

**COMM6-Report ANNEX4c: Amendments to the Financial Regulations<sup>1</sup>**

(COMM6-Prop10 Rev.2 and COMM6-Prop11 Rev.1)

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**FINANCIAL REGULATIONS OF THE COMMISSION<sup>2</sup>**

**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.

2.2bis The draft budget shall be accompanied by a travel plan which, to the extent possible, identifies all proposed official travel for the succeeding financial year, including the approximate expenditure and justification for each trip.

23 For the budget categories “Scientific Support (SC)” and “Developing States (DS)”, unspent appropriations may accrue between financial years, up to a limit of \$50 000 for the SC and \$30 000 for the DS. Beyond these levels such funds shall be treated as surplus and transferred to the accumulated surplus account. The Commission will review these categories once the defined level has been reached or after 4 years, whichever occurs first, and at least every four years thereafter.

34 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.

45 The draft budget shall be accompanied by details of the appropriations made for the previous financial year and the expenditures made against those appropriations.

56 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 and travel plan.

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<sup>1</sup> The Annexes of the Financial Regulations were not amended and are not included in this document

<sup>2</sup> As amended in January 2018 (COMM6)

## **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, except those described under 3.3, 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, a Contingency Fund, 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 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. Any additional funds credited to the Accumulated Surplus Account that exceed this level shall be returned to the Members of the Commission unless decided otherwise by the Commission.

- 6 The Contingency Fund shall be administered in accordance with Annex 2 of these Regulations.
- 7 Beginning from January 2019, 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 20%
    - i. 10% of which shall be 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~~ calendar year 2 years prior to the year in which the budget is adopted shall have its notional share reduced by 25% with the consequent shortfall apportioned equally among the other Members of the Commission; and
    - ii. 10% of which shall be calculated by summing the total number of years in which Members of the Commission engaged in fishing over a five year period which begins six years before the calendar year in which the budget is adopted, and then assigning the 10% fee proportionally amongst the active Members, based upon the number of years each Member has engaged in fishing (as defined in Article 1(g)) in this period;
  - ~~a)~~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 ~~56~~537.5%, ~~45~~12.5% of which shall be divided among the Members of the Commission fishing for pelagic fishery resources and ~~15~~12.5% divided among Members fishing for demersal fishery resources. The catch component shall be calculated, in each case on the basis of a ~~five~~three-year average of each Member's respective catch limits and quota allocations prescribed under SPRFMO CMMs, where available, or otherwise a five year average of its ~~their~~ total reported annual catches of the relevant fishery resources, in each case beginning six years before the calendar year in which the budget is adopted, subject to:
    - i. a factor of 0.5 being applied to the five year average for catches of *Disodicus gigas*;
    - ~~i.~~ii. where a catch limit or quota applies to a fishery resource that straddles the Convention Area and an area under a Member's National Jurisdiction, then each of that Member's relevant catch contributions for the purposes of calculating the five year average referred to above shall be derived using the proportion of its total catch taken from the Convention Area over the preceding ten-year period, the most recent of which shall be calculated using the figures from the period beginning twelve years before the calendar year in which the budget is adopted.

The Commission shall review the budget formula described in paragraph 4.7 at its annual meeting in 2020.
  - ~~b)~~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:
  - c) the original budget appropriations;
  - d) transfers between appropriation categories;
  - e) amounts charged against appropriation categories;
  - f) the status of the fund established in accordance with Article 19 paragraph 5 of the Convention;
  - g) the status of the Accumulated Surplus Account and other accounts;
  - h) funds held in currencies other than New Zealand dollars, and
  - i) 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.