

Northwest Atlantic Fisheries Organization



NAFO Performance Review virtual Working Group

2016
via WebEx

NAFO
Dartmouth, N.S., Canada
2016

NAFO Performance Review virtual Working Group

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NAFO Performance Review virtual Working Group

2016

The NAFO Performance Review virtual Working Group was established by the General Council at the 37th NAFO Annual Meeting. As noted in the Terms of Reference (GC Doc. 15/03), the Working Group was entrusted with the following tasks:

- *To discuss the scope and timeline for a second performance review of NAFO.*
- *To develop draft terms of reference and criteria to conduct the second performance review of NAFO. This includes the composition of the review panel, the scope of the review and the work schedule as well as the criteria for assessment of the performance of NAFO.*
- *To present these documents at the 2016 NAFO Annual Meeting to allow the NAFO General Council to decide on the launching of the next Performance Review, if appropriate.*

The Working Group met three times via WebEx on 16 March, 28 June, 29 August 2016. This report covers all three meetings.

1. Opening by the Chair and NAFO President, Stéphane Artano (France-SPM)

The inaugural and subsequent meetings were opened by NAFO President and meeting Chair, Stéphane Artano (France-SPM). The Chair welcomed to the meeting the Chairs of the Fisheries Commission and Scientific Council as well as representatives from Canada, Denmark (in respect of the Faroe Islands and Greenland), European Union, Iceland, Norway, Russian Federation and United States of America (Annex 1).

2. Appointment of Rapporteur

The NAFO Secretariat was appointed rapporteur.

3. Adoption of Agenda

The agenda was adopted as circulated (Annex 2).

4. Terms of Reference and criteria to conduct the second performance review

As agreed, the EU presented GC PR-WP 16/05 “NAFO – 2nd Performance Review Terms of Reference” for consideration which incorporated comments and suggestions noted at the first and second meetings. This revised working paper provided the basis for the discussions during the final meeting.

a) Scope and Objective (including criteria for the assessment of performance of NAFO)

The Scope and Objective (including criteria for the assessment of performance of NAFO) was discussed under section one of GC PR-WP 16/05.

A point of discussion was regarding “*to assess the functioning and efficiency of all NAFO bodies, subsidiary bodies and working groups, taking into account, among other: The cooperation between Fisheries Commission and Scientific Council in the context of the mixed FC/SC working groups.*” In this regard, the Secretariat informed the participants on the work being done in the Working Group on Improving Efficiency of NAFO Working Group Process. The Chairs of all the NAFO Joint Fisheries Commission-Scientific Council working groups met in February and agreed the issue of improving efficiency and maximizing meeting opportunities would be raised by all the Chairs at their respective upcoming meetings to identify possible best practices moving forward. This input would provide the basis for the Secretariat to prepare a report of outcomes and suggested best practices to be shared with Contracting Parties.

Another point of discussion was regarding the seven groups of criteria outlined in the Terms of Reference for NAFO's second Performance Review. Norway noted the importance of highlighting the issue of transparency under 'Governance' and thus the need to remove the brackets in the bullet point. It was reiterated the seven groups of criteria in Annex 1 were listed in no order of preference.

It was **agreed** to:

- **Amend GC PR-WP 16/05 to read "Governance including decision-making, dispute settlement, transparency and confidentiality" under section.**

b) Review Panel Composition

In 2011, the seven-member panel consisted of four internal NAFO experts (from different Contracting Parties) and three external experts. The composition and size of the review panel required for the second NAFO Performance Review was considered under section two 'Review Panel Composition' of the Terms of Reference for NAFO's second Performance Review (Annex 3). To better align with other RFMOs undertaking a second performance review, a smaller panel size than in 2011 was recommended.

The external experts should cover the following qualifications and experience:

- One (1) expert on the legal framework of international fisheries instruments and organizations.
- One (1) expert on fisheries management.
- One (1) expert on fisheries science.

All three (3) external experts should have an appropriate level of education and long experience in their field of work, as well as a very good command of written and spoken English.

It was further agreed that none of the three external experts should have participated in the recent work of NAFO and none should be nationals of any NAFO Contracting Party (CP). For this reason, a Contracting Party highlighted that the experience of the external experts could and should not be limited to inside the Atlantic Ocean region.

Most participants agreed that there was value in including some internal experts as part of the review panel. These experts would provide some internal knowledge of NAFO and guidance as to how the Organization works. For this reason, it was agreed that two (2) internal experts be selected. These internal experts will be nationals of one of NAFO's Contracting Parties and have a background in at least one of the fields mentioned above.

It was **agreed** that:

- **The review panel required for the second NAFO Performance Review should be composed of five (5) experts; three (3) external experts and two (2) internal experts.**

The selection process for both the external and internal experts is detailed in the Terms of Reference for NAFO's second Performance Review (Annex 3).

c) Administration

No changes were suggested as presented under section three 'Administration' of the Terms of Reference for NAFO's second Performance Review (Annex 3).

d) Work schedule and report of the Review Panel

The work schedule for the second NAFO Performance Review was considered.

In the first two meetings, some participants felt the proposed timeline to complete the next Performance Review by the 2017 Annual Meeting was ambitious. In particular, some participants felt that further time was needed before another review because a 2017 commencement would start work prior to the new NAFO Convention coming into force and a later date would allow a portion of the funds needed to finance a review to be set aside a year before.

After further discussion, three CPs (EU, Norway and the US) supported completing the second NAFO Performance Review in 2017 (rather than 2018), with no dissenting CPs. The EU agreed to prepare a more detailed timeline of the required work.

The Working Group **agreed** to:

- **Amend GC PR-WP 16/05 to reflect that the next Performance Review be launched following the 2016 Annual Meeting for completion at the 2017 Annual Meeting.**

5. Budgetary and administrative considerations

The estimated budget of \$93,000 (Canadian) was presented at the previous meeting. The estimated budget represents an \$18,000 increase over the costs budgeted for the 2011 NAFO Performance Review. The additional funds are due to an anticipated increase in the external experts' daily consulting fee as well the inclusion of travel costs for the Review Panel Coordinator to present the report to the General Council at the NAFO Annual Meeting.

6. Recommendations to forward to the General Council

The Working Group **recommends** that:

- **NAFO's second Performance Review be launched following the 2016 NAFO Annual Meeting for completion at the 2017 NAFO Annual Meeting; and**
- **The Terms of Reference for NAFO's second Performance Review contained in GC PR-WP 16/05 Rev. (Annex 3) be forwarded to the General Council for consideration and adoption at the 2016 NAFO Annual Meeting.**

7. Other matters

No other matters were discussed.

8. Adoption of the report

The final meeting report to be adopted via correspondence.

9. Adjournment

The final meeting adjourned at 10h30 (Atlantic Daylight Time) on 29 August 2016.

Annex 1. List of Participants

	16 Mar.	28 Jun.	29 Aug.
NAFO PRESIDENT			
Artano, Stéphane. Président de la Collectivité Territoriale de Saint-Pierre et Miquelon, Place Monseigneur Maurer, BP 4208, 97500 St. Pierre et Miquelon Tel: +508 41 01 08 – Email : president@ct975.fr	x	x	x
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Astrup, Martha. NAFO intern – Email: mastrup@nafo.int			x

Annex 2. Provisional Agenda

1. Opening by the Chair and NAFO President, Stéphane Artano
2. Appointment of Rapporteur
3. Adoption of Agenda
4. Terms of Reference and criteria to conduct the second performance review
 - a) Scope and Objective (including criteria for the assessment of performance of NAFO)
 - b) Review Panel Composition
 - c) Administration
 - d) Work schedule and report of the Review Panel
5. Other Budgetary and administrative considerations
6. Recommendations to forward to the General Council
7. Other matters
8. Adoption of the report
9. Adjournment

Annex 3. NAFO – 2nd Performance Review Terms of Reference (GC PR-WP 16/05 Rev.)

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 organisation 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 Fisheries Commission and Scientific Council in the context of the mixed FC/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 five (5) experts; three (3) external experts and two (2) internal experts.

a. External experts

None of the three external experts should have participated in the recent work of NAFO. They should not be nationals of any NAFO Contracting Party (CP).

The external experts should cover the following qualifications and experience:

- One expert on the legal framework of international fisheries instruments and organisations.
- 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 in their field of work, 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. The Secretariat will distribute the list by field, i.e. in three lists.
4. CPs will select and rank a maximum of 3 experts per field among the candidates, in order of preference.
5. 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).
6. The General Council chair will convey to CPs the results of the selection in accordance with the outcome of the ranking process.

b. Internal experts

The two (2) internal experts shall have a background in at least one of the fields mentioned in point 3 (a) above for external experts. However, 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 General Council 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, NS, Canada or via WebEx / videoconference.

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:

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

Annex - Criteria for Reviewing the Performance of NAFO

Area	General criteria	Detailed criteria
1. 1st Performance Review	<i>Follow-up to the 2011 NAFO Performance Review</i>	Review of actions taken by NAFO in response to the 2011 NAFO PR recommendations and assessment of their effectiveness.
2. Conservation and management	<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.
		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.

Area	General criteria	Detailed criteria
		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.
3. Compliance and enforcement	<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.
		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.

Area	General criteria	Detailed criteria
	<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.
4. Governance	<i>Decision-making</i>	
		Extent to which NAFO has transparent, consistent and adequate decision-making procedures that facilitate the adoption of 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.

Area	General criteria	Detailed criteria
		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.
5. Science	<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.
		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.
6. International cooperation	<i>Relationship with non-contracting parties</i>	Extent to which non-Contracting Parties have undertaken fishing activities in the NAFO Regulatory Area.

Area	General criteria	Detailed criteria
		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 organisations</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.
7. Financial and administrative issues	<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.