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**DRAFT RULES OF PROCEDURE FOR THE IOTC WORKING CAPITAL FUND****PREPARED BY: THE SMALL WORKING GROUP**

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**PURPOSE**

To provide a draft a Rules of Procedure for the operation of the IOTC Working Capital Fund for consideration by the SCAF.

**BACKGROUND**

In 2022, the Commission endorsed the formation of a Small Working Group (SWG) to draft a Rules of Procedure for the operation of the IOTC Working Capital Fund in accordance with Regulation IV(5) of the IOTC Financial Regulations.

The SWG, comprising Australia, Comoros, European Union, Maldives and Somalia, was coordinated by the SCAF Chairperson and worked electronically during the intersessional period.

At a minimum, IOTC needs an annual WCF balance equivalent to the current level of total annual staff costs (currently around \$2.8 millions) in the last quarter of the year preceding the budget year for FAO to renew staff contracts. The WCF may also be needed to be drawn upon during a budget year to pay for normal operations, pending receipt of annual payments by Members.

With a full complement of staff and the resumption of travel, the annual IOTC budget is expected to be fully spent from 2023 onwards. This will mean that the main source of funds that has contributed to the WCF to-date (i.e. unspent budget) will no longer be available. The Commission also cannot expect another large payment of arrears, similar to the recent payment of approx. \$2 millions from Iran. Consequently, going forward, WCF usage can be expected to exceed replenishment, due mainly to the long-term non-payment of contributions by three Members (approx. \$60, 000 per year) and the recurrent skipping of payments or partial payment of contributions by several others.

Given these circumstances, the current WCF balance of around \$6 millions is considered to be of a level which can enable total annual staff costs to be available in the last quarter of the year preceding the budget year and accommodate a modest level of exceptional usage, while acting as a buffer when replenishment of the WCF is slow.

In addition to considering IOTC's circumstances, the SWG reviewed the WCF procedures of other RFMOs (including CCAMLR, CCSBT, ICCAT, SPRFMO and WCPFC) to produce the draft rules of procedure provided in Annex 1 below.

**HOW TO INCLUDE THE PROPOSED ROP IN THE IOTC FINANCIAL REGULATIONS**

The following steps are proposed to include Rules of Procedure for the operation of the IOTC Working Capital Fund into the IOTC Financial Regulations:

- (i) Amend Regulation IV(5) of the IOTC Financial Regulations to include text that refers to the new rules of procedure (see Annex 2 below) :
- (ii) Add the Rules of Procedure for the operation of the IOTC Working Capital Fund as Annex 2 of the IOTC Financial Regulations.

Note, in accordance with Article VI(7) of the IOTC Agreement, any amendment to the IOTC Financial Regulations is to be approved by the Finance Committee of FAO.

**RECOMMENDATION/S**

That the SCAF:

1. **NOTE** paper IOTC-2023-SCAF20-10 that provides a draft Rules of Procedure for the operation of the IOTC Working Capital Fund.
2. **REVIEW** the draft Rules of Procedure and make any revisions as agreed.

3. **REVIEW** the steps proposed to include Rules of Procedure for the operation of the IOTC Working Capital Fund into the IOTC Financial Regulations and make any revisions as agreed.
4. **RECOMMEND** a draft Rules of Procedure to the Commission for its consideration and approval.

**Annex 1****DRAFT Working Capital Fund Rules of Procedure**

1. The Commission has established a Working Capital Fund (WCF) for the purpose of accommodating operating expenditures prior to the receipts of funds from members of the Commission under Regulation IV(5) of the IOTC Financial regulations.
2. Insofar as possible, the Commission shall, at a minimum, maintain the WCF at a level equivalent to the level of total annual staff costs contained in the current budget.
3. The WCF shall be replenished from surplus appropriations, savings from the annual budget, interest paid on the balance of WCF, receipt of arrears, and voluntary contributions explicitly devoted to it. If the WCF drops below the aforementioned minimum level, the Commission may consider including a contribution to the WCF in the budget of the next calendar year.
4. The Commission shall review the amount available in the WCF annually as part of the reporting procedures in Regulation V(5) of the IOTC Financial Regulations.
5. Members shall not interpret the funds in the WCF as a means of avoiding or reducing contributions or having contributions, once paid, returned to them.
6. Depending on the balance of the WCF, the WCF may be used, on an exceptional basis, to:
  - (i) pay for emergency expenses such as unforeseen, unavoidable, unpostponable, unbudgeted for and not otherwise absorbable intersessional expenses or emergencies.
    - (a) The Executive Secretary shall approve emergency expenditures up to a maximum of [\$10,000] per budgetary year, subject to consideration and authorisation by both the Chairperson of the Commission and the Chairperson of SCAF. The IOTC Heads of Delegations will be immediately informed of each such expenditure.
    - (b) In the event that a proposed emergency use of the WCF exceeds [\$10,000] per budgetary year, after consultation with the Chairperson of the Commission and the Chairperson of SCAF, the Executive Secretary shall seek agreement for the expenditure from the Members of the Commission. If, within [72] hours of being notified, a Head of Delegation raises an objection to the proposed emergency use of the WCF, a meeting of the IOTC Heads of Delegations shall be convened immediately to consider and decide on the matter;
  - (ii) accommodate extraordinary but foreseeable large and one-off expenses as determined by the Commission at its Annual Session when adopting the budget for the next fiscal year;
  - (iii) cover any expenses in an amount that prevents the annual budget from exceeding an increase of [5]%, as determined by the Commission at its Annual Session.
  - (iv) Implement activities funded by a voluntary contribution that have been prioritized by the Commission and its subsidiary bodies.
7. Except as provided for in paragraph 6(i)(a) of these WCF Rules of Procedure, in accordance with Article XIII of the IOTC Agreement, the Commission should decide on each extraordinary use of the WCF by consensus of its Members. However, if, after every effort has been made, a consensus cannot be reached, the matter will be put to a vote and decided by the position of a two-thirds majority of the Members present and voting.

**Annex 2****Proposed amendments to Regulation IV(5) of the IOTC Financial Regulations to include text that refers to the Rules of Procedure for the operation of the IOTC Working Capital Fund****Current text of Regulation IV(5)**

The Commission shall establish a Working Capital Fund for the purpose of accommodating operating expenditures prior to the receipts of funds from members of the Commission. The source of this working capital fund shall be surplus appropriations accumulated over the years. The Commission shall consider establishing a rules of procedure for the operation of the working capital fund which will include a mechanism to fund the working capital fund if there are no surplus appropriations. The Contracting Parties shall not interpret the funds in the Working Capital Funds as a means of avoiding contributions.

**Proposed amendments to Regulation IV(5)**

The Commission has established a Working Capital Fund for the purpose of accommodating operating expenditures prior to the receipts of funds from members of the Commission. The Rules of Procedure for the operation of the Working Capital Fund are provided in Annex 2.