreement.
		Extent to which NAFO Contracting Parties, individually or through the Commission, provide relevant assistance to developing States as reflected in Article 26 of UN Fish Stocks Agreement.

Area	General criteria	Detailed criteria
<b>7. Financial and administrative issues</b>	<i>Availability of resources for activities</i>	Extent to which financial, human and other resources are effectively forecast and made available to achieve the aims of NAFO and to implement NAFO's decisions.
	<i>Efficiency and cost-effectiveness</i>	Extent to which NAFO is efficiently and effectively managing its human and financial resources, including those of the Secretariat, in order to support NAFO's objectives and to ensure continuity of operations. This includes, among other, the establishment of clear and transparent office policies, structures, roles and responsibilities and lines of authority and effective internal and external communication.
		Extent to which the schedule and organization of the meetings could be improved.