

# **A Review of Methods for Calculating Contributions in the International Whaling Commission and Other Fisheries Organizations**

by

**International Environmental Law Project  
Northwestern School of Law of Lewis & Clark College  
(Prof. Chris Wold and Alice Tumerelle)**

**January 15, 2001**

## **Table of Contents**

- I. Introduction
- II. Calculating Contributions in International Whaling Commission
- III. Methods for Calculating Contributions in Other Fisheries Organizations
- IV. Analysis
- V. Conclusion

Annex Relevant Text of Fisheries Organizations Relating to Methods for Calculating Contributions

## **I. Introduction**

At the 52<sup>nd</sup> Meeting of the International Whaling Commission (IWC), Antigua and Barbuda proposed to revise the method for calculating contributions to the IWC by adopting the United Nations scale of assessments. It made its proposal, because some members believe the current system is applied inequitably. While each member pays an amount equivalent to two shares for membership, some believe that developed countries should pay more. In addition, a member with an aboriginal/subsistence quota of three pays an equal share for its subsistence whaling as a member with a quota of 170. Thus, while the current system adopts a user pays approach, it is an imperfect one. Although the members did not adopt the proposal of Antigua and Barbuda, they did agree to evaluate the method for determining contributions to the IWC. This review is intended to assist that evaluation.

In comparison to the fisheries organizations reviewed in this paper, a greater portion of the IWC's budget derives from membership fees and a significantly lower amount derives from application of the "user pays" principle—in relation to the number of whales taken. First, the IWC assesses a flat membership fee of two shares for membership in the IWC, which equals £14,026 (about \$22,442) per member, which accounts for about 43% of the 2000-2001 budget. In contrast, membership fees account for 33% or less of the budget in four of the eight fisheries organizations reviewed. In addition, the membership fee is \$1000 in the International Convention for the Conservation of Atlantic Tuna (ICCAT) and essentially \$500 in the Inter-American Tropical Tuna Commission (IATTC). The IWC membership fee is higher than other fisheries organizations as a percentage of the budget.

Second, contributions based on whaling activities account for only 8.15% of the 2000-2001 IWC budget. Further, the portion of the budget deriving from whaling activities is inequitably divided. For example, Norway pays £21,567 based on its annual take of more than 500 minke whales, while St. Vincent and The Grenadines pays only £7,013 (about \$11,221) less than Norway for an aboriginal subsistence quota of three.

In contrast, members of all the other fisheries organizations pay a far greater percentage of the budget based on the user pays principle. For example, the Commission for the Conservation of Southern Bluefin Tuna and the North Atlantic Fisheries Organization divide 70% of their budgets in proportion to catches. The IATTC divides virtually its entire budget in proportion to catches, while the Northeast Atlantic Fisheries Commission (NEAFC) and the Indian Ocean Tuna Commission (IOTC) allocate two-thirds and 40%, respectively, of their budgets in proportion to catches. These organizations also apply the user pays principle more equitably than in the IWC—whereas the IWC allocates shares for the act of whaling, other organizations divide their budgets in proportion to total catches.

Also, the IWC does not allocate any of the budget based on a member's ability to pay. The IOTC and NEAFC are the only fisheries organizations that currently adjust contributions based on ability to pay, although both ICCAT and the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean have adopted such schemes. NEAFC caps contributions at 5% of the total budget for members with

fewer than 300,000 inhabitants. The IOTC calculates 40% of its budget strictly based on a member's Gross National Product (GNP)—it's ability to pay. An additional 40% of the budget is divided in proportion to a member's average catch, which is weighted by a coefficient reflecting that country's economic status.

If the IWC changes its method for calculating contributions, it should consider a greater, and more equitable, allocation of the budget in proportion to the number of whales taken in aboriginal subsistence whaling, scientific whaling, or whaling pursuant to an objection. This would alleviate the relatively high costs of membership in the IWC and place the burden on those countries whose activities require scientific and other resources of the IWC. Further, the IWC should consider membership contributions or contributions for representation at meetings weighted against a country's economic status. However, there appears to be no precedent for applying the UN scale of assessments in fisheries organizations: base membership fees, the user pays principle, and ability to pay remain the three core concepts for calculating contributions. *See Table 1.*

**Table 1. Summary of Methods for Calculating Contributions to International Fisheries Organizations**

Treaty/Organization	Method for Calculating Contributions	Comments
IWC	<ul style="list-style-type: none"> <li>• equal base fee</li> <li>• user pays</li> <li>• representation at meetings</li> </ul>	<ul style="list-style-type: none"> <li>• ability to pay not considered</li> <li>• user pays principle imperfectly applied</li> </ul>
CCAMLR	<ul style="list-style-type: none"> <li>• equal base fee</li> <li>• user pays</li> </ul>	<ul style="list-style-type: none"> <li>• budget divided in proportion to total catch</li> </ul>
IATTC	<ul style="list-style-type: none"> <li>• user pays</li> </ul>	<ul style="list-style-type: none"> <li>• budget divided in proportion to total catch utilized by that member</li> </ul>
ICCAT	<ul style="list-style-type: none"> <li>• equal base fee</li> <li>• user pays</li> </ul>	<ul style="list-style-type: none"> <li>• base fee = \$1000 for membership; \$1000 for participation in each species panel</li> <li>• two-thirds of remaining budget based on tuna caught and canned</li> <li>• system based on ability to pay proposed</li> </ul>
CCSBT	<ul style="list-style-type: none"> <li>• equal base fee</li> <li>• user pays</li> </ul>	<ul style="list-style-type: none"> <li>• 30% of budget equally divided</li> <li>• 70% divided in proportion to catches</li> </ul>
NAFO	<ul style="list-style-type: none"> <li>• equal base fee</li> <li>• user pays</li> </ul>	<ul style="list-style-type: none"> <li>• 30% of budget divided equally among all parties</li> <li>• 10% of budget divided among coastal State parties in proportion to catches</li> <li>• 60% of budget divided among all parties in proportion to their catches</li> </ul>
IOTC	<ul style="list-style-type: none"> <li>• equal base fee</li> <li>• user pays</li> <li>• ability to pay</li> </ul>	<ul style="list-style-type: none"> <li>• 10% of budget divided equally</li> <li>• 10% divided equally among members fishing in convention area</li> <li>• 40% divided based on per capita GNP</li> <li>• 40% based on average 3-year catch</li> </ul>
NEAFC	<ul style="list-style-type: none"> <li>• equal base fee</li> <li>• user pays</li> <li>• ability to pay</li> </ul>	<ul style="list-style-type: none"> <li>• 33% of budget divided equally</li> <li>• 66% of budget divided among all parties in proportion to their catches</li> <li>• contributions of members with fewer than 300,000 cannot exceed 5%</li> </ul>
Migratory Fish Stocks Convention	<ul style="list-style-type: none"> <li>• equal base fee</li> <li>• user pays</li> <li>• ability to pay</li> </ul>	<ul style="list-style-type: none"> <li>• details of method to be created when treaty enters into force</li> </ul>

## II. Calculating Contributions in the International Whaling Commission

Based on the budget approved by the IWC, members pay their “regular contributions”<sup>1</sup> in proportion to the number of “shares” that they accumulate. Members accumulate shares for participating in aboriginal/subsistence whaling, maintaining landing stations, or operating factory ships. In addition, members accumulate shares simply for being a member of the IWC and based on the number of delegates a member sends to an IWC annual meeting. Members accumulate shares according to the following formula:<sup>2</sup>

Membership		2 shares
Whaling <sup>a</sup>	Land station/small type whaling	3 shares
	Aboriginal/subsistence whaling	2 shares
	Factory ship	2 shares
Meeting Attendance <sup>b</sup>	1-3 delegates	1 share
	4-7 delegates	2 shares
	8-13 delegates	3 shares
	14-22 delegates	4 shares
	23+ delegates	5 shares

<sup>a</sup> Whaling shares are allocated on the basis of a catch in the season immediately preceding the financial year for which contributions are to be calculated.

<sup>b</sup> Meeting attendance is based on the number of delegates attending the Annual Meeting immediately preceding the financial year for which contributions are to be calculated.

The total budget is divided by the number of shares accumulated by all members to determine the “value” of each share. That value is then multiplied by the total number of shares allocated to an individual member to determine its contributions. Thus, if the total number of shares is 100, and the United Kingdom accumulates 4 shares, it pays 4/100 of the budget.

This three-part system based on membership, the user pays principle, and delegation size at meetings has prevailed since the 33<sup>rd</sup> Annual Meeting. After several years of discussion, the Secretariat proposed at the 32<sup>nd</sup> Meeting a method based on “the concept of shares for membership, past and present whaling interests and attendance at annual meetings.”<sup>3</sup> The members modified this proposal at the 33<sup>rd</sup> Annual Meeting to “produce a more equitable distribution of costs amongst members”<sup>4</sup> based on the current three-part system. The original

---

<sup>1</sup>Financial Regulations of the International Whaling Commission, Section C, *reprinted in* ANNUAL REP. INT. WHAL. COMMN 1999 (51<sup>st</sup> Meeting), at 96 (2000). Members may also make voluntary contributions, also called “funds from outside the regular contributions of Contracting governments.” *Id.*

<sup>2</sup>*Chairman’s Report of the Forty-Third Annual Meeting (1990-1991)*, 42 REP. INT. WHAL. COMMN, Appendix 8, at 50 (1992).

<sup>3</sup>*Chairman’s Report of the Thirty-Second Annual Meeting (1979-1980)*, 31 REP. INT. WHAL. COMMN, Section 26.3, at 27 (1981).

<sup>4</sup>*Chairman’s Report of the Thirty-Third Annual Meeting (1980-1981)*, 32 REP. INT. WHAL. COMMN, Section 24.4, at 32 (1982).

formula differed from the current one by allocating six shares for membership and fewer shares based on delegation size at an annual meeting.<sup>5</sup>

Prior to this three-part method for calculating contributions, the parties relied on a two-part system based on a flat rate for membership in the IWC and contributions based on use of the whales. For example, the IWC approved a new method in 1975 for calculating contributions due to increases in its expenditures based on the following formula:<sup>6</sup>

- (i) a flat rate contribution from Contracting Governments (50%)
- (ii) contributions based on operated areas (25%)
- (iii) contributions based on catches in the preceding year (25%).

To calculate the contributions under number (ii), the IWC identified the areas where each country had undertaken commercial whaling from 1954-1973. The IWC identified a total of 25 shares under number (ii). Thus, Australia, which had whaled in 2 areas, paid 2/25 of the budget under number (ii), in addition to any contributions assessed under numbers (i) and (iii). The United States whaled in one area while Norway and Japan whaled in four and five areas, respectively. The United States thus paid 1/25 of the budget under number (ii), while Norway and Japan paid 4/25 and 5/25, respectively.<sup>7</sup>

At the 28<sup>th</sup> Annual Meeting in 1976, the Finance and Administration Committee considered increasing the percentage of the budget derived from countries with a historical interest in the whaling areas from 25% to 35%, decreasing the percentage based on the catches from 25% to 15%, and giving countries the opportunity to add other areas for the basis of their

---

<sup>5</sup>The original formula was as follows:

Membership	6 shares
For any number of land stations or small type whaling operations in the last completed season	3 shares
for any number of aboriginal/subsistence whaling operations during the last completed season	2 shares
For each factory ship operation in the last completed season	2 shares
Annual Meeting representation (based on the last Annual Meeting attended by a member):	
1-12 delegates	1 share
13-18 delegates	2 shares
19 or more delegates	3 shares

*Id.* At the 34<sup>th</sup> Annual Meeting, the IWC modified this formula by assessing delegations of 26 or more 4 shares. *Chairman's Report of the Thirty-Fourth Annual Meeting (1981-1982)*, 33 REP. INT. WHAL. COMMN, Section 23.7.4, at 34 (1983).

<sup>6</sup>*Chairman's Report of the Twenty-Seventh Annual Meeting (1974-1975)*, 26 REP. INT. WHAL. COMMN 31 (1976).

<sup>7</sup>*Id.*

contributions. The IWC deferred consideration of this proposal until the 29<sup>th</sup> Meeting,<sup>8</sup> where Iceland proposed a “capacity to pay” UN formula. The Members rejected this proposal, but adopted, by 12 votes to 1, the following formula proposed by the United States:

- (i) a 50% flat rate component;
- (ii) a 30% “areas of interest” component; and
- (iii) a 20% component based on the weight of whales caught by member countries in the previous season.<sup>9</sup>

Under this method, every member was required to have at least one area of interest and all members were encouraged to accept voluntary areas of interest based on possession of coastlines in areas where cetaceans occur, membership in the Antarctic Treaty, and other factors. Members thought this new method would “provide relief for the larger catching nations, assist in reducing the costs of smaller nations, provide a flexible system to take account of increasing or decreasing catches and allow for additional areas of interest to be declared adhere where appropriate.”<sup>10</sup>

Even after adopting the current framework at the 33<sup>rd</sup> Annual Meeting, the IWC has considered many other methods for calculating contributions, without adopting any or them, largely to devise a fair and equitable method and because some members appeared unlikely to pay their arrears or future contributions.<sup>11</sup> In 1986, for example, some members suggested that less active countries should perhaps pay less than more active members, but that it should not be possible for some members to pay a nominal contribution and retain a full voice in the IWC. One scheme discussed would have the effect of allocating less than 9% of the contributions to those members that regularly defaulted and recognize the differing economic situation of member countries. However, some members noted that this scheme would not necessarily ensure payment in the future and could also result in those paying higher contributions to withdraw from full participation. The IWC established an intercessional Working Group “to consider the elements which may contribute to the development of a scale of contributions which is fair and equitable, that reflects the community interests of all Contracting Governments in the effective functioning of the Commission that might result in a better record of payments by members.”<sup>12</sup>

This Working Group considered two proposals. The United States, Germany, Japan, Spain, and St. Vincent and The Grenadines favored a proposal to share 60% of the required contributions equally between all Commission members. Members would pay the balance in relation to their participation, interest and influence in the IWC’s work. The USSR proposed

---

<sup>8</sup>*Chairman’s Report of the Twenty-Eighth Annual Meeting (1975-1976)*, 27 REP. INT. WHAL. COMMN 11 (1977).

<sup>9</sup>*Chairman’s Report of the Twenty-Ninth Annual Meeting (1976-1977)*, 28 REP. INT. WHAL. COMMN 26, Appendix 9 (1978).

<sup>10</sup>*Id.*, Section 23, at 25.

<sup>11</sup>*Chairman’s Report of the Thirty-Eighth Annual Meeting (1985-1986)*, 37 REP. INT. WHAL. COMMN, Section 20.5, at 23 (1987).

<sup>12</sup>*Id.*

contributions based on membership, whaling, and nationally funded activities.<sup>13</sup>

At the 41<sup>st</sup> Annual Meeting, the Secretariat proposed a membership fee of zero, but a member would be assessed 4 shares for the right to vote and one share to receive IWC documents. The proposal sought to deprive members wishing to apply the Convention but unable or unwilling to meet their financial commitment, from the benefits of active participation in the IWC. The proposal would allow the IWC to construct its budget based on contributions that it would, in fact, receive. In addition, members that do not receive any benefits of membership would not be expected to make any financial contribution. Again, however, the members could not reach consensus.<sup>14</sup>

Two additional proposals emerged at the 42<sup>nd</sup> Annual Meeting in 1990. The Secretariat recommended that financial contributions be based on a flat membership fee of £500, supplemented by a system of shares allocated on the basis of whaling activity, receipt of documents, attendance at Annual Meetings, and right to vote. The principal objection to this proposal was that the flat membership fee was too small. Norway based its proposal on the existing method. It modified that scheme by proposing to set a membership fee between a nominal amount and 6 shares (*i.e.* 3 shares). In addition, the right to vote would not “cost” a member any shares.<sup>15</sup>

In 1993, just two years after the parties adjusted the existing method by reducing membership from six to two shares, Saint Vincent and The Grenadines proposed new rules. It wanted contributions for aboriginal subsistence whaling assessed based on the size of the quota, not on the existence of an aboriginal subsistence whaling operation. It complained that countries with quotas of three paid the same as those with quotas of 170. It also complained that Saint Vincent and The Grenadines paid more than countries belonging to the Group of Seven industrialized nations and incurred an increase of 66% (£12,000) in its contribution because of its aboriginal whaling quota of three. While other members sympathized with Saint Vincent and The Grenadines, they were unwilling to revise the newly adopted method for assessing contributions position “which had come about as the result of a very complicated process over a considerable period of time and had involved the acceptance of many compromises.”<sup>16</sup>

Just as St. Vincent and The Grenadines supported a user pays system relating to aboriginal catch, Norway also supported a user pays system that accounted for whale-watching. The United States noted that Norway’s proposal demonstrated Norway’s view that whale-watching fell within the competence of the IWC, a view the United States shared. It feared, however, that if whale-watching were included, then other factors could also be included in the

---

<sup>13</sup>*Chairman’s Report of the Thirty-Ninth Annual Meeting (1986-1987)*, 38 REP. INT. WHAL. COMMN, Section 23.5, at 26 (1988).

<sup>14</sup>*Chairman’s Report of the Forty-First Annual Meeting (1988-1989)*, 40 REP. INT. WHAL. COMMN, Section 21.5, at 33 (1990).

<sup>15</sup>*Chairman’s Report of the Forty-Second Annual Meeting (1989-1990)*, 41 REP. INT. WHAL. COMMN, Section 18.1, at 43 (1991).

<sup>16</sup>*Chairman’s Report of the Forty-Fifth Annual Meeting (1992-1993)*, 44 REP. INT. WHAL. COMMN, Section 24.5, at 27-28 (1994).



funding of the IWC, including controversial issues such as “objections to the Schedule, small cetaceans catch, the take of whales for research purposes, etc.” Several countries agreed in principal with the U.S. position.<sup>17</sup> The issue of contributions remained dormant for a few years until Antigua and Barbuda proposed using the UN scale of assessments.

### III. Methods for Calculating Contributions in Other Fisheries Organizations

A review of the methods for calculating contributions in other fisheries organizations reveals that a primary reliance on the user pays principle. In addition, all fisheries organizations allocate some portion of the budget based on a membership fee, although many limit membership fees to less than 33% of the budget. Some agreements, including the recent Convention on the Conservation of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, also incorporate ability to pay as a principle for assessing contributions.

**Inter-American Tropical Tuna Commission.** The Inter-American Tropical Tuna Commission divides joint expenses among the members based on the “proportion of the total catch from fisheries covered by [the] Convention and utilized by that contracting party.”<sup>18</sup> In addition, each member pays a base fee of \$500 if they do not utilize any tuna caught in the Convention Area.<sup>19</sup>

In 1999, the Commission established a Working Group to review the system for calculating contributions, because the United States, which had previously paid about three-fourths of the IATTC budget, decided to reduce its contributions.<sup>20</sup> The Working Group agreed to assess contributions based on a base fee and a variable payment. It also agreed on the concept of weighting contributions in relation to the level of national development of the contracting parties. To ensure a “system that meets the fundamental principle and criteria for a fair and equitable system of long term financing of the IATTC,” the variable payment will be based on catch and utilization (equally weighted) and indexed to account for national level of development and “such other factors the Parties may agree on.” The base fee will be fixed (*i.e.*, 5%, 10% or 20%) or weighted and considered over a period of two or three years.<sup>21</sup> The parties

---

<sup>17</sup>*Chairman’s Report of the Forty-Sixth Annual Meeting (1993-1994)*, 45 REP. INT. WHAL. COMMN, Section 26.2, at 39 (1995).

<sup>18</sup>Inter-American Tropical Tuna Convention, May 31, 1949, U.S.T. 230, T.I.A.S. 2044, art. I(3), available at <http://www.iattc.org/>. Because the Convention does not define the term “utilization,” some uncertainty exists regarding the apportionment of costs. Nonetheless, the United States and Costa Rica, the two original IATTC members, agreed that phrase “proportion of the total catch from fisheries covered by [the] Convention and utilized by that party” shall mean “the part of the total catch which is used for domestic consumption in the territory of that High Contracting Party or is the object of commercial transactions the financial benefits of which accrue entirely or in their major proportion to individuals or firms whose proprietors or stockholders are domiciled in the territory of that High Contracting Party.” *Exchange of Notes Between the Government of Costa Rica and Washington*, 3 March 1950, reproduced in *id.* at Annex 1.

<sup>19</sup>See Report of the Chairman, Finance Working Group (First Meeting, October 7-10, 1999), available at <http://www.iattc.org/Meetings1999ENG.htm>.

<sup>20</sup>Minutes of the 63<sup>rd</sup> Meeting of the IATTC, Section 16 (June 8-10, 1999) available at: <http://www.iattc.org/MeetingsENG.htm>.

<sup>21</sup>*Chairman’s Report of the Second Report of the Working Group on Finance* (Feb. 9-10, 2000)(available at: <http://www.iattc.org/Meetings2000ENG.htm>). See also IATTC, Finance Resolution Jun 00, para. 4 (June 2000).

will revisit this issue in June 2001.

**International Commission for the Conservation of Atlantic Tunas (ICCAT).** The members of ICCAT currently contribute a fixed amount of \$1000 annually for Commission membership and \$1000 for each membership on ICCAT's internal panels for each of the major species or groups of species. If the proposed budget for joint expenses exceeds this fixed amount, the members cover the excess proportionally. One-third of the excess is covered in proportion to the fixed amount paid annually by each party. The remaining two-thirds is covered based on "the round weight of catch of Atlantic tuna and tuna-like fishes and the net weight of canned products of such fishes for each contracting party."<sup>22</sup>

In 1991, ICCAT adopted the *Basic Principles for the New Method of Calculating Contributions* to reduce the financial burden on less developed countries. The new rules, which become effective when the Madrid Protocol enters into force,<sup>23</sup> divides members into four groups based on economic development and per capita GNP and on tuna catch and canned production (the dollar and weight amounts in [ ] are variables, which the Commission may modify):

Group A: Contracting parties with developed market economies (France, Japan, Mexico, United States).

Group B: Contracting parties not included in Group A, but with per capita GNP exceeding [US\$2,000] (adjusted to 1991 dollar values) and with combined tuna catch and canning exceeding [5,000 MT] (Costa Rica, Ecuador, Panama, Vanuatu, Venezuela).

Group C: Contracting parties not included in Groups A or B, with per capita GNP exceeding [US\$2,000] or whose combined catch and canned production exceeds [5,000 MT];

Group D: Countries not included in Groups A, B or C (El Salvador, Nicaragua).

Based on these groups, the new scheme assesses contributions as follows:

- (1) Each Contracting Party will be assessed \$1000 for Commission membership and \$1000 for each panel membership;
- (2) Group D countries are assigned [0.25] percent of the budget;
- (3) Group C countries are assigned [1.0] percent of the budget;
- (4) Group B countries are assigned [3.0] percent of the budget; and
- (5) Group A countries are assigned the percentage of the budget remaining after assignment to the other three groups.

---

<sup>22</sup>International Convention for the Conservation of Atlantic Tunas, art. X(2), May 14, 1966, 673 U.N.T.S. 63, 20 U.S.T. 2887, available at <http://www.iccat.es>.

<sup>23</sup>Madrid Protocol to amend paragraph 2 of Article X of the ICCAT Convention, June 5, 1992, available at: <http://www.oceanlaw.net>. The Protocol will enter into effect when all the Contracting Parties in Group A ratify or accept it and when two-thirds of the remaining Contracting Parties ratify or accept it. A summary of the *Basic Principles for the New Method of Calculating Contributions* is available at: <http://www.iccat.es>.

**Commission for the Conservation of Southern Bluefin Tuna (CCSBT).** CCSBT members contribute to the annual budget in two different ways. Thirty percent of the budget is divided equally among all the parties, the rest is divided “in proportion to the nominal catches of southern bluefin tuna” among all parties.<sup>24</sup> Expenses of the arbitral tribunal, including the remuneration of its members, are borne by the parties to the dispute in equal shares.<sup>25</sup>

**Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR).** The CCAMLR commission assesses contributions from each member based on the amount of fish harvested and an equal sharing among all members of the commission. The commission determines by consensus the extent to which the two criteria apply.<sup>26</sup> Expenses of the arbitral tribunal, including remuneration of its members, are borne by the parties to the dispute in equal shares.<sup>27</sup> However, the Standing Committee on Administration and Finance reported in 1999 that the contribution scheme governing the funding of the CCAMLR needed to be “substantially reviewed.”<sup>28</sup>

**Indian Ocean Tuna Commission (IOTC).** The IOTC calculates contributions based on an equal base fee, a portion of the catch, and ability to pay.<sup>29</sup> As adopted in 1997, contributions are assessed based on the following four factors:<sup>30</sup>

- (1) 10% of the total budget of the commission is divided equally among all members;
- (2) 10% of the total budget is divided equally among members having fishing operations in the Convention Area targeting species covered by the commission;
- (3) 40% of the budget is divided equally among members on the bases of per capita GNP for the calendar year three years before the year to which the contributions relate, weighted according to the economic status of the members in accordance with World Bank classification as follows and subject to change in the classification thresholds: high income members shall be weighted by the factor of 8; middle-income members by a factor of 2; low-income members by a factor of 0;
- (4) 40% of the budget is divided among members in proportion to their average catch in the three calendar years beginning with the year five years before the year to which the contributions relate. The average catch is then weighted by a coefficient reflecting the

---

<sup>24</sup>Convention for the Conservation of Southern Bluefin Tuna, May 20, 1994, art. 11(2), *reprinted in* Division for Ocean Affairs & the Law of the Sea, U.N. Office of Legal Affairs, Law of the Sea Bulletin No. 26, Oct. 1994, at 57, available at <http://www.home.aone.net.au/ccsbt/convent.html>.

<sup>25</sup>*Id.* at Annex for an Arbitral Tribunal, at art. 6.

<sup>26</sup>Convention for the Conservation of Antarctic Marine Living Resources, May 20, 1980, art. 19(3), T.I.A.S. 10240, *reprinted in* 10 INTERNATIONAL LEGAL MATERIALS 841, available at <http://www.ccamlr.org>.

<sup>27</sup>*Id.* at Annex for an Arbitral Tribunal, at art. 6.

<sup>28</sup>Report of the Standing Committee on Administration and Finance (SCAF), at 4 (25-29 October 1999), available at <http://www.ccamlr.org>.

<sup>29</sup>“In adopting the scheme, due consideration shall be given to each Member being assessed an equal basic fee and a variable fee based, inter alia, on the total catch and landings of species covered by this Agreement in the Area, and the per capita income of each Member.” Agreement for the Establishment of the Indian Ocean Tuna Commission, art. XIII(3)(b) available at: <http://www.seychelles.net/iotc/Ebasictext.htm>.

<sup>30</sup>Indian Ocean Tuna Commission, Funding and Budget, Scheme for calculation of contributions to the administrative budget of the Commission, available at: <http://www.seychelles.net/iotc/Ebasictext.htm>.

member's development status. The coefficient for OECD members and EC is 1, and the coefficient for other members is one-fifth.

**North Atlantic Fisheries Organization (NAFO).** Pursuant to the 1978 Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, each contracting party must pay the expenses of the Northwest Atlantic Fisheries Organization (NAFO) according to the following formula:<sup>31</sup>

- (1) 10% of the budget is divided among the *coastal States* "in proportion to their nominal catches in the Convention area in the year ending two years before the beginning of the budget year";
- (2) 30% of the budget is divided equally among *all contracting parties*;
- (3) 60% of the budget is divided among *all contracting parties* "in proportion to their nominal catches in the Convention area in the year ending two years before the beginning of the budget year."

**Northeast Atlantic Fisheries Commission (NEAFC).** Members of the NEAFC divide their budget according to a base fee equal to 33% of the budget. The remaining two-thirds is divided in proportion to a member's catch in the Convention Area. However, annual contributions from members with fewer than 300,000 inhabitants cannot exceed 5% of the total budget. When a member's contribution is limited by this rule, the contributions of other members increase.<sup>32</sup>

**Forum Fisheries Agency (FFA).** The Parties to the South Pacific Forum Fisheries Agency Convention contribute to the budget of the Forum Fisheries Agency (FFA) principally based on an ability to pay. For example, Australia and New Zealand each pay one-third of the budget while the remaining 10 members, all developing island nations, each pay one-thirtieth of the budget.<sup>33</sup> The members review this allocation "from time to time."

**Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean.** This convention, which has not entered into force, does not yet have an exact method for assessing contributions. However, the convention establishes general guidelines for a user pays approach and an ability to pay approach. Members of the convention must give due consideration to assessing:

an equal basic fee, a fee based upon national wealth, reflecting the state of development of the member concerned and its ability to pay, and a variable fee. The variable fee shall be based, *inter alia*, on the total catch taken within

---

<sup>31</sup>Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, Oct. 24, 1978, art. 16(3) 1978 U.S.T. LEXIS 315, *reprinted in* 19 INTERNATIONAL LEGAL MATERIALS 830, available at <http://www.nafo.ca/about/convention.htm>.

<sup>32</sup>Convention on Future Multilateral Cooperation in Northeast Atlantic Fisheries, art. 17(4), available at <http://www.oceanlaw.net>.

<sup>33</sup>South Pacific Forum Fisheries Agency Convention, July 10, 1979, art. 6(6), *reprinted in* 2 OCEAN YEARBOOK 578 (1980); U.N. Doc. FAO Fisheries Report No. 293, 201-204 (1983); available at <http://www.fff.int>.

exclusive economic zones and in areas beyond national jurisdiction in the Convention Area of such species as may be specified by the Commission, provided that a discount factor shall be applied to the catch taken in the exclusive economic zone of a member of the Commission which is a developing State or territory by vessels flying the flag of that member. The scheme adopted by the Commission shall be set out in the financial regulations of the Commission.<sup>34</sup>

#### IV. Analysis

In comparison to other fisheries organizations, the IWC method for calculating contributions is notable for its relatively high membership fees and low fees based on the “user pays” principle. First, the IWC assesses a flat membership fee of two shares for membership in the IWC. Based on the budget approved for the 2000-2001 financial year, the IWC assessed £14,026 (2 shares) for membership in the IWC.<sup>35</sup> With 40 members, membership fees account for 43.44% of the budget.<sup>36</sup> Contributions based on the number of delegates at meetings account for 26.62% of the budget (49 shares), while the remainder of the budget derives primarily from interest, sales, and annual meeting fees from observers.

Contributions based on whaling activities account for only 8.15% of the budget (15 total shares from six members). In addition, as noted by St. Vincent and The Grenadines, the portion of the budget deriving from whaling activities is inequitably divided. For example, Norway pays £21,567 based on its take of more than 500 minke whales annually, while St. Vincent and The Grenadines pays £14,026 for an aboriginal subsistence quota of three whales—only £7,013 (about \$11,221) less than Norway.

The breakdown of the IWC budget differs substantially from that of other fisheries organizations. Three principal methods exist for calculating contributions in fisheries organizations: a flat membership fee, a user pays concept based on a member’s total catch, and a member’s ability to pay. (The IWC appears unique in assessing contributions in part based on representation at annual meetings.) While fisheries organizations have adopted these three methods in one way or another, they have done so in different ways.

**Membership Fee.** All the fisheries treaties and organizations analyzed in this paper assess a membership fee of some kind. The majority base the membership fee on a fraction of the budget. For example, members of the NEAFC pay a membership fee equal to one-third of the budget. In the CCSBT, 30% of the budget is divided equally. Four fisheries organizations make membership fees less than 33% of the budget. In addition, the membership fee in ICCAT is \$1000 and in the IATTC it is essentially \$500. Thus, the IWC membership fee of £14,026 (about \$22,442) is comparatively high in real terms. Also, total revenue generated from

---

<sup>34</sup>Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, art. 18(2), available at: <http://www.spc.org.nc/coastfish/asides/conventions>.

<sup>35</sup>IWC/52/8, Table 14.

<sup>36</sup>The authors recognize the discrepancy between the total amount assessed (£1,009,872) and the total amount expected (£939,221) from members’ contributions. The authors have based their calculations on the total amount assessed, as that appears to be the total that members are required to pay.

membership fees, which constitutes 43.34% of the budget, is comparatively high as a percentage of the total budget.

**User Pays.** All the fisheries treaties and organizations analyzed in this paper assess a some portion of the budget based on the user pays principle. The majority of the organizations calculate contributions in proportion to a member's total catch. For example, the CCSBT and NAFO divide 70% of their budgets in proportion to catches. The IATTC divides virtually the entire budget in proportion to catches. The NEAFC divides two-thirds of its budget and the IOTC 40% of its budget in proportion to catches.

The IWC, by dividing only 8.15% of its budget based on whaling activities, is far below the average. Further, the IWC does not allocate contributions *in proportion to* catches. Instead, it allocates shares for the *act of* whaling, regardless of the number of whales taken. As such, the IWC implements the user pays principle inequitably.

**Ability to Pay.** Only three fisheries organizations (IOTC, NEAFC, and Migratory Fish Stocks Convention) use a member's ability to pay to calculate contributions, but the use of ability to pay is becoming more common. NEAFC, for example, caps contributions at 5% of the total budget for members with fewer than 300,000 inhabitants. The IOTC calculates 40% of its budget based on a member's ability to pay, based strictly on that member's GNP. An additional 40% of the budget is divided in proportion to a member's average catch. But, that average catch is weighted by a coefficient reflecting that country's economic status. Countries in the Organization for Economic Cooperation and Development (OECD) have their catch multiplied by one whereas other members have their catch multiplied by one-fifth.

ICCAT too has adopted an ability to pay scheme, although it is not yet in force. Under this scheme, almost the entire budget will be assessed based on a combination of a member's economic status coupled with its catch. Members with a GNP exceeding \$2,000 *and* combined tuna catch and canning exceeding 5,000 metric tonnes will be assessed 3.0% of the budget. Members with a GNP exceeding \$2,000 *or* combined tuna catch and canning exceeding 5,000 metric tonnes will be assessed 1.0% of the budget. Members falling below these targets pay 0.25% of the budget. For developed countries such as the United States and Japan, only their economic status matters: they pay the rest of the budget.

## **V. Conclusions**

If the IWC changes its method for calculating contributions, it should consider a greater, and more equitable, allocation of the budget in proportion to the number of whales taken in aboriginal subsistence whaling, scientific whaling, or whaling pursuant to an objection. This would alleviate the relatively high costs of membership in the IWC and place the burden on those countries whose activities requires scientific and other resources of the IWC. Further, the IWC should consider membership contributions or contributions for representation at meetings weighted against a country's economic status. Like the IOTC and the proposed ICCAT scheme, a base membership fee could be multiplied by some agreed coefficient relating to a member's economic status.

## **Annex**

### **Relevant Text of Fisheries Organizations Relating to Methods for Calculating Contributions**

#### **Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR)**

##### **Article XIX**

3. Each Member of the Commission shall contribute to the budget. Until the expiration of five years after the entry into force of this Convention, the contribution of each Member of the Commission shall be equal. Thereafter the contribution shall be determined in accordance with two criteria: the amount harvested and an equal sharing among all Members of the Commission. The Commission shall determine by consensus the proportion in which these two criteria shall apply.

5. Each Member of the Commission shall meet its own expenses arising from the attendance at meetings of the Commission and of the Scientific Committee.

6. A Member of the Commission that fails to pay its contributions for two consecutive years shall not, during the period of its default, have the right to participate in the taking of decisions in the Commission.

##### **Annex for an Arbitral Tribunal**

6. Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the Parties to the dispute in equal shares.

#### **Inter-American Tropical Tuna Convention (IATTC)**

##### **Article I**

1. The High Contracting Parties agree to establish and operate a joint Commission, to be known as the Inter-American Tropical Tuna Commission, hereinafter referred to as the Commission, which shall carry out the objectives of this Convention. The Commission shall be composed of national sections, each consisting of from one to four members, appointed by the Governments of the respective High Contracting Parties.

3. Each High Contracting Party shall determine and pay the expenses incurred by its section. Joint expenses incurred by the Commission shall be paid by the High Contracting Parties through contributions in the form and proportion recommended by the Commission and approved by the High Contracting Parties. The proportion of joint expenses to be paid by each High Contracting Party shall be related to the proportion of the total catch from the fisheries covered by this Convention utilized by that High Contracting Party.

4. Both the general annual program of activities and the budget of joint expenses shall be recommended by the Commission and submitted for approval to the High Contracting Parties.

## **EXCHANGE OF NOTES**

**The Costa Rican Appointed Ambassador to the Secretary of State**

**EMBASSY OF COSTA RICA, WASHINGTON**

**No 1579, 3 March 1950**

\* \* \* With respect to Article I, paragraph 3, of the Convention, which establishes the proportion of joint expenses to be paid by each High Contracting Party, it is understood that "the proportion of the total catch from the fisheries covered by this Convention utilized by that High Contracting Party" shall be the part of the total catch which is used for domestic consumption in the territory of that High Contracting Party or is the object of commercial transactions the financial benefits of which accrue entirely or in their major portion to individuals or firms whose proprietors or stockholders are domiciled in the territory of that High Contracting Party. \* \* \*

Mario Echandi  
His Excellency Dean Acheson  
Secretary of State  
Washington, D.C.

## **II**

**The Secretary of State to the Costa Rican Appointed Ambassador**

**DEPARTMENT OF STATE, WASHINGTON**

**March 3, 1950**

\* \* \* I take pleasure in informing you that, without prejudice to the provisions or purposes of the Convention under reference, my Government concurs in the understanding set forth in your note as follows: (See note I, second, third and fourth paragraphs). \* \* \*

Dean Acheson  
His Excellency Senor Don Mario Echandi Appointed Ambassador of Costa Rica

## **Agreement on the International Dolphin Conservation Program (AIDCP)**

### **Article XV Financing**

The Parties shall contribute to the expenses necessary to achieve the objectives of this Agreement, through the establishment and collection of vessel fees, the level of which shall be determined by the Parties, without prejudice to other voluntary financial contributions.

### **Annex II On-Board Observer Program**

6. The responsibilities of the Parties and vessel captains regarding observers shall include the following, *inter alia* . . . d. Observers shall be provided accommodations, including lodging, food, and adequate sanitary facilities equal to those of the crew

11. a. The Parties shall establish the amount of the annual vessel fees to cover the costs of the On-Board Observer Program. The fees shall be calculated on the basis of the carrying capacity of each vessel or any other standard specified by the Parties.



b. At the time a Party submits to the Director the list of vessels under Annex IV to this Agreement, it shall also submit payment, in U.S. dollars, for the fees established under paragraph 11(a) of this Annex, specifying which vessels the payment covers.

c. No observer shall be assigned to a vessel for which the fees, as required under paragraph 11(b) of this Annex, have not been paid.

## **International Convention for the Conservation of Atlantic Tuna (ICCAT)**

### **Article X**

2. Each Contracting Party shall contribute annually to the budget of the Commission an amount equal to:

(a) U.S. \$ 1,000 (one thousand United States dollars) for Commission membership.

(b) U.S. \$ 1,000 (one thousand United States dollars) for each Panel membership.

(c) If the proposed budget for joint expenses for any biennium should exceed the whole amount of contributions to be made by the Contracting Parties under (a) and (b) of this paragraph, one-third of the amount of such excess shall be contributed by the Contracting Parties in proportion to their contributions made under (a) and (b) of this paragraph. For the remaining two-thirds the Commission shall determine on the basis of the latest available information:

(i) the total of the round weight of catch of Atlantic tuna and tuna-like fishes and the net weight of canned products of such fishes for each Contracting Party;

(ii) the total of (i) for all Contracting Parties.

Each Contracting Party shall contribute its share of the remaining two-thirds in the same ratio that its total in (i) bears to the total in (ii). That part of the budget referred to in this sub-paragraph shall be set by agreement of all the Contracting Parties present and voting.

8. The Commission may suspend the voting rights of any Contracting Party when its arrears of contributions equal or exceed the amount due from it for the two preceding years.

### **Proposed New Calculation Scheme: *Basic Principles for the New Method of Calculating Contributions***

In 1991, the Commission adopted the *Basic Principles for the New Method of Calculating Contributions*, which is summarized as follows:

1. US\$1,000 for the basic Commission fee and US\$1,000 for each Panel membership.
2. Group D countries are assigned [0.25] percent of the budget.
3. Group C countries are assigned [1.0] percent of the budget.
4. Group B countries are assigned [3.0] percent of the budget.
5. Group A countries are assigned the percentage of the Budget remaining after assignment to the other three Groups.

Notes:

Group A: Countries with developed market economies.

Group B: Countries not included in Group A, with per capita GNP exceeding [US\$2,000] (adjusted to 1991 dollar values) and with combined tuna catch and canning exceeding [5,000 MT].

Group C: Countries not included in Groups A or B, with per capita GNP exceeding [US\$2,000] or whose combined catch and canned production exceeds [5,000 MT];

Group D: Countries not included in Groups A, B or C.

The US dollar amounts and MT amounts in [ ] are variables, which may be modified, by Commission decision.

## **“Madrid Protocol” – Protocol to Amend Paragraph 2 of Article X of the International Convention for the Conservation of Atlantic Tuna (not in force)**

### **Article 1**

Paragraph 2 of Article X of the Convention shall be modified as follows:

"2. Each Contracting party shall contribute annually to the budget of the Commission an amount calculated in accordance with a scheme provided for in the Financial Regulations, as adopted by the Commission. The Commission, in adopting this scheme, should consider *inter alia* each Contracting Party's fixed basic fees for Commission and Panel membership, the total round weight of catch and net weight of canned products of Atlantic tuna and tuna-like fishes and the degree of economic development of the Contracting Parties."

"The scheme of annual contributions in the Financial Regulations shall be established or modified only through the agreement of all the Contracting Parties present and voting. The Contracting Parties shall be informed of this ninety days in advance." \* \* \*

## **Convention for the Conservation of Southern Bluefin Tuna (CCSBT)**

### **Article 11**

2. The contributions to the annual budget from each Party shall be calculated on the following basis:

- a. 30% of the budget shall be divided equally among all the Parties; and
- b. 70% of the budget shall be divided in proportion to the nominal catches of southern bluefin tuna among all the Parties.

3. Notwithstanding the provisions of Article 7, any Party that has not paid its contributions for two consecutive years shall not enjoy the right to participate in the decision-making process in the Commission until it has fulfilled its obligations, unless the Commission decides otherwise.

4. The Commission shall decide upon, and amend as occasion may require, financial regulations for the conduct of the Commission and for the exercise of its functions.

5. Each Party shall meet its own expenses arising from attendance at meetings of the Commission and of the Scientific Committee.

## **Annex for an Arbitral Tribunal**

6. Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares.

## **Convention on Future Multilateral Cooperation in Northeast Atlantic Fisheries (NEAFC).**

### **Article 17(4)**

(a) one-third of the budget shall be divided equally among the Contracting Parties,

(b) two-thirds of the budget shall be divided among the Contracting Parties in proportion of their nominal catches in the Convention Area, on the basis of the International Council for the exploration of the Sea definitive catch statistics for the calendar year ending not more than 24 and not less than 18 months before the beginning of the budget year,

(c) however, the annual contribution of any Contracting Party which has a population of less than 300,000 inhabitants shall be limited to a maximum of 5% of the total budget. When this contribution is so limited, the remaining part of the budget shall be divided among the other Contracting Parties in accordance with sub-paragraph (a) and (b). This rule shall be effective for the first five budget years of the Commission and thereafter it shall be subject to annual review by the Commission which may change it by a decision adopted by a three-fourths majority of all Contracting Parties.

## **Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries: North Atlantic Fisheries Organization (NAFO)**

### **Article XVI**

1. Each Contracting Party shall pay the expenses of its own delegation to all meetings held pursuant to this Convention.

3. The General Council shall establish the contributions due from each Contracting Party under the annual budget on the following basis:

a) 10% of the budget shall be divided among the Coastal States in proportion to their nominal catches in the Convention Area in the year ending two years before the beginning of the budget year;

b) 30% of the budget shall be divided equally among all the Contracting Parties; and

c) 60% of the budget shall be divided among all Contracting Parties in proportion to their nominal catches in the Convention Area in the year ending two years before the beginning of the budget year. The nominal catches referred to above shall be the reported catches of the species listed in Annex I, which forms an integral part of this Convention.

## **South Pacific Forum Fisheries Agency Convention (FFA)**

### **Article VI Director, Staff and Budget**

6. The budget shall be financed by contributions according to the shares set out in the Annex to this Convention. The Annex shall be subject to review from time to time by the Committee.

8. All questions concerning the budget of the Agency, including contributions to the budget, shall be determined by the Committee.

### **Annex**

The following are the shares to be contributed by Parties to the Convention towards the budget of the Agency in accordance with Article VI(6)-

Australia	1/3	Niue	1/30
Cook Islands	1/30	Papua New Guinea	1/30
Fiji	1/30	Solomon Islands	1/30
Gilbert Islands	1/30	Tonga	1/30
Nauru	1/30	Tuvalu	1/30
New Zealand	1/3	Western Samoa	1/30

## **Agreement to Establish the Indian Ocean Tuna Commission**

### **Article XIII Finances**

1. Each Member of the Commission undertakes to contribute annually its share of the autonomous budget in accordance with a scale of contributions to be adopted by the Commission.

3. (a) The amount of the contribution of each Member of the Commission shall be determined in accordance with a scheme which the Commission shall adopt and amend by consensus.

(b) In adopting the scheme, due consideration shall be given to each Member being assessed an equal basic fee and a variable fee based, inter alia, on the total catch and landings of species covered by this Agreement in the Area, and the per capita income of each Member.

(c) The scheme adopted or amended by the Commission shall be set out in the Financial Regulations of the Commission.

8. A Member of the Commission which is in arrears in the payment of its financial contributions to the Commission shall have no vote in the Commission if the amount of its arrears equals or exceeds the amount of the contributions due from it for the two preceding calendar years. The Commission may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay was due to conditions beyond the control of the Member.

### **Financial Regulations, Annex: Scheme for calculation of contributions to the administrative budget of the Commission**

1. Ten percent of the total budget of the Commission shall be divided equally among all the Members.
2. Ten percent of the total budget shall be divided equally among the Members having fishing operations in the Area targeting species covered by the Commission.
3. Forty percent of the total budget shall be allocated among the Members on the basis of *per caput* GNP for the calendar year three years before the year to which the contributions relate, weighted according to the economic status of the Members in accordance with the World Bank classification as follows and subject to change in the classification thresholds: high income Members shall be weighted by the factor of 8; middle income Members by the factor of 2; low-income Members by the factor of 0.
4. Forty percent of the total budget shall be allocated among the Members in proportion to their average catch in the three calendar years beginning with the year five years before the year to which the contributions relate, weighted by a coefficient reflecting their development status. The coefficient of OECD members and EC shall be 1, and the coefficient of other Members shall be one-fifth.

## **Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean**

### **Article 18**

1. The Executive Director shall draft the proposed budget of the Commission and submit it to the Commission. The proposed budget shall indicate which of the administrative expenses of the Commission are to be financed from the assessed contributions referred to in article 17, paragraph 1 (a), and which such expenses are to be financed from funds received pursuant to article 17, paragraphs 1 (b), (c) and (d). The Commission shall adopt the budget by consensus. If the Commission is unable to adopt a decision on the budget, the level of contributions to the administrative budget of the Commission shall be determined in accordance with the budget for the preceding year for the purposes of meeting the administrative expenses of the Commission for the following year until such time as a new budget can be adopted by consensus.
2. The amount of the contribution to the budget shall be determined in accordance with a scheme which the Commission shall adopt, and amend as required, by consensus. In adopting the scheme, due consideration shall be given to each member being assessed an equal basic fee, a fee based upon national wealth, reflecting the state of development of the member concerned and its ability to pay, and a variable fee. The variable fee shall be based, *inter alia*, on the total catch taken within exclusive economic zones and in areas beyond national jurisdiction in the Convention Area of such species as may be specified by the Commission, provided that a discount factor shall be applied to the catch taken in the exclusive economic zone of a member of the Commission which is a developing State or territory by vessels flying the flag of that member. The scheme adopted by the Commission shall be set out in the financial regulations of the Commission.