

Industry expert participation

Council is requested to consider options for revising the current policy and procedure allowing industry/NGO experts to attend Advisory expert groups.

Current observer rules:

https://www.ices.dk/community/Documents/Observers/CM_2013_Del-11%203_Observer_rules.pdf

ICES Delegates may use the national nomination procedure to nominate industry experts allowing them to participate in advisory expert working groups. According to the ICES observer rules:

Observers to Advisory expert groups are restricted to (1) employees of intergovernmental Commissions that have a MoU with ICES for either scientific information or advice, and (2) employees of government agencies that formally use ICES advice to manage fisheries or other marine ecosystem activities.

Allowing industry experts/NGOs to participate in the Advisory Expert Groups, through nomination by national delegates is, therefore, not in spirit of the observer rules, and does not support transparency in the process.

At the 2016 Council meeting a variety of statements were debated, including one related to participation of industry experts. This discussion revealed a lack of awareness around the current procedure and a further action was included in the Council minutes as noted below:

Statement for debate	Feedback from Council	Proposed way forward
Industry/NGO experts can partake in WGs as experts	Varied opinions Fear of undermining our role Knowledge on current practises, procedures and safeguards	Bureau will propose a potential way forward, detailing current practices, procedures, safeguards to be presented at next Council meeting If Council decides current practice is insufficient other options should be considered (e.g. Code of Conduct)

In March, the Secretariat received a letter from Per Sandberg (Norway), outlining the Norwegian perspective, and requesting that the current policy be revised so that industry experts may not be allowed to participate in Advisory expert groups. (See annex).

In 2014, following an industry expert request, ICES Bureau considered a proposal for revising the nomination procedure for industry experts. (Attachment 1)

At that time, Bureau concluded: **Action:** *Bureau noted that industry observers can already participate in advisory expert groups via national nomination. If a scientist does*

not adhere to the core values of ICES, then it is up to the EG Chair to deal with this matter. ACOM/SCICOM are requested to consider how to provide appropriate training for chairing meetings for all expert group chairs. The President and Secretariat will draft a response to the initial email from the Pelagic Freezer-trawler Association. (Bureau 2014-06 Bureau 236 Agenda 10.2 Bur Doc 1882)

Industry affiliated scientist may also be invited by the chair of the meeting in consultation with the national Delegate.

In 2016 the Northern Pelagic Working Group (NPWG), a subgroup of the European Association of Fish Producers Organisations (EAPO) elaborated their “Code of Conduct for Industry affiliated scientists attending ICES Expert groups, Benchmarks and Workshops” (see annex), which states:

3.1 When participating in an Expert Group, industry affiliated scientists will not participate in the subsequent Advice Drafting Group or as observer at the ACOM meeting where the Expert group advice is being discussed.

3.2 Industry affiliated scientists will not request access to SharePoint if not participating in the meeting.

3.3 The industry affiliated scientists shall give high priority to participate in, and contribute to, the entire meeting. Part-time participation should be avoided.

Type of group/meeting	Member	Chair-invited expert	Observer	Advice Requesters
Committee meeting	Appointed by national delegate		Participants with observer status may attend following advance notice	May participate following advance notice
Advice expert group	Appointed by national delegate	In consultation with the national Delegates of the expert’s country for one year	Not open for observers	May participate following advance notice
Advice drafting group	Nominated by the national Advisory Committee member or delegate.		Participants with observer status may attend following advance notice	May participate following advance notice
Science expert group	Appointed by national delegate for the three year term of the group	Appointed for the three year term of the group	Participants with observer status may attend following advance notice	May participate following advance notice
Joint ACOM/SCICOM expert group	Appointed by national delegate	Appointed for the three year term of the group	Participants with observer status may attend following advance notice	May participate following advance notice
Workshop	A public meeting – participant registration via the Secretariat	Not applicable (public meeting)	Not applicable (public meeting)	Not applicable (public meeting)

Industry Observers in the Advisory Process

Bureau is invited to review the proposal in the email below, discuss potential implications and recommend the issue of industry observers in the Advisory process be added to the Council agenda.

Background:

In April 2014, the President got the proposal below from a newly hired scientist in an industry organization. The proposal suggests that ICES opens for participation by 'Industry Scientists', nominated by industry organizations or the advisory councils and nominally approved by ICES, in working groups.

The rules for participants and observers are set down in CM 2011 Del-06.5 (general rules for participants and observers in ICES processes) and [CM 2013 Del-11.3](#) (ICES policy and observer status). The latter consolidates rules regarding observers and supersedes the former in this respect. For advisory processes, expert groups are open for observers from competent authorities and experts by nomination by national delegates, workshops are public meetings where all are participants, while the ACOM processes (ADGs and ACOM deliberations) have participation nominated by ACOM and are open to observers.

Fishery industry organizations in Europe have hired staff with a natural science background for many years, but their engagement in the ICES advisory process has so far been as industry or RAC representatives as observers, similar to other stakeholder observers in the ACOM processes or participants in workshops, in accordance with the rules described above. In 2012, the Secretariat was for the first time asked about whether a scientist, hired by an industry organization, could participate in a working group as scientist. Up until today, reference has been made to the relevant Council delegate for nomination (or not) through the normal nomination procedure as described in the rules. The proposal suggests to move further and introduce a supplementary expert concept with a separate nomination procedure.

The proposal raises a number of questions which Bureau may want to consider in its discussion and – if relevant – in a proposal for changed rules for participants in working groups:

- The *scope* of wider expert access: is a limitation of stakeholder experts to 'Industry Expert' in accordance with ICES policy to be neutral vis a vis specific societal interests? For the proposal: One may argue that it is only the industry which may have specific knowledge (contrary to opinions) to carry to the table for the reason that it is the industry which has access to direct observation at sea. Against the proposal: opening specifically for 'Industry experts' will send a signal that ICES is industry biased; other stakeholder groups may also have specific knowledge about an issue.
- Is the *expert concept* in ICES compatible with representing a specific organization in a process? Against the proposal: An 'industry expert' is already in the very name defined as a person who speaks from and on

behalf of a specific affiliation. ICES experts groups work on the ethos that participants shed their institutional affiliations when they enter the ICES process – an ICES expert is specifically expected not to represent their institute or government when they enter the process, and the process is expected to be based on scientific argument only, and not a political negotiation. This is central to ICES delivering unbiased advice. For the proposal: Having experts who formally represent specific organizations makes biased opinions which may arise transparent and easier to control – the ICES ethos of formal non-affiliation may look good on paper but serves to hide a problem which is bound to be there anyway.

- The *formal process* of nominating experts: Can proper (well defined, not open to arbitrary choice) criteria be defined for the ICES approval of these experts? Which body within ICES should have the competence to approve or not?

If modifications of the rules are considered these questions could at least in part be addressed by opening for expert participation from all stakeholder groups, by maintaining that experts are expected to shed their affiliation when entering an expert group and by making clear criteria differentiating participants and observers both in terms of how they are approved and what rights and duties they have in the process.

Email from Martin Pastoors to Paul Connolly 28 April 2014

Dear Paul,

I hope you are well and enjoying your role as president of ICES.

As you may have heard, I will be joining the Pelagic Freezer-trawler Association (PFA) to become their first Chief Science Officer. Together with Claus Sparrevohn (who is scientists for the Danish Pelagic Producers Organisation), I expect that we will be the first fisheries scientists (and probably not the last) who are directly employed by the fishing industry to improve their scientific awareness and to enhance the knowledge and resource contribution of the industry to the scientific advice. Claus and I both will operate under scientific standards, apply scientific methods and publish in scientific journals.

The issue we would like to raise with you is that of contributions to expert groups in ICES. Both our organizations have requested observer status for the ICES Advisory Programme. That gives us access as observers to the relevant advisory groups (ADGs, benchmarks etc.). But we would like to explore the possibility of going one step further: by contributing to (selected) expert groups with relevant knowledge. As you know, I have been intimately connected with the reform of the advisory process and the discussion on the role of observers in expert groups. I respect the decision by the ICES Council not to allow observers in the expert groups. But we would like to explore a role in which we would be actively contributing with data, resources and knowledge to the expert groups.

The nomination process for experts to expert groups is handled through the national delegates. Even though this process has worked satisfactory for some years for Claus, we feel that a more transparent procedure would be required in which the position of the industry experts is being recognized explicitly. The model

we would like to suggest to you is similar to model that is used in the South African advisory process, where there is a specific “industry scientific participant” is defined: “Industry scientists (either employed or contracted) who can make meaningful scientific input to the Scientific Working Group deliberations”.

In the South African system, it is the chair of the Scientific Working Group who may invite industry scientists. However, given that stakeholder participation in fisheries management in Europe is already institutionalized through the RACs and through formal industry observers in ICES, we feel that it would be more suitable to have the RAC or an industry observer to nominate a industry scientist which then needs a formal approval by ICES (Secretariat? ACOM?). We see the RACs as good and constructive players and getting them involved will improve the transparency in the process. You could consider whether participation by Industry Scientific Participants should be limited to a certain maximum per meeting.

Would this be something that we can explore together if and how such a industry science contribution could be proposed for ICES. We were thinking about an experimental basis starting with Claus and myself.

Kind regards,

Martin Pastoors and Claus Sparrevohn

The International Council for the exploration of Division: Statistics Department
the Sea

Inquiries to: Per Sandberg
Telephone: +47 90219680
Our reference: 17/3079
Your reference:
Date: 14.03.2017

Att:

Industry/NGO experts participation in Working Groups as experts

During our last Council meeting we discussed the existing ICES rules allowing industry/NGO experts to take part in ICES working groups as experts. The discussion and the feedback from the Council is noted in the table of point 2.2. There were varied opinions about whether ICES policy of allowing such participation should be continued. According to the minutes from the meeting, Bureau will propose a potential way forward on this issue. As Norway was one of the more sceptical voices at the Council, we would like to explain our position.

Let us start by saying we endorse ICES general policy of transparency. According to ICES website, observers have access to science activities based on a decision by the chair of the relevant group and the secretariat. Observers can also attend workshops, benchmark meetings, advice drafting groups and meetings of ACOM. We believe this confirms that the work of ICES is open and transparent to most interested parties.

Our concern then, is limited to ICES policy of allowing industry/NGO experts to take part in ICES Advisory expert groups. We are aware that such participation can only be granted if the delegates of the expert in question give their approval. The approval by delegates ensures that those accepted for participation have the necessary qualifications, and as such improves the scientific quality of the group. With such a perspective, it may be difficult to understand why anyone can be negative to participation of industry/NGO experts in the Advisory experts groups.

But there is another perspective that we should not lose sight of. ICES relevance as an advisory body regarding fishing opportunities rests with its neutrality and objectivity. Fishing is an economic activity, and while most interested parties would through their support to manage fish stocks to ensure high long term yield, there may be different perspectives in both industry and NGOs as to which models and data are best fit to achieve

such an objective. Such differences in views are also prevalent in the industry of various fishing nations, and our experience is that the quality of ICES advice is constantly challenged.

The annual advice ICES offers on total allowable catch (TAC) for various commercial fish stocks is received with great interest from fishermen, NGOs and the general public. This is as expected as the level of TAC is the most important factor determining the income from the fishermen, and also indicates the level of catch that can be sustained in a sustainable manner. The advice is very often challenged by representatives from various organisation questioning both data and models applied by ICES.

Due to ICES neutrality and objectivity it has so far been easy to defend ICES advice. This has been important domestically, but even more important when quotas are to be fixed by two or more parties sharing a fish stock. With ICES high integrity, the parties responsible for managing a fish stock can rely on one single biological advice.

We would underline that we have no reason to state that the existing representation of experts from industry/NGOs in ICES Advisory expert groups have been a problem for ICES neutrality or objectivity. We do however see that such representation can lead to a lack of trust in ICES as neutral and objective. This would especially be the case if the number of experts from industry/NGO should continue to increase. For management authorities responsible for fixing the annual level of TAC for fish stocks, a lack of societies trust in ICES would not be desirable.

Consequently, we believe it would be correct of ICES to revise its policy regarding the possibility of allowing experts from indtustry/NGOs to attend Advisory expert groups. We believe, to protect the neutrality and objectivity of ICES as advisor on fishing opportunities, to have a clear policy stating that such expert groups cannot be attended by experts from industry/NGOs.

We look forward to discuss this item at the next meeting of the Council. To the extent that the Bureau, in preparing this discussion, would need more information from the Norwegian side, we are of course open to answer any question the Bureau might have.

Yours sincerely

Per Sandberg
Head of Department

Per Sandberg
Per.Sandberg@fiskeridir.no

Our Ref: B.4.k/EJ

31 July 2017

Subject: Industry/NGO experts participation in Working Groups as experts

Dear Per,

At the June meeting of Bureau, Bureau members discussed your letter and the concerns raised regarding the participation of industry/NGO experts nominated by Council delegates, in the ICES Advisory expert groups.

The Bureau discussion focused on the role of our recently adopted Conflict of Interest (CoI) Policy, which sets out a process, and outlines the responsible actors, for ensuring that ICES work is not affected by any interest, or by any participant which might affect, or reasonably be perceived to affect, the participants objectivity and independence in carrying out his/her work. I have attached the 2016 CoI Policy.

The issue of Industry/NGO participation in working groups will be further discussed at the Council meeting in October. Bureau discussed your letter and the points raised, and did not identify a specific conflict between participants nominated as experts, based on their specific scientific qualifications and capacity to contribute, and the preservation of ICES objectivity and neutrality.

As stated in your letter, there have been no actual cases where existing representation from NGO/industry has led to a challenge of the quality of ICES Advice. However, continued review of our policies and procedures safeguarding ICES reputation is an important task of the Council.

Bureau stressed the scientific nature of the work carried out in ICES and that it is in this capacity that any nominated expert is expected to contribute to the work of ICES. Many experts, whether working in a national governmental laboratory, an IGO/NGO or industry organization, are affiliated with other interests, and carry out other work than that related to their ICES fisheries advisory work.

Bureau agreed that it is important to follow-up on the implementation of the CoI Policy, and have requested an annual report to be provided to Bureau on how CoI issues have been handled within the organization, in order to facilitate consistency and transparency in the handling of these issues.

Bureau is pleased to get any additional requests for information, in order to be well prepared for the discussion in Council during October.



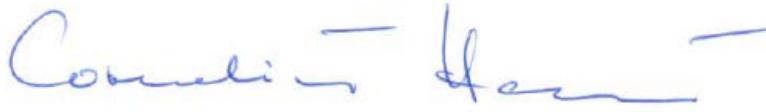
ICES
CIEM

International Council for
the Exploration of the Sea
Conseil International pour
l'Exploration de la Mer

H. C. Andersens Boulevard 44-46,
1553 Copenhagen V, Denmark

+45 33 38 67 00
info@ices.dk | www.ices.dk

Sincerely,

A handwritten signature in blue ink that reads "Cornelius Hammer". The signature is written in a cursive style with a horizontal line extending from the end of the name.

Cornelius Hammer
ICES President

Conflict of Interest policy and ICES Code of Conduct

ICES Conflict of Interest Policy (CoI)

As a knowledge provider ICES depends both on the expertise of its participants, and on the perception of cooperation partners that ICES is independent, guided by integrity and objectivity

ICES must facilitate a transparent and consistent handling of situations where conflicts of interest (COI) may arise, to avoid the creation of an appearance of impropriety that can undermine confidence in the person.

ICES stresses the importance to develop and sustain an open organizational culture where COI/measures dealing with COI can be freely raised and discussed.

The ICES Code of Conduct outlines how to address Conflicts of Interest.

ICES Code of Conduct (CoC)

The Code of Conduct consists of four components:

I Guiding principles for participating in ICES work

Recalling the vision and the mission of the International Council for the Exploration of the Sea, all those contributing to the work of ICES are expected to conduct themselves in a manner consistent with scientific independence, integrity, and impartiality.

II Definition of COI

In the context of this policy a conflict of interest means any interest by a participant that may affect or reasonably be perceived to affect the participants objectivity and independence in carrying out his/her work. A conflict of interest may exist even if no unethical or improper act results from it. The holding of interests does not automatically give rise to a conflict of interest, if the independence and objectivity of work to be carried out are not at risk.

III Declaration of interests

It is the responsibility of both the Chairs of the meetings as well as the national delegates (who nominate experts to participate in ICES work) to make the nominated participants aware of the ICES Conflict of Interest Policy.

The Chair should address the issues of Conflict of Interest in advance of, and at the beginning of each meeting. Meeting participants should be reminded of the duty to declare any interests in advance of the meeting/commencement of work.

The primary responsibility for assessing whether an interest might impede independence or influence judgement and for declaring any possible conflict of interest is placed on the person concerned.

IV How to proceed when a potential or perceived COI is identified

It is recognized that it is often difficult to objectively assess whether a conflict of interest situation exists.

In case of a potential/perceived COI, the procedure outlined below should be followed:

- the Expert Group/Committee Chair shall be notified with a short explanation of the nature of the potential conflict of interest, and will make a decision on the participation of the person in question. The Chair will inform the Secretariat and the national delegate about the decision;
- if the Chair finds that there is a need for further follow-up, the Chair will notify the Secretariat who will engage with the national delegate and share with the relevant committee;
- if uncertainty remains as to how to proceed when a potential or perceived COI is communicated, the Chair will ask the Secretariat to give guidance.
- if there is still uncertainty (following consultation with the Chair/Secretariat/Coordination Group) about how to proceed given a potential or perceived COI, the Secretariat will ask the Bureau to make a decision.

To assess the extent of CoI, and ensure that it is being addressed in a consistent and transparent manner, Bureau will be provided with an annual report on CoI issues within ICES, and how they have been handled.

These issues will be discussed in the Coordination Group, to ensure dissemination of information across the organization, as well as consistency and transparency in the way issues are handled.

Code of Conduct for Industry affiliated scientists attending ICES Expertgroups, Benchmarks and Workshops

1 RATIONALE and PURPOSE

A number of industry associations and producers organizations, especially within the pelagic sector, employ fisheries scientists with experience and competences that enable them to contribute to ICES meetings. To make the contribution of industry affiliated scientists fully transparent, the Northern Pelagic Working Group (NPWG), a subgroup of the European Association of Fish Producers Organizations (EAPO), have developed this Code of Conduct.

The code describes rules of engagement and procedural guidelines for industry affiliated scientists participating in ICES Workshops, Benchmarks, ACOM Expert groups and SCICOM Expert groups (all together called ICES meetings throughout this document). The code should be viewed as an addition to the general ICES Guidelines, and not as a replacement.

2 NOMINATION

Industry affiliated scientists shall follow the general ICES Guidelines for participation in Expert groups and Workshops in the same way as scientist affiliated to research institutes. This means that workshops and benchmarks are open for all governmental organizations, intergovernmental organizations, non-governmental organizations, and individuals who have observer status in ICES. In case of advisory Expert group participation industry affiliated scientists – similar to research institute affiliated scientist - have to be either nominated by a National ICES delegate, or invited by the relevant Chair in consultation with the national Delegates of the Industry affiliated scientist country.

3 PROCEDURAL MATTERS

3.1 When participating in an Expert Group, industry affiliated scientists will not participate in the subsequent Advice Drafting Group or as observer at the ACOM meeting where the Expert group advice is being discussed.

3.2 Industry affiliated scientists will not request access to SharePoint if not participating in the meeting.

3.3 The industry affiliated scientists shall give high priority to participate in, and contribute to, the entire meeting. Part-time participation should be avoided.

3.4. Participation in ICES meetings requires investment of time and resources to cover travel plus subsistence to the meeting venue, which will be borne by the relevant industry groups.

4 GUIDELINES FOR Industry affiliated scientists PARTICIPATING IN ICES GROUPS

4.1 Industry affiliated scientists will work in the best interest of the science and advice produced during the meeting; they will not act as a representative of a particular sector or interest groups.

4.2 Where possible the industry affiliated scientists will bring additional relevant information from the fisheries for consideration within the expert group.

4.3 The industry affiliated scientists will assist in producing science based advice in a consensus mode and actively participate in discussions on all topics where appropriate.

4.4 It is the responsibility of the industry affiliated scientists to allow other ICES group participant, awareness of the affiliation of the industry affiliated scientists.

4.5 When communicating deliberations and background for decisions made by the group, Industry affiliated scientists will follow the Chatham House Rules: *“At a meeting held under the Chatham House Rule, anyone who comes to the meeting is free to use information from the discussion, but is not allowed to reveal who made any comment.”*

4 GUIDELINES

4.1 The observers may make oral statements during the meeting in accordance with the practice decided by the chair. If nothing else is decided by the chair, the observer can make oral statement upon the invitation of the Chair.

4.2 The observer may distribute documents at meetings through the Chair.

4.3 The observer may engage in other meeting activities, subgroups etc.as approved by the Chair.

4.4 All observers admitted to a meeting shall comply with all rules and procedures applicable to other participants in the meeting.

4.5 Observers may not insist on alterations or edits being made to the meeting report. Observers may not make minority statements in the report.

Code of Conduct for Industry Observers attending Benchmarks, Data Compilation Workshops, Review and Advice Drafting Groups plus ACOM meetings

1 RATIONALE and PURPOSE

A number of industry associations, producer organizations and Advisory Councils has achieved observer status in ICES (<http://ices.dk/community/get-involved/Pages/List-of-ICES-observers.aspx>), which allows them to participate as observers in open ICES Meetings. To make the participation of Industry Observers fully transparent and consistent, the Northern Pelagic Working Group (NPWG), a subgroup of the European Association of Fish Producers Organisations (EAPO), has developed this Code of Conduct.

The code describes rules of engagement and procedural guidelines for industry members participating as observers at open ICES meetings, which includes Benchmarks, Data Compilation Workshops, Review and Advice Drafting Groups plus ACOM meetings.

This document should be viewed as an addition to, or adoption of, the general ICES Guidelines, and not as a replacement of these. Industry Observers shall at any time follow the ICES Guidelines specified for participation open ICES Meetings.

2 OBSERVER STATUS

Observers have to follow the general ICES rules for gaining observer status in open ICES meetings (<http://ices.dk/community/advisory-process/Pages/How-to-join-the-advisory-process.aspx>).

3 PROCEDURAL MATTERS

3.1 During the meeting and when signing up it is the responsibility of the observer to clearly state under which Organization, Association or Advisory Council participation takes place.

3.2 The observer should aim at keeping the ICES secretariat or the chair of the meeting orientated on the coming and going of the observer. This applies both in cases where the participation is by electronic connection and in person.

3.3. Participation in ICES meetings requires investment of time and resources to cover travel plus subsistence to the meeting venue, which will be borne by the relevant observers organizations.

4 GUIDELINES

4.1 The observers may make oral statements during the meeting in accordance with the practice decided by the chair. If nothing else is decided by the chair, the observer can make oral statement upon the invitation of the Chair.

4.2 The observer may distribute documents at meetings through the Chair.

4.3 The observer may engage in other meeting activities, subgroups etc.as approved by the Chair.

4.4 All observers admitted to a meeting shall comply with all rules and procedures applicable to other participants in the meeting.

4.5 Observers may not insist on alterations or edits being made to the meeting report. Observers may not make minority statements in the report.