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والزراعة  
للأمم المتحدة

联合国  
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Organización  
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para la  
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## GENERAL FISHERIES COMMISSION FOR THE MEDITERRANEAN

### Twenty-ninth Session

Rome, Italy, 21-25 February 2005

### INFORMATION NOTE ON THE PROCEDURES FOR THE DETERMINATION OF THE HEADQUARTERS OF THE COMMISSION AND THE SELECTION OF THE EXECUTIVE SECRETARY

#### BACKGROUND

1. At its Twenty-ninth Session, Rome, 21-24 February 2005, the General Fisheries Commission for the Mediterranean (GFCM) is due to take, under two agenda items, decisions on the determination of the headquarters of the Commission and the selection of the Executive Secretary. The purpose of this note is to provide information on the procedures applicable to these decisions. These procedures are set out in the GFCM Agreement, the Rules of Procedure of the Commission, with particular reference to Rule IX thereof, the General Rules of the Organization and the relevant decisions taken by the Commission itself at its Extraordinary Session, held in St Julians, Malta, 19-23 July 2004.

#### HEADQUARTERS OF THE COMMISSION

2. In connection with the decision regarding the future headquarters of the Commission, two issues need to be addressed. The first concerns the Members that may take part in such decision. The second concerns the procedures applicable to the decision to be taken.

##### (a) Participation in the decision

3. Under Article II, paragraph 11 of the GFCM Agreement "*the seat of the Commission shall be at the headquarters of the Organization in Rome, or such other location as may be determined by the Commission*". The possibility that the headquarters of the Commission could be in such other location, as determined by the Commission, was introduced in 1997, as part of the set of amendments to the GFCM Agreement approved by the FAO Council, at its Hundred-and-thirteenth Session, Rome, 4-6 November 1997. Unlike other amendments which were also approved at the time, these amendments did not involve new obligations for the Members. Consequently, in accordance with the amendment process set out in Article X of the Agreement, as it stood at the time, that set of amendments came into force with respect to all the Parties to the

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Agreement on 6 November 1997, i.e. the date of on which the FAO Council concurred in the amendments.

4. Therefore all Members of the Commission may take part in that decision (irrespective of whether or not they have accepted the amendments involving new obligations, i.e. relative to the autonomous budget), subject of course to the principle of the alternative exercise of membership rights between the European Community and its Member States that are Members of the Commission. This is in conformity with the decision taken by the Commission at its Extraordinary Session, St. Julians, Malta, 19-23 July 2004<sup>1</sup>.

**(b) Procedures applicable to the decision**

5. The procedures governing the actual decision to be taken by the Commission are set out in the GFCM Agreement, the Rules of Procedure of the Commission and the General Rules of the Organization. In this connection, it may be useful to mention that, consistent with Rule IX, paragraph 6 of the Rules of Procedure, *“voting arrangements and other related matters not specifically provided for by the Agreement, or by these Rules, shall be governed “mutatis mutandis” by the provisions of the General Rules of the Organization”*.

6. The decision regarding the future seat of the Commission is to be considered, from a legal point of view, an election, in accordance with Rule XII, paragraph 9(a) of the General Rules of the Organization, whereby *“the term ‘election’ means the selection or appointment of one or more individuals, nations or localities”*. Under Rule XII, paragraph 10 (a) of the General Rules of the Organization all elections are to be decided by secret ballot except that in a few cases, where there are not more candidatures than vacancies, the Chairman may submit to the appropriate body that the appointment be decided by *“clear general consent”*.

7. In accordance with Article II, paragraph 2, of the GFCM Agreement, decisions are taken by a majority of the votes cast and a majority of the total membership of the Commission constitutes a quorum. Votes cast means *“affirmative and negative votes, and shall not include abstentions or defective ballots”* (Cf. Rule XII, paragraph 4 (a) of the General Rules of the Organization). *“Any ballot paper carrying votes for more candidates than there are vacancies to be filled, or carrying a vote for an individual, nation or locality not validly nominated, shall be considered defective”* (Cf. Rule XII, paragraph 4 (d)(i) of the General Rules of the Organization). *“The ballot paper shall carry no other notation or mark than those required for the purpose of indicating the vote”* (Cf. Rule XII, paragraph 4 (d) (iii) of the General Rules of the Organization). Subject to these provisions, *“a ballot paper shall be considered valid when there is no doubt as to the intention of the elector”* (Cf. Rule XII, paragraph 4 (d)(iv) of the General Rules of the Organization).

8. In any election for one elective place, if a candidate or nation or locality fails on the first ballot to obtain a majority of the votes cast, successive ballots are taken until the candidate obtains such a majority (Cf. Rule XII, paragraph 11 of the General Rules of the Organization). In practical terms, the implementation of this provision could mean that in cases where there are more than two candidates or nations or localities to be chosen, there might then be a need for successive ballots until one of them obtains the required majority. In order to obviate the need for a number of successive ballots, the Conference of FAO has decided in a few cases that when there were more than two candidates, that the candidate or the candidates obtaining the least number of votes at the first ballot should withdraw and that another ballot be held between the two remaining candidates. [This is in fact reflected in Rule IX, paragraph 5 of the Rules of Procedure of the Commission whereby *“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, on the second ballot, the votes are equally divided, the Chairman shall decide the candidates by drawing lots”*.] As there are three candidatures for the

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<sup>1</sup> Paragraph 18. This decision is reproduced in paragraph 12 of this document.

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headquarters of the Commission and it cannot be excluded that there could be a need for successive ballots, similar arrangements could be considered.

9. In summary, the decision regarding the headquarters of the Commission is to be taken by secret ballot. As there are three candidatures, the Commission may wish to consider that, at the end of the first ballot, the candidature having the least number of votes should withdraw and that a second ballot be held among the two candidatures having obtained the largest number of votes.

## **SELECTION OF THE EXECUTIVE SECRETARY**

10. As was done in relation to the decision concerning the Headquarters of the Commission, two issues need to be distinguished, concerning the Members that may take part in such decision, and the procedures governing the decision.

### **(a) Participation in the decision**

11. The decision regarding the selection of the Executive Secretary of the Commission is being taken under article XI, paragraph 1 of the GFCM Agreement, as amended following the entry into force of the set of amendments approved by the FAO Council at its Hundred and thirteenth Session, Rome, 4-6 November 1997, which involved new obligations for the Members of the Commission. This set of amendments came into force on 29 April 2004, with respect to each Member having accepted them, upon receipt by the Director-General of the instruments of acceptance from two-thirds of the Members of the Commission.

12. At its Extraordinary Session, held in St. Julians, Malta, 19-23 July 2004, the Commission,

*“Following a debate on the matter, the Commission decided that all Members could participate in the discussions. However, the Commission acknowledged that only Members having deposited the instruments of acceptance of the amendments involving new obligations would be able to vote on matters covered by the amendments which came into force on 29 April 2004, should a vote be required”<sup>2</sup>.*

13. As of the 1<sup>st</sup> of February 2005, the following Members have accepted the amendments and may, therefore, participate in the decision : Albania, Croatia, Cyprus, European Community<sup>3</sup>, France, Greece, Italy, Japan, Libyan Arab Jamahiriya, Malta, Monaco, Romania, Serbia and Montenegro, Slovenia, Spain, Tunisia and Turkey.

### **(b) Procedures applicable to the decision**

14. The procedures for the selection of the Executive Secretary are set out in the decision adopted by the Commission, at its Extraordinary Session, held in St. Julians, Malta, 19-23 July 2004, the Rules of Procedure of the Commission and the General Rules of the Organization.

15. The procedure for the selection of the Executive Secretary, as approved by the Commission, at its Extraordinary Session, is a complex one, involving a number of sequential steps carried out over a period of time. The Members have submitted to the Screening Committee their list of preferences in respect of five candidates. The Screening Committee will have *“calculated those preferences and notify the top five candidates to the GFCM Members”*. The five

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<sup>2</sup> Report of the Extraordinary Session of the GFCM, St Julians, Malta, 19-23 July 2004, paragraph 18. Subject to the principle of the alternative exercise of membership rights between the European Community and its Member States that are Members of the Commission as provided in document GFCM/XXIX/2005/Inf. 9.

<sup>3</sup> Report of the Extraordinary Session of the GFCM, St Julians, Malta, 19-23 July 2004, paragraph 18. Subject to the principle of the alternative exercise of membership rights between the European Community and its Member States that are Members of the Commission as provided in document GFCM/XXIX/2005/Inf. 9.

candidates with the greatest number of points will have been invited by the GFCM Chairman to the Session for interview by the Heads of Delegation of Commission Members. It is assumed that the interviews will take place during the session, under the chairmanship of the GFCM Chairman. The Chairman, in consultation with the Heads of Delegation will establish a list of 5 questions which shall be posed to all five candidates during their separate interviews lasting a maximum of 50 minutes each. At the end of the interview process:

*“(...) a first round of voting shall be held and the two candidates receiving the least number of votes shall be eliminated from the selection process. A second round of voting shall then be held between the remaining three candidates and the candidate receiving the least number of votes shall be eliminated. Should two of the candidates have an equal number of points, a separate vote shall be held between them to eliminate one candidate. A vote shall then be taken between the final two candidates and he or she receiving the most votes shall be selected”.*

16. The various ballots provided for in the above procedure will be secret ones, consistent with Rule IX, paragraph 4 of the Rules of Procedure whereby *“Voting on matters relating to individuals (...) shall be by secret ballot”*, consistent also with the relevant provisions of the General Rules of the Organization. In the event that a candidate should obtain at the first or second ballot the required majority, there would of course be no need to hold additional ballots.

17. The above process, involving successive ballots, is aimed at selecting the Executive Secretary by a majority of the votes cast (Cf. Article II, paragraph 2 of the GFCM Agreement). Again, the procedures referred to in connection with the decision on the headquarters apply. Votes cast means, in means *“affirmative and negative votes, and shall not include abstentions or defective ballots”* (Cf. Rule XII, paragraph 4 (a) of the General Rules of the Organization). *“Any ballot paper carrying votes for more candidates than there are vacancies to be filled, or carrying a vote for an individual, nation or locality not validly nominated, shall be considered defective”* (Cf. Rule XII, paragraph 4 (d)(i) of the General Rules of the Organization). *“The ballot paper shall carry no other notation or mark than those required for the purpose of indicating the vote”* (Cf. Rule XII, paragraph 4 (iii) of the General Rules of the Organization). Subject to these provisions, *“a ballot paper shall be considered valid when there is no doubt as to the intention of the elector”* (Cf. Rule XII, paragraph 4 (d)(iv) of the General Rules of the Organization).

#### **CONDUCT OF A SECRET BALLOT**

18. The General Rules of the Organization contain a number of provisions on the practical procedures regarding the conduct of a vote that are not dealt with either by the GFCM Agreement or the Rules of Procedure of the Commission, and which apply, *mutatis mutandis*, to the secret ballots to be held.

19. These are set out in Rule XII, paragraph 10, as follows:

- (c) *“(i) For the purpose of a secret ballot the Chairman of the Conference or Council shall appoint two tellers from among delegates or representatives, or their alternates. In the case of a secret ballot for an election, the teller shall be delegates or representatives, or their alternates, who are not parties directly interested in the election.*
- (ii) 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, and certify the result of each ballot.*
- (iii) The same tellers may be appointed for successive ballots or elections.*
- (d) *Ballot papers shall be duly initialled by an authorized officer of the secretariat of the Conference or Council. The elections officer 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.*

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- (e) *For a vote by secret ballot, 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 ballot paper, he may, before leaving the precinct of the pooling booths, request a new blank ballot paper, which shall be delivered to him by the election officer on the surrender of the invalidated ballot paper. The invalidated ballot paper shall remain in the custody of the elections officer.*
  - (g) *Should the tellers withdraw from the presence of the delegates or representatives in order to carry out the count of the votes, only the candidates or scrutineers appointed by the candidates may attend the count, but they shall not taken part in the count.*
  - (h) *Members of delegations and of the secretariat of the Conference or Council who are responsible for the supervision of any vote by secret ballot shall not disclose to any authorized person any information which might tend, or be presumed to tend, towards destroying the secrecy of the ballot.*
- (...)”

20. It is suggested that two tellers be appointed to perform the above functions. They could be preferably from delegations of Members which have neither submitted a candidature for the headquarters of the Commission, nor have one of its nationals as candidate for the position of Executive Secretary.