
DRAFT AMENDED IOTC FINANCIAL REGULATIONS

Prepared by: IOTC Secretariat

REGULATION 1

APPLICABILITY

1.1 These Regulations shall govern the financial administration of the Indian Ocean Tuna Commission (hereafter referred to as the Commission"), the Scientific Committee and any subsidiary bodies respectively established under Article XII of the Agreement for the Establishment of the Indian Ocean Tuna Commission) (hereinafter referred to as "the Agreement").

REGULATION 2

FINANCIAL YEAR

2.1 The financial year shall be for 12 months commencing {1 January and ending 31 December}, both dates inclusive.

REGULATION 3

THE BUDGET

3.1 A draft budget comprising estimates of receipts by the Commission and of expenditures by the Commission, the Scientific Committee and any subsidiary bodies established pursuant to Article XII of the Agreement shall be prepared by the Executive Secretary for the ensuing financial year.

3.2 The draft budget shall include a statement of the significant financial implications for subsequent financial years in respect of any proposed work programs presented in terms of administrative, recurrent and capital expenditure.

3.3 The draft budget shall be divided by functions into items and, where necessary or appropriate, into sub-items.

3.4 The draft budget shall be accompanied by details both of the appropriations made for the previous year and estimated expenditure against those appropriations, together with such information and annexures as may be required by Members of the Commission or deemed necessary or desirable by the Executive Secretary. The precise form in which the draft budget is to be presented shall be prescribed by the Commission.

3.5 The Executive Secretary shall submit the draft budget to all Members of the Commission at least 60 days prior to the annual meeting of the Commission. At the same time, and in the same form as the draft budget, the Executive Secretary shall prepare and submit to all Members of the Commission a forecast budget for the subsequent financial year.

3.6 The draft budget and the forecast budget shall be presented in {United States dollars}.

3.7 At each annual meeting, the Commission shall decide upon its annual budget and the budget of the Scientific Committee and any subsidiary bodies.

REGULATION 4

APPROPRIATIONS

4.1 The appropriations adopted by the Commission shall constitute an authorization for the Executive Secretary to incur obligations and make payments for the purposes for which the appropriations were adopted.

4.2 Unless the Commission decides otherwise, the Executive Secretary may also incur obligations against future years before appropriations are adopted when such obligations are necessary for the continued effective functioning of the Commission, provided such obligations are restricted to administrative requirements of a continuing nature not exceeding the scale of such requirements as authorized in the budget of the current financial year. In other circumstances the Executive Secretary may incur obligations against future years only as authorized by the Commission.

4.3 Appropriations shall be available for the financial year to which they relate. At the end of the financial year all appropriations shall lapse. Commitments remaining undischarged against previous appropriations at the end of a financial year shall be carried over and be included in the budget for the next financial year, unless the Commission otherwise decides.

4.4 The Chair may authorize the Executive Secretary to make transfers of up to 10 per cent of appropriations between items. The Executive Secretary may authorize the transfer of up to 10 per cent of appropriations between sub-items of an item. All such transfers must be reported by the Executive Secretary to the next annual meeting of the Commission.

4.5 The Commission shall prescribe the conditions under which unforeseen and extraordinary expenses may be incurred.

REGULATION 5

PROVISION OF FUNDS

5.1 Each Member of the Commission shall contribute to the budget in accordance with Article XIII of the Agreement. The Executive Secretary shall calculate the contribution for each Member according to the procedure agreed by the Commission as presented in Annex.

~~5.2 Staff Assessment Levy paid by an employee of the Commission shall be regarded by the Commission as payment towards the annual budget contribution for the year following payment of levy.~~

5.3 On approval of the budget for a financial year, the Executive Secretary shall send a copy thereof to all Members of the Commission notifying them of their contributions and requesting them to remit their contributions due. A Member of the Commission that fails to pay its contributions for two consecutive years shall not, until it has fulfilled its payment obligations, enjoy the right to participate in the decision-making process in the Commission, unless the Commission decides otherwise.

5.4 All contributions shall be made in ~~{United States dollars}~~.

5.5 (a) a new Member of the Commission whose membership becomes effective during the first six months of the financial year shall be liable to pay the full amount of the annual contribution which would have been payable had it been a Member of the Commission when assessments were made pursuant to Article XIII of the Agreement. A new Member whose membership becomes effective during the last six months of the financial year, shall be liable to pay half of the amount of the annual contribution referred to above. A Member whose membership becomes effective during the last three months of the first financial year shall be liable to pay half the amount of the first annual contribution;

(b) Where contributions are received from new Members the contributions of existing Members shall be adjusted in accordance with Regulation 6.1 (d).

5.6 Contributions shall be due for payment on the first day of the financial year (i.e. the due date) and shall be paid in full not later than 150 days after that date. Notwithstanding the foregoing, a Member may elect to pay its contribution in 4 equal quarterly installments, in which case each such installment payment shall be made no later than the last day of each quarter of the financial year. However, in the case referred to in Regulation 5.5(a), contributions by a new Member shall be paid in full within 90 days following the date on which its membership becomes effective.

5.7 The Executive Secretary shall report to each meeting of the Commission on the receipt of the contributions and the position of arrears.

REGULATION 6

FUNDS

6.1 (a) There shall be established a ~~{General Fund}~~ for the purpose of accounting for the income and expenditure of the Commission, the Scientific Committee and any subsidiary bodies established pursuant to Article XII of the Agreement;

(b) Contributions paid by Members under Regulation 5.1 and miscellaneous income to finance general expenditure shall be credited to the ~~{General Fund}~~;

(c) Any cash surplus in the ~~{General Fund}~~ at the close of a financial year that is not required to meet undischarged commitments in terms of Regulation 4.3 shall be divided in proportion to the contributions made by existing Members under Regulation 5.1 in the current financial year and used to offset such Members' contributions for the ensuing financial year. This provision shall not apply at the end of the ~~{first financial year}~~ when surplus funds other than those resulting from contributions by new Members may be carried over into the following financial year;

(d) Where contributions are received from new Members after the commencement of the financial year and such funds have not been taken into account in formulating the budget, appropriate adjustment shall be made to the level of the assessed contributions of existing Members and such adjustments recorded as advances made by such Members;

(e) Advances made by Members shall be carried to the credit of the Members which have made such advances.

6.2 ~~{Trust and Special funds}~~ may be established by the Commission for the purpose of receiving funds and making payments for purposes not covered by the regular budget of the Commission.

REGULATION 7

OTHER INCOME

7.1 All income other than contributions to the budget under Regulation 5 and that referred to in Regulation 7.3 below, shall be classified as Miscellaneous Income and credited to the ~~{General Fund}~~. The use of Miscellaneous Income shall be subject to the same financial controls as activities financed from regular budget appropriations.

7.2 Voluntary contributions above and beyond Members' budget contributions may be accepted by the Executive Secretary provided that the purposes for which the contributions are made are consistent with the policies, aims and activities of the Commission. Voluntary contributions offered by non-Members may be accepted, subject to agreement by the Commission that the purposes of the contribution are consistent with the policies, aims and activities of the Commission.

7.3 Voluntary contributions shall be treated as ~~{Trust or Special Funds}~~ under Regulation 6.2.

REGULATION 8

CUSTODY OF FUNDS

8.1 The Executive Secretary shall designate a bank or banks in which the funds of the Commission shall be kept and shall report the identity of the bank or banks so designated to the Commission.

8.2 (a) The Executive Secretary may make short-term investments of moneys not needed for the immediate requirements of the Commission. Such investments shall be restricted to securities and other investments issued under government guarantee and approved by the Commission's auditor. The details of investment transactions and income derived shall be reported in the documents supporting the budget;

(b) With regard to moneys held in ~~{Trust or Special Funds}~~ for which use is not required for at least 12 months, longer-term investments may be authorized by the Commission provided such action is consistent with the terms under which the moneys were lodged with the Commission. Such investments shall be restricted to securities and other investments issued under government guarantee and approved by the Commission's auditor.

8.3 Income derived from investments shall be credited to the ~~{Fund}~~ from which the investment was made.

REGULATION 9

INTERNAL CONTROL

9.1 The Executive Secretary shall:

(a) establish detailed financial rules and procedures after consultation with the external auditor to ensure effective financial administration and the exercise of economy in the use of funds;

(b) cause all payments to be made on the basis of supporting vouchers and other documents which ensure that the goods or services have been received and that payment has not previously been made;

(c) designate officers who may receive moneys, incur obligations and make payments on behalf of the Commission; and

(d) maintain and be responsible for internal financial control to ensure:

(i) the regularity of the receipt, custody and disposal of all funds and other financial resources of the Commission;

(ii) the conformity of obligations and expenditures with the appropriations adopted by the annual meeting; and

(iii) the economic use of the resources of the Commission.

9.2 No obligations shall be incurred until allotments or other appropriate authorizations have been made in writing under the authority of the Executive Secretary.

9.3 The Executive Secretary may propose to the Commission, after full investigation by him or her, the writing off of losses of assets, provided that the external auditor so recommends. Such losses shall be included in the annual accounts.

9.4 Tenders in writing for equipment, supplies and other requirements shall be invited by advertisement, or by direct requests for quotation from at least three persons or firms able to supply the equipment, supplies, or other requirements, if such exist, in connection with all purchases or contracts, the amounts of which exceed ~~{US\$10005000}~~. For amounts exceeding [US\$5001000, but up to US\$10005000], competition shall be obtained either by the above means or by telephone or personal enquiry. The foregoing rules, shall, however, not apply in the following cases:

(a) where it has been ascertained that only a single supplier exists and that fact is so certified by the Executive Secretary;

(b) in case of emergency, or where, for any other reason, these rules would not be in the best financial interests of the Commission, and that fact is so certified by the Executive Secretary.

REGULATION 10

THE ACCOUNTS

10.1 The Executive Secretary shall ensure that appropriate records and accounts are kept of the transactions and affairs of the Commission and shall do all things necessary to ensure that all payments out of the Commission's moneys are correctly made and properly authorized and that adequate control is maintained over the assets of, or in the custody of, the Commission and ~~over the incoming of~~ liabilities by the Commission.

10.2 The Executive Secretary shall submit to the Members of the Commission, not later than ~~1~~ March immediately following the end of the financial year, annual financial statements showing, for the financial year to which they relate:

- (a) the income and expenditure relating to all funds and accounts;
- (b) The situation with regard to budget provisions, including:
 - (i) The original budget provisions;
 - (ii) The approved expenditure in excess of the original budget provisions;
 - (iii) Any other income;
 - (iv) The amounts charged against these provisions and other income;
- (c) the financial assets and liabilities of the Commission;
- (d) details of investments;
- (e) losses of assets proposed in accordance with Regulation 9.3.

10.3 The Executive Secretary shall also give such other information as may be appropriate to indicate the financial position of the Commission. These financial statements shall be prepared in a form approved by the Commission after consultation with the external auditor.

10.4 The accounting transactions of the Commission shall be recorded in the currency in which they took place but the annual financial statements shall record all transactions in ~~{United States dollars}~~.

10.5 Appropriate separate accounts shall be kept for all ~~{Special and Trust Funds}~~.

10.6 The annual financial statements shall be submitted by the Executive Secretary to the external auditor at the same time as they are submitted to Members of the Commission under paragraph 2 of this Regulation.

REGULATION 11

EXTERNAL AUDIT

11.1 The Commission shall appoint an external auditor who shall be the Auditor-General or equivalent statutory authority from a Member of the Commission or an external auditor from an internationally recognized firm and shall serve for a term of two years with the possibility of re-appointment. The Commission will ensure respect for the external auditor's independence of the Commission, the Scientific Committee, any subsidiary bodies established pursuant to the Agreement and the Commission's staff, fix the terms of office, appropriate funds to the external auditor and may consult him or her on the introduction or amendment of any financial regulations or detailed accounting methods as well as on all matters affecting auditing procedures and methodology.

11.2 The external auditor or a person or persons authorized by him or her shall be entitled at all reasonable times to full and free access to all accounts and records of the Commission relating directly or indirectly to the receipt or payment of moneys by the Commission or to the acquisition, receipt, custody or disposal of assets by the Commission. The external auditor or a person or persons authorized by him or her may make copies of or take extracts from any such accounts or records.

11.3 If required by the Commission to perform a full audit, the external auditor shall conduct his or her examination of the statements in conformity with generally accepted auditing standards and shall report to the Commission on all relevant matters, including:

(a) whether, in his or her opinion, the statements are based on proper accounts and records;

(b) whether the statements are in agreement with the accounts and records;

(c) whether, in his or her opinion, the income, expenditure and investment of moneys and the acquisition and disposal of assets by the Commission during the year have been in accordance with these Regulations; and

(d) observations with respect to the efficiency and economy of the financial procedures and the conduct of business, the accounting system, internal financial controls and the administration and management of the Commission.

11.4 If required by the Commission to perform a review audit, the external auditor shall review the statements and accounting controls in operation. He or she shall report to the Commission whether anything has come to his or her attention which would cause him or her to doubt whether:

(a) the statements are based on proper accounts and records;

(b) the statements are in agreement with the accounts and records; or

(c) the income, expenditure and investment of moneys and the acquisition and disposal of assets by the Commission during the year have been in accordance with these Regulations.

11.5 The Executive Secretary shall provide the external auditor with the facilities he or she may require in the performance of the audit.

11.6 The Executive Secretary shall provide to the Members of the Commission a copy of the audit report and the audited financial statements within 30 days of their receipt.

11.7 The Commission shall, if necessary, invite the external auditor to attend discussions on any item under scrutiny and consider recommendations arising out of his or her findings.

REGULATION 12

ACCEPTANCE OF ANNUAL FINANCIAL STATEMENTS

12.1 At each annual meeting the Commission shall, following consideration of the audited annual financial statements and audit report submitted to its Members under Regulation 11.6 of these Regulations, signify its acceptance of the audited annual financial statements of the previous financial year or take such other action as it may consider appropriate.

REGULATION 13

INSURANCE

13.1 The Commission may take out suitable insurances with a reputable financial institution against normal risks to its assets.

REGULATION 14

GENERAL PROVISION

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

†14.2 Where the Commission, the Scientific Committee or any subsidiary body is considering matters which may lead to a decision which has financial or administrative implications, it shall have before it an evaluation of those implications from the Executive Secretary.‡

ANNEX

Scheme for Calculation of Contributions to the Administrative Budget of the Commission

1. Ten percent of the total budget of the Commission shall be divided equally among all the Members.
2. Ten percent of the total budget shall be divided equally among the Members having fishing operations in the Area targeting species covered by the Commission.
3. Forty percent of the total budget shall be allocated among the Members on the basis of per caput GNP for the calendar year three years before the year to which the contributions relate, weighted according to the economic status of the Members in accordance with the World Bank classification as follows and subject to change in the classification thresholds: high income Members shall be weighted by the factor of 8; middle income Members by the factor of 2; low-income Members by the factor of 0.
4. Forty percent of the total budget shall be allocated among the Members in proportion to their average catch in the three calendar years beginning with the year five years before the year to which the contributions relate, weighted by a coefficient reflecting their development status. The coefficient of OECD members and EC shall be 1, and the coefficient of other Members shall be one-fifth.