

Possible improvements to procedural issues identified at the March 2008 Intersessional Meeting on the Future of IWC

(prepared by the Secretariat)

1. INTRODUCTION

From the outcome of the March 2008 Intersessional Meeting on the Future of the IWC, there appear to be two main areas for Commission follow-up at IWC/60:

- (1) setting-up and initiating a negotiation process to resolve the IWC's difficulties; and
- (2) improving Commission procedures to help in rebuilding trust amongst members and improving approaches to discussions and negotiations (i.e. 'procedural fixes').

With respect to (1), the Chair has made recommendations for a negotiation process in document IWC/60/10 and Professor Juma's report also addresses this issue (see item 4.2 'options for action' in document IWC/60/12). The present document therefore focuses on (2) and provides ideas for improvements based on recommendations made in the Chair's report of the March 2008 intersessional meeting (see IWC/60/7 item 4) together with suggestions made in Professor Juma's document (IWC/60/12). It therefore considers:

- Improving practice and procedures
 - Reaching decisions by consensus
 - Ensuring adequate notice of matters to be considered by the Commission
 - Promoting dialogue between Commission meetings
 - Mutual respect for all Contracting Governments
- Improving the negotiating process
 - Given the Chair's recommendations in IWC/60/10 and Professor Juma's options for action in IWC/60/12, this focuses on:
 - Using outside experts/mediators
 - Involving ministers/enlarging diplomatic representation
 - Better-integrating elements of civil society into the Commission's work
- The role of science
- Improving participation
- The role of the media
- Improving relationships with other intergovernmental organisations
- Issues identified by Professor Juma and not discussed at the March 2008 intersessional meeting.

Some potential actions that could be taken are summarised in Annex A. It should be noted that given the requirement for 60 days notice of any amendments to Rules of Procedure, any such amendments agreed could not take effect until the next meeting of the Commission.

Action required: The Commission is invited to:

- (i) review and comment on the document; and***
- (ii) taking note of the potential actions identified, agree on next steps as appropriate.***

2. POSSIBLE IMPROVEMENTS TO PROCEDURAL ISSUES

2.1 Improving practice and procedures (section 4.2 of IWC/60/7)

2.1.1 Reaching decisions by consensus

At the March intersessional meeting, there was broad agreement on the need to change the culture and behaviour of the IWC to avoid the often acrimonious discussions of the past few years and to strive to reach decisions by consensus wherever possible rather than resorting to voting prematurely.

In fact the introductory paragraph to the Commission Rules of Procedure E on Decision-making already includes the following text: *The Commission should seek to reach its decisions by consensus. Otherwise, the following Rules of Procedure shall apply:.....*.

Possible action:

Despite the clear existing Rule of Procedure, participants at the intersessional meeting did not believe that it was adequately being taken into account. One additional way of stressing the need for consensus might be to develop a formal statement in which all Contracting Governments commit themselves to making every effort possible to reach decisions by consensus thereby by making a strong 'moral commitment' on behalf of governments.

In addition, when difficulties arise during formal meetings, the Chair could be empowered to halt/adjourn discussions (employing a 'cooling off' period) in order to minimise acrimonious discussions and/or a vote being precipitated (see also section 2.2 below) and allow time for more informal discussions to take place. This may require amendment to Rules of Debate C. Procedural Motions¹ so as to ensure that such a motion from the Chair would have precedence over other motions. The Secretariat will give some further thought to this prior to the Annual Meeting and the views of Commissioners and Contracting Governments would also be welcome. In addition, when it becomes apparent that an issue cannot be resolved in plenary or that detailed edits to a text might address a country's concerns, the Chair could refer discussions to a small working group for continued discussion in a less formal environment. This technique has been used on occasion during Commission meetings but could perhaps be used more frequently.

2.1.2 Ensuring adequate notice of matters to be considered

At the intersessional meeting, there was also agreement on the need to adopt measures to ensure adequate notice is given of matters to be considered by the Commission so as to reduce surprises and allow time for proper consultation. It was recognised that such measures would also improve the possibility of reaching decisions by consensus (e.g. by allowing more time for early informal discussions). A number of recommendations were made in this regard including that:

- (i) full details of any proposed Schedule amendments and amendments to Rules of Procedure should be circulated well in advance of meetings;
- (ii) all documents to be considered by the Commission and its sub-groups should be made available by a set deadline, preferably well before the meeting and in the languages used by the Commission;
- (iii) a period should be established between the adherence of a new Government to the Convention and its participation as a full member of the Commission as is the case in many conventions².

¹ C. Procedural Motions

1. During the discussion of any matter, a Commissioner may rise to a point of order, and the point of order shall be immediately decided by the Chair in accordance with these Rules of Procedure. A Commissioner may appeal against any ruling of the Chair. The appeal shall be immediately put to the vote and the question voted upon shall be stated as: Shall the decision of the Chair be overturned? The Chair's ruling shall stand unless a majority of the Commissioners present and voting otherwise decide. A Commissioner rising to a point of order may not speak on the substance of the matter under discussion.

2. The following motions shall have precedence in the following order over all other proposals or motions before the Commission: (a) to adjourn the session; (b) to adjourn the debate on the particular subject or question under discussion; (c) to close the debate on the particular subject or question under discussion.

² For example, for CITES and CBD, the Conventions enter into force for a government 90 days after the deposit of its instrument of ratification, acceptance or accession. For CCAMLR, the waiting period is 30 days.

Proposed amendments to the Schedule and Rules of Procedure

With respect to (i), at present, while notice of proposed amendments to the Schedule or Rules of Procedure must be made 60 days in advance as required by Rules of Procedure J.1 and R.1 respectively, the full text is not always provided until the meeting itself (of course this may be due to the laudable aim of holding informal discussions before presentation of formal wording rather than any strategy of ‘surprise’).

Possible action:

The following proposed amendments to Rules of Procedure J.1 and R.1 could be considered by the Commission. Recognising that it may not always be possible for full texts of proposals to be available 60 days in advance, the proposed amendments suggest that this should be the general rule. Note that no reference has been made to the language in which proposals should be made available as the Commission has yet to address this matter fully³.

Current rule	Proposed revisions
J. Schedule amendments and recommendations under Article VI	
1. No item of business which involves amendment of the Schedule to the Convention, or recommendations under Article VI of the Convention, shall be the subject of decisive action by the Commission unless the subject matter has been included in the annotated provisional agenda circulated to the Commissioners at least 60 days in advance of the meeting at which the matter is to be discussed.	1. No item of business which involves amendment of the Schedule to the Convention, or recommendations under Article VI of the Convention, shall be the subject of decisive action by the Commission unless the subject matter has been included in the annotated provisional agenda circulated to the Commissioners at least 60 days in advance of the meeting at which the matter is to be discussed. <i>As a general rule, the full text of any proposed Schedule amendment or recommendation under Article VI should also be circulated at this time. If that cannot be done at least the intent of the amendments should be made clear.</i>

R. Amendment of Rules	
1. These Rules of Procedure may be amended from time to time by a simple majority of the Commissioners voting, but notice of any proposed amendment shall be despatched by the most expeditious means available to the Commissioners by the Secretary to the Commission not less than 60 days in advance of the meeting at which the matter is to be discussed.	1. These Rules of Procedure may be amended from time to time by a simple majority of the Commissioners voting, but notice of any proposed amendment shall be despatched by the most expeditious means available to the Commissioners by the Secretary to the Commission not less than 60 days in advance of the meeting at which the matter is to be discussed. <i>As a general rule, the full text of any proposed amendment should also be circulated at this time. If that cannot be done at least the intent of the amendments should be made clear.</i>

Document submission deadlines

With respect to (ii), an informal document submission deadline of 5 weeks prior to a meeting is set currently via a Circular Communication from the Secretariat. This deadline was established following discussions at IWC/53 in London in 2001⁴. While this deadline is sometimes respected, it is often not met (including by the Secretariat). While this may be less important for documents requiring no action (i.e. ‘for information’ documents), availability well in advance, to the extent possible, of those documents (e.g. draft Resolutions) that do require action would clearly be preferable. The tabling of certain Resolutions at Commission meetings without adequate prior notice of the subject matter has not been conducive to constructive discussions and has on a number of occasions had the undesired effect of resulting in Resolutions being passed by only a narrow majority when with more time and effort,

³ If the Commission decides formally to introduce working languages in addition to English, it may be most appropriate to address the issue of the languages in which proposals and other documents should be made available in a single Rule of Procedure.

⁴ Ann. Rep. Int. Whal. Comm. 2001: 40.

consensus Resolutions could have been developed; inevitably consensus recommendations are more likely to be effective.

Professor Juma also considered that Commission documents should be made available to members well in advance of a meeting, and proposed that a deadline of at least 90 days be set. The Secretariat suggests that the timing of the deadline may depend on whether Commission meetings are held annually or on a less frequent basis. A 90-day deadline may be rather long if the Commission continues to meet each year.

With respect to practice in other IGOs, the CBD sets a deadline for the provisional agenda and supporting documents for Conferences of the Parties of at least six weeks (42 days) (Rule of Procedure 10). For CITES, as a general rule, draft resolutions and other documents (except proposals to amend Appendices I and II) should have been provided to the Secretariat at least 150 days (21 weeks) before the meeting, although provision is made for the consideration of draft resolutions and documents made available after this deadline provided they will not unduly inhibit the proceedings of the Conference of Parties⁵. The Rules of Procedure for the Commission of CCAMLR (Rule 16) provide that members proposing supplementary items for the preliminary agenda shall inform the Executive Secretary of these no later than 65 days before the meeting and accompany their proposal with an explanatory memorandum. In personal communication with CCAMLR's Executive Secretary, the IWC Secretariat has been informed that in practice, for its Scientific Committee and subsidiary groups, meeting papers must reach the Secretariat no later than 2 weeks prior to the start of any meeting and that papers requiring translation arrive well in advance of this if the Secretariat is to guarantee translation. CCAMLR also has a additional rule that strives to reject papers arriving later than 09.00 on the first day of the meeting concerned and puts such papers in the realm of requiring a decision from the meeting Chair before they are tabled. It is perhaps relevant to note that while CCAMLR meets on an annual basis, the CBD and CITES meets less frequently.

Possible action:

The Commission should consider whether it wishes to formalise document submission deadlines via a new Rule of Procedure, or whether to continue to encourage early submission of documents more informally as at present. Either way, the Commission may wish to distinguish between those documents requiring action and those that are simply for information (e.g. by establishing different deadlines). The timing of any deadline may also be affected by future decisions with respect to the translation of documents.

The Secretariat suggests that if document submission deadlines are formalised via a new Rule of Procedure, some flexibility should be incorporated in a similar way as is done by CITES.

Adherence of new governments to the Convention

With respect to (iii), the procedure of adherence to the Convention is provided for in Article X.2 of the Convention as follows:

Article X

2. Any Government which has not signed this Convention may adhere thereto after it enters into force by a notification in writing to the Government of the United States of America.

Consequently, as soon as a Government adheres and pays the financial contributions due, it has full voting rights. Some comments were made that this can create uncertainty at the beginning of Annual Meetings when governments are trying to assess which group has a simple majority. As noted above, some conventions provide for a delay between the date of adherence by a government and the date in which that convention enters into force for that government. For example, for CITES and CBD, the Conventions enter into force for a government 90 days after the deposit of its instrument of ratification, acceptance or accession. For CCAMLR, the waiting period is 30 days.

⁵ CITES Rules of Procedure of the Conference of Parties as amended at the 14th meeting, The Hague, 2007). *Rule 20 Submission of draft resolutions and other documents (except proposals to amend Appendices I and II)*: 1. As a general rule, draft resolutions and other documents shall have been communicated at least 150 days before the meeting to the Secretariat, which shall circulate them to all Parties in the working languages of the meeting. 2. However, the Secretariat, before the meeting, or the Bureau, during the meeting, may also permit the discussion and consideration of urgent draft resolutions and other documents arising after the 150-day period provided that they have been circulated as above and their consideration will not unduly inhibit the proceedings of the Conference. 3. Draft resolutions and other documents arising out of discussion of the foregoing may be discussed at any plenary session or any session of Committee I or II provided that copies of them have been circulated to all delegations, in the working languages, no later than during the session preceding the session at which they are to be discussed. 4. The Representative of any Party that has submitted a draft resolution or other document may, at any time, withdraw it. Once withdrawn, it may not be re-submitted during the meeting.

Possible action:

If the Commission fully commits itself to more diplomatic discussions and to striving to reach decisions by consensus wherever possible, then the perceived importance of knowing where a narrow majority lies should be greatly diminished. Thus taking action to provide for a delay between the adherence date and the point at which a government could exercise its right to vote could be considered unnecessary. However, if the Commission did wish to institute such a delay, one method of achieving this would be to amend the ICRW such that there was a delay between adherence and the Convention entering into force. Amending the Convention is not, however, the only way to achieve this end. A simpler approach could be for the Commission to adopt a new Rule of Procedure that delays the commencement of voting rights of new member governments for some limited period after adherence (e.g. 3 months). Given that the ‘surprise’ factor referred to above relates more to uncertainty over the ‘balance of power’ rather than uncertainty created by adherence *per se*, it seems unnecessary to delay a new government’s ability to participate in discussions at meetings. Accordingly, a revision to Rule of Procedure E.2(b) such as the one below may be appropriate:

Current rule	Proposed revisions
E. Decision-making	
2.(b) The Commissioner of a new Contracting Government shall not exercise the right to vote either at meetings or by postal or other means unless the Commission has received the Government’s financial contribution or part contribution for the year prescribed in Financial Regulation E.3.	2.(b) <i>[]</i> Commissioners of new Contracting Governments shall not exercise the right to vote either at meetings or by postal or other means: <i>(i) until [X] months after the date of adherence, although they may participate fully in discussions of the Commission; and</i> <i>(ii) unless the Commission has received the Government’s financial contribution or part contribution for the year prescribed in Financial Regulation E.3.</i>

Of course, should the Commission decide to delay full benefits of membership in this way, it may also wish to consider a delay in full burden of membership by, for example, reducing the financial contribution for its first year of membership. Such a decision would need to be reflected in the Financial Regulations and would at least require amendment of Financial Regulation E.3⁶.

2.1.3 Promoting dialogue between Commission meetings

Noting that currently little meaningful dialogue/exchange occurs between Commission meetings, the need for real dialogue among Contracting Governments during intersessional periods was also recognised at the intersessional meeting. Suggestions for how this could be achieved included arranging: a series of bilateral meetings; meetings in the margins of non-IWC meetings at which IWC delegates may be present (i.e. take advantage of other international meetings); and arranging meetings in a more informal setting.

Possible action:

Dialogue among Contracting Governments between Commission meetings, particularly among governments having different views with respect to whale conservation and management would clearly be of benefit. However, the promotion of such dialogue is probably more a matter for the member governments themselves and it is unclear what role the Commission as a body could play other than encouraging such discussions to take place. One possible way in which the Secretariat could assist in this might be to hold a central list of other international meetings at which Commissioners were attending, to assist them in arranging associated informal IWC discussions either immediately before, during or immediately after the meetings themselves.

⁶ Financial Regulation E.3 currently reads: *New Contracting Governments whose adherence to the Convention becomes effective during the first six months of any financial year shall be liable to pay the full amount of the annual payment for that year, but only half that amount if their adherence falls within the second half of the financial year. The due date for the first payment by new Contracting Governments shall be defined as 6 months from the date of adherence to the Convention or before the first day of its participation in any Annual or Special Meeting of the Commission whichever is the earlier. Subsequent annual payments shall be paid in accordance with Financial Regulation E.2.*

2.1.4 Mutual respect for all Contracting Governments

There was a call for mutual respect and equal treatment of all Contracting Governments and a recommendation that the Commission should develop a written consensus statement recognising the diversity of interests within the Commission. Comments were also made that more attention should be given to the terminology used and the way it is used, for example avoiding contrasting conservation and whaling to suggest that the two are mutually exclusive.

Possible action:

With respect to recognising the diversity of interests within the Commission via a written statement, work began at the March intersessional meeting although it was not completed. The Commission may therefore wish to resume work on such a statement.

Mutual respect among and equal treatment of all Contracting Governments should be a matter of general practice within any intergovernmental organisation and should not need to be codified through Rules of Procedure or Rules of Debate. Mutual respect and equal treatment should manifest itself in the manner in which interventions are made during meetings and the type of language used both in oral interventions and written communications. For example, the language used in some Resolutions has created offence to a number of members.

For instance, there has been a tendency for Resolutions on similar contentious issues to be written in a condemnatory manner for some governments and an encouraging manner for others. In addition, there have been a number of occasions where it might have been possible to reach consensus on the operative paragraphs of a Resolution (i.e. the most important paragraphs), but difficulties created by the language and/or statements used in preambular paragraphs have prevented this. The call for Commission discussions to be conducted in a more polite and diplomatic fashion was discussed during last year's F&A Committee meeting, and rather than amend the Rules of Debate, the F&A Committee agreed that it would be more appropriate to make the declaration that *'the use of provocative, offensive and un-diplomatic language shall be avoided in the proceedings of the Commission'*⁷. This view was endorsed by the Commission. It may be appropriate to include such a declaration in the statement on diversity referred to above (if the Commission decides to develop such a statement).

Given: (1) that the language used in past Resolutions has created some offence; and (2) that at the March 2008 intersessional meeting there was broad agreement that IWC should strive to reach decisions by consensus wherever possible, the Commission may also wish to consider developing a 'code of practice' for the drafting Resolutions (Professor Juma referred to the practice of IUCN in section 3.3 of his document (IWC/60/12) under voting practices). Such a code could, for example, *inter alia*, formalise the request made by the Chair at the beginning of each Annual Meeting that governments consult widely before presenting Resolutions to the Commission and that advance warning of such submissions be given to the Chair and/or the Secretary either prior to or at the meeting itself.

2.2 Improving the negotiation process (see section 4.3 of IWC/60/7)

At the March 2008 intersessional meeting, it was recognised that the way negotiations are conducted in IWC needs to be improved and a variety of mechanisms were suggested including:

- (i) giving an undertaking that 'nothing is agreed until everything is agreed';
- (ii) using a mixture of open and closed sessions – recognising that allowing for the possibility to hold some discussions in private, particularly in relation to addressing difficult matters, would be helpful in making progress;
- (iii) using smaller groups (miniaturisation) – recognising that using smaller groups to discuss issues is particularly attractive given the increasing number of Contracting Governments;
- (iv) employing 'cooling off' periods/deferring discussions to a smaller informal working group – recognising that when difficulties arise during negotiations, it can be useful to halt formal discussions for a period so as to avoid, for example precipitating a vote, and allowing time for informal discussions outside of the negotiating context;

⁷ *Ann. Rep. Int. Whal. Comm.* 2007: 58-59

- (v) using outside experts/mediators;
- (vi) involving ministers – recognising that there should be a commitment at a political level to any negotiations; and
- (vii) involving civil society – recognising the need to better-integrate civil society into the Commission's work.

Points (i), (ii) and (iii) have been included in the Chair's recommendations for follow-up to the March 2008 intersessional meeting and can be discussed in that context (see document IWC/60/10). In addition, with respect to point (ii), Professor Juma also reported the desire expressed to him by many Commissioners to have more opportunities to consult with each other and to negotiate in private while maintaining sufficient communication with other constituencies (see section 3.3 of IWC/60/12 under '*proceedings of the meetings of the Commission*').

Point (iv) regarding the use of 'cooling off' periods/deferring discussions to a small informal working group are techniques that can be used/proposed by the Chair as appropriate and are also discussed under 2.1.1 above.

2.2.1 Using outside experts/mediators

This was done for the first time at the March 2008 intersessional meeting and at the request of that meeting these same experts will be present for follow-up discussions at IWC/60 in Chile.

Possible action:

The Commission may wish to consider whether or not to continue to involve these or other non-IWC individuals in any negotiation process initiated at IWC/60 (and budget accordingly).

2.2.2 Involving Ministers/enlarging diplomatic representation

It was recognised that there should be commitment at a political level in attempting to achieve a broad consensus at the onset and during any negotiations. Such a commitment would help governments explain the outcome of negotiations and any compromises made to their constituencies. Some have suggested that this can be achieved at the level of individual Contracting Governments whereas others have suggested that this might better be achieved by a ministerial meeting. Somewhat related to this is the point raised by Professor Juma regarding enlarging diplomatic representation (see section 4.3 of IWC/60/12). He suggested that the greater involvement of officials from ministries of foreign affairs and other relevant ministries would help to strengthen IWC and reflect the changing character of IWC and the interests of Contracting Governments.

Possible action:

While a decision to hold an IWC meeting at the Ministerial level would be a matter for the Commission as a body, the Secretariat suggests that the composition of delegations and decisions on who is involved at a government level in discussions related to IWC are matters for governments themselves.

2.2.3 Involving civil society

With respect to better-integrating civil society (non-governmental organisations) into the Commission's work, the intersessional meeting recognised that discussions of this issue should take into account how this is handled by other intergovernmental organisations (IGOs). In section 3.3 of IWC/60/12, Professor Juma also considers this issue and notes that this might be achieved, for example, '*through a new accreditation system that specifies the role NGOs can play under the various organs and functions of the Commission*'. He identifies that one of the key issues relates to statements to IWC and that NGOs could, through a system of collective representation, be allowed to make formal presentations to Commission meetings, with the timing and duration of such presentations being determined by the Chair of the Commission. The issue of levying fees from NGOs was also noted at the intersessional.

In fact, the rules governing the accreditation and participation of NGOs in IWC meetings have been under review since IWC/56 in Sorrento in 2004. At that meeting the Commission discussed speaking rights for NGOs but agreed that this be set aside for the time being, preferring to focus on criteria for accreditation, the numbers of individuals

per organisation allowed access to meeting rooms and fee structure and level⁸. These issues, together with a summary of the rules and procedures regarding observation by NGOs in the decision-making bodies of a number of IGOs⁹, were addressed in a paper developed for the F&A Committee at IWC/58 in St. Kitts and Nevis in 2006 (i.e. IWC/58/F&A 3). At IWC/59 last year, the Commission adopted changes to the procedure governing accreditation and participation of NGOs in IWC meetings that, *inter alia*, eliminated the requirement for NGOs to maintain international offices, relaxed the restriction of allowing only a single observer into the meeting room at any one time and adjusted the fee structure for equitability.

Possible action:

Although the Commission has recently reviewed and made decisions on the accreditation, participation and fees of NGOs, given the discussions at the March 2008 intersessional meeting and the comments made by Professor Juma, it may wish to reconsider this matter.

Regarding the specific recommendation to review how other IGOs involve NGOs, the Secretariat draws attention to summary contained in document IWC/58/F&A 3 mentioned above. This summary is appended to this paper as Annex B. While recognising that the rules and procedures pertaining to the involvement of NGOs of those IGOs covered in IWC/58/F&A 3 may have been revised since 2006, that only certain IGOs were included and that the review may not have covered all of the issues that are of interest now, it seems sensible to reconsider Annex 2 before deciding whether a further review is necessary. If considered necessary, the Secretariat could undertake this work with the agreement of the Commission.

2.3 The role of science (see section 4.4 of IWC/60/7)

At the March 2008 intersessional meeting there was agreement that the provision of sound scientific advice is essential to the functioning of the IWC. Indeed, one of the more positive features of the organisation is its strong scientific element. The work of the IWC Scientific Committee is internationally recognised as providing the best available knowledge on conservation and management for cetaceans. It has a good record in achieving consensus on nearly all of its recommendations to the Commission.

Nevertheless, comments were made by some participants at the intersessional meeting that the current workload of the Scientific Committee is too high, difficult to prioritise and, mainly because of its timing in conjunction with the Commission, not adequately integrated into the policy work of the Commission.

The need to review the composition and function of the Scientific Committee was also suggested (e.g. improving the involvement of scientists from developing countries and the procedures for inviting scientists to the Committee).

In his document (IWC/60/12) Professor Juma also recognises the critical role that the Scientific Committee plays in the functioning of IWC. He also stressed that the current difficulties facing the Commission do not result from an inability to provide scientific advice. However, he suggests that there are ways in which its effectiveness could be strengthened by (1) separating meetings of the Scientific Committee from those of the Commission so as to allow more time to consider its report; (2) facilitating participation of scientists from developing countries to better-reflect the membership of the Commission; and (3) improving co-ordination and co-operation with other relevant scientific organisations *in addition* to those for which extensive co-operation exists.

2.3.1 Separating the meeting of the Scientific Committee from the meeting of the Commission

It was suggested that the close proximity of the two meetings does not allow sufficient time for proper consideration of the Scientific Committee's work by member governments. One option therefore is that consideration is given to separating the Scientific Committee meeting from the Commission meeting so as to provide more time for consideration of the Committee's work. At present there are typically around 9 days between the end of the Scientific Committee meeting and the start of the Commission plenary. While this provides a few days for scientists

⁸ Under IWC Rules of Debate A.2, observers have the same speaking rights as Commissioners, i.e. they may speak if invited to do so by the Chair. In practice, however, while IGOs are allowed to make only one substantive intervention per meeting, NGOs have not been called on to speak.

⁹ CCAMLR: Commission for the Conservation of Antarctic Marine Living Resources; CCSBT: Commission for the Conservation of Southern Bluefin Tuna; IATTC/AIDCP: Inter-American Tropical Tuna Commission/Agreement on the International Dolphin Conservation Program; ICCAT: International Commission for the Conservation of Atlantic Tunas; NEAFC: North East Atlantic Fisheries Commission; NAFO: Northwest Atlantic Fisheries Organisation; FAO: Food and Agriculture Organisation; CBD: Convention on Biological Diversity; CITES: Convention on International Trade in Endangered Species of Wild Flora and Fauna; CMS: Convention on Migratory Species; Ramsar: Convention on Wetlands.

to brief their Commissioners using the agreed draft plenary report and the final sub-committee reports (Annexes), the complete, fully referenced and edited Scientific Committee report itself is usually available only on the day before the plenary begins. This is a short time given the length, range of issues addressed by the Committee and the highly technical nature of some parts of the report, especially for countries that are not represented at the Scientific Committee meeting. Furthermore, the full report is currently only available in English, although since IWC/59 last year, summaries in French and Spanish are developed.

Possible action:

The Commission may wish to consider separating the Scientific Committee meeting from the Commission meeting by a longer period, say three months, to allow its conclusions not only to be better digested but also to provide time for more thorough translation.

While the advantages of this are apparent, it is important that any review of this issue should also take into account any possible disadvantages. For example, one of the reasons that the Scientific Committee meeting is held in close proximity to the Commission meeting is that it prevents individuals who do not like the Committee's conclusions from reanalysing the data and presenting technical arguments, not seen by the full Scientific Committee, at the Commission meeting itself. This issue would need to be addressed if there was a decision to further separate the meetings. In addition, there would be cost implications associated with *inter alia* arranging two separate large meetings, possibly at two different venues. These include: organising, setting up and servicing two such meetings that would involve significant, probably twice as much, extra work for the Secretariat; and increased travel and subsistence costs for those individuals from both the Secretariat and Contracting Governments who attend both the Scientific Committee and Commission meetings. It is possible that such additional costs could be offset by the Commission meeting on a less frequent basis than annually – an issue that the Commission is already considering (but thus far without agreement).

2.3.2 Facilitating/improving the involvement of scientists from developing countries

There are at least two somewhat separate issues that have been raised in the past regarding facilitating/improving the involvement of scientists from developing countries in the work of the Scientific Committee, i.e.:

- (1) increasing the participation of scientists from developing countries, (primarily a financial issue) so that they are fully represented in the Committee; and
- (2) increasing the knowledge and technical capabilities of scientists from countries where cetacean research is in its infancy, so that they can better contribute to the work of the Scientific Committee and to conservation and management issues in their region.

Possible action:

With respect to (1), under the Convention (Article III.5) it is stated that '*the expenses of each member of the Commission and of his experts and advisers shall be determined and paid by his own Government*'. However, at IWC/53 in London in 2001, an amendment was made to the Scientific Committee's Rules of Procedure such that a Contracting Government can grant national delegate status to a scientist that has been invited by the Commission under rules pertaining to Invited Participants without prejudice to funding arrangements previously agreed upon to support the scientist in question (see Scientific Committee Rule of Procedure A.6(h)). This applies to scientists for whom it has been identified that they would make a major contribution to high priority items identified by the Committee and the Commission. The opportunity afforded by this rule has been used only rarely to date.

With respect to (2), the Commission has agreed that the primary function of the Scientific Committee has been to provide the best scientific advice to the Commission – to this extent it is not an 'educational' body. However, in the longer term, it is important (for member governments, the Scientific Committee and conservation and management throughout the world) to look at the most efficient way that the expertise within the Committee can be used to 'capacity build' within the IWC countries. Paying for scientists to attend the Scientific Committee Annual Meetings (where the workload is intense) may not be the only or best way to achieve this. For example, the possibility of experienced members of the Committee holding short workshops on conservation science in member countries warrants further consideration.

2.3.3 Invited Participants (IPs) to the Scientific Committee

The Chair of the Scientific Committee, acting according to a policy established by the Commission and included in the Committee's Rules of Procedure A.6, may invite qualified scientists not nominated by a Commissioner to participate by invitation in Committee meetings as non-voting contributors. Quite a number of key scientists whose inputs are critical to the work of the Committee are for some reason not included on national delegations and therefore have to be invited.

Thus each year the Commission allocates limited funding that can be used to support partially or fully some of the IPs. For the financial year 2007/80 this was £40,000 out of a total research budget of £331,000. This funding is limited to travel and subsistence – there is no component for time spent working on behalf of the Commission which in many cases would be significant. There are always more IPs identified than the Commission has the money to support. Priority for funding is given to scientists whose expertise is deemed essential for the Committee to fulfil its function of providing the best quality scientific advice to the Commission, irrespective of nationality (qualified scientists who have their own funding are allowed to attend as IPs at no cost to the Commission). Given this, perhaps inevitably, proportionally fewer of the scientists that are funded come from developing countries than is reflected in the IWC membership; concern has been expressed by some Commissioners at this. There is clearly an inter-relationship between items (1) and (2) above.

Possible action:

It is perhaps timely to undertake a review of the system of inviting participants and the objectives for doing so, including facilitating/improving the involvement of scientists from developing countries in the work of the Committee. In addition to the idea of holding regional workshops, one option that could be considered would be to have a separate fund for scientists from developing countries. It would also be instructive to examine why more of the IWC-funded scientists are not included on national delegations. Such a review could be undertaken by a small group comprising the Advisory Committee, the Chair and Vice-Chair of the Scientific Committee and the Secretariat augmented as appropriate with representatives from developing countries.

2.3.4 Co-ordination and co-operation with other relevant scientific organisations

As indicated above, the question of improved co-ordination and co-operation with other relevant scientific organisations has been raised. There is already considerable, and very effective, co-operation with other relevant organisations. Members of the Scientific Committee and the Secretariat already participate, often to a significant extent, in the work of a number of other relevant scientific bodies, most notably those of CMS, ACCOBAMS, ASCOBANS, IUCN and CCAMLR, as well as UNEP and FAO. That being said, further co-operation with scientific bodies addressing issues of common interest (e.g. marine protected areas, ecological modelling, prey availability, noise and chemical pollution) would be welcome – see section 2.6 below for a possible action.

2.4 Improving participation (see section 4.5 of IWC/60/7)

At the March 2008 intersessional meeting:

- some delegations stressed the importance of continuing ongoing efforts to explore ways to introduce French and Spanish as working languages of the Commission so as to enhance the participation of French- and Spanish-speakers in the Commission's work;
- some delegations considered that the current level of financial contributions for Contracting Governments is an obstacle to the participation of developing countries in IWC and that the contribution scheme should more closely reflect the formula used within the UN.

2.4.1 Introduction of French and Spanish as working languages

Currently English is the only official and working language of the Commission. However, in recent years, and in recognition of the increasing number of French and Spanish-speaking member countries, the Commission has taken a number of steps designed to assist their participation in meetings of the Commission and there has been discussion of introducing French and Spanish as working languages of the Commission. At IWC/59 last year, a variety of views were expressed within the F&A Committee regarding the need to introduce further working languages and how this might be done. Some believed that any move to increase the provision for more languages should be delayed until the future of the organisation was more settled. Several countries supported the equal use of English, French and Spanish as the ultimate objective but were prepared to take a phased approach to achieving this. Others

wished to take a cautious approach given the implications, particularly financial, to the IWC's budget, but were prepared to make some increased provision. In the Commission it was agreed that from IWC/60, IWC would provide: (1) simultaneous interpretation for French and Spanish during the Commission plenary and private meetings of Commissioners; and (2) translation into French and Spanish of the Chair's Summary Report of the previous Commission plenary meeting, the Annotated Provisional Agenda, summaries of the reports of the Scientific Committee and the Commission's other sub-groups and proposed Schedule amendments and Resolutions. It was also agreed that the Secretariat should report to the Commission in 2009 on experiences with these provisions on the understanding that at that point, the Commission could decide on next steps and further broadening as appropriate of the use of French and Spanish.

At IWC/59 there was also some support for the phased-in translation of IWC's website (which is currently only in English) into French and Spanish. The Commission also agreed to establish an email working group to consider approaches to the translation of the website. A paper exploring possible approaches to translation of the website has been prepared by the Secretariat and circulated for review by the email working group and the F&A Committee at IWC/60 (i.e. document IWC/69/F&A 3). The F&A Committee will have met in Santiago prior to discussions on follow-up to the March intersessional meeting and so any recommendations from the F&A Committee will be available.

Possible action:

Given: (1) the agreement reached in Anchorage last year and the commitment of the Commission to decide on next steps at IWC/61 in Madeira next year; and (2) the fact that it is likely that some work will begin after IWC/60 on making part of IWC's website available in French and Spanish, it could be considered that no further action than that already agreed is required by the Commission.

2.4.2 Revision of the formula for calculating financial contributions

A proposal to revise the contributions formula was first made by Antigua and Barbuda at IWC/51 in Grenada in 1999. At IWC/52 in Adelaide in 2000, the Commission established a Contributions Task Force (CTF) charged with developing a revised set of principles to guide the IWC in developing an alternative contributions formula. While the CTF made progress up to IWC/54 in Shimonoseki in 2002, it was not able to put forward a proposal to the Commission at that meeting. An "Interim Measure" however was adopted at that meeting as a means of alleviating the financial burden of developing countries. In calculating contributions, the Interim Measure takes account of: (1) membership; (2) whaling activities; (3) the size of delegations to the Commission's Annual Meeting; and (4) a country's capacity to pay.

Following IWC/54 the CTF continued discussions but, recognising the potential implications for any revised contributions formula of work on the Revised Management Scheme (RMS), its work was put on hold after IWC/55 in 2003 until these implications could be assessed. In turn work on an RMS reached an impasse and although the view has been expressed that work to revise the contributions formula should be resumed, no further work has in fact been done¹⁰.

Possible action:

One of the obstacles to reaching agreement on a new contributions formula has been the weighting that should be given to whaling in any new formula and thus the difficulties of the Commission as a whole are also reflected in the work of the CTF. Given the importance some Contracting Governments, particularly those from developing countries, give to developing a new contributions formula that would relieve further the financial burden of membership of IWC (i.e. further than already done by the Interim Measure), it may be most appropriate to include this as one of the elements that should be considered in negotiations on the future of IWC (see IWC/60/10: Chair's recommendations for follow-up to the March 2008 Intersessional Meeting on the Future of IWC).

2.5 The role of the media (see section 4.6 of IWC/60/7)

At the March 2008 intersessional meeting, it was noted that while the presence of the media at Commission meetings contributes to transparency and the provision of information to the public, there is a tendency for their

¹⁰ With the exception of a review, initiated at IWC/59 last year, of the cut-off points defining the 'capacity to pay' groups with a view to revising them to take account of inflation.

presence to be used as a mechanism for delegations to speak to their home audiences rather than to other delegations at the meeting. It was further noted that the media tends to focus on issues that divide IWC rather than reporting discussions in a more balanced manner. Professor Juma reported similar remarks resulting from his interviews with Commissioners (see section 3.3 of IWC/60/12 under '*proceedings of the meetings of the Commission*' and section 3.4 under '*public communication*'). It was suggested at the intersessional meeting that the role of the media at Annual Meetings should be reviewed.

The intersessional meeting also identified the need for improved reporting of accurate information on whales and whaling to the public. Professor Juma suggested that managing the press should be part of a larger strategy on improving public communication on international activities related to whales. He noted that this will be considerably easier if the Commission can begin to operate in a more co-operative manner aiming at consensus; the present dichotomy of views on many important issues make dealing with the press more difficult for the Secretariat. Professor Juma proposed that the Secretary should serve as the Commission's spokesperson and should do so in close co-operation with the Chair of the Commission.

The media have only had access to plenary meetings of the Commission since IWC/50 in Oman in 1998. Initially this decision was reviewed on an annual basis, but such review was discontinued after IWC/52 in 2000 in Adelaide.

Possible action:

Given the discussions at the intersessional meeting and remarks made by Commissioners to Professor Juma, the Commission may wish to consider:

- Limiting access of the media to the plenary sessions of the Commission; and/or
- Establishing press briefing sessions by the Chair and Secretary at meetings of the Commission, for example on the evening before the opening session and at the end of each day for the duration of the meeting.

2.6 Improving relationships with other intergovernmental organisations (see section 4.7 of IWC/60/7)

The view was expressed during the March intersessional meeting that IWC should improve co-ordination and co-operation with relevant intergovernmental organisations/agreements such as IMO, UNCLOS, CITES, CMS and CBD and to find a way to take better account of relevant work being done by such bodies. In his document, Professor Juma also noted that several comments were made to him that the Commission, through its Secretary, should seek to improve co-operation with other international, regional and national organisations under the guidance of the Commission. He noted that it was recognised that the Commission already has good co-operation with a number of bodies including IUCN, CMS and its cetacean agreements, and CCAMLR but that there would be benefit in improving or establishing co-operation with those organisations that might assist in helping to address threats to cetaceans that do not stem from direct hunting and/or who are addressing similar conservation and management issues. Professor Juma suggested that such co-operation should be carried out with due regard to the need to promote synergy while reducing the transaction costs associated with such co-operation.

As background to the discussions of the first meeting of the Conservation Committee at IWC/56 in Sorrento in 2004, the Secretariat developed an overview of collaboration with other organisations (i.e. document IWC/56/CC 2). This will be updated and made available in time for the discussions on 19 and 20 June on the future of IWC.

Possible action:

The Commission is invited to review the overview of collaboration with other organisations that will be made available and to identify those areas and organisations for which co-operation could be improved. Recommendations for improving co-operation should be as specific as possible and include a rationale. It would also be helpful if priorities could be assigned. It should be recognised that increasing co-operation beyond that already existing is likely to have an impact on costs and also possibly on Secretariat manpower. Such effects should also be taken into consideration.

2.7 Issues identified by Professor Juma and not discussed at the March 2008 intersessional meeting

The following issues were identified in Professor Juma's report (see section 3.3 of IWC/60/12) based on comments made to him by Commissioners/Alternate Commissioners during private interviews but were not discussed during the intersessional meeting itself:

- Frequency of meetings of the Commission;
- Bureau of the Commission; and
- Role of the Secretariat.

2.7.1 Frequency of meetings of the Commission

With respect to frequency of Commission meetings, while Professor Juma recognised that this issue is already under consideration by the Commission, he reported that a number of Commissioners had expressed concern that the current annual frequency of meetings does not allow for sufficient intersessional work and suggested that the Commission move to holding meetings every two years. It was suggested that biannual meetings would provide adequate time for preparation as well as the requisite notice of issues to be discussed. Professor Juma further noted that holding biannual meetings was also supported by those who believe that the rise in the number of Contracting Governments has increased the pressure to undertake broader consultations which take more time. He reported that others argue that biannual meetings would also create opportunities for extended bilateral contacts among members.

Possible action:

Given that plans are already in place for IWC/61 in Madeira next year, any move to holding meetings on a less frequent basis could not be put in place until after 2009. The Secretariat notes that to date there have not been any formal offers to host the Annual Meeting in 2010 and suggests that the scheduling of Commission meetings be taken into consideration as part of discussions on the negotiation process on the future of IWC.

2.7.2 Bureau of the Commission

With respect to a Bureau of the Commission, Professor Juma noted that the March intersessional meeting benefited significantly from the work of the Steering Group established to plan the meeting and to develop a draft agenda. He suggested that the Commission could benefit from a standing Bureau elected by the Commission to assist the Chair in planning and running the meetings of the Commission and who could also serve as a communication link between the Chair and the rest of the Commissioners. He further suggested that one option would be to create a new organ that would have geographical as well as thematic representation. Alternatively, the current Advisory Committee could be reconstituted to serve as a Bureau with the requisite representation as determined by the Commission.

The possible need to establish a Bureau to help guide the Commission between meetings has already been brought to the Commission's attention in the past in the context of the discussions on frequency of meetings. The last time this was done was in relation to the special session of the F&A Committee on this topic held at IWC/59 last year (see document IWC/59/F&A SS3).

Possible action:

The Secretariat suggests that the Commission consider the need to establish a Bureau or to reconstitute the existing Advisory Committee in the context of its discussions on the frequency of meetings and on the future of IWC.

2.7.3 The role of the Secretariat

With respect to the role of the Secretariat, Professor Juma notes that some of the activities suggested in his report and those raised elsewhere aimed at improving the work of the Commission may have implications for the work and expertise within the Secretariat and that such implications should be assessed. In particular he suggested that the proposed intersessional work is likely to require an increase in staffing and that issues such as co-operation with other international bodies as well as tracking of international negotiations in other regimes may require greater investment in legal expertise within the Secretariat (e.g. through the engagement of a full time staff member with expertise on international law and procedural matters to complement the scientific expertise already available).

With respect to legal expertise/advice, the Secretariat notes that this issue has been on the Commission's agenda since the 5th Special Meeting of the Commission in Cambridge in October 2002. A number of options on how legal

advice to the Commission could be provided have been considered, including: appointment of a legal officer to the IWC Secretariat staff; establishment of a legal committee (which could be standing or convened on an *ad hoc* basis); creating a roster of legal experts on which IWC could call for advice and which could consist of experts nominated by Parties; recourse to external legal advice on an *ad hoc* basis (e.g. private advice from a consultant, law firm, or panel of lawyers convened for this purpose, from legal offices of other international organisations, from the Depositary government); and access to existing international judicial institutions (e.g. the International Court of Justice, the International Tribunal for the Law of the Sea, the Permanent Court of Arbitration). Although a number of countries considered this to be an important issue, the Commission has so far considered that it is not in a position at present to advance the issue.

Possible action:

Clearly the impact on the Secretariat of any changes to the operation of the Commission (i.e., personnel, budgetary) will need to be considered and as with 2.7.2 above, it is recommended that the Commission takes account of this in the context of its discussions on the future of the organisation.

ANNEX A
Summary of possible action regarding improvements to procedural issues

Issue (numbering relates to numbering above)			Possible action
2.1	Improving practice and procedures		
	2.1.1	Reaching decisions by consensus	<ul style="list-style-type: none"> Consider developing a strong formal statement in which all Contracting Governments commit themselves to making every effort to reach decisions by consensus. Empowering the Chair to halt/adjourn discussions (employing a cooling off period) to minimise acrimonious discussions and/or a vote being precipitated (may require amendment to Rules of Debate C on procedural motions) and/or to refer discussions to a small working group for continued discussion in a less formal environment.
	2.1.2	Ensuring adequate notice of matters to be considered	
		<ul style="list-style-type: none"> Amendments to the Schedule and Rules of Procedure 	<ul style="list-style-type: none"> Consider amending RoP J.1 and R.1 so as to require, as a general rule, that full texts of any amendments are available 60 days in advance of the meeting at which the matter is to be discussed, or if this cannot be done to at least make the intent of any amendments clear (see proposed text on page 3).
		<ul style="list-style-type: none"> Document submission deadlines 	<ul style="list-style-type: none"> Consider whether to formalise document submission deadlines via a new Rule of Procedure or whether to continue as at present and encourage early submission of documents more informally. Either way, the Commission may wish to distinguish between those documents requiring action and those that are simply for information, e.g. by establishing different deadlines.
		<ul style="list-style-type: none"> Adherence of new governments to the Convention 	<ul style="list-style-type: none"> Consider amending RoP E.2(b) such that the voting rights of a new Contracting Government would be delayed for a certain period (to be determined) after adherence (see proposed text on page 5). If decide to amend RoP E.2(b) so as to delay full benefits of membership, also consider delaying the full burden of membership by, for example, reducing the financial contribution of a new government for the first year of membership. This would require amendment of Financial Regulation E.3
	2.1.3	Promoting dialogue between Commission meetings (particularly among governments having different views on whale management and conservation)	<ul style="list-style-type: none"> Mainly a matter for member governments. The Secretariat could help by holding a central list of other international meetings at which Commissioners were attending to assist them in arranging associated informal IWC discussions either immediately before, during or immediately after the meetings themselves
	2.1.4	Mutual respect for all Contracting Governments and recognition of diversity of interests	<ul style="list-style-type: none"> Consider recognising the diversity of interests among members via a written statement and to include in this the declaration agreed last year that <i>'the use of provocative, offensive and un-diplomatic language shall be avoided in the proceedings of the Commission'</i>. <ul style="list-style-type: none"> Could build on work on a statement begun at the March 2008 intersessional meeting. Consider developing a 'code of practice' for the drafting of Resolutions that could include <i>inter alia</i> asking governments to consult widely before presenting Resolutions to the Commission and that advance warning of such submissions be given to the Chair and/or the Secretary either prior to or at the meeting itself.

Issue (numbering relates to numbering above)			Possible action
2.2	Improving the negotiation process (see also Chair's recommendations in IWC/60/10)		
	2.2.1	Using outside experts/mediators	<ul style="list-style-type: none"> Noting that outside experts have been involved in the March 2008 intersessional meeting and will be present for follow-up discussions at IWC/60 in Chile, the Commission may wish to consider whether or not to involve these or other non-IWC individuals in any negotiation process initiated at IWC/60 and to budget accordingly.
	2.2.2	Involving Ministers/enlarging diplomatic representation	<ul style="list-style-type: none"> While a decision to hold an IWC meeting at the Ministerial level would be a matter for the Commission as a body, the Secretariat suggests that the composition of delegations and decisions on who is involved at a government level in discussions related to IWC are matters for governments themselves.
	2.2.3	Involving civil society	<ul style="list-style-type: none"> Although the Commission has recently reviewed and made decisions on the accreditation, participation and fees of NGOs, given the discussions at the March intersessional meeting and the points made in Professor Juma's document, the Commission may wish to reconsider this matter particularly in relation to speaking rights and possibly fees. As part of any reconsideration, the Commission may wish to follow-up on the suggestion to review how other IGOs involve NGOs; <ul style="list-style-type: none"> Before doing so, it would seem sensible to reconsider the review done by the Secretariat in 2006 (see Annex B) before deciding whether a further review is necessary. If considered necessary, the Secretariat could undertake the work with the agreement of the Commission.

Issue (numbering relates to numbering above)			Possible action
2.3	The role of science		
	2.3.1	<ul style="list-style-type: none"> Separating the meeting of the Scientific Committee from the meeting of the Commission 	<ul style="list-style-type: none"> Commission to consider separating the Scientific Committee and Commission meetings by a period of say 3 months to allow its conclusions to be better digested and to provide more time for more thorough translation in to other languages. <ul style="list-style-type: none"> While the advantages of such a change are apparent, any possible disadvantages should also be taken into account including <ul style="list-style-type: none"> Potential problems created by individuals who do not like the Committee's conclusions having the time to reanalyse the data and to present technical arguments, not seen by the full Committee, to the Commission meeting; Cost implications associated with <i>inter alia</i> arranging two separate large meetings possibly at two different venues (although these might be offset by the Commission meeting on a less frequent basis than annually).
	2.3.2	<ul style="list-style-type: none"> Facilitating/improving the involvement of scientists from developing countries 	<ul style="list-style-type: none"> These two items are linked and it is perhaps timely for the Commission to begin a comprehensive review of the system of inviting participants and the objectives of doing so, including facilitating/improving the involvement of scientists from developing countries. Aspects that could be considered include: <ul style="list-style-type: none"> Consideration of ways that the expertise within the Scientific Committee can be used to 'capacity build' within IWC countries, e.g. by experienced members of the Committee holding short workshops on conservation science in member countries; Creating a separate fund to assist scientists from developing countries attend the Scientific Committee (while being aware of Article III.5 of the Convention); Examination of why more of the IWC-funded scientists are not included on national delegations. Such a review could be undertaken by a small group comprising the Advisory Committee and the Chair, and Vice-Chair of the SC and the Secretariat, augmented as appropriate with representatives from developing countries.
	2.3.3	<ul style="list-style-type: none"> Invited Participants (IPs) to the Scientific Committee 	
	2.3.4	<ul style="list-style-type: none"> Co-ordination and co-operation with other relevant scientific organisations 	See 2.6 below.

Issue (numbering relates to numbering above)			Possible action
2.4	Improving participation		
	2.4.1	<ul style="list-style-type: none"> • Introduction of French and Spanish as working languages of the Commission 	<ul style="list-style-type: none"> • Given: (1) the agreement reached in Anchorage last year and the commitment of the Commission to decide on next steps at IWC/61 in Madeira next year; and (2) the fact that it is likely that some work will begin after IWC/60 on making part of IWC's website available in French and Spanish, it could be considered that no further action is currently required by the Commission.
	2.4.2	<ul style="list-style-type: none"> • Revision of the formula for calculating financial contributions 	<ul style="list-style-type: none"> • One of the obstacles to reaching agreement on a new contributions formula has been the weighting that should be given to whaling in any new formula and thus the difficulties of the Commission as a whole are also reflected in the work of the Contributions Task Force. Given the importance some Contracting Governments, particularly those from developing countries, give to developing a new contributions formula that would relieve further the financial burden of membership of IWC (i.e. further than already done by the Interim Measure), it may be most appropriate to include this as one of the elements that should be considered in negotiations on the future of IWC (see IWC/60/10: Chair's recommendations for follow-up to the March 2008 Intersessional Meeting on the Future of IWC).
2.5	The role of the media		<p>The Commission may wish to consider reviewing the role of the media in its work, and specifically:</p> <ul style="list-style-type: none"> • Limiting access of the media to the plenary sessions of the Commission; and/or • Establishing press briefing sessions by the Chair and Secretary at meetings of the Commission, for example on the evening before the opening session and at the end of each day for the duration of the meeting.
2.6	Improving relationships with other IGOs		<ul style="list-style-type: none"> • A summary of the extent of existing co-operation between IWC and other organisations will be available. The Commission is invited to review this information and to identify those areas and organisations for which co-operation could be improved. Recommendations for improving co-operation should be as specific as possible and include a rationale. It should be recognised that increasing co-operation beyond that already existing is likely to have an impact on costs and also possible on Secretariat manpower. Such effects should also be taken into consideration.

Issue (numbering relates to numbering above)			Possible action
2.7	Issues identified by Professor Juma and not discussed at the March 2008 intersessional meeting		
	2.7.1	Frequency of meetings of the Commission	<ul style="list-style-type: none"> Given that plans are already in place for IWC/61 in Madeira next year, any move to holding meetings on a less frequent basis could not be put in place until after 2009. The Secretariat notes that there have as yet been no formal offers to host an Annual Meeting in 2010 and suggests that the scheduling of Commission meetings be taken into consideration as part of discussions on the negotiation process on the future of IWC.
	2.7.2	Bureau of the Commission	<ul style="list-style-type: none"> The Secretariat suggests that the Commission consider the need to establish a Bureau or to reconstitute the existing Advisory Committee in the context of its discussions on the frequency of meetings and on the future of IWC
	2.7.3	Role of the Secretariat	<ul style="list-style-type: none"> Clearly the impact on the Secretariat of any changes to the operation of the Commission will need to be considered and as with 2.7.2 above, it is recommended that the Commission takes account of this in the context of its discussions on the future of the organisation.

ANNEX B

Extract from IWC/58/F&A 3: NGO accreditation and participation in IWC Annual Meetings

(as prepared for the meeting of the Finance & Administration Committee meeting at IWC/58 in St. Kitts and Nevis in 2006)

Rules and procedures regarding observation by NGOs in decision-making bodies of other intergovernmental organisation

The relevant rules, procedures and Convention Articles regarding observation by NGOs in the decision-making bodies of the following intergovernmental organisations is summarised in Table I:

Fisheries management bodies

- CCAMLR: Commission for the Conservation of Antarctic Marine Living Resources
- CCSBT: Commission for the Conservation of Southern Bluefin Tuna
- IATTC/AIDCP: Inter-American Tropical Tuna Commission/Agreement on the International Dolphin Conservation Program
- ICCAT: International Commission for the Conservation of Atlantic Tunas
- NEAFC: North East Atlantic Fisheries Commission
- NAFO: Northwest Atlantic Fisheries Organisation

Other bodies

- FAO: Food and Agriculture Organisation
- CBD: Convention on Biological Diversity
- CITES: Convention on International Trade in Endangered Species of Wild Flora and Fauna
- CMS: Convention on Migratory Species
- Ramsar: Convention on Wetlands

The relevant rules, procedures and Convention Articles themselves can be provided on request to the Secretariat.

The Secretariat contacted all of the above organisations to enquire as to their rules regarding NGO participation and also whether they had had the need to develop a Code of Conduct for NGOs. Information on the existence of Codes of Conduct was requested on behalf of the Working Group (led by Iceland) that was tasked by the Commission at IWC/54 to develop a code for IWC.

Table I. Rules and procedures regarding observation by NGOs in decision-making bodies of other intergovernmental organisations

Fisheries Bodies	Eligibility	Other	Code of conduct?
CCAMLR	<p>Apart from co-operation as appropriate with FAO and other Specialised Agencies, the Convention requires that the Commission and Scientific Committee shall 'seek to develop co-operative working relationships, as appropriate, with inter-governmental and non-governmental organisations which could contribute to their work, including the Scientific Committee on Antarctic Research, the Scientific Committee on Oceanic Research and the International Whaling Commission'. [Article XXIII.2 & 3]</p> <p>The above-mentioned organisations are invited, as appropriate to meetings as observers. Other NGOs to which Article XXIII may apply may be invited, as appropriate unless a Commission Member objects. [Rule 30]</p>	<p><u>Which meetings they can attend</u> Observers may be present at public and private sessions of the Commission. [Rule 33(a)]</p> <p><u>Speaking and voting rights</u> Observers may speak at the invitation of the Chair unless a Member of the Commission objects. Observers are not entitled to participate in the taking of decisions. [Rule 34]</p> <p><u>Submission of documents</u> Observers may submit 'for information' documents to the Secretariat for distribution to Members. Documents must be relevant to matters under consideration in the Commission. [Rule 35(a)]</p>	<p><u>CCAMLR Secretariat comment:</u> Other than the statutory requirements in the Convention and Rules of Procedure, CCAMLR has no other stipulated guidelines or rules to govern the participation of NGO observers in its meetings. There is an implicit veto for Members when inviting an NGO to attend, but after that, NGO participation is at the discretion of the Chair of the meeting. [pers. comm.. with CCAMLR Secretariat, 06/02/06]</p>
CCSBT	<p>Executive Secretary may, with approval of all Members, invite, on request, any NGO having special competence concerning southern bluefin tuna or competency to contribute to the attainment of the objectives of the Convention. An NGO must provide information explaining its competence in these areas to the Executive Secretary. [Rule 3.1]</p> <p>Members objecting to inviting a particular organisation must provide a written explanation. This is circulated to all Members and to the organisation concerned by the Executive Secretary. [Rule 3.5]</p> <p>Decisions on who will be invited to attend a Commission meeting are made at the meeting immediately preceding the one to which the invitation shall be extended. [Rule 3.3]</p>	<p><u>Which meetings they can attend</u> Observers may be present at public and private sessions of the Commission, but a Member can request that the Commission meets without observers present to decide whether the discussion of a particular agenda item shall be restricted to Members. [Rule 7]</p> <p><u>Speaking and voting rights</u> Observers may speak at the invitation of the Chair unless a Member objects. Observers are not entitled to participate in the taking of decisions and cannot vote. [Rule 34]</p> <p><u>Submission of documents</u> Observers may submit 'for information' documents to the Executive Secretary for distribution to Members. Documents must be relevant to matters under consideration in the Commission. [Rule 35(a)]</p>	<p><u>CCSBT Secretariat comment:</u> CCSBT does not have a code of conduct for NGOs. It feels its rules for NGO observers are quite tough and in recent years no NGO has requested to attend. [pers. Comm..with CCSBT Secretariat, 24/01/06]</p>

Fisheries Bodies	Eligibility	Other	Code of conduct?
IATTC/ AIDCP	<p><u>IATTC</u> NGOs with a legitimate interest in the work of the Commission may send observers to meetings, unless at least one-third of the Members object for cause in writing. <i>[Antigua Convention, Annex 2, para 7 and Rule 2]</i></p>	<p><u>IATTC:</u> <u>Which meetings they can attend</u> All meetings of the Commission and its subsidiary bodies except meetings held in executive session or meetings of Heads of Delegation. <i>[Antigua Convention, Annex 2, para 2]</i></p> <p><u>Speaking and voting rights</u> Observers may make oral statements during meetings upon invitation of the Chairman <i>[Antigua Convention, Annex 2, para 9]</i>. Rule 4 indicates that observers may take the floor with the authorisation of the Chairman provided no member objects. Observers cannot vote.</p> <p><u>Submission of documents</u> Observers may distribute documents at meetings with the approval of the Chairman. <i>[Antigua Convention, Annex 2, para 9]</i></p> <p><u>Delegation size</u> The overall number of observers shall not be so large as to hinder the work of the Commission <i>[Rule 4]</i></p> <p><u>Fees</u> The Director may require non-Party and NGO observers to pay reasonable fees and to cover costs attributable to their attendance. <i>[Rule 10]</i></p>	<p>Observers are required to comply with all rules and procedures applicable to other participants in a meeting. Any NGO that does not comply with these rules and procedures shall be excluded from further participation in meetings unless the Commission decides otherwise. <i>[Antigua Convention, Annex 2, paras 11 & 12]</i></p> <p><u>IATTC Secretariat comment:</u> IATTC has no code of conduct for observers and so far has not needed one <i>[pers. comm. with IATTC Secretariat, 24/01/06]</i></p>
	<p><u>AIDCP</u> NGOs with recognised experience in matters pertaining to the Agreement are eligible to participate as observers unless a majority of the Parties formally objects for cause in writing at least 30 days before the beginning of the meeting in question. <i>[AIDCP, Annex X, paras 2 & 5]</i></p>	<p><u>AIDCP</u> <u>Which meetings they can attend</u> All meetings of the Parties except meetings held in executive session or meetings of Heads of Delegation. <i>[AIDCP, Annex X, para 2]</i></p> <p><u>Speaking and voting rights</u> Observers may make oral statements during meetings upon invitation of the Chairman. <i>[AIDCP, Annex X, para 6]</i></p> <p><u>Submission of documents</u> Observers may distribute documents at meetings with the approval of the Chairman. <i>[AIDCP, Annex X, para 6]</i></p> <p><u>Fees</u> The Director may require NGO observers to pay reasonable fees and to cover costs attributable to their attendance (e.g. copying expenses). <i>[AIDCP, Annex X, para 7]</i></p>	<p>All observers admitted to a Meeting of the Parties shall comply with all rules and procedures applicable to other participants in the meeting.</p>

Fisheries Bodies	Eligibility	Other	Code of conduct?
<p>ICCAT</p>	<p>All NGOs that support the objectives of ICCAT and with demonstrated interest in the species under the purview of ICCAT should be eligible to participate as an observer unless one-third of Contracting Parties object in writing.</p> <p>When seeking participation as an observer, NGOs must provide the following information:</p> <ul style="list-style-type: none"> • Name, address, telephone and fax number of the organization; • Address of all its national/regional offices; • Aims and purposes of the organization and an indication as to how they relate to the objectives of ICCAT; • A brief history of the organization and a description of its activities; • Any papers produced by or for the organization on the conservation, management or science of tunas or tuna-like species; • A history of ICCAT observer status granted/revoked; • Information or input that the organization proposes to present at the meeting in question. <p><i>[Guidelines and Criteria for Granting Observer Status at ICCAT meetings, paras 2, 3 & 4]</i></p>	<p><u>Which meetings they can attend</u> All meetings of the organisation and its subsidiary bodies, except extraordinary meetings held in executive session or meetings of Heads of Delegation. <i>[Guidelines and Criteria..., para 2]</i></p> <p><u>Speaking and voting rights</u> NGOs may make oral statements during a meeting upon the invitation of the presiding officer but they may not vote. <i>[Guidelines and Criteria..., para 5]</i></p> <p><u>Submission of documents</u> NGOs may distribute documents at meetings through the secretariat. <i>[Guidelines and Criteria..., para 5]</i></p> <p><u>Delegation size</u> The Executive Secretary will determine whether, due to conference capacity, seating limitations require that a limited number of observers per NGO may be present at any meetings. Any such limitation will be included in the conditions of participation. <i>[Guidelines and Criteria..., para 7]</i></p> <p><u>Fees</u> Observers are required to pay a fee for their participation at meetings. The fee is to contribute to additional expenses incurred by NGO participation and is determined annually by the Executive Secretary. <i>[Guidelines and Criteria..., para 6]</i></p>	<p>All observers admitted to a meeting are required to comply with all rules and procedures applicable to other meeting participants. Failure to conform to these rules or any other rules that ICCAT may adopt for the conduct of observers will result in withdrawal of accreditation by the Chairman of the Commission. <i>[Guidelines and Criteria for Granting Observer Status at ICCAT meetings, para 9]</i></p> <p><u>ICCAT Secretariat comment:</u> ICCAT has no written code of conduct for NGOs. The absence of a formalised code stems from the fact that to date, ICCAT has had no need to develop such a code. Observers have usually complied with the established procedures. <i>[pers. comm. with ICCAT Secretariat, 25/01/06]</i></p>

Fisheries Bodies	Eligibility	Other	Code of conduct?
NEAFC	<p>All NGOs that support the objectives of the Convention, have a demonstrated interest in the species under the purview of NEAFC and are in good standing should be eligible to participate as an observer. <i>[Rule 34]</i></p> <p>When seeking participation as an observer, NGOs must provide the following information:</p> <ul style="list-style-type: none"> (a) name, address, telephone, fax number and e-mail address of the organisation and the person(s) proposed to represent the organisation; (b) address of all its national/regional offices; (c) aims and purposes of the organisation and a statement that the NGO generally supports the objectives of the Convention, i.e. conservation and optimum utilisation of the fishery resources in the Convention Area; (d) information on the organisation's total number of members, its decision making process and its funding; (e) a brief history of the organisation and a description of its activities; (f) representative papers and other similar resources produced by or for the organisation on the conservation, management, or science of fishery resources to which the Convention applies; (g) a history of NEAFC observer status granted/revoked; (h) information or input that the organisation plans to present at the meeting in question and that it would wish to be circulated by the Secretary for review by Contracting Parties prior to the meeting, supplied in sufficient quantity for such distribution. <p><i>[Rule 35]</i></p> <p>If one or more Contracting Parties objects to an application, it must give its reasons in writing. The matter is then put to a vote by written procedure. <i>[Rule 36]</i></p>	<p><u>Which meetings they can attend</u> All plenary meetings of the Commission except meetings held in executive sessions or meetings of Heads of Delegation. <i>[Rule 24]</i></p> <p><u>Speaking and voting rights</u> NGOs may make an oral statement during the meeting upon invitation of the Chairman but may not vote. <i>[Rule 37]</i></p> <p><u>Submission of documents</u> NGOs may distribute documents to meetings through the Secretary. <i>[Rule 37]</i></p> <p><u>Delegation size</u> The Secretary will determine whether, due to conference room capacity, seating limitations require that a limited number of observers per NGO may be present at any meeting. Any such conditions will be included in the conditions of participation. <i>[Rule 39]</i></p> <p><u>Fees</u> If additional expenses are incurred by their participation, observers will be required to pay a fee, as determined by the Secretary. <i>[Rule 38]</i></p>	<p>Any NGO admitted to a Commission meeting may not use films, videos, tape recording devices etc to record meeting proceedings. <i>[Rule 37]</i></p> <p>All observers admitted to a meeting are required to comply with all rules and procedures applicable to other meeting participants. Failure to conform to these rules or any other rules that NEAFC may adopt for the conduct of observers may result in removal from the meeting by the presiding officer and revocation of observer status. <i>[Rule 41]</i></p> <p><u>NEAFC Secretariat comment:</u> NEAFC have never had more than 3 or 4 NGOs and they have not behaved in a confrontational manner to any Contracting Party. There has therefore been no reason to expand or amend the Rules of Procedure. <i>[pers. comm.. with NEAFC Secretariat, 24/01/06]</i></p>

Fisheries Bodies	Eligibility	Other	Code of conduct?
NAFO	<p>All NGOs that support the general objectives of NAFO and with a demonstrated interest in the species under the purview of NAFO should be eligible to participate as an observer. <i>[Rule 10.2]</i></p> <p>When seeking participation as an observer, NGOs must provide the following information:</p> <ul style="list-style-type: none"> a) name, address, telephone, fax number of the organization and the person(s) proposed to represent the Organization; b) address of all its national/regional offices; c) aims and purposes of the organization and a statement that the NGO generally supports the objectives of NAFO, i.e., optimum utilization, rational management and conservation of the fishery resources of the NAFO Convention Area; d) information on the organization's total number of members, its decision-making process and its funding; e) a brief history of the organization and a description of its activities; f) representative papers or other similar resources produced by or for the organization on the conservation, management, or science of fishery resources to which the Convention applies; g) a history of NAFO observer status granted/revoked; h) information or input that the organization plans to present at the meeting in question and that it would wish to be circulated by the Secretariat for review by Contracting Parties prior to the meeting, supplied in sufficient quantity for such distribution. <p><i>[Rule 10.3]</i></p> <p>In one or more Party objects to an application for observership, it/they must provide reasons in writing and the matter is put to a vote by written procedures. <i>[Rule 10.4]</i></p>	<p><u>Which meetings they can attend</u> All plenary meetings of the Fisheries Commission, except meetings held in executive session or meetings of Heads of Delegation. <i>[Rule 10.2]</i></p> <p><u>Speaking and voting rights</u> NGOs may make oral statements during a meeting upon invitation of the Chair but they may not vote. <i>[Rule 10.5]</i></p> <p><u>Submission of documents</u> NGOs may distribute documents through the Secretariat. <i>[Rule 10.5]</i></p> <p><u>Delegation size</u> The Executive Secretary will determine, whether, due to conference room capacity, seating limitations require that a limited number of observers per NGO may be present at any meetings. Any such conditions will be included in the conditions of participation. <i>[Rule 10.7]</i></p> <p><u>Fees</u> Observers will be required to pay a fee, which will cover the additional expenses generated by their participation, as determined annually by the Executive Secretary.</p>	<p>Any NGO admitted to a Fisheries Commission meeting may not use films, videos, tape-recording devices etc to record meeting proceedings. <i>[Rule 10.5]</i></p> <p>All observers admitted to a meeting are required to comply with all rules and procedures applicable to other meeting participants. Failure to conform to these rules or any other rules that NAFO may adopt for the conduct of observers may result in removal from the meeting by the presiding officer and revocation of observer status. <i>[Rule 41]</i></p> <p><u>NAFO Secretariat comment:</u> No NGO has applied at least within the last three years, to be an observer at NAFO meetings. <i>[pers. comm., with NAFO Secretariat, 24/01/06]</i></p>

Fisheries Bodies	Eligibility	Other	Code of conduct?
Other			
FAO	<p>An observer of any NGO having consultative status may attend the plenary meetings of the Conference and the meetings of any commission, of any technical committee of a commission and any technical committee. <i>[General Rules XVII.3 & 4]</i></p> <p>In order to be eligible for consultative status, an international non-governmental organization shall:</p> <ol style="list-style-type: none"> be international in its structure and scope of activity, be sufficiently representative of the field of interest in which it operates, and be of a recognized standing that renders its views on policy a matter of great interest to governments and to FAO; be concerned with matters covering a substantial portion of FAO's field of activity; have aims and purposes in conformity with the general principles embodied in the Constitution of FAO; have a permanent directing body, authorized representatives and systematic procedures and machinery for communicating with its membership in various countries. <p><i>[FAO Policy concerning relations with international NGOs, para. 6]</i></p> <p>Even if an NGO does not meet the requirements for formal (consultative) status, or if it has not co-operated with FAO over an extended period of time, this does not preclude/limit in any way the possibility for the organisation to establish and/or enhance its collaboration with FAO. The Director-General (e.g. of the Fisheries Department) has the authority to invite other entities than those which have a formal status. He will use his discretion based on the policy consideration to judge if any particular entity which has expressed interest in attending should actually be invited. NGOs without formal status or past participation are asked to provide: name, contact information, history, rules, representative and board members, geographical coverage, activities, activities in relation to the work of FAO and particularly the Fisheries Department and reasons for application to observer. Most NGOs invited fall into this category and in this sense have been 'screened'. In practice, the Fisheries Department does not repeat its practice of policy review for each session of COFI. In an NGO is not international, FAO suggests that it participate as part of a national delegation or as part of a delegation of an international NGO. <i>[pers. comm.. with Fisheries Department Secretariat, 03/02/06]</i></p>	<p><u>Which meetings they can attend</u> NGOs with consultative status may attend the plenary meetings of the Conference and the meetings of any commission, of any technical committee of a commission and any technical committee. <i>[General Rules XVII.3]</i></p> <p><u>Speaking and voting rights</u> NGOs with consultative status may speak before commissions and committees, participate in the discussions upon the request of the Chairman and, with the consent of the General Committee, speak before plenary meetings of the Conference. They may not vote. <i>[General Rules XVII.3]</i></p> <p><u>Submission of documents</u> NGOs with consultative status may circulate to Conference, without abridgement, the views of the organisations that they represent. <i>[General Rules XVII.3]</i></p>	<p>FAO has quite an open policy for NGO participation in its meetings with the wide latitude of the Secretariat to grant for refuse their participation. It has seldom had to exercise its authority to deny participation and to date has never had to cancel, for wrong doing, the authorisation for any NGO which had previously been allowed to participate in meetings. <i>[pers. comm.. with Fisheries Department Secretariat, 03/02/06]</i></p>

Fisheries Bodies	Eligibility	Other	Code of conduct?
CITES	<p>National or international NGOs technically qualified in protection, conservation or management of wild fauna and flora may observe at meetings if they have informed the Secretariat of their desire to be represented, unless one-third of the Members present and voting object. There is a requirement that national NGOs have been approved as being technically qualified by the State in which it is located. Evidence of the approval of the State has to be included when NGOs submit the names of individuals they would like to attend as observers. <i>[Part I, Rule 2.2; Part II, Rule 3.5].</i></p>	<p><u>Which meetings they can attend</u> NGOs may be present at plenary sessions and sessions of Committees I and II. <i>[Part I. Rule 2.2]</i></p> <p><u>Speaking and voting rights</u> NGOs may participate but cannot vote. As a general rule, a Presiding Officer will call upon speakers in the order in which they signify their desire to speak and will give precedence to delegates and to the Secretariat. Among observers, precedence is given in the following order: non-Party States, intergovernmental organisations, NGOs. <i>[Part VI. Rule 17.2]</i></p> <p><u>Submission of documents</u> NGOs may submit ‘for information’ documents on the conservation and utilisation of natural resources. No approval is required for their distribution, but they must clearly identify the organisation presenting them. Observer organisations can request that the Secretariat distributes their documents to Parties. Any Representative may complain to the Bureau if an information document that has been distributed is considered offensive. <i>[Part VII. Rule 28.1, 2 and 3]</i></p> <p><u>Delegation size</u> Seating limitations may require that no more than two observers from any non-Party State or organisation may be present. <i>[Part II. Rule 11.4]</i> Also, observers are seated in one or more designated areas in the meeting room and may only enter an area designated for delegations when invited to do so by a delegate. <i>[Part II, Rule 11.3]</i></p> <p><u>Fees</u> The standard participation charge for all observer organisations other than the UN and its specialised agencies is set at a minimum of USD 600 (except as otherwise decided by the Secretariat). Observer organisations are urged to make a greater contribution if possible at least to meet their effective costs of participation. <i>[Resolution of the Conf. of the Parties 13.1]</i></p> <p>In practice, the Secretariat does ‘decide otherwise’. For a very small number of international organizations the fee is waived, e.g. for TRAFFIC, which has a special role within CITES. If meeting in a developing country and in agreement with that country, either the fee is waived or significantly reduced (e.g. to USD 100 a person) for the observers from their national NGOs. For the rest, in practice a fee of USD 600 is charged for the first observer from any NGO and USD 300 for each additional observer from the same organization. This fee includes a set of in-session documents (printed copies of any pre-meeting documents are not provided as these are all on CITES website). For meetings of all CITES permanent committees, observers are charged USD 100 per person. <i>[pers. comm.. with CITES Secretariat, 16/02/06]</i></p>	<p>There is no code of conduct, but for the last two meetings the Secretariat has published a Guide for Participants (see Annex 12).</p> <p>There is a complaints procedure with respect to ‘for information’ documents.</p> <p>Any participant may complain to the Bureau about a document they consider to be offensive. In the case of such a complaint, the Bureau has to decide whether the document concerned abuses or vilifies a Party, or brings the Convention into disrepute, bearing in mind that legitimate differences of opinion may exist. The Bureau decides on appropriate action, which may, as a last resort, include either a proposal to the Conference of the Parties to withdraw the right of admission of an organisation to the meeting, or a formal complaint to a Party. <i>[Part VIII, Rule 29]</i></p> <p>In practice, the Bureau discusses the issue and then appoints someone to liaise with both sides to seek a resolution and then to report back. To date, no organisation has been expelled, but at least twice, an observer as been required to make a public apology in a plenary session. <i>[pers. comm.. with CITES Secretariat, 01/02/06]</i></p>

Fisheries Bodies	Eligibility	Other	Code of conduct?
CBD	<p>Any NGO qualified in fields related to the conservation and sustainable use of biological diversity may attend Meetings of the Conference of Parties as observers unless at least one third of the Parties present at the meeting object. <i>[Rule 7.1]</i></p> <p>Since the first Conference of the Parties, NGOs have been admitted to meetings under the Convention process on an <i>ad hoc</i> basis and at the request of such observers to participate in specific meetings. As NGOs are major stakeholders in the CBD, and in accordance with the procedure followed by other Rio-related conventions, a proper NGO accreditation procedure to the CBD needs to be established. The Executive Secretary has developed draft policy that is first being reviewed by the Bureau to the 7th Meeting of the Conference of the Parties (3 February 2006 in Grenada) and then will be submitted for adoption by the 8th Meeting of the Conference of the Parties to be held in Brazil from 20-31 March 2006. The policy is in line with the practices of other UN entities including UNEP and other UN conventions such as climate change and desertification. <i>[pers. comm.. with CBD Secretariat, 13/02/06]</i></p>	<p><u>Which meetings they can attend, speaking and voting rights</u> Such observers may, upon the invitation of the President, participate without the right to vote in the proceedings of any meeting in matters of direct concern to the body or agency they represent unless at least one third of the Parties present at the meeting object. <i>[Rule 7.2]</i></p>	
CMS	<p>National or international NGOs technically qualified in protection, conservation or management of migratory species may observe at meetings if they have informed the Secretariat of their desire to be represented, unless one-third of the Members present object. There is a requirement that national NGOs have been approved as being technically qualified by the State in which it is located. Evidence of the approval of the State has to be included when NGOs submit the names of individuals they would like to attend as observers. <i>[Rule 2(2) & (3)]</i>.</p>	<p><u>Which meetings they can attend</u> Meeting of the Parties. <i>[Rule 2(2)]</i></p> <p><u>Speaking and voting rights</u> An observer may speak only if called upon by the Presiding officer. They cannot vote. <i>[Rule 10(2)]</i></p> <p><u>Delegation size</u> Logistic and other limitations may require that no more than two observers from any non-Party, body or agency be present at a plenary session or a session of the Committee of the Whole of the meeting. The Secretariat will provide notice of such limitations in advance of the meeting. <i>[Rule 2(4)]</i></p>	<p>A code of conduct for NGOs has never been developed and adopted within CMS. It would appear that the need for such a code has never been raised within the Convention. The CMS Secretariat is checking on the situation within the Agreements developed under the auspices of CMS. <i>[pers. comm. with the CMS Secretariat, 15/02/06]</i></p>

Fisheries Bodies	Eligibility	Other	Code of conduct?
Ramsar	<p>Any national or international NGO, qualified in field relating to the conservation and sustainable use of wetlands, which has informed the Bureau of its wish to be represented at meetings of the Conference of the Parties, may be represented by observers, unless at least one-third of the Parties present at the meeting object. <i>[Rule 7.1]</i></p> <p>Ramsar adopted a Resolution at its 7th Conference of the Parties in 1999 that provides for certain international NGOs to be given 'Partnership' status. Such Partners are invited to participate in an observer capacity and as advisors in all activities of the Convention, including the meetings of the Conference of the Parties, the Standing Committee and the Scientific and Technical Review Panel, as well as regional and subregional meetings. (For further details see Annex 11).</p>	<p><u>Which meetings they can attend</u> Meetings of the Conference of the Parties. Observers may be invited to attend meetings of the Conference Committee in required. <i>[Rule 26.1]</i></p> <p><u>Speaking and voting rights</u> NGOs may participate in the meeting upon the invitation of the President, unless at least one third of the Parties present at the meeting object. Observers cannot vote.</p> <p><u>Submission of documents</u> Observers wishing to distribute documents which have not been admitted as official meeting documents shall make their own arrangements for distribution after having sought the advice of the Secretariat on how to proceed.</p> <p><u>Delegation size</u> Seating limitations may require that no more than two observers from any non-Party State body or agency be present at a meeting. Such limitations will be notified in advance of a meeting.</p>	<p>Ramsar has not developed a code of conduct for NGOs.</p>