

07 October 2021

IOTC CIRCULAR

2021-59

Dear Madam/Sir,

REGARDING A PROCEDURE FOR THE RECRUITMENT OF THE IOTC EXECUTIVE SECRETARY

At its 25th Session in June this year, the Commission adopted a procedure for the recruitment of the IOTC Executive Secretary which involved amendments to Rule V, Rule X and Appendix II of the 2014 Rules of Procedure. In doing so, the Commission considered documents [IOTC-2021-S25-03 Rev1](#) and [IOTC-2021-S25-03 add1 Rev1](#). Further information on the consultations with FAO is reported in [IOTC-2020-04 Rev3](#).

The Commission acknowledged that, given the IOTC Executive Secretary is appointed by the Director General FAO, (IOTC Agreement VIII.1) the proposed procedure must be consistent with the FAO's Basic Texts. The Commission therefore requested the Chairperson to forward the proposed procedure to the Independent Chairperson of the FAO Council (ICC) for his concurrence before it is submitted to the FAO Council for approval.

Furthermore, the Commission requested that, if required, the IOTC Chairperson and the Chairperson of the Small Drafting Group would liaise between the FAO and the Commission's Heads of Delegations on any further amendments that might be proposed from FAO's consideration of the procedure.

On 14 July, I met with the new Independent Chair of the FAO Council, the FAO Legal Counsel, and the FAO Director of Human Resources. They were able to confirm FAO's position on most elements of the Commission's latest text; and provided explanations on some further changes that would be required by FAO Management.

On 28 September, I received, from the ICC, his final text solution for the procedure for the selection and appointment of Secretaries of Article XIV Bodies. This text was derived in part from the 14 July discussions, but also the ICC's (subsequent) consultations with two other Article XIV Body Chairpersons. Whereas our earlier consultation indicated there could be a margin of difference between the processes used in Article XIV bodies, it is apparent that FAO Management is focussed on adopting a generic recruitment process that would also be used for all Article XIV bodies.

While some of the amendments being proposed by the ICC are editorial or are intended to make the process generic for the purpose of being able to be used for more than one Article XIV body, there are some major differences from the text adopted by the Commission in June.

The proposed changes to the Procedures adopted by the Commission are shown in Appendix 1, with additional commentary provided.

Clean versions of the Procedures being proposed by the ICC are provided in Appendix 2.

Colleagues, the negotiation of a recruitment procedure for the IOTC Executive Secretary with FAO Management has been going for over five years and the process to finalise a procedure is at a pivotal stage. In an effort to clarify where the Commission stands on this process, I will use a simple intersessional vote to obtain clear guidance from the Members on whether they wish to accept the text as shown below in Appendix 2, or continue to negotiate with the FAO. I ask Members to bear in mind that the ICC has advised us that the current, proposed procedure is as far as the

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FAO management is able to take the proposal, which leads us to believe there is limited, if any, room for additional negotiation

It is the ICC's aim to present the below final text (Appendix 2) to the next FAO Committee on Constitutional and Legal Matters (CCLM113) Session on 25-27 October 2021; and seek approval on the procedure from the FAO Council (CL168) Session on 29 November – 3 December 2021.

In order to be able to advise the ICC on IOTC's position on the procedure in time for the CCLM, I propose to follow the following intersessional process:

- Noting that at its 25th Session in June 2021, the Commission requested that, if required, the IOTC Chairperson and the Chairperson of the Small Drafting Group would liaise between the FAO and the Commission's Heads of Delegations on any further amendments that might be proposed from FAO's consideration of the procedure.
- Noting there are some significant changes to the procedure (adopted by the Commission in June) being proposed by the ICC (as shown in Appendix 1).
- Recalling that in the absence of a specific IOTC intersessional decision-making procedure, the Commission (in accordance with IOTC Rules of Procedure X.8) can refer to the General Rules of FAO. Thereupon, Rule XXV(13) of the General Rules of FAO enables an exceptional consultation and decision-making procedure and provides a basis for IOTC to make an intersessional decision on the ICC's proposed procedure.
- Recalling that any amendment or addition to IOTC Rules of Procedure requires the agreement of a majority of two-thirds of the Members (IOTC Agreement Art VI.3).
- Heads of delegations (as listed on the Credentials for S25) will be invited to vote on the adoption of the procedures for the recruitment of the IOTC Executive Secretary as proposed in Appendix 2".
- The vote will be conducted using the Survey Monkey platform and Heads of Delegations will be invited, via email, to cast their vote, starting 11 October. Voting will be open for 2 weeks and will close at midnight Seychelles time on 24 October 2021. The Secretariat will endeavour to ensure that each Head of Delegation has received the email.
- I will advise the Commission and the ICC of the outcome of the vote.

As, the recruitment procedure for the IOTC Executive Secretary requires approval from the FAO Council, IOTC Members are encouraged to consult their Permanent Representatives to the FAO on this matter.

Action Required: Heads of delegations (as listed on the Credentials for S25) to vote on the adoption of the procedures for the recruitment of the IOTC Executive Secretary as proposed in Appendix 2. The vote will be conducted using the Survey Monkey platform and Heads of Delegations will be invited, via email, to cast their vote, starting 11 October. Voting will be open for 2 weeks and will close at midnight Seychelles time on 24 October 2021.

Yours sincerely



Ms Jung-re Riley Kim
IOTC Chairperson

Attachments:

- Appendix 1 & 2

APPENDIX 1.

SHOWING MARKED CHANGES PROPOSED TO THE ROP ADOPTED AT S25

APPENDIX II OF THE IOTC RULES OF PROCEDURE

Procedure for the selection and appointment of the Executive Secretary of the Commission.

(Deletions are shown with 'strike through' and additions are underlined)

- 1) ~~Within 30 days following a request from the IOTC Chairperson to commence a recruitment process, a~~ A Vacancy Announcement ~~will be~~ is drafted by FAO technical departments ~~in consultation with the IOTC Chairperson, with support of the Office for Human Resources Division ("CSH") as is done for all senior (D1 and above) staff positions. The draft Vacancy Announcement is shared with the Chairperson of the Body concerned who is invited to provide views thereon~~
- 2) The Vacancy Announcement ~~will be~~ is issued and posted for ~~at least 46~~ 30 days¹ (footnote: 1 Unless the Article XIV Body requests for a longer period up to maximum 45 days). ~~unless the IOTC requests longer. The FAO will publish the Vacancy Announcement on the FAO website and the IOTC will publish it on its website and by Circular, and share the advertisement with other RFMOs and relevant organisations.~~
- 3) A first review and screening of candidates is undertaken by CSH based on the minimum criteria and qualifications set out in the Vacancy Announcement.
- ~~3)bis~~ ~~The list of candidates prepared after the provisional first review by CHS in paragraph 3 shall be provided to the IOTC for its internal review and nomination of five preferred candidates for consideration by the interview panel to prepare a shortlist pursuant to paragraph 4.~~
- 4) A second review ~~will be~~ is undertaken by the offices of the relevant Deputy Director-General and the relevant Director (D2) and three representatives of the Members of the ~~IOTC~~ Article XIV Body to establish a shortlist of candidates for interview². The interview shortlist must contain at least seven candidates including at least one female candidate. If there is no female candidate in the shortlist, the Panel Report must contain a justification. If the interview shortlist does not contain seven candidates, the Report must contain a justification.
- 5) An Interview Panel ~~will be~~ is established, ~~and~~ which is composed of:
 - a) the relevant Deputy Director-General or Director (D2);
 - b) two Senior FAO officers;
 - c) three representatives of the Members of the ~~IOTC~~² Article XIV Body; ~~and~~
 - d) one external member, to be selected by the Interview Panel from among three candidates proposed by CSH; and
 - e) one representative of CSH without the right to participate in decision-making. The role of the CSH representative is to offer administrative support to the panel. He/She will not be involved in interviewing or assessing the candidates.
- 6) Interviews of shortlisted candidates will be conducted by the Interview Panel which will prepare a report. The Panel Report will identify a minimum of three and a maximum of five qualified candidates. ~~If there is~~ is no female candidate is selected at this stage, the Panel Report must contain a justification.
- 7) Both the shortlist of candidates for interview as well as the three to five candidates submitted to the Director-General ~~will be~~ is compiled with due regard to gender and geographic balance in line with the policy of the Organization. If this balance is not achieved, the Panel Report must contain a justification. All efforts should be made to reach a decision by consensus.
- 8) Reference checks ~~will be~~ are undertaken by CSH.
- 9) The Panel Report ~~will be~~ is submitted for consideration by the Director-General.

- 10) The Director-General ~~will identify~~ identifies one ~~proposed~~ candidate, from the proposed candidates identified in the Panel Report, for appointment, whose name and curriculum vitae ~~will be~~ are referred to the IOTC relevant Article XIV Body for approval in accordance with the provisions of the ~~IOTC Agreement treaty concerned~~. The name and curriculum vitae, and a written statement that reference checks have been conducted, will be transmitted to the ~~IOTC Article XIV Body~~ Chairperson, who will keep the information confidential, within ten weeks of the closure of the Vacancy Announcement.
- 11) Upon approval of the Body, an offer ~~will be~~ is issued to the candidate. Should there be non-approval, the Director-General will propose to the Body another candidate, identified in the Panel Report, recommended for appointment. In case none of the candidates identified in the Panel Report are approved by the Body, the Vacancy shall be reissued.
- 12) Upon acceptance, the Director-General ~~will~~ appoints the candidate.

¹The representatives of the IOTC Commission shall be the Chairperson and Vice-Chairpersons of the Commission unless otherwise decided by the IOTC Commission.

²As above.

Re. 3bis The IOTC adopted above recruitment procedure, Appendix II of its Rules of Procedure. In doing so, the IOTC accepted changes from the procedure adopted in 2020 as proposed by the FAO but requested the additional paragraph (shown as para 3bis) be considered. However, recognising the need to reach agreement on this matter, the IOTC also agreed that if the FAO is unable to accept this new paragraph, the IOTC would accept the FAO's decision

Regarding the proposed changes to Appendix II of the IOTC Rules of Procedure

Paragraph 1. To be revised.

From: "Within 30 days following a request from the IOTC Chairperson to commence a recruitment process, a Vacancy Announcement will be drafted by FAO technical departments in consultation with the IOTC Chairperson, with support of the Office for Human Resources (CSH)."

To: "A Vacancy Announcement is drafted by technical departments with support of the Human Resources Division ("CSH") as is done for all senior (D1 and above) staff positions. The draft Vacancy Announcement is shared with the Chairperson of the Body concerned who is invited to provide views thereon".

This change is to conform with standard FAO recruitment procedures and terminology.

Paragraph 2. To be revised.

From: "The Vacancy Announcement will be issued and posted for at least 46 days unless the IOTC requests longer."

To: "The Vacancy Announcement will be issued and posted for at least 30 days unless the IOTC requests longer".

This change is to conform with standard FAO recruitment procedures, and still allows the Commission to request a posting period longer than 30 days, if required.

Paragraph 3bis. Not to include paragraph 3bis.

FAO Management notes that this paragraph refers to an internal IOTC process and, as such, does not require a decision from the FAO Council (as the rest of the text of Appendix 2 does); therefore, FAO Management requested that paragraph 3bis not be included at this late stage. The IOTC had already agreed that if the FAO is unable to accept this new paragraph, it would accept the FAO's decision.

Paragraph 4. To be revised.

Text has been amended in general to make it generic to Article XIV bodies. In particular, the IOTC-adopted footnote included after the first sentence that stated that "The representatives of the IOTC Commission shall be the Chairperson and Vice-Chairpersons of the Commission unless otherwise decided by the IOTC"

Commission.” is no longer included here. However, this specification relating to the IOTC representatives on the panel is included in the revision made to Rule V.2 of the IOTC Rules of Procedure

Paragraph 7. To be revised.

From: “Both the shortlist of candidates for interview as well as the three to five candidates submitted to the Director-General will be compiled with due regard to gender and geographic balance in line with the policy of the Organization. If this balance is not achieved, the Panel Report must contain a justification.”

To: “Both the shortlist of candidates for interview as well as the three to five candidates submitted to the Director-General is compiled with due regard to gender and geographic balance in line with the policy of the Organization. If this balance is not achieved, the Panel Report must contain a justification for this. All efforts should be made to reach a decision by consensus.”

The sentence “All efforts should be made to reach a decision by consensus” has been added to conform with standard FAO recruitment procedures.

Paragraph 10. To be revised.

From: “The Director-General will identify one proposed candidate for appointment, whose name and curriculum vitae will be referred to the IOTC for approval in accordance with the provisions of the IOTC Agreement. The name and curriculum vitae will be transmitted to the IOTC Chairperson within ten weeks of the closure of the Vacancy Announcement.”

To: “The Director-General identifies one candidate, from the proposed candidates identified in the Panel Report, for appointment, whose name and curriculum vitae are referred to the relevant Article XIV Body for approval in accordance with the provisions of the treaty concerned. The name and curriculum vitae, and a written statement that reference checks have been conducted, will be transmitted to the Article XIV Body Chairperson, who will keep the information confidential, within ten weeks of the closure of the Vacancy Announcement.”

The text has been amended to conform with standard FAO terminology, but the substance of the paragraph adopted by IOTC has not changed. References to IOTC have been removed as the procedure is generic and intended to be used for other Article XIV bodies. The ICC has confirmed the intention of this paragraph is to ensure the name and CV are not distributed within the public domain, but that the IOTC Chairperson will have discretion on how to share information on the identified candidate with the Commission.

Paragraph 11. To be revised.

From: “Upon approval of the Body, an offer will be issued to the candidate. Should there be non-approval, the Director-General will propose to the Body another candidate recommended for appointment.”

To: “Upon approval of the Body, an offer is issued to the candidate. Should there be non-approval, the Director-General will propose to the Body another candidate, identified in the Panel Report, recommended for appointment. In case none of the candidates identified in the Panel Report are approved by the Body, the Vacancy shall be reissued.”

Reissuing the vacancy is consistent with Rule X.8 of the IOTC Rules of Procedure.

Rule V.2 of the IOTC Rules of Procedure

RULE V: THE SECRETARIAT

2. The Executive Secretary of the Commission shall be appointed by the Director-General with the approval of the Commission, ~~The Executive Secretary of the Commission shall be elected by the Commission and appointed by Director-General~~, in accordance with the procedure adopted by the Commission and approved the FAO Council, as set out at Appendix II. The three IOTC representatives referred to in Appendix II shall be the IOTC Chairperson and two Vice-Chairpersons, unless otherwise decided by the Commission. These IOTC representatives shall conduct themselves impartially ~~and consult members of the Commission~~ with the objective of ensuring an IOTC view is represented throughout the recruitment process. ~~The three IOTC representatives shall request the list of candidates prepared after the first provisional review pursuant to paragraph 3 of Annex I is completed for internal~~

review by the IOTC. The three IOTC representatives shall ensure that the list of qualified candidates is circulated to Heads of Delegations for at least 30 days after applications have closed. The Heads of Delegations shall be invited to rank their top 5 candidates in order of preference using a point score of five to one, with 5 being the most preferred candidate, within 30 days of receiving the applications from the IOTC Chairperson. The rankings shall be transmitted to the Executive Secretary and he/she shall collate the results and identify the top 5 candidates overall based on the highest aggregate scores from the rankings received. The Commission shall be advised of the outcome of the ranking and the names of the top 5 candidates shall be conveyed by the IOTC representatives to the rest of the interview panel for consideration in the shortlisting process referred to in paragraph 4 of Annex I.

Regarding the proposed changes to Rule V of the IOTC Rules of Procedure

Paragraph 2 (1st sentence). To be revised:

From: “The Executive Secretary of the Commission shall be elected by the Commission and appointed by Director-General, in accordance with the procedure set out at Appendix II.”

To: “The Executive Secretary of the Commission shall be appointed by the Director-General with the approval of the Commission, in accordance with the procedure adopted by the Commission and approved the FAO Council, set out at Appendix II.”

The text whereby the Executive Secretary would be elected by the Commission was a relic of the 2014 Rules of Procedure and is inconsistent with the Constitution of the FAO. The proposed text whereby the Executive Secretary of the Commission shall be appointed by the Director-General with the approval of the Commission is consistent with Article VIII.1 of the IOTC Agreement and the reflects the process already agreed to by the IOTC and FAO Management for the proposed text of Appendix II of the IOTC Rules of Procedure.

Paragraph 2. Removal of the text relating to the ranking of candidates by the Commission.

FAO Management notes that FAO’s recruitment processes are underpinned by the highest levels of integrity, professionalism and confidentiality; and importantly, the selection of FAO staff is apolitical and merit-based. Furthermore, FAO considers that the protection of the personal data of applicants is a priority; indeed, FAO Members have recently underlined the importance of data protection issues in the Governing Bodies on a number of occasions. Moreover, given the importance of the Executive Secretary role within the community of RFMOs, handling the job aspirations of individual applicants in strictest confidence is expected to attract a wider pool of candidates, and will protect the privacy and professional reputations of unsuccessful individuals.

Therefore, the proposed process that includes the distribution of CVs and the ranking of applicants by IOTC Members is not acceptable to FAO Management. Moreover, FAO Management firmly believes that the IOTC Members should trust the integrity of the three IOTC representatives on the recruitment panel to represent the Commission’s interests and ensure the best possible outcome for the Commission.

Rule X of the IOTC Rules of Procedure

RULE X: VOTING ARRANGEMENTS AND PROCEEDINGS

5. ~~Except for the Executive Secretary position~~, when no nominee for an office obtains on the first ballot a majority of the votes cast, there shall be taken a second ballot confined to the two candidates obtaining the largest number of votes. If the votes are equally divided on the second ballot, as many ballots as necessary will be held to determine the elected candidate.

7. If the Commission is equally divided when a vote is taken on a question other than an election and the recommendation regarding the name of the Executive Secretary to be forwarded to the Director-General for appointment, a second vote and a third vote may be taken at the current Session at the request of the proposer. If the Commission remains equally divided, the proposal shall not be further considered at the current Session.

Regarding the proposed changes to Rule X of the IOTC Rules of Procedure

Paragraphs 5 and 7 of Rule X in the 2014 Rules of Procedure were modified to accommodate the amendments related to the ranking process made to Rule V. The proposed revised amendments to Rule V no longer require any changes to Rule X; therefore, the Rule X text reverts back to the 2014 formulation.

APPENDIX 2.

PROPOSED FINAL PROCEDURES FOR THE SELECTION AND APPOINTMENT OF THE IOTC EXECUTIVE SECRETARY (AS OF SEPTEMBER 2021)

IOTC Rules of Procedure: APPENDIX II

- 1) A Vacancy Announcement is drafted by technical departments with support of the Human Resources Division (“CSH”) as is done for all senior (D1 and above) staff positions. The draft Vacancy Announcement is shared with the Chairperson of the Body concerned who is invited to provide views thereon.
- 2) The Vacancy Announcement is issued and posted for 30 days¹.
- 3) A first review and screening of candidates is undertaken by CSH based on the minimum criteria and qualifications set out in the Vacancy Announcement.
- 4) A second review is undertaken by the offices of the relevant Deputy Director-General and the relevant Director (D2) and three representatives of the Members of the Article XIV Body to establish a shortlist of candidates for interview. The interview shortlist must contain at least seven candidates including at least one female candidate. If there is no female candidate in the shortlist, the Panel Report must contain a justification. If the interview shortlist does not contain seven candidates, the Report must contain a justification.
- 5) An Interview Panel is established, which is composed of:
 - a) the relevant Deputy Director-General or Director (D2);
 - b) two Senior FAO officers;
 - c) three representatives of the Members of the Article XIV Body;
 - d) one external member, to be selected by the Interview Panel from among three candidates proposed by CSH; and
 - e) one representative of CSH, without the right to participate in decision-making. The role of the CSH representative is to offer administrative support to the panel. He/She will not be involved in interviewing or assessing the candidates.
- 6) Interviews of shortlisted candidates will be conducted by the Interview Panel which will prepare a report. The Panel Report will identify a minimum of three and a maximum of five qualified candidates. If no female candidate is selected at this stage, the Panel Report must contain a justification.
- 7) Both the shortlist of candidates for interview as well as the three to five candidates submitted to the Director-General is compiled with due regard to gender and geographic balance in line with the policy of the Organization. If this balance is not achieved, the Panel Report must contain a justification. All efforts should be made to reach a decision by consensus.
- 8) Reference checks are to be undertaken by CSH.
- 9) The Panel Report is submitted for consideration by the Director-General.
- 10) The Director-General identifies one candidate, from the proposed candidates identified in the Panel Report, for appointment, whose name and curriculum vitae are referred to the relevant Article XIV Body for approval in accordance with the provisions of the treaty concerned. The name and curriculum vitae, and a written statement that reference checks have been conducted, will be transmitted to the Article XIV Body Chairperson, who will keep the information confidential, within ten weeks of the closure of the Vacancy Announcement.
- 11) Upon approval of the Body, an offer is issued to the candidate. Should there be non-approval, the Director-General will propose to the Body another candidate, identified in the Panel Report, recommended for appointment. In case none of the candidates identified in the Panel Report are approved by the Body, the Vacancy shall be reissued.
- 12) Upon acceptance, the Director-General appoints the candidate.

¹ Unless the Article XIV Body requests for a longer period up to maximum 45 days

IOTC Rules of Procedure: Rule V.2

RULE V: THE SECRETARIAT

2. The Executive Secretary of the Commission shall be appointed by the Director-General with the approval of the Commission, in accordance with the procedure adopted by the Commission and approved the FAO Council, as set out at Appendix II. The three IOTC representatives referred to in Appendix II shall be the IOTC Chairperson and two Vice-Chairpersons, unless otherwise decided by the Commission. These IOTC representatives shall conduct themselves impartially, with the objective of ensuring an IOTC view is represented throughout the recruitment process.