



PROPOSAL TO AMEND RULE X of the IOTC RULES OF PROCEDURE

SUBMITTED BY: Maldives

About this revision

To address comments received to date. Changes to the text are highlighted in yellow.

Maldives is inviting interested CPCs to provide comments to the Proposal. Comments may be sent via email to maleeha.haleem@fishagri.gov.mv by 30 July 2023.

Explanatory Memorandum

The objective of this proposed amendment is to clarify and improve the voting arrangements for submission of Conservation and Management Measure proposals and for voting in Rule X of the IOTC Rules of Procedure. In the past years, the Commission has been repeatedly confronted by there have been repeated procedural problems involving these matters during votes of the Commission, which often were arose due to a lack of legal certainty over the applicable procedure.

On the matter of submission of CMM proposals, this proposal incorporates agreed rules concerning the submission of proposals contained in Resolution 16/10 To promote the implementation of IOTC Conservation and Management Measures, as well as established practice of the Commission as recorded the Report of the Fifteenth 15th Session of the Commission of the IOTC, in paragraph 109.

On the matter of voting, the proposal amends the existing Rule X of the IOTC Rules of Procedure. The proposed amendment also draws on the voting arrangements contained in the General Rules of the Organization, which were applicable mutatis mutandis via Rule X(8) of the IOTC Rules of Procedure whenever voting arrangements and other related matters were not specifically provided for in the Agreement or in the IOTC Rules of Procedure. To improve legal certainty, the proposed amendment incorporates directly incorporates a number of key the relevant provisions of the General Rules of the Organization, in some cases in adapted form, into the IOTC Rules of Procedure.

The proposed amendment removes the mutatis mutandis reference and instead incorporates a number of key provisions of the General Rules of the Organization, in some cases in adapted form, directly into the IOTC Rules of Procedure. In addition, the proposed amendment contains a few smaller clarifications inspired by procedural challenges faced at past Commission Sessions, such as the question of a withdrawal of a proposal that has been submitted by a group of members of the Commission.

Rule X of the current IOTC Rules of Procedure is provided as Annex 1.

RULE IXbis: PROPOSALS FOR CONSERVATION AND MANAGEMENT MEASURES

1. Members are encouraged to submit to the Executive Secretary a provisional title, Member sponsorship and a focal point (including the email address of the focal point) for each proposal for a Conservation and Management Measure at least 60 days before the Session of the Commission at which the proposal is to be considered.
2. Proposals for a Conservation and Management Measures shall be submitted to the Executive Secretary not later than 30 days before the Session of the Commission at which the proposal is to be considered. Except for proposals based on recommendations of the Compliance Committee and SCAF, proposals received after the deadline shall not be considered by the Commission unless the Commission agrees otherwise.
3. A proposal, or co-sponsorship of a proposal, may be withdrawn at any time before voting on the proposal has commenced. A proposal which has been submitted on behalf of more than one Member may only be withdrawn by request or agreement of all co-proposers of the proposal.

RULE X: VOTING ARRANGEMENTS AND PROCEEDINGS

1. If a Member calls for a vote and this is seconded by another Member, the Chairperson shall, subject to paragraphs 3-2 and 4-3, proceed to a vote. ~~A Member Any proposer or a co-proposer may call for a vote on a proposal, provided this Member is the proposer or one of the co-proposers of the proposal.~~
2. ~~A proposal, or co-sponsorship of a proposal, may be withdrawn at any time before voting on the proposal has commenced. A proposal which has been submitted on behalf of more than one Member may only be withdrawn by request or agreement of all co-proposers of the proposal.~~
- 3-2. A majority of the Members of the Commission shall be present to constitute a quorum.
- 4-3. Before proceeding to a vote or election, the Chairperson shall announce the number of Members present. If the number of Members present at the meeting is less than the number required for a quorum, the vote or election shall not be held.
- 5-4. Before proceeding to a vote or election, the Chairperson shall announce the Members present but not eligible to vote pursuant to Article XIII.8 of the Agreement due to being in arrears in an amount that equals or exceeds the amount of the contributions due from that particular Member for the two preceding calendar years. The Members in arrears shall be given the opportunity to explain that their failure to pay was due to conditions beyond their control and to may formally request special consideration and the Commission to permit them permission to vote pursuant to Article XIII.8 of the Agreement. The admissibility of this request shall be conditional on the prior submission in writing by the Member of a payment plan to the SCAF at the the Session of SCAF immediately prior to the Session of the Commission during which the vote is held. If a Member in arrears makes such a request, the Commission matter shall be immediately decide on the matter put to the vote by show of hands. There shall be a separate vote decision for each Member in arrears. The concerned Members in arrears shall not be eligible to vote.
- 6-5. Unless otherwise stated, votes shall be taken by a simple majority of the votes cast, in accordance with Article VI.2 of the Agreement. In cases specifically provided for in the Agreement, decisions of the Commission shall be taken by the following majorities, as applicable:
 - (a) A two-thirds majority of Members of the Commission.¹

¹ As an indication and without prejudice to future legal interpretation, the cases of two-thirds majority of the Members of the

(b) A three-quarters majority of the Members of the Commission.²

(c) A two-thirds majority of the Members present and voting.³ Unless otherwise provided in the Agreement or in these Rules, decisions and recommendations of the Commission shall be taken by a majority of the votes cast. In cases specifically provided for in the Agreement, decisions of the Commission shall be taken by a two-thirds majority of the votes cast.⁴

7-6. The term "votes cast" means affirmative and negative votes, and shall not include abstentions or defective ballots.

8-7. Abstentions shall be recorded as follows:

(a) in a vote by show of hands, only for those delegates who raise their hands in response to the Chairperson's request for abstentions;

(b) in a roll call vote, only for those delegates who reply "Abstention";

(c) in a secret ballot, only for such ballot papers deposited in the ballot box as are either blank or marked "Abstention"; and

(d) in a vote by electronic means, only for those delegates who indicate "Abstention".

9-8. The validity of ballot papers shall be determined as follows:

(a) Any ballot paper carrying votes for more candidates than there are vacancies to be filled shall be considered defective.

~~(a)~~(b) In the case of an election to fill simultaneously more than one elective place any ballot paper carrying votes for less candidates than there are vacancies to be filled shall also be considered defective.

~~(b)~~(c) Any ballot paper carrying a notation or mark other than those required for the purpose of indicating the vote shall be considered defective.

~~(c)~~(d) Subject to (a) and (b) above, a ballot paper shall be considered valid when there is no doubt as to the intention of the delegate.

10-9. Voting shall be by show of hands, roll call or secret ballot as follows:

(a) Voting shall be by show of hands unless a delegate requests that the vote be taken by a roll call or secret ballot, and that this request is seconded.

(b) A seconded request for a vote by secret ballot shall take precedence over a vote by roll call.

Unless the Commission decides otherwise, voting on matters relating to individuals, including the election of officers of the Commission and, if applicable, the recommendation regarding the name of the Executive Secretary to be forwarded to the Director-General for appointment, shall be by secret ballot.

11-10. Voting by roll call shall be conducted by calling in English alphabetical order the names of all Members of the Commission entitled to vote. The name of the first Member to be called shall be designated by lot drawn by the Chairperson. The delegate of each Member shall reply "in favour", "not in favour against", or "abstention". At the conclusion of any roll call, the name of any Member whose delegate failed to answer shall be called again. The vote of each Member participating in any vote by roll call shall be

Commission are: Article IV.2, Article VI.3, Article VI.7, Article XII.2, Article XX.6 of the Agreement.

² As an indication and without prejudice to future legal interpretation, the cases of three-quarters majority of the Members of the Commission are: Article XX.1 of the Agreement.

³ As an indication and without prejudice to future legal interpretation, the cases of two-thirds majority of Members present and voting are: Article IX.1 of the Agreement.

inserted in the record of the meeting.

12.11. A vote by secret ballot shall be conducted as follows:

(a) The Chairperson shall appoint two tellers from among the delegates, or their alternates, of two distinct Members. In case of a secret ballot on a proposal for a conservation and management measure, at least one of the tellers shall be from a Member other than a proposer or co-proposer. In the case of a secret ballot for an election, the tellers shall be from Members who are not parties putting forwards a candidate in the election.

(b) The duties of the tellers shall be to supervise the balloting procedure, count the ballot papers, decide on the validity of a ballot paper in any case of doubt, announce out loud the result of each ballot, and certify the result of each ballot.

(c) The same tellers may be appointed for successive ballots or elections.

(d) Ballot papers shall be duly initialed by an authorized officer of the Secretariat. The Executive Secretary shall be responsible for ensuring compliance with this requirement. For each ballot only one blank ballot paper shall be given to each delegation entitled to vote.

(e) One or more voting booths shall be set up, supervised in such a manner as to ensure complete secrecy of the ballot.

(f) Should any delegate invalidate his or her ballot paper, he or she may, before leaving the precinct of the polling booths, request a new blank ballot paper, which shall be delivered to him or her by the teller on the surrender of the invalidated ballot paper. The invalidated ballot paper shall remain in the custody of the Executive Secretary.

(g) Members of delegations and of the Secretariat who are responsible for the supervision of any vote by secret ballot shall not disclose to any unauthorized person any information which might tend, or be presumed to tend, towards destroying the secrecy of the ballot.

(h) The Executive Secretary shall be responsible for the safe custody of all ballot papers for three months after the date of the ballot or until the elected candidates take office, whichever is the longer period.

13. 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.
14. 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.
15. Once voting has commenced, no delegate may interrupt the voting except to rise to a point of order in connection with the voting.
16. Any delegate may challenge the result of a vote or election as follows:
- (a) In the case of a vote by show of hands or roll call vote, should the result be challenged, the Chairperson shall cause a second vote to be taken forthwith.
 - (b) A vote by show of hands or by roll call may be challenged only immediately after the result has been announced.
 - (c) A secret ballot may be challenged at any time within ~~30~~ 60 days of the date upon which it took place or until the elected candidate takes office, whichever is the longer period.
 - (d) Should a vote or election by secret ballot be challenged, the Executive Secretary shall re-examine the ballot papers and all relevant record sheets and shall circulate the result of the investigation, together with the original complaint, to all Members.
17. The Executive Secretary shall, with the assistance of a deputy or deputies, be responsible for the following duties at each Commission Session:
- (a) to ensure that the provisions of the Agreement and these Rules regarding voting and electoral procedure are correctly carried out;
 - (b) to be responsible for all arrangements for voting and elections, including the provision of secure and effective means of voting for online and hybrid meetings;
 - (c) to advise the Chairperson on all matters pertaining to voting procedures and mechanics;
 - (d) to supervise the preparation of ballot papers and be responsible for their safe custody;
 - (e) to report to the Chairperson the presence of a quorum before any vote is taken;
 - (f) to maintain records of all election results, ensuring that they are faithfully recorded and published;
 - (g) to undertake such other relevant duties as may arise in connection with voting and elections.
18. Voting arrangements and other related matters not specifically provided for in the Agreement or in these Rules shall be governed *mutatis mutandis* by the provisions of the General Rules of the Organization.

Annex 1**Rule X of the IOTC Rules of Procedure (2022)****RULE X: VOTING ARRANGEMENTS AND PROCEEDINGS**

1. Except as provided for in paragraph 4 of this Rule, votes at meetings of the Commission shall be by show of hands unless a member requests that the vote be taken by a roll call or secret ballot, and that this request is seconded.
2. A vote by roll call shall be taken by calling the names of the members of the Commission entitled to vote in the English alphabetical order, beginning with the member which has been chosen by lot.
3. A record of any roll call vote or postal vote shall show the vote cast by each delegate and any abstention.
4. Unless the Commission decides otherwise, voting on matters relating to individuals, including the election of officers of the Commission and, if applicable, the recommendation regarding the name of the Executive Secretary to be forwarded to the Director-General for appointment, shall be by secret ballot.
5. 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.
6. Votes cast means votes "in favour" and "against".
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.
8. Voting arrangements and other related matters not specifically provided for in the Agreement or in these Rules shall be governed *mutatis mutandis* by the provisions of the General Rules of the Organization.