



International
Whaling
Commission

The Red House
135 Station Road
Impington, Cambridge
CB24 9NP, UK

tel: +44 (0) 1223 233971 | fax: +44 (0) 1223 232876
email: secretariat@iwcoffice.org | web: iwcoffice.org

Our Ref: SB/JAC/31401
12 October 2011

CIRCULAR COMMUNICATION TO COMMISSIONERS
AND CONTRACTING GOVERNMENTS
IWC.CCG.968

**Call for membership of the Intersessional Group to examine the issue of a quorum
within the IWC Rules of Procedure**

Following discussions on the proposed South Atlantic Whale Sanctuary at IWC/63 in 2011, the Commission decided to establish an intersessional group (hereafter the IGQ) to consider the interpretation of the Commission's Rules of Procedure regarding the quorum necessary for a decision to be taken. If appropriate, the IGQ will present for the consideration of the Finance & Administration Committee (and ultimately the Commission) at IWC/64 in 2012 a proposal to amend the Rules so as to clarify the matter (see document IWC/63/20).

At IWC/63 no practical details were developed with respect to terms of reference, membership or *modus operandi* and so, as is customary in such circumstances, these have been developed by the Secretariat in consultation with the Advisory Committee. They are presented below, followed by a call for membership of the IGQ.

Objective of the IGQ

*'...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 in 2012 a proposal to amend the Rules so as to clarify the matter.'*¹

The most relevant section of the present Rules of Procedure is a single sentence under Rule B1 relating to Meetings that states:

'Attendance by a majority of the members of the Commission shall constitute a quorum'

Given the different views expressed at IWC/63, the work of the IGQ will include consideration of at least the following three items.

- (1) What comprises 'attendance'? This relates both to whether the requirement for a quorum is an ongoing one which lasts for the duration of the 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.

In considering the above issues above, it is appropriate for the IGQ also to take account of practice in other intergovernmental organisations regarding the interpretation of quorum requirements.

¹ Extract from Chair's report of the 63rd Annual Meeting, page 32.

Chair

Following discussions with the Chair of IWC/63, the Secretariat informally approached the Commissioner for New Zealand about his availability to chair the IGQ, given his important contribution at IWC/63. He has kindly agreed to chair the IGQ.

Method of working

The Commission has allocated no funds for the completion of this work. Unless voluntary contributions are forthcoming then the IGQ will work by correspondence. If changes to the Rules of Procedure are envisioned then it will have to complete its work and submit proposals 60 days in advance of the meeting in Panama. They will not formally come into effect until the following meeting and thus will not assist the meeting in Panama unless Commissioners agree to follow any recommendations by consensus. Note that the Commission agreed at IWC/63 that the South Atlantic Sanctuary will be the first substantive agenda item at IWC/64.

Timetable

- (a) The Secretary circulates a call for membership of the IGQ along with these terms of reference (*October 2011*).
- (b) The Secretary and the Chair of the IGQ 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).

Based on the review, a suggestion or suggestions for a way forward for the IWC will be developed for consideration by the IGQ.


- (c) Members of the IGQ are invited to comment within three weeks on the discussion document and its conclusions – *comments received at least 100 days in advance of the meeting*.
- (d) The IGQ Chair develops a final document for the consideration of the Finance and Administration Committee that incorporates the views expressed, including if appropriate, proposed changes to the Rules of Procedure – *at least 60 days in advance of the meeting*.

Membership of the IGQ

The membership of the IGQ will remain open to all Contracting Governments who express an interest in joining.

ACTION REQUIRED

This Circular Communication is a call for membership of the IGQ. Any Contracting Government wishing to join the IGQ is kindly requested to notify the Secretariat via email at secretariat@iwcoffice.org. Notifications should be received at the Secretariat by **Monday 31 October**, after which time a membership list for the ICQ will be circulated to all Contracting Governments. The membership of the IGQ will remain open and other Contracting Governments wishing to join at a later date will be able to do so.



Simon Brockington
Secretary to the Commission

c.c. Intergovernmental Organisation observers to the IWC