

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

FAC-03-06

**Accumulated Surplus Account and Contingency Fund
(Secretariat)**

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 4.5. Unforeseeable and extraordinary expenses shall be covered by the Contingency Fund as described in Annex 2.

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. The appropriate level shall be proposed each year by the Executive Secretary and adopted by the Commission. Any additional not-appropriated monies remaining at the end of a financial year shall be returned to the Members of the Commission unless decided otherwise by the Commission.”*

New ANNEX 2 of the Financial Regulations

Contingency Fund

The draft text below on a Contingency Fund was prepared with the idea that after review by the FAC it could be integrated as an Annex to the Financial Regulations.

Purpose of the Contingency Fund

The Contingency is designed to be used for:

1. **Emergency expenses:** Unforeseen, unavoidable, unpostponable, unbudgeted for and not otherwise absorbable intersessional expenses or emergencies.
2. **Ensuring essential operations in the absence of sufficient contributions:** the Secretariat should continue to operate even if the Accumulated Surplus Account is insufficient to cover the outstanding amounts of Member contributions.
3. **Termination of the Convention:** Ensuring the appropriate wrap-up of operations in case the organisation ceases to exist.
4. **[Extraordinary but foreseeable large and one-off expenses as determined by the Commission at the Annual Meeting].**¹

Procedure to Access the Contingency Fund

5. **Emergency expenses:** Some examples of emergencies would include, but are not limited to, force majeure event of an extra-ordinary/non-repetitive nature, damage caused to the Secretariat's premises by a fire or earthquake, sudden absence of a staff member, etc.

The use of these funds shall be authorised by the Executive Secretary provided that the Chairperson of the Commission (with copy to the Vice-Chairperson of the Commission and the Chairperson of the FAC) has been informed in detail of the nature of the emergency and the amount required. Considering the unexpected and unavoidable nature of the circumstances that trigger access to the Contingency Fund, the Chairperson of the Commission shall acknowledge receipt of the notification within three days and, in case the Chairperson is concerned that the funds might not be used in accordance with the Financial Regulations, he/she may request that the Members of the Commission are fully briefed prior to proceeding with the expense.

If, after having exhausted all reasonable means of communication, the Executive Secretary does not receive a response from the Chairperson of the Commission within three days, her/she may consult with the Vice Chair of the Commission, and subsequently the Chair of FAC, before proceeding with the expense.

6. **Ensuring essential operations in the absence of sufficient contributions:** If the Executive Secretary has reason to be concerned that the Accumulated Surplus Account will not be sufficient to make-up for outstanding financial contributions, an intersessional decision to access the Contingency Fund may be taken by the Commission in accordance with Rule of Procedure 7, paragraphs 6 to 11, to allow the financing of existing appropriations.
7. **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.
8. **[Extra-ordinary expenses:** The use of the Contingency Fund for predictable extraordinary (one-off) expenses must be authorized by the Commission when adopting the budget for the coming financial year. The use of the Contingency Fund for that purpose should only be considered once all other avenues have been exhausted and if the extra funds required could compromise the ability of some Members to meet their financial obligations in that year. An example for the nature of such extraordinary expenses could be the development of a VMS software]

¹ The Secretariat notes that this point was included on a tentative basis

Level of the Contingency Fund

The Commission will determine the level of the Contingency Fund with the objective to allow the essential operation of the Organisation for about 12 months².

Resourcing the Contingency Fund

The Contingency Fund may be built up with monies from, but not restricted to, the following sources:

- funds from the Interim Secretariat not otherwise utilised;
- an amount – either fixed (e.g. 50 000 NZD) or variable percentage (e.g. 25%) – deducted from the Accumulated Surplus Account as decided by the FAC;
- by appropriation in the budget;
- through voluntary contributions;
- interest gained from the investments of the Organisation's funds;
- annual GST Returns.

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.

² At the staff levels proposed for 2017, this would amount to NZD 930 000