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COUNCIL

Hundred and Sixty-eighth Session

29 November-3 December 2021

Selection and Appointment of Secretaries of Article XIV Bodies

Executive Summary

This document provides the Council with updates on the consultations regarding the outstanding issue of the long-term procedures for the selection and appointment of Secretaries of Article XIV Bodies, which was first considered by the Council at its 155th Session in 2016. The 166th Session of the Council requested the Independent Chairperson of the Council, including his successor, to continue his consultations with the respective Article XIV Bodies and FAO Management towards a mutually agreeable solution to the matter and looked forward to its timely solution.

The Independent Chairperson of the Council has held a number of consultations with the concerned Article XIV Bodies, building on the compromise proposal of his predecessor, to identify a mutually agreeable solution to the issue. The revised proposed procedure is presented in *Annex 1* of this document, for consideration by the Council.

Suggested action by the Council

The Council is invited to endorse the procedure for the selection and appointment of Secretaries of the concerned Article XIV Bodies as outlined in *Annex 1*.

Queries on the substantive content of this document may be addressed to:

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I. Introduction

1. At its 166th Session in May 2021, the Council “encouraged the Independent Chairperson of the Council (ICC), including if necessary his successor, to continue consultations with the relevant Article XIV Bodies and FAO Management towards a mutually agreeable solution to the long-term procedures for the selection and appointment of Secretaries of Article XIV Bodies and looked forward to a timely solution to this matter”.¹

2. This document provides an update on the consultations by the ICC with the Chairpersons of the concerned Article XIV Bodies and FAO Management, regarding the proposed procedure for the selection and appointment of Secretaries of Article XIV Bodies. *Annex I* contains the updated proposed procedure, as adjusted in line with the requests of the concerned Article XIV Bodies and which have also been agreed to by FAO Management.

3. While the revised proposed procedure reflects the inputs of all concerned Article XIV Bodies, formal acceptance of the revised procedure is pending formal decision by the Bodies concerned. The revised proposed procedure as laid out in *Annex I* is submitted to the Council at its 168th Session for its consideration and endorsement, as appropriate.

4. The concerned Article XIV Bodies are the Agreement for the Establishment of the Indian Ocean Tuna Commission (“IOTC” or “the Commission”), the Agreement for the Establishment of a General Fisheries Commission for the Mediterranean (GFCM) and the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA).

II. Background

5. This matter has been the subject of lengthy consideration by the Governing Bodies and the concerned Article XIV Bodies, as well as extensive consultations between former ICCs and the Article XIV Bodies and FAO Management. Relevant background information may be found in documents CL 166/18; CL 165/INF/5; CCLM 112/2; CCLM 111/3; CCLM 107/3; CCLM 106/5; and CCLM 103/2.

6. In particular, it is recalled that an interim procedure for the selection and appointment of the Secretaries of Article XIV Bodies was endorsed by the Council at its 155th Session in December 2016.² At that time, the Council stressed the urgency of filling vacant positions of the Secretaries of the IOTC and the ITPGRFA. It mandated the Director-General, “on an exceptional basis and without setting any precedent”, to issue Vacancy Announcements for these positions for a term of “two years subject to confirmation by the concerned Body of the appointment at the end of that period”.³ In December 2016, there was no urgency vis-à-vis the GFCM, whose Executive Secretary had been appointed in 2015 for a second term of five years.⁴ It is further noted that the focus was on these three Article XIV Bodies because they had adopted practices for selection and appointment of Secretaries which were inconsistent with the Basic Texts of the Organization and their constituent treaties.

III. The ICC’s consultations and further developments

7. The ICC continues to engage extensively with the Article XIV Bodies concerning the proposed revised procedure. Until a mutually agreed process is finalized, selection and appointment for the Secretaries of the Article XIV Bodies concerned will be conducted in accordance with the interim procedure endorsed by the Council at its 155th Session.⁵ The Council, at its 166th Session,

¹ CL 166/REP, paragraph 46 (e).

² CL 155/REP, paragraph 26.

³ CL 155/REP, paragraphs 27 (b) and (c).

⁴ Mr Chris O’Brien and Mr Kent Nnadozie were appointed respective as Secretary of the IOTC (July 2017) and ITPGRFA (June 2017).

⁵ CL 155/REP, paragraph 27 (b).

specifically noted that this would be the case for the selection and appointment of the new GFCM Executive Secretary, as the term of office of the current incumbent expires in December 2021.⁶

8. A summary of further developments concerning the ICC's ongoing consultations are set out below.

A. *The IOTC*

9. In March 2021, the IOTC Vice-Chairperson wrote to the former ICC to further explore the points of difference between the ICC compromise procedure and the IOTC procedure adopted at its 24th Session in November 2020. These concerned the removal of the external member of the Interview Panel, the degree of information to be provided to the IOTC vis-à-vis the reference checks undertaken by the FAO Human Resources Division (CSH), and the number of IOTC representatives on the proposed Panels.

10. In his reply, the former ICC, exercising his role as intermediary, reiterated the firm position of FAO Management that the presence of the external Panel member is essential in ensuring the integrity of the selection process and thus must be restored under the procedure proposed by the IOTC. With respect to reference checks, the IOTC Vice-Chairperson was invited to consider a proposal whereunder referrals of proposed candidates for appointment made by the Director-General to the IOTC would be accompanied by a written statement that the appropriate reference checks have been conducted. This was predicated on the fact that the Director-General would not, in any event, consider a candidate for appointment to a senior position such as the IOTC Secretary in the absence of reference checks confirming his/her suitability for the position. Lastly, the proposed increase to three IOTC representatives in the Panels was accepted on the understanding that FAO would be represented therein by one Deputy Director-General / Director plus two senior FAO Officers, and on the understanding that the procedure, outside of these three outstanding issues, is considered as settled between the IOTC and FAO Management.

11. The IOTC Vice-Chairperson wrote to the ICC on 24 June 2021 informing of the outcomes of the 25th Session of the IOTC (7-11 June 2021), which discussed the procedure for the selection and appointment of its Secretary. At this Session, the IOTC discussed the outstanding issues and adopted a revised procedure, which i) provides for three representatives of the IOTC on the selection Panels with FAO represented by one Deputy Director-General or Director and two Senior Officers; and ii) the inclusion of the external member on the interview panel from among three candidates proposed by CSH. The IOTC-adopted procedure also included a 46-day period for the posting of the Vacancy Announcement, unless the IOTC requests longer.

12. The ICC held a videoconference meeting with the IOTC Vice-Chairperson on 14 July 2021 to further discuss these proposals. The ICC noted that FAO procedures entail a 30-day period for posting of Vacancy Announcements, and suggested a compromise whereby the procedure provides for a 30-day period, with a footnote noting "unless the Article XIV Body requests for a longer period up to maximum 45 days". The issue of reference checks was further discussed and an informal compromise achieved regarding the need for this administrative procedure to be conducted by CSH.

13. On 28 September 2021, the ICC sent the Chairperson of the IOTC the revised proposed procedure as reproduced in this document in *Annex 1*, which was a harmonised version taking into consideration the inputs of all Article XIV Bodies concerned, and agreed to by FAO Management.

B. *The GFCM*

14. On 14 April 2021, the ICC and Legal Counsel attended an ad-hoc meeting of the Heads of Delegations of the GFCM to discuss the procedure for the selection and appointment of Secretaries of Article XIV Bodies. GFCM Heads of Delegations were able to communicate their concerns with the ICC's compromise procedure and receive clarifications from Legal Counsel and the former ICC. At this meeting, it was agreed that i) a Task Force be established to facilitate and expedite the consultations on the procedure and ii) that the ICC's compromise proposal be the starting point for

⁶ CL 166/REP, paragraph 46 (d).

such consultations. This was further confirmed in a letter from the Chairperson of the GFCM to the ICC on 22 April 2021.

15. On 7 May 2021, the former ICC wrote to the Chairperson of the GFCM clarifying the updated version of the proposed procedure. In this regard, the ICC noted that FAO Management had agreed to the IOTC request for three representatives of the Article XIV Body (and three representatives of FAO Management) to participate in the Interview Panel, and that a written statement that reference checks had been conducted be transmitted to the Article XIV Chairperson once the preferred candidate is identified by the Director-General.

16. On 3 June 2021, the GFCM Chairperson informed the former ICC that an ad-hoc GFCM Task Force had been established to facilitate consultations and finalize the long-term procedure for the selection and appointment of the GFCM Executive Secretary ahead of the 44th Session of the GFCM scheduled to be held in November 2021.

17. The incumbent ICC met with the Task Force on 22 July 2021 and discussed the GFCM's concerns with the compromise procedure. The issues which were discussed included the duration of posting the Vacancy Announcement; reference checks; and the chronology of the steps in the procedure. The GFCM requested, in case none of the candidates identified in the Panel Report are approved by the Body, that the Vacancy be reissued.

18. On 28 September 2021, the ICC sent the Chairperson of the GFCM the revised proposed procedure as reproduced in this document in *Annex 1*, which was a harmonised version taking into consideration the inputs of all Article XIV Bodies concerned, and agreed to by FAO Management.

19. In parallel, the Director of CSH wrote to the GFCM Chairperson to initiate, as a matter of urgency and without prejudice to the ICC's ongoing consultations, the recruitment of the next GFCM Executive Secretary in accordance with the temporary procedure agreed to by the Council at its 155th Session. This is imperative due to the forthcoming end of the term of the incumbent Executive Secretary. While the administration of this procedure falls within the mandate of CSH to oversee and implement all FAO selection, recruitment and processes, it should be noted in this regard the position of the Chairperson of the GFCM that the process of recruitment for the new Executive Secretary to replace the incumbent begins only after Council guidance is received on the proposed new procedure.

C. *The ITPGRFA*

20. On 2 April 2021, the ITPGRFA Chairperson shared with the former ICC modifications to the revised proposed procedure as suggested by the ITPGRFA Bureau. These included a request for the two ITPGRFA representatives of the proposed Panels to be selected from one developed and one developing country each, and the external member of the Interview Panel to be jointly selected by the ITPGRFA Bureau and FAO from the three candidates shortlisted by CSH. The ITPGRFA Bureau also proposed additional language to the procedure to further clarify its meaning. The ITPGRFA added language clarifying that the CSH representative on the Interview Panel be without the right to participate in decision-making and under paragraph 7, that all efforts be made to reach a decision by consensus. Finally, the ITPGRFA requested that should there be non-approval by the Body of the Director-General's preferred candidate, the Director-General will propose to the Body another candidate "identified in the Panel Report".

21. In his reply letter of 20 April 2021, the former ICC informed the ITPGRFA's selection of its two representatives to serve in the Panels was an internal matter entirely at its prerogative. The former ICC also noted that Management's position was that the external member to serve on the Interview Panel would be selected by the Interview Panel itself, which is composed of equal representatives from the ITPGRFA and FAO. As an independent expert, the external member would be selected by the Interview Panel itself, from among three candidates selected by CSH.

22. The remaining modifications proposed by the ITPGRFA were considered accepted, on the understanding that no further changes would be made. The ITPGRFA Chairperson was also invited to consider the possibility of increasing the number of ITPGRFA representatives on the two Panels from two to three, as was agreed with the IOTC.

23. The ITPGRFA Chairperson subsequently informed the former ICC that these suggestions were forwarded to the ITPGRFA Bureau for its consideration and with a view to presenting a final draft of the proposed revised procedure to the 9th Session of the Governing Body of the ITPGRFA scheduled to be held in the final quarter of 2021.

24. On 22 September 2021, the ICC held an informal meeting with the Chairperson of the ITPGRFA to discuss the procedure. On 28 September 2021, the ICC sent the Chairperson of the ITPGRFA the revised proposed procedure as reproduced in this document in *Annex 1*, taking into consideration the inputs of all Article XIV Bodies concerned, and agreed to by FAO Management.

IV. Suggested action by the Council

25. The Council may wish to welcome the constructive engagement of the ICC, the IOTC, the GFCM, the ITPGRFA and FAO Management towards reaching a consensus on a lasting arrangement for the selection and appointment of Secretaries of Article XIV Bodies.

26. The Council is invited to endorse the proposed procedure included in *Annex 1* for the selection and appointment of Secretaries of Article XIV Bodies, to be applied exclusively to the IOTC, the ITPGRFA and the GFCM.

ANNEX 1**Revised proposed procedure for the selection and appointment of Secretaries of Article XIV Bodies**

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 days.⁷
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 are 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 for this. All efforts should be made to reach a decision by consensus.
8. Reference checks are 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,

⁷ [Unless the Article XIV Body requests for a longer period up to maximum 45 days].

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.