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SOUTH WEST INDIAN OCEAN FISHERIES COMMISSION

First Session

Mombasa, Kenya, 18-20 April 2005

RESOLUTION AND STATUTES OF THE SOUTH WEST INDIAN OCEAN FISHERIES COMMISSION

The Hundred and Twenty-seventh Session of the FAO Council was held in Rome from 22 to 27 November 2004 under the Chairmanship of Aziz Mekouar, Independent Chairman of the Council.

The Council adopted the following Resolution:

Resolution 1/127 Statutes of the South West Indian Ocean Fisheries Commission

THE COUNCIL,

NOTING the wishes expressed to the FAO Council, at its One Hundred and Sixteenth Session in June 1999, by the former members of the Committee for the Development and Management of Fisheries Resources in the South West Indian Ocean, i.e. Comoros, France, Kenya, Madagascar, Mauritius, Mozambique, Seychelles, Somalia and Tanzania, for the establishment of a regional organization to promote the sustainable development, conservation, rational management and best utilization of fisheries resources in the region with special emphasis on fisheries targeted at non-tuna species;

TAKING INTO CONSIDERATION that the coastal States have established areas of national jurisdiction in accordance with the United Nations Convention on the Law of the Sea of 10 December 1982, and general principles of international law, in the exercise of their sovereign rights for the purpose of exploring and exploiting, conserving and managing the living marine resources in those areas;

NOTING the objectives and purposes stated in Chapter 17 of Agenda 21 adopted by the United Nations Conference on Environment and Development in 1992;

RECOGNIZING the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 and taking into account the Code of Conduct for Responsible Fisheries, 1995;

RECOGNIZING FURTHER the economic and geographical considerations and the special requirements of developing States, including small-island developing States, and their coastal communities, for equitable benefit from living marine resources;

RECOGNIZING FURTHERMORE that the coastal States in the region face common or similar problems in the development and proper utilization of the fisheries resources in their coastal waters, and need a mechanism for international cooperation in facing these common or similar problems, which would be furthered by the establishment of an advisory commission on fisheries management and development;

HEREBY ESTABLISHES under Article VI.1 of the Constitution of the Organization a fisheries advisory commission, to be known as the South West Indian Ocean Fisheries Commission, the Statutes of which are attached to this Report as *Appendix E*.

(Adopted on 25 November 2004)

STATUTES OF THE SOUTH WEST INDIAN OCEAN FISHERIES COMMISSION (SWIOFC)

1. Area of Competence

The area of competence of the Commission shall be all the waters of the South West Indian Ocean within the national jurisdiction of coastal States within the area of competence, being all waters of the Indian Ocean bounded by a line drawn as follows: from a point on the high water mark on the East African coast at latitude 10° 00 N, thence due east along this parallel to the longitude 65°00 E, thence due south along this meridian to the equator, thence due east along this parallel to the longitude 80° 00 E, thence due south along this meridian to a parallel 45° 00 S, thence due west along this parallel to the longitude 30° 00 E, thence due north along this meridian to the coast of the African Continent, as shown in the map in the Annex to these Statutes.

2. Species

The Commission shall cover all living marine resources, without prejudice to the management responsibilities and authority of other competent fisheries and other living marine resources management organizations or arrangements in the area.

3. Membership

The Commission shall be composed of such Members and Associate Members of the Organization that are coastal States, whose territories are situated wholly or partly within the area of the Commission, and that notify in writing to the Director-General their interest in becoming a member of the Commission.

4. Objectives and functions of the Commission

Without prejudice to the sovereign rights of coastal States, the Commission shall promote the sustainable utilization of the living marine resources of the area of the Commission, by the proper management and development of the living marine resources, and address common problems of fisheries management and development faced by the Members of the Commission. To this end, the Commission shall have the following functions and responsibilities:

- a. to contribute to improved governance through institutional arrangements that encourage cooperation amongst members;
- b. to help fishery managers in the development and implementation of fishery management systems that take due account of environmental, social and economic concerns;
- c. to keep under review the state of the fishery resources in the area and the industries based on them;
- d. to promote, encourage and coordinate research related to the living marine resources in the area and draw up programmes required for this purpose, and to organize such research as may be necessary;
- e. to promote the collection, exchange, dissemination and analysis or study of statistical, biological, environmental and socio-economic data and other marine fishery information;

- f. to provide a sound scientific basis to assist Members in taking fisheries management decisions;
- g. to provide advice on management measures to member governments and competent fisheries organizations;
- h. to provide advice and promote co-operation on monitoring, control and surveillance, including joint activities, especially as regards issues of a regional or sub-regional nature;
- i. to encourage, recommend and coordinate training in the areas of interest of the Commission;
- j. to promote and encourage the utilization of the most appropriate fishing craft, gear, fishing techniques and post harvesting technologies;
- k. to promote liaison with all competent institutions within the area served by the Commission and adjacent waters, including in particular any agreement or arrangement for the management and conservation of the high seas non-tuna fisheries resources of the Southern Indian Ocean, the Indian Ocean Tuna Commission, the South East Atlantic Fisheries Organization and the Commission for the Conservation of the Antarctic Marine Living Resources;
- l. to seek funds and other resources to ensure the long-term operations of the Commission;
- m. to draw up its plan of work;
- n. to carry out such other activities as may be necessary for the Commission to achieve its objectives, as defined above.

5. General Principles

The Commission shall have due regard for and promote the application of the provisions of the FAO Code of Conduct on Responsible Fisheries, including the precautionary approach and the ecosystem approach to fisheries management.

6. Institutions

- 1. Meetings of the Commission shall be held at least once every two years, taking into account the provisions of paragraph 10 below.
- 2. The Commission shall establish a Scientific Committee to consider the state of fisheries in the area of competence and to advise on the scientific basis for possible regulatory measures to be considered for adoption by the members of the Commission. The Commission shall define the functions of the Scientific Committee.
- 3. The Commission may establish, on an *ad hoc* basis, such other committees or working parties as it may consider necessary on problems of major importance or of a specialized nature.
- 4. The establishment of any subsidiary body shall be subject to the determination by the Director-General that the necessary funds are available in the relevant chapter of the budget of the Organization. Before taking any decision involving expenditure in connection with the establishment of subsidiary bodies the Commission must have before it a report from the Director-General on the administrative and financial implications thereof.

7. Reporting

The Commission shall submit to the Director-General reports on its activities and recommendations at such appropriate intervals as to enable the Director-General to take them into consideration when preparing the draft Programme of Work and Budget of the Organization and other submissions to the Conference, Council or Committees of the Council. The Director-General shall bring to the attention of the Conference through the Council recommendations adopted by the Commission which have policy implications or which affect the programme or finances of the Organization. Copies of each report of the Commission shall be circulated

to Members of the Commission and to other Member Nations and Associate Members of the Organization and international organizations for their information, as soon as they become available.

8. Observers

1. Any Member Nation or Associate Member of the Organization that is not a member of the Commission may, upon its request, be represented in an observer capacity at meetings of the Commission.
2. States which, while not Members of the Organization, are members of the United Nations, any of its Specialized Agencies or the International Atomic Energy Agency may, upon their request, and with the approval of the Commission be represented in an observer capacity in accordance with the provisions adopted by the Conference of the Organization relating to the granting of observer status to Nations.
3. The Commission shall provide for the participation of intergovernmental and, on request, international non-governmental organizations having special competence in the field of activity of the Commission in its meetings as observers in accordance with its Rules of Procedure.
4. Participation of international organizations in the work of the Commission and relations between the Commission and such organizations shall be governed by the relevant provisions of the Constitution and General Rules of the Organization as well as the rules on relations with international organizations adopted by the Conference and Council of the Organization.

9. Rules of Procedure

The Commission may adopt and amend its own rules of procedure which shall be in conformity with the Constitution and General Rules of the Organization and with the Statement of Principles Governing Commissions and Committees adopted by the Conference. The rules of procedure and amendments thereto shall come into force upon approval by the Director-General.

10. Co-operation with any agreement or arrangement for the management and conservation of the high seas fisheries resources of the Southern Indian Ocean

The Commission, acting through the Director-General, shall establish close working relations with any agreement or arrangement for the management and conservation of the high seas fisheries resources of the Southern Indian Ocean. Such working relations shall, in particular:

- a. provide, as far as possible, for the holding of back-to-back meetings with any such agreement or arrangement;
- b. ensure, as far as possible, the informed and effective participation of members of the Commission that are Contracting Parties to any such agreement or arrangement in meetings of such agreement or arrangement;
- c. Ensure that the Commission is adequately informed on the activities of any such agreement or arrangement.

Annex I. The Geographical Area of Competence and possible EEZ external limit (200 nautic miles).

