

**44<sup>th</sup> ANNUAL MEETING OF NAFO - SEPTEMBER 2022****Standing Committee on International Control (STACTIC) Rules of Procedure  
regarding data confidentiality and participation in meetings****Background**

At the 2018 Annual Meeting, the opening of the STACTIC meeting was delayed as Contracting Parties could not achieve consensus on how STACTIC should proceed if Contracting Party non-governmental delegates were present at the meeting. Two emergency Heads of Delegation meetings convened to address the issue. Heads of Delegation acknowledged that each Contracting Party can make its own decision on whether or not to allow industry representatives of Contracting Party delegations to attend STACTIC. The Heads of Delegation advised that, for this meeting only, if any Contracting Party felt they were unable to address agenda items, they were asked to signal their intent not to participate or object to discussing the item with industry representatives in attendance at the start of each Agenda Item. 2018 Annual Meeting, COM DOC 18-28, Part II, page 138.

Contracting Parties discussed the matter at the 2019 STACTIC Intersessional Meeting, but attained no consensus. STACTIC returned to the Commission for further guidance on the participation by non-government representatives. 2019 STACTIC Intersessional, COM DOC 19-04.

Prior to the start of the 2019 Annual Meeting, Contracting Parties met to discuss the participation of non-governmental Contracting Party representatives in STACTIC. Recognizing the need for a productive meeting, Contracting Parties agreed as a temporary solution to walk through the agenda and the working papers to determine which items were deemed to be of a sensitive nature and were more appropriate to be discussed in an *in-camera* session. Contracting Parties agreed that all working papers and agenda items would be discussed in an open session, with the exception of Agenda Item 6 (STACTIC WP 19-59) and the Secretariats' demonstration of the updates to the NAFO MCS Website under Agenda Item 9, noting these would be discussed in an *in-camera* session restricted to government officials and NAFO Commissioners from each delegation. It was understood that after the *in-camera* discussion, the Chair would report out the results or recommendations in open session.

Contracting Parties noted that the current practice of identifying items for an *in-camera* session would work as a short-term solution, but that a more permanent solution would be required. Contracting Parties agreed to task a small working group to develop a possible long-term solution for STACTIC participation. 2019 Annual Meeting, COM DOC 19-34 Part II, page 180.

The planned 2020 *Ad Hoc* WG on STACTIC Participation was deferred due to COVID-19, as was any discussion during the 2020 STACTIC Intersessional meeting. Only governmental delegates were present at the 2020 intersessional meeting, so no *in-camera* sessions were necessary.

STACTIC followed the procedure established at the 2019 Annual Meeting as an interim solution at the 2020 Annual Meeting.



Contracting Parties held a virtual STACTIC Participation working group meeting in August 2021. Contracting Parties still could not reach an agreeable solution. The Chair recommended that the EU, Japan, US and Canada collaborate to draft a proposal for the 2021 Annual Meeting that uses the interim ad hoc process as the basis for moving forward with some refinements. No consensus was reached.

## **Proposal**

*Recognizing that pursuant to Article VI of the Convention, each Contracting Party shall be a member of the Commission and appoint one Representative to the Commission, who may be accompanied by Alternate Representatives, experts, and advisers;*

*Confirming that pursuant to Rule of Procedure 5.1, within the Commission, there shall be a Standing Committee on International Control (STACTIC) consisting of one representative from each Contracting Party, who may be assisted by experts and advisers;*

*Noting that Rule of Procedure 5.6 calls for each subsidiary body to establish its own Rules of Procedure and that STACTIC has yet to establish its own Rules of Procedure;*

*Recognizing that the absence of STACTIC Rules of Procedure and the absence of clarity as to what is meant by “experts and advisers” in Rule 5.1 have given rise to uncertainty as to which extent certain topics under the remit of STACTIC require a more restricted setting to ensure open discussions of sensitive topics and confidential data;*

*Noting the need to safeguard data subject to confidentiality rules in the NAFO CEM;*

*Recognizing the need for clear procedures regarding STACTIC participation, it is important to agree on dedicated Rules of Procedure for STACTIC that, among other elements, clarify data confidentiality issues and the rules of procedure for Contracting Parties to be assisted by experts and advisers during STACTIC;*

*With those understandings, and pursuant to Rule of Procedure 5.6, STACTIC has approved the following:*

### **STACTIC Rules of Procedure regarding data confidentiality and participation in STACTIC meetings**

1. STACTIC discussions are open to all Contracting Party delegates.
2. Contracting Parties and their delegates must comply with NAFO CEM data confidentiality rules.
3. Contracting Parties may request that STACTIC hold *in-camera* sessions for matters that involve sensitive topics and confidential data such as enforcement strategies and operations, proprietary fishing information, and vessel-specific enforcement actions.
4. Contracting Parties will work to present data in an aggregated, anonymized manner in an effort to reserve *in-camera* discussions only when necessary.
5. STACTIC *in-camera* sessions will be limited to the participation of government officials. A Contracting Party may designate other representatives, experts, or advisers to participate in *in-camera* sessions provided that, among other obligations, the Contracting Party ensures

that all representatives maintain confidentiality in respect of the content of the proceedings and working papers discussed in the *in-camera* session through enforceable means.

6. The following rules of procedure will apply to STACTIC *in-camera* sessions:
  - a. Contracting Parties shall provide to the NAFO Secretariat a list of all STACTIC attendees no less than 10 days in advance of any STACTIC meeting, noting all participants' affiliations. Contracting Parties shall update their list of attendees as needed. The NAFO Secretariat shall circulate the list of attendees to all Contracting Parties.
  - b. At least 10 days in advance of any STACTIC meeting, the STACTIC chair calls upon Contracting Parties to submit any nominations for agenda items or working papers to be considered for *in-camera* sessions.
  - c. To the extent possible, Contracting Parties shall submit nominations for *in-camera* agenda items, at least 5 days in advance of the meeting, noting any associated documents or working papers where access should be restricted to those participating in the *in-camera* sessions. Such nominations should include an explanation of why an *in-camera* session is appropriate for the nominated agenda item(s), focusing on the sensitivity of the topic.
  - d. Contracting Parties may express disagreement with any nomination for *in-camera* agenda items in writing at the earliest opportunity and, to the extent possible, no later than 2 days in advance of the meeting. The Contracting Party shall include an explanation of why an open session is appropriate for the nominated agenda item(s), focusing on the sensitivity of the topic.
  - e. The Contracting Parties will try to achieve consensus on the status of each agenda item for which there is a disagreement. If there is disagreement on whether an agenda item is to be discussed *in-camera*, the Contracting Parties will engage in an expedited mail vote in advance of the meeting, or at the latest, during the adoption of the agenda in accordance with NAFO Rules of Procedure.
  - f. Once agenda items, including all associated documents, have been identified for *in-camera* sessions, the Chair in coordination with the Secretariat, will work to revise the agenda so that the *in-camera* sessions are grouped together to allow as few interruptions as possible. The Chair will make clear when the *in-camera* sessions will occur.
  - g. The NAFO Secretariat will make the necessary arrangements so that working papers relevant to *in-camera* sessions will be made available only to those participating in the *in-camera* sessions.
  - h. Each Contracting Party, in cooperation with the NAFO Secretariat and the STACTIC Chair, shall ensure that it appropriately limits participation for all *in-camera* discussions as well as access to any associated documents.

- i. A Contracting Party may require that its confidential data, including data from the NAFO MCS website or data otherwise subject to NAFO confidentiality rules, is either not included in *in-camera* sessions working papers or presented in an anonymized or aggregated manner.
- j. With the assistance of the Secretariat, the STACTIC Chair will report to STACTIC a summary of the outcome from *in-camera* discussions as soon as practicable during the meeting in which they occur.