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y la
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GENERAL FISHERIES COMMISSION FOR THE MEDITERRANEAN

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PROCEDURE FOR THE SELECTION AND APPOINTMENT OF THE SECRETARY OF THE GENERAL FISHERIES COMMISSION FOR THE MEDITERRANEAN

1. This document sets forth the legal framework applicable to the issue of the selection and appointment of the Secretary of the General Fisheries Commission for the Mediterranean and presents a number of pertinent considerations regarding the Secretary's functional relationship with the Commission and FAO, as well as the administrative relationship with FAO. Taking such considerations into due account, it outlines a procedure for the selection and appointment of the Secretary, for review by the Commission¹.

2. It may be of interest to recall, in this regard, that at its Twenty-sixth Session, on the occasion of the retirement of its former Secretary, the Commission noted that because of "non ratification of the Agreement by Members, FAO would proceed with the selection of his successor in accordance with FAO Rules and Regulations"². The officer selected would serve until the appointment of a new Secretary.

RELEVANT LEGAL FRAMEWORK

3. Article XI, paragraph 1 of the Agreement for the Establishment of the General Fisheries Commission for the Mediterranean, hereinafter referred to as the Agreement, provides that "*the Secretary of the Commission (hereinafter referred to as the "Secretary") shall be appointed by the Director-General with the approval of the Commission, or in the event of appointment between regular sessions of the Commission, with the approval of the Members of the*

¹ In keeping with the spirit and letter of FAO Conference Resolution 7/99 on the use of gender-neutral language in the Basic Texts, in accordance with generally accepted rules of interpretation, the use of one gender in this document should be considered as including a reference to the other unless the context otherwise requires.

² Report of the Twenty-sixth session of the GFCM, Ischia, Italy, 10-13 September 2001, paragraph 67.

Commission". Article XI, paragraph 2 of the Agreement provides that "*the Secretary shall be responsible for implementing the policies and activities of the Commission and shall report thereon to the Commission. The Secretary shall also act as Secretary to other subsidiary bodies established by the Commission, as required*".

4. Current Rule V of the Rules of Procedure of the Commission, entitled "*the Secretariat*" provides as follows:

"1. The Secretariat shall consist of the Secretary and such staff responsible to him as may be determined by the Director-General.

2. The duties of the Secretary shall include the receipt, collation, and circulation of documents, reports, and resolutions of the sessions of the Commission and its committees, the record of the proceedings, the certification of expenditures and financial commitments, and the performance of such other duties as the Commission may direct.

3. Copies of all communications concerning the affairs of the Commission shall be sent to the Secretary for purposes of information and record".

5. Insofar as the Commission was established by agreement concluded under Article XIV of the FAO Constitution, the "*Principles and procedures which should govern conventions and agreements concluded under Articles XIV and XV of the Constitution, and commissions and committees established under Article VI of the Constitution*", set out in Part R of the Basic Texts of FAO, are relevant to the consideration of this matter. Thus, under paragraph 32 (iii) of these Principles:

"the Secretary of each body shall be appointed by the Director-General and shall be administratively responsible to him. In the case of bodies referred to in paragraph 33(c)³, the basic texts may specify that the Secretary shall be appointed by the Director-General after consultation with, or with the approval of, the members of the body concerned".

RELEVANT LEGAL CONSIDERATIONS

6. The procedure for the selection and appointment of the Secretary of the Commission must be seen in light of the foregoing provisions, taken together, regarding the status of the secretary as a staff member of the Organization. In particular, account should be taken of the following two considerations.

7. First, the Secretary is to be responsible for the implementation of the policies and activities of the Commission and is required to report thereon to the Commission. The Secretary is also required to act as Secretary to other subsidiary bodies established by the Commission, as necessary. Accordingly, the Secretary should enjoy a measure of autonomy on technical, functional and operational matters, for which he is accountable to the Commission. The requirement of autonomy on functional matters is consistent with the spirit and letter of other pertinent provisions regarding bodies established under Article XIV of the FAO Constitution. Through their constituent instruments, such bodies are entrusted with specific responsibilities and functions that fall within the general mandate and terms of reference of the Organization.

³ Paragraph 33(c) provides that (bodies established under Article XIV of the Constitution fall into one of the following three categories): "*(a) bodies entirely financed by the Organization; (b) bodies that, in addition to being financed by the Organization, may undertake cooperative projects financed by members of the body; (c) bodies that, in addition to being financed by the Organization, have autonomous budgets*".

However, such responsibilities and functions, as well as the obligations undertaken by the parties to the relevant constituent instruments, do extend beyond those assumed by the parties under the Constitution of the Organization. Accordingly, not only those bodies should enjoy autonomy on functional matters within their mandate but, in order to carry out their duties, their executive secretaries should benefit from as much autonomy as legally possible, in order to be able to respond to the functional requirements of those bodies.

8. Second, both the Commission, insofar as it has not a legal personality distinct from that of FAO and, therefore, has to act through the Organization, and its Secretary, as an official of the Organization, are linked to FAO. Under the Constitution and the General Rules of the Organization, all staff of FAO is appointed by the Director-General in accordance with such procedures as approved by the Conference or Council. As part of his overall authority to direct the work of the Organization, under the general supervision of the Governing Bodies, the Director-General is responsible for the appointment of the staff and for its administration. To that effect, a comprehensive set of regulations, rules and administrative procedures have been adopted by, or under the authority of, the Governing Bodies and, in accordance with relevant provisions of the United Nations Common System of Salaries and Benefits, developed under the aegis of the International Civil Service Commission. The staff of the Organization is responsible to the Director-General and, in particular, is subject to his disciplinary authority. Any grievances which they may allege in connection with their terms and conditions of employment are to be referred to the Director-General, the FAO Appeals Committee and ultimately to the Administrative Tribunal of the International Labour Organization where the Director-General is the representative of the respondent organization. Similarly, it is the Organization, and consequently the Director-General as its legal representative, which would have to respond for any liabilities arising from the activities of the Commission and its Secretary. The status of the officials of the Organization, as far as their privileges and immunities are concerned, are defined in the Headquarters Agreement as regards Italy and in the Convention on the Privileges and Immunities of the Specialized Agencies or other relevant agreements which the Organization may have concluded with other countries. Under these agreements, the Director-General has, *inter alia*, the duty to take every precaution to ensure that no abuse of privilege or immunity conferred by such agreements will occur and, for this purpose, he must establish such rules and regulations as he may deem necessary and expedient. It is the Director-General who, in particular situations, would have to consider whether or not he would have to waive the immunity of the Organization or of a particular official.

9. In view of these considerations, any procedure for the selection and appointment of the Secretary of the Commission should, at all its stages, reconcile adequately and in a meaningful manner, the two series of requirements inherent in the status of the Secretary of the Commission. The selection and appointment process cannot be seen as one including two parallel, independent, side-by-side segments consisting, on the one hand, in the identification of a candidate by the Commission and, on the other hand, his appointment by the Director-General. In short, a situation where the selection process - as opposed to the administrative appointment, materialized through the nomination of the official - would be carried out entirely by the Commission without any form of involvement of the Director-General, who would be required merely to appoint the selected candidate, would not be consistent with the above legal framework. Therefore, there is a need for a satisfactory compromise between the requirements arising from the functional autonomy of the Commission and from the administrative accountability of the Director-General.

10. The achievement of this compromise may not always be an easy task and might depend on policy and practical considerations as much as on legal and institutional procedures. The Conference of FAO itself, in 1957 when approving the above mentioned Principles and procedures which should govern conventions and agreements concluded under Articles XIV and XV of the Constitution, and commissions and committees established under Article VI of the Constitution, noted that "*the extent and character of the responsibility of the Organization with respect to these bodies were a cause of concern to the Conference*". At that time, the Conference

adopted resolution 47/57, entitled “*semi-independent*” bodies in which, after having stressed the desirability of avoiding any ambiguity regarding the legal status of bodies promoted by the Organization, decided that the relationship of such bodies and the Organization should, in each instance, be clearly defined to the greatest extent possible.

11. In proposing a procedure for the selection and appointment of the Secretary, the Organization has also drawn on experience acquired over the years in respect of the management of programmes or projects financed by voluntary contributions and based in and operated by the Organization. Such programmes and projects function in situations that, in several respects, are very much comparable to that of bodies established by agreements concluded under Article XIV of the FAO Constitution. From a functional viewpoint, such programmes or projects enjoy considerable autonomy while, from an administrative point of view, they act through FAO. The selection and appointment of the managers of those programmes and projects, developed over the years, include a selection process involving “*external*” entities and bodies, but including also representatives of FAO, and appointment by the Director-General to whom they are administratively responsible.

PROPOSED PROCEDURE FOR THE SELECTION AND APPOINTMENT OF THE SECRETARY OF THE COMMISSION

(a) Main procedural steps

12. The following procedure, reflecting the above legal framework and considerations, is proposed for review by the Commission. Prior to the implementation of these procedural steps, the Commission would have to define the required qualifications of the Secretary, as well as his functions, under the framework established by the GFCM Agreement and other relevant documents.

(a) The Director-General would issue a vacancy announcement in conformity with the Regulations and Rules of FAO. Such vacancy announcement would be publicized, as per established procedures of the Organization, with a view to reaching the greatest possible number of candidates. The vacancy announcement would incorporate the qualifications and terms of reference agreed upon by the Commission.

(b) The applications received by the Director-General would be assessed by a selection panel consisting of the Chairman of the Commission, the Assistant Director-General, FI, one member appointed by the Chairman of the Commission and one member appointed by the Director-General. The panel would act under the co-chairmanship of the Chairman of the Commission and the Assistant Director-General, FI. The panel would rely on the assistance of the Fisheries Department, as may be required. Should there be a large number of applicants, the panel could request the Fisheries Department to make a pre-assessment of the candidates. The assessment of the candidates would be made against the qualifications agreed upon by the Commission, in accordance with such procedures as the panel would develop. The panel would draw up a list of not more than 5 candidates and submit that list and evaluation sheets, including those of the candidates not retained, to all Members of the Commission.

(c) The Members of the Commission would review the candidatures and indicate within 30 days their ranking of the short-listed candidates, in order of preference, to the Director-General. The selection panel would compile the results and report them to the Commission at its next session, together with any such views as it would deem appropriate to formulate.

(d) The Commission would review the candidatures and forward its recommendation to the Director-General for the appointment of the Secretary, in accordance with Article XI, paragraph 1 of the Agreement.

(b) Related issues

13. A number of related issues, some of them of a practical nature, would have to be addressed.

14. One of those issues is the duration of the appointment. It is suggested that the incumbent be offered a three-year fixed-term appointment. The secretary could be appointed for subsequent terms. Such duration would imply that a new selection process be initiated, in a timely manner, every three years. Practical experience has shown that such a process, which needs to be carried out in a careful and objective manner, is not only time-consuming but involves also administrative and financial costs. Therefore, consideration could be given to increasing the duration of the appointment, which would be justified on grounds of administrative convenience and perhaps of efficiency. However, the extension of the duration of the appointment of the Secretary could, on occasion, involve risks in the event that the performance of the incumbent proves to be unsatisfactory. In view of the status of the incumbent as an FAO staff member and the provisions of the Staff Regulations and Rules on the issue of termination of appointments for unsatisfactory performance by the Director-General – and the obvious need to involve the Commission in such a decision - it might be difficult, for procedural reasons, to terminate a contract on those grounds. Therefore, it might be preferable that the duration of the appointment should remain limited as this would allow, in case of unsatisfactory performance, that an appointment be let to expire. However, this is a matter on which the views of the Commission would be welcomed⁴.

15. The Commission would, as per paragraph 12 (d) above, submit its recommendation to the Director-General. The manner in which this recommendation would be formulated would be for the Commission to decide, although practical arrangements might have to be worked out. A related question is whether the Commission would recommend to the Director-General for appointment one candidate or a short-list of several ranked candidates. If the selection process were to be carried out in accordance with the above procedural steps, especially insofar as in accordance with paragraph 12 (b) the process would preserve a possibility for the Assistant Director-General, FI, to be meaningfully involved in the selection process, there would seem to be no objection to the submission of a recommendation with only one candidate. Subject to this consideration, whether or not one or several short-listed ranked candidates were to be referred to the Director-General, is one for the Commission to decide upon.

16. The above procedure for the selection and appointment of the Secretary would involve an amendment to the Rules of Procedure, insofar as it would be incorporated in an annex thereto and would be part of those Rules. This would be without prejudice to any other amendments to the Rules as may be required.

⁴ A related question is whether, in the event that the Secretary of the Commission should not be, at the time of appointment, an FAO staff member, he would be eligible for conversion of his appointment to continuing. Under Paragraph 311.65 of the Administrative Manual, subject to satisfactory performance, “*conversion from a fixed-term appointment to a continuing appointment shall be granted after six years of continuing service on short/fixed term appointments*”. Paragraph 311.65 (c) (i) clarifies that “*staff members serving on field projects regardless of where they are actually based*” shall not be eligible for conversion. In order to dispel any possible doubt regarding the status of the appointment of the Secretary, the letter of appointment would specify in very clear terms that he would not be eligible for conversion of his appointment to continuing. In any case, in the event that the incumbent should be appointed at grade D-1, no difficulty would seem to arise, as the conversion of the appointment of staff members holding such grade is subject to discretionary decision by the Director-General.

17. The time-frame for the implementation of the procedure is essentially a practical issue. It should be kept in mind that the careful screening of a number of candidates, which could be rather high, could last for several months. The Commission would be required to approve the qualifications and terms of reference of the post set out in the vacancy announcement at the regular session of the year preceding that in which it will make its recommendation to the Director-General. In addition, the Commission would also be required to advise on any particular measures of publicity for the vacancy announcement.

18. The Commission is furthermore invited to decide whether any particular transitional measures regarding the introduction of the procedure are required, taking into particular account the time required for its implementation.

QUALIFICATIONS AND BENEFITS OF THE INCUMBENT

19. The following qualification requirements, reflecting, as appropriate, United Nations Common System relevant conditions, are proposed for further review by the Commission:

(a) The incumbent should have university degree qualifications, preferably at post-graduate level, in fisheries biology, fisheries science, fisheries economics, administration, law or related fields. He/she should have at least ten years experience in fisheries management, policy formulation, preferably including bilateral and international relations. He/she should have the ability to exercise a high degree of professional initiative. The incumbent should also be conversant with the preparation of budgets, documents and the organization of international meetings. He/she should have working level C of either Arabic, English, French and Spanish. Preference will be given to candidates who have working knowledge in two of those languages.

(b) Other essential qualifications include competence in the selection of staff, demonstrated managerial ability to supervise professional matters in subject field; and familiarity with the use word processing; spread sheets and database management systems;

(c) Desirable requirements include: a high degree of adaptability and ability to cooperate effectively with people of different nationalities and of various social and cultural backgrounds and education levels;

(d) The Secretary will be graded P5/D1 based on the United Nations salary scheme for professional and high categories. He/she will, in addition, be entitled to a variable element for post adjustment, pension, insurance, etc. The secretary is an official of FAO and is appointed under the Staff Regulations and Staff Rules of FAO.

TERMS OF REFERENCE FOR THE INCUMBENT

20. The following terms of reference are proposed for review by the Commission:

20.1. Pursuant to Article XI, paragraph 2 of the Agreement for the Establishment of the General Fisheries Commission for the Mediterranean, the Secretary shall be responsible for the implementation of the policies and activities of the Commission and shall report thereon to the Commission. He/she shall act as Secretary to the subsidiary bodies established by the Commission, as required. The incumbent shall have overall responsibility for planning, coordination and administration of the Commission in accordance with the decisions of the Commission, subject to the requirement that all matters, including documents having policy, financial or programme implications for FAO, should be reported to the Organization, through established channels, as required by paragraph 30 of the Appendix to the principles and

procedures which should govern conventions and agreements concluded under Articles XIV and XV of the Constitution, and commissions and committees established under Article VI of the Constitution (Part R of the Basic Texts).

20.2. He/she shall, for administrative purposes, be responsible to the Director-General of FAO and, on technical matters, shall be required to coordinate his/her activities with those of the Organization carried out through the Fisheries Department. He/she will be able to draw on the technical expertise available from the Organization.

20.3 He/she will, in particular:

- (a) receive and transmit the Commission's official communications;
- (b) maintain contacts with appropriate government officials, fishery institutions and international organizations concerned with the development, conservation, rational management and utilization of fisheries, as well as the sustainable development of aquaculture in the Region of the Commission, to facilitate consultation and cooperation on all matters pertaining to the objectives of the Commission,
- (c) maintain an active and effective network of national focal points for routine communication of progress and results of the activities of the Commission;
- (d) prepare and implement work programmes, prepare budgets and ensure timely reporting to the Commission;
- (e) authorize disbursement of funds in accordance with the Commission's autonomous budget;
- (f) account for the funds of the Commission's autonomous budget;
- (g) participate in the formulation of proposals regarding the budget and programme of work or other activities of the Commission financed by the regular budget of the Organization;
- (h) stimulate interest among Members of the Commission and potential donors in the activities of the Commission and in possible financing or in implementing pilot projects and complementary activities;
- (i) promote, facilitate and monitor the development of databases for fisheries assessment and monitoring and technical, biological and socio-economic research to provide a sound basis for fisheries management and aquaculture development;
- (j) coordinate the Members' programmes of research, when required;
- (k) participate, as appropriate, in the oversight of activities of projects carried out under the general framework of the Commission or its subsidiary bodies;
- (l) organize sessions of the Commission and its subsidiary bodies and other related *ad hoc* meetings;
- (m) prepare or arrange for the preparation of background documents and papers and a report on the Commission's activities and the programme of work for the submission to the Commission at its regular sessions, and arrange for the subsequent publication of the report and the proceedings of the Commission as well as its subsidiary bodies and related *ad hoc* meetings;

(n) take such appropriate steps as may be required to ensure coordination between the activities of the Commission and those carried out by the Organization through its Fisheries Department, with particular reference to all matters having policy, financial or programme implications;

(o) perform other related duties as required.

SUGGESTED COURSE OF ACTION BY THE COMMISSION

21. The Commission is invited to review the present document and formulate such observations as may be appropriate. The Commission is specifically invited to:

21.1. review and approve, taking into account the above considerations, the proposed procedure for the selection and appointment of the Secretary of the Commission set out in paragraph 12 of this document;

21.2. amend the Rules of Procedure of the Commission by adding thereto the procedure for the selection and appointment of the Secretary;

21.3. review and approve as appropriate the requirements regarding the qualifications of the incumbent as well as the terms of reference of the post;

21.4. provide such guidance on all practical issues related to the issuance of the vacancy announcement and the conduct of the selection and appointment process.

22. For the sake of clarity, the attachment to this document reproduces procedures for the selection and appointment of the Secretary, as well the qualification requirements and terms of reference.

ATTACHMENT**SELECTION AND APPOINTMENT OF THE SECRETARY OF THE GENERAL FISHERIES COMMISSION FOR THE MEDITERRANEAN****PROCEDURE OF SELECTION AND APPOINTMENT**

- (a) The Director-General would issue a vacancy announcement in conformity with the rules and regulations of FAO. Such vacancy announcement would be publicized as per established procedures of the Organization with a view to reaching the greatest possible number of candidates. The vacancy announcement will incorporate the qualifications and terms of reference agreed upon by the Commission.
- (b) The applications received by the Director-General would be assessed by a selection panel consisting of the Chairman of the Commission, the Assistant Director-General, Fisheries Department, one member appointed by the Director-General and one member appointed by the Chairman of the Commission. The panel would act under the co-chairmanship of the Chairman of the Commission and the Assistant Director-General, FI. The panel will rely on the assistance of the Fisheries Department as may be required. Should there be a large number of applicants, the panel could request the Fisheries Department to make a pre-assessment of the candidates. The assessment of the candidates would be made against the qualifications agreed upon by the Commission, in accordance with such procedures as the panel would develop. The panel would draw up a list of not more than 5 candidates and submit that list and evaluation sheets, including those of the candidates not retained, to all Members of the Commission.
- (c) The Members of the Commission would review the candidatures and indicate, within 30 days, their ranking of the short-listed candidates in order of preference to the Director-General. The selection panel will compile the results and report them to the Commission at its next session, together with any such views as it would deem appropriate to formulate.
- (d) The Commission will review the candidatures and forward its recommendation to the Director-General for the appointment of the Secretary in accordance with Article XI, paragraph 1 of the Agreement.

QUALIFICATIONS AND BENEFITS

- (a) The incumbent should have university degree qualifications, preferably at post graduate level, in fisheries biology, fisheries science, fisheries economics, administration, law or related fields. He/she should have at least ten years experience in fisheries management, policy formulation, preferably including bilateral and international relations. He/she should have the ability to exercise a high degree of professional initiative. The incumbent should also be conversant with the preparation of budgets, documents and the organization of international meetings. He/she should have working level C of either Arabic, English, French and Spanish. Preference will be given to candidates who have working knowledge in two of those languages.

- (b) Other essential qualifications include competence in the selection of staff, demonstrated ability to supervise professional matters in subject field; and familiarity with the use of word processing; spread sheets and database management systems;
- (c) Desirable requirements include: a high degree of adaptability and ability to cooperate effectively with people of different nationalities and of various social and cultural backgrounds and education levels;
- (d) The Secretary will be graded P5/D1, based on the United Nations salary scheme for professional and high categories. He/she will, in addition, be entitled to a variable element for post adjustment, pension, insurance, etc. The Secretary is an official of FAO and is appointed under the Staff Regulations and Staff Rules of FAO.

TERMS OF REFERENCE

A. Pursuant to Article XI, paragraph 2 of the Agreement for the Establishment of the General Fisheries Commission for the Mediterranean, the Secretary shall be responsible for the implementation of the policies and activities of the Commission and shall report thereon to the Commission. He/she shall act as Secretary to the subsidiary bodies established by the Commission, as required. The incumbent shall have overall responsibility for planning, coordination and administration of the Commission in accordance with the decisions of the Commission, subject to the requirement that all matters, including documents, having policy, financial or programme implications for FAO, should be reported to the Organization, through established channels, subject to the requirement that all matters, including documents having policy, financial or programme implications for FAO, should be reported to the Organization, through established channels, as required by paragraph 30 of the Appendix to the principles and procedures which should govern conventions and agreements concluded under Articles XIV and XV of the Constitution, and commissions and committees established under Article VI of the Constitution (Part R of the Basic Texts).

B. He/she shall, for administrative purposes, be responsible to the Director-General of FAO and, on technical matters, shall be required to coordinate his/her activities with those of the Organization carried out through the Fisheries Department. He/she will be able to draw on the technical expertise available from the Organization.

C. He/she will, in particular:

- (a) receive and transmit the Commission's official communications;
- (b) maintain contacts with appropriate government officials, fishery institutions and international organizations concerned with the development, conservation, rational management and utilization of fisheries, as well as the sustainable development of aquaculture in the Region of the Commission, to facilitate consultation and cooperation on all matters pertaining to the objectives of the Commission,
- (c) maintain an active and effective network of national focal points for routine communication of progress and results of the activities of the Commission;
- (d) prepare and implement work programmes, prepare budgets and ensure timely reporting to the Commission;

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- (e) authorize disbursement of funds in accordance with the Commission's autonomous budget;
 - (f) account for the funds of the Commission's autonomous budget;
 - (g) participate in the formulation of proposals regarding the budget and programme of work and other activities of the Commission financed by the regular budget of the Organization;
 - (h) stimulate interest among Members of the Commission and potential donors in the activities of the Commission and in possible financing or in implementing pilot projects and complementary activities;
 - (i) promote, facilitate and monitor the development of databases for fisheries assessment and monitoring and technical, biological and socio-economic research to provide a sound basis for fisheries management and aquaculture development;
 - (j) coordinate the Members' programmes of research when required;
 - (k) participate, as appropriate, in the oversight of activities of projects carried out under the general framework of the Commission or its subsidiary bodies;
 - (l) organize sessions of the Commission and its subsidiary bodies and other related ad hoc meetings;
 - (m) prepare or arrange for the preparation of background documents and papers and a report on the Commission's activities and the programme of work for the submission to the Commission at its regular sessions, and arrange for the subsequent publication of the report and the proceedings of the Commission as well as its subsidiary bodies and related *ad hoc* meetings;
 - (n) take such appropriate steps as may be required to ensure coordination between the activities of the Commission and those carried out by the Organization through its Fisheries Department, with particular reference to all matters having policy, financial or programme implications;
 - (o) perform other related duties as required.