

# **Rules of Procedure and Financial Regulations**

**As amended by the Commission at the 58th Annual Meeting, June 2006**  
*(amendments are shown in bold italics)*

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## **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.

### **B. Meetings**

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

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

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

2. Before the end of each Annual Meeting, the Commission shall decide on: (1) the length of the Annual Commission Meeting and associated meetings the following year; and (2) which of the Commission's sub-groups need to meet.

### **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 international organisation with offices in more than three countries may be represented at meetings of the Commission by an observer:

- if such international 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 and the Commission issues an invitation with respect to such request.

Once an international organisation is accredited, it remains accredited until the Commission decides otherwise.

(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 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 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 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 committees, 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 Commission Meeting and its associated meetings, 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**

The Commission should seek to reach its decisions by consensus. Otherwise, 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 whose annual payments including any interest due have not been received by the Commission within 3 months of the due date prescribed in Regulation E.2 of the Financial Regulations or by the day before the first day of the next Annual or Special Meeting of the Commission following the due date, or, in the case of a vote by postal or other means, by the date upon which votes must be received, whichever date occurs first, shall be automatically suspended until payment is received by the Commission, unless the Commission decides otherwise.

(b) The Commissioner of a new Contracting Government shall not exercise the right to vote either at meetings or by postal or other means unless the Commission has received the Government's financial contribution or part contribution for the year prescribed in Financial Regulation E.3.

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 IWC Annual Meeting venues 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 Meeting at which he/she is elected. The Chair shall serve for a period of three years and shall not be eligible for re-election as Chair until a further period of three 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;

(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.

(i) for Annual Meetings:

- in consultation with the Secretary, to develop a draft agenda based on decisions and recommendations made at the previous Annual 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 or other meeting of the Commission, 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, 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 years and shall not be eligible for re-election as Vice-Chair until a further period of three 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 provide necessary secretarial assistance;

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

(d) despatch by the most expeditious means available:

(i) a draft agenda for the Annual 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 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;

(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.

#### **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 and recommendations under Article VI**

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

#### **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. 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.

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

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

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

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

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

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

(d) Commission agenda items assigned to it;

(e) any other matters.

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. Language of the Commission**

1. English shall be the official and working language of the Commission but 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.

#### **O. Records of Meetings**

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

#### **P. Reports**

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

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

#### **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. Such restriction is automatically lifted when the report of the meeting to which it is submitted becomes publicly available under 1. above.

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

The content of the Opening Statements shall be relevant to matters under consideration by the Commission, and shall be in the form of views and comments made to the Commission in general rather than directed to any individual or group of Contracting Governments.<sup>1</sup>

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

#### **R. Amendment of Rules**

1. These Rules of Procedure may be amended from time to time by a simple majority of the Commissioners voting, but notice of any proposed amendment shall be despatched by the most expeditious means available to the Commissioners by the Secretary to the Commission not less than 60 days in advance of the meeting at which the matter is to be discussed.

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<sup>1</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.

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

1. At each Annual 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 year including the estimated amount of the individual annual payment to be requested of each Contracting Government.

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 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 shall be sent to all Contracting Governments after they have been audited.

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

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 its participation in any Annual or Special Meeting of the Commission whichever is the earlier.

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

4. The Secretary shall report at each Annual Meeting the position as regards the collection of annual payments.

#### **F. Arrears of Contributions<sup>2</sup>**

1. If a Contracting Government's annual payments have not been received by the Commission by the due date referred to under Regulation E.2. a penalty charge of 10% shall be added to the outstanding annual payment on the day following the due date. If the payment remains outstanding for a further 12 months 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,

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<sup>2</sup> For the purposes of the Financial Regulations the expression 'received by the Commission' means either (1) that confirmation has been received from the Commission's bankers that the correct amount has been credited to the Commission's account or (2) that the Secretariat has in its possession cash, or bankers draft/international money order of the correct value.

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, have not been received by the Commission within 3 months of the due date or by the day before the first day of the next Annual or Special Meeting of the Commission following the due date, or, in the case of a vote by postal or other means, by the date upon which votes must be received, whichever date occurs first, 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 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.

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.

### 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 Meeting.

### **C. Meetings**

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

### **D. Reports**

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

## 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 other international 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 scientist 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>1</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.

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<sup>1</sup>. [Invited participants who choose to stay at a cheaper hotel will receive the actual rate for their hotel plus the same daily allowance.]

(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 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. 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 Meeting of the Commission. 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 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 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>2</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.

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<sup>2</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.]

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.

(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.