

03 September 2020

IOTC CIRCULAR 2020–37

Dear Madam / Sir

SEEKING CONFIRMATION FOR S24 TO BE HELD VIRTUALLY AND SUSPENSION OF RULES

In light of the ongoing COVID-19 pandemic and the associated containment measures, it is not possible to convene the 24th Session of the Indian Ocean Tuna Commission (S24) as a physical meeting, as originally intended.

Consequently, following consultations with the Members, the Chairperson of the Commission and FAO, it has been decided that a formal decision should be taken to convene the S24 virtually so that the Commission can continue its essential work and ensure that the meeting will qualify as a formal Session, thereby avoiding challenges to the validity of any decisions made. Furthermore, taking into account that certain IOTC Rules of Procedure presuppose in-person sessions, it is also important to identify and agree on any rules of procedure that may need to be suspended.

In the absence of any explicit rule on holding a virtual session of the Commission in the IOTC Agreement and Rules of Procedure, and in the absence of a specific IOTC intersessional decision making procedure, the Commission (in accordance with IOTC Rules of Procedure X.8) can refer to the General Rules of FAO. Thereupon Rule XXV(13) of the General Rules of FAO establishes an “emergency” consultation and decision-making procedure and provides a basis to obtain formal consent to hold the 24th Session virtually.

Using this procedure, the Commission can proceed with a contemplated action if it has received concurrence from two thirds of IOTC Members. This is consistent with Rule XVIII of the IOTC Rules of Procedure which requires a majority of two thirds of the Members for any amendment or addition to the Rules of Procedure.

In this context, you are kindly requested to confirm your endorsement, in writing to the Executive Secretary (iotc-secretariat@fao.org) not later than midnight on 17 September 2020 (Seychelles time), for (i) S24 to be held virtually and to address the matters identified in the provisional agenda, which was shared with you through IOTC Circular 2020-36, and (ii) the exceptional suspension of the Rules of procedure of the IOTC that presuppose in-person sessions of the Commission, as further detailed in Annex 1.

If this proposal is endorsed by a two-thirds majority of the Members of the Commission, S24 will proceed with the virtual session as per IOTC Circular's 2020-33 & 2020-36 and Annex 1, and you will be informed accordingly not later than 30 September 2020.

I wish to underline that the above proposal is limited to the exceptional circumstances created by the COVID-19 pandemic, and every effort shall be made to adhere as closely as possible to the IOTC Rules of Procedure, including existing practices.

Yours sincerely



Ms Susan Imende
IOTC Chairperson

Distribution

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Intergovernmental Organisations, Non-Governmental Organisations. Chairperson IOTC. Copy to: FAO Headquarters, FAO Representatives to CPCs.

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ANNEX 1 – Suspension of Rules of Procedure of the Indian Ocean Tuna Commission

A. Introduction

1. Considering the evolving situation of the COVID-19 pandemic worldwide, and given the ongoing measures with respect to movement of people and public gatherings, it was necessary to consider alternative arrangements to holding a physical session of the Commission in 2020, such as through remote participation, in order to ensure the continuity of business. In this context, a decision has been taken by the Members of the Commission, through correspondence, to confirm that the 24th Session of the Commission (S24) will be held virtually (by video-conference) from 2 to 6 November 2020.

2. Taking into account that certain Rules of Procedure of the IOTC presuppose in-person sessions, some rules are to be suspended to allow for S24 to take place virtually. Bearing in mind that Rule XVIII of the IOTC Rules of Procedure requires a two-thirds majority of the Members to proceed with any amendments or additions to the Rules of Procedures, and that a suspension of the rules entails a temporary amendment of the Rules, it is considered that a two-thirds majority of Members is required for the suspension of the rules, as outlined below. Such suspension would not set a precedent for future sessions of the Commission.

B. Proposal to suspend specific rules of the Rules of Procedure

3. It is recommended that the Commission invokes the above-mentioned Rule XVIII of its Rules of Procedure to suspend the following specific rules that are incompatible with a virtual meeting for the purposes of the 24th Session of the IOTC. Such rules would be automatically reinstated following the conclusion of the 24th Session of the IOTC:

4. In particular, it is recommended that the Commission suspends:

- Rule II ‘Sessions of the Commission’: to waive the requirement for the session to be hosted by a government (Rule II.4) as it implies that sessions of the Commission are in-person events.
- Rule IV ‘Agenda’: to waive the requirement for the agenda to include the “Proposals for the amendments to the Agreement, the Rules of Procedure and the Financial Regulations of the Commission” item (4g), in order to avoid matters which are typically complex and time consuming and, overall, incompatible with the framework and available time of the proposed virtual meeting. It is noted that suspending Rule 4(g) would not diminish the importance of considering such matters.
- Rule VII.1 ‘Elections of Chairperson and Vice-Chairpersons’: bearing in mind that elections for the Chairperson and one Vice-Chairperson were planned to take place at S24 and may require a vote to be held, to waive the election of Chairpersons and Vice-Chairpersons at S24, and subject to the availability of all the individuals concerned, to extend the tenures of the existing Chairperson and (two) Vice-Chairpersons until the conclusion of S25.
- Rule X ‘Voting arrangements and proceedings’: on the basis that all decisions are to be taken by consensus as far as possible; and if every effort to reach agreement on an item/issue has failed, the matter would be postponed to the next physical session of the Commission. No matter would proceed to a vote during the virtual S24.

5. Finally, regarding Rule XVI ‘Meeting Participation Fund’, given the virtual nature of S24, it is not expected that Members will require funding to participate in the meeting.