

**Amendments to the Rules of Procedure, Financial Regulations and Rules of Debate that  
would be required to give effect to certain aspects of the  
Proposed Consensus Decision to Improve the Conservation of Whales (IWC/62/7)**

(Submitted by the Secretariat at the request of the Chair and Vice-Chair of the Commission)

**Introduction**

The Proposed Consensus Decision to Improve the Conservation of Whales (Document IWC/62/7) contains a number of proposals. Some of the proposals, should they be adopted by the Commission, will require amendments to the Schedule and proposed text is included in Appendix A of document IWC/62/7. Others will require amendments to the Commission's Rules of Procedure and Financial Regulations. This document has been developed by the Secretariat at the request of the Chair and Vice-Chair of the Commission to address these amendments.

Amendments to the Rules of Procedure and Financial Regulations that would be required relate principally to:

- the proposed change in frequency of the meetings of the Commission (i.e. from annual meetings to meetings every two years from 2011);
- changes to the Committee structure and their roles; and
- increased speaking rights for observers.

Regarding the proposed change in frequency of meetings of the Commission from annual to every two years, given that it is suggested that this would take effect from 2011, the Secretariat suggests that it is more appropriate to consider the necessary amendments to the Commission's rules next year. However, in the meantime the Commission should consider a number of practical implications of moving to biennial meetings including: (1) that the Commission's budget would have to be developed and agreed for a two-year period, but with financial contributions from Contracting Governments being invoiced on an annual basis; (2) the development of two-year work programmes for the Committees and possible funding implications. These matters have been considered to some extent in the past during previous discussions on reducing the frequency of Commission meetings and a number of documents have been developed in this regard. Reference to the most recent of these documents (i.e. IWC/59/F&A SS 3) may be useful. Although the proposed change in frequency of Commission meetings are not reflected in the Annex, the proposed changes to the duration of the terms for the Chair and Vice-Chair of the Commission and the Chairs and Vice-Chairs of the Committees have been included. Such changes may not be relevant if the Commission does not decide to meet every two years from 2011.

With respect to changes to the Committee structure and their roles and proposed increased speaking rights for observers, possible amendments to the Rules of Procedure, Financial Regulations and Rules of Debate, Rules of Procedure for the Scientific Committee and Rules of Procedure for the Technical Committee (which are deleted) are included in the Annex. Note that in Appendix C of the Proposed Consensus Decision to Improve the Conservation of Whales that deals with the roles of the Bureau and Committees, there are examples of the type of subsidiary bodies to the various Committees that might be established (e.g.: a body under the Finance, Administration and Communications Committee to review the Financial Contributions Scheme; a Bycatch Mitigation Working Group under the Conservation Programme Committee; a Whale Killing Methods Working Group under the Management and Compliance Committee). The Secretariat suggests that specific examples such as these are not necessary for inclusion in the Rules of Procedure and at this point have not included them in the proposed amendments.

**Action Required:** *The Commission is invited to:*

- i. *review and comment on the possible amendments provided in the Annex in light of discussions on the Proposed Consensus Decision to Improve the Conservation of Whales (IWC/62/7);*
- ii. *agree a mechanism for addressing the practical implications should the Commission decide to meet every two years from 2011; and*
- iii. *adopt the amendments to the Rules of Procedure, Financial Regulations, Rules of Debate and Rules of Procedure of the Scientific Committee, as proposed or revised as appropriate.*

Annex

Possible changes to the Rules of Procedure, Financial Regulations and Rules of Debate

**RULES OF PROCEDURE**

**B. Meetings**

1. The Commission shall hold a regular Annual Meeting in such place as the Commission may determine. Any Contracting Government desiring to extend an invitation to the Commission to meet in that country shall give formal notice two years in advance. A formal offer should include:

- (a) which meetings it covers, i.e. Scientific Committee, ~~Commission sub-groups~~ Management and Compliance Committee, Conservation Programme Committee, Finance, Administration and Communications Committee, Annual Commission meeting;
- (b) a proposed time window within which the meeting will take place; and
- (c) a timetable for finalising details of the exact timing and location of the meeting.

Attendance by a majority of the members of the Commission shall constitute a quorum. Special Meetings of the Commission may be called at the direction of the Chair after consultation with the Contracting Governments and Commissioners.

**C. Observers**

2. Observers accredited in accordance with Rule C.1.(a) and (b) are admitted to all meetings of the Commission ~~and the Technical Committee~~, and to any meetings of subsidiary groups of the Commission ~~and the Technical Committee~~, except the Commissioners-only meetings, Bureau meetings and the meetings of the Finance and Administration and Communications Committee.

**F. Chair**

1. The Chair of the Commission shall be elected from time to time from among the Commissioners and shall take office at the conclusion of the Annual Meeting at which he/she is elected. The Chair shall serve for a period of ~~three~~four years and shall not be eligible for re-election as Chair until a further period of ~~three~~four years has elapsed. The Chair shall, however, remain in office until a successor is elected.

**G. Vice-Chair**

1. The Vice-Chair of the Commission shall be elected from time to time from among the Commissioners and shall preside at meetings of the Commission, or between them, in the absence or in the event of the Chair being unable to act. He/she shall on those occasions exercise the powers and duties prescribed for the Chair. The Vice-Chair shall be elected for a period of ~~three~~four years and shall not be eligible for re-election as Vice-Chair until a further period of ~~three~~four years has elapsed. He/she shall, however, remain in office until a successor is elected.

**I. Chair of Scientific Committee**

1. The Chair of the Scientific Committee may attend meetings of the Commission and ~~Technical~~ other Committees in an *ex officio* capacity without vote, at the invitation of the Chair of the Commission or ~~Technical Committee~~ Chairs of the Committees respectively in order to represent the views of the Scientific Committee.

**J. Schedule amendments, recommendations under Article VI and Resolutions**

2. Notwithstanding the advance notice requirements for draft Resolutions in Rule J.1, at the recommendation of the Chair in consultation with the ~~Advisory Committee Bureau~~, the Commission may decide to consider urgent draft Resolutions which arise after the 60 day deadline where there have been important developments that warrant action in the Commission. The full draft text of any such Resolution must be circulated to all Commissioners prior to the opening of the meeting at which the draft Resolution is to be considered.

## M. Committees

1. The Commission shall establish a Scientific Committee, ~~a Technical Committee, a Management and Compliance Committee, a Conservation Programme Committee and a Finance, –and– Administration and Communications Committee.~~ Each Committee shall elect their own Chairs and Vice-Chairs who will serve for a four-year period<sup>1</sup>. Commissioners shall notify their desire to be represented on ~~the Scientific, Technical and Finance and Administration –these~~ Committees 28 days prior to their meetings, and shall designate the approximate size of their delegations. The Secretary shall furnish appropriate secretarial services to each committee.

2. The Chair may constitute such *ad hoc* committees as may be necessary from time to time, with similar arrangements ~~for notification of the numbers of participants~~ as in paragraph 1 above where appropriate. ~~Each committee shall elect its Chair. The Secretary shall furnish appropriate secretarial services to each committee.~~

3. Sub-committees and working groups may be designated by the Commission to consider technical issues as appropriate, and each will report to the Technical-relevant Committee or the plenary session of the Commission as the Commission may decide.

~~4. The Scientific Committee shall review the current scientific and statistical information with respect to whales and whaling, shall review current scientific research programmes of Governments, other international organisations or of private organisations, shall review the scientific permits and scientific programmes for which Contracting Governments plan to issue scientific permits, shall consider such additional matters as may be referred to it by the Commission or by the Chair of the Commission, and shall submit reports and recommendations to the Commission.~~

4. The Scientific Committee shall meet annually and shall:

- (a) Develop a work programme to implement the Commission's strategic plan for the Scientific Committee;
- (b) Consider additional matters that may be referred to it by the Commission or Chair of the Commission;
- (c) Review scientific information relevant to the conservation of whales and management of whaling;
- (d) Review relevant scientific research programmes on cetaceans;
- (e) Provide advice to regional research partnerships on cetacean issues;
- (f) Provide management advice on whaling using established methods and management procedures;
- (g) Provide conservation advice on cetacean populations, including co-ordination and co-operation with the Conservation Programme Committee on the development of conservation management plans;
- (h) Develop recommendations for research (including the holding of workshops) that will improve its ability to provide advice to the Commission including prioritised requests for funding;
- (i) Provide advice on priorities for funding from relevant special funds within the Commission; and
- (j) Submit reports of its work and recommendations to the Commission.

5. The preliminary report of the Scientific Committee should be completed and available to all Commissioners by the opening date of the Annual Commission Meeting.

6. The Secretary shall be an *ex officio* member of the Scientific Committee without vote.

~~7. The Technical Committee shall, as directed by the Commission or the Chair of the Commission, prepare reports and make recommendations on:~~

- ~~(a) Management principles, categories, criteria and definitions, taking into account the recommendations of the Scientific Committee, as a means of helping the Commission to deal with management issues as they arise;~~
- ~~(b) technical and practical options for implementation of conservation measures based on Scientific Committee advice;~~
- ~~(c) the implementation of decisions taken by the Commission through resolutions and through Schedule provisions;~~
- ~~(d) Commission agenda items assigned to it;~~
- ~~(e) any other matters.~~

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<sup>1</sup> The Commission may wish to confirm whether all Committees require a Vice-Chair.

7. The Management and Compliance Committee shall:

- (a) Submit reports and recommendations to the Commission on management and compliance. This will include guidelines on whalewatching;
- (b) Develop a work programme to implement the Commission's strategic plan for management and compliance;
- (c) Review and report on the progress of the implementation of agreed management procedures;
- (d) Review and report on the compliance of all whaling operations with the provisions of the Schedule and penalties for infractions thereof;
- (e) Report on infractions and the seriousness of those infractions to the Commission and advise the Commission what actions, if any, should be taken;
- (f) Review information and documentation available with a view to advising the Commission on whale killing methods and associated welfare issues;
- (g) Prepare reports and recommendations on technical and practical options for implementation of conservation measures associated with whaling, taking into account advice of the Scientific Committee;
- (h) Recommend and facilitate establishment of subsidiary bodies as necessary;
- (i) Take forward such additional matters as may be referred to it by the Commission or the Chair of the Commission; and
- (j) Implement, as appropriate, decisions taken by the Commission.

8. The Conservation Programme Committee shall:

- (a) Submit reports and recommendations to the Commission on its conservation agenda;
- (b) Identify conservation problems and priorities;
- (c) Cooperate with the Scientific Committee, including in prioritising and developing effective Conservation Management Plans;
- (d) Develop a work programme to implement the Commission's conservation agenda described in the strategic plan, including through addressing identified conservation problems and priorities;
- (e) Identify and request relevant data;
- (f) Recommend and facilitate establishment of subsidiary bodies as necessary;
- (g) Take forward such additional matters as may be referred to it by the Chair of the Commission; and
- (h) Implement, as appropriate, decisions taken by the Commission.

8.-9. The Finance, ~~and~~ Administration and Communications Committee shall:

- (a) ~~Advise the Commission on expenditure, budgets, scale of contributions, financial regulations, staff questions, personnel matters, the role of the Secretariat,~~ and such other matters as the Commission may refer to it from time to time;
- (b) ~~Develop a work programme to implement the Commission's strategic plan for Finance, Administration and Communications;~~
- (c) ~~Assist and advise the Secretariat on administrative matters upon request by the Secretariat or agreement in the Commission;~~
- (d) ~~Develop a communications plan for the Commission;~~
- (e) ~~Review the provision of services, including for simultaneous interpretation and translation of documents, and for the website;~~
- (f) ~~Recommend and facilitate establishment of subsidiary bodies as necessary;~~
- (g) ~~Take forward such additional matters as may be referred to it by the Commission or by the Chair of the Commission; and~~
- (h) ~~Implement, as appropriate, decisions taken by the Commission.~~

## **N. Bureau**

~~9. The Commission shall establish an Advisory Committee. This Committee shall comprise the Chair, Vice-Chair, Chair of the Finance and Administration Committee, Secretary and two Commissioners to broadly represent the interests within the IWC forum. The appointment of the Commissioners shall be for two years on alternative years.~~

~~The role of the Committee shall be to assist and advise the Secretariat on administrative matters upon request by the Secretariat or agreement in the Commission. The Committee is not a decision making forum and shall not deal with policy matters or administrative matters that are within the scope of the Finance and Administration Committee other than making recommendations to this Committee.~~

### **1. The Commission shall establish a Bureau, which shall:**

- (a) Support the Chair of the Commission;
- (b) Propose to the Commission four-year strategic plans based on contributions from the Committees and monitor implementation of the plans once approved by the Commission;
- (c) Assist and advise the Secretariat on administrative and financial matters between meetings of the Commission;
- (d) Help coordinate the business of the Commission;
- (e) Review the progress of the work of the Committees;
- (f) Assist the implementation of the IWC Cooperation Programme; and
- (g) Undertake other tasks entrusted to it by the Commission.

2. The Bureau shall be comprised of the Chair, the Vice-Chair, and the four Committee Chairs. To ensure that the Bureau will be representative of the regions and interests within the Commission, two additional Commissioners will be nominated by the Chair. The appointment of the Commissioners shall be for four years on alternative years.

## **NO. Languages of the Commission**

1. English shall be the official language of the Commission. English, French and Spanish shall be the working languages of the Commission. Commissioners may speak in any other language, if desired, it being understood that Commissioners doing so will provide their own interpreters. All official publications and communications of the Commission shall be in English. Agreed publications shall be available in English, French and Spanish<sup>2</sup>.

## **OP. Records of Meetings**

1. The proceedings of the meetings of the Commission and those of its committees shall be recorded in summary form.

## **PQ. Reports**

1. Commissioners should arrange for reports on the subject of whaling published in their own countries to be sent to the Commission for record purposes.

2. The Chair's Report of the most recent Annual Commission Meeting shall be published in the Annual Report of the year just completed.

## **QR. Commission Documents**

1. Reports of meetings of all committees, sub-committees and working groups of the Commission are confidential (i.e. reporting of discussions, conclusions and recommendations made during a meeting is prohibited) until the opening plenary session of the Commission meeting to which they are submitted, or in the case of intersessional meetings, until after they have been dispatched by the Secretary to Contracting Governments and Commissioners. This applies equally to member governments and observers. Such reports, with the exception of the report of the Finance, ~~and~~ Administration ~~and -Communications~~ Committee, shall be distributed to Commissioners, Contracting Governments and accredited observers at the same time. Procedures applying to the Scientific Committee are contained in its Rules of Procedure E.5.(a) and E.5.(b).

<sup>2</sup> As agreed at IWC 59 in Anchorage in 2007: i.e. simultaneous interpretation in French and Spanish in IWC Plenary and private meetings of Commissioners, and translation into French and Spanish of: (1) Resolutions and Schedule amendments; (2) the Chair's summary reports of annual meetings; (3) Annotated Provisional Agendas; and (4) summaries of the Scientific Committee and working group reports. Ann. Rep. Int. Whaling Comm. 2007: 56-57.

2. Any document submitted to the Commission for distribution to Commissioners, Contracting Governments or members of the Scientific Committee is considered to be in the public domain unless it is designated by the author or government submitting it to be restricted<sup>3</sup>. Such restriction is automatically lifted when the report of the meeting to which it is submitted becomes publicly available under 1. above.

3. Observers admitted under Rule of Procedure C.1.(a) and (b) may submit Opening Statements which will be included in the official documentation of the Annual or other Meeting concerned. They shall be presented in the format and the quantities determined by the Secretariat for meeting documentation.

The content of the Opening Statements shall be relevant to matters under consideration by the Commission, and shall be in the form of views and comments made to the Commission in general rather than directed to any individual or group of Contracting Governments.<sup>4</sup>

4. All meeting documents shall be included in the Commission's archives in the form in which they were considered at the meeting.

**RS. Amendment of Rules**

R.1. These Rules of Procedure *and the Rules of Debate* may be amended from time to time by a simple majority of the Commissioners voting, but *[] the full draft text of any proposed amendment shall be circulated* to the Commissioners *[] at least* 60 days in advance of the meeting at which the matter is to be discussed.

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<sup>3</sup> This does not prevent Contracting Governments from consulting as they see fit on such documents providing confidentiality is maintained as described in Rule of Procedure Q.1.

<sup>4</sup> [There is no intention that the Secretariat should conduct advance or *ex-ante* reviews of such statements.]

## FINANCIAL REGULATIONS

### D. Yearly Statements

2. The two financial statements identified in Regulation D.1 shall be despatched by the most expeditious means available to each Contracting Government and each Commissioner not less than 60 days in advance of the Annual Commission Meeting. They shall require the Commission's approval after having been referred to the Finance, ~~and~~ Administration and Communications Committee for consideration and recommendations. A copy of the final accounts shall be sent to all Contracting Governments after they have been audited.
3. Supplementary estimates may be submitted to the Commission, as and when may be deemed necessary, in a form consistent with the Annual Estimates. Any supplementary estimate shall require the approval of the Commission after being referred to the Finance, ~~and~~ Administration and Communications Committee for consideration and recommendation.

## RULES OF DEBATE

### A. Right to Speak

1. The Chair shall call upon speakers in the order in which they signify their desire to speak.
2. A Commissioner or Observer may speak only if called upon by the Chair, who may call a speaker to order if his/her remarks are not relevant to the subject under discussion. The Chair will invite observers from non-governmental organisations to speak where appropriate and as time allows and taking into consideration regional representation and a wide range of views.
3. A speaker shall not be interrupted except on a point of order. He/she may, however, with the permission of the Chair, give way during his/her speech to allow any other Commissioner to request elucidation on a particular point in that speech.
4. The Chair of a committee or working group may be accorded precedence for the purpose of explaining the conclusion arrived at by his/her committee or group.

## RULES OF PROCEDURE OF THE SCIENTIFIC COMMITTEE

5. The Committee shall elect from among its members a Chair and Vice-Chair who will normally serve for a period of ~~three~~ four years. They shall take office at the conclusion of the annual meeting at which they are elected. The Vice-Chair shall act for the Chair in his/her absence.

## **~~RULES OF PROCEDURE OF THE TECHNICAL COMMITTEE~~**

### **~~A. Participation~~**

- ~~1. Membership shall consist of those member nations that elect to be represented on the Technical Committee. Delegations shall consist of Commissioners, or their nominees, who may be accompanied by technical experts.~~
- ~~2. The Secretary of the Commission or a deputy shall be an *ex officio* non-voting member of the Committee.~~
- ~~3. Observers may attend Committee meetings in accordance with the Rules of the Commission.~~

### **~~B. Organisation~~**

- ~~1. Normally the Vice Chair of the Commission is the Chair of the Technical Committee. Otherwise the Chair shall be elected from among the members of the Committee.~~
- ~~2. A provisional agenda for the Technical Committee and each sub-committee and working group shall be prepared by the Technical Committee Chair with the assistance of the Secretary. After agreement by the Chair of the Commission they shall be distributed to Commissioners 30 days in advance of the Annual Meeting.~~

### **~~C. Meetings~~**

- ~~1. The Annual Meeting shall be held between the Scientific Committee and Commission meetings with reasonable overlap of meetings as appropriate to agenda requirements. Special meetings may be held as agreed by the Commission or the Chair of the Commission.~~
- ~~2. Rules of conduct for observers shall conform with rules established by the Commission for meetings of all committees and plenary sessions.~~

### **~~D. Reports~~**

- ~~1. Reports and recommendations shall, as far as possible, be developed on the basis of consensus. However, if a consensus is not achievable, the committee, sub-committee or working group shall report the different views expressed. The Chair or any national delegation may request a vote on any issue. Resulting recommendations shall be based on a simple majority of those nations casting an affirmative or negative vote.~~
- ~~2. Documents on which recommendations are based should be available on demand immediately following each committee, sub-committee or working group meeting.~~
- ~~3. Technical papers produced for the Commission may be reviewed by the Committee for publication by the Commission.~~