

Review of the practices of a selection of Inter-Governmental Organisations on quorums in the light of discussions within the IWC, with suggestions for a way forward

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1 INTRODUCTION

Following discussions on the proposed South Atlantic Whale Sanctuary at IWC/63 the Commission agreed to establish an intersessional group (the IGQ) to consider the interpretation of its Rules of Procedure regarding the quorum necessary for a decision to be taken.

The role of the intersessional group was defined at IWC/63 and is '*...to consider the interpretation of the Commission's Rules of Procedure regarding the quorum necessary for a decision to be taken and, if appropriate, to present for the consideration of the Commission at IWC 64 a proposal to amend the Rules so as to clarify the matter.*'¹

The terms of reference for the IGQ were provided in Circular Communication IWC.CCG.968 of 12 October 2011. They indicate that the work will address the issues below:

- (1) What comprises 'attendance' – this relates both to whether the requirement for a quorum is a continuing one that can be applied at any point at a meeting or whether there is a point in time at which a decision on whether the meeting is quorate can be taken (e.g. at the start of the complete meeting, at the start of a session, when a vote is called for etc.) and also on the location of members of the Commission (e.g. in the room, in the building, etc);
- (2) What is precisely meant by 'members of the Commission' e.g. Commissioners (or alternate Commissioners) with accepted credentials;
- (3) Whether in deciding a majority this simply refers to 'members' from all signatories to the Convention or does the suspension of the right to vote (Rule E2) have any relevance.

The timetable for the IGQ work states that the Secretary and the Chair of the IGQ will develop a discussion document (by end of February) that examines:

- the history of the 'quorum' within the IWC including the origin of the Rule of Procedure and any previous examples of its use; and
- a summary of the issue and practice in other intergovernmental organisations (members may suggest relevant organisations for the Secretariat to approach).

This review document fulfils this part of the work of the IGQ. A series of possible actions to support the development of a proposal for consideration by the F&A Committee and subsequently the Commission are provided as part of the conclusion to this review.

2 METHODS USED TO CONDUCT THE REVIEW

Previous similar reviews (e.g. IWC/60/18² and IWC/63/F&A3³) have compared the IWC's rules and procedures with those of a selection of other Inter-Governmental Organisations (IGOs) including both Regional Fisheries Management Organisations (RFMOs) and other non-fisheries IGOs.

In addition to the 11 IGOs considered in IWC/60/18, this review also includes the Western and Central Pacific Fisheries Commission (WCPFC) because of its relatively modern constitution and the United Nations General Assembly (UNGA) because of the maturity of its rules and procedures. The 13 organisations considered are shown in Table 1. This list is not intended to be exhaustive but provides an illustration of the range of practices of other organisations.

¹ The objective of the working group was established during Commission discussion on the proposed South Atlantic Sanctuary. See Section 9.2.2 of the Chair's Report of IWC/63.

² IWC/60/18 on possible improvements to procedural issues identified at the March 2008 intersessional meeting on the future of the IWC

³ IWC/63/F&A 3 on review of IWC's Rules of Procedure

Table 1

Organisations considered in this review

Regional Fisheries Management Organisations	
CCAMLR	Commission for the Conservation of Antarctic Marine Living Resources
CCSBT	Commission for the Conservation of Southern Bluefin Tuna
IATTC/AIDCP	Inter-American Tropical Tuna Commission/Agreement on the International Dolphin Conservation Program
ICCAT	International Commission for the Conservation of Atlantic Tunas
NEAFC	North East Atlantic Fisheries Commission
NAFO	Northwest Atlantic Fisheries Organisation
WCPFC	Western and Central Pacific Fisheries Commission
Other Inter-Governmental Organisations	
FAO	Food and Agriculture Organisation of the United Nations
CBD	Convention on Biological Diversity
CITES	Convention on International Trade in Endangered Species of Wild Flora and Fauna
CMS	Convention on Migratory Species
Ramsar	Convention on Wetlands
UNGA	United Nations General Assembly

The Conventions and Rules of Procedures (RoP) of these organisations were obtained through their respective websites and the clauses relevant to quorums and decision making were tabulated (see Appendix One). Common approaches as well as any unique approaches to quorum requirements and decision making were then summarised in the results section below.

Additional insight on quorum requirements has been gained by extracting relevant text and conclusions from:

- (1) a review by Wang (2010)⁴ based on the proceedings of a broader range of international conferences than those in Table 1;
- (2) Robert's Rules of Order⁵; and
- (3) Sabel's study of Procedure at International Conferences⁶.

The review then considers the IWC's rules and procedures in the context those of the other organisations and the difficulties raised at IWC/63 that led to the formation of the IGQ. It concludes with suggestions for ways forward for the IWC including the timing of the introduction of any new practices on quorum requirements.

3 RESULTS

3.1 Review of the rules of the IGOs selected for review (and see Appendix 1)

3.1.1 Quorum requirement

Six of the seven RFMOs reviewed identified a level of attendance which constituted a quorum. Of these, four (CCSBT, IATTC, ICCAT and NAFO) state that 'attendance'⁷ by 2/3 of the Contracting Parties constituted a quorum. NEAFC has two levels of quorum, one for allowing a meeting to be opened (attendance by a majority of the Contracting Parties) and a second higher quorum of 2/3 of the Contracting Parties for a decision to be taken. The WCPFC set a higher quorum level (at least 3/4 of the members) to be present to open the meeting and permit the debate to proceed.

CCAMLR's RoP did not identify a specific quorum, they did stipulate that decisions on matters of substance shall be taken by consensus (matters other than those of substance are decided by a simple majority of the Members of the Commission present and voting).

There was greater variability within the practices of the other IGOs reviewed. FAO followed a similar practice to most RFMOs and identified a specific quorum (a majority of the member nations) but also stipulated that the Chairman should announce the number of delegates or representatives present before a vote is held so as to ensure a quorum is present at the time of decision making.

Like the example of NEAFC described above, the UNGA, CBD, RAMSAR all identified two different quorum levels – the first to declare a meeting open and permit the debate to proceed (1/3 of the members or Parties to

⁴ Wang, C. 2010. Issues on Consensus and Quorum at International Conferences. *Chinese Journal of International Law* 9: 717-39

⁵ Robert's Rules of Order Newly Revised (10th ed)

⁶ Sabel, Robbie. 2006. Procedure at International Conferences: A study of the rules of procedure at the UN and at inter-governmental conferences. Cambridge University Press.

⁷ See also Item 3.1.2

the Convention) and a second higher level for a decision to be taken (either a majority or at least 2/3 of the Parties to be present).

By contrast, CITES and CMS derive quorums not from the total membership of the organisation but instead from the number of Parties having delegations at the meeting (in both cases, one-half).

3.1.2 Definition of 'attendance'

Eight of the 12 organisations which stipulated quorum requirements indicated that parties must be 'present'⁸ in order to satisfy quorum requirements. A further three organisations simply stated that '[a proportion] of the members shall constitute a quorum'. Only one organisation (NEAFC) used the word 'attendance'. The review did not encounter any examples of RoP or Conventions which defined the words 'attendance' or 'presence' in relation to whether members had to be in the meeting room at the time of decision, although NEAFC's RoP stated that '*no vote shall be taken unless there is a quorum of at least two-thirds of the Contracting Parties*'.

The review did not encounter clarifications in any organisations' RoP on whether quorum requirements should be considered as part of consensus decision making.

3.2 Relationship of quorum requirement to payment of financial contributions

In common with the IWC, all seven of the RFMOs reviewed linked the right to participate in the taking of decisions to the payment of financial contributions. However, there are differences in the period of time before voting rights are suspended; IWC – one year, other RFMOs two years.

Only two other IGOs (FAO and CMS) linked the right to participate in decision making with the requirement to pay financial contributions (two years dues outstanding for FAO and three years for CMS).

Of all the organisations reviewed which linked voting rights to the requirement to pay financial contributions only one clarified the relationship between the quorum required for decision making and the number of countries with votes suspended through non-payment of financial contributions. Thus NAFO's Convention states that '*no vote shall be taken unless there is a quorum of at least two-thirds of the Contracting Parties*' and its Rules of Procedure clarify that '*the quorum shall not include the Contracting Parties which have no right of casting votes under the provisions of Article XVI.9 of the Convention*'. (Article XVI.9 of the Convention suspends the right to vote and present objections to Contracting Parties who have not paid contributions for two consecutive years).

4 ORIGIN OF THE IWC ROP ON QUORUM AND SUBSEQUENT INTERPRETATION

The IWC's Rules of Procedure (RoP) define the Commission's quorum at Rule B.1.(c) which states: '*Attendance by a majority of the members of the Commission shall constitute a quorum*'. This originated in Article 19 of the draft Rules of Procedure submitted to the 1946 International Whaling Conference which stated '*Attendance by a majority of the governments represented by plenipotentiary delegations shall constitute a quorum*'. There is no record of any further interpretation of Article 19 being provided either at the time or subsequently. At the time of the original RoP there was no provision for the suspension of vote (which was introduced in 1981).

Contact with two previous IWC Secretaries (Dr Gambell 1976-2001 and Dr Grandy 2001-2010) confirmed that prior to the problems encountered at the 2011 Annual Meeting with respect to the South Atlantic Sanctuary discussions the question of a quorum has arisen only once since 1976. This was at the Commission's Intersessional Meeting in March 2010 which was convened to make a decision on a request for a specific take of whales as a result of a decision taken at the 2009 Annual Meeting⁹. Only 35 of the Commission's 88 (at that time) Contracting Governments attended the meeting and the Chair indicated that no decision could be taken in the absence of a quorum¹⁰. However, it was deemed possible for discussions including presentation of relevant documents and the proposal itself to occur. The actual decision was made at the 2010 annual Meeting¹¹.

⁸ CITES and CMS are included in the eight organisations. Their RoP indicate that '*no session...shall take place in the absence of a quorum*' even though their quorums are defined in terms of the number of Parties having delegations at the meeting implying that refers to the quorum referring to being present in the room.

⁹ Chair's report of the Sixty-First Annual Meeting, page 24

¹⁰ Chair's Report of the Intersessional Meeting of the Commission, St. Pete Beach, Florida 4 March 2010. Page 1.

¹¹ Chair's report of the Sixty-Second Annual Meeting, pages 17-20

5 THE FINDINGS AND CONCLUSIONS OF WANG'S (2010) REVIEW

The primary purpose of Wang (2010) was to clarify the relationship between quorum requirements and decision making by consensus (as opposed to vote). Of special interest to this review is Wang's discussion of the concept of quorum, its definition, the numbers constituting a quorum and the scope of its application in a range of relatively high-level IGOs. The section of Wang's paper dedicated to quorum focuses particularly on the United Nations General Assembly, but also draws on the practices of a range of other IGOs.

Wang summarises his conclusions on the application of quorum to IGOs (pp. 731-2) as follows:

- The purpose of a quorum is to secure broad participation in the process of consideration and decision-making.
- Quorum can be described as a proportion of the entire membership to an organization or all participants in a session of an international conference, or also as a definite numeric figure indicating the required number of participants.
- Unless otherwise provided, a provision on quorum without description of its scope of application covers all types of conduct of business through the meeting, such as opening a meeting, having a debate and making a decision.
- Unless otherwise provided or except for a decision not required to be made at a meeting, the quorum for the opening of a meeting should be present for the purpose of making a decision.

6 GUIDANCE PROVIDED BY ROBERT'S RULES OF ORDER

Article III.2 of the International Convention for the Regulation of Whaling (1946) states: '*The Commission ... shall determine its own Rules of Procedure*'. Thus the IWC is not required to conform to external guidance or other codes including Robert's Rules. However at IWC/63 and indeed previous meetings, several Contracting Governments drew attention to the statements provided by Robert's Rules of Order since it is often considered as a comprehensive and informative guide to 'parliamentary' procedure.

Robert's Rules of Order makes the following points on how procedures surrounding quorums can be applied¹²:

- (1) an organisation should adopt a provision (in its bylaws) to specify the number of members that constitute a quorum;
- (2) in the absence of a quorum, any business transacted (except for procedural notions, e.g. to adjourn) is null and void;
- (3) before a presiding officer calls a meeting to order it is his or her duty to determine, although not necessarily announce, whether a quorum is present - if a quorum is not present the Chair may wait a reasonable time until there is one;
- (4) once a Chair has called the meeting to order after finding that a quorum is present, the continued presence of a quorum is presumed unless the Chair or another member notices that a quorum is no longer present - if a Chair notices that a quorum is no longer present it is his duty to declare it.

7 PRACTICES RECORDED IN SABEL'S STUDY OF PROCEDURE AT INTERNATIONAL CONFERENCES

Robbie Sabel's 2006 book 'Procedure at International Conferences' provides a study of the rules of procedure at the UN and at inter-governmental conferences. Sub-chapter 6.1.2 of his book asks the question (p101) 'Is it sufficient that there be a quorum at the opening of the meeting?'. In answering this question he notes that at a 1949 meeting of the UN General Assembly a representative had observed that there had not been a quorum present during two votes which had been held. The President ruled that the Assembly should decide whether to have another vote and the Assembly decided, by a two-thirds majority, to conduct the voting again.

With regard to procedures for calculating a quorum, Sabel (p102) draws attention to a 2002 World Health Assembly meeting where delegations apparently left the room deliberately so that a quorum would not be attained and the Chairman, on the advice of the Legal Counsel, in the absence of a quorum, suspended and later adjourned the meeting.

¹² See Robert's Rules of Order Newly Revised (10th ed.) pp. 334-40

8 DISCUSSION

A quorum is generally defined as ‘the minimum number of members of an assembly or society that must be present at any of its meetings to make the proceedings of that meeting valid’¹³. Defining a quorum is a protection against unrepresentative action in the name of the assembly being transacted by an unduly small number of members. However, it is clear that an operational definition requires more detail to be unambiguous in difficult situations.

The IWC’s provision on quorum is consistent with the approach of many of the other IGOs reviewed in this document. However, the evolution of recent practices e.g. with respect to suspension of the right to vote for non-payment of financial contributions and absence of members from meetings of annual sessions to which they are registered shows that the IWC must clarify its quorum procedures.

8.1 Level of quorum

All organisations (except CCAMLR) specified a quorum through either their Conventions or RoPs, with many organisations identifying two levels of quorum – one to allow a meeting to be opened and debate to commence, and a second higher quorum which was required for decision making. The precedent set at the March 2010 Intersessional Meeting suggests that the IWC quorum applies only to decision making.

Most of the organisations reviewed based their levels for quorum on the total membership of the organisation. However two (CITES and CMS) based their levels for quorum on the number of Parties having delegations at a particular meeting.

Wang (2010) highlighted one organisation (the Assembly of State Parties to the Rome Statute of the International Criminal Court) that sets two quorum levels, each based on a different concept of attendance: the quorum for the meeting to be opened is 1/3 of the State Parties *participating in the session*, while the quorum for voting on matters of substance is an absolute majority of *all States Parties*. He concluded that quorum can be defined in three possible ways: (1) as the proportion of the total membership of an organisation; (2) as a proportion of the participants in an annual session or (3) as a definite numeric figure.

8.2 Ongoing nature of the quorum and ‘presence’ vs ‘attendance’

Although often not explicitly stated in the RoPs or Conventions reviewed, the requirement for quorum is generally considered to be an ongoing one and the appropriate quorum must be present especially for a decision to be taken. For example NAFO’s Convention states ‘*no vote shall be taken unless there is a quorum...*’ and the General Rules of the FAO state that ‘*before proceeding to a vote or election, the Chairperson shall announce the number of delegates or representatives present. If the number is less than the number required for a quorum is present, the vote or election shall not be held*’.

Robert’s Rules of Order state that ‘*in the absence of a quorum, any business transacted is null and void (except for motions to adjourn or obtain a quorum)*’. Similarly, Wang (2010) concludes that ‘*unless otherwise provided or except for a decision not required to be made at a meeting, the quorum for the opening of a meeting should be present for the purpose of making a decision*’. Sabel’s study notes that votes have had to be re-taken at the UN General Assembly when it was subsequently realised that a quorum had not been present, and he also provides an example of a World Health Assembly meeting which was suspended and later adjourned when members apparently deliberately left the room so as to remove the quorum.

In defining a quorum, the IWC’s RoP use the term ‘attendance’ rather than ‘presence’. The results of the review suggest that it is a more normal practice for RoP to use the term ‘presence’ as this would avoid confusion over members who have registered for the annual meeting but who are not present (i.e. in the room) for a specific session.

8.3 Link between Contracting Parties with suspended votes and quorum

Although nine of the 13 organisations reviewed linked the right to cast votes and make objections to the need to make financial payments only one of the organisations (NAFO) clarified whether the presence of Contracting Parties with suspended votes should count towards the quorum (*‘the quorum shall not include Contracting Parties which have no right of casting votes’*).

For the IWC RoP B.1(c) states that ‘*attendance by a majority of the members of the Commission shall constitute a quorum*’. A straightforward interpretation of this rule is that the quorum is composed of all members i.e. including those with suspended votes.

¹³ Oxford Dictionaries (www.oxforddictionaries.com)

8.4 'Members of the Commission' and approval of credentials

Article III.1 of the ICRW (1946) states that '*The Contracting Governments agree to establish an International Whaling Commission ... to be composed of one member from each Contracting Government. Each member shall have one vote..*'. Rule A.1 of the IWC's RoP states '*A Government party to the ICRW 1946 shall have the right to appoint one Commissioner...*'. And Rule E.1 states '*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.*'

In this context, RoP D.1(a) requires that written credentials for all representatives of member governments and observers are notified to the Secretary before their participation or attendance at each meeting. RoP D.1(e) states that in case of any doubt regarding authenticity or delay in delivery of credentials the Chair of the meeting shall convene an *ad hoc* group to decide upon the question of participation in the meeting. In recent years, a Credentials Committee comprising the Secretary, Japan and New Zealand has been established to fulfil the role. Although this Committee generally meets on the evening before the opening session of the plenary, any issues it identifies with credentials are not generally resolved until after the Annual Meeting has opened.

Current practice at IWC is to permit the participation of all Contracting Governments while any outstanding issues with credentials are resolved. This is in line with observations contained in the MEA Negotiator's Handbook¹⁴ which makes a general comment that '*Representatives are provisionally entitled to participate in a meeting, pending a decision by the Conference of the Parties on whether to accept their credentials*'. At IWC any outstanding issues with credentials are generally resolved within the first 48 hours of the plenary which tends not to conflict with decision making as voting is often undertaken during the final part of the meeting when all available time has been used to seek the fullest possible agreement on proposals. However, at IWC/64 (and conceivably at subsequent meetings) there is the possibility of voting taking place early in the Annual Meeting, at a point when there may not have been time to rectify any outstanding issues with credentials. This issue needs to be addressed by the Commission.

8.5 Quorum requirements for decision making by consensus.

The IWC's RoP E. was revised in 2009 so as to read '*The Commission shall make every effort to reach its decisions by consensus*'. This change was introduced as part of the 'Future of the IWC' process, and it is in line the emerging practices of a number of other IGOs who have looked for a system of decision making which gains broad support amongst the entire membership. Since the agreement in 2009 to make every effort to reach decisions by consensus, the Commission has made several key decisions by this method, including a change to ASW quotas at IWC/62 in 2010 and the agreement of key Resolutions at IWC/63 in 2011.

Buzan¹⁵ (1981) argues that consensus ensures broad based support for decisions in a highly divided system, and avoids the danger of creation of powerful alienated minorities such as can arise from voting. Wang (2010) identifies that specific quorum requirements for consensus decision making are not generally codified in RoPs. However he argues that the requirement for a quorum is necessary to support all decisions made, regardless of the method by which the decision is taken.

In this context, and in light of the practice in other organisations, it seems sensible that decision making by consensus should be no different to decision making by voting with respect to the need for a quorum.

9 SUMMARY AND POSSIBLE ACTIONS

The objective of a quorum is to ensure that decisions are taken by a broad and representative component of the membership (recognising that the ideal presence of all members may not always be possible). The IWC defines its quorum in Rule B.1.(c) as '*attendance by a majority of the members of the Commission shall constitute a quorum*'. The setting of a quorum is broadly consistent with the practices of the other organisations reviewed. The actions suggested below are intended to clarify the application of Rule B.1.(c).

¹⁴ Multilateral Environmental Agreement Negotiator's Handbook, 2nd Edition, 2007. Published by University of Joensuu, Finland and available at: www.unfccc.int/resource/docs/publications/negotiators_handbook.pdf

¹⁵ Barry Buzan, Negotiating by Consensus: Developments in Technique at the United Nations Conference on the Law of the Sea, 75 AJIL (1981), 324, 326.

9.1 Ongoing nature of the quorum and what comprises ‘attendance’

This review suggests that the general requirement for a quorum is an ongoing one, and that the necessary number of members must be present in the meeting room especially at the point of decision making. The evidence for this includes:

- (1) the practice of many IGOs of introducing a higher quorum level for decision making as opposed to merely opening the meeting or debate (note that by precedent of March 2010, the IWC does not have a quorum for opening a meeting or holding a debate, but only with respect to decision making);
- (2) further clarifications in the RoP of some organisations which state that votes shall not be taken unless there is a quorum (NAFO) and that the Chair should announce the number of members present before a vote is held (FAO; and see Robert’s Rules of Order) ;
- (3) Wang’s overall conclusion that the quorum for the opening of a meeting should be present for the purpose of making a decision;
- (4) the guidance in Robert’s Rules of Order that ‘*in the absence of a quorum, any business transacted is null and void*’; and
- (5) the examples cited by Sabel where votes have had to be retaken when doubts have been raised over the existence of a quorum.

Each of these examples is in keeping with the overall purpose of a quorum requirement being to prevent an unduly small number of members transacting business in the name of the organisation.

Action 1: Consideration should be given to clarifying the IWC’s Rules of Procedure on:

- (1) whether the quorum requirement only applies to decision making as suggested by the March 2010 precedent; or
- (2) whether the quorum requirement is an ongoing one throughout the meeting but which should be applied particularly at the point of decision making (see also Action 4 below); and
- (3) whether to change the term ‘attendance’ to something more specific such as ‘present in the room’; and
- (4) whether the Chair should [formally] check and announce that a quorum is present before a vote is taken; and
- (5) what is the appropriate action to take if a quorum is not present for a particular vote (e.g. close the item, formally leave it open until later in a meeting when a quorum is present).

9.2 Link between Contracting Parties with suspended votes and quorum

RFMOs often link suspension of voting rights to non-payment of financial contributions. Only one organisation’s RoP (NAFO) clarifies whether a Contracting Party with a suspended vote can form part of a quorum. At IWC in the absence of an instruction to the contrary the presumption has been to count Contracting Governments with suspended votes as part of the quorum, although this has not been formally discussed.

Action 2: Consideration might be given to clarifying the IWC’s Rules of Procedure to specify whether a Contracting Government with a suspended vote should be included in the quorum necessary for decision making.

9.3 Members of the Commission, and approval of credentials

Given the discussions and conclusions reached during the debate on the South Atlantic Sanctuary at IWC/63, it is possible that voting may take place early in the meeting at IWC/64 (and perhaps at subsequent meetings) before there has been opportunity to resolve all outstanding issues with credentials (which may take up to 48 hours). The general presumption in IWC has been that Governments can participate whilst outstanding issues are dealt with, although this has not involved voting.

Action 3: Consideration might be given to clarifying the IWC’s Rules of Procedure to specify whether a decision can be taken before any outstanding issues regarding credentials have been rectified and whether, if a vote can be taken before such issues are resolved, members whose credentials are under review can participate in such votes.

9.4 Quorum requirements for decision making by consensus.

Following the change to the Rules of Procedure adopted in 2009 the Commission has sought to make every effort to reach decisions by consensus rather than voting. Following Buzan (1981), Wang (2010) and the

practice in some other organisations, it seems sensible that decision making by consensus should be no different to decision making by voting with respect to the need for a quorum.

Action 4: Consideration might be given to whether it is necessary to clarify the IWC's Rules of Procedure to specify that decision making by consensus is no different to decision making by voting with respect to the need for a quorum.

9.5 Timing of introduction of changes to rules on quorum

At IWC/63 the Commission agreed to continue to discuss the establishment of a South Atlantic Whale Sanctuary as the first substantive Agenda Item at IWC/64 and that if consensus cannot be reached on the item, a decision would be taken in accordance with the Commission's Rules of Procedure.

Given the possible requirement for a vote at IWC/64, consideration should be given to a possible method for establishing Commission agreement to any proposals clarifying quorum requirements ahead of, or as part of the continuation of discussions on the South Atlantic Whale Sanctuary.

Any proposals from the IGQ will be circulated at least 60 days in advance of IWC/64 and will be debated first by the F&A Committee, who will report on those discussions and may make a recommendation (ideally by consensus) to the Commission. Possible options to be discussed and agreed at the Private Commissioners' meeting held the day before the opening plenary include:

- (1) Commissioners' agree to be bound by F&A Committee recommendations on quorum (or choose an option if alternatives are presented) prior to those recommendations being discussed by plenary; or
- (2) Commissioners' agree that the Plenary hears that part of the F&A Committee report on quorum prior to the Agenda Item on the SAWS being re-opened; or
- (3) Commissioners' agree to continue the discussions on the SAWS as the first Agenda Item, but to postpone a decision until the F&A Committee report on quorum has been heard by plenary.

Action 5: Consideration should be given to a method or methods to establish Commission agreement on the timing of the introduction of any changes intended to clarify the Commission's rules and procedures on quorum, in the context of the Agenda Item on SAWS.

Appendix One: Extracts from the Rules and Procedures of other RFMOs and IGOs relevant to quorums and decision making.

Regional Fisheries Management Bodies (RFMOs)

Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR)

Article XII.1 & 2 of the Convention:

1. Decisions of the Commission on matters of substance shall be taken by consensus. The question of whether a matter is one of substance shall be treated as a matter of substance.

2. Decisions on matters other than those referred to in paragraph 1 above shall be taken by a simple majority of the Members of the Commission present and voting.

Article XIX.6 of the Convention

6. A Member of the Commission that fails to pay its contributions for two consecutive years shall not, during the period of its default, have the right to participate in the taking of decisions in the Commission.

Available from: http://www.ccamlr.org/pu/e/e_pubs/bd/toc.htm

Commission for the Conservation of Southern Blue-Fin Tuna (CCSBT)

Rules of Procedure, Rule 4:

4. Two-thirds of the Members shall constitute a quorum.

Article 7 of the Convention for the Conservation of Southern Blue Fin Tuna:
Each Party shall have one vote in the Commission. Decisions of the Commission shall be taken by a unanimous vote of the Parties present at the Commission meeting.

Article 11.3 of the Convention for the Conservation of Southern Blue Fin Tuna:
3. Notwithstanding the provisions of Article 7, any Party that has not paid its contributions for two consecutive years shall not enjoy the right to participate in the decision-making process in the Commission until it has fulfilled its obligations, unless the Commission decides otherwise.

Available from http://www.ccsbt.org/site/basic_documents.php

Inter-American Tropical Tuna Commission / Agreement on the International Dolphin Conservation Programme (IATTC/AIDCP)

Article VIII.3 (Meetings of the Commission) of the Antigua Convention:

3. The meetings of the Commission shall be held only when a quorum is present. Quorum is reached when two-thirds of the members of the Commission are present. This rule shall also apply to meetings of subsidiary bodies established under this Convention.

Article XV.4 (Contributions) of the Antigua Convention:

4. Notwithstanding the provisions of Article IX of this Convention, unless the Commission decides otherwise, if a member of the Commission is in arrears in the payment of its contributions by an amount equal to or greater than the total of the contributions due from it for the preceding twenty-four (24) months, that member shall not have the right to participate in decision-making in the Commission until it has fulfilled its obligations pursuant to this Article.

Available from: <http://www.iattc.org/IATTCdocumentationENG.htm>

International Commission for the Conservation of Atlantic Tunas (ICCAT)

Article III.3 of the International Convention for the Conservation of Atlantic Tunas:

3. Except as may otherwise be provided in this Convention, decisions of the Commission shall be taken by a majority of the Contracting Parties, each Contracting Party having one vote. Two-thirds of the Contracting Parties shall constitute a quorum.

Article X.8 of the International Convention for the Conservation of Atlantic Tunas:

8. The Commission may suspend the voting rights of any Contracting Party when its arrears of contributions equal or exceed the amount due from it for the two preceding years.

Rule 9.20 of the Rules of Procedure:

20. The voting rights of any member of the Commission may be suspended by the Commission if the arrears of contributions of that member equal or exceed the amount due for the two preceding years.

Available from: <http://www.iccat.es/en/>

North East Atlantic Fisheries Commission (NEAFC)

Rules of Procedure, Chapter 3 (Meetings), Rule 10:

10. Attendance by a simple majority of the Contracting Parties shall constitute a quorum for opening the meeting.

Rules of Procedure, Chapter 6 (Voting), Rule 23:

23. Each Contracting Party shall have one vote in the Commission. Decisions of the Commission shall be taken by a simple majority or, if this Convention specifically requires a qualified majority, by a two-thirds majority of the votes of all Contracting Parties present and casting affirmative or negative votes, provided that no vote shall be taken unless there is a quorum of at least two thirds of the Contracting Parties. If there is an even division of votes on any matter which is subject to a simple majority decision the proposal shall be regarded as rejected (Article 3(9) of the Convention).

Article 17.8 of the 'new' NEAFC Convention:

8. A Contracting Party which has not paid by the date determined by the Commission its contributions for two years shall not enjoy the right of casting votes and of making objections under this Convention until it has fulfilled its obligations, unless, at the request of the Contracting Party concerned, the Commission decides otherwise.

Available from: <http://www.neafc.org/basictexts>

Northwest Atlantic Fisheries Organisation (NAFO)

Article V.2 of the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries:

2. Except where otherwise provided, decisions of the General Council shall be taken by a majority of the votes of all Contracting Parties present and casting affirmative or negative votes, provided that no vote shall be taken unless there is a quorum of at least two-thirds of the Contracting Parties.

Rule 2 of the Rules of Procedure for the General Council:

2.2 The quorum shall not include the Contracting Parties which have no right of casting votes under the provisions of Article XVI.9 of the Convention.

2.3 At meetings of the subsidiary bodies, decisions shall be taken by a majority of votes of all members of the relevant subsidiary body, present and casting affirmative or negative votes, provided that no vote shall be taken unless there is a quorum of at least two-thirds of all members of the relevant subsidiary body.

Article XVI.9 of the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries:

9. A Contracting Party which has not paid its contributions for two consecutive years shall not enjoy any right of casting votes and presenting objections under this Convention until it has fulfilled its obligations, unless the General Council decides otherwise.

Convention available from: <http://www.nafo.int/about/frames/about.html>
 Rules of Procedure for the General Council available from:
www.nafo.int/about/overview/governance/rules.pdf

Western and Central Pacific
 Fisheries Commission
 (WCPFC).

Rules of Procedure (Quorum):

14. The Chairman may declare a meeting of the Commission open and permit the debate to proceed when at least three-fourths of the members of the Commission are present.

Article 20.2 of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean:

2. Except where this Convention expressly provides that a decision shall be made by consensus, if all efforts to reach a decision by consensus have been exhausted, decisions by voting on questions of procedure shall be taken by a majority of those present and voting. Decisions on questions of substance shall be taken by a three fourths majority of those present and voting provided that such majority includes a three-fourths majority of the members of the South Pacific Forum Fisheries Agency present and voting and a three-fourths majority of non-members of the South Pacific Forum Fisheries Agency present and voting and provided further that in no circumstances shall a proposal be defeated by two or fewer votes in either chamber. When the issue arises as to whether a question is one of substance or not, that question shall be treated as one of substance unless otherwise decided by the Commission by consensus or by the majority required for decisions on questions of substance.

Article 18.3 of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean:

If a contributor is in arrears in the payment of its financial contributions to the Commission it shall not participate in the taking of decisions by the Commission if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. ... The Commission may, nevertheless, waive such interest payments and permit such a member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the member.

Rules of Procedure available at: <http://www.wcpfc.int/guidelines-procedures-and-regulations>

Convention available at: <http://www.wcpfc.int/key-documents/convention-text>

Other IGOs:

United Nations General
 Assembly (UNGA)

Section XII (Plenary Meetings) of the Rules of Procedure of the General Assembly of the United Nations, Rule 67:

The President may declare a meeting open and permit the debate to proceed when at least one third of the members of the General Assembly are present. The presence of a majority of the members shall be required for any decision to be taken.

Available at <http://www.un.org/en/ga/about/ropga/plenary.shtml>

Food and Agriculture
 Organisation (FAO)

Rule XII 2.a&b (Quorum and Voting Arrangements at Meetings of the Conference and Council) of the General Rules of the Organisation:

2.a) Except as otherwise provided by the Constitution or these Rules, in the Conference a majority of the Member Nations and in the Council a majority of the Members of the Council shall constitute a quorum.

2.b) Before proceeding to a vote or election, the Chairperson shall announce the number of delegates or representatives present. If less than the number required for a quorum is present, the vote or election shall not be held.

Article III.4 (The Conference) of the FAO Constitution:

4. Each Member Nation shall have only one vote. A Member Nation which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the Conference if the amount of its arrears equals or exceeds the amount of the contributions due from it for the two preceding calendar years. The Conference may, nevertheless, permit such a Member Nation to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member Nation.

Rules and Constitution available at:

www.fao.org/docrep/meeting/022/K8024E.pdf

Convention on Biological
Diversity (CBD)

Rule 30 (Conduct of Business) of the Rules of Procedure for Meetings of the Conference of the Parties to the Convention on Biological Diversity:

30. The President may declare a session of the meeting open and permit the debate to proceed if at least one third of the Parties to the Convention are present and have any decisions taken when representatives of at least two thirds of the Parties are present

Available at www.cbd.int/doc/legal/cbd-rules-procedure.pdf

Convention on International
Trade in Endangered
Species of Wild Fauna and
Flora (CITES)

Rule 7 (Quorum) of Rules of Procedure for the 15th Conference of the Parties:

7. A quorum for a plenary session of the meeting or for a session of Committee I or II shall consist of one-half of the Parties having delegations at the meeting. No plenary session or session of Committee I or II shall take place in the absence of a quorum.

Rule 26.1 & 26.2 (Majority) of Rules of Procedure for the 15th Conference of the Parties:

1. Except where otherwise provided for under the provisions of the Convention, these Rules or the Terms of Reference for the Administration of the Trust Fund, all votes on procedural matters relating to the conduct of the business of the meeting shall be decided by a simple majority of the Representatives present and voting, while all other decisions shall be taken by a two-thirds majority of Representatives present and voting.

2. For the purpose of these Rules of Procedure, "Representatives present and voting" means duly accredited Representatives present and casting an affirmative or negative vote. Representatives abstaining from voting or Representatives who cast a vote of abstention, shall not be counted in calculating the majority required.

Available at: <http://www.cites.org/eng/cop/15/doc/index.shtml>

Convention on Migratory
Species (CMS)

Rule 9(2) (Quorum) of the Provisional Rules of Procedure for the tenth meeting of the Conference of the Parties:

2. A quorum for plenary sessions and sessions of the Committee of the Whole of the meeting shall consist of one-half of the Parties having delegations at the meeting. No plenary session or session of the Committee of the Whole shall take place in the absence of a quorum.

Rule 15(2) (Methods of voting) of the Provisional Rules of Procedure for the tenth meeting of the Conference of the Parties:

2. Representatives of Parties which are three or more years behind in paying their subscriptions on the date of the opening session of the meeting of the Conference of the Parties shall not be eligible to vote. However, the Conference of the Parties may allow such Parties to exercise their right to vote if it is satisfied that the delay in payment arises from exceptional and unavoidable circumstances, and shall receive advice in this regard from the Standing

Committee.

Available at:

http://www.cms.int/bodies/COP/cop10/docs_and_inf_docs/meeting_docs.htm

Ramsar Convention

Rule 30 (Conduct of Business) for Meetings of the Conference of the Contracting Parties to the Convention on Wetlands of International Importance Especially as Waterfowl Habitat:

The President may declare a session of the meeting open and permit the debate to proceed if at least one third of the Parties to the Convention are present, and may have decisions taken when representatives of at least two thirds of the Parties are present.

Available at: http://www.ramsar.org/cda/en/ramsar-documents-rules/main/ramsar/1-31-114_4000_0
