

**Record of the 5th Session of the Preparatory Conference
for the North Pacific Fisheries Commission**

**Kaohsiung, Chinese Taipei
10-13 September 2013**

Meeting Report

1. Welcome and Opening Remarks

The 5th Session of the Preparatory Conference (PrepCon 5) for the North Pacific Fisheries Commission (NPFC) was convened in Kaohsiung, Chinese Taipei. Mr. William Gibbons-Fly (United States) continued in the role of Chair. Mr. James Sha, Director General, Fisheries Agency, Council of Agriculture (Chinese Taipei) welcomed the participants and provided opening remarks. A list of participants appears as Attachment 1.

2. Appointment of Rapporteur

Mr. David Gershman (United States) was appointed to serve as Rapporteur for the meeting.

3. Adoption of agenda

The agenda was reviewed and adopted as amended to include a discussion of the tentative timeline of future work and the timing and process of hiring the executive secretary, taking into consideration the progress made at PrepCon 5. The revised agenda is included as Attachment 2.

4. Discussion on the draft Staff Regulations and Grievance Procedure

Participants continued to review the draft Staff Regulations and Grievance Procedure based on Attachment 3 of the Record of PrepCon 4. With slight modifications, participants recommended that the two documents now be considered as final drafts. They will be transmitted to the Commission at its first meeting with a recommendation that they be adopted. The documents are included as Attachment 3.

5. Discussion on the budget for the Commission

Participants continued to review the budget for the first and second years of the Commission based on Attachment 4 of the Record of PrepCon 4. The Chair noted that some of the proposed costs in the budget are estimates that will be refined as the Convention enters into force. The discussion was held open and the budget will be adjusted as necessary, prior to it being forwarded to the Commission for its adoption.

6. Discussion on the Secretariat of the Commission

Participants thanked both Korea and Japan for their bids to host the Secretariat for the NPFC. They recognized that both bids demonstrated a strong commitment of Korea and Japan to the future work of the Commission. Participants recognized that their efforts to reach a consensus on the issue of the location of the Secretariat had been exhausted. However, through three rounds of meetings of the heads of delegation, the participants arrived at a final consensus decision that the Secretariat for the Commission would be located in Japan.

7. Discussion on science-related topics

Dr. Shean-Ya Yeh (Chinese Taipei), Chair of the 11th Scientific Working Group (SWG), provided a summary of the work of the SWG and discussed the outcomes of the SWG meeting.

Participants noted the decision by the SWG to hold a workshop on Pacific saury that will be hosted by Japan in March 2014. Each delegation agreed to provide a point of contact to the Interim Secretariat by 1 October 2013 to advance the intersessional preparations for that workshop.

Participants agreed to submit the annual report with the format developed at PrepCon 3 and other documents to be considered for discussion to the Interim Secretariat at least 30 days prior to the date of meetings of the SWG and other NPFC Preparatory bodies. Further, the Interim Secretariat should circulate those documents to participating delegations no later than 14 days prior to the respective meetings.

Participants agreed the SWG should make progress by focusing on the following key tasks with delegations noted in parenthesis as taking the lead on each task: (1) development of data systems and standards (Korea); (2) development of a systematic approach to stock assessments (Japan); (3) modification and development of a five-year research plan that includes the identification of near-term priorities (Canada); (4) development of encounter protocols for Vulnerable Marine Ecosystems (United States).

Regarding the next meeting of the SWG, participants requested the Interim Secretariat place on the agenda a discussion on the stock status of pelagic species in the Convention Area, including Pacific saury and squid

Recognizing the advantages of improving stock assessments, participants agreed that future submissions of data, in particular regarding straddling stocks that occur in the Convention Area, should include catches in national waters and areas beyond national jurisdiction based on the annual report format.

In addition, more detailed reporting of bycatch species currently reported under the "other category" heading should be encouraged.

8. Status of the Convention

Korea, as Depositary for the Convention, reported on the status of the Convention with respect to signatures, ratifications and other matters. Other participants provided supplementary information on their domestic ratification processes.

Japan became the first participant to submit its instrument of acceptance to the Depositary on 16 July 2013. Canada, China, Japan, Korea and the United States have signed the Convention. Chinese Taipei submitted to the Depositary the separate Instrument for the Participation of Fishing Entities, by which Chinese Taipei expresses its intent to be bound by the Convention. Chinese Taipei also reported its domestic process is in progress.

Korea reported that domestic ratification is underway and may be completed by early 2014. China anticipates finishing its domestic ratification process by the end of 2013 or early 2014. Russia reported that its process for acceptance of the Convention is in its final stage. The United States reported that the President transmitted the Convention to the Senate, which is reviewing it to provide its advice and consent. Canada reported that it tabled the Convention in its Parliament in June and expects to conclude its ratification process in fall 2013.

9. Monitoring, Control and Surveillance

The United States presented a paper on transshipment procedures for the NPFC, stating that its draft was informed by the Canadian proposal reviewed at PrepCon 4. Participants reviewed the document and provided initial comments.

The Chair introduced a paper on boarding and inspection procedures, noting that the proposal closely parallels the practices of the Western and Central Pacific Fisheries Commission. Participants provided initial comments without prejudice to future discussions.

Participants agreed to establish a Technical and Compliance Working Group to examine more fully the issues raised in both papers as well as to discuss other MCS issues and the establishment of the Technical and Compliance Committee of the Commission.

To inform future discussions, participants agreed to provide information on transshipments of fish caught within the Convention Area for bottom fish, Pacific saury and squid to the interim Secretariat by 1 December 2013. The information should specify – to the extent possible – transshipments of species by weight. The Interim Secretariat agreed to provide a template as soon as possible to aid the reporting of the data.

10. Other matters

1. The timing and process for hiring the Executive Secretary and a draft vacancy announcement

Discussion continued among the heads of delegations on the timing and process of hiring the Executive Secretary. A tentative timeline was developed and the Chairman reported to the plenary that he agreed to draft a document on the matter for consideration at the next session of the PrepCon.

2. Future work plan

Participants agreed on the dates of a series of meetings to be held consecutively in Japan. A workshop on Pacific saury will be held 14-15 March 2014. It will be followed by a meeting of the Scientific Working Group on 17-18 March. A meeting of the Technical and Compliance Working Group will be held on 19-20 March. In addition, the FAO offered to host a workshop on VMEs at the same location on 11-13 March. The Chair also agreed to work intersessionally on a draft provisional agenda for the first meeting of the Commission to be discussed at the next session of the PrepCon.

3. Other matters, if any

Dr. Anthony Thompson, a consultant for the FAO, provided a presentation on the FAO's Areas Beyond National Jurisdiction Deep Sea Project. Dr. Thompson mentioned that FAO has identified several areas of potential cooperation with the NPFC. The Chair suggested participants provide comments to the Interim Secretariat by 12 October on whether NPFC should send the FAO a letter of support for the project.

Dr. Thompson also provided an overview of the information the FAO would discuss at a VME workshop and informed the participants of the development of a publicly-available FAO database on VMEs. FAO was asked to contact the Interim Secretariat regarding the planning of the VME workshop and involvement and coordination with respect to the VME database.

11. Date and place of the next meeting

PrepCon 6 will be held 21 March 2014 at a location to be determined in Japan.

12. Adoption of the Record of the Meeting

Participants reviewed and adopted this report of the meeting.

13. Adjournment

PrepCon 5 was adjourned at 2:50 p.m. on 12 September 2013.

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The 5th Session of the Preparatory Conference for the North Pacific Fisheries Commission

Kaohsiung, Chinese Taipei

10-13 September 2013

Agenda

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- 3. Adoption of agenda**
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- 5. Discussion on the budget for the Commission**
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- 7. Discussion on science-related topics**
- 8. Status of the Convention**
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 - (2) Future work plan**
 - (3) Other matters, if any**
- 11. Date and place of the next meeting**
- 12. Adoption of the Record of the Meeting**
- 13. Adjournment**

Final Draft Staff Regulations**REGULATION 1**

1.1 These Staff Regulations establish the fundamental principles of employment, regulate the working relationships and establish the rights and responsibilities of formally appointed employees who render their services in and receive remuneration from the Secretariat of the North Pacific Fisheries Commission (hereinafter called the "Commission"). These regulations do not apply to persons in Regulation 11.2.

REGULATION 2**DUTIES, OBLIGATIONS AND PRIVILEGES**

2.1 The Executive Secretary and staff members of the Secretariat (hereinafter "staff members") are international civil servants. Upon accepting their appointments they pledge themselves to discharge their duties faithfully and to conduct themselves in the best interests of the Commission.

2.2 For the purposes of these regulations the term "dependent" shall include only:

(_) the employee's spouse or domestic partner (hereinafter referred to as "spouse");

(a) any unsalaried child, who is born of, or adopted by, a staff member, his or her spouse, or their children, who is below the age of eighteen years and who is dependent on a staff member or his or her spouse for main and continuing support;

(b) any child fulfilling the conditions laid down in paragraph (a) above, but who is between eighteen and twenty-five years of age and is receiving school or university education or vocational training;

(c) any child with a disability who is dependent on a staff member or his or her spouse for main and continuing support;

(d) any other child who is given a home by and is dependent on a staff member or his or her spouse for main and continuing support;

(e) any person related by blood or marriage for whose main and continuing support a staff member or his or her spouse is legally responsible.

2.3 Staff members shall at all times conduct themselves in a manner in keeping with the international nature of the Commission. They shall always exercise the loyalty, discretion and tact imposed on them by their international responsibilities in the performance of their duties. They shall avoid all actions, statements or public activities which might potentially be detrimental to the Commission and its aims.

2.4 Staff members shall not be the subject of discrimination on the basis of age, race, color, creed, gender, sexual orientation, disability or national origin.

2.5 In the performance of their duties, staff members shall neither seek nor accept instructions from any government or authority other than the Executive Secretary. In the case of the Executive Secretary, he or she shall neither seek nor accept instructions from any government or authority other than the Commission.

2.6 Staff members shall observe maximum discretion regarding official matters and shall abstain from making private use of information they possess by reason of their position. Authorization for the release of information for official purposes shall lie with the Commission or the Executive Secretary, as the case may require.

2.7 Staff members shall, in general, have no employment other than with the Commission. In special cases, staff members may accept other employment, provided that it does not interfere or represent a conflict of interest with their duties in the Commission, and that prior authorization by the Executive Secretary has been obtained. The Commission's prior authorization shall be obtained in respect of the Executive Secretary.

2.8 No staff member may be associated in the management of a business, industry or other enterprise, or have

a financial interest therein if, as a result of the official position held in the Secretariat, he or she may benefit from such association or interest.

2.10 Staff members shall enjoy the privileges and immunities to which they are entitled under the Headquarters Agreement between the Government of _____ and the Commission, and such other privileges and immunities as may be decided.

2.11 The Commission shall sit as a body to hear grievances from staff members regarding human resource related matters, where other less formal attempts at resolution have not met with success. For staff members' grievances, the Commission may instruct the Executive Secretary to undertake other actions where the commission deems that a grievance hearing is not appropriate. The Commission's decision is final and not subject to appeal.

**REGULATION 3
HOURS OF WORK**

3.1 The normal working day shall be eight hours, Monday through Friday, for a total of forty hours per week.

3.2 The Executive Secretary shall establish the working hours and may, in consultation with staff members, alter them for the benefit of the Commission as circumstances may require.

**REGULATION 4
CLASSIFICATION OF STAFF**

4.1 Staff members shall be classified in either of the two following categories:

- (a) Professional Category (Positions of high responsibility of a managerial, professional, or scientific nature)
These posts will be filled by appropriately qualified professionals, preferably with University qualifications or the equivalent. Staff members in this category will be recruited internationally.
- (b) General Services Category (Auxiliary administrative and technical positions. Clerical, secretarial and other

office personnel)

Such staff shall be recruited from among citizens of Members of the Commission, taking into account potential benefits that may occur from hiring staff locally.

4.2 Persons employed under Regulation 11 shall not be classified as staff members.

REGULATION 5

SALARIES AND OTHER REMUNERATION

5.1 The scale of salaries for staff members in the professional category shall be established by the Commission, taking into account the scales of salaries which would apply to officials of the United Nations Secretariat employed in _____ as well as the salaries of government officials working in _____. Such salaries shall be paid in _____

5.2 Staff members in the general services category shall, in principle, be paid at rates equivalent to those paid in _____ for staff of equivalent qualifications and experience.

5.2 bis Performance reviews shall be completed for all staff members by the Executive Secretary on an annual basis. A summary of the performance reviews will be provided to the Commission annually. The annual performance review of the Executive Secretary shall be completed by the Commission.

5.3 The salaries of staff members shall be reviewed annually by the Commission taking into account the cost of living in the host country and the performance of each staff member concerned, based on an annual performance review.

5.4 Staff members of the Commission subject to national income tax shall be eligible for reimbursement of the tax paid on his or her salary. Such arrangements shall be made only on the basis that the direct costs of reimbursement are paid by the staff member's home country.

5.5 Staff members in the professional category are not entitled to overtime pay or compensatory leave.

5.11 Staff members in the general services category required by the Executive Secretary to work more than 40 hours during one week will be compensated. The method of compensation will be determined by the Executive Secretary in consultation with the staff member and shall include one of the following options:

- (a) with compensatory leave equivalent to hours of overtime performed; or
- (b) by remuneration per overtime hour, to be estimated at the rate of time and a half, or if the additional time is worked on a Sunday, or on holidays listed in Regulation 7.8, at the rate of double time.

5.12 The Commission shall pay duly justified and authorized representation expenses incurred by the Executive Secretary in the performance of his or her duties within the limits prescribed annually in the Budget.

REGULATION 6
RECRUITMENT AND APPOINTMENT

6.1 In accordance with Article 5.9 of the Convention on the Conservation and Management of High Seas Fisheries Resources in the North Pacific Ocean (hereinafter called the "Convention"), the Commission shall appoint the Executive Secretary and shall establish his or her remuneration and such other entitlements as it deems appropriate.

6.2 In accordance with Rule 6.2 and 6.4 of the Rules of Procedure of the Commission, the Executive Secretary shall appoint, direct, and supervise staff. The paramount consideration in the appointment, transfer or promotion of the staff shall be the necessity for securing the highest standards of efficiency, competence and integrity.

6.4 Offers of appointment to the Secretariat may require the persons selected to undergo a medical examination and present a certificate stating that they have no medical condition that might prevent them from performing their duties.

- 6.5 Upon selection, each prospective staff member shall receive an offer of appointment stating:
- (a) that the appointment is subject to the staff regulations applicable to the category of appointment in question, and to changes which may be duly made in such regulations from time to time;
 - (b) the nature of the appointment;
 - (c) the date on which the staff member is required to commence duty;
 - (d) the period of appointment, the notice required to terminate it and the period of probation;
 - (e) the category, level, commencing rate of salary and the scale of increments and the maximum salary attainable;
 - (f) any special terms and conditions which may be applicable.

6.6 Together with the offer of appointment, staff members shall be provided with a copy of these Regulations. Upon acceptance of the offer staff members shall state in writing that they are familiar with and accept the conditions set out in these Regulations.

REGULATION 7

LEAVE

7.1 Staff members shall be entitled to annual leave at the rate of two and half workdays for each full month of service. Annual leave is cumulative, but at the end of each calendar year, not more than 30 workdays may be carried over to the following year.

7.2 The taking of leave shall not cause undue disruption to normal Secretariat operations. In accordance with this principle, leave dates shall be subject to the needs of the Commission. Leave dates shall be approved by the Executive Secretary who shall, as far as possible, bear in mind the personal circumstances, needs and preferences of staff members.

7.3 Annual leave may be taken in one or more periods. The total amount of annual leave taken in any calendar year shall not be longer than 45 days under any circumstances.

7.4 Any absence not approved within the terms of these Regulations shall be deducted from annual leave.

7.5 Staff members who, upon termination of their appointment, have accumulated annual leave that has not been taken shall receive the cash equivalent estimated on the basis of the last salary received.

Following Section on Sick Leave, Bereavement Leave and Family Leave moved from Regulation 8.

8.1 bis. Staff members shall be entitled to sick leave at the rate of one and one quarter days for each full month for service. Sick leave is cumulative and may be accrued without limit. Accrued sick leave is not subject to payment upon termination or separation from employment.

8.2 Staff members shall not be granted sick leave for a period of more than 3 consecutive days without producing a medical certificate.

8.3 Staff members shall be granted certified sick leave not exceeding 12 months in any 4 consecutive years. The first 6 months shall be on full salary and the second 6 months on half salary, except that no more than 4 months on full salary shall normally be granted in any period of 12 consecutive months

8.3 bis Sick leave may also be used to care for a staff member's spouse, child or parent with a serious health condition.

8.4 Staff members shall be entitled up to twelve weeks of family leave per calendar year for (a) the birth of a child and to care for the newborn child within one year of birth; or (b) the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement. During this period staff members shall receive full pay.

8.5 Staff members shall be entitled to bereavement leave of up to five days upon the death of an immediate family member and up to three days for a relative other than an immediate family member. Reasonable

travel time to and from destination will not be counted under these limits.

7.6 After 18 months of service the Commission shall, in accordance with Regulations 9.3 and 9.4, pay travel expenses to the staff member's home country on annual leave for internationally recruited staff members and their dependents. Following this, home leave shall be granted at two-year intervals provided that:

(a) dependents who benefit from this Commission grant have resided at _____ for at least 6 months prior to travel;

(b) it is expected that staff members will return to the Secretariat to continue rendering their services for a minimum additional period of 6 months.

7.7 The possibility of combining travel to home country on leave with official travel in Commission service may also be considered, provided the interests of the Commission are duly borne in mind.

7.8 Staff members shall be entitled to the statutory holidays in _____, i.e.:

(list of holidays), and other holidays that may be designated by the Government of _____ from time to time, such as for national elections and other special circumstances.

7.9 If under special circumstances staff members are required to work on one of the aforementioned days the holiday shall be observed on another day to be set by the Executive Secretary, who shall take into account the needs of the Commission.

REGULATION 8 SOCIAL SECURITY

8.1 It is a condition of employment that each staff member will contribute to a recognized retirement fund and have adequate medical, hospital, life and disability insurance cover to the satisfaction of the Executive Secretary. Such insurance cover shall include adequate provision for dependents. The Commission shall pay two-thirds of the total contribution to the retirement fund and of the insurance premiums, up to the maximum percentage applying in the United Nations Secretariat from time to time of the total of the staff

member's salary. Such payment shall be by way of reimbursement upon the production of receipts, or shall be paid direct together with the employee's contribution.

Previous 8.1 bis to 8.5 moved to Regulation 7 (Leave)

8.6 In the event of death of a staff member following illness or surgery not resulting from an accident covered by the appropriate insurance, the right to salary and other corresponding benefits shall cease on the day on which death occurs, unless the deceased leaves dependents, in which case these shall be entitled to mortality allowances and return travel and removal expenses to country of origin or former residence at the expense of the Commission.

8.7 Eligibility of the dependents of a deceased staff member for the payment of return travel and removal expenses shall lapse if the travel is not undertaken within six months of the date of the staff member's death. The Executive Secretary may extend this period in the case of special circumstances: e.g., to allow a dependent child to finish a school term.

8.8 The above mortality allowance for death shall be calculated in accordance with the following scale:

Years of Service	Months of Net Base Pay Salary Following Death
Less than 3 years	3 months
3 years and more, but less than 7 years	4 months
7 years and more, but less than 9 years	5 months
9 years and more	6 months

8.9 The Commission shall pay for shipment of the staff member's remains and personal effects from the place of death to the place designated by the spouse, next of kin, or other individual(s) designated by the staff member.

REGULATION 9
TRAVEL

9.1 All official travel shall be authorized by the Executive Secretary in advance within the limits of the budget, and the itinerary and travelling conditions shall be those best suited for maximum effectiveness in the fulfillment of duties assigned.

9.2 With regard to official travel, a travel allowance, generally consistent with United Nations practice, may be paid in advance for fares and daily living expenses. However, charges for hotel accommodations shall be paid based on charges actually incurred.

9.2 bis. Official travel should be planned well in advance to avoid incurring higher costs for airfares and other travel related cost.

9.3 Whenever feasible, economy class travel shall be used for all travel.

9.5 Following completion of a duty journey, staff members shall repay any travel allowances to which, in the event, they were not entitled. Where staff members have incurred expenses above and beyond those for which travel allowances have been paid, they shall be reimbursed, against receipts and vouchers, as long as such expenses were necessarily incurred in pursuit of their official duties.

9.6 On taking up an appointment in the Professional Category staff members shall be eligible for:

- (a) payment of economy class air fares (or equivalent) and travel allowance for themselves, their spouses and dependents from their place of residence to _____;
- (b) an Installation Grant calculated on the basis of the prevailing United Nations rate;
- (c) payment of removal costs, including the shipment of personal effects and household goods from place of residence to _____, subject to a maximum volume of 30 cubic meters or one international standard shipping container,
- (d) payment or reimbursement of sundry other expenses related to relocation, including insurance of goods in transit and excess baggage charges subject to the prevailing relevant United Nations rules. Such payments shall be subject to prior approval by the Executive Secretary.

9.7 Staff members who, in the course of their duty, are required to use private motor vehicles for official travel purposes shall, with the prior authorization of the Executive Secretary, be entitled to receive a reimbursement of the costs involved in line with that available to members of the Government Service in _____. The costs associated with normal daily travel to and from place of work shall not be reimbursed.

REGULATION 10
SEPARATION FROM SERVICE

10.1 Staff members may resign at any time upon giving three months' notice or such lesser period as may be approved by the Executive Secretary or the Commission, as the case may require.

10.3 The Executive Secretary may terminate the appointment of a staff member by giving three (3) months written notice, when that termination is due to restructuring of the Commission or of any of its constituent bodies, or if the Commission would decide to cease its functions. If at any time the Executive Secretary considers that a staff member does not give satisfactory service or fails to comply with the duties and obligations set out in these Rules, the staff member will receive a formal written warning. If the performance does not improve or the employee continues to fail to comply with the duties and obligations set out in the rules, the staff member will receive a second formal written warning and if necessary, other disciplinary action (e.g. suspension, demotion) may follow. If after the second formal written warning the staff member's performance does not improve to a satisfactory standard, the appointment of the staff member may be terminated upon written notice of one (1) month in advance subject to the prior notification of the Chair of the Commission.

10.4 In the event of involuntary separation from service with the Secretariat, staff members shall be compensated at a rate of two weeks base pay for each year of service, beginning the second year, unless the cause of termination has been gross dereliction of duties imposed in Regulation 2.

10.5 On separation from service, a staff member shall, subject to Regulation 10.6 below, be entitled to the following:

- (a) payment of economy class air fares (or equivalent) to the staff member's country of origin or former residence, for the staff member and dependent members of his or her family;
- (b) payment of removal costs, including the shipment of personal effects and household goods from place of residence in _____ to the country of origin or former residence, subject to a maximum volume of 30 cubic meters or one international shipping container;
- (c) a repatriation allowance generally consistent with United Nations' practice.

10.6 At the discretion of the Executive Secretary, the right to the repatriation expenses provided for in Regulation 10.5 may be cancelled or reduced appropriately if:

- (a) the staff member fails to provide the three months advance notice as specified in paragraph 10.1;
- (a, bis) less than one year has elapsed between the date of taking up the appointment and the date of separation from service;
- (b) the reason for separation from service was termination of employment due to gross dereliction of duty;
- (c) more than six months has elapsed between the staff member's separation from service and his or her return to his or her country of origin or former residence;
- (d) less than six months has elapsed since the staff member last visited his or her country of origin or former residence on home leave at the expense of the Commission; or
- (e) the staff member has applied for or received status as a permanent resident of _____.

10.7 In the case of serious misconduct by a staff member that threatens the Commission's operations or the reputation of the Commission or its members (for example, a criminal offense such as theft, intentional breach of confidentiality etc.), appointment of the staff member may be terminated without prior warning.

REGULATION 11
TEMPORARY PERSONNEL UNDER CONTRACT

11.1 The Executive Secretary may contract temporary personnel necessary to discharge special duties in the service of the Commission. Such personnel shall be classified as additional help and may be paid on an hourly basis.

11.2 Persons in this category may include translators, interpreters, typists, and other persons contracted for meetings, as well as those whom the Executive Secretary contracts for a specific task. Whenever possible, persons resident in _____ shall be utilized in such cases.

REGULATION 12

APPLICATION AND AMENDMENT OF REGULATIONS

12.1 Any doubts or disputes arising from application or interpretation of these Regulations shall be resolved by the Executive Secretary in consultation with the Members of the Commission.

12.1 bis Situations involving the Executive Secretary shall resolved by the Chair in consultation with Members of the Commission

12.2 Matters not foreseen in these Staff Regulations that materially affect the operation of the Secretariat or the working conditions of the staff shall be brought to the attention of the Commission by the Executive Secretary.

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

North Pacific Fisheries Commission Grievance Procedure

The NPFC Staff Regulations, Regulation 2.11, provides a procedure for grievances. This section defines the procedures regarding the implementation of Regulation 2.11. The rule reads as follows:

Regulation 2.11

The Commission shall sit as a body to hear grievances from staff members regarding human resource-related matters, where other less formal attempts at resolution have not met with success. For staff members' grievances, the Commission may instruct the Executive Secretary to undertake other actions where the Commission deems that a grievance hearing is not appropriate. The Commission's decision is final and not subject to appeal.

Protections

Staff members and the Executive Secretary, hereinafter referred to as "staff members," have the right to use and/or participate in this procedure free from threats or acts of retaliation, discrimination or reprisal.

Policy

The prevailing policy is that employee grievances will be resolved promptly and at the lowest possible level. Observance of this policy will enhance productivity and promote the well-being of the work force. Staff members will make best efforts to achieve informal settlement of grievances.

Grievable Issues

The following issues are examples of matters that are eligible for this process. This list is not exhaustive:

- Dismissal or suspension without pay;
- Staffing actions;
- Allegation of discrimination; and/or
- Allegation of harassment.

Timelines and Process

Prior to invoking Regulation 2.11 of the NPFC Staff Regulations, the staff member must follow the steps below:

1. Specific staffing and human resource-related grievances must be presented within 15 days of the date of that act of occurrence or the date the employee first became aware of it. Grievances related to alleged discrimination and harassment should be brought forward as soon as possible.
2. A staff member must first present a grievance in writing to the Executive Secretary.
3. Any grievances emanating from the Executive Secretary would be provided in writing to the Commission (see steps 6-8 below).

4. The Executive Secretary will give full consideration to the issue(s) and the remedy requested and conduct such inquiry as warranted by the circumstances. The Executive Secretary will make a substantive effort to resolve the problem informally and will provide the staff member a written answer within 15 days of receipt of the grievance.

4-bis. If the grievance is not resolved to the satisfaction of the grievant by the Executive Secretary, the grievant may submit the grievance in writing to the Chair, who in consultation with the Vice Chair, has the authority to resolve it. The Chair will provide a written response to the grievant within 15 days of receipt of the grievance.

5. If the grievance is not resolved to the satisfaction of the grievant by the Chair, the grievant may submit the grievance in writing to the Heads of Delegation, who have the authority to resolve it.

6. For submission to the Heads of Delegation, the grievance will be sent by the Chair and must:

- a. be in writing;
- b. contain sufficient detail to identify and clarify the basis for the grievance;
- c. if appropriate, specify the remedy requested by the grievant;
- d. include a copy of the Executive Secretary and Chair's reply; and,
- e. be filed, in writing, within 15 days of receipt of the Chair's decision.

7. The Heads of Delegation should decide upon a process to be used to consider the grievance (for additional detail regarding a process to be used, see Annex A). In the case where the grievant, the Executive Secretary or others are asked to participate in the hearing, reasonable notice should be provided. Parties to the grievance may be accompanied by their legal counsel in any hearing.

8. The Commission will render its decision within 90 days after receiving the grievance from the Chair and it will constitute a final decision on the grievance. Actions of the Commission are not subject to appeal. In the event that further actions are deemed necessary to resolve the grievance, the Commission will instruct the Executive Secretary to undertake those actions.

8 bis. In the case of termination of employment, the grievant should present the grievance to the Chair, who in consultation with the Vice Chair will provide a ruling within 30 days. The Chair's decision will be considered final unless the grievant is not satisfied with the ruling, in which case the grievance will be sent to Heads of Delegation, who will have 60 days to render a decision.

9. A grievance will be cancelled:

- At the employee's written request;
- When the grievant's employment terminates unless the remedy sought can be granted after termination of his/her employment;
- For failure to follow the grievance procedure and/or requests from the Commission (e.g. to discuss the grievance in person).

When a grievance is cancelled, all parties must be notified promptly and in writing and given the reason(s) for the cancellation.

Consideration of Grievances by the Commission

Collection of Relevant Background Information

The Commission should have access to and read all the relevant background documents including, but not limited to the following:

- Contract of the staff member that specifies terms of employment and review, in particular, clauses relevant to termination;
- Staff regulations with regard to termination and performance management clauses;
- Labour laws of relevance;
- If relevant, legal advice already provided regarding this grievance;
- Performance Management related documents such as performance reviews, any written warnings or reports of discussions related to performance etc;
- Formal grievance documents; and
- A clear understanding of the remedy sought and any alternatives to that remedy.

A process should be decided upon and agreed to by the Commission for addressing the grievance. This should be done on a case by case basis. Four options are presented for consideration only based on generally accepted practices for management of grievances. There is nothing that would bind the Commission to using one of these options. Options should consider cost effectiveness including use of teleconferences and/or video conferences as practicable.

1. Schedule a grievance hearing with the staff member (with or without his or her legal counsel) followed by a hearing with the Executive Secretary (with or without his or her legal counsel) after which the Heads of Delegation should render a decision;
2. Hire an independent reviewer or mediator to meet with the staff member and Executive Secretary and provide their impartial advice to Heads of Delegation who can render a decision or consider this information in conjunction with information gleaned from interviews of the staff member and the manager;
3. Engage an HR specialist (with experience in labour relations) to review the file, interview the employee and Executive Secretary and provide their impartial advice to Heads of Delegation who can render a decision or consider this information in conjunction with information gleaned from interviews of the staff member and Executive Secretary; and
4. Deliberate on this issue without additional input from the grievant or Executive Secretary or others, relying on written information and submissions.

The Commission should deliberate privately (“in-camera”) to ensure that neither the staff member nor Executive Secretary is present to avoid perceptions of bias and promote discussion of the matter. Consensus is desirable.