

## Process for Intersessional Decision Making

*Executive Secretary*

### Introduction

Circular Communication IWC.CCG.1064 drew attention to Denmark's 'hope for dialogue and consultation with IWC partners on a proposed solution' in respect of its requirement for Commission approved catch limits for ASW during the intersessional period ahead of IWC65 in 2014.

This document is provided at the request of Bureau members and outlines the Commission's options for decision making during the intersessional period.

### Background

Commission document IWC/2012/IG-BB 1 examined options for review of ASW catch limits in the light of a proposed move to biennial meetings. In particular, it highlighted the following options for intersessional decision making:

- (1) The Contracting Government(s) concerned could formally notify the Secretariat (who will inform the Commission) that they will voluntarily reduce their catches for the season ahead in compliance with Scientific Committee advice. The Commission would be able to formally change the catch limits described in the Schedule at its next meeting.
- (2) A postal ballot to change the wording of the Schedule could be held. The wording would be drafted by the Secretariat in consultation with the Bureau (see Item 3) to meet the advice of the Scientific Committee.
- (3) A special meeting of the Commission could be held.
- (4) The Commission assigns responsibility to the Bureau to decide which option is appropriate on a case-by-case basis.

### Evaluation

Option (1) in the list above applies to a situation whereby approved catch limits are to be reduced in order to conform to Scientific Committee advice. Denmark has recently sought advice from the Chair on the process for reduction of its minke whale take in Greenland following the recommendations of the Scientific Committee meeting in June 2013.

Option (2) highlights the use of the postal balloting procedure outlined at Rule of Procedure E.4. This paragraph stipulates that the 'required three-fourths majority shall be of the total number of Contracting Governments whose right to vote has not been suspended...'. Document IWC/S13/BUR 6 indicates there are presently 24 countries with the right to vote suspended, meaning that there are 64 countries eligible to vote.

The last postal vote was held in March 2010 in order to confirm the Secretary's appointment. At this time a total of 46<sup>1</sup> Contracting Governments responded to the call to vote out of a total of 80 which were eligible to do so. The Secretary's appointment was confirmed because only a simple majority was required.

A three fourths majority of presently eligible 64 countries would require 48 positive responses to carry any proposal. Even in the unlikely event that all Contracting Governments responding with a 'yes' vote, previous experience indicates that the total number of votes likely to be returned would not be expected to attain the three-fourths majority requirement.

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<sup>1</sup> 44 Contracting Governments voted yes and two abstained.

Option (3) envisages an intersessional meeting is held. The following requirements would need to be satisfied:

- i. The draft text of a proposed amendment to the Schedule of the ICRW (1946) would need to be circulated to Contracting Governments at least 60 days in advance of the meeting (Rule of Procedure J.1).
- ii. Funds to cover the cost of the meeting would need to be identified. For the 2013-2014 financial year the Commission approved budget contains an expenditure line for 'other meetings' of £42,150<sup>2</sup>. Preliminary research by the Secretariat suggests that a one day meeting at a hotel close to London Heathrow Airport in December 2013 would cost in the region of £20,000. Arranging to meet at a hotel close to any major capital city airport would allow (1) relative ease of access for Commissioners travelling from overseas and (2) possible attendance by local diplomatic staff acting in the role of Alternative Commissioner in the event of Commissioners being able to travel. Alternatively a Contracting Government may wish to host the meeting.

Option (4) proposes a role for the Bureau in deciding which option is appropriate. This option was drafted before the Commission confirmed the Bureau's Terms of Reference. Subsequent Commission decisions have made clear that the Bureau's role is to assist with process management.

### **Summary**

Bureau members may wish to consider how the Commission can respond to Denmark's request for dialogue and consultation with IWC partners on a proposed solution in the event that an intersessional decision is required.

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<sup>2</sup> In recent years this allocation has been used to cover interpretation and translation costs associated with the Biennial Meeting and the Chair's Report.