

Rules of Procedure

Rules of Procedure of the North East Atlantic Fisheries Commission (NEAFC) adopted at the 32nd Annual Meeting, November 2013 and as amended at the 39th Annual Meeting November 2020

Chapter 1 - Representation

1. Each Contracting Party shall appoint to the Commission its representative, and shall also appoint an alternate representative, who shall represent the Contracting Party at meetings of the Commission, unless a Contracting Party notifies the Secretary otherwise. They shall have primary responsibility for liaison with the Secretary between meetings.
2. For meetings of the Commission, the representative(s) may be accompanied by experts and advisers. Contracting Parties shall inform the Secretary of the names of their experts and advisers expected to attend each meeting, in advance of the meeting.
3. The Commission may invite any Government or organisation to be represented at its meetings by observer delegations, pursuant to Chapter 7 of these Rules of Procedure.

Chapter 2 - President and Vice-President

4. The Commission shall elect a President and a Vice-President.
5. The President shall be elected from among the Contracting Parties for a term of two years and shall be eligible for re-election, but shall not serve more than two terms in succession. A representative of a Contracting Party who is elected President shall no longer represent that Contracting Party.
6. The term of office of the incumbent President terminates at the end of the year in which the successor is elected. The term of office of the new President shall start on 1 January of the following year.
7. In the event of the office of President falling vacant, the Commission shall elect a new President at its earliest opportunity.
8. The President shall have the following powers and responsibilities:
 - a. convene meetings of the Commission in accordance with Article 3(6) of the Convention;

- b. determine a provisional agenda for meetings of the Commission after consultation with Contracting Parties, including any item proposed by a Contracting Party provided an explanatory memorandum is submitted for each item;
 - c. preside at meetings of the Commission;
 - d. open and close meetings of the Commission;
 - e. make rulings on points of order raised at meetings of the Commission, provided that each Contracting Party retains the right to request that any such ruling be submitted to the Commission for a decision;
 - f. make rulings as to the interpretation or application of any of these Rules of Procedure, provided that each Contracting Party retains the right to request that any such ruling be submitted to the Commission for a decision;
 - g. call for and announce the results of votes at meetings of the Commission;
 - h. to oversee the finalisation of a report of the proceeding of each meeting of the Commission; and
 - i. exercise such powers and responsibilities as provided in these Rules of Procedure and make such decisions and give such directions to the Secretary as will ensure that the business of the Commission is carried out effectively and in accordance with its decisions.
9. The Vice-President shall be elected from among the Contracting Parties for a term of two years and shall be eligible for re-election. The Vice-President shall remain in office until the end of the year in which his or her successor is elected but may resign at any time. In the event of an office of Vice-President falling vacant, the Commission shall elect a new Vice-President at the next meeting. In the event of the office of President falling vacant the Vice-President shall act as President until a new President is elected; he or she shall also act as President whenever the President is unable to act. A Vice-President who is a member of a delegation shall not act in that capacity while he or she is acting as President; the Contracting Party of which he or she is a representative shall during any such period appoint another person to represent it in his or her place.
10. The same Contracting Party shall not provide the President and the Vice-President.

Chapter 3 - Meetings

11. At each meeting of the Commission, a decision on the place and time for the next meeting shall be made in accordance with Article 3(6) of the Convention.
12. Attendance by two-thirds of the Contracting Parties shall constitute a quorum for opening a meeting of the Commission.
13. Except with the unanimous agreement of all the Contracting Parties, no item of business which involves the recommendation of measures under Articles 5, 6, 7, or 8 of the Convention or the amendment of the Rules of Procedure or other standing rules, shall be the subject of a decision by the Commission, unless the subject matter has been included in the provisional agenda for the meeting.
14. The official language of the Commission shall be English. Reports of meetings of the Commission shall be transmitted to the Contracting Parties in English.

Chapter 4 – Secretary

15. The Commission shall appoint a Secretary for a term of four years, who shall be eligible for re-appointment for one further term. The Secretary shall, on behalf of the Commission, appoint other members of staff as deemed necessary.
16. The Secretary shall be the executive officer of the Commission and shall have the following functions:
 - a. the management of the Commission's office;
 - b. transmitting recommendations and other decisions adopted by the Commission without undue delay after each meeting of the Commission to Contracting Parties and observers;
 - c. transmitting the draft report of each meeting of the Commission to Contracting Parties and observers, as soon as possible and no later than two weeks after the closing of the meeting;
 - d. notifying Contracting Parties of any objections to, withdrawals from or terminations of recommendations and of the entry into force of any recommendations or agreement between Contracting Parties to give effect to a recommendation;

- e. communicating to Contracting Parties any information submitted to the Secretary pursuant to Article 16 of the Convention;
- f. preparing draft budgets and draft budget estimates, calculating and notifying Contracting Parties of contributions due, and for the receipt and disbursement of all monies received by the Commission in accordance with the rules adopted by the Commission for the conduct of its financial affairs;
- g. preparing a draft provisional agenda in consultation with the President, after which it shall be communicated to the Contracting Parties in time for them to be able to make comments and suggest amendments before the President determines the provisional agenda;
- h. communicating to all Contracting Parties and invited observers the provisional agenda determined by the President, no later than 60 days before the opening of the meeting;
- i. notifying Contracting Parties of any proposed amendments to the Convention;
- j. providing secretarial services for all meetings of the Commission and of its Committees and other subsidiary bodies;
- k. acting as directed by the President, in accordance with Rule 8(i), to ensure that the business of the Commission is carried out effectively and in accordance with its decisions; and
- l. performing such other functions as may be assigned by the Commission.

Chapter 5 – Committees and other subsidiary bodies

- 17. Pursuant to Article 3(8) of the Convention, the Commission shall establish, *inter alia*, the following Committees:
 - a. Finance and Administration Committee;
 - b. Permanent Committee on Control and Enforcement; and
 - c. Permanent Committee on Management and Science.
- 18. The terms of reference of all Committees and other subsidiary bodies shall be determined by the Commission. In the case of the Finance and Administration Committee the terms of reference shall be determined in the Financial Rules.

19. Each Committee shall elect a Chair and a Vice-Chair.
20. The relevant provisions of these Rules of Procedure apply, *mutatis mutandis*, to Committees and other subsidiary bodies, unless they adopt their own rules of procedure.
21. Reports of the meetings, including relevant proposals, of Committees and other subsidiary bodies shall be made available to the Commission.

Chapter 6 - Decision Making

22. The Commission shall endeavour to make decisions on the basis of consensus. In cases where the Contracting Parties are unable to reach consensus, a decision shall be made through voting, in accordance with Article 3(9) of the Convention. Attendance by two-thirds of the Contracting Parties shall constitute a quorum for making decisions.
23. The Commission shall only consider proposals by:
 - a. one or more Contracting Parties; or
 - b. a Committee or other subsidiary body set up in accordance with Article 3(8) of the Convention.
24. A proposal agreed by consensus by a Committee or other subsidiary body shall be considered as constituting a proposal made jointly by all Contracting Parties, for the purposes of Articles 6 and 8.2 of the Convention.
25. Any proposed amendment to an existing proposal before the Commission shall be voted on prior to voting on the initial proposal.
26. Where any proposal before the Commission can be divided into separate parts, the President may, with the agreement of the majority of the Contracting Parties present, put each part to the vote separately.
27. Votes shall be taken by a show of hands, by a roll call in the English alphabetical order of the names of the Contracting Parties, or by a ballot, as determined by the Commission. The President shall call for votes where required and announce their results to the Commission.
28. Where a proposal requiring a decision of the Commission is made between meetings of the Commission, the decision shall be made through written communication. The Secretary shall without undue delay communicate to all Contracting Parties the proposal and the closing date of a 30-day period that Contracting Parties have to reply. The Secretary shall ensure that the communication has been received by all Contracting

Parties. The response from each Contracting Party shall be communicated to the Secretary and shall include a notification as to whether it votes in favour of the proposal, votes against the proposal or abstains. The Secretary shall immediately communicate the outcome of this decision-making process to all Contracting Parties, initiating, if relevant, the objection period as set out in Article 12 of the Convention. If a Contracting Party fails to respond within the 30-day period, it will be recorded as having abstained and be considered part of the relevant quorum for decision-making.

Chapter 7 – Observers

States and Intergovernmental Organisations

29. The Secretary shall invite to attend plenary meetings of the Commission, as observers, the following:
 - a. States that have been granted the status of co-operating non-Contracting Parties pursuant to the Scheme of Control and Enforcement;
 - b. States whose vessels have been identified as engaging in fishing activities in the Regulatory Area, or where appropriate the Convention Area;
 - c. States which seek to attend as observers, as the work of NEAFC is of interest to them; and
 - d. intergovernmental organisations whose work is of interest to NEAFC or *vice versa*.

Non-Governmental Organisations

30. Subject to the conditions established under this Chapter, non-governmental organisations (NGOs) including environmental organisations and fishing industry organisations that support the objective of the Convention and are in good standing, shall be eligible to participate as observers in all plenary meetings of the Commission.
31. Any NGO seeking to participate as an observer in a meeting of the Commission shall apply to the Secretary at least 60 days in advance of the meeting. This application must include:
 - a. a brief history of the organisation and a description of its activities;

- b. aims and purposes of the organisation and a statement that it generally supports the objective of the Convention;
 - c. information on the organisation's total number of members, its decision making process and its funding;
 - d. description of which aspects of the work of NEAFC where the organisation has a particular interest;
 - e. representative papers and other similar resources produced by or for the organisation on the conservation, management, or science of fishery resources to which the Convention applies;
 - f. observer status granted/revoked in other regional fisheries management organisations; and
 - g. name, address and e-mail address of the person(s) proposed to represent the organisation.
32. The Secretary shall promptly forward to the Contracting Parties applications received within the prescribed time. If one or more of the Contracting Parties object within 20 days, giving in writing their reasons, the matter will be put to a vote by written procedure. Applications will then be considered as accepted in accordance with the procedures laid down in Article 3(9) of the Convention at least 10 days prior to the meeting. The Secretary shall also circulate any reasons given in a preliminary objection as well as any comments that Contracting Parties may include with their vote on this matter.
33. A total of up to two persons representing the environmental NGOs and a total of up to two persons representing the fishing industry NGOs that have been admitted as observers to the previous meeting of the Commission shall be permitted to participate in meetings of the Permanent Committee on Management and Science (PECMAS). The relevant NGOs shall decide among themselves the persons who shall participate in the PECMAS meetings, and notify the Secretary of their decision. These persons shall have relevant knowledge of the work undertaken by PECMAS.

General requirements for all observers

34. Observers that have been admitted to the previous meeting of the Commission may be invited by subsidiary bodies by consensus to participate in all or part of their meetings.

35. Notwithstanding Rule 34, if two Contracting Parties so request, particular agenda items of a subsidiary body meeting, or parts thereof, shall be limited to delegates representing Contracting Parties.
36. Observers admitted to a meeting of the Commission or a subsidiary body may:
 - a. make oral statements during the meeting upon invitation of the President or the Chair of a subsidiary body;
 - b. distribute documents at the meetings through the Secretary; and
 - c. engage in other activities as appropriate and as approved by the President or the Chair of a subsidiary body.
37. Observers admitted to a meeting of the Commission or a subsidiary body shall not:
 - a. vote;
 - b. use visual or sound recording devices to record meeting proceedings; or
 - c. issue press releases or other information to the media or use social media to publish information on agenda items under discussion during any NEAFC meetings.
38. If additional expenses are incurred by their participation, observers will be required to pay a fee, as determined by the Secretary.
39. The Secretary will determine whether, due to conference room capacity, seating limitations require that a limited number of observers may be present at any meeting. The Secretary will transmit any such determination in the conditions of participation.
40. All observers admitted to a meeting shall be sent or otherwise receive the same documentation generally available to Contracting Parties and their delegations, except those documents deemed confidential by a Contracting Party or the Secretary.
- 40bis. All observers admitted to a meeting shall comply with all rules and procedures applicable to other participants in the meeting. Failure to conform to these rules or any other rules that NEAFC may adopt for the conduct of observers may result in removal from the meeting by the presiding officer and revocation of observer status.

Chapter 8 - Dispute Settlement

41. In accordance with Articles 12 and 13 of the Convention the following procedure should be followed: A Contracting Party which presents an objection to a recommendation in accordance with Article 12 or gives notice of the termination of its acceptance of a recommendation in accordance with Article 13, shall give a statement of the reasons for its objection or notice and a declaration of its intentions following the objection or notice, including a description of any alternative conservation and management measures which the Contracting Party intends to take or has already taken.
42. In accordance with Article 18 bis of the Convention , the following procedures for the settlement of disputes are established:
 - a. Contracting Parties shall co-operate in order to prevent disputes referred to in Rules (b) and (c).
 - b. If any dispute arises between two or more Contracting Parties concerning the interpretation or application of the Convention, those Contracting Parties shall expeditiously seek to resolve the dispute by consultation, negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.
 - c. Where a dispute concerns the application of the Convention or the interpretation or application of a recommendation adopted by the Commission, the parties to the dispute may refer the dispute to an *ad hoc* panel constituted in accordance with Annex 1 to these Rules of Procedure. The panel shall at the earliest possible opportunity confer with the Contracting Parties concerned and shall endeavour to resolve the dispute expeditiously.
 - d. Where the parties to a dispute have agreed to refer the dispute to the *ad hoc* panel procedure, they may agree at the same time to apply provisionally the relevant recommendation adopted by the Commission until the panel finalizes its work or the dispute is resolved by the parties to the dispute, whichever occurs first. Pending the settlement of a dispute in accordance with Rule (e), the parties to the dispute shall apply provisionally any measure described by the panel. That provisional application shall cease when the parties to the dispute agree on arrangements of equivalent effect, when a judicial body to which the dispute has been referred in accordance with Rule (e) has taken a provisional or definitive

decision or, in any case, at the date of expiration of the recommendation of the Commission at issue.

- e. Where a dispute is not resolved by recourse to the means set out in Rules (b) and (c), one of the parties to the dispute may refer the dispute to compulsory procedures entailing binding decisions. Such procedures shall be governed *mutatis mutandis* by the provisions relating to the settlement of disputes set out in Part XV of the United Nations Convention on the Law of the Sea of 10 December 1982 (1982 UN Convention) or, where the dispute concerns one or more straddling stocks, by the provisions set out in Part VIII of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 August 1995 (1995 Agreement). The relevant parts of the 1982 UN Convention and the 1995 Agreement shall apply whether or not the parties to the dispute are also Parties to these instruments.
- f. A panel or judicial body to which any dispute has been referred under this Rule shall apply, as appropriate, the relevant provisions of the Convention, of the 1982 UN Convention, of the 1995 Agreement, and other rules of international law compatible with the said instruments, as well as recommendations of the Commission which are applicable to the parties of the dispute, with a view to ensuring the conservation and optimum utilisation of the fish stocks concerned.

Annex 1 - Rules concerning the ad hoc panel on dispute settlement

Rules concerning the *ad hoc* panel on dispute settlement pursuant to Chapter 8 of the Rules of Procedure of the Commission

1. These rules are adopted pursuant to Article 18bis of the Convention, and Rule 42 of the Rules of Procedure of the Commission^[1].
2. Any Contracting Party shall by electronic means notify another Contracting Party of its request to refer a dispute it has with that Contracting Party to an *ad hoc* expert panel, hereafter “the Panel”, sending a copy to the Secretary. Such a notification shall be accompanied by a full description of the subject matter as well as grounds relied upon.

The other Contracting Party shall promptly acknowledge the receipt of the notification.

3. The other Contracting Party shall within 15 days of receiving the notification decide on whether to agree or not to refer the dispute to the Panel. The other Contracting Party shall communicate whether it agrees or not to the Contracting Party that notified its request and to the Secretary. In the event that the other Contracting Party does not respond within 15 days it shall be regarded as not having agreed.
4. The Secretary shall promptly transmit a copy of the notification with the documents attached to it to all Contracting Parties.
5. Where another Contracting Party wishes to become a party to the dispute, it may join the process of constituting the *ad hoc* panel, unless the original parties to the dispute disagree. The Contracting Party wishing to become a party to the dispute shall notify this intention within 15 days after having received the notification contained in paragraph 4.
6. Unless the parties to the dispute agree otherwise, the following shall apply:
 - a. The Panel shall consist of three members;
 - b. Each party to the dispute shall appoint one panelist and inform the Secretary of that appointment at the latest 15 days after the communication of the agreement to the constitution of the Panel by the other party;
 - c. The parties to the dispute shall appoint the third panelist by mutual agreement, and inform the Secretary of the appointment at the latest 15 days after the appointment of the two other panelists. If they are unable to agree on the appointment of the third panelist, they may agree at the latest at the end of this 15 days period that the appointment shall be made by the President of NEAFC or any other person. In case that no agreement has been found, the appointment shall be made by the President of the International Tribunal for the Law of the Sea;
 - d. The third panelist shall not be a national of any Contracting Party involved in the dispute or of the same nationality as either of the other panelists;
 - e. The panelists may be selected from a list of experts established and maintained by the Secretary on the basis of nominations made by the Contracting Parties, who may nominate up to five experts each

who have competence in legal, scientific or technical aspects concerning the NEAFC Convention, and shall provide information on relevant qualifications and experience; and

- f. The third panelist shall chair the Panel.
7. As soon as the panelists are nominated, the Secretary shall record the constitution of the Panel, and inform all Contracting Parties accordingly.
8. The Panel may adopt such rules of procedure as it considers necessary for effective and expeditious proceedings.
9. The Panel shall inform the Secretary of dates and venue of hearings. The Secretary shall inform all Contracting Parties accordingly.
10. Any Contracting Party may, upon notification to the Panel, attend any hearings, and make written or oral submissions.
11. The Panel may seek information or technical advice from any source it considers appropriate.
12. The Panel shall seek to agree on its recommendations to resolve the dispute by consensus. If this is not possible, the Panel shall agree by a majority vote of its members, none of whom may abstain from voting.
13. Unless the parties to the dispute agree on a later date, the panel shall deliver its recommendations within ninety days from the date of its constitution.
14. The recommendations shall be confined to the subject matter of the dispute and set out the reasons on which they are based. The Secretary shall promptly communicate them to all Contracting Parties.
15. Costs of the Panel shall be borne by the parties to the dispute in equal parts.

^[1] Reference is made to the objection of 31 July 2013 from the Russian Federation in relation to the amendment “a” to the Convention, which was proposed by the European Union on 24 July 2003 and adopted unanimously at the 23rd Annual Meeting of the Contracting Parties to the Convention. The effective application of this Annex is contingent upon a revocation of the above-mentioned objection from the Russian Federation of 31 July 2013.