

**3rd Meeting of the Finance and Administration Committee
Valdivia, Chile, 25 to 29 January 2016**

COMM-04-06

Final Report of the 3rd Finance and Administration Committee

1. WELCOME AND INTRODUCTION

The Members and CNCPs were welcomed to the meeting by Mr David Dolphin, Chairperson of the Committee.

2. ADMINISTRATIVE ARRANGEMENTS

a) **Adoption of the Agenda.**

The FAC adopted the agenda in FAC-03-01 after moving item 7a before item 6 and removing agenda item 7b.

b) **Meeting documents.**

The Chairperson briefly introduced the documents submitted to the meeting and listed in FAC-03-02, and noted a correction to item 10 of the list, relating to the appointment of auditors.

3. ELECTION OF VICE CHAIRPERSON

The FAC Chair informed the FAC that the Vice Chairperson elected in 2015, Ms Jiwon Yoon (Korea), was no longer available for SPRFMO work and had stepped down from the role of Vice Chairperson. Another member of the Korean delegation, Ms Jihyun Kim was nominated as the new Vice Chairperson. The FAC endorsed Jihyun Kim assuming the role of Vice Chairperson.

4. ANNUAL FINANCIAL STATEMENT FOR THE SPRFMO FOR THE YEAR ENDING 30 JUNE 2015

The Executive Secretary gave a summary of income and expenditure of the Commission based on the information provided in the Annual Financial Statement (FAC-03-03).

In response to a question about increased accounting and stationery costs, the Secretariat explained that accounting costs reflected the level of fees charged by the accounting firm, while increases in stationery costs were mostly due to printing of the Convention booklets.

a) **Statement of transfers between categories.**

The Executive Secretary informed the Commission that the Commission Chairperson had approved the transfer of \$8,000 and \$5,000 from the appropriations for 'Travel and Accommodation' to 'Contracted Services' and 'Others' respectively to allow for database upgrades and office furniture expenses. The FAC took note of the report.

b) **Accumulated Surplus Account.**

The FAC noted that approximately a third of the amount of accumulated surplus was an advance payment from Chile towards their future contributions. The FAC also noted a NZ\$120 848 surplus from 2014-15 mainly consisting of unspent appropriations from the recruitment of the Executive Secretary. The FAC further noted that in total there is over

NZ\$200 000 in surplus funds.

c) **Auditor Report.**

The Executive Secretary informed the FAC that the Auditor's report concluded that the Financial statements for FY 2014-15 had been prepared in accordance with the Financial Regulations. The Committee had no comment to forward to the Commission.

d) **Investment and other income.**

The Executive Secretary reported on other income with reference to FAC-03-04 (discussed under Agenda Item 5 below). The FAC took note of this report, and expressed appreciation for China's voluntary contribution to the Organisation.

5. MEMBER CONTRIBUTION REPORT

The Secretariat introduced FAC-03-04. The FAC noted that all but five Members had paid their contributions in full; four of the five members concerned clarified that the situation would soon be regularised.

The FAC also noted that Belize had made no contributions since joining SPRFMO and had notified its withdrawal from the Convention with effect from 1 May 2016. The Secretariat proposed to deem these outstanding amounts as uncollectable, with the amount to be deducted from current savings. The FAC requested that this be noted for the record as an exceptional case, and taken into account in respect of any future application for Belize to become a SPRFMO Member or CNCP. The FAC recommended that the Commission request the Secretariat, before deeming the contributions to be uncollectable, to contact Belize again explaining the situation and seeking to recover the unpaid contributions.

6. POSSIBLE AMENDMENTS TO THE FINANCIAL REGULATIONS

a) **Review of the formula for the calculation of contributions related to the catch component for pelagic fishery resources**

At its second meeting in 2015, the FAC agreed that the contribution formula in the Financial Regulations should be reviewed at its next meeting and the Commission tasked the Secretariat to develop options for a revised contribution formula for the pelagic catch component of the formula, and consider the respective allocations between squid and other pelagic species.

The FAC discussed the Secretariat's paper on possible options for revising the pelagic catch component of the SPRFMO budget contribution formula (FAC-03-05), in particular the five scenarios outlined in the paper, but did not reach a clear conclusion. To resolve the immediate issue of budget contributions for the 2016-17 financial year, the FAC Chair suggested that the FAC be guided by the following principles:

- consistent with the Commission's earlier recommendations, interfere as little as possible with the agreed formula in the Financial Regulations;
- aim in principle to move towards a formula that reduces volatility in the movement of members' contributions;
- no member should contribute less in 2016-17 than in 2015-16; and
- no member's contribution should increase unreasonably.

The FAC expressed general support for these principles. Some members suggested they could be a useful guide for future meetings when the Committee is required to deliberate

on financial contributions.

The FAC Chair indicated his assessment that it would not be possible at this meeting to reach consensus on an amendment to the budget contribution formula in the Financial Regulations. He proposed a table of contributions for the 2016-17 financial year based on scenario 3 of the Secretariat's paper (15/30 split for weighting squid and other pelagic species), modified by applying the principles referred to above.

The FAC agreed to recommend that the Commission adopt the table of contributions appended to FAC-03-WP-04 (Annex 1 to this Report) for the 2016-17 financial year. The FAC also recommended that the Commission task the Secretariat to develop further information to assist the Committee in its future deliberations on the contribution formula.

b) Accumulated Surplus Account and Contingency Fund.

The Executive Secretary introduced FAC-03-06. The FAC supported the creation of the contingency fund with some amendments to the original proposal, and considered that it should be set at a level that will allow the operation of the Secretariat for three months. The use of this fund for 'Extraordinary but foreseeable' purposes, as defined in the proposal, was not approved. The FAC agreed to recommend that the Commission amend the Financial Regulations as set out in FAC-03-WP-05 (Annex 2 to this Report) to create a Contingency Fund.

c) Budget categories for the Scientific Committee and Developing States

The Executive Secretary introduced FAC-03-07. Following a recommendation by the Scientific Committee in 2015, the Secretariat proposed that unspent appropriations under the budget item for scientific support be routinely rolled over to the following financial year until reaching a limit defined by the Commission. The Secretariat also recommended the FAC consider the same approach for the budget item 'Developing States'. The FAC agreed to recommend that the Commission adopt the proposed amendments to the Financial Regulations, with a cap of NZ\$50,000 for the Scientific Committee fund, and NZ\$30,000 for the Developing States fund. The FAC noted that anticipated needs of the Scientific Committee should, as a general rule, be identified and quantified and be considered as part of the annual budgeting process.

7. STAFF REGULATIONS FOR THE SPRFMO SECRETARIAT

a) Report of the Intersessional Working Group on Staff Regulations

The Chairperson reported back on the Intersessional Working Group on Staff Regulations, which had considered the draft Staff Regulations from 2015 (FAC-02-05), along with advice and recommendations from the consulting firm, Ernst and Young. The resulting revised version of the Staff Regulations was made available to the FAC (FAC-03-WP-02).

b) Options for retirement funds of expatriate staff members

Removed from agenda.

c) Recommendations regarding the SPRFMO staff regulations to the Commission

The FAC considered the draft Staff Regulations in FAC-03-WP-02 Rev.1. The Chairperson explained that this document incorporated comments received from Members during the week, would provide clear guidance as to the conditions of employment of Secretariat

Staff, and ensured the comparability of the SPRFMO Staff Regulations with those of other RFMOs.

After brief deliberations, the FAC agreed to recommend that the Commission adopt the Staff Regulations contained in document COMM-04-11 (Annex 3 to this Report). In accordance with the suggestion of the Chairperson of the 2nd FAC, the Committee recommended that the revised Staff Regulations be applied with effect from 1 January 2015.

8. Future Contributions

a) Draft Budget for Financial Years 2016-2017 and 2017-2018.

The Secretariat presented FAC-03-11_Rev1. After seeking further information on several budget lines, the FAC agreed to recommend that the Commission adopt the 2016-17 budget as presented in FAC-03-WP-04 (Annex 1 to this Report), and noted the revised budget forecast for 2017-18 in that paper. The FAC also requested the Secretariat in future budgets to include a more detailed breakdown and justification of the proposed budgeted expenses showing the Secretariat's priorities.

b) Calculation of Contributions for 2016–2017 and tentative estimate of contributions or 2017-2018.

In line with the outcome of the Committee's discussion under item 6(a), the FAC noted the calculation of Members' contributions for the 2016-17 financial year, as contained in FAC-03-WP-04. The FAC also noted the estimate of Members' contributions for the 2017-18 financial year, which was based on the contribution formula in the Financial Regulations.

9. Next meetings of the Commission

The FAC welcomed Australia's offer to host the next meeting of the Commission in Adelaide. A number of Members expressed their preferences for the timing of the meeting, and Australia undertook to propose a date in the light of these preferences and after further consultation with Members.

10. Other matters

a. Appointment of Auditors.

FR 9.11 foresees that "the auditors shall serve for a maximum of three (3) years and may be reappointed." The current auditors from KPMG Audit have served SPRFMO since 2013. The Secretariat explained that it had published a call for tenders in a major Wellington newspaper and contacted potential companies inviting them to respond to the tender.

Tenders had been received from KPMG (the current auditor) and TFS Chartered Accountants. The FAC reviewed these tenders and noted that while the quote from KPMG was higher than that from TFS Chartered Accountants, KPMG had provided satisfactory services during the previous three years, and that the tender from TFS Chartered Accountants lacked the requested level of detail. The FAC agreed to recommend that the Commission reappoint KPMG as the auditors for SPRFMO.

11. Adoption of Report

The report was adopted by the Committee at 12:45PM on 28 January 2016.

12. Meeting Closure

The meeting closed at 12:45PM on 28 January 2016.



ANNEX 1

(FAC-03-WP-04)

Draft Budgets and Calculation of Member Contributions for 2016-17 and 2017-18

Article 15.4 of the Convention provides that the Executive Secretary shall submit a draft of the annual budget for the two succeeding financial years to each member of the Commission together with a schedule of contributions not less than 60 days before the meeting of the Finance and Administration Committee. Furthermore, the Financial Regulation 2.4 requires that the draft budget be accompanied by details of the appropriations and expenditures for the previous year.

The proposed budget for 2016-17 and the forecast budget for 2017-18 are included in Table 1. General descriptions for all items are provided in the table.

Table 2 contains the schedule of Member contributions based on the draft budget for 2016-17 respectively, using the current agreed formula.

Table 3 contains the schedule of Member contributions based on the forecast budget 2017-18. This schedule considers the current agreed formula as well.

Important NOTE

The Secretariat has recently applied for GST status in New Zealand, in order to become eligible for goods and services tax (GST) reimbursement. On 2nd November 2015 this status was granted by the New Zealand Inland Revenue Department and the Secretariat was advised that the official commencement would be the 15 April 2014, i.e. when SPRFMO was officially established in New Zealand (Diplomatic Privileges [SPRFMO] 2014).

The Secretariat therefore expects that SPRFMO will be able to recover a portion of the GST paid since 15 April 2014; the exact amount has not yet been determined. Also, in view of the new SPRFMO GST status, the Secretariat has reduced the proposed and forecast budgets by the estimated amounts of GST to be reimbursed.

Table 1: Proposed and forecast SPRFMO budgets for the years 2016-17 and 2017-18 (NZD)

Item (old)	2015 Forecast For 2016-17	2016 Proposal for 2016-17	2016 Forecast for 2017-18	Notes
Personnel costs	\$490 000	\$560 000	\$650 000	Finance staff in 2016; VMS staff in 2017
OLD: Plant and equipment	\$11 000			Computers, office equipment and furniture
OLD: Rent and utilities	\$52 000			Office rent + associated costs and services increase by 3.5% per year
NEW: Premises and Equipment		\$70 000	\$76 000	Combined "Plant and equipment", "Rent and utilities", also includes telephone and internet connection fees
Meetings and Travel	\$100 000	\$70 000	\$90 000	Secretariat travel to meetings and meeting support
OLD: Contracted Services	\$110 000			Database, IT, accounting and other professional services
NEW: Administration and Operations		\$30 000	\$12 000	Accounting, Auditing, Banking, Legal fees (to be incorporated under OTHER after hiring of Finance and Accounting Manager)
OLD: Telephone, internet, database and website hosting	\$32 000			Telephone and internet access, SPRFMO main + data websites
NEW: Information and Communication		\$44 000	\$25 000	IT, Database, Webpage etc.
Other	\$18 000	\$16 000	\$17 000	Other items (e.g. postal services, design services, hospitality, printing)
Subtotal	\$813 000	\$790 000	\$870 000	
Scientific support	\$20 000	\$20 000	\$20 000	Support for expert travel to SC meetings and other SC activities
Developing States	\$20 000	\$20 000	\$20 000	Travel costs for 3 developing States for 2 SPRFMO meetings
Total	\$853 000	830 000	\$910 000	

The SPRFMO financial year starts on the 1 July and ends on the 30 June of the following year. Table 1 contains the proposed budget for the financial year 2016 to 2017 (column 2) based on a revision of the forecasted budget for that year at the Annual Meeting 2015 (column 1). It is noted that the proposed 2016-17 budget includes a new local staff (Finance and Accounting Manager) not foreseen when this budget had been forecasted in January 2015.

The table also presents the forecasted costs of the following financial year, 2017-2018 (column 3). These include the hiring of one additional local staff member (VMS Manager).

The items in the proposed and forecasted budgets have been re-organised and several items were merged to enhance transparency and the meaningful grouping of expenses, as well as the flexibility within budget items. This does not affect the nature of the SPRFMO expenditures unless explicitly noted.

Table 2: Schedule of contributions based on the draft budget for 2016-17, based on catches reported by 23 November 2015, using paragraph 4.7 (d) of the Financial Regulations.

Base catch years= 2012-2014	Base fee 10% National Wealth 30% Catches 60%
Members	Contribution
Australia	\$ 59 543
Chile	\$ 77 986
China	\$ 211 659
Cook Islands	\$ 10 959
Cuba	\$ 7 528
Ecuador	\$ 7 266
European Union	\$ 109 043
Faroe Island	\$ 23 435
Korea	\$ 48 162
New Zealand	\$ 121 899
Peru	\$ 26 020
Russian Federation	\$ 24 540
Chinese Taipei	\$ 21 456
Vanuatu	\$ 58 698
Other Funding	\$ 21 806
Total	\$ 830 000

Table 3: Schedule of contributions based on the forecasted budget for 2017-18, based on catches reported by 23 November 2015, using paragraph 4.7 (d) of the Financial Regulations.

2017/18 Financial year of the Organisation

Base fee	10%	National Wealth	30%	Catches	60%
		GNI	GNI per capita	Pelagic	45%
		15%	15%	Demersal	15%

Base catch years = 2012 to 2014

Budgeted Amount

\$ 910,000

Members	Wealth component			Catches		Contribution
	Base fee	GNI	GNI per capita	Pelagic	Demersal	
Australia	\$6,943	\$6,033	\$28,856	\$0	\$23,451	\$65,282
Chile	\$6,943	\$1,051	\$6,652	\$5,639	\$0	\$20,285
China	\$6,943	\$39,982	\$3,292	\$344,908	\$0	\$395,126
Cook Islands	\$4,875	\$1	\$7,139	\$0	\$0	\$12,015
Cuba	\$4,875	\$308	\$3,071	\$0	\$0	\$8,254
Ecuador	\$4,875	\$384	\$2,708	\$0	\$0	\$7,967
European Union	\$6,943	\$72,000	\$15,914	\$12,172	\$4,571	\$111,600
Faroe Islands	\$6,943	\$8	\$18,742	\$0	\$0	\$25,694
Korea	\$6,943	\$5,423	\$12,086	\$13,978	\$0	\$38,430
New Zealand	\$6,943	\$693	\$17,533	\$0	\$108,479	\$133,648
Peru	\$6,943	\$783	\$2,842	\$4,513	\$0	\$15,081
Russian Federation	\$6,943	\$7,665	\$5,893	\$0	\$0	\$20,502
Chinese Taipei	\$6,943	\$2,164	\$10,394	\$10,232	\$0	\$29,734
Vanuatu	\$6,943	\$3	\$1,379	\$18,058	\$0	\$26,383
Total	\$91,000	\$136,500	\$136,500	\$409,500	\$136,500	\$910,000

ANNEX 2

(FAC-03-WP-05 revised)

Accumulated Surplus Account and Contingency Fund

In its Financial Regulations, SPRFMO has included an Accumulated Surplus Account with the purpose of ensuring the operations of the Secretariat at the beginning of a financial year when not all the contributions from members may be available.

In 2014, the FAC requested the Executive Secretary to prepare a proposal for it to consider at its next meeting prescribing conditions under which the Chairperson may authorise expenditures from the Accumulated Surplus Account to meet unforeseen and extraordinary expenses. The Secretariat presented FAC-02-03 and proposed the establishment of a Contingency Fund in addition to the Accumulated Surplus Account. In contrast to the short-term and temporary nature of the Accumulated Surplus Account, the objective of a Contingency Fund is to enhance the financial stability and security for the SPRFMO in the long-term. It was generally agreed that the Accumulated Surplus Account and Contingency Fund issues should not be considered separately.

The Committee welcomed the idea of creating a Contingency Fund and the Secretariat was requested to prepare a paper for the next FAC Meeting in 2016 to (a) clarifying the possible nature and objectives of the contingency fund and any implications for the rules and management of the Accumulated Surplus Account including rules for discretion by the Chair and requirements for consultation, (b) proposing a possible level of the contingency fund as well as sources of funding, (c) advising a possible default process for dealing with the Accumulated Surplus Account after each Annual Meeting, e.g. by using it routinely towards lowering Members' contributions unless otherwise decided by the Committee, and (d) suggest appropriate wording for the Financial Regulations.

Accumulated Surplus Account

In case that a Contingency Fund would be adopted by the Commission, the Accumulated Surplus Account would no longer be needed to cover emergency expenses and would only be retained for temporary use *"to finance appropriations pending receipt of annual payments by the Commission"* as specified under FR 4.4. Therefore, it is proposed to replace Regulation 4.5 with the following wording:

Financial regulation 4.1 – After "Accumulated Surplus Account," add "a Contingency Fund,".

Financial Regulation 4.5. The Contingency Fund shall be administered in accordance with Annex 2 of these regulations.

In addition, it is proposed to amend FR 4.6 as follows (proposed new text underlined, text proposed for deletion stroked-through): *"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. 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"*.

New ANNEX 2 of the Financial Regulations

Contingency Fund

Purpose of the Contingency Fund

1. The Contingency Fund may be used for:
 - a. Emergency expenses such as in the case of a force majeure event or a natural disaster;
 - b. Unforeseen or unforeseeable extraordinary expenses that are necessary to meet a financial obligation;
 - c. Ensuring essential operations of the Secretariat in the absence of sufficient Member contributions over and above the amount available in the Accumulated Surplus Account;
 - d. Discharging obligations in the event the Convention terminates.

Procedure to Access the Contingency Fund

1. **Emergency expenses:**

The Executive Secretary may approve expenditure up to a maximum of NZ\$ 20 000. For expenditure above this amount, the Chairperson of the Commission, or in his/her absence, the Chairperson of the FAC may approve the use of the Contingency Fund.

Members of the Commission shall be informed of the use of this fund as soon as possible following authorisation of these funds.

2. **Termination of the Convention:** In case the Convention terminates in accordance with Article 42, the Contingency fund will be used together with other monies and assets of the organisation to fulfil all financial obligations. Any remaining amounts will be returned to the Members.
3. **Other uses:** For the purposes of Paragraph 1b and 1c, a decision to access the Contingency Fund may be taken at the Commission meeting following the request for use of the funds or intersessionally in accordance with Rule 7 of the SPRFMO Rules of Procedure, as appropriate.

Level of the Contingency Fund

The Commission shall determine the level of the Contingency Fund. The Contingency Fund will accumulate over time to reach and maintain a level equivalent to three months of the approved budget.

The Commission shall review the amount available in the Contingency Fund annually.

Resourcing the Contingency Fund

The Commission shall determine at its annual meeting the amount to be credited to the Contingency Fund from the following sources:

- funds from the Interim Secretariat not otherwise utilised;
- funds credited from the Accumulated Surplus Account to the Contingency Fund;
- by appropriation in the budget;
- through voluntary contributions;
- interest gained from the investments of the Organisation's funds;
- annual GST Returns;
- any other source as decided by the Commission.

Administration of the Fund

The Contingency Fund shall be managed by the Executive Secretary. The monies of the Contingency Fund shall be kept in a separate interest bearing account.

Reporting and Audit

The state of the Contingency Fund should be reported to the Commission by the Executive Secretary every year along with the other accounts of the Organisation. The audit of the Contingency Fund will be part of the annual audit of the SPRFMO accounts by the external auditor.

ANNEX 4
(COMM04-11)

SPRFMO Staff Regulations

SOUTH PACIFIC REGIONAL FISHERIES MANAGEMENT ORGANISATION
STAFF REGULATIONS

REGULATION 1

PREAMBLE

1.1 These Staff Regulations (Regulations) establish the fundamental principles of employment, regulate the working relationships and establish the rights and responsibilities of formally appointed employees who render their services in and receive remuneration from the Secretariat of the Commission of the South Pacific Regional Fisheries Management Organisation. These Regulations, together with the terms of the offer of appointment provided to each employee, form the terms and conditions of employment of the relevant employee.

1.2 These Regulations should be applied giving due regard to the geographical distribution of the Members of the Commission of the South Pacific Regional Fisheries Management Organisation (hereinafter called the Commission).

1.3 In the application of these Regulations, any discrimination based on any grounds such as sex, race, colour, ethnic or social origin, religion or belief, political or other opinion, membership of a national minority, property, birth, disability, age, or sexual orientation shall be prohibited.

1.4 While respecting the principle of non-discrimination, mandatory retirement age is justified as based on objective and reasonable grounds.

REGULATION 2

RECRUITMENT AND APPOINTMENT

2.1 In accordance with Article 14 of the Convention, the Contracting Parties shall appoint the Executive Secretary in accordance to the UN categories and level, including his or her remuneration and such other entitlements, as it deems appropriate.

2.2 In accordance with Article 14 of the Convention, the Executive Secretary shall appoint, direct, and supervise employees. The paramount consideration in the appointment, transfer or promotion of the employees shall be the necessity for securing the highest standards of efficiency, competence and integrity.

2.3 Any employee appointed before the adoption of these Regulations shall be deemed to have been appointed under these Regulations and, save for any specific terms set out in the offer of appointment of the employee, these Regulations will be deemed to form the terms and conditions of employment of the employee.

2.4 Employees shall be required to retire on reaching the age of 65 years with the exception of an Executive Secretary whose four year appointment commenced prior to reaching the age of 65 and who then reaches 65 year during that term, who will be required to retire at the end of that term.

2.5 Upon selection, each employee shall receive an offer of appointment stating:

(a) that the appointment is subject to the Regulations applicable to the category of appointment in question, and to changes which may be duly made in such Regulations from time to time;

(b) the nature of the appointment;

(c) the date on which the employee is required to commence duty;

(d) the period of appointment, the notice required to terminate it and the period of probation;

(e) the category, level, commencing rate of salary and the scale of increments and the maximum salary attainable;

(f) the allowances attached to the appointment;

(g) any special terms and conditions which may be applicable.

2.6 Together with the offer of appointment, employees shall be provided with a copy of these Regulations. Upon acceptance of the offer employees shall state in writing that they are familiar with and accept the conditions set out in these Regulations.

2.7 The instrument of appointment shall state the date on which the appointment takes effect. This date will not be prior to the date on which the employee takes up his or her duties.

2.8 Either prior to or during the period of employment, in order to ascertain whether an employee remains able to perform the full range of duties, employees may be required to undergo medical examination from time to time as determined by the Executive Secretary or the Commission as the case may require. The medical examinations shall be at the expense of the Commission. If the employee refuses to undergo any medical examination, the Executive Secretary or Commission may be required to make a decision in the absence of any information that may be provided by a medical examination.

REGULATION 3

DUTIES, OBLIGATIONS AND PRIVILEGES

3.1 Members of the staff of the Secretariat, and the Executive Secretary (hereinafter called "employees") are international civil servants. Upon accepting their appointments they pledge themselves to discharge their duties faithfully and to conduct themselves with the interests of the Commission in mind.

3.2 Employees shall at all times conduct themselves in a manner in keeping with the international nature of the Commission. They shall always bear in mind the loyalty, discretion and tact imposed on them by their international responsibilities in the performance of their duties. They shall avoid

all actions, statements or public activities which might be detrimental to the Commission and its aims.

3.3 Employees are not required to renounce either their national feelings or their political or religious convictions.

3.4 In the performance of their duties, employees may neither seek nor accept instructions from any government, authority, organisation or person other than the Commission.

3.5 Employees shall observe maximum discretion regarding official matters and shall abstain from making private use of information they possess by reason of their position. Authorisation for the release of information for official purposes shall lie with the Commission or the Executive Secretary, as the case may require.

Confidentiality requirements

3.6 For the purposes of these Regulations “confidential information” means all information which is not in the public domain and which, due to its nature or the method by which it was communicated, would be regarded as confidential by a reasonable person, including, but not limited to:

- (a) business and technical information in respect of or relating to the Commission;
- (b) business methods and management systems of the Commission;
- (c) undisclosed financial information relating to the Commission;

3.7 Other than in the proper performance of their duties, employees will hold all confidential information in confidence and will not, without the written consent of the Executive Secretary after consultation with the Chair of the Commission, directly or indirectly, at any time during their appointment or following its termination (for so long as the information continues to be confidential information):

- (a) use any confidential information;
- (b) disclose any confidential information to any person, other than to the extent necessary to carry out these Regulations; or
- (c) copy any material containing confidential information for personal use or for use by any other unauthorised person, firm, company or entity.

3.8 Any invention, improvement, design, process, trademark, copyright, system or intellectual property right whatsoever made or discovered by an employee in the course of the performance of their duties must be immediately disclosed to the Commission and will be the absolute property of the Commission.

Independence

3.9 Employees shall, in general, have no employment other than with the Commission. In special cases, employees may accept other employment, provided that it does not interfere with their duties in the Commission and is not incompatible with the interest of the Commission, and that prior authorisation by the Executive Secretary has been obtained. The Commission's prior authorisation shall be obtained in respect of the Executive Secretary.

3.10 No employee may be associated in the management of a business, industry or other enterprise, or have a financial interest therein if, as a result of the official position held in the Secretariat, he or she may benefit from such association or interest. Upon accepting their appointment with the Commission and on a continuing basis thereafter, employees are required to immediately disclose any associations or financial interests that may cause a conflict of interest or a potential conflict of interest with the Commission.

3.11 Ownership of non-controlling stock in a company shall not be considered to constitute a financial interest within the meaning of paragraph 3.10.

Privileges and immunities

3.12 Employees shall enjoy the privileges and immunities to which they are entitled under the Headquarters Agreement between the Government of New Zealand and the Commission, pursuant to Article 6.3 of the Convention.

REGULATION 4

HOURS OF WORK

4.1 The normal working day shall be eight hours, Monday through Friday, for a total of forty hours per week, inclusive of at least a half hour unpaid lunch break each day. Any individual arrangements in respect of working hours, including part-time and flexible working time arrangements, will be set out in the offer of appointment of the relevant employee.

4.2 The Executive Secretary shall establish the working hours and may, in consultation with employees, alter them for the benefit of the Commission as circumstances may require.

REGULATION 5

CLASSIFICATION OF STAFF

5.1 Employees shall be classified in either of the two following United Nations (UN) categories:

(a) Professional Category

Positions of high responsibility of a managerial, professional, or scientific nature. These posts will be filled by appropriately qualified professionals, preferably with University qualifications or the equivalent. Employees in this category will be recruited internationally (including, where appropriate, from New Zealand). This category shall comprise different levels in accordance with the UN Staff categories.

(b) General Services Category

Auxiliary administrative and technical positions. Clerical, secretarial and other office personnel. Such employees shall be recruited from among citizens of Members of the Commission, taking into account potential benefits that may occur from hiring staff locally. This category shall comprise different levels in accordance with the UN Staff categories.

5.2 Persons employed under Regulation 11 shall not be classified as employees for the purposes of these Regulations.

REGULATION 6

SALARIES AND OTHER REMUNERATION

6.1 The scale of salaries for employees in the professional category shall be established in US dollars according to the corresponding scales of salaries which would apply to officials of the United Nations Secretariat employed in New Zealand for a given category and level and shall be paid in New Zealand dollars. The exchange rate used to calculate the relevant New Zealand dollar amount will be referenced against the UN Operational Rate of Exchange as at 1 January, 1 April, 1 July and 1 October each year and updated on a quarterly basis accordingly.

6.2 Salaries or wages for employees in the general services category shall be set by the Executive Secretary and will be detailed in the offer of appointment for each employee. Such rates will, in principle, be paid in New Zealand dollars at rates equivalent to those paid in Wellington for staff of equivalent qualifications and experience.

6.3 The promotion of employees from one category and/or level to another requires the prior approval of the Commission.

Taxes and levies

6.4 Subject to paragraph 6.5, the Commission shall levy from each employee's salary (and such other emoluments of staff members as are computed on the basis of salary), an amount for Staff Assessment. Staff Assessment rates shall be those in force in the United Nations at the time of the relevant levy.

6.5 The Executive Secretary shall make arrangements to ensure that any employee who is subject to national taxes on income is reimbursed tax paid on his or 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. The Staff Assessment will not be levied in respect of employees who are subject to national taxes on income that cannot be reimbursed by the Executive Secretary.

6.6 Each employee shall have their performance assessed annually by the Executive Secretary. A summary of the performance reviews will be provided to the Commission annually. The annual performance review of the Executive Secretary shall be completed by the Chair on behalf of the Commission.

6.7 Employees may receive annual increments at the discretion of the Executive Secretary (or, in respect of the Executive Secretary, the Commission). There is no guarantee that any employee's salary or wages will be increased. Increments shall cease once the employee has reached the highest level in the category in which he or she is serving.

Dependants and spouses

6.8 For the purposes of these Regulations the term "dependant" shall include only:

(a) any unsalaried child, who is born of, or adopted by, an employee, his or her spouse or partner, or their children, who is below the age of eighteen years and who is dependent on an employee or his or her spouse or partner for main and continuing support;

(b) any child fulfilling the conditions laid down in paragraph (a) above, but who is between eighteen and twenty-five years of age and is receiving school or university education or vocational training;

(c) any handicapped child who is dependent on an employee or his or her spouse or partner for main and continuing support;

(d) any other child who is given a home by and is dependent on an employee or his or her spouse or partner for main and continuing support;

(e) any person related by blood or marriage for whose main and continuing support an employee or his or her spouse or partner is legally responsible.

6.9 For the purposes of these Regulations “spouse” means husband or wife and “partner” in the phrase “spouse or partner” and in related contexts, means a civil union partner or a recognised de facto partner.

Education allowance

6.10 Subject to any alternative arrangements that may be reached with any employee (with any such arrangements being recorded in the offer of appointment), internationally recruited employees shall be eligible to receive an education allowance in respect of each dependent child in full-time attendance at an educational institution. However, no education allowance for a dependent child shall be paid:

- a) in respect of children of New Zealand staff members;
- b) for attendance at a New Zealand school;
- c) for attendance at a University in New Zealand;
- d) for correspondence courses or private tuition;
- e) when schooling does not require regular attendance at an educational institution;
- f) in respect of education expenses covered from scholarship grants or subsidies from other sources.

The education allowance shall be limited to two-thirds of proven costs up to the maximum amount applying from time to time in the United Nations Secretariat.

Overtime

6.11 Employees in the professional category are not entitled to overtime pay or time off in lieu (TOIL). The employees agree that their salaries and other benefits compensate them fully for the performance of their duties for the Commission.

6.12 Employees in the general services category required to work more than 40 hours during one week will be entitled to take as TOIL the equivalent to the hours of overtime performed, provided that the hours of overtime have been approved in advance by the Executive Secretary. Any TOIL accrued must be used within six months of the date of accrual at a date to be agreed between the employee and the Executive Secretary. Failing agreement, the Executive Secretary may appoint a date upon which such leave may be taken.

REGULATION 7

LEAVE

7.1 Employees shall be entitled to annual leave at the rate of two and half workdays for each full month of service, pro-rated for part-time employees. Annual leave will be paid in the pay period during which the leave is taken and will be paid in accordance with the Holidays Act 2003 (NZ) or any replacement legislation. Annual leave is cumulative, but at the end of each calendar year, not more than 15 days may be carried over to the following year. Annual leave may be taken in advance of entitlement accruing at the discretion of the Executive Secretary (or the Commission in respect of the Executive Secretary). If annual leave has been taken in advance and the employee's employment terminates prior to the employee accruing sufficient leave, the employee agrees that the Commission may deduct the relevant leave payment from the employee's final salary or wage payment or, if this is not sufficient to cover the leave payment, the employee will repay the relevant amount to the Commission prior to the termination date.

7.2 The taking of leave shall not cause undue disruption to normal Secretariat operations. In accordance with this principle, leave dates shall be subject to the needs of the Commission. Leave dates shall be approved by the Executive Secretary who shall, as far as possible, bear in mind the personal *circumstances*, needs and preferences of employees.

7.3 Annual leave may be taken in one or more periods.

7.4 Any absence not approved within the terms of these Regulations shall be either unpaid or deducted from annual leave at the election of the employee. This paragraph is without prejudice to any disciplinary action which may be taken against an employee (up to and including termination of employment) in respect of any unauthorised absences.

7.5 Employees who, upon termination of their appointment, have accumulated annual leave which has not been taken shall receive the cash equivalent calculated in accordance with the Holidays Act 2003 (NZ) or any replacement legislation.

Home leave

7.6 After 18 months of service the Commission shall, in accordance with these Regulations, pay economy class airfares to the employee's home country for internationally recruited employees and their spouse or partner and dependants if the employee has sufficient accrued annual leave ("home leave"). Employees will be required to take annual leave for any period of home leave.

7.7 Following this, home leave shall be granted at two-year intervals on the expectation that the employee will return to the Secretariat to continue rendering their services for a minimum additional period of 6 months. A spouse, partner or dependant who benefits from this Commission grant must have resided at Wellington for at least 6 months prior to travel.

7.8 If an employee leaves their appointment with the Commission within 6 months of returning from a period of home leave (except in cases of redundancy or termination of employment due to illness, injury or death), the employee will be required to reimburse the Commission for the amount of the airfares on a pro-rated basis (for example, if the employee leaves two months after returning from home leave the employee will be required to repay 4/6 of the airfare amount). The employee agrees that such amounts may be deducted from any sums owing to the employee on termination, including final salary and holiday pay.

7.9 The possibility of combining travel to the employee's home country on leave with official travel in Commission service may also be considered, provided the interests of the Commission are duly borne in mind.

7.10 For the purposes of these Regulations, an employee's home country is the country of their nationality. The Executive Secretary may, in exceptional circumstances, authorise an employee to designate a different country as his or her home country if the employee has maintained normal residence in such other country for a prolonged period preceding his or her appointment and that employee continues to have close family and personal ties in that country.

Public holidays

7.11 In addition to annual leave, employees shall be entitled to the holidays celebrated in Wellington as follows:

1 January New Year's Day

2 January

Wellington Anniversary Day

6 February Waitangi Day

Good Friday

Easter Monday

25 April Anzac Day

Queen's Birthday

Labour Day

25 December Christmas Day

26 December Boxing Day.

7.12 Employees may, at their option, observe either Wellington Anniversary Day or select an alternative holiday at a date that enables them to observe their religion, customs and/or traditions provided that does not interfere with their duties at the Commission. This holiday must be used during the relevant calendar year and may not be carried over to the following year. Employees wishing to transfer Wellington Anniversary Day to an alternative day, must discuss this with (and have the relevant day approved by) the Executive Secretary at least two weeks prior to Wellington Anniversary Day in respect of that calendar year.

7.13 If under special circumstances employees are required to work on one of the aforementioned days set out in paragraph 7.11 (with the exception of Wellington Anniversary Day for employees observing an alternative holiday), or if any one of the above holidays falls on a Saturday or Sunday, the provisions of the Holidays Act 2003 (NZ) or any replacement legislation will be observed.

REGULATION 8

SOCIAL SECURITY

8.1 Where an internationally recruited employee wishes to contribute to a recognised retirement fund, the Commission shall pay two-thirds of the total contributions to that fund, up to the maximum percentage applying from time to time in the United Nations Secretariat.

8.2 The Commission shall pay two-thirds of the proven cost of:

(a) Medical insurance cover for internationally recruited employees and their dependants who are not eligible for publicly-funded health services; and

(b) Life and disability insurance cover for internationally recruited employees,

up to the maximum percentage applying from time to time in the United Nations Secretariat.

Sick leave

8.3 Employees (other than casual employees) will be entitled to 10 days' paid sick leave per year of service (which may be accumulated to maximum of 40 days), calculated in accordance with the Holidays Act 2003 (NZ) or any replacement legislation, (pro-rated for part-time employees) when they are absent:

(a) due to the employee's illness or injury; or

(b) for the purposes of caring for a spouse, partner or dependant of the employee who is ill or injured and requires the employee's care and support or who required care due to an unexpected emergency.

8.4 Employees shall not be granted paid sick leave in accordance with paragraph 8.3 above for a period of more than 3 consecutive days and more than a total of 7 working days in any calendar year without producing a medical certificate.

Parental leave

8.5 Employees are entitled either to parental leave under the New Zealand Parental Leave and Employment Protection Act 1987, or to the parental leave provided in paragraphs 8.6 or 8.7 below at the employee's election.

8.6 After one year of continuous employment with the Commission, a female employee giving birth to a child who elects not to use the entitlement in paragraph 8.5 above shall be entitled to maternity leave. The employee will be entitled to 14 weeks' paid leave, up to six weeks of which may be taken prior to the expected due date of the child. During this period employees shall receive pay at a rate equal to their average pay for the last 12 months and corresponding allowances.

8.7 Paid parental leave of 8 weeks is available to employees who elect not to use the entitlement in paragraph 8.5 above and who have assumed the care of a child under six they intend to adopt.

Bereavement leave

8.8 Employees shall be entitled to bereavement leave upon the death of a family member or relative, up to a maximum of 3 days per bereavement. For the purposes of this section, “family member or relative” will include the employee’s spouse or partner, parent, child, brother or sister, grandparent, grandchild or spouse’s or partner’s parent.

8.9 In the event of death of an employee following illness or surgery not resulting from an accident covered by the appropriate insurance, the right to salary, allowances and other corresponding benefits shall cease on the day on which death occurs, unless the deceased leaves a spouse, partner or dependants, in which case these shall be entitled to mortality allowances and return travel and removal expenses to their home country or former residence at the expense of the Commission.

8.10 Eligibility of the spouse, partner or dependants of a deceased employee for the payment of return travel and removal expenses shall lapse if the travel is not undertaken within six months of the date of the employee’s death.

Mortality allowance

8.11 The above mortality allowance for death shall be calculated in accordance with the following scale:

Years of Service - Months of Net Base Salary Following Death

Less than 3 years - 3 months

3 years and more, but less than 7 years - 4 months

7 years and more, but less than 9 years - 5 months

9 years and more - 6 months

8.12 The Commission shall pay for transfer of the employee’s remains and personal effects from the place of death to the place designated by the spouse, the next of kin, or other individual(s) designated by the employee.

REGULATION 9

TRAVEL

9.1 All official travel shall be authorised by the Executive Secretary in advance within the limits of the budget, and the itinerary and travelling conditions shall be those best suited for maximum effectiveness in the fulfilment of duties assigned. All official travel shall be conducted in accordance with any Commission travel policies and procedures in force at the time.

9.2 Staff may use Secretariat credit cards for pre-approved expenses while travelling or have actual and reasonable expenses refunded. Any use of Secretariat credit cards or reimbursement of travel expenses must be approved by the Executive Secretary in accordance with any travel policies or procedures in force at the time.

9.3 Official travel should be planned well in advance to avoid incurring higher costs for airfares and other travel related cost.

9.4 Economy class shall be utilised for duty air travel, except that business class may be used for flights of nine hours or more.

9.5 Subject to the above, business class may be utilised for duty land travel, but not for travel by sea or air.

9.6 On taking up an appointment in the Professional Category employees who are not ordinarily resident in Wellington shall be eligible for:

(a) payment of economy class air fares (or equivalent) and travel allowance for themselves, their spouse or partner and dependants to Wellington;

(b) an Installation Grant calculated on the basis of the prevailing United Nations rate;

(c) payment of removal costs, including the shipment of personal effects and household goods from place of residence to Wellington, subject to a maximum volume of 30 cubic metres or one international standard shipping container; and

(d) payment or reimbursement of sundry other expenses related to relocation, including insurance of goods in transit and excess baggage charges subject to the prevailing relevant United Nations rules. Such payments shall be subject to prior approval by the Executive Secretary.

9.7 Employees who, in the course of their duty, are required to use private motor vehicles for official travel purposes shall, with the prior authorisation of the Executive Secretary, be entitled to receive a reimbursement of the costs involved in line with the current New Zealand Inland Revenue mileage reimbursement rate. The costs associated with normal daily travel to and from place of work shall not be reimbursed.

REGULATION 10

SEPARATION FROM SERVICE

10.1 Employees may resign at any time upon giving three months' written notice or such lesser period as may be approved by the Executive Secretary or the Commission, as the case may require.

10.2 In the event of an employee resigning without giving the required notice, the Commission reserves the right to decide whether the amounts set out at paragraph 10.6 below or any other allowance shall be paid.

10.3 Appointment of employees may be terminated upon prior written notice at least three months in advance (or payment in lieu of notice) by the Executive Secretary when he or she deems this to be for the benefit of the Commission due to restructuring of the Secretariat or if he or she considers that the employee does not give satisfactory service, fails to comply with the duties and obligations set out in these Regulations, or is incapacitated for service. Where an employee's appointment is being terminated by reason of not having given satisfactory service, prior to any termination notice being provided, the employee will be provided with a reasonable opportunity to improve the level of service provided.

10.4 Notwithstanding paragraph 10.3, appointment of employees may be terminated summarily by the Executive Secretary if the Executive Secretary is satisfied that the employee has committed a gross dereliction of his or her duties. For the purposes of these Regulations, a gross dereliction

of duties includes (but is not limited to) theft, bullying, violence in the workplace, harassment, intentional breach of confidentiality or misappropriation of information. In the event of a separation from service due to a gross dereliction of duties, any benefits set out in paragraph 10.6 will be at the sole discretion of the Executive Secretary.

10.5 In the event of separation from service with the Secretariat by reason of redundancy employees shall be compensated at a rate of one month's base pay (less any tax or staff assessment applicable) for each year of service, beginning the second year (to a maximum of six months' base pay).

10.6 On separation from service, an employee shall, subject to paragraph 10.7 below, be entitled to the following:

- (a) payment of economy class air fares (or equivalent) to the employee's home country or former residence, for the employee, the employee's spouse or partner and the employee's dependants;
- (b) payment of removal costs, including the shipment of personal effects and household goods from place of residence in Wellington to the employee's home country or former residence, subject to a maximum volume of 30 cubic metres or one international shipping container;
- (c) a repatriation allowance generally consistent with United Nations practice.

10.7 Notwithstanding any other provision of these Regulations, at the discretion of the Executive Secretary in consultation with the Commission Chair, the right to the repatriation expenses provided for in paragraph 10.6 may be cancelled or reduced appropriately if:

- (a) less than one year has elapsed between the date of taking up the appointment and the date of separation from service;
- (b) the employee fails to provide the three months' advance notice as specified in paragraph 10.1;
- (c) the reason for separation from service was termination of employment due to gross dereliction of duty;
- (d) more than six months has elapsed between the employee's separation from service and his or her return to his or her home country or former residence;
- (e) less than six months has elapsed since the employee last visited his or her home country or former residence on home leave at the expense of the Commission; or
- (f) the employee has applied for or received status as a permanent resident of New Zealand.

10.8 The separation payments in this Regulation (together with salary and entitlements to the termination date and annual leave payments owing) will constitute all benefits and entitlements that the employee is entitled to receive under these Regulations in respect of the separation from service.

REGULATION 11

TEMPORARY PERSONNEL UNDER CONTRACT

11.1 The Executive Secretary may contract temporary personnel necessary to discharge special duties in the service of the Commission. Such personnel shall be classified as additional help and may be paid on an hourly basis.

11.2 Persons in this category may include translators, interpreters, typists, and other persons contracted for meetings, as well as those whom the Executive Secretary contracts for a specific task. Whenever possible, persons resident in New Zealand shall be utilised in such cases.

REGULATION 12

HEALTH AND SAFETY

12.1 The Commission is committed to maintaining a safe and healthy working environment and will take reasonably practicable steps to ensure the safety of employees and other individuals affected by its work.

12.2 Each employee agrees to take reasonably practicable steps to ensure:

- (a) their own safety while at work; and
- (b) that no action, or inaction of the employee while at work causes harm to any other person.

12.3 Each employee agrees to abide by all reasonable instructions and all policies of the Commission regarding health and safety, whether written or oral. This includes providing any relevant health information which the Commission may be required to provide to its insurers.

12.4 Each employee agrees to notify the Executive Secretary as soon as practicable, of anything in the workplace that may endanger the health and safety of the employee or any other person. Each employee agrees to notify the Executive Secretary as soon as possible of any accident, incident or near miss which occurs in the course of the employee's work for the Commission.

REGULATION 13

APPLICATION AND AMENDMENT OF REGULATIONS

13.1 Any doubts or disputes arising from application or interpretation of these Regulations shall be resolved by the Executive Secretary in consultation with the Members of the Commission. In making any decision as to the application or interpretation of the Regulations, the Executive Secretary will take account of the application or interpretation proposed by any relevant employee. However, any decision made by the Executive Secretary in respect of the application or interpretation of these Regulations having consulted with the above parties, will be final.

13.2 Situations involving the Executive Secretary shall be resolved by the Chair in consultation with Members of the Commission.

13.3 All matters not foreseen in these Regulations that materially affect the operation of the Secretariat or the working conditions of the employees shall be brought to the attention of the Commission by the Executive Secretary.

13.4 Subject to the provisions of the Convention, these Regulations may be amended by the Commission in accordance with its Rules of Procedure.