

**DRAFT RULES OF PROCEDURE OF THE COMMISSION FOR THE
CONSERVATION AND MANAGEMENT OF HIGHLY MIGRATORY FISH STOCKS
IN THE WESTERN AND CENTRAL PACIFIC**

Prepared by the Secretariat

1. The draft rules of procedure for the Commission contained in the present document have been prepared by the Secretariat on the basis of standard rules of procedure for international organizations world wide, taking into account the considerations that had been identified in document WCPFC/PrepCon/BP.3.
2. Following discussion of the draft in an informal working group of the whole during the first session of the Preparatory Conference, the draft has been revised taking into account the comments and suggestions made by delegations.
3. The draft rules of procedure provide for the participation of territories in the work of the Commission in accordance with article 43, paragraph 3, of the Convention. However, it should be noted that, at present, the draft rules are not intended to give effect to article 43, paragraph 2, of the Convention, which envisages the development of separate rules of procedure relating to the nature and extent of participation by territories. During the first session of the Preparatory Conference, the delegation of New Zealand submitted a paper relating to rules of procedure for the participation of territories (WCPFC/PrepCon/DP.5). The informal session agreed that the paper submitted by New Zealand formed a useful basis for further discussion of the issue of participation by territories and that the matter would be taken up at future sessions of the Preparatory Conference.

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I. SESSIONS

REGULAR SESSIONS

Frequency of sessions

Rule 1

The Commission shall hold a regular annual session¹ unless it decides otherwise. Before the end of each regular annual session, the Commission shall, if possible, decide on the date of commencement and the approximate duration of the next regular annual session.

Notification

Rule 2

The Executive Director shall notify the members of the Commission,² each territory referred to in article 43 of the Convention, and observers referred to in rule 53, as early as possible but at least sixty days in advance of the opening of a regular annual session.

¹ In these rules, unless otherwise stated, ‘regular annual session’ means the annual meeting of the Commission specified in article 9, paragraph 3, of the Convention.

² In accordance with article 9, paragraph 2, of the Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (hereafter referred to as “the Convention”), a fishing entity referred to in the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, which has agreed to be bound by the regime established by the Convention in accordance with the provisions of Annex I to the Convention, may participate in the work, including decision-making, of the Commission in accordance with the provisions of article 9 and Annex I. According to paragraph 2 of Annex I, such fishing entity shall participate in the work of the Commission, including decision-making, and shall comply with the obligations under the Convention. References thereto by the Commission or members of the Commission include, for the purposes of the Convention, such fishing entity as well as Contracting Parties.

SPECIAL SESSIONS

Convening of special sessions

Rule 3

1. The Commission may convene special sessions and shall fix the date of commencement and duration of each session.
2. Any member of the Commission may request the Executive Director to convene a special session of the Commission. The Executive Director shall immediately inform the other members of the Commission of the request and inquire whether they concur with it. If within thirty days of the date of communication by the Executive Director a majority of the members of the Commission concur in the request, a special session of the Commission shall be convened by the Executive Director and it shall meet no earlier than thirty days and no later than ninety days after the receipt of such concurrence.

Notification

Rule 4

The Executive Director shall notify the members of the Commission, each territory referred to in article 43 of the Convention, and observers referred to in rule 53, as early as possible but at least thirty days in advance of the opening of a special session.

REGULAR AND SPECIAL SESSIONS

Place of meeting

Rule 5

The Commission shall meet at the headquarters of the Commission unless it decides otherwise.

Temporary adjournment of sessions

Rule 6

The Commission may decide at any session to adjourn temporarily and resume the session at a later date.

II. AGENDA

REGULAR SESSIONS

Provisional agenda

Rule 7

The provisional agenda for a regular session shall be drawn up by the Executive Director, in consultation with the Chairman, and communicated to the members of the Commission, to each territory referred to in article 43 of the Convention and to observers referred to in rule 53 at least sixty days before the opening of the session.

Drawing up of the provisional agenda

Rule 8

The provisional agenda of a regular session shall consist of:

- (a) The annual report of the Executive Director on the work of the Commission;
- (b) Items the inclusion of which has been requested by the Commission at a previous session;
- (c) Items proposed by any member of the Commission;
- (d) Items pertaining to the budget for the next financial year and the report on the accounts for the last financial year;
- (e) Recommendations of the scientific experts pursuant to article 13 of the Convention and recommendations of the Scientific Committee;
- (f) Recommendations of the Technical and Compliance Committee;
- (g) Items which the Executive Director deems it necessary to put before the Commission.

Supplementary items

Rule 9

Any member of the Commission or the Executive Director may, at least thirty days before the date fixed for the opening of a regular session request the inclusion of supplementary items in the agenda. A request for the inclusion of a supplementary item on the provisional agenda shall be accompanied by a written explanation of the proposed supplementary item. Such items shall be placed on a supplementary list, which shall be communicated to the members of the Commission, to each territory referred to in article 43 of the Convention, and to observers referred to in rule 53 at least twenty days before the opening of the session.

SPECIAL SESSIONS

Drawing up of the provisional agenda

Rule 10

The provisional agenda for a special session shall consist only of those items proposed for consideration in the request for holding the session.

Communication of the provisional agenda

Rule 11

The provisional agenda for a special session shall be communicated to the members of the Commission, to each territory referred to in article 43 of the Convention, and to observers referred to in rule 53, at least fourteen days before the opening of the session.

REGULAR AND SPECIAL SESSIONS

Adoption of the agenda

Rule 12

At the beginning of each session, the Commission shall adopt its agenda for the session on the basis of the provisional agenda. The Commission may, however, in urgent circumstances, place additional items of an important or urgent character on the agenda at any time during a session.

III. REPRESENTATION

Representation

Rule 13

1. Each member of the Commission, and each territory referred to in article 43 of the Convention, shall be represented by designated representatives and such alternate representatives and advisers as may be required by the delegation.
2. Observers referred to in rule 53 shall be represented by designated representatives and by such alternate representatives and advisers as may be required.
3. The names of representatives and the names of alternate representatives and advisers shall be submitted to the Executive Director if possible not later than twenty-four hours after the opening of the session in such standard form of designation as the Executive Director shall establish.

Official contact

Rule 14

Each member of the Commission, and each territory referred to in article 43 of the Convention, shall, as soon as possible after the adoption of these rules, notify the Executive Director of an Official Contact who shall, for the purposes of official communications between the Commission and the member or territory concerned, including all notifications and communications made pursuant to these rules, be the official point of contact.

Objection to representation

Rule 15

Any representative, to whose designation objection has been made within the Commission, shall continue to sit with the same rights as other representatives until the Commission has decided the matter.

IV. OFFICERS

Elections

Rule 16

At its first regular session, and each two years thereafter, the Commission shall elect a Chairman and a Vice-Chairman from among the Contracting Parties to the Convention, who shall be of different nationalities. Subject to rule 19, they shall hold office for a period of two years and shall be eligible for re-election.

Functions of the Chairman

Rule 17

1. In addition to exercising the powers conferred upon him or her elsewhere in these rules or by the Convention, the Chairman shall declare the opening and closing of each plenary meeting of the Commission, direct the discussions in plenary meeting, ensure observance of these rules, accord the right to speak, put questions and announce decisions. He or she shall rule on points of order and, subject to these rules, shall have complete control of the proceedings at any meeting and over the maintenance of order thereat. The Chairman may, in the course of discussion of an item, propose to the Commission the limitation of the time to be allowed to speakers, the limitation of the number of times each representative may speak, the closure of the list of speakers or the closure of the debate. He or she may also propose the suspension or the adjournment of the meeting or the adjournment of the debate on the item under discussion.
2. The Chairman, in the exercise of his or her functions, remains under the authority of the Commission.
3. The Vice-Chairman acting as Chairman shall have the same powers and duties as the Chairman.

Voting

Rule 18

The Chairman, or the Vice-Chairman acting as Chairman, shall not vote, but shall designate another member of his or her delegation to vote in his or her place.

Replacement of the Chairman or Vice-Chairman

Rule 19

If the Chairman or Vice-Chairman is unable to carry out his or her functions or ceases to be a representative of a Contracting Party, or if a Contracting Party of which he or she is a representative ceases to be a member of the Commission, he or she shall cease to hold office and a new Chairman or Vice-Chairman shall be elected for the unexpired term.

V. SECRETARIAT

Duties of the Executive Director

Rule 20

1. The Executive Director, as the chief administrative officer of the Commission, shall act in that capacity in all meetings of the Commission and of its subsidiary bodies. The Executive Director may designate an officer of the Secretariat to act as his or her representative. The Executive Director shall discharge such other responsibilities as are assigned to him or her under the Convention or by the Commission in the conduct of its business.
2. The Executive Director shall provide and direct, with due regard to principles of economy and efficiency, the staff required by the Commission and its subsidiary bodies.
3. The Executive Director shall keep the members of the Commission informed of any questions which may be of interest to the Commission.

Duties of the Secretariat

Rule 21

The Secretariat shall carry out the duties and perform the functions set out in article 15 of the Convention. In particular, the Secretariat shall receive, reproduce and distribute documents, reports and decisions of the Commission and its subsidiary bodies, prepare and circulate summary reports of the meetings of the Commission in accordance with rule 23; have the custody and proper preservation of the documents in the archives of the Commission; distribute all documents of the Commission to the members of the Commission, the territories referred to in article 43 of the Convention, and observers referred to in rule 53; and, generally, perform all other work which the Commission may require.

Report of the Executive Director on the work of the Commission

Rule 22

The Executive Director shall make an annual report, and such supplementary reports as are necessary, to the Commission at its regular session on the work of the Commission. The Executive Director shall communicate the annual report to the members of the Commission, to each territory referred to in article 43 of the Convention and to observers referred to in rule 53 at least forty-five days before the opening of the regular session.

VI. RECORDS

Records and sound recordings of meetings

Rule 23

1. Summary reports of the sessions of the Commission shall be maintained in such form as the Commission shall decide. As a general rule, such reports shall be circulated as soon as possible, to all representatives, who shall inform the Secretariat within fifteen working days after the circulation of the summary report of any changes they wish to have made.

2. The Executive Director shall communicate the text of all decisions adopted by the Commission pursuant to article 20 of the Convention to all members of the Commission within seven working days following the adoption of such decision.

VII. PUBLIC AND PRIVATE MEETINGS OF THE COMMISSION AND ITS SUBSIDIARY BODIES

Public and private meetings

Rule 24

1. The meetings of the Commission shall be held in public unless the Commission decides that exceptional circumstances require that meetings be held in private.
2. As a general rule, meetings of subsidiary bodies shall be held in private.
3. All decisions of the Commission taken at a private meeting shall be announced at an early public meeting of the Commission. At the close of a private meeting of a subsidiary body, the Chairman may issue a communiqué through the Executive Director.

VIII. PLENARY MEETINGS

Quorum

Rule 25

The Chairman may declare a meeting open and permit the debate to proceed when at least three-fourths of the members of the Commission are present.

Speeches

Rule 26

No representative may address the Commission without having previously obtained the permission of the Chairman. The Chairman shall call upon speakers in the order in which they signify their desire to speak. The Chairman may call a speaker to order if his or her remarks are not relevant to the subject under discussion.

Precedence

Rule 27

The Chairman of a subsidiary body may be accorded precedence for the purpose of explaining the conclusions arrived at by that body.

Statements by the Secretariat

Rule 28

The Executive Director, or a member of the Secretariat designated by him as his representative, may, at any time with the permission of the Chairman, make either oral or written statements to the Commission concerning any question under consideration by it.

Points of order

Rule 29

During the discussion of any matter, a member of the Commission may rise to a point of order, and the point of order shall be immediately decided by the Chairman in accordance with these rules of procedure. A member of the Commission may appeal against the ruling of the Chairman. The appeal shall be immediately put to the vote, and the Chairman's ruling shall stand unless overruled by a majority of the members of the Commission present and voting. A representative rising to a point of order may not speak on the substance of the matter under discussion.

Time-limit on speeches

Rule 30

The Commission may limit the time to be allowed to each speaker and the number of times each representative may speak on any question. When the debate is limited and a representative exceeds his or her allotted time, the Chairman shall call him or her to order without delay.

Closing of list of speakers, right of reply

Rule 31

During the course of the debate, the Chairman may announce the list of speakers and, with the consent of the Commission, declare the list closed. The Chairman may, however, accord the right of reply to any representative if a speech delivered after the list has been declared closed makes this desirable.

Adjournment of debate

Rule 32

During the discussion of any matter, a member of the Commission may move the adjournment of the debate on the item under discussion. In addition to the proposer of the motion, two members of the Commission may speak in favour of, and two against, the motion, after which the motion shall be immediately put to the vote. The Chairman may limit the time to be allowed to speakers under this rule.

Closure of debate

Rule 33

A member of the Commission may at any time move the closure of the debate on the question under discussion, whether or not any other member has signified his or her wish to speak. In addition to the proposer of the motion, two members of the Commission may speak in favour of, and two against, the motion, after which the motion shall be immediately put to the vote. If the Commission is in favour of closure, the Chairman shall declare the closure of the debate. The Chairman may limit the time to be allowed to speakers under this rule.

Suspension or adjournment of the meeting

Rule 34

During the discussion of any matter, a member of the Commission may move the suspension or adjournment of the meeting. Such motions shall not be debated, but shall be immediately put to the vote. The Chairman may limit the time to be allowed to the speaker moving the suspension or adjournment of the meeting.

Order of procedural motions

Rule 35

Subject to rule 29, the following motions shall have precedence in the following order over all other proposals or motions before the meeting:

- (a) To suspend the meeting;
- (b) To adjourn the meeting;
- (c) To adjourn the debate on the item under discussion;
- (d) To close the debate on the item under discussion.

Proposals and amendments

Rule 36

Proposals and amendments shall normally be circulated in writing to the Executive Director, who shall circulate copies to the delegations. As a general rule, no proposal shall be discussed or put to the vote at any meeting of the Commission unless copies of it have been circulated to all delegations not later than the day preceding the meeting. The Chairman may, however, permit the discussion and consideration of amendments, or of motions as to procedure, even though such amendments and motions have not been circulated or have only been circulated the same day.

Decisions on competence

Rule 37

Subject to rule 35, any motion calling for a decision on the competence of the Commission to adopt a proposal submitted to it shall be put to the vote before a vote is taken on the proposal in question.

Withdrawal of proposals and motions

Rule 38

A proposal or a motion may be withdrawn by its proposer at any time before voting on it has commenced, provided that the proposal or motion has not been amended. A proposal or a motion thus withdrawn may be reintroduced by any member of the Commission.

Reconsideration of proposals

Rule 39

When a proposal has been adopted or rejected, it may not be reconsidered at the same session unless the Commission, by a three-fourths majority of the members of the Commission present and voting, so decides. Permission to speak on a motion to reconsider shall be accorded only to two members of the Commission in favour of the motion, and two against the motion, after which the motion shall be immediately put to the vote.

IX. DECISION-MAKING

Voting rights

Rule 40

Each member of the Commission shall have one vote, unless otherwise provided in the Convention.

Decision-making

Rule 41

1. As a general rule, decision-making in the Commission shall be by consensus. For the purposes of these rules, “consensus” means the absence of any objection.
2. If all efforts to reach a decision by consensus have been exhausted, decisions by voting in the Commission on questions of procedure shall be taken by a majority of those present and voting. Decisions on questions of substance shall be taken by a three-fourths majority of those present and voting provided that such majority includes a three-fourths majority of the members of the South Pacific Forum Fisheries Agency present and voting and a three-fourths majority of non-members of the South Pacific Forum Fisheries Agency present and voting and provided further that in no circumstances shall a proposal be defeated by two or fewer votes in either chamber. When the issue arises as to whether a question is one of substance or not, that question shall be treated as one of substance unless otherwise decided by the Commission by consensus or by the majority required for decisions on questions of substance.
3. If it appears to the Chairman that all efforts to reach a decision by consensus have been exhausted, the Chairman shall fix a time during that session of the Commission for taking the decision by a vote. At the request of any member, the Commission may, by a majority of those present and voting, defer the taking of a decision until such time during the same session as the Commission may decide. At that time, the Commission shall take a vote on the deferred question. This rule may be applied only once to any question.
4. Elections of individuals shall be conducted in accordance with article 20 of the Convention. In the event of a vote, notwithstanding the provisions of rule 43, the election shall be conducted by secret ballot. If no candidate obtains in the first ballot the necessary majorities of the votes cast, a second ballot restricted to the two candidates obtaining the largest number of votes shall be taken. If in the second ballot the votes are equally divided, the balloting shall be continued until one candidate secures the necessary majorities of the votes cast.

5. For the purposes of these rules, the phrase “those present and voting” means members of the Commission present and casting an affirmative or negative vote. Members of the Commission who abstain from voting shall be considered as not voting.

Decisions requiring a consensus

Rule 42

Decisions on questions of substance arising under the following provisions of the Convention shall be taken by consensus: article 9, paragraph 8 (adoption of rules of procedure), article 10, paragraph 4 (decisions relating to the allocation of total allowable catch or the total level of fishing effort), article 17, paragraph 2 (adoption of financial regulations), article 18, paragraphs 1 and 2 (adoption of the budget and a scheme for assessment of contributions to the budget), and article 40 (amendments to the Convention).

Method of voting

Rule 43

The Commission shall vote by show of hands or by standing, but any member of the Commission may request a roll-call. The roll-call shall be taken in the alphabetical order of the names of the members of the Commission participating in that session, beginning with the member whose name is drawn by lot by the Chairman. The name of each member of the Commission shall be called in any roll-call, and one of its representatives shall reply “yes”, “no” or “abstention”. The result of the voting shall be inserted in the record in the alphabetical order of the names of the members.

Conduct during voting

Rule 44

After the Chairman has announced the commencement of voting, no member of the Commission may interrupt the voting, except that members of the Commission may interrupt on a point of order in connection with the actual conduct of voting.

Explanation of vote

Rule 45

Members of the Commission may make brief statements consisting solely of explanations of their votes before the voting has commenced or after the voting has been completed. The Chairman may limit the time to be allowed for such statements. A member of the Commission sponsoring a proposal or motion shall not speak in explanation of vote thereon, except if it has been amended.

Division of proposals and amendments

Rule 46

A member of the Commission may move that parts of a proposal or of an amendment should be voted on separately. If objection is made to the request for a division, the motion for division shall be voted upon. Permission to speak on the motion for division shall be given only to two speakers in favour and two speakers against. If the motion for division is carried, those parts of the proposal or of the amendment which are approved shall then be put to the vote as a

whole. If all operative parts of the proposal or of the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.

Order of voting on amendments

Rule 47

When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the Commission shall first vote on the amendment furthest removed in substance from the original proposal and then on to the amendment next furthest removed therefrom and so on until all the amendments have been put to the vote. Where, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon. A motion is considered an amendment to a proposal if it adds to, deletes from or revises part of the proposal.

Order of voting on proposals

Rule 48

If two or more proposals relate to the same question, the Commission shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted. The Commission may, after each vote on a proposal, decide whether to vote on the next proposal.

X. SUBSIDIARY BODIES

Establishment

Rule 49

The Commission may establish, as appropriate, and with due regard to economy and efficiency, such subsidiary bodies as it finds necessary for the exercise of its functions.

Rules of procedure

Rule 50

Except as otherwise provided in the Convention, these rules of procedure apply, mutatis mutandis, to the proceedings of subsidiary bodies, including the Scientific Committee and the Technical and Compliance Committee.

XI. SUSPENSION OF RIGHTS

Suspension of the exercise of voting rights

Rule 51

A contributor to the budget of the Commission which is in arrears in the payment of its financial contributions to the Commission shall not participate in the taking of decisions by the Commission if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The Commission may, nevertheless, permit such a contributor to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the contributor.

XII. OBSERVERS

Observers

Rule 52

1. The following may participate as observers in the Commission:
 - (a) States, entities and fishing entities that participated in the Multilateral High Level Conference on the Conservation and Management of the Highly Migratory Fish Stocks, which are not members of the Commission;
 - (b) Any entity referred to in article 305, paragraph 1, subparagraphs (c), (d) and (e) of the 1982 United Nations Convention on the Law of the Sea which is situated in the Convention Area, which is not a member of the Commission;
 - (c) Other States with an interest in the work of the Commission, invited by the Commission, which are not members of the Commission;
 - (d) The Food and Agriculture Organization of the United Nations and other relevant intergovernmental organizations and South Pacific regional organizations invited by the Commission;
 - (e) Non-governmental organizations concerned with matters relevant to the implementation of the Convention admitted by the Commission pursuant to paragraph 4 of this rule which have demonstrated their interest in matters under consideration by the Commission.
2. Observers referred to in paragraph 1 (a), (b) and (c) of this rule may participate subject to the provisions of these rules in the deliberations of the Commission and its subsidiary bodies but shall not be entitled to participate in the taking of decisions. Written statements submitted by such observers shall be distributed by the Secretariat to the members of the Commission.
3. Observers referred to in paragraph 1 (d) of this rule may participate in the deliberations of the Commission and its subsidiary bodies upon the invitation of the Chairman on questions within the scope of their competence, but shall not be entitled to participate in the taking of decisions. Written statements submitted by such observers shall be distributed by the Secretariat to the members of the Commission.
4. A non-governmental organization desiring to participate as an observer shall notify the Executive Director in writing of its desire to participate at least fifty days in advance of the session. The Executive Director shall notify the members of the Commission of such request at least 45 days prior to the opening of the session at which the request is to be considered. Non-governmental organizations that have made such notification to the Executive Director shall be invited to participate in the session as observers unless a majority of the members of the Commission objects to the request in writing at least twenty days before the opening of the session. Upon consideration of the request at the session, the Commission shall approve such a request for observer status unless a majority of the members of the Commission objects to the request. Such observer status shall remain in effect for future sessions unless the Commission decides otherwise.
5. Observers referred to in paragraph 1 (e) of this rule may sit at public meetings of the Commission and upon the invitation of the Chairman and subject to the approval of the

Commission may make oral statements on matters within the scope of their activities. Written statements submitted by observers referred to in paragraph 1 (e) of this rule within the scope of their activities which are relevant to the work of the Commission may, subject to the approval of the Chairman, be distributed at meetings of the Commission.

6. The Executive Director may require observers referred to in paragraph 1 (e) of this rule to pay reasonable fees to cover the administrative costs attributable to their attendance at meetings of the Commission.

XIII. AMENDMENTS

Method of amendment

Rule 53

These rules of procedure may be amended by a decision of the Commission, taken by consensus.

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