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## PROPOSED AMENDMENTS TO THE IOTC FINANCIAL REGULATIONS

Prepared by: The Working Group on IOTC Financial Regulation amendments

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At the 15<sup>th</sup> Session of the Standing Committee on Administration and Finance (SCAF), the SCAF recommended that a working group be formed to begin work to replace the current IOTC Financial Regulations, including developing guidelines to enable IOTC acceptance of extra-budgetary funds, and seeking a mechanism to allow for the contributions from CNCPs and fishing partners directly related to fishing and fishing-related activities in the IOTC Area.

These actions were identified based on the SCAF discussions on the recommendations from the 2nd Performance Review. In particular paragraphs 228b.i and 228b.iv of the performance review report that recommended that, consistent with best practice governance procedures, that the Commission:

- (i) *Amend or replace the IOTC Financial Regulations (1999) as a matter of urgency to increase Contracting Parties' as well as the Secretariat's control of all the budget elements, including staff costs of the budget, consistent with best practice governance procedures.*
  
- (iv) *Develop guidelines for the acceptance of extra-budgetary funds to undertake elements of the Commission's Program of Work, or those of its subsidiary bodies. Through this circular, I am inviting you to join the working group. I have been working with the Secretariat to better understand the above issues and the potential of the Commission to make the changes related to IOTC's existing financial procedures, and I would like to provide you with the (below) background information.*

An invitation to participate in the working group was sent to all CPC on 22 November 2018 via IOTC Circular 2018-45. The circular also included provisional amendments proposed by the Chair of SCAF for comments from all CPCs. Australia and the European Union responded to the circular. The working group (Chair, Australia, the European Union & the Secretariat) exchanged edits, suggestions, comments via online platforms. The current proposed draft was finalised on the 9 April 2019.

The second performance review proposed to amend the IOTC Regulation for the CPCs and the Secretariat regain control of all the budget elements, including staff costs of the budget. However, this would not be possible when the Commission is under the FAO Umbrella.

Article VI.7 of the IOTC Agreement states that *"The Commission may adopt and amend, as required, the Financial Regulations of the Commission by a two-thirds majority of its Members, which Financial Regulations shall be consistent with the principles embodied in the Financial Regulations of FAO. The Financial Regulations and amendments thereto shall be reported to the Finance Committee of FAO which shall have the power to disallow them if it finds that they are inconsistent with the principles embodied in the Financial Regulations of FAO."*

Note, Article VI.7 indicates that the IOTC's Financial Regulations are subservient to the financial regulations of FAO; therefore, the FAO Finance Committee and FAO Council will have to approve any amendments proposed by the Commission.

However, as proposed in Circular 2018-45, the working group decided to strengthen the IOTC financial regulation to provide more transparency by and to strengthen some of the framework based on practices by other RFMOs removing ambiguity. Most of the amendments proposed in the IOTC financial regulation are self-explanatory. This paper highlights some of the critical new proposed framework amendments for the IOTC Financial Regulation.

## **1. Working Capital**

Prof. Glen Hurry's "Cost and benefit of the Indian Ocean Tuna Commission (IOTC) within and outside of the FAO" noted that all tRFMOs except for the IOTC have substantial capital reserves, and most through the adoption of sound business practices have regulations that determine how much must be held in the operating accounts for the organisations. In 2014 ICCAT had an available balance of its working capital fund of €3,570,895, CCSBT had a net asset of \$1.5 million (AUD), and WCPFC held \$1.78 million in the Working Capital Fund. ICCAT's working capital fund reduced in 2017 to €700,000. The Secretariat proposed in 2015 through IOTC-2015-SCAF12-09[E] to establish such a capital working fund. The document recommended the establishment of a working capital fund of 1 million dollars.

Due mainly to delays in recruitment of staff in the IOTC Secretariat, IOTC has accumulated a surplus of over 1 million dollars in the last few years. This surplus could be transferred into the working capital fund as a start-up and SCAF would need to find other mechanisms to replenish the fund.

This fund would also provide a buffer against assessed contributions that are not paid and ensure the continuity of the organisation. Even though the working capital fund is not established currently within IOTC, the surplus appropriations have been used as this buffer. With the establishment of the Working Capital fund, this process is more transparent, and the Commission can be more strategic in the ways it is to be used. The fund also could be used to support donor assisted projects that are in line with the Commission's recommendation. However, the establishment of the working capital fund should not be interpreted as a means of avoiding payments of funds.

## **2. Mid-term review**

As the Commission currently meets in the middle of the calendar/financial year, a mid-term review of the agreed budget for that year is proposed to improve transparency of the budget process and to improve the accountancy practices of the Commission. While the total budget (and therefore contributions) for a particular year would not change, a mid-term review of the annual budget is proposed for the Secretariat to propose and highlight any changes due to unforeseen circumstances.

It is often difficult to estimate certain budget lines such as meetings and travel due to not knowing where meetings will be held at the time when the budget is proposed. However, currently, the Commission adopts a total annual budget, and the Secretariat has the flexibility of transferring from one item to another within the budget. However, this is not a good accounting principle, and thus, it is proposed to limit this transfer. The Commission may authorise changes to the budget after the mid-term review, taking into account any changes proposed by the Secretariat. This would improve the transparency of budget expenditure and ensure that the budget expenditure is in line with the recommendation of the Commission.

## **3. Acceptance of extra-budgetary funding**

Regarding the development of guidelines for the acceptance of extra-budgetary funds from non-Members, a process for IOTC to do this already exists for under FAO's Financial Rules and Procedures. This process involves the development of a stand-alone project with each non-Member donor, and the setting up of an individual funding agreement. It is not a quick process, and it involves considerable interaction with the FAO Administration and FAO strategic teams. The Secretariat has had variable success with the process to-date; the most limiting factor is the time it takes to put a funding agreement in place.

The amendments give a bit of leeway to provide extra-budgetary funding. However, if the Commission is within the FAO framework, there is minimal scope for accepting extra-budgetary funding.

## Financial Regulations

### Regulation I - Applicability

1. These regulations shall govern the financial administration of the INDIAN OCEAN TUNA COMMISSION.
2. The financial rules and procedures of FAO shall apply to the activities of the Commission for matters not covered by these Regulations.

### Regulation II - The Financial Period

The financial period shall be one calendar year, commencing from January 1 and ending 31 December, both dates inclusive.

### Regulation III - The Budget

1. ~~The Budget Estimates~~ The Operating Budget for the current year and the draft budget for the ensuing and following year shall be prepared by the Executive Secretary of the Commission and shall be circulated to all Contracting Parties (Members) of the Commission not less than 60 days before the commencement of each regular session.
2. The Operating Budget for the current year and the draft budget for the ensuing and following year ~~The Budget Estimates~~ shall cover income and expenditures for the financial period to which they relate, and shall be presented in United States dollars (US\$).
3. The Operating Budget for the current year and the draft budget for the ensuing and following year ~~The Budget Estimates~~ shall reflect the programme of work for the financial period elaborated by appropriate information and data, and shall include the programme of work and such other information, annexes or explanatory statements as may be requested by the Commission.
4. The Budget shall comprise:
  - (a) The Administrative Budget referred to in paragraph 5 relating to the regular contributions of Contracting Parties (Members) of the Commission payable under Article XIII.1 of the Agreement for the Establishment of the Indian Ocean Tuna Commission (the Agreement) and expenditures chargeable to the budget of the Commission under Article VIII, paragraphs 3 and 4: The Administrative Budget shall reflect in an appropriate manner the expenses to be borne by FAO under Article VIII, paragraph 3;
  - (b) ~~The Special Budgets relating to funds made available during the financial period referred to in Paragraph 7 relating to special budgets proposed by the Executive Secretary from donations and other forms of assistance received from organizations, individuals and other sources under Article XIII, paragraph 6.~~
  - ~~(b)~~(c) The Trusts Funds referred referred to in Article VI, Paragraph 1 relating to funds available during the financial period from donations and other forms of assistance received from organizations, individuals and other sources.
5. The Administrative Budget for the financial period shall consist of provisions for:
  - Administrative Expenditures, including an amount to cover the Organization's FAO's Project Servicing costs ~~Costs~~ equal to 4.5% of the total Budget of the Commission.
  - Expenditure for the activities of the Commission. Estimates under this chapter may be presented in a single total only but detailed estimates for each particular project will be prepared and approved as "supplementary details" of the Administrative Budget.
  - Contingencies ~~will~~ that cover expenditures that exceed operating costs and

hospitality.

- Working Capital as stipulated in Article IV, Paragraph 5.

6. The Administrative Budget shall be ~~adopted~~ considered by Standing Committee of Finance and Administration (SCAF) and ~~subsequently adopted by~~ the Commission with such amendments as ~~the Commission~~ may deem necessary.

~~6.7. A mid-term review of the current year shall be prepared by the Secretariat and shall be considered by SCAF and adopted by the Commission reflecting any changes in appropriations.~~

~~7.8. Special Budgets may be proposed by the Executive Secretary and adopted by the Commission in exceptional circumstances as appropriate. Special Budget proposals shall be prepared in a form consistent with the approved budget. The provisions of these regulations shall be applicable to the proposed supplementary budget to the extent possible. The purpose and limits of each special budget, reserve and special account shall be defined by the Commission.~~

8. The Administrative Budget of the Commission shall be submitted to the Finance Committee of ~~the Organization~~ FAO for ~~its information~~ its information.

#### **Regulation IV - Appropriations**

1. After the budgets have been adopted the appropriations therein shall constitute be the authority for the Commission to incur obligations and make payments for the purposes for which the appropriations were voted and up to the amounts so voted.

2. ~~In cases of emergency, t~~The Executive Secretary on advice from the Chairperson of the Commission is authorized to accept additional contributions from a Contracting Party (-Member) or Contracting Parties (Members) of the Commission or grants from other sources and incur expenditure against them for ~~\_emergency~~ action for which the said contributions or grants were specifically provided. Such contributions or grants and expenditure relating thereto will be reported in detail to the next regular session of the Commission.

3. Any unliquidated prior year obligation shall be cancelled or where an obligation remains a valid charge, transferred against current appropriations.

~~4. Transfers between provisions as per Regulation 3.5 may be effected by the Commission on the recommendation of the Secretary of the Commission. The Executive Secretary may authorize the transfer of up to [150] percent of appropriations between sub-items as specified in Article III.5 of this Regulations upon approval from the Chair~~manperson of the Commission until a mid-term review. The Executive Secretary may authorize the transfer of up to [10] percent after a mid-term review. ~~—All such transfers must be reported to the annual meeting~~regular session of the Commission~~the following year.~~

5. The Commission shall establish a working capital fund for the purpose of accommodating operating expenditures prior to the receipts of funds from members of the Commission. The source of this working capital fund shall be surplus appropriations accumulated over the years. The Commission shall adopt a mechanism to fund the working capital fund if there are no surplus appropriations. The Contracting Parties shall not interpret the funds in working capital as a means of avoiding contributions.

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#### **Regulation V - Provision of Funds**

1. The appropriations of the Administrative Budget shall be financed by:

- a) contributions from Contracting Parties (Members) of the Commission determined and payable in accordance with Article XIII paragraphs 1, 3 and 4 of the Agreement. ~~Pending receipt of annual contributions, the Commission is authorized to finance budgeted expenditure from the uncommitted balance of the Administrative Budget.~~

b) Voluntary contributions made by members, CNCPs or other entities;

a)c) Other funds to which the Commission may become entitled or may receive.

2. ~~Before the beginning of each calendar year the~~ Following the adoption of the budget, the Executive Secretary shall inform the Commission's Contracting Parties (Members) of their obligations in respect of annual contributions to the budget, in addition to any arrears that Member have incurred into.-

3. Contributions shall be due and payable in full within 30 days of the receipt of the communication of the Secretary referred to in Regulation V.2 above, or as of the first days of the calendar year to which they relate, whichever is later. As of 1 January of the following calendar year, the unpaid balance of such contributions shall be considered to be one year in arrears ~~irrespective of whether the full or a partial amount remains unpaid.~~

4. The annual contributions to the Administrative Budget shall be assessed in United States dollars and shall be calculated in accordance with the scheme annexed to these Regulations and forming an integral part thereof. The contributions shall be paid in US dollars unless otherwise determined by the Commission.

5. Any new Contracting Party (-Member) of the Commission shall pay a contribution to the budget in accordance with the provisions of Article XIII, paragraph 3 of the Agreement for the financial period in which the membership becomes effective, such contribution beginning with the quarter in which membership is acquired.

~~5.6.~~ The Executive Secretary shall submit to each regular session of the Commission a report on the collection of funds from Members of the Commission, any voluntary contributions, or any other revenue ~~income received~~ received, and any advances made from the working capital fund.

## **Regulation VI - Funds**

1. All contributions, donations and other forms of assistance received from organisations individuals and other sources under Article XIII, paragraph 6 of the Agreement, shall ~~may~~ be placed in a Trust Fund administered by the Director-General in conformity with the Financial Regulations of FAO ~~upon approval of the Commission.-~~

2. The purpose and limits of each trust fund, reserve and special account shall be clearly defined by the Commission.

~~1.3.~~ With respect to the Trust Fund referred to in Regulation VI.1, the ~~Organization~~ FAO shall maintain accounts:

~~1.3.1~~ A General Account to which shall be credited receipts of all contributions paid under Article XIII, paragraph 1 and from which shall be met all expenditure chargeable against the sums allocated to the annual Administrative Budget.

~~1.3.2~~ Such additional accounts as may be necessary to which shall be credited the additional contributions under Regulation IV.2 and from which shall be met all expenditures relating thereto.

4. The Executive Secretary shall prepare a report indicating the status of the Trust Fund in the annual report submitted to the ~~Standing Committee on Administration and Finance (SCAF)~~ Commission.

## **Regulation VII**

These Regulations may be amended by the Commission in accordance with Article VI, paragraph 7.

## ANNEX

### Scheme for Calculation of Contributions to the Administrative Budget of the Commission

1. Ten percent of the total budget of the Commission shall be divided equally among all the Contracting Parties (Members).
2. Ten percent of the total budget shall be divided equally among the Contracting Parties (Members) having fishing operations in the IOTC aArea of competence targeting species covered by the Commission, for the period specified in paragraph 4 below.
3. Forty percent of the total budget shall be allocated among the Contracting Parties (Members) on the basis of per caput GNP-GNI (per capita, Atlas method (current US\$) as registered 60 days before the annual Commission in March meeting of the current year) for the calendar year three years before the year to which the contributions relate, weighted according to the economic status of the Contracting Parties (Members) in accordance with the World Bank classification (as published in the year prior) as follows and subject to change in the classification thresholds (where the GNI for a particular Contracting Parties (Members) is not made available by the World Bank, the previous year's value shall be used)
  - a) : high income Contracting Parties (Members) shall be weighted by the factor of 8;
  - b) middle income Contracting Parties (Members) by the factor of 2;
  - a)c) low-income Contracting Parties (Members) by the factor of 0.
- 3.4. Forty percent of the total budget shall be allocated among the Contracting Parties (Members) in proportion to their average catch (rounded to the nearest whole ton) in the three calendar years beginning with the year five years before the year to which the contributions relate, weighted by a coefficient reflecting their development status. The coefficient of OECD members and EC-European Union shall be 1, and the coefficient of other Contracting Parties (Members) shall be one-fifth.