



**SOUTH PACIFIC REGIONAL FISHERIES
MANAGEMENT ORGANISATION**



**RULES AND REGULATIONS
2015**

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NOTE

This booklet contains the 2015 Rules of Procedure, Financial Regulations and Rules for Cooperating Non-Contracting Parties of the South Pacific Regional Fisheries Management Organisation (SPRFMO). It was produced by the SPRFMO Secretariat after the Third Commission Meeting in February 2015.

Please note that at every Annual Meeting the SPRFMO Commission can change and amend its rules and regulations; therefore, after February 2016 this edition of the SPRFMO Rules and Regulations might be outdated or incomplete.

For the up-to-date SPRFMO Rules and Regulations please consult the SPRFMO website at:

www.sprfmo.int

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RULES OF PROCEDURE OF THE COMMISSION

Rule 1

SCOPE OF APPLICATION

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.

Rule 2

REPRESENTATION AND OFFICIAL CONTACTS

- 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 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.

Rule 3

MEETINGS

- 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.

- 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.

1. 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.

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

Rule 4

ORDER OF BUSINESS

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.
2. Any Member of the Commission, the Chairperson, or the Executive Secretary may, at least 65 days before the date fixed for the opening of the annual meeting, or 21 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 60 days before the opening of the annual meeting and 15 days before any special meetings.
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.
4. All documents to be prepared by the Executive Secretary for the annual meeting shall be circulated at least 30 days in advance of the meeting, unless otherwise decided by the Commission.
5. Proposals or amendments to be discussed at meetings shall be submitted to the Executive Secretary no less than 50 days before the date fixed for the opening of the meeting. The Executive Secretary shall make proposals and amendments available by no no later than 45 days before the beginning of the meeting by posting them on the public access area of the SPRFMO website. If a draft proposal is either an amendment to an existing decision or conservation and management measure, or an amendment to an earlier proposal previously submitted by the same proponent, it shall be submitted and circulated as both a clean version and a track change version.
6. Any other documents to be discussed at meetings shall be submitted to the Executive Secretary no less than 30 days before the dated fixed for the opening of the meeting.

The Executive Secretary shall circulate them at least 20 days before the start of the meeting.

Rule 5

CHAIRPERSON AND VICE-CHAIRPERSON

- 1
 - (a) 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.
 - (b) 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.
 - (c) And as an exception to the first paragraph of this rule, in recognition of the importance of relevant scientific expertise in the conduct of its work, the Scientific Committee may:
 - (i) Elect as Chairperson a suitably qualified person who is from amongst the Cooperating Non-Contracting Parties; and
 - (ii) Agree to re-elect a chairperson for more than two terms in succession.
- 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.
- 3 Whenever the Chairperson is unable to act, the Vice-Chairperson shall exercise the powers and duties prescribed for the Chairperson.
- 4 If the office of the Chairperson is vacated, the Vice-Chairperson shall become Chairperson for the balance of the term.
- 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.

Rule 6

SECRETARIAT

- 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
- 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;
 - (c) 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;
 - (d) keep the Commission informed of any issues or matters which may be of interest to it; and
 - (e) perform such other functions as may be assigned to him or her by the Commission.
- 3 The Executive Secretary shall assist the Commission and its subsidiary bodies in fulfilling their respective tasks.

Rule 7

DECISION-MAKING

Decision-making at meetings

- 1 All decisions shall be taken in accordance with Article 16 of the Convention, except where the Convention expressly provides otherwise.
- 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.
- 3 Each Member shall be entitled to one vote.
- 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.
- 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

- 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 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.
- 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.
- 9 Members shall have 30 days to respond, unless a longer period is specified by the Executive Secretary in the transmittal.
- 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.
- 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.

Rule 8**FINANCIAL RESPONSIBILITIES**

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

Rule 9**OBSERVERS**

- 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;

- (c) 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.
- 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.
- 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.
- 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.

Rule 10

LANGUAGE

- 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.
- 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.

Rule 11

RECORDS AND REPORTS

- 1 Reports of each plenary and other sessions shall be drafted and distributed as soon as possible to the participants by the Executive Secretary.
- 2 Reports of the meetings of all subsidiary bodies shall be furnished to the Commission by the Executive Secretary.
- 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.

- 4 The Commission shall publish annually, following its annual meeting, a report in accordance with Article 29 of the Convention.

Rule 12

AMENDMENTS

The Commission may amend these *Rules of Procedure* by consensus.

Rule 13

PARTICIPATION OF TERRITORIES

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 Depository.

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.

FINANCIAL REGULATIONS OF THE COMMISSION

Regulation 1

FINANCIAL YEAR

The financial year shall be the period from 1 July to 30 June.

Regulation 2

BUDGET

- 1 The draft budget shall be prepared in accordance with Article 15 paragraph 4 of the Convention. The draft budget shall be made in New Zealand dollars and include income and expenditure of the Organisation, as described in Article 6, paragraph 2 of the Convention.
- 2 The estimates and forecast shall be divided into categories, and shall be accompanied by such information as the Commission may specify from time to time, and as the Executive Secretary may deem useful.
- 3 The draft budget shall include an item specifying the costs required to finance the travel and subsistence for one representative from each developing State Contracting Party in the region, in particular the least developed among them and small island developing States and, where appropriate, territories and possessions, to each meeting of the Commission and to meetings of relevant subsidiary bodies of the Commission.
- 4 The draft budget shall be accompanied by details of the appropriations made for the previous financial year and the expenditures made against those appropriations.
- 5 The Finance and Administration Committee shall meet during each annual meeting of the Commission to examine the draft of the annual budget and shall report thereon to the Commission, including recommendations to the Commission. After consideration of the report, and after any necessary adjustments or revisions have been made, the Commission shall adopt the budget.

Regulation 3

APPROPRIATIONS

- 1 The appropriations adopted by the Commission in the budgets shall constitute an authorisation to the Executive Secretary to incur obligations and make payments for the purposes and up to the amounts so adopted.
- 2 Appropriations shall remain available for 12 months following the end of the financial year to which they relate to the extent that they are required to discharge obligations incurred during that financial year. At the end of the 12-month period, any unliquidated prior year obligations shall be cancelled, or, where the obligation remains a valid charge, transferred as an obligation against current appropriations.
- 3 The Executive Secretary may transfer appropriations between categories in the budget adopted by the Commission provided that these categories are not altered by more than 10% of the amounts in the adopted budget and that a statement of all such transfers

shall be submitted to the Commission and the auditors with the annual financial statements. The Chairperson of the Commission may however authorise the Executive Secretary to transfer appropriations between categories above this limit.

- 4 The Executive Secretary may also enter into obligations for future financial periods when such obligations are for program activities which have been approved by the Commission and will continue beyond the end of the current financial year.

Regulation 4

INCOME AND EXPENDITURES

- 1 There shall be established proper books of account for the purpose of accounting for the receipts and expenditures of the Organisation, including a General Account, an Accumulated Surplus Account, an account for the fund described in Article 19 of the Convention and any such other account as the Commission may decide to establish.
- 2
 - (a) Annual contributions paid under Regulation 4.7 and any other incomes accruing to the Organisation (other than those prescribed in Regulation 4.3 and voluntary contributions to the fund described in Article 19 of the Convention) shall be credited to the General Account.
 - (b) Voluntary contributions offered by non- members may be accepted, subject to agreement by the Commission that the purposes of the contribution are consistent with the policies, aims and activities of the Commission.
- 3 The income credited to the Accumulated Surplus Account shall include:
 - (a) excess of receipts over expenditures at the end of the financial year;
 - (b) the balance of any unexpended appropriations at the end of the 12-month period specified in Regulation 3.2;
 - (c) refunds, from any source, of prior year's expenditures of the Organisation.
- 4 Monies available in the Accumulated Surplus Account may be used temporarily to the extent necessary to finance appropriations pending receipt of annual payments by members of the Commission.
- 5 The Commission shall, on the basis of advice from the Finance and Administration Committee, prescribe conditions under which the Chairperson may authorise expenditures from the Accumulated Surplus Account to meet unforeseen and extraordinary expenses.
- 6 The Finance and Administration Committee and the Commission shall review the amount available in the Accumulated Surplus Account during each annual meeting. Insofar as possible, the Commission shall anticipate unforeseen expenditures during the succeeding three years and shall attempt to maintain the Accumulated Surplus Account at a level sufficient to finance operations during the first three months of the financial year plus an amount up to a maximum of 10% of the annual budget for the current financial year for use in an emergency in accordance with Regulation 4.5.
- 7 Each Member of the Commission shall contribute to the annual budget, in accordance with the following formula determined according to Article 15, paragraph 2 of the Convention:

- (a) a base fee of 10% divided in equal shares between all Members of the Commission except that any developing country Member of the Commission that was not engaged in fishing for fishery resources in the previous financial year shall have its notional share reduced by 25% with the consequent shortfall apportioned equally among the other Members of the Commission;
 - (b) a national wealth component of 30%, 15% of which shall be divided among the Members of the Commission according to their respective Gross National Income (as defined by the World Bank, or equivalent institution available), and 15% divided among Members according to their Gross National Income per capita (as defined by the World Bank, or equivalent institution available); and
 - (c) a catch component of 60%, 45% of which shall be divided among the Members of the Commission fishing for pelagic fishery resources and 15% divided among Members fishing for demersal fishery resources, in each case on the basis of a three year average of their total reported catches of the relevant fishery resources;
 - (d) however, the following formula will apply to the catch component until 30 June 2014: 40% of the catch component shall be divided among the Members of the Commission fishing for pelagic fishery resources (excluding squid), 5% divided among Members fishing for squid and 15% divided among Members fishing for demersal fishery resources, in each case on the basis of a three year average of their total reported catches of the relevant fishery resources.
- 8 In accordance with Article 15 paragraph 6 of the Convention, the Executive Secretary shall inform each member of the Commission of the annual contribution following the annual meeting.
 - 9 Annual contributions shall be due and payable in full within 90 days of receipt of the information from the Executive Secretary referred to in Regulation 4.8. After that date, any unpaid balance shall be considered to be in arrears. The Commission has the authority to permit extensions to the due-date of up to 90 days for individual members of the Commission who are unable to comply with this regulation. Annual contributions shall be assessed in New Zealand dollars.
 - 10 New members of the Commission shall pay their annual contribution within 90 days of depositing an instrument of accession with the Depository Government for that financial year. The Executive Secretary shall inform new members of the Commission of this requirement upon receipt of their instrument of accession.
 - 11 The Executive Secretary shall submit to each annual meeting of the Commission a report on the collection of annual contributions from members of the Commission, any voluntary contributions received, and any investment and other income received.

Regulation 5

FUND TO FACILITATE THE EFFECTIVE PARTICIPATION OF DEVELOPING STATE CONTRACTING PARTIES

The fund referred to in Article 19, paragraph 5 of the Convention is hereby established and shall be administered in accordance with the guidelines set out in Annex 1 to these Regulations.

Regulation 6

BOOKS OF ACCOUNT

- 1 The Executive Secretary shall ensure that appropriate records and accounts are kept of the financial transactions and affairs of the Organisation. He/she shall also ensure that all payments out of Organisation's monies are correctly made and properly authorised, and that adequate control is maintained over the assets of, or in the custody of, the Organisation and over incurring of liabilities by the Organisation.
- 2 The Executive Secretary shall maintain such accounting records as are necessary for each financial year, including:
 - (a) income and expenditures;
 - (b) the status of appropriations, including:
 - (i) the original budget appropriations;
 - (ii) transfers between appropriation categories;
 - (iii) amounts charged against appropriation categories;
 - (c) the status of the fund established in accordance with Article 19 paragraph 5 of the Convention;
 - (d) the status of the Accumulated Surplus Account and other accounts;
 - (e) funds held in currencies other than New Zealand dollars, and
 - (f) the status of investments, and any other financial assets or liabilities of the Organisation.
- 3 Annual financial statements shall be submitted by the Executive Secretary to the auditors no later than 60 days following the end of the financial year.
- 4 The Executive Secretary may, after full investigation, authorise the writing off of losses of cash, stores, and other assets, provided that a statement of all such amounts written off shall be submitted to the Commission and the auditors with the annual financial statements.

Regulation 7

CUSTODY AND INVESTMENT OF FUNDS

- 1 The Executive Secretary shall designate the bank or banks in which the funds of the Commission shall be kept and shall report the identity of the bank or banks so designated to the Commission.
- 2
 - (a) The Executive Secretary may make short-term investments of monies not needed for the immediate requirements of the Commission. Such investments shall be restricted to securities and other investments issued under Government guarantee. The details of investment transactions and income derived shall be reported in the annual financial statement.
 - (b) With regard to monies held in trust or special funds for which use is not required for at least 12 months, longer-term investments may be authorized by the

Commission provided such action is consistent with the terms and conditions under which the monies were lodged with the Commission.

Regulation 8

SALARIES

- 1 The Commission shall adopt, as necessary, a salary scale for the Executive Secretary and other employees of the Organisation.
- 2 The Executive Secretary shall make arrangements to ensure that any employee of the Organisation who is subject to national income tax can be reimbursed tax paid on his/her salary. Such arrangements shall be made only on the basis that the direct costs of reimbursement are paid by the employee's home country.

Regulation 9

EXTERNAL AUDIT

- 1 Having regard to the budgetary provisions for the audit, the auditors, appointed in accordance with Article 15 paragraph 10, of the Convention, shall perform such an audit as they deem necessary to certify:
 - (a) that the financial statements are in accord with the books and records of the Organisation;
 - (b) that the financial transactions reflected in the statements have been in accordance with the relevant rules and regulations, the budgetary provisions, and other applicable directives;
 - (c) that the monies on deposit and on hand have been verified by a statement from relevant financial institutions.
- 2 Subject to the directions of the Commission, the auditors shall be the sole judge as to the acceptance in whole or part of the certifications by the Executive Secretary and may proceed to such detailed examination and verifications as they choose of all financial records, including those related to supplies and equipment if considered necessary.
- 3 The auditors may affirm by test the reliability of the system of control, as described in Regulation 6.1 and may make such reports with respect thereto as they may deem necessary.
- 4 The auditors and their staff shall have free access at all convenient times to all books of account and records which are, in the opinion of the auditors, necessary for the performance of the audit. Information classified in the records of the Executive Secretary as confidential, and which is required for the purposes of the audit, shall be made available on application to the Executive Secretary.
- 5 The auditors, in addition to certifying the financial statements, may make such observations as they deem necessary with respect to the efficiency of the financial procedures, the accounting system, the internal financial controls and, in general, the financial consequences of administrative practices. In no case, however, shall the auditors include criticism in their audit report without first affording the Executive

Secretary an opportunity of explanation to the auditors of the matter under observation. Audit objections to any item in the financial statements shall be immediately communicated to the Executive Secretary.

- 6 The auditors shall have no power to remove items in the accounts, but shall draw to the attention of the Chairperson of the Finance and Administration Committee and the Executive Secretary any transaction concerning which they entertain doubt as to legality or propriety. The Chairperson of the Finance and Administration Committee shall inform the Commission of these concerns.
- 7 The auditors shall prepare a report on the accounts certified, and on any matters on which the Commission by resolution thereon may from time to time give specific instructions.
- 8 The auditors shall submit their report to the Commission through the Executive Secretary not later than 90 days after having received the year's financial statements from the Executive Secretary.
- 9 The Finance and Administration Committee shall forward to the Commission its comments, if any, on the audit report.
- 10 Following consideration of the audited financial statements and the auditor's report, and any comments from the Finance and Administration Committee, the Commission shall signify its acceptance of the audited financial statements or take such action as it may consider appropriate.
- 11 The auditors shall serve for a maximum term of three (3) years and may be reappointed.

Regulation 10

Delegation of Authority

The Executive Secretary may delegate to other employees of the Organisation such of his/her powers as he/she considers necessary for the effective implementation of these Regulations.

Regulation 11

INTERPRETATION

The Chairperson of the Commission shall rule, in cases of doubt as to the interpretation and application of any of these Regulations. Such rulings shall be forwarded to the Finance and Administration Committee for information purposes.

ANNEX 1

GUIDELINES FOR THE ADMINISTRATION OF THE SPECIAL REQUIREMENTS FUND

(hereafter "the Fund")

(as provided by Article 19 of the Convention, and Regulation 5 of these Regulations)

Purpose

- 1 The purpose of the Fund is to facilitate the effective participation of developing State Contracting Parties of the region, in particular the least developed among them, and small island developing States, and as appropriate, territories and possessions in the work of the Commission and its subsidiary bodies, including assistance directed towards:
 - (a) improved conservation and management of the fishery resources and the development of fisheries for such resources; and
 - (b) building capacity in key areas such as monitoring, control and surveillance, compliance and enforcement, data collection, verification and analysis, stock assessment and scientific research.
- 2 The use of the Fund shall be underpinned by the principles of transparency and accountability.

Resourcing

- 3 By 31 January each year, the Executive Secretary will write to members of the Commission, cooperating non Contracting Parties and other sources of support, seeking voluntary contributions to the Fund for the subsequent financial year.

Procedure for technical assistance and capacity-building

- 4 Applications by those eligible to access the Fund shall be submitted to the Executive Secretary in the form contained in **Schedule A** at least 45 days before the annual meeting of the Commission. The Executive Secretary shall promptly circulate any such applications.
- 5 An application may also be submitted by an appropriate subregional or regional organisation or arrangement on behalf of one or more of those eligible.
- 6 The Finance and Administration Committee shall undertake an initial assessment of applications received and transmit any recommendations to the Commission.
- 7 In assessing applications received, the Commission shall take into account any recommendations from the Finance and Administration Committee, and the criteria for selection and evaluation as contained in **Schedule B** and be guided by the purpose of the Fund, the provisions of the Convention, the financial needs of the applicant and the availability of funds, with priority given to small island developing States and, where appropriate, territories and possessions.

Accounting and reporting

- 8 Appropriate records and accounts shall be maintained for the Fund, and the Executive Secretary shall report the status of the Fund, the amount used to provide assistance for the development of technical capacity and details of such assistance, together with the level of available funds, during the annual session of the Commission.

Results

- 9 Project monitoring and evaluation shall include:
- written and verbal communication as necessary with the Commission during the implementation of the project;
 - submission to the Commission of quarterly narrative and financial reports by the beneficiary; and
 - submission to the Commission of a final narrative and financial report at the end of the project.

Schedule A

APPLICATION FOR ASSISTANCE FROM THE FUND

I. Project Summary (250 words maximum)

A Project Summary shall be submitted with the application.

II. Proposal Narrative (6 pages maximum)

A. Introduction

- Situation, need, and previous efforts – gaps in knowledge or capabilities, why the proposed project should be performed, review significant work related and how the project is relevant to the purpose of the Fund.
- Objective(s) –The anticipated outcome(s).
- Applications, benefits, and importance - How the anticipated results relate to the purpose/objectives of the Convention and the expected benefits.

B. Method and approach

- Description of major tasks- Describe the tasks that must be performed to accomplish the objective(s).
- Environmental Impact - Any possible impact that your project will have on the environment and fishery resources in the Convention Area.
- Follow-up action – identify follow-up action after completion of the project.

C. Project management

- Administration - The administrative responsibilities and authority of those involved in the execution of the Proposal - particularly those of the overall project manager (including full contact details).
- Roles/Assignments and participation time - The team composition and estimate of the duration of the project.

D. Support requirements and conditions

- 1 Government approvals - If a clearance or permit(s) from any government agency is required for execution of the project, the name of the agency, the method of obtaining the clearance or permit, and the time required.
- 2 Data or facility access - If access is required to data or facilities held by another entity.

E. Literature Cited

References used in the proposal narrative.

F. Budget and Audit

- 1 General information – Has the applicant previously benefited from assistance from the Fund.
- 2 An itemised budget including co-financing and funding in-kind – attach a detailed budget identifying all sources of funding and items of anticipated expenditure shall be provided.
- 3 A cash flow summary that includes a schedule of anticipated disbursement of funds from the Fund shall be provided.
- 4 Audit – When, and by whom, the audit of funds received will be conducted and the submission date for the audit to the Commission shall be detailed.

G. Biographies and qualifications

A brief biography for each team member that highlights education, experience, and publications related to the proposed project shall be provided.

SCHEDULE B

SELECTION AND EVALUATION CRITERIA TO BE USED BY THE COMMISSION

- Has a clear need for the project been identified?
- Who will benefit from the project?
- Will the project improve the capacity of the beneficiary to assist in fulfilling its obligations under the Convention, and participate effectively in the work of the Organisation?
- Does capacity-building target the maximum number of individuals, across various interested parties, including Government, the private sector and NGOs? In particular, does it involve a broad range of stakeholders from the fishery sector?
- Is maximum use made of other existing organisations, either at regional or national level, to coordinate and assist with capacity development?
- Are the outcomes and objectives clearly set out?
- Does the project clearly seek to complement or improve existing fisheries conservation and management tools or capabilities in a way that will improve the ability of one or more developing member States, or territories or possessions, to implement their obligations under the Convention?

- Will the project benefit more than just the beneficiary (i.e. can the activity be extended to other stakeholders or countries)?
- Are the proposed costs of the activity reasonable and in proportion to the likely benefits?
- Is there an appropriate financial contribution from the national government?
- Has the applicant received prior support from the Fund? If so, was the activity successful?
- Are the approach and methods well described?
- Does the applicant have the demonstrated capacity to benefit fully from the project and ensure the outputs are fully utilised?
- Is there provision for disseminating information on the project's activities and results to an appropriate range of stakeholders or the general public?
- How will the success of the intervention be measured?
- Who is responsible for ensuring the success of the intervention?

RULES FOR COOPERATING NON-CONTRACTING PARTIES

Decision 1.02

REAFFIRMING the objective of the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean (the Convention) to ensure the long-term conservation and sustainable use of fishery resources in the South Pacific Ocean through the application of the precautionary approach and the ecosystem approach;

RECOGNIZING the continuing need to encourage non-Contracting Parties with vessels fishing in the Convention area to implement conservation and management measures adopted by the Commission;

TAKING INTO ACCOUNT Article 8 (j) of the Convention which mandates the Commission to develop rules for cooperating non-Contracting Party states under the Convention and Article 32 of the Convention which defines Members' obligations with respect to non-Contracting parties;

RECOGNIZING the need for clear criteria to enable non-Contracting Parties whose vessels fish in the Convention Area to attain the status of Cooperating non-Contracting Party;

REAFFIRMING that the Commission shall give full recognition to the special requirements of developing States, in particular the least developed among them, and small island developing States, and of territories and possessions, and their coastal communities, in relation to the conservation, management and sustainable development of fishery resources and equitable benefit from those resources;

GIVING EFFECT to Articles 8 and 32 of the Convention, the Commission has decided as follows:

- 1 Each year, the Executive Secretary shall contact all non-Contracting Parties whose vessels fish in the Convention Area and, if possible, non-Contracting Parties known to have an interest in fishing in the Convention Area, to request them to become a Contracting Party to the Convention or to attain the status of Cooperating non-Contracting Party.
- 2 A non-member of the Commission, with an interest in the fishery, or whose vessels fish or intend to fish in the Convention Area, may request the Commission for the status of Cooperating non-Contracting Party (CNCP). Any such request and supporting information shall be in English and shall be received by the Executive Secretary at least 60 days in advance of the annual meeting of the Compliance and Technical Committee (CTC) at which the request will be considered. The Executive Secretary shall notify all members of the Commission of any such request and circulate the full application to all members.
- 3 A non-member seeking the status of CNCP shall include within its request:
 - (a) its reason for seeking CNCP status,
 - (b) a commitment to cooperate fully in the implementation of conservation and management measures adopted by the Commission and to ensure that fishing vessels flying its flag and fishing in the Convention Area and, to the greatest extent possible, its nationals, comply with the provisions of the Convention and conservation and management measures adopted by the Commission;

- (c) an explicit commitment to accept high seas boarding and inspections in accordance with the Commission's procedures on high seas boarding and inspection, once they have been adopted; full data on its historical fisheries in the Convention Area, including nominal catches, number/type of vessels, name of fishing vessels, fishing effort and fishing areas;
 - (d) all the data and information members of the Commission are required to submit, in accordance with the standards adopted by the Commission;
 - (e) any further relevant information as determined by the Commission.
 - (f) a statement of intent to make voluntary financial contributions commensurate with what would be assessed should it become a Member, pursuant to the scheme of contributions established by the Commission in accordance with Article 15(2) of the Convention and particularly in accordance with paragraph 4.7 of the Financial Regulations of the Commission".
4. The CTC shall assess applications for CNCP status and provide recommendations and technical advice to the Commission, which shall consider, *inter alia*:
- (a) whether the CNCP application includes all information required under paragraph 3;
 - (b) in the case of renewal, the record of compliance of the applicant with the provisions of the Convention and the conservation and management measures adopted by the Commission;
 - (c) the applicant's record of responding to any IUU activities by vessels flying its flag that have been brought to its attention, in accordance with Article 27 of the Convention;
 - (d) as appropriate, the record of compliance of the applicant with conservation and management measures of other Regional Fisheries Management Organizations (RFMOs);
 - (e) in the case of applications for renewal of CNCP status, whether the applicant is meeting all paragraph 12 requirements for CNCP.
5. The Executive Secretary shall forward a copy of the relevant CTC recommendations and advice to the non-member applicant as soon as practicable.
6. The non-member applicant shall have the opportunity to consider the recommendations and advice of the CTC, and to submit additional information if necessary in advance of the Commission's decision on its application.
7. The Commission shall, in determining whether a non-member is accorded CNCP status at its annual meeting, have regard to the criteria outlined in paragraph 4.
8. The Commission shall also consider information available from other RFMOs relating to non-members seeking CNCP status, as well as data submitted by such non-members to the Commission.
9. The Commission shall accord CNCP status on an annual basis. It may renew the CNCP status subject to a review of the CNCP's compliance with the Convention's objectives and requirements.

- 10 *CNCs seeking to renew their status shall comply with any other requirements the Commission may prescribe to ensure compliance with conservation and management measures adopted by the Commission.*
- 11 *CNCs are entitled to participate at meetings of the Commission and its subsidiary bodies as Observers.*
- 12 *CNCs shall:*
 - (a) *comply with all conservation and management measures adopted by the Commission; provide all data members of the Commission are required to submit, in a timely manner, in accordance with the format and standards adopted by the Commission;*
 - (b) *inform the Commission annually of the measures it takes to ensure compliance by its vessels with the Commission's conservation and management measures;*
 - (c) *respond in a timely manner to alleged violations of conservation and management measures adopted by the Commission and any IUU activities of vessels flying its flag, as requested by a member of the Commission or determined by the appropriate subsidiary bodies of the Commission and communicate to the member making the request and to the Commission, the actions it has taken against the vessels in accordance with the provisions of Article 27 of the Convention;*
 - (d) *accept boardings in accordance with the Commission's high seas boarding and inspection procedures.*
- 13 *The Commission shall monitor the activities of nationals and fishing vessels of CNCs, including their record of compliance with the provisions of the Convention and conservation and management measures adopted by the Commission.*
- 14 *CNCs that fail to comply with any of the conservation and management measures adopted by the Commission shall be deemed to have undermined the effectiveness of the conservation and management measures adopted by the Commission. The Commission shall take appropriate action, which may include revocation of CNC status and/or sanctions and penalties against such CNCs, in accordance with the Convention and adopted conservation and management measures.*

