



# International Whaling Commission

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13 October 2006

Mr Jeremy Wates  
United Nations Economic Commission for Europe  
Environment, Housing and Land Management Division  
Bureau 332,  
Palais des Nations  
CH-1211 Geneva 10,  
SWITZERLAND

Dear Mr Wates,

**Consultation process on the Almaty Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums**

Thank you for inviting the International Whaling Commission (IWC) to take part in the above consultation process. Please note that this response reflects the views of the Secretariat of IWC and may not necessarily represent the views of all Contracting Governments.

Responses to the questionnaire are attached. Please do not hesitate to contact me should you have any questions.

Regarding participation in the intended workshop, we will review the matter nearer the time in light of the draft agenda and other commitments.

Yours sincerely,

Dr Nicky Grandy  
Secretary to the Commission

## **Questionnaire for Consultation Process on Issues Addressed by the Aarhus Convention's Almaty Guidelines**

### **1. Please provide any comments on the Guidelines, in view of your forum's own processes, activities and particular characteristics**

IWC was established under the 1946 Convention for the Regulation of Whaling, the purpose of which is to *'provide for the proper conservation of whale stocks and thus make possible the orderly development of the whaling industry'*. In 1948, there were 10 member countries – all of them being whaling nations. There are now 71 members (as of 1 October 2006), of which only seven take large whales, and among the membership there are widely differing views on the acceptability of whaling, and commercial and research whaling in particular. This creates a challenging working environment.

Section IV of the Guidelines relating to access to environmental information seem broadly acceptable and IWC's practices would largely conform (but also see response to Q.2). IWC makes extensive use of its website to make a wide range of information publicly available at no charge, including official documents and meeting reports.

However, Section V of the Guidelines relating to public participation in decision-making on environmental matters would likely be controversial in the context of IWC. As described in the response to Q.2, IWC meetings are not open to the general public, but NGOs can become accredited to IWC and attend meetings as observers, and some 100 NGOs do. The decisions of the IWC are taken by vote by member governments. NGOs are therefore not involved directly in the decision-making process, although several member governments include NGO representatives on their delegations and NGOs of course may and do, lobby member governments both at and between meetings. In addition, many member governments (and the Secretariat) receive a significant volume of correspondence from members of the general public in relation to IWC matters which governments may use in framing their policy decisions.

Given the challenging working environment of IWC, the second sentence of paragraph 1 of the Almaty Guidelines (*'.....Parties should seek to apply these Guidelines to the extent appropriate in the light of reasonable considerations such as the institutional integrity and particular characteristics of each international forum concerned.....'*) seems particularly important.

### **2. Does your forum have any formalized rules or procedures concerning access to information, public participation in decision-making, and access to justice in environmental matters?**

IWC has rules of procedure relating to access to certain types of information (see Annexes 1 and 2). Most of the information held by IWC is publicly available.

Decision-making is done by member governments. Observers from non-member governments, other intergovernmental organisations and international organisations (NGOs) are allowed to attend meetings as observers (with the exception of the Finance and Administration Committee and its sub-groups), and the relevant rules of procedure are given in Annex 3, but they do not take part directly in decision-making (see also response to Q.1). There is no limit on the number of observers from each non-member country, IGO or NGO that can register for a meeting, but NGOs are restricted to having only one representative per organisation (plus an interpreter as appropriate) in the meeting room at any one time. Currently IWC has around 100 accredited NGOs. While IWC's Rules of Debate allow the Chair to invite observers to address a meeting, current practice is that NGOs are not called on to speak. All observers are allowed, however, to submit written opening statements to meetings of the Commission (which form part of the Commission's official documentation), and can make 'for information' documents available via tables designated for this purpose. Documents and reports written/published by NGOs may be made available to the Commission as official documents, but they must be submitted by a member government. Accredited media representatives are admitted to meetings of the Commission in plenary but not to meetings of any of the Commission's sub-groups. Because of the nature of the work of the Commission and the differing views over whaling, IWC meetings receive significant media attention. Media admission is not governed by formal rules of procedure, but they do have to abide by a code of conduct. Attendance by general members of the public is not allowed.

All documents, with the exception of those for the F&A Committee and its sub-groups are made available.

**3. Does your forum have any non-formalized practices concerning access to information, public participation in decision-making, and access to justice in environmental matters?**

The general view of the Secretariat is to be as open as possible while respecting the rights of data holders (e.g. with respect to right to first publication).

**4. Are there any current or future work plans of your forum that may affect the extent of or modalities for access to information, public participation in decision-making and access to justice in environmental matters?**

The rules for accreditation of NGOs are currently under review and may be revised. For example, there is discussion on: (1) whether the existing requirement for NGOs to have offices in at least 4 countries should be relaxed to allow broadened participation (e.g. of national NGOs); and (2) whether to increase the numbers of representatives per organisation allowed in the meeting room at any one time.

**5. In particular, what kind of challenges, if any, has your forum encountered with regard to access to information, public participation in decision-making and access to justice in environmental matters (for example, low involvement of civil society, or practical difficulties in managing public participation)? If appropriate, please provide a description underlining those experiences you think could be most useful to consider when reviewing the relevance and practicality of the Almaty guidelines.**

The main challenge has perhaps been in relation to NGO participation in meetings. While the Commission welcomes the attendance of NGOs at its meetings, it believes that such attendance carries certain responsibilities. The behaviour of a small number of NGOs in the margins of recent meetings led the Commission to develop a Code of Conduct for NGOs which was adopted by consensus at the 58<sup>th</sup> Annual Meeting in June 2006 (see Annex 4). Disruptive behaviour and/or failure to conform to the Code may result in suspension or withdrawal of accreditation. While a number of NGOs have expressed an interest in being more involved in the work of the Commission (e.g. having speaking rights, taking part in working groups, preparing documents etc.), there is certainly not consensus support for this at present among member governments.

**Annex 1**  
**IWC Rules of Procedure related to access to information**

**COMMISSION RULES OF PROCEDURE**

**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.

**SCIENTIFIC COMMITTEE RULES OF PROCEDURE**

**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.

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.

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<sup>1</sup> [There is no intention that the Secretariat should conduct advance or *ex-ante* reviews of such statements.]

<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.]

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.

## Annex 2

### **Report of the Data Availability Working Group** (Annex T from *J. Cetacean Res. Manage.* 6 (Suppl.): 406-408)

**Members:** Donovan (Chair), Baker, DeMaster, Hatanaka, Hammond, Morishita, Perrin, Smith, Walløe

The Committee has noted that the question of data availability is a complex and sensitive one. A balance must be struck between the needs of the Committee and the rights of the scientists who have invested considerable time and effort in collecting the data. A number of issues were raised in our discussions last year with respect to this issue, particularly in the context of the RMP process. Although some progress was made, consensus was not reached. It was agreed that either a consensus recommendation or a limited number of options to consider at this meeting should be attempted (IWC, 2003, p.14).

#### **Experience during the past year**

The examples involving correspondence between applicants and the Institute for Cetacean Research were examined: one involving an individual scientist from the Scientific Committee; and one involving a working group established by the Scientific Committee. General features of these applications provided useful background information to the Working Group's discussions.

#### **Towards a consensus view**

All members of the Working Group **agreed** that the following three principles must be taken into account if a fair data availability solution was to be found, even if there are differences of opinion as to their relative importance:

- (1) Data represent a significant temporal and financial investment by scientists and research institutes – use of their data by others should be accompanied by appropriate safeguards;
- (2) The right of first publication is a generally accepted scientific norm;
- (3) If important management decisions are to be made, they should be based on a full scientific review of both data quality and analysis that can be independently verified.

The approach below has been **agreed** by all members of the Working Group. The only remaining issue is whether the data are held by the Secretariat or by the data owner. Most members favoured the former but agreed that the most important issue was that once an application is approved, the data are sent promptly to the successful applicant(s) – i.e. normally within two weeks (see Procedure A (2) below).

#### **THE RECOMMENDED APPROACH**

Issues of data availability affect different categories of the Committee's work. What follows concerns data that the Scientific Committee believes is particularly important to its work. Requests of a more academic or general scientific nature should be dealt with on a bilateral basis.

*Procedure A* is the process for obtaining access to data for analyses that are needed to provide the best management advice on catch limits (e.g. the RMP and AWMP).

*Procedure B* is the process for obtaining access to data for analyses the Committee believes would be valuable in providing other advice to the Commission.<sup>1</sup>

Note that the data themselves may in some cases be the same for both Procedure A and B. The difference lies in the objectives of the analyses. For Procedure A, it is therefore essential that any requests for data are accompanied by a statement of the objectives of the study and the methods likely to be used (different timelines apply for novel methods rather than standard methods). Any application for data under Procedure A restricts use of the data to producing papers for the Scientific Committee that are directly relevant to providing management advice on catch limits.

Use of the word 'meeting' below includes Annual Meetings, Special Meetings and workshops. Applications can only be made by accredited persons in accordance with the Committee's Rules of Procedure.

#### **Data Availability Group**

The Scientific Committee shall be represented by a small group comprising the Chair, the Vice-Chair and the Head of Science, hereafter called the Data Availability Group.

<sup>1</sup> For example, the request for data for VPA analyses considered last year

### **Conditions for data recipients**

Applications deemed suitable under Procedure A or Procedure B below are granted under the following conditions:

- (1) Data shall not be transmitted to third parties.
- (2) Papers may only be submitted to a Committee meeting in accordance with the time restrictions given below. Such papers must not include the raw data or the data in a form in more detail than is necessary to understand the analysis.
- (3) Papers must carry a restriction on citation except in the context of IWC meetings.
- (4) Data owners are offered co-authorship.
- (5) Publication rights remain strictly with the data owner.
- (6) Data shall be returned, to the Secretariat or the data owner as appropriate, immediately after the meeting at which the paper is submitted and any copies destroyed, unless an extension is granted.
- (7) Data requesters sign a form agreeing to the above conditions. Such forms will be held by the data owner and the Secretariat. In the case of Procedure B, the Data Availability Group will sign the agreement on the Committee's behalf and ensure that the conditions of any agreement are met by any individual scientists involved in the analysis.
- (8) In the event of a breach of the conditions in (6), serious sanctions [to be determined] will apply.

### **Procedure A**

The following shall apply with respect to data required for the process outlined in IWC (2003, pp.11-12) for the RMP, the AWMP (see IWC, 2003, pp.19-27) and other information used to provide advice on aboriginal subsistence catch limits before the relevant SLAs have been completed. The rules apply to all data owners who wish their analyses to be considered as part of the process to provide advice on catch limits.

Data owners may submit data to be treated under this procedure, even if they do not intend to analyse the data themselves.

When an application for data under this procedure is submitted, the Data Availability Group shall: (a) decide whether an application fulfils the criteria with respect to the objectives of the study; and (b) determine whether the methods proposed are considered standard or novel. The small group may take advice from the data owner, applicant or other relevant scientists in this process.

- (1) If they wish analyses to be considered by the Committee, data owners must make data used for the analysis available in an agreed form and specified resolution (if desired, to the Secretariat) no later than 6 months before the meeting at which they are to be used. Examples are given in Appendix 1. These data shall be made available to accredited persons only under the conditions listed above. Data owners shall be notified of any such requests, including a description of the objectives of the study and the methods to be used.
- (2) The Secretariat or data owners shall respond (i.e. send the data) to requests for data approved by the small group promptly, normally within 2 weeks of receiving the request.
- (3) If novel methods are to be used, Scientific Committee papers documenting data analysis and results shall be circulated no less than 3 months before the meeting at which they are to be considered. Any such papers should include sufficient documentation of the analysis for it to be fully reviewed and any associated analytical software shall be lodged with the Secretariat.
- (4) If standard methods are used, Scientific Committee papers documenting data analysis and results shall be circulated no less than 2 months before the meeting at which they are to be used.
- (5) Alternative analyses carried out in response to papers submitted under (3) or (4) shall be circulated no less than 1 month before the meeting at which they are to be used.

### **Procedure B**

This applies to data required for analyses deemed important in providing advice to the Committee other than catch limits (e.g. on the status of stocks not subject to whaling). For data not subject to Procedure A, the data owners shall produce, in collaboration with the Committee, a published protocol for data access that applies to requests generated by the Committee, to ensure clarity and a mutual understanding of the process.

- (1) The Committee shall specify the nature of the work and the data required during the meeting at which the recommendation is made, to the fullest extent possible in the time available at the meeting and in accord with the published protocol. It should also name the appropriate scientists to undertake the work and designate an appropriate timeline.
- (2) Applications to the data owners following the published protocol referred to above, should be submitted by the Data Availability Group assisted by a nominated member of the relevant delegation or institute. The Data Availability

Group will consult with relevant members of the Committee if further explanation or clarification is required.

(3) If the above process is followed, then the data owners will normally approve the applications within a specified time period in accordance with the published protocol.

(4) Applications shall only be granted under conditions given above.

## REFERENCE

International Whaling Commission. 2003. Report of the Scientific Committee. *J. Cetacean Res. Manage. (Suppl.)* 5:1-92.

## Appendix 1

### EXAMPLES OF DATA THAT COULD BE LODGED IN ACCORD WITH PROCEDURE A

- (1) If genetic analyses are tabled, then by animal one would expect:
  - (a) date sampled
  - (b) position sampled
  - (c) nuclear DNA microsatellites
  - (d) mtDNA sequences
  - (e) length, sex
- (2) If movement data analyses are tabled, then by animal one would expect:
  - (a) day of first marking
  - (b) position of first marking
  - (c) day/position of 'recapture(s)' (harvest, photo-id, telemetry)
  - (d) known additional data (e.g. length, sex)

### A WORKED HYPOTHETICAL EXAMPLE OF HOW 'PROCEDURE A' MIGHT FUNCTION

Years 0-2	Country A collects genetic samples from 200 animals
November Year 2	The data are almost all processed and the country's scientists decide that they wish an mtDNA analysis of their data to be considered by the Scientific Committee at its Annual Meeting beginning 1 June Year 3. They consult with the small group and are informed that one of the analyses they propose is considered 'standard and the other 'novel'.
December Year 2	The mtDNA data are submitted to the Secretariat at the resolution given in Appendix 1 (sequences by animal, date position, sex, length). They are now available to accredited persons following Procedure A. This is notified to the Committee by the Secretariat.
January Year 3	An accredited person (Murphy) sends in a brief standard form proposal explaining (1) the objectives of his research, (2) the methods (3) the data required and (4) agreement to abide by the conditions for data use. This is reviewed by the small group, deemed acceptable and a copy of the proposal and the agreement is sent to the data owners. They and Murphy are informed that the proposed method is considered novel and the implications of this are explained. The data are sent to the applicant by the Secretariat within 2 weeks of notification.
February Year 3	Another accredited person (Gonzalez) sends in a brief standard form proposal explaining (1) the objectives of her research, (2) the methods (3) the data required and (4) agreement to abide by the conditions for data use. This is reviewed by the small group, deemed acceptable and a copy of the proposal and the agreement is sent to the data owners. They and Gonzalez are informed that the proposed method is considered standard and the implications of this are explained. The data are sent to the applicant by the Secretariat within 2 weeks of notification.
1 March	Papers by both the data owner and Murphy using novel methods are submitted to the Committee. The data owners' paper also includes the results of the standard analysis.
1 April	Gonzalez' paper is submitted to the Committee.
1 May	Papers by the data owner and Murphy are presented
1 June Year 3	The Scientific Committee meeting

### **Annex 3**

## **IWC Rules of Procedure regarding participation in meetings by observers**

### **COMMISSION RULES OF PROCEDURE**

#### **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.

### **SCIENTIFIC COMMITTEE RULES OF PROCEDURE**

#### **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.

(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:

(h) 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.

(i) 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>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.]

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.

## **Annex 4**

### **Code of Conduct for NGOs at IWC meetings and complaints procedure**

The Commission welcomes the attendance of NGOs at its meetings but such attendance carries certain responsibilities. It is the duty of each NGO to behave with due and proper respect for the meeting proceedings and to all Contracting Governments and other governments attending IWC meetings and to abide by this code of conduct. Disruptive behaviour and/or failure to conform to this code of conduct may result in suspension or withdrawal of accreditation.

A copy of this code of conduct will be issued to each NGO observer at the beginning of each meeting.

#### Mobile telephones

Mobile telephones shall be switched off or put in 'silent' mode before entry of the observer into the meeting room.

#### Use of recording equipment

The use of audio and/or visual recording equipment is permitted during Plenary sessions of the Commission provided that such recording is carried out unobtrusively and without disturbance to the meeting. Flash photography is only permitted during the Opening Plenary.

The use of recording equipment is not permitted in meetings of the Commission's sub-groups unless the Commission decides otherwise.

#### Documents

Quotations from, or use of draft IWC documents is prohibited. Rule of Procedure Q.1\* regarding confidentiality of reports of meetings of IWC committees, sub-committees and working groups must be respected.

Only official meeting documents submitted by Contracting Governments or prepared by the Secretariat (including the collated Opening Statements from NGOs) may be distributed through pigeon-holes. The Secretariat is solely responsible for such distribution. NGOs may, however, make 'for information' documents available to participants using tables designated for this purpose. Such documents must indicate which organization is responsible for them. Documents that do not meet this requirement will be removed by the Secretariat.

While 'for-information' documents will not be reviewed by the Secretariat before being placed on the designated tables, those NGOs distributing such documents remain responsible for their content. These documents shall not contain statements that defame any participating organization or person, or cause serious offence to any government.

#### Behaviour and demonstrations

Behaviour of representatives of NGOs shall not be disruptive to the proceedings of the meeting. The Chair of the proceedings may ask anyone disrupting the meeting to leave the room.

Demonstrations at the meeting venue shall take place at sites designated for such purposes by the host government. In any event, demonstrations shall neither take place within the meeting rooms or their immediate vicinity within the venue of the meeting controlled by the IWC, nor impede access to the meeting venue, nor shall they threaten the physical safety of delegations attending the meeting.

#### Complaints

Differences in views and philosophy are natural and should be respected. Any participant shall refrain from measures, including verbal, written, or physical attacks designed to deter the exercise of the rights of others to hold and express different views.

Any participant who has a grievance in this regard should submit a written complaint to the Secretary, who will try to resolve the problem with the parties concerned. If this fails, the Secretary will report the matter to the Advisory Committee who shall liaise with the parties concerned to seek a resolution. If this fails, the Advisory Committee will refer to the Commission for decision-making.

\* Rule of Procedure Q.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).'