

Documents Submitted to the Scientific Committee as Confidential

(Submitted by the Secretariat)

F&A committee discussions

In commenting on the Draft Agenda for the F&A Committee, the UK indicated that it may propose the following amendment to the Commission Rule of Procedure Q.2 as follows:

'Q.2. Any document submitted to the Commission for distribution to Commissioners, *and* Contracting Governments ~~or members of the Scientific Committee~~ is considered to be in the public domain unless it is designated by the author or government submitting it to be restricted. Such restriction is automatically lifted when the report of the meeting to which it is submitted becomes publicly available under 1. above.
Documents submitted to the Commission for distribution to members of the Scientific Committee are considered to be in the public domain and may not be designated as restricted.'

In the F&A Committee, the UK noted that in the past there have been difficulties dealing with documents submitted to the Scientific Committee as confidential. It stressed that the UK has always honoured this, but could not readily see what purpose is served by identifying some Scientific Committee documents as confidential and believed that removing this possibility would be in the interest of transparency and public debate.

Japan expressed concern with this proposal. Japan believed it important to be able to keep documents such as those relating to new special permit research proposals confidential before and during the meeting of the Scientific Committee. It noted that these proposals are politically sensitive and was afraid that the objectivity of the Scientific Committee may be influenced if the proposals were publicly available. Japan was not against transparency in principle but believed that some documents needed to be handled with more care than others. It added that in any case, these documents would not remain restricted forever. Denmark expressed similar concerns but related to other issues dealt with by the Commission. Like Japan, it was in favour of transparency, but believed that this could wait until after the Scientific Committee.

Brazil noted that it understood the concerns regarding the nature of some documents, but believed that the confidentiality rules did not allow for governments to consult with scientists who are not members of the Scientific Committee. It considered this to discriminate against developing countries with small delegations.

A number of delegations noted that it was their understanding that common (unwritten) practice is that the confidentiality rules do not mean that a government cannot consult with its experts at its discretion. **The F&A Committee agreed that it would be useful to have this practice clarified and agreed that the Secretariat should consult with the Chair of the Scientific Committee to develop a draft text for subsequent review by the UK, Japan, Brazil and Dominica. The intention would be to submit this to the plenary.**

Secretariat proposal

Following consultation as proposed by the F&A Committee, the Secretariat proposes that Rule of Procedure Q.2 remain unchanged but a footnote to Rule of Procedure Q.2 be added as follows:

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

Footnote

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

As the proposal is to insert a footnote, rather than to revise the Rules of Procedure, there is no need for a 60-day notice period. Thus if agreed by the Commission, the footnote could take effect after this meeting. A similar procedure was followed at IWC/55 in Berlin in 2003, when the Commission agreed to add a footnote to Financial Regulation F. to clarify what is meant, in relation to financial contributions, by 'received by the Commission'.