

# Checklist of Actions for Moving to Biennial Meetings

## Summary of Responses Received

*Prepared by the Secretariat and the Chair of the Intersessional Group.*

On 7 February 2012 the Secretariat, on behalf of the Chair of the Intersessional Group (Ms. D. Petrachenko, Australia), circulated a draft checklist of actions (document IWC/2012/IG-BB 1) for moving the Commission's regular meetings from an annual to a biennial (every two years) cycle. Comments on the actions contained in document IWC/2012/IG-BB 1 were received from seven of the eleven members of the Intersessional Group, these being the Governments of Australia, Denmark, France, Germany, Japan, New Zealand and the USA. The full text of the original responses is provided at Annex B.

This document provides a summary of the comments received and also updates the draft changes to the Rules of Procedure. The IG-BB is invited to make final comments on the checklist, including the draft changes to the Commission's Rules of Procedure as given at Annex A. It is proposed to circulate this document, including the draft rule changes, to the Commission in advance of the 60 day deadline ahead of IWC/64 which falls on Thursday 3 May 2012.

### 1 GENERAL COMMENTS

All respondents were supportive of moving to biennial meetings, citing opportunities for cost savings and other efficiencies as reasons for the change.

Two members made additional general points. One noted that the original expectation was that such a decision would be taken in the context of agreement on a set of proposals to address the current impasse in the Commission on the key issues that divide the membership. It noted that it wished to ensure that a move to biennial meetings would not result in a loss of momentum in efforts to make the IWC a more effective organisation, better able to improve the conservation of whales.

The other noted the unique opportunity provided by the move to biennial meetings and believed that the IG-BB should consider recommending an independent review to examine the scope for generating additional savings in the workings of the Commission and Scientific Committee. It suggested that such a review should take place prior to the transition to biennial meetings.

IWC/2012/IG-BB 1 had identified five key areas for consideration and respondents' comments are summarised below. Particular attention is drawn to a request made by the Chair for a more detailed analysis of the role and responsibilities of a Bureau in relation to the broader governance arrangements of the Commission.

### 2 MANAGEMENT OF WHALING

#### 2.1 Aboriginal Subsistence Whaling

##### 2.1.1 Length of time for block quotas

Six respondents addressed the question of the length of time for which to set ASW block quotas so as to allow their renewal to coincide with a biennial meeting cycle. All agreed that a six year block quota was acceptable, although there was a range in individual responses from 4-6 years to 6 years or longer.

##### 2.1.2 Annual review of ASW catch limits

Differing responses were received regarding the question of how to proceed if the Scientific Committee was to recommend that existing ASW catch limits should be reduced in a year when the Commission does not meet.

Although three respondents suggested that allowing the Bureau to decide what option to use was an appropriate and cost effective course of action, two other respondents did not support this approach as they considered that ASW catch limits should remain fully within the competency of the Commission.

In contrast, four respondents suggested that holding a postal ballot of all Contracting Governments to change the wording of the Schedule would be acceptable.

Two respondents noted that the Scientific Committee should be consulted on whether annual reviews were still necessary for the two stocks highlighted in the Schedule, and another respondent indicated that the first step

should be for the country concerned to voluntarily reduce its catch limit in accord with the Scientific Committee's advice.

### **3 ESTABLISHMENT OF A BUREAU**

Four respondents highlighted the need to give greater consideration to the structure, tasks and terms of reference of the Bureau so as to ensure it is introduced in the most effective way. In particular, respondents commented that the establishment of a Bureau is a significant reform that requires in-depth analysis before implementation, and two respondents noted the need to develop a comprehensive set of draft terms of reference and rules of procedure for the Bureau. To assist this process, the Chair of the IG-BB requested the Secretariat to prepare a more detailed discussion paper on the Bureau and how it might work within an IWC context, by drawing on a comparative analysis of Bureaux and administrative Standing Committees in other inter-governmental organisations.

In addition, two respondents agreed that the Bureau, or a Sub-committee of the Bureau should replace the current credentials committee, and one respondent also agreed that the Bureau should replace the Advisory Committee.

Summaries of further comments on particular aspects of a Bureau are provided below.

#### **3.1 Membership**

All respondents commented on this issue. In terms of total membership, three respondents commented in favour of either 11 or 11-13 members. In terms of 'standing' members, the following possibilities were raised:

- (1) inclusion of the Chair of the Scientific Committee and Chair of the Conservation Committee (three commented in favour);
- (2) inclusion of the Chair of the ASW Sub-committee (three commented in favour);
- (3) inclusion of the Chair of the Budgetary Sub-committee (one commented in favour).

In regards to the additional members comments received suggested that (1) a mechanism to elect them, possibly by simple majority vote was required and that the mechanism should be staggered so as to prevent all members of the Bureau turning over in any one year; (2) between 2 and 6 additional members were appropriate; and (3) the additional members should represent financial as well as geographical and thematic interests.

To assist further discussion, the comments received on document IWC/2012/IG-BB 1 suggest that original proposal for Bureau membership could be modified as follows:

- The Chair of the Commission
- The Vice-Chair of the Commission
- The Chair of the Finance and Administration Committee
- The Chair of the Conservation Committee
- The Chair of the ASW Sub-committee
- The Chair of the Budgetary Sub-committee
- The host Government of the forthcoming Commission meeting
- Between two and four additional members
- The Chair of the Scientific Committee (in a non-voting advisory capacity)
- The Secretariat (in a non-voting advisory capacity)

This composition would give a Bureau composition of between 9 and 11 voting members, plus the Chair of the Scientific Committee and Secretariat in non-voting advisory roles.

This issue is likely to be considered further as part of the review of Bureaux and Standing Committees in other inter-governmental organisations referred to above.

#### **3.2 Bureau meetings**

##### *Frequency*

With regard to frequency of Bureau Meetings, it was suggested that (1) at least one 'in person' meeting was required each year, with other meetings taking place quarterly using phone or video link; (2) that a meeting prior to the Private Commissioners' meeting may be helpful; and that (3) the Bureau may wish to meet 'as necessary' during the evenings of the plenary session.

### *Venue*

With regard to the venue for Bureau Meetings, respondents suggested that this should be flexible and that it should be up to the Bureau to decide where it will meet. Three respondents requested that if Bureau meetings were to be held at the Secretariat offices in Cambridge, that either video or phone conferencing options should be provided, particularly for those members outside Europe.

### *Nature*

All but one respondent indicated that Meetings of the Bureau should be closed to observers in order to allow full and frank discussions. The other respondent suggested the meetings should be open, but also indicated that they may need to be held *in camera* on occasion. No comments were received on how to report discussions within the Bureau back to the Commission.

## **4 CHANGES TO THE RULES OF PROCEDURE**

The following comments were received on the proposed changes provided in IWC/2012/IG-BB 1:

- The terms of appointment for the Committee Chairs should be extended from three to four years (so as to be consistent with the terms for Chair and Vice-Chair)<sup>1</sup>;
- References to the Advisory Committee in Rules of Procedure J(2) and P(3) should be replaced by reference to the Bureau;
- Simultaneous interpretation may not be required for Meetings of the Bureau in order to keep costs to a minimum;
- There should be consistent capitalisation of the phrase 'Meeting of the Bureau';
- The required majority for a successful vote by the Bureau should be specified<sup>2</sup>
- Consideration should be given to changing the Commission's annual reporting cycle with the move to biennial meetings<sup>2</sup>;
- Rule B (Meetings) should clarify the quorum necessary for a Bureau Meeting to take place<sup>2</sup>;
- The addition of the sentence 'The report shall also be sent to all Commissioners including those who are not members of the Bureau before the beginning of the Bureau Meeting in the year when the Commission does not meet' to Rule E(4) of the Financial Regulations (Contributions).
- The replacement of the first sentence of paragraph 5b of Item E of the Scientific Committee's Rules of Procedure with 'The report of the Annual Meeting of the Scientific Committee shall be distributed to all Commissioners in accordance with the Commission's Rule of Procedure M.5'

Regarding the draft changes to the Rules of Procedure of the Technical Committee, one respondent suggested that it would be appropriate for the summary paper to propose rule changes to remove the Technical Committee should the IG-BB agree.

Unless otherwise noted, the above comments have been incorporated into the suite of changes proposed to allow movement to a biennial cycle given at Annex A:

## **5 FINANCIAL CONSIDERATIONS**

### **5.1 Setting a budget for two years in advance**

This proposal was supported by all respondents, including the intention to maintain annual invoicing.

### **5.2 Financial Role of the Bureau**

IWC/2012/IG-BB 1 suggested that the Bureau should be able to either authorise reappportionment of amounts in the Commission budget for the second year of the two year cycle within the total previously approved by the Commission, or alternatively that the IG-BB may wish to propose a range of levels over which the Bureau would be able to increase or decrease the total expenditure.

Three respondents noted that a change to total expenditure would influence Member's financial contributions, and as such any change of this nature should be adopted by all Commission members. However these respondents were supportive of the first option, in allowing the Bureau to reappportion amounts within the total

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<sup>1</sup> Secretariat note: there is no provision in the current rules of procedure stipulating the terms of office for Committee Chairs. Accordingly, at present, the draft rule changes at Annex A do not contain text regarding the period of service for Committee Chairs.

<sup>2</sup> Secretariat note: this to be developed as part of the requested full review of Bureaux.

expenditure previously agreed. One of the respondents suggested that no more than 5% of a single budgetary item should be re-allocated, and that any changes proposed should be considered by the Budgetary Subcommittee and the F&A Committee.

### **5.3 Allocation of savings arising from reduced meeting frequency**

The only two respondents that commented on this issue were supportive of the proposal for savings from moving into biennial meetings be reflected in reduced financial contributions due from Contracting Governments, and that the present system of relying on voluntary financial contributions to support meetings be maintained.

## **6 FREQUENCY OF SUBSIDIARY BODY MEETINGS**

Two respondents re-iterated the support expressed in IWC/2012/IG-BB 1 for continuing with annual meetings of the Scientific Committee. These respondents also expressed the need to maintain equality between the subsidiary bodies and stated that none of them should meet annually (except the Scientific Committee).

Five respondents suggested that intersessional meetings (i.e. annual meetings) of subsidiary bodies, especially the Conservation Committee should be permitted so long as the costs of the annual meeting were borne by a host government. In this context, one respondent suggested that the costs of additional subsidiary body meetings could be borne either in whole or in part by a host government and/or other funding partners including the Commission/Bureau should it so choose.

In the event that the Conservation Committee is to meet biennially, two respondents suggested that a doubling of meeting time would be appropriate. One other respondent suggested an intersessional meeting of the Conservation Committee should be linked to the annual meeting of the Scientific Committee, and that the relationship between these two Committees should be clarified

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# **Rules of Procedure and Financial Regulations**

**As amended by the Commission at its 63<sup>rd</sup> Annual Meeting, July 2011, and with proposed  
changes to establish a Bureau and move to biennial Commission meetings**

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**February 2012**

## Rules of Procedure

### A. Representation

1. A Government party to the International Convention for the Regulation of Whaling, 1946 (hereafter referred to as the Convention) shall have the right to appoint one Commissioner and shall furnish the Secretary of the Commission with the name of its Commissioner and his/her designation and notify the Secretary promptly of any changes in the appointment. The Secretary shall inform other Commissioners of such appointment.

2. In addition to the Commissioner, each Contracting Government is invited to establish an additional means of communication between the Chair and Secretary of the Commission and that Government by designating an Alternate Commissioner or by creating a focal or contact point (which could be an e-mail address). The details shall be communicated to the Secretary through recognised diplomatic channels. Contact details of the Commissioner, Alternate Commissioner or the focal or contact point shall also be posted on the Commission's public web site.

### B. Meetings

1. The Commission shall hold a regular ~~Annual~~ **Biennial** Meeting in such place as the Commission may determine. Any Contracting Government desiring to extend an invitation to the Commission to meet in that country shall give formal notice two years in advance. A formal offer should include:  
which meetings it covers, i.e. Scientific Committee, Commission sub-groups, ~~Annual~~ **Biennial** Commission meeting, **or Meeting of the Bureau**;  
a proposed time window within which the meeting will take place; and  
a timetable for finalising details of the exact timing and location of the meeting.

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

2. Before the end of each ~~Annual~~ **Biennial** Meeting, the Commission shall decide on: (1) the length of the ~~Annual next Biennial~~ **Commission Meeting** and associated meetings ~~the following year; and~~ (2) which of the Commission's sub-groups need to meet, **and (3) the date, location and duration of the Meeting of the Bureau.**

### C. Observers

1. (a) Any Government not a party to the Convention or any intergovernmental organisation may be represented at meetings of the Commission by an observer or observers, if such non-party government or intergovernmental organisation has previously attended any meeting of the Commission, or if it submits its request in writing to the Commission 60 days prior to the start of the meeting, or if the Commission issues an invitation to attend.

(b) Any non-governmental organisation which expresses an interest in matters covered by the Convention, may be accredited as an observer. Requests for accreditation must be submitted in writing to the Commission 60 days prior to the start of the meeting and the Commission may issue an invitation with respect to such request. Such submissions shall include the standard application form for non-governmental organisations which will be provided by the Secretariat. These applications shall remain available for review by Contracting Governments.

Once a non-governmental organisation has been accredited through the application process above, it will remain accredited until the Commission decides otherwise.

Observers from each non-governmental organisation will be allowed seating in the meeting. However, seating limitations may require that the number of observers from each non-governmental organisation be limited. The Secretariat will notify accredited non-governmental organisations of any seating limitations in advance of the meeting.

(c) The Commission shall levy a registration fee and determine rules of conduct, and may define other conditions for the attendance of observers accredited in accordance with Rule C.1.(a) and (b). The registration fee will ~~be treated as an annual fee covering cover~~ attendance at the ~~Annual~~ **Biennial Commission Meeting** to which it relates and any other meeting of the Commission or its subsidiary groups as provided in Rule C.2 in the interval before the next **Biennial Commission Meeting** ~~Annual Meeting~~.

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

#### D. Credentials

1.(a) The names of all representatives of member and non-member governments and observer organisations to any meeting of the Commission, ~~or its~~ committees **or the Bureau**, as specified in the Rules of Procedure of the Commission, Technical and Scientific Committees, shall be notified to the Secretary in writing before their participation and/or attendance at each meeting. For member governments, the notification shall indicate the Commissioner, his/her alternate(s) and advisers, and the head of the national delegation to the Scientific Committee and any alternate(s) as appropriate.

The written notification shall be made by governments or the heads of organisations as the case may be. In this context, 'governments' means the Head of State, the Head of Government, the Minister of Foreign Affairs (including: on behalf of the Minister of Foreign Affairs), the Minister responsible for whaling or whale conservation (including: on behalf of this Minister), the Head of the Diplomatic Mission accredited to the seat of the Commission or to the host country of the meeting in question, or the Commissioner appointed under Rule A.1.

(b) Credentials for a Commissioner appointed for the duration of a meeting must be issued as in D.1(a). Thereafter, until the end of the meeting in question, that Commissioner assumes all the powers of a Commissioner appointed under A.1., including that of issuing credentials for his/her delegation.

(c) In the case of members of delegations who will attend the **Annual Biennial** Commission Meeting and its associated meetings **or Meetings of the Bureau**, the notification may be made *en bloc* by submitting a list of the members who will attend any of these meetings.

(d) The Secretary, or his/her representative, shall report on the received notifications at the beginning of a meeting.

(e) In case of any doubt as to the authenticity of notification or in case of apparent delay in their delivery, the Chair of the meeting shall convene an *ad hoc* group of no more than one representative from any Contracting Government present to decide upon the question of participation in the meeting.

#### E. Decision-making

A decision of the Commission taken at a meeting, whether by consensus or by vote, is not deemed adopted until the text has either been provided to all Members of the Commission, or presented to them by electronic means, and then approved by the Commission. The text will also be made simultaneously available to all other accredited participants. The text shall normally be distributed or presented in English and conveyed in the other working languages by oral interpretation. This rule applies both to decisions of the kinds specified in Rule J, and to other decisions of the Commission, except those relating only to the conduct of the current meeting. If the text of a proposed decision is amended, the revised text shall be distributed or presented in accordance with this rule. The authentic text of any such decision shall be the English version.

The Commission shall make every effort to reach its decisions by consensus. If all efforts to reach consensus have been exhausted and no agreement reached, the following Rules of Procedure shall apply:

1. Each Commissioner shall have the right to vote at Plenary Meetings of the Commission and in his/her absence his/her deputy or alternate shall have such right. Experts and advisers may address Plenary Meetings of the Commission but shall not be entitled to vote. They may vote at the meetings of any committee to which they have been appointed, provided that when such vote is taken, representatives of any Contracting Government shall only exercise one vote.

2. (a) The right to vote of representatives of any Contracting Government shall be suspended automatically when the annual payment of a Contracting Government including any interest due has not been received by the Commission by the earliest of these dates:

- 3 months following the due date prescribed in Regulation E.2 of the Financial Regulations; or
- the day before the first day of the next **Annual Biennial** or Special Meeting of the Commission **or Meeting of the Bureau** if such a meeting is held within 3 months following the due date; or
- in the case of a vote by postal or other means, the date upon which votes must be received if this falls within 3 months following the due date.

This suspension of voting rights applies until payment is received by the Commission.

(b) The Commissioner of a new Contracting Government shall not exercise the right to vote either at meetings or by postal or other means: (i) until 30 days after the date of adherence, although they may participate fully in discussions of the Commission; and (ii) unless the Commission has received the Government's financial contribution or part contribution for the year prescribed in Financial Regulation E.3. the day before the first day of the ~~Annual~~ **Biennial** or Special Meeting concerned.

3. (a) Where a vote is taken on any matter before the Commission, a simple majority of those casting an affirmative or negative vote shall be decisive, except that a three-fourths majority of those casting an affirmative or negative vote shall be required for action in pursuance of Article V of the Convention.

(b) Action in pursuance of Article V shall contain the text of the regulations proposed to amend the Schedule. A proposal that does not contain such regulatory text does not constitute an amendment to the Schedule and therefore requires only a simple majority vote. A proposal that does not contain such regulatory text to revise the Schedule but would commit the Commission to amend the Schedule in the future can neither be put to a vote nor adopted.

(c) At meetings of committees appointed by the Commission, a simple majority of those casting an affirmative or negative vote shall also be decisive. The committee shall report to the Commission if the decision has been arrived at as a result of the vote.

(d) Votes shall be taken by show of hands, or by roll call, as in the opinion of the Chair, appears to be most suitable. The election of the Chair, Vice-Chair, the appointment of the Secretary of the Commission, and the selection of ~~venues for IWC Annual Biennial Meetings~~ **venues or Meetings of the Bureau** shall, upon request by a Commissioner, all proceed by secret ballot.

4. Between meetings of the Commission or in the case of emergency, a vote of the Commissioners may be taken by post, or other means of communication in which case the necessary simple, or where required three-fourths majority, shall be of the total number of Contracting Governments whose right to vote has not been suspended under paragraph 2.

#### F. Chair

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

2. The duties of the Chair shall be:

(a) to preside at all meetings of the Commission **and Bureau**;

(b) to decide all questions of order raised at meetings of the Commission, subject to the right of any Commissioner to appeal against any ruling of the Chair.

(c) to call for votes and to announce the result of the vote to the Commission;

(d) to develop, with appropriate consultation, draft agenda for meetings of the Commission **and Bureau**.

(i) for ~~Annual~~ **Biennial** Meetings:

in consultation with the Secretary, to develop a draft agenda based on decisions and recommendations made at the previous ~~Annual~~ **Biennial** Meeting for circulation to all Contracting Governments and Commissioners for review and comment not less than 100 days in advance of the meeting;

on the basis of comments and proposals received from Contracting Governments and Commissioners under d(i) above, to develop with the Secretary, an annotated provisional agenda for circulation to all Contracting Governments not less than 60 days in advance of the meeting;

(ii) for Special Meetings, the two-stage procedure described in (i) above will be followed whenever practicable, recognising that Rule of Procedure J.1 still applies with respect to any item of business involving amendment of the Schedule or recommendations under Article VI of the Convention.



(e) to sign, on behalf of the Commission, a report of the proceedings of each ***annual biennial*** or other meeting of the Commission ***and Meeting of the Bureau***, for transmission to Contracting Governments and others concerned as an authoritative record of what transpired;

(f) generally, to make such decisions and give such directions to the Secretary as will ensure, especially in the interval between the meetings of the Commission, that the business of the Commission is carried out efficiently and in accordance with its decision.

#### G. Vice-Chair

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

#### H. Secretary

1. The Commission shall appoint a Secretary and shall designate staff positions to be filled through appointments made by the Secretary. The Commission shall fix the terms of employment, rate of remuneration including tax assessment and superannuation and travelling expenses for the members of the Secretariat.

2. The Secretary is the executive officer of the Commission and shall:

(a) be responsible to the Commission for the control and supervision of the staff and management of its office and for the receipt and disbursement of all monies received by the Commission;

(b) make arrangements for all meetings of the Commission, ***and*** its committees and ***the Bureau and*** provide necessary secretarial assistance;

(c) prepare and submit to the Chair a draft of the Commission's budget for each ***two*** year ***period*** and shall subsequently submit the budget to all Contracting Governments and Commissioners as early as possible before the ***Annual Biennial*** Meeting;

(d) despatch by the most expeditious means available:

(i) a draft agenda for the ***Annual Biennial*** Commission Meeting to all Contracting Governments and Commissioners 100 days in advance of the meeting for comment and any additions with annotations they wish to propose;

(ii) an annotated provisional agenda to all Contracting Governments and Commissioners not less than 60 days in advance of the ***Annual Biennial*** Commission Meeting. Included in the annotations should be a brief description of each item, and in so far as possible, documentation relevant to agenda items should be referred to in the annotation and sent to member nations at the earliest possible date;

***(iii) a draft agenda for each Meeting of the Bureau to the members of the Bureau 100 days in advance of the meeting for comment and any additions with annotations they may wish to propose;***

***(iv) an annotated provisional agenda for the Meeting of the Bureau to the members of the Bureau 60 days in advance of its meeting.***

(e) receive, tabulate and publish notifications and other information required by the Convention in such form and manner as may be prescribed by the Commission;

(f) perform such other functions as may be assigned to him/her by the Commission or its Chair;

(g) where appropriate, provide copies or availability to a copy of reports of the Commission including reports of Observers under the International Observer Scheme, upon request after such reports have been considered by the Commission.

(h) maintain the Commission's public web site, which shall be continuously accessible to the extent possible subject to maintenance requirements and technical constraints.

#### I. Chair of Scientific Committee

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

J. Schedule amendments, recommendations under Article VI and Resolutions

1. No item of business which involves amendment of the Schedule to the Convention, recommendations under Article VI of the Convention, or Resolutions of the Commission, shall be the subject of decisive action by the Commission unless the full draft text has been circulated to the Commissioners at least 60 days in advance of the meeting at which the matter is to be discussed.

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

3. Notwithstanding Rules J.1 and J.2, the Commission may adopt Resolutions on any matter that may arise during a meeting only when consensus is achieved.

K. Financial

1. The financial year of the Commission shall be from 1st September to 31st August.

2. Any request to Contracting Governments for financial contributions shall be accompanied by a statement of the Commission's expenditure for the appropriate year, actual or estimated.

3. Annual payments and other financial contributions by Contracting Governments shall be made payable to the Commission and shall be in pounds sterling.

L. Offices

1. The seat of the Commission shall be located in the United Kingdom.

M. Committees

1. The Commission shall establish a Scientific Committee, a Technical Committee and a Finance and Administration Committee. Commissioners shall notify their desire to be represented on the Scientific, Technical and Finance and Administration Committees 28 days prior to the meetings, and shall designate the approximate size of their delegations.

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

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

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

(b) Any ad hoc committee, sub-committee or working group established to provide scientific advice shall report to the Scientific Committee, which shall review the report of such committee, sub-committee or working group, and, as appropriate, make its own recommendations on the subject matter.

5. The report of the Scientific Committee should be completed and made available to all Commissioners and posted on the Commission's public web site by the opening date of the ~~Annual Biennial~~ Commission Meeting or **Meeting of the Bureau** or within 14 days of the conclusion of the Scientific Committee meeting, whichever is the sooner.

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

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

(a) Management principles, categories, criteria and definitions, taking into account the recommendations of the Scientific Committee, as a means of helping the Commission to deal with management issues as they arise;

(b) technical and practical options for implementation of conservation measures based on Scientific Committee advice;

(c) the implementation of decisions taken by the Commission through resolutions and through Schedule provisions;

(d) Commission agenda items assigned to it;

(e) any other matters.

8. The Finance and Administration Committee shall advise the Commission on expenditure, budgets, scale of contributions, financial regulations, staff questions, and such other matters as the Commission may refer to it from time to time.

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

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

#### N. Languages of the Commission

1. English shall be the official language of the Commission. English, French and Spanish shall be the working languages of the Commission. Commissioners may speak in any other language, if desired, it being understood that Commissioners doing so will provide their own interpreters. All official publications and communications of the Commission shall be in English. Agreed publications shall be available in English, French and Spanish<sup>3</sup>.

#### O. Records of Meetings

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

2. The text of each Commission decision adopted at a meeting in accordance with Rule E, or by post, shall be placed on the Commission's public web site in all working languages within 14 days of the conclusion of the meeting or adoption of the decision by post.

#### P. Reports and communications

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

2. The Chair's Report of the most recent ~~Annual Biennial~~ Commission Meeting ~~or Meeting of the Bureau~~ shall be posted on the Commission's public web site in English within two months of the end of the meeting and in the other working languages as soon as possible thereafter. It shall be published in the Annual Report of the year just completed.

3. All individual and circular communications from the Chair or Secretary to Contracting Governments shall be sent to both the Commissioner appointed under Rule A.1. and to his/her Alternate designated or to the focal or contact point created under Rule A.2. They should also be sent to all accredited intergovernmental observers. All circular communications from the Chair or Secretary to Contracting Governments shall be posted on the Commission's public web site on despatch, unless the Chair, after consulting with the ~~Advisory Committee Bureau~~, deems that a confidential communication is warranted (applicable only for staff issues,

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

infraction cases and information provided by contracting Governments with a request that it remain confidential), in which case the communication should be sent to the Contracting Governments alone. A list of dates and subject titles of such confidential communications shall be presented to the next **Annual Biennial Meeting or to the Bureau in years when the Commission does not meet.**

#### Q. Commission Documents

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

2. Any document submitted to the Commission for distribution to Commissioners, Contracting Governments or members of the Scientific Committee is considered to be in the public domain unless it is designated by the author or government submitting it to be restricted<sup>4</sup>. Such restriction is automatically lifted when the report of the meeting to which it is submitted becomes publicly available under 1. above.

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

The content of the Opening Statements shall be relevant to matters under consideration by the Commission, and shall be in the form of views and comments made to the Commission in general rather than directed to any individual or group of Contracting Governments.<sup>5</sup>

4. All meeting documents shall be included in the Commission's archives in the form in which they were considered at the meeting. All such documents dating from 2011 onwards, and also earlier years where feasible, shall be archived on the Commission's public web site in an accessible fashion by year and category of document.

#### R. Amendment of Rules

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

#### S. Bureau

**1. The Commission shall establish a Bureau which shall consist of the Chair and Vice-Chair of the Commission, Chair of the Finance and Administration Committee and the Commissioner representing the host country for the next meeting of the Commission together with the representatives of not less than six and not more than eight Contracting Governments. The Contracting Governments represented on the Bureau shall be elected at the biennial meetings of the Commission. The Contracting Governments of which the Chair, Vice-Chair, Chair of the F&A Committee and next host country are representatives shall not be elected to the Bureau. In elections to the Bureau the Commission shall give due consideration to the geographic and whaling management and conservation interests of the Contracting Parties, as well as to the equal right of the Contracting Governments to be represented on the Bureau.**

**2. The Bureau shall perform such functions as are assigned to it by the Commission and shall meet at least once in the interim between the biennial meetings of the Commission. Between Commission meetings the Bureau shall make necessary decisions on duties to be carried out and shall issue any necessary instructions to the Executive Secretary. Decisions of the Bureau shall be made in accordance with the Rules of Procedure established by the Commission.**

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<sup>4</sup> This does not prevent Contracting Governments from consulting as they see fit on such documents providing confidentiality is maintained as described in Rule of Procedure Q.1.

<sup>5</sup> [There is no intention that the Secretariat should conduct advance or *ex-ante* reviews of such statements.]

## **FINANCIAL REGULATIONS**

### **A. Applicability**

1. These regulations shall govern the financial administration of the International Whaling Commission.
2. They shall become effective as from the date decided by the Commission and shall be read with and in addition to the Rules of Procedure. They may be amended in the same way as provided under Rule R.1 of the Rules of Procedure in respect of those Rules.
3. In case of doubt as to the interpretation and application of any of these regulations, the Chair is authorised to give a ruling.

### **B. Financial Year**

1. The financial year of the Commission shall be from 1st September to 31st August (Rules of Procedure, Rule K.1).

### **C. General Financial Arrangements**

1. There shall be established a Research Fund and a General Fund, and a Voluntary Fund for Small Cetaceans.
  - (a) The Research Fund shall be credited with voluntary contributions and any such monies as the Commission may allocate for research and scientific investigation and charged with specific expenditure of this nature.
  - (b) The General Fund shall, subject to the establishment of any other funds that the Commission may determine, be credited or charged with all other income and expenditure.
  - (c) The details of the Voluntary Fund for Small Cetaceans are given in Appendix 1.

The General Fund shall be credited or debited with the balance on the Commission's Income and Expenditure Account at the end of each financial year.

2. Subject to the restrictions and limitations of the following paragraphs, the Commission may accept funds from outside the regular contributions of Contracting Governments.

(a) The Commission may accept such funds to carry out programmes or activities decided upon by the Commission and/or to advance programmes and activities which are consistent with the objectives and provisions of the Convention.

(b) The Commission shall not accept external funds from any of the following:

- (i) Sources that are known, through evidence available to the Commission, to have been involved in illegal activities, or activities contrary to the provisions of the Convention;
- (ii) Individual companies directly involved in legal commercial whaling under the Convention;
- (iii) Organisations which have deliberately brought the Commission into public disrepute.

3. Monies in any of the Funds that are not expected to be required for disbursement within a reasonable period may be invested in appropriate Government or similar loans by the Secretary in consultation with the Chair.

#### **4. The Secretary shall:**

- (a) establish detailed financial procedures and accounting records as are necessary to ensure effective financial administration and control and the exercise of economy;
- (b) deposit and maintain the funds of the Commission in an account in the name of the Commission in a bank to be approved by the Chair;
- (c) cause all payments to be made on the basis of supporting vouchers and other documents which ensure that the services or goods have been received, and that payment has not previously been made;
- (d) designate the officers of the Secretariat who may receive monies, incur obligations and make payments on behalf of the Commission;
- (e) authorise the writing off of losses of cash, stores and other assets and submit a statement of such amounts written off to the Commission and the auditors with the annual accounts.

5. The accounts of the Commission shall be audited annually by a firm of qualified accountants selected by the Commission. The auditors shall certify that the financial statements are in accord with the books and records of the Commission, that the financial transactions reflected in them have been in accordance with the rules and

regulations and that the monies on deposit and in hand have been verified. The most recent audited financial statements and the audit report shall be submitted to the ***Annual Biennial*** Meeting ***or to the Bureau in years when the Commission does not meet*** and posted on the Commission's public website by the opening of the ***Annual Biennial or Bureau*** Meeting.

#### **D. Yearly Statements**

1. At each ***Annual Biennial*** Meeting, there shall be laid before the Commission two financial statements:

(a) a provisional statement dealing with the actual and estimated expenditure and income in respect of the current financial year;

(b) the budget estimate of expenditure and income for the ensuing ***two*** year including the estimated amount of the individual annual payment to be requested of each Contracting Government ***for each of the ensuing two years***.

***(c) in years when no Biennial Commission Meeting is held the provisional statement for the current financial year identified in Regulation D.1.(a) shall be laid before the Meeting of the Bureau.***

***(d) in years when no Biennial Commission Meeting is held the Bureau shall review the second half of the two year budget and, on the basis of current and anticipated developments, may authorise reappportionment of amounts in the Commission budget for the second year within the total expenditure approved by the Commission.***

Expenditure and income shall be shown under appropriate sub-heads accompanied by such explanations as the Commission may determine.

2. The two financial statements identified in Regulation D.1 shall be despatched by the most expeditious means available to each Contracting Government and each Commissioner not less than 60 days in advance of the ***Annual Biennial*** Commission Meeting. They shall require the Commission's approval after having been referred to the Finance and Administration Committee for consideration and recommendations. A copy of the final accounts ***for each year*** shall be sent to all Contracting Governments after they have been audited.

***In years when the Commission does not meet, the provisional financial statement for the current year shall be made available to each Contracting Government and each Commissioner not less than 60 days in advance of the Meeting of the Bureau.***

3. Supplementary estimates may be submitted to the Commission, as and when may be deemed necessary, in a form consistent with the Annual Estimates. Any supplementary estimate shall require the approval of the Commission after being referred to the Finance and Administration Committee for consideration and recommendation.

#### **E. Contributions**

1. As soon as the Commission has approved the budget for any year, the Secretary shall send a copy thereof to each Contracting Government (in compliance with Rules of Procedure, Rule K.2), and shall request it to remit its annual payment.

2. Payment shall be in pounds sterling, drafts being made payable to the International Whaling Commission and shall be payable within 90 days of the said request from the Secretary or by the following 28 February, the "due date" whichever is the later. It shall be open to any Contracting Government to postpone the payment of any increased portion of the amount which shall be payable in full by the following 31 August, which then becomes the "due date". Payment shall be by bank transfer from an account belonging to the Contracting Government or to a state institution of that Government.

3. 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 any ***Annual or Special*** Meeting of the Commission ***or Bureau*** in which it participates, whichever is the earlier.

Subsequent annual payments shall be paid in accordance with Financial Regulation E.2.

4. The Secretary shall report at each ~~Annual~~ **Biennial Meeting and Meeting of the Bureau** the position as regards the collection of annual payments. *The report shall also be sent to all Commissioners including those who are not members of the Bureau before the beginning of the Bureau Meeting in the year when the Commission does not meet.*

5. For the purpose of application of Rule of Procedure E.2, payments of membership dues shall only count as having been received by the Commission when the funds have been credited to the Commission's account unless the payment has been made and the Commission is satisfied that the delay in receipt is due to circumstances beyond the control of the Contracting Government.

#### F. Arrears of Contributions

1. If a Contracting Government's annual payments have not been received by the Commission within 12 months of the due date referred to under Regulation E.2 compound interest shall be added on the anniversary of that day and each subsequent anniversary thereafter at the rate of 2% above the base rate quoted by the Commission's bankers on the day. The interest, calculated to the nearest pound, shall be payable in respect of complete years and continue to be payable in respect of any outstanding balance until such time as the amount in arrears, including interest, is settled in full.

2. If a Contracting Government's annual payments, including any interest due<sup>6</sup>, have not been received by the Commission by the earliest of these dates:

3 months following the due date; or

the day before the first day of the next **Annual Biennial** or Special Meeting of the Commission, *or Meeting of the Bureau* if such a meeting is held within 3 months following the due date; or, in the case of a vote by postal or other means, the date upon which votes must be received if this falls within 3 months following the due date, the right to vote of the Contracting Government concerned shall be suspended as provided under Rule E.2 of the Rules of Procedure.

3. Any interest paid by a Contracting Government to the Commission in respect of late annual payments shall be credited to the General Fund.

4. Any payment to the Commission by a Contracting Government in arrears with annual payments shall be used to pay off debts to the Commission, including interest due, in the order in which they were incurred.

5. If a Contracting Government's annual payments, including any interest due, have not been received by the Commission in respect of a period of 3 financial years;

- (a) no further annual contribution will be charged;
- (b) interest will continue to be applied annually in accordance with Financial Regulation F.1.;
- (c) the provisions of this Regulation apply to the Contracting Government for as long as the provisions of Financial Regulations F.1. and F.2. remain in effect for that Government;
- (d) the Contracting Government concerned will be entitled to attend **Commission or Bureau Meetings** on payment of a fee per delegate at the same level as Non-Member Government observers;
- (e) the provisions of this Regulation and of Financial Regulations F.1. and F.2. will cease to have effect for a Contracting Government if it makes a payment of 2 years outstanding contributions and provides an undertaking to pay the balance of arrears and the interest within a further 2 years;
- (f) interest applied to arrears in accordance with this Regulation will accrue indefinitely except that, if a Government withdraws from the Convention, no further charges shall accrue after the date upon which the withdrawal takes effect.

6. Unless the Commission decides otherwise, a Government which adheres to the Convention without having paid to the Commission any financial obligations incurred prior to its adherence shall, with effect from the date of adherence, be subject to all the penalties prescribed by the Rules of Procedure and Financial Regulations

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<sup>6</sup> A short-term concession of up to 500 pounds sterling will be given to any Contracting Government to take account of remittances sent to cover annual payments, including any interest due, that fall short of the balance owing by up to that amount. This concession is to allow for variations in bank charges and exchange rate that might otherwise reduce the value of the remittance to a lower value than intended in pounds sterling and so leave a Contracting Government with a balance of annual payments, including any interest due outstanding. This short term concession will enable a Contracting Government to maintain its right to vote. Any Contracting Government with a balance outstanding above 500 pounds sterling will not be entitled to the short-term concession and its right to vote shall be suspended. The shortfall of up to 500 pounds sterling allowed by the concession shall then be carried forward to the next financial year as part of the balance of annual payments, including any interest due to the Commission.

relating to arrears of financial contributions and interest thereon. The penalties shall remain in force until the arrears, including any newly-charged interest, have been paid in full.

## **Appendix 1**

### **VOLUNTARY FUND FOR SMALL CETACEANS**

#### **Purpose**

The Commission decided at its 46th Annual Meeting in 1994 to establish an IWC voluntary fund to allow for the participation from developing countries in future small cetacean work and requested the Secretary to make arrangements for the creation of such a fund whereby contributions in cash and in kind can be registered and utilised by the Commission.

#### **Contributions**

The Commission has called on Contracting Governments and non-contracting Governments, intergovernmental organisations and other entities as appropriate, in particular those most interested in scientific research on small cetaceans, to contribute to the IWC voluntary fund for small cetaceans.

Acceptance of contributions from entities other than Governments will be subject to the Commission's procedures for voluntary contributions. Where funds or support in kind are to be made available through the Voluntary Fund, the donation will be registered and administered by the Secretariat in accordance with Commission procedures.

The Secretariat will notify all members of the Commission on receipt of such voluntary contributions.

Where expenditure is incurred using these voluntary funds the Secretariat will inform the donors of their utilisation.

#### **Distribution of Funds**

1. Recognising that there are differences of view on the legal competence of the Commission in relation to small cetaceans, but aware of the need to promote the development of increased participation by developing countries, the following primary forms of disbursement will be supported in accordance with the purpose of the Voluntary Fund:

- (a) provision of support for attendance of invited participants at meetings of the Scientific Committee;
- (b) provision of support for research in areas, species or populations or research methodology in small cetacean work identified as of direct interest or priority in the advice provided by the Scientific Committee to the Commission;
- (c) other small cetacean work in developing countries that may be identified from time to time by the Commission and in consultation with intergovernmental agencies as requiring, or likely to benefit from support through the Fund.

2. Where expenditure is proposed in support of invited participants, the following will apply:

- (a) invited participants will be selected through consultation between the Chair of the Scientific Committee, the Convenor of the appropriate sub-committee and the Secretary;
- (b) the government of the country where the scientists work will be advised of the invitation and asked if it can provide financial support.

3. Where expenditure involves research activity, the following will apply:

- (a) the normal procedures for review of proposals and recommendations by the Scientific Committee will be followed;
- (b) appropriate procedures for reporting of progress and outcomes will be applied and the work reviewed;
- (c) the Secretariat shall solicit the involvement, as appropriate, of governments in the regions where the research activity is undertaken.



## **RULES OF DEBATE**

### **A. Right to Speak**

1. The Chair shall call upon speakers in the order in which they signify their desire to speak.
2. A Commissioner or Observer may speak only if called upon by the Chair, who may call a speaker to order if his/her remarks are not relevant to the subject under discussion.
3. A speaker shall not be interrupted except on a point of order. He/she may, however, with the permission of the Chair, give way during his/her speech to allow any other Commissioner to request elucidation on a particular point in that speech.
4. The Chair of a committee or working group may be accorded precedence for the purpose of explaining the conclusion arrived at by his/her committee or group.

### **B. Submission of Motions**

1. Proposals and amendments shall normally be introduced in writing in the working language of the meeting and shall be submitted to the Secretariat which shall circulate copies to all delegations in the session. As a general rule, no proposal shall be discussed at any plenary session unless copies of it have been circulated to all delegations normally no later than 6pm, or earlier if so determined by the Chair in consultation with the Commissioners, on the day preceding the plenary session. The presiding officer may, however, permit the discussion and consideration of amendments, or motions, as to procedure, even though such amendments, or motions have not been circulated previously.

### **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.
3. Notwithstanding anything in these Rules, the Chair may suspend the meeting for a brief period at any time in order to allow informal discussions aimed at reaching consensus consistent with Rule E of the Rules of Procedure.

### **D. Arrangements for Debate**

1. The Commission may, in a proposal by the Chair or by a Commissioner, limit the time to be allowed to each speaker and the number of times the members of a delegation may speak on any question. When the debate is subject to such limits, and a speaker has spoken for his allotted time, the Chair shall call him/her to order without delay.
2. During the course of a debate the Chair may announce the list of speakers, and with the consent of the Commission, declare the list closed. The Chair may, however, accord the right of reply to any Commissioner if a speech delivered after he/she has declared the list closed makes this desirable.
3. During the discussion of any matter, a Commissioner may move the adjournment of the debate on the particular subject or question under discussion. In addition to the proposer of the motion, a Commissioner may speak in favour of, and two Commissioners may speak against the motion, after which the motion shall immediately be put to the vote. The Chair may limit the time to be allowed to speakers under this rule.
4. A Commissioner may at any time move the closure of the debate on the particular subject or question under discussion, whether or not any other Commissioner has signified the wish to speak. Permission to speak on the motion for the closure of the debate shall be accorded only to two Commissioners wishing to speak against the motion, after which the motion shall immediately be put to the vote. The Chair may limit the time to be allowed to speakers under this rule.

### **E. Procedure for Voting on Motions and Amendments**

1. A Commissioner may move that parts of a proposal or of an amendment shall be voted on separately. If objection is made to the request of such division, the motion for division shall be voted upon. Permission to speak on the motion for division shall be accorded only to two Commissioners wishing to speak in favour of, and two Commissioners wishing to speak against, the motion. If the motion for division is carried, those parts of the proposal or amendments which are subsequently approved shall be put to the vote as a whole. If all operative

parts of the proposal or of the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.

2. When the amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the Commission shall first vote on the last amendment moved and then on the next to last, and so on until all amendments have been put to the vote. When, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon. A motion is considered an amendment to a proposal if it merely adds to, deletes from or revises part of that proposal.

3. If two or more proposals relate to the same question, the Commission shall, unless it otherwise decides, vote on the proposals in the order in which they have been submitted. The Commission may, after voting on a proposal, decide whether to vote on the next proposal.

## RULES OF PROCEDURE OF THE TECHNICAL COMMITTEE

### A. Participation

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

### B. Organisation

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

### C. Meetings

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

### D. Reports

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

## RULES OF PROCEDURE OF THE SCIENTIFIC COMMITTEE

The Scientific Committee, established in accordance with the Commission's Rule of Procedure M.1, has the general terms of reference defined in Rule of Procedure M.4.

In this regard, the DUTIES of the Scientific Committee, can be seen as a progression from the scientific investigation of whales and their environment, leading to assessment of the status of the whale stocks and the impact of catches upon them, and then to provision of management advice on the regulation of whaling. This can be defined in the following terms for the Scientific Committee to:

Encourage, recommend, or if necessary, organise studies and investigations related to whales and whaling [Convention Article IV.1(a)]

Collect and analyse statistical information concerning the current condition and trend of whale stocks and the effects of whaling activities on them [Article IV.1 (b)]

Study, appraise, and disseminate information concerning methods of maintaining and increasing the population of whale stocks [Article IV.1 (c)]

Provide scientific findings on which amendments to the Schedule shall be based to carry out the objectives of the Convention and to provide for the conservation, development and optimum utilization of the whale resources [Article V.2 (a) and (b)]

Publish reports of its activities and findings [Article IV.2]

In addition, specific FUNCTIONS of the Scientific Committee are to:

Receive, review and comment on Special Permits issued for scientific research [Article VIII.3 and Schedule paragraph 30]

Review research programmes of Contracting Governments and other bodies [Rule of Procedure M.4]

SPECIFIC TOPICS of current concern to the Commission include:

Comprehensive Assessment of whale stocks [*Rep. int. Whal. Commn* 34:30]

Implementation of the Revised Management Procedure [*Rep. int. Whal. Commn* 45:43]

Assessment of stocks subject to aboriginal subsistence whaling [Schedule paragraph 13(b)]

Development of the Aboriginal Subsistence Whaling Management Procedure [*Rep. int. Whal. Commn* 45:42-3]

Effects of environmental change on cetaceans [*Rep. int. Whal. Commn* 43:39-40; 44:35; 45:49]

Scientific aspects of whale sanctuaries [*Rep. int. Whal. Commn* 33:21-2; 45:63]

Scientific aspects of small cetaceans [*Rep. int. Whal. Commn* 41:48; 42:48; 43:51; 45:41]

Scientific aspects of whalewatching [*Rep. int. Whal. Commn* 45:49-50]

### A. Membership and Observers

1. The Scientific Committee shall be composed of scientists nominated by the Commissioner of each Contracting Government which indicates that it wishes to be represented on that Committee. Commissioners shall identify the head of delegation and any alternate(s) when making nominations to the Scientific Committee. The Secretary of the Commission and relevant members of the Secretariat shall be *ex-officio* non-voting members of the Scientific Committee.

2. The Scientific Committee recognises that representatives of Inter-Governmental Organisations with particular relevance to the work of the Scientific Committee may also participate as non-voting members, subject to the agreement of the Chair of the Committee acting according to such policy as the Commission may decide.

3. Further to paragraph 2 above the World Conservation Union (IUCN) shall have similar status in the Scientific Committee.

4. Non-member governments may be represented by observers at meetings of the Scientific Committee, subject to the arrangements given in Rule C.1(a) of the Commission's Rules of Procedure.

5. Any non-governmental organisation sending an accredited observer to a meeting of the Commission may nominate a scientifically qualified observer to be present at meetings of the Scientific Committee. Any such nomination must reach the Secretary not less than 60 days before the start of the meeting in question and must specify the scientific qualifications and relevant experience of the nominee. The Chair of the Scientific Committee shall decide upon the acceptability of any nomination but may reject it only after consultation with the Chair and Vice-Chair of the Commission. Observers admitted under this rule shall not participate in discussions but the papers and documents of the Scientific Committee shall be made available to them at the same time as to members of the Committee.

6. The Chair of the Committee, acting according to such policy as the Commission or the Scientific Committee may decide, may invite qualified scientists not nominated by a Commissioner to participate by invitation or otherwise in committee meetings as non-voting contributors. They may present and discuss documents and

papers for consideration by the Scientific Committee, participate on sub-committees, and they shall receive all Committee documents and papers.

(a) Convenors will submit suggestions for Invited Participants (including the period of time they would like them to attend) to the Chair (copied to the Secretariat) not less than four months before the meeting in question. The Convenors will base their suggestions on the priorities and initial agenda identified by the Committee and Commission at the previous meeting. The Chair may also consider offers from suitably qualified scientists to contribute to priority items on the Committee's agenda if they submit such an offer to the Secretariat not less than four months before the meeting in question, providing information on the contribution they believe that they can make. Within two weeks of this, the Chair, in consultation with the Convenors and Secretariat, will develop a list of invitees.

(b) The Secretary will then promptly issue a letter of invitation to those potential Invited Participants suggested by the Chair and Convenors. That letter will state that there may be financial support available, although invitees will be encouraged to find their own support. Invitees who wish to be considered for travel and subsistence will be asked to submit an estimated airfare (incl. travel to and from the airport) to the Secretariat, within 2 weeks. Under certain circumstances (e.g. the absence of a potential participant from their institute), the Secretariat will determine the likely airfare.

At the same time as (b) a letter will be sent to the government of the country where the scientists is domiciled for the primary purpose of enquiring whether that Government would be prepared to pay for the scientist's participation. If it is, the scientist is no longer an Invited Participant but becomes a national delegate.

(c) At least three months before the meeting, the Secretariat will supply the Chair with a list of participants and the estimated expenditure for each, based on (1) the estimated airfare, (2) the period of time the Chair has indicated the IP should be present and (3) a daily subsistence rate based on the actual cost of the hotel deemed most suitable by the Secretary and Chair<sup>7</sup>, plus an appropriate daily allowance.

At the same time as (c) a provisional list of the proposed Invited Participants will be circulated to Commissioners, with a final list attached to the Report of the Scientific Committee.

(d) The Chair will review the estimated total cost for all suggested participants against the money available in the Commission's budget. Should there be insufficient funds, the Chair, in consultation with the Secretariat and Convenors where necessary, will decide on the basis of the identified priorities, which participants should be offered financial support and the period of the meeting for which that support will be provided. Invited Participants without IWC support, and those not supported for the full period, may attend the remainder of the meeting at their own expense.

(e) At least two months before the meeting, the Secretary will send out formal confirmation of the invitations to all the selected scientists, in accordance with the Commission's Guidelines, indicating where appropriate that financial support will be given and the nature of that support.

(f) In exceptional circumstances, the Chair, in consultation with the Convenors and Secretariat, may waive the above time restrictions.

(g) The letter of invitation to Invited Participants will include the following ideas:

Under the Committee's Rules of Procedure, Invited Participants may present and discuss papers, and participate in meetings (including those of subgroups). They are entitled to receive all Committee documents and papers. They may participate fully in discussions pertaining to their area of expertise. However, discussions of Scientific Committee procedures and policies are in principle limited to Committee members nominated by member governments. Such issues will be identified by the Chair of the Committee during discussions. Invited Participants are also urged to use their discretion as regards their involvement in the formulation of potentially controversial recommendations to the Commission; the Chair may at his/her discretion rule them out of order.

(h) After an Invited Participant has his/her participation confirmed through the procedures set up above, a Contracting Government may grant this person national delegate status, thereby entitling him/her to full participation in Committee proceedings, without prejudice to funding arrangements previously agreed upon to support the attendance of the scientist in question.

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<sup>7</sup> [Invited participants who choose to stay at a cheaper hotel will receive the actual rate for their hotel plus the same daily allowance.]

7. A small number of interested local scientists may be permitted to observe at meetings of the Scientific Committee on application to, and at the discretion of, the Chair. Such scientists should be connected with the local Universities, other scientific institutions or organisations, and should provide the Chair with a note of their scientific qualifications and relevant experience at the time of their application.

## **B. Agenda**

1. The initial agenda for the Committee meeting of the following year shall be developed by the Committee prior to adjournment each year. The agenda should identify, as far as possible, key issues to be discussed at the next meeting and specific papers on issues should be requested by the Committee as appropriate.

2. The provisional agenda for the Committee meeting shall be circulated for comment 60 days prior to the Annual Meeting of the Committee. Comments will normally be considered for incorporation into the draft agenda presented to the opening plenary only if received by the Chair 21 days prior to the beginning of the Annual Meeting.

## **C. Organisation**

1. The Scientific Committee shall include standing sub-committees and working groups by area or species, or other subject, and a standing sub-committee on small cetaceans. The Committee shall decide at each meeting on sub-committees for the coming year.

2. The sub-committees and working groups shall prepare the basic documents on the identification, status and trends of stocks, including biological parameters, and related matters as necessary, for the early consideration of the full Committee.

3. The sub-committees, except for the sub-committee on small cetaceans, shall concentrate their efforts on stocks of large cetaceans, particularly those which are currently exploited or for which exploitation is under consideration, or for which there is concern over their status, but they may examine matters relevant to all cetaceans where appropriate.

4. The Chair may appoint other sub-committees as appropriate.

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

The election process shall be undertaken by the heads of national delegations who shall consult widely before nominating candidates<sup>8</sup>. The Vice-Chair will become Chair at the end of his/her term (unless he/she declines), and a new Vice-Chair will then be elected. If the Vice-Chair declines to become Chair, then a new Chair must also be elected. If the election of the Chair or Vice-Chair is not by consensus, a vote shall be conducted by the Secretary and verified by the current Chair. A simple majority shall be decisive. In cases where a vote is tied, the Chair shall have the casting vote. If requested by a head of delegation, the vote shall proceed by secret ballot. In these circumstances, the results shall only be reported in terms of which nominee received the most votes, and the vote counts shall not be reported or retained.

## **D. Meetings**

1. Meetings of the Scientific Committee as used in these rules include all meetings of subgroups of the Committee, e.g. sub-committees, working groups, workshops, etc.

2. The Scientific Committee shall meet prior to the ***Annual Biennial*** Meeting of the Commission ***or in years when the Commission does not meet, the Scientific Committee shall meet prior to the Meeting of the Bureau.*** Special meetings of the Scientific Committee or its subgroups may be held as agreed by the Commission or the Chair of the Commission.

3. The Scientific Committee will organise its work in accordance with a schedule determined by the Chair with the advice of a group comprising sub-committee/working group chairs and relevant members of the Secretariat.

## **E. Scientific Papers and Documents**

The following documents and papers will be considered by the Scientific Committee for discussion and inclusion in its report to the Commission:

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<sup>8</sup> The Commission's Rule of Procedure on voting rights (rule E.2) also applies to the Scientific Committee.

1. Progress Reports. Each nation having information on the biology of cetaceans, cetacean research, the taking of cetaceans, or other matters it deems appropriate should prepare a brief progress report following in the format agreed by the Committee.

2. Special Reports. The Committee may request special reports as necessary on matters to be considered by the Committee for the following year.

3. Sub-committee Reports. Reports of the sub-committees or working groups shall be included as annexes to the Report to the Commission. Recommendations contained therein shall be subject to modification by the full Committee before inclusion in its Report.

4. Scientific and Working Papers.

(a) Any scientist may submit a scientific paper for consideration by the Committee. The format and submission procedure shall be in accordance with guidelines established by the Secretariat with the concurrence of the Committee. Papers published elsewhere may be distributed to Committee members for information as relevant to specific topics under consideration.

(b) Scientific papers will be considered for discussion and inclusion in the papers of the Committee only if the paper is received by the Secretariat on or by the first day of the annual Committee meeting, intersessional meeting or any sub-group. Exceptions to this rule can be granted by the Chair of the Committee where there are exceptional extenuating circumstances.

(c) Working papers will be distributed for discussion only if prior permission is given by the Chair of the committee or relevant sub-group. They will be archived only if they are appended to the meeting report.

(d) The Scientific Committee may receive and consider unpublished scientific documents from non-members of the Committee (including observers) and may invite them to introduce their documents at a meeting of the Committee provided that they are received under the same conditions (with regard to timing etc.) that apply to members.

5. Publication of Scientific Papers and Reports.

(a) Scientific papers and reports considered by the Committee that are not already published shall be included in the Commission's archives in the form in which they were considered by the Committee or its sub-committees. Papers submitted to meetings shall be available on request at the same time as the report of the meeting concerned (see (b) below).

(b) The report of the Annual Meeting of the Scientific Committee shall be distributed to *all Commissioners in accordance with the Commission's Rule of Procedure M.5.* ~~no later than the beginning of the opening plenary of the Annual Commission Meeting and is confidential until this time.~~

Reports of intersessional Workshops or Special Committee Meetings are confidential until they have been dispatched by the Secretary to the full Committee, Commissioners and Contracting Governments.

Reports of intersessional Steering Groups or Sub-committees are confidential until they have been discussed by the Scientific Committee, normally at an Annual Meeting.

In this context, 'confidential' means that reporting of discussions, conclusions and recommendations is prohibited. This applies equally to Scientific Committee members, invited participants and observers. Reports shall be distributed to Commissioners, Contracting Governments and accredited observers at the same time.

The Scientific Committee should identify the category of any intersessional meetings at the time they are recommended.

(c) Scientific papers and reports (revised as necessary) may be considered for publication by the Commission. Papers shall be subject to peer review before publication. Papers submitted shall follow the Guidelines for Authors published by the Commission.

## **F. Review of Scientific Permits**

1. When proposed scientific permits are sent to the Secretariat before they are issued by national governments the Scientific Committee shall review the scientific aspects of the proposed research at its annual meeting, or during a special meeting called for that purpose and comment on them to the Commission.
2. The review process shall take into account guidelines issued by the Commission.
3. The proposed permits and supporting documents should include specifics as to the objectives of the research, number, sex, size, and stock of the animals to be taken, opportunities for participation in the research by scientists of other nations, and the possible effect on conservation of the stock resulting from granting the permits.
4. Preliminary results of any research resulting from the permits should be made available for the next meeting of the Scientific Committee as part of the national progress report or as a special report, paper or series of papers.

## **G. Financial Support for Research Proposals**

1. The Scientific Committee shall identify research needs.
2. It shall consider unsolicited research proposals seeking financial support from the Commission to address these needs. A sub-committee shall be established to review and rank research proposals received 4 months in advance of the Annual Meeting and shall make recommendations to the full Committee.
3. The Scientific Committee shall recommend in priority order those research proposals for Commission financial support as it judges best meet its objectives.

## **H. Availability of data**

The Scientific Committee shall work with the Secretariat to ensure that catch and scientific data that the Commission holds are archived and accessible using modern computer data handling techniques. Access to such data shall be subject to the following rules.

1. Information identified in Section VI of the Schedule that shall be notified or forwarded to the IWC or other body designated under Article VII of the Convention.  
This information is available on request through the Secretariat to any interested persons with a legitimate claim relative to the aims and purposes of the Convention<sup>9</sup>.
2. Information and reports provided where possible under Section VI of the Schedule.  
When such information is forwarded to the IWC a covering letter should make it clear that the information or report is being made available, and it should identify the pertinent Schedule paragraph under which the information or report is being submitted.

Information made available to the IWC under this provision is accessible to accredited persons as defined under 4. below, and additionally to other interested persons subject to the agreement of the government submitting the information or report.

Such information already held by the Commission is not regarded as having been forwarded until such clarification of its status is received from the government concerned.

3. Information neither required nor requested under the Schedule but which has been or might be made available to the Commission on a voluntary basis.

This information is of a substantially different status from the previous two types. It can be further divided into two categories:

- (a) Information collected under International Schemes.
  - (i) Data from the IWC sponsored projects.
  - (ii) Data from the International Marking Scheme.

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<sup>9</sup> [The Government of Norway notes that for reasons of domestic legislation it is only able to agree that data it provides under this paragraph are made available to accredited persons.]



(iii) Data obtained from international collaborative activities which are offered by the sponsors and accepted as contributions to the Comprehensive Assessment, or proposed by the Scientific Committee itself.

Information collected as the result of IWC sponsored activities and/or on a collaborative basis with other organisations, governments, institutions or individuals is available within those contributing bodies either immediately, or, after mutual agreement between the IWC and the relevant body/person, after a suitable time interval to allow 'first use' rights to the primary contributors.

(b) Information collected under national programmes, or other than in (a).

Information in this category is likely to be provided by governments under special conditions and would hence be subject to some degree of restriction of access. This information can only be held under the following conditions:

(i) A minimum level of access should be that such data could be used by accredited persons during the Scientific Committee meetings using validated techniques or methods agreed by the Scientific Committee. After the meeting, at the request of the Scientific Committee, such data could be accessed by the Secretariat for use with previously specified techniques or validated programs. Information thus made available to accredited persons should not be passed on to third parties but governments might be asked to consider making such records more widely available or accessible.

(ii) The restrictions should be specified at the time the information is provided and these should be the only restrictions.

(iii) Restrictions on access should not discriminate amongst accredited persons.

(iv) All information held should be documented (i.e. described) so that accredited persons know what is held, along with stated restrictions on the access to it and the procedures needed to obtain permission for access.

#### 4. Accredited persons

Accredited persons are those scientists defined under sections A.1, 2, 3 and 6 of the Rules of Procedure of the Scientific Committee. Invited participants are also considered as 'accredited' during the intersessional period following the meeting which they attend.

## **Annex B**

### **Individual responses from members of the Intersessional Group on Biennial Meetings and establishment of a Bureau (the IG-BB)**

Responses are provided on the following pages in alphabetical order:

- 1 Government of Australia
- 2 Government of Denmark
- 3 Government of France
- 4 Government of Germany
- 5 Government of Japan
- 6 Government of New Zealand
- 7 Government of USA

## **1 Government of Australia**

The Government of Australia provided comments through the letter below, and also made annotations on document IWC/2012/IGBB 1. The annotated version of IWC/2012/IGBB 1 is provided at Annex C.

Dear IWC Secretariat

Thank you for preparing and circulating the checklist of actions for moving to Biennial meetings and establishing an IWC Bureau. As Chair of the IWC's intersessional working group on biennial meetings and establishment of a Bureau (IGBB), I thank the secretariat for their efforts in undertaking this comprehensive review.

As requested, I am writing to you to convey Australia's comments on the checklist which are annotated in the attached paper.

### Biennial Meetings

The paper provides a sound basis for considering the full range of issues required to move from annual to biennial meetings. Australia is mostly supportive of the checklist for biennial meetings as proposed in the paper.

Australia believes, however, that as part of the move to biennial meetings, the IGBB should consider recommending an independent review to examine the scope for generating additional savings in the workings of the Commission and its Scientific Committee.

The move to biennial meetings provides an opportunity to deliver savings and efficiencies. The purpose of the independent review would be to investigate the scope for the full suite of savings that could be achieved through a shift to biennial meetings. For example, a large percentage of the total Scientific Committee budget, and the single greatest expense of the Committee, is used to support the travel costs of independent scientists to participate in Scientific Committee meetings. An independent review would assess whether this is consistent with practice in other science-based international organisations. There may also be scope to identify savings and efficiencies associated with other functions across the Commission with reference to best practice approaches in other inter-governmental organisations, such as technological efficiencies for meetings and publishing.

The optimal time to undertake an independent review is prior to the transition to biennial meetings - thereby allowing potential savings to be maximised and built into the new architecture. The review would be expected to make recommendations on the best possible means for achieving savings and efficiencies.

### IWC Bureau

The paper's discussion around the establishment of an IWC Bureau has brought to our attention the complexities, challenges and opportunities associated with establishing a Bureau. As this is significant reform, we consider that the roles and responsibilities of a Bureau would benefit from more detailed analysis.

As such, as Chair of the IGBB, I would like the Secretariat to prepare a second paper on the Bureau and how it would work drawing on a comparative analysis of Bureaux and administrative Standing Committees in other inter-governmental organisations. This additional analysis will help to ensure the functions of a Bureau are consistent with best practice approaches in other IGOs and that the benefits and efficiencies of establishing a Bureau are evident. The analysis would include development of a draft detailed terms of reference and rules of procedure for the Bureau, and a clear outline of the Bureau's role in relation to the broader governance arrangements of the Commission.

Thank you again for your work in preparing the paper.

Regards

Donna Petrachenko  
Australia's IWC Commissioner

## **2 Government of Denmark**

### **IWC. Checklist of actions for moving to biennial meetings.**

Comments by **Denmark** to the draft circulated by the Secretariat on 6 February 2012

9 March 2012

#### General comments:

Denmark is grateful to the Secretariat for providing the group with a comprehensive list of possible actions and considerations that can guide us professionally through the process of a possible move to biennial meetings.

Our final position on biennial meetings will depend on the governance structure we manage to establish during the two year period between meetings. Denmark wishes to maintain the Commission as the only responsible body for political guidance and decision making. In order to effectively do so the Commission needs to be supported by a structure that can professionally managed implementation of decisions as well as preparations for new decisions. Given that the IWC has no tradition of 'all member states precons' and/or using permanent representation structures (embassies/missions) to advance implementation, prepare meetings and take uncontroversial decisions, the annual meeting performs a dual role of being the central preparatory as well as decision making body, all within a crucial two weeks meeting. In a biennial meeting system this means another two years before an opportunity to ensure progress presents itself and a possible de facto less effective IWC, unless we create an effective interim structure.

#### Management of whaling.

Quota decisions must remain a Commission decision and no other body should be assigned to take this responsibility. Quota must remain a decision based on scientific advice.

2.1.1 On ASW block quotas the necessary consideration to effected governments and administrations should be taken, in order not to impose an additional planning and administration burden, by moving into an even number of years. This means that a minimum of six years should be the future normal timeframe, on less not supported by scientific advice.

2.1.2 Review of catch limits should follow Commission meeting frequency, following which annual reviews should be avoided in a biennial scenario. If unavoidable a postal ballot, option 2, must be held, or alternatively a special meeting if deemed necessary, option 3. Denmark cannot support option 1 and 4 that does not involve the Commission.

2.2 Future commercial whaling. Denmark supports the text as presented (RMP with catch limits for six years).

#### Establishment of a bureau

Denmark supports the establishment of a bureau in order to maintain effectiveness of the IWC. We, however, need to carefully consider the structure, tasks and terms of reference of the bureau to ensure an effective body.

The number and composition as proposed by the secretariat sounds reasonable to ensure the right balance of effectiveness and broad representation, although with at least one ASW-country at any time being a member of the bureau. We support the suggestion of the Bureau replacing the Advisory Committee and the Credentials Committee. An open and equal approach should be followed and any further fixed rotational system or expectation should be avoided.

Observer's interests should be address through other means than membership of the Bureau, given their large number and diversity in order not to jeopardize effectiveness and representation.

The venue of meetings of the Bureau should be left to the Bureau to decide as long as due consideration is taken to budgetary and administrative concerns.

Amendments to the Rules of Procedure.

Denmark supports changing the terms of office for the Chair and Vice-Chair to the even number of years covering two biennial meetings.

The proposed draft changes to the 'Rules of Procedure' looks reasonable. Final text will depend on decisions taken on open issues.

Financial implications.

Denmark supports the text as proposed, including moving into two year budgets and maintaining annual invoicing of Contracting Governments and annual audits and reporting.

Denmark supports a limited financial responsibility be delegated to the Bureau.

Denmark supports that savings from moving into biennial meetings be reflected in reduced financial contribution by Contracting Governments, and the present system of relying on some voluntary financial contributions be maintained.

Frequency of subsidiary body meetings.

Denmark finds it important to maintain equality between subsidiary bodies mentioned.

Denmark supports option b, that none should meet annually. The IWC should maintain a system by which subsidiary bodies meet immediately prior to and are directly linked to Commission's meetings. Linking frequency of meetings of those bodies to voluntary financial contributions is also not advisable.

The Scientific Committee not being one of the above referred to, should meet annually as already endorsed, 100 days prior to the Commission in the years the Commission meet. Quota review should not be annually where scientifically possible.

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**IGBB – Checklist of actions for moving to biennial meetings and establish a Bureau**

**France's position on secretariat's document  
9<sup>th</sup> March 2012**

France would like to make the following comments on the document proposed by the secretariat :

**2.1 Aboriginal Subsistence Whaling**

2..1 Length of time for quotas : since biennial meetings will allow the setting of quotas for an even number of years, we would be in favor of a shorter period (4 - 6 years). This would permit regular review , with a mid term assessment. It would also guarantee a proper conservation of cetaceans populations.

2..2 Annual review of catch limits : we are in favor of a postal ballot, with public results. Bureau could examine recommendation from CS before the ballot.

**3.1 Establishment of the Bureau (membership)** : It would be useful to have examples from international practice. However, concerning the number of countries participating in the Bureau, a balance should be found between representativeness and efficiency. 4 to 6 additional members could be suitable.

**6. Frequency of subsidiary bodies meetings** : since the role of those bodies is to prepare decisions for the commission, they can meet biennially. Intercessional meetings would be permitted. CC could meet annually back to back with the CS. In this regard, a clarification of the relationship between the CS and the CC would be required.

## Checklist of Actions for Moving to Biennial Meetings

Comments on the Secretariat's paper by Walter Dübner,  
Germany's Commissioner to the IWC

The Secretariat's paper on actions for moving to a biennial Commission's meetings is very much welcomed. It highlights the options to be followed in a comprehensive manner and reflects the various suggestions made during IWC/63 in this regard.

Referring to the different chapters of the paper I would like to make the following preliminary comments:

### 2. MANAGEMENT OF WHALING

#### 2.1 ASW

##### 2.1.1 *Length of time for block quotas*

Although it seems to be possible to set block quotas for a ten year period from a scientific perspective, I would be reluctant to do so. Ecosystems sometimes change quite rapidly implying significant impacts on whale populations. Therefore, I would propose to extend the setting of block quotas to no more than **six years**. This will enable the Commission to respond adequately to new developments which had not been foreseen.

##### 2.1.2 *Annual review of ASW catch limits*

Before entering in a discussion about the appropriate way to decide on annual quotas the **Scientific Committee should be consulted** to clarify whether an annual approach is still necessary. If the SC advises to stick to the current procedure regarding the two relevant stocks, I would propose to **authorize the Bureau to decide on a case-by-case basis**. If **no agreement** is reached by the members of the Bureau, a **postal ballot** to amend the Schedule accordingly should be envisaged.

### 3. ESTABLISHMENT OF A BUREAU

The list of functions foreseen for the future Bureau seems appropriate to me. I would agree to replace the current IWC Credentials Committee by a Sub-committee of the Bureau.

#### 3.1 Membership

In general, I would support the approach of other IGOs regarding the composition of the Bureau which is reflected in the Secretariat's proposal.

Regarding the *Per se-membership* I would suggest to **add the chairs of the Scientific Committee, the Conversation Committee and the Sub-Committee of Aboriginal Subsistence Whaling**. In order to secure the proper functioning of the Bureau the **number of additional members** should be **limited to 3**. These members should be elected at the biennial meetings of the Commission – as foreseen in the draft amendment to the Rules of Procedure - to adequately represent geographical interests and upcoming topics. Thus, the **voting membership** of the Bureau would be **11 members**.

#### 3.2 Bureau Meetings

Regarding the meeting frequency and the venue I would concur with the Secretariat's proposal (at least once a year, flexible venue). It would be helpful if the Bureau could meet additionally immediately prior to the biennial Commission meeting to prepare the private Commissioner's meeting. Normally, this should not create any problems, given that the great majority of the Commissioners is already present during the week before the Commission's meeting.

### *3.2.1 Observers*

In general, observers should not be allowed to attend the Bureau's meetings unless the members of the Bureau decide so.

### **3.3 Constitution of the Bureau**

I would support the proposed changes to the Rules of Procedure and the Financial Regulation as outlined in the Annex. Further input has to be given to the decision-making procedure within the Bureau.

## **4. EDITORIAL AMENDMENTS TO THE RULES OF PROCEDURE**

In addition to the proposed editorial amendments, to which I agree, I would suggest to replace "Advisory Committee" by "Bureau" on page 14 (J, para. 2) and 16 (P, para. 3).

## **5. FINANCIAL CONSIDERATIONS**

The financial role of the Bureau as outlined and the proposed changes to the Rules of Procedure and to the Financial Regulations are welcomed. This also applies to the suggested allocation of savings arising from reduced meeting frequency.

## **6. FREQUENCY OF SUBSIDIARY BODY MEETINGS**

Recalling the long agenda of the Conservation Committee at IWC/63 and the numerous projects already scheduled I would suggest to double the current length of meeting of the CC regardless of the fact if there has been an extra annual meeting or not.

At the same time the option of an extra annual meeting should be foreseen for all subsidiary bodies provided the costs of such meetings are entirely born by a host country



## 5 Government of Japan

Dr. Simon Brockington  
Secretary to the Commission

This responds to your email, dated February 7, 2012, addressing the intersessional working group on biennial meetings and establishment of a Bureau (IGBB). At the outset, I wish to thank your efforts to prepare the review document.

In principle, I support the idea for moving to the biennial Commission meeting. On the other hand, I strongly support continuing with the current practice of annual meeting of the Scientific Committee. However, all the Commission's Sub-groups should be treated equally and meet biennially in the years when the Commission meets.

I also would like to make specific comments on the document as follows.

### 1. Page 2, Item 2.1.2 (Annual review of ASW catch limits):

As renewing the ASW requires sensitive policy decision especially for concerned Contracting Governments, it must be inappropriate for the Bureau to be allowed to determine the procedure in relation to the catch limits. Therefore, option No.4 (The Commission assigns responsibility to the Bureau to decide which option is appropriate on a case-by-case basis) should be deleted.

### 2. Page 3, Item 3 (Establishment of a Bureau):

Since the review document lists up a number of Bureau's functions on its page 3, an agreed document, such as terms of reference, should be necessary to well clarify at least the power, authority, functions and size of the Bureau if the Bureau were to be given an authorization to undertake such functions.

### 3. Page 3, Item 3.1 (Membership):

The Chair of the Scientific Committee should be included in the membership with non-voting advisory capacity because the Bureau is likely to deal with budgets, including SC budgets, and to play an important role to provide advice to the Chair of the Commission not only in intersessional year but also during biennial meetings.

I think that the proposed delegation size of members of the Bureau (11 to 13 members proposed + SC Chair) is appropriate.

Regarding the "additional members," because the bureau is likely to deal with budgets, not only geographical and thematic interests, but also financial interests should be considered by the Commission. Also, the Commission needs to have some mechanism to elect the additional members who adequately represent these interests.

### 4. Page 4, Item 3.2.1 (Observers):

As the Bureau would take the legitimate responsibility as being in charge of an advisory committee on behalf of all Contracting Governments and deal with financial and administrative matters of the Commission, the Bureau should not be open to observers including the non-Contracting parties for its effective/efficient operation.

### 5. Page 5, Item 5.2 (Financial role of the Bureau):

A change in the Commission budget would influence Members' financial contributions, and such change should be adopted by all Commission members. Therefore, allowing the Bureau to make a decision to increase the total income or expenditure for the second half of the two year period is not appropriate, and the last sentence of the first paragraph of this section (item 5.2) should be deleted.

### 6. Page 7, Item 6 (Frequency of subsidiary body meetings):

Because there is no need for the Commission's Sub-groups (including the WKM&AWI, INF, ASW, F&A, BSC and CC) to meet annually as mentioned above, I support option (b).

### 7. Page 9, Item B (Meetings):

With the proposed membership (page 3), a limited number of States will be participating in the Bureau and therefore specific definition/wording for quorum to the Bureau should also be decided after the intersessional group on quorum (IGQ) finishes its consideration on the issue.

8. Page 19, Item E (Contributions), paragraph 4:

With the wording you suggested, Commissioners who are not members of the Bureau will not be notified of the status of the annual payments of the contributions when the Commission does not meet. As all Commission members have interests in the Commission's financial situation, I would like to suggest adding the following sentence at the end of paragraph 4:

"The report shall also be sent to all Commissioners including those who are not members of the Bureau before the beginning of the Bureau meeting in the year when the Commission does not meet."

9. Page 28, Item E (Scientific Papers and Documents), paragraph 5 (b):

With the wording you suggested, it is not clear whether or not the report of the Annual Meeting of the Scientific Committee is distributed to Commissioners who are not members of the Bureau in the year when the Commission does not meet. For the sake of the clarity, I would like to suggest replacing the first sentence of paragraph 5(b) with the following sentence:

"The report of the Annual Meeting of the Scientific Committee shall be distributed to all Commissioners in accordance with the Commission's Rule of Procedure M.5."

Best regards,

Kenji Kagawa  
Commissioner for Japan to the International Whaling Commission  
Chief-Counsellor  
Resources Management Department  
Fisheries Agency  
Ministry of Agriculture, Forestry and Fisheries  
Government of Japan

### **Checklist of Actions for Moving to Biennial Meetings**

Comments by New Zealand on the IWC Secretariat document circulated 7 February 2012

#### **General**

We support the proposed move to biennial meetings for cost saving and efficiency considerations, although our original expectation was that such a move would be taken in the context of agreement on a set of proposals addressing the current impasse in the Commission on the key issues that divide the membership. We will want to ensure that a move to biennial meetings does not result in a loss of momentum in efforts to make the IWC a more effective organisation, better able to improve the conservation of whales.

#### **2      Management of whaling**

##### **2.1.1      Length of time for block quotas**

We can accept the setting of catch limits for Aboriginal Subsistence Whaling for either 4 or 6 year periods to coincide with Commission meetings.

##### **2.1.2      Annual review of ASW catch limits**

If, in a year when the Commission is not meeting, the Scientific Committee were to recommend a reduction in the catch limit for one of the species for which the Schedule requires annual review, we consider that the first step should be for the Chair of the Commission to communicate with the country concerned and to invite that country to reduce the catch limit voluntarily to accord with the Scientific Committee's advice.

If the country concerned advises that it will not reduce the catch limit voluntarily or fails to reply to the Chair within 30 days, the Chair, in consultation with the other members of the Bureau, should either initiate a postal ballot to amend the wording of the Schedule to accord with the advice of the Scientific Committee or convene a special meeting of the Commission, depending on the circumstances of the case, in particular, the urgency of the situation.

#### **3      Establishment of a Bureau**

3.1      We support the establishment of a Bureau. We would favour a smaller rather than larger membership, but consider that it should include the Chair of the Conservation Committee as well as the Chair and Vice Chair of the Commission, the Chair of the Finance and Administration Committee and the host of the forthcoming Commission meeting, as well as the Secretariat in an advisory capacity. We are not persuaded that additional members are required but if there is a desire to include others for reasons of geographical and thematic balance, we think the additional members should be no more than 5.

3.2      We agree there should be flexibility in choosing the venue of bureau meetings. If meetings are held at the Commission headquarters, provision should be made for participation by video teleconferencing to facilitate cost effective participation by Commission members outside of Europe. 3.2.1      In order to facilitate frank and effective discussions, we consider that Bureau meetings should not be open to observers unless the Bureau decides otherwise.

#### **5      Financial considerations**

5.1      We agree with the Commission would need to develop a budget for the coming two year period.

5.2      We agree that the Bureau should have the authority to re-apportion amounts within the budget for the second year, but within parameters set by the Commission. Consideration will also need to be given to the intersection of this function with the roles of the Budget Subcommittee and the Finance and Administration Committee.

#### **6      Frequency of subsidiary body meetings**

We support a doubling of the meeting time for the Conservation Committee if it is to meet biennially. We agree that any subsidiary body may meet inter-sessionally provided the costs of any such meeting are met by the host Government.

9 March 2012

**Checklist of Actions for Moving to Biennial Meetings**

Comments submitted by the United States

The United States thanks the secretariat for the excellent work done in the development of this paper outlining the actions required to move to biennial meetings of the Commission. The United States fully supports this move. We believe that not only will it provide a cost savings to member governments, but will enhance the work of the Commission.

The following provides our thoughts on the issues outlined by the Secretariat regarding actions that must be taken by the Commission to accomplish this goal. We look forward to working with other members of the Working Group and the Commission on realizing this goal.

**Management of Whaling:***Length of time for ASW catch limits:*

The United States supports the use of even year catch limits within the recommendations of the Scientific Committee (SC). At IWC63 the Chair of the SC noted that catch limits up to ten years would be viable within the current structure of scientific advice. However, we agree with other suggestions that a 6-year ASW catch limits would be preferable at this time. Anything less would increase the administrative and financial burdens on ASW countries and subsistence communities.

*Annual Review of ASW catch limits:*

The United States supports the recommendation for the Bureau to be assigned the responsibility of determining what course of action to take should the SC recommend reduction of the ASW catch limits.

**Establishment of a Bureau:**

The United States agrees with the establishment of a bureau or standing committee. In our view, the membership of the Bureau should include: Chair of the Commission, Vice-Chair of the Commission, Chair of the Scientific Committee, Chair of F&A, Chair of Conservation Committee, Chair of ASW Sub-Committee, Chair of the Budgetary-Subcommittee, Host government of previous and forthcoming Commission meeting, 2 additional members elected by the Commission (simple majority). This would include 11 individuals on the Bureau.

We suggest that the terms of the individual members be staggered such that the entire Bureau is not turning over in one year.

In order to minimize costs, we suggest that the default location for intersessional bureau meetings be at the Secretariat offices in Cambridge. We would encourage at least one in person meeting intersessionally, and quarterly phone conference calls. The Bureau should also meet, as suggested immediately prior to the Biennial Meeting, and as required throughout the course of the meeting.

We concur with the proposal for Bureau meetings to be closed to observers, unless there is consensus to allow for their participation.

**Rules of Procedure:**

We are not certain that it is necessary to have simultaneous interpretation at Bureau meetings, especially due to financial concerns. However, if costs allow, it may encourage more commissioners to serve in a leadership capacity.

**Financial Considerations:**

We can agree that the Bureau should have some financial decision making authority; however, the decisions as to allocation of Commission resources should primarily remain with the Commission and be taken into account when approving two-year budgets. We recognize that there may be unanticipated requirements to re-apportion resources. Therefore, we suggest that, should the Bureau need to re-apportion financial resources to address these needs, there should be a limit in the amount that can be re-distributed. For example no more than 5% of a single budgetary item could be re-distributed. Additionally, any changes proposed by the Bureau should be

reviewed and approved by the Budgetary Sub-Committee and F&A Committee. The Budgetary Sub-Committee should also receive the audited accounts and provisional financial statements created during the intersessional period.

**Frequency of Meetings:**

The United States is supportive of both of the recommendations by the Secretariat. Given the amount of work that the Conservation Committee has taken on, we agree that the length of time allocated to the Conservation Committee during biennial meetings should increase. We also would support a meeting of any of the subsidiary groups (ASW, CC, WKM, etc.) during intersessional periods provided that the costs of the meeting (including Secretariat costs) were born by the host country.

## Annex C

### Annotations to document IWC/2012/IGBB 1 provided by the Government of Australia

#### Checklist of Actions for Moving to Biennial Meetings

*Prepared by the Secretariat (7 February 2012) Australia comments 13 March 2012*

This document contains a draft checklist of actions for moving the Commission's regular meetings from an annual to a biennial (every two years) cycle. These draft actions are presented for review and comment by the Intersessional Group on Biennial Commission meetings and establishment of a Bureau (IGBB) prior to submission to the Finance and Administration Committee at IWC/64 in 2012.

Members of the IGBB are invited to provide comments on the draft actions proposed in this paper by **Friday 9 March 2012**. The document will then be updated by the Secretariat to take into account the comments received and re-circulated to the group for final approval in April.

The final checklist of actions agreed by the IGBB must be circulated to the Commission before 3 May 2012 (i.e. 60 days before the opening of IWC/64) so as to comply with Rule of Procedure R.1.

#### BACKGROUND

The 2011 meeting of the Finance and Administration Committee noted a widespread support for moving to biennial Commission meetings. The support had been generated following several years of extensive discussions (e.g. see the review in IWC/63/F&A 6).

As a result, a small group was convened to prepare a series of actions to enable the Commission to meet every two years from 2012 onwards. Its report (IWC/63/Rep 7) was adopted by the Commission at IWC/63 who also established the IGBB<sup>10</sup>. The IGBB was tasked with compiling a checklist and associated options for moving to biennial meetings in accordance with the recommendations made in IWC/63/Rep 7.

As requested by the Commission at IWC/63<sup>11</sup>, this discussion document provides a series of draft proposals for establishing a biennial meeting cycle as a contribution to the work of the IGBB. The proposals are grouped into five key areas:

- (1) whaling management and in particular changes to the wording of the Schedule;
- (2) the establishment of a Bureau to guide the Commission's work during the extended intersessional period and associated changes to the Rules of Procedure;
- (3) changes to the Rules of Procedure to substitute 'annual' for 'biennial' and extend the term of service of the Commission's officers from three to four years;
- (4) financial considerations associated with preparing budgets for a two year period and allocating the savings generated by reducing meeting frequency;
- (5) frequency of sub-group meetings.

#### MANAGEMENT OF WHALING

##### Aboriginal Subsistence Whaling

##### *Length of time for block quotas*

Paragraph 13 of the Schedule to the International Convention for the Regulation of Whaling (1946) contains provisions for the management of Aboriginal Subsistence Whaling (ASW). For many years, ASW limits have been set for five year periods (the most recent being for the seasons 2008-2012 inclusive). Therefore, the easiest way to move to biennial meetings would be to set ASW catch limits for an even number of years such that ASW renewal years coincide with Commission meetings.

The Scientific Committee provides the Commission with advice on the safety of ASW catches by using Strike Limit Algorithms (SLAs). These SLAs have been tested by Scientific Committee and approved by the Commission.<sup>12</sup>

<sup>10</sup> The IGBB's terms of reference are described in Circular Communication IWC.CCG.969 of 13 October 2011.

<sup>11</sup> See Chair's report of the 63<sup>rd</sup> Annual Meeting, Section 21.1.2, page 42

The Scientific Committee has tested the safety of the catch limits generated by the *SLAs* for periods of up to 15 years with the standard period being ten years. In addition, the Committee has provision for regular *implementation reviews* and *special case* reviews. The purpose of the *implementation* and *special case* reviews is to check that there is no new information which would affect or change the *SLAs* originally agreed.

Therefore, the Commission can in principle choose to set block quotas based upon scientific advice for an even number of years up to 10 at IWC/64. However the *interim approach* (currently used for generating catch limits for the Greenland hunts) is valid for up to two blocks and Scientific Committee has a programme in place to finalise *SLAs* for the Greenland hunts by 2017.

Setting the number of years is a policy decision and this is also being discussed in a broader context by the Aboriginal Subsistence Whaling Working Group<sup>13</sup> that is due to report to IWC/64 in 2012.

Australia supports the proposed approach to alter Commission practice so that block quotas are set for an even number of years. However, in doing so, Australia would prefer not to expand the quota period beyond 6 years. The paper should also consider action that could be taken to ameliorate the disruption caused by internal Czech schedule amendment ratification processes – which can adversely impact ASW operational matters when quotas are revised.

#### *Annual review of ASW catch limits*

For historical reasons pre-dating the adoption of long-term *SLAs*, two of the ASW quotas referred to in the Schedule formally require annual review<sup>14</sup>. For other stocks, the Schedule requires that '[the ASW] provision will be reviewed if new scientific data become available within the 5 year period and if necessary amended on basis of the advice of the Scientific Committee'.

It is the current practice of the Scientific Committee to examine information for each aboriginal subsistence hunt each year and provide advice to the Commission both through its report and via the ASW Sub-committee on whether existing catch limits will harm the stock.

If the Commission moves to biennial meetings, then the current practice of annual review of catch limits in Plenary will not be possible. However, the Scientific Committee will continue to meet annually (see Item 6) and will be able to review any new information and thus assess the effects of pre-set catch limits on the stock.

Although unlikely given the *SLA* approach, the Commission should consider possible courses of action to take if the Scientific Committee recommends that existing ASW catch limits should be reduced in a year when the Commission does not meet.

Such options include:

- (1) The Contracting Government(s) concerned could formally notify the Secretariat (who will inform the Commission) that they will voluntarily reduce their catches for the season ahead in compliance with Scientific Committee advice. The Commission would be able to formally change the catch limits described in the Schedule at its next meeting.
- (2) A postal ballot to change the wording of the Schedule could be held. The wording would be drafted by the Secretariat in consultation with the Bureau (see Item 3) to meet the advice of the Scientific Committee.
- (3) A special meeting of the Commission could be held.
- (4) The Commission assigns responsibility to the Bureau to decide which option is appropriate on a case-by-case basis.

Option 4 is preferred for instances where Option 1 is not pursued - on the basis that it offers the most efficient and cost-effective approach to resolving the issue.

#### **Commercial whaling**

Catch limits for commercial whaling are currently set at zero under the provision of Paragraph 10.e. Should the Commission decide, at some point in the future, to allow commercial whaling this would probably be under the Revised Management Procedure (RMP) which the Commission has already adopted. The present version of the RMP would set catch limits for six years.

<sup>12</sup> The *SLAs* can be set either for individual species/areas such as the *Bowhead SLA* and *Gray Whale SLA*, or for the Greenland stocks using the *interim approach* agreed in 2008 and valid for two blocks

<sup>13</sup> Membership and terms of reference for the Aboriginal Subsistence Whaling Working Group were circulated in Circular Communication IWC.CCG.984 of 20 January 2012

<sup>14</sup> An annual review is specifically required for: (1) bowhead whales from the Bering-Chukchi-Beaufort Sea under paragraph 13.(b).(1).(ii); and (2) gray whales from the Eastern stock in the North Pacific under paragraph 13.(b).(2).(ii).

## ESTABLISHMENT OF A BUREAU

Commission decisions are normally taken at the annual meeting although the Commission's Rules of Procedure also contain provisions for postal ballots or Special Meetings. A move to biennial meetings will reduce with frequency with which the Commission can take decisions in plenary session. The small working group on meeting frequency (IWC/63/Rep 7) recommended that, in common with other IGOs that meet at 2-3 year intervals, a Standing Committee or Bureau be established that *inter alia* would replace the current Advisory Committee.

In previous discussions, it has been suggested that an IWC Bureau would be able to undertake a number of functions e.g. to:

- (1) assist and provide advice to the Secretariat during the intersessional period on administrative matters i.e. taking on the functions of the current Advisory Committee;
- (2) assist the Chair of the Commission in planning and running the biennial Commission meeting (including, if requested, meeting during the evening of plenary sessions in order to review progress and provide guidance to the Chair);
- (3) provide an additional line of communication between the Chair of the Commission and Commissioners;
- (4) oversee and possibly modify within specified parameters, the Commission's budget during the intersessional year (and see Item 5.2);

One additional function sometimes assigned to the Bureaus of other IGOs is to review credentials at Biennial Meetings. Thus it may be appropriate for a Sub-committee of the Bureau to replace the current IWC Credentials Committee.

The purpose and function of the Bureau needs to be clarified as it relates to the broader roles, responsibilities and functions of the Commission and how it would operate during annual meetings to support the Commission Chair. Detail around how the Bureau would sit within the Commission's governance structure and its relationship to IWC members, the IWC sub-committees and the secretariat will partly determine the Bureau's functional and decision-making capacities. More information/justification is required on how the establishment of a Bureau to take on the functions of the Advisory Committee will improve on the status quo arrangements. Consideration should also be given to the relative roles of the Bureau and the Finance and Administration Committee and whether all/some of the functions could be combined. Australia considers the establishment of a Bureau a significant reform that requires in-depth analysis before implementation. We suggest that the Secretariat develop a comprehensive set of draft terms of reference and rules of procedure for the Bureau. The purpose of the Bureau needs to be clarified and its position within the IWC governance structure outlined. The ToR and RoP should detail the Bureau's responsibilities, operational arrangements, reporting and membership. It would be useful to define 'administrative matters' and clarify what the Bureau role will be in relation to the intersessional work of the Commission.

### Membership

Other IGO Bureaus usually comprise the Chair and Vice Chair of the Commission, the Chair(s) of some or all of the subsidiary bodies, and a restricted number of additional seats representing geographical and thematic aspects of the organisation's membership.

Given this, and in order to assist discussion, the IGBB is invited to comment on the following proposal for membership of an IWC Bureau:

- The Chair of the Commission
- The Vice-Chair of the Commission
- The Chair of the Finance and Administration Committee<sup>15</sup>
- The host Government of the forthcoming Commission meeting
- Between 6 to 8 additional members to be elected by the Commission so as to adequately represent the geographical and thematic interests of the Commission's membership
- The Secretariat (in a non-voting advisory capacity).

Thus the minimum voting membership of the Bureau would be 11 members, and the maximum 13. The IGBB is also invited to comment on the appropriate delegation size for members of the Bureau.

<sup>15</sup> The Chair of the F&A Committee is a member of the current Advisory Committee



Australia notes that Bureau membership will largely depend on the purpose and function of the Bureau within the IWC governance structure. The proposed membership should also include a provision to invite other IWC members or persons/experts as observers on an ad-hoc basis. This is consistent with our comments in 3.2.1 regarding Observers.

The Bureau would be expected to meet at least once during the intersessional period in order to review the second half of the Commission's biennial budget, review preparations for the forthcoming Commission meeting and to provide any additional guidance required. The venue of Bureau meetings should be flexible and dependent upon logistics. For example, options include: (a) the Secretariat's offices in the United Kingdom; (b) at the same venue (and time) as the annual meeting of the Scientific Committee; or (c) by invitation (perhaps by either the Chair or the host country of the next biennial meeting).

In addition, the Bureau might meet immediately prior to the biennial Commission meeting to develop an agenda for the opening private Commissioner's meeting. Also a subset of the Bureau may wish to meet so as to act as the Credentials Committee. The Bureau may also wish to meet in the evening of each day of the Commission plenary in order to review progress and provide advice to the Chair 'as necessary'.

Consideration could be given to enabling the Bureau to meet by teleconference and agree certain specified matters by correspondence. Additionally, the proposal that the Bureau be convened each day of the plenary may be considered excessive and could be tempered by the phrase 'as necessary'.

#### *Observers*

The Commission's present Advisory Committee does not admit observers in order to allow for *inter alia* free discussion of financial matters, the status of individual Commissioner Credentials and provision of informal advice to the Chair. The IGBB is invited to comment on whether meetings of the Bureau should be open to observers.

Consistent with Australia's commitment to increasing the transparency of the Commission, we believe that Bureau meetings should be open to accredited observers - on the understanding that some sessions will need to be held *in camera*.

#### **Constitution of the Bureau**

Based on the above, example changes to the Commission's Rules of Procedure related to the Bureau are provided in Annex A.

The changes are:

- (1) the addition of a new section to the Rules of Procedure (**S. Bureau**) to establish the Bureau, its membership, functions and decision making procedures<sup>16</sup>;
- (2) the deletion of Rule of Procedure M.9 to remove the requirement for the Advisory Committee;
- (3) changes to Rules of Procedure F.2.(a), G.1 and H.2.(b) to update the duties of the Chair, Vice-Chair and Secretary in relation to the Bureau;
- (4) pending comment by the IGBB, an update to Rule of Procedure C.2 to clarify that observers will not attend Bureau meetings;
- (5) changes to Rule D.1.(a) so that the names of all representatives attending Meetings of the Bureau are notified to the Secretary in advance of the meeting, and to Rule D.1.(c) on notification of delegations to the Bureau;
- (6) modification to Financial Regulation D to clarify the role of the Bureau with regard to the Commission's financial affairs (See also Section 4 below).

Members of the IGBB are invited to comment on proposals for the Bureau as indicated above and the draft rule changes in Annex A.

In relation to (4), consistent with our comment above, Australia believes that Bureau meetings should be open to accredited observers.

#### **EDITORIAL AMENDMENTS TO THE RULES OF PROCEDURE**

The Commission's Rules of Procedure refer to the requirement for an 'Annual Meeting'. A series of changes to the following rules are proposed in Annex A to substitute 'Annual' for 'Biennial' as appropriate:

- (1) Rule B.1 to state the Commission shall hold a regular Biennial Meeting;
- (2) Rule B.1.(a) on offers to host Biennial Commission Meetings or Meetings of the Bureau;
- (3) Rule B.2 on arrangements for the next Biennial Meeting or Meeting of the Bureau;
- (4) Rule D.1.(c) to change Annual to Biennial;
- (5) Rule E.2.(a) and (b) to change Annual to Biennial, and to include reference to the Bureau;

<sup>16</sup> After reviewing various IGO Bureau provisions, the wording used by the International Convention for the Conservation of Atlantic Tunas to constitute its Council has been used as a basis for the draft Section S to the IWC's Rules of Procedure

- (6) Rule E.3.(d) to change Annual to Biennial and to include reference to the Bureau in the procedure for voting;
- (7) Rule H to change Annual to Biennial;
- (8) Rule Q.3 change Annual to Biennial;
- (9) Financial Regulation D.1 change Annual to Biennial;
- (10) Financial Regulation D.2 Annual to Biennial, and clarification that the final accounts for each year will be sent to all Contracting Governments;
- (11) Financial Regulation E.3 to delete 'Annual or Special' and include reference to the Bureau;
- (12) Financial Regulation F.2 to change Annual to Biennial.

Further changes to the Rules of Procedure are proposed to:

- (13) Rules F. (Chair), G. (Vice-Chair) to extend their terms of office from three to four years<sup>17</sup>,

Australia notes that it is also standard practice in the IWC for standing committee office holders to be appointed for a term of 3 years. With the move to biennial meetings, consideration needs to be given to extending the term of appointments of the Chairs of Committees, from three years to four years to cover two annual IWC meetings.

- (14) Rule H. (Secretary) to include provision of support and preparation of draft and provisional agendas for Meetings of the Bureau
- (15) Rule M.5 to ensure the report of the Scientific Committee is available for the Meeting of the Bureau
- (16) Rule O.1 on recording the proceedings of Meetings of the Bureau, and Rule P.2 on distribution of the Chair's report of Meetings of the Bureau
- (17) Rule P.3 on reporting of confidential Circular Communications to the Bureau in years when the Commission does not meet.
- (18) Footnote Six to ensure that simultaneous interpretation is provided for Bureau meetings, and that the reports of Meetings of the Bureau are translated. 'Annual' is also changed for 'Biennial' in this footnote.

In addition, two changes to the Rules of Procedure of the Technical Committee are proposed in order to bring its procedures in line with those of the Commission:

- (19) Technical Committee RoP B.2 to change Annual to Biennial;
- (20) Technical Committee RoP C.1 to delete 'Annual' so as to ensure the a meeting of the Technical Committee (should one be required) would take place between the meeting of the Scientific Committee and meeting of the Commission

In recognition of previous discussions, including within the context of the then 'future of the IWC' process, regarding the potential to remove the Technical Committee, it would be appropriate for the paper to propose rule changes to enable this to be agreed at IWC64 should IGBB members agree.

Finally the following changes to the Rules of Procedure of the Scientific Committee are proposed in order to bring its procedures in line with those of the Commission:

- (21) SC RoP D.2 to ensure the SC will meet prior to the Biennial Commission Meeting, or in years when the Commission does not meet that the SC will meet prior to the meeting of the Bureau
- (22) To update SC RoP E.5.(b) to ensure the distribution of the SC report is consistent with the requirements of Commission Rule of Procedure M.5

## FINANCIAL CONSIDERATIONS

Financial considerations in moving to a cycle of biennial meetings require the Commission's budget to be set for two years in advance and a power given to the Bureau for limited modification or review. It is also necessary to agree a method for estimating and allocating the savings provided by reducing the frequency of meetings.

### Setting a budget for two years in advance

Current practice within the Commission is to set a budget for one year in advance along with a forecast budget for the financial year two years ahead. This practice can be adapted to provide a two year budget for the Commission's approval.

In moving to a biennial cycle the Commission would need to adopt a budget for two years in advance. However other aspects of the Commission's finances can remain on an annual cycle. Thus invoices for Contracting Government financial contributions would continue to be raised on an annual basis, and the Commission's accounts would also be audited and reported on an annual basis.

The proposed arrangements are supported by Australia.

<sup>17</sup> Thus the terms of the Chair and Vice-Chair will last for four years, and they will preside over two Biennial Meetings

## Financial role of the Bureau

It is suggested that the Bureau receives the Commission's audited accounts and provisional financial statement for the current financial year during the intersessional period. In addition, it should review the second half of the two year budget and on the basis of current and anticipated developments, may authorise reappportionment of amounts in the Commission budget for the second year within the total approved by the Commission<sup>18</sup>. Alternatively the IGBB may wish to suggest a range of levels over which the Bureau may be able to either increase or decrease the total income or expenditure for the second half of the two year period.

Australia supports, in-principle, the initial of the two options on the basis of this providing the Bureau with the ability to adaptively manage its budget in the context of global financial instability.

The provisional financial statement for the current financial year should be sent to all Contracting Governments in time for comment prior to the relevant meeting of the Bureau.

Example changes to the Rules of Procedure and Financial Regulations are provided in Annex A to permit a two-year budget cycle and instruct the Bureau to receive the Commission's audited accounts, the provisional financial statement and to review the second half of the Commission's two year budget.

Changes to the Rules of Procedure:

- (1) Rule C.1.(c) to extend the time period covered by the Observer registration fee to two years;
- (2) Rule H.1.(c) to instruct the Secretary to prepare a two year budget for approval by each biennial Commission meeting

Changes to the Financial Regulations:

- (3) Financial Regulation C.5 to allow the most recent financial statement to be considered by the Bureau in years when the Commission does not meet;
- (4) Financial Regulation D.1 (c) and (d) and D.2 to allow the provisional financial statement to be considered by the Bureau in years where the Commission does not meet, and also to allow the Bureau to review the second half of the Commission's two year budget and to authorise re-appportionment of amounts within the overall total agreed by the Commission;
- (5) Financial Regulation E.4 to instruct the Secretary to report on collection of annual payments at Meetings of the Bureau;
- (6) Financial Regulation F.2 to state that the suspension of vote for Contracting Governments whose financial contributions have not been received by the Commission also applies to Meetings of the Bureau

## Allocation of savings arising from reduced meeting frequency

IWC/63/F&A 6 estimated the cost of holding a 15-day Scientific Committee meeting as £176,000, and the cost of a 13 day Sub-Committee and Commission meeting as £297,000. The cost of holding one combined 26 day meeting was estimated as slightly less than the total for two separate meetings (GBP 449,000). In fact, the Commission's audited accounts for 2010/11 indicate that the complete cost of the Scientific Committee meeting in Tromsø and the Commission meeting in Jersey was GBP 531,000 against an agreed Commission budget for 2010/11 of £374,500. The meeting was made possible by a grant received from the Government of Norway and a small contribution received from the States of Jersey Tourist Board which totalled GBP 161,000. In addition, the Hotel de France in Jersey subsidised its own rates so as to allow the meeting to proceed. These estimated and actual costs are summarised in Table 1.

Table 1.  
Estimated and actual costs of Scientific Committee and Commission Meetings compared with Commission budget allowance

	Estimated meeting costs from IWC/63/F&A 6	Actual costs of IWC/63 in 2011	Commission budget 2010/11
<b>Scientific Committee</b>	£176,000 (37%)		
<b>Commission</b>	£297,000 (63%)		
<b>Total</b>	£473,000 (combined) £449,000 (separate)	£531,000 (separate) Included grants to the total of £161,000	£374,500 (to cover both SC and Commission)

It is clear that the Commission's annual budget is not sufficient to support a full set of annual meetings in the conventional way without support from a host government or sponsoring agency. Guidance received at IWC/63 (IWC/63/Rep 2) was that a mechanism should be developed to share the savings from reduced meeting frequency between the Commission and the host country.

Estimates in IWC/63/F&A 6 indicate that 37% of the total annual meeting budget should be allocated to the Scientific Committee meeting, and the remaining 63% allocated to Commission meetings. If Commission

<sup>18</sup> This draft provision is proposed on the basis of the powers of the ICATT Council and is intended to assist the IWC Bureau in guiding the Commission's intersessional work programme.

meetings are to be held every second year, then the saving incurred is half of 63% of the annual meeting budget. In practical terms, this means that the annual meeting budget (currently GBP 383,000 for the 2011/12 financial year) should be reduced by 31.5% or **GBP 121,000** (with a concomitant reduction in financial contributions).

The resultant new annual meeting budget will be in the region of GBP 262,000. Of this figure, GBP 142,000 would be allocated to the Scientific Committee meeting, and the remaining GBP 121,000 held in the IWC's meeting fund to help cover the costs of the Commission meeting the following year giving a total of GBP 284,000 to cover the costs of the Biennial Meeting.

It is important to note however that this budget allowance will be insufficient to support either Scientific Committee or Biennial Meetings in their current format unless external financial support is forthcoming. In the absence of external financial support, the meeting duration will need to be reduced (possibly by up to one third) in order to meet the budget.

Australia believes that as part of the move to biennial meetings, the IGBB should consider recommending an independent review to examine the scope for obtaining additional savings from Commission and Scientific Committee meetings.

## FREQUENCY OF SUBSIDIARY BODY MEETINGS

IWC/63/Rep 7 recognised and endorsed the universal support for continuing with annual meetings of the Scientific Committee. Additionally at IWC/63 the Commission adopted a recommendation from the F&A Committee to separate the timings of the Scientific Committee and Commission meetings by a period of 100 days or longer.

IWC/63/Rep 7 also recommended that all the Commission's Sub-groups (including the WKM&AWI, INF, ASW, F&A, BSC and CC) should be considered as equals and afforded equal priorities. Recognising that some countries favoured the Conservation Committee continuing to meet on an annual basis IWC/63/Rep 7 suggested the following options for preserving the equality between subsidiary bodies:

- (a) Either all of the current subsidiary bodies (INF, ASW, WKM&AWI, CC, BSC, F&A) should continue to meet annually; or
- (b) None of these subsidiary bodies should meet annually

Noting that these options may not be desirable to all Contracting Governments, two further proposals were suggested:

- (c) The time allotted to the CC could be doubled by planning to meet for twice the current length of time every second year. This would have the effect of allowing the Committee to take on more business, but still preserve the equality between subsidiary bodies; or
- (d) the Conservation Committee (and any other group as desired) could meet on an annual basis so long as the costs of the extra annual meeting were entirely born by a host government.

Either option (c) and (d) above can be implemented according to the specific circumstances of each meeting, and so do not present an obstacle in moving to biennial meetings. Thus, if a host or other Contracting Government wishes to incur the costs of holding an annual meeting of the Conservation (or other) Committee in the years when the Commission does not meet, this would be feasible from the Commission's financial perspective (note it does not take into account individual members' cost in attending). Similarly, if Contracting Governments desire extra time to be allocated to the Conservation Committee every second year, this could be arranged as part of the scheduling of the sub-group week. Indeed, it is already customary practice to adjust the length of meetings in the sub-group week according to the size of the agenda for each meeting.

Australia supports both options (c) and (d) above. With regard to option (d), however, we suggest the wording be revised to read "(d) the Conservation Committee (and any other subsidiary body as desired) could meet on an annual basis so long as the costs of the extra annual meeting were born in whole or in part by a host government and/or other funding partners, including the Commission/Bureau should it so chose".

# **Rules of Procedure and Financial Regulations**

**As amended by the Commission at its 63<sup>rd</sup> Annual Meeting, July 2011, and with proposed  
changes to establish a Bureau and move to biennial Commission meetings**

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**February 2012**

## Rules of Procedure

### A. Representation

1. A Government party to the International Convention for the Regulation of Whaling, 1946 (hereafter referred to as the Convention) shall have the right to appoint one Commissioner and shall furnish the Secretary of the Commission with the name of its Commissioner and his/her designation and notify the Secretary promptly of any changes in the appointment. The Secretary shall inform other Commissioners of such appointment.
2. In addition to the Commissioner, each Contracting Government is invited to establish an additional means of communication between the Chair and Secretary of the Commission and that Government by designating an Alternate Commissioner or by creating a focal or contact point (which could be an e-mail address). The details shall be communicated to the Secretary through recognised diplomatic channels. Contact details of the Commissioner, Alternate Commissioner or the focal or contact point shall also be posted on the Commission's public web site.

### B. Meetings

1. The Commission shall hold a regular ~~Annual~~ **Biennial** Meeting in such place as the Commission may determine. Any Contracting Government desiring to extend an invitation to the Commission to meet in that country shall give formal notice two years in advance. A formal offer should include: which meetings it covers, i.e. Scientific Committee, Commission sub-groups, ~~Annual~~ **Biennial** Commission meeting, **or meeting of the Bureau**;

We note that most references in the proposed amendments to the Rules of Procedure (RoP) refer to 'the Meeting of the Bureau' – capitalised, which implies an annual meeting of the Bureau. For example, in Rule D.1 of the RoP the Scientific Committee, it states that the Scientific Committee shall meet prior to the Meeting of the Bureau. However, other references are not capitalised. If it is contemplated that the Bureau should have one habitual annual meeting and then meet on other occasions as required during the intersessional period, this should be clarified in the proposed amendments to the RoP.

a proposed time window within which the meeting will take place; and  
a timetable for finalising details of the exact timing and location of the meeting.

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

2. Before the end of each ~~Annual~~ **Biennial** Meeting, the Commission shall decide on: (1) the length of the ~~Annual next Biennial~~ Commission Meeting and associated meetings ~~the following year~~; **and** (2) which of the Commission's sub-groups need to meet, **and (3) the date, location and duration of the Meeting of the Bureau.**

### C. Observers

1. (a) Any Government not a party to the Convention or any intergovernmental organisation may be represented at meetings of the Commission by an observer or observers, if such non-party government or intergovernmental organisation has previously attended any meeting of the Commission, or if it submits its request in writing to the Commission 60 days prior to the start of the meeting, or if the Commission issues an invitation to attend.
- (b) Any non-governmental organisation which expresses an interest in matters covered by the Convention, may be accredited as an observer. Requests for accreditation must be submitted in writing to the Commission 60 days prior to the start of the meeting and the Commission may issue an invitation with respect to such request. Such submissions shall include the standard application form for non-governmental organisations which will be provided by the Secretariat. These applications shall remain available for review by Contracting Governments.

Once a non-governmental organisation has been accredited through the application process above, it will remain accredited until the Commission decides otherwise.

Observers from each non-governmental organisation will be allowed seating in the meeting. However, seating limitations may require that the number of observers from each non-governmental organisation be limited. The Secretariat will notify accredited non-governmental organisations of any seating limitations in advance of the meeting.

- (c) The Commission shall levy a registration fee and determine rules of conduct, and may define other conditions for the attendance of observers accredited in accordance with Rule C.1.(a) and (b). The registration fee will ~~be treated as an annual fee covering~~ attendance at the ~~Annual~~ **Biennial Commission Meeting** to which it relates and any other meeting of the Commission or its subsidiary groups as provided in Rule C.2 in the interval before the next **Biennial Commission Meeting** ~~Annual Meeting~~.

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

#### D. Credentials

1.(a) The names of all representatives of member and non-member governments and observer organisations to any meeting of the Commission, ~~or its~~ committees *or the Bureau*, as specified in the Rules of Procedure of the Commission, Technical and Scientific Committees, shall be notified to the Secretary in writing before their participation and/or attendance at each meeting. For member governments, the notification shall indicate the Commissioner, his/her alternate(s) and advisers, and the head of the national delegation to the Scientific Committee and any alternate(s) as appropriate.

The written notification shall be made by governments or the heads of organisations as the case may be. In this context, 'governments' means the Head of State, the Head of Government, the Minister of Foreign Affairs (including: on behalf of the Minister of Foreign Affairs), the Minister responsible for whaling or whale conservation (including: on behalf of this Minister), the Head of the Diplomatic Mission accredited to the seat of the Commission or to the host country of the meeting in question, or the Commissioner appointed under Rule A.1.

(b) Credentials for a Commissioner appointed for the duration of a meeting must be issued as in D.1(a). Thereafter, until the end of the meeting in question, that Commissioner assumes all the powers of a Commissioner appointed under A.1., including that of issuing credentials for his/her delegation.

(c) In the case of members of delegations who will attend the ~~Annual~~ *Biennial* Commission Meeting and its associated meetings *or meetings of the Bureau*, the notification may be made *en bloc* by submitting a list of the members who will attend any of these meetings.

(d) The Secretary, or his/her representative, shall report on the received notifications at the beginning of a meeting.

(e) In case of any doubt as to the authenticity of notification or in case of apparent delay in their delivery, the Chair of the meeting shall convene an *ad hoc* group of no more than one representative from any Contracting Government present to decide upon the question of participation in the meeting.

#### E. Decision-making

A decision of the Commission taken at a meeting, whether by consensus or by vote, is not deemed adopted until the text has either been provided to all Members of the Commission, or presented to them by electronic means, and then approved by the Commission. The text will also be made simultaneously available to all other accredited participants. The text shall normally be distributed or presented in English and conveyed in the other working languages by oral interpretation. This rule applies both to decisions of the kinds specified in Rule J, and to other decisions of the Commission, except those relating only to the conduct of the current meeting. If the text of a proposed decision is amended, the revised text shall be distributed or presented in accordance with this rule. The authentic text of any such decision shall be the English version.

The Commission shall make every effort to reach its decisions by consensus. If all efforts to reach consensus have been exhausted and no agreement reached, the following Rules of Procedure shall apply:

1. Each Commissioner shall have the right to vote at Plenary Meetings of the Commission and in his/her absence his/her deputy or alternate shall have such right. Experts and advisers may address Plenary Meetings of the Commission but shall not be entitled to vote. They may vote at the meetings of any committee to which they have been appointed, provided that when such vote is taken, representatives of any Contracting Government shall only exercise one vote.

2. (a) The right to vote of representatives of any Contracting Government shall be suspended automatically when the annual payment of a Contracting Government including any interest due has not been received by the Commission by the earliest of these dates:

- 3 months following the due date prescribed in Regulation E.2 of the Financial Regulations; or
- the day before the first day of the next *Annual Biennial* or Special Meeting of the Commission *or Meeting of the Bureau* if such a meeting is held within 3 months following the due date; or
- in the case of a vote by postal or other means, the date upon which votes must be received if this falls within 3 months following the due date.



This suspension of voting rights applies until payment is received by the Commission.

(b) The Commissioner of a new Contracting Government shall not exercise the right to vote either at meetings or by postal or other means: (i) until 30 days after the date of adherence, although they may participate fully in discussions of the Commission; and (ii) unless the Commission has received the Government's financial contribution or part contribution for the year prescribed in Financial Regulation E.3. the day before the first day of the ~~Annual Biennial~~ or Special Meeting *or Meeting of the Bureau* concerned.

3. (a) Where a vote is taken on any matter before the Commission, a simple majority of those casting an affirmative or negative vote shall be decisive, except that a three-fourths majority of those casting an affirmative or negative vote shall be required for action in pursuance of Article V of the Convention.

(b) Action in pursuance of Article V shall contain the text of the regulations proposed to amend the Schedule. A proposal that does not contain such regulatory text does not constitute an amendment to the Schedule and therefore requires only a simple majority vote. A proposal that does not contain such regulatory text to revise the Schedule but would commit the Commission to amend the Schedule in the future can neither be put to a vote nor adopted.

(c) At meetings of committees appointed by the Commission, a simple majority of those casting an affirmative or negative vote shall also be decisive. The committee shall report to the Commission if the decision has been arrived at as a result of the vote.

(d) Votes shall be taken by show of hands, or by roll call, as in the opinion of the Chair, appears to be most suitable. The election of the Chair, Vice-Chair, the appointment of the Secretary of the Commission, and the selection of *venues for IWC Annual Biennial Meetings* ~~venues or Meetings of the Bureau~~ shall, upon request by a Commissioner, all proceed by secret ballot.

As it is proposed that the Bureau may take decisions by vote, the required majority for a successful vote should be specified.

4. Between meetings of the Commission or in the case of emergency, a vote of the Commissioners may be taken by post, or other means of communication in which case the necessary simple, or where required three-fourths majority, shall be of the total number of Contracting Governments whose right to vote has not been suspended under paragraph 2.

#### F. Chair

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

F.2. The duties of the Chair shall be:

(a) to preside at all meetings of the Commission *and Bureau*;

(b) to decide all questions of order raised at meetings of the Commission, subject to the right of any Commissioner to appeal against any ruling of the Chair.

(c) to call for votes and to announce the result of the vote to the Commission;

(d) to develop, with appropriate consultation, draft agenda for meetings of the Commission *and Bureau*.

(i) for ~~Annual Biennial~~ Meetings:

in consultation with the Secretary, to develop a draft agenda based on decisions and recommendations made at the previous ~~Annual Biennial~~ Meeting for circulation to all Contracting Governments and Commissioners for review and comment not less than 100 days in advance of the meeting;

on the basis of comments and proposals received from Contracting Governments and Commissioners under d(i) above, to develop with the Secretary, an annotated provisional agenda for circulation to all Contracting Governments not less than 60 days in advance of the meeting;

(ii) for Special Meetings, the two-stage procedure described in (i) above will be followed whenever practicable, recognising that Rule of Procedure J.1 still applies with respect to any item of business involving amendment of the Schedule or recommendations under Article VI of the Convention.

(e) to sign, on behalf of the Commission, a report of the proceedings of each ~~annual biennial~~ or other meeting of the Commission *and Meeting of the Bureau*, for transmission to Contracting Governments and others concerned as an authoritative record of what transpired;

(f) generally, to make such decisions and give such directions to the Secretary as will ensure, especially in the interval between the meetings of the Commission, that the business of the Commission is carried out efficiently and in accordance with its decision.

#### G. Vice-Chair



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

#### H. Secretary

1. The Commission shall appoint a Secretary and shall designate staff positions to be filled through appointments made by the Secretary. The Commission shall fix the terms of employment, rate of remuneration including tax assessment and superannuation and travelling expenses for the members of the Secretariat.

2. The Secretary is the executive officer of the Commission and shall:

(a) be responsible to the Commission for the control and supervision of the staff and management of its office and for the receipt and disbursement of all monies received by the Commission;

(b) make arrangements for all meetings of the Commission, **and** its committees and **the Bureau and** provide necessary secretarial assistance;

(c) prepare and submit to the Chair a draft of the Commission's budget for each **two** year **period** and shall subsequently submit the budget to all Contracting Governments and Commissioners as early as possible before the **Annual Biennial** Meeting;

(d) despatch by the most expeditious means available:

(i) a draft agenda for the **Annual Biennial** Commission Meeting to all Contracting Governments and Commissioners 100 days in advance of the meeting for comment and any additions with annotations they wish to propose;

(ii) an annotated provisional agenda to all Contracting Governments and Commissioners not less than 60 days in advance of the **Annual Biennial** Commission Meeting. Included in the annotations should be a brief description of each item, and in so far as possible, documentation relevant to agenda items should be referred to in the annotation and sent to member nations at the earliest possible date;

**(iii) a draft agenda for each Meeting of the Bureau to the members of the Bureau 100 days in advance of the meeting for comment and any additions with annotations they may wish to propose;**

**(iv) an annotated provisional agenda for the Meeting of the Bureau to the members of the Bureau 60 days in advance of its meeting.**

(e) receive, tabulate and publish notifications and other information required by the Convention in such form and manner as may be prescribed by the Commission;

(f) perform such other functions as may be assigned to him/her by the Commission or its Chair;

(g) where appropriate, provide copies or availability to a copy of reports of the Commission including reports of Observers under the International Observer Scheme, upon request after such reports have been considered by the Commission.

(h) maintain the Commission's public web site, which shall be continuously accessible to the extent possible subject to maintenance requirements and technical constraints.

#### I. Chair of Scientific Committee

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

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

1. No item of business which involves amendment of the Schedule to the Convention, recommendations under Article VI of the Convention, or Resolutions of the Commission, shall be the subject of decisive action by the Commission unless the full draft text has been circulated to the Commissioners at least 60 days in advance of the meeting at which the matter is to be discussed.

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

3. Notwithstanding Rules J.1 and J.2, the Commission may adopt Resolutions on any matter that may arise during a meeting only when consensus is achieved.

#### K. Financial

1. The financial year of the Commission shall be from 1st September to 31st August.

2. Any request to Contracting Governments for financial contributions shall be accompanied by a statement of the Commission's expenditure for the appropriate year, actual or estimated.

3. Annual payments and other financial contributions by Contracting Governments shall be made payable to the Commission and shall be in pounds sterling.

#### L. Offices

1. The seat of the Commission shall be located in the United Kingdom.

#### M. Committees

1. The Commission shall establish a Scientific Committee, a Technical Committee and a Finance and Administration Committee. Commissioners shall notify their desire to be represented on the Scientific, Technical and Finance and Administration Committees 28 days prior to the meetings, and shall designate the approximate size of their delegations.

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

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

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

(b) Any ad hoc committee, sub-committee or working group established to provide scientific advice shall report to the Scientific Committee, which shall review the report of such committee, sub-committee or working group, and, as appropriate, make its own recommendations on the subject matter.

5. The report of the Scientific Committee should be completed and made available to all Commissioners and posted on the Commission's public web site by the opening date of the **Annual Biennial** Commission Meeting or **Meeting of the Bureau** or within 14 days of the conclusion of the Scientific Committee meeting, whichever is the sooner.

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

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

(a) Management principles, categories, criteria and definitions, taking into account the recommendations of the Scientific Committee, as a means of helping the Commission to deal with management issues as they arise;

(b) technical and practical options for implementation of conservation measures based on Scientific Committee advice;

(c) the implementation of decisions taken by the Commission through resolutions and through Schedule provisions;

(d) Commission agenda items assigned to it;

(e) any other matters.

8. The Finance and Administration Committee shall advise the Commission on expenditure, budgets, scale of contributions, financial regulations, staff questions, and such other matters as the Commission may refer to it from time to time.

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

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

#### N. Languages of the Commission

1. English shall be the official language of the Commission. English, French and Spanish shall be the working languages of the Commission. Commissioners may speak in any other language, if desired, it being understood

that Commissioners doing so will provide their own interpreters. All official publications and communications of the Commission shall be in English. Agreed publications shall be available in English, French and Spanish<sup>19</sup>.

#### O. Records of Meetings

1. The proceedings of the meetings of the Commission, ~~and those of~~ its committees **and the Bureau** shall be recorded in summary form.
2. The text of each Commission decision adopted at a meeting in accordance with Rule E, or by post, shall be placed on the Commission's public web site in all working languages within 14 days of the conclusion of the meeting or adoption of the decision by post.

#### P. Reports and communications

1. Commissioners should arrange for reports on the subject of whaling published in their own countries to be sent to the Commission for record purposes.
2. The Chair's Report of the most recent **Annual Biennial Commission Meeting or Meeting of the Bureau** shall be posted on the Commission's public web site in English within two months of the end of the meeting and in the other working languages as soon as possible thereafter. It shall be published in the Annual Report of the year just completed.

Consideration could be given to changing the Commission's annual reporting cycle with the move to biennial meetings.

3. All individual and circular communications from the Chair or Secretary to Contracting Governments shall be sent to both the Commissioner appointed under Rule A.1. and to his/her Alternate designated or to the focal or contact point created under Rule A.2. They should also be sent to all accredited intergovernmental observers. All circular communications from the Chair or Secretary to Contracting Governments shall be posted on the Commission's public web site on despatch, unless the Chair, after consulting with the Advisory Committee, deems that a confidential communication is warranted (applicable only for staff issues, infraction cases and information provided by contracting Governments with a request that it remain confidential), in which case the communication should be sent to the Contracting Governments alone. A list of dates and subject titles of such confidential communications shall be presented to the next **Annual Biennial Meeting or to the Bureau in years when the Commission does not meet**.

#### Q. Commission Documents

1. Reports of meetings of all committees, sub-committees and working groups of the Commission are confidential (i.e. reporting of discussions, conclusions and recommendations made during a meeting is prohibited) until the opening plenary session of the Commission meeting to which they are submitted, or in the case of intersessional meetings, until after they have been dispatched by the Secretary to Contracting Governments and Commissioners. This applies equally to member governments and observers. Such reports, with the exception of the report of the Finance and Administration Committee, shall be distributed to Commissioners, Contracting Governments and accredited observers at the same time. Procedures applying to the Scientific Committee are contained in its Rules of Procedure E.5.(a) and E.5.(b).
2. Any document submitted to the Commission for distribution to Commissioners, Contracting Governments or members of the Scientific Committee is considered to be in the public domain unless it is designated by the author or government submitting it to be restricted<sup>20</sup>. Such restriction is automatically lifted when the report of the meeting to which it is submitted becomes publicly available under 1. above.
3. Observers admitted under Rule of Procedure C.1.(a) and (b) may submit Opening Statements which will be included in the official documentation of the **Annual Biennial** or other Meeting concerned. They shall be presented in the format and the quantities determined by the Secretariat for meeting documentation.

The content of the Opening Statements shall be relevant to matters under consideration by the Commission, and shall be in the form of views and comments made to the Commission in general rather than directed to any individual or group of Contracting Governments.<sup>21</sup>

4. All meeting documents shall be included in the Commission's archives in the form in which they were considered at the meeting. All such documents dating from 2011 onwards, and also earlier years where feasible,

<sup>19</sup> As agreed at IWC 59 in Anchorage in 2007: i.e. simultaneous interpretation in French and Spanish in IWC Plenary and private meetings of Commissioners, and translation into French and Spanish of: (1) Resolutions and Schedule amendments; (2) the Chair's **summary** reports of **annual biennial** meetings **and meetings of the Bureau**; (3) Annotated Provisional Agendas; and (4) summaries of the Scientific Committee and working group reports. Ann. Rep. Int. Whaling Comm. 2007: 56-57.

<sup>20</sup> This does not prevent Contracting Governments from consulting as they see fit on such documents providing confidentiality is maintained as described in Rule of Procedure Q.1.

<sup>21</sup> [There is no intention that the Secretariat should conduct advance or *ex-ante* reviews of such statements.]

shall be archived on the Commission's public web site in an accessible fashion by year and category of document.

**R. Amendment of Rules**

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

**S. Bureau**

*1. The Commission shall establish a Bureau which shall consist of the Chair and Vice-Chair of the Commission, Chair of the Finance and Administration Committee and the Commissioner representing the host country for the next Biennial Meeting of the Commission together with the representatives of not less than six and not more than eight Contracting Governments. The Contracting Governments represented on the Bureau shall be elected for a period of two years, at the biennial meetings of the Commission. The Contracting Governments of which the Chair, Vice-Chair, Chair of the F&A Committee and the Commissioner of the next host country are representatives shall not be elected to the Bureau. In electing Contracting Governments to the Bureau the Commission shall give due consideration to achieving an equitable geographic distribution and a balanced representation of whaling management and conservation interests, as well as to the equal right of the Contracting Governments to be represented on the Bureau.*

*2. The Bureau shall perform such functions as are assigned to it by the Commission and shall meet at least once in the intersessional period between biennial meetings of the Commission. Between Commission meetings the Bureau shall make necessary decisions on duties to be carried out and shall issue any necessary instructions to the Secretary. Decisions of the Bureau shall be made in accordance with the Rules of Procedure established by the Commission.*

Consideration should be given to developing detailed Terms of Reference and Rules of Procedure for the Bureau.

## FINANCIAL REGULATIONS

### A. Applicability

1. These regulations shall govern the financial administration of the International Whaling Commission.
2. They shall become effective as from the date decided by the Commission and shall be read with and in addition to the Rules of Procedure. They may be amended in the same way as provided under Rule R.1 of the Rules of Procedure in respect of those Rules.
3. In case of doubt as to the interpretation and application of any of these regulations, the Chair is authorised to give a ruling.

### B. Financial Year

1. The financial year of the Commission shall be from 1st September to 31st August (Rules of Procedure, Rule K.1).

### C. General Financial Arrangements

1. There shall be established a Research Fund and a General Fund, and a Voluntary Fund for Small Cetaceans.
  - (a) The Research Fund shall be credited with voluntary contributions and any such monies as the Commission may allocate for research and scientific investigation and charged with specific expenditure of this nature.
  - (b) The General Fund shall, subject to the establishment of any other funds that the Commission may determine, be credited or charged with all other income and expenditure.
  - (c) The details of the Voluntary Fund for Small Cetaceans are given in Appendix 1.

The General Fund shall be credited or debited with the balance on the Commission's Income and Expenditure Account at the end of each financial year.

2. Subject to the restrictions and limitations of the following paragraphs, the Commission may accept funds from outside the regular contributions of Contracting Governments.

- (a) The Commission may accept such funds to carry out programmes or activities decided upon by the Commission and/or to advance programmes and activities which are consistent with the objectives and provisions of the Convention.

- (b) The Commission shall not accept external funds from any of the following:

- (i) Sources that are known, through evidence available to the Commission, to have been involved in illegal activities, or activities contrary to the provisions of the Convention;

- (ii) Individual companies directly involved in legal commercial whaling under the Convention;

- (iii) Organisations which have deliberately brought the Commission into public disrepute.

3. Monies in any of the Funds that are not expected to be required for disbursement within a reasonable period may be invested in appropriate Government or similar loans by the Secretary in consultation with the Chair.

4. The Secretary shall:

- (a) establish detailed financial procedures and accounting records as are necessary to ensure effective financial administration and control and the exercise of economy;

- (b) deposit and maintain the funds of the Commission in an account in the name of the Commission in a bank to be approved by the Chair;

- (c) cause all payments to be made on the basis of supporting vouchers and other documents which ensure that the services or goods have been received, and that payment has not previously been made;

- (d) designate the officers of the Secretariat who may receive monies, incur obligations and make payments on behalf of the Commission;

- (e) authorise the writing off of losses of cash, stores and other assets and submit a statement of such amounts written off to the Commission and the auditors with the annual accounts.

5. The accounts of the Commission shall be audited annually by a firm of qualified accountants selected by the Commission. The auditors shall certify that the financial statements are in accord with the books and records of the Commission, that the financial transactions reflected in them have been in accordance with the rules and regulations and that the monies on deposit and in hand have been verified. The most recent audited financial statements and the audit report shall be submitted to the ***Annual Biennial Meeting or to the Bureau in years when the Commission does not meet*** and posted on the Commission's public website by the opening of the ***Annual Biennial or Bureau Meeting***.

### D. Yearly Statements

1. At each ***Annual Biennial Meeting***, there shall be laid before the Commission two financial statements:

- (a) a provisional statement dealing with the actual and estimated expenditure and income in respect of the current financial year;

- (b) the budget estimate of expenditure and income for the ensuing ***two*** year including the estimated amount of the individual annual payment to be requested of each Contracting Government ***for each of the ensuing two years***.

*(c) in years when no Biennial Commission Meeting is held the provisional statement for the current financial year identified in Regulation D.1.(a) shall be laid before the Meeting of the Bureau.*

*(d) in years when no Biennial Commission Meeting is held the Bureau shall review the second half of the two year budget and, on the basis of current and anticipated developments, may authorise reappropriation of amounts in the Commission budget for the second year within the total expenditure approved by the Commission.*

Expenditure and income shall be shown under appropriate sub-heads accompanied by such explanations as the Commission may determine.

2. The two financial statements identified in Regulation D.1 shall be despatched by the most expeditious means available to each Contracting Government and each Commissioner not less than 60 days in advance of the **Annual Biennial** Commission Meeting. They shall require the Commission's approval after having been referred to the Finance and Administration Committee for consideration and recommendations. A copy of the final accounts *for each year* shall be sent to all Contracting Governments after they have been audited.

*In years when the Commission does not meet, the provisional financial statement for the current year shall be made available to each Contracting Government and each Commissioner not less than 60 days in advance of the Meeting of the Bureau.*

3. Supplementary estimates may be submitted to the Commission, as and when may be deemed necessary, in a form consistent with the Annual Estimates. Any supplementary estimate shall require the approval of the Commission after being referred to the Finance and Administration Committee for consideration and recommendation.

#### E. Contributions

1. As soon as the Commission has approved the budget for any year, the Secretary shall send a copy thereof to each Contracting Government (in compliance with Rules of Procedure, Rule K.2), and shall request it to remit its annual payment.

2. Payment shall be in pounds sterling, drafts being made payable to the International Whaling Commission and shall be payable within 90 days of the said request from the Secretary or by the following 28 February, the "due date" whichever is the later. It shall be open to any Contracting Government to postpone the payment of any increased portion of the amount which shall be payable in full by the following 31 August, which then becomes the "due date". Payment shall be by bank transfer from an account belonging to the Contracting Government or to a state institution of that Government.

3. 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 any ~~Annual or Special~~ Meeting of the Commission **or Bureau** in which it participates, whichever is the earlier.

Subsequent annual payments shall be paid in accordance with Financial Regulation E.2.

4. The Secretary shall report at each ~~Annual Biennial~~ Meeting **and Meeting of the Bureau** the position as regards the collection of annual payments.

5. For the purpose of application of Rule of Procedure E.2, payments of membership dues shall only count as having been received by the Commission when the funds have been credited to the Commission's account unless the payment has been made and the Commission is satisfied that the delay in receipt is due to circumstances beyond the control of the Contracting Government.

#### F. Arrears of Contributions

1. If a Contracting Government's annual payments have not been received by the Commission within 12 months of the due date referred to under Regulation E.2 compound interest shall be added on the anniversary of that day and each subsequent anniversary thereafter at the rate of 2% above the base rate quoted by the Commission's bankers on the day. The interest, calculated to the nearest pound, shall be payable in respect of complete years and continue to be payable in respect of any outstanding balance until such time as the amount in arrears, including interest, is settled in full.

2. If a Contracting Government's annual payments, including any interest due<sup>22</sup>, have not been received by the Commission by the earliest of these dates:  
3 months following the due date; or  
the day before the first day of the next **Annual Biennial** or Special Meeting of the Commission, **or Meeting of the Bureau** if such a meeting is held within 3 months following the due date; or,  
in the case of a vote by postal or other means, the date upon which votes must be received if this falls within 3 months following the due date,  
the right to vote of the Contracting Government concerned shall be suspended as provided under Rule E.2 of the Rules of Procedure.
3. Any interest paid by a Contracting Government to the Commission in respect of late annual payments shall be credited to the General Fund.
4. Any payment to the Commission by a Contracting Government in arrears with annual payments shall be used to pay off debts to the Commission, including interest due, in the order in which they were incurred.
5. If a Contracting Government's annual payments, including any interest due, have not been received by the Commission in respect of a period of 3 financial years;

no further annual contribution will be charged;

interest will continue to be applied annually in accordance with Financial Regulation F.1.;

(c) the provisions of this Regulation apply to the Contracting Government for as long as the provisions of Financial Regulations F.1. and F.2. remain in effect for that Government;

the Contracting Government concerned will be entitled to attend **Commission or Bureau** meetings on payment of a fee per delegate at the same level as Non-Member Government observers;

(e) the provisions of this Regulation and of Financial Regulations F.1. and F.2. will cease to have effect for a Contracting Government if it makes a payment of 2 years outstanding contributions and provides an undertaking to pay the balance of arrears and the interest within a further 2 years;

(f) interest applied to arrears in accordance with this Regulation will accrue indefinitely except that, if a Government withdraws from the Convention, no further charges shall accrue after the date upon which the withdrawal takes effect.

6. Unless the Commission decides otherwise, a Government which adheres to the Convention without having paid to the Commission any financial obligations incurred prior to its adherence shall, with effect from the date of adherence, be subject to all the penalties prescribed by the Rules of Procedure and Financial Regulations relating to arrears of financial contributions and interest thereon. The penalties shall remain in force until the arrears, including any newly-charged interest, have been paid in full.

## **Appendix 1**

### **VOLUNTARY FUND FOR SMALL CETACEANS**

#### **Purpose**

The Commission decided at its 46th Annual Meeting in 1994 to establish an IWC voluntary fund to allow for the participation from developing countries in future small cetacean work and requested the Secretary to make arrangements for the creation of such a fund whereby contributions in cash and in kind can be registered and utilised by the Commission.

#### **Contributions**

The Commission has called on Contracting Governments and non-contracting Governments, intergovernmental organisations and other entities as appropriate, in particular those most interested in scientific research on small cetaceans, to contribute to the IWC voluntary fund for small cetaceans.

Acceptance of contributions from entities other than Governments will be subject to the Commission's procedures for voluntary contributions. Where funds or support in kind are to be made available through the Voluntary Fund, the donation will be registered and administered by the Secretariat in accordance with Commission procedures.

The Secretariat will notify all members of the Commission on receipt of such voluntary contributions.

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<sup>22</sup> A short-term concession of up to 500 pounds sterling will be given to any Contracting Government to take account of remittances sent to cover annual payments, including any interest due, that fall short of the balance owing by up to that amount. This concession is to allow for variations in bank charges and exchange rate that might otherwise reduce the value of the remittance to a lower value than intended in pounds sterling and so leave a Contracting Government with a balance of annual payments, including any interest due outstanding. This short term concession will enable a Contracting Government to maintain its right to vote. Any Contracting Government with a balance outstanding above 500 pounds sterling will not be entitled to the short-term concession and its right to vote shall be suspended. The shortfall of up to 500 pounds sterling allowed by the concession shall then be carried forward to the next financial year as part of the balance of annual payments, including any interest due to the Commission.

Where expenditure is incurred using these voluntary funds the Secretariat will inform the donors of their utilisation.

#### Distribution of Funds

1. Recognising that there are differences of view on the legal competence of the Commission in relation to small cetaceans, but aware of the need to promote the development of increased participation by developing countries, the following primary forms of disbursement will be supported in accordance with the purpose of the Voluntary Fund:

- (a) provision of support for attendance of invited participants at meetings of the Scientific Committee;
- (b) provision of support for research in areas, species or populations or research methodology in small cetacean work identified as of direct interest or priority in the advice provided by the Scientific Committee to the Commission;
- (c) other small cetacean work in developing countries that may be identified from time to time by the Commission and in consultation with intergovernmental agencies as requiring, or likely to benefit from support through the Fund.

2. Where expenditure is proposed in support of invited participants, the following will apply:

- (a) invited participants will be selected through consultation between the Chair of the Scientific Committee, the Convenor of the appropriate sub-committee and the Secretary;
- (b) the government of the country where the scientists work will be advised of the invitation and asked if it can provide financial support.

3. Where expenditure involves research activity, the following will apply:

- (a) the normal procedures for review of proposals and recommendations by the Scientific Committee will be followed;
- (b) appropriate procedures for reporting of progress and outcomes will be applied and the work reviewed;
- (c) the Secretariat shall solicit the involvement, as appropriate, of governments in the regions where the research activity is undertaken.



## **RULES OF DEBATE**

### **A. Right to Speak**

1. The Chair shall call upon speakers in the order in which they signify their desire to speak.
2. A Commissioner or Observer may speak only if called upon by the Chair, who may call a speaker to order if his/her remarks are not relevant to the subject under discussion.
3. A speaker shall not be interrupted except on a point of order. He/she may, however, with the permission of the Chair, give way during his/her speech to allow any other Commissioner to request elucidation on a particular point in that speech.
4. The Chair of a committee or working group may be accorded precedence for the purpose of explaining the conclusion arrived at by his/her committee or group.

### **B. Submission of Motions**

1. Proposals and amendments shall normally be introduced in writing in the working language of the meeting and shall be submitted to the Secretariat which shall circulate copies to all delegations in the session. As a general rule, no proposal shall be discussed at any plenary session unless copies of it have been circulated to all delegations normally no later than 6pm, or earlier if so determined by the Chair in consultation with the Commissioners, on the day preceding the plenary session. The presiding officer may, however, permit the discussion and consideration of amendments, or motions, as to procedure, even though such amendments, or motions have not been circulated previously.

### **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.

3. Notwithstanding anything in these Rules, the Chair may suspend the meeting for a brief period at any time in order to allow informal discussions aimed at reaching consensus consistent with Rule E of the Rules of Procedure.

### **D. Arrangements for Debate**

1. The Commission may, in a proposal by the Chair or by a Commissioner, limit the time to be allowed to each speaker and the number of times the members of a delegation may speak on any question. When the debate is subject to such limits, and a speaker has spoken for his allotted time, the Chair shall call him/her to order without delay.
2. During the course of a debate the Chair may announce the list of speakers, and with the consent of the Commission, declare the list closed. The Chair may, however, accord the right of reply to any Commissioner if a speech delivered after he/she has declared the list closed makes this desirable.
3. During the discussion of any matter, a Commissioner may move the adjournment of the debate on the particular subject or question under discussion. In addition to the proposer of the motion, a Commissioner may speak in favour of, and two Commissioners may speak against the motion, after which the motion shall immediately be put to the vote. The Chair may limit the time to be allowed to speakers under this rule.
4. A Commissioner may at any time move the closure of the debate on the particular subject or question under discussion, whether or not any other Commissioner has signified the wish to speak. Permission to speak on the motion for the closure of the debate shall be accorded only to two Commissioners wishing to speak against the motion, after which the motion shall immediately be put to the vote. The Chair may limit the time to be allowed to speakers under this rule.

### **E. Procedure for Voting on Motions and Amendments**

1. A Commissioner may move that parts of a proposal or of an amendment shall be voted on separately. If objection is made to the request of such division, the motion for division shall be voted upon. Permission to speak on the motion for division shall be accorded only to two Commissioners wishing to speak in favour of, and two Commissioners wishing to speak against, the motion. If the motion for division is carried, those parts of the proposal or amendments which are subsequently approved shall be put to the vote as a whole. If all operative parts of the proposal or of the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.
2. When the amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the Commission shall first vote on the last amendment moved and then on the next to last, and so on until all amendments have been put to the vote. When, however, the adoption of one

amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon. A motion is considered an amendment to a proposal if it merely adds to, deletes from or revises part of that proposal.

3. If two or more proposals relate to the same question, the Commission shall, unless it otherwise decides, vote on the proposals in the order in which they have been submitted. The Commission may, after voting on a proposal, decide whether to vote on the next proposal.

## RULES OF PROCEDURE OF THE TECHNICAL COMMITTEE

### A. Participation

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

### B. Organisation

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

### C. Meetings

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

### D. Reports

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

## RULES OF PROCEDURE OF THE SCIENTIFIC COMMITTEE

The Scientific Committee, established in accordance with the Commission's Rule of Procedure M.1, has the general terms of reference defined in Rule of Procedure M.4.

In this regard, the DUTIES of the Scientific Committee, can be seen as a progression from the scientific investigation of whales and their environment, leading to assessment of the status of the whale stocks and the impact of catches upon them, and then to provision of management advice on the regulation of whaling. This can be defined in the following terms for the Scientific Committee to:

Encourage, recommend, or if necessary, organise studies and investigations related to whales and whaling [Convention Article IV.1(a)]

Collect and analyse statistical information concerning the current condition and trend of whale stocks and the effects of whaling activities on them [Article IV.1 (b)]

Study, appraise, and disseminate information concerning methods of maintaining and increasing the population of whale stocks [Article IV.1 (c)]

Provide scientific findings on which amendments to the Schedule shall be based to carry out the objectives of the Convention and to provide for the conservation, development and optimum utilization of the whale resources [Article V.2 (a) and (b)]

Publish reports of its activities and findings [Article IV.2]

In addition, specific FUNCTIONS of the Scientific Committee are to:

Receive, review and comment on Special Permits issued for scientific research [Article VIII.3 and Schedule paragraph 30]

Review research programmes of Contracting Governments and other bodies [Rule of Procedure M.4]

SPECIFIC TOPICS of current concern to the Commission include:

Comprehensive Assessment of whale stocks [*Rep. int. Whal. Commn* 34:30]

Implementation of the Revised Management Procedure [*Rep. int. Whal. Commn* 45:43]

Assessment of stocks subject to aboriginal subsistence whaling [Schedule paragraph 13(b)]

Development of the Aboriginal Subsistence Whaling Management Procedure [*Rep. int. Whal. Commn* 45:42-3]

Effects of environmental change on cetaceans [*Rep. int. Whal. Commn* 43:39-40; 44:35; 45:49]

Scientific aspects of whale sanctuaries [*Rep. int. Whal. Commn* 33:21-2; 45:63]

Scientific aspects of small cetaceans [*Rep. int. Whal. Commn* 41:48; 42:48; 43:51; 45:41]

Scientific aspects of whalewatching [*Rep. int. Whal. Commn* 45:49-50]

### A. Membership and Observers

1. The Scientific Committee shall be composed of scientists nominated by the Commissioner of each Contracting Government which indicates that it wishes to be represented on that Committee. Commissioners shall identify the head of delegation and any alternate(s) when making nominations to the Scientific Committee. The Secretary of the Commission and relevant members of the Secretariat shall be *ex-officio* non-voting members of the Scientific Committee.

2. The Scientific Committee recognises that representatives of Inter-Governmental Organisations with particular relevance to the work of the Scientific Committee may also participate as non-voting members, subject to the agreement of the Chair of the Committee acting according to such policy as the Commission may decide.

3. Further to paragraph 2 above the World Conservation Union (IUCN) shall have similar status in the Scientific Committee.

4. Non-member governments may be represented by observers at meetings of the Scientific Committee, subject to the arrangements given in Rule C.1(a) of the Commission's Rules of Procedure.

5. Any non-governmental organisation sending an accredited observer to a meeting of the Commission may nominate a scientifically qualified observer to be present at meetings of the Scientific Committee. Any such nomination must reach the Secretary not less than 60 days before the start of the meeting in question and must specify the scientific qualifications and relevant experience of the nominee. The Chair of the Scientific Committee shall decide upon the acceptability of any nomination but may reject it only after consultation with the Chair and Vice-Chair of the Commission. Observers admitted under this rule shall not participate in discussions but the papers and documents of the Scientific Committee shall be made available to them at the same time as to members of the Committee.

6. The Chair of the Committee, acting according to such policy as the Commission or the Scientific Committee may decide, may invite qualified scientists not nominated by a Commissioner to participate by invitation or otherwise in committee meetings as non-voting contributors. They may present and discuss documents and papers for consideration by the Scientific Committee, participate on sub-committees, and they shall receive all Committee documents and papers.

(a) Convenors will submit suggestions for Invited Participants (including the period of time they would like them to attend) to the Chair (copied to the Secretariat) not less than four months before the meeting in question. The Convenors will base their suggestions on the priorities and initial agenda identified by the Committee and

Commission at the previous meeting. The Chair may also consider offers from suitably qualified scientists to contribute to priority items on the Committee's agenda if they submit such an offer to the Secretariat not less than four months before the meeting in question, providing information on the contribution they believe that they can make. Within two weeks of this, the Chair, in consultation with the Convenors and Secretariat, will develop a list of invitees.

(b) The Secretary will then promptly issue a letter of invitation to those potential Invited Participants suggested by the Chair and Convenors. That letter will state that there may be financial support available, although invitees will be encouraged to find their own support. Invitees who wish to be considered for travel and subsistence will be asked to submit an estimated airfare (incl. travel to and from the airport) to the Secretariat, within 2 weeks. Under certain circumstances (e.g. the absence of a potential participant from their institute), the Secretariat will determine the likely airfare.

At the same time as (b) a letter will be sent to the government of the country where the scientists is domiciled for the primary purpose of enquiring whether that Government would be prepared to pay for the scientist's participation. If it is, the scientist is no longer an Invited Participant but becomes a national delegate.

(c) At least three months before the meeting, the Secretariat will supply the Chair with a list of participants and the estimated expenditure for each, based on (1) the estimated airfare, (2) the period of time the Chair has indicated the IP should be present and (3) a daily subsistence rate based on the actual cost of the hotel deemed most suitable by the Secretary and Chair<sup>23</sup>, plus an appropriate daily allowance.

At the same time as (c) a provisional list of the proposed Invited Participants will be circulated to Commissioners, with a final list attached to the Report of the Scientific Committee.

(d) The Chair will review the estimated total cost for all suggested participants against the money available in the Commission's budget. Should there be insufficient funds, the Chair, in consultation with the Secretariat and Convenors where necessary, will decide on the basis of the identified priorities, which participants should be offered financial support and the period of the meeting for which that support will be provided. Invited Participants without IWC support, and those not supported for the full period, may attend the remainder of the meeting at their own expense.

(e) At least two months before the meeting, the Secretary will send out formal confirmation of the invitations to all the selected scientists, in accordance with the Commission's Guidelines, indicating where appropriate that financial support will be given and the nature of that support.

(f) In exceptional circumstances, the Chair, in consultation with the Convenors and Secretariat, may waive the above time restrictions.

(g) The letter of invitation to Invited Participants will include the following ideas:

Under the Committee's Rules of Procedure, Invited Participants may present and discuss papers, and participate in meetings (including those of subgroups). They are entitled to receive all Committee documents and papers. They may participate fully in discussions pertaining to their area of expertise. However, discussions of Scientific Committee procedures and policies are in principle limited to Committee members nominated by member governments. Such issues will be identified by the Chair of the Committee during discussions. Invited Participants are also urged to use their discretion as regards their involvement in the formulation of potentially controversial recommendations to the Commission; the Chair may at his/her discretion rule them out of order.

*(h) After an Invited Participant has his/her participation confirmed through the procedures set up above, a Contracting Government may grant this person national delegate status, thereby entitling him/her to full participation in Committee proceedings, without prejudice to funding arrangements previously agreed upon to support the attendance of the scientist in question.*

7. A small number of interested local scientists may be permitted to observe at meetings of the Scientific Committee on application to, and at the discretion of, the Chair. Such scientists should be connected with the local Universities, other scientific institutions or organisations, and should provide the Chair with a note of their scientific qualifications and relevant experience at the time of their application.

## **B. Agenda**

1. The initial agenda for the Committee meeting of the following year shall be developed by the Committee prior to adjournment each year. The agenda should identify, as far as possible, key issues to be discussed at the next meeting and specific papers on issues should be requested by the Committee as appropriate.

2. The provisional agenda for the Committee meeting shall be circulated for comment 60 days prior to the Annual Meeting of the Committee. Comments will normally be considered for incorporation into the draft

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<sup>23</sup> [Invited participants who choose to stay at a cheaper hotel will receive the actual rate for their hotel plus the same daily allowance.]

agenda presented to the opening plenary only if received by the Chair 21 days prior to the beginning of the Annual Meeting.

### C. Organisation

1. The Scientific Committee shall include standing sub-committees and working groups by area or species, or other subject, and a standing sub-committee on small cetaceans. The Committee shall decide at each meeting on sub-committees for the coming year.

2. The sub-committees and working groups shall prepare the basic documents on the identification, status and trends of stocks, including biological parameters, and related matters as necessary, for the early consideration of the full Committee.

3. The sub-committees, except for the sub-committee on small cetaceans, shall concentrate their efforts on stocks of large cetaceans, particularly those which are currently exploited or for which exploitation is under consideration, or for which there is concern over their status, but they may examine matters relevant to all cetaceans where appropriate.

4. The Chair may appoint other sub-committees as appropriate.

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

The election process shall be undertaken by the heads of national delegations who shall consult widely before nominating candidates<sup>24</sup>. The Vice-Chair will become Chair at the end of his/her term (unless he/she declines), and a new Vice-Chair will then be elected. If the Vice-Chair declines to become Chair, then a new Chair must also be elected. If the election of the Chair or Vice-Chair is not by consensus, a vote shall be conducted by the Secretary and verified by the current Chair. A simple majority shall be decisive. In cases where a vote is tied, the Chair shall have the casting vote. If requested by a head of delegation, the vote shall proceed by secret ballot. In these circumstances, the results shall only be reported in terms of which nominee received the most votes, and the vote counts shall not be reported or retained.

### D. Meetings

1. Meetings of the Scientific Committee as used in these rules include all meetings of subgroups of the Committee, e.g. sub-committees, working groups, workshops, etc.

2. The Scientific Committee shall meet prior to the ***Annual Biennial*** Meeting of the Commission ***or in years when the Commission does not meet, the Scientific Committee shall meet prior to the Meeting of the Bureau.*** Special meetings of the Scientific Committee or its subgroups may be held as agreed by the Commission or the Chair of the Commission.

3. The Scientific Committee will organise its work in accordance with a schedule determined by the Chair with the advice of a group comprising sub-committee/working group chairs and relevant members of the Secretariat.

### E. Scientific Papers and Documents

The following documents and papers will be considered by the Scientific Committee for discussion and inclusion in its report to the Commission:

1. Progress Reports. Each nation having information on the biology of cetaceans, cetacean research, the taking of cetaceans, or other matters it deems appropriate should prepare a brief progress report following in the format agreed by the Committee.

2. Special Reports. The Committee may request special reports as necessary on matters to be considered by the Committee for the following year.

3. Sub-committee Reports. Reports of the sub-committees or working groups shall be included as annexes to the Report to the Commission. Recommendations contained therein shall be subject to modification by the full Committee before inclusion in its Report.

4. Scientific and Working Papers.

(a) Any scientist may submit a scientific paper for consideration by the Committee. The format and submission procedure shall be in accordance with guidelines established by the Secretariat with the concurrence of the Committee. Papers published elsewhere may be distributed to Committee members for information as relevant to specific topics under consideration.

(b) Scientific papers will be considered for discussion and inclusion in the papers of the Committee only if the paper is received by the Secretariat on or by the first day of the annual Committee meeting, intersessional

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<sup>24</sup> The Commission's Rule of Procedure on voting rights (rule E.2) also applies to the Scientific Committee.

meeting or any sub-group. Exceptions to this rule can be granted by the Chair of the Committee where there are exceptional extenuating circumstances.

(c) Working papers will be distributed for discussion only if prior permission is given by the Chair of the committee or relevant sub-group. They will be archived only if they are appended to the meeting report.

(d) The Scientific Committee may receive and consider unpublished scientific documents from non-members of the Committee (including observers) and may invite them to introduce their documents at a meeting of the Committee provided that they are received under the same conditions (with regard to timing etc.) that apply to members.

#### 5. Publication of Scientific Papers and Reports.

(a) Scientific papers and reports considered by the Committee that are not already published shall be included in the Commission's archives in the form in which they were considered by the Committee or its sub-committees. Papers submitted to meetings shall be available on request at the same time as the report of the meeting concerned (see (b) below).

(b) The report of the Annual Meeting of the Scientific Committee shall be distributed to the Commission *or Bureau in accordance with the Commission's Rule of Procedure M.5. ~~no later than the beginning of the opening plenary of the Annual Commission Meeting and is confidential until this time.~~*

Reports of intersessional Workshops or Special Committee Meetings are confidential until they have been dispatched by the Secretary to the full Committee, Commissioners and Contracting Governments.

Reports of intersessional Steering Groups or Sub-committees are confidential until they have been discussed by the Scientific Committee, normally at an Annual Meeting.

In this context, 'confidential' means that reporting of discussions, conclusions and recommendations is prohibited. This applies equally to Scientific Committee members, invited participants and observers. Reports shall be distributed to Commissioners, Contracting Governments and accredited observers at the same time.

The Scientific Committee should identify the category of any intersessional meetings at the time they are recommended.

(c) Scientific papers and reports (revised as necessary) may be considered for publication by the Commission. Papers shall be subject to peer review before publication. Papers submitted shall follow the Guidelines for Authors published by the Commission.

#### **F. Review of Scientific Permits**

1. When proposed scientific permits are sent to the Secretariat before they are issued by national governments the Scientific Committee shall review the scientific aspects of the proposed research at its annual meeting, or during a special meeting called for that purpose and comment on them to the Commission.

2. The review process shall take into account guidelines issued by the Commission.

3. The proposed permits and supporting documents should include specifics as to the objectives of the research, number, sex, size, and stock of the animals to be taken, opportunities for participation in the research by scientists of other nations, and the possible effect on conservation of the stock resulting from granting the permits.

4. Preliminary results of any research resulting from the permits should be made available for the next meeting of the Scientific Committee as part of the national progress report or as a special report, paper or series of papers.

#### **G. Financial Support for Research Proposals**

1. The Scientific Committee shall identify research needs.

2. It shall consider unsolicited research proposals seeking financial support from the Commission to address these needs. A sub-committee shall be established to review and rank research proposals received 4 months in advance of the Annual Meeting and shall make recommendations to the full Committee.

3. The Scientific Committee shall recommend in priority order those research proposals for Commission financial support as it judges best meet its objectives.

## H. Availability of data

The Scientific Committee shall work with the Secretariat to ensure that catch and scientific data that the Commission holds are archived and accessible using modern computer data handling techniques. Access to such data shall be subject to the following rules.

1. Information identified in Section VI of the Schedule that shall be notified or forwarded to the IWC or other body designated under Article VII of the Convention.

This information is available on request through the Secretariat to any interested persons with a legitimate claim relative to the aims and purposes of the Convention<sup>25</sup>.

2. Information and reports provided where possible under Section VI of the Schedule.

When such information is forwarded to the IWC a covering letter should make it clear that the information or report is being made available, and it should identify the pertinent Schedule paragraph under which the information or report is being submitted.

Information made available to the IWC under this provision is accessible to accredited persons as defined under 4. below, and additionally to other interested persons subject to the agreement of the government submitting the information or report.

Such information already held by the Commission is not regarded as having been forwarded until such clarification of its status is received from the government concerned.

3. Information neither required nor requested under the Schedule but which has been or might be made available to the Commission on a voluntary basis.

This information is of a substantially different status from the previous two types. It can be further divided into two categories:

(a) Information collected under International Schemes.

(i) Data from the IWC sponsored projects.

(ii) Data from the International Marking Scheme.

(iii) Data obtained from international collaborative activities which are offered by the sponsors and accepted as contributions to the Comprehensive Assessment, or proposed by the Scientific Committee itself.

Information collected as the result of IWC sponsored activities and/or on a collaborative basis with other organisations, governments, institutions or individuals is available within those contributing bodies either immediately, or, after mutual agreement between the IWC and the relevant body/person, after a suitable time interval to allow 'first use' rights to the primary contributors.

(b) Information collected under national programmes, or other than in (a).

Information in this category is likely to be provided by governments under special conditions and would hence be subject to some degree of restriction of access. This information can only be held under the following conditions:

(i) A minimum level of access should be that such data could be used by accredited persons during the Scientific Committee meetings using validated techniques or methods agreed by the Scientific Committee. After the meeting, at the request of the Scientific Committee, such data could be accessed by the Secretariat for use with previously specified techniques or validated programs. Information thus made available to accredited persons should not be passed on to third parties but governments might be asked to consider making such records more widely available or accessible.

(ii) The restrictions should be specified at the time the information is provided and these should be the only restrictions.

(iii) Restrictions on access should not discriminate amongst accredited persons.

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<sup>25</sup> [The Government of Norway notes that for reasons of domestic legislation it is only able to agree that data it provides under this paragraph are made available to accredited persons.]



(iv) All information held should be documented (i.e. described) so that accredited persons know what is held, along with stated restrictions on the access to it and the procedures needed to obtain permission for access.

#### 4. Accredited persons

Accredited persons are those scientists defined under sections A.1, 2, 3 and 6 of the Rules of Procedure of the Scientific Committee. Invited participants are also considered as 'accredited' during the intersessional period following the meeting which they attend.