

NJG/JAC/29656

20 February 2003

CIRCULAR COMMUNICATION TO COMMISSIONERS  
AND CONTRACTING GOVERNMENTS  
IWC.CCG.308

**Kenya and IWC**

The Secretariat has received a letter from the Commissioner for Kenya, Mr Sam Weru, explaining that, despite the best efforts of his Government, it will not be able to begin to repay its revised arrears of contributions in the current financial year as it had hoped, following the reduction in the arrears and the revised Financial Regulations adopted at the last Annual Meeting in Shimonoseki.

Mr Weru's letter and the Secretariat's response are reproduced overleaf.

Dr. Nicky Grandy  
Secretary to the Commission

**Letter of 11 February 2003 from Mr. Sam Weru, Kenyan Commissioner to the IWC**

Kenya and IWC

I write in great disappointment that despite the efforts made and goodwill expressed by all of us, my country is unable to clear the debt to the IWC, under the revised financial procedure, that has a February 28, 2003 deadline. Despite the goodwill shown by the new government, who have been in office for about 6 weeks now, it is understandable that in reconstructing the country, a lot of prioritising needs to be done in budgetary terms. In doing this, efforts are directed more to providing basic needs like education, health care and social order which had taken a thorough beating previously. The government budget year is July-June, and this regime has not yet drawn 'their' budget.

I do understand the implications of abdicating our responsibility this time round but I do hope there is something that can be done in future especially if we could come up with some kind of a plan. In spite of this lack of funding, we are still committed to the 1946 Convention, and to positively contributing to the IWC in and outside the annual Commissioners meeting. We are part of the Indian Ocean Sanctuary and a leading voice and role model in the region and we feel greatly disappointed that we are at times unable to do this, solely due to financial constraints, rather than political pressure from outside Kenya. We will continue to express our independent mind as we seek ways to incorporate IWC in our mainstream government budget in a bid to fully participate in future IWC decision making processes.

On behalf of my country I ask for your understanding and that of the Commission, and hope that the feeling that all efforts made earlier with regard to this matter have come to naught will not resort to a sense of loss and hopelessness.

Finally, should you feel that this needs to be brought to the attention of other Contracting Governments (I believe it should) please feel free to do so.

Sincerely,

Sam Weru  
Kenya's Commissioner to the IWC

**Secretariat response dated 18 February 2003**

Dear Mr Weru,

**Kenya and IWC**

Thank you for your letter of 11 February explaining that Kenya will be unable to begin repaying its arrears of contributions in the near future. Like you, we are, of course, disappointed, but we recognise the difficulties your new administration is facing. It is helpful that you are keeping us informed on this matter and I believe the members of the Commission will appreciate this information also. We will circulate your letter to Commissioners and Contracting Governments shortly, together with this response.

The date of 28 February is a 'deadline' only to the extent that the Financial Regulations require interest to be charged on amounts which remain outstanding at that time. The opportunity for establishing a repayment scheme and for an early return to full participation in the Commission is now built into the Financial Regulations, although, naturally the amounts involved will differ from those indicated to you to date and they will increase by the addition of interest annually.

The Financial Regulations immediately relevant to Kenya's situation are those in section F. and, in particular, F.5 (e)

**'F. Arrears of Contributions**

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

- a) no further annual contribution will be charged;
- b) interest will continue to be applied annually in accordance with Financial Regulation F.1.;
- c) the provisions of this Regulation apply to the Contracting Government for as long as the provisions of Financial Regulations F.1. and F.2. remain in effect for that Government;
- d) the Contracting Government concerned will be entitled to attend meetings on payment of a fee per delegate at the same level as Non-Member Government observers;
- e) the provisions of this Regulation and of Financial Regulations F.1. and F.2. will cease to have effect for a Contracting Government if it makes a payment of 2 years outstanding contributions and provides an undertaking to pay the balance of arrears and the interest within a further 2 years;
- f) interest applied to arrears in accordance with this Regulation will accrue indefinitely.'

As soon as there is a prospect that your Government might be in a position to undertake a repayment regime we will be able to calculate the amounts involved and the timetable for payments to comply with the Financial Regulations.

Please do not hesitate to contact us again if you require any further information.

Yours sincerely,

Martin Harvey  
Executive Officer