Proposal by the Working Group on the Future of NEAFC for an Annex 1 to the Rules of Procedure of the Commission

Rules concerning the *ad hoc* panel on dispute settlement pursuant to Chapter 8 of the Rules of Procedure of the Commission

1. These rules are adopted pursuant to Article 18bis of the Convention, and Rule 42 of the Rules of Procedure of the Commission.

2. Any Contracting Party shall by electronic means notify another Contracting Party of its request to refer a dispute it has with that Contracting Party to an *ad hoc* expert panel, hereafter “the Panel”, sending a copy to the Secretary. Such a notification shall be accompanied by a full description of the subject matter as well as grounds relied upon. The other Contracting Party shall promptly acknowledge the receipt of the notification.

3. The other Contracting Party shall within 15 days of receiving the notification decide on whether to agree or not to refer the dispute to the Panel. The other Contracting Party shall communicate whether it agrees or not to the Contracting Party that notified its request and to the Secretary. In the event that the other Contracting Party does not respond within 15 days it shall be regarded as not having agreed.

4. The Secretary shall promptly transmit a copy of the notification with the documents attached to it to all Contracting Parties.

5. Where another Contracting Party wishes to become a party to the dispute, it may join the process of constituting the *ad hoc* panel, unless the original parties to the dispute disagree. The Contracting Party wishing to become a party to the dispute shall notify this intention within 15 days after having received the notification contained in paragraph 4.

6. Unless the parties to the dispute agree otherwise, the following shall apply:

   a) the Panel shall consist of three members;

   b) each party to the dispute shall appoint one panelist and inform the Secretary of that appointment at the latest 15 days after the communication of the agreement to the constitution of the Panel by the other party;

   c) the parties to the dispute shall appoint the third panelist by mutual agreement, and inform the Secretary of the appointment at the latest 15 days after the appointment of the two other panelists. If they are unable to agree on the appointment of the third panelist, they may agree at the latest at the end of this 15 days period that the appointment shall be made by the President of NEAFC or any other person. In
case that no agreement has been found, the appointment shall be made by the President of the International Tribunal for the Law of the Sea;

d) the third panelist shall not be a national of any Contracting Party involved in the dispute or of the same nationality as either of the other panelists;

e) the panelists may be selected from a list of experts established and maintained by the Secretary on the basis of nominations made by the Contracting Parties, who may nominate up to five experts each who have competence in legal, scientific or technical aspects concerning the NEAFC Convention, and shall provide information on relevant qualifications and experience; and

f) the third panelist shall chair the Panel.

7. As soon as the panelists are nominated, the Secretary shall record the constitution of the Panel, and inform all Contracting Parties accordingly.

8. The Panel may adopt such rules of procedure as it considers necessary for effective and expeditious proceedings.

9. The Panel shall inform the Secretary of dates and venue of hearings. The Secretary shall inform all Contracting Parties accordingly.

10. Any Contracting Party may, upon notification to the Panel, attend any hearings, and make written or oral submissions.

11. The Panel may seek information or technical advice from any source it considers appropriate.

12. The Panel shall seek to agree on its recommendations to resolve the dispute by consensus. If this is not possible, the Panel shall agree by a majority vote of its members, none of whom may abstain from voting.

13. Unless the parties to the dispute agree on a later date, the panel shall deliver its recommendations within ninety days from the date of its constitution.

14. The recommendations shall be confined to the subject matter of the dispute and set out the reasons on which they are based. The Secretary shall promptly communicate them to all Contracting Parties.

15. Costs of the Panel shall be borne by the parties to the dispute in equal parts.

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