



## Report of the 2<sup>nd</sup> Performance Review of the International Pacific Halibut Commission (PRIPHC02)

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### Commissioners

Canada	United States of America
Paul Ryall	Chris Oliver
Neil Davis	Robert Alverson
Peter DeGreef	Richard Yamada

### Executive Director

David T. Wilson, Ph.D.

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Contact details:

International Pacific Halibut Commission  
2320 W. Commodore Way, Suite 300  
Seattle, WA, 98199-1287, U.S.A.  
Phone: +1 206 634 1838  
Fax: +1 206 632 2983  
Email: [secretariat@iphc.int](mailto:secretariat@iphc.int)  
Website: <https://www.iphc.int/>



## ACRONYMS

AM	Annual Meeting
CB	Conference Board
EEZ	Exclusive Economic Zone
FAC	Finance and Administration Committee
FISS	Fishery-independent setline survey
IPHC	International Pacific Halibut Commission
MCS	Monitoring, control and surveillance
MSAB	Management Strategy Advisory Board
MSE	Management Strategy Evaluation
NGO	Non-governmental organisation
PAB	Processor Advisory Board
PICES	North Pacific Marine Science Organization
PRIPHC01	1 <sup>st</sup> Performance Review of the IPHC
PRIPHC02	2 <sup>nd</sup> Performance Review of the IPHC
PSMA	Port State Measures Agreement
RAB	Research Advisory Board
RFMO	Regional Fisheries Management Organisation
SB	Spawning Biomass
SRB	Scientific Review Board
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
UNFSA	United Nations Fish Stocks Agreement
USA	United States of America
VME	Vulnerable Marine Ecosystem
VMS	Vessel monitoring system

## DEFINITIONS

A set of working definitions are provided in the IPHC Glossary of Terms and abbreviations: <https://www.iphc.int/the-commission/glossary-of-terms-and-abbreviations>

### HOW TO INTERPRET TERMINOLOGY CONTAINED IN THIS REPORT

This report has been written using the following terms and associated definitions so as to remove ambiguity surrounding how particular paragraphs should be interpreted.

- Level 1: RECOMMENDED; RECOMMENDATION; ADOPTED** (formal); **REQUESTED; ENDORSED** (informal): A conclusion for an action to be undertaken, by a Contracting Party, a subsidiary (advisory) body of the Commission and/or the IPHC Secretariat.
- Level 2: AGREED:** Any point of discussion from a meeting which the Commission considers to be an agreed course of action covered by its mandate, which has not already been dealt with under Level 1 above; a general point of agreement among delegations/participants of a meeting which does not need to be elevated in the Commission's reporting structure.
- Level 3: NOTED/NOTING; CONSIDERED; URGED; ACKNOWLEDGED:** General terms to be used for consistency. Any point of discussion from a meeting which the Commission considers to be important enough to record in a meeting report for future reference. Any other term may be used to highlight to the reader of an IPHC report, the importance of the relevant paragraph. Other terms may be used but will be considered for explanatory/informational purposes only and shall have no higher rating within the reporting terminology hierarchy than Level 3.



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## EXECUTIVE SUMMARY

The PRIPHC02 was carried out over the course of 2019 via three face-to-face meetings: one in Seattle, USA (4-6 June 2019), one in New York City, USA (25 August 2019) and one in Ottawa, Canada (7-11 October 2019). The Panel held several additional tele-conferences, both among themselves, and with stakeholders. The meeting was also supported by Independent Legal and Science Experts who each dedicated additional working days to providing technical reviews and reports on specific components of the review criteria relevant to their areas of expertise. The following are a subset of the complete recommendations from the PRIPHC02, which are provided at [Appendix III](#).

([para. 22](#)) The PRIPHC02 **CONGRATULATED** the Commission and Secretariat for the positive strides in response to the first performance review. Through the course of the consultations, document review and interviews, the panel saw consistent and significant improvements in transparency, availability and modernisation of documentation and background information, and heard resounding praise for this increased transparency and the movement away from previously “closed-door” and perceived “secretive” processes and decision-making.

### *Legal analysis of the IPHC Convention*

PRIPHC02–Rec.02 ([para. 33](#)) The PRIPHC02 **RECOMMENDED** to update the Convention, while in the interim period seek alternate mechanisms to implement international best practices and legal principles.

### *Science: Status of living marine resources*

PRIPHC02–Rec.03 ([para. 44](#)) The PRIPHC02 **RECOMMENDED** that opportunities to engage with western Pacific halibut science and management agencies be sought, to strengthen science links and data exchange. Specifically, consider options to investigate pan-Pacific stock structure and migration of Pacific halibut.

### *Conservation and Management: Data collection and sharing*

PRIPHC02–Rec.09 ([para. 73](#)) The PRIPHC02 **RECOMMENDED** that observer coverage be adjusted to be commensurate with the level of fishing intensity in each IPHC Regulatory Area.

### *Conservation and Management: Consistency between scientific advice and fishery Regulations adopted*

PRIPHC02–Rec.10 ([para. 82](#)) The PRIPHC02 **RECOMMENDED** that the development of MSE to underpin multi-year (strategic) decision-making be continued, and as multi-year decision making is implemented, current Secretariat capacity usage for annual stock assessments should be refocused on research to investigate MSE operating model development (including consideration of biological and fishery uncertainties) for future MSE iterations and regularised multi-year stock assessments.

PRIPHC02–Rec.11 ([para. 83](#)) The PRIPHC02 **RECOMMENDED** that ongoing work on the MSE process be prioritised to ensure there is a management framework/procedure with minimal room for ambiguous interpretation, and robust pre-agreed mortality limit setting frameworks.

### *Fishing allocations and opportunities*

PRIPHC02–Rec.12 ([para. 88](#)) The PRIPHC02 **STRONGLY URGED** the Commission to conclude its MSE process and **RECOMMENDED** it meet its 2021 deadline to adopt a harvest strategy.

### *International cooperation: Relationship to non-Contracting Parties*

PRIPHC02–Rec.22 ([para. 147](#)) The PRIPHC02 **RECOMMENDED** that if the full range of the Pacific halibut stock extends outside the Convention Area, the Contracting Parties invite collaboration with all parties involved in the harvest of this stock, to ensure science and management includes accurate data regarding all removals from the stock.



## 1. INTRODUCTION

1. At the 93<sup>rd</sup> Session of the International Pacific Halibut Commission (IPHC) Annual Meeting (AM093) held in January 2017, the Commission considered how best to move forward with a 2<sup>nd</sup> Performance Review of the IPHC (PRIPHC02). As a result, the Commission requested that the IPHC Secretariat finalise performance review terms of reference and criteria, as well as provide a proposed process and budget to conduct the review. The Commission subsequently adopted the terms of reference, criteria, process, and budget to conduct the PRIPHC02 at its 94<sup>th</sup> Session (AM094) in January 2018, with the intention of implementing it in 2018 and 2019.
2. The Terms of Reference, criteria, and process to conduct the PRIPHC02 is provided at [Appendix I](#).
3. The PRIPHC02 **AGREED** to modify the criteria described in [Appendix I](#) to provide an improved review by organisational area and structure. The modification is of a technical nature and has no impact on the substance of the criteria. This involved the following modifications that are reflected in the structure of this report:
  - a) Separate Criteria 3 into two sections: 1) Science - Status of living marine resources and Quality and provision of scientific advice; 2) Conservation and management - Data collection and sharing; Consistency between scientific advice and fishery regulations adopted; Compatibility of management measures; and Fishing allocations and opportunities; and
  - b) Rename Criteria 5 (Decision-making and dispute settlement) to “Governance” and to move “Transparency” from Criteria 6 (International cooperation) to this new Criteria (Governance).
4. The PRIPHC02 **AGREED** that each section should include an introductory paragraph providing context (and noting progress on addressing recommendations from the first review, if relevant) and framing the remaining section. Each sub-section should include the following four points:
  - a) Brief background, if required;
  - b) Areas for improvement;
  - c) Rationale for recommendations; and
  - d) Recommendations. Each section will, however, not be split into sub-sections.
5. The PRIPHC02 **NOTED** that some recommendations are repeated as they apply to more than one set of considerations. It is expected that the Commission, in considering this report, would look at the recommendations as an ensemble but remain in each section as pertinent to the understanding and alignment of the recommendations with the PRIPHC02 discussions.

### *1.1 Composition of the Review Panel*

6. The PRIPHC02 Panel consisted of the following seven (7) members. The IPHC Executive Director facilitated the process. A short biography for each are provided at [Appendix II](#):
  - Chairperson: **Mr Terje Løbach** (Norway).
  - Contracting Parties: **Dr Robert Day** (Canada); **Ms Staci MacCorkle** (United States of America).
  - Science Advisor: **Dr Kevin Stokes** (New Zealand).
  - Regional Fishery Management Organisations: **Mr Peter Flewwelling** (North Pacific Fisheries Commission); **Mr Jeongseok Park** (North Pacific Anadromous Fish Commission).
  - Non-Governmental Organisations: **Ms Amanda Nickson** (The Pew Charitable Trusts).
  - IPHC Secretariat: **Dr David T. Wilson** (Facilitator).



## 1.2 Process for undertaking the 2<sup>nd</sup> Performance Review of the IPHC

7. The PRIPHC02 was carried out over the course of 2019 via three face-to-face meetings: one in Seattle, USA (4-6 June 2019), one in New York City, USA (25 August 2019) and one in Ottawa, Canada (7-11 October 2019). The Panel held several tele-conferences, both among themselves, and with stakeholders as detailed below. The meeting was also supported by Independent Legal and Science Experts who each dedicated additional working days to providing technical reviews and reports on specific components of the review criteria relevant to their areas of expertise (papers [IPHC-2019-PRIPHC02-04](#) and [IPHC-2019-PRIPHC02-10](#)).
8. The PRIPHC02 utilised documentation and presentations provided by the IPHC Secretariat, as well as feedback from Contracting Parties, Commissioners, and officers of the Commission’s subsidiary bodies. During each discussion with these various group representatives, the PRIPHC02 pursued three basic themes:
  - a) Impressions on progress since the first review in 2012 (or, for those who may not have been engaged in the IPHC then, thoughts on engagement with IPHC to date);
  - b) View of the current status of the IPHC and the support/functioning of the IPHC Secretariat;
  - c) Thoughts about what is needed for the future of IPHC – from the Secretariat and/or other engagements.
9. The Contracting Parties were represented on the PRIPHC02, and thus, it was deemed to be the responsibility of that member to seek the views of the other stakeholders they represented, and to express those to the all members for consideration.
10. Additionally attempts were made to contact interested civil society organisations for their input on the same questions. This yielded limited success as there are relatively few civil society organisations engaged in Pacific halibut management issues, with the majority seemingly involved at a local level, rather than the national or international level. The limited input collected have been aggregated with other responses to maintain the anonymity of the responder.

## 2. BACKGROUND AND A BRIEF HISTORY OF THE IPHC

11. The IPHC is an intergovernmental organisation established by a Convention between Canada and the United States of America. The IPHC Convention was concluded in 1923 and entered into force that same year. The Convention has been revised several times since, to extend the Commission's authority and meet new conditions in the fishery (Bell 1969). The most recent change occurred in 1979 and involved an amendment to the *1953 Halibut Convention*. The amendment, termed a "protocol", was precipitated in 1976 by Canada and the United States of America extending their jurisdiction over fisheries resources to 200 miles. The 1979 Protocol along with the U.S. legislation that gave effect to the Protocol (Northern Pacific Halibut Act of 1982) has affected the way the fishery is conducted, and redefined the role of IPHC in the management of the fishery during the 1980s (Note: Canada did not require specific enabling legislation to implement the protocol).
12. In the United States of America, the IPHC is considered a “public international organization” and is entitled to particular privileges, exemptions, and immunities conferred by the International Organizations Immunities Act (22 U.S.C. Sec. 288). In 1987, the IPHC was granted 503(c) status as a not-for-profit organization.

### 2.1 Species, objective, and Convention Area

13. The IPHC is mandated to undertake research on, and management of, Pacific halibut (*Hippoglossus stenolepis*) occurring within Convention waters. The primary objective of the Commission, as provided in Article I, paragraph 2 of the IPHC Convention, “is to develop the stocks of [Pacific] halibut in the Convention waters to those levels which will permit the optimum yield from the fishery and to maintain



the stocks at those levels”. The IPHC Convention Area was divided into management units (IPHC Regulatory Areas) (Fig. 1), as prescribed in Annex I of the Convention to facilitate regionally-based management.

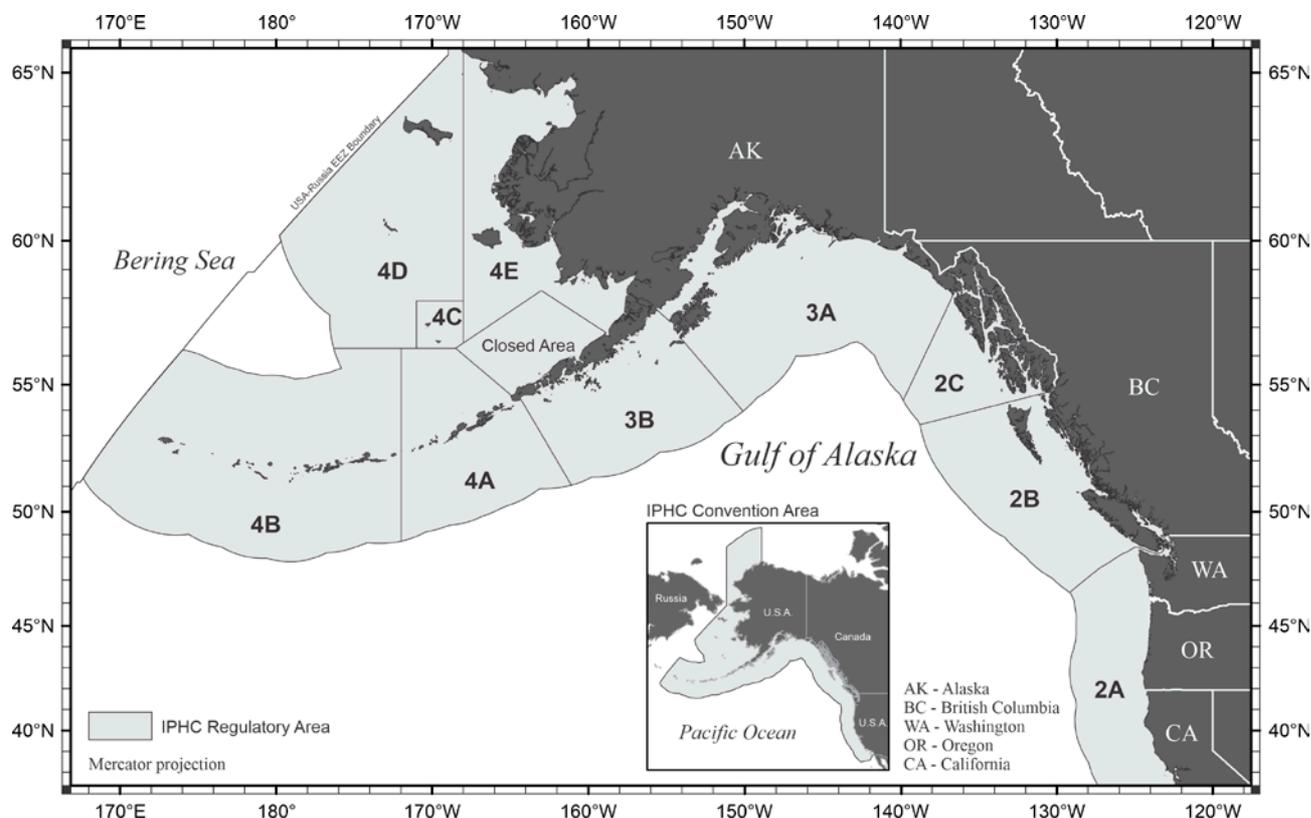


Fig. 1. IPHC Convention Area (insert) and division of IPHC Regulatory Areas.

## 2.2 Structure of the Commission

14. The Commission currently consists of six members, three appointed by each Contracting Party (the Governor General of Canada and the President of the United States of America), who serve their terms at the pleasure of the Contracting Party. In recent years, one Commissioner from each Contracting Party has been an employee of the federal fisheries agency, and two others involved in the fishery. The Commission has established five (5) Boards (Conference Board (CB); Management Strategy Advisory Board (MSAB); Processor Advisory Board (PAB); Research Advisory Board (RAB); Scientific Review Board (SRB)) and one (1) Committee (Finance and Administration Committee (FAC); Fig. 2) to provide advice. The Rules of Procedure for the subsidiary bodies are contained within the IPHC Rules of Procedure of the Commission. The Commission, including its Subsidiary Bodies, are supported by an Executive Director and Secretariat staff (Fig. 2).

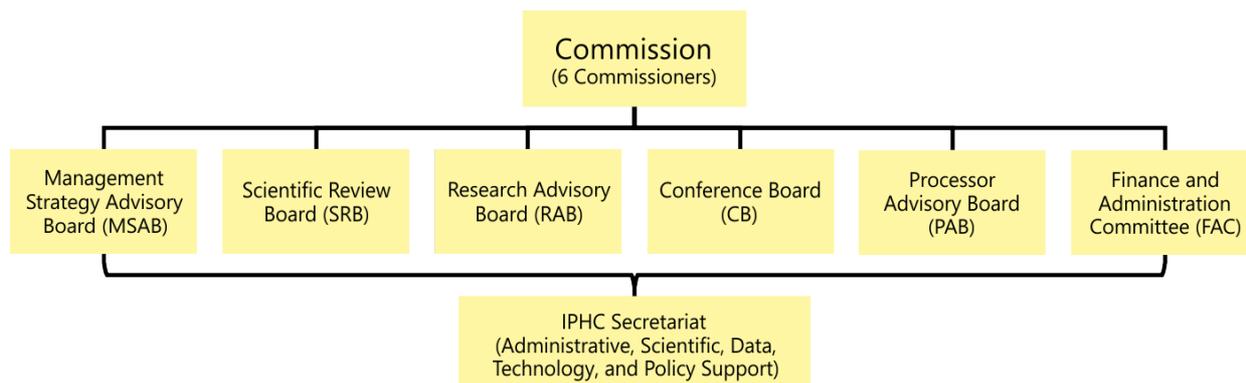


Fig. 2. Overall structure of the IPHC.



### 2.3 Basic texts of the IPHC

15. The basic texts of the IPHC are available from the IPHC website: <https://www.iphc.int/the-commission>:
- **Convention (1979)** - The Protocol amending the Convention for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea.
  - **Rules of Procedure (2019)** - The Rules of Procedure consist of rules and regulations adopted by the IPHC pursuant to the Convention between Canada and the United States of America.
  - **Financial Regulations (2019)** - The Financial Regulations govern the financial administration of the IPHC and were established pursuant to the Commission's Rules of Procedure.
  - **Pacific Halibut Fishery Regulations (2019)** - The Pacific halibut fishery Regulations published here are for information purposes only. Official regulations adopted by the Contracting Parties are available at the following web-links:
    - **Canada:** Canada Gazette and on the ‘Condition of License’;
    - **United States of America:** The Federal Register.

### 3. 1<sup>ST</sup> PERFORMANCE REVIEW OF THE IPHC

16. In response to calls from the international community for a review of the performance of Regional Fisheries Management Organisations (RFMOs), the IPHC agreed in 2011 to implement its first process of Performance Review. The IPHC contracted with CONCUR, Inc., a U.S.A.-based firm, to undertake the review. CONCUR performed its work independently of IPHC Commissioners and the IPHC Secretariat, and concluded its report to the Commission in April 2012.
17. In undertaking the Performance Review, the contractor relied on the following approaches to assess the IPHC’s work and practices, track effectiveness, and gauge the need for revised approaches:
- a) Conducting a set of 43 in-depth interviews with a representative and diverse set of stakeholders;
  - b) Observing the 2011 Interim and 2012 Annual Meetings and reviewing meeting background materials;
  - c) Reviewing practices at other RFMOs; and
  - d) Drawing on its professional judgment and experience.
18. In 2012, the contractor published a report outlining 12 recommendations (containing 39 parts) to improve the functioning of the IPHC ([McCreary & Brooks, CONCUR, Inc. 2012](#)).
19. In January 2014, the Commission issued a Progress Report, documenting the Commission’s response to the 1<sup>st</sup> IPHC Performance Review ([PERFORMANCE REVIEW 2012: A Progress Report](#)). At Interim and Annual Meetings since then, Contracting Parties have noted the status of implementation of each of the recommendations arising from the report of the 1<sup>st</sup> Performance Review of the IPHC (PRIPHC01). In the January 2014 progress report, the Commission noted that:

*“Performance reviews are an important tool to help ensure the Commission continues to fulfil its mission and maintain accountability to its stakeholders and community. The Commission has benefitted significantly from the 2012 performance review and intends to continue the work stemming from that review...”*

*“One fundamental best practice that stands out in the literature is the need to review performance on a regular basis. The Commission intends to make periodic performance reviews a regular feature of its operations. Future reviews may be structured as broad looks or as more focused evaluations, depending on conditions and developments at the time. They may be*



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*performed by internal or external reviewers. Key to a successful review program is to track all recommendations, actions, and outcomes, so that each review builds on its predecessors.”*

*“The Commission also continues to solicit comment and advice from stakeholders on its ongoing performance review process.”*

20. The PRIPHC02 **NOTED** paper [IPHC-2019-PRIPHC02-03](#), which included the recommendations arising from the 1<sup>st</sup> Performance Review of the IPHC (PRIPHC01). The associated responsibilities, timelines for implementation, priorities, and a brief summary of the actions taken in implementing the recommendations are also provided.
21. The PRIPHC02 **NOTED** that of the 39 parts of the 12 general recommendations from the first Performance Review, all were considered and only 4 were not addressed further due either to being in the legal mandate of the individual parties, e.g. greater involvement of Tribes and First Nations, or requiring reopening the Convention, e.g. expansion of the number of Commissioners and the Commission composition. One recommendation about the Commission structure was not accepted, that being the one to consolidate CB and PAB subsidiary bodies into one. Re-consideration of the latter decision for a partial merging of subsidiary bodies may have merit.
22. The PRIPHC02 **CONGRATULATED** the Commission and Secretariat for the positive strides in response to the first performance review. Through the course of the consultations, document review and interviews, the panel saw consistent and significant improvements in transparency, availability and modernisation of documentation and background information, and heard resounding praise for this increased transparency and the movement away from previously “closed-door” and perceived “secretive” processes and decision-making.
23. The PRIPHC02 **NOTED** that, following this increased transparency, there could be greater benefit derived from explicit clarity of the roles, responsibilities, and respective authorities of the Commission/Commissioners, the Secretariat, and the various subsidiary bodies.
24. The PRIPHC02 **NOTED** that there is some confusion among stakeholders regarding the authorities and responsibilities of the Commission/Commissioners versus the supporting Secretariat and associated subsidiary bodies. It became apparent that there is a need to further define the process for provision of information to Commissioners, and delineation of decision-making authority resulting from that provision of information. This would be consistent with international best practices reflecting the role of secretariats as the primary support to delivery of bi- and multi-lateral agreements and their decision-making bodies.
25. The PRIPHC02 **NOTED** that many of the structural and operational changes resulting from the first review were well received, however some of the interviewees had not realised the drivers and/or genesis of these changes. This highlights an opportunity and a need for increased information dissemination regarding the reason for changes in the organisation. While the majority of these changes have been welcomed, the pace and scale of the changes have been challenging for many longstanding stakeholders.
26. The PRIPHC02 **NOTED** that while there are continued opportunities for improvement and refinement, as outlined throughout this document, it should not be lost that immense strides have been made in modernising and improving the overall operation of the IPHC with respect to international best practice.

#### **4. LEGAL ANALYSIS OF THE IPHC CONVENTION**

27. The PRIPHC02 **NOTED** paper [IPHC-2019-PRIPHC02-04](#), which provided a legal analysis of the IPHC Convention, prepared by Mr Terje Løbach, against global best practice principles of fisheries management.
28. The PRIPHC02 **NOTED** that the legal review evaluated the *IPHC Convention between Canada and the United States of America for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea*, from an international fisheries legal framework point of view. Specifically, the legal analysis



documented deficiencies in the IPHC Convention in terms of international best practice and principles, as well as the protocols the IPHC follows in implementing its Convention.

29. The PRIPHC02 **NOTED** that while the IPHC was established in 1923 by the *Convention between Canada and the United States of America for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and the Bering Sea*, there have been several amendments, the most recent in 1979. Since then, several global instruments concerning the conservation and management of world fishery resources have been agreed, many of them containing obligations and principles relevant to transboundary fish stocks. The key legally binding instrument is the 1982 United Nations Convention on the Law of the Sea (UNCLOS), which provides the framework for all maritime activities, including conservation and utilisation of living marine resources. Among other treaties related to fishing, and relevant to the IPHC, are the 2005 UN Fish Stocks Agreement (UNFSA) and the 2009 FAO Port State Measures Agreement (PSMA). In addition, a series of soft-law instruments have been adopted. Those relevant in this context include the:

- 1995 FAO Code of Conduct on Responsible Fisheries (the Code of Conduct);
- 1999 FAO International Plan of Action for the Management of Capacity (IPOA-Capacity);
- 1999 FAO International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries (IPOA-Seabirds);
- 2001 FAO International Plan of Action to Prevent, Deter and Eliminate IUU Fishing (IPOA-IUU);
- 2010 FAO Guidelines on Bycatch Management and Reduction of Discards (the Bycatch Guidelines); and
- 2014 FAO Guidelines for Flag State Performance (the Flag State Guidelines).

30. The PRIPHC02 **NOTED** that:

- a) the UN General Assembly annually addresses fisheries issues, among other things calling upon States, individually or through RFMOs, to address specific topics in order to achieve sustainable fisheries. Likewise, several multilateral declarations, both ministerial and other, have called for specific actions to address conservation and management of fisheries and the ecosystem in which they take place. While UNCLOS, UNFSA and the PSMA entail legally binding obligations on their parties, all these other instruments are voluntary. They serve as guidelines/toolboxes for conservation and management of fisheries, including some specific options for states and RFMOs;
- b) the results of the Legal Analysis emphasised the fact that the IPHC Convention is outdated and not consistent with newer mandatory international legal instruments.

31. The PRIPHC02 **AGREED** that ‘best practice’ required the IPHC Convention to be updated given its deficiencies. However, it was also recognised that the process for updating the Convention would open additional areas for discussion and may result in a very lengthy process. Thus, the process of updating the Convention should be undertaken in parallel with other mechanisms that could be used to include the principles and components of the international legal instruments in the interim period, e.g. through Commission mechanisms.

### ***Recommendations***

32. The PRIPHC02 **RECOMMENDED** that consideration be given to updating the Convention at the next opportunity, to become consistent with newer international legal instruments, and specifically consider including the following elements:

- a) Incorporate a preamble setting forth the purpose of the Convention, and make references to relevant international instruments and principles (e.g. UNCLOS, the Code of Conduct and its action plans, etc.).



- 
- b) Incorporate an article for “Definitions,” thereby removing or reducing ambiguity in term usage and meaning.
  - c) Incorporate an article for “Objective” reflecting international standards for conservation and management of living marine resources.
  - d) Incorporate an article for “Area of application of the Convention,” including a detailed map, noting that the northern boundary of the Convention area is vague.
  - e) Include explicit language confirming that the Convention applies to all removals of Pacific halibut in the Convention waters by directed and non-directed fisheries, commercial, recreational, and other.
  - f) Specify the current species is Pacific halibut (*Hippoglossus stenolepis*), though other species of *Hippoglossus* could also be covered under the Convention should they be identified.
  - g) Incorporate an article for “General principles” to include references to long-term sustainability, science-based decisions, application of the precautionary approach, minimisation of harmful impact on the marine ecosystem, collection and sharing of data, and ensuring effective compliance, etc.
  - h) Maintain, but in a stand-alone article, the current provisions for continuation of the Commission, with all its assets and liabilities established by the 1923 Convention and subsequent revisions.
  - i) Consider whether elements of the current Rules of Procedure are better placed in the Convention or a Headquarters Agreement.
  - j) The functions concerning fishing set out in the Convention to be streamlined in a specific article, and to include the following additional functions:
    - i. adopt standards for collection and sharing of data;
    - ii. adopt measures for species belonging to the same ecosystem or dependent upon or associated with Pacific halibut;
    - iii. adopt measures to avoid, reduce and minimise waste, discards, catch by lost or discarded gear;
    - iv. adopt measures to prevent significant adverse impacts on VMEs; and
    - v. adopt measures to ensure effective monitoring, control and surveillance, as well as compliance.
  - k) Consider whether the establishment of the Commission’s subsidiary bodies be moved from the Rules of Procedure to the Convention.
  - l) Incorporate in the Convention a specific article dealing with administrative issues, such as to appoint a Director, to approve program of work, to approve budget, to adopt or amend rules of procedures, financial regulations and other internal administrative regulations.
  - m) Harmonise the decision-making provisions of the Convention and the Rules of Procedure, and incorporate those in a specific article of the Convention.
  - n) Expand the current text to also include obligations to provide national legal provisions related to measures adopted by the Commission, and submit reports on vessel activities at appropriate intervals.
  - o) Noting the adequate provisions in the Convention, the text should also contain follow-up actions by the flag state that include application of sanctions of sufficient gravity as to be effective in securing compliance, such as depriving offenders of benefits, and refusal, suspension, or withdrawal of authorisations.



- p) Consider establishment of a Compliance Committee for reviewing implementation of measures adopted by the Commission.
  - q) Incorporate in a specific article of the Convention general language concerning transparency.
  - r) Incorporate in the Convention a specific article, which in general terms states that in order to settle a possible dispute between Contracting Parties, concerning interpretation or implementation of the Convention, the parties shall consult by means they agree upon.
  - s) Incorporate an article on signature, ratification, acceptance and approval, stating who are entitled to become parties, as well as the timeframe for signature.
  - t) Incorporate an article stating when it enters into force, and conditions thereto.
  - u) Incorporate an article stating whether or not reservations or exceptions may be made.
  - v) Incorporate an article allowing parties to make statements or declarations that do not exclude or modify the legal effect of the provisions.
  - w) Incorporate an article making references to for example the UNCLOS concerning sovereign rights of coastal States as well as other possible relevant instruments.
  - x) Incorporate an article describing the amendment mechanisms such as time frames, communication, adoption and entering into force. If annexes or appendices are regarded as an integral part of the treaty, more flexible mechanism for those.
  - y) Incorporate an article describing possible withdrawal procedures.
  - z) Incorporate an article stating who will be the depository government as well as its obligations and functions.
33. The PRIPHC02 **RECOMMENDED** to update the Convention, while in the interim period seek alternate mechanisms to implement international best practices and legal principles.

## 5. SCIENCE

34. The PRIPHC02 **NOTED** paper [IPHC-2019-PRIPHC02-05 Rev 1](#), which provided information regarding the Performance Review Criteria 3: *Conservation and management (status of living marine resources; quality and provision of scientific advice; data collection and sharing; adoption of fishery Regulations, also known in other RFMO's as Conservation and Management Measures, including measures adopted at the national level; compatibility of fishery Regulations)*.
35. The PRIPHC02 **NOTED** paper [IPHC-2019-PRIPHC02-10](#), which provided an evaluation of the progress made on the recommendations arising from the first performance review of the IPHC related to science, and also to the criteria set forth with regards to the delivery and management of the science process and scientific advice to the Commission, prepared by Dr Kevin Stokes.
36. The PRIPHC02 **AGREED** that:
- a) progress against PRIPHC01 recommendations has been carefully considered and is impressive;
  - b) when considered across criteria related to peer review, relevance, integrity, objectivity and reliability, plus communication, the IPHC Secretariat science processes generally meet or exceed best practice standards;
  - c) the IPHC science capability and capacity is strong and trusted with a variety of strengths and few relative weaknesses, but with clear opportunity for improved communication to enable more effective stakeholder engagement.



### 5.1 Status of living marine resources

37. The PRIPHC02 **NOTED** that:

- a) the IPHC has developed a stock status report for Pacific halibut (*Hippoglossus stenolepis*), with the target audience being the general public and stakeholders;
- b) Pacific halibut is targeted by the Contracting Parties throughout the Convention Area, from the Bering Sea to the central California coast, as far as San Francisco Bay;
- c) In addition, the range extends into the waters of Russia and Japan (see <https://www.fishbase.se/summary/Hippoglossus-stenolepis.html>);
- d) Historically, the IPHC has estimated relatively low density of Pacific halibut in the northern Bering Sea, approaching the Exclusive Economic Zone (EEZ) boundary. This information, along with a modest fraction of the coastwide spawning biomass estimated to occur in the Bering Sea (5.2-13.9%), and no clear information regarding movement of fish across the northern Bering Sea from tagging studies, suggested low demographic exchange. Therefore, the EEZ is currently used as a stock boundary for the purposes of the stock assessment;
- e) Catches of Pacific halibut by Russian vessels operating in the Russian EEZ have ranged from 1,430 to 2,555 metric tons over the past 10 years, with an average annual catch of 1,960 mt. The highest catch reported to date was in 2013 (2,555 mt). A [Fishery Improvement Plan](#) is currently in development for the Russian fishery (<http://longline.ru/index.php/en/>) which should lead to greater transparency in landings;
- f) The Pacific halibut fishery is comprised of a number of sectors that target (directed fisheries) the species using hook and line and pot gear (demersal longline, traps/pots, recreational/sport, traditional hook and line), as well as incidental catch sectors (non-directed fisheries), that deploy demersal trawl, hook and line (troll, longline, etc.) and pots. Sablefish (*Anoplopoma fimbria*) is a common species caught while fishing Pacific halibut and vice-versa.
- g) Incidentally caught species such as rockfish (*Sebastes* spp.) are also caught by demersal longline gear targeting Pacific halibut, among other species listed under the U.S. Endangered Species Act (ESA) or the Canadian Species-at-Risk Act (SARA).

38. The PRIPHC02 **NOTED** that recent aggregate mortality estimates from all sources show that the directed commercial fishery represents the majority of the fishing mortality (Fig. 3). Mortality from all sources in 2018 was estimated to be 38.8 million pounds (~17,590 t), down 8% from 42.0 million pounds in 2017 (~19,050 t). Over the period 1919-2018 mortality has totalled 7.2 billion pounds (~3.2 million t), ranging annually from 34 to 100 million pounds (16,000-45,000 t) with an annual average of 63 million pounds (~29,000 t). Annual mortality was above this long-term average from 1985 through 2010 and was relatively stable near 42 million pounds (~19,000 t) from 2014-2017. Recent mortality estimates from all sources by individual IPHC Regulatory Area reveal that Area 3A has been the largest single source of mortality throughout the last five decades, but that Areas 3A and 3B represent a smaller fraction of the total in recent years than in previous decades. When mortality by source is compared among IPHC Regulatory areas, there are differing patterns in both the magnitude and distribution.

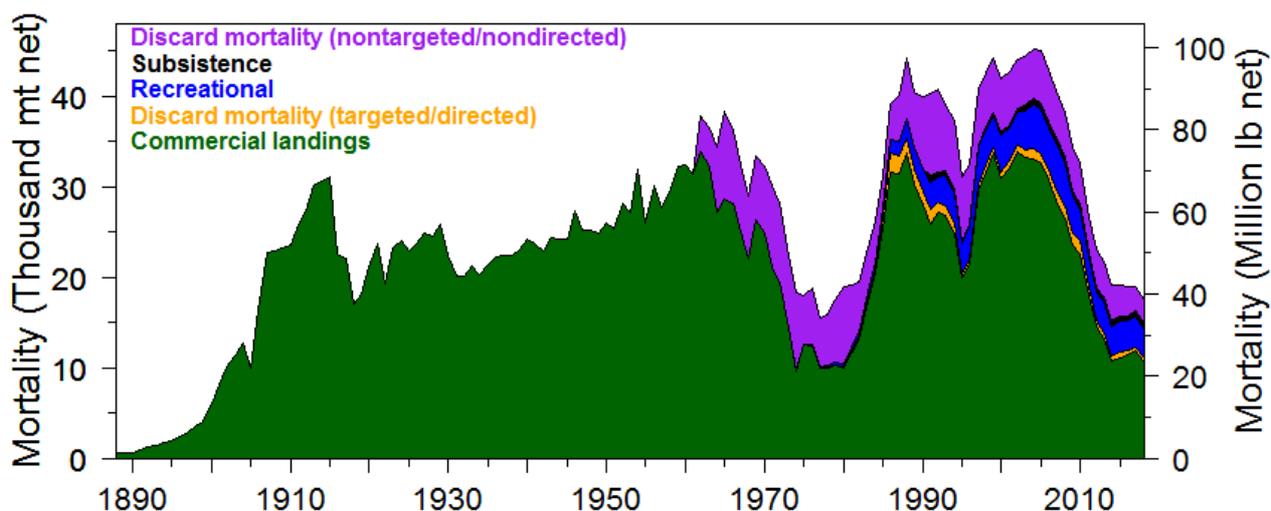


Fig. 3. Summary of estimated historical mortality by source since 1888-2018.

39. The PRIPHC02 **NOTED** that:

- a) stock structure of Pacific halibut is not known, and thus, populations are currently considered to constitute a single stock for assessment and management purposes. Investigations are currently underway to verify this assumption;
- b) the Commission's harvest strategy directive is to conserve population structure over at least four Biological Regions (2A-2B-2C, 3A-3B, 4A-4CDE, and 4B);
- c) in 2018, an ensemble of four (4) equally-weighted models, two long time-series models, and two short time-series models either using data sets by geographical region, or aggregating all data series into coastwide summaries, were applied to the Pacific halibut stock in the IPHC Convention Area, using the stock synthesis software. The results of the 2018 stock assessment indicate that the Pacific halibut stock declined continuously from the late 1990s to around 2011 (Fig. 4);
- d) the estimated female spawning biomass (SB) stabilised near 190 million pounds (~86,200 t) in 2011. The SB at the beginning of 2019 is estimated to be 199 million pounds (~90,300 t) ( $SB_{2019}/SB_0$ : 43% (27-63)), with an approximate 95% confidence interval ranging from 125 to 287 million pounds (~56,700-130,200 t);
- e) the stock is projected to decrease over the period from 2019-21 for all fishing mortality estimates greater than 20 million pounds (~9,070 t). At the 2018 mortality levels (37.2 million lb, ~16,900 t), the probability of at least a 5% decrease in stock size (from 2019 levels) increases from 30% (2020) to 79% (2022). The stock projection merits continued close monitoring under the precautionary approach to fisheries management.

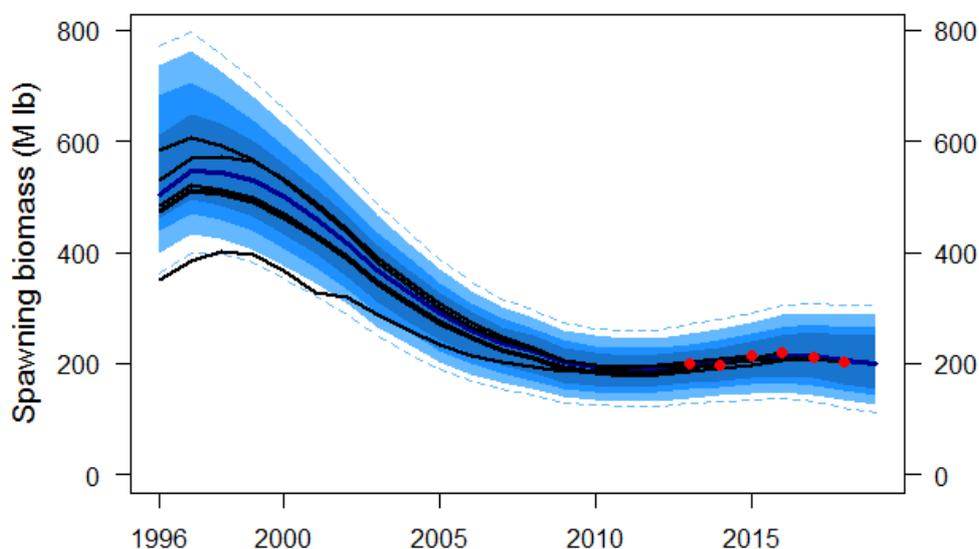
#### **Other species**

40. The PRIPHC02 **NOTED** that the IPHC Secretariat works closely with other organisations, and domestic agencies within each Contracting Party on non-target species in Pacific halibut fisheries. This collaboration includes work on marine mammal interactions, seabird interactions and other non-target species, including rockfish, spiny dogfish, sablefish, and Pacific cod. At present, the IPHC does not conduct specific bycatch research, but rather collaborates with domestic organisations by providing them with catches of other species during its annual Fishery-independent setline survey (FISS). The following link provides a data interactive for all species caught during the IPHC's FISS: <https://www.iphc.int/data/iphc-secretariat-data>.

41. The PRIPHC02 **NOTED** that in the independent review of the IPHC stock assessment (IPHC 2019), opportunities for liaison between the IPHC Secretariat and scientists working on western Pacific halibut should be explored and encouraged.



42. The PRIPHC02 **AGREED** that a lack of historical engagement between the IPHC and western Pacific halibut science and management agencies, may undermine the comprehensiveness of science carried out and advice provided. However, since 2017, efforts have been undertaken to build science relationships, the most notable recent engagement being a dedicated Pacific halibut workshop as part of the annual meetings of the North Pacific Marine Science Organization (PICES): <https://meetings.pices.int/meetings/annual/2019/pices/scope>.
43. The PRIPHC02 **NOTED** that Pacific halibut are distributed across the coastal North Pacific Ocean from Hokkaido (Japan) to California (United States of America) but life history and genetic studies to date are inconclusive as to distinction between western and eastern North Pacific stocks. More generally, opportunities for liaison between the IPHC Secretariat and scientists working on western Pacific halibut could be explored and encouraged.



**Fig. 4.** Retrospective comparison among recent IPHC stock assessments. Black lines indicate estimates of spawning biomass from assessments conducted from 2012-18 with the terminal estimate shown as a point, the shaded distribution denotes the 2018 ensemble: the dark blue line indicates the median (or “50:50 line”) with an equal probability of the estimate falling above or below that level; coloured bands moving away from the median indicate the intervals containing 50/100, 75/100, and 95/100 estimates; dashed lines indicating the 99/100 interval.

### **Recommendations**

44. The PRIPHC02 **RECOMMENDED** that opportunities to engage with western Pacific halibut science and management agencies be sought, to strengthen science links and data exchange. Specifically, consider options to investigate pan-Pacific stock structure and migration of Pacific halibut.
45. The PRIPHC02 **RECOMMENDED** that:
- further efforts be made to lead and collaborate on research to assess the ecosystem impacts of Pacific halibut fisheries on incidentally caught species (retained and/or discarded);
  - where feasible, this research be incorporated within the IPHC’s 5-Year Research Plan (<https://www.iphc.int/uploads/pdf/besrp/2019/iphc-2019-besrp-5yp.pdf>);
  - findings from the IPHC Secretariat research and that of the Contracting Parties be readily accessible via the IPHC website.



## 5.2 *Quality and provision of scientific advice*

46. The PRIPHC02 **NOTED** that the science and research activities conducted by the IPHC are directed towards fulfilling the following continuing objectives of the Commission:
- improving the annual stock assessment and quota recommendations;
  - developing information on current management issues (including stock structure, bycatch, and ecosystem impacts/solution); and
  - contributing to improve the knowledge of the biology and life history of Pacific halibut.
47. The PRIPHC02 **NOTED** that three Secretariat branches (Biological & Ecosystem Sciences Branch, Quantitative Sciences Branch, and Fisheries Statistics & Services Branch) work effectively together to ensure relevant research is conducted to support fundamental understanding of Pacific halibut but with a focus on the needs to inform stock assessment and management strategy evaluation (MSE).

### *Biological and Ecosystem Sciences Research*

48. The PRIPHC02 **NOTED** that since its inception, the IPHC has had a long-standing history of conducting research activities devoted to describing and understanding the biology and ecology of Pacific halibut.
49. The PRIPHC02 **NOTED** that biological research activities at the IPHC are guided by a 5-Year Research Plan, which is available on the IPHC website: <https://www.iphc.int/uploads/pdf/besrp/2019/iphc-2019-besrp-5yp.pdf>. At the present time, the main objectives of the Biological and Ecosystem Science Research Plan at the IPHC are to:
- identify and assess critical knowledge gaps in the biology of the Pacific halibut;
  - understand the influence of environmental conditions; and
  - apply the resulting knowledge to provide biological inputs and reduce uncertainty in the current stock assessment and management strategy evaluation models.
50. The PRIPHC02 **NOTED** that the successful pursuit of the objectives detailed in the 5-Year Research Plan is aligned with the Commission's strategic goals to position IPHC as a global leader in scientific excellence in support of science-based decision-making and to foster collaboration (within Contracting Parties and internationally) to enhance IPHC's science and management advice. Individual research projects and results are published in meeting papers of the IPHC's subsidiary bodies, in the scientific literature and on the IPHC website: <https://www.iphc.int/management/science-and-research/biological-and-ecosystem-science-research-program-bandesrp>.
51. The PRIPHC02 **NOTED** that an overarching goal of the 5-Year Research Plan is to promote integration and synergies among the various management-driven research activities implemented by the IPHC Secretariat in order to improve our knowledge of key biological inputs that feed into the stock assessment and MSE processes, which are directed by management needs. Typically, the IPHC Secretariat responds to the Commission's needs through new and continuing project proposals, designed to address key biological and management-related issues based on the IPHC Secretariat's input as well as input from the IPHC Commissioners, stakeholders and particularly from specific subsidiary bodies of the IPHC, including the SRB and the RAB.
52. The PRIPHC02 **AGREED** that IPHC's 5-Year Research Plan is wide ranging but focused on management needs. Analyses are well focused and are generally supported by sufficient documentation. Presentations to Commission meetings ([Interim and Annual Meetings](#)) are for the most part succinct and cover aspects of research pertinent to decision-making.

### *Stock Assessment*

53. The PRIPHC02 **NOTED** that the IPHC conducts an annual stock assessment, using data from the FISS, the commercial Pacific halibut and other fisheries, as well biological information collected under its 5-



yr Research Plan. The assessment includes the Pacific halibut resource in the IPHC Convention Area, covering the waters under national jurisdiction of Canada and the United States of America. Data sources are updated each year to reflect the most recent scientific information available for use in management decision-making. Stock assessment results are used as inputs for harvest strategy calculations, including mortality tables for the upcoming year that reflect the draft IPHC’s harvest strategy policy and other considerations, as well as the harvest decision table, which provides a direct tool for the management process. The harvest decision table uses the probability distributions from short-term (three-year) assessment projections to evaluate the trade-offs between alternative levels of potential yield (catch) and the associated risks to the stock and fishery. The most recent stock assessment files are available on each Annual Meeting page, as well as the Stock assessment page on the IPHC website: <https://www.iphc.int/management/science-and-research/stock-assessment>.

54. The PRIPHC02 **AGREED** that the IPHC Secretariat has strengthened its internal science capacity, and implemented rigorous science peer review processes since the PRIPHC01, and science is largely aimed at delivering relevant decision-support materials. The overall science support provided by the IPHC Secretariat is highly regarded by Commissioners, stakeholders, and internationally.
55. The PRIPHC02 **AGREED** that maintaining the existing, highly credible science capacity and capability of the IPHC Secretariat is crucial, while strengthening it as appropriate to meet specific future interests (e.g. in economics).

#### ***Harvest Strategy Policy and Management Strategy Evaluation***

56. The PRIPHC02 **NOTED** that the draft IPHC Harvest Strategy Policy provides a framework for applying a science-based approach to setting harvest levels for Pacific halibut within the Convention Area. It defines the biological and economic objectives of the Commission. It also identifies potential reference points for use in the harvest strategy to achieve the Commission’s stated objectives. This policy, together with the *Protocol amending the Convention between Canada and the United States of America for the preservation of the [Pacific] halibut fishery of the northern Pacific Ocean and Bering Sea (1979)*, provides the basis to manage the risk to Pacific halibut fisheries and the Pacific halibut population. The full document is available on the IPHC website: <https://www.iphc.int/the-commission/harvest-strategy-policy>.
57. The PRIPHC02 **NOTED** that at its 89<sup>th</sup> Annual Meeting in 2013, the Commission endorsed the development of a program of MSE for the Pacific halibut resource occurring within the Convention Area. In doing so, the Commission approved the formation of the MSAB. Appendix V of the IPHC Rules of Procedure (2019) define the role of the MSAB as follows (para. 1):
- “The primary role of the MSAB is to advise the Commission on the Management Strategy Evaluation (MSE) process”.*
58. The PRIPHC02 **NOTED** the latest progress and documents relating to the MSE process are located on the MSAB meeting pages. <https://www.iphc.int/library/documents/meeting-documents/iphc-meeting-index>. A brief overview of MSE is also provided at the following link: <https://www.iphc.int/management/science-and-research/management-strategy-evaluation>.
59. The PRIPHC02 **NOTED** that it is clear that considerable progress has been made with advancing the MSE through the MSAB with technical support from the IPHC Secretariat. It is recognised that the process is iterative (between science and management) and that the Commission is encouraged to ensure a coherent process is maintained among managers, scientists and stakeholders. This will help confirm recommendations on objectives and performance measures that need to be adopted by the Commission in order to advance the MSE itself and the consideration of a harvest strategy.

#### ***Science peer review and communication***

60. The PRIPHC02 **AGREED** that continued high-quality peer review through the SRB mechanism is required. The SRB mechanism is dependent on its membership, and by itself does not guarantee the



quality and credibility of IPHC science, but the current membership of the SRB is of a high calibre with complementary attributes; this standard should be maintained and strengthened as necessary.

61. The PRIPHC02 **AGREED** that the Secretariat scientific staff is highly skilled at communicating complex scientific information to IPHC stakeholders. Additional opportunities include:
- assisting subsidiary bodies to understand science and engage effectively in stakeholder processes such as through small planning meetings (onboarding) led by the IPHC Secretariat with participation of subsidiary body chairs, selected Commissioners and selected Secretariat staff; and
  - providing a simple graphical update of stock status for use by the Commission.
62. The PRIPHC02 **NOTED** that through the MSE process it is expected that reference points would be developed that would allow for a phase plot to be developed. This would allow for easier communication of important science information concerning the status of the stock.

### **Recommendations**

63. The PRIPHC02 **RECOMMENDED** that simplified materials be developed for RAB and especially MSAB use, including training/induction materials.
64. The PRIPHC02 **RECOMMENDED** that consideration be given to amending the Rules of Procedure to include appropriate fixed terms of service to ensure SRB peer review remains independent and fresh; a fixed term of three years seems appropriate, with no more than one renewal.
65. The PRIPHC02 **RECOMMENDED** that the peer review process be strengthened through expanded subject specific independent reviews including data quality and standards, the FISS, MSE, and biological/ecological research; as well as conversion of “grey literature” to primary literature publications. The latter considered important to ongoing information outreach efforts given the cutting-edge nature of the Commission’s scientific work.
66. The PRIPHC02 **RECOMMENDED** that the IPHC Secretariat develop options for simple graphical summaries (i.e. phase plot equivalents) of fishing intensity and spawning stock biomass for provision to the Commission.

## **6. CONSERVATION AND MANAGEMENT**

67. The PRIPHC02 **NOTED** paper [IPHC-2019-PRIPHC02-05 Rev 1](#), which provided information regarding the Performance Review Criteria 3: *Conservation and management (status of living marine resources; quality and provision of scientific advice; data collection and sharing; adoption of fishery Regulations, also known in other RFMO’s as Conservation and Management Measures, including measures adopted at the national level; compatibility of fishery Regulations)*.

### **6.1 Data collection and sharing**

68. The PRIPHC02 **NOTED** the following IPHC webpages that detail current formats, specifications, timelines for data submission, and sharing of data:
- IPHC Fishery Regulations: <https://www.iphc.int/the-commission/fishery-regulations/>
  - In-season landing reports: <https://www.iphc.int/data/landings-2019>
  - Overview of the fisheries: <https://www.iphc.int/management/fisheries>
  - Commercial Fisheries: <https://www.iphc.int/management/fisheries/commercial-fisheries>
  - Recreational Fisheries: <https://www.iphc.int/management/fisheries/recreational-fisheries>
  - Subsistence Fisheries: <https://www.iphc.int/management/fisheries/subsistence-fisheries>
  - Bycatch (non-targeted discard mortality): <https://www.iphc.int/management/fisheries/bycatch>



- h) Most recent fisheries summary provided at the annual IPHC meeting: <https://www.iphc.int/uploads/pdf/am/2019am/iphc-2019-am095-05.pdf>
- i) IPHC Data Confidentiality Policy and Procedures: <https://www.iphc.int/uploads/pdf/key-policies/iphc-data-use-and-confidentiality-policy.pdf>
69. The PRIPHC02 **NOTED** that the IPHC does not currently collect socio-economic data. However the Commission approved the staffing of a fishery economist position to commence in November 2019. This will be the first Fishery Economist position created within an RFMO globally. The primary duties assigned to this position are to:
- undertake and guide a broad economic study, including the identification of any knowledge gaps, of the Pacific halibut fishery;
  - advise on economic principles, compliance with IPHC guidance on economic issues, economic research, or the economic effects of proposed actions; and
  - prepare written analyses of the costs, benefits, and other impacts of proposed IPHC Fishery Regulations or policies on affected individuals and entities.
70. The PRIPHC02 **NOTED** that underpinning the credibility and utility of any models is trust in the quality of data. The IPHC Secretariat has made recommendations related both to estimates of discard mortality in directed and non-directed fisheries. The independent review of the stock assessment ([IPHC 2019](#)) comments on these in the context of the stock assessment and MSE. Further, during discussion with Commissioners, comments were made that reveal concerns about data quality as it relates to adequate observer coverage of non-directed fisheries in areas of higher fishing effort. Concerns have been expressed that this may undermine the integrity of the assessment.
71. The PRIPHC02 **NOTED** that generally all data used in developing advice are subject to scrutiny by Contracting Parties and the IPHC Secretariat. Methods used to analyse data are subject to extensive verification by developers and through collaborative usage. Notable amongst methods and software used is the stock assessment software (i.e. Stock Synthesis), which is subject to continuous and rigorous verification. Other statistical software used is subject to similar ongoing scrutiny through collaborative mechanisms. Verification of correct implementation is through internal collaboration and internal and external peer review. The annual IPHC stock assessment includes careful “bridging” analyses to check on potential influences of software changes.
72. The PRIPHC02 **NOTED** that:
- Non-representative scientific monitoring and data collection activities in the non-directed sector of the northern spawning areas and intense fishing in IPHC Regulatory Areas 3A, 3B, and 2C could have a negative impact on fishing opportunities for those participants further down the migration paths in Areas 2A and 2B;
  - deficiencies were observed in monitoring and data collection, most notably with respect to Pacific halibut discard mortality in non-directed fisheries, especially juveniles in IPHC Regulatory Area 4;
  - IPHC Regulatory Areas 4 and 3 are areas of lowest observer coverage and hence weakest monitoring, despite the significant Monitoring, Control and Surveillance (MCS) resources applied:
    - Observer coverage in the Bering Sea at 10%;
    - No observer coverage for vessels less than 40 feet; and
    - Gulf of Alaska (GOA) observer coverage at 7% in areas with highest fishing pressures.

### ***Recommendations***

73. The PRIPHC02 **RECOMMENDED** that observer coverage be adjusted to be commensurate with the level of fishing intensity in each IPHC Regulatory Area.



## 6.2 Consistency between scientific advice and fishery Regulations adopted

74. The PRIPHC02 **NOTED** that the documents and reports of the IPHC Annual Meetings provide the decision-support materials developed by the IPHC Secretariat, and the subsequent decisions of the Commission based on the advice received, are publically available on the IPHC website. The most recent three (3) years, and the current Fishery Regulations are linked below:
- 2019: <https://www.iphc.int/venues/details/95th-session-of-the-iphc-annual-meeting-am095>
  - 2018: <https://www.iphc.int/venues/details/94th-session-of-the-iphc-annual-meeting-am094>
  - 2017: <https://www.iphc.int/venues/details/93rd-session-of-the-iphc-annual-meeting-am093>
  - IPHC Fishery Regulations: <https://www.iphc.int/the-commission/fishery-regulations/>
75. The PRIPHC02 **NOTED** the draft IPHC Harvest Strategy Policy (<https://www.iphc.int/the-commission/harvest-strategy-policy>) is a draft document based on an amalgamation of current IPHC practices and best practices in harvest strategy policy. It is not intended to be a definitive policy, noting that the IPHC is yet to adopt a formal harvest strategy for Pacific halibut. It is expected that over the coming two years, the IPHC will develop and implement a harvest strategy, and that this policy document will then be updated accordingly.
76. The PRIPHC02 **NOTED** that the draft IPHC Harvest Strategy Policy provides an interim framework for applying a science-based approach to setting harvest levels for Pacific halibut within the Convention Area. In the 96-year history of the IPHC, a rebuilding plan has not been deemed required by the Commission. A process for developing a rebuilding plan has been incorporated in the draft IPHC Harvest Strategy Policy.
77. The PRIPHC02 **NOTED** that because the IPHC Secretariat provides decision-support materials for setting mortality limits rather than definitive advice, it is difficult to assess comprehensively or categorically whether there is consistency between scientific advice and management measures adopted by the Commission.
78. The PRIPHC02 **NOTED** that fishing mortality advice is provided via a risk framework. Under international best practice and application of the precautionary approach, scientific advice would comprise a recommendation toward the lowest risk of the stock falling below an agreed reference point. In the current situation at IPHC, where reference points have not formally been adopted with associated risk tolerance levels, assessment of what may be considered acceptable risk is left to interpretation. This is an area where conflict could arise between Contracting Parties, stakeholders, and partners.
79. The PRIPHC02 **NOTED** that the IPHC currently has high calibre, motivated Secretariat staff working on biological and ecosystem research, stock assessment, and MSE. The Secretariat staff work collaboratively within IPHC and with outside agencies. Comments made as part of the PRIPHC02 process signal high respect for, and trust in Secretariat staff. The current high level of trust is a function of processes per se but also of staff and staff leadership. No signals of staff dissatisfaction have been noted and staff retention and high calibre staff recruitment is critical to continued quality and trust by stakeholders and Commissioners.
80. The PRIPHC02 **NOTED** that the SRB provides a key function of peer review to ensure the relevance, integrity, objectivity and reliability of the science outputs. Ensuring continuity is critical though needs to be balanced against potential perceptions of the SRB as an internal, collegiate science advisory body. The recent strengthening of the SRB is a positive step and signal of Secretariat understanding and oversight of the processes that needs to be maintained. Nevertheless, the lack of a formal means of ensuring a balance between continuity and turnover of SRB membership is a risk that should be mitigated.
81. The PRIPHC02 **NOTED** the full benefit of MSE will be realised if the MSE-derived harvest strategy can be implemented for a reasonable time period, e.g. 7-10 years. This would reduce the demands for



annual decision support tools because annual decision-making, using the harvest strategy, would rely upon the modelled survey abundance indices.

### ***Recommendations***

82. The PRIPHC02 **RECOMMENDED** that the development of MSE to underpin multi-year (strategic) decision-making be continued, and as multi-year decision making is implemented, current Secretariat capacity usage for annual stock assessments should be refocused on research to investigate MSE operating model development (including consideration of biological and fishery uncertainties) for future MSE iterations and regularised multi-year stock assessments.
83. The PRIPHC02 **RECOMMENDED** that ongoing work on the MSE process be prioritised to ensure there is a management framework/procedure with minimal room for ambiguous interpretation, and robust pre-agreed mortality limit setting frameworks.

#### ***6.3 Compatibility of management measures***

84. The PRIPHC02 **NOTED** that UNFSA Article 7 provides that, without prejudice to the sovereign rights of coastal States over resources within areas under national jurisdiction, and the rights of all States to fish on the high seas, coastal States and States fishing on the high seas are required to “seek to agree” on the measures necessary for the conservation of straddling fish stocks in the adjacent high seas areas. These measures must be compatible with and not undermine the effectiveness of conservation and management measures adopted by coastal States within areas of their national jurisdiction “in order to ensure conservation and management of straddling fish stocks in their entirety”.
85. The PRIPHC02 **NOTED** that the range of Pacific halibut extends into the waters of Japan and Russia presuming that the highest annual catches are within the waters of Russia. There are no registered catches on the high seas (while acknowledging that there may be catches occurring in the high seas pocket between Russia and the Convention Area), and consequently UNFSA is currently considered not applicable, and the issue will be addressed under the section ‘International Cooperation: Relationship to non-Contracting Parties’.

#### ***6.4 Fishing allocations and opportunities***

86. The PRIPHC02 **NOTED** the previous challenges encountered by the Commission in setting fishing mortality levels and the process that the Commission has taken to agree on an allocation decision for 2019 and the next three years (for IPHC Regulatory Areas 2A and 2B).
87. The PRIPHC02 **NOTED** the substantial resources that the Commission has allocated to the MSE process since 2017.

### ***Recommendation***

88. The PRIPHC02 **STRONGLY URGED** the Commission to conclude its MSE process and **RECOMMENDED** it meet its 2021 deadline to adopt a harvest strategy.

## **7. COMPLIANCE AND ENFORCEMENT**

89. The PRIPHC02 **NOTED** paper [IPHC-2019-PRIPHC02-06 Rev 1](#), which provided information regarding the Performance Review Criteria 4: *Compliance and enforcement (flag State duties; monitoring, control and surveillance activities; port State measures; follow-up on infringements; cooperative mechanisms to detect and deter non-compliance; market-related measures)*.

#### ***7.1 Flag State duties***

90. The PRIPHC02 **NOTED** that the IPHC is unlike most RFMOs in that it is comprised of two Contracting Parties, with a focus on management of a single resource, Pacific halibut, which occurs for the most part within their EEZs. The IPHC was established in 1923 and the update of its Convention in 1979 precludes the formal ideas of flag State responsibilities to control fisheries activities on the high seas under



UNCLOS and UNFSA by several years. Noting the age of IPHC, the bilateral arrangement and focus on operations within the two EEZs, the concept of flag State responsibilities to control their flag vessels when operating on the high seas may not be relevant in this situation, however the general principles can be assessed noting the basic responsibilities addressed under UNFSA Article 18 paragraph 3 and in the Code of Conduct for Responsible Fisheries, Article 8.2, and the IPHC actions with respect to use of these principles within the EEZs of each Contracting Party.

91. The PRIPHC02 **NOTED** the relevant principles of flag State duties include:

- a) control of such vessels by means of fishing licenses, authorisations or permits with terms and conditions for fishing operations;
- b) establishment of regulations requiring carriage of licenses, production on demand, etc.;
- c) requirements for marking of fishing vessels and fishing gear;
- d) requirements for recording and timely reporting of vessel position, catch of target and non-target species, fishing effort and other relevant fisheries data in accordance with set standards for collection of such data;
- e) requirements for verifying the catch of target and non-target species through such means as observer programs, inspection schemes, unloading reports, supervision of transshipment and monitoring of landed catches and market statistics;
- f) monitoring, control and surveillance of such vessels, their fishing operations and related activities by, inter alia:
  - i. the implementation of national inspection schemes;
  - ii. the implementation of national observer programs; and
  - iii. the development and implementation of vessel monitoring systems, including, as appropriate, satellite transmitter systems, in accordance with any national programs: and
- g) regulation of fishing activities to ensure compliance with set measures.

92. The PRIPHC02 **AGREED** that IPHC Pacific Halibut Fishery Regulations (2019) address all these principles directly or in part, through either the IPHC regulations or through national regulations for individual flag State control of its fishing fleets. Consequently, although the idea of flag State responsibilities is meant for the high seas, the two Contracting Parties making up the Commission do apply the principles in their management regimes. Further, noting the adherence to the principles of flag State control measures, there are no suggestions for improvement and as the current regulatory actions of the Commission are consistent with the principles noted above, no further recommendations are required.

## **7.2 Port State measures**

93. The PRIPHC02 **NOTED** that the PSMA applies to vessels not entitled to fly the flag of the port State (i.e. foreign vessels), with two categories that may be exempted, namely vessels of a neighbouring state engaged in artisanal fishing for subsistence and particular container vessels that are not carrying fish, or if carrying fish, only fish that have been previously landed. It should be noted that application by a port State is not required to vessels chartered by nationals exclusively for fishing in their own zones. Such vessels shall be subject to measures by the Party which are as effective as measures applied in relation to vessels entitled to fly its flag. Further, the UNFSA Article 23 and the Code of Conduct for Responsible Fisheries, Article 8.3 focus on measures related to foreign vessels.

94. The PRIPHC02 **NOTED** that the Pacific halibut fisheries managed by the IPHC occur entirely within the EEZs of the two Contracting Parties, and all Pacific halibut are landed in ports of the two countries. Landings are almost exclusively in ports of the same country as the fishing vessel, the primary exception being the IPHC's own research catch, which may be landed in either country. Thus, although not stated



explicitly, the Convention effectively assigns the equivalent of Port State duties to the Contracting Parties to carry out with respect to their ports. Both Canada and the United States of America are parties to the PSMA.

95. The PRIPHC02 **NOTED** the current bilateral nature of this Commission, limits of its mandate to the activities within its EEZs, authorisation requirements, gear limitations, season limitations, Vessel Monitoring Systems (VMS), log books requirements, inspections and monitoring of landings, plus the plethora of enforcement agencies involved in at-sea and in port MCS activities as noted in their annual reports, it is suggested that the principles of PSMA are generally implemented, noting that the majority of landings are by domestic vessels at their Contracting Party ports.

### ***Recommendation***

96. The PRIPHC02 **RECOMMENDED** that Contracting Party enforcement agencies adopt common standards for assessment of implementation of the principles of port State measures.

#### ***7.3 Monitoring, control and surveillance (MCS)***

97. The PRIPHC02 **NOTED** that MCS measures are the individual responsibility of the IPHC Contracting Parties as part of their management of the fisheries and enforcement of regulations. A number of MCS measures are included in the IPHC Pacific Halibut Fishery Regulations (2019) at the request of the Contracting Parties for purposes of domestic management and enforcement.
98. The PRIPHC02 **NOTED** that the PRIPHC01 did not have any specific recommendations on MCS, although they did have recommendations regarding transparency, stakeholder engagement and the need to strengthen stock assessment processes and development of a long-term strategic plan for the fishery and enhanced involvement of the Commissioners in their leadership roles.
99. The PRIPHC02 **NOTED** the IPHC Fishery Regulations are reviewed and updated annually, including the implementation of mortality limits, partial VMS coverage, observers, data collectors, monitoring of landings, etc. These are all very positive steps to implementation of sustainable, ‘best practice’, management measures recognising that MCS is the implementing arm for fisheries management through two key approaches, ‘voluntary’ compliance strategies and ‘deterrent’ enforcement strategies.
100. The PRIPHC02 **NOTED** that the implementation of the management measures is the responsibility of each of the Contracting Parties. The common indicator of compliance trends for RFMOs to input into future management measures and the Compliance Monitoring Scheme is weak and appears to be segmented through the submission of 15 separate MCS reports (2 for Canada and 13 for the United States of America) with no integration or focus on what the results mean with respect to successful implementation.
101. **NOTING** the plethora of enforcement agency reports, especially from the USA, including significant duplication of data, the PRIPHC02 **AGREED** with the IPHC request for coordination of agency efforts to re-focus on an integration of MCS efforts for sustainable fisheries management, and coordination of efforts amongst MCS partner agencies.
102. The PRIPHC02 **AGREED** that the establishment of common standards and levels for monitoring, observers and data collection could greatly enhance the management process and ensure greater equity or balance in fishing opportunities for all areas and sectors.
103. The PRIPHC02 **NOTED** that some efforts on the ‘educational, voluntary compliance’ mechanisms to involve all participants, however the greater effort and focus appeared to remain on the ‘deterrent’ enforcement activities which are only one part of the MCS regime for sustainable management of the fisheries, and in fact, the last resort to ensure compliance. Earlier efforts on educational involvement and ‘voluntary compliance’ may assist in higher compliance levels, peer pressure for compliance and hence a better balance in the management regime for all participants.



104. The PRIPHC02 **NOTED** the pressures and negative impacts that limited MCS resources can have on monitoring and controlling the ‘derby style’ of management of the fishery in IPHC Regulatory Area 2A. This type of management scheme encourages fishers to take greater safety risks to participate in the fishery, consequently consideration might be given to alternate management processes.

***Recommendation***

105. The PRIPHC02 **RECOMMENDED** enhancement of coordination of MCS activities to result in a common, integrated enforcement report for each Contracting Party to facilitate assessment of compliance efforts, trends and input into management decisions.

106. The PRIPHC02 **RECOMMENDED** that the Commission re-assess the ‘derby-style’ fisheries management concept in operation in IPHC Regulatory Area 2A in terms of available resources, impact on validity of monitoring results, and safety of fishers, and amend the management processes, if and as necessary.

**7.4 Follow-up on infringements**

107. The PRIPHC02 **NOTED**:

- a) the “Contracting Party (by agency) Reports” prepared for the 95<sup>th</sup> Session of the IPHC Annual Meeting (AM095) for the most recent compliance monitoring and reporting: <https://www.iphc.int/venues/details/95th-session-of-the-iphc-annual-meeting-am095>;
- b) the level of effort on ‘voluntary’ compliance mechanisms by the Contracting Parties was not reported because most of the compliance reports provided only spatial/time commitments for ‘deterrent’ enforcement operations;
- c) that the Commission has not received any information on follow-up on the infringements reported;
- d) that at present, follow-up on infringements is left largely to each Contracting Party, independent of the other. However, there is a benefit in providing more transparency in this regard through consolidated National Reporting to the Commission. The Commission is currently developing a template for reporting in a consistent format annually;
- e) that efficiencies are likely to be gained by modifying the format and content for Contracting Parties reports to the Commission.

***Recommendations***

108. The PRIPHC02 **RECOMMENDED** that the IPHC request information regarding Contracting Party follow-up of infringements, to assist in determining the overall efficacy of MCS and enforcement activities. This would support best practices with respect to transparency.

109. The PRIPHC02 **RECOMMENDED** that the Commission improve the process of Contracting Party reporting to the Commission by aggregating individual agency reports into a consolidated, standardised, Contracting Party report to the Commission.

**7.5 Cooperative mechanisms to detect and deter non-compliance**

110. The PRIPHC02 **NOTED** that the IPHC relies on its Contracting Parties to detect and deter non-compliance as part of their domestic management of the fishery and enforcement of IPHC Fishery Regulations. This is generally carried out by each of the two Contracting Parties independently of the other because the fisheries they manage take place entirely within waters under their respective national jurisdictions.

**7.6 Market-related measures**

111. The PRIPHC02 **NOTED** it did not identify any need for consideration under this section.



## 8. GOVERNANCE

112. The PRIPHC02 **NOTED** paper [IPHC-2019-PRIPHC02-07 Rev 1](#), and paper [IPHC-2019-PRIPHC02-08 Rev 1](#) which provided information regarding the Performance Review Criteria 5: *Decision-making and dispute-settlement*, and an item from Criteria 6: *transparency*, respectively.

### 8.1 *Decision-making*

113. The PRIPHC02 **NOTED** that among other things, Article III, paragraph 1 of the IPHC Convention also includes a decision-making clause. All decisions of the Commission shall be made by concurring vote of at least two of the Commissioners of each Party. However, this is modified by Rule 11, paragraph 1 of the Rules of Procedure (2019), which states that as a general rule, decision-making in the Commission should be by consensus, defined to mean the absence of any formal objection made at the time the decision was taken. A voting procedure will be invoked if it appears that all efforts to reach consensus have been exhausted, and the decision will be made by voting as referred to in Article III, paragraph 1 of the Convention.

114. The PRIPHC02 **NOTED** that the IPHC Convention does not make reference to observer participation at IPHC meetings. However, according to Rule 6.2 of the Rules of Procedure 2019 meetings of the Commission may be open to observers and the general public. Rule 12 specifies the IPHC's relationship to observers and the general public, and states that all sessions of the Commission and its subsidiary bodies may be open to observers and the general public, unless the Commission decides otherwise. It may invite States, RFMOs and other relevant governmental and intergovernmental organisations and non-governmental organisations. The current position of the Commission is that all meetings are open to observers and the general public.

115. The PRIPHC02 **NOTED** that since the PRIPHC01, the Commission progressively decided to treat all meetings (Commission and its subsidiary bodies) as open unless specifically closed (sessions pertaining to personnel remain closed). All open sessions are also live webcast to the public and the web broadcast incorporates the ability to receive questions from and respond to the on-line audience. Audio recordings of all open sessions are also published on the website, and YouTube channels for the public record. For example, see the following two links, the first being for the 95<sup>th</sup> Session of the IPHC Annual Meeting, and the second being a sub-link to the audio recording from the same meeting posted on YouTube. The link is included in the 'Meeting results' of the AM095 page:

- a) AM095 meeting page: <https://www.iphc.int/venues/details/95th-session-of-the-iphc-annual-meeting-am095>
- b) YouTube link: <https://www.youtube.com/playlist?list=PLww0sbZpeo2dBacOa8qPmBQyOW0LkDvD1>

116. The PRIPHC02 **NOTED** that in session, all attendees, including observers and members of the public, as well as the webinar audience, are able to pose questions and have them answered by the Commission in two-way dialogue during the meeting. The Commission also directed the CB and PAB to open their meetings to the public from 2017. Thus, all IPHC subsidiary bodies are open to the public. In addition, meetings of the MSAB are webcast (one-way only), and the meetings of the MSAB, the SRB, and the RAB are recorded.

117. The PRIPHC02 **NOTED** that the Commission's Rules of Procedure have been updated three times since the PRIPHC01.

- a) IPHC Rules of Procedure (2014): Minor improvements made to clarify the functions of the Commission;
- b) IPHC Rules of Procedure (2017): Substantially updated by incorporating terms of reference and processes for subsidiary bodies. A requirement for review and revision every two (2) years; and



- c) IPHC Rules of Procedure (2019): Further revisions to refine the terms of reference and procedures the subsidiary bodies to reduce potential overlaps in mandate. In addition, a ‘code of conduct’ was added to guide the interactions of the subsidiary bodies. The decision making process in-session and also intersessionally are clearly defined in the IPHC Rules of Procedure (2019), Rule 11 – Decision making. <https://www.iphc.int/uploads/pdf/basic-texts/iphc-2019-rules-of-procedure.pdf>
118. The PRIPHC02 **NOTED** that from 2017, all documents for Commission and subsidiary body meetings are prepared in a standard format and posted at the IPHC website (<https://www.iphc.int/iphc-meetings>). Documents prepared for meetings are posted not later than 30 days in advance of the session, and a comprehensive meeting report is posted as efficiently as possible following each session. In addition to posting at the IPHC website, meeting results are published to stakeholders and the public via IPHC Media Releases and Circulars. (See the IPHC Documents webpage at <https://www.iphc.int/library/documents> for examples).
119. The PRIPHC02 **NOTED** that the IPHC operates on a regular annual meeting cycle, and since 2018, has operated on a three-year calendar of meetings, approved annually by the Commission. The timing of the IPHC annual meeting cycle, with major decisions made by the Commission in January or early February of each year, is geared to support the needs of the domestic regulatory processes for the Pacific halibut fisheries in both Contracting Parties. (see discussion in <https://www.iphc.int/uploads/pdf/am/2019am/iphc-2019-am095-22.pdf>).
120. The PRIPHC02 **NOTED** that accessibility to meeting materials and meetings is an area where the IPHC has demonstrated leadership among RFMOs globally.
121. The PRIPHC02 **NOTED** that all observer organisations and the general public are able to register and attend all IPHC meetings, via the meeting webpages. However, a clearer pathway and recognition of Observer organisations is needed.
122. The PRIPHC02 **NOTED** that IPHC decision-making is annual, based on objective and current science. The adoption of a consistent ensemble model approach to providing the scientific basis for decision-making has been welcomed. The move toward strategic decision-making and management based on MSE is an opportunity to strengthen science-based decision-making and to increase capacity for the annual stock assessment process.
123. The PRIPHC02 **NOTED** that the involvement of civil society organisations as contributors, stakeholders and partners at all levels of the management process is welcomed, however the Commission process lacks formal pathways for participation by observer organisations, particularly civil society representatives.

### ***Recommendation***

124. The PRIPHC02 **RECOMMENDED** that the IPHC Rules of Procedure be modified to include a clear category and recognition for observer organisations, which would be in addition to the general public.

### ***8.2 Dispute settlement***

125. The PRIPHC02 **NOTED** that each Contracting Party actively manages its fisheries in accordance with the IPHC Fishery Regulations (current IPHC Fishery Regulations 2019). However, the published Pacific Halibut Fishery Regulations are for information purposes only. Official regulations are adopted by the Contracting Parties, and are available at the following web-links:
- a) Canada: Canada Gazette and on the ‘Condition of License’: <http://www.dfo-mpo.gc.ca/acts-lois/regulations-reglements-eng.htm>
- b) United States of America: The Federal Register: <https://www.federalregister.gov/documents/2019/03/14/2019-04714/pacific-halibut-fisheries-catch-sharing-plan>



126. The PRIPHC02 **NOTED** that Contracting Parties may choose to object and thus not enact specific IPHC fishery regulations, and notify the other Party accordingly at the time the decision is made. As the IPHC currently acts in a bilateral context, consent by both parties is required to adopt a new regulatory measure. In instances where agreement is not reached, the parties will enter into an inter-sessional discussion process. Should agreement be reached intersessionally, the intersessional decision must be made by consensus of all 6 Commissions (while the current practice, that is not reflected in the Rules of Procedure). Alternatively, the decision is moved to the next session of the Commission for deliberation (ref. IPHC Rules of Procedure 2019, Rule 11, para. 5-10. At that point, only 2 Commissioners from each Contracting Party (4 in total) are required to be in favour in order for a decision to be adopted. The IPHC Rules of Procedure (2019) describe how the above process works. The Commission receives from each Contracting Party regular reports about management actions they have taken and the ensuing results, including data on removals in the directed and non-directed fisheries. Because they each directly manage the fisheries in their own waters, disputes or disagreements between the Contracting Parties tend to be focused on the annual decision-making process, in particular the setting of mortality limits (catch limits) for each IPHC Regulatory Area.

127. The PRIPHC02 **NOTED** that regulations adopted by the IPHC remain in force until changed or superseded by the Commission. The IPHC Convention requires that in session, “all decisions of the Commission shall be made by a concurring vote of at least two of the [three] Commissioners of each Party.” In the absence of such agreement, existing regulations remain in force, thus the operation of the fisheries is not hampered or restricted in the event the Commission fails to update regulations. The Commission strives to avoid this situation and it is rare, occurring only twice in the past 96 years.

### ***Recommendation***

128. The PRIPHC02 **RECOMMENDED** updating the rules of procedure to reflect intersessional decision making approaches.

#### ***8.3 Transparency***

129. The PRIPHC02 **AGREED** that the issue of transparency is two-fold – internal (i.e. whether decisions within IPHC are made in a transparent manner) and external (i.e. its relationship with other organisations and civil society). The first one is addressed under decision-making.

130. The PRIPHC02 **NOTED** that since 2017, all reports from meetings of the Commission and its subsidiary bodies are now required to be published within 15 days of the close of the respective meeting. This rule was included in the 2017 version of the IPHC Rules of Procedure. Since that time, time taken to publish IPHC meeting reports has continuously been reduced, with the most recent Report of the 95<sup>th</sup> Session of the IPHC Annual Meeting (AM095) being published on the same day that the meeting closed. At each subsequent session, an Actions Arising paper is published, detailing progress made during the inter-sessional period. In 2017, numerical tracking of actions was introduced for the first time, to facilitate tracking and reporting. An example from the recent AM095 meeting of the Commission: <https://www.iphc.int/uploads/pdf/am/2019am/iphc-2019-am095-03.pdf>. All papers for meetings of the Commission or its subsidiary bodies are required to be published 30 days prior to the commencement of a meeting. This rule has been adhered to for all meetings since it was introduced in the 2017 version of the IPHC Rules of Procedure. See Rule 8 – Order of Business, of the IPHC Rules of Procedure (2019).

131. The PRIPHC02 **NOTED** that the Commission has contracted separate independent peer reviews of the stock assessment, the most recent being in 2019. As for all IPHC reports, the independent stock assessment review is available online. It is debatable whether the Commission should additionally contract independent reviews on other matters. The SRB mechanism is in principle sufficient but while it is independent, it is also internalised and could potentially be perceived as institutionalised. Stakeholder, Commissioner and public trust may be enhanced by judicious contracting of occasional additional external peer reviews.



132. The PRIPHC02 **AGREED** that with respect to the MSE, timely review would be prior to finalisation and decision-making on implementation. Other areas for potential review are the FISS, specific biological and ecological research activities, and catch data quality and standards. Opportunities to publish in the primary literature could also be taken advantage of, providing a highly visible form of peer review.
133. The PRIPHC02 **AGREED** that the SRB could be more responsive and assist in strengthening internal engagement of members. Careful consideration is needed of the SRB role and whether it could be widened to serve such purposes. As mandated through the Rules of Procedure it has an independent, scientific peer review function. Any move to widen that function could undermine it and perceptions of independence. To meet best practice standards, a clear peer review mechanism is required. The current functioning of the SRB and occasional external review meets those standards.
134. The PRIPHC02 **NOTED** that less formally, the IPHC employs world-class analysts and biologists and exists in what might best be termed a fisheries Center of Excellence; Seattle provides a fertile ground for informal scientific peer review and the interactions between permanent IPHC scientists and the wider scientific northwest Pacific fisheries science community further ensure continuous scrutiny.
135. The PRIPHC02 **AGREED** that:
- IPHC Science processes are robust and implementation as evidenced by transparent documentation and reports is excellent with most improvements occurring after 2016;
  - Transparency is a strong attribute of all IPHC work, particularly since 2017. The scope and quality of science documentation is impressive. However, as is common in fisheries, the science products are generally restricted to “grey literature” documents. There is considerable opportunity for much of the IPHC science to be published in primary literature, providing further peer review and credibility but also motivation for Secretariat staff.
136. The PRIPHC02 **NOTED** the need for a visible and clear pathway for Observer participation, with specific input and feedback points at all key points in the management and governance process. The PRIPHC02 considers Observers to include “civil society” (e.g. those with an interest such as NGOs and other entities without financial stake in the fishery, but for whom input into the management of public resources is a component of their core business).

### **Recommendations**

137. The PRIPHC02 **RECOMMENDED** that the significant level of transparency achieved across Commission business continue to be improved.

## **9. INTERNATIONAL COOPERATION**

138. The PRIPHC02 **NOTED** paper [IPHC-2019-PRIPHC02-08 Rev\\_1](#), which provided information regarding the Performance Review Criteria 6: *International cooperation (relationship to non-Contracting Parties; cooperation with other RFMOs)*. Note that ‘transparency’ has been moved to Governance, above.

### **9.1 Relationship to non-Contracting Parties**

139. The PRIPHC02 **NOTED** that there are three non-Contracting Parties who exploit Pacific halibut, Russia, the Republic of Korea and Japan. Both the Republic of Korea and Japan harvest Pacific halibut as incidental catch. To date the IPHC has been unable to obtain landing figures. Russia has a longline fishery landing Pacific halibut in excess of 2,000 metric tons annually. The IPHC has engaged Russia both on a scientific and management/policy level in the past with mixed engagement success. Most recently it has engaged Russian scientists working on Pacific halibut through PICES. Russian managers and scientists intermittently participate in the IPHC process, an example being the 1993 Annual meeting, among others: <https://www.iphc.int/uploads/pdf/am/iphc-1993-am069-r.pdf>. The IPHC Secretariat



organised a joint scientific working group meeting on Pacific halibut at the PICES meeting in October 2019, including the participation of Russian and Japanese scientists, in addition to scientists from the Contracting Parties.

140. The PRIPHC02 **NOTED** that there are no vessels from non-Contracting Parties authorised to fish in the IPHC Convention Area. This is enforced by the Contracting Parties. Russia has previously fished in IPHC Convention Area under access agreements, however this arrangement was terminated in the 1980s.
141. The PRIPHC02 **NOTED** that the IPHC management processes currently focus solely on Pacific halibut in the waters under the national jurisdictions of the Contracting Parties, and appear to discount or ignore the harvests of the same Pacific halibut stock in the areas outside the Convention Area, thereby creating a risk in the application of ‘best practices’ for stock management. A possible ~13% of the annual mortality of Pacific halibut is harvested outside the IPHC Convention Area (i.e. by Russia, Japan, and, possibly, the Republic of Korea) and accurate data on these fisheries is not included in either the stock assessments or management strategies. This lack of attention to fishing outside the Convention Area creates an information gap and may bias any stock assessment exercises or management efforts to an unknown degree.
142. The PRIPHC02 **NOTED** that pursuant to Article 63, paragraph 1 of UNCLOS that where the same stock occurs within the EEZ of two or more coastal States, these States shall seek to agree upon measures necessary to coordinate and ensure that coordination and development of such a stock. As IPHC has in place a management system that implements this obligation for two coastal States, it would seem appropriate that IPHC reaches out to relevant additional coastal States in order to find suitable cooperative arrangements within the obligations set out in UNCLOS.
143. The PRIPHC02 **NOTED** that although catches had been registered by Russia, Japan, and the Republic of Korea, it is a question to whether the magnitude of the catches in all three countries’ waters falls within a definition of the word “occurs” referred to in Article 63, paragraph of UNCLOS. The catches in Russian waters show, however, that Pacific halibut occurs in Russian waters.
144. The PRIPHC02 **RECOGNISED** that UNFSA is not applicable for the management of transboundary fish stocks, Article 17 contains a principle that could be noted; i.e. that a non-member of an RFMO, which not otherwise agree to apply the conservation and management measures established by such an RFMO is not discharged from the obligation to cooperate in accordance with UNCLOS.
145. The PRIPHC02 **NOTED** that best practices for sustainable management of fisheries and ecosystems requires access to all information about removals and impacts of such harvesting on the stock and ecosystem over the full geographic range of the stock.

### ***Recommendations***

146. The PRIPHC02 **RECOMMENDED** that the Commission prioritise scientific work to confirm the full range of the Pacific halibut stock.
147. The PRIPHC02 **RECOMMENDED** that if the full range of the Pacific halibut stock extends outside the Convention Area, the Contracting Parties invite collaboration with all parties involved in the harvest of this stock, to ensure science and management includes accurate data regarding all removals from the stock.

### ***9.2 Cooperation with other RFMOs (and other international bodies)***

148. The PRIPHC02 **NOTED** that the Secretariat regularly interacts with other RFMOs in a number of forms. This includes with the International Fisheries Commissions based in North America via annual joint meetings, and also via meetings of the IPHC Secretariat staff. The IPHC Secretariat also participates in the Regional Fishery Body Secretariats, PICES, and at COFI meetings, and the Executive Director is scheduled to convene a session on RFMO’s at the upcoming World Fisheries Congress 2020.



149. The PRIPHC02 **NOTED** that the IPHC works closely with the domestic agencies of the Contracting Parties, both at the Halibut Advisory Board in Canada, and the Fishery Management Councils in the USA.

- a) North Pacific Fishery Management Council (NPFMC): <https://www.npfmc.org/>;
- b) Pacific Fishery Management Council (PFMC): <https://www.pcouncil.org/>;
- c) Halibut Advisory Board (HAB): <https://www.pac.dfo-mpo.gc.ca/consultation/ground-fond/hab-ccf/index-eng.html>.

150. The PRIPHC02 **NOTED** the recent MOU that has been established between IPHC and PICES, as well as the workshop that will be undertaken at PICES on Pacific halibut. This approach is **ENCOURAGED** as it will provide a simplified process to bring together skilled science capacity from the North Pacific, and as with other fisheries management organisations (e.g. North Pacific Fisheries Commission), allows for discussions on broader ecosystem considerations including influence of changing ocean conditions.

### 9.3 Participation

151. The PRIPHC02 **NOTED** that participation was addressed in sections [8.1](#), [8.3](#), and [9.1](#).

## 10. EFFICIENCY AND TRANSPARENCY OF FINANCIAL AND ADMINISTRATIVE MANAGEMENT

152. The PRIPHC02 **NOTED** paper [IPHC-2019-PRIPHC02-09 Rev 1](#), which provided information regarding the Performance Review Criteria 7: *Efficiency and transparency of financial and administrative management*.

### 10.1 Availability of resources for IPHC activities

153. The PRIPHC02 **NOTED** that the documents related to each budget cycle, and the associated decisions of the Commission are provided in the Annual Meeting pages: <https://www.iphc.int/library/documents/meeting-documents/iphc-meeting-index>. The decisions of the Commission are contained within each Annual Meeting report. Intersessional budget related decisions are recorded in IPHC Circulars: <https://www.iphc.int/library/documents/category/circulars>. For example, recent intersessional decisions are provided in IPHC Circular 2019-010. Prior to 2017, the record keeping of decisions made and the associated supporting evidence are not well recorded. Since that time however, all documents are available to the public via each meeting page. An example of the most recent (2019) Annual Meeting documents and decisions are provided at: <https://www.iphc.int/venues/details/95th-session-of-the-iphc-annual-meeting-am095>.

154. The PRIPHC02 **NOTED** that, in addition to the readily available meeting records of financial information, the Secretariat is establishing a Business Continuity Plan in order to ensure memorialised institutional knowledge and capabilities.

155. The PRIPHC02 **NOTED** the importance of maintaining strong financial controls that are regularly audited. These controls would address both the Contracting Parties' assessed contributions and the revenue generated from the sale of fish from the FISS.

### Recommendation

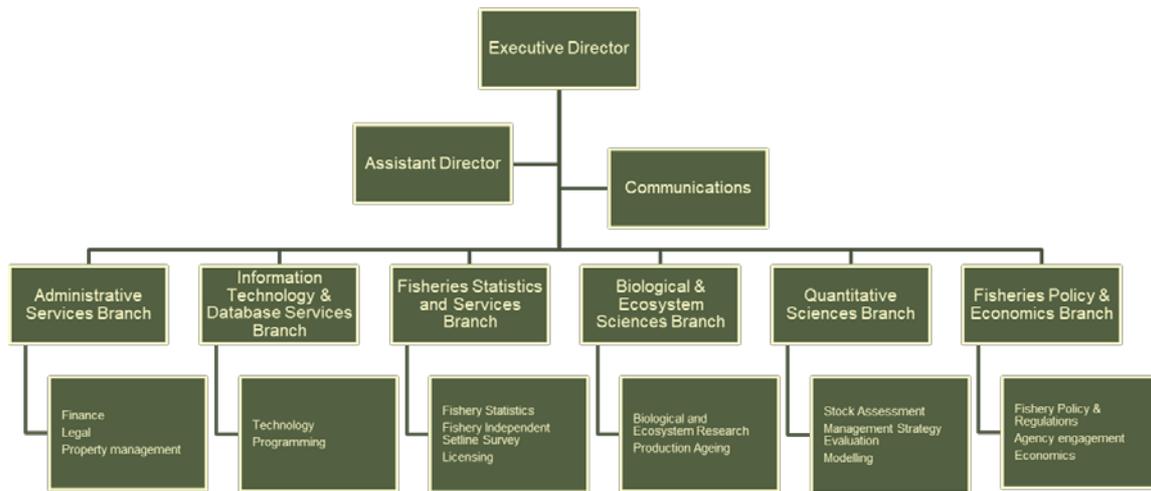
156. The PRIPHC02 **RECOMMENDED** the continued establishment of a Business Continuity Plan (BCP), which will serve to strengthen the long-term viability of IPHC Secretariat functioning and accountability, in line with best practices of an organisation of its size and breadth. Prioritising a financial and administrative BCP, with the ultimate goal of establishing a comprehensive BCP for the IPHC Secretariat as a whole.

### 10.2 Efficiency and cost-effectiveness

157. The PRIPHC02 **NOTED** that the IPHC currently employs 35 regular ongoing staff based in Seattle, WA, USA, and 32-40 seasonal staff. [Fig. 5](#) provides a schematic of the Secretariat's structure.



A directory of IPHC Secretariat, including staff bios, is provided at: <https://www.iphc.int/the-commission/secretariat-staff>.



**Fig. 5.** Schematic of the IPHC Secretariat's structure.

158. The PRIPHC02 **NOTED** that the IPHC undergoes an annual independent audit. The most recent of which is available on the IPHC website, annual meeting documents (linked below). The following text from the report of the 95<sup>th</sup> Session of the IPHC Annual Meeting (AM095), provides the Commissions current stance on the audits. [Annual independent auditor's report \(2017 & 2018\)](#)

159. The PRIPHC02 **NOTED** the extent to which the IPHC Rules of Procedure and the IPHC Financial Regulations comply with international best practice:

- a) [IPHC Rules of Procedure \(2019\)](#): The Rules of Procedure consist of rules and regulations adopted by the IPHC pursuant to the Convention between Canada and the United States of America;
- b) [IPHC Financial Regulations \(2019\)](#): The Financial Regulations govern the financial administration of the IPHC and were established pursuant to the Commission's Rules of Procedure.

160. The PRIPHC02 **AGREED** that the FAC by-and-large fulfils the Terms of Reference for the committee with one exception. Terms of Reference for the FAC call for a report to be prepared at the conclusion of each meeting and for the report to be transmitted to the Commission. The practice has been to conclude the meetings without a report because the FAC participants are, in fact, also the members of the Commission. However, there is a risk of incomplete capture of the FAC process.

161. The PRIPHC02 **AGREED** that there is a need to align the FAC process with those of all other subsidiary bodies.

### **Recommendation**

162. The PRIPHC02 **RECOMMENDED** the FAC produce a report detailing the actual FAC meeting and that the presentation of the report be incorporated into the Annual Meeting agenda and report, along with the final decisions of the Commission.

### **10.3 Advisory structure**

163. The PRIPHC02 **NOTED** that the Commission is advised by one (1) committee and five (5) boards, as illustrated in [Fig. 2](#). The IPHC Rules of Procedure (2019) describe the various terms of reference for each subsidiary body, as listed in Rule 14.

164. The PRIPHC02 **NOTED** that from a science process and advisory perspective, the IPHC is unusual in that opportunities are provided for stakeholder engagement during all stages. Informally, Secretariat staff are in frequent contact while sampling or visiting ports and during the extensive annual FISS, which typically contracts 14-18 vessels each year from the Contracting Parties. Formally, both the RAB (see



e.g.: <https://www.iphc.int/uploads/pdf/rab/2019/iphc-2019-rab020-r.pdf>) and the MSAB (see also Recommendation 8, and e.g.: <https://www.iphc.int/uploads/pdf/msab/msab13/iphc-2019-msab013-r.pdf>), are standing bodies with multi-sector representation, clear mandates set out by the Commission, and operating under the IPHC Rules of Procedure (see: <https://www.iphc.int/the-commission>), which include clear terms of reference for each Board. The RAB meets annually and the MSAB meets twice a year. The RAB mandate provides opportunity to make inputs directly to the Secretariat in the development of research plans and also directly to the SRB, itself mandated in the Rules of Procedure, as well as reporting to the Annual Meeting alongside the RAB, MSAB and other subsidiary boards. All RAB, MSAB and SRB activities are transparent. Materials provided to the meetings and meeting reports are all available online. The MSAB provides critical input to the development and testing of management strategies with direct consequences for future harvest strategies and fishing opportunities. The SRB provides independent scientific peer review of all science-related matters including review of recommendations from the RAB and MSAB.

### ***Recommendations***

165. The PRIPHC02 **RECOMMENDED** that when revisiting PRIPHC01 Recommendation 3.1 on unifying subsidiary bodies, treat the CB and PAB as non-science process and maintain separated RAB and MSAB at least until the 2021 adoption and implementation of a new management strategy.
166. The PRIPHC02 **RECOMMENDED** that continued support for high quality stakeholder engagement through the science-focused subsidiary bodies (RAB and MSAB) or any future subsidiary bodies be maintained.

## **11. CONCLUDING COMMENTS**

167. In conclusion, the PRIPHC02 reiterates its praise for the progress made since the last review. The recommendations contained herein provide ample opportunity to continue building on and refining this progress. It is noteworthy that, throughout this review and deliberation, the following themes emerged, prompting robust discussions:
- Roles and responsibilities among the Commission, Secretariat and subsidiary bodies;
  - The importance of the results of the MSE process as a tool for multi-year management;
  - Data from the full geographic range of Pacific halibut, including consideration that the stock may stretch all the way to the Republic of Korea;
  - Concerns about the non-directed fishery mortality data; and
  - Changing ocean dynamics and the impact on future management.
168. The PRIPHC02 members are grateful for the opportunity to participate in this valuable exercise.
169. The PRIPHC02 **ADOPTED** the report of the 2<sup>nd</sup> Performance Review of the IPHC (IPHC-2019-PRIPHC02-R), including the consolidated set of Recommendations provided in [Appendix III](#), on 11 October 2019.



## APPENDIX I

### TERMS OF REFERENCE, CRITERIA, AND PROCESS TO CONDUCT THE 2<sup>ND</sup> PERFORMANCE REVIEW OF THE IPHC

#### 1. Terms of reference for the implementation of the 2<sup>nd</sup> Performance Review of the International Pacific Halibut Commission (PRIPHC02)

##### 1.1 Scope of the review:

The review will evaluate progress made on the recommendations arising from the 1<sup>st</sup> performance review of the IPHC. In addition, it will focus on the effectiveness of the Commission to fulfil its mandate, in accordance with the criteria set forth below. In conducting the review, the strengths, weakness, opportunities and risks to the organisation shall also be evaluated.

##### 1.2 Composition of the Review Panel:

**Chairperson:** An independent Chairperson with legal fisheries background and a good understanding of Regional Fisheries Management Organisations (RFMO). The Chairperson should not be directly affiliated with any IPHC Contracting Party.

**Contracting Parties:** 1 representative of each IPHC Contracting Party.

**Science Advisor:** A science expert not affiliated with the IPHC Contracting Parties, and with expertise on groundfish and the ecosystems affected by Pacific halibut fisheries.

**RFMOs:** At least two members from other Regional Fisheries Management Organisations: e.g. Inter-American Tropical Tuna Commission (IATTC), North Pacific Fisheries Commission (NPFC), North Pacific Anadromous Fish Commission (NPAFC).

**NGOs:** Two Non-Governmental Organisations: e.g. The Pew Charitable Trusts, Birdlife International (BL)).

**IPHC Secretariat:** The IPHC Secretariat will not be a part of the Review Panel but it will act as a facilitator of its activities, providing access to information and facilities that the Review Panel will require to conduct its work.

##### 1.3 Meeting locations:

At least two (2) in-person Review Panel meetings will take place, one in the USA (at the seat of the Commission in Seattle or in Alaska) and one in Canada (location to be decided by Canada). Contracting Parties will cover the costs associated with the participation of their representative. However, the attendance of other Panel Members to the Review Panel meetings shall be funded under the Commission's budget. Additional meetings may be required, as determined by the Panel, and will be conducted via electronic means facilitated by the IPHC Secretariat.

##### 1.4 Work schedule

The report of the Review Panel will be completed and made available no later than 30 days prior to the 96<sup>th</sup> Session of the IPHC Annual Meeting (AM096) in 2020, and published on the IPHC website so as to maximise transparency.

#### 2. Criteria for the 2<sup>nd</sup> Performance Review of the International Pacific Halibut Commission (PRIPHC02)



**Criteria 1: 1<sup>st</sup> Performance Review:** to evaluate progress made on the implementation of the recommendations arising from the 1<sup>st</sup> performance review of the IPHC

**Criteria 2: Legal analysis of the Convention** to ensure its adequacy relative to current global best practice principles of fisheries management

**Criteria 3: Conservation and management** (status of living marine resources; quality and provision of scientific advice; data collection and sharing; adoption of fishery Regulations, also known in other RFMO's as Conservation and Management Measures, including measures adopted at the national level; compatibility of fishery Regulations)

- i. Status of living marine resources
  - Status of Pacific halibut stock under the purview of the IPHC in relation to relevant biological standards.
  - Trends in the status of the stock.
  - Status of species that belong to the same ecosystems as, or are associated with or dependent upon, Pacific halibut (hereinafter “non-target species”).
  - Trends in the status of non-target species.
- ii. Quality and provision of scientific advice
  - Extent to which the IPHC receives and/or produces the best scientific advice relevant to the fish stocks and other living marine resources under its purview, as well as to the effects of fishing on the marine environment.
  - Extent to which the IPHC obtains and evaluates scientific advice, reviews the status of the stock, promotes the conduct of relevant scientific research and disseminates the results thereof.
- iii. Data collection and sharing
  - Extent to which the IPHC has agreed formats, specifications and timeframes for data submission, taking into account UNFSA Annex I.
  - Extent to which IPHC Contracting Parties, individually or through the IPHC, collect and share complete and accurate fisheries data concerning target stocks and non-target species and other relevant data in a timely manner.
  - Extent to which fishing data and fishing vessel data are gathered by the IPHC and shared among Contracting Parties and other relevant bodies.
  - Extent to which the IPHC is addressing any gaps in the collection and sharing of data as required.
  - Extent to which the IPHC has set standards for the collection of socio-economic data from the fisheries; and extent to which this information is used to inform decisions by the Commission.
  - Extent to which the IPHC has set security and confidentiality standards and rules for sharing of sensitive science and operational/compliance data.
- iv. Consistency between scientific advice and fishery Regulations adopted;
  - Extent to which the IPHC has adopted fishery Regulations for both Pacific halibut, and proposed regulations for non-target species to relevant bodies, that ensure the long-term



sustainability of the ecosystem as well as of such stocks and species and are based on the best scientific evidence available.

- Extent to which the IPHC has applied the precautionary approach as set forth in UNFSA Article 6 and the Code of Conduct for Responsible Fisheries Article 7.5, including the application of precautionary reference points and harvest control rules.
  - Extent to which the IPHC has adopted and implemented effective rebuilding plans for depleted or overfished stocks.
  - Extent to which the IPHC has taken due account of the need to conserve marine biological diversity and minimise harmful impacts of fisheries on living marine resources and marine ecosystems.
  - Extent to which the IPHC has adopted measures to minimise pollution, waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species, and impacts on associated or dependent species, in particular endangered species, through measures including, to the extent practicable, the development and use of selective, environmentally safe and cost-effective fishing gear and techniques.
- v. Compatibility of management measures
- Extent to which measures have been adopted as reflected in UNFSA Article 7.
- vi. Fishing allocations and opportunities
- Extent to which the IPHC agrees on the allocation of allowable catch or levels of fishing effort, including taking into account requests for participation from new Contracting Parties or participants as reflected in UNFSA Article 11.

**Criteria 4: Compliance and enforcement** (flag State duties; monitoring, control and surveillance activities; port State measures; follow-up on infringements; cooperative mechanisms to detect and deter non-compliance; market-related measures)

- i. Flag State duties
- Extent to which IPHC Contracting Parties are fulfilling their duties as flag States under the Convention establishing the IPHC, pursuant to measures adopted by the IPHC, and under other international instruments, including, *inter alia*, the 1982 Law of the Sea Convention, and the UNFSA, as applicable.
- ii. Port State measures
- Extent to which the IPHC has adopted measures relating to the exercise of the rights and duties of its members as port States, as reflected in UNFSA Article 23 and the Code of Conduct for Responsible Fisheries Article 8.3 and the FAO Port State Agreement.
  - Extent to which these measures are effectively implemented.
- iii. Monitoring, control and surveillance (MCS)
- Extent to which the IPHC 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.
- iv. Follow-up on infringements



- Extent to which the IPHC Contracting Parties follow up on infringements to management measures.
- v. Cooperative mechanisms to detect and deter non-compliance
  - Extent to which the IPHC 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, joint patrols, common Minimum Terms and Conditions for access, harmonised regulatory mechanisms, boarding schemes, regional/compatible VMS equipment and operational criteria, observer schemes, with common training standards for inspectors and observers, intra-regional cooperation, etc.).
  - Extent to which these mechanisms are being effectively utilised.
  - Extent to which the IPHC has adopted new measures to foster (reward/penalise) compliance within IPHC and effectiveness of such measures.
- vi. Market-related measures
  - Extent to which the IPHC has adopted measures relating to the exercise of the rights and duties of its Members as market States.
  - Extent to which these market-related measures are effectively implemented.

**Criteria 5: *Decision-making and dispute settlement***

- i. Decision-making
  - Extent to which IPHC has transparent and consistent decision-making procedures that facilitate the adoption of management regulations in a timely and effective manner.
- ii. Dispute settlement
  - Extent to which the IPHC has established adequate mechanisms for resolving disputes among Contracting Parties.

**Criteria 6: *International cooperation*** (transparency; relationship to non-Contracting Parties; cooperation with other RFMOs)

- i. Transparency
  - Extent to which the IPHC is operating in a transparent manner, as reflected in UNFSA Article 12 and the Code of Conduct for Responsible Fisheries Article 7.1.9.
  - Extent to which IPHC decisions, meeting reports, scientific advice upon which decisions are made, and other relevant materials are made publicly available in a timely fashion.
- ii. Relationship to non-Contracting Parties
  - Extent to which the IPHC facilitates cooperation among Contracting Parties and non-Contracting Parties which exploit the Pacific halibut stock, including through the adoption and implementation of procedures for granting Cooperating Non-Contracting Party status.
  - Extent of fishing activity by vessels of non-Contracting Parties that are not cooperating with the IPHC, as well as measures to deter such activities.
- iii. Cooperation with other RFMOs



- Extent to which the IPHC cooperates with other RFMOs, including through the network of Regional Fishery Body Secretariats.
  - Extent to which IPHC works intra-regionally to adopt common regulatory principles, standards and operational schemes, and processes where appropriate, e.g. observer coverage, gear management, access rules and appropriate financial mechanisms.
- iv. Participation
- Extent to which all fishing entities active in the Convention area, and the stock range, discharge their obligations in line with the UNFSA.

**Criteria 7: *Efficiency and transparency of financial and administrative management***

- i. Availability of resources for IPHC activities
- Extent to which financial and other resources are made available to achieve the aims of the IPHC and to implement the Commission's decisions.
- ii. Efficiency and cost-effectiveness
- Extent to which the IPHC is efficiently and effectively managing its human and financial resources.
  - Extent to which the IPHC is managing its budget as well as its capacity to monitor and audit annual and multiannual expenditures.
  - Extent to which the IPHC Rules of Procedure and the IPHC Financial Regulations comply with international best practice.
- iii. Advisory structure
- Extent to which the IPHC has an adequate and effective set of subsidiary bodies which provide it with sound advice, and in accordance with best practice governance processes.



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## APPENDIX II COMPOSITION OF THE REVIEW PANEL

### Chairperson:

#### Mr Terje Løbach (Norway)



Terje Løbach is a lawyer, specialising in the law of the sea, in particular concerning marine living resources. He has been employed by the Norwegian fisheries authorities and the Norwegian foreign service. He has also been working at UN DOALOS and at the FAO Legal Office.

He has extensive experience in bilateral and multilateral negotiations, in particular concerning conservation and management of straddling fish stocks, but also general conservation and management issues including monitoring, control and enforcement, and he has been a major contributor to the fight against IUU fishing at regional and global levels. He has been Norway's representative to CCAMLR, FAO, ICCAT, IOC/ABE-LOS, NAFO, NEAFC, SEAFO and to the UN. He had the position as president of NAFO for four years and the chairperson of CCAMLR for two years.

He was the legal adviser and chair of both the first and second performance review panels of the IOTC, he was a member the first SEAFO performance review panel, and he was on the panel for the second NAFO performance review. He has also been selected to many FAO expert consultations, and he has contributed to several publications on the conservation and management of marine living resources and he has been speaker, chairperson, panellist or resource person at numerous conferences, symposia, seminars and workshops.

**Contact details:** Ovre Sandviksveien 29, 5034 Bergen, NORWAY, Mobile: +47 908 35 495, Email: [terje.lobach@fiskeridir.no](mailto:terje.lobach@fiskeridir.no)

### Contracting Parties:

#### Dr Robert Day (Canada)



Dr. Robert Day has worked at Fisheries and Oceans Canada since 2001 in the field of international fisheries and oceans management. He is currently the Director of International Fisheries Management with responsibility for overall support for Canada's fisheries where there is an international management regime. He has supported and been Head of Delegation to a number of RFMOs and also served as Canadian Commissioner to the IPHC in 2018. This includes his current role as Canada's HoD to the North Pacific Fisheries Commission (a new RFMO in 2014) and selection as inaugural chair of its Technical and Compliance Committee. Dr. Day has also led delegations to tuna RFMO

meetings and has actively supported the development of management strategy evaluation (MSE) on North Pacific albacore in the Northern Committee of the Western and Central Pacific Fisheries Commission.

He has co-chaired the ecosystem approach to fisheries working group as the fisheries representative in the Northwest Atlantic Fisheries Organization (cochaired with Science rep). This novel approach increased the ability for management and science to work collaboratively in a timely way while respecting individual roles.

**Contact details:** Director, International Fisheries Management, Department of Fisheries and Oceans Canada, 200 Kent St., Ottawa, On, K1A 0E6, +1-613-668-1907, Email: [Robert.Day@dfo-mpo.gc.ca](mailto:Robert.Day@dfo-mpo.gc.ca)



**Ms Staci MacCorkle** (United States of America)



Staci MacCorkle is a Foreign Service Officer with the U.S. Department of State. Her current assignment is with the Office of Marine Conservation (OMC) in the Bureau of Oceans and International Environmental and Scientific Affairs (OES). Ms. MacCorkle is the State Department Representative to three important bilateral fisheries agreements with Canada: the International Pacific Halibut Commission, the Pacific Salmon Commission along with the related Yukon River Panel, and the Pacific Hake/Whiting Advisory Panel. She also supports her OMC colleagues with the Department's engagement in the multilateral North Pacific Anadromous Fish Commission, the North Pacific Fisheries Commission, and the Bering Sea "Donut Hole" Convention. Prior to arriving in OES/OMC, Ms. MacCorkle was posted to the U.S. Embassy in Panama City, Panama, where she managed the environment, science, technology, and health ("ESTH") portfolio. Her first diplomatic posting was as a Consular Officer at U.S. Embassy Guatemala City.

Before joining the Department of State, Ms. MacCorkle was an environmental consultant in Portland, Oregon. She managed a variety of projects to determine their potential impacts to natural resources. Much of her project work was in support of federal, state, and local government projects that had the potential to alter the natural environment and/or set long-term management strategies for protected natural areas throughout the U.S. Pacific Northwest. Ms. MacCorkle continues to maintain her Project Management Professional credential.

**Contact details:** International Relations Officer, Office of Marine Conservation (OES/OMC), U.S. Department of State, Washington, D.C., U.S.A., 20520-7878, +1-202-647-3010, Email: [MacCorkleSK@state.gov](mailto:MacCorkleSK@state.gov)

**Science Advisor:**

**Dr Kevin Stokes** (New Zealand)



Kevin Stokes has worked at senior management levels in both the public and private sectors as a fisheries scientist, manager and advisor. He worked for the UK government for 15 years where he was responsible for all finfish monitoring, assessment and advice and worked extensively in Europe, serving as chair of the EC Scientific, Technical and Economic Committee for Fisheries (STECF) and as UK representative on the International Council for the Exploration of the Sea (ICES) Advisory Committee for Fisheries Management (ACFM), as well as chairing working groups and committees. He served on multiple UK research councils, led the UK scientific delegation to the International Whaling Commission (IWC) and served as UK Alternate IWC Commissioner for many years. Kevin worked as Chief Scientist for the New Zealand Seafood Industry Council (SeafIC) from 2000-2009, with responsibility for science policy and process as well as leading a consulting group drawing on diverse international expertise. Since 2009. He has worked internationally as an independent consultant.

He has worked on a wide range of fish, other marine species, and environmental issues and has provided advice nationally and internationally at senior governmental and ministerial levels, as well as to fishing, processing and retail industries, and to environmental NGOs. For the past ten years, he has worked as a private consultant in the general area of fisheries but extending to governance and wider advisory matters, and chairing and facilitating committees and processes. He is the current independent chair of the Extended Scientific Committee of the Commission for the Conservation of Southern Bluefin Tuna (CCSBT).

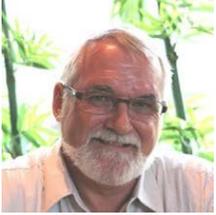
**Contact details:** 59 Jubilee Rd, Wellington 6035, New Zealand, Tel: +64-04-973-7305, Email: [kevin@stokes.net.nz](mailto:kevin@stokes.net.nz)



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### Regional Fishery Management Organisations:

#### Mr Peter Flewwelling (North Pacific Fisheries Commission)



Peter Flewwelling is a Canadian Fisheries and MCS Practitioner. Career 1 included 11 years in the British and Canadian Navy (Submarine Officer); Career 2 – starting in 1977 as a Canadian Fisheries and ICNAF Officer and 14 years later concluding as Acting Director, Regulations and Enforcement for Canada and Chief, Surveillance and Enforcement; Career 3, has been similarly rewarding with 27 years as an international fisheries advisor. Work experience has been in Asia/Pacific, Africa/Indian and Atlantic Ocean, Central and South Americas for World Bank, Asian Development Bank, UNDP, UNESCO, Norwegian Aid, CIDA, USAID, FAO for Fisheries and Disaster Recovery and Rehabilitation, and work with a few RFMOs: NAFO, IOTC, SWIOFC, WCPFC and now Compliance Manager for NPFC.

**Contact details:** Compliance Manager, NPFC, 2<sup>nd</sup> Floor Hakuyo Hall, Tokyo University of Marine Science and Technology, 4-5-7 Konan, Minato-ku, Tokyo, 108-8477 JAPAN, +81-3-5479-8717, Email: [pflewwelling@npfc.int](mailto:pflewwelling@npfc.int)

#### Mr Jeongseok Park (North Pacific Anadromous Fish Commission)



Jeongseok started working for the Korea Maritime Institute (KMI) as a fisheries researcher, where he studied Korean domestic fisheries issues, including socio-economic assessments and evaluations. In 2006, he joined the International Cooperation Division of the Ministry of Oceans and Fisheries (MOF) of the Republic of Korea. Over the last ten years, he represented the Korean government as a Fisheries Negotiator at international fisheries organisations, including the International Commission for the Conservation of Atlantic Tunas (ICCAT), Indian Ocean Tuna Commission (IOTC), North Pacific Fisheries Commission (NPFC), North Pacific Anadromous Fish Commission (NPAFC), International Whaling Commission (IWC), and other regional fisheries management organisations.

Jeongseok served as the Vice-Chairperson of the IOTC from May 2013 to January 2017. At NPAFC, he also served as Chairperson of the Committee on Enforcement from 2011 to 2014, and from 2014 to 2016 he was the Chairperson of the Committee on Finance and Administration. In May 2016, he was elected Vice President of NPAFC, and since February 2017, Jeongseok has joined the NPAFC Secretariat as Deputy Director.

**Contact details:** Deputy Secretary, NPAFC, Suite 502, 889 West Pender Street, Vancouver, BC, Canada, V6C 3B2, Phone: +1 604 775 5550, Email: [jpark@npafc.org](mailto:jpark@npafc.org)

### Non-Governmental Organisations:

#### Ms Amanda Nickson (The Pew Charitable Trusts)



Amanda Nickson directs Pew's international fisheries efforts to conserve important marine species through science-based policy development and advocacy. Her work includes reducing overfishing; minimising the impact of destructive fishing gear; and eliminating illegal, unreported, and unregulated fishing. She also helps lead advocacy efforts with regional fisheries management organisations, the international bodies that govern the treaties regulating commercial fishing on the high seas. Nickson's work also addresses the overfishing of other valuable marine species in international waters and helps to protect the ocean environment.

Before joining Pew, Nickson worked for the World Wildlife Fund, most recently directing international efforts to protect threatened charismatic species such as tigers, pandas, and marine turtles. She also developed and led WWF's Bycatch Initiative, a major policy and field program aimed at reducing the incidental catch of non-target species in fisheries in more than 20 countries throughout the world.

**Contact details:** Director - International Fisheries, The Pew Charitable Trusts, 901 E Street, N.W., Washington, DC 20004 USA, Phone: +1 202-540-6528, +1 202-674-9829, Email: [anickson@pewtrusts.org](mailto:anickson@pewtrusts.org)



**IPHC Secretariat:**

**Dr David T. Wilson** (Facilitator)



Dr Wilson joined the IPHC in mid-2016 as its Executive Director. Although originally from Australia, Dr Wilson spent the majority of his professional working life abroad. Most of this time has been spent in fisheries science institutional management and in developing and implementing multilateral arrangements for the conservation and management of highly migratory fish stocks, and shared fish stocks in the Pacific Ocean, Indian Ocean and Caribbean. My experience was largely gained while working at the Indian Ocean Tuna Commission (Deputy and Acting Executive Secretary); Australian Government

International Fisheries Science Head (Department of Agriculture, Forestry and Fisheries – Australian Bureau of Agricultural and Resource Economics and Sciences); Northern Fisheries Senior Manager at the Australian Fisheries Management Authority; Director of the Center for Marine Resource Studies in the Turks and Caicos Islands, and Fisheries Biologist with the Department of Marine and Wildlife Resources in American Samoa. Dr Wilson obtained my doctorate from James Cook University, Australia, in tandem with the Australian Institute of Marine Science, and the Smithsonian Tropical Research Institute in Panama.

**Contact details:** Executive Director, International Pacific Halibut Commission, 2320 W. Commodore Way, Suite 300, Seattle, WA, 98199-1287, U.S.A., Phone: +1 206-632-2983, Email: [david.wilson@iphc.int](mailto:david.wilson@iphc.int)



### APPENDIX III

## CONSOLIDATED SET OF RECOMMENDATIONS OF THE 2<sup>ND</sup> PERFORMANCE REVIEW OF THE INTERNATIONAL PACIFIC HALIBUT COMMISSION (PRIPHC02)

### *Legal analysis of the IPHC Convention*

- PRIPHC02–Rec.01 ([para. 32](#)) The PRIPHC02 **RECOMMENDED** that consideration be given to updating the Convention at the next opportunity, to become consistent with newer international legal instruments, and specifically consider including the following elements:
- a) Incorporate a preamble setting forth the purpose of the Convention, and make references to relevant international instruments and principles (e.g. UNCLOS, the Code of Conduct and its action plans, etc.).
  - b) Incorporate an article for “Definitions,” thereby removing or reducing ambiguity in term usage and meaning.
  - c) Incorporate an article for “Objective” reflecting international standards for conservation and management of living marine resources.
  - d) Incorporate an article for “Area of application of the Convention,” including a detailed map, noting that the northern boundary of the Convention area is vague.
  - e) Include explicit language confirming that the Convention applies to all removals of Pacific halibut in the Convention waters by directed and non-directed fisheries, commercial, recreational, and other.
  - f) Specify the current species is Pacific halibut (*Hippoglossus stenolepis*), though other species of *Hippoglossus* could also be covered under the Convention should they be identified.
  - g) Incorporate an article for “General principles” to include references to long-term sustainability, science-based decisions, application of the precautionary approach, minimisation of harmful impact on the marine ecosystem, collection and sharing of data, and ensuring effective compliance, etc.
  - h) Maintain, but in a stand-alone article, the current provisions for continuation of the Commission, with all its assets and liabilities established by the 1923 Convention and subsequent revisions.
  - i) Consider whether elements of the current Rules of Procedure are better placed in the Convention or a Headquarters Agreement.
  - j) The functions concerning fishing set out in the Convention to be streamlined in a specific article, and to include the following additional functions:
    - i. adopt standards for collection and sharing of data;
    - ii. adopt measures for species belonging to the same ecosystem or dependent upon or associated with Pacific halibut;
    - iii. adopt measures to avoid, reduce and minimise waste, discards, catch by lost or discarded gear;
    - iv. adopt measures to prevent significant adverse impacts on VMEs; and
    - v. adopt measures to ensure effective monitoring, control and surveillance, as well as compliance.
  - k) Consider whether the establishment of the Commission’s subsidiary bodies be moved from the Rules of Procedure to the Convention.
  - l) Incorporate in the Convention a specific article dealing with administrative issues, such as to appoint a Director, to approve program of work, to approve budget, to adopt or amend rules of procedures, financial regulations and other internal administrative regulations.



- m) Harmonise the decision-making provisions of the Convention and the Rules of Procedure, and incorporate those in a specific article of the Convention.
- n) Expand the current text to also include obligations to provide national legal provisions related to measures adopted by the Commission, and submit reports on vessel activities at appropriate intervals.
- o) Noting the adequate provisions in the Convention, the text should also contain follow-up actions by the flag state that include application of sanctions of sufficient gravity as to be effective in securing compliance, such as depriving offenders of benefits, and refusal, suspension, or withdrawal of authorisations.
- p) Consider establishment of a Compliance Committee for reviewing implementation of measures adopted by the Commission.
- q) Incorporate in a specific article of the Convention general language concerning transparency.
- r) Incorporate in the Convention a specific article, which in general terms states that in order to settle a possible dispute between Contracting Parties, concerning interpretation or implementation of the Convention, the parties shall consult by means they agree upon.
- s) Incorporate an article on signature, ratification, acceptance and approval, stating who are entitled to become parties, as well as the timeframe for signature.
- t) Incorporate an article stating when it enters into force, and conditions thereto.
- u) Incorporate an article stating whether or not reservations or exceptions may be made.
- v) Incorporate an article allowing parties to make statements or declarations that do not exclude or modify the legal effect of the provisions.
- w) Incorporate an article making references to for example the UNCLOS concerning sovereign rights of coastal States as well as other possible relevant instruments.
- x) Incorporate an article describing the amendment mechanisms such as time frames, communication, adoption and entering into force. If annexes or appendices are regarded as an integral part of the treaty, more flexible mechanism for those.
- y) Incorporate an article describing possible withdrawal procedures.
- z) Incorporate an article stating who will be the depository government as well as its obligations and functions.

PRIPHC02–Rec.02 ([para. 33](#)) The PRIPHC02 **RECOMMENDED** to update the Convention, while in the interim period seek alternate mechanisms to implement international best practices and legal principles.

*Science: Status of living marine resources*

PRIPHC02–Rec.03 ([para. 44](#)) The PRIPHC02 **RECOMMENDED** that opportunities to engage with western Pacific halibut science and management agencies be sought, to strengthen science links and data exchange. Specifically, consider options to investigate pan-Pacific stock structure and migration of Pacific halibut.

PRIPHC02–Rec.04 ([para. 45](#)) The PRIPHC02 **RECOMMENDED** that:

- a) further efforts be made to lead and collaborate on research to assess the ecosystem impacts of Pacific halibut fisheries on incidentally caught species (retained and/or discarded);
- b) where feasible, this research be incorporated within the IPHC’s 5-Year Research Plan (<https://www.iphc.int/uploads/pdf/besrp/2019/iphc-2019-besrp-5yp.pdf>);
- c) findings from the IPHC Secretariat research and that of the Contracting Parties be readily accessible via the IPHC website.



*Science: Quality and provision of scientific advice*

- PRIPHC02–Rec.05 ([para. 63](#)) The PRIPHC02 **RECOMMENDED** that simplified materials be developed for RAB and especially MSAB use, including training/induction materials.
- PRIPHC02–Rec.06 ([para. 64](#)) The PRIPHC02 **RECOMMENDED** that consideration be given to amending the Rules of Procedure to include appropriate fixed terms of service to ensure SRB peer review remains independent and fresh; a fixed term of three years seems appropriate, with no more than one renewal.
- PRIPHC02–Rec.07 ([para. 65](#)) The PRIPHC02 **RECOMMENDED** that the peer review process be strengthened through expanded subject specific independent reviews including data quality and standards, the FISS, MSE, and biological/ecological research; as well as conversion of “grey literature” to primary literature publications. The latter considered important to ongoing information outreach efforts given the cutting-edge nature of the Commission’s scientific work.
- PRIPHC02–Rec.08 ([para. 66](#)) The PRIPHC02 **RECOMMENDED** that the IPHC Secretariat develop options for simple graphical summaries (i.e. phase plot equivalents) of fishing intensity and spawning stock biomass for provision to the Commission.

*Conservation and Management: Data collection and sharing*

- PRIPHC02–Rec.09 ([para. 73](#)) The PRIPHC02 **RECOMMENDED** that observer coverage be adjusted to be commensurate with the level of fishing intensity in each IPHC Regulatory Area.

*Conservation and Management: Consistency between scientific advice and fishery Regulations adopted*

- PRIPHC02–Rec.10 ([para. 82](#)) The PRIPHC02 **RECOMMENDED** that the development of MSE to underpin multi-year (strategic) decision-making be continued, and as multi-year decision making is implemented, current Secretariat capacity usage for annual stock assessments should be refocused on research to investigate MSE operating model development (including consideration of biological and fishery uncertainties) for future MSE iterations and regularised multi-year stock assessments.
- PRIPHC02–Rec.11 ([para. 83](#)) The PRIPHC02 **RECOMMENDED** that ongoing work on the MSE process be prioritised to ensure there is a management framework/procedure with minimal room for ambiguous interpretation, and robust pre-agreed mortality limit setting frameworks.

*Fishing allocations and opportunities*

- PRIPHC02–Rec.12 ([para. 88](#)) The PRIPHC02 **STRONGLY URGED** the Commission to conclude its MSE process and **RECOMMENDED** it meet its 2021 deadline to adopt a harvest strategy.

*Compliance and enforcement: Port State measures*

- PRIPHC02–Rec.13 ([para. 96](#)) The PRIPHC02 **RECOMMENDED** that Contracting Party enforcement agencies adopt common standards for assessment of implementation of the principles of port State measures.

*Compliance and enforcement: Monitoring, control and surveillance (MCS)*

- PRIPHC02–Rec.14 ([para. 105](#)) The PRIPHC02 **RECOMMENDED** enhancement of coordination of MCS activities to result in a common, integrated enforcement report for each Contracting Party to facilitate assessment of compliance efforts, trends and input into management decisions.
- PRIPHC02–Rec.15 ([para. 106](#)) The PRIPHC02 **RECOMMENDED** that the Commission re-assess the ‘derby-style’ fisheries management concept in operation in IPHC Regulatory Area 2A in



terms of available resources, impact on validity of monitoring results, and safety of fishers, and amend the management processes, if and as necessary.

***Compliance and enforcement: Follow-up on infringements***

PRIPHC02–Rec.16 ([para. 108](#)) The PRIPHC02 **RECOMMENDED** that the IPHC request information regarding Contracting Party follow-up of infringements, to assist in determining the overall efficacy of MCS and enforcement activities. This would support best practices with respect to transparency.

PRIPHC02–Rec.17 ([para. 109](#)) The PRIPHC02 **RECOMMENDED** that the Commission improve the process of Contracting Party reporting to the Commission by aggregating individual agency reports into a consolidated, standardised, Contracting Party report to the Commission.

***Governance: Decision-making***

PRIPHC02–Rec.18 ([para. 124](#)) The PRIPHC02 **RECOMMENDED** that the IPHC Rules of Procedure be modified to include a clear category and recognition for observer organisations, which would be in addition to the general public.

***Governance: Dispute settlement***

PRIPHC02–Rec.19 ([para. 128](#)) The PRIPHC02 **RECOMMENDED** updating the rules of procedure to reflect intersessional decision making approaches.

***Governance: Transparency***

PRIPHC02–Rec.20 ([para. 137](#)) The PRIPHC02 **RECOMMENDED** that the significant level of transparency achieved across Commission business continue to be improved.

***International cooperation: Relationship to non-Contracting Parties***

PRIPHC02–Rec.21 ([para. 146](#)) The PRIPHC02 **RECOMMENDED** that the Commission prioritise scientific work to confirm the full range of the Pacific halibut stock.

PRIPHC02–Rec.22 ([para. 147](#)) The PRIPHC02 **RECOMMENDED** that if the full range of the Pacific halibut stock extends outside the Convention Area, the Contracting Parties invite collaboration with all parties involved in the harvest of this stock, to ensure science and management includes accurate data regarding all removals from the stock.

***Efficiency and transparency of financial and administrative management: Availability of resources for IPHC activities***

PRIPHC02–Rec.23 ([para. 156](#)) The PRIPHC02 **RECOMMENDED** the continued establishment of a Business Continuity Plan (BCP), which will serve to strengthen the long-term viability of IPHC Secretariat functioning and accountability, in line with best practices of an organisation of its size and breadth. Prioritising a financial and administrative BCP, with the ultimate goal of establishing a comprehensive BCP for the IPHC Secretariat as a whole.

***Efficiency and transparency of financial and administrative management: Efficiency and cost-effectiveness***

PRIPHC02–Rec.24 ([para. 162](#)) The PRIPHC02 **RECOMMENDED** the FAC produce a report detailing the actual FAC meeting and that the presentation of the report be incorporated into the Annual Meeting agenda and report, along with the final decisions of the Commission.



*Efficiency and transparency of financial and administrative management: Advisory structure*

PRIPHC02–Rec.25 ([para. 165](#)) The PRIPHC02 **RECOMMENDED** that when revisiting PRIPHC01 Recommendation 3.1 on unifying subsidiary bodies, treat the CB and PAB as non-science process and maintain separated RAB and MSAB at least until the 2021 adoption and implementation of a new management strategy.

PRIPHC02–Rec.26 ([para. 166](#)) The PRIPHC02 **RECOMMENDED** that continued support for high quality stakeholder engagement through the science-focused subsidiary bodies (RAB and MSAB) or any future subsidiary bodies be maintained.