

Secretariat's Note

Based on feedback received from Parties and Partners in 2014, the Secretariat considered options for simplifying the procedures for admission of observers to the Advisory Committee. The understanding is that contrary to practice in CMS, where observers get admitted at the start of each meeting, ASCOBANS Parties preferred to retain an approval procedure prior to the meetings.

With this in mind, an addition is proposed to Rule 2 (2) of the existing Rules of Procedure. The proposed change is included in the attached draft.

Under such revised Rules of Procedure, observers who were represented at the most recent meetings would not need to request observer status 60 days prior to the start of the meeting, but would automatically be included in the list of potential observers that the Secretariat communicates to Parties shortly after the 60-day deadline. Parties would then still retain the right to oppose any of the requests.

For regular observers to the AC, this arrangement would have the advantage that the normal registration deadline applies, rather than a much earlier one necessary to receive observer status for each meeting.

DRAFT
RULES OF PROCEDURE FOR THE ASCOBANS ADVISORY COMMITTEE

PART I
DELEGATES, OBSERVERS, SECRETARIAT

Rule 1: Delegates

- (1) A Party to the Agreement (hereafter referred to as a "Party")¹ shall be entitled to be represented at the meeting by a delegation consisting of a Committee Member and Alternate, when appropriate and such Advisers as the Party may deem necessary.
- (2) The Committee Member shall exercise the voting rights of that Party. In the absence of the Committee Member, the Alternate or an Adviser may be appointed by the Committee Member to act as a substitute over the full range of the Committee Member's functions.
- (3) The appointed Committee Member or alternate shall be available for consultation intersessionally.
- (4) Seating limitations may require that no more than four delegates of any Party be present at a session of the Advisory Committee or any working group established by it in accordance with Rule 18.

Rule 2: Observers

- (1) All non-Party Range States and Regional Economic Integration Organizations bordering on the waters concerned, as well as organizations listed in Footnote 3 may be represented at the meeting by observers who shall have the right to participate but not to vote.^{2 3}
- (2) Any other body or individual qualified in cetacean conservation and management which has informed the Secretariat not less than 60 days before the meeting of its desire to be represented at the meeting by observers, [or which has been represented at any of the previous [two/three] meetings,] shall be entitled to be present unless at least one-third of the Parties have opposed their application at least 30 days before the meeting.⁴ Once admitted, these observers shall have the right to participate but not to vote.

¹ See Agreement, paragraph 1.2, sub-paragraph (e), and paragraphs 8.4 and 8.5. A Party is a Range State or a Regional Economic Integration Organization which has deposited with the United Nations Headquarters its consent to be bound by the Agreement

² See Agreement, paragraph 6.2.1

³ The United Nations, acting as the Depository to this Agreement; the Secretariats, insofar as they are not included under Rule 3, and technical advisory bodies of the Convention on the Conservation of Migratory Species of Wild Animals and its daughter Agreements and Memoranda of Understanding; the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention); The Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR); the Common Secretariat for the Co-operation on the Protection of the Wadden Sea (CWSS); the North-East Atlantic Fisheries Commission (NEAFC); the International Whaling Commission (IWC); the Baltic Marine Environment Protection Commission (HELCOM); the International Council for the Exploration of the Sea (ICES); the International Union for the Conservation of Nature (IUCN); the North Atlantic Marine Mammal Commission (NAMMCO); the European Cetacean Society (ECS); the Inter-American Tropical Tuna Commission (IATTC)

⁴ See Agreement, paragraphs 6.2.2

- (3) Seating limitations may require that no more than two observers from any non-Party Range State or body be present at a session of the Advisory Committee or of any working group established by it in accordance with Rule 18.

Rule 3: Secretariat

Unless otherwise instructed by the Parties, the Secretariat shall service and act as secretariat for the meeting. Secretariat services are provided through the UNEP/CMS Secretariat.

**PART II
OFFICERS**

Rule 4: Chairpersons

- (1) The Chairperson of the Advisory Committee shall hold office until the end of the first meeting of the Advisory Committee following each Meeting of Parties.
- (2) The Chairperson and Vice-chairperson may be nominated for re-election at the end of a term of office. In the event of the election of a new Chairperson or Vice-chairperson, the Advisory Committee shall elect these persons from among the Committee Members or their advisers.

Rule 5: Presiding Officer

- (1) The Chairperson shall preside at all meetings of the Advisory Committee.
- (2) If the Chairperson is absent or is unable to discharge the duties of Presiding Officer, the Vice-Chairperson shall deputize.
- (3) In the event that both the Chairperson and the Vice-Chairperson are absent or unable to discharge the duties of Presiding Officer, the appointed Committee Member of the Party hosting the Meeting shall assume these duties.
- (4) The Presiding Officer may vote.

**PART III
RULES OF ORDER OF DEBATE**

Rule 6: Powers of Presiding Officer

- (1) In addition to exercising powers conferred elsewhere in these Rules, the Presiding Officer shall at Advisory Committee meetings:
 - (a) open and close the sessions;
 - (b) direct the discussions;
 - (c) ensure the observance of these Rules;
 - (d) accord the right to speak;
 - (e) put questions to the vote and announce decisions;
 - (f) rule on points of order; and
 - (g) subject to these Rules, have complete control of the proceedings of the Meeting and the maintenance of order.

- (2) The Presiding Officer may, in the course of discussion at a meeting, propose:
 - (a) time limits for speakers;
 - (b) limitation of the number of times the members of a delegation or observers from a State which is not a Party or a Regional Economic Integration Organization, or from any other body, may speak on any subject matter;
 - (c) the closure of the list of speakers;
 - (d) the adjournment or the closure of the debate on the particular subject under discussion;
 - (e) the suspension or adjournment of any session; and
 - (f) the establishment of drafting groups on specific issues.

Rule 7: Right to Speak

- (1) The Presiding Officer shall call upon speakers in the order in which they signify their desire to speak, with precedence given to the Committee Members.
- (2) A Committee Member, adviser or observer may speak only if called upon by the Presiding Officer, who may call a speaker to order if the remarks are not relevant to the subject under discussion.
- (3) A speaker shall not be interrupted, except on a point of order. The speaker may, however, with the permission of the Presiding Officer, give way during his speech to allow any Committee Member, adviser or observer to request elucidation on a particular point in that speech.

Rule 8: Procedural Motions

- (1) During the discussion of any matter, a Committee Member may raise a point of order, and the point of order shall be immediately, where possible, decided by the Presiding Officer in accordance with these Rules. A delegate may appeal against any ruling of the Presiding Officer. The appeal shall immediately be put to the vote, and the Presiding Officer's ruling shall stand unless a majority of the Parties present and voting decide otherwise. A delegate raising a point of order may not speak on the substance of the matter under discussion, but only on the point of order.
- (2) The following motions shall have precedence in the following order over all other proposals or motions before the Meeting:
 - (a) to suspend the session;
 - (b) to adjourn the session;
 - (c) to adjourn the debate on the particular subject or question under discussion;
 - (d) to close the debate on the particular subject or question under discussion.

Rule 9: Arrangements for Debate

- (1) The Meeting may, on a proposal by the Presiding Officer or by a Committee Member, limit the time to be allowed to each speaker and the number of times Committee Members, advisers or observers may speak on any subject matter. When the debate is subject to such limits, and a speaker has spoken for the allotted time, the Presiding Officer shall call the speaker to order without delay.
- (2) During the course of a debate the Presiding Officer may announce the list of speakers and, with the consent of the Committee, declare the list closed. The Presiding Officer

may, however, accord the right of reply to any individual if a speech delivered after the list has been declared closed makes this desirable.

- (3) During the discussion of any matter, a Committee Member may move the adjournment of the debate on the particular subject or question under discussion. In addition to the proposer of the motion, a Committee Member may speak in favour of, and a Committee Member of each of two Parties may speak against the motion, after which the motion shall immediately be put to the vote. The Presiding Officer may limit the time to be allowed to speakers under this Rule.
- (4) A Committee Member may at any time move the closure of the debate on the particular subject or question under discussion, whether or not any other individual has signified the wish to speak. Permission to speak on the motion for closure of the debate shall be accorded only to a Committee Member from each of two Parties wishing to speak against the motion, after which the motion shall immediately be put to the vote. The Presiding Officer may limit the time to be allowed to speakers under this Rule.
- (5) During the discussion of any matter a Committee Member may move the suspension or the adjournment of the session. Such motions shall not be debated but shall immediately be put to the vote. The Presiding Officer may limit the time allowed to the speaker moving the suspension or adjournment of the session.

Rule 10: Submission of Documents

As a general rule, documents intended for discussion at the meeting shall be submitted to the Secretariat at least 35 days before the meeting, who shall circulate them to all Parties at least 30 days before the meeting.

PART IV VOTING

Rule 11: Methods of Voting

- (1) Without prejudice to the provisions of Rule 1, Paragraph 2, each Committee Member shall have one vote.
- (2) The Committee shall normally vote by show of hands, but any Committee Member may request a roll-call vote. In the event of a vote during an inter-sessional period, there will be a postal ballot, which may include ballot by email or fax.
- (3) At the election of officers, any Committee Member may request a secret ballot. If seconded, the question of whether a secret ballot should be held shall immediately be voted upon. The motion for a secret ballot may not be conducted by secret ballot.
- (4) Voting by roll-call or by secret ballot shall be expressed by "Yes", "No" or "Abstain". Only affirmative and negative votes shall be counted in calculating the number of votes cast by Committee Members present and voting.
- (5) If votes are equal, the motion or amendment shall not be carried.
- (6) The Presiding Officer shall be responsible for the counting of the votes and shall announce the result. The Presiding Officer may be assisted by the Secretariat. Inter-sessional voting by postal ballot, email or fax will be co-ordinated by the Secretariat.
- (7) After the Presiding Officer has announced the beginning of the vote, it shall not be interrupted except by a Committee Member on point of order in connection with the actual conduct of the voting. The Presiding Officer may permit Committee Members to

explain their votes either before or after the voting, and may limit the time to be allowed for such explanations.

Rule 12: Majority and Voting Procedures on Motions and Amendments

- (1) Except where otherwise provided for under the provisions of the Agreement or these Rules, all votes on procedural matters relating to the forwarding of the business of the meeting shall be decided by a simple majority of Parties.
- (2) Financial decisions within the limit of the power available to the Advisory Committee shall be decided by three-quarter majority among those Parties present and voting.
- (3) Amendments to the Rules of Procedure require a three-quarter majority among those present and voting.
- (4) All other decisions shall be taken by simple majority among Parties present and voting.
- (5) When an amendment is moved to a proposal, the amendment shall be voted on first. If the amendment is adopted, the amended proposal shall then be voted upon.

PART V LANGUAGES AND RECORDS

Rule 13: Working Language

English shall be the working language of the Committee meeting and working groups.

Rule 14: Other Languages

- (1) An individual may speak in a language other than English, provided he/she furnishes interpretation into English.
- (2) Any document submitted to a meeting shall be in English.

Rule 15: Summary Records

Summary records of Committee meetings shall be kept by the Secretariat and shall be circulated to all Parties in English.

PART VI OPENNESS OF DEBATES

Rule 16: Committee Meetings

All sessions of meetings shall be open to the public, except that in exceptional circumstances the Meeting may decide, by a two-thirds majority of Parties present and voting, that any single session be closed to the public.

Rule 17: Sessions of the Working Groups

As a general rule, sessions of working groups shall be limited to the Committee Members, their advisers and to observers invited by the Chairs of working groups.

PART VII
WORKING GROUPS

Rule 18: Establishment of Working Groups

- (1) The Advisory Committee may establish such working groups as may be necessary to enable it to carry out its functions. It shall define their terms of reference. The Advisory Committee as well as the working groups may nominate members of each working group, the size of which may be limited according to the number of places available in assembly rooms.
- (2) The working group can appoint committee members, advisers as well as observers as its Chair and Vice-Chair.

Rule 18: Procedure

Insofar as they are applicable, these Rules shall apply *mutatis mutandis* to the proceedings of working groups.

PART VIII
FINAL PROVISIONS

Rule 20: Omissions

In matters not covered by the present Rules, the Rules of Procedure as adopted by the last regular Meeting of the Parties shall be applied *mutatis mutandis*.

Rule 21: Amendments to the Rules of Procedure

- (1) The Committee shall, by three-quarter majority, establish its own Rules of Procedure.
- (2) These rules may be amended by the Committee as required. They will remain in force until and unless an amendment is called for and adopted.