

**SECRETARIAT REPORT ON THE SITUATION OF THE  
ICCAT STAFF REGULATIONS AND RULES REFORM PROJECT**

The Secretariat, with the support of the external legal advisor, continues to carry out the tasks necessary to consolidate the revision of the Staff Regulations and Rules. The process has been driven by the concurrence of several elements in recent times, especially the latest developments in the legal case of 2020 and 2021, the spin-off effects of the COVID-19 pandemic with consequences such as mandatory implementation of remote working, the entry into force of the European Regulation on Data Protection, and development of the ICCAT IT security policy, among others.

In this respect, contacts have been maintained with other organizations such as the Food and Agriculture Organization (FAO) of the United Nations, the United Nations (UN), the Western and Central Pacific Fisheries Commission (WCPFC), the International Labor Organization (ILO), the International Olive Council (COI) and the World Intellectual Property Organization (WIPO), in order to know the characteristics of their staff regulations and rules. The reason for choosing these Organizations is the special interest that some of their provisions hold and the parallelisms with the situation of ICCAT.

It has been difficult to obtain most of the relevant information, due to the confidentiality of some of the data. In addition, the COVID-19 pandemic situation has not favoured the possibility of more direct meetings.

Therefore, at this stage of the revision process, and to correct the most critical legal flaw detected, the Secretariat is presenting a proposal on appeal mechanisms as exist in the regulations and rules of many International Organizations, since the current ICCAT Staff Regulations and Rules lack an adequate mechanism for dispute resolution.

For this purpose, the following appeals model is proposed with possible alternatives so that the Commission can adopt the best decision:

- 1st. Conciliation procedure. This procedure will be carried out at the Secretariat and guided by the Executive Secretary, with a view to reaching a satisfactory solution for all the parties involved.
- 2nd. Appeal at first instance to an internal body of the Secretariat, which would comprise an uneven number of members with balanced representation from the different departments of the Secretariat and would be chaired by the Chair of STACFAD.
- 3rd. Appeal at second instance to the International Court of Arbitration.

As regards this final appeal, the following options have been advanced:

- a) Appeal to a Court of an International Organization such as the UN or the ILO. The disadvantage is that admission to these Courts is subject to their authorisation and involves payment of fixed costs, regardless of whether or not these are used. Therefore, taking into account the low incidence of disputes in the history of ICCAT, this option may be too expensive.
- b) Appeal to the corresponding Courts of the State where the headquarters is located. In this case, there would be friction with ICCAT immunity.
- c) International Court of Arbitration. The disadvantage is that the Courts of Arbitration are private institutions and submission by the parties is required.

Having weighed up the three possible alternatives, it is advisable for second instance appeals to be referred to an International Court of Arbitration. In these cases, the cost would be limited to resolution of each case brought before the Court of Arbitration.

In this respect, the Commission is requested to authorise the Secretariat to carry out an in-depth assessment of the procedure and the costs of the two Courts of Arbitration of recognised prestige and international standing:

1st. Permanent Court of Arbitration (PCA), headquartered in The Hague.

2nd. International Court of Arbitration of the International Chamber of Commerce (ICC), headquartered in Paris. This Court of Arbitration is the one that we put forward as the most suitable option, taking into account its prestige and track record.

At the same time, the Secretariat will continue to work intersessionally on the proposal to modernise the staff regulations and rules to submit to the Commission the most comprehensive reform possible, with new provisions on aspects that have been incorporated into work relations such as the rules on remote working, paternity leave and consolidation of other relevant items, *inter alia*.