

Original: Spanish

**COMMUNICATION BY THE EASTERN REPUBLIC OF URUGUAY
REGARDING REVIEW OF THE ROLE OF THE COUNCIL**

In accordance with the commitment assumed during the 19th Special Meeting of the Commission held in Genoa, Italy, from 10 to 17 November 2014, the delegation of Uruguay wishes to share with the other delegations its interpretation on the constitution of the Council as a body of the Commission, as provided for in the International Convention for the Conservation of Atlantic Tunas (Annex 1 – Basic Texts).

We understand that there has been some uncertainty regarding the implementation of this body throughout the history of the Commission. However, as we expressed during the meeting we consider that its constitution is a mandate of the Convention and as such a duty of the Commission. Furthermore, we understand that the establishment of the Council would favour the functioning of the Commission.

For such purposes, a study has been carried out of the Convention and the regulations (Rules of Procedure and Financial Regulations), in order, identifying those articles that refer to the Council, which are cited and reviewed below:

A) CONVENTION

1. Article III

4. The Commission shall hold a regular meeting once every two years. **A special meeting may be called at any time** at the request of a majority of the Contracting Parties **or by decision of the Council as constituted in Article V.**

2. Article V

1. There is established within the Commission a **Council** which shall consist of the Chairman and the Vice Chairmen of the Commission together with the representatives of not less than four and not more than eight Contracting Parties. The Contracting Parties represented on the Council shall be elected at each regular meeting of the Commission. However, if at any time the number of the Contracting Parties exceeds forty, the Commission may elect an additional two Contracting Parties to be represented on the Council. The Contracting Parties of which the Chairman and Vice-Chairmen are nationals shall not be elected to the Council. In elections to the Council the Commission shall give due consideration to the geographic, tuna fishing and tuna processing interests as well as to the equal right of the Contracting Parties to be represented on the Council.

This subparagraph, which reads “there is established”, sets up the Council. In other words, according to the Convention, it is incorporated and with the (minimum) functions mentioned; unlike for instance the panels whose establishment is a power of the Commission, given the wording of Article VI: “To carry out the objectives of this Convention the Commission may establish Panels on the basis of species, group of species, or of geographic areas.” The establishment of panels shall be decided by the Commission (art. 12.1 of the Rules of Procedure).

2. The Council shall perform such **functions** as are assigned to it by this Convention or are designated by the Commission, and shall meet at least once in the interim between regular meetings of the Commission. Between meetings of the Commission the Council shall make necessary decisions on the duties to be carried out by the staff and shall issue necessary instructions to the Executive Secretary. Decisions of the Council shall be made in accordance with rules to be established by the Commission.

3. Article X

3. **The Council shall review the second half of the biennial budget** at its regular meeting between Commission meetings and, on the basis of current and anticipated developments, may authorise reapportionment of amounts in the Commission budget for the second year within the total budget approved by the Commission.

10. The Commission shall arrange an annual independent audit of the Commission's accounts. **The reports of such audits shall be reviewed and approved by the Commission or by the Council in years when there is no regular Commission meeting.**

B) RULES OF PROCEDURE

Rule 3 – Special Meetings of the Commission

1. A special meeting of the Commission may be called at any time at the request of a majority of the member countries of the Commission or by decision of the Council. The date and place of a special meeting shall be determined by the Council or by the Chairman of the Commission.

Rule 7: In reference to the functions of the Chairman and the Vice-Chairmen of the Commission, there is mention to: “To declare the opening and closing of each meeting of the Commission and the Council” (literal a); To rule on points of order, “subject to the right of any Delegate to request that any ruling by the Chairman shall be submitted to the Commission or the Council for decision” (literal d); “To sign on behalf of the Commission or the Council a report of the proceedings of each meeting of the Commission or the Council, for transmission to members of the Commission” (literal f); “Generally to perform any function assigned to him by the Commission or by the Council, or in the Convention” (literal g).

Further, Rule 14 related to the functions of the Executive Secretary establishes that “The Executive Secretary shall, under the general supervision of the Commission, exercise all the functions assigned to him under the Convention and these Rules and such other functions as may be assigned to him from time to time by the Commission or the Council.”

Rule 11 – Council

1. **The Council shall consist** of the Chairman and Vice-Chairmen of the Commission together with the representatives of not less than four and not more than eight member countries of the Commission. Representatives of two further member countries of the Commission may be elected to the Council if the membership of the Commission exceeds forty. The member countries of which the Chairman and ViceChairmen are nationals shall not be elected to the Council. The Chairman of the Commission shall preside at the Council meetings.
2. At each regular meeting, the Commission shall elect the member countries of the Commission to be represented on the Council in accordance with Article V, paragraph 1, of the Convention.
3. The Council shall meet at least once in the interim between regular meetings of the Commission and shall hold such further meetings as may be decided by the Commission.
4. The Council shall perform such functions as are assigned to it by the Convention, and other functions as may be designated by the Commission.
5. The Rules of Procedure applicable to the conduct of the business of the Commission shall apply mutatis mutandis to the Council, but they may be supplemented by additional rules adopted by the Council subject to confirmation by the Commission.

Rule 14. Executive Secretary and Staff

2. The Executive Secretary shall, under the general supervision of the Commission, exercise all the functions assigned to him under the Convention and these Rules and such other functions as may be assigned to him from time to time by the Commission or the Council.

Rule 15.3 – The Council, Panels and other subsidiary bodies shall, at the end of each meeting, adopt a report which shall be submitted to the parent body concerned.

This article places on equal footing the council and the panels, describing them as “subsidiary bodies”.

C) FINANCIAL REGULATIONS

Regulation 3 – Appropriations

Transfers within the same chapter of the budget may be effected by the Executive Secretary, who shall report thereon to the Commission or the Council.

In cases where special necessity arises, transfers from one chapter of the budget to another may be effected by the Executive Secretary after having obtained the approval of the Chairman of the Commission and shall be reported to the Commission or the Council.

Regulation 8 – Trust Funds

The Executive Secretary may accept on behalf of the Commission voluntary contributions whether or not in cash from members of the Commission or from other sources, provided that the purposes for which such voluntary contributions have been made are consistent with the policies, aims and activities of the Commission. The Executive Secretary shall establish trust funds to cover such voluntary contributions and shall report thereon to the Commission or the Council.

Regulation 10

The Executive Secretary shall designate the bank or banks in which the funds of the Commission shall be kept and report all such depositories to the Council.

Regulation 11 – Investment of funds

1. The Executive Secretary may make short-term investments of monies not needed for immediate requirements. He may make long-term investments of monies standing to the credit of trust funds in such manner as may be authorized by the Commission or the Council. Interests on the investments of monies standing to the credit of trust funds shall accrue to such trust funds.
2. The Executive Secretary shall report periodically to the Commission or the Council on short-term and longterm investments.

On the basis of a consistent interpretation of all the cited provisions, the following flows:

1. The Council is a body and has been established by the Convention.
2. In the light of the foregoing this mandate is not being fulfilled.
3. The use of the conjunction “or” between the term “Commission” and the term “Council” is indicative of their equivalence i.e. both bodies are on an equal footing, with shared powers in several cases.

CONCLUSIONS

On the basis of analysis of the foregoing, this delegation considers that there are several positive aspects to the constitution of the Council.

First, the Council as a body mandated by the Convention would provide a broader representation of the Contracting Parties but of which the Chairman and Vice-Chairmen cannot be nationals. Further, the geographical interests would be taken into account as well as the equal participation of the Contracting Parties in the Council.

Second, the constitution of the Council may contribute to greater transparency in all areas of functioning owing to the decision-making powers granted by the Convention and those which may be granted subsequently by the Commission. The transparency would also encompass the financial aspect due to the involvement afforded to this body in the budgetary area of the Commission.

Third, it could collaborate on activities carried out by the Chairman, reducing the workload and supporting the activities of the Secretariat.