



## REGIONAL COMMISSION FOR FISHERIES (RECOFI)

### Fifth Session

Dubai, United Arab Emirates, 12 – 14 May 2009

## OUTLINE OF THE COMMISSION STRUCTURE AND MODUS OPERANDI

### I. INTRODUCTION

This document describes the structure of the Regional Commission for Fisheries and the way it operates. It does not replace the legal framework of the Commission, which are the Agreement for the establishment of the Regional Commission for Fisheries and Rules of Procedure, as approved by the Commission at its First Session, Oman, 2001. In the event that a recommended practice should not be consistent with any of the provisions of the Agreement for the establishment of the Regional Commission for Fisheries or its Rules of Procedure, the latter would prevail.

### II. ESTABLISHMENT

The Agreement for the Establishment of the Regional Commission for Fisheries was drafted to replace the Committee for the Development and Management of the Fisheries Resources of the Gulfs (the so-called 'Gulfs Committee'), which was a subsidiary of the now-abolished Indian Ocean Fisheries Commission (IOFC). The Agreement entered into force on 26 February 2001.

Compared to the Gulfs Committee, the Regional Commission for Fisheries (hereinafter referred to as "RECOFI" or "the Commission") has expanded its functions and powers. RECOFI is Regional Fisheries Management Organization established by international agreement under Article XIV of the FAO Constitution.

### III. AREA

The area of competence of the Commission is delineated as follows: from Ras Dhabat Ali in (16° 39'N, 53° 3'30"E) then to a position in (16° 00'N, 53° 25'E) then to a position in (17° 00'N, 56° 30'E) then to a position in (20° 30'N, 60° 00'E) then to Ras Al-Fasteh in (25° 04'N, 61° 25'E) [Article IV].

### IV. RESOURCES

The Commission covers all living marine resources, including aquaculture, in the sea area, with the exception of internal waters.

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## V. MAIN OBJECTIVE

The main objective of the Agreement is to establish a regional fishery commission for promoting the development, conservation, rational management and best utilization of living marine resources, as well as the sustainable development of aquaculture in the Agreement Area.

## VI. MEMBERSHIP CONDITIONS

Membership in RECOFI is open to Members and Associate Members of FAO as well as non-member States of FAO, which are Members of the UN or its specialized agencies that are coastal States or Associate Members which have territories situated wholly or partly within the Commission's area of competence [Article II.2].

## VII. INSTITUTIONAL SET UP

RECOFI is composed of a Commission and two subsidiary bodies. The Commission is the governing body of RECOFI. At its First Session, Oman, 2001, the Commission agreed that it would concern itself with organizational, strategic and policy issues and on reviewing the work of subsidiary bodies (Report of the 1<sup>st</sup> Session of the Commission, para. 12.ii).

The Commission would normally meet every year at the site and date the Commission determines [Agreement, Article II.4]. At its first session, Muscat, Oman, October 2001, the Commission agreed to convene regular sessions during the first two weeks of the month of May, starting on the second Tuesday of the month of May (Report of the 1<sup>st</sup> Session of the Commission, para. xii.4). The Commission also agreed on the following schedule for its future meetings:

Second session	May 2003	Sultanate of Oman
Third session	May 2004	State of Qatar
Fourth session	May 2005	Kingdom of Saudi Arabia
Fifth session	May 2006	united Arab Emirates
Sixth session	May 2007	State of Bahrain
Seventh session	May 2008	Islamic Republic of Iran
Eighth session	May 2009	Republic of Iraq
Ninth session	May 2010	State of Kuwait

In practice, the Commission has not been meeting annually but bi-annually as follows:

First session	October 2001	Sultanate of Oman
Second session	May 2003	Sultanate of Oman
Third session	May 2005	State of Qatar
Fourth session	May 2007	Kingdom of Saudi Arabia

As a management body and as per its Article II.4 of the Agreement, it cannot be excluded that the Commission will in future meet annually.

### VIII. CHAIRPERSONS

At each regular session, the Commission elects a Chairperson and two Vice-Chairpersons who assume office immediately following the regular session at each they were elected (Article II.3, Rule VII.1). The rationale for this is that the Chairperson and Vice-Chairpersons are required to:

1. Follow the activities of the Commission and work in close cooperation with the Secretariat during the intersessional period following the regular session at which they were elected.
2. Chair the session in the course of which proposals and work carried out during that intersessional period would lead to decisions by the Commission.

During the intersessional period, the Chairperson is requested in particular to:

- Contribute to the elaboration of the provisional agenda for the session she or he will be chairing.
- Acting through the Secretary, issue invitations to sessions of the Commission not less than sixty days in advance of the date fixed for the opening of the session for regular sessions, and not less than forty days for special sessions (Rule II.3)
- Acting through the Secretary, communicate to each Member of the Commission the text of recommendations (proposals) to be considered by the Commission (Article V.1).
- Notify each member immediately upon receipt of an objection to a recommendation or withdrawal of an objection by a Member of the Commission (Article V.4)
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The Chairperson:

- May request Members of the Commission to supply the Commission or the Director-General of the FAO with information on actions taken on the basis of the recommendations made by the Commission (Rule XIV.6).
- May call a special session of the Commission at the request of, or with the approval of the majority of the Members, and decides the time and place of such a session (Rule II.2).

During regular sessions, the Chairperson is responsible for:

- Declaring the opening and closing of each plenary meeting of the Commission (Rule VIII.1).
- Directing the discussions at such meetings (Rule VIII.1).
- Ensuring observance to the Rules of Procedure (Rule VIII.1).
- According the right to speak (Rule VIII.1).
- Putting questions to the Commission (Rule VIII.1).
- Announcing decisions (Rule VIII.1).
- The proceedings of the session, over which she or he has complete control (Rule VIII.1).
- Appointing such ad hoc committee of the session as the Commission may direct (Rule VIII.1).
- Convening (the next) regular session of the Commission and Issuing the announcement of the next session (Article II.4) (Rule II.1).
- Convening (Determining the times and places of) the meetings of the subsidiary bodies established by the Commission. [Article VII.2].

The practice has been to elect the Chairpersons at the beginning of each regular session. This is reflected in the agenda of the session, which includes as a first item the election of the Chairpersons (Rule IV.1.a). Nominees for Chairpersons must be delegates or alternates. They are eligible for re-

election (Rule VII.2). The Chairpersons have no vote when in Chair. Another member of their delegations votes in their place (Rule VIII.3).

The Vice Chair exercises the functions of the Chairperson in the absence of the latter or at his/her request. In the absence of the Vice Chair, the second Vice Chair exercises the functions of the Chairperson (Rule VIII.2). In the event the Chairperson and the Vice-Chairpersons are unable to serve, the Secretary temporarily exercises the functions of the Chairperson (Rule VIII.4).

## **IX. PRINCIPAL FUNCTIONS OF THE COMMISSION (ARTICLE III)**

The Commission, within its area of competence, is empowered to formulate and recommend appropriate measures:

- i) for the conservation and management of living marine resources, including measures:
  - to regulate fishing methods and fishing gear,
  - prescribe the minimum size for individuals of specified species,
  - establish open and closed fishing seasons and areas, and
  - regulate the amount of total catch and fishing effort and their allocation among Members,
- ii) for the purpose of implementing recommendations.

The Commission also has the powers to review the economic and social aspects of the fishing industry and recommend measures for its development, encourage, recommend and coordinate training and extension activities; encourage, recommend, coordinate and undertake research and development activities; assemble, publish and disseminate information regarding living marine resources and fisheries based on these resources and carry out any other activities as may be necessary for RECOFI to achieve its purpose as define in the Commission's Agreement.

Importantly, the Commission shall apply the precautionary approach to conservation and management decisions and take into account the best scientific advice available and the need to promote the development and proper utilization of marine living resources.

## **X. DECISION MAKING**

The Commission may take recommendations for action (consideration) by Members on any matter pertaining to the functions above described (Rule XV.1). Consideration for management measures and decisions are included in the provisional agenda of the regular session and circulated to Members together with the provisional agenda not less than sixty days before the date of the session (Rules IV.1 and IV.3). Since its establishment, the Commission has adopted no recommendation.

The process described below may apply in a case where individual States propose an action:

- i. Members send proposals for consideration by the Commission to the Secretary (Rule XV.1).
- ii. The Chair - acting through the Secretary- communicate to each Member of the Commission the text of such proposals (Article V.1).
- iii. The Secretary receives Members' replies in respect of such proposals and prepares a summary and an analysis of the replies for presentation at the next session (and Rule XV.2).
- iv. The Commission considers the proposals during the regular session. It is the usual practice for the fishery bodies established within the framework of FAO to adopt decisions and

recommendations by consensus or, by voting if a consensus cannot be achieved. Each member of the Commission has one vote (Article II.2). Participation of alternates, experts, and advisers do not entail the right to vote, except in the case of an alternate acting in the place of delegate in his absence. Decisions of regional fisheries bodies such as the RECOFI are usually taken by a majority of the votes cast [Article II.2]. Recommendations regarding management measures are adopted by a two-thirds majority of members of the Commission present and voting (Article V.1).

v. The Commission transmits the adopted conclusions and recommendations to the Director-General of FAO at the close of each session. The Director General circulates them to Members of the Commission, nations and international organizations that were represented at the session and make them available to other Members and Associate Members of the Organization for their information (Rule XIV.4)

The Members of the Commission commit to implement recommendations from the date determined by the Commission, which shall not be before the period for objection (Article V.2). The objection period is of one hundred and twenty days from the date of notification of the recommendation by the Chairperson of the Commission (acting through the Secretariat). Any member of the Commission may within this period object to the recommendation and in that event is not be under obligation to give effect to that recommendation (Article V.3). A member may at any time withdraw its objection and give effect to a recommendation. The Chairperson notifies each member immediately upon receipt of each objection or withdrawal of objection (Article V.4).

Proposals for consideration by the Commission may also come from subsidiary bodies. The process is the same as above. Working Groups' proposals are compiled and analyzed by the Secretary for submission to the Commission for consideration. The Commission takes decisions and makes recommendations as appropriate by consensus or by voting.

A Member of the Commission, which is in arrears in the payment of its financial contributions to the Commission, has no vote in the Commission if the amount of its arrears equals or exceeds the amount of the contributions due from it for the two preceding calendar years. The Commission may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay was due to conditions beyond the control of the Member but in no case shall it extend the right to vote beyond a further two calendar years [Article IX.7].

## **XI. SUBSIDIARY BODIES [ARTICLES VII.1, VII.2 AND VIII.3]**

The Commission may decide to establish temporary, special or standing committees and working groups to study and recommend on specific technical problems [Article VII.1].

At its First Session, the Commission agreed that subsidiary bodies should address technical and scientific matters and be established for such purpose (Report of the 1<sup>st</sup> Session of the Commission, para.12.1 and 12.2). It was also agreed that Member countries may, if they wish, bring national, bilateral and multilateral issues to the consideration of the Commission and its technical members. It was however anticipated that the Commission would give more emphasis to marine and fisheries issues of regional importance (Report of the 1<sup>st</sup> Session of the Commission, para.12.1).

In keeping with Article VII.3 of the RECOFI Agreement, the establishment of committees and working groups is subject to the availability of necessary funds. The Secretary of the Commission makes available to the Commission a report on the administrative and financial implications involved before a decision on this matter is taken.

At its First Session, Sultanate of Oman, October 2001, the Commission agreed to establish two ad hoc Working Groups. These are:

- Working group on Aquaculture (WGA).
- Working group on Stock Assessment and Fishery Statistics.

At the Fourth Session, held in Jeddah, Kingdom of Saudi Arabia, from 7 to 9 May 2007, the Commission decided to expand its current Working Group on Stock Assessment and Fishery Statistics to a wider Working Group on Fisheries Management (WGFM).

Working groups are governed by the Rules of procedure of the Commission (Rule X.2). As the Commission, Working Groups elect a Chairperson and a Vice Chairperson. The Chairpersons have complete control over the proceedings of the meetings. FAO provides a Technical Secretary who is responsible for facilitating the work of the Working Group and for coordinating the preparation of working documents.

## **XII. NATIONAL FOCAL POINTS**

At its first session, Sultanate of Oman, October 2001, the Commission agreed to communicate to the Secretary the name and title of country focal point to RECOFI (First RECOFI Session Report, para. 12.viii).

The Secretariat intends to propose for adoption at the Fifth Session of the Commission the TORs for RECOFI country focal points. Subject to their adoption, the focal points will have an advisory and liaison function with respect to the programme of work of the Commission and the relevance of the latter to the national policy of fisheries development and management. He/She will be:

- In direct contact with the RECOFI Secretariat;
- Informed by the RECOFI Secretariat on the most important Commission activities planned and under implementation at the regional level;
- Considered at the head of the RECOFI Secretariat mailing list and be provided with all the technical output;
- Informed on all the activities carried out at national level.

## **XIII. REPORTS**

At the end of each Session, the Commission approves a report embodying its views, recommendations, resolutions and decisions, including, when requested a statement of minority views (Rule XIV.3). The Commission transmits after each session the report to the Director-General of FAO (Article VI).

Copies of all communications concerning the affairs of the Commission are sent to the Secretary for purposes of information and record (Rule V).

## **XIV. AMENDMENTS**

The Commission may amend its founding Agreement by a two-thirds majority of its Members. Amendments to the Agreement are reported to the Council of the FAO, which has the power to disallow them if it finds that such amendments are inconsistent with the objectives and purposes of the Organization or the provisions of the Constitution of the Organization (Article XII). Proposals for the amendment of the Agreement may be made by any Member in a communication addressed to the Secretary. The Secretary transmits to all Members and to the Director-General of FAO a copy of such proposals for amendment immediately upon their receipt. No action on a proposal for the amendment of the Agreement is taken by the Commission at any session, unless it has been included in the provisional agenda of the session (Rule XVI.1 and 2).

At its first Session, Sultanate of Oman, October 2001, the Commission approved its Rules of Procedures. The Commission may, by a two-thirds majority of its membership, amend its own rules of Procedure provided that such amendments are not inconsistent with the Agreement or with the Constitution of the FAO (Article II.7).

The Commission may, by a two-thirds of its membership, adopt (and amend) its own Financial regulations, (Article II.8). There are at present no such Regulations adopted; the financial regulations of the Organization are applied for the management of the budget of the Commission.

## **XV. BUDGET AND FINANCES**

RECOFI's core budget is funded by the contributions of the Member countries of the Commission, which pay their share annually. The practice has been for Member countries to pay their share of the budget on an equal basis, i.e. US\$5 000 per country per year. The annual core budget of the Commission is currently of US\$40 000.

There are at present no financial regulations governing the administration of the budget of RECOFI, consequently the financial regulations of the FAO apply to the Commission. Article IX.1 states that *'Each Member of the Commission undertakes to pay annually its share of the budget for cooperative activities'*. Articles X.1 and X.2 state that *"the expenses of experts invited by the Commission to attend, in their individual capacity, meetings of the Commission, its committees or working groups shall be borne by the budget of the Commission"* and *"the expenses for publications and communications and the expenses incurred by the Chairperson and Vice-Chairpersons of the Commission, when performing duties on behalf of the Commission between Commission sessions shall be determined and paid for from the budget of the Commission"*. In the formulation and negotiation of the Agreement there was a consensus that the annual core budget should cover the cost of RECOFI meetings and the cost of publications of the reports and of any studies prepared as a result of workshops. The costs of cooperative activities would be divided into the RECOFI Members depending on the nature of the activities and interest of these countries, subject to the approval of the Commission.

At the time of negotiation, it was recommended that FAO extend to RECOFI the same level of administrative and budgetary support as used to be provided to the former Gulfs Committee. FAO currently provides i) the seat of the Commission, which is hosted by the Regional Office in Cairo, ii) the Secretariat, headed by an FAO staff member, Mr Piero Mannini, and iii) the technical and legal backstopping. The Commission may decide in future to relocate the Secretariat within the Agreement area after consultation with the Director-General of FAO and at its own expense [Article II.5].

Expenses not borne by the core budget of the Commission but are borne by governments or organisations concern:

- The expenses incurred by delegates, their alternates, experts and advisers when attending, as government representatives, sessions of the Commission, its committees and working groups [Article X.1].
- The expenses incurred by observers at sessions [Article X.1].
- The expenses of research and development projects undertaken by individual Members of the Commission, whether independently or upon recommendation of the Commission [Article X.3].
- The expenses incurred in connection with cooperative projects (Article III.1.e) unless the budget is otherwise available.

At each regular session, the Commission adopts its budget by consensus of its Members. If, after every effort has been made, a consensus cannot be reached in the course of that session, the matter is put to a vote and the budget is adopted by a two-thirds majority of its Members [Article IX.2].

Member countries' contributions and donations and other forms of assistance received are placed in a Trust Fund administered by FAO in conformity with the Financial Regulations of the Organization [Article IX.6].

#### **XVI. PARTNERSHIP/STAKEHOLDER PARTICIPATION**

On the proposal of the Secretary of the Commission, observers of these organizations may be invited by the Commission to attend sessions of the Commission or meetings of the committees or working groups (Article VIII).

At its First Session, Sultanate of Oman, October 2001, the Commission agreed to develop and strengthen partnership arrangements and liaison with other relevant organizations, including in the first instance, the Gulf Cooperation Council, the Regional Organization for the Protection of the Marine Environment, UNEP, ICLARM and other relevant organizations.

#### **XVII. DISPUTE SETTLEMENT**

Any dispute regarding the interpretation or application of the Agreement is first to be settled by the Commission, after which it shall be referred to a committee composed of one member appointed by each of the parties to the dispute, and in addition an independent chairman chosen by the members of the committee. The recommendations of the committee are not binding but become the basis for renewed consideration by the parties concerned. If the dispute remains unsettled, it shall be referred to the International Court of Justice, unless the parties to the dispute agree to another method of settlement (Article XVI).

#### **XVIII. SUGGESTED ACTION BY THE COMMISSION**

The Commission is requested to review the document, consider the information contained and provide advice and guidance if deemed appropriate.