

ANNEX B

Draft Rules of Procedure – SPRFMO PrepCon-02-WP-01

Rules of Procedure of the Commission

SCOPE OF APPLICATION

Rule 1

In accordance with Article 9 paragraph 6 of the Convention all subsidiary bodies shall operate under the Rules of Procedure of the Commission *mutatis mutandis*, except where specific provisions are laid down in the Convention or in these Rules of Procedure. For the purpose of each subsidiary body, in the following rules, the word Commission shall be understood as referring to the concerned Committee, and the word decision as referring to advice or recommendation.

REPRESENTATION AND OFFICIAL CONTACTS

Rule 2

2.1 Each Member of the Commission, each territory referred to in Article 40 of the Convention and observers referred to in Rule 9 shall formally notify the Executive Secretary of the names of its designated representative and any alternative representatives, experts and advisers as far in advance of any meeting as possible.

2.2 Each Member of the Commission and each territory referred to in Article 40 of the Convention shall, as soon as possible after the adoption of these rules, notify the Executive Secretary of one or more Official Contacts who shall, for the purposes of official communications between the Commission and the Member, including all notifications, invitations and communications made pursuant to these rules, be the official points of contact.

MEETINGS

Rule 3

3.1 In application of Article 7 paragraph 3 of the Convention, the Chairperson shall convene the annual meeting of the Commission, unless the Commission decides otherwise. Before the end of each annual meeting, the Commission shall, if possible, decide on the date and location of the next annual meeting.

The Executive Secretary shall make all necessary arrangements for the annual meeting and shall issue invitations at least 90 days before the meeting.

- 3.2 In addition to the annual meeting, the Commission may hold special meetings in accordance with Article 7 paragraphs 3 and 4 of the Convention at the request of any Member of the Commission.

The request shall be sent to the Executive Secretary who shall immediately forward the request to the other Members of the Commission and ask them whether they concur with it. If within 30 days of the date of the communication by the Executive Secretary a majority of the Members of the Commission concur with the request, the Chairperson shall determine the date and venue of the special meeting.

The Executive Secretary shall make all necessary arrangements for the special meeting and shall issue invitations at least 30 days before the meeting.

- 3.3 In accordance with paragraph 10, sub-paragraphs (d) to (h) of Annex II to the Convention, the Chairperson shall convene extraordinary meetings of the Commission.

The Executive Secretary shall make all necessary arrangements for those extraordinary meetings and shall issue invitations at least 30 days before the meeting.

- 3.4 The Chairperson or Vice-Chairperson of the subsidiary bodies of the Commission may attend all meetings of the Commission.

ORDER OF BUSINESS

Rule 4

- 4.1 A provisional agenda for each annual or special meeting of the Commission, or any of its subsidiary bodies, shall be prepared by the Executive Secretary in consultation with the Chairperson. It shall be transmitted by the Executive Secretary with the invitation sent in accordance with Rule 3 and any relevant documents to all Official Contacts referred to in Rule 2.2 and to observers referred to in Rule 9.
- 4.2 Any Member of the Commission, the Chairperson, or the Executive Secretary may, at least 30 days before the date fixed for the opening of the annual meeting, or 15 days in case of a special meetings request the inclusion of supplementary items in the provisional agenda. A request for a supplementary item on the provisional agenda shall be accompanied by a memorandum and any relevant documents on the proposed supplementary item. Such items shall be communicated to all official contacts referred to in Rule 2.2 and to observers referred to in Rule 9 at least 20 days before the opening of the annual meeting and 10 days before any special meetings.

- 4.3 At the beginning of the meeting the Commission shall adopt its agenda on the basis of the provisional agenda and any supplementary items. At that time, any Member or the Executive Secretary may request placement of additional items of an urgent character on the agenda. Such items shall be included on the agenda subject to the approval of the Commission. If any Member of the Commission indicates to the Chair that they are not in a position to take a decision on such items at that meeting, the Chairperson shall direct that the decision be taken intersessionally in accordance with Rule 7.6 – 7.11.

CHAIRPERSON AND VICE-CHAIRPERSON

Rule 5

- 5.1 In accordance with Article 7 paragraph 2 of the Convention, the Commission shall elect a Chairperson and a Vice-Chairperson from among the Contracting Parties for a term of two years. Each shall be eligible for re-election but shall not serve for more than two terms in succession in the same capacity. The Chairperson and Vice-Chairperson shall be representatives of different Contracting Parties.

The Chairperson and Vice-Chairperson shall take office at the conclusion of the annual meeting at which they are elected, with the exception of the first meeting where they will take office from the moment of their election which shall take place at the opening of this meeting.

- 5.2 The powers and duties of the Chairperson shall be:
- a) to declare the opening and closing of each meeting;
 - b) to preside at meetings;
 - c) to rule on points of order, subject to the right of any representative to request that any ruling of the Chairperson shall be submitted to the Commission for decision by vote;
 - d) to call for and announce the results of votes;
 - e) to determine after consultation with the Executive Secretary, the draft provisional agenda and the provisional agenda for each annual and special meeting;
 - f) to oversee the production of a report of the proceedings of each meeting of the Commission; and
 - g) generally, to make such decisions and give such directions to the Executive Secretary as will ensure, especially in the interval between meetings, that the business of the Organisation is carried out efficiently and in accordance with its decisions.

- 5.3 Whenever the Chairperson is unable to act, the Vice-Chairperson shall exercise the powers and duties prescribed for the Chairperson.
- 5.4 If the office of the Chairperson is vacated, the Vice-Chairperson shall become Chairperson for the balance of the term.
- 5.5 A person who is elected as Chairperson shall cease to act as a representative, expert or adviser of a Contracting Party while in office. The same applies where the Vice-Chairperson is acting as Chairperson.

SECRETARIAT

Rule 6

- 6.1 In accordance with article 14 paragraph 2 of the Convention, the Executive Secretary shall be appointed for a term of four years. The Executive Secretary shall be eligible for reappointment but shall not serve for more than eight years
- 6.2 The Executive Secretary shall:
- a) have full power and authority over the Secretariat subject to the general supervision of the Commission and such staff regulations as may be determined by the Commission;
 - b) address communications to the Depositary, pursuant to the provisions of Article 35 of the Convention;
 - c) receive notifications of the designated representatives, experts and advisers at meetings and report thereon to the Commission as required;
 - d) manage the collection and sharing of data and information in accordance with Article 23 of the Convention and standards, rules and procedures as may be determined by the Commission;
 - e) keep the Commission informed of any issues or matters which may be of interest to it; and
 - f) perform such other functions as may be assigned to him or her by the Commission.
- 6.3 The Executive Secretary shall assist the Commission and its subsidiary bodies in fulfilling their respective tasks.

DECISION-MAKING

Rule 7

Decision-making at meetings

- 7.1 All decisions shall be taken in accordance with Article 16 of the Convention, except where the Convention expressly provides otherwise.
- 7.2 A simple majority of the Members of the Commission entitled to participate in decision-making in accordance with the provisions of the Convention shall constitute a quorum for decision-making.
- 7.3 Each Member shall be entitled to one vote.
- 7.4 Votes shall be taken by show of hands, unless a Member requests that the vote be taken by a roll call or secret ballot and that this request is seconded by at least one other Member.
- 7.5 In accordance with Article 10 paragraph 3 of the Convention, the Scientific Committee shall make all efforts to adopt its advice and recommendations to the Commission by consensus. If all efforts to reach agreement by consensus have been exhausted, the different views of the members shall be set out in its report to the Commission.

Intersessional decision-making

- 7.6 In case of the need for adoption of an emergency measure between meetings, or where a decision needs to be taken intersessionally, the Chairperson may propose that a decision be taken by electronic means.
- 7.7 When a decision is to be taken by electronic means, the Executive Secretary shall transmit the proposed decision to the Official Contacts of each Member.
- 7.8 Members shall promptly acknowledge receipt of any proposed decision by electronic means. If no acknowledgement is received from any particular Member within one week of the date of transmittal, the Executive Secretary will retransmit the proposed decision, and will use all reasonable means to ensure that it has been received.
- 7.9 Members shall have 30 days to respond, unless a longer period is specified by the Executive Secretary in the transmittal.
- 7.10 If no reply from a Member reaches the Secretariat within the period established under paragraph 9 of this Rule, that Member would be recorded as not having participated in the decision.
- 7.11 The Executive Secretary shall promptly ascertain and transmit the decision to all Members of the Commission. The date of that transmittal shall be the 'date of notification' for the purposes of Article 17 of the Convention.

FINANCIAL RESPONSIBILITIES

Rule 8

The Commission shall incur expenditure only in accordance with a budget adopted under Article 15 of the Convention.

OBSERVERS

Rule 9

9.1 In accordance with Article 18 paragraph 4 of the Convention, the following may participate as observers in the Commission and its subsidiary bodies:

- a) States, the regional economic integration organisation, other entities referred to in Article 1 paragraph 2 (b) of the Convention and the fishing entity that participated in the International Consultations on the Establishment of the South Pacific Regional Fisheries Management Organisation, until they become Members of the Commission;
- b) Any other State or any other entity referred to in Article 1 paragraph 2 (b) of the Convention that has jurisdiction over waters adjacent to the Convention Area;
- c) Other States with an interest in the work of the Commission that are not Members of the Commission, invited by the Commission;
- d) The FAO, other specialised agencies of the United Nations, other regional fisheries management organisations and other relevant intergovernmental organisations, invited by the Commission;
- e) Non-governmental organisations, including environmental organisations and fishing industry organisations with an interest in the work of the Commission, invited by the Commission pursuant to paragraph 2 of this Rule.

9.2 A non-governmental organisation wishing to participate as an observer shall notify the Executive Secretary at least 50 days in advance of the meeting, together with an explanation of its interest in the work of the Commission. The Executive Secretary shall promptly notify the Members of the Commission of the request. Any such non-governmental organisation shall be invited to participate as an observer unless a simple majority of the Members of the Commission objects to the request by notifying the Executive Secretary in writing at least 20 days before the opening of the meeting. Observer status shall remain in effect for future meetings unless the Commission decides otherwise.

9.3 Observers may participate in the deliberations of the Commission and its subsidiary bodies but shall not be entitled to participate in the taking of decisions.

- 9.4 Observers may submit relevant documents to the Secretariat for distribution to the Members of the Commission or its subsidiary bodies as information documents and shall be given timely access to all documents subject to any rules relating to the confidentiality of certain data and other commercially sensitive information that the Commission may decide.

LANGUAGE

Rule 10

- 10.1 English shall be the official and working language of the Commission and its subsidiary bodies but, if desired, any other language may be used, on condition that persons doing so will provide interpreters.
- 10.2 The Commission shall produce official Chinese, French, Russian and Spanish translations of the texts of the Convention, Rules of Procedure, Financial Regulations and any other documents as the Commission may decide.

RECORDS AND REPORTS

Rule 11

- 11.1 Reports of each plenary and other sessions shall be drafted and distributed as soon as possible to the participants by the Executive Secretary.
- 11.2 Reports of the meetings of all subsidiary bodies shall be furnished to the Commission by the Executive Secretary.
- 11.3 Reports, resolutions, proposals and other formal decisions adopted shall be transmitted as soon as possible to the Members of the Commission, territories referred to in Article 40 of the Convention and observers by the Executive Secretary. The date of that transmittal shall be the 'date of notification' for the purposes of Article 17 of the Convention. The reports, resolutions, proposals and other formal decisions adopted shall be placed on the official website.
- 11.4 The Commission shall publish annually, following its annual meeting, a report in accordance with Article 29 of the Convention.

AMENDMENTS

Rule 12

The Commission may amend these Rules of Procedure by consensus.

PARTICIPATION OF TERRITORIES

Rule 13

Rules of Procedure on the nature and extent of participation of territories referred to in Article 40 of the Convention are provided in the Annex to these Rules.

ANNEX: RULES OF PROCEDURE ON THE NATURE AND EXTENT OF PARTICIPATION OF TERRITORIES

Rule 1

Territories referenced in Article 40 of the Convention will be authorised as “Participating Territories” once the Contracting Party having responsibility for the international affairs of such Participating Territory has filed a declaration to that effect with the Depositary.

Rule 2

The declaration shall describe the distribution of the Territory’s competencies and the extent of its responsibilities, and shall be updated appropriately as the Participating Territory’s capacities evolve.

Rule 3

In accordance with Article 40 of the Convention, Participating Territories have the right to fully participate in the work of the Commission and its subsidiary bodies, including the right to:

- a) be present and to speak at meetings;
- b) receive all communications in respect of those meetings;
- c) receive all communications in respect of a decision being taken by electronic means;
and
- d) make proposals and offer amendments.

Rule 4

When taking a decision by consensus pursuant to Article 16 of the Convention, the Commission shall give particular consideration to the views of Participating Territories on a decision of economic significance to those Participating Territories.

Rule 5

Additional rights and restrictions on rights shall be determined by the Members of the Commission as necessary.