

REGIONAL ADVISORY COUNCIL OF THE LONG DISTANCE FLEET IN NON-COMMUNITY WATERS

RULES OF PROCEDURE

TITLE I GENERAL PROVISIONS

Article I.- Name and domicile

Pursuant to Organic Law 1/2002 of 22 March, which regulates the right of Association, a not-for-profit association is incorporated in Spain, which adopts the name of **Regional Advisory Council of the Long Distance Fleet in non-Community Waters**, hereinafter called in abbreviation as the "**Long Distance RAC**" or simply "**LDRAC**". Its headquarters are located in Spain and its domicile is established in calle Rivera del Sena s/n, Edificio APOT, Madrid C.P. 28042.

Article II.- Duration

LDRAC is formed for an indefinite time. Its dissolution shall be in conformity with the laws and with the provisions contained in these Rules of Procedure.

Article III.- Area and action

LDRAC may accept those National and European Organisations that, complying with the requirements established herein, voluntarily request membership; in this respect, its area of action as Association shall be considered European.

The territorial scope of **LDRAC** encompasses all waters and oceans not subject to the jurisdiction of the European Union.

LDRAC shall provide equal opportunities to its members without making any type of discrimination for reasons of origin, gender or capacity.

Article IV.- Objectives and functions

LDRAC shall perform the role of a Regional Advisory Council (RAC) according to Council Regulation (EC) N° 2371/2002 of 20 December 2002, on the conservation and sustainable exploitation of fisheries resources under the fisheries policy and shall be established in conformity with the subsequent Council Decision of 19 July 2004, which created the Regional Advisory Councils under the common fisheries policy (2004/585/EC).

Its main functions shall be to prepare and submit opinions and recommendations on management and conservation to contribute to the implementation of the common fisheries policy outside Community waters and to improving the external relations of the EU in fisheries matters.

In particular, **LDRAC** shall advise the European Commission on questions concerning Fisheries Agreements with third countries and relations with the Regional Fisheries Organisations (RFOs) of which the EU is a signatory or a partner or in whose waters the Community fleet operates.

LDRAC's recommendations shall mainly concern:

- a) The management of fisheries stocks within its remit, whether or not covered by Regional Fisheries Organisations (RFOs), and the management of the ecosystems concerned.
- b) Issues relating to access to resources, in particular, fisheries agreements, whether related to trade, exchange or partnerships.
- c) Issues relating to joint ventures, cooperation and the development of coastal states party to partnership agreements in the fisheries sector.
- d) Issues relating to trade and the valorisation of species within its remit. In particular, **LDRAC** shall advise on the progress of negotiations in the World Trade Organization (WTO) and on the progress of the common organisation of the markets in fishery and aquaculture products.
- e) Issues relating to ocean affairs and law of the sea.

In compliance with its objectives, **LDRAC** shall maintain relations mainly with the Community institutions that are directly or indirectly related to the matters in which it has an interest.

LDRAC shall coordinate its activities with the other Community RACs and with the Advisory Committee on Fisheries and Aquaculture (ACFA) of the EU.

Any change to these aims must first have the consent of the Member States concerned and the European Commission.

TITLE II

ORGANISATION

SECTION I.- Basic structure and operation

Article V.- Basic structure

The governing bodies of **LDRAC** are the General Assembly and the Executive Committee. Management of daily operations shall be assumed by a Secretariat and stable or temporary Working Groups shall be created to attend to specific matters.

Article VI.- Legal Personality

LDRAC shall have independent legal personality as a non-profit making association under Spanish law, shall be entered in the respective Register, and

shall have full capacity to act in compliance with its purpose and may be holder of all classes of rights and obligations.

Article VII.- Open and Transparent

The activities of **LDRAC** shall be open and transparent. The meetings of the General Assembly and the Executive Committee shall be open to the public, although the latter may be closed when the Executive Committee itself so decides by simple majority, based on the nature of the issues to be discussed.

The information produced by **LDRAC's** various bodies shall be sent to the members of the General Assembly and of the Executive Committee, to Member States concerned, to the European Commission and to the Advisory Committee on Fisheries and Aquaculture.

The recommendations adopted by the Executive Committee in compliance with its functions shall be made public through the **LDRAC** website.

SECTION II.- Members

Article VIII.- Requirements for membership

In agreement with articles 1 and 5 of Council Decision 2004/585/EC, the European and national organisations representing the fisheries sector and other interest groups of stakeholder Member States, affected by the common fisheries policy in non-Community waters, may be Members of **LDRAC** provided that they support the objectives of **LDRAC** as expressed in these Rules of Procedure, and are admitted as such according to the procedures indicated in the following article.

The 'Fisheries sector' shall include the catching subsector (shipowners, small-scale fishermen, employed fishermen, producer organisations) as well as, amongst others, processors, traders and other market organisations and women's networks.

The 'other interest groups' shall include, amongst others, environmental organisations and groups, aquaculture producers, consumers and recreational or sport fishermen.

The RAC should have two thirds of the seats allotted to representatives of the fisheries sector, and one third to representatives of other interest groups affected the Common Fisheries Policy. Where this is not achieved, priority should be given to new members which could address the imbalance.

Article IX.- Appointment and admission of members

For the designation of the members of the first General Assembly, the national and European organisations that represent the fisheries sector or interest groups affected by the common fisheries policy in non-Community waters may propose their candidature to the Member State concerned where their registered office is located to obtain its prior acceptance. The Member States concerned shall agree among themselves to select the initial members.

For subsequent appointments of members of the General Assembly, the applications for admission shall be sent in writing to the **LDRAC** secretariat, which shall obtain the opinion of the interested Member States for approval.

The applications shall be accompanied by a formal request from the applicant association, and include a resolution to that effect from its competent body, together with its Rules of Procedure.

Once admitted by the General Assembly, each member organisation shall appoint in writing a natural person as permanent representative (PR) in **LDRAC**. The PR shall represent the member for all purposes and may take part in deliberations and votes and stand as a candidate or be eligible for the various offices.

Each organisation may replace its PR at any time by written notice to **LDRAC**.

LDRAC shall report to the European Commission on admissions to and departures from **LDRAC** membership.

Article X.- Rights of members

The following rights of the members of **LDRAC** shall be guaranteed: to attend the General Assembly with right to vote; to participate as elector and eligible candidate with equal opportunity in the election of the governing bodies through free and secret vote; to receive information on the activities, management and economic situation of **LDRAC**; to present their points of view on matters relevant to the Executive Committee; and to object to resolutions that they consider contrary to the law or the Rules of Procedure.

Article XI.- Duties of members

Members must abide by the following duties: to share the objectives of **LDRAC** and cooperate in their achievement, abide by the Rules of Procedure and resolutions validly adopted, and pay in due time and proper form the regular fees or contributions that may be approved by the governing bodies.

Article XII.- Loss of membership

Membership can be lost voluntarily by decision of the interested Organisation. Such loss of membership shall be effective as from notice to the bodies of **LDRAC**.

If the Executive Committee observes that a member does not back the objectives of **LDRAC** or does not comply with its obligations, or appreciates that it is not cooperating adequately with **LDRAC**, it may propose to the General Assembly to launch the procedure to expel that member. The procedure shall involve having a hearing with the Organisation concerned and obtaining the consent of the affected Member States.

In both cases of loss of membership, due to withdrawal or exclusion, the fees and other contributions accrued and not paid until the date of separation shall be payable by the affected organisation; in contrast the outgoing member may not claim any right over the assets that **LDRAC** may have acquired during its membership.

LDRAC shall report to the Member States and to the European Commission on loss of **LDRAC** membership by any Organisation.

SECTION III.- General Assembly

Article XIII.- Ordinary meetings

The General Assembly is composed of all the members and shall meet at least once a year in ordinary session to examine, at least, the Annual Report, which includes the annual accounts for the preceding period, and the annual strategic Plan, both prepared by the Executive Committee.

The country and the place of the meetings shall be selected by consensus taking into account the invitations that may be received from time to time.

Article XIV.- Officers of the Assembly

The **LDRAC** General Assembly shall appoint by consensus from among its members its chairperson, who will be impartial and not entitled to vote, and one or more vice chairs. The chair and the vice chairs shall be in office for three years and they may be re-elected, and their mission shall be to convene, direct and organise the work of the General Assembly.

The chairperson of the General Assembly shall also be the president of **LDRAC** and of the Executive Committee. He/she is responsible for the representation of the RAC in any class of acts and before any authority or public entity.

Article XV.- Functions of the General Assembly

The specific function of the General Assembly is to control the operation of the Association and guide the Executive Committee in questions of general policy.

The General Assembly has the following powers, among others:

- a) Approve the Annual Report and the annual strategic Plan, including the annual financial statements.
- b) Establish the amount of fees to be paid by the members as proposed by the Executive Committee.
- c) Approve the Secretariat officers' pay.
- d) Elect the chair of **LDRAC** and the members of the Executive Committee.
- e) Approve disposal or sale of assets of the Association.
- f) Approve changes of domicile and amendments to the Rules of Procedure.
- g) Approve the dissolution of **LDRAC**.
- h) Decide any question that the Executive Committee may submit to it.
- i) At the proposal of the Executive Committee, launch the procedure for loss of membership in accordance with Article XII.

At the end of each meeting the relevant minutes shall be drawn up and sent to all the members and formally approved at the next meeting.

Article XVI.- Notice of meetings

The chairperson of **LDRAC** is responsible for calling the General Assembly, which shall be by written notice, sent to each member at least 15 days in advance, stating the place, date and time and the agenda.

The General Assembly may also meet in extraordinary session on the initiative of the Executive Committee or of Organisations representing one third of the membership. In the latter case the applicants requesting the meeting shall write to the chairperson of the RAC stating in detail the topics that they wish to discuss.

Article XVII.- Decision-making system

The General Assembly shall adopt ordinary resolutions by consensus. If this is not obtained, decisions shall be carried by a simple majority, and members' dissenting opinions shall be duly recorded.

Each member may freely delegate its representation at the General Assembly, but if more than one person attends for the member, only the PR appointed in writing may exercise the member's voting rights.

Approval of certain specific matters such as amendment of Rules of Procedure, disposal or sale of assets and remuneration of the members of the representative bodies shall require a qualified majority with the support of at least 50% of the members present or represented by proxy.

At all events, a change to the Rules of Procedure must first be accepted by the Member States and the European Commission to be valid.

For a decision of the General Assembly to be valid, at least 50% of members must be present or represented by proxy.

SECTION IV.- Executive Committee

Article XVIII.- Mission of the Executive Committee

The Executive Committee is the collegiate body of management and administration of **LDRAC's** activities. The Executive Committee shall have all powers required to carry out its functions, except those resting with the General Assembly exclusively. It may entrust the performance of certain tasks, on a specific occasion or permanently, to the Secretary General or the Working Groups.

The exclusive, non-delegable powers of the Executive Committee are:

- a) The adoption of formal recommendations.
- b) The drawing-up and approval of annual financial statements and balance sheet and budget forecasts.
- c) The proposed budget allocations and membership fees.
- d) The writing of the annual report on activities and the annual strategic plan for submission to the General Assembly.
- e) Proposed expulsion of members.
- f) Proposed changes of headquarters and secretariat.
- g) Proposed dissolution of **LDRAC**.

Article XIX.- Members of the Executive Committee

Besides the chair, and taking into account articles 4 and 5 of Council Decision 2004/585/EC, the Executive Committee shall have a maximum of 24 members who shall be elected by the General Assembly on the proposal of their respective organisations. Those 24 members shall have the right to vote. Their terms shall be three years and they may be re-elected.

The Committee shall elect from among its members one or more vice-chairs of the Executive Committee and may appoint from its members other officers such as treasurer, reporter, etc., as considered necessary. It may also appoint temporarily or permanently one of its members to act as coordinator with another RAC with which it is necessary to discuss common matters that have been identified.

The members of the Executive Committee may be dismissed from their posts by resolution of the General Assembly following the procedure described in Article XII. They shall automatically lose their membership if they lose the

representation of the association that proposed them, which shall be responsible for appointing a provisional replacement, which shall be confirmed in the first General Assembly to be held.

Article XX.- Composition of Executive Committee membership

The Executive Committee members shall represent the organisation that proposed them, which may change them as it considers necessary. Membership rests with each organisation and is non-transferable.

In any event, there shall be at least one representative of the catching sub-sector from each Member State concerned although the final distribution of the representation shall attempt to balance and reflect the real importance of the fishing fleets involved.

Article XXI.- Meetings

The Committee shall meet at least twice a year. The Committee shall hold extraordinary meetings when requested by at least one third of the members in written communication to the chairperson with details of the specific topic(s) proposed for discussion. The chair shall be in charge of convening ordinary and extraordinary meetings. Notice of meeting must be given at least fifteen days in advance, and must state the agenda. Meeting documents must be sent one week in advance.

Article XXII.- The Chairperson

Besides representing **LDRAC** for all classes of acts and contracts, the Chairperson's powers shall also cover calling the meetings of the General Assembly, chairing and ordering debates of the latter, certifying its resolutions and authorising the minutes of its meetings.

The powers of the Chairperson of **LDRAC**, as Chairperson of the Executive Committee, shall also cover calling the meetings of the Executive Committee, chairing and ordering debates of the latter, proposing the creation of working groups, certifying its resolutions and authorising the minutes of its meetings.

He/she may delegate part of his/her powers to other RAC members, granting general and special powers to whoever is authorised by the Executive Committee.

Article XXIII.- Decision-making system

In ordinary matters and on the topics relating to the management of the RAC, the Executive Committee shall adopt its decisions by a simple majority of the attending members.

The recommendations of the Executive Committee shall be adopted by consensus. If this is not obtained, members' dissenting opinions shall be

recorded in the recommendations adopted by a majority of the members present and voting.

The minimum quorum of attendance for the validity of the decisions shall be 50% of the members.

In the period between meetings the chairperson may call on the officers of the Executive Committee to form a subcommittee which, carrying out liaison work and cooperating with the Secretariat, shall prepare the recommendations, organise the meetings, prepare the agenda and call the meetings, organise consultations and decide on current matters that are within the remit of the Executive Committee. To be valid, the decisions taken by the subcommittee shall be confirmed by the Executive Committee.

Article XXIV.- Quick consultation system

For certain specific topics or to decide on urgent recommendations the chairperson may make quick consultations with all the members of the Executive Committee by electronic mail or similar, whose result shall have the same validity as a normal decision. The response time for such consultations shall be not less than eight days.

TITLE III

WORKING GROUPS

Article XXV.- Working Groups

LDRAC shall create Working Groups to advise the Executive Committee and cooperate on the preparation of its recommendations. These groups may be temporary for a specific or permanent matter.

The Executive Committee shall formally appoint Working Group members on the basis of candidatures put forward by member organisations. The Executive Committee shall endeavour to achieve a balanced representation of the fleets involved in the objective of the group, of the Member States involved, and of the interests of the members of the RAC General Assembly in the specific problems that relate to the group.

Working Group members must be General Assembly members.

The creation of each Working Group shall be decided by resolution of the Executive Committee on the proposal of the chairperson. The resolution to create a group shall expressly include its assignment or its specific task, the duration of its mission and if applicable the functions delegated to it.

Each Working Group shall appoint a chair and a vice chair. Working Group chairs not sitting on the Executive Committee may attend Committee meetings as active observers.

The Groups shall report extensively in writing on all their activities to the Executive Committee and may only act on behalf of **LDRAC** in those circumstances for which they have been specifically authorised.

TITLE IV

PARTICIPATION BY NON-MEMBERS

Article XXVI.- Observers

Representatives of the European Commission, members of the regional and national administrations of the interested States, and also a representative of the ACFA may participate in the work of the General Assembly, of its Executive Committee and of the Working Groups as active observers entitled to take part in discussions without a right to vote, and with no need for a special invitation.

The members of the General Assembly may also participate as active observers on the invitation of the Executive Committee in the deliberations of the latter, although they may only intervene in specific matters when they are invited to do so by the chairperson.

Finally, by invitation of the Executive Committee, other representatives of the fisheries sector and of other interest groups of third countries, or of Regional Fisheries Organisations may also participate as observers in the work of **LDRAC**.

The observers indicated in the preceding paragraph shall not have a right to vote, and their right to take part in discussions shall be regulated by the chairperson who, if applicable, shall take disciplinary measures in relation to them, as well as in relation to any other attendee from outside the RAC, if they engage in anomalous behaviour or prevent the normal running of the meeting.

Article XXVII.- Experts

The RAC chair shall invite scientists from institutes of the Member States concerned or international organisations as well as any independent qualified scientist and other persons qualified in fields that are related to the problems of the RAC, such as specialists, economists, jurists, sociologists, etc., to attend meetings of Working Groups, the Executive Committee and the General Assembly, in the capacity of experts, and to engage in any functions that may be entrusted to them.

The Executive Committee may if applicable fix the remuneration or compensation of these experts for work commissioned by the RAC.

TITLE V

ADMINISTRATION AND MANAGEMENT

Article XXVIII.- Financial system

LDRAC shall have full independent management of its funds. Its liability shall be limited to its own assets. All the funds of the RAC, whether budgeted or own resources, shall be applied for their proper purpose.

The closing date of the accounting period shall be 31 December every year.

Article XXIX.- Financing

The financial resources of **LDRAC** are:

- a) Ordinary and extraordinary contributions from members.
- b) Contributions, donations, bequests and subsidies that it may receive from territorial, local, national, Community or international authorities, public and private corporations and natural persons.
- c) Other financial income.

In particular [during the first five years from the date of its creation] it shall be financed with aid for operation established for all the RACs in Article 9 of Council Decision 2004/585/EC of 19 July 2004.

It is also expected to receive assistance of all types, including aid and logistics, from the Member States concerned.

Article XXX.- Economic administration

LDRAC shall maintain accounting records that provide a true view of the capital and financial position of the Association and of the activities carried out. The accounts shall be maintained in a budget and accountability system. Every year annual accounts shall be prepared for approval by the Executive Committee and sent to the General Assembly, together with the annual report, for its approval.

The RAC shall appoint a certified auditor to review its annual accounts before submission to the General Assembly.

Article XXXI.- Secretariat

The Executive Committee may create, select and, where appropriate, replace a Secretariat, which shall serve **LDRAC** for a term of at least five years and may be re-appointed.

The Executive Committee shall appoint a person who shall act as executive secretary of the RAC. The secretary shall be directly responsible for the administration and management of the RAC exercising the powers that the

Executive Committee decides to delegate to him/her. He/she shall act impartially and participate in the meetings with right to take part in discussions without a right to vote.

Without being exhaustive and without prejudice to other functions that it may perform on instructions from the Executive Committee, the Secretariat, subject to the supervision of the latter, shall exercise the following functions:

- a) Organise distribution of the information produced by **LDRAC's** various bodies to the members of the General Assembly and of the Executive Committee, to Member States concerned, to the European Commission and to the Advisory Committee on Fisheries and Aquaculture.
- b) Maintain the Register of the members of the General Assembly and the Executive Committee and of direct relations with them.
- c) Organise and, on behalf of the chair, call meetings, and monitor attendance.
- d) Attend the meetings of the General Assembly, the Executive Committee and the Working Groups and draw up minutes for them.
- e) Seek funds to finance the RAC, and arrange their processing and collection.
- f) Commission and control the studies and works that it is decided to undertake.
- g) Hire and pay the remuneration to the staff needed to organise the works and, if applicable, to the RAC's own bodies.
- h) Manage and collect fees from its members.
- i) Purchase or rent the premises, equipment, appliances and supplies needed for the operation of the RAC.
- j) Maintain the accounting and all the documentation of the RAC, create and maintain its Web Site, and manage correspondence and relations with outside bodies and with the members.
- k) Take care of expert assistance, payments of fees, allowances, etc.

The Secretariat shall act at all times under the responsibility of the Executive Committee and the supervision of its chairperson and vice-chair. For certain specific matters, such as those indicated under (g) and (i), it shall only act under specific ad hoc mandate.

Article XXXII.- Dissolution and Liquidation

LDRAC may be dissolved voluntarily by a two-thirds majority of its General Assembly, on the proposal of the Executive Committee, or by force of legal requirement or final court decision.

After the dissolution is resolved or decreed, all creditors shall be paid and, in general, all outstanding obligations settled, and any transactions required for liquidation shall be concluded.

The surplus capital, if any, shall be applied as far as possible in compliance with the purpose established in these Rules of Procedure, and to compensate existing members for contributions made.

Article XXXIII: Approval and amendments to the rules of procedure

These statutes shall be approved by the General Assembly and the Member Status concerned. Any amendments shall be presented to the members for comments during the General Assembly and approved by a majority of two thirds of the members of the Executive Committee and receive the consent of the European Commission and Member States concerned. Any change in the objectives of the LDRAC must also have the consent of the European Commission.