

REPORT OF THE WORKING GROUP ON OPERATIONAL EFFECTIVENESS AND COST-SAVING MEASURES

Submitted to the Finance and Administration Committee at IWC/66
October 2016

The Working Group on Operational Effectiveness (WG-OE) was established under the Finance and Administration Committee at IWC/64. The WG-OE focuses on procedural and cost savings matters. The Commission endorsed the work of the WG-OE at IWC/65 and recommended that it continue its work with an enhanced membership.

The WG-OE is currently comprised of members from Antigua and Barbuda, Argentina, Australia, Chile, Denmark, Japan, the United Kingdom, and the United States. Membership remains open, and other countries are encouraged to join. The WG-OE conducted its work via correspondence. While the WG-OE does not include observers to the IWC, the WG-OE received and considered input from observers (Animal Welfare Institute and Alaska Eskimo Whaling Commission).

At IWC/65, the WG-OE was asked to consider the following 5 issues:

- (1) Consideration of the new biennial meeting pattern;
- (2) A review of the operations of the Commission such that its limited resources are used effectively;
- (3) Provide for closer engagement of the Commission in the setting of the Scientific Committee's work plans by formulating advice to the Scientific Committee on:
 - Research priorities and any specific scientific advice the Commission may require at its next meeting;
 - The Scientific Committees two-year detailed work plans, particularly where it will assist the Scientific Committee in scheduling activities and reporting over its two following annual meetings.
- (4) Unresolved issues concerning catches taken in Greenland in 2013 and 2014; and
- (5) Consideration of transferring a percentage of money donated to voluntary funds into the IWC general fund.

Members exchanged views on these matters via correspondence, and met in person on October 19 in advance of IWC/66. The Chair, Elizabeth Phelps of the United States, prepared the following summary of discussions. Brackets in text in proposals reflects areas where consensus has not been reached. The WG-OE submitted a draft report to the Commission 60 days in advance of IWC/66 in accordance with Rule of Procedure R.1 for amendment of Rules.

(1) Consideration of the new biennial meeting pattern

Comments from WG-OE members centered on the length of plenary, the use of the website and associated technology to facilitate communication intersessionally, intersessional decision making, and the effective participation of observers in the Commission's work.

Meeting length – WG-OE members supported the recommendation of the Bureau to extend the plenary session of IWC66 from four to five days. Members felt that since the movement to a biennial pattern, additional time is needed to fully consider the work of the various committees and working groups.

Recommendation: None. The IWC Chair, Secretariat, and Bureau should continue to keep the length of the plenary meeting under consideration when planning future IWC meetings.

Website – It was noted that the new biennial meeting pattern necessitates the use of technology to facilitate discussions. This includes the use of email listservs, use of the IWC webpage for document postings, correspondence and observer submittals, use of document sharing tools, or other technologies available to facilitate discussions in the intersessional period. The Bureau set up a working group on website guidance to provide general principles and practical guidance on the use of the IWC website. The WG-OE reviewed the work of the Bureau WG on Website Guidance. In Section 2 of its June 20 report to the Bureau, the Website WG outlined several different ways other intergovernmental organizations have organized website portals and forums to facilitate discussions. The majority of the systems looked at by the Secretariat were informal in nature and focused on single, specific issues. Currently, there are two focused online forums with restricted access within the IWC intranet: the cetacean disease group and the entanglement group. In addition there are email distribution lists for many of the established working groups. It is possible that the Secretariat could create similar members-only access intranet sites for other working groups.

The Secretariat also noted that a more sophisticated option to integrate sharing or library features of the members-only intranet sites with the ease of communication provided by a list serv. There could be areas where relevant documents and correspondence could be stored for the use of the members of the working groups. This could then be expanded to facilitate discussions among Commissioners during the intersessional period. The Website WG recommended an incremental approach over the next intersessional period to these various options, based upon testing the value of each option and the availability of resources. The Bureau recommended the F&A Committee review the Website WG's report and recommendations. The WG-OE reviewed the report of the Website WG and further suggests the Secretariat provide the cost of developing integrated information sharing/email distribution tools, which could be tested in one of the working groups. In addition, the F&A Committee may wish to discuss how observers would or could participate, as appropriate in working groups.

Recommendation: The WG-OE supports the recommendation of the Website WG to adopt an incremental approach to facilitate communication between Commission members intersessionally. The WG-OE also suggests modifying the draft guidance document developed by the Website WG to refer work that has not been endorsed by the Commission to both the Chair and Vice Chair.

Intersessional decision making – One WG-OE member noted that with the new biennial meeting pattern, the potential for intersessional decision making increases. One such example is the recent decision of the Commission to purchase the Red House. While this postal vote was successful in receiving adequate responses from the necessary nations with voting rights, in the

past this has not always been the case. In order to ensure that decision making may occur intersessionally, one WG-OE member suggested modifications to the Rule of Procedure E.4 regarding postal votes.

Recommendation: The WG-OE recommends that the Commission adopt the proposed changes to the Rule of Procedure E.4 found in Annex I.

Observer participation – WG-OE members noted that with the new biennial meeting pattern, additional work could be done to facilitate the participation of observers in the intersessional work of working groups and committees. The work of the Commission is strengthened from hearing not only the views of member governments, but from observers on a wide range of topics under appropriate agenda items. To further facilitate the participation of observers, the chairs of working groups, sub-committees, and committees should solicit input from observers during their intersessional work, as well as at meetings. The WG-OE suggests a modification to the Rules of Debate to clarify that more than one observer organizations may, at the Chair's discretion, only make a single intervention under any given agenda item. This proposal is presented in Annex I.

The Commission may also wish to examine ways in which observers could submit written information for consideration by Commission sub-groups during the intersessional period, such as through use of the IWC website.

Recommendation: The WG-OE suggests that chairs of working groups, committees and sub-committees solicit the input from observers in their intersessional work.

Recommendation: The WG-OE recommends that the Commission adopt the proposed changes to the Rules of Debate A.1 found in Annex I.

(2) A review of the operations of the Commission such that its limited resources are used effectively

The Working Group noted the increased requirement for electronic communication, particularly during Commission meetings. The move to paperless Commission meetings has garnered significant cost savings. However, this move has necessitated the need to ensure wireless connectivity during Commission meetings that can handle a large number of participants. The Secretariat has been very cognizant of the challenges that occurred at IWC65. Intersessionally, the use of web-conferencing tools may facilitate working group meetings.

Recommendation: The WG-OE recommends that the Secretariat continue to work to ensure that wireless connectivity is secure and can handle a large number of participants during Commission meetings. In addition, the WG-OE recommends exploring the use of web-conferencing tools to facilitate intersessional discussions.

The WG-OE also considered the efforts of the Commission to reach consensus in its decision making, as reflected in Rule of Procedure E. In order to further facilitate consensus-based

decision making, the WG-OE proposes a new Rule of Procedure and Rule of Debate that would further encourage the Chair to establish ad hoc group of interested Commissioners to help achieve consensus on issues and extend sessions, as necessary.

Recommendation: The WG-OE recommends that the Commission adopt proposed changes to the Rules of Procedure F.2(g) and Rules of Debate C.3 found in Annex I.

(3) Provide for closer engagement of the Commission in the setting of the Scientific Committee's work plans by formulating advice to the Scientific Committee on:

- **Research priorities and any specific scientific advice the Commission may require at its next meeting;**
- **The Scientific Committees two-year detailed work plans, particularly where it will assist the Scientific Committee in scheduling activities and reporting over its two following annual meetings.**

The WG-OE recognizes that it is important for the Commission and its subsidiary bodies, such as the Scientific Committee should have greater communication, particularly when setting priorities. While promoting communication between the Commission and the Scientific Committee is desirable, caution should be exercised to ensure that excessive dictation to and control of the Scientific Committee is avoided, particularly on technical and scientific matters.

Recently the Secretariat has made significant efforts to provide greater detail in its presentation of budgetary information. Additional options, however, may be available, such as a graphical presentation similar to that used by the United Nations Environment Program to present how individual budgetary items had been allocated in a given year.

The WG-OE noted that the Scientific Committee developed a new process for developing and recommending the Scientific Committee's two-year budget. These changes should be observed and assessed by the Commission before adding new processes.

Recommendation: None at this time.

(4) Unresolved issues concerning catches taken in Greenland in 2013 and 2014

The WG-OE agreed that it does not have the mandate or expertise to review or make recommendations on matters related to infractions or to address the specific concerns related to the catches of Greenland in 2013 and 2014. Argentina reiterated its position from IWC/65 that the catches taken in Greenland in 2013 and 2014 should be considered to be infractions, as in their view, in those cases where there has been no decision nor approval by the Commission on the renewal or approval of the ASW quota, the requested quota should not be considered as approved by the Commission, and all those captures without such an approval should be considered as "infractions." Other members of the WG-OE do not share this view. The Commission will need to determine if further work on this issue remains.

The WG-OE then focused on the types of procedures that could help prevent a situation where no ASW catch limits are set from being repeated in the future. The WG-OE was made aware of the report of the IWC Expert Workshop on ASW, as it pertains to improving the process for renewing ASW catch limits. The full report - which has yet to be considered by the Commission - will be discussed and debated at the ASW sub-committee meeting at IWC/66. Members of the WG-OE noted that the procedures as laid out in Table 2 of the ASW report should be helpful to ASW countries when planning on renewing their ASW catch limits, as well as to other countries when considering these proposals. To facilitate decision making with respect to ASW catch limit renewals, a number of WG-OE member countries suggest new Rule of Procedure J.4. The proponents of the new rule state that it is meant to strengthen and provide an open and transparent process to renewing ASW catch limits. The intent of the proposed new Rule of Procedure J.4 is to ensure that the requesting member government is given an opportunity to address concerns and comments in advance of the Commission meeting. It is not meant to limit debate; rather the intent is to encourage advance debate. WG-OE did not reach consensus on the language contained in the proposal, or whether it is required, but agree that further discussion should be held by the Commission, in particular following consideration of the report of the IWC Expert Workshop on ASW by the ASW Sub-Committee. Therefore, the proposed new Rule of Procedure J.4 is presented in square brackets.

Recommendation: The WG-OE recommends that the Commission consider the proposed changes to the Rule of Procedure J.4 found in Annex I.

(5) Consideration of transferring a percentage of money donated to voluntary funds into the IWC general fund

The WG-OE considered the proposal made at IWC/65 by Antigua and Barbuda to transfer a percentage of money from voluntary contributions into the IWC General Fund. Members of the WG-OE generally held the view that that the Commission should not adopt such a procedure when dealing with voluntary contributions. The WG-OE notes that the Intersessional Correspondence Group to Strengthen Financing developed an acceptance of funds policy, which was adopted at IWC/65. Should the practice of “top slicing” or “taxing” voluntary contributions be adopted by the Commission, it could become a disincentive for outside funding sources or member governments to contribute to the work of the IWC. Observer organizations commented that this is not done in other multilateral organizations, and strongly discouraged the Commission from adopting such a policy or procedure.

Recommendation: The WG-OE recommends no changes to the Commission’s acceptance of voluntary funds policy adopted at IWC/65.

ANNEX I: WG-OE PROPOSED CHANGES TO THE RULES OF PROCEDURE AND RULES OF DEBATE

Modification to Rules of Procedure

E.4 Between meetings of the Commission or in the case of emergency, a vote of the Commissioners may be taken by post, or other means of communication in which case the necessary simple **majority shall be of those Contracting Governments whose right has not been suspended under paragraph 2 casting an affirmative or negative vote**, or where required, **the necessary** three-fourths majority, shall be of **those Contracting Governments whose right to vote has not been suspended under paragraph 2 casting an affirmative or negative vote** ~~the total number of Contracting Governments whose right to vote has not been suspended under paragraph 2.~~ **In each case, a simple majority of the members of the Commission must have cast a vote.**

F.3 The Chair may form ad hoc groups of interested Commissioners at any time to facilitate the reaching of consensus consistent with Rule E.

[J.4 If a proposal to amend Schedule paragraph 13 is circulated to the Commissioners 90 days or more in advance of the Commission meeting at which that proposal is to be discussed, then Contracting Governments should endeavor to submit comments on the proposal for circulation to the Commissioners at least 30 days in advance of the meeting to facilitate consideration by the Commission.]

Modification to Rules of Debate

A.1 The Chair shall call upon speakers in the order in which they signify their desire to speak, with the exception of accredited Observers, which should be allowed to speak only after all Commissioners desiring to speak do so. ~~Observers~~ **Each Observer organization** will only be allowed to speak once at each Agenda item under discussion, and at the discretion of the Chair.

C.3 Notwithstanding anything in these Rules, the Chair may suspend the meeting for a brief period at any time in order to allow informal discussions aimed at reaching consensus consistent with Rule E of the Rules of Procedure. **The Chair may also extend a session in order to facilitate decision-making.**