

**GENERAL FISHERIES COMMISSION FOR THE MEDITERRANEAN AND BLACK SEA
AND CONNECTING WATERS**

**COMMISSION GÉNÉRALE DES PÊCHES POUR LA MÉDITERRANÉE ET LA MER NOIRE
ET LES EAUX INTERMÉDIAIRES**

DRAFT RULES OF PROCEDURE – EXPLANATORY NOTES

Draft Rules of Procedure have been prepared to support the draft amendments to the GFCM Agreement, in order to assist the Executive Secretary with the process of revising the GFCM legal and institutional framework.

They are based on the FAO Basic Texts, the draft Agreement, the outcomes of the Task Force aimed at Modernising the Legal and Institutional Framework of the GFCM, relevant provisions in the existing Rules of Procedure and best practices from provisions in other FAO Article XIV bodies, including the Indian Ocean Tuna Commission and the Asia-Pacific Fisheries Commission.

Some new Rules have been added to implement procedures referenced in the draft Agreement, as indicated below.

The Rules of Procedure consist of the following framework.

Rule I	Definitions
Rule II	Sessions of the Commission
Rule III	Registration and Credentials
Rule IV	Agenda
Rule V	The Secretariat
Rule VI	Meetings of the Commission
Rule VII	Election of Chairperson and Vice-Chairperson
Rule VIII	Functions of the Chairperson and Vice-Chairpersons in connection with meetings of the Commission
Rule IX	Voting arrangements and procedures
Rule X	Subsidiary bodies, working groups, subregional working groups and other bodies
Rule XI	Subregional Working Groups
Rule XIII	Participation by observers
Rule XIV	Cooperation with other intergovernmental organizations and institutions
Rule XV	Reports
Rule XVI	Recommendation Review Panel
Rule XVII	Procedures for the <i>ad hoc</i> Expert Panel for the Settlement of Disputes
Rule XVIII	Amendments to the Agreement
Rule XIX	Relationship between these Rules of Procedure and the General Rules, policies or procedures of the FAO
Rule XX	Suspension and amendment of Rules
Rule XXI	Official languages of the Commission
APPENDIX 1	Requirements for the selection, appointment and term of office of the Executive Secretary

Rule I: Definitions

Some terms have been edited without substantive change, some terms have been added in accordance with FAO practice (e.g. all categories of observers except observer Nations) and terms defined in the Agreement have been deleted.

Rule II: Sessions of the Commission

Paragraphs 2 and 5 are simplified, inspired by the IOTC Rules of Procedure. Paragraph 6 has been amended to incorporate Rule XXXVIII.4 of the General Rules of the Organization. In this Rule it is the Director-General who exercises such a function, but Rule XXXVIII.5 allows him or her to delegate authority. Such a determination by the Executive Secretary will be more practical and save time, and may be based on liaison with Protocol Affairs.

Rule III: Registration and Credentials

Some minor editing has been done to streamline this provision. The use of “delegations” rather than delegates is aligned with IOTC Rule III and generally consistent with Rule XLIII of the FAO Basic Texts.

Rule IV: Agenda

New language is aligned with IOTC Rule IV, which requires a provisional agenda to be sent sixty days in advance (the current GFCM requirements is thirty days), then a provisional agenda with comments, including any proposal by Members, not less than thirty days before the session. This would allow greater transparency but should be reviewed by the Secretariat to ensure that it will be able to function on a practical level.

Rule V: The Secretariat

This Rule aligns with language from IOTC Rule V. The duties of the Executive Secretary in the existing Rules have been transferred to the Agreement, and the process for the selection of the Executive Secretary in Annex I has been reviewed and edited as described below, with no substantive changes.

RULE VI: Meetings of the Commission

Meetings are “open to observers” rather than “held in public” as currently provided. The latter would indicate that any member of the public could attend. Language is consistent with FAO usage.

RULE VII: Election of Chairperson and Vice-Chairperson

Clarifications are made in line with IOTC and FAO practice.

RULE VIII: Functions of the Chairperson and Vice-Chairpersons in connection with meetings of the Commission

The inconsistent use of “plenary meeting”, “meeting” and “session” are corrected. Otherwise, the Rules were elaborated consistent with general practice.

RULE IX: Voting arrangements and procedures

Reference to requirements for a special majority is deleted, as there is no provision for this elsewhere in the Rules or the Agreement. The possibility of a secret ballot has been introduced, consistent with the General Rules of FAO. The new language used in this Rule is consistent with IOTC Rule IX,

which is generally more precise and flexible. Paragraph 2 on roll call voting is amended, consistent with Rule XII of the General Rules of FAO.

RULE X: Subsidiary bodies, working groups, subregional working groups and other bodies.

The content of existing Rule X establishing the subsidiary bodies, etc., has been transferred to Articles 8-12 of the Agreement, and this Rule now contains procedural provisions only.

RULE XI: Subregional Working Groups

This is a new Rule. It relates to the establishment of Subregional Working Groups as provided in Article 13 of the Agreement, for the following sub-regions: Western, Central, Adriatic, Eastern, Black Sea. It addresses their area of application, functions and the appointment of a coordinator. The functions were generally taken from the objectives of the existing FAO subregional projects.

If Members agree to establish such Working Groups, further technical consideration will need to be given to defining their areas of application, which may be defined in terms of any, or any combination of the following:

- the geographical location of the Members in the proposed sub-region;
- the participation by Members in existing FAO subregional projects;
- the fishing activities of Members in the proposed sub-region;
- the existing Geographical Sub-Areas (GSAs); and
- definition of the areas through agreement on boundaries.

Some options appear below.

1. **Definition by Members of existing FAO subregional projects and adjacent areas of high seas.** For example, the Western sub-region would consist of Algeria, France, Italy, Libya, Malta, Morocco, Spain and Tunisia and adjacent areas of high seas. However, there would need to be agreement on whether, and if so how, to define the adjacent areas of high seas.

2. **Definition by reference to GFCM GSAs.** This would use GFCM GSAs as a basis for delineating the area for the sub-regional groups. However, additional criteria would be needed, such as: (i) the proximity of the Member to the GSA; (ii) fishing by nationals of a Member in the area; (iii) the possibility of amending the boundaries of the GSA for scientific reasons.

3. **Definition by agreement on delineation by latitude and longitude.** The South Pacific Regional Fisheries Management Organization (SPRFMO), which applies only to high seas fishing, establishes Eastern and Western Sub-regional Management Committees. The SPRFMO area of application is delineated by reference to latitudinal and longitudinal lines, and its sub-regional Committees are similarly divided by a longitudinal line. This may be difficult to apply in the GFCM Area for reasons including: (i) the GFCM area of application is described by reference to areas of water; (ii) the GFCM area includes areas under national jurisdiction; and (iii) countries in the sub-regional already have a history of working together on the regional projects.

Rule XI.2 relating to the functions of the Subregional Working Groups requires further technical input. It is understood that a functional approach is favoured, along the lines of the sub-regional approach in the SPRFMO Convention. However, there are many differences between the Commissions and technical advice is sought as to those aspects that would work for GFCM Members.

RULE XII: Budget and finance

This was not amended.

RULE XIII: Participation by observers

The existing text of this Rule has been moved to Article 23 of the Agreement, consistent with the practice of IOTC and other organizations, for purposes of transparency. The original language referred to the Commission, Committees and subsidiary bodies; in GFCM the Committees are the subsidiary bodies so deletion is suggested.

New procedures for participation by observers have been introduced, consistent with the FAO Basic Texts and IOTC practice.

RULE XIV: Criteria for attaining the status of cooperating non-member

This is a new provision, and sets out inter alia a process and requirements for application of cooperating non-member status.

RULE XV: Cooperation with other intergovernmental organizations and institutions

This is a new Rule and supports the objective for GFCM to enter into MOUs with other organizations that appears in Article 23(1) of the Agreement.

RULE XVI: Reports

Circulation of the conclusions, etc of the Commission are now required to be transmitted to observers represented at the Session as well as Members to promote transparency and mindful that many of the observers have concluded MoUs with GFCM.

The reference to the Commission's authority to adopt recommendations was deleted because it is addressed in the proposed amendments to the Agreement.

RULE XVII: Recommendation Review Panel

This is a new Rule, which establishes a Recommendation Review Panel pursuant to Article 7, paragraph (f) of the Agreement, and provides for its membership and functions. The objective is for recommendations for decisions on conservation and management measures to be taken by the Commission pursuant to Article 7(b) of the Agreement to be transmitted by subsidiary bodies, etc. to the Panel for review and recommendation to the Commission.

RULE XVIII: Procedures for the *ad hoc* Expert Panel for the Settlement of Disputes

This is a new Rule. The procedures for the establishment and procedures of the *ad hoc* Expert Panel for the Settlement of Disputes, established under Article 27(2) of the Agreement, are set out. They adopt best practices in other organizations.

RULE XIX: Amendments to the Agreement

This Rule is unchanged.

RULE XX: Relationship between these Rules of Procedure and the General Rules of the FAO

This is a new Rule. It requires the Commission to endorse any new or amended Rule of the Organization for purposes of implementation and provides that the GFCM Rules of Procedure will prevail where there is any ambiguity in interpretation with the General Rules of the Organization.

RULE XXI: Suspension and amendment of Rules

This Rule has remained the same as existing Rule XVI, with references to Article numbers in the Agreement amended as appropriate.

RULE XVIII: Official languages of the Commission

The provisions on official languages in existing Rule XVI have been moved to the Agreement (Article 29), and the process for requesting interpretation has been added that addresses the need for substantial lead time to arrange for interpretation, equipment and logistical arrangements in accordance with FAO Rules.

Appendix 1: Requirements for the selection, appointment and term of office of the executive secretary

This has been transformed into proper legal language from the memorandum-style provisions, keeping the same requirements. The existing Agreement and Rules of Procedure refer variously to “Secretary” and “Executive Secretary”. References are aligned to “Executive Secretary”.