

Agenda item 12.5

**Contracting Parties that are consistently in arrears with payments to the Convention**

**Action requested:** The Standing Committee is invited to consider the options for reducing the level of arrears and to advise on a set of actions for the Secretariat to take this matter forward.

1. In Resolution IX.12, the Conference of the Contracting Parties:
  - (18) CALLS UPON all Contracting Parties to pay their contributions promptly by 1 January of each year, URGES Contracting Parties in arrears to make a renewed effort to settle them as expeditiously as possible, and AGREES that the Standing Committee at its 34th meeting should consider options for dealing with Parties which are consistently in arrears with payments to the Convention, based on an analysis by the Secretary General of the practices in other conventions.
2. This paper presents some of the options which have been provided by Secretariats of two other Conventions (see Annex), updating the existing views the Secretariat has on record, and makes proposals for some actions to be put in place.
3. It is suggested that Standing Committee:
  - request the Secretariat to produce timely and easily readable statements of contributions, including all unpaid portions, for Contracting Parties in arrears;
  - request Contracting Parties that are in arrears with their contributions to settle them by the established deadlines; and
  - request Contracting Parties experiencing difficulties in meeting their financial contributions to propose a plan to provide for the payment of contributions in arrears within a limited period. In assisting Contracting Parties to develop such a plan, the Chair of the Standing Committee, the Standing Committee regional representatives, and the Secretary General should make contacts, through diplomatic channels, with those Parties having arrears to plan settlement of their outstanding contributions.
4. These actions should be part of a formal review process, which is communicated annually to the Standing Committee.
5. In addition, options exist to reduce the flow and priority of services provided by the Secretariat to Parties with arrears. For example, Standing Committee could advise the Secretariat to manage requests from Contracting Parties with arrears in the following ways:

- by processing new Ramsar site designations at a lower priority than site designations from Contracting Parties which are fully up to date with their annual payments;
  - by not processing further Small Grants Fund (SGF) proposals;
  - by providing Secretariat advice and missions (including Ramsar Advisory Missions) only in emergency situations;
  - by providing delegate support to attend regional and COP meetings only if all other Parties have been assisted according to existing rules, and in any event only if the Contracting Party is not more than three years in arrears.
6. Finally, there exists the option that Contracting Parties more than three years in arrears would be ineligible to vote in Convention meetings, ineligible for election to the Standing Committee, and ineligible to make nominations for membership of the STRP.
7. However, all of these possibilities seek to provide essentially punitive measures, and would inevitably restrict the Secretariat in supporting all Parties to fully implement their Convention commitments. Thus we need a mixture of awareness-raising and counseling, perhaps with the possibility of severe levels of arrears being met by a reduction in Secretariat and other services, including access to Convention resources. In this respect, the approach taken by the International Whaling Commission (IWC) – see below – is interesting, but is probably more linked to the very specific requirement for financial solvency being a prerequisite for voting, which is an important feature of IWC meetings.

## Annex

### Comments from other MEA Secretariats

#### Comments from the CITES Secretariat:

The outcome so far is that neither CITES Secretariat, nor the Parties, wish to alienate developing countries but rather stimulate their participation in the Convention, so no drastic measures have been agreed. The text of the Convention entitles Parties to vote so there is no way we can take that right away. To limit access to funding by the Secretariat, such as capacity building projects, training, sponsored delegates to COPs, etc., has also been discussed but not followed. We do intensive mailings to remind Parties of their obligations, which are quite effective, but do have Parties with long outstanding contributions; a list is on our website in the section "Discover CITES/How CITES works? How is CITES financed?". This information is updated every month. In 2004 I did a tour of the Missions of the top 20 countries with arrears which was highly appreciated by those concerned and led to payments as well. A probably useful document is the one prepared for the Standing Committee (document SC53 Doc.11.4 "Budget containment strategies") in which we addressed the problem of non-payment of contributions and discussed the measures taken to facilitate the collection of arrears. It is on our website under <http://www.cites.org/eng/com/SC/53/E53-11-4.pdf>

A relevant extract from document SC53 Doc.11.4 reads:

5. The Standing Committee addressed the problem of non-payment of contributions during its several meetings convened in the years 2001-2004. It requested the Parties that were in arrears with their contributions to settle them by the established deadlines. It also requested Parties that might be experiencing difficulties with meeting their financial contributions to propose a plan to provide for the payment of contributions in arrears within a limited period. Furthermore the Standing Committee charged its Chairman, the regional representatives and the Secretary-General to make contacts, through diplomatic channels, with Parties in arrears to urge them to settle their outstanding contributions.
6. The experience gained over the past years suggests that a regular formal review followed by action to persuade Parties in arrears to rectify their situation has been effective. A number of countries either settled their contributions in full or made partial payment. During the past two years the unpaid contributions for 2002 and prior years were reduced by USD 366,390 and the number of Parties that were in arrears with their contributions for those years was reduced by 41. Similarly, the level of unpaid contributions for the year 2003 has diminished. It was reduced by USD 114,773 and the number of Parties in arrears with their contributions due for 2003 was reduced by 33 during the course of 2004.
7. In spite of these concerted efforts to encourage Parties to settle their unpaid contributions, there is still a significant number of Parties that remain in arrears with their financial contributions, in some cases for a considerable number of years.

#### Comments from the INTERNATIONAL WHALING COMMISSION:

1. No government can vote at a meeting or in a postal ballot unless it is up-to-date with its contributions.

2. A 10% penalty charge is imposed if contributions have not been received by the due date. If the payment remains outstanding for a further 12 months, compound interest is added at a rate of 2% above base rate. See Financial Regulation F.1.
3. Voting rights are withdrawn if a government hasn't paid its contributions within 3 months of the due date. See Financial Regulation F.2.
4. To prevent governments falling seriously into debt (as happened in the past), since IWC/54 in 2002, if a government hasn't paid its contributions for a period of three years, then no further annual contribution is charged but interest is continued to be applied in accordance with Financial Regulation F.1. Governments in this position can enter into a repayment schedule which allows them to regain voting rights. See Financial Regulation F.5 for further details. Financial Reg F.5 was applied retrospectively to governments already in serious arrears. This had the effect of reducing their debts substantially and has brought most of them back in to active participation - although some default on their repayments.

#### **Financial regulations of IWC.**

1. As soon as the Commission has approved the budget for any year, the Secretary shall send a copy thereof to each Contracting Government (in compliance with Rules of Procedure, Rule K.2), and shall request it to remit its annual payment.
2. Payment shall be in pounds sterling, drafts being made payable to the International Whaling Commission, and shall be payable within 90 days of the said request from the Secretary or by the following 28 February, the "due date" whichever is the later. It shall be open to any Contracting Government to postpone the payment of any increased portion of the amount which shall be payable in full by the following 31 August, which then becomes the "due date".
3. New Contracting Governments whose adherence to the Convention becomes effective during the first six months of any financial year shall be liable to pay the full amount of the annual payment for that year, but only half that amount if their adherence falls within the second half of the financial year. The due date for the first payment by new Contracting Governments shall be defined as 6 months from the date of adherence to the Convention or before the first day of its participation in any Annual or Special Meeting of the Commission whichever is the earlier.

Subsequent annual payments shall be paid in accordance with Financial Regulation E.2.

4. The Secretary shall report at each Annual Meeting the position as regards the collection of annual payments.

#### ***F. Arrears of Contributions***<sup>2</sup>

1. If a Contracting Government's annual payments have not been received by the Commission by the due date referred to under Regulation E.2. a penalty charge of 10% shall be added to the outstanding annual payment on the day following the due date. If the payment remains outstanding for a further 12 months compound interest shall be added

on the anniversary of that day and each subsequent anniversary thereafter at the rate of 2% above the base rate quoted by the Commission's bankers on the day. The interest, calculated to the nearest pound, shall be payable in respect of complete years and continue to be payable in respect of any outstanding balance until such time as the amount in arrears, including interest, is settled in full.

2. If a Contracting Government's annual payments, including any interest due, have not been received by the Commission within 3 months of the due date or by the day before the first day of the next Annual or Special Meeting of the Commission following the due date, or, in the case of a vote by postal or other means, by the date upon which votes must be received, whichever date occurs first, the right to vote of the Contracting Government concerned shall be suspended as provided under Rule E.2 of the Rules of Procedure.
3. Any interest paid by a Contracting Government to the Commission in respect of late annual payments shall be credited to the General Fund.
4. Any payment to the Commission by a Contracting Government in arrears with annual payments shall be used to pay off debts to the Commission, including interest due, in the order in which they were incurred.
5. If a Contracting Government's annual payments, including any interest due, have not been received by the Commission in respect of a period of 3 financial years;
  - (a) no further annual contribution will be charged;
  - (b) interest will continue to be applied annually in accordance with Financial Regulation F.1.;
  - (c) the provisions of this Regulation apply to the Contracting Government for as long as the provisions of Financial Regulations F.1. and F.2. remain in effect for that Government;
  - (d) the Contracting Government concerned will be entitled to attend meetings on payment of a fee per delegate at the same level as Non-Member Government observers;
  - (e) the provisions of this Regulation and of Financial Regulations F.1. and F.2. will cease to have effect for a Contracting Government if it makes a payment of 2 years outstanding contributions and provides an undertaking to pay the balance of arrears and the interest within a further 2 years;
  - (f) interest applied to arrears in accordance with this Regulation will accrue indefinitely except that, if a Government withdraws from the Convention, no further charges shall accrue after the date upon which the withdrawal takes effect.
6. Unless the Commission decides otherwise, a Government which adheres to the Convention without having paid to the Commission any financial obligations incurred prior to its adherence shall, with effect from the date of adherence, be subject to all the penalties prescribed by the Rules of Procedure and Financial Regulations relating to arrears of financial contributions and interest thereon. The penalties shall remain in force until the arrears, including any newly-charged interest, have been paid in full.