

Financial Regulations

Financial Regulations¹

Regulation 1 **Applicability**

1.1 These Regulations shall govern the financial administration of the Commission for the Conservation of Antarctic Marine Living Resources (hereinafter referred to as ‘the Commission’) and the Scientific Committee for the Conservation of Antarctic Marine Living Resources (hereinafter referred to as ‘the Scientific Committee’) established under Articles VII(1) and XIV(1) of the Convention on the Conservation of Antarctic Marine Living Resources (hereinafter referred to as ‘the Convention’).

Regulation 2 **Financial year**

2.1 The financial year shall be for 12 months commencing 1 January and ending 31 December, both dates inclusive.

Regulation 3 **The budget**

3.1 A draft budget comprising estimates of receipts by the Commission and of expenditures by the Commission and the Scientific Committee and any subsidiary bodies established pursuant to Articles XIII(6) and XVI(3) of the Convention shall be prepared by the Executive Secretary for the ensuing financial year.

3.2 The draft budget shall include a statement of the significant financial implications for subsequent financial years in respect of any proposed work programs presented in terms of administrative, recurrent and capital expenditure.

3.3 The draft budget shall be divided by functions into items and, where necessary or appropriate, into sub-items.

3.4 The draft budget shall be accompanied by details both of the appropriations made for the previous year and estimated expenditure against those appropriations, together with such information annexures as may be required by Members of the Commission or deemed necessary or desirable by the Executive Secretary. The precise form in which the draft budget is to be presented shall be prescribed by the Commission.

3.5 The Executive Secretary shall submit the draft budget to all Members of the Commission at least 60 days prior to the annual meeting of the Commission, as provided for in

¹ As adopted at CCAMLR-I (paragraph 23) and amended at CCAMLR-XIII (Annex 4, Appendix 1), CCAMLR-XVII (Annex 4, Appendix III), CCAMLR-XVIII (paragraph 3.5; Annex 4, paragraph 38), CCAMLR-XXI (Annex 4, paragraph 23), CCAMLR-XXX (Annex 5, paragraph 22), CCAMLR-XXXI (Annex 7, paragraph 4.15), CCAMLR-XXXVII (Annex 7, paragraphs 20 to 26) and CCAMLR-42 (paragraph 10.8).

Article XIX(2) of the Convention. At the same time, and in the same form as the draft budget, he shall prepare and submit to all Members of the Commission a forecast budget for the subsequent financial year.

3.6 The draft budget and the forecast budget shall be presented in Australian dollars.

3.7² At each annual meeting, the Commission shall adopt by consensus its budget and the budget of the Scientific Committee.

Regulation 4 Appropriations

4.1 The appropriations adopted by the Commission shall constitute an authorisation for the Executive Secretary to incur obligations and make payments for the purposes for which the appropriations were adopted.

4.2 Unless the Commission decides otherwise, the Executive Secretary may also incur obligations against future years before appropriations are adopted when such obligations are necessary for the continued effective functioning of the Commission, provided such obligations are restricted to administrative requirements of a continuing nature not exceeding the scale of such requirements as authorised in the budget of the current financial year. In other circumstances the Executive Secretary may incur obligations against future years only as authorised by the Commission.

4.3 Appropriations shall be available for the financial year to which they relate. At the end of the financial year all appropriations shall lapse. Commitments remaining undischarged against previous appropriations at the end of a financial year shall be carried over and be included in the budget for the next financial year, unless the Commission otherwise decides.

4.4 The Chairman may authorise the Executive Secretary to make transfers of up to 10 per cent of appropriations between items. The Chairman of the Standing Committee on Administration and Finance may authorise the Executive Secretary to make transfers of up to 10 per cent of appropriations between categories within expenditure items. The Executive Secretary may authorise the transfer of up to 10 per cent of appropriations between expenditure items. All transfers must be reported by the Executive Secretary to the next annual meeting of the Commission.

4.5 The conditions under which unforeseen and extraordinary expenses may be incurred, as agreed by the Commission, are provided in Annex 1 to the Financial Regulations.

Regulation 5 Provision of funds

5.1 Each Member of the Commission shall contribute to the budget in accordance with Article XIX(3) of the Convention.

² Article XIX(1) of the Convention on the Conservation of Antarctic Marine Living Resources.

5.2 Staff Assessment Levy paid by an employee of the Commission shall be regarded by the Commission as payment towards the annual budget contribution for the year.

5.3 On approval of the budget for a financial year, the Executive Secretary shall send a copy of that budget to all Members of the Commission notifying them of their contributions and requesting them to remit their contributions due. A Member of the Commission that fails to pay its contributions for two consecutive years shall not, during the period of its default, have the right to participate in the taking of decisions in the Commission.

5.4 All contributions shall be made in Australian dollars.

5.5 (a) A new Member of the Commission whose membership becomes effective during the first six months of the financial year shall be liable to pay the full amount of the annual contribution which would have been payable had it been a Member of the Commission when assessments were made under Article XIX(3) of the Convention. A new Member whose membership becomes effective during the last six months of the financial year, shall be liable to pay half of the amount of the annual contribution referred to above;

(b) Where contributions are received from new Members the contributions of existing Members shall be adjusted in accordance with Regulation 6.1(d).

5.6 Contributions shall be due for payment on the first day of the financial year, 1 January (i.e. the due date). Contributions shall be paid not later than 31 May (extended period of payment), recognising that submission of payments later in the extended period of payment may impact the Secretariat's ability to meet its financial obligations. However, in the case referred to in Regulation 5.5(a), contributions by a new Member shall be made within 90 days following the date on which its membership becomes effective.

5.7 The Executive Secretary shall report to each meeting of the Commission on the receipt of the contributions and the position of arrears.

Regulation 6

Funds

6.1 (a) There shall be established a General Fund for the purpose of accounting for the income and expenditure of the Commission and Scientific Committee and any subsidiary bodies established pursuant to the Convention;

(b) Contributions paid by Members under Regulation 5.1 and miscellaneous income to finance general expenditure shall be credited to the General Fund;

(c) Any cash surplus in the General Fund at the close of a financial year that is not required to meet undischarged commitments in terms of Regulation 4.3 shall be transferred to the Working Capital Fund (WCF) until the WCF reaches the cap of 3 months of annual budgeted expenditure. After transfers to the WCF, a balance above A\$100 000 in the General Fund at year end shall, if decided by the

Commission, be divided in proportion to the contributions made by existing Members under Regulation 5.1 in the current financial year and used to offset such Members' contributions for the ensuing financial year;

- (d) Where contributions are received from new Members after the commencement of the financial year and such funds have not been taken into account in formulating the budget, appropriate adjustment shall be made to the level of the assessed contributions of existing Members and such adjustments recorded as advances made by such Members;
- (e) Advances made by Members shall be carried to the credit of the Members which have made such advances.

6.2 Trust and Special Funds may be established by the Commission for the purpose of receiving funds and making payments for purposes not covered by the regular budget of the Commission.

Regulation 7

Other income

7.1 All income other than contributions to the budget under Regulation 5 and that referred to in Regulation 7.3 below, shall be classified as Miscellaneous Income and credited to the General Fund. The use of Miscellaneous Income shall be subject to the same financial controls as activities financed from regular budget appropriations.

7.2 Voluntary contributions above and beyond Members' budget contributions may be accepted by the Executive Secretary provided that the purposes for which the contributions are made are consistent with the policies, aims and activities of the Commission. Voluntary contributions offered by non-Members may be accepted, subject to agreement by the Commission that the purposes of the contribution are consistent with the policies, aims and activities of the Commission.

7.3 Voluntary contributions shall be treated as Trust or Special Funds under Regulation 6.2.

Regulation 8

Custody of funds

8.1 The Executive Secretary shall designate institutions in Australia in which the funds of the Commission shall be kept and shall report the identity of the institutions so designated to the Commission.

8.2 The Executive Secretary may make investments of moneys not needed for the immediate requirements of the Commission. Such investments shall be in accordance with the Investment principles at Annex 2. Income derived from investments shall be reported in the documents supporting the budget.

8.3 Income derived from investments shall be credited to the Fund from which the investment was made with the exception of the WCF where interest earned on this fund will be credited to the General Fund.

Regulation 9

Internal control

9.1 The Executive Secretary shall:

- (a) establish detailed financial rules and procedures in accordance with the Investment Principles at Annex 2 to ensure effective financial administration and the exercise of economy in the use of funds;
- (b) cause all payments to be made on the basis of supporting vouchers and other documents which ensure that the goods or services have been received and that payment has not previously been made;
- (c) designate officers who may receive moneys, incur obligations and make payments on behalf of the Commission; and
- (d) maintain and be responsible for internal financial control to ensure:
 - (i) the regularity of the receipt, custody and disposal of all funds and other financial resources of the Commission;
 - (ii) the conformity of obligations and expenditures with the appropriations adopted by the annual meeting; and
 - (iii) the economic use of the resources of the Commission.

9.2 No obligations shall be incurred until allotments or other appropriate authorisations have been made in writing under the authority of the Executive Secretary.

9.3 The Executive Secretary may propose to the Commission, after full investigation by him, the writing off of losses of assets, provided that a statement of all such amounts written off is submitted to the auditor with the accounts together with the justification for the write-off. Such losses shall be included in the annual accounts.

9.4 Tenders in writing for equipment, supplies and other requirements shall be invited by advertisement, or by direct requests from at least three persons or firms able to supply the equipment, supplies, or other requirements, if such exist, in connection with all purchases or contracts, the amounts of which exceed A\$50 000. For amounts exceeding A\$10 000 and less than A\$50 000, written quotations will be sought from at least three persons or firms able to supply the equipment, supplies, or other requirements. For amounts exceeding A\$2 000 and less than A\$10 000, quotes shall be obtained either by the above means or by telephone, internet or personal enquiry. The foregoing rules, shall, however, not apply in the following cases:

- (a) where it has been ascertained that only a single supplier exists and that fact is so certified by the Executive Secretary;

- (b) in case of emergency, or where, for any other reason, these rules would not be in the best financial interests of the Commission, and that fact is so certified by the Executive Secretary.

Regulation 10

The accounts

10.1 The Executive Secretary shall ensure that appropriate records and accounts are kept of the transactions and affairs of the Commission and shall do all things necessary to ensure that all payments out of the Commission's moneys are correctly made and properly authorised and that adequate control is maintained over the assets of, or in the custody of, the Commission and over the incurring of liabilities by the Commission.

10.2 The Executive Secretary shall submit to the Members of the Commission, not later than 31 March immediately following the end of the financial year, annual financial statements showing, for the financial year to which they relate:

- (a) the income and expenditure relating to all funds and accounts;
- (b) the situation with regard to budget provisions, including:
 - (i) the original budget provisions;
 - (ii) the approved expenditure in excess of the original budget provisions;
 - (iii) any other income;
 - (iv) the amounts charged against these provisions and other income;
- (c) the financial assets and liabilities of the Commission;
- (d) details of investments;
- (e) losses of assets proposed in accordance with Regulation 9.3.

The Executive Secretary shall also give such other information as may be appropriate to indicate the financial position of the Commission. These financial statements shall be prepared in a form approved by the Commission after consultation with the external auditor.

10.3 The Executive Secretary shall submit to all Members of the Commission, not later than 10 working days following the end of each financial quarter (being 31 March, 30 June, 30 September, 31 December), interim financial reports showing:

- (a) income (including interest income) and expenditures relating to all funds and accounts;
- (b) the status and performance of investments; and
- (c) other advice or information the Executive Secretary considers relevant pertaining to the financial management of the Commission.

10.4 The Executive Secretary will inform Members of significant or unforeseen financial events, particularly where such events may have substantial impact on the current or future financial position of the Commission, as soon as possible from when the Executive Secretary becomes aware of such events.

10.5 The accounting transactions of the Commission shall be recorded in the currency in which they took place but the annual financial statements shall record all transactions in Australian dollars.

10.6 Appropriate separate accounts shall be kept for all Special and Trust Funds.

10.7 The annual financial statements shall be submitted by the Executive Secretary to the external auditor in accordance with Article XIX(4) of the Convention at the same time as they are submitted to Members of the Commission under paragraph 2 of this Regulation.

Regulation 11

External audit

11.1 The Commission shall appoint an external auditor who shall be the Auditor-General or equivalent statutory authority from a Member of the Commission and shall serve for a term of two years with the possibility of re-appointment. The Commission will ensure respect for the external auditor's independence of the Commission, the Scientific Committee, their subsidiary bodies and the Commission's staff, fix the terms of office, and appropriate funds to the external auditor to meet the costs of the audit.

11.2 The external auditor or a person or persons authorised by him shall be entitled at all reasonable times to full and free access to all accounts and records of the Commission relating directly or indirectly to the receipt or payment of moneys by the Commission or to the acquisition, receipt, custody or disposal of assets by the Commission. The external auditor or a person or persons authorised by him may make copies of or take extracts from any such accounts or records.

11.3 Full audits of the Commission's Financial Statement shall be conducted annually. In performing a full audit, the external auditor shall conduct his examination of the statements in conformity with generally accepted auditing standards and shall report to the Commission on all relevant matters, including:

- (a) whether, in his opinion, the statements are based on proper accounts and records; and
- (b) whether the statements are in agreement with the accounts and records.

11.4 The Commission may also seek of the auditor a separate report on other relevant matters, including:

- (a) whether, in his opinion, the income, expenditure and investment of moneys and the acquisition and disposal of assets by the Commission during the year have been in accordance with these Regulations; and
- (b) observations with respect to the efficiency and economy of the financial procedures and the conduct of business, the accounting system, internal financial controls and the administration and management of the Commission.

11.5 The Executive Secretary shall provide the external auditor with the facilities he may require in the performance of the audit.

11.6 The Executive Secretary shall provide to the Members of the Commission a copy of the audit report and the audited financial statements within 30 days of their receipt.

11.7 The Commission shall, if necessary, invite the external auditor to attend discussions on any item under scrutiny and consider recommendations arising out of his findings.

Regulation 12

Acceptance of annual financial statements

12.1 The Commission shall, following consideration of the audited annual financial statements and audit report submitted to its Members under Regulation 11.5 of these Regulations, signify its acceptance of the audited annual financial statements or take such other action as it may consider appropriate.

Regulation 13

Insurance

13.1 The Commission may take out suitable insurances with a reputable financial institution against normal risks to its assets.

Regulation 14

General provision

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

14.2 Where the Commission or the Scientific Committee is considering matters which may lead to a decision which has financial or administrative implications, it shall have before it an evaluation of those implications from the Executive Secretary.

Rules of Procedure for the Working Capital Fund

Working Capital Fund Terms of Reference

1. These Terms of Reference will be implemented in conjunction with the other financial regulations and policies of the Commission and are intended to support the goals and strategies contained in those related regulations and policies and in strategic and operational plans. These Working Capital Fund (WCF) Terms of Reference will be reviewed regularly every four years and adjusted in response to internal and external changes.

2. The purpose of the WCF is to build and maintain an adequate level of funds to support the organisation's day-to-day operations in the event of cash flow shortfalls. Its functions are to:

- (i) accommodate normal operating expenditures prior to the receipt of contributions from Members of the Commission and, in particular, late payment of contributions by Members
- (ii) replace the previously held Contingency Fund which provided funds for extraordinary or unforeseen expenditure.

The WCF is not intended to replace a permanent loss of funds or eliminate an ongoing budget gap.

Establishment and use

3. The WCF will be recorded in the Commission's books of account and financial statements as the Working Capital Fund. The WCF will be funded and available in cash. The WCF will be invested in accordance with the Financial Regulations.

4. The minimum amount to be held in the WCF will be established in an amount sufficient to maintain ongoing operations and programs for a set period, measured in months. The target minimum for the WCF is A\$1 350 000 or any other value decided by the Commission from time to time, or three (3) months of average recurring operating costs, whichever is the lower. This calculation will be based on yearly total budgeted expenditure in the General Fund as approved by the Commission at its annual meeting. The WCF target minimum will be calculated each year after the approval of the annual budget. These reserves will be reported to the Commission and included in the annual financial reports. Each year, after the approval of the operating budget, the WCF will be adjusted to maintain the three months' balance.

5. The WCF will be established with a transfer from the General Fund. The Commission may, from time to time, direct that a specific source of revenue be set aside for the WCF, for example, the Member contribution from a new Member. Voluntary contributions may also be directed to the WCF.

6. The Executive Secretary will identify the need for access to the WCF and confirm that the use is consistent with the purpose of the reserves as described herein. Any use of the WCF will be reported to the Commission at its yearly meeting and include the use of any funds drawn down and plans for replenishment of the WCF.

7. The interest earned on the WCF will remain in the General Fund accounts.

Cash flow management

8. In line with its primary function, funds from the WCF will be available to the General Fund for cash flow management, in particular when there are late payments of Member contributions. The Executive Secretary may incur obligations against the WCF, without prior approval of the Commission, when such obligations are necessary for the continued effective functioning of the Commission. These withdrawals will be confined to approved budgetary expenditure and will be reimbursed from the General Fund as soon as possible.

Unforeseen and extraordinary expenditure

9. The WCF may also be used for necessary expenditure which has not yet been specifically authorised by the Commission. The following definitions are agreed by the Commission for unforeseen and extraordinary expenditure:

- (i) 'Unforeseen expenditure' is expenditure of which the Commission had been unaware at the time of its previous meeting, but which is necessary for the fulfilment of tasks required by the Commission to be performed, with the extra amount not being possible to subsume into the annual budget without inordinate disruption of the Commission's work.
- (ii) 'Extraordinary expenditure' is expenditure the nature of which was known by the Commission at its previous meeting, but the extent of which is far greater than had been anticipated at that time, with the extra amount not being possible to subsume into the annual budget without inordinate disruption of the Commission's work.

10. The following procedures should be applied in the event of unforeseen and extraordinary expenditure:

- (i) As soon as the Executive Secretary believes that there is a reasonable expectation of unforeseen or extraordinary expenditure, he/she will consult with the Chair of the Commission to confirm that:
 - (a) the nature of the expenditure complies with the above definitions;
 - (b) the WCF has sufficient capacity to cover the expenditure; and
 - (c) it is not possible to defer the decision on the use of the Fund until the next meeting of the Commission.

- (ii) Should the total of proposed expenditure be less than 10% of the balance of the WCF, the Chair may approve its payment.
- (iii) If the expenditure is greater than 10% of the balance of the WCF, the following procedures will apply:
 - (a) The Executive Secretary will advise all Members of any intended use of the Fund.
 - (b) Any Member that considers such expenditure from the Fund to be inappropriate shall advise the Chair accordingly, including any proposal for alternative action.
 - (c) The Commission Chair shall consult with the SCAF Chair and the Executive Secretary. If the three parties agree with the Member's advice, then this shall be acted upon and Members will be advised accordingly. If the parties fail to come to agreement on the Member's advice, and if time permits, then Members will be asked to decide on the issue in accordance with Rule 7. If there is insufficient time for such a decision, or if Members are unable to reach consensus, then the Executive Secretary, in consultation with the Commission Chair and the SCAF Chair and Vice-Chair, shall determine to what extent to use the Fund.
 - (d) Any actual unforeseen and extraordinary expenditure from the Fund will be advised to Members immediately.

Investment Principles

- (i) The primary consideration in determining the investment strategy for the Commission shall be to safeguard the funds of the Commission. Funds shall be invested in such a way as to place primary emphasis on avoiding the erosion of principal funds while ensuring the liquidity necessary to meet the Commission's cash flow requirements.
- (ii) Investment of moneys not needed for the immediate requirements of the Commission shall be conservative and low risk in nature. Investments shall be restricted to cash equivalents, term deposits and government bonds. Investments that attract a government guarantee shall be limited to terms of not more than 24 months unless otherwise agreed by the Commission. Investments that do not attract a government guarantee shall be restricted to those institutions assessed by the Australian Prudential Regulation Authority (APRA) as an Authorised Deposit-taking Institution (ADI) and shall be limited to terms of not more than 12 months unless otherwise agreed by the Commission.
- (iii) To minimise risk, the investment portfolio of the Commission shall offer diversity across institutions, instruments and maturity dates. Where a government guarantee is available, investments in ADIs other than Australian-owned banks shall be limited to the amount guaranteed.
- (iv) The Executive Secretary will provide quarterly interim financial reports of income (including interest income) and expenditure to Members. The quarterly reports will include a report on the status and performance of investments as well as providing Members with any other relevant advice or information pertaining to the financial management of the Commission.
- (v) The Executive Secretary will inform Members of significant or unforeseen financial events, particularly where such events may have a substantial impact on the current or future financial position of the Commission, as soon as possible from when the Executive Secretary becomes aware of such events.
- (vi) Investments shall be recorded in an investment ledger held by the Secretariat, which shall show all relevant details for each investment, including face value, cost, date of maturity, interest rate, place of deposit, proceeds of sale, income earned and whether the investment attracts a government guarantee.