PREPARATORY CONFERENCE FOR THE COMMISSION FOR THE CONSERVATION AND MANAGEMENT OF HIGHLY MIGRATORY FISH STOCKS IN THE WESTERN AND CENTRAL PACIFIC
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COMMENT ON REVISED DRAFT FINANCIAL REGULATIONS OF THE COMMISSION FOR THE CONSERVATION AND MANAGEMENT OF HIGHLY MIGRATORY FISH STOCKS IN THE WESTERN AND CENTRAL PACIFIC OCEAN (WCPFC/WP.2/Rev.1)

Submitted by the delegation of Korea

1. The Delegation of the Republic of Korea offers comments on the Interim Secretariat's revised proposal for the Financial Regulations for the WCPFC as follows. The comments focus on a standing committee of finance and administration, the special requirement fund, the end date for appropriation, penalties against arrears in contributions, and the right to establish trust and special funds. Also provided are comments/suggestions on more minor points of several provisions of the draft proposal.

A Standing Committee of Finance and Administration (Reg. 3.7)

2. The revised proposal enables the Commission to establish a Committee of Finance and Administration, incorporating the recommendation made by the Korean Delegation (Reg. 3.7).

3. However, the Committee specified in Regulation 3.7 is not exactly the same as the Standing Committee of Finance and Administration (SCOFA). While the SCOFA is a standing committee with mandated rights and obligations, the Committee of Reg. 3.7 is an ad hoc committee with advisory rights and obligation as accorded by the Commission at each annual meeting. A SCOFA is still preferred to the Reg. 3.7 ad hoc Committee for several reasons. First, as the Commission will have a large number of members, it is inefficient to discuss all important, technical issues at the Annual Meeting of the Commission. If the Annual Meeting takes a long period, the Commission will incur a large amount of expenses for subsistence expenses for developing state members (Article 30 (3)), as well as the delegation of each member state would does. Therefore, it is efficient for the Commission to delegate a small group of elected members to deliberate and handle the matters related to technical issues of budget, finance, and administration on a standing basis. If a committee on finance and administration is established at each Annual Meeting, it will take time to elect the group, and the committee cannot accumulate knowledge and experience, nor can it prepare for its rights and duties in advance.

4. Second, the Commission will have to make a decision on several financial and administrative issues regularly and during the financial year, instead of waiting for the Annual Meeting of the Commission next year. For example, under the revised proposal, the Executive Director can establish trust, reserve, and special funds as he/she finds them fit; however, the Commission should clearly define the purpose and scope of each of them (Reg. 6.5 and 6.6). Under the current draft proposal, such matters will have to await the next annual meeting of the Commission or the establishment of an ad hoc Committee to decide on them retroactively at the

next Annual Meeting. If a SCOFA is established on a standing basis, it can handle them during the course of the financial year continuously.

5. Third, in some cases the Executive Director is disproportionately empowered to make decisions on many important financial matters, and the Commission cannot monitor his/her performance in a timely manner. The Commission can advise and recommend the Executive Director only after the end of the financial year retroactively, and such arrangement is imprudent (Reg. 4.6) or inappropriate. Establishment of a Standing Committee of Finance and Administration would avoid such problems since it can be delegated by the Commission to monitor, advise and recommend the Executive Director during the financial year. Some examples of the matters delegated to the Executive Director, but need to be monitored during a financial year, range from transfer of budgets between chapters and between items (Reg. 4.1) to unforeseen and extraordinary expenses (Reg. 4.5), establishment of funds and accounts and transfer of general funds to special funds (Reg. 6.5), use of the Special Requirement Fund for developing members (Reg. 6.7), voluntary contributions by non-members (Reg. 7.2), selection of banks where the funds are kept (Reg. 8.1), custody and investment of funds (Reg. 8.2), ex gratia payments (Reg. 9.3), writing –off of assets (Reg. 9.4), review of annual financial statements (Reg. 10.2), review of annual Audit reports (Reg. 12.1), review of special audit reports (Reg. 11.7), and interpretation and application of Financial Regulations. .

6. Finally, if a standing committee is to be established, it is desirable for the Financial Regulations specify the election method, as the DP.9 suggests.

The Special Requirement Fund for Developing State Parties (Reg. 6.7)

7. Incorporating the suggestion made by the Korean Delegation, the purpose of the Special Requirement Fund has been broadened. However, it still requires further deliberations on at least two issues.

8. The Korean delegation suggests that the source of the Fund should be diversified, and that a ceiling should be established on the proportion of the assessed contributions to be transferred to the Special Requirement Fund. Since the purpose of the Fund has been broadened, it is essential to mobilize a greater amount of the Fund. Currently, the revised proposal does not specify the source of the Fund, and therefore it is assumed that the total amount of the Fund would be transferred from the assessed contributions of the Commission members. However, at the PrepCon 4 in Nadi, Fiji, the FAA members estimated the amount of travel and subsistence expenses for developing state parties alone at a level equivalent to 10% - 15% of the notional Commission budget of $2 million. With the broadened purpose of the Special Requirement Fund, the estimated amount of assessed contributions to be transferred to the Fund would reach a high proportion, substantially reducing the amount left for other expenses. Therefore, it would be desirable, on the one hand, for the Commission to diversify the financial source of the Fund from assessed contributions alone to voluntary contributions(Reg. 7.2), income from general and investment funds (Reg. 5.1(d), 6.4, 8.2), cash surplus of annual budgets (just like Reg.6.2, but with a revision of Reg. 6.1) , etc.. On the other hand, it is also desirable for the Commission to set a ceiling on the proportion of the assessed contribution or the general fund to be transferred to the Special Requirement Fund.

9. In connection to the Special Requirement Fund, it should be pointed out that one of the added purposes of the Fund, i.e., the building of the institutional and technical capacity of a

nation or a region, goes much beyond the objective of the Article 30 (3) both in terms of the objective and the beneficiaries, which should be limited to those specified in Article 30 (4).

The End Date for Appropriation (Reg. 4.3)

10. The revised proposal states that annual appropriation shall remain available for 12 months following the end of the financial year. This is a rare provision allowing such a late end date among international and regional organizations. Moreover, this late end date for appropriations will compromise the quality of the annual financial statements and the audited financial statements since they would not reflect the real financial situation of the Commission. Furthermore, this provision is inconsistent with other provisions of the revised proposal, such as the requirement of the submission of the annual financial statements to be submitted by the Executive Director to the Auditor by 31 March following the end of the financial year (Reg. 10.5) and the requirement of prudent management of the appropriations (Reg. 4.6). A shorter deadline for appropriations, such as three months, should be specified, following the practice of many international and regional organizations.

Penalties against Arrears in Contributions and Advances (Reg. 5.4)

11. The revised proposal does not specify penalties against members' one or more than one-year arrears in paying contributions and advances. However, penalties are not an option, but a requirement of the Commission, as specified in Article 18 (3) of the Convention, although the Commission can waive them on a case-by-case basis. The amount of interest charges and the loss of voting rights should be specified in Financial Regulations.

The Right to Establish Trust or Special Funds (Reg. 6.5 and 7.3)

12. Executive Director can establish trust and special funds as he/she likes and is required only to report to the Commission ex post. This provision has few precedents in international and regional organizations and is against other provisions of the proposed Financial Regulations (Reg. 6.6 and 4.6). The Executive Director is required to report to the Commission, which in turn is required to define the purpose and scope of the funds ex post after the Executive Director established a fund. These procedures for defining the purpose and scope of the already established funds ex post is likely to proliferate trust or special funds and is imprudent in the light of the Executive Director's prudent management responsibility (Reg. 4.6) since they will make it difficult for the Commission to monitor Executive Director's performance in a timely manner. Approval by a Standing Committee of Finance and Administration (SCOFA) would have avoided such a problem.

Other Provisions

13. Some other provisions, which need to be reconsidered, are as follows:

(1) The Deadline for Submitting Annual Financial Statements (Reg. 10.2): The revised proposal states that the Executive Director shall submit annual financial statements, but fails to specify to whom and by when (Reg. 10.2) It is advisable to specify that the Executive Director should submit the annual financial statements to the Commission, as to the Auditor, within the same deadline.

(2) The Deadline for Submitting Annual Audit Report (Reg. 11.6): The revised proposal states that the Auditor shall issue a report on the audit of the annual financial statements and related schedules, but fails to stipulates to whom and when (Reg. 11.6). It is desirable to specify that the External Auditor should submit the annual audit report to the Executive Director by 30 June following the end of the financial year.

(3) Transfer of the budget between chapters, sections, and items should be restricted and exceptions should be allowed.

(4) Reg. 5.1 (d) “authority” should read as Commission.

(5) Reg. 5.2 “… budget” should read “the portion of the budget.”

(6) Authority to interpret the Financial Regulations should be stated.

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