

Annex F

Chair's Summary of the Outcome of Discussions on the Future of the International Whaling Commission

At IWC/59 in Anchorage, the Commission agreed that an intersessional meeting should be held prior to the 2007 Annual Meeting to provide an opportunity for Contracting Governments to discuss the future of the organisation.

At the intersessional meeting in March 2008, the Commission focussed on ways to improve the working atmosphere within the Commission. In addition, rather than immediately trying to address substantive issues where major differences among IWC members exist, the Commission agreed to focus on process. As a result of these productive discussions it was agreed to develop:

- (1) recommendations to improve the practice and procedures of the Commission; and
- (2) recommendations on how to approach discussions/negotiations on substantive issues at IWC/60 in Santiago and beyond.

As a result, two papers were developed intersessionally with suggestions for ways forward on both these topics (IWC/60/18 and IWC/60/10). As a result of fruitful and co-operative discussions of these papers, the Commission is pleased to have developed consensus documents on both improved practices and a path towards resolution of substantive issues. These are appendices to this document.

Appendix A

REFORMING THE WORKING PROCEDURES OF THE IWC

At its 60th Annual Meeting, the International Whaling Commission considered improvements to its working practices and procedures in the context of deliberations on the future of the Commission.

The Commission agreed that it would make every effort to reach consensus on all matters of substance and that voting should be a last resort. To this end, the Commission recognised that increased dialogue between Contracting Governments and greater use of informal meetings would improve the prospects of achieving consensus. The Commission agreed that the work of the Commission should be organised to provide sufficient opportunities for all proposals to be discussed informally between Contracting Governments before action was taken by the Commission. The Commission also recognised the importance of ensuring that its proceedings took place in an environment of mutual respect, notwithstanding the differing views and perspectives among Contracting Governments.

The Commission therefore decided to amend the chapeau of Rule E of its Rules of Procedure as follows:

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

The Commission also decided to amend its Rules of Debate by adding a new rule as follows:

C.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.

In order to maximise the prospects of reaching consensus, the Commission also agreed that all proposals for action by the Commission should be circulated to Contracting Governments well in advance of the annual meeting. The Commission therefore decided to amend Rule J of its Rules of Procedure as follows:

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

1. No item of business which involves amendment of the Schedule to the Convention, or recommendations under Article VI of the Convention, **or Resolutions of the Commission**, shall be the subject of decisive action by the Commission unless the ~~subject matter~~ **full draft text** 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.

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.

The Commission also decided to amend Rule R.1 of its Rules of Procedure, to require the full text of proposed amendments to the Rules of Procedure and Rules of Debate to be circulated well in advance of the annual meeting, as follows:

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 ~~notice of any proposed amendment shall be despatched by the most expeditious means available~~ **the full draft text of any proposed amendment shall be circulated** to the Commissioners ~~by the Secretary to the Commission not less than~~ **at least** 60 days in advance of the meeting at which the matter is to be discussed.

The Commission agreed that reducing the uncertainty over the voting intentions of new Contracting Governments would improve the predictability of the Commission's Annual Meetings. It therefore decided to amend its Rules of Procedure as follows:

E.2.(b) The Commissioner of a new Contracting Government shall not exercise the right to vote either at meetings or by postal or other means:

(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.

Recognising that French and Spanish are the primary languages of many Contracting Governments, the Commission also emphasised the importance of enabling effective participation in its affairs and widely disseminating information to the public through the use of French and Spanish as working languages of the Commission. It therefore decided to amend the Rules of Procedure as follows:

N. Languages of the Commission

1. English shall be the official ~~and working 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 and communications shall be available in English, French and Spanish.*¹

The Commission further recognised the importance of ensuring accurate and timely information on the Commission's work was provided to the media. It therefore encouraged the Chair, Secretary and Head of Science to provide regular briefings to the media at the meetings of the Commission.

The Commission decided to implement the use of French and Spanish as working languages of the Commission beginning with its 60th Annual Meeting and that the other amendments to the Rules of Procedure contained in this statement would come into effect at the next meeting of the Commission.

Appendix B

TERMS OF REFERENCE FOR THE SMALL WORKING GROUP ON THE FUTURE OF THE IWC

Objectives

To assist the Commission to arrive at a consensus solution to the main issues it faces (based on Table 1) and thus to enable it to best fulfil its role with respect to the conservation of whale stocks and the management of whaling.

The working group's primary task in this regard is to make every effort to develop a package or packages for review by the Commission.

Membership

Membership of the working group will be representative in terms of e.g. views, geography and economy. It will be assisted by the Secretariat in an *ex officio* capacity, providing scientific and technical assistance as needed. A list of core members is attached, although any Commissioner may attend meetings.

In conducting the business of the working group, members agree to:

- (a) consult with those non-participating countries that it broadly represents – this will assist an inclusive process; and
- (b) take into account the known general views of all countries that are not members of the working group.

Chair

The Chair of the Commission will appoint a facilitator, one of the current experts² (based on their availability) to chair the working group under the supervision of the Chair. This will allow the Chair to intervene in the event that discussions reach an impasse.

Table 1

Elements/issues identified as being of importance to one or more Contracting Government in relation to the future of IWC. These are in alphabetical order.

1.	Advisory/Standing Committee or Bureau – need for
2.	Animal welfare
3.	Bycatch and infractions
4.	Climate change
5.	Civil society (involvement of)
6.	Coastal whaling (i.e. within EEZ)
7.	Commercial whaling moratorium
8.	Compliance and monitoring
9.	Conservation Committee
10.	Conservation management plans
11.	Convention (purpose of)
12.	Co-operative non-lethal research programmes
13.	Data provision
14.	Developments in ocean governance
15.	Ecosystem-based approach to management
16.	Environmental threats to cetaceans
17.	Ethics
18.	Financial contribution scheme
19.	Frequency of meetings
20.	Marine Protected Areas (MPAs)
21.	Objections and reservations
22.	Procedural issues – improvements to
23.	Research under special permit
24.	Revised Management Procedure (RMP)
25.	Revised Management Scheme (RMS)
26.	Sanctions
27.	Sanctuaries
28.	Science – role of science and functioning of Scientific Committee
29.	Secretariat – implications for role of/expertise
30.	Socio-economic implications
31.	Small cetaceans
32.	Trade restrictions
33.	Whalewatching/non-lethal use

¹As agreed at IWC/59 in Anchorage in 2007: i.e. simultaneous interpretation in French and Spanish in IWC Plenary and private meetings of Commissioners, and translation into French and Spanish of: (1) Resolutions and Schedule amendments; (2) the Chair's summary reports of Annual Meetings; (3) Annotated Provisional Agendas; and (4) summaries of the Scientific Committee and working group reports.

²Professor Calestous Juma, Ambassador Raúl Estrada-Oyuela and Ambassador Alvaro de Soto.

Mode of working

The working group shall decide its own *modus operandi* at an initial meeting in Santiago. It will include email, conference calls and at least one meeting prior to an intersessional meeting of the Commission. The level of confidentiality shall be such that it allows a free exchange of ideas within the working group; meetings will be closed to observers. After any meetings, the working group will develop a brief progress report to be circulated to the Commission. As noted above, members will be free to (and should) consult with countries who are not members of the working group.

Reporting

The working group will present a report on the results of its initial deliberations to the 2009 Intersessional Meeting of the Commission on the Future of IWC³; the report will be distributed at least five weeks before the intersessional. Based upon discussions there, the intersessional will direct the Working Group to continue working on a possible package or packages and develop a final report that will be distributed at least five weeks before IWC/61. The Chair of the Commission will report to all Contracting Parties on the progress made at the 2009 intersessional meeting.

Table 2
Contracting Governments who indicated their interest in participating in the small working group.

1. Antigua and Barbuda	13. Japan
2. Argentina	14. Korea, Republic of
3. Australia	15. Netherlands
4. Brazil	16. New Zealand
5. Cameroon	17. Norway
6. Chile	18. Palau
7. China	19. Panama
8. Costa Rica	20. St. Kitts and Nevis
9. Denmark	21. South Africa
10. France	22. Sweden
11. Iceland	23. UK
12. Italy	24. USA

Appendix C

TERMS OF REFERENCE FOR THE INTERSESSIONAL CORRESPONDENCE GROUP ON ISSUES RELATED TO THE SCIENTIFIC COMMITTEE

The objective of the correspondence group is to develop a discussion document (and if it deems appropriate, recommendations) on the issues listed below, recognising the inter-relationship of a number of aspects of the issues. The discussion document produced will be forwarded to the small working group on the future of the IWC at a time to be determined.

- (1) Consideration of the advantages and disadvantages of separating the Annual Meeting of the Scientific Committee from that of the Commission; this will include *inter alia*:
 - (a) logistical and financial aspects;
 - (b) scientific aspects;
 - (c) communication with the Commission⁴;
 - (d) confidentiality aspects; and
 - (e) consideration of the applicability of other 'models' such as that of the IPCC.
- (2) Consideration of ways to increase participation in the Scientific Committee of scientists from developing countries in the work of the Scientific Committee; this will include *inter alia*:
 - (a) selection process and preparation for meeting;
 - (b) financial aspects; and
 - (c) relationship with the overall invited participant process (see 4 below).
- (3) Consideration of ways in which the Scientific Committee can assist in improving the knowledge and technical capability of scientists from countries where cetacean research is in its infancy so that they can better contribute to the work of the Scientific Committee and to conservation and management issues within their region; this will include *inter alia*:
 - (a) possibility of regional training workshops (consider collaboration with other organisations, e.g. FAO, UNEP, IUCN);
 - (b) provision of materials (e.g. documents); and
 - (c) financial aspects
- (4) Review of the process for inviting participants to the Scientific Committee; this will include *inter alia*:
 - (a) objectives for inviting participants;
 - (b) reasons for non-inclusion of IWC-funded participants on national delegations of developed countries;
 - (c) selection process and advice; and
 - (d) financial aspects.

³The Chair of the working group will consult with the Secretariat and the Advisory Group in establishing a date for the intersessional meeting such that a decision can be taken on the dates by November 2008.

⁴Note that other initiatives to improve the communication with the Commission and others with respect to clarity/content of the plenary report etc. are being undertaken by the Scientific Committee itself and the initiative of France.